



SANDFIRE TO ACQUIRE MOD RESOURCES

Strengthening Sandfire's global development and exploration pipeline

- Sandfire Resources NL (**Sandfire**) (ASX: SFR) to acquire 100% of MOD Resources Limited (**MOD**) (ASX/LSE: MOD) by way of a MOD Scheme of Arrangement (**Scheme**)¹
- Value-accretive transaction for Sandfire based on T3 Feasibility Study with upside from regional exploration potential
- Highly prospective, dominant landholding on the underexplored Kalahari copper belt in Botswana
- Combination leverages the strengths of both companies to both optimise and de-risk development
- T3 Project in Botswana meets Sandfire's investment criteria, including returns, cost profile, scale, life and upside potential
- Represents an attractive premium for MOD shareholders, whilst providing a funding solution for the development of T3 and retaining exposure to MOD's significant exploration potential
- Sandfire and MOD have executed a binding Scheme Implementation Deed (**SID**)
- Implied Scheme Consideration of A\$0.45 per MOD share², valuing the equity of MOD at A\$167 million³, with MOD shareholders to elect either:
 - Scrip Consideration of 0.0664 Sandfire shares for every 1 MOD share held; or
 - Cash Consideration of A\$0.45 per share, subject to an aggregate Cash Cap of A\$41.6 million⁴
- Sandfire has agreed to extend its dividend record date to no later than 15 November 2019 in order to allow MOD shareholders to participate if the Scheme is complete by this date
- Implied Scheme Consideration represents a premium of:
 - 45% to the closing MOD share price of A\$0.310 per share on 24 June 2019;
 - 45% to the 20-day MOD VWAP of A\$0.310 per share up to and including 24 June 2019⁵; and
 - 108% to the undisturbed closing MOD share price on 18 January 2019 (i.e. confirmation of Sandfire's preliminary, indicative and non-binding approach to MOD as reported in the media)
- Unanimously recommended by the MOD Board, who have confirmed their present intention to vote in favour of the Scheme in respect of approximately 7.02% of MOD shares⁶
- Metal Tiger has agreed to vote in favour of the Scheme in respect of approximately 10.48% of MOD shares currently held and MOD shares that it will hold after the exercise of options prior to the Scheme meeting to a maximum of 19.9% of MOD shares
- 100% consolidation of MOD's tenement package across the Kalahari copper belt with MOD to also acquire Metal Tiger Plc's 30% indirect interest in several exploration licences
- SID contains standard "no shop", "no talk", "notification" and "matching rights" provisions, with a break fee payable in certain circumstances

1. Subject to customary conditions

2. Based on Sandfire's Volume Weighted Average Price (VWAP) for the 5 trading days up to and including 24 June 2019 (volumes traded on the ASX and Chi-X)

3. Includes unlisted options held by Metal Tiger, unlisted performance rights and shares issued by MOD to Metal Tiger for the acquisition of Metal Tiger's 30% indirect interest in several licences

4. European Holders will receive Scrip Consideration only. In the event the Cash Cap is exceeded, the amount of cash paid per share to shareholders electing cash will be reduced pro rata, and Sandfire shares issued in respect of the shortfall, at a deemed Sandfire share price of A\$6.78.

5. Volume weighted average price (VWAP) for the 20 trading days up to and including 24 June 2019 (volumes traded on the ASX and Chi-X)

6. In the absence of a superior proposal and subject to a favourable opinion of the independent expert. Present intention only and subject to change. This holding is prior to dilution on the exercise of options by Metal Tiger, upon which the commitments by directors will represent 6.28%.

TRANSACTION SUMMARY

Sandfire Resources NL (**Sandfire**) (ASX: SFR) and MOD Resources Limited (**MOD**) (ASX/LSE: MOD) are pleased to announce the execution of a binding Scheme Implementation Deed (**SID**) for the implementation of a Scheme of Arrangement (**Scheme**) under which Sandfire will acquire 100% of the issued and to be issued share capital of MOD.

Under the Scheme, each MOD shareholder will elect to receive either:

- 0.0664 Sandfire shares for 1 MOD share (**Scrip Consideration**); or
- Cash of A\$0.45 per share up to a maximum of A\$41.6 million – representing 25% of the overall consideration (**Maximum Cash Consideration**)¹,

Each of these alternatives implies Scheme Consideration of A\$0.45 per share (**Implied Scheme Consideration**)², with an implied equity value of A\$167 million for MOD.³

The total cash consideration payable to MOD shareholders who elect the Maximum Cash Consideration is capped at A\$41.6 million (Cash Cap). If a MOD shareholder elects for the Maximum Cash Consideration and the Cash Cap is not exceeded, the MOD shareholder will receive A\$0.45 per share. If a MOD shareholder elects for the Maximum Cash Consideration and the Cash Cap is exceeded, the MOD shareholder will receive less than A\$0.45 per share in cash, with the remainder in the form of Sandfire shares at a deemed issue price of A\$6.78 (based on the 5 day VWAP up to 24 June 2019) per Sandfire share. The SID (a full copy of which is attached to this announcement) contains further details on the consideration to be provided under the Scheme.

The Implied Scheme Consideration represents a premium of:

- 45% to the closing price of A\$0.310 per share on 24 June 2019;
- 45% to the 20-day VWAP of A\$0.310 per share up to and including 24 June 2019⁴; and
- 108% to the undisturbed closing price on 18 January 2019 (i.e. confirmation of Sandfire's preliminary, indicative and non-binding approach to MOD as reported in the media)

MOD shareholders who receive Sandfire shares will have the opportunity to receive any dividend paid by Sandfire if the Scheme is implemented on or before 15 November 2019.

MOD BOARD RECOMMENDATION AND SHAREHOLDER SUPPORT

The Board of MOD has unanimously recommended that, in the absence of a superior proposal and subject to the independent expert to be appointed by the company opining that the Scheme is in the best interests of MOD shareholders (**Standard Qualifications**), MOD shareholders vote **in favour** of the Scheme.

Directors of MOD have confirmed their present intention to vote in favour of the Scheme in respect of approximately 7.02% of MOD shares.⁵

Metal Tiger has agreed to vote in favour of the Scheme in respect of approximately 10.48% of MOD shares currently held and MOD shares that it will hold after the exercise of options prior to the Scheme meeting to a maximum of 19.9% of MOD shares in the absence of a superior proposal.

The Board of MOD has also unanimously recommended that shareholders vote in favour of the MOD acquisition of Metal Tiger's 30% interest in Metal Capital Exploration Limited⁶ at the general meeting to be held prior to the Scheme meeting and have also confirmed their present intention to vote in favour in respect of their MOD shares.

TRANSACTION RATIONALE

MOD, through its Botswana operating companies (Tshukudu Metals, Tshukudu Exploration and MOD Botswana), owns a dominant landholding on the underexplored Kalahari copper belt in Botswana which includes the advanced T3 Project scheduled to commence construction in 2020 with first production expected in 2021.

¹ European Holders will receive Scrip Consideration only

² Based on Sandfire's Volume Weighted Average Price (VWAP) for the 5 trading days up to and including 24 June 2019 (volumes traded on the ASX and Chi-X)

³ Includes unlisted options held by Metal Tiger, unlisted performance rights and shares issued by MOD to Metal Tiger for the acquisition of Metal Tiger's 30% indirect interest in several licences

⁴ Volume weighted average price (VWAP) for the 20 trading days up to and including 24 June 2019 (volumes traded on the ASX and Chi-X)

⁵ In the absence of a superior proposal and subject to the favourable opinion of an independent expert. Present intention only and subject to change. This holding is prior to dilution on the exercise of options by Metal Tiger, upon which the commitments by directors will represent 6.28%

⁶ See section entitled "Metal Tigers Interest in Several Exploration Licences"

Sandfire is a successful mid-tier copper-gold producer with a strong track record of exploration, project development and operations at its flagship DeGrussa Copper-Gold Mine in Western Australia. Sandfire is currently expanding its operations globally with an extensive exploration and development pipeline.

Commenting on the acquisition, Karl Simich, Managing Director and CEO of Sandfire, said:

“The acquisition of MOD adds the near-term T3 Project in Botswana to our global development pipeline while also adding a significant landholding on the highly prospective and underexplored Kalahari copper belt. The acquisition ticks all of our boxes from an acquisition criteria perspective and is value-accretive based on the T3 asset alone which, importantly can be funded out of cash flow.

We see this transaction as a partnership, with compelling benefits for both sets of shareholders. MOD shareholders will gain exposure to Sandfire’s development and operating expertise, strong balance sheet and a growing global portfolio of base metal development and exploration assets with the potential to deliver transformational growth for the Company over the next decade.

Botswana is an attractive investment jurisdiction for mining and we look forward to working with the Government of Botswana going forward. We’re excited to partner with MOD’s existing management and in-country Tshukudu Metals and Tshukudu Exploration teams to further optimise and develop the T3 Project while also embarking on an expansive and well-funded exploration program designed to unlock the province’s potential.”

Commenting on the acquisition, Julian Hanna, Managing Director of MOD said,

“The MOD Board considers the implementation of a Scheme with Sandfire to reflect a compelling value proposition for MOD shareholders, who will benefit from Sandfire’s platform to deliver the T3 Project into production, and realise the full potential of the underexplored Kalahari copper belt.

We see this partnership as providing the opportunity to maximise value from T3 which can be funded from Sandfire’s balance sheet and cash flows. At the same time, it will provide MOD shareholders with exposure to Sandfire’s substantial high-grade copper production in Australia and the outstanding potential of MOD’s extensive licence holdings through an accelerated exploration program.

Importantly, the Sandfire partnership will continue MOD’s vision of conducting all development, mining and exploration activities through the Botswana operating companies to enable the expansion of employment, training, and skills transfer programs, and build on the excellent work being undertaken by the Community Relations team based in Ghanzi.”

BENEFITS TO SANDFIRE SHAREHOLDERS

- Value accretive from T3 alone based on Feasibility Study NPV;
- Gain exposure to upside potential from discoveries on the underexplored Kalahari copper belt;
- Add life to the Sandfire portfolio beyond current DeGrussa Ore Reserves;
- Benefit from the experience and strong in-country relationships of the MOD team;
- Extend the Sandfire Group’s leverage to the copper thematic, which has attractive mid to long term fundamentals; and
- Benefit from a further enhancement in liquidity, scale, asset and jurisdictional diversification.

BENEFITS TO MOD SHAREHOLDERS RECEIVING SANDFIRE SHARES

- Receive a significant premium of 45% to last close, 45% to 20-day VWAP and 108% to the undisturbed closing price;
- Opportunity to receive Sandfire’s final dividend for FY19 (if implemented prior to 15 November 2019);
- Benefit from immediate cash flow from Sandfire’s DeGrussa mine, whilst retaining ongoing exposure to T3;
- Benefit from exposure to future upside from well funded exploration in this highly prospective region;
- Benefit from enhanced liquidity, scale, asset and jurisdictional diversification;
- Benefit from Sandfire’s project delivery experience and balance sheet strength; and
- Benefit from Sandfire’s operational excellence and class leading marketing, systems and sustainability practices.

DETAILS OF THE SCHEME IMPLEMENTATION DEED

The Scheme will be subject to the conditions set out in the SID, which include:

- Approval being received from the MOD shareholders;
- Regulatory approvals;
- Court approval;
- The Independent Expert concluding that the Scheme is in the best interests of MOD shareholders and not changing that conclusion; and
- Other conditions customary for a transaction of this nature.

Full details of the conditions are set out in the SID which is attached to this announcement.

EXCLUSIVITY ARRANGEMENTS

The SID contains standard “no shop”, “no talk”, “notification” and “matching rights” provisions, with a break fee payable in certain circumstances. MOD has agreed it will not solicit any competing proposal or participate in any discussions or negotiations in relation to any competing proposal (unless failure to do so would involve a breach of the fiduciary duties of its Directors).

METAL TIGER’S INTEREST IN SEVERAL EXPLORATION LICENCES

MOD has pre-existing rights under the Sale and Demerger Agreement with Metal Tiger dated 18 July 2018 to acquire Metal’s Tiger’s 30% interest in Metal Capital Exploration Limited, which indirectly owns several exploration licences on the highly prospective Kalahari copper belt. The consideration for the exercise of the option in terms of the Sale and Demerger Agreement comprises a cash sum and the grant of a 2% net smelter royalty (**NSR**) over future production from the exploration licence areas.

As a term of the SID, MOD has agreed (subject to the satisfaction of certain conditions) to exercise this option, and Metal Tiger has agreed, in lieu of receipt of the cash component of the consideration, to accept 22,322,222 MOD shares and the NSR as consideration for the 30% interest, in each case subject to the Scheme proceeding. The MOD shares issued on exercise of the option will be exchanged for Sandfire shares under the Scheme on the same basis as all other MOD shares. A general meeting of MOD shareholders will be held immediately before the Scheme meeting for shareholders to consider resolutions relating to this acquisition.

The agreement with Metal Tiger results in the consolidation of 100% of the landholding across the Kalahari copper belt (~11,700km²).

MOD and Metal Tiger have agreed to terminate the Share and Voting Deed dated 18 July 2018.⁷ If the Scheme is not effected, Metal Tiger has agreed to not dispose of its MOD shares to certain strategic investors for a period of 12 months.

INDICATIVE TIMETABLE

Shareholders of MOD will be asked to approve the Scheme at a meeting which is expected to be held in October 2019. Further details of the Scheme, transaction terms and recommendations will be provided to MOD shareholders through an Explanatory Booklet which will include an Independent Expert’s Report. It is expected that this booklet will be mailed to MOD shareholders in late August 2019.

ADVISORS

Sandfire has appointed Citi as financial advisor and Gilbert + Tobin as legal advisor.

MOD has appointed Sternship Advisers and BMO Capital Markets as joint financial advisors and DLA Piper as legal advisor.

⁷ Refer to the notice of substantial shareholder announced to ASX on 20 July 2018

INVESTOR CALL AND WEBCAST

A teleconference on the transaction will be held for the investment community on **Tuesday 25th June 2019 commencing at 10.00am (AWST) / 12.00pm (AEST)**. Investors, brokers, analysts and media can join the teleconference by dialling the following numbers:



Within Australia (Toll Free): 1 800 558 698
Alternate Australia Toll Free: 1 800 809 971
International: +61-2 9007 3187

Conference ID: 1000 0784

Alternatively, investors or media can simply click on the following link to register for the call:

<https://services.choruscall.com.au/diamondpass/sandfire-10000784.html>

The MOD Acquisition Investor Presentation will be available via the ASX Company Announcements Platform (ASX code: SFR, ASX and LSE code: MOD) as well as at Sandfire's website at www.sandfire.com.au and MOD's website at www.modresources.com.au.

A live webcast of the teleconference and synchronised slide presentation will also be available via the BRR Media service website at the following link (with a recording to be available at the same link later today):

<https://webcasting.boardroom.media/broadcast/5d00a51511608861983664ce>

ENDS

Sandfire

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Shareholders resident in the United Kingdom, Channel Islands or Isle of Man should note that MOD is not a company that is subject to the City Code on Takeovers and Mergers ("City Code"), and that the Scheme will be governed by the Corporations Act 2001. The timetable, terms and conditions and rules governing the Scheme, which will be set out in the Explanatory Booklet, are different to those that would apply to a UK scheme of arrangement conducted under the City Code.

This announcement includes inside information as defined in Article 7 of the Market Abuse Regulation No. 596/2014 and is disclosed in accordance with the Company's obligations under Article 17 of those Regulations. On the publication of this announcement via a Regulatory Information Service, this information is considered to be in the public domain.

Scheme implementation deed

Sandfire Resources NL

MOD Resources Limited

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Parties

- 1 **Sandfire Resources NL** ACN 105 154 185 of Level 2, 10 Kings Park Rd, West Perth, WA 6005 (**Sandfire**)
 - 2 **MOD Resources Limited** ACN 003 103 544 of Level 1, 1304 Hay St West Perth, WA 6005 (**MOD**)
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Background

- A Sandfire wishes to acquire all the MOD Shares and all other securities issued by MOD.
- B At the request of Sandfire, MOD has agreed to propose a members' scheme of arrangement pursuant to which Sandfire will acquire all the Scheme Shares, and MOD and Sandfire have agreed to implement the Scheme on the terms and conditions of this deed.
- C MOD and Sandfire have agreed to propose the EGM Resolutions on the terms and conditions of this deed.
- D MOD is, and will remain following implementation of the Scheme, the indirect holder of 100% of Tshukudu Metals Botswana (Pty) Ltd (the legal and beneficial owner of the T3 Project).
- E Sandfire has agreed to assist MOD in proposing the Scheme.

The parties agree

1 Defined terms and interpretation

1.1 Defined terms

A term or expression which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this deed.

2 Agreement to proceed with Transaction

- (a) MOD agrees to propose the Scheme on and subject to the terms of this deed.
- (b) Sandfire agrees to assist MOD in proposing the Scheme on and subject to the terms of this deed.
- (c) Sandfire may nominate any wholly-owned Subsidiary of Sandfire (**Sandfire Nominee**) to acquire the Scheme Shares under the Scheme by giving written notice to MOD on or before the date that is 15 Business Days before the First Court Date.

- (d) If Sandfire nominates the Sandfire Nominee to acquire the Scheme Shares under the Scheme, then:
 - (i) references in this deed to Sandfire acquiring the Scheme Shares under the Scheme are to be read as references to the Sandfire Nominee doing so;
 - (ii) other references in this deed to Sandfire are to be read as references to Sandfire or Sandfire Nominee;
 - (iii) the parties must procure that the Scheme Shares transferred under the Scheme are transferred to the Sandfire Nominee, rather than the Sandfire;
 - (iv) Sandfire must procure that Sandfire Nominee complies with the relevant obligations of Sandfire under this deed and under the Scheme; and
 - (v) any such nomination will not relieve Sandfire of its obligations under this deed or the Deed Poll, including the obligation to pay (or procure the payment by Sandfire Nominee of) the Scheme Consideration in accordance with the terms of the Scheme provided that Sandfire will not be in breach of this deed for failing to perform an obligation of Sandfire if that obligation is fully discharged by Sandfire Nominee.
- (e) For the avoidance of doubt, if Sandfire nominates the Sandfire Nominee to acquire the Scheme Shares under the Scheme, Sandfire will procure that the New Sandfire Shares are issued as Scrip Consideration.

3 Conditions precedent to Scheme

3.1 Conditions precedent to Scheme

Subject to this clause 3, the Scheme will not become Effective until and unless the following Conditions Precedent are satisfied or waived in accordance with clause 3.3.

- (a) **(Court approval)** The Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.
- (b) **(EGM Resolutions)** MOD Shareholders approve the EGM Resolutions by the requisite majorities in accordance with the Corporations Act and the Listing Rules, as applicable.
- (c) **(MOD Scheme approval)** MOD Shareholders approve the Scheme at the Scheme Meeting by the requisite majorities under section 411(4)(a) of the Corporations Act, as modified under section 411(4)(a)(ii)(A) of the Corporations Act or otherwise.
- (d) **(MOD Options)** each MOD Optionholder:
 - (i) exercises all of the MOD Options they hold and the MOD Shares issued upon such exercise are entered into the register of members of MOD prior to the Record Date; or
 - (ii) enters into a deed with Sandfire and MOD regarding the MOD Options held by each MOD Optionholder pursuant to clause 4.13 prior to the Delivery Time.
- (e) **(Restraints)** Before and as at the Delivery Time, there is not in effect any preliminary or permanent injunction or other preliminary or final decision, order or

decree issued by any court of competent jurisdiction (whether foreign or Australian) or by any Government Agency, nor is there in effect any other legal process which restrains or prohibits (or could reasonably be expected to restrain or prohibit) the completion of the Transaction.

- (f) **(Investigations)** Before and as at the Delivery Time, no action or investigation is announced or commenced by any Government Agency relating to a substantial part of the ordinary business of MOD Group taken as a whole, in each case which is reasonably likely to have a materially adverse effect on that part of the business.
- (g) **(Australian regulatory approvals)** Before and as at the Delivery Time, MOD obtains all Australian regulatory approvals, authorisations and consents required to enable completion of the Transaction from:
 - (i) ASIC, including the statement required under section 411(17)(b) of the Corporations Act; and
 - (ii) ASX.
- (h) **(Botswana regulatory approvals)** Before the Delivery Time, MOD obtains all Botswana regulatory approvals, authorisations and consents required to enable completion of the Transaction from:
 - (i) the Minister for Mines for the transfer of a controlling interest in the holders of the Mining Tenements in Part A and Part B of schedule 4;
 - (ii) the Botswana Competition Authority; and
 - (iii) any other relevant Botswanan Government Agency.
- (i) **(No transaction tax or foreign exchange)** Before and as at the Delivery Time, no Tax or imposition of foreign exchange control is announced or proposed by the Government of Botswana which would:
 - (i) require any member of the MOD Group to pay a material sum of Tax to any revenue authority in Botswana in connection with the Transaction; or
 - (ii) require any member of the Sandfire Group to pay a material sum of Tax to any revenue authority in Botswana in connection with the Transaction; or
 - (iii) limit the ability of any member of the MOD Group to repatriate funds from Botswana to Australia,other than the proposed amendments to the transfer pricing regime in Botswana gazetted prior to the date of this deed.
- (j) **(Independent Expert's Report)** the Independent Expert provides the Independent Expert's Report to MOD, stating that in its opinion the Scheme is in the best interests of MOD Shareholders, on or before the date on which the Scheme Booklet is registered with ASIC under the Corporations Act, and the Independent Expert does not change or publicly withdraw this conclusion prior to the Delivery Time.
- (k) **(Prescribed Occurrence)** No Prescribed Occurrence occurs between the date of this deed and the Delivery Time.

- (l) **(Material Adverse Change)** No Material Adverse Change occurs between the date of this deed and the Delivery Time.
- (m) **(MOD Representations and Warranties)** The MOD Representations and Warranties being true and correct in all material respects at each of the relevant times set out in clause 11.8 or any breach being properly remedied as envisaged by clause 3.4(b)(vi)(B).
- (n) **(MOD Board recommendation)** Between and including the date of this deed and the date of the Scheme Meeting, subject to clause 5.5, none of the MOD Directors, fails to make, changes, qualifies or withdraws his or her Voting Intention or his or her Recommendation as provided by clause 8.

3.2 Reasonable endeavours

- (a) MOD must use its reasonable endeavours to procure that the Conditions Precedent in clause 3.1(j) (*Independent Expert's Report*), 3.1(k) (*Prescribed Occurrence*), 3.1(l) (*Material Adverse Change*), 3.1(m) (*MOD Representations and Warranties*) and 3.1(n) (*MOD Board recommendation*) are satisfied as soon as possible after the date of this deed.
- (b) The parties must each use reasonable endeavours to procure that:
 - (i) the Conditions Precedent in clauses 3.1(a) (*Court approval*), 3.1(c) (*MOD Scheme approval*), 3.1(d) (*MOD Options*), 3.1(e) (*Restraints*), 3.1(f) (*Investigations*), clause 3.1(g) (*Australian regulatory approvals*), 3.1(h) (*Botswana regulatory approvals*) and 3.1(i) (*No transaction tax or foreign exchange*) are satisfied as soon as possible after the date of this deed; and
 - (ii) there is no occurrence or non-occurrence within their control or the control of any of their related bodies corporate that prevents, or would be reasonably likely to prevent, the satisfaction of any Condition Precedent.
- (c) Clause 3.2(b) does not require:
 - (i) Sandfire to solicit votes in favour of the Scheme; or
 - (ii) either Sandfire or MOD to assist the other financially.
- (d) Without limiting clause 3.2(b) but subject to clause 3.2(e), each party must:
 - (i) promptly apply for all relevant regulatory approvals and take all reasonable steps required in connection with the regulatory approval process, including responding to requests for information from the relevant Government Agency at the earliest practicable time;
 - (ii) keep the other party informed of the progress towards satisfaction of the Conditions Precedent; and
 - (iii) except to the extent prohibited by law or a Government Agency:
 - (A) promptly notify the other party of all communications between it and a Government Agency in connection with any approval or consent required pursuant to a Condition Precedent in clause 3.1 or any action taken or proposed by, or any enquiries made by, a Government Agency in relation to the Transaction (**Regulatory Matter**);

- (B) promptly provide the other party with:
 - (I) copies of all communications referred to in clause 3.2(d)(iii)(A) (where written); and
 - (II) detailed summaries of all material communications referred to in clause 3.2(d)(iii)(A) (where not written);
 - (C) before sending any submission or correspondence to a Government Agency relating to any Regulatory Matter, consult with the other party in relation to, and provide the other party with a draft copy of, such submission or correspondence;
 - (D) have the right to be represented and make submissions at any proposed meeting with any Government Agency relating to a Regulatory Matter;
 - (E) respond to reasonable requests for information that relate to any Regulatory Matter, whether made by the other party or a Government Agency, at the earliest practicable time; and
 - (F) provide the other with all information and assistance reasonably requested by the other and the relevant Government Agency.
- (e) Before providing any document or other information to MOD pursuant to clause 3.2(d), Sandfire may redact any part of that document, or not disclose any part of that information, which contains or is confidential, non-public information (**Sensitive Confidential Information**) if Sandfire reasonably believes that:
- (i) the Sensitive Confidential Information is of a commercially sensitive nature; or
 - (ii) the disclosure of the Sensitive Confidential Information to MOD would be damaging to the commercial or legal interests of Sandfire or any of its related bodies corporate,

and may provide the document or disclose the information to MOD with any Sensitive Confidential Information redacted or excluded, provided that, where Sensitive Confidential Information is so redacted or excluded, Sandfire must provide MOD with as much detail about the relevant communication, submission or correspondence (and any other relevant circumstances) as is reasonably possible without disclosing Sensitive Confidential Information.

3.3 Waiver of Conditions Precedent

- (a) The Conditions Precedent in clauses 3.1(a) (*Court approval*) and 3.1(c) (*MOD Scheme approval*) cannot be waived.
- (b) The Conditions Precedent in clauses 3.1(e) (*Restraints*), 3.1(f) (*Investigations*), 3.1(g) (*Australian regulatory approvals*) and 3.1(h) (*Botswana regulatory approvals*) are for the benefit of Sandfire and MOD and any breach or non-fulfilment of any of those Conditions Precedent may only be waived in writing by both Sandfire and MOD.
- (c) The Conditions Precedent in clauses 3.1(b) (*EGM Resolutions*), 3.1(d) (*MOD Options*), 3.1(i) (*No transaction tax*), 3.1(k) (*Prescribed Occurrence*), 3.1(l) (*Material Adverse Change*), 3.1(m) (*MOD Representations and Warranties*) and

3.1(n) (*MOD Board recommendation*) are for the sole benefit of Sandfire and any breach or non-fulfilment of any of those Conditions Precedent may only be waived in writing by Sandfire.

- (d) The Condition Precedent in clauses 3.1(j) (*Independent Expert's Reports*) is for the sole benefit of MOD and any breach or non-fulfilment of that Condition Precedent may only be waived in writing by MOD.
- (e) If a party waives the breach or non-fulfilment of a Condition Precedent, such waiver will not prevent that party from suing the other party for any breach of this deed including a breach that resulted in the breach or non-fulfilment of the Condition Precedent, provided that the relevant party is otherwise permitted to do so under this deed.
- (f) Waiver of breach or non-fulfilment of a Condition Precedent in relation to an event does not constitute:
 - (i) a waiver of breach or non-fulfilment of any other Condition Precedent resulting from the same event; or
 - (ii) a waiver of breach or non-fulfilment of that Condition Precedent resulting from any other event.
- (g) A party entitled to waive a Condition Precedent under this clause may do so in its absolute discretion. Any waiver of a Condition Precedent by a party for whose benefit the Condition Precedent applies must take place on or prior to Delivery Time.

3.4 Termination on failure of Condition Precedent

- (a) If:
 - (i) there is a breach or non-fulfilment of a Condition Precedent that has not been waived in accordance with clause 3.3;
 - (ii) a Condition Precedent becomes incapable of satisfaction and the breach or non-fulfilment of that condition precedent that has occurred, or would otherwise occur, has not been waived in accordance with clause 3.3; or
 - (iii) the Scheme has not become Effective by the End Date,then either party may give the other party written notice (**Consultation Notice**) within 10 Business Days after the relevant event (**Termination Event**). The parties must then consult in good faith to determine whether they can reach agreement with respect to:
 - (iv) an extension of the time for satisfaction of the relevant Condition Precedent or an extension of the End Date or both (as the case may be);
 - (v) changes to the Scheme or this deed to allow the Transaction to proceed;
 - (vi) the Transaction proceeding by way of alternative means or methods;
 - (vii) the terms (if any) on which the party with the benefit of the relevant Condition Precedent will waive that Condition Precedent; or

- (viii) to change the date of the application to be made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed by the parties.
- (b) If:
 - (i) the parties are unable to reach agreement under clause 3.4(a) within 10 Business Days, and in the case of the Condition Precedent in clause 3.1(i) within 20 Business Days, after a Consultation Notice is given;
 - (ii) a Consultation Notice is not given within 10 Business Days after a Termination Event; or
 - (iii) the relevant Condition Precedent is contained in clause 3.1(m) (*MOD Representations and Warranties*) or 3.1(n) (*MOD Board recommendation*) regardless of whether a Consultation Notice is given or any time period has expired after a Consultation Notice is given,

a party who has the benefit of the relevant Condition Precedent (in this clause 3.4, the **Terminating Party**) may terminate this deed by giving written notice (**Termination Notice**) to the other party, provided that:

- (iv) if the basis upon which the Terminating Party is seeking to terminate this deed is the occurrence of an event described in clause 3.4(a)(i) or 3.4(a)(ii), the Terminating Party has the benefit of the relevant Condition Precedent;
- (v) there has been no failure by the Terminating Party to comply with its obligations under this deed, where that failure directly and materially contributed to the circumstances giving rise to the Termination Event; and
- (vi) where the relevant Condition Precedent is contained in clause 3.1(m) (*MOD Representations and Warranties*):
 - (A) Sandfire has given written notice to MOD setting out the relevant circumstances and stating an intention to terminate this deed or to allow the Scheme to lapse;
 - (B) the relevant circumstances have not been remedied for 10 Business Days from the time such notice is given; and
 - (C) the aggregate loss to Sandfire that would reasonably be expected to follow from the relevant breach of the MOD Representations and Warranties is material in the context of the Transaction or the MOD Group taken as a whole.
- (c) Where a Termination Notice is validly given under this clause 3.4, this deed will terminate with immediate effect and clause 14.5 will apply.

3.5 Certain notices

Each party must promptly notify the other party in writing if:

- (a) a Condition Precedent has been satisfied, in which case that party must comply with any reasonable request for evidence of such satisfaction made by the other party;

- (b) there is a breach or non-fulfilment of a Condition Precedent;
- (c) it becomes aware of any fact, matter or circumstance that has resulted, will result or is reasonably likely to result in:
 - (i) a Condition Precedent becoming incapable of satisfaction or otherwise not being satisfied in accordance with its terms; or
 - (ii) a material breach of this deed by that party.

However, a party is not required to notify information which has been given to that party by the other party under this clause 3.5.

3.6 Scheme voted down because of Headcount Test

If the Scheme is not approved by MOD Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and Sandfire or MOD considers acting reasonably that Share Splitting or some abusive or improper conduct may have caused or contributed to the Headcount Test not having been satisfied, then MOD must:

- (a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
- (b) make such submissions to the Court and file such evidence as counsel engaged by MOD to represent it in Court proceedings related to the Scheme, in consultation with Sandfire, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Act by making an order to disregard the Headcount Test.

4 Scheme

4.1 Scheme

- (a) MOD agrees to propose the Scheme on and subject to the terms of this deed and substantially in accordance with the Timetable.
- (b) MOD must not consent to any modification of, or amendment to, the Scheme, or to the making or imposition by a court of any condition in respect of the Scheme, without the prior written consent of Sandfire (such consent not to be unreasonably withheld).
- (c) Sandfire undertakes and warrants to MOD (in its own right and separately as trustee or nominee for each of the Scheme Shareholders) that, if the Scheme becomes Effective, in consideration for the transfer to Sandfire of the Scheme Shares held by each Scheme Shareholder under the terms of the Scheme, Sandfire will provide to each Scheme Shareholder the Scheme Consideration for each Scheme Share held by them in accordance with the terms of the Scheme and Deed Poll.
- (d) Subject to the Scheme becoming Effective, at 10.00am on the Implementation Date, the transactions which form part of the Scheme will be implemented in the following sequence:
 - (i) all Scheme Shares will be transferred to Sandfire; and

- (ii) in exchange, each Scheme Shareholder will receive the Scheme Consideration for each Scheme Share held by it as at the Record Date, provided that, if the Rematerialisation has not occurred as at the Record Date, the MOD Depositary may direct that Scheme Consideration attributable to the Scheme Shares held by the MOD Depositary or the MOD Depositary Interest Custodian be paid directly to MOD Depositary Interest Holders instead of the MOD Depositary or the MOD Depositary Interest Custodian.

4.2 Scheme Consideration

- (a) The Scheme Consideration in respect of each Scheme Share is either:
 - (i) the Scrip Consideration; or
 - (ii) the Maximum Cash Consideration.
- (b) If, after the date of this deed, Sandfire converts all or any of its shares into a larger or smaller number of shares but the New Sandfire Shares are not issued in time to be consolidated or split by that conversion (as applicable), then the calculation in order to determine the number of New Sandfire Shares for the purposes of calculating the Scheme Consideration shall be adjusted so that the number of New Sandfire Shares to be received by each Scheme Shareholder (or nominee as applicable) reflects the number they would have received if the New Sandfire Shares had been consolidated or split by that conversion.
- (c) If, after the date of this deed, Sandfire makes a Bonus Issue to holders of Sandfire Shares but the New Sandfire Shares are not issued in time to participate in that Bonus Issue, then the number of New Sandfire Shares calculated in order to determine the number of New Sandfire Shares for the purposes of calculating the Scheme Consideration shall be increased by the number of additional Sandfire Shares which the relevant Scheme Shareholder (or nominee as applicable) would have received under the Bonus Issue if the New Sandfire Shares had carried an entitlement to participate in the Bonus Issue.
- (d) If, after the date of this deed and before the New Sandfire Shares are issued, Sandfire undertakes a Rights Issue and issues Sandfire Shares at a discount to the market price of its shares on ASX on the Trading Day prior to the announcement of the relevant Rights Issue, then the number of New Sandfire Shares calculated in order to determine the number of New Sandfire Shares for the purposes of calculating the Scrip Consideration shall be increased in accordance with the following formula:

$$A = B / (1 + C)$$

where:

A = the adjusted number of New Sandfire Shares

B = the original number of New Sandfire Shares

C = the percentage difference between Sandfire's Theoretical Ex-Rights Price (**TERP**) and Sandfire's share price on the Trading Day prior to the announcement of the relevant Rights Issue calculated as follows:

$$(\text{TERP} / H) - 1$$

where:

H is the Sandfire last close share price on the Trading Day prior to the announcement of the relevant Rights Issue

$$\text{TERP} = (D + E) / (F + G)$$

where:

D = is the market capitalisation of Sandfire prior to the announcement of the relevant Rights Issue to be calculated as the last closing price on the Trading Day prior to the announcement multiplied by the number of ordinary Sandfire Shares outstanding on the Trading Day prior to the announcement

E = the total dollar amount of the Rights Issue

F = the number of ordinary Sandfire Shares outstanding on the Trading Day prior to the announcement

G = is the total number of Sandfire Shares to be issued pursuant to the Rights Issue

4.3 Election mechanism

- (a) MOD must ensure that the Scheme Booklet sent to MOD Shareholders permits Scheme Shareholders (other than European Holders or Ineligible Foreign Shareholders) (**Relevant MOD Shareholder**) to make an election (**Election**) to receive the Maximum Cash Consideration for all their Scheme Shares by completing an Election Form, such Election being subject to the terms of the Scheme.
- (b) The Election Form shall provide that:
 - (i) subject to clause 4.3(b)(vi), a Relevant MOD Shareholder may make only one Election in relation to a particular holding and a Relevant Non Cash Out MOD Shareholder may make only one Non Cash Out Election in relation to a particular holding;
 - (ii) subject to clause 4.3(b)(vi), any Election by a Relevant MOD Shareholder will apply to all of the MOD Shares that Relevant MOD Shareholder holds as at the Record Date and any Non Cash Out Election by a Relevant Non Cash Out MOD Shareholder will apply to all of the MOD Shares that Relevant Non Cash Out MOD Shareholder holds as at the Record Date;
 - (iii) an Election or Non Cash Out Election may be made by a Relevant MOD Shareholder or Relevant Non Cash Out MOD Shareholder, as applicable, by:
 - (A) completing the Election Form in accordance with the instructions specified on the Election Form or set out in the Scheme Booklet; and
 - (B) returning the completed Election Form in accordance with the instructions on it so that it is received by MOD no later than the Election Date,

or by taking equivalent actions in electronic form if permitted by MOD's constitution and the Court at the First Court Hearing;

- (iv) once made, an Election or Non Cash Out Election by a Relevant MOD Shareholder or Relevant Non Cash Out MOD Shareholder, as applicable, may be varied before the Election Date (provided that any variation that purports to make an Election or Non Cash Out Election invalid will not be effective);
- (v) if a valid Election is not made by a Relevant MOD Shareholder prior to the Election Date in respect of all of the MOD Shares held by that MOD Shareholder as at the Record Date, then that Relevant MOD Shareholder will receive the Scrip Consideration in respect of all of their MOD Shares and if a valid Non Cash Out Election is not made by a Relevant Non Cash Out MOD Shareholder prior to the Election Date in respect of all of the MOD Shares held by that MOD Shareholder as at the Record Date, then that Relevant Non Cash Out MOD Shareholder will receive payment in accordance with clause 4.9 in respect of all of their MOD Shares;
- (vi) a Relevant MOD Shareholder or Relevant Non Cash Out MOD Shareholder, as applicable, that holds one or more parcels of MOD Shares as trustee or nominee for, or otherwise on account of, another person, may, in a manner to be agreed between the parties (acting reasonably), make separate Elections or Non Cash Out Elections in relation to each of those parcels of MOD Shares (and, for the purpose of calculating the Scheme Consideration to which the Relevant MOD Shareholder or Relevant Non Cash Out MOD Shareholder is entitled each such parcel of MOD Shares will be treated as though it were held by a separate Relevant MOD Shareholder or Relevant Non Cash Out MOD Shareholder);
- (vii) the Relevant MOD Shareholder warrants and undertakes that it is not a European Holder, is not holding the MOD Shares or any of them or any interest in any of them directly or indirectly on behalf of a European Holder and is not making any Election directly or indirectly on behalf of a European Holder, and

must otherwise be in a form agreed between MOD and Sandfire.

- (c) MOD must ensure that, to the extent reasonably practicable, the Relevant MOD Shareholders or Relevant Non Cash Out MOD Shareholder, as applicable, who have acquired MOD Shares after the date of the despatch of the Scheme Booklet can receive an Election Form on request to MOD.
- (d) In order to facilitate the provision of the Scheme Consideration, MOD must provide, or procure the provision, to Sandfire or a nominee of Sandfire, of:
 - (i) a weekly update of the Elections and Non Cash Out Elections that have been received;
 - (ii) details of the final Elections and Non Cash Out Elections made by each Relevant MOD Shareholder, within one Business Day after the Record Date (and, for these purposes, an Election made by the MOD Depositary in respect of any parcel of MOD Shares shall be deemed after Rematerialisation to be an Election made by the MOD Shareholder holding such parcel of MOD Shares including for determining whether such MOD Shareholder is a Relevant MOD Shareholder and whether such Election is a valid Election); and

- (iii) a complete copy of the Share Register (which must include the name, registered address and registered holding of each Scheme Shareholder) as at the Record Date, within three Business Days after the Record Date,

and such other information as Sandfire may reasonably require, upon the written request of Sandfire, to provide the Scheme Consideration in accordance with this deed and the terms of the Scheme.

4.4 Scrip Consideration and European Holders

- (a) If a Scheme Shareholder has not made a valid Election to receive the Maximum Cash Consideration as referred to in clause 4.3(b)(v), that Scheme Shareholder will receive, for each Scheme Share held by that Scheme Shareholder at the Record Date, the Scrip Consideration.
- (b) European Holders may not make an Election and will receive, for each Scheme Share held by that Scheme Shareholder at the Record Date, the Scrip Consideration. Sandfire will be under no obligation under this Scheme or Deed Poll to pay any Maximum Cash Consideration to any European Holder who has made or purported to make an Election or to any person purporting to be a Relevant MOD Shareholder who Sandfire considers to be, or to be holding MOD Shares or MOD Depositary Interests or any of them or any interest in any of them directly or indirectly on behalf of, or to be making an Election directly or indirectly on behalf of, a European Holder.

4.5 Election to receive Maximum Cash Consideration

- (a) If a Scheme Shareholder has validly made an Election to receive the Maximum Cash Consideration, that Scheme Shareholder will be entitled to receive for each Scheme Share held by that Scheme Shareholder at the Record Date:
 - (i) if the Aggregate Cash Consideration is less than the Cash Cap, \$0.45 per Scheme Share; or
 - (ii) if the Aggregate Cash Consideration is greater than the Cash Cap:
 - (A) an amount of cash per Scheme Share calculated as follows:
$$A \div B$$

Where:
A = the Cash Cap;
B = the total number of Scheme Shares held at the Record Date by all Scheme Shareholders who validly elect Maximum Cash Consideration; and
 - (B) a number of New Sandfire Shares calculated as follows:
$$(\$0.45 - X) \div B$$

Where:
X = the amount of cash per Scheme Share provided under clause 4.5(a)(ii)(A); and

$$B = \$6.78$$

4.6 Cash component of the Maximum Cash Consideration

Sandfire must, by no later than two Business Days before the Implementation Date, deposit in cleared funds an amount equal to the lower of the Aggregate Cash Consideration and Cash Cap in an Australian dollar denominated trust account operated by MOD or its registry as trustee of the Scheme Shareholders who validly Elect to receive the Maximum Cash Consideration, provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Sandfire's account.

4.7 Allotment and issue of New Sandfire Shares

- (a) Subject to clauses 4.8, 4.9, 4.10 and 4.11, Sandfire covenants in favour of MOD (in its own right and separately as trustee and nominee for each of the Scheme Shareholders) that Sandfire will:
- (i) apply to ASX for the official quotation of the New Sandfire Shares that comprise the Scheme Consideration on the ASX; and
 - (ii) allot and issue to the Scheme Shareholders the New Sandfire Shares that comprise the Scheme Consideration in accordance with the Scheme and Deed Poll on terms such that each New Sandfire Share will rank equally in all respects with each existing Sandfire Share, provided that, if the Rematerialisation has not occurred as at the Record Date, the MOD Depository may direct that New Sandfire Shares attributable to the Scheme Shares held by the MOD Depository or the MOD Depository Interest Custodian be issued directly to MOD Depository Interest Holders instead of the MOD Depository or the MOD Depository Interest Custodian.
- (b) Sandfire covenants in favour of MOD (in its own right and separately as trustee and nominee for each of the Scheme Shareholders) that:
- (i) the New Sandfire Shares to be issued under the Scheme and Deed Poll will be duly and validly authorised and will, on and from their issue, rank equally in all respects with all existing Sandfire Shares;
 - (ii) the New Sandfire Shares issued as Scheme Consideration will be entitled to participate in and receive any dividends or distribution of capital paid and any other entitlements accruing in respect of Sandfire Shares on and after the Implementation Date;
 - (iii) on issue, each such New Sandfire Share will be validly issued, fully paid and free from any mortgage, charge, lien, encumbrance or other security interest or third-party rights; and
 - (iv) it will use its best endeavours to ensure that the New Sandfire Shares issued as Scheme Consideration will be listed for quotation on the official list of ASX with effect from the Business Day after the Effective Date (or such later date as ASX may require), initially on a deferred settlement basis and, with effect from the first Business Day after the Implementation Date, on an ordinary (T+2) settlement basis.

4.8 Ineligible Foreign Shareholders and Cash Out Shareholders

- (a) Sandfire will be under no obligation under the Scheme or Deed Poll to issue, and will not issue, any New Sandfire Shares to any Ineligible Foreign Shareholder, and

instead, unless Sandfire and MOD otherwise agree, Sandfire must procure that the New Sandfire Shares that each Ineligible Foreign Shareholder would otherwise be entitled to receive as Scheme Consideration (which shall include any fraction of a New Sandfire Share arising from the calculation and disregarding the operation of clause 4.10) are dealt with in accordance with clause 4.9.

- (b) Sandfire will be under no obligation under the Scheme or Deed Poll to issue, and will not issue, any New Sandfire Shares to any Cash Out Shareholder, and instead, unless Sandfire and MOD otherwise agree, Sandfire must procure that the New Sandfire Shares that each Cash Out Shareholder would otherwise be entitled to receive as Scheme Consideration (which shall include any fraction of a New Sandfire Share arising from the calculation and disregarding the operation of clause 4.10) are dealt with in accordance with clause 4.9, provided that Cash Out Shareholders (other than European Holders) who, on implementation of the Scheme, would be entitled to receive at least one whole New Sandfire Share as Scheme Consideration, may (if they have given the warranty referred to in clause 4.3(b)(vii) and are otherwise permitted to do so by applicable law) (**Relevant Non Cash Out MOD Shareholder**) elect to receive their Scheme Consideration in the form of New Sandfire Shares (**Non Cash Out Election**).
- (c) Sandfire will be under no obligation under the Scheme or Deed Poll to issue any New Sandfire Shares to any Cash Out Shareholder who is a European Holder and has made or purported to make a Non Cash Out Election or who Sandfire considers to be or to be holding MOD Shares or MOD Depositary Interests or any of them or any interest in any of them directly or indirectly on behalf of, or to be making a Non Cash Out Election directly or indirectly on behalf of, a European Holder.

4.9 Sale Facility

- (a) Sandfire must appoint a nominee acceptable to MOD (acting reasonably) at least two weeks prior to the Scheme Meeting (and if required by ASIC, such nominee is to be approved by ASIC), and on the Implementation Date issue to that nominee, the New Sandfire Shares to which an Ineligible Foreign Shareholder or Non-Electing Cash Out Shareholder would otherwise be entitled under the Scheme and Deed Poll (which in each case shall include any fraction of a New Sandfire Share arising from the calculation and disregarding the operation of clause 4.10).
- (b) Where New Sandfire Shares are issued to a nominee pursuant to clause 4.9(a), Sandfire will procure that, as soon as reasonably practicable and in any event not more than 15 Business Days after the Implementation Date, the nominee:
 - (i) sells on ASX or another prescribed financial market all of the New Sandfire Shares issued to the nominee in accordance with clause 4.9(a) in such manner, at such price and on such other terms as the nominee determines in good faith; and
 - (ii) remits to Sandfire the proceeds of sale (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges).
- (c) Where New Sandfire Shares are issued to a nominee pursuant to clause 4.9(a), promptly after the last remittance in accordance with clause 4.9(b)(ii), Sandfire will pay in Australian dollars to each Ineligible Foreign Shareholder and Non-Electing Cash Out Shareholder the proportion of the net proceeds of sale received by Sandfire pursuant to clause 4.9(b)(ii) to which that Ineligible Foreign Shareholder or Non-Electing Cash Out Shareholder is entitled, in full satisfaction of their right to the Scheme Consideration.

- (d) For the purposes of this clause 4.9, each Ineligible Foreign Shareholder and Non-Electing Cash Out Shareholder appoints Sandfire as its agent to receive on its behalf any financial services guide or other notices (including any updates to those documents) that the nominee is required to provide to Ineligible Foreign Shareholders or Non-Electing Cash Out Shareholders under the Corporations Act.

4.10 Fractional entitlements

- (a) Any fractional entitlement of a Scheme Shareholder (other than an Ineligible Foreign Shareholder or a Non-Electing Cash Out Shareholder) to a part of a New Sandfire Share will be rounded up or down to the nearest whole number of New Sandfire Shares.
- (b) The fractional entitlements of Ineligible Foreign Shareholders and Non-Electing Cash Out Shareholders will be dealt with in accordance with clause 4.9(a).

4.11 Share splitting

If Sandfire is of the opinion (acting reasonably) that two or more Scheme Shareholders (each of whom holds a number of Scheme Shares that results in rounding in accordance with clause 4.10) have, before the Record Date, been party to Share Splitting or division in an attempt to obtain unfair advantage by reference to such rounding, Sandfire may give notice to those Scheme Shareholders:

- (a) setting out their names and registered addresses as shown in the Share Register;
- (b) stating that opinion; and
- (c) attributing the Scheme Shares held by all of them to one of them as specifically identified in the notice,

and, after such notice has been given, the Scheme Shareholder specifically identified in the notice as the deemed holder of all the specified Scheme Shares will, for the purposes of the Scheme and Deed Poll, be taken to hold all of those Scheme Shares and each of the other Scheme Shareholders whose names and registered addresses are set out in the notice will, for the purposes of the Scheme and Deed Poll, be taken to hold no Scheme Shares. Sandfire, in complying with the other provisions of the Scheme and Deed Poll relating to it in respect of the Scheme Shareholder specifically identified in the notice as the deemed holder of all the specified Scheme Shares, will be taken to have satisfied and discharged its obligations to the other Scheme Shareholders named in the notice under the terms of the Scheme and Deed Poll.

4.12 Deed Poll

- (a) Sandfire covenants in favour of MOD (in its own right and separately as trustee for each of the Scheme Shareholders) to execute and deliver to MOD the Deed Poll prior to the First Court Date.
- (b) In the event that Sandfire does not nominate Sandfire Nominee under clause 2(c) to receive the Scheme Shares, Sandfire hereby:
 - (i) approves of such reasonable amendments to the Deed Poll as MOD requires in order to reflect that; and
 - (ii) agrees to execute and deliver to MOD the amended Deed Poll prior to the First Court Date.

4.13 Exercise, transfer or cancellation of MOD Options

- (a) The parties must use reasonable endeavours (acting co-operatively and in good faith) to procure that, as soon as practicable after the date of this deed (subject to compliance with applicable laws and stock exchange rules, as modified or waived by ASIC, ASX or LSE), each holder of MOD Options (other than Metal Tiger) either:
 - (i) exercises its MOD Options prior to the Record Date, upon which MOD will enter each holder of MOD Options that exercises its MOD Options prior to the Record Date onto the register of members of MOD prior to the Record Date, such that such holder of the MOD Option participates in the Scheme as a Scheme Shareholder; or
 - (ii) subject to being permitted by applicable laws and regulations to do so, enters into a deed with Sandfire and MOD, in a form acceptable to both Sandfire and MOD (each acting reasonably), under which:
 - (A) the holder agrees to the transfer to Sandfire or to cancellation of all of their MOD Options with such transfer or cancellation to be subject to the Scheme becoming Effective and to take effect on the Implementation Date;
 - (B) Sandfire agrees to provide, or procure the provision of, consideration as determined in accordance with Schedule 3 to the holder on the Implementation Date; and
 - (C) MOD agrees to cooperate with Sandfire to facilitate the transfer or cancellation of MOD Options (including, if required the MOD Board making any necessary lawful amendment, consent or determination for the purposes of the relevant terms and conditions upon which the MOD Options were issued and using reasonable endeavours to procure the grant of any necessary waivers by ASX).
- (b) Unless otherwise agreed in writing by Sandfire, MOD must, and must ensure that all members of the MOD Group refrain from conferring, or agreeing to confer, any benefits (whether by cash payment, the issue of awards, exercise of discretion, the issue of shares or other securities or otherwise) beyond those already conferred prior to the date of this deed under, or in relation to, any Incentive Plan or award under an Incentive Plan.

4.14 MOD Performance Rights

- (a) MOD must take such action as is necessary after the Effective Date and prior to the Record Date to ensure that any MOD Performance Rights which have not already vested, so vest and convert prior to the Record Date, which actions shall include procuring that the MOD Board:
 - (i) resolve that the Scheme becoming Effective constitutes a 'Change of Control Event' (as defined in the MOD Employee Incentive Plan);
 - (ii) resolve to waive unsatisfied vesting conditions and accelerate the exercise period such that all MOD Performance Rights convert or are exercised prior to the Record Date; and
 - (iii) notify such MOD Performance Rights holders of such accelerating prior to the Scheme Meeting.

- (b) MOD must, prior to the Record Date, issue the number of MOD Shares required by the terms of those MOD Performance Rights on such vesting, so that the relevant former holders of the MOD Performance Rights, as the case may be, can participate in the Scheme.

4.15 Permitted Dividend

- (a) Subject to clause 4.15(b), MOD acknowledges that Sandfire may, at its sole discretion, pay the holders of Sandfire Shares an ordinary dividend in ordinary course of business which will be franked to the extent franking credits are available (**Permitted Dividend**).
- (b) Provided that the Implementation Date occurs on or prior to 15 November 2019, Sandfire will use reasonable endeavours to set a Permitted Dividend record date after the Implementation Date so that the Scheme Shareholders will be entitled to the Permitted Dividend.

4.16 Alternate Transaction

If Sandfire concludes that it is necessary or desirable to proceed with the Transaction by way of another mechanism permitted by law (such as a take-over bid or asset acquisition) whereby Sandfire (or any Related Body Corporate) would acquire all of the MOD Shares, MOD Options and MOD Performance Rights or assets of MOD, within approximately the same time periods and terms and conditions (including tax treatment) and having consequences to MOD and the MOD Shareholders, that the MOD Board determines (acting reasonably) are equivalent to or better than those contemplated by this deed (an **Alternative Transaction**), MOD agrees to discuss in good faith the merits of implementing such Alternative Transaction.

5 Implementation

5.1 General obligations

MOD and Sandfire must each:

- (a) use all reasonable endeavours and commit necessary resources (including management and corporate relations resources and the resources of external advisers); and
- (b) procure that its officers and advisers act reasonably and work in a timely and co-operative fashion with the other party (including by attending meetings and by providing information),

to produce the Scheme Booklet and implement the Scheme as soon as reasonably practicable and in accordance with the Timetable.

5.2 MOD obligations

MOD must, acting at all times in good faith, take all steps reasonably necessary to implement the Scheme in accordance with the Timetable and otherwise as soon as practicable and on and subject to the terms of this deed. Without limiting the foregoing, MOD must (to the fullest extent applicable):

- (a) (**announce directors' recommendation**) following execution of this deed, announce, in the form of its Agreed Public Announcement (on the basis of statements made to MOD by each MOD Director who MOD should take steps to

ensure obtains independent advice as to their ability to join in any recommendation) that:

- (i) the MOD Board intends to unanimously recommend the Scheme and EGM Resolutions to MOD Shareholders and recommend that MOD Shareholders vote in favour of the Scheme at the Scheme Meeting and the EGM Resolutions at the EGM; and
- (ii) each MOD Director intends to vote, or cause to be voted, all MOD Shares in which he or she has a Relevant Interest in favour of the Scheme at the Scheme Meeting and the EGM Resolutions at the EGM,

in each case in the absence of:

- (iii) a Superior Proposal; or
 - (iv) the Independent Expert concluding in the Independent Expert's Report (or any update or variation to that report) that the Transaction is not in the best interests of MOD Shareholders; or
 - (v) in the case of the recommendation in clause 5.2(a)(i), a MOD Director making a determination in accordance with clause 5.5.
- (b) **(Independent Expert)** as soon as reasonably practicable after the date of this deed, appoint the Independent Expert, in accordance with RG 112, and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report (and any update to any such report);
- (c) **(Copy of Independent Expert's Report)** promptly provide Sandfire with a copy of each draft of the Independent Expert's Report and the final report received from the Independent Expert (noting that any feedback on the Independent Expert's Report from Sandfire is to be limited to comments as to factual accuracy, including parts that include information relating to Sandfire);
- (d) **(preparation of Scheme Booklet)**
- (i) prepare the Scheme Booklet (other than the Sandfire Information and the Independent Expert's Report) in accordance with all applicable laws (including the Corporations Act and Corporations Regulations), RG 60 and the Listing Rules and, subject to clause 5.3(a), include the Sandfire Information in the Scheme Booklet; and
 - (ii) consult with Sandfire as to the content and presentation of the Scheme Booklet, including providing Sandfire with drafts of the Scheme Booklet and the factual information sections relating to Sandfire in the Independent Expert's Report, in a timely manner and, acting reasonably and in good faith, consider (and, where applicable, promptly provide to the Independent Expert in writing) all reasonable comments from Sandfire and its Representatives on those drafts when preparing revised drafts, provided that such comments are provided to MOD in a timely manner (however in relation to the Independent Expert's Report, MOD is only responsible to ensure that the Independent Expert considers comments relating exclusively to factual accuracy);
- (e) **(lodgement of Regulator's Drafts)**

- (i) no later than 14 days before the First Court Date, provide a near final draft of the Scheme Booklet (**Regulator's Draft**) to ASIC for its review for the purposes of section 411(2) of the Corporations Act, and provide a copy of the Regulator's Draft to Sandfire immediately thereafter; and
- (ii) keep Sandfire reasonably informed of any material issues raised by ASIC in relation to the Regulator's Draft and, where practical to do so, consult with Sandfire in good faith prior to taking any steps or actions to address any such material issues (provided that, where such issues relate to Sandfire Information, MOD must not take any steps to address them without Sandfire's prior written consent, not to be unreasonably withheld);
- (f) (**no objection statement**) apply to ASIC for a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (g) (**First Court Hearing**) apply to the Court for orders under section 411(1) of the Corporations Act directing MOD to convene the Scheme Meeting;
- (h) (**due diligence and verification**) undertake appropriate due diligence and verification processes in relation to the MOD Information, and, once such processes have been completed, provide written confirmation to Sandfire of the completion of such processes;
- (i) (**approval and registration of Scheme Booklet**) if the Court directs MOD to convene the Scheme Meeting request that, in accordance with section 412(6) of the Corporations Act, ASIC register the Scheme Booklet;
- (j) (**Scheme Meeting**) as soon as reasonably practicable following registration of the Scheme Booklet by ASIC, despatch the Scheme Booklet to MOD Shareholders, and convene and hold the Scheme Meeting in accordance with the orders made by the Court at the First Court Hearing;
- (k) (**EGM**) if the Court directs MOD to convene the Scheme Meeting, convene the EGM to be held immediately before the Scheme Meeting and put the EGM Resolutions to MOD Shareholders at the EGM;
- (l) (**Director votes and participation**) use its reasonable endeavours to procure that each member of the MOD Board votes any MOD Shares in which they have a Relevant Interest in favour of the Scheme at the Scheme Meeting and participates in reasonable efforts to promote the Scheme, in the absence of:
 - (i) a Superior Proposal; or
 - (ii) the Independent Expert concluding in the Independent Expert's Report (or any update or variation to that report) that the Transaction is not in the best interests of MOD Shareholders;
- (m) (**supplementary disclosure**) if, after despatch of the Scheme Booklet, MOD becomes aware:
 - (i) that information included in the Scheme Booklet is or has become false, misleading or deceptive in any material respect (whether by omission or otherwise); or
 - (ii) of information that is required to be disclosed to MOD Shareholders under any applicable law or having regard to RG 60 but was not included in the Scheme Booklet,

promptly disclose such information to and consult with Sandfire in good faith as to the need for, and form of, any supplementary disclosure to MOD Shareholders, the need for, the timing of, and directions to be sought at, an additional application to the Court, and make any disclosure that it is ordered to make or considers reasonably necessary in the circumstances, having regard to orders made by the Court, applicable laws and RG 60;

- (n) **(Conditions Precedent certificate)** at the Second Court Hearing, provide to the Court (through its counsel):
 - (i) a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions Precedent (other than the Condition Precedent in clause 3.1(a)) have been satisfied or waived in accordance with clause 3, a draft of which certificate must be provided to Sandfire by 5.00pm on the Business Day prior to the Second Court Date; and
 - (ii) any certificate provided to it by Sandfire pursuant to clause 5.3(g);
- (o) **(Second Court Hearing)** subject to the Conditions Precedent (other than the Condition Precedent in clause 3.1(a)) being satisfied or waived in accordance with clause 3, apply to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme;
- (p) **(Court Documents)** prepare the Court Documents, provide drafts of those documents to Sandfire in a timely manner and, acting reasonably and in good faith, take into account all reasonable comments from Sandfire and its Representatives on those drafts, provided that such comments are provided in a timely manner;
- (q) **(Sandfire representation at Court Hearings)** allow, and not oppose, any application by Sandfire for leave of the Court to be represented by counsel at the Court Hearings;
- (r) **(take out Court order and notify ASX)** as soon as reasonably possible after conclusion of the Second Court Hearing, take out an office copy of the orders made by the Court under section 411(4)(b) of the Corporations Act approving the Scheme and, promptly after receipt of the orders, tell ASX of the MOD's intention to lodge the Court order with ASIC the following day;
- (s) **(lodgement of Court order)** for the purposes of section 411(10) of the Corporations Act, lodge with ASIC an office copy of the orders made by the Court under section 411(4)(b) of the Corporations Act approving the Scheme before 5.00pm on the Business Day following the day on which it receives such office copy;
- (t) **(quotation of MOD Shares and ASX and LSE listing)** apply to ASX and LSE to have:
 - (i) trading in MOD Shares suspended from the close of trading on the Effective Date; and
 - (ii) MOD removed from the official list of ASX and LSE, and quotation of MOD Shares on the ASX and LSE is terminated, with effect on and from the close of trading on the Trading Day immediately following, or shortly after, the Implementation Date,

or, in each case, such other dates as the parties may agree, acting reasonably, following consultation with ASX and LSE and not do anything to cause any of these things to happen before the time specified in this clause 5.2(t);

- (u) **(information)** provide Sandfire with such information as Sandfire reasonably requests, including any copy of the Share Register (including any sub-register), and which is necessary for the purpose of soliciting votes in favour of the Scheme;
- (v) **(Scheme Consideration)** facilitate the provision of the Scheme Consideration to Scheme Shareholders;
- (w) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws, regulations and policy; and
- (x) **(implementation)** if the Scheme becomes Effective, do all things contemplated of it under the Scheme and all other things (if any) necessary for the MOD to do to lawfully give effect to the Scheme including:
 - (i) instructing the MOD Depositary to cancel the MOD Depositary Interests on or prior to the date that is two Business Days prior to the Record Date in accordance with the MOD Depositary Interest Deed and rematerialise the underlying MOD Shares deposited with the MOD Depositary Interest Custodian, so that the person registered as the holder of the MOD Depositary Interests immediately prior to the re-materialisation is then recorded in the Share Register as the holder of the underlying MOD Shares as at the Record Date (**Rematerialisation**);
 - (ii) determining the identity of each Scheme Shareholder and their entitlement to the Scheme Consideration as at the Record Date, including by taking up-to-date copies of the Share Register current as at the Record Date; and
 - (iii) executing proper instruments of transfer of and giving effect to and registering the transfer of the Scheme Shares to Sandfire on the Implementation Date.

5.3 Sandfire obligations

Sandfire must, acting at all times in good faith, take all steps reasonably necessary to implement the Scheme in accordance with the Timetable and otherwise as soon as practicable and on and subject to the terms of this deed. Without limiting the foregoing, Sandfire must (to the fullest extent applicable):

- (a) **(prepare Sandfire Information)**
 - (i) as soon as reasonably practicable after the date of this deed, prepare the Sandfire Information for inclusion in the Scheme Booklet in accordance with all applicable laws (including the Corporations Act and Corporations Regulations), RG 60 and the Listing Rules; and
 - (ii) provide MOD with drafts of the Sandfire Information in a timely manner and, acting reasonably and in good faith, take into account all reasonable comments from MOD and its Representatives on those drafts, provided that such comments are provided to Sandfire in a timely manner;
- (b) **(assistance with Scheme Booklet and Court Documents)** provide any assistance or information reasonably requested by MOD or its Representatives in

connection with the preparation of the Scheme Booklet (including any supplementary disclosure to MOD Shareholders) or any Court Documents, including reviewing the drafts of the Scheme Booklet prepared by MOD and provide comments in a timely manner on those drafts in good faith;

- (c) **(Independent Expert's Report)** subject to the Independent Expert agreeing to reasonable confidentiality restrictions, provide any assistance or information reasonably requested by MOD or its Representatives, or by the Independent Expert, in connection with the preparation of the Independent Expert's Report (and any update or variation to any such report);
- (d) **(due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Sandfire Information, and, once those processes have been completed, provide written confirmation to MOD of the completion of such processes;
- (e) **(confirmation of Sandfire Information)** promptly after MOD requests that it does so, confirm in writing to MOD that:
 - (i) it consents to the inclusion of the Sandfire Information in the Scheme Booklet, in the form and context in which the Sandfire Information appears; and
 - (ii) the Sandfire Information in the Scheme Booklet is not misleading or deceptive in any material respect (whether by omission or otherwise), and the inclusion of such Sandfire Information, in that form and context, has been approved by the Chief Financial Officer and Company Secretary of Sandfire;
- (f) **(update Sandfire Information)** promptly advise MOD in writing if it becomes aware:
 - (i) of information which should have been but was not included in the Sandfire Information in the Scheme Booklet (including if known at the time), and promptly provide MOD with the omitted information; or
 - (ii) that the Sandfire Information in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise), and promptly provide MOD with any information required to correct the misleading or deceptive statements;
- (g) **(Conditions Precedent certificate)** before Delivery Time, provide to MOD for provision to the Court at the Second Court Hearing a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions Precedent (other than the Condition Precedent in clause 3.1(a)) have been satisfied or waived in accordance with clause 3, a draft of which certificate must be provided to MOD by 5.00pm on the Business Day prior to the Second Court Date;
- (h) **(Scheme Consideration)** if the Scheme becomes Effective, provide the Scheme Consideration in the manner and in the amount contemplated by clause 4 of this deed, the terms of the Scheme and the Deed Poll;
- (i) **(share transfer)** if the Scheme becomes Effective, accept a transfer of the Scheme Shares as contemplated by clause 4.1(c) and execute instruments of transfer in respect of the Scheme Shares;
- (j) **(official quotation)** as soon as practicable apply to ASX for official quotation by ASX of the New Sandfire Shares to be issued pursuant to the Scheme and Deed

Poll and promptly notify MOD in writing of the lodgment, progress and outcome of such application (and of any actual or anticipated modification of such outcome);

- (k) **(Deed Poll)** before 5.00pm on the Business Day prior to the First Court Date, on the date this deed is signed, enter into the Deed Poll and deliver it to MOD, and, if the Scheme becomes Effective, fully comply with its obligations under the Deed Poll; and
- (l) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws, regulations and policy.

5.4 JV Consolidation

- (a) Subject to the terms and the conditions of the Sale and Demerger Agreement and the Sale and Demerger Agreement Side Letter, MOD irrevocably undertakes to exercise its option under the Sale and Demerger Agreement, after the Effective Date, so as to acquire 100% of Metal Tiger's interest in Metal Capital Exploration Limited (**JV Consolidation Option**), to be settled by:
 - (i) the issue of 22,322,222 new MOD Shares prior to the Record Date for the Scheme (**Option Consideration Shares**); and
 - (ii) the grant of the royalty to Metal Tiger in accordance with the terms of the Sale and Demerger Agreement.
- (b) MOD must use reasonable endeavours to obtain all necessary shareholder approvals required by the Corporations Act and the Listing Rules alongside the Scheme approvals, to proceed with the issue of the Option Consideration Shares including, without limitation approval in accordance with Listing Rule 10.1.
- (c) MOD and Sandfire acknowledge that following implementation and completion occurring under the Sale and Demerger Agreement (as amended), MOD will own the entire issued share capital of Metal Capital Exploration Limited.

5.5 Form of Recommendation

Clauses 3.1(n), 5.2(a), 8.1 and 8.2 are qualified to the extent that, due only to any change in fact or law (or application of any law or policy by any Government Agency) occurring after the date of this deed, after first obtaining written advice from independent Senior Counsel, a MOD Director reasonably determines that he or she should not provide or continue to maintain any recommendation because that MOD Director has an interest in the Scheme that renders it inappropriate for him or her to maintain any such recommendation.

5.6 Appeal process

- (a) If the Court refuses to make any orders directing MOD to convene the Scheme Meeting or approving the Scheme, MOD and Sandfire must:
 - (i) consult with each other in good faith as to whether to appeal the Court's decision; and
 - (ii) appeal the court decision, unless the parties agree otherwise or an independent senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success.

5.7 Scheme Booklet

- (a) If the parties are unable to agree on the form or content of a particular part of the Scheme Booklet, then:
 - (i) if the relevant part of the Scheme Booklet is Sandfire Information, MOD will make such amendments to that part of the Scheme Booklet as required by Sandfire (acting reasonably and in good faith); and
 - (ii) in any other case, MOD (acting reasonably and in good faith) will decide the form and content of that part of the Scheme Booklet.
- (b) The parties agree that the Scheme Booklet will contain a responsibility statement to the effect that:
 - (i) MOD is responsible for the MOD Information contained in the Scheme Booklet;
 - (ii) Sandfire is responsible for the Sandfire Information contained in the Scheme Booklet; and
 - (iii) the Independent Expert is responsible for the Independent Expert's Report, and none of MOD, Sandfire or their respective directors or officers assumes any responsibility for the accuracy or completeness of the Independent Expert's Report or any other report or letter issued to MOD by a third party in connection with the Independent Expert's Report.
- (c) Each party must undertake appropriate verification processes for the information supplied by that party for the Scheme Booklet.

6 Conduct of business and transitional matters

6.1 Conduct of MOD business

Subject to clause 6.3, from the date of this deed up to and including the Implementation Date, MOD must:

- (a) ensure that the business of the MOD Group is conducted:
 - (i) in the usual and ordinary course;
 - (ii) in a manner generally consistent with the manner in which such business has been conducted in the 12 months prior to the date of this deed;
 - (iii) in accordance with all applicable laws and contractual obligations in all material respects;
 - (iv) substantially in accordance with the Budget for the MOD Group in respect of the financial year ended 31 December 2019 which has been provided as part of the Disclosure Materials (the **Budget**);
- (b) use reasonable endeavours to preserve their relationship with joint venturers, customers, suppliers, investors, Government Agencies, licensors, licensees and others with whom the MOD Group has business dealings and to retain the services of the Relevant Employees of the MOD Group;

- (c) use reasonable endeavours to ensure that all assets are maintained in the normal course consistent with past practice;
- (d) use reasonable endeavours to comply in all material respects with all contracts which are material to the conduct of the MOD Group's business and which involves aggregate expenditure greater than US\$100,000, or has a committed term which is greater than 3 years (**Material Contract**) to which a member of the MOD Group is a party, and with laws, authorisations and licenses applicable to each member of the MOD Group;
- (e) not take or fail to take any action that constitutes a Prescribed Occurrence or that could reasonably be expected to result in a Prescribed Occurrence;
- (f) not increase the costs or expenses of the MOD Group by more than A\$250,000 or more (on a 6 monthly basis and pre-tax deduction basis) against the costs and expenses specified in the Budget; and
- (g) not take or fail to take any action that would, or would be likely to, prevent a Condition being satisfied or result in a Condition not being satisfied.

6.2 MOD prohibited actions

Subject to clause 6.3, from the date of this deed up to and including the Implementation Date, MOD must not, and must procure that the MOD Group does not:

- (a) declare, pay or distribute any dividend, bonus or other share of its profits or assets by way of dividend, capital reduction or otherwise;
- (b) in respect of any single transaction or series of related or similar transactions acquire or dispose of any interest in a business, real property, entity or undertaking, the value of which exceeds US\$200,000 in aggregate;
- (c) enter into any new agreement or arrangement with an Adviser pursuant to which any fee, cost or other form of compensation or remuneration is payable that is directly or indirectly as a result of, contingent on, or in connection with:
 - (i) Sandfire entering into this deed; or
 - (ii) Sandfire acquiring a Relevant Interest in the Scheme Shares; or
 - (iii) the Scheme or a transaction contemplated by this deed;
- (d) except as required by law or as provided in an existing contract in place at the date of this deed, make any material change to the terms of employment of (including increasing the remuneration or compensation of or accelerating the rights to benefits of any kind), or grant or pay any bonus, incentive, retention, severance or termination payment to, any director, officer, executive or senior manager of the MOD Group;
- (e) enter into a new employment contract with a potential employee of the MOD Group under which contract the total remuneration payable to that potential employee would exceed US\$100,000 in any 12 month period, other than to replace a role that becomes vacant after the date of this deed as a result of the resignation of an existing employee or in respect of a new employee who is employed in order to fill a role that is vacant as at the date of this deed;

- (f) enter into any enterprise bargaining agreement or any other form of collective agreement concerning the terms of employment of employees of the MOD Group;
- (g) incur any additional financial indebtedness, or guarantee or indemnify the obligations of any person other than a member of the MOD Group, other than in the usual and ordinary course of business and consistent with past practice;
- (h) enter into any new financing arrangement, agreement or otherwise provide financial accommodation (irrespective of what form that accommodation takes and/or purpose of such financing), or amend the term of any existing financing arrangement, agreement or instrument;
- (i) incur or enter into any new commitments involving the purchase and/or of plant and equipment of more than US\$100,000 in aggregate;
- (j) give or agree to give a financial benefit to a related party of MOD;
- (k) enter into a Material Contract, or terminate or amend the terms of a Material Contract;
- (l) implement or amend any share-based incentive plan or scheme;
- (m) alter in any material respect any accounting policy of any member of the MOD Group (other than to the extent required to comply with one or more accounting standards); and
- (n) agree to do any of the matters set out above.

6.3 MOD permitted actions

- (a) Nothing in clause 6 restricts the ability of MOD to take any action which:
 - (i) is required or permitted by this deed or the Scheme, including any matter approved by unanimous written approval of the Transaction Implementation Committee;
 - (ii) is contemplated by the Budget;
 - (iii) has been Fairly Disclosed to Sandfire in the Disclosure Materials;
 - (iv) has been Fairly Disclosed by MOD in any announcement to or filing with ASX or in a document lodged by MOD with ASIC that is publicly available, in each case between 5 November 2015 and the Business Day prior to the date of this deed;
 - (v) has been consented to in writing by Sandfire;
 - (vi) is required by law, stock exchange rules or by order of a court or any applicable Government Agency;
 - (vii) involves the execution of any agreement on substantially the same terms as those draft agreements contained in section 9.01.01 of the Online Data Room;
 - (viii) involves the issue of MOD Shares to MOD Directors or members of management in lieu of short term cash incentives previously disclosed to the ASX;

- (ix) involves the payment of Transaction Costs; and
 - (x) is required to be done by any member of the MOD Group or its Representatives to reasonably and prudently respond to an emergency or disaster (including a situation giving rise to a risk of personal injury or material damage to property).
- (b) For the avoidance of doubt, nothing in this clause 6 restricts the ability of MOD to respond to a Competing Proposal in accordance with clause 9.

6.4 Access

- (a) From the date of this deed until the Implementation Date, MOD must use reasonable endeavours to procure that Sandfire is provided with reasonable, non-disruptive access during normal business hours and on reasonable notice to information, premises and senior executives of any member of the MOD Group (both in Australia and Botswana), where Sandfire requests such access for the purposes of:

- (i) implementation of the Transaction; or
- (ii) obtaining an understanding, or furthering its understanding, of the MOD Group or its business or assets in order to allow Sandfire to develop, finalise and implement its plans for the MOD Group following implementation of the Transaction,

provided that compliance with any such request would not, in the reasonable opinion of MOD (acting in good faith), result in undue disruption to the MOD Group's business, and provided that:

- (iii) Sandfire has provided MOD with reasonable prior notice of the access it requires (including the identity of its representatives who are to exercise that right of access on behalf of Sandfire);
 - (iv) the access will not result any member of the MOD Group breaching any law or Government Agency requirement;
- (b) Nothing in this clause 6.4 shall require MOD to provide Sandfire with any information:
- (i) in breach of an obligation of confidentiality to any person; or
 - (ii) concerning consideration of the Scheme, the Transaction or any actual or potential Competing Proposal.
- (c) Sandfire and each of its representatives agrees to comply with MOD's reasonable requirements (including allowing oversight and participation by MOD representatives and, if required by MOD, entering into appropriate confidentiality undertakings).

6.5 Change of Control Requirements

- (a) As soon as practicable after the date of this deed, the parties must:
- (i) seek to identify any change of control or similar provisions in any contracts to which a member of the MOD Group is party which may be triggered by the implementation of the Transaction (**Change of Control Requirements**); and

- (ii) use all reasonable endeavours to agree a proposed strategy to obtain any consents required in accordance with the terms of any identified Change of Control Requirements, and, if agreed between parties as part of the proposed strategy, to then use reasonable efforts to promptly seek those consents in accordance with the agreed strategy.
- (b) Subject to complying with clause 6.5(a)(ii), a failure by the MOD Group to obtain any change of control approval under MOD's head office lease dated 13 March 2017 or third party consent as part of the Change of Control Requirements (other than in respect of the approvals required under Condition Precedent 3.1(h)) will not constitute a breach of this deed by MOD and, together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this deed.

6.6 Resignation of directors

Subject to provision of the Scheme Consideration in accordance with clause 4.2, MOD must procure that, with effect on and from the Implementation Date:

- (a) those persons nominated by Sandfire are appointed to the MOD Board and the boards of other members of the MOD Group, provided that:
 - (i) such persons sign consents to act as a director of the relevant member(s) of the MOD Group;
 - (ii) such consents to act are provided to MOD before the Implementation Date; and
- (b) each of those MOD Directors and directors of other members of the MOD Group, as nominated by Sandfire, resign as a director of the relevant member(s) of the MOD Group.

6.7 Transaction Implementation Committee

- (a) The parties must establish a Transaction Implementation Committee as soon as reasonably practical after the date of this deed and ensure it meets at least fortnightly (in person or by teleconference). The role of the Transaction Implementation Committee will be to act as a forum for consultation and planning by the parties to:
 - (i) implement the Scheme; and
 - (ii) subject to clause 6.7(b):
 - (A) ensure the smooth transition of the management of the business and affairs of the MOD Group to Sandfire following the implementation of the Scheme;
 - (B) ensure the continued development of the T3 Project in accordance with the Budget;
 - (C) ensure regional exploration is conducted in an efficient and methodical manner; and
 - (D) facilitate finalisation of structuring arrangements for the Transaction.

- (b) Subject to this deed and the statutory and fiduciary obligations of the MOD directors, MOD must take into account the views of the Transaction Implementation Committee but nothing in this clause 6.7(b) requires either party to act at the direction of the other. The business of each party will continue to operate independently from the other until the Implementation Date. The parties agree that nothing in this deed constitutes the relationship of a partnership or a joint venture between the parties.

7 Public announcements

- (a) Immediately after execution of this deed, each of MOD and Sandfire must release its respective Agreed Public Announcement.
- (b) Subject to clause 7(c), before making any public announcement in relation to the Transaction (whether through the ASX or otherwise), a party must provide the other party with a draft copy of the portion of such public announcement relating to the Transaction as soon as reasonably practicable before it is proposed that such public announcement is made, and must give the other party a reasonable opportunity to comment on the form and content of the portion of such draft announcement relating to the Transaction and must take into account all reasonable comments from that party and its Representatives on the draft.
- (c) A party will only be required to comply with clause 7(b) if and to the extent that compliance would not, in the reasonable opinion of that party, be likely to result in that party breaching its continuous disclosure or similar obligations including, without limitation, under the Market Abuse Regulation.

8 Board support of Transaction

8.1 Confirmation of Recommendations and Voting Intentions

MOD represents and warrants to Sandfire that as at the date of this deed each MOD Director has confirmed (by way of a unanimous resolution of the MOD Board) that:

- (a) his or her recommendation in respect of the Scheme is that MOD Shareholders vote in favour of the Scheme at the Scheme Meeting (**Recommendation**); and
- (b) he or she intends to vote, or cause to be voted, all MOD Shares in which he or she has a Relevant Interest in favour of the Scheme at the Scheme Meeting in accordance with his or her Voting Confirmation (**Voting Intention**),

in each case in the absence of:

- (c) a Superior Proposal; or
- (d) the Independent Expert concluding in the Independent Expert's Report (or any update or variation to that report) that the Transaction is not in the best interests of MOD Shareholders; or
- (e) in the case of the Recommendation, him or her making a determination in accordance with clause 5.5.

8.2 Maintenance of Recommendations and Voting Intentions

- (a) MOD must use its reasonable endeavours to ensure that no MOD Director withdraws, changes or modifies a Recommendation or Voting Intention unless:
 - (i) a Superior Proposal is made; or
 - (ii) the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report) that the Transaction is not in the best interests of MOD Shareholders; or
 - (iii) in the case of the Recommendation, a MOD Director makes a determination in accordance with clause 5.5.
- (b) Subject to a MOD Director withdrawing or changing a Recommendation or Voting Intention following the occurrence of either of the events referred to in clause 8.2(a), MOD must ensure that:
 - (i) the Scheme Booklet includes statements to the effect that each MOD Director gives the Recommendation and has the Voting Intention; and
 - (ii) no public announcement is made by MOD, and no public statement is made by any MOD Director, which is inconsistent with any MOD Director giving the Recommendation and having the Voting Intention.

8.3 Sandfire acknowledgement

Sandfire acknowledges that, without derogating from a party's rights under clause 14 (*Termination*), if either of the events in clause 8.2(a) occur, then any MOD Director may change, withdraw or modify their Recommendation or Voting Intention.

8.4 Notification of change of Recommendations or Voting Intentions

During the Exclusivity Period, MOD must promptly notify Sandfire if it becomes aware that any MOD Director is likely or has determined to change, withdraw or modify their Recommendation or Voting Intention by no later than:

- (a) two Business Days before the date on which MOD believes that the withdrawal or revision might or will occur; and
- (b) if MOD does not become aware of the potential change, withdrawal or modification or its timing until after that time, the date on which MOD becomes aware of the determination to withdraw or revise the recommendation,

unless the MOD Board, acting in good faith, after having consulted with its financial and legal advisers, determines that it would, or would be likely to, involve a breach of its fiduciary or statutory duties to notify Sandfire.

8.5 Confirmation of EGM Recommendation on EGM Resolutions

MOD represents and warrants to Sandfire that as at the date of this deed each MOD Director has confirmed (by way of a unanimous resolution of the MOD Board) that:

- (a) his or her recommendation is that MOD Shareholders vote in favour of the EGM Resolutions at the EGM (**EGM Recommendation**); and

- (b) he or she intends to vote, or cause to be voted, all MOD Shares in which he or she has a Relevant Interest in favour of the EGM Resolutions at the EGM in accordance with his or her Voting Confirmation (**EGM Voting Intention**),

in respect of the EGM Recommendation, in the absence of the Independent Expert concluding in the Independent Expert's Report (or any update or variation to that report) that the transactions contemplated by clause 5.4 are not fair and not reasonable.

8.6 Maintenance of EGM Recommendations and EGM Voting Intentions

- (a) MOD must use its reasonable endeavours to ensure that no MOD Director withdraws, changes or modifies a EGM Recommendation unless the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report) that the transactions contemplated by clause 5.4 are not fair and not reasonable.
- (b) Subject to a MOD Director withdrawing or changing a EGM Recommendation following the occurrence of the event referred to in clause 8.6(a), MOD must ensure that no public announcement is made by MOD, and no public statement is made by any MOD Director, which is inconsistent with any MOD Director giving the EGM Recommendation and having the EGM Voting Intention.

9 Exclusivity

9.1 Existing discussions

- (a) MOD represents and warrants to Sandfire that, as at the date of this deed, MOD Group:
 - (i) is not a party to any agreement or arrangement with a Third Party entered into for the purpose of facilitating a Competing Proposal other than any confidentiality agreements entered into prior to the date of this deed;
 - (ii) is not, directly or indirectly, participating in any discussions or negotiations with a Third Party that concern, or that could reasonably be expected to lead to, a Competing Proposal;
 - (iii) has ceased any discussions with any Third Party in relation to, a potential Competing Proposal; and
 - (iv) has ceased the provision of any due diligence access and the making available of any non-public information in relation to the MOD Group (**Non-Public Information**) to any Third Party, where the due diligence access and provision of Non-Public Information was for the purposes of, a potential Competing Proposal.

9.2 No-shop

During the Exclusivity Period, the MOD Group must not and must ensure that its Representatives do not:

- (a) solicit, invite, encourage or initiate any Competing Proposal;
- (b) directly or indirectly solicit, initiate, encourage or invite enquiries, discussions, negotiations or proposals in relation to, or which may reasonably be expected to lead to, a Competing Proposal; or

- (c) communicate to any person any intention to do any of the things referred to in clauses 9.2(a) or 9.2(b).

9.3 No-talk

Subject to clause 9.8, during the Exclusivity Period, MOD Group and its Representatives must not (whether directly or indirectly):

- (a) respond to or facilitate any enquiries, proposals, negotiations or discussions with any Third Party;
- (b) enter into any letter of intent, memorandum of understanding or other agreement;
- (c) negotiate or enter into or participate in negotiations or discussions with any person (other than Sandfire); or
- (d) communicate any intention to do any of the things in clauses 9.3(a) to 9.3(c),

in relation to, or that may reasonably be expected to lead to, a Competing Proposal, even if:

- (e) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by MOD; or
- (f) that person has publicly announced the Competing Proposal.

9.4 No due diligence

- (a) During the Exclusivity Period, MOD Group must not directly or indirectly:
 - (i) solicit, invite, initiate, encourage or (subject to clause 9.8) facilitate or permit, any person (other than Sandfire or its Representatives) to undertake due diligence investigations in respect of MOD, its Related Bodies Corporate, or any of their respective businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or
 - (ii) subject to clause 9.8, make available to any person (other than Sandfire, its Representatives or a Government Agency) or permit any such person to receive, other than in the ordinary course of business or as required by law or the rules of any prescribed financial market, any non-public information relating to MOD's, its Related Bodies Corporate, or any of their respective businesses and operations with a view to obtaining, or which may reasonably be expected to lead to, a Competing Proposal.
- (b) MOD must not provide any non-public information to a Third Party (other than in the ordinary course of business, as required by law or the rules of any prescribed financial market), unless, in addition to complying with MOD's other obligations under this clause 9, the Third Party has previously entered into a confidentiality agreement which contains obligations on the recipient that are no less onerous than those in clause 15.

9.5 Notification obligations

During the Exclusivity Period, MOD must disclose to Sandfire in writing and as soon as practicable and in any event within 2 Business Days, if it, or if it becomes aware that any of its Representatives:

- (a) receives any unsolicited approach with respect to any Competing Proposal:
 - (i) the fact that such an approach has been made;
 - (ii) subject to clause 9.8, all material details of the Competing Proposal (including consideration, timing, conditions, structure, break fee and financing and due diligence requirements); and
 - (iii) subject to clause 9.8, the identity of the person making the approach;
- (b) receives any request for information relating to MOD or any of its Related Bodies Corporate or any of their businesses or operations or any request for access to the books or records of MOD or any of its Related Bodies Corporate, which MOD has reasonable grounds to suspect may relate to a current or future Competing Proposal:
 - (i) the fact that such a request has been made;
 - (ii) subject to clause 9.8, all material details of the request; and
 - (iii) subject to clause 9.8, the identity of the person making the request and, so far as known to or suspected by MOD, the identity of any possible bidder or acquirer; or
- (c) provides any information relating to MOD or any of its Related Bodies Corporate or any of their businesses or operations to any person in connection with or for the purposes of a current or future Competing Proposal:
 - (i) the fact that information has been provided;
 - (ii) a copy of the information provided (unless the information has already been provided to Sandfire); and
 - (iii) subject to clause 9.8, the identity of the person receiving the information and, so far as known to or suspected by MOD, the identity of any possible bidder or acquirer.
- (d) Nothing in this clause 9.5 prevents MOD from:
 - (i) providing information to its Representatives;
 - (ii) providing information to its auditors, advisers, joint venturers and suppliers acting in that capacity in the ordinary course of business;
 - (iii) providing information required to be provided by law, the ASX or LSE or any Government Agency; or
 - (iv) following prior consultation with Sandfire, making presentations to brokers, portfolio investors, proxy advisers, analysts and other third parties,

in each case, in the ordinary course of business and without the purpose of circumventing the restrictions in this clause 9 and 15.

9.6 Obligation of confidentiality

Sandfire acknowledges and agrees that information provided by MOD to Sandfire pursuant to clause 9.5 is strictly confidential.

9.7 Matching right

- (a) MOD must:
- (i) not enter into any legally binding agreement, arrangement or understanding to implement a Competing Proposal; and
 - (ii) use its reasonable endeavours to procure that none of the MOD Directors publicly recommends a Competing Proposal,
- unless:
- (iii) the Competing Proposal is a Superior Proposal;
 - (iv) MOD has provided Sandfire with the material terms and conditions of the Competing Proposal, including the identity of any person making the Competing Proposal, the consideration, conditions and proposed timing of the proposal;
 - (v) at the same time as or after the provision of all of the information referred to in clause 9.7(a)(iv) MOD has given Sandfire written notice under this clause 9.7(a)(v) that Sandfire has a specified period of no less than 4 Business Days after receipt of the notice to provide a counter proposal to the Competing Proposal (**Sandfire Proposal**); and
 - (vi) either Sandfire has not provided a Sandfire Proposal by the expiry of the period referred to in clause 9.7(a)(v) or the MOD Board, acting in good faith, after consulting with its financial and legal advisers, determines that the Sandfire Proposal would not be reasonably likely to provide a superior outcome for MOD Shareholders as a whole compared with the relevant Competing Proposal (having regard to matters including, but not limited to, consideration, conditionality, funding, certainty and timing).
- (b) Where Sandfire has made a Sandfire Proposal, this clause has repeating applications so that if any further Competing Proposal is made after Sandfire has made a Sandfire Proposal:
- (i) MOD must comply with clauses 9.7(a)(i) and 9.7(a)(ii) in respect of the new Competing Proposal unless clauses 9.7(a)(iii) to 9.6(a)(a)(vi) (inclusive), as modified by paragraph (ii) below, are each satisfied; and
 - (ii) the time period in clause 9.7(a)(vi) becomes 2 Business Days.

For the purposes of this clause, each successive material modification of any Competing Proposal will constitute a new Competing Proposal.

- (c) If the MOD Board determines, acting in good faith, that the Sandfire Proposal would provide a superior outcome for MOD Shareholders as a whole compared with the relevant Competing Proposal (having regard to matters including, but not limited to, consideration, conditionality, funding, certainty and timing), then MOD and Sandfire must use their best endeavours to agree any amendments to this deed and the contents of the Scheme Booklet which are reasonably necessary to reflect the Sandfire Proposal, and to enter into an appropriate amending deed to give effect to those amendments and to implement the Sandfire Proposal, in each case as soon as reasonably practicable.

9.8 Fiduciary exception

To the extent that clauses 9.2(a), 9.3, 9.4 and 9.5 expressly indicate that they are subject to this clause 9.8, those clauses do not apply if the MOD Board, acting in good faith, determines:

- (a) either:
 - (i) that there is a written Competing Proposal, there has been no contravention of this clause 9 in relation to the Competing Proposal and the Competing Proposal is a Superior Proposal; or
 - (ii) that the steps which the MOD Board proposes to take may reasonably be expected to lead to a Competing Proposal which will be a Superior Proposal and the steps proposed do not involve a contravention of any part of this clause 9 to which clause 9.8 does not apply; and
- (b) after receiving written legal advice from MOD's external legal advisers, that failing to respond to the Competing Proposal or failing to or refusing to take action may constitute a breach of its fiduciary or statutory duties.

9.9 MDCB exception

- (a) Notwithstanding any term of this deed to the contrary, neither of the following will constitute a breach of any term of this deed:
 - (i) MOD engaging with, and providing information to, Mineral Development Company of Botswana (Pty) Ltd (**MDCB**) or its representatives; or
 - (ii) MDCB (or its nominee) acquiring up to a 15 per cent interest in Tshukudu Metals Botswana (Pty) Ltd (**TMB**).
- (b) An acquisition by MDCB (or its nominee) of up to a 15 per cent interest in TMB on terms permitted under the Mining Act will not:
 - (i) constitute a Prescribed Occurrence or Material Adverse Change;
 - (ii) constitute a breach of the MOD Representations and Warranties;
 - (iii) cause the payment of the MOD Break Fee by MOD under clause 10.2; or
 - (iv) permit Sandfire to terminate this deed.
- (c) Sandfire shall have the right to be represented and make submissions on any proposed engagement by the MOD Group with the MDCB under clause 9.9(a).

10 MOD Break Fee

10.1 Background

- (a) This clause 10 has been agreed to in circumstances where:
 - (i) MOD believes that it and its shareholders and/or investors will derive significant benefits from the implementation of the Transaction;

- (ii) Sandfire has incurred and will incur further significant costs in connection with the Transaction, which include significant external advisory and other out-of-pocket expenses and will include significant lost opportunity costs if the Transaction is not implemented;
 - (iii) Sandfire has requested that provision be made for the payment of the MOD Break Fee by MOD, and would not have entered into this deed had such provision not been made;
 - (iv) MOD believes that it is both necessary and appropriate to agree to pay the MOD Break Fee to secure Sandfire's entry into this deed; and
 - (v) MOD has received separate legal advice in relation to this deed and the operation of this clause 10.
- (b) The parties acknowledge and agree that the costs referred to in clause 10.1(a)(ii) are of such a nature that they cannot be precisely quantified, but that the MOD Break Fee is a genuine and reasonable pre-estimate of those costs.

10.2 Payment of MOD Break Fee

Subject to clauses 10.3, 10.5 and 10.6, MOD must pay Sandfire the MOD Break Fee (without set-off or withholding) within 10 Business Days after receipt of a written demand from Sandfire if any of the following events occur:

- (a) either:
 - (i) there is a breach or non-fulfilment of the Condition Precedent contained in clause 3.1(n) (*MOD Board recommendation*); or
 - (ii) Sandfire terminates this deed under clause 14.2(c) (*Termination where MOD Directors support a Competing Proposal*),
 other than where:
 - (iii) the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report), without regard to any Competing Proposal, that the Transaction is not in the best interests of MOD Shareholders;
 - (iv) a MOD Director determines pursuant only to clause 5.5 that he or she should not provide or continue to maintain any recommendation;
 - (v) MOD terminates this deed under clause 14.1(b) (*Termination for material breach other than Representations and Warranties*) or 14.3(c) (*Termination for material breach of Sandfire Representations and Warranties*);
- (b) at any time before the End Date, a Competing Proposal is disclosed to MOD or publicly announced by a Third Party, and, within 12 months thereafter, a Competing Proposal being an Alternative Control Transaction is entered into or completed involving the Third Party or any of its Associates;
- (c) there is a breach or non-fulfilment of the Condition Precedent in clause 3.1(k) (*Prescribed Occurrence*);

- (d) Sandfire terminates this deed under clause 14.1(b) (*Termination for material breach other than Representations and Warranties*) and the relevant material breach of this deed by MOD:
 - (i) constitutes a Material Adverse Change; or
 - (ii) is material in the context of the Scheme taken as a whole; or
- (e) Sandfire becomes entitled to terminate this deed under clause 14.2(b) (*Termination for breach of Exclusivity provisions*) or as a result of a breach or non-fulfilment of the Condition Precedent contained in clause 3.1(m) (*MOD Representations and Warranties*).

10.3 Payment conditions

- (a) Notwithstanding the occurrence of any event referred to in clause 10.2, the MOD Break Fee will not be payable if the Scheme becomes Effective. The MOD Break Fee must be refunded to MOD within 10 Business Days after the Scheme becomes Effective if it was paid to Sandfire before that time.
- (b) MOD can only ever be liable to pay the MOD Break Fee once.

10.4 Nature of payment

The MOD Break Fee is an amount to compensate Sandfire for the following costs and expenses:

- (a) external advisory costs (excluding success fees);
- (b) internal costs such as costs of management and directors' time, risk management costs and capital costs;
- (c) out-of-pocket expenses; and
- (d) opportunity costs incurred in pursuing the Transaction or in not pursuing other alternative acquisitions or strategic initiatives which otherwise could have been developed or pursued.

10.5 Compliance with law

This clause 10 imposes obligations on MOD only to the extent that the performance of those obligations:

- (a) does not constitute unacceptable circumstances as declared by the Takeovers Panel; and
- (b) is not otherwise unlawful or held to be unenforceable by a court.

If the MOD Break Fee is paid to Sandfire and clause 10.5(a) or 10.5(b) applies, Sandfire must refund the relevant part of the MOD Break Fee (if any) to MOD within 10 Business Days after receipt of a written demand from MOD.

10.6 Exclusive Remedy

Notwithstanding any other provision of this deed:

- (a) the maximum aggregate liability of the MOD to Sandfire under or in connection with this deed, including in respect of any breach of the deed, will be the MOD Break Fee; and
- (b) a payment by the MOD in accordance with this clause 10, or a series of payments by MOD totalling in aggregate the MOD Break Fee whether made under this clause 10 or otherwise, represents the sole and absolute liability of the MOD under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by the MOD in connection with this deed.

11 Representations and Warranties

11.1 Sandfire Representations and Warranties

Sandfire represents and warrants to MOD that:

- (a) (**validly existing**) it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) (**power**) it has full corporate power and lawful authority to execute, deliver and perform this deed and the Deed Poll;
- (c) (**corporate action**) it has taken all necessary corporate action to authorise the entry into this deed and has taken or will take all necessary corporate action to authorise the performance of this deed and the Deed Poll;
- (d) (**binding**) this deed is a valid and binding obligation on it, enforceable in accordance with the deed's terms;
- (e) (**performance**) the execution and performance by it of this deed does not and will not violate or breach any provision of:
 - (i) a law or treaty or a judgment, ruling, order or decree binding on it; or
 - (ii) its constitution;
- (f) (**regulatory approvals**) as far as it is aware, no regulatory approval is required to be obtained by it in order for it to execute, deliver and perform this deed, other than those approvals set out in clause 3.1(a).
- (g) (**capital structure**) the capital structure of Sandfire as at the date of this deed is:
 - (i) 159,356,206 Sandfire Shares; and
 - (ii) 894,647 performance rights in relation to Sandfire Shares,and there are no other Sandfire options, performance rights, shares, warrants, convertible notes, instruments or other securities (of offers or agreements to issue any of the foregoing) that may convert into Sandfire Shares;
- (h) (**Sandfire Information**) the Sandfire Information provided in accordance with this document and included in the Scheme Booklet, as at the date of the Scheme Booklet, will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with all applicable laws

(including the Corporations Act and Corporations Regulations), RG 60 and the Listing Rules;

- (i) **(New Sandfire Shares)** subject to clause 4.15(a), the New Sandfire Shares to be issued in accordance with clause 4 and in accordance with the terms of the Scheme and Deed Poll will be duly authorised and validly issued, fully paid and non-assessable, and free of all security interests and third party rights and will rank equally with all of the other shares in the capital of Sandfire then on issue;
- (j) **(reliance)** the Sandfire Information will be provided to MOD in good faith and on the understanding that MOD and each other MOD Indemnified Party will rely on that information for the purposes of preparing the Scheme Booklet and proposing and implementing the Scheme in accordance with the Corporations Act;
- (k) **(provision of information to Independent Expert)** all information provided by Sandfire to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report;
- (l) **(new information)** it will, as a continuing obligation, provide to MOD all further or new information which arises after the Scheme Booklet has been despatched to MOD Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Sandfire Information is not misleading or deceptive (including by way of omission);
- (m) **(Insolvency Event or regulatory action)** no Insolvency Event has occurred in relation to it or another member of the Sandfire Group;
- (n) **(continuous disclosure)** as at the date of this deed, Sandfire is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the exclusion in Listing Rule 3.1A to withhold any information from disclosure (other than in relation to the Transaction);
- (o) **(FIRB)** Sandfire is not a 'foreign person' as defined in the *Foreign Acquisitions and Takeovers Act 1975* (Cth);
- (p) **(no approvals)** Sandfire does not require the approval of its shareholders or the approval or consent of any other person to enter into or perform any of its obligations under this deed;
- (q) **(financial statements)** Sandfire's financial statements as disclosed to the ASX have been prepared in accordance with the Accounting Standards on a basis consistent with past practice financial statements and, so far as Sandfire is aware, there has not been any event, change, effect or development which would require Sandfire to restate its financial statements as disclosed to the ASX; and
- (r) **(no judgments)** as at the date of this deed, there is no judgment, injunction, order or decree binding on any member of the Sandfire Group that has or would be likely to have the effect of prohibiting, materially restricting or materially impairing after the Effective Date any business of the Sandfire Group as it is presently being conducted.

11.2 Sandfire's indemnity

Sandfire agrees with MOD to indemnify MOD and each of the MOD Indemnified Parties against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that MOD or any of the other MOD Indemnified Parties

suffers, incurs or is liable for arising out of any breach of any of the Sandfire Representations and Warranties.

11.3 MOD Representations and Warranties

MOD represents and warrants to Sandfire that:

- (a) (**validly existing**) it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) (**power**) it has full corporate power and lawful authority to execute, deliver and perform this deed and the Scheme;
- (c) (**corporate action**) it has taken all necessary corporate action to authorise the entry into this deed and has taken or will take all necessary corporate action to authorise the performance of this deed and the Scheme;
- (d) (**binding**) this deed is a valid and binding obligation on it, enforceable in accordance with the deed's terms;
- (e) (**performance**) the execution and performance by it of this deed does not and will not violate or breach any provision of:
 - (i) a law or treaty or a judgment, ruling, order or decree binding on it; or
 - (ii) its constitution;
- (f) (**regulatory approvals**) as far as it is aware, no regulatory approval is required to be obtained by it in order for it to execute, deliver and perform this deed, other than those approvals set out in clauses 3.1(a), 3.1(g) and 3.1(h) and so far as it is aware, as at the date of this deed, no regulatory action of any nature has been taken that would prevent or restrict its ability to fulfil its obligations under this deed;
- (g) (**capital structure**) as at the date of this deed and, subject to clause 4.13, also after that date, its capital structure is as set out in Schedule 2 and, other than as set out in Schedule 2:
 - (i) it has not issued any other MOD Shares or other securities, rights or instruments which are still outstanding and may convert into, or give the holder the right to be issued, MOD Shares or other securities, rights or instruments; and
 - (ii) it is not under any obligation to issue, and no person has any right to require or call for the issue of, any MOD Shares or other securities, rights or instruments issuable by MOD (whether such obligation or right is conditional or otherwise), other than the issue of MOD Shares to MOD Directors or members of management in lieu of short term cash incentives previously disclosed to the ASX;
- (h) (**MOD financial statements**) MOD's financial statements as disclosed to ASX have been prepared in accordance with Accounting Standards on a basis consistent with past practice financial statements and, as far as MOD is aware, there has not been any event, change, effect or development which would require MOD to restate its financial statements as disclosed to the ASX;
- (i) (**MOD Information**) the MOD Information provided in accordance with this deed and included in the Scheme Booklet as at the date of the Scheme Booklet will not

contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects in accordance with all applicable laws (including the Corporations Act and Corporations Regulations), RG 60 and the Listing Rules;

- (j) (**reliance**) the MOD Information contained in the Scheme Booklet will be included in good faith and on the understanding that Sandfire and each other Sandfire Indemnified Party will rely on that information for the purposes of considering and approving the Sandfire Information in the Scheme Booklet before it is despatched, approving the entry into the Deed Poll and implementing the Scheme;
- (k) (**provision of information to Independent Expert**) all information provided by MOD to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report;
- (l) (**new information**) it will, as a continuing obligation (but in respect of the Sandfire Information, only to the extent that Sandfire provides MOD with updates to the Sandfire Information), ensure that the Scheme Booklet is updated to include all further or new information which arises after the Scheme Booklet has been despatched to MOD Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Sandfire Information is not misleading or deceptive (including by way of omission);
- (m) (**compliance**) the MOD Group has complied in all material respects with all Australian and foreign laws and regulations applicable to them and orders of Australian and foreign governmental agencies having jurisdiction over it and has all material licenses, permits and franchises necessary for it to conduct its businesses as presently being conducted;
- (n) (**opinions**) any statement of opinion or belief contained in the Scheme Booklet (other than Sandfire Information contained in the Scheme Booklet) is honestly held and there are reasonable grounds for holding the opinion or belief;
- (o) (**continuous disclosure**):
 - (i) it is in compliance in all material respects with its continuous disclosure obligations under Listing Rule 3.1; and
 - (ii) following release of the Agreed Public Announcement, there will be no information which it is withholding from disclosure in reliance on Listing Rule 3.1A;
- (p) (**Insolvency Event or regulatory action**) no Insolvency Event has occurred in relation to it or another member of the MOD Group;
- (q) (**Disclosure Materials**) the Disclosure Materials were compiled and made available to Sandfire and its Representatives in good faith and MOD has not wilfully withheld from the Disclosure Materials any information of which MOD is aware which, if disclosed, might reasonably be expected to affect the decision of the Sandfire to enter into this deed or complete the Transaction;
- (r) (**judgments**) as at the date of this deed, there is no judgment, injunction, order or decree binding on any member of the MOD Group that has or would be likely to have the effect of prohibiting, materially restricting or materially impairing after the Effective Date any business of MOD Group as presently being conducted;

- (s) **(litigation)** so far as MOD is aware:
 - (i) there are no material actions, suits, arbitrations, legal or administrative proceedings pending against any member of the MOD Group; and
 - (ii) no member of the MOD Group is the subject of any material pending investigation by a Government Agency;
- (t) **(security interests and indebtedness)** other than any Security Interest identifiable from the public records or registers of the Personal Property Securities Register, there is no Security Interest over all or any member of the MOD Group's present or future assets or revenues and the MOD Group has no material indebtedness;
- (u) **(breach of law)** there is no material breach by MOD Group of any Australian or foreign law or regulation applicable to them or order of any Australian or foreign Government Agency having jurisdiction over them that has or could reasonably be expected to have a materially adverse effect on:
 - (i) the conduct of the business of the MOD Group;
 - (ii) the value of the MOD Group; or
 - (iii) the reputation of the MOD Group, including any implication in relation to its good standing with any Government Agency having jurisdiction over the conduct of business of the MOD Group;
- (v) **(change of control)** as at the date of this deed, and so far as the MOD Board and the senior management of the MOD Group are aware after making reasonable inquiries, there are no contracts material to the operations of the MOD Group which contain any change of control provisions that will be triggered by implementation of the Transaction (except as otherwise Fairly Disclosed in the Disclosure Materials);
- (w) **(employment)** the Disclosure Materials Fairly Disclose details of the period of service, remuneration package, applicable allowances, redundancy and/or termination entitlements and accrued leave (including long service leave, annual leave and personal leave) as at the date specified therein for each Relevant Employee;
- (x) **(Taxes and Duties)**
 - (i) At implementation of the Scheme, any Tax or Duty arising under any Tax Law payable:
 - (A) in respect of any transaction, income or assets of a member of the MOD Group for all periods up to the Implementation Date;
 - (B) in respect of any event, omission or instrument executed or performed prior to the Implementation Date; and
 - (C) in respect of payments made by a member of the MOD Group to another person that must be withheld from that payment prior to the Implementation Date,

have been so withheld (if applicable) and paid (or provided for) prior to the Implementation Date in accordance with the requirements of the relevant

Tax Law, other than in respect of the transfer of shares in Metal Capital Exploration Limited from Metal Tiger to MOD under clause 5.4.

- (ii) Each member of the MOD Group has complied with all material obligations imposed on them by any Tax Law or as requested by any Government Agency.
- (iii) MOD is not aware of any circumstances (including those outlined in Part 14 of MOD's prospectus in respect of its admission to the official list of the LSE) that will require stamp duty or stamp duty reserve tax to be paid under United Kingdom tax laws in respect of the implementation of the Transaction.
- (y) **(T3 Mining Tenements and Authorisations)** the T3 Mining Tenements and Authorisations for the development of the T3 Project are in force and effect and the MOD Group has complied in all material respects with the terms of the T3 Mining Tenements and Authorisations for the development of the T3 Project and as far as MOD is aware there are no violations of or non-compliance with applicable laws and MOD will continue to comply with applicable conditions of the T3 Mining Tenements, Authorisations for the development of the T3 Project and applicable laws upon and immediately following implementation of the Transaction;
- (z) **(Mining Tenements and Authorisations)** the Mining Tenements and Authorisations required for exploration of the Mining Tenements are in force and effect and the MOD Group has complied in all material respects with the terms of the Mining Tenements and Authorisations and as far as MOD is aware there are no violations of or non-compliance with applicable laws and MOD will continue to comply with applicable conditions of the Mining Tenements, Authorisations required for exploration and applicable laws upon and immediately following implementation of the Transaction;
- (aa) **(property rights)** as at the date of this deed, the MOD Group owns, or has the right to use, all of the assets and real property, free and clear of any Encumbrances that are material for the conduct of the business of the MOD Group, and will continue to do so upon and immediately following implementation of the Transaction;
- (bb) **(mineral resources and reserves)** the proven and probable ore reserves and mineral resources for the Mining Tenements as set out in the Disclosure Materials, were prepared in all material respects in accordance with sound mining, engineering, geosciences and other applicable industry standards and practices, and in accordance with applicable law;
- (cc) **(royalty)** other than Taxes and interests of Government Agencies, no person other than MOD or a MOD Group member has any interest in the Mining Tenements in Part A and Part B of schedule 4 or any of the mineral rights or the production or profits therefrom or any royalty in respect thereof or any right to acquire any such interest, other than Metal Tiger as set out in the Disclosure Materials;
- (dd) **(surface rights)** save in respect of the expected grant of the T3 Project mining lease, a MOD Group member has all surface rights, including fee simple estates, leases, easements, rights of way and permits or licences operations from landowners or Government Agencies permitting the use of land by MOD Group members and other interests that are required to exploit the development of the T3 Mining Tenements other than the access rights the subject of the draft agreement in section 9.01.09 of the Online Data Room;

- (ee) (**offtake**) no member of the MOD Group is party to any off-take agreement or streaming agreement with respect of production from any Mining Tenement and without limitation none of the MOD Group members is obligated under any prepayment contract or other prepayment arrangement to deliver mineral products at some future time without then receiving full payment therefor;
- (ff) (**corrupt practices litigation**) no member of the MOD Group, nor to the knowledge of MOD, any of their respective Associates or Representatives nor any Third Party with whom they are in joint venture has taken, directly or indirectly any action which would cause any member of the MOD Group or its affiliates to be in violation of the *Australian Crimes Act 1914* (Cth), as amended (and the applicable regulations thereunder), *United States Foreign Corrupt Practices Act of 1977*, as amended (and the applicable regulations thereunder), *Corruption and Economic Crime Act of 1994 (Botswana)*, *Corruption and Economic Crime Act of 2013 (Botswana)*, *Proceeds and Instruments of Crime of 2014 (Botswana)*, section 99 of the *Penal Code of 1964 (Botswana)* or any applicable law of similar effect of any other jurisdiction (collectively, the **Anti-Corruption Laws**). MOD has conducted its businesses in compliance with Anti-Corruption Laws and has instituted and maintains policies and procedures designed to ensure continued compliance; and
- (gg) (**material default**) as at the date of this deed, and so far as the MOD Board and the senior management of the MOD Group are aware after making reasonable inquiries, no material breach of any contracts material to the operations of the MOD Group subsists.

11.4 MOD's indemnity

MOD agrees with Sandfire to indemnify Sandfire and each of the Sandfire Indemnified Parties against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Sandfire or any of the other Sandfire Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the MOD Representations and Warranties.

11.5 Qualifications on MOD's Representations and Warranties

The MOD Representations and Warranties in clause 11.3 and the indemnity in clause 11.4 are each subject to matters that:

- (a) are expressly provided in this deed;
- (b) are Fairly Disclosed the Disclosure Materials;
- (c) are Fairly Disclosed in MOD's announcements to or filings with ASX, or a document lodged with ASIC that is publicly available, in each case between 5 November 2015 and the Business Day prior to the date of this deed;
- (d) would have been disclosed to Sandfire had Sandfire conducted searches of the following on the Business Day prior to the date of this deed:
 - (i) public records maintained by ASIC;
 - (ii) the register established under the *Personal Property Securities Act 2009* (Cth);
 - (iii) public records maintained by the registries of the High Court of Australia, Federal Court of Australia and the Supreme Courts of each state and territory in Australia;

- (e) result from the actions contemplated by clause 5.4; and
- (f) are within the actual knowledge of Sandfire as at the date of this deed.

11.6 Independence of Representations and Warranties

Each Representation and Warranty:

- (a) is to be construed independently of all other Representations and Warranties; and
- (b) is not limited by any other Representation or Warranty.

11.7 Survival of indemnities

Each indemnity in this deed relating to Representations and Warranties (including those in clauses 11.2 and 11.4):

- (a) is a continuing obligation; and
- (b) constitutes a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed.

11.8 Timing of Representations and Warranties

- (a) Each Representation and Warranty is given at the date of this deed and again on each subsequent day until Delivery Time, except that the MOD Representation and Warranty in clause 11.3(o)(ii) (*information withheld from continuous disclosure*) is only given at the date of this deed.
- (b) For the purposes of clause 11.8(a), a Representation and Warranty shall be read with any necessary adjustments to the tense used in the Representation and Warranty.

12 Releases

12.1 Release of MOD Indemnified Parties

- (a) Subject to clause 12.1(b), Sandfire releases any and all rights that it may have, and agrees with MOD that it will not make any claim, against any MOD Indemnified Party as at the date of this deed and from time to time in connection with:
 - (i) any breach of any covenant, representation or warranty given by MOD under this deed;
 - (ii) any disclosures containing any statement which is false or misleading (whether by omission or otherwise); or
 - (iii) any failure to provide information,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where a MOD Indemnified Party has not acted in good faith or has engaged in wilful misconduct. To avoid doubt, nothing in this clause 12.1(a) limits the rights of Sandfire to demand payment of the MOD Break Fee under clause 10 or terminate this deed under clause 14.

- (b) The release in clause 12.1(a) is subject to any restriction imposed by law and will be read down to the extent that any such restriction applies.

12.2 Release of Sandfire Indemnified Parties

- (a) Subject to clause 12.2(b), MOD releases any and all rights that it may have, and agrees with Sandfire that it will not make any claim, against any Sandfire Indemnified Party as at the date of this deed and from time to time in connection with:

- (i) any breach of any covenant, representation or warranty given by Sandfire under this deed;
- (ii) any disclosures containing any statement which is false or misleading (whether by omission or otherwise); or
- (iii) any failure to provide information,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where a Sandfire Indemnified Party has not acted in good faith or has engaged in wilful misconduct. Nothing in this clause 12.212.1(a) limits the rights of MOD to terminate this deed under clause 14.

- (b) The release in clause 12.2(a) is subject to any restriction imposed by law and will be read down to the extent that any such restriction applies.

13 Deeds of indemnity, access and insurance

- (a) Sandfire acknowledges that, notwithstanding any other provision of this deed, MOD may, prior to or on the Implementation Date, enter into arrangements to secure directors and officers run-off insurance for any and all directors and officers of each member of the MOD Group for up to a 7 year period from the Implementation Date in a form to be approved by Sandfire (acting reasonably) and that any actions to facilitate that insurance or in connection therewith (including paying any amounts to ensure such maintenance upfront) will not be Prescribed Occurrences or breach any provision of this deed provided insurance amount does not exceed \$140,000.
- (b) Subject to the Scheme becoming Effective and the Transaction completing, Sandfire undertakes in favour of MOD and each other person who is a MOD Indemnified Party that it will:
 - (i) for a period of 7 years from the Implementation Date, ensure that the constitutions of MOD and each other member of the MOD Group continue to contain such rules as are contained in those constitutions at the date of this deed that provide for each company to indemnify each of its previous directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the MOD Group;
 - (ii) procure that MOD and each member of the MOD Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time; and
 - (iii) MOD and each other member of the MOD Group maintains all insurance the subject of this clause and continues to pay all premiums and other costs of such insurance for the full period (of up to 7 years from the Implementation

Date) agreed or arranged on or prior to the Implementation Date and does not permit such insurance to be used for purposes contrary to such agreements or arrangements.

- (c) The provisions contained in this clause 13 are subject to any Corporations Act restriction and will be read down accordingly.

14 Termination

14.1 Termination by either party

- (a) Either party may terminate this deed in accordance with clause 3.4.
- (b) Other than in respect of a breach of a Representation and Warranty (which are dealt with in clauses 3.1(m) (*MOD Representations and Warranties*) and 14.3), either party may terminate this deed, with immediate effect, at any time before Delivery Time by notice in writing to the other if the other party commits a material breach of this deed, provided that:
 - (i) it has given written notice to the other party setting out the relevant circumstances and stating an intention to terminate this deed; and
 - (ii) the relevant circumstances have not been remedied within 10 Business Days from the time such notice is given (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date).

14.2 Termination by Sandfire

Sandfire may terminate this deed, with immediate effect, at any time before Delivery Time by notice in writing to MOD if:

- (a) if the EGM Resolutions are not approved by the requisite majority;
- (b) MOD materially breaches clause 9 (*Exclusivity*);
- (c) in any circumstances (including where clause 8.2(a) applies), a MOD Director recommends, endorses or supports any Competing Proposal;
- (d) in any circumstances, MOD voluntarily enters into any agreement or arrangement in relation to the implementation of any Competing Proposal;
- (e) a Competing Proposal is announced, made, or becomes open for acceptance and the Third Party announcing or making the Competing Proposal (either alone or together with its Associates) acquires a Relevant Interest in more than 50% of all MOD Shares and that Competing Proposal is (or has become) free from any defeating conditions; or
- (f) ASX refuses to grant, or informs one or both of MOD and Sandfire that ASX will refuse to grant, official quotation on the ASX of any or all of the New Sandfire Shares.

14.3 Termination by MOD

MOD may terminate this deed, with immediate effect, at any time before Delivery Time by notice in writing to Sandfire if:

- (a) all or a majority of the MOD Board publicly withdraw or adversely change their Recommendation provided that:
 - (i) any of the events referred to in clause 8.2(a)(i) (*Superior Proposal*) or clause 8.2(a)(ii) (*Independent Expert concludes that the Transaction is not in the best interest of MOD Shareholders*) has occurred; or
 - (ii) in a circumstance involving a Competing Proposal, MOD has complied with clause 9 (*Exclusivity*) to the extent applicable and in all material respects; or
- (b) ASX refuses to grant, or informs one or both of MOD and Sandfire that ASX will refuse to grant, official quotation on the ASX of any or all of the New Sandfire Shares;
- (c) at the time they were made, the Sandfire Representations and Warranties were not true and accurate in all material respects, provided that:
 - (i) MOD has given written notice to Sandfire setting out the relevant circumstances and stating an intention to terminate this deed or to allow the Scheme to lapse;
 - (ii) the relevant breach or circumstances have not been remedied for 10 Business Days from the time such notice is given (or any shorter period ending at 5.00pm ending on the Business Day before the Second Court Date); and
 - (iii) the aggregate loss to MOD and MOD Shareholders that would reasonably be expected to follow from the relevant breach of the Sandfire Representations and Warranties is material in the context of the Transaction taken as a whole.
- (d) Sandfire is removed from the official list of the ASX or ASX determines that will occur.

14.4 Termination by written agreement

This deed may be terminated by the written agreement of the parties, on such terms as the parties agree.

14.5 Effect of termination

If this deed is terminated in accordance with clause 3.4 or this clause 14, this deed will cease to have force and effect without any liability or obligation on the part of any party, except that:

- (a) this clause 14.5 and clauses 1 (*Defined terms and interpretation*), 10 (*MOD Break Fee*), 12 (*Releases*), 15 (*Confidentiality*), 16 (*Duty, costs and expenses*), 17 (*GST*) and 18.4 (*Obligations to outside parties*), and Schedule 1 (*Dictionary*), will survive termination; and
- (b) each party will retain any rights and remedies that accrued prior to termination, including any rights and remedies in respect of any past breach of this deed or (if applicable) in respect of the breach giving rise to termination.

15 Confidentiality

15.1 Confidentiality

- (a) The terms of the Confidentiality Deed terminates, and ceases to be binding on the parties, on the date the last party executes this deed.
- (b) Each party acknowledges and agrees that:
 - (i) information, in whatever form, provided by either party to the other, or obtained by either party from the other, in the course of due diligence and proposing, negotiating or implementing the Transaction (including information provided before or after the date of this deed); and
 - (ii) all copies of information, agreements and those parts of the notes and other records referred to above,

is strictly confidential (**Confidential Information**) and may not be disclosed to any third party (except as permitted by this deed); and
 - (iii) damages may be inadequate compensation for a breach of this clause 15 and, subject to the court's discretion, a party may restrain, by injunction or similar remedy, any conduct or threatened conduct which is or will be a breach of this clause 15.
- (c) For the avoidance of doubt, information that is known by a party before the date of this deed and that was not obtained on a confidential basis from another party in the course of proposing, negotiating or implementing the Transaction is not Confidential Information.
- (d) Confidential Information may only be used for the purposes of implementing the Transaction or disclosed by a party:
 - (i) to a Related Body Corporate or any Representative of that party (or of any Related Body Corporate) for the purpose of implementing the Transaction, provided that the disclosing party ensures that the recipient only uses it for the purposes of implementing the Transaction and otherwise complies with these terms of confidentiality; and
 - (ii) if disclosure is required by law, the rules of a stock exchange, or any requirement of a court or Government Agency, provided that the disclosing party must only disclose the minimum Confidential Information required to comply with the applicable law, rules or order.

16 Duty, costs and expenses

16.1 Stamp duty

Sandfire:

- (a) must pay all stamp duties and any fines and penalties with respect to stamp duty in respect of each of this deed, the Deed Poll and the Scheme and the steps to be taken under this deed, the Deed Poll or the Scheme; and

- (b) indemnifies MOD against any liability arising from or in connection with any failure by it to comply with clause 16.1(a).

16.2 Costs and expenses

Except as otherwise provided in this deed, each party must pay its own costs and expenses in connection with the negotiation, preparation, execution and performance of this deed and the proposed, attempted or actual implementation of the Transaction.

17 GST

- (a) In this clause 17, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the meaning given to it in that legislation.
- (b) If a party makes a supply under or in connection with this deed in respect of which GST is payable, the Scheme Consideration for the supply but for the application of this clause 17(b) (**GST exclusive consideration**) is increased by an amount (**Additional GST amount**) equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made.
- (c) If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by the amount equal to any input tax credit the other party, or the representative member of the GST group of which the other party is a member, is entitled to with respect to the loss, cost or expense, and then increased in accordance with clause 17(b) if such amount is consideration for a taxable supply made under or in connection with this deed.
- (d) A party need not make a payment of the Additional GST amount until it receives a tax invoice or adjustment note (as appropriate) for the supply to which the payment relates.

18 General

18.1 Notices

- (a) A notice, consent, approval, waiver or other communication sent by a party under this deed (**Notice**) must be:
 - (i) in writing;
 - (ii) sent by an authorised representative of the sender; and
 - (iii) marked for the attention of the person named below,and must be:
 - (iv) left at, or sent by commercial courier to, the address set out below; or
 - (v) sent by email to the address set out below.

Sandfire

Attention: Karl Simich, Chief Executive Officer
Address: as above

Email: Karl.Simich@sandfire.com.au

with a copy (for information purposes only) to: Jmannolini@gtlaw.com.au;
Ocarrick@gtlaw.com.au

MOD

Attention: Mark Clements, Executive Chairman

Address: as above

Email: mclements@modresources.com.au

with a copy (for information purposes only) to: Scott.Gibson@dlapiper.com;
Hedley.Roost@dlapiper.com

- (b) Subject to clause 18.1(c), a Notice is taken to be received:
- (i) if sent by delivery when it is delivered;
 - (ii) if sent by commercial courier, three days after dispatch; or
 - (iii) if sent by email:
 - (A) when the sender receives an automated message confirming delivery;
or
 - (B) four hours after the time sent (as recorded on the device from which the email was sent), provided that the sender does not receive an automated message that the email has not been delivered,
- whichever happens first.
- (c) If a Notice is taken to be received under clause 18.1(b):
- (i) before 9.00am on a Business Day, it will be taken to be received at 9.00am on that Business Day; or
 - (ii) after 5.00pm on a Business Day or on a non-Business Day, it will be taken to be received at 9.00am on the next Business Day.

18.2 Governing law and jurisdiction

- (a) This deed is governed by the laws of Western Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Western Australia and courts competent to hear appeals from those courts.

18.3 No representation or reliance

Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.

18.4 Obligations to outside parties

- (a) Sandfire holds the benefit of clauses 11.4 (*MOD's indemnity for Representations and Warranties*) and 12.2 (*Release of Sandfire Indemnified Parties*) for itself and also as trustee or nominee for each Sandfire Indemnified Party.
- (b) MOD holds the benefit of clauses 11.2 (*Sandfire's indemnity for Representations and Warranties*), 12.1 (*Release of MOD Indemnified Parties*) and 13 (*Deeds of indemnity, access and insurance*) for itself and also as trustee or nominee for each MOD Indemnified Party.

18.5 No merger

The rights and obligations of the parties do not merge on the Scheme becoming Effective or completion of the Transaction.

18.6 Waivers and consents

- (a) Failure to exercise or enforce, a delay in exercising or enforcing, or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party does not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.
- (b) Any waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.
- (d) Except where this deed expressly provides otherwise, where the consent of a party is required under this deed, such consent may be given or withheld in that party's absolute discretion.

18.7 Variation

This deed may only be varied by a document signed by or on behalf of each of the parties.

18.8 Assignment

A party may not assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior written consent of the other parties.

18.9 Further action

Each party must do all things and execute all further documents necessary to give full effect to this deed.

18.10 Entire agreement

Other than the Confidentiality Deed, this deed supersedes all previous agreements, understandings, negotiations or deeds in respect of its subject matter and embodies the entire agreement between the parties.

18.11 Severability

If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction but only to the extent that it is void, unenforceable or illegal and provided that it will have full force and effect in any other jurisdiction. Where a provision (or any part thereof) is severed in a jurisdiction, the remainder of this deed will have full force and effect in that (and any other) jurisdiction.

This clause 18.11 does not apply to any severance that alters the basic nature of this deed or is contrary to public policy.

18.12 Counterparts

This deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

1 Dictionary

Accounting Standards means:

- (a) the accounting standards made by the Australian Accounting Standards Board in accordance with the Corporations Act, and the requirements of that Act relating to the preparation and content of accounts; and
- (b) generally accepted accounting principles that are consistently applied in Australia, except those inconsistent with the standards or requirements referred to in paragraph (a).

Additional GST amount has the meaning given in clause 17(d).

Adviser means any person who is engaged to provide professional advice of any type (including legal, accounting, consulting or financial advice) to MOD.

Aggregate Cash Consideration means the aggregate amount of the cash payable to Scheme Shareholders, who have validly Elected to receive Maximum Cash Consideration prior to any adjustment.

Agreed Public Announcement means an announcement of MOD or an announcement of Sandfire, as the context requires, each in a form agreed between Sandfire and MOD prior to execution of this deed, to be released by each of Sandfire and MOD pursuant to clauses 5.2(a) and 7(a).

Alternative Control Transaction means a Competing Proposal which when entered into or ultimately completed results in a person or two or more persons who are Associates directly or indirectly:

- (a) acquiring a Relevant Interest in or becoming the holder of more than 50% of the issued share capital of MOD;
- (b) acquiring, obtaining a right to acquire, or otherwise obtaining an economic interest in 50% or more by value of the business or property of the MOD Group;
- (c) acquiring control of MOD within the meaning of section 50AA of the Corporations Act, disregarding section 50AA(4) of that Act; or
- (d) merging with MOD or any of its controlled entities, whether by takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase or exchange, sale or purchase of assets or businesses, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding entity for MOD or other synthetic merger or any other transaction or arrangement.

Anti-Corruption Laws has the meaning given in clause 11.3(ff).

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in section 12 of the Corporations Act as if section 12(1) of that Act included a reference to this deed and MOD was the designated body.

ASX means ASX Limited (ABN 98 008 624 691) or, where the context requires, the financial market operated by it known as the “Australian Securities Exchange”.

Authorisation means any licence, permit, lease, authorisation, concession, consent, certificate or approval issued or granted by a Government Agency.

Bonus Issue has the same meaning as defined in the Listing Rules.

Botswana Competition Authority means the Competition Authority of Botswana (acting in terms of the Competition Act [CAP 46:09] of Botswana, as amended from time to time).

Budget has the meaning given in clause 6.3(a).

Business Day has the meaning given in the Listing Rules.

Cash Cap means \$41,600,000.

Cash Out Shareholder means a Scheme Shareholder (not being an Ineligible Foreign Shareholder) who, based on their holding of Scheme Shares on the Record Date, would, on implementation of the Scheme, be entitled to receive less than a marketable parcel of New Sandfire Shares (assessed by reference to the last traded price of Sandfire shares on ASX on the trading day prior to the Record Date) as Scheme Consideration.

Change of Control Requirements has the meaning given in clause 6.5.

Competing Proposal means any inquiry, offer, proposal or expression of interest, transaction or arrangement (including by way of takeover bid or scheme of arrangement), other than the Transaction, under which, if entered into or ultimately completed substantially in accordance with its terms:

- (a) a person or two or more persons who are Associates (other than Sandfire or its Related Bodies Corporate) would directly or indirectly:
 - (i) acquire a Relevant Interest in or become the holder of more than 15% of the issued share capital of MOD;
 - (ii) acquire, obtain a right to acquire, or otherwise obtain an economic interest in 15% of the issued share capital of MOD;
 - (iii) acquire control of MOD or any member of the MOD Group which holds all or a substantial part or a material part of the business or assets of the MOD Group within the meaning of section 50AA of the Corporations Act (disregarding section 50AA(4));
 - (iv) acquire, become the holder of or have a right to acquire or an economic interest in all or a substantial part of the business, or any of the material assets, of the MOD Group; or
 - (v) otherwise acquire Control (within the meaning of section 50AA of the Corporations Act) of or merge with MOD or any other member of the MOD Group,

including by takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase or exchange, sale or purchase of assets or businesses, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding entity for MOD or other synthetic merger or any other transaction or arrangement.

Condition Precedent means a condition set out in clause 3.1 and **Condition** has the same meaning.

Confidentiality Deed means the confidentiality deed between the parties in relation to the Transaction, dated 15 November 2018.

Consultation Notice has the meaning given in clause 3.4(a).

Corporations Act means the *Corporations Act 2001* (Cth).

Corporations Regulations means the *Corporations Regulations 2001* (Cth).

Court means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act as agreed in writing between Sandfire and MOD.

Court Documents means the documents required for the purposes of a Court Hearing, including (as applicable) originating process, affidavits, submissions and draft minutes of Court orders.

Court Hearing means the First Court Hearing or Second Court Hearing (as applicable), and **Court Hearings** means both of them.

Deed Poll means the deed poll to be entered into by Sandfire in respect of the provision of the Scheme Consideration, in the form of Attachment C.

Delivery Time means, in relation to the Second Court Date, 2 hours before the commencement of the hearing or if the hearing is adjourned before Scheme Consideration of any substantive matters, the commencement of the adjourned hearing at which substantive matters are considered, of the court to approve the Scheme in accordance with section 411(4)(b) of the Corporations Act is due to commence.

Disclosure Materials means the information in relation to the MOD Group disclosed in writing by or on behalf of MOD to Sandfire and its Representatives prior to the date of this deed, including:

- (a) the documents and information contained in the Ansarada online data room (**Online Data Room**) to which Sandfire and its Representatives were given access prior to the date of this deed, the index of which has been initialled by the parties for identification; and
- (b) any written answers to requests for further information made by Sandfire and its Representatives as contained in the Online Data Room.

Duty means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount imposed in respect of any of them, but excludes any Tax.

Effective means the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act, in relation to the Scheme.

Effective Date means the date on which a Scheme becomes Effective.

EGM means the extraordinary general meeting to be convened by MOD at which MOD Shareholders will vote on the EGM Resolutions.

EGM Recommendation has the meaning given in clause 8.5.

EGM Resolutions means resolutions to be put to MOD Shareholders to approve (i) under section 611 item 7 of the Corporations Act, the acquisition by Metal Tiger of a Relevant Interest in the MOD Shares and (ii) under Listing Rule 10.1, the acquisition by MOD of a substantial asset from a substantial holder in MOD, as a result of clause 5.4.

EGM Voting Intention has the meaning given in clause 8.5.

Election has the meaning given in clause 4.3(a) and **Elect** has a corresponding meaning.

Election Date means the last date for receipt of an election form in order to make an Election or a Non Cash Out Election in accordance with the terms of the Scheme, being 5.00pm on the first Business Day after the Effective Date or such other date as MOD and Sandfire agree in writing.

Election Form means the election form(s) provided with the Scheme Booklet under which each Scheme Shareholder may make an Election to receive the Maximum Cash Consideration as referred to in clause 4.3(b)(v) in respect of all their Scheme Shares and under which a Cash Out Shareholder (other than a European Holder) can make a Non Cash Out Election to receive their Scheme Consideration in the form of New Sandfire Shares (as referred to in clause 4.8(b)).

Encumbrance means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

End Date means the date that is 6 months after the date of this deed or such later date as Sandfire and MOD agree in writing.

European Holder in respect of any particular MOD Shares or MOD Depositary Interests means a holder of such MOD Shares or MOD Depositary Interests who is resident in the European Economic Area, or is holding such MOD Shares or MOD Depositary Interests or any of them or any interest in any of them directly or indirectly on behalf of any person who is resident in, or has a registered address in, the European Economic Area.

Exclusivity Period means the period from the date of this deed to the earlier of:

- (a) the termination of this deed under clause 14;
- (b) the Implementation Date; and
- (c) the End Date.

Fairly Disclosed, in relation to a change, event, occurrence or matter, means disclosed in a manner reasonably likely to draw the importance of the change, event, occurrence or matter to the attention of a reasonably sophisticated buyer, reasonably experienced in a transaction of the nature contemplated by this deed and the minerals extraction business.

Feasibility Study means the feasibility study report in the Disclosure Materials in respect of the T3 Project dated 17 May 2019.

First Court Date means the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act directing MOD to convene the Scheme Meeting is heard (or if the application is adjourned before consideration of any substantive matters, the first day on which the adjourned application is heard and substantive matters are considered) with such hearing being the **First Court Hearing**.

Government Agency means any foreign (including Botswanan) or Australian government or governmental, semi-governmental, administrative, fiscal, statutory or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign (including Botswanan) or Australian (including ASIC and the Takeovers Panel). It also includes ASX and LSE and any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions.

GST exclusive consideration has the meaning given in clause 17(b).

Headcount Test means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme at the Scheme Meeting is passed by a majority in number of MOD Shareholders present and voting, either in person or by proxy.

Implementation Date means the fifth Business Day after the Record Date or such other day as the parties agree in writing.

Incentive Plan means a plan operated by any member or members of the MOD Group (including a one-off grant of shares, rights to shares, options or performance rights) which is intended to incentivise the performance of employees, consultants or officers of any member of the MOD Group or to align the interests of any of those persons with the MOD Group or any member of the MOD Group whether by cash payment, the issue of shares, issue of rights to acquire shares, issue of options, issue of performance rights, facilitating the acquisition of shares or otherwise.

Independent Expert means the independent expert to be appointed by MOD to prepare the Independent Expert's Report in accordance with clause 5.2(b).

Independent Expert's Report means the report in respect of the Scheme and the EGM Resolutions to be prepared and issued by the Independent Expert for inclusion in the Scheme Booklet and the notice of meeting containing the EGM Resolutions.

Ineligible Foreign Shareholder means a Scheme Shareholder whose address as shown in the Share Register (as at the Record Date) or the MOD Depository Interest Register (as at the time of Rematerialisation or, if Rematerialisation does not occur prior thereto, as at the Record Date) is in a place which Sandfire reasonably determines is a place that it is unlawful or unduly onerous to issue that Scheme Shareholder or MOD Depository Interest Holder with New Sandfire Shares when the Scheme becomes Effective (provided that a Scheme Shareholder or MOD Depository Interest Holder whose address shown in the Share Register or the MOD Depository Interest Register is within Australia and its external territories, New Zealand, the United Kingdom, Hong Kong or Singapore will not be an Ineligible Foreign Shareholder).

Insolvency Event means, in relation to a person:

- (a) **(insolvency official)** the appointment of a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days;
- (b) **(arrangements)** the entry by the person into a compromise or arrangement with its creditors generally;

- (c) (**winding up**) the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
- (d) (**suspends payments**) the person suspends or threatens to suspend payment of its debts as and when they become due;
- (e) (**ceasing business**) the person ceases or threatens to cease to carry on business;
- (f) (**insolvency**) the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act;
- (g) (**deregistration**) the person being deregistered as a company or otherwise dissolved;
- (h) (**deed of company arrangement**) the person executing a deed of company arrangement;
- (i) (**person as trustee or partner**) the person incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the person is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:
 - (i) a breach of trust or obligation as partner by the person;
 - (ii) the person acting outside the scope of its powers as trustee or partner;
 - (iii) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability;
 - (iv) the assets of the trust or partnership being insufficient to discharge the liability; or
- (j) (**analogous events**) anything analogous to those set out in any of paragraphs (a) to (g) inclusive occurs in relation to the person under the laws of a foreign jurisdiction,

and a person shall be Insolvent if any event specified in paragraphs (a) to (j) inclusive occurs in respect of that person.

JV Consolidation Option has the meaning given in clause 5.4(a).

Listing Rules means the official listing rules of ASX.

LSE means the Main Board of the London Stock Exchange.

Market Abuse Regulation means Market Abuse Regulation (Regulation 596/2014).

Material Adverse Change means:

- (a) a change, event, circumstance, occurrence or matter that occurs in or relates to Botswana that is announced, is disclosed or otherwise becomes known to Sandfire

or the MOD Board (whether it becomes public or not) after the date of this deed which (whether individually or when aggregated with all such events, circumstances, occurrences or matters) has had or is reasonably likely to have a material adverse effect on the business, assets, liabilities, financial or trading position, profitability or prospects of the MOD Group taken as a whole;

- (b) a change, event, circumstance, occurrence or matter that occurs, is announced, is disclosed or otherwise becomes known to Sandfire or the MOD Board (whether it becomes public or not) after the date of this deed which (whether individually or when aggregated with all such changes, events, circumstances, occurrences or matters) has had or is reasonably likely to have:
 - (i) the effect of diminution in the value of the consolidated net assets of the MOD Group, taken as a whole, by at least A\$5 million against MOD's accounts of 31 December 2018;
 - (ii) an impact on the T3 Project due to fiscal regime change, access, land ownership, permitting or Authorisations such that the construction start date on the T3 Project is reasonably expected to be delayed to a date after 1 July 2020;
 - (iii) a downgrade to the key physical or economic outputs of the Feasibility Study of 10% or more; or
 - (iv) an impact on the T3 Project such that the mining lease for the T3 Project will not be granted or only granted subject to conditions which are likely to preclude development of the T3 Project substantially as described in the Feasibility Study,

and:

- (c) in each case other than changes, events, circumstances, occurrences or matters:
 - (i) expressly required or permitted by this deed or the Scheme or the transactions contemplated by either;
 - (ii) Fairly Disclosed to Sandfire in the Disclosure Materials;
 - (iii) Fairly Disclosed by MOD in any announcement to or filing with ASX or in a document lodged by MOD with ASIC that is publicly available, in each case between 5 November 2015 and the Business Day prior to the date of this deed;
 - (iv) approved by written consent of Sandfire;
 - (v) arising from changes in the securities market in general;
 - (vi) arising from any changes to commodity prices and commodity market conditions;
 - (vii) arising from changes in exchange rates applicable to MOD;
 - (viii) comprising or arising from anything contemplated by clause 13;
 - (ix) arising from the payment of Transaction Costs; or

- (x) arising from the proposed amendments to the transfer pricing regime in Botswana gazetted prior to the date of this deed.

Material Contract has the meaning given in clause 6.1(d).

Maximum Cash Consideration means the cash consideration per Scheme Share determined in accordance with clause 4.5.

Metal Tiger means Metal Tiger Plc (UK company number 04196004) of 107 Cheapside, London EC2V 6DN, United Kingdom.

Mining Act means the Mines and Minerals Act, CAP 66:01 of the Laws of Botswana.

Mining Tenements means:

- (d) the tenements outlined in Schedule 4; and
- (e) any other exploration or mining licence(s) which may be granted in lieu of or relate to the same ground as the tenement referred in paragraph (a).

Minister for Mines means the Minister of Minerals, Energy and Water Resources in the Government of Botswana (or his substitute or replacement or delegate from time to time).

MOD Board means the board of directors of MOD.

MOD Break Fee means \$1,660,000 (exclusive of GST).

MOD Depository means Computershare Investor Services PLC.

MOD Depository Interest means dematerialised depository interests issued by the MOD Depository in respect of underlying MOD Shares.

MOD Depository Interest Custodian means Computershare Investor Services PLC or a subsidiary or third party appointed by Computershare Investor Services PLC to provide custody services.

MOD Depository Interest Deed means the deed poll executed by the MOD Depository in favour of the MOD Depository Interest Holders from time to time.

MOD Depository Interest Holder means a holder of MOD Depository Interests from time to time.

MOD Depository Interest Register means the register of MOD Depository Interest Holders maintained by the MOD Depository.

MOD Director means a director of MOD.

MOD Employee Incentive Plan means the MOD Employee Incentive Plan as approved by MOD Shareholders on 30 May 2018.

MOD Group means, collectively, MOD and each of its Related Bodies Corporate.

MOD Indemnified Party means a director, officer, employee or adviser of a member of the MOD Group.

MOD Information means all the information in a Scheme Booklet other than the Sandfire Information and the Independent Expert's Report.

MOD Optionholder means a holder of MOD Options.

MOD Options or **Options** means options over MOD Shares.

MOD Performance Right means a right granted by MOD to acquire by way of issue a Share and for the avoidance of doubt, does not include an Option.

MOD Representations and Warranties means the representations and warranties set out in clause 11.3.

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

MOD Shareholder means a holder of one or more MOD Shares as shown in the Share Register.

New Sandfire Share means a Sandfire Share to be issued under the Scheme.

Non Cash out Election has the meaning given in clause 4.8(b).

Non-Electing Cash Out Shareholder means a Cash Out Shareholder who does not elect, or (being, or being considered by Sandfire to be, or to be holding MOD Shares or MOD Depositary Interests or any of them or any interest in any of them directly or indirectly on behalf of, or to be making a Non Cash Out Election directly or indirectly on behalf of, a European Holder) is not entitled to elect under clause 4.8(b), to receive their Scheme Consideration in the form of New Sandfire Shares.

Notice has the meaning given in clause 18.1(a).

Option Consideration Shares has the meaning given in clause 1.1(a).

Permitted Dividend has the meaning given in clause 4.15(a).

Prescribed Occurrence means the occurrence of any of the following:

- (a) MOD converting all or any of its shares into a larger or smaller number of shares;
- (b) any member of the MOD Group resolving to reduce its share capital in any way or reclassifying, or redeeming any of its shares;
- (c) any member of the MOD Group:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (d) any member of the MOD Group issuing shares, or granting a performance right or an option over its shares, or agreeing to make such an issue or grant such a performance right or an option (other than the issue of shares upon exercise of MOD Options or performance rights or to capitalise intra-group loans);
- (e) any member of the MOD Group issuing or agreeing to issue securities convertible into shares;
- (f) any member of the MOD Group making, determining as payable or declaring any distribution (whether by way of dividend, capital reduction or otherwise and whether cash or in specie);

- (g) any member of the MOD Group disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property;
- (h) any member of the MOD Group ceasing, or threatening to cease, the whole or a material part of its business;
- (i) any member of the MOD Group creating, granting or agreeing to any Encumbrance over any of the assets of any member of the MOD Group, other than a lien which arises by operation of law, legislation or arises in the ordinary course of the MOD Group's business;
- (j) any member of the MOD Group resolving that it be wound up or the making of an application or order for the insolvent winding up or dissolution of a member of the MOD Group other than where the application or order (as the case may be) is set aside within 14 days;
- (k) a liquidator or provisional liquidator of a member of the MOD Group being appointed;
- (l) a court making an order for the winding up of a member of the MOD Group;
- (m) an administrator of a member of the MOD Group being appointed under the Corporations Act;
- (n) any member of the MOD Group is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act unless that company has, or has access to, committed financial support from a parent entity such that it is able to pay its debts;
- (o) a member of the MOD Group making any change to its constitution;
- (p) any member of the MOD Group executing a deed of company arrangement;
- (q) a receiver, or a receiver and manager, being appointed in relation to the whole, or a substantial part, of the property of a member of the MOD Group;
- (r) any member of the MOD Group (**Relevant Member**) being deregistered as a company, or otherwise dissolved, other than where the criteria in section 601AA(2) of the Corporations Act are satisfied in relation to the Relevant Member (whether or not the Corporations Act applies to the deregistration or dissolution);
- (s) any member of the MOD Group making or agreeing to make, any loan or advance, or entering into any financing arrangement, agreement or instrument with a person other than a member of the MOD Group, or amending the terms of any existing financing arrangement, agreement or instrument with a person other than a member of the MOD Group, in each case other than in the ordinary course of business or pursuant to its credit facilities in existence as at the date of this deed;
- (t) any member of the MOD Group entering into any agreement, arrangement or transaction with respect to derivative instruments (including swaps, future contracts, future commitments, commodity derivatives or options);
- (u) any member of the MOD Group makes any material change to its accounting policies, other than to the extent required by law or applicable accounting standards;

- (v) any member of the MOD Group waives, forgives, settles or compromises claims that it has against any other person between the date of this deed and the Implementation Date with an aggregate value in excess of US\$100,000;
- (w) MOD is delisted or is subject to suspension from quotation for five or more Trading Days, other than due to, or as a result of, any action taken by any member of the MOD Group; or
- (x) any member of the MOD Group authorises, procures or commits or agrees to do any of the matters set out above,

but does not include any occurrence:

- (y) expressly required or permitted by this deed or the Scheme or the transactions contemplated by either;
- (z) Fairly Disclosed to Sandfire in the Disclosure Materials;
- (aa) Fairly Disclosed by MOD in an announcement to or filing with ASX, or in a document lodged by MOD with ASIC that is publicly available, in each case between 5 November 2015 and the Business Day prior to the date of this deed;
- (bb) involving the issue of MOD Shares to MOD Directors or members of management in lieu of short term cash incentives previously disclosed to the ASX; or
- (cc) consented to in writing by Sandfire.

Recommendation has the meaning given in clause 8.1(a).

Record Date means 5.00pm on the fifth Business Day after the Effective Date of the Scheme.

Regulator's Draft has the meaning given in clause 5.2(e)(i).

Regulatory Matter has the meaning given in clause 3.2(d)(iii)(A).

Related Body Corporate has the meaning given in section 50 of the Corporations Act.

Relevant Employee means any executive or employee of the MOD Group whose annual base salary exceeds US\$100,000 per annum.

Relevant Interest has the meaning given in sections 608 and 609 of the Corporations Act.

Relevant MOD Shareholder has the meaning given in clause 4.3(a).

Relevant Non Cash Out MOD Shareholder has the meaning given in clause 4.8(b).

Rematerialisation has the meaning given in clause 5.2(x)(i).

Representation and Warranty means a Sandfire Representation and Warranty or MOD Representation and Warranty.

Representative means, in respect of a party, an employee, agent, officer, director, adviser or financier of that party (or of a Related Body Corporate of that party), and, in the case of advisers, includes employees, officers and agents of the adviser.

RG 60 means Regulatory Guide 60 issued by ASIC and any Regulatory Guide issued by ASIC that replaces that Guide.

RG 112 means Regulatory Guide 112 issued by ASIC and any Regulatory Guide issued by ASIC that replaces that Guide.

Rights Issue has the same meaning as defined in the Corporations Act.

Sale and Demerger Agreement means the sale and demerger agreement entered into between MOD, Metal Tiger, Metal Capital Limited, Tshukudu Metals Botswana (Pty) Ltd, Tshukudu Exploration (Proprietary) Limited and Metal Capital Exploration Limited dated 18 July 2018.

Sale and Demerger Agreement Side Letter means the sale and demerger agreement side letter entered into between MOD and Metal Tiger dated on or around the date of this deed providing for the amendment to the form of consideration payable upon exercise of the JV Consolidation Option.

Sandfire Group means, collectively, Sandfire and each of its Related Bodies Corporate.

Sandfire Indemnified Party means a director, officer, employee or adviser of a member of the Sandfire Group.

Sandfire Information means information regarding the Sandfire Group provided by or on behalf of Sandfire to MOD or its Representatives in writing for inclusion in a Scheme Booklet.

Sandfire Nominee has the meaning given in clause 2(c).

Sandfire Representations and Warranties means the representations and warranties by Sandfire set out in clause 11.1.

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

Scheme means a members' scheme of arrangement under Part 5.1 of the Corporations Act between MOD and the Scheme Shareholders, in the form of Attachment B, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act.

Scheme Booklet means the explanatory statement in respect of the Scheme and the EGM Resolution to be prepared by MOD complying with section 412 of the Corporations Act, the Corporations Act in respect of the EGM Resolution, and in accordance with clause 5.2(d), and to be despatched to MOD Shareholders in accordance with clause 5.2(j), which will contain (among other things) the Independent Expert's Report (or a concise version of that report), a notice of meeting in respect of the Scheme Meeting and EGM Meeting and proxy forms.

Scheme Consideration means the consideration payable to Scheme Shareholders under the Scheme, being comprised of the Scrip Consideration and the Maximum Cash Consideration.

Scheme Meeting means the meeting of MOD Shareholders ordered by the Court to be convened at the First Court Hearing.

Scheme Shareholder means a MOD Shareholder (other than any member of Sandfire Group) as at the Record Date.

Scheme Share means a MOD Share held by a MOD Shareholder as at the Record Date.

Scrip Consideration means 0.0664 New Sandfire Shares for each Scheme Share held by a Scheme Shareholder who does not validly Elect to receive the Maximum Cash Consideration.

Second Court Date means the first day on which an application made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme is heard (or if the application is adjourned before consideration of any substantive matters, the first day on which the adjourned application is heard and substantive matters are considered), with such hearing being the **Second Court Hearing**.

Security Interest has the meaning given in section 12 of the *Personal Property Securities Act 2009* (Cth).

Sensitive Confidential Information has the meaning given in clause 3.2(e).

Share Register means the register of MOD Shareholders maintained in accordance with the Corporations Act.

Share Splitting means the conversion of a parcel of MOD Shares, which would otherwise have been voted as a single parcel, into two or more parcels of MOD Shares for voting (and possibly other) purposes where the conversion may, but need not, result from a change of legal or beneficial ownership of the MOD Shares. Examples of Share Splitting include transfer of some MOD Shares from a holding in a single name into joint names and the declaration of a trust over some MOD Shares in a holding not previously held on trust.

Subsidiary has the meaning given to that term in Division 6 of Part 1.2 of the Corporations Act.

Superior Proposal means a bona fide, written Competing Proposal received after the date of this deed which in the determination of the MOD Board acting reasonably, in order to satisfy its fiduciary or statutory duties (after having received written advice from their external legal and financial advisers), having undertaken a comparison of value of between the Competing Proposal and the Scrip Consideration based upon the 30 day VWAP of Sandfire Shares (and if applicable, the potential acquirer's 30 day VWAP, provided its securities are listed on a recognised exchange) prior to receipt of the Competing Proposal:

- (a) is capable of being completed in accordance with its terms, taking into account all financial, regulatory and other aspects of the proposal, including the ability of the proposing party to consummate the transactions contemplated by the Competing Proposal;
- (b) is not subject to any conditions relating to the conduct of the due diligence or to the provision of finance to the acquirer, or which are substantially more onerous than the Conditions Precedent, other than conditions pertaining to due diligence investigations which are merely confirmatory and can reasonably be completed in an efficient and timely manner, and regulatory conditions required by law that raise no significant policy or issues and are reasonably likely to be satisfied; and
- (c) would, if completed substantially in accordance with its terms, be reasonably likely to result in a transaction more favourable to MOD Shareholders than the Transaction, taking into account all of the terms and conditions of the Competing Proposal, including consideration, conditionality, funding, certainty and timing.

T3 Mining Tenements means:

- (a) the tenements outlined in Part A of Schedule 4; and
- (b) any other exploration or mining licence(s) which may be granted in lieu of or relate to the same ground as the tenement referred in paragraph (a).

T3 Project means the area covered by the T3 copper-silver deposit in the Kalahari Copper Belt, Botswana, being the area of the T3 Mining Tenements as at the date of this agreement and where the reference to T3 Mining Tenements includes any application for a mineral title, and any extension, renewal, variation, conversion, amalgamation, replacement or substitution of a mineral title, which is granted in respect of the whole or part of the area of a T3 Mining Tenement on the application or authority of the holder of a T3 Mining Tenement.

Takeovers Panel means the Takeovers Panel constituted under the *Australian Securities and Investments Commission Act 2001* (Cth).

Tax means any tax, levy, charge, impost, fee, deduction, goods and services tax (including GST), compulsory loan or withholding, that is assessed, levied, imposed or collected by any Government Agency and includes any interest, fine, penalty, charge, fee or any other amount imposed on, or in respect of any of the above, but excludes Duty.

Tax Laws means any law relating to either Tax or Duty as the context requires.

Terminating Party has the meaning given in clause 3.4.

Termination Event has the meaning given in clause 3.4.

Termination Notice has the meaning given in clause 3.4.

TERP means Theoretical Ex-Rights Price.

Third Party means a person other than Sandfire and its Associates.

Timetable means the indicative timetable for the implementation of the Transaction set out in Attachment A.

Trading Day has the meaning given in the Listing Rules.

Transaction means the acquisition of MOD by Sandfire by means of the Scheme.

Transaction Costs means legal, counsel, expert and court fees and fees payable to Government Agencies incurred by the MOD Group in connection with the transactions contemplated by this deed not exceeding \$645,000.

Transaction Implementation Committee means a committee to be made up of three Sandfire representatives and three MOD representatives, being at the date of this deed:

- (a) Julian Hanna – Managing Director;
- (b) Stef Weber – Chief Financial Officer;
- (c) Steve McGhee – Technical Director;
- (d) Richard Beazley – Chief Operating Officer;

- (e) Matthew Fitzgerald – Chief Financial Officer;
- (f) Bruce Hooper – Chief Business Development Officer; and

such other persons as the parties may agree from time to time.

Voting Confirmation means the voting intention statement dated on around the date of this deed between Sandfire and each member of the MOD Board.

Voting Intention has the meaning given in clause 8.1(b).

VWAP means volume weighted average price.

2 Interpretation

In this deed, the following rules of interpretation apply unless the contrary intention appears.

- (a) Headings and notes are for convenience only and do not affect the interpretation of this deed.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (e) The words “include”, “including”, “such as”, “to avoid doubt” and other expressions with similar meanings are not words of limitation and do not limit what else might be included.
- (f) A person who becomes entitled to do a thing will continue to be regarded as entitled to do the thing after the person has done the thing.
- (g) A reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
 - (ii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this deed (as applicable);
 - (vi) this deed includes all schedules and attachments to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law or rule of common law or equity and is a reference to that law as amended, consolidated or replaced;

- (viii) an agreement (other than this deed) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
- (ix) Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia and a reference to US\$, USD or US dollars is a reference to the lawful currency of the United States of America;
- (h) An agreement on the part of two or more persons binds and benefits them jointly and severally.
- (i) When the day on which something must be done is not a Business Day, that thing must be done on the following Business Day.
- (j) In determining the time of day, where relevant to this deed, the time of day is:
 - (i) for the purposes of giving or receiving Notice, the time of day where the party receiving Notice is located; or
 - (ii) for any other purpose under this deed, the time of day in the place where the party required to perform an obligation is located.
- (k) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it.

Schedule 2 MOD capital structure

Class of shares, performance rights or options	Number of shares, performance rights or options
Securities quoted on ASX and LSE	
Ordinary shares	303,737,076
MOD Options not quoted on ASX and LSE	
MOD Options exercisable with a nil exercise price on or before 16 November 2021	40,673,566
MOD Options exercisable at \$0.457 on or before 30 January 2023, vesting 12 months from the date of issue and subject to a restriction period to 30 January 2022	3,015,000
MOD Options exercisable at \$0.707 on or before 30 January 2023, vesting 24 months from the date of issue and subject to a restriction period to 30 January 2022	3,015,000
MOD Options exercisable at \$0.907 on or before 30 January 2023, vesting 36 months from the date of issue and subject to a restriction period to 30 January 2022	3,015,000
MOD Options exercisable at \$0.522 and expiring 12 April 2023, vesting 36 months from the date of issue and subject to a restriction period to 12 April 2022	5,030,000
MOD Options exercisable at \$0.435 on or before 29 May 2023, vesting 36 months from the date of grant and subject to a restriction period until 29 May 2022	3,630,000
MOD Performance Rights not quoted on ASX and LSE	
MOD Performance Rights expiring 21 February 2022, Tranche 1 vesting on a market capitalisation of \$120 million and Tranche 2 vesting on a market capitalisation of \$180 million (each for 30 consecutive calendar days)	3,050,000

Schedule 3 MOD option consideration

Class of MOD Options	Number of MOD Options	MOD Option Consideration
MOD Options exercisable at \$0.457 on or before 30 January 2023, vesting 12 months from the date of issue and subject to a restriction period to 30 January 2022	3,015,000	\$0.0722 per option
MOD Options exercisable at \$0.707 on or before 30 January 2023, vesting 24 months from the date of issue and subject to a restriction period to 30 January 2022	3,015,000	\$0.0348 per option
MOD Options exercisable at \$0.907 on or before 30 January 2023, vesting 36 months from the date of issue and subject to a restriction period to 30 January 2022	3,015,000	\$0.0207 per option
MOD Options exercisable at \$0.522 and expiring 12 April 2023, vesting 36 months from the date of issue and subject to a restriction period to 12 April 2022	5,030,000	\$0.0624 per option
MOD Options exercisable at \$0.435 on or before 29 May 2023, vesting 36 months from the date of grant and subject to a restriction period until 29 May 2022	3,630,000	\$0.0829 per option

Schedule 4 Mining Tenements

Part A – T3 Tenements

Licence No.	Holder	Expiry
PL190/2008 *	Tshukudu Metals Botswana (Pty) Ltd (includes 25km² T3 Project)	30 September 2020

* PL 190/2008 includes the 25km² T3 Project and the T3 Underground Project. The area outside of the T3 Project and T3 Underground Project is held on trust on behalf of Tshukudu Exploration (Pty) Ltd.

Part B – Other Botswana Tenements

Licence No.	Holder	Expiry
PL074/2017	Tshukudu Exploration (Pty) Ltd	31 March 2020
PL093/2018	Tshukudu Exploration (Pty) Ltd	30 September 2021
PL099/2017	Tshukudu Exploration (Pty) Ltd	30 September 2020
PL102/2005	Tshukudu Exploration (Pty) Ltd	31 December 2020
PL103/2005	Tshukudu Exploration (Pty) Ltd	31 December 2020
PL104/2005	Tshukudu Exploration (Pty) Ltd	31 December 2020
PL126/2013	Tshukudu Exploration (Pty) Ltd	30 September 2020
PL127/2013	Tshukudu Exploration (Pty) Ltd	30 September 2020
PL186/2008	Tshukudu Exploration (Pty) Ltd	31 December 2020
PL187/2008	Tshukudu Exploration (Pty) Ltd	31 December 2020
PL188/2008	Tshukudu Exploration (Pty) Ltd	31 December 2020
PL189/2008	Tshukudu Exploration (Pty) Ltd	30 September 2020

Licence No.	Holder	Expiry
PL189/2017	Tshukudu Exploration (Pty) Ltd	30 September 2020
PL191/2008	Tshukudu Exploration (Pty) Ltd	31 December 2020
PL192/2008	Tshukudu Exploration (Pty) Ltd	31 December 2020
PL231/2016	Tshukudu Exploration (Pty) Ltd	30 September 2019
PL060/2012	Tshukudu Exploration (Pty) Ltd	31 December 2020
PL061/2012	Tshukudu Exploration (Pty) Ltd	31 December 2020
PL190/2008	Tshukudu Metals Botswana (Pty) Ltd	30 September 2020
PL686/2009	MOD Resources Botswana (Pty) Ltd	31 December 2020
PL034/2010	MOD Resources Botswana (Pty) Ltd	31 March 2020
PL035/2010	MOD Resources Botswana (Pty) Ltd	31 March 2020
PL036/2010	MOD Resources Botswana (Pty) Ltd	31 March 2020
PL141/2012	MOD Resources Botswana (Pty) Ltd	31 March 2020
PL204/2014	MOD Resources Botswana (Pty) Ltd	31 March 2020
PL211/2017	MOD Resources Botswana (Pty) Ltd	31 December 2020
PL280/2014	MOD Resources Botswana (Pty) Ltd	31 March 2020
PL065/2018	MOD Resources Botswana (Pty) Ltd	30 September 2021
PL334/2018	MOD Resources Botswana (Pty) Ltd	30 September 2021
PL335/2018	MOD Resources Botswana (Pty) Ltd	30 September 2021
PL336/2018	MOD Resources Botswana (Pty) Ltd	30 September 2021

Notes:

- (i) Tshukudu Exploration (Pty) Ltd – JV licences (MOD 70% / Metal Tiger 30%)
- (ii) MOD Resources Botswana (Pty) Ltd (MOD 100%)

Part C – Sams Creek Tenements

Licence No.	Holder	Expiry
EP40338	Sams Creek Gold Limited (MOD 80%)	26 March 2021
EP54454	Sams Creek Gold Limited (MOD 100%)	25 September 2022

Execution page

Executed as a deed.

Signed, sealed and delivered by **Sandfire Resources NL** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

(executed)	(executed)
_____ Signature of director	_____ Signature of director/secretary
Karl Simich	Matthew Fitzgerald
_____ Name of director (print)	_____ Name of director/secretary (print)

Signed, sealed and delivered by **MOD Resources Limited** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

(executed)	(executed)
_____ Signature of director	_____ Signature of director/secretary
Julian Hanna	Mark Clements
_____ Name of director (print)	_____ Name of director/secretary (print)

Attachment A Timetable

Event	Target Date
Release of Agreed Public Announcement	25 June 2019
Regulator's Draft provided to ASIC	30 July 2019
First Court Hearing	20 August 2019
Printing and despatch of Scheme Booklet	26 August 2019
Scheme Meeting	1 October 2019
Second Court Hearing	8 October 2019
Effective Date	9 October 2019
Record Date	16 October 2019
Implementation Date	23 October 2019

Attachment B Scheme

Scheme of Arrangement

MOD Resources Limited

Each person who holds one or more Scheme Shares

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Date:

Parties

This scheme of arrangement is made under section 411 of the Corporations Act between:

- 1 **MOD Resources Limited** (ACN 003 103 544) of First Floor, 1304 Hay St West Perth, WA 6005 (**MOD**)
 - 2 Each person who holds one or more Scheme Shares (**Scheme Shareholders**)
-

Background

- A MOD is a public company limited by shares and is admitted to the official list of ASX and LSE.
- B Sandfire Resources NL (ACN 105 154 185) (**Sandfire**) is a public company limited by shares and is admitted to the official list of ASX.
- C On 24 June 2019, Sandfire and MOD entered into the Implementation Deed pursuant to which, amongst other things, MOD has agreed to propose this Scheme to the Scheme Shareholders, and each of MOD and Sandfire have agreed to take certain steps to give effect to this Scheme.
- D If this Scheme becomes Effective, then:
 - (i) in consideration for the transfer of each Scheme Share to Sandfire, Sandfire will provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll;
 - (ii) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, will be transferred to Sandfire; and
 - (iii) MOD will enter the name of Sandfire in the Share Register in respect of all the Scheme Shares transferred to Sandfire in accordance with the terms of this Scheme.
- E Sandfire has entered into the Deed Poll for the purposes of covenanting in favour of Scheme Shareholders to perform all actions attributed to Sandfire under this Scheme, including to provide or procure the provision of the Scheme Consideration in accordance with the terms of this Scheme.

The parties agree

1 Defined terms and interpretation

1.1 Definitions in the Dictionary

A term or expression starting with a capital letter:

- (a) which is defined in the Dictionary in Schedule 1 (**Dictionary**), has the meaning given to it in the Dictionary;

- (b) which is defined in the Corporations Act, but is not defined in the Dictionary, has the meaning given to it in the Corporations Act; and
- (c) which is defined in the GST Law, but is not defined in the Dictionary or the Corporations Act, has the meaning given to it in the GST Law.

1.2 Interpretation

The interpretation clause in Schedule 1 (**Dictionary**) sets out rules of interpretation for this document.

2 Sandfire Nominee

- (a) Sandfire may nominate any wholly-owned Subsidiary of Sandfire (**Sandfire Nominee**) to acquire the Scheme Shares under the Scheme by giving written notice to MOD on or before the date that is 5 Business Days before the First Court Date.
- (b) If Sandfire nominates the Sandfire Nominee to acquire the Scheme Shares under the Scheme, then:
 - (i) references in this Scheme to Sandfire acquiring the Scheme Shares are to be read as references to the Sandfire Nominee doing so;
 - (ii) other references in this Scheme to Sandfire are to be read as references to Sandfire or the Sandfire Nominee;
 - (iii) the parties must procure that the Scheme Shares transferred under the Scheme are transferred to the Sandfire Nominee, rather than the Sandfire;
 - (iv) Sandfire must procure that the Sandfire Nominee complies with the relevant obligations of Sandfire under this Scheme; and
 - (v) any such nomination will not relieve Sandfire of its obligations under this Scheme, including the obligation to pay (or procure the payment by the Sandfire Nominee of) or issue the Scheme Consideration (as applicable) in accordance with the terms of the Scheme, provided that Sandfire will not be in breach of this Scheme for failing to perform an obligation of Sandfire if that obligation is fully discharged by the Sandfire Nominee (other than in respect of the obligation to issue the Scrip Consideration).

3 Conditions

3.1 Conditions to the Scheme

The Scheme is conditional upon, and will have no force or effect until, the satisfaction of each of the following:

- (a) as at the Delivery Time, each of the conditions set out in clause 3.1 of the Implementation Deed (other than the condition relating to the approval of the Court set out in clause 3.1(a) of the Implementation Deed) have been satisfied or waived in accordance with the terms of the Implementation Deed;
- (b) as at the Delivery Time, neither the Implementation Deed nor the Deed Poll have been terminated in accordance with their terms;

- (c) the Court approves this Scheme under section 411(4)(b) of the Corporations Act either unconditionally or with any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act as are acceptable to MOD and Sandfire in accordance with clause 9.12;
- (d) subject to clause 9.12, such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to the Scheme as are acceptable to MOD and Sandfire have been satisfied or waived; and
- (e) the coming into effect of the Scheme Order, on or before the End Date.

3.2 Certificate

- (a) MOD and Sandfire will provide to the Court on the Second Court Date certificates signed by Sandfire and MOD (or such other evidence as the Court requests) confirming (in respect of matters within their knowledge) whether or not:
 - (i) the conditions referred to in clause 3.1 of the Implementation Deed (other than the condition relating to the approval of the Court set out in clause 3.1(a) of the Implementation Deed) have been satisfied or waived in accordance with the terms of the Implementation Deed; and
 - (ii) the condition in clause 3.1(b) of this Scheme has been satisfied,in each case as at the Delivery Time.
- (b) The certificates referred to in clause 3.2(a) constitute conclusive evidence that:
 - (i) the Conditions (other than the condition relating to the approval of the Court set out in clause 3.1(b) of the Implementation Deed) are satisfied, waived, or taken to be waived, in accordance with the Implementation Deed; and
 - (ii) the condition in clause 3.1(b) of this Scheme has been satisfied,in each case as at the Delivery Time.

3.3 Termination

Without limiting any rights under the Implementation Deed, if one or both of the Implementation Deed or the Deed Poll is terminated in accordance with their respective terms before the Scheme becomes Effective, MOD is released from any further obligation to take steps to implement the Scheme and any liability with respect to the Scheme.

4 The Scheme

- (a) Subject to clause 3.1, this Scheme takes effect for all purposes on the Effective Date.
- (b) Without limiting any rights under the Implementation Deed, this Scheme will lapse and be of no further force or effect if:
 - (i) the Effective Date has not occurred on or before the End Date; or
 - (ii) one or both of the Implementation Deed or Deed Poll is terminated in accordance with its terms,

unless MOD and Sandfire agree otherwise.

5 Implementation of the Scheme

5.1 Lodgement of Scheme Order with ASIC

If the conditions in clauses 3.1(a) to 3.1(d) (inclusive) are satisfied, MOD must lodge with ASIC, in accordance with section 411(10) of the Corporations Act, an office copy of the Scheme Order approving this Scheme as soon as possible after, and in any event by 5.00pm on the first Business Day following the day on which it receives such office copy (or such other Business Day as MOD and Sandfire agree).

5.2 Transfer of Scheme Shares

Subject to this Scheme becoming Effective, at 10.00am on the Implementation Date, the transactions which form part of the Scheme will be implemented in the following sequence:

- (a) MOD will deliver to Sandfire a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by MOD as attorney and agent of each Scheme Shareholder no later than three Business Days prior to the Implementation Date;
- (b) Sandfire will duly execute the Scheme Transfer received from MOD in accordance with clause 5.2(a), attend to the stamping of the Scheme Transfer (if required) and deliver it to MOD for registration no later than two Business Days prior to the Implementation Date;
- (c) MOD must deliver the Scheme Transfer to its Share registry on the Business Day prior to the Implementation Date to be held in escrow until the Implementation Date;
- (d) on the Implementation Date, the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, must be transferred to Sandfire, without the need for any further act by any Scheme Shareholder (other than acts performed by MOD as attorney and agent for Scheme Shareholders under clause 9.1);
- (e) on the Implementation Date, MOD must enter, or procure the entry of, the name of Sandfire in the MOD Register in respect of all the Scheme Shares transferred to Sandfire in accordance with this Scheme; and
- (f) Sandfire will provide or procure that the Scheme Consideration is provided in the manner contemplated by clause 6.

6 Scheme Consideration

6.1 Entitlement to Scheme Consideration

- (a) Subject to this Scheme becoming Effective, on the Implementation Date, in consideration for the transfer to Sandfire of the Scheme Shares held by each Scheme Shareholder under the terms of this Scheme each Scheme Shareholder will be entitled to receive and Sandfire will provide to each Scheme Shareholder (subject to clauses 6.6, 6.8, 6.9 and 6.10) the Scheme Consideration for each Scheme Share held by that Scheme Shareholder on the Record Date in

accordance with this clause 6, subject to any applicable adjustment under either or both of clauses 6.1(b) or 6.1(c), provided that, if the Rematerialisation has not occurred as at the Record Date, the MOD Depository may direct that Scheme Consideration attributable to the Scheme Shares held by the MOD Depository or the MOD Depository Interest Custodian be paid directly to MOD Depository Interest Holders instead of the MOD Depository or the MOD Depository Interest Custodian.

- (b) If, after the date of the Implementation Deed, Sandfire converts all or any of its shares into a larger or smaller number of shares but the New Sandfire Shares are not issued in time to be consolidated or split by that conversion (as applicable), then the calculation of the number of New Sandfire Shares under clause 6.1(a) shall be adjusted so that the number of New Sandfire Shares to be received by each Scheme Shareholder (or the nominee as applicable under clause 6.8) reflects the number they would have received if the New Sandfire Shares had been consolidated or split by that conversion.
- (c) If, after the date of the Implementation Deed, Sandfire makes a Bonus Issue to holders of Sandfire Shares but the New Sandfire Shares are not issued in time to participate in that Bonus Issue, then the number of New Sandfire Shares calculated under clause 6.1(a) for each Scheme Shareholder (or the nominee as applicable under clause 6.8) shall be increased by the number of additional Sandfire Shares which the relevant Scheme Shareholder (or the nominee as applicable under clause 6.8) would have received under the Bonus Issue if the New Sandfire Shares had carried an entitlement to participate in the Bonus Issue.
- (d) If, after the date of the Implementation Deed and before the New Sandfire Shares are issued, Sandfire undertakes a Rights Issue and issues Sandfire Shares at a discount to the market price of its shares on ASX on the Trading Day prior to the announcement of the relevant Rights Issue, then the number of New Sandfire Shares calculated in order to determine the number of New Sandfire Shares for the purposes of calculating the Scrip Consideration shall be increased in accordance with the following formula:

$$A = B / (1 + C)$$

where:

A = the adjusted number of New Sandfire Shares

B = the original number of New Sandfire Shares

C = the percentage difference between Sandfire's Theoretical Ex-Rights Price (**TERP**) and Sandfire's share price on the Trading Day prior to the announcement of the relevant Rights Issue calculated as follows:

$$(TERP / H) - 1$$

where:

H is the Sandfire last close share price on the Trading Day prior to the announcement of the relevant Rights Issue

$$TERP = (D + E) / (F + G)$$

where:

D = is the market capitalisation of Sandfire prior to the announcement of the relevant Rights Issue to be calculated as the last closing price on the Trading Day prior to the announcement multiplied by the number of ordinary Sandfire Shares outstanding on the Trading Day prior to the announcement

E = the total dollar amount of the Rights Issue

F = the number of ordinary Sandfire Shares outstanding on the Trading Day prior to the announcement

G = is the total number of Sandfire Shares to be issued pursuant to the Rights Issue

6.2 Scheme Consideration

The Scheme Consideration in respect of each Scheme Share is either:

- (a) the Scrip Consideration; or
- (b) the Maximum Cash Consideration.

6.3 Election mechanism

- (a) MOD must ensure that the Scheme Booklet sent to MOD Shareholders permits Scheme Shareholders (other than European Holders or Ineligible Foreign Shareholders) (**Relevant MOD Shareholder**) to make an election (**Election**) to receive the Maximum Cash Consideration for all their Scheme Shares by completing an Election Form, such Election being subject to the terms of the Scheme.
- (b) The Election Form shall provide that:
 - (i) subject to clause 6.3(b)(vi) a Relevant MOD Shareholder may make only one Election in relation to a particular holding and a Relevant Non Cash Out MOD Shareholder may make only one Non Cash Out Election in relation to a particular holding;
 - (ii) subject to clause 6.3(b)(vi), any Election by a Relevant MOD Shareholder will apply to all of the MOD Shares that Relevant MOD Shareholder holds as at the Record Date and any Non Cash Out Election by a Relevant Non Cash Out MOD Shareholder will apply to all of the MOD Shares that Relevant Non Cash Out MOD Shareholder holds as at the Record Date;
 - (iii) an Election or Non Cash Out Election may be made by a Relevant MOD Shareholder or Relevant Non Cash Out MOD Shareholder, as applicable, by:
 - (A) completing the Election Form in accordance with the instructions specified on the Election Form or set out in the Scheme Booklet; and
 - (B) returning the completed Election Form in accordance with the instructions on it so that it is received by MOD no later than the Election Date,

or by taking equivalent actions in electronic form if permitted by MOD's constitution and the Court at the First Court Hearing;

- (iv) once made, an Election or Non Cash Out Election by a Relevant MOD Shareholder or Relevant Non Cash Out MOD Shareholder, as applicable, may be varied before the Election Date (provided that any variation that purports to make an Election or Non Cash Out Election invalid will not be effective);
- (v) if a valid Election is not made by a Relevant MOD Shareholder prior to the Election Date in respect of all of the MOD Shares held by that Relevant MOD Shareholder as at the Record Date, then that Relevant MOD Shareholder will receive the Scrip Consideration in respect of all of their MOD Shares and if a valid Non Cash Out Election is not made by a Relevant Non Cash Out MOD Shareholder prior to the Election Date in respect of all of the MOD Shares held by that MOD Shareholder as at the Record Date, then that Relevant Non Cash Out MOD Shareholder will receive payment in accordance with clause 6.8 in respect of all of their MOD Shares;
- (vi) a Relevant MOD Shareholder or Relevant Non Cash Out MOD Shareholder as applicable, that holds one or more parcels of MOD Shares as trustee or nominee for, or otherwise on account of, another person, may, in a manner to be agreed between the parties (acting reasonably), make separate Elections or Non Cash Out Elections in relation to each of those parcels of MOD Shares (and, for the purpose of calculating the Scheme Consideration to which the Relevant MOD Shareholder or Relevant Non Cash Out MOD Shareholder is entitled each such parcel of MOD Shares will be treated as though it were held by a separate Relevant MOD Shareholder or Relevant Non Cash Out MOD Shareholder);
- (vii) the Relevant MOD Shareholder and Relevant Non Cash Out MOD Shareholder warrants and undertakes that it is not a European Holder, is not holding the MOD Shares or any of them or any interest in any of them directly or indirectly on behalf of a European Holder and is not making any Election or Non Cash Out Election directly or indirectly on behalf of a European Holder, and

must otherwise be in a form agreed between MOD and Sandfire.

- (c) MOD must ensure that, to the extent reasonably practicable, the Relevant MOD Shareholders or Relevant Non Cash Out MOD Shareholder, as applicable, who have acquired MOD Shares after the date of the despatch of the Scheme Booklet can receive an Election Form on request to MOD.
- (d) In order to facilitate the provision of the Scheme Consideration, MOD must provide, or procure the provision, to Sandfire or a nominee of Sandfire, of:
 - (i) a weekly update of the Elections and Non Cash Out Elections that have been received;
 - (ii) details of the final Elections and Non Cash Out Elections made by each Relevant MOD Shareholder, within one Business Day after the Record Date (and, for these purposes, an Election made by the MOD Depositary in respect of any parcel of MOD Shares shall be deemed after Rematerialisation to be an Election made by the MOD Shareholder holding such parcel of MOD Shares including for determining whether such MOD Shareholder is a Relevant MOD Shareholder and whether such Election is a valid Election); and

- (iii) a complete copy of the Share Register (which must include the name, registered address and registered holding of each Scheme Shareholder) as at the Record Date, within three Business Days after the Record Date,

and such other information as Sandfire may reasonably require, upon the written request of Sandfire, to provide the Scheme Consideration in accordance with the terms of this Scheme.

6.4 Scrip Consideration

- (a) If a Scheme Shareholder has not made a valid Election to receive the Maximum Cash Consideration as referred to in clause 6.3(b)(v), that Scheme Shareholder will receive for each Scheme Share held by that Scheme Shareholder at the Record Date, the Scrip Consideration.
- (b) European Holders may not make an Election and will receive for each Scheme Share held by that Scheme Shareholder at the Record Date, the Scrip Consideration. Sandfire will be under no obligation under this Scheme or Deed Poll to pay any Maximum Cash Consideration to any European Holder who has made or purported to make an Election or to any person purporting to be a Relevant MOD Shareholder who Sandfire considers to be, or to be holding MOD Shares or MOD Depositary Interests or any of them or any interest in any of them directly or indirectly on behalf of, or to be making an Election directly or indirectly on behalf of, a European Holder.

6.5 Election to receive Maximum Cash Consideration

- (a) If a Scheme Shareholder has validly made an Election to receive the Maximum Cash Consideration, that Scheme Shareholder will be entitled to receive for each Scheme Share held by that Scheme Shareholder at the Record Date:

- (i) if the Aggregate Cash Consideration is less than the Cash Cap, \$0.45 per Scheme Share; or

- (ii) if the Aggregate Cash Consideration is greater than the Cash Cap:

- (A) an amount of cash per Scheme Share calculated as follows:

$$A \div B$$

Where:

A = the Cash Cap;

B = the total number of Scheme Shares held at the Record Date by all Scheme Shareholders who validly elect Maximum Cash Consideration; and

- (B) a number of New Sandfire Shares calculated as follows:

$$(\$0.45 - X) \div B$$

Where:

X = the amount of cash per Scheme Share provided under clause 6.5(a)(ii)(A); and

$$B = \$6.78$$

6.6 Ineligible Foreign Shareholders

Sandfire will be under no obligation under the Scheme or Deed Poll to issue, and will not issue, any New Sandfire Shares to any Ineligible Foreign Shareholder, and instead, unless Sandfire and MOD otherwise agree, Sandfire must procure that the New Sandfire Shares that each Ineligible Foreign Shareholder would otherwise be entitled to receive as Scheme Consideration (which shall include any fraction of a New Sandfire Share arising from the calculation and disregarding the operation of clause 6.9) are dealt with in accordance with clause 6.8.

6.7 Cash Out Shareholders

- (a) Sandfire will be under no obligation under the Scheme or Deed Poll to issue, and will not issue, any New Sandfire Shares to any Cash Out Shareholder, and instead, unless Sandfire and MOD otherwise agree, Sandfire must procure that the New Sandfire Shares that each Cash Out Shareholder would otherwise be entitled to receive as Scheme Consideration (which shall include any fraction of a New Sandfire Share arising from the calculation and disregarding the operation of clause 6.9) are dealt with in accordance with clause 6.8, provided that Cash Out Shareholders (other than European Holders) who, on implementation of the Scheme, would be entitled to receive at least one whole New Sandfire Share as Scheme Consideration, may (if they have given the warranty referred to in clause 6.3(b)(vii) and are otherwise permitted to do so by applicable law) (**Relevant Non Cash Out MOD Shareholders**) elect to receive their Scheme Consideration in the form of New Sandfire Shares (**Non Cash Out Election**) by completing the Election Form.
- (b) Sandfire will be under no obligation under the Scheme or Deed Poll to issue any New Sandfire Shares to any Cash Out Shareholder who is a European Holder and has made or purported to make a Non Cash Out Election or who Sandfire considers to be or to be holding MOD Shares or MOD Depositary Interests or any of them or any interest in any of them directly or indirectly on behalf of, or to be making a Non Cash Out Election directly or indirectly on behalf of, a European Holder.
- (c) MOD may, with the prior written consent of Sandfire, settle any difficulty, matter of interpretation or dispute which may arise in connection with determining the validity of any Non Cash Out Election under this clause 6.7, and any such decision will be conclusive and binding on MOD, Sandfire and the relevant MOD Shareholder.

6.8 Sale Facility

- (a) Sandfire must appoint a nominee acceptable to MOD (acting reasonably) at least two weeks prior to the Scheme Meeting (and if required by ASIC, such nominee is to be approved by ASIC), and on the Implementation Date issue to that nominee, the New Sandfire Shares to which an Ineligible Foreign Shareholder or Non-Electing Cash Out Shareholder would otherwise be entitled under the Scheme and Deed Poll (which in each case shall include any fraction of a New Sandfire Share arising from the calculation and disregarding the operation of clause 6.9).
- (b) Where New Sandfire Shares are issued to a nominee pursuant to clause 6.8(a), Sandfire will procure that, as soon as reasonably practicable and in any event not more than 15 Business Days after the Implementation Date, the nominee:
 - (i) sells on ASX or another prescribed financial market all of the New Sandfire Shares issued to the nominee in accordance with clause 6.8(a) in such

manner, at such price and on such other terms as the nominee determines in good faith; and

- (ii) remits to Sandfire the proceeds of sale (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges).
- (c) Where New Sandfire Shares are issued to a nominee pursuant to clause 6.8(a), promptly after the last remittance in accordance with clause 6.8(b)(ii), Sandfire will pay in Australian dollars to each Ineligible Foreign Shareholder and Non-Electing Cash Out Shareholder the proportion of the net proceeds of sale received by Sandfire pursuant to clause 6.8(b)(ii) to which that Ineligible Foreign Shareholder or Non-Electing Cash Out Shareholder is entitled, in full satisfaction of their right to the Scheme Consideration.
- (d) Sandfire will pay the relevant proportion of the net proceeds of sale to each Ineligible Foreign Shareholder by either:
 - (i) dispatching or procuring the dispatch, to that Ineligible Foreign Shareholder by prepaid post to that Ineligible Foreign Shareholder's registered address as set out in the MOD Register (at the Record Date), a cheque in the name of that Ineligible Foreign Shareholder; or
 - (ii) making a deposit in an account with any ADI (as defined by the *Banking Act 1959* (Cth)) in Australia notified by that Ineligible Foreign Shareholder to Sandfire (or the MOD Share Registry) and recorded in or for the purposes of the MOD Register at the Record Date.
- (e) For the purposes of this clause 6.8, each Ineligible Foreign Shareholder and Non-Electing Cash Out Shareholder appoints Sandfire as its agent to receive on its behalf any financial services guide or other notices (including any updates to those documents) that the nominee is required to provide to Ineligible Foreign Shareholders or Non-Electing Cash Out Shareholders under the Corporations Act.

6.9 Fractional entitlements

- (a) Any fractional entitlement of a Scheme Shareholder (other than an Ineligible Foreign Shareholder or a Non-Electing Cash Out Shareholder) to a part of a New Sandfire Share, following calculation of the aggregate New Sandfire Shares to be issued to that Scheme Shareholder, will be rounded up or down to the nearest whole number of New Sandfire Shares.
- (b) The fractional entitlements of Ineligible Foreign Shareholders and Non-Electing Cash Out Shareholders will be dealt with in accordance with clause 6.8(a).

6.10 Share splitting

If Sandfire is of the opinion (acting reasonably) that two or more Scheme Shareholders (each of whom holds a number of Scheme Shares that results in rounding in accordance with clause 6.9) have, before the Record Date, been party to Share Splitting or division in an attempt to obtain unfair advantage by reference to such rounding, then Sandfire may give notice to those Scheme Shareholders:

- (a) setting out their names and registered addresses as shown in the MOD Register;
- (b) stating that opinion; and

- (c) attributing the Scheme Shares held by all of them to one of them as specifically identified in the notice,

and, after such notice has been given, the Scheme Shareholder specifically identified in the notice as the deemed holder of all the specified Scheme Shares will, for the purposes of the Scheme and Deed Poll, be taken to hold all of those Scheme Shares and each of the other Scheme Shareholders whose names and registered addresses are set out in the notice will, for the purposes of the Scheme and Deed Poll, be taken to hold no Scheme Shares. Sandfire, in complying with the other provisions of the Scheme and Deed Poll relating to it in respect of the Scheme Shareholder specifically identified in the notice as the deemed holder of all the specified Scheme Shares, will be taken to have satisfied and discharged its obligations to the other Scheme Shareholders named in the notice under the terms of the Scheme and Deed Poll.

6.11 Provision of Scheme Consideration – Cash component of Maximum Cash Consideration

- (a) Sandfire must, by no later than two Business Days before the Implementation Date, deposit in cleared funds an amount equal to the Aggregate Cash Consideration in an Australian dollar denominated trust account operated by MOD or its registry as trustee of the Scheme Shareholders who validly Elect to receive the Maximum Cash Consideration, provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Sandfire's account.
- (b) Subject to Sandfire having complied with clause 6.11(a), MOD must, on the Implementation Date and from the trust account referred to in clause 6.11(a), pay or procure the payment to each Scheme Shareholder who has Elected to receive the Maximum Cash Consideration, the cash component of the Maximum Cash Consideration attributable to that Scheme Shareholder, based on the number of Scheme Shares held by that Scheme Shareholder as at the Record Date.
- (c) MOD's obligation under clause 6.11(b) will be satisfied by MOD:
 - (i) where a Scheme Shareholder has, before the Record Date, made an election in accordance with the requirements of the MOD Share Registry to receive dividend payments from MOD by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount of Australian currency by electronic means in accordance with that election; or
 - (ii) otherwise, dispatching, or procuring the dispatch of, a cheque in Australian currency to the Scheme Shareholder by prepaid post to their address shown in the Share Register as at the Record Date, such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 6.13), for the relevant amount.

6.12 Provision of Scheme Consideration – allotment and issue of New Sandfire Shares

- (a) Subject to clauses 6.6, 6.8, 6.9 and 6.10, Sandfire covenants in favour of MOD (in its own right and separately as trustee and nominee for each of the Scheme Shareholders) that Sandfire will:
 - (i) apply to ASX for the official quotation of the New Sandfire Shares that comprise the Scheme Consideration on the ASX;

- (ii) allot and issue to the Scheme Shareholders the New Sandfire Shares that comprise the Scheme Consideration in accordance with the Scheme and Deed Poll on terms such that each New Sandfire Share will rank equally in all respects with each existing Sandfire Share, provided that, if the Rematerialisation has not occurred as at the Record Date, the MOD Depository may direct that New Sandfire Shares attributable to the Scheme Shares held by the MOD Depository or the MOD Depository Interest Custodian be issued directly to MOD Depository Interest Holders instead of the MOD Depository or the MOD Depository Interest Custodian.
 - (iii) no later than three Business Days after the Implementation Date, send or procure the dispatch to each Scheme Shareholder (other than Ineligible Foreign Shareholders and Non-Electing Cash Out Shareholders), to their address recorded in the MOD Register on the Record Date, a holding statement confirmation notice for the New Sandfire Shares issued to that Scheme Shareholder.
- (b) Sandfire covenants in favour of MOD (in its own right and separately as trustee and nominee for each of the Scheme Shareholders) that:
- (i) the New Sandfire Shares to be issued under the Scheme and Deed Poll will be duly and validly authorised and will, on and from their issue, rank equally in all respects with all existing Sandfire Shares;
 - (ii) the New Sandfire Shares issued as Scheme Consideration will be entitled to participate in and receive any dividends or distribution of capital paid and any other entitlements accruing in respect of Sandfire Shares on and after the Implementation Date;
 - (iii) on issue, each such New Sandfire Share will be validly issued, fully paid and free from any mortgage, charge, lien, encumbrance or other security interest or third-party rights; and
 - (iv) it will use its best endeavours to ensure that the New Sandfire Shares issued as Scheme Consideration will be listed for quotation on the official list of ASX with effect from the Business Day after the Effective Date (or such later date as ASX may require), initially on a deferred settlement basis and, with effect from the first Business Day after the Implementation Date, on an ordinary (T+2) settlement basis.

6.13 Joint holders

In the case of Scheme Shares held in joint names:

- (a) the New Sandfire Shares to be issued under this Scheme will be issued to and registered in the names of the joint holders;
- (b) any cheque required to be paid to Scheme Shareholders will be payable to the joint holders and will be forwarded to the registered address recorded on the MOD Register on the Record Date; and
- (c) any other document required to be sent under this Scheme will be forwarded to the registered address recorded in the MOD Register.

7 Dealings in MOD Shares

7.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in MOD Shares or other alterations to the MOD Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHES, the transferee is registered in the MOD Register as the holder of the relevant MOD Shares on or before the Record Date; and
- (b) in all other cases, registrable transfers or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received before the Record Date at the place where the MOD Register is kept,

and MOD must not accept for registration, nor recognise for any purpose (except a transfer to Sandfire pursuant to this Scheme and any subsequent transfer by Sandfire or its successors in title), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

7.2 Register

- (a) MOD must register all registrable transmission applications or transfers of the Scheme Shares in accordance with clause 7.1(b) on or before the Record Date.
- (b) If this Scheme becomes Effective, a Scheme Shareholder (and any person claiming through that Scheme Shareholder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them after the Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and MOD shall be entitled to disregard any such disposal.
- (c) For the purpose of determining entitlements to the Scheme Consideration, MOD must maintain the MOD Register in accordance with the provisions of this clause 7.2 until the Scheme Consideration has been paid or issued to the Scheme Shareholders. The MOD Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for MOD Shares (other than statements of holding in favour of Sandfire) will cease to have effect after the Record Date as documents of title in respect of those shares and, as from the Record Date, each entry on the MOD Register (other than entries on the MOD Register in respect of Sandfire) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the MOD Shares relating to that entry.
- (e) As soon as possible on or after the Record Date, and in any event within two Business Days after the Record Date, MOD will ensure that details of the names, registered addresses and holdings of MOD Shares for each Scheme Shareholder as shown in the MOD Register as at the Record Date are available to Sandfire in the form Sandfire reasonably requires.

8 Quotation of MOD Shares

- (a) MOD will apply to ASX to suspend trading of MOD Shares on the ASX with effect from the close of trading on the Effective Date or, such other date as the parties

may agree, acting reasonably, following consultation with ASX and not do anything to cause the suspension of trading of MOD Shares to happen before the time specified in this clause 8(a).

(b) MOD will apply to LSE to suspend trading of MOD Shares on the LSE with effect from the commencement of trading on the Effective Date or, such other date as the parties may agree, acting reasonably, following consultation with LSE and not do anything to cause the suspension of trading of MOD Shares to happen before the time specified in this clause 8(b).

(c) With effect on and from the close of trading on the Trading Day immediately following, or shortly after, the Implementation Date, MOD will apply:

(i) for termination of the official quotation of MOD Shares on the ASX; and

(ii) to have itself removed from the official list of the ASX,

or, in each case, such other dates as the parties may agree, acting reasonably, following consultation with ASX and not do anything to cause any of these things to happen before the time specified in this clause 8(c).

(d) With effect on and from the commencement of trading on the Trading Day immediately following, or shortly after, the Implementation Date, MOD will apply:

(i) for termination of the official quotation of MOD Shares on the LSE; and

(ii) to have itself removed from the official list of the LSE,

or, in each case, such other dates as the parties may agree, acting reasonably, following consultation with LSE and not do anything to cause any of these things to happen before the time specified in this clause 8(d).

9 General Scheme provisions

9.1 Appointment of agent and attorney

(a) On this Scheme becoming Effective, each Scheme Shareholder, without the need for any further act, irrevocably appoints MOD as its agent and attorney for the purposes of:

(i) in the case of Scheme Shares in a CHESSE holding:

(A) causing a message to be transmitted to ASPL in accordance with the ASX Settlement Rules to transfer the Scheme Shares held by the Scheme Shareholder from the CHESSE subregister of MOD to the issuer sponsored subregister operated by MOD or the MOD Share Registry at any time after Sandfire has paid or procured the payment of the Scheme Consideration which is due under this Scheme to Scheme Shareholders; and

(B) completing and signing on behalf of Scheme Shareholders any required form of transfer of Scheme Shares;

(ii) in the case of Scheme Shares registered in the issuer sponsored subregister operated by MOD or the MOD Share Registry, completing and signing on behalf of Scheme Shareholders any required form of transfer;

- (iii) in all cases, executing any document or form or doing any other act necessary to give effect to the terms of this Scheme including, without limitation, the execution of the Scheme Transfer and the giving of the Scheme Shareholder's consent under clause 9.3; and
 - (iv) enforcing the Deed Poll against Sandfire,
- and MOD accepts such appointment.
- (b) MOD, as agent and attorney of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 9.1 to all or any of its directors and officers (jointly, severally, or jointly and severally).

9.2 Enforcement of Deed Poll

MOD undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Sandfire on behalf of and as agent and attorney for the Scheme Shareholders.

9.3 Scheme Shareholders' consent

Each Scheme Shareholder irrevocably consents to MOD and Sandfire doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, incidental or expedient to the implementation and performance of this Scheme.

9.4 Scheme Shareholders' agreements

Under this Scheme, each Scheme Shareholder:

- (a) agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, to Sandfire in accordance with the terms of this Scheme;
- (b) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
- (c) acknowledges that this Scheme binds MOD and all Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting) without the need for any further act by the Scheme Shareholder; and
- (d) agrees to become a holder of New Sandfire Shares and to have its name entered in the Sandfire share register, and accepts the New Sandfire Shares issued to it under the Scheme on the terms and conditions of the Sandfire constitution, without the need for any further act by the Scheme Shareholder.

9.5 Warranty by Scheme Shareholders

- (a) Each Scheme Shareholder is deemed to have warranted to Sandfire that:
 - (i) all their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) will, at the date of the transfer of them to Sandfire, be fully paid and free from all mortgages, charges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)), liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind;

- (ii) they have full power and capacity to sell and to transfer their Scheme Shares, and all rights and entitlements attaching to those Scheme Shares, to Sandfire; and
 - (iii) as at the Record Date, it has no existing right to be issued any other Scheme Shares or any other form of MOD securities.
- (b) MOD undertakes that it will provide such warranty to Sandfire as agent and attorney of each Scheme Shareholder.

9.6 Title to Scheme Shares

- (a) Immediately upon provision of the Scheme Consideration in accordance with clauses 6.8(a) and 6.11, Sandfire will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by MOD of Sandfire in the MOD Register as the holder of the Scheme Shares.
- (b) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Sandfire will, at the time of transfer of them to Sandfire, vest in Sandfire free from all mortgages, charges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)), liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind.

9.7 Appointment of sole proxy

Immediately upon provision of the Scheme Consideration in accordance with clauses 6.8(a) and 6.11, and until MOD registers Sandfire as the holder of all Scheme Shares in the MOD Register, each Scheme Shareholder:

- (a) is deemed to have appointed Sandfire as attorney and agent (and directed Sandfire in each such capacity) to appoint any director, officer, secretary or agent nominated by Sandfire as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution;
- (b) acknowledges that no Scheme Shareholder may itself attend or vote at any of those meeting or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 9.7(a));
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Sandfire reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers conferred in clause 9.7(a), Sandfire and any director, officer, secretary or agent nominated by Sandfire under that clause may act in the best interests of Sandfire as the intended registered holder of the Scheme Shares.

9.8 Notices

- (a) Where a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to MOD, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at MOD's registered office or at the MOD Share Registry as the case may be.

- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by an MOD Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.9 Inconsistencies

This Scheme binds MOD and all MOD Shareholders, and to the extent of any inconsistency, overrides the MOD constitution.

9.10 No liability when acting in good faith

None of MOD nor any director, officer, secretary or employee of MOD will be liable for anything done or omitted to be done in good faith in the performance of this Scheme.

9.11 Further assurance

- (a) MOD will execute all documents and do all acts and things as may be necessary or expedient for the implementation of, and performance of its obligations under, this Scheme.
- (b) Sandfire will execute all documents and do all acts and things as may be necessary or expedient for the implementation of, and performance of its obligations under, this Scheme and the Deed Poll.

9.12 Alterations and conditions

- (a) If the Court proposes to approve this Scheme subject to any conditions or alterations under section 411(6) of the Corporations Act, MOD may, by its counsel on behalf of all persons concerned (including the Scheme Shareholders) consent to only such of those conditions or alterations to this Scheme to which Sandfire and MOD have consented, such consent not to be unreasonably withheld or delayed.
- (b) Each Scheme Shareholder agrees to any such alterations or conditions which counsel for MOD has consented to.

9.13 Stamp duty and costs

- (a) Sandfire will pay all stamp duty on the transfer by Scheme Shareholders of the Scheme Shares to Sandfire;
- (b) Sandfire will bear and be responsible for its own costs arising out of the negotiation, preparation and execution of this Scheme; and
- (c) Sandfire will indemnify each Scheme Shareholder against any liability arising from the failure to comply with clause 9.13(a).

9.14 Governing Law

- (a) This Scheme is governed by and will be construed according to the laws of Western Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Western Australia and of the courts competent to determine appeals from those courts.

Schedule 1 Dictionary

1.1 Defined terms

In this Scheme, except where the context otherwise requires:

Aggregate Cash Consideration means the aggregate amount of the cash payable to Scheme Shareholders, who have validly Elected to receive Maximum Cash Consideration prior to any adjustment.

ASPL means ASX Settlement Pty Ltd (ABN 49 008 504 532).

ASX means ASX Limited (ABN 98 008 624 691) or, where the context requires, the financial market operated by it known as the "Australian Securities Exchange".

ASX Settlement Rules means the ASX Settlement Operating Rules.

Bonus Issue has the same meaning as defined in the Listing Rules.

Business Day means a day that is not a Saturday, Sunday or a public holiday in Perth, Western Australia.

Cash Cap means \$41,600,000.

Cash Out Shareholder means a Scheme Shareholder (not being an Ineligible Foreign Shareholder) who, based on their holding of Scheme Shares on the date of the Record Date, would, on implementation of the Scheme, be entitled to receive less than a marketable parcel of New Sandfire Shares (assessed by reference to the last traded price of Sandfire shares on ASX on the last trading day prior to the date of the Record Date) as Scheme Consideration.

CHES means the Clearing House Electronic Subregister System operated by ASPL and ASX Clear Pty Limited.

Conditions means the conditions set out in clause 3.1 of the Implementation Deed and **Condition** means any one of them.

Corporations Act means the *Corporations Act 2001* (Cth).

Court means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act as Sandfire and MOD may agree in writing.

Deed Poll means the deed poll executed by Sandfire in respect of the provisions of the Scheme Consideration and under which Sandfire covenants in favour of the Scheme Shareholders to perform all actions attributed to Sandfire under this Scheme.

Delivery Time means, in relation to the Second Court Date, 2 hours before the commencement of the hearing or if the hearing is adjourned before Scheme Consideration of any substantive matters, the commencement of the adjourned hearing at which substantive matters are considered, of the court to approve the Scheme in accordance with section 411(4)(b) of the Corporations Act is due to commence.

Effective means, when used in relation to the Scheme, the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to that Scheme.

Effective Date means the date on which this Scheme becomes Effective.

Election has the meaning given in clause 6.3(a) and **Elect** has a corresponding meaning.

Election Date means the last date for receipt of an Election Form in order to make an Election or a Non Cash Out Election in accordance with the terms of the Scheme, being 5.00pm on the first Business Day after the Effective Date or such other date as MOD and Sandfire agree in writing.

Election Form means the election form(s) provided with the Scheme Booklet under which each Scheme Shareholder may make an Election to receive the Maximum Cash Consideration as referred to in clause 6.3(b)(v) in respect of all their Scheme Shares and under which a Relevant Non Cash Out MOD Shareholder can make a Non Cash Out Election to receive their Scheme Consideration in the form of New Sandfire Shares (as referred to in clause 6.7(a)).

End Date means the date that is 6 months after the date of the Implementation Deed or such later date as Sandfire and MOD agree in writing.

European Holder in respect of any particular MOD Shares or MOD Depositary Interests means a holder of such MOD Shares or MOD Depositary Interests who is resident in the European Economic Area, or is holding such MOD Shares or MOD Depositary Interests or any of them or any interest in any of them directly or indirectly on behalf of any person who is resident in, or has a registered address in, the European Economic Area.

First Court Date means the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act directing MOD to convene the Scheme Meeting is heard (or if the application is adjourned before consideration of any substantive matters, the first day on which the adjourned application is heard and substantive matters are considered) with such hearing being the **First Court Hearing**.

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Implementation Date means the fifth Business Day after the Record Date or such other day as the parties agree in writing.

Implementation Deed means the scheme implementation deed dated 24 June 2019 between Sandfire and MOD, as amended or varied from time to time.

Ineligible Foreign Shareholder means a Scheme Shareholder whose address as shown in the Share Register (as at the Record Date) or the MOD Depositary Interest Register (as at the time of Rematerialisation or, if Rematerialisation does not occur prior thereto, as at the Record Date) is in a place which Sandfire reasonably determines is a place that it is unlawful or unduly onerous to issue that Scheme Shareholder or MOD Depositary Interest Holder with New Sandfire Shares when the Scheme becomes Effective (provided that a Scheme Shareholder or MOD Depositary Interest Holder whose address shown in the Share Register or MOD Depositary Interest Register is within Australia and its external territories, New Zealand, the United Kingdom, Hong Kong or Singapore will not be an Ineligible Foreign Shareholder).

Listing Rules means the official listing rules of ASX as amended from time to time.

LSE means the Main Board of the London Stock Exchange.

Maximum Cash Consideration means the cash consideration per Scheme Share determined in accordance with clause 6.5.

MOD Depository means Computershare Investor Services PLC.

MOD Depository Interest means dematerialised depository interests issued by the MOD Depository in respect of underlying MOD Shares.

MOD Depository Interest Custodian means Computershare Investor Services PLC or a subsidiary or third party appointed by Computershare Investor Services PLC to provide custody services.

MOD Depository Interest Holder means a holder of MOD Depository Interests from time to time.

MOD Depository Interest Register means the register of MOD Depository Interest Holders maintained by the MOD Depository.

MOD Register means the register of members of MOD maintained by or on behalf of MOD in accordance with section 168(1) of the Corporations Act.

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

MOD Shareholder means a holder of one or more MOD Shares as shown in the Share Register.

MOD Share Registry means Computershare Investor Services Pty Ltd in respect of MOD Shares quoted on the ASX and Computershare Investor Services PLC in respect of MOD Shares quoted on LSE.

New Sandfire Share means a Sandfire Share to be issued under the Scheme.

Non Cash Out Election has the meaning given in clause 6.7(a).

Non-Electing Cash Out Shareholder means a Cash Out Shareholder who does not elect, or (being, or being considered by Sandfire to be, or to be holding MOD Shares or MOD Depository Interests or any of them or any interest in any of them directly or indirectly on behalf of, or to be making a Non Cash Out Election directly or indirectly on behalf of, a European Holder) is not entitled to elect under clause 6.7(a), to receive their Scheme Consideration in the form of New Sandfire Shares.

Record Date means 5.00pm on the fifth Business Day after the Effective Date of the Scheme.

Related Body Corporate has the meaning given in section 50 of the Corporations Act.

Relevant MOD Shareholder has the meaning given in clause 6.3(a).

Relevant Non Cash Out MOD Shareholder has the meaning given in clause 6.7(a).

Rematerialisation has the meaning given in the scheme implementation deed entered into between Sandfire and MOD.

Rights Issue has the same meaning as defined in the Corporations Act.

Sandfire means Sandfire Resources Limited (ACN 105 154 185) of Level 2, 10 Kings Park Rd, West Perth, WA 6005.

Sandfire Group means, collectively, Sandfire and each of its Related Bodies Corporate.

Sandfire Share means an issued fully paid ordinary share in the capital of Sandfire.

Scheme means the scheme of arrangement pursuant to Part 5.1 of the Corporations Act between MOD and Scheme Shareholders in respect of all Scheme Shares as set out in this document together with, subject to clause 9.12, any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act.

Scheme Booklet means the disclosure document which accompanies and includes the notice of Scheme Meeting.

Scheme Consideration means the consideration payable to Scheme Shareholders under the Scheme, being comprised of the Scrip Consideration and the Maximum Cash Consideration.

Scheme Meeting means the meeting of MOD Shareholders ordered by the Court to be convened at the First Court Hearing.

Scheme Order means the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable and subject to clause 9.12, section 411(6) of the Corporations Act) in relation to this Scheme.

Scheme Share means a MOD Share held by a MOD Shareholder as at the Record Date.

Scheme Shareholder means a MOD Shareholder (other than any member of Sandfire Group) as at the Record Date.

Scheme Transfer means a duly completed and executed proper instrument of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be a master transfer of all Scheme Shares.

Scrip Consideration means 0.0664 New Sandfire Shares for each Scheme Share held by a Scheme Shareholder who does not validly Elect to receive the Maximum Cash Consideration.

Second Court Date means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, means the date on which the adjourned application is heard or scheduled to be heard.

Share Register means the register of MOD Shareholders maintained in accordance with the Corporations Act.

Share Splitting means the conversion of a parcel of MOD Shares, which would otherwise have been voted as a single parcel, into two or more parcels of MOD Shares for voting (and possibly other) purposes where the conversion may, but need not, result from a change of legal or beneficial ownership of the MOD Shares. Examples of Share Splitting include transfer of some MOD Shares from a holding in a single name into joint names and the declaration of a trust over some MOD Shares in a holding not previously held on trust.

Subsidiary has the meaning given to that term in Division 6 of Part 1.2 of the Corporations Act.

Trading Day has the meaning given in the Listing Rules.

1.2 Interpretation

In this Scheme, except where the context otherwise requires:

- (a) headings are for convenience only and do not affect the interpretation of this Scheme;
- (b) the singular includes the plural and vice versa;
- (c) words that are gender neutral or gender specific include each gender;
- (d) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (e) the words 'such as', 'including', 'particularly' and similar expressions are not used as, nor are intended to be, interpreted as words of limitation;
- (f) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation, trust or other body corporate;
 - (ii) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its agents, successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to this Scheme;
 - (vi) this Scheme includes all schedules and attachments to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced;
 - (viii) a statute includes any regulation, ordinance, by-law or other subordinate legislation made under it;
 - (ix) an agreement other than this Scheme includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing; and
 - (x) a monetary amount is in Australian dollars;
- (g) an agreement on the part of two or more persons binds them jointly and each of them severally;
- (h) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day;
- (i) a reference to time is to Perth, Australia time; and
- (j) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Scheme or any part of it.

Attachment C Deed Poll

Deed poll

Sandfire Resources NL

In favour of each person registered as a holder of fully paid ordinary shares in MOD Resources Limited as at the Record Date

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Date:

Parties

Sandfire Resources NL ACN 105 154 185 of Level 2, 10 Kings Park Rd, West Perth, WA 6005 (**Sandfire**)

in favour of:

each person registered as a holder of fully paid ordinary shares in MOD Resources Limited (**MOD**) as at the Record Date (**Scheme Shareholders**).

1 Background

- A On 25 June 2019, Sandfire and MOD entered into a scheme implementation deed with respect to the Scheme and associated matters (**Implementation Deed**) under which Sandfire:
- (i) is to pay or procure the provision of the Scheme Consideration to each Scheme Shareholder and acquire all of the Scheme Shares held by Scheme Shareholders under the Scheme; and
 - (ii) has agreed to enter into this deed poll.
- B Sandfire is entering into this deed poll to covenant in favour of the Scheme Shareholders that they will procure and perform all actions attributed to them under the Scheme.

The parties agree

2 Defined terms and interpretation

2.1 Defined terms

In this deed poll, unless otherwise defined, capitalised words and phrases have the same meaning as given to them in the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between MOD and Scheme Shareholders in respect of all Scheme Shares (**Scheme**).

2.2 Interpretation

In this deed poll, headings are for convenience only and do not affect its interpretation and, unless the context requires otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) a reference to any document (including the Scheme) is to that document as varied, novated, ratified or replaced; and

a reference to a clause, party, annexure or schedule is a reference to a clause of, and a party, annexure and schedule to, this deed poll and a reference to this deed poll includes any annexure and schedule.

2.3 Nature of deed poll

Sandfire acknowledges that:

- (a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms, even though the Scheme Shareholder is not party to it; and
- (b) each Scheme Shareholder irrevocably appoints MOD and each of its directors and officers (jointly and severally) as its agent and attorney to enforce this deed poll against Sandfire on behalf of that Scheme Shareholder.

3 Sandfire Nominee

- (a) Sandfire may nominate any wholly-owned Subsidiary of Sandfire (**Sandfire Nominee**) to acquire the Scheme Shares under the Scheme by giving written notice to MOD on or before the date that is 5 Business Days before the First Court Date.
- (b) If Sandfire nominates the Sandfire Nominee to acquire the Scheme Shares under the Scheme, then:
 - (i) references in this deed poll to Sandfire acquiring the Scheme Shares under the Scheme are to be read as references to the Sandfire Nominee doing so;
 - (ii) other references in this deed poll to Sandfire are to be read as references to Sandfire or the Sandfire Nominee;
 - (iii) Sandfire must procure that the Sandfire Nominee complies with the relevant obligations of Sandfire under this deed poll; and
 - (iv) any such nomination will not relieve Sandfire of its obligations under this deed poll, including the obligation to pay (or procure the payment by the Sandfire Nominee of) or issue the Scheme Consideration (as applicable) in accordance with the terms of the Scheme, provided that Sandfire will not be in breach of this deed poll for failing to perform an obligation of Sandfire if that obligation is fully discharged by the Sandfire Nominee.

4 Condition precedent and termination

4.1 Condition precedent to obligations of the Scheme

The obligations of Sandfire under this deed poll are subject to the Scheme becoming Effective.

4.2 Termination

The obligations of Sandfire under this deed poll will automatically terminate, and the terms of this deed poll will be of no force or effect, if:

- (a) the Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme is not Effective by the End Date,

unless Sandfire and MOD agree otherwise in writing.

4.3 Consequences of termination

If this deed poll is terminated under clause 4.2, in addition and without prejudice to any other rights, powers or remedies available to the Scheme Shareholders:

- (a) Sandfire is released from its obligations to further perform this deed poll, except those obligations under clause 8.1; and
- (b) each Scheme Shareholder retains the rights, powers and remedies it has against Sandfire in respect of any breach of this deed poll which occurs before it is terminated.

5 Scheme obligations

Subject to clause 4, Sandfire undertakes in favour of each Scheme Shareholder to:

- (a) provide, or procure the provision of, the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme; and
- (b) undertake all other actions, and give each acknowledgement, representation and warranty (if any), attributed to it under the Scheme,

subject to and in accordance with the provisions of the Scheme and the Implementation Deed.

6 Warranties

Sandfire represents and warrants in favour of each Scheme Shareholder that:

- (a) it is a corporation validly existing under the laws of its place of registration;
- (b) it has the corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken all necessary corporate action to authorise the performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) this deed poll is valid and binding on it and enforceable against it in accordance with its terms; and
- (e) this deed poll does not conflict with, or result in the breach of or default under, any provision of the constitutions of Sandfire or any term or provision of any agreement, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or by which it is bound.

7 Continuing obligations

This deed poll is irrevocable and, subject to clause 4, remains in full force and effect until:

- (a) Sandfire has fully performed its obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 4.2.

8 General

8.1 Stamp duty and costs

- (a) Sandfire unconditionally and irrevocably guarantees to pay all stamp duty (if any) and any related fines and penalties payable in respect of the Scheme and this deed poll, the performance of this deed poll and each transaction effected by or made under the Scheme and this deed poll.
- (b) Sandfire will bear and be responsible for its own costs arising out of the negotiation, preparation and execution of this deed poll.
- (c) Sandfire will indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 8.1(a).

8.2 Governing law and jurisdiction

- (a) This deed poll is governed by the laws in force in Western Australia.
- (b) Sandfire irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in Western Australia and courts competent to determine appeals from those courts in respect of any proceedings arising out of or in connection with this deed poll. Sandfire irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

8.3 Notices

- (a) A notice, consent, approval, waiver or other communication sent by a party under this deed (**Notice**) must be:
 - (i) in writing;
 - (ii) sent by an authorised representative of the sender; and
 - (iii) marked for the attention of the person named below,and must be:
 - (iv) left at, or sent by commercial courier to, the address set out below; or
 - (v) sent by email to the address set out below.

Attention: Karl Simich, Chief Executive Officer

Address: as above

Email: Karl.Simich@sandfire.com.au

with a copy (for information purposes only) to: Jmannolini@gtlaw.com.au;
Ocarrick@gtlaw.com.au

- (b) Subject to clause 8.3(c), a Notice is taken to be received:
 - (i) if sent by delivery when it is delivered;
 - (ii) if sent by commercial courier, three days after dispatch; or

- (iii) if sent by email:
 - (A) when the sender receives an automated message confirming delivery;
or
 - (B) four hours after the time sent (as recorded on the device from which the email was sent), provided that the sender does not receive an automated message that the email has not been delivered,whichever happens first.
- (c) If a Notice is taken to be received under clause 8.3(b):
 - (i) before 9.00am on a Business Day, it will be taken to be received at 9.00am on that Business Day; or
 - (ii) after 5.00pm on a Business Day or on a non-Business Day, it will be taken to be received at 9.00am on the next Business Day.

8.4 Waiver

A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise by a party of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

8.5 Variation

A provision of this deed poll or any right created under it may not be varied unless:

- (a) if before the First Court Date, the variation is agreed to by MOD in writing; or
- (b) if on or after the First Court Date, the variation is agreed to by MOD in writing and the Court indicates that the variation would not of itself preclude approval of the Scheme,

in which event Sandfire must enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.

8.6 Cumulative rights

The rights, powers and remedies of Sandfire and the Scheme Shareholders under this deed poll are cumulative and do not exclude any other rights, powers or remedies provided by law independently of this deed poll.

8.7 Assignment

- (a) The rights created by this deed poll are personal to Sandfire and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Sandfire.
- (b) Any purported dealing in contravention of clause 8.7(a) is invalid.

8.8 Further action

Sandfire must, at its own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

Execution page

Executed as a deed poll.

Executed by **Sandfire Resources NL** (ACN 105 154 185) in accordance with the provisions of section 127(1) of the *Corporations Act*

Signature of director

Signature of director/secretary

Name of director (print)

Name of director/secretary (print)