



**Cobalt Blue Holdings Limited ABN 90 614 466 607**  
**Address:** Level 17, 100 Miller Street, North Sydney, NSW 2060  
**Website:** [www.cobaltblueholdings.com](http://www.cobaltblueholdings.com)  
**Facebook:** [www.facebook.com/Cobalt.Blue.Energy/](https://www.facebook.com/Cobalt.Blue.Energy/)  
**LinkedIn:** [www.linkedin.com/company/cobalt-blue-holdings](https://www.linkedin.com/company/cobalt-blue-holdings)

3 December 2018

## Thackaringa Joint Venture Agreement

Cobalt Blue Holdings Limited (ASX:COB) is pleased to clarify matters and reduce investor uncertainty following a request by the Australian Securities Exchange (ASX) to release the Thackaringa Joint Venture Agreement (JVA). The JVA is attached to this letter.

Now that the market has full visibility of the JVA, COB takes this opportunity to summarise its dealings.

**24 October 2018** – COB withdraws from Earnings Period and acts as Interim JV Manager.

Reference:

- JVA Clause 3.3(a) – COB does not exercise its right to earn the Stage 3 Percentage Share.
- JVA Clause 7.1, 7.5(c) – if a new Manager cannot be appointed and act immediately, the Joint Venturer holding the largest Joint Venture Interest must act as interim Manager until the new Manager is appointed and commences its duties.

**24 October 2018** – Interim JV Manager calls Management Committee Meeting for 9 November 2018.

Reference:

- JVA Clause 7.5(c) – COB as Interim JV Manager, calls Management Committee Meeting for 9 November 2018.
- JVA Clause 6 – Secretary of the Management Committee calls for a meeting to be held on 9 November 2018.

**9 November 2018** – Quorum is not formed as Broken Hill Prospecting Limited (ASX:BPL) representatives to the Management Committee are not present. BPL Managing Director and Chairman, however, are present. Detailed informal discussions concerning the drilling campaign were held.

Reference:

- JVA Clause 6.4 – Quorum not established – meeting to be held in 7 days.

**16 November 2018** – Formal Management Committee meeting held – quorum established. Budget resolutions passed. Billing Statements issued to JV partners.

Reference:

- JVA Clause 9 – Interim JV Manager presents budget to Management Committee for simple majority vote resolution.
- JVA Clause 9.5 – Interim JV Manager submits Billing Statements to all Joint Venturers.

**23 November 2018** – COB pays its Called Sum under the Billing Statement. BPL does not pay. Non Payment Notice issued to BPL.

Reference:

- JVA Clause 13.2

**29 November 2018** – BPL issues Optional Dilution Notice.

Reference:

- JVA Schedule 3, Clause 1(a).

**Cobalt Blue Holdings Limited**

**Robert J Waring**  
Company Secretary

## Exploration Farmin Joint Venture Agreement (Thackaringa)

**Broken Hill Prospecting Limited**

and

**Cobalt Blue Holdings Limited**

Ref AB:621590

Doc ID 375505793/v7

Level 19, 480 Queen Street, Brisbane QLD 4000 Australia  
GPO Box 2033, Brisbane QLD 4001 Australia

Telephone +61 7 3169 4700

Facsimile 1300 368 717 (Australia) +61 2 8507 6581 (International)  
[hwlebsworth.com.au](http://hwlebsworth.com.au)

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	<b>but only after accounting for and meeting the full upfront capital and operating costs associated with their extraction, as agreed with COB or, in default of agreement, as determined by an independent Expert in accordance with the process set out in clause 18 of this agreement.</b>	<b>75</b>





## 1. Definitions and interpretation clauses

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### 1.1 Definitions

Unless the context otherwise requires, the following expressions have the respective meanings in this agreement (including the Recitals):

<b>Agreed Interest Rate</b>	means the rate of interest which is the average bid rate for bills (as defined in the <i>Bills of Exchange Act 1909</i> (Cth)) having a tenor of 90 days which is displayed on the page of the Reuters Monitor System designated 'BBSY' plus 2 percent calculated on a daily basis and compounded with monthly rests, or such other interest rate agreed by the parties.
<b>Approvals Period</b>	has the meaning given to that term in clause 2.1 and Item 1 of the Reference Schedule.
<b>Approved Program and Budget</b>	means a programme and budget relating to Joint Venture Activities for a particular period which has been approved or deemed to have been approved by the Management Committee under this agreement.
<b>Assign</b>	means to sell, assign, farm-in, farm-out, transfer, sub lease or otherwise deal with the whole or any part of a Joint Venture Interest.
<b>ASX</b>	means ASX Limited (ACN 008 624 691), or its lawful successor.
<b>Auditor</b>	means a registered company auditor under the Corporations Act appointed by the Management Committee at the cost of the Joint Venture to conduct an audit each Year of the accounts of the Joint Venture.
<b>Authorisation</b>	is any consent, authorisation, registration, filing, lodgement, notification, agreement, certificate, commission, lease, licence, permit, approval or exemption from, by or with an Authority (including the Tenements).
<b>Authorised Officer</b>	means the person nominated by a party in its Particulars, or any person replacing the nominated person as its authorised officer by notice given in accordance with this agreement.

<b>Authority</b>	is any government department, local government council, government or statutory authority or any other party under a Law which has a right to impose a requirement or whose consent is required with respect to Joint Venture Activities.
<b>Bankable Feasibility Study</b>	means a Feasibility Study as defined in section 40 of the JORC Code that is of a standard suitable to be submitted to a financial institution as the basis for lending of funds for the development and operation of the Mining activities contemplated in the study and is capable of supporting a Decision to Mine.
<b>Breach Default Event</b>	is the happening of an Insolvency Event in relation to a Joint Venturer or a Joint Venturer committing a material breach of any of its material obligations under this agreement (other than an Unpaid Moneys Default Event), including where an Encumbrance (other than an Encumbrance approved by the Joint Venturers under this agreement) is created over or attached to the Joint Venture Interest of a Joint Venturer. A Breach Default Event does not include a failure by COB to meet an obligation (other than an obligation to pay money or incur Expenditure) as part of COB's Earning Obligations during the Earning Period.
<b>Called Sum</b>	means the Percentage Share of funds required to be contributed by a Joint Venturer, in accordance with this agreement, to finance Joint Venture Activities.
<b>Commencement Date</b>	<p>means the date on which:</p> <ul style="list-style-type: none"> <li>(a) the Execution Payment has been made; and</li> <li>(b) the last of the Conditions Precedent have been satisfied or waived in accordance with this agreement; or</li> </ul> <p>if there are no Conditions Precedent, then the date upon which the Execution Payment has been made.</p>
<b>Conditions Precedent</b>	means the conditions referred to in clause 2.1 and specified in the Reference Schedule which are required to be satisfied or waived for this agreement to be effective.
<b>Corporations Act</b>	means the <i>Corporations Act 2001</i> (Cth).
<b>Decision to Mine</b>	means a decision made by the Management Committee to proceed to Development and Mining of a Deposit located within

the Tenements.

<b>Default Event</b>	means a Breach Default Event or an Unpaid Moneys Default Event.
<b>Defaulting Joint Venturer</b>	means a Joint Venturer which has committed a breach of this agreement, whether as an Unpaid Moneys Default Event or a Breach Default Event or to which (or to a Related Body Corporate of which) a Breach Default Event relates, which breach has not been remedied by the Joint Venturer.
<b>Deposit</b>	means an ore body located within the Tenements.
<b>Development</b>	means the development of a commercial Mining operation for Minerals.
<b>Due Date</b>	means the date on which a payment is due under this agreement.
<b>Earned Interest</b>	means each of the Stage 1 Interest, Stage 2 Interest, Stage 3 Interest, Stage 4 Interest (or any of them).
<b>Earning Obligation</b>	means each of the obligations in relation to the Earning Period described in clause 3.
<b>Earning Period</b>	means each of the staged earning periods described in clause 3.
<b>Emergency</b>	means a situation involving actual or reasonably apprehended substantial damage to or loss of Joint Venture Property or Joint Venture Activities or serious injury to persons or loss of life.
<b>Encumbrance</b>	means any security interest, mortgage, pledge, lien, charge, title retention arrangement, trust or power or other form of security or interest having effect as a security for the payment of any monetary obligation or interest or the observance of any other obligation whether existing or agreed to be granted or created.
<b>Execution Payment</b>	means the payment described in clause 3.1(a).
<b>Expenditure</b>	has the meaning specified in Schedule 2.

<b>Expert</b>	means a person independent of the parties who is suitably qualified and capable of making an expert determination under this agreement in accordance with, and subject to, the Institute of Arbitrators & Mediators Australia Expert Determination Rules.
<b>Exploration</b>	means searching for, discovery and delineation of commercial Ore deposits of Minerals in the JV Area and the evaluation of such deposits, including prospecting, surface mapping, sampling, aerial mapping and reconnaissance, drilling, trenching and related field work, geophysical and geochemical testing, core sampling; assaying; exploration declines; test mining; analysis and evaluation of activities undertaken and results obtained, conducting preliminary feasibility studies, preparing Feasibility Studies reports, and planning, supervising and administering all activities undertaken, but does not include Development, Mining or Treatment. <b>Explore</b> has a similar meaning.
<b>Exploration Licences means</b>	means EL 6622, EL 8143, and ELA 5319
<b>Financial Close</b>	means the point at which relevant project financing documentation has been executed and all conditions precedent necessary for a full draw-down of funds have been satisfied or waived.
<b>Force Majeure</b>	has the meaning given to that term in clause 19.1.
<b>GST Act</b>	means <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth.).
<b>Gross Negligence</b>	means such wanton and reckless conduct as constitutes an utter disregard for the harmful, foreseeable and avoidable consequences which result from that conduct.
<b>Indicated Mineral Resource</b>	has the meaning given to that term in section 22 of the JORC Code.
<b>Inferred Mineral Resource</b>	has the meaning given to that term in section 21 of the JORC Code.
<b>Insolvency Event</b>	means the happening of any of the following events in relation to a body corporate:

- (a) it is unable to pay all its debts as and when they become due and payable or it has failed to comply with a statutory demand as provided in section 459F (1) of the Corporations Act;
- (b) a resolution is validly passed to wind up the body corporate voluntarily or to appoint an administrator;
- (c) it, or any other person, makes an application to a court for its winding up, being an application that is not stayed, withdrawn or dismissed within seven days;
- (d) an order is made for it to be wound up;
- (e) the appointment of a controller as defined in section 9 of the Corporations Act) of any of its assets;
- (f) it proposes to enter into or enters into any form of arrangement (formal or informal) with its creditors or any of them, including a deed of company arrangement; or
- (g) it becomes an insolvent under administration as defined in section 9 of the Corporations Act.

**Joint Venture** means the unincorporated joint venture established by and under this agreement to be known by the name set out in the Particulars.

**Joint Venture Activities** means all Exploration activities involved in the acquisition, use, development, operation and maintenance of Joint Venture Property and all other activities, undertakings, and operations engaged in by the Joint Venturers under this agreement, but do not, unless otherwise agreed in writing, include Development, Mining, Treatment or the marketing or sale of Minerals.

**Joint Venture Expenditure** means all costs reasonably and properly incurred by the Manager on behalf of the Joint Venture in connection with Joint Venture Activities pursuant to an Approved Programme and Budget or incurred in an Emergency or as a permitted cost overrun or as otherwise approved by the Management Committee.

**Joint Venture Intellectual Property** means all business names, trademarks, copyright, patents, patent applications, discoveries, inventions, and similar rights developed by the Manager pursuant to an Approved Programme and Budget in the course of Joint Venture Activities.

**Joint Venture** means the following rights, liabilities and obligations of a Joint

<b>Interest</b>	<p>Venturer determined under this agreement:</p> <ul style="list-style-type: none"> <li>(a) the obligation, subject to the terms of this agreement, to contribute its <b>Percentage Share</b> of all <b>Joint Venture Expenditure</b>;</li> <li>(b) the ownership of and the right to receive in kind and to dispose of for its own account its <b>Percentage Share</b> of <b>Minerals</b> produced by the <b>Joint Venture</b>;</li> <li>(c) the <b>beneficial ownership as a tenant in common</b> of an undivided share in its <b>Percentage Share of Joint Venture Property</b>; and</li> <li>(d) all other rights, liabilities and obligations accruing to or incurred by the <b>Joint Venturers</b> in or arising out of this agreement in its <b>Percentage Share</b>.</li> </ul>
<b>Joint Venture Property</b>	means all rights, titles, interest, claims, benefits and all other property of whatever kind, real or personal, from time to time owned by any <b>Joint Venturer</b> for the purposes of the <b>Joint Venture</b> , and includes the <b>Tenements</b> , the <b>Joint Venture Intellectual Property</b> and the <b>Mining Information</b> .
<b>Joint Venturer</b>	means a party which holds a <b>Joint Venture Interest</b> , but does not include a party in its capacity as <b>Manager</b> .
<b>JORC Code</b>	means the <b>Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves (2012 Edition)</b> as adopted by the <b>Australasian Joint Ore Reserves Committee (JORC)</b> , which is sponsored by the <b>Australian mining industry</b> and its professional organisations, for the purposes of compliance with the <b>Listing Rules</b> .
<b>JV Area</b>	means the area of the <b>Tenements</b> set out in <b>Schedule 1</b> and depicted on the <b>JV Area map</b> annexed to <b>Schedule 1</b> (if any), and any other <b>Tenements</b> applied for or acquired for the purposes of this agreement, or such other area as is agreed in writing by all <b>Joint Venturers</b> .
<b>Law</b>	is <b>Commonwealth and State legislation</b> including regulations, by laws, and other subordinate legislation, the requirements and guidelines of any <b>Authority</b> including the <b>Listing Rules</b> , with which a party is legally required to comply, and common law and equity.

<b>Listing Rules</b>	means the ASX Listing Rules or, to the extent that a party or its Related Body Corporate is bound thereby, the listing rules of another recognised stock exchange.
<b>Majority Vote</b>	means a resolution voted in favour by representatives entitled to vote and be present at the meeting which satisfies the Passmark, excluding for this purpose the votes held by a Defaulting Joint Venturer.
<b>Management Committee</b>	means the committee of Joint Venturers, including the Manager, established under this agreement to supervise the management of the Joint Venture.
<b>Management Fee</b>	means the remuneration payable by the Joint Venturers to the Manager under this agreement as specified in the Reference Schedule.
<b>Management Services Agreement</b>	means a management services agreement between COB and BHPL for the supply by BHPL (and utilising the services of either the Managing Director or CEO of BHPL or another appropriately qualified and nominated individual acceptable to COB) of geological consulting services in support of COB's role as Manager under this agreement.
<b>Manager</b>	means the person or entity named as Manager in the Reference Schedule or such other person or entity as may be engaged or appointed by the Management Committee as Manager from time to time under this agreement.
<b>Measured Mineral Resource</b>	has the meaning given to that term in section 23 of the JORC Code
<b>Mineral or Minerals</b>	means the mineral or minerals specified in the Reference Schedule and subject to the Mineral Reservation Principles.
<b>Mineral Reservation Principles</b>	means the principles outlined in Schedule 6.
<b>Minimum Expenditure Obligation</b>	means the minimum expenditure obligations of the Farminor during each stage of the Earning Period.



<b>Minimum Interest</b>	means the Percentage Share specified in the Reference Schedule.
<b>Mining</b>	means all operations associated with the extraction of Ore on a commercial basis, including pre stripping, and removal and disposal of overburden and waste, but does not include Exploration, Development or Treatment.
<b>Mining Act</b>	means the mining legislation listed in the Reference Schedule.
<b>Mining Information</b>	means all information, data and records relating to the Tenements and Joint Venture Activities including all surveys, maps, aerial photographs, electronically stored data, drawings, memoranda, drill cores, drill core logs, geophysical, geological or drill maps, sampling and assay reports and notes.
<b>Mining Leases</b>	means ML 86 and ML 87.
<b>Native Title Claims</b>	means either: <ul style="list-style-type: none"> <li>(a) any claim, application or proceeding in respect of Native Title Rights which is accepted by the Native Title Tribunal or the Registrar thereof pursuant to the <i>Native Title Act 1993</i> (Cth); or</li> <li>(b) any claim, application or proceeding in respect of those rights, interests and statutory protections of and relating to aboriginal persons as set out in the legislation of the Nominated State or the <i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i> (Cth).</li> </ul>
<b>Native Title Rights</b>	has the same meaning as the expressions 'native title' or 'native title rights and interests' as defined in section 223(1) of the <i>Native Title Act 1993</i> (Cth) and includes those rights, interests and statutory protections of and relating to aboriginal persons as set out in the relevant legislation of the Nominated State or the <i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i> (Cth).
<b>Nominated State</b>	is the State or Territory of Australia specified in the Reference Schedule.
<b>Non-Defaulting</b>	means a Joint Venturer which is not a Defaulting Joint Venturer and is not a Related Body Corporate of a Defaulting Joint

<b>Joint Venturer</b>	Venturer.
<b>Ore</b>	means any mineral or mixture of minerals of intrinsic economic interest located in or on the Earth's crust at a concentration above background level.
<b>Particulars</b>	means the particulars of a party and the Joint Venture given on page 1 of this agreement, or any particular amended by the party by notice given in accordance with this agreement.
<b>Passmark</b>	means the requirements needed to be satisfied as specified in the Reference Schedule to pass a resolution of the Management Committee by a Majority Vote.
<b>Paying Joint Venturer</b>	means a Joint Venturer, not being a Defaulting Joint Venturer, which makes a payment of Unpaid Moneys on behalf of a Defaulting Joint Venturer in order to remedy an Unpaid Moneys Default Event.
<b>Percentage Share</b>	means the percentage Joint Venture Interest which a Joint Venturer has in the Joint Venture in accordance with this agreement.
<b>Pre-feasibility Study</b>	<p>means a study (as defined in section 39 of the JORC Code) of the technical, commercial and economic feasibility of Development and Mining in the JV Area and producing Minerals in significant commercial quantities, which includes all available exploration, geological, engineering and other relevant data and capital and operating cost estimates and (if appropriate) marketing studies in sufficient detail to enable options for optimum Development, Mining and Treatment to be identified in reasonable detail, including:</p> <ul style="list-style-type: none"> <li>(a) exploration results and estimates of Mineral Resources, and Proven and Probable Ore Reserves (all as defined in the JORC Code);</li> <li>(b) the proposed methods of Development, Mining and Treatment, including the extraction, beneficiation and transportation of the Ore and the Treatment and production of Minerals, including waste disposal;</li> <li>(c) an estimate of operating levels, environmental costs, shutdown and rehabilitation costs, including an estimate of required capital expenditure and operating costs;</li> </ul>

- (d) an economic evaluation of the proposed Development, Mining and Treatment and the marketing and sale of the Minerals including a comparative analysis of the effect of various assumptions, financing methods, operating costs and taxation; and
- (e) a schedule of relevant Authorisations required to be obtained before Mining may commence.

<b>Proposed Program and Budget</b>	means a work programme and budget for a given Year, or other relevant period, in relation to the conduct of Joint Venture Activities proposed in accordance with this agreement.
<b>Rehabilitation Obligations</b>	means the obligations of the Joint Venturers under the <i>Mining Act</i> , all Tenements and Authorisations, and all applicable statutory and contractual obligations relating to the rehabilitation, revegetation and cleaning up of the JV Area during and following completion of Joint Venture Activities.
<b>Related Body Corporate</b>	means a related body corporate as defined in the Corporations Act.
<b>Relevant Interest</b>	has the meaning given to that term in clause 12.7(a).
<b>Scoping Study</b>	means a study which provides an economic analysis of the potential viability of Mineral Resources prior to the completion of a more detailed Prefeasibility Study, as described in section 38 of the JORC Code.
<b>Shutdown Costs</b>	means all costs associated with shutting down all Joint Venture Activities within the JV Area including the costs associated with satisfaction of the Rehabilitation Obligations and any redundancy or termination benefits or payments to any consultant or contractor or employee who is engaged by the Manager in the conduct of Joint Venture Activities, but only to the extent of the period for which an employee was engaged in Joint Venture Activities.
<b>Stage 1 Earning Period</b>	has the meaning given to that term in clause 3.1(d).
<b>Stage 2 Earning Period</b>	has the meaning given to that term in clause 3.2(b).

<b>Stage 3 Earning Period</b>	has the meaning given to that term in clause 3.3(b).
<b>Stage 4 Earning Period</b>	has the meaning given to that term in clause 3.4(b).
<b>Stage 1 Earning Obligations</b>	has the meaning given to that term in clause 3.1(d).
<b>Stage 2 Earning Obligations</b>	has the meaning given to that term in clause 3.2(b).
<b>Stage 3 Earning Obligations</b>	has the meaning given to that term in clause 3.3(b).
<b>Stage 4 Earning Obligations</b>	has the meaning given to that term in clause 3.4(b).
<b>Stage 1 Percentage Share</b>	has the meaning given to it in clause 3.1(b).
<b>Stage 2 Percentage Share</b>	has the meaning given to that term in clause 3.2(a).
<b>Stage 3 Percentage Share</b>	has the meaning given to that term in clause 3.3(a).
<b>Stage 4 Payment</b>	has the meaning given to that term in clause 3.4(b)(iv).
<b>Stage 4 Percentage Share</b>	has the meaning given to that term in clause 3.4(a).
<b>Tag-Along Interest</b>	has the meaning given to that term in clause 12.7(b).
<b>Tag-Along Notice</b>	has the meaning given to that term in clause 12.7(a).
<b>Tenement</b>	means the mining tenement or tenements listed in Schedule 1 and includes any lease, licence, claim, permit or other authority issued or to be issued under the Mining Act on the application or

authority of one or more of the Joint Venturers for the purposes of the Joint Venture which confers or may confer a right to prospect, explore for or mine any Mineral in the JV Area, or which may facilitate the enjoyment of such right, and includes any application for, and any extension, renewal, conversion or substitution of, any of those tenements.

<b>Third Party</b>	means a person not a party, or the Related Body Corporate of a party, to this agreement.
<b>Treatment</b>	means the processing, smelting, and refining of Ore up to and including a product stage, and includes crushing, weighing, sampling, assaying, refining, treatment, transportation, handling, storage, loading and delivery of the Mineral and its associated Ore, overburden and waste, but does not include Mining.
<b>Ultimate Holding Company</b>	means an ultimate holding company as defined in the Corporations Act.
<b>Unanimous Vote</b>	means a resolution in respect of the matters specified in the Reference Schedule, or otherwise specified in this agreement, which is voted in favour by all representatives entitled to vote and be present at the meeting, excluding for this purpose the votes held by a Defaulting Joint Venturer.
<b>Unpaid Moneys</b>	are moneys due for payment under this agreement, and include monetary compensation and damages payable by a Defaulting Joint Venturer which is agreed, awarded or determined following an un-remedied Breach Default Event for so long as it is unpaid, and interest and costs payable or reimbursable in accordance with this agreement.
<b>Unpaid Moneys Default Event</b>	is the failure by a Joint Venturer to pay Unpaid Moneys on or before the Due Date. An Unpaid Monies Default Event does not include a failure by COB to make a payment or incur Expenditure as part of its Earning Obligations during the Earning Period.
<b>Wilful Misconduct</b>	means an act or omission that is a reckless and intentional disregard of: <ul style="list-style-type: none"> <li>(a) any provision of this agreement;</li> <li>(b) any Approved Programme or Budget, except in the case of an Emergency;</li> </ul>

(c) any Law required to be observed in connection with Joint Venture Activities; or

(d) the terms or conditions of a Tenement,

but does not include any error of judgement or mistake made by the Manager or any of its directors, employees, agents or contractors in the exercise, in good faith, of any function, authority or discretion conferred upon the Manager.

**Year** means the year specified in the Reference Schedule.

## 1.2 Interpretation

In this agreement, unless the context otherwise requires:

- (a) the singular includes the plural and vice-versa;
- (b) headings do not affect the interpretation of this agreement;
- (c) a reference to a party means a party to this agreement as listed on page 1 of this agreement and includes that party's executors, administrators, substitutes, successors and permitted Assigns;
- (d) references to a part, clause, schedule, exhibit and annexure refers to a part, clause, schedule, exhibit or annexure of, in or to this agreement;
- (e) a reference to this agreement includes all schedules, exhibits and annexures to this agreement;
- (f) a reference to an agreement, deed, instrument or other document includes the same as amended, novated, supplemented, varied or replaced from time to time;
- (g) a reference to a court is to an Australian court;
- (h) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinated legislation issued under, that legislation or legislative provision;
- (i) a reference to a day, month or year is relevantly to a calendar day, calendar month or calendar year;
- (j) a reference to \$, AUD or dollars is to the lawful currency of the Commonwealth of Australia;
- (k) the expressions 'including', 'includes' and 'include' have the meaning as if followed by 'without limitation';

- (l) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (m) a party may exercise a right or remedy or give or refuse its consent in its absolute and unfettered discretion (including by imposing conditions), unless this agreement expressly states otherwise; and
- (n) no rule of construction is to apply to the disadvantage of a party on the basis that that party drafted the whole or any part of this agreement.

## 2. Conditions precedent

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### 2.1 Conditions Precedent

Subject to clause 2.2, this agreement is subject to and conditional upon the satisfaction or waiver of the Conditions Precedent set out in the Item 3 of the Reference Schedule within the time specified in Item 1 of the Reference Schedule (**Approvals Period**).

### 2.2 Coming into effect of agreement

This clause 2 and clauses 1 (**definitions**), 16 (**confidentiality**), 21 (**notices**) and 21.1 (**ancillary**) come into effect immediately. The remainder of this agreement and the formation of the Joint Venture come into effect on the Commencement Date.

### 2.3 Satisfaction of Conditions Precedent

- (a) Each party must use all reasonable endeavours (other than waiver) at its cost to ensure that the Conditions Precedent are satisfied on conditions acceptable to it by the relevant dates specified in Item 3 of the Reference Schedule, and in any event by no later than the end of the Approvals Period.
- (b) Each party must keep each other informed of its progress in obtaining satisfaction of any Condition Precedent it is required to obtain and any circumstance that may result in any of those conditions not being satisfied in accordance with its terms.
- (c) Each party must give the other parties notice within seven days after receiving notice of the conditions whether the conditions for the satisfaction of a Condition Precedent (if any) are acceptable, or unacceptable, to it.

### 2.4 Failure to satisfy Conditions Precedent

If all Conditions Precedent are not satisfied, or otherwise waived, within the Approvals Period, or if a party gives notice to the other parties within the Approvals Period that the conditions of satisfaction of a Condition Precedent imposed by a Third Party are unacceptable to it, any party may terminate this agreement by notice to the others.

## 2.5 Consequence of failure to satisfy Conditions Precedent

If a party terminates this agreement by notice for failure to obtain satisfaction of a Condition Precedent for any reason, then each party is released from all further obligations under this agreement, other than the obligations of confidentiality, and no party has any claim against another party as a consequence of the termination.

## 3. Earning Period

### 3.1 Stage 1 Earning Period

- (a) On the Execution Date, COB will pay to BHPL the following sums:
- (i) AUD 500,000 (GST inclusive); and
  - (ii) AUD 300,000 (GST inclusive) for reimbursement of BHPLs exploration expenditure in respect of the Tenements to date,

**(Execution Payment).**

- (b) Notwithstanding clause 2, upon payment of the Execution Payment by COB to BHPL in accordance with clause 3.1(a), BHPL will transfer to COB a 51% Percentage Share (to be held beneficially by COB) (**Stage 1 Percentage Share**) and the Joint Venture will be established in accordance with clause 4. Upon the transfer of the Stage 1 Interest by BHPL to COB, the Percentage Share of each of the parties will be as follows:

<b>COB</b>	<b>51% (Stage 1 Percentage Share)</b>
<b>BHPL</b>	<b>49%</b>

At the same time as the transfer of the Stage 1 Percentage Share, BHPL will promptly provide, full and unfettered access for COB to all Mining Information to enable COB to comply with the Earning Obligations pursuant to this clause 3.

- (c) The retention of the Stage 1 Percentage Share by COB is conditional upon COB complying with the Stage 1 Earning Obligations set out in clause 3.1(d).
- (d) In order for COB to retain the Stage 1 Percentage Share transferred to it in accordance with clause 3.1(b), then during the period commencing on the Commencement Date and ending no later than 30 June 2017 (**Stage 1 Earning Period**), COB must:
  - (i) Complete an Exploration program of works within the JV Area (with a minimum 'in ground' expenditure of AUD 2 million (inclusive of GST and in addition to the Execution Payment)) which is sufficient to define an Inferred Mineral Resource of 100 Mt (to JORC 2012 standards), and give a notice to BHPL verifying the amount of Expenditure that COB has incurred on Exploration in the JV Area; and



- (ii) Complete a Scoping Study (to JORC 2012 standards),

**(Stage 1 Earning Obligations).**

- (e) If, at any time prior to the end of the Stage 1 Earning Period, COB elect not to complete the Stage 1 Earning Obligations and earn the Stage 1 Percentage Share, then COB may (by giving written notice to BHPL given not less than fourteen (14) days prior to the end of the Stage 1 Earning Period), withdraw from the Joint Venture and COB will be deemed to have transferred the Stage 1 Percentage Share back to BHPL for a total consideration of AUD 1.00.

### 3.2 Stage 2 Earning Period

- (a) If the Stage 1 Percentage Share has been earned by COB, then COB will have the right but not the obligation to earn an additional 19% Percentage Share (to be held beneficially by COB) (**Stage 2 Percentage Share**) provided that it meets the Stage 2 Earning Obligations set out in clause 3.2(b).
- (b) In order to earn the Stage 2 Percentage Share, COB must, during the period commencing on the date that the Stage 1 Percentage Share was earned by COB and ending no later than 30 June 2018 (**Stage 2 Earning Period**):
  - (i) Complete a further approved exploration program of works within the JV Area (with a minimum Expenditure of AUD 2,500,000 (GST inclusive)) which is sufficient to define an Indicated Mineral Resource to a target level identified in and supported by the Scoping Study referred to in clause 3.1(d)(ii) (to JORC 2012 standards) and give a notice to BHPL verifying the amount of Expenditure that COB has incurred on Exploration in the JV Area; and
  - (ii) Complete a Pre-feasibility Study (to JORC 2012 standards),

**(Stage 2 Earning Obligations).**

- (c) If COB earns the Stage 2 Percentage Share, the Percentage Shares of the parties will be as follows:

COB	70% ( <b>Stage 2 Percentage Share</b> )
BHPL	30%

- (d) If COB elects not to exercise its rights under clause 3.2(a), then COB's Percentage Share will remain at 51%.

### 3.3 Stage 3 Earning Period

- (a) If the Stage 2 Percentage Share has been earned by COB, then COB will have the right but not the obligation to earn an additional 15% Percentage Share (to be held beneficially by COB) (**Stage 3 Percentage Share**) provided that it meets the Stage 3 Earning Obligations set out in clause 3.3(b).

- (b) In order to earn the Stage 3 Percentage Share, COB must, during the period commencing on the date that the Stage 1 Percentage Share was earned by COB and ending no later than 30 June 2019 (**Stage 3 Earning Period**):
- (i) Complete a further approved exploration program of works within the JV Area (with a minimum Expenditure of AUD 5,000,000 (GST inclusive)) which is sufficient to define a Measured Mineral Resource to a target level identified in and supported by the Pre-feasibility Study referred to in clause 3.2(b)(ii) (to JORC 2012 standards) and give a notice to BHPL verifying the amount of Expenditure that COB has incurred on Exploration in the JV Area; and
  - (ii) Complete a Bankable Feasibility Study (to JORC 2012 standards),
- (Stage 3 Earning Obligations).**
- (c) If COB earns the Stage 3 Percentage Share, the Percentage Shares of the parties will be as follows:

<b>COB</b>	<b>85% (Stage 3 Percentage Share)</b>
<b>BHPL</b>	<b>15%</b>

- (d) If COB elects not to exercise its rights under clause 3.3(a), then COB's Percentage Share will remain at 70%.

### 3.4 Stage 4 Earning Period

- (a) If the Stage 3 Percentage Share has been earned by COB, then COB will have the right but not the obligation to earn an additional 15% Percentage Share (to be held beneficially by COB) (**Stage 4 Percentage Share**) provided that it meets the Stage 4 Earning Obligations set out in clause 3.4(b).
- (b) In order to earn the Stage 4 Percentage Share, COB must, during the period commencing on the date that the Stage 1 Percentage Share was earned by COB and ending no later than 30 June 2020 (**Stage 4 Earning Period**):
- (i) Make a Decision to Mine; and
  - (ii) Procure all project Approvals which are necessary to support a Decision to Mine; and
  - (iii) Procure approval for project financing (in a form and on terms acceptable to COB) for the development of a Mine capable of producing a quantity per annum of Mineral to a target level identified in and supported by the Bankable Feasibility Study referred to in clause 3.3(b), and achieve Financial Close of the same. (The form of "approval" for any project financing must be acceptable to BHPL. For clarity, it is only the form of "approval" which must be acceptable to BHPL, not the form of the finance itself); and

- (iv) Pay to BHPL the sum of AUD 7.5 million (inclusive of GST), which may be satisfied either as a direct cash payment prior to Financial Close or paid to BHPL simultaneously at Financial Close as part of the project financing arrangements procured by COB (**Stage 4 Payment**),

**(Stage 4 Earning Obligations).**

- (c) If COB earns the Stage 4 Percentage Share, the Percentage Shares of the parties will be as follows:

<b>COB</b>	<b>100% (Stage 4 Percentage Share)</b>
<b>BHPL</b>	<b>0%</b>

- (d) If COB elects not to exercise its rights under clause 3.4(a), then COB's Percentage Share will remain at 85%.
- (e) Subject to clause 3.4(g), the Stage 4 Percentage Share will be deemed to have been earned when all of the Stage 4 Earning Obligations have been satisfied.
- (f) Simultaneously upon the occurrence of Financial Close, BHPL will promptly lodge (or facilitate the lodgement of) an application for a transfer of 100% of the legal and beneficial interest in the Tenements (free from all Encumbrances) to COB pursuant to section 121 of the Mining Act, and COB will apply for registration of the transfer following approval at its cost and expense.

If the application for transfer is refused for any reason, then BHPL will hold the Tenement(s) on trust for COB and will do all things required by COB in respect of any dealing with the Tenement(s) and will keep the Tenement(s) in good standing, at COB's cost.

- (g) In the event of any dispute between the Joint Venturers relating to the satisfaction of any of the Stage 4 Earning Obligations, then COB may elect, by notice in writing to BHPL, to pay BHPL the sum of AUD 7,500,000 in full and final satisfaction of all of the requirements for the earning of the Stage 4 Percentage Share.
- (h) If COB provides a notice and makes payment in accordance with clause 3.4(g), then BHPL unconditionally and irrevocably appoints COB as its attorney to complete, execute and lodge all necessary documents to facilitate a transfer of a 100% legal and beneficial interest in the Joint Venture Property, at COB's cost, and the Joint Venture and this agreement will automatically terminate. Termination of this agreement pursuant to this clause 3.4(h) will not affect the accrued rights of any party up to the date of termination.

### 3.5 General provisions relating to Earning Periods

- (a) BHPL's retained Percentage Share in the Joint Venture during the Earning Period will be free-carried, such that BHPL will not be obligated to contribute to the costs associated with any of the Earning Obligations under any Applicable Approved Programme and Budget during such period.

- (b) The process for earning in to the Joint Venture set out in this clause 3 assumes that the timeframes for completion of each of the staged portion of the Earning Period can be accelerated if market conditions dictate value.
- (c) Subject to the occurrence of an event of Force Majeure, any staged portion of the Earning Period may only be extended by mutual written consent of the parties.
- (d) COB will be responsible for the costs of keeping the Tenements in good standing during the Earning Period, including responsibility for all rents and other holding costs.
- (e) COB will consult with BHPL regarding the nature and content of Exploration programmes and budgets during the Earning Period, and Exploration will commence as soon as practicable after the Commencement Date.
- (f) If COB earns a Percentage Share under this agreement, BHPL will not object to or dispute COB lodging a caveat under the Mining Act to protect its Percentage Share, provided that at all times COB continues to hold a Percentage Share. If COB ceases to hold a Percentage Share then it must promptly arrange for any such caveat to be removed.
- (g) If any of the payments contemplated under this agreement are determined to be consideration for the transfer of an interest in the Tenements, then the parties agree that the payment is apportioned between the Tenements as follows:

<b>Exploration Licences</b>	95.3%%
<b>Mining Leases</b>	4.7%

## 4. Establishment of Joint Venture

### 4.1 Formation of the Joint Venture

With effect from the Commencement Date, the Joint Venturers agree to establish the Joint Venture as an unincorporated joint venture according to the terms and conditions contained in this agreement.

### 4.2 Objects and scope of the Joint Venture

- (a) The objects of the Joint Venture are to:
  - (i) maintain the Tenements and explore the JV Area for Minerals; and
  - (ii) if exploration indicates the probable existence of a commercially minable Mineral resource in any part of the JV Area, carry out a Scoping Study and Pre-feasibility Study, including the construction and

operation of a pilot plant (if required) to test the feasibility of a production process.

- (b) The scope of Joint Venture Activities under this agreement does not extend to Development or Mining or any other activity, unless a Decision to Mine is made and COB has not acquired a 100% Percentage Share (such that each party retains a Joint Venture Interest).
- (c) If, at the point when a Decision to Mine is made, COB has not acquired a 100% Percentage Share (such that each party retains a Joint Venture Interest), then the parties must either:
  - (i) negotiate appropriate amendments to this agreement to facilitate Mining for the Mineral; or
  - (ii) terminate and replace this agreement with a Mining Joint Venture Agreement.

#### 4.3 Rights, obligations and liabilities of Joint Venturers

- (a) The rights, duties, obligations and liabilities of the Joint Venturers arising out of this agreement are several in proportion to their respective Percentage Shares and are neither joint nor joint and several.
- (b) Each Joint Venturer is severally liable, in proportion to its Percentage Share, for all obligations and liabilities incurred in the course of carrying out Joint Venture Activities, except in respect of the Earning Obligations of COB and for which COB will be exclusively responsible during the Earning Period.
- (c) Nothing in this agreement is to be construed or interpreted as constituting a partnership between the parties or making any Joint Venturer the agent or representative of any other Joint Venturer, except when the Manager acts as manager for the Joint Venturers, and not, if applicable, as a Joint Venturer.
- (d) Each Joint Venturer (**First Joint Venturer**) must indemnify and hold harmless each other Joint Venturer (**Second Joint Venturer**) from and against all damage, loss, expense or liability of any nature (other than consequential, economic or indirect losses, including any lost production or loss of profits) suffered or incurred by the Second Joint Venturer caused by the First Joint Venturer's breach of this agreement or its negligent act or omission in the course of Joint Venture Activities.

#### 4.4 Joint Venturer covenants

Each Joint Venturer covenants and agrees separately with each other Joint Venturer:

- (a) to perform every obligation and commitment which it has in relation to the JV Area under the Mining Act or other applicable Law;
- (b) to perform its obligations under or relating to the fulfilment of any contract which relates to the Joint Venture or Joint Venture Activities;

- (c) not to do or cause to be done any act matter or thing whereby the continued enjoyment of the Tenements by any Joint Venturer might be jeopardised;
- (d) not to engage either alone or in association with another or others or through a Related Body Corporate in any activity over the JV Area except as provided or authorised by or under this agreement;
- (e) to act co-operatively, honestly and reasonably in all its dealings with each other and the Manager concerning the Joint Venture provided that, except as expressly provided by this agreement, no Joint Venturer is under any fiduciary or other duty to the other Joint Venturers or the Manager;
- (f) that each Joint Venturer has the unrestricted right to engage in and receive the full benefit of any competing activities outside the JV Area; and
- (g) subject to the confidentiality provisions of this agreement, that each Joint Venturer is entitled to use and apply Mining Information outside the JV Area, provided that such activities are carried out in a manner which does not prejudice, impair or impede Joint Venture Activities.

#### 4.5 Party warranties and acknowledgements

- (a) Each party warrants for the benefit of each other party that:
  - (i) **(Incorporation)** it is validly incorporated, organised and subsisting in accordance with the laws of its place of incorporation;
  - (ii) **(Power and capacity)** it has full power and capacity to enter into and perform its obligations under this agreement;
  - (iii) **(Corporate authorisations)** all necessary authorisations for the execution, delivery and performance by it of this agreement in accordance with its terms have been obtained;
  - (iv) **(No legal impediment)** its execution, delivery and performance of this agreement complies with its constitution and does not constitute a breach of any law or obligation, or cause a default under any agreement by which it is bound; and
  - (v) **(No trust)** it enters into and performs this agreement on its own account and not as trustee for or nominee of any other person.
- (b) The parties give the specific warranties and acknowledgements set out in Schedule 5.



## 5. Joint Venture Property

### 5.1 Joint Venture Interests

The Joint Venture Interests of the Joint Venturers as at the Commencement Date are:

Joint Venturer	Percentage Share
BHPL	49%
COB	51%
	<hr/>
	100.00%
	<hr/>

### 5.2 Use and ownership of Joint Venture Property

- (a) All Joint Venture Property is owned by the Joint Venturers severally as tenants in common in the proportions of their respective Percentage Shares from time to time.
- (b) If Minerals are extracted from the JV Area, title to and the risk of loss of, or damage to, those Minerals passes to each Joint Venturer in proportion to its Percentage Share at the point where the Minerals are first extracted.
- (c) To the extent that ownership of any Joint Venture Property is not registered or recorded in the name COB pro rata in proportion to its Percentage Share, then BHPL (which is registered or recorded as owner) holds the property on trust for COB pro rata in proportion to its respective Percentage Share.

### 5.3 Use of Joint Venture Property

- (a) Each Joint Venturer must ensure that its Percentage Share of all Joint Venture Property that it controls is available for the purpose of Joint Venture Activities for the duration of the Joint Venture.
- (b) Each Joint Venturer must make available to the Manager from time to time as reasonably required by the Manager all Mining Information (if any) held by the Joint Venturer or in which it has a beneficial interest relating to the Tenements as at the Commencement Date.

### 5.4 Joint Venture Intellectual Property

Each Joint Venturer and its Related Bodies Corporate are entitled to use Joint Venture Intellectual Property, on a non-exclusive world-wide royalty-free basis, including any modifications and enhancements, outside the JV Area in activities other than Joint Venture Activities provided that the intended use of such Joint Venture Intellectual Property is first disclosed to each of the other Joint Venturers and is subject to the obligations of confidentiality contained in this agreement.

## 5.5 No partition of Joint Venture Property

- (a) Subject to any Law or contrary provision of this agreement, each Joint Venturer waives any right it may have to partition or divide the Joint Venture Property, whether by way of physical partition, judicial sale or otherwise.
- (b) Nothing in this clause affects a Joint Venturer's right and obligation to take separately its Percentage Share of any Mineral or to make an Assignment or disposal as permitted by this agreement.

## 5.6 No Encumbrances without consent

A Joint Venturer must not create or permit the creation of any Encumbrance over the whole or any part of its Joint Venture Interest without the consent of all the Joint Venturers, which consent must not be unreasonably withheld or delayed.

## 5.7 Perpetuity period

If the vesting of any interest of any Joint Venturer in any Joint Venture Property would be void under the rule against perpetuities at common law (if applicable) or under any statute imposing perpetuity periods, then that interest terminates 80 years (less one day) from the date of this agreement.

# 6. Management Committee

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## 6.1 Establishment of Management Committee

- (a) A Management Committee is established on the Commencement Date. Each Joint Venturer must appoint two (2) representatives to the Management Committee in writing.
- (b) The role of the Management Committee is to supervise the Manager in the management of the Joint Venture and to make, subject to this agreement, all strategic decisions relating to the conduct of Joint Venture Activities, including the consideration and approval of any Proposed Programme and Budget and other management plans, and any amendments to any Approved Programme and Budget and approved management plans.
- (c) Unless the Joint Venturers otherwise unanimously agree, the Joint Venturer with the largest individual Joint Venture Interest must appoint each Year (and may dismiss) its representative to be chair of the Management Committee. The Joint Venturer appointing the chair must cause the chair to preside at all meetings of the Management Committee.
- (d) The Manager must appoint (and may dismiss) a person, who may be one of its employees, to be secretary of the Management Committee. The Manager must cause the secretary to prepare agendas for meetings, keep proper minutes of all meetings and coordinate communications among the Joint Venturers regarding meetings of the Management Committee.



- (e) For any meeting of the Management Committee, a Joint Venturer may in writing appoint a person as an alternate representative for its representative and may remove any person so appointed.
- (f) At meetings of the Management Committee each representative present must act solely as representative of the Joint Venturer which appointed him or her but a representative may also represent the Manager at Management Committee meetings.
- (g) Each representative has full power and authority to represent and bind the Joint Venturer which appointed him or her in all matters decided by the Management Committee, and the Joint Venturer is bound by all votes cast by its representatives.
- (h) Any decision made by the Management Committee under this agreement is deemed to be a decision of all the Joint Venturers, and each Joint Venturer is bound as if that decision was an agreement entered into by them.

## 6.2 Functions of Management Committee

Except as otherwise provided in this agreement, the Management Committee may decide all matters relating to the conduct of Joint Venture Activities, including:

- (a) establishing policies from time to time covering Joint Venture Activities;
- (b) deciding on matters relating to:
  - (i) making bids in relation to the acquisition of goods or services that will be used in the carrying out of the Joint Venture Activities.
  - (ii) acquiring goods or services from persons that will be used in the carrying out of Joint Venture Activities;
  - (iii) the allocation of contracts, arrangements or understandings to persons supplying goods or services that will be used in the carrying out of Joint Venturer Activities; and
  - (iv) the price to be paid, or pricing formula to be applied, for goods and services to be used in the carrying out of Joint Venture Activities.
- (c) approving cost overruns by the Manager incurred under any Approved Programme and Budget; and
- (d) the appointment of an Auditor.

## 6.3 Meetings of the Management Committee

- (a) All meetings of the Management Committee must be held in the capital city of the Nominated State, unless otherwise agreed by the Joint Venturers and, in default of agreement, at the office of the Manager.

- (b) The Manager shall ensure that a meeting of the Management Committee is convened at least once each Year to approve a Proposed Programme and Budget for the next period and at least one additional meeting must be called by the Manager or a Joint Venturer in each Year.
- (c) The Manager shall ensure that the secretary calls meetings and gives at least fifteen (15) days prior written notice to the Manager and all Joint Venturers entitled to be present specifying the nature of the business to be discussed and including all documentation required to be considered at the meeting. Meetings may be held on less than fifteen (15) days' notice if agreed in writing by all Joint Venturers entitled to be present.
- (d) Meetings may be convened in person, or by video meeting or conference telephone call at which all representatives of all Joint Venturers have the opportunity to be present. All persons participating in the video meeting or conference telephone call must be able to hear each of the others.
- (e) If the existing chair of the Management Committee is not present within fifteen (15) minutes after the time appointed for holding the meeting, the representatives present must elect one of themselves to be chair of the meeting.
- (f) Each Joint Venturer must bear all expenses incurred by its representatives in attending meetings of the Management Committee.
- (g) A representative of the Manager must attend every meeting of the Management Committee at the cost of the Joint Venturer who appointed the Manager, unless the Management Committee otherwise decides for a particular meeting or for a particular subject matter at any meeting.

#### 6.4 Quorum

- (a) A quorum for any meeting of the Management Committee is present if at least one (1) representative of each Non-Defaulting Joint Venturer is in attendance at such meeting.
- (b) If a quorum is not present within 30 minutes from the time appointed for the meeting, the meeting must be adjourned to the same place, day and time in the next week.
- (c) If a quorum is not present at a reconvened meeting then, provided the reconvened meeting is conducted as a personal meeting (not by video or telephone meeting) and all Joint Venturers were given at least seven (7) days notice of the reconvened meeting, the representative(s) present at the reconvened meeting are deemed to constitute a quorum for the purposes of the business before that meeting.

## 6.5 Voting and decision making

- (a) On any resolution or at any meeting of the Management Committee, a Joint Venturer (other than a Defaulting Joint Venturer) may cast, (collectively through its representatives), the number of votes equal to its Percentage Share.
- (b) At meetings of the Management Committee, the Manager or its representative is not entitled to vote, and the chair does not have a second or casting vote.
- (c) Unless otherwise specified in this agreement, all decisions of the Management Committee must be determined by Majority Vote. A decision specified in the Reference Schedule must be made by Unanimous Vote.
- (d) A resolution in writing (which may consist of one or several documents in the same terms) signed by at least one representative of each of the Joint Venturers or approved by facsimile or by authenticated email transmitted by at least one representative of each Joint Venturer and subsequently confirmed in writing is as valid and effectual as if it had been passed at a duly convened meeting of the Management Committee.

## 6.6 Decision to Mine

- (a) Item 11 of the Reference Schedule provides that a Decision to Mine must be made by Unanimous Approval, but only where the proposed decision would be for the development of a mine with a production profile that is less than the production profile supported by the Bankable Feasibility Study (otherwise, a Decision to Mine may be made by COB in its absolute discretion).
- (b) For clarity, except for the qualification contained in clause 6.6(a), a Decision to Mine does not require Unanimous Approval and will be made by COB in its discretion based on market conditions and the availability project finance on terms acceptable to COB.

## 6.7 Minutes

A copy of the minutes of each Management Committee meeting must be given to each Joint Venturer as soon as practicable, but no later than fourteen (14) days, after each meeting. The minutes of a meeting must be submitted for approval at the next meeting held after that fourteen (14) day period and, if approved, must be signed by the chair of the later meeting and when signed are evidence of the proceedings and the decisions of the meeting to which they relate. The Manager may act on any matter approved by the Management Committee notwithstanding that the minutes have not been approved.

## 6.8 Sub-committees

The Management Committee may from time to time create sub-committees (comprising such persons as the Management Committee thinks fit) to consider and report back to the Management Committee on any particular issues relating to Joint Venture Activities.

## 6.9 Loss of rights of participation and voting

Unless otherwise agreed by all Non-Defaulting Joint Venturers, a Defaulting Joint Venturer (through its representatives and alternate) is not entitled to attend or to vote at any meeting of the Management Committee or any subcommittee formed under this agreement or join in voting on a resolution, nor will the presence of the representative of any such Joint Venturer be necessary to form a quorum at any meeting, until the relevant Default Event has been remedied.

## 7. Manager

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### 7.1 Appointment of Manager

The Joint Venturers severally appoint the Manager to be manager of the Joint Venture and agent of the Joint Venturers for the purposes of this agreement from the Commencement Date until the end of the Earning Period, and the Manager accepts that appointment, on and subject to the provisions of this agreement.

### 7.2 Term of appointment of Manager

Subject to clause 7.1, the appointment of the Manager continues:

- (a) until this agreement is terminated for any reason;
- (b) until the Manager resigns, having given at least one hundred and eighty (180) days' notice to the Joint Venturers of its intention to resign as Manager;
- (c) if the largest Joint Venture Interest is no longer held by COB, until the Management Committee determines if and when a new Manager should be appointed; or
- (d) until the Manager suffers an Insolvency Event or commits a material breach or default in the performance of a material obligation under this agreement and fails to remedy the default within sixty (60) days of receipt of a written notice of default served by a Joint Venturer.

### 7.3 Remuneration of the Manager during Earning Period

- (a) In consideration of the performance by the Manager of its obligations under this agreement, COB must pay the Manager the Management Fee during the Earning Period.
- (b) The Management Fee will be determined from time to time by COB, as part of an Approved Programme and Budget, on arms length commercial terms that will not exceed the Manager's actual costs plus ten (10) percent on a schedule of rates basis which is reasonably comparable to market.

#### 7.4 Remuneration of the Manager otherwise than during the Earning Period

- (a) In consideration of the performance by the Manager of its obligations under this agreement, the Joint Venturers must pay the Manager the Management Fee in proportion to their Percentage Share.
- (b) The Management Fee will be determined from time to time by the Management Committee, as part of an Approved Programme and Budget, on arms length commercial terms that will not exceed the Manager's actual costs plus ten (10) percent on a schedule of rates basis which is reasonably comparable to market.

#### 7.5 Appointment of new Manager

- (a) Upon the termination of the appointment of the Manager, the Joint Venturers must promptly appoint a new Manager under the terms of this agreement, if this agreement is not otherwise terminated.
- (b) The Joint Venturers must not reappoint a Manager removed for default or following an Insolvency Event of the Manager.
- (c) If a new Manager cannot be appointed and act immediately, the Joint Venturer holding the largest Joint Venture Interest must act as interim Manager until the new Manager is appointed and commences its duties.
- (d) Upon the new or interim Manager commencing its duties, the previous Manager must immediately deliver to the new or interim Manager all Joint Venture Property and all documents, books, records and accounts relating to the Joint Venture held by it or under its control.
- (e) If title to any Joint Venture Property is held in the name of the previous Manager, it must promptly transfer such title to the new or interim Manager at the cost of the Joint Venture.

#### 7.6 Liability of Manager

Except as a Joint Venturer to the extent of its Percentage Share, the Manager is not liable to the Joint Venturers for any loss or damage sustained or liability incurred in connection with the Joint Venture, even if arising from the negligence of the Manager or any person for whom the Manager may be vicariously liable, except where, in the circumstances of the particular case, the Manager (or that person) has committed fraud or Gross Negligence or Wilful Misconduct.

#### 7.7 Full indemnity of Manager by Joint Venturers during Earning Period

During the Earning Period, COB indemnifies and holds harmless the Manager, its directors, employees, agents and contractors (Indemnified Persons) from and against all damage, loss, expense or liability of any nature suffered or incurred by the Indemnified Persons (including any claims made by Third Parties) in connection with Joint Venture Activities, including any personal injury, disease, illness or death, or physical loss of or damage to property, of the Indemnified Persons or any Third Party,

except, in respect of an Indemnified Person, where that Indemnified Person has committed fraud or Gross Negligence or Wilful Misconduct.

## 7.8 Full indemnity of Manager by Joint Venturers otherwise than during Earning Period

If:

- (a) the Earning Period has ended and COB has not acquired a 100% Percentage Share; and
- (b) the parties agree that this agreement continues to operate,

then each Joint Venturer severally, to the extent of its Percentage Share, must indemnify and hold harmless the Manager, its directors, employees, agents and contractors (Indemnified Persons) from and against all damage, loss, expense or liability of any nature suffered or incurred by the Indemnified Persons (including any claims made by Third Parties) in connection with Joint Venture Activities, including any personal injury, disease, illness or death, or physical loss of or damage to property, of the Indemnified Persons or any Third Party, except, in respect of an Indemnified Person, where that Indemnified Person has committed fraud or Gross Negligence or Wilful Misconduct.

## 7.9 Limited indemnity by Manager of Joint Venturers

The Manager must indemnify and hold harmless the Joint Venturers, its and their respective directors, employees, agents and contractors (JV Indemnified Persons) from and against all damage, loss, expense or liability of any nature suffered or incurred by the JV Indemnified Persons (including any claims made by Third Parties) in connection with its management of Joint Venture Activities while it is the Manager, including any personal injury, disease, illness or death, or physical loss of or damage to property, of the JV Indemnified Persons or any Third Party, caused by the fraud or Gross Negligence or Wilful Misconduct of the Manager, its directors, employees, agents and contractors.

# 8. Functions, powers and duties of Manager

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## 8.1 Functions of the Manager

The Manager reports to the Management Committee and must under the overall supervision and control of the Management Committee:

- (a) by itself or through its employees, agents or contractors, manage, direct and control Joint Venture Activities as agent for and on behalf of the Joint Venturers;
- (b) exercise and discharge its powers and duties under this agreement in accordance with Approved Programmes and Budgets, and decisions made by the Management Committee;



- (c) conduct Joint Venture Activities in a good, workmanlike and commercially reasonable manner in accordance with good Australian methods, procedures and practices, and with the standard of diligence and care, normally exercised by duly qualified persons in the performance of comparable work; and
- (d) act in utmost good faith in all its dealings, as Manager, with each Joint Venturer.

## 8.2 Rights, powers and duties of Manager

In the course of managing, supervising and conducting Joint Venture Activities, the Manager is entitled to have possession and control of all Joint Venture Property and must, either itself or through such third parties as it may engage:

- (a) **(Proposed Programmes and Budgets)** prepare and submit to the Management Committee for approval all Proposed Programmes and Budgets and all other estimates and reports required by this agreement;
- (b) **(Approved Programmes and Budgets)** carry out effectively and efficiently the work required to implement all Approved Programmes and Budgets;
- (c) **(tenders and contracts)** obtain, evaluate and accept quotes and tenders (within the limits determined by the Management Committee), and enter into, administer and enforce, as agent of the Joint Venturers, all contracts required for the performance of works and services necessary to perform this agreement and undertake Joint Venture Activities;
- (d) **(personnel)** engage, dismiss, supervise and control all management, technical and labour personnel necessary for performance of its obligations under this agreement including determining the terms and conditions of such engagement and conducting all industrial relations;
- (e) **(payment and bank accounts)** pay on behalf of the Joint Venturers out of funds provided by the Joint Venturers all costs and expenses incurred by the Manager in the conduct of Joint Venture Activities and for such purpose open, maintain and operate one or more separate bank accounts (within which its own funds are not commingled) on behalf of the Joint Venturers for the purposes of the Joint Venture;
- (f) **(Laws and Authorisations)** comply with all Laws and Authorisations applicable to the conduct of Joint Venture Activities, including those relating to health, safety and environmental protection, and ensure that all Authorisations required to conduct Joint Venture Activities are applied for, obtained and maintained;
- (g) **(Tenements)** register this agreement under the Mining Act against the Tenements, keep and renew those Tenements in good standing (including paying all rents, taxes, expenditures and other outgoings by the Due Date), and manage, administer, protect and enforce the rights and obligations of the holders under the Tenements;
- (h) **(Security Bonds)** arrange for the provision by the Joint Venturers of, such security deposits, performance bonds and guarantees and other instruments for the performance of the Joint Venturers' obligations under any Tenements,

licences, leases, contracts, service agreements or any other agreement authorised by the Management Committee;

- (i) **(statutory reports)** prepare, file and lodge all statutory reports as and when required under the Mining Act and any other applicable Laws in respect of the JV Area (other than reports required to be submitted by the Joint Venturers in their individual capacities as Joint Venturers);
- (j) **(rehabilitation)** establish a rehabilitation fund, formulate a rehabilitation programme and carry out the Rehabilitation Obligations;
- (k) **(native title)** act as the Joint Venturers' representative in respect of Native Title Rights and Aboriginal heritage issues, negotiate and enter into agreements with any native title holder (as that term is defined in section 224 of the *Native Title Act 1993* (Cth)), any representative Aboriginal or Torres Strait Islander body (as that term is defined in section 253 of the *Native Title Act 1993* (Cth)), and the parties to Native Title Claims and in all other respects deal with issues of this kind as and when they arise, provided that the Manager may not recognise any Native Title Rights or agree or settle any Native Title Claims, without the prior approval of the Management Committee;
- (l) **(insurances)** effect and maintain all insurances appropriate in relation to Joint Venture Property and Joint Venture Activities, or as required by Law, and any additional insurances which the Management Committee requires to be effected, provided that the Manager must wherever possible procure that all such insurances include a provision that the insurer has no right of subrogation against any Joint Venturer or the Manager and that the Joint Venturers and Manager are to be named, to the extent of their interests, on each policy of insurance;
- (m) **(insurance certificates)** if requested, provide full details to a Joint Venturer of all insurances effected by the Manager under this agreement, including certificates of currency;
- (n) **(no Encumbrances)** keep the Joint Venture Property free and clear of all Encumbrances, except for those Encumbrances specifically permitted under this agreement, or approved by the Management Committee, or existing at the time of, or created concurrent with, the acquisition of such Joint Venture Property, or liens arising in the ordinary course of business which the Manager must arrange to be released or discharged in a diligent manner;
- (o) **(disposal of surplus equipment)** dispose of by Assignment, abandonment or other transfer Joint Venture Property which the Manager classifies as surplus and is no longer needed for Joint Venture Activities and which the Management Committee approves for disposal;
- (p) **(litigation)** institute, defend, compromise or settle any court or arbitration proceedings or insurance claims commenced or threatened by or against the Manager or a Joint Venturer affecting or relating to Joint Venture Activities or Joint Venture Property, provided that:



- (i) unless otherwise instructed by a Joint Venturer, the Manager may conduct such proceedings or claims for and on behalf of and in the name of each Joint Venturer;
  - (ii) the Manager must regularly report to the Joint Venturers the conduct of such commenced or threatened proceedings and claims, including any proceedings and claims related to environmental impacts, and keep the Joint Venturers informed of the progress of such proceedings and claims; and
  - (iii) the Manager may not institute, compromise or settle any court or arbitration proceedings or insurance claims exceeding an amount determined by the Management Committee without the prior approval of the Management Committee;
- (q) **(emergencies)** take such action as the Manager may consider necessary or advisable to prevent or respond to an Emergency;
- (r) **(GST)** act as the Joint Venturers' representative for the purposes of seeking registration of the Joint Venture as a GST joint venture under the GST Act and manage, administer and enforce the rights and obligations of the Joint Venturers under such GST joint venture;
- (s) **(cartel exception)** in accordance with any direction of the Management Committee, and as agent for the Joint Venturers:
- (i) bid for and acquire goods and services to be used in Joint Venture Activities including making such bids, on such terms and paying such prices, as the Management Committee may direct;
  - (ii) select the persons from whom goods or services to be used in Joint Venture Activities will be acquired, including selecting any person whom the Management Committee may direct;
  - (iii) allocate contracts, arrangements or understandings to persons supplying goods or services to be used in Joint Venture Activities, including making any allocation which the Management Committee may direct; and
- (t) **(other incidental)** do all other acts and things that are reasonably necessary or desirable to fulfil its functions or are incidental to its powers and duties.

### 8.3 Greenhouse and energy reporting by the Manager

- (a) The Joint Venturers and the Manager acknowledge that the Manager has 'operational control' (as defined in the *National Greenhouse and Energy Reporting Act 2007* (Cth) (**NGER Act**)) of the Joint Venture Activities.
- (b) If necessary for the purpose of establishing such operational control, the Joint Venturers authorise the Manager to prepare, introduce and implement such operating, health and safety, and environmental policies and to take any other

steps necessary for it to have operational control and the Manager agrees to undertake such responsibilities on behalf of the Joint Venturers.

- (c) The Manager undertakes to report, or procure that a Related Body Corporate of the Manager reports, greenhouse gas emissions and energy production and consumption attributable to the Joint Venture Activities as required by the NGER Act.
- (d) The Joint Venturers agree that any actions taken by the Manager, or a Related Body Corporate of the Manager, under this clause are Joint Venture Activities for the purposes of this agreement and that the cost of reporting is Joint Venture Expenditure to the extent that those costs are reasonably attributable to those Joint Venture Activities.
- (e) If a Joint Venturer is required to report separately under the NGER Act on greenhouse gas emissions and energy production and consumption attributable to the Joint Venture Activities, the Manager agrees to supply that Joint Venturer with all the information required by the Joint Venturer to enable it to comply with its reporting requirements under the NGER Act in relation to those matters.
- (f) The Joint Venturers authorise:
  - (i) the Manager to disclose to its Related Bodies Corporate; and
  - (ii) the Manager and its Related Bodies Corporate to use and disclose

all information in relation to the greenhouse gas emissions, energy production and energy consumption attributable to Joint Venture Activities as reasonably required for the Manager and its Related Bodies Corporate to comply with any obligations imposed on them under the NGER Act.

#### 8.4 Limitation on Manager's obligations

Notwithstanding anything to the contrary elsewhere in this agreement, the performance by the Manager of its obligations under this agreement is subject to the Manager being provided with sufficient funds by the Joint Venturers to enable the Manager to perform those obligations.

#### 8.5 Manager may delegate

The Manager may delegate to a Third Party, including a Related Body Corporate, any of its rights, remedies, powers, discretions and obligations, provided that:

- (a) the Manager may only delegate the whole of its rights, remedies, powers, discretions and obligations with the approval of the Management Committee;
- (b) any delegation does not relieve the Manager of any of its obligations or responsibilities under this agreement;
- (c) the Manager informs the Management Committee at its next meeting of the identity of the delegate and the matter which has been delegated; and

- (d) the delegation is at no additional cost to the Joint Venturers who are obligated to contribute to an Approved Programme and Budget.

## 8.6 Agreement with a Related Body Corporate

The Manager may not enter into an agreement with a Joint Venturer or a Related Body Corporate of a Joint Venturer or the Manager for the supply of goods or services or both under this agreement unless the proposed agreement is on terms and conditions which are no less favourable to the Joint Venturers than an arm's length commercial agreement with a Third Party supplier which is not a Related Body Corporate of the Manager or the Joint Venturer, and the proposed agreement is approved by the Management Committee.

## 8.7 Litigation

- (a) A Joint Venturer has the right to participate separately, at its own expense, in litigation or administrative proceedings initiated by the Manager on behalf of the Joint Venturers.
- (b) If a Joint Venturer elects to participate separately in litigation, that Joint Venturer:
  - (i) is considered to have a divergent interest to the other Joint Venturers and is not entitled to continue to receive reports or legally privileged material prepared or supplied by the Manager in relation to that litigation; and
  - (ii) is not entitled to require external lawyers appointed by the Manager to cease to act on the basis of a former client conflict of interest.

# 9. Programmes, Budgets and Called Sums

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## 9.1 Proposed Programmes and Budgets

- (a) By no later than the Budget Preparation Date specified in the Reference Schedule in each Year or such other date as the Management Committee may agree, the Manager must provide the Joint Venturers with a Proposed Programme and Budget which must include details of the programme of Joint Venture Activities proposed for the next Year and an itemised budget specifying all estimated Expenditure proposed to be charged by the Manager on a monthly basis under this agreement.
- (b) Each Proposed Programme and Budget must include:
  - (i) expenditure on the Tenements sufficient to comply with minimum expenditure obligations under the Mining Act and the Tenements during that period; and

- (ii) in respect of the Earning Period, the relevant Minimum Expenditure Obligation (or portion thereof) which is relevant to the budget period.

## 9.2 Approved Programme and Budget

- (a) Not less than 14 days after provision of a Proposed Programme and Budget, and by no later than the end of June in each Year or such other month as the Management Committee may determine, the Management Committee must meet (as many times as necessary) and discuss the Proposed Programme and Budget for the next Year, or appropriate period, and adopt, with or without amendment, an Approved Programme and Budget for that Year or period.
- (b) Subject to the prior approval by the Management Committee to the awarding of all contracts to a value of more than the Contract Limit specified in the Reference Schedule, once the Proposed Program and Budget is approved by the Management Committee, the Manager must implement the Approved Programme and Budget, and give a copy to each Joint Venturer.
- (c) An Approved Programme and Budget may be amended by the Manager with the approval of the Management Committee.
- (d) If the Management Committee for any reason fails to approve a Proposed Programme and Budget, prior to the commencement of the Year to which it relates, the Management Committee must continue to meet and use all reasonable efforts to adopt an Approved Programme and Budget. In the meantime, the Manager must, subject to any contrary direction of the Management Committee and receipt of necessary funds, continue to:
  - (i) do (or, as appropriate, refrain from doing) whatever is necessary to maintain the Tenements in good standing and other Joint Venture Property in good condition; and
  - (ii) perform and discharge all its existing obligations as Manager under this agreement, the Mining Act, the Tenements or to Third Parties or otherwise; and

except during the Earning Period (when all such costs will be the responsibility of COB), all costs and expenses incurred by the Manager in maintaining the Tenements and performing and discharging all its existing obligations is Joint Venture Expenditure and each Joint Venturer must pay its Percentage Share of those costs and expenses as a Called Sum when due under a billing statement rendered by the Manager.

## 9.3 Expenditure not covered by Programme and Budget

- (a) The Manager must not undertake any Joint Venture Activities which are not substantially in accordance with an Approved Programme and Budget except:
  - (i) in case of an Emergency, the Manager may make such immediate expenditure as the Manager deems necessary for the protection of life or property including the Joint Venture Property, in which case the

Manager must promptly notify the Joint Venturers of such expenditure;  
or

- (ii) if the Manager expects there will be a cost overrun in carrying out an Approved Programme which cannot be avoided by proper diligence, care and operating practice, the Manager may exceed a current Approved Budget by not more than 10%; or
  - (iii) if otherwise permitted by this agreement or by the Management Committee.
- (b) The Manager must report to the Joint Venturers as soon as reasonably practicable any unbudgeted expenditure incurred by the Manager for whatever reason.

#### 9.4 Costs borne in proportion to Percentage Shares

Except during the Earning Period (when all such costs will be the responsibility of COB), all Expenditure incurred in accordance with an Approved Programme and Budget or as permitted by this agreement must be borne and paid for by the Joint Venturers severally in proportion to their respective Percentage Shares.

#### 9.5 Billing statements for Called Sums

- (a) Except during the Earning Period (when all such costs will be the responsibility of COB), on or before the tenth (10<sup>th</sup>) day of each month (or such other date or period as the Management Committee directs), the Manager must submit to each Joint Venturer a billing statement of proposed Expenditure specifying the Called Sum to be paid by that Joint Venturer to finance Joint Venture Activities set out in an Approved Programme and Budget during the next month (or such other period as the Management Committee directs) and the amount paid cumulatively to date for the current Year.
- (b) The billing statement for Called Sums rendered by the Manager must include all existing and expected charges and credits for Joint Venture Activities.
- (c) All billing statements rendered by the Manager during any Year are presumed conclusively to be true and correct, except and only to the extent a Joint Venturer makes written objection thereto within twelve (12) months after the date of such statement specifying the items excepted and the grounds for such exception, and makes claim for adjustment.

#### 9.6 Payment of Called Sums

- (a) except during the Earning Period (when all such costs will be the responsibility of COB), a Joint Venturer must pay each Called Sum to the Manager within seven (7) days of receipt of a billing statement.
- (b) All payments must be in Australian currency and made to a bank account in Australia nominated by the Manager.

## 10. Accounts, reports, audit and access

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### 10.1 Joint Venture accounting

The Manager must maintain separate books, accounts and records for the Joint Venture of Expenditure in accordance with generally accepted accounting principles adopted from time to time by the Institute of Chartered Accountants in Australia, consistently applied.

### 10.2 Reports to Joint Venturers

The Manager must keep the Joint Venturers informed of all Joint Venture Activities by submitting in writing to the Joint Venturers:

- (a) within one (1) month of the end of each quarter, quarterly progress reports which include statements of Expenditure and comparisons of such expenditures to the Approved Programme and Budget, including quarterly summaries of data acquired;
- (b) within one (1) month of the end of each Year or other relevant period, a detailed final report after completion of each Approved Programme and Budget, which must include comparisons between actual and budgeted Expenditure;
- (c) as soon as possible thereafter, a report on the happening of any event or occurrence:
  - (i) which the Manager considers is likely materially to affect the interests of all or any of the Joint Venturers, or the value or worth of any of the Tenements; or
  - (ii) that would be required to be disclosed to the market by a Joint Venturer (or by a Related Body Corporate of a Joint Venturer) pursuant to the Listing Rules provided that, in respect of a foreign stock exchange, the Joint Venturer has previously informed the Manager of the disclosure requirements applying to the stock exchange on which its, or one of its Related Bodies Corporate, securities, are listed;
- (d) within one (1) month in each case of its completion, a copy of any material report concerning Joint Venture Activities produced by the Manager; and
- (e) such other reports as the Management Committee may direct.

### 10.3 Annual Accounts and audit

- (a) The Manager must prepare accounts for the Joint Venture reflecting the results for each Year of all transactions connected with Joint Venture Activities as disclosed by the records and accounts kept by the Manager and reflecting the Joint Venture Property in the possession or control of the Manager as at the end of such Year in accordance with this agreement (**Annual Accounts**) which Annual Accounts must be completed, audited by the Auditor and provided to the



Joint Venturers (together with the Auditor's report) no later than three (3) months after the end of the Year.

- (b) Any Joint Venturer which requires any particular audit requirements to be satisfied by the Auditor may make known to the Manager in writing its additional particular requirements before the audit is completed. The Manager must provide the particular audit requirements to the Auditor forthwith and the additional cost of conducting any additional audit must be paid by that Joint Venturer.
- (c) The Manager must rectify any issues or qualifications raised by the Auditor concerning the accounts of the Joint Venture or Joint Venture Activities as soon as is reasonably practicable.

#### 10.4 Individual Joint Venturer recording responsibilities

- (a) Each Joint Venturer is responsible, in respect of its Joint Venture Interest, for all financial and accounting records required by Law or to support its income tax returns or any other reports required by any Authority.
- (b) The Manager must provide to each Joint Venturer such Joint Venture information prepared by the Manager in accordance with this agreement, as the Joint Venturer may reasonably require to prepare its financial and accounting records.

#### 10.5 Joint Venturer access

A Joint Venturer is entitled during working hours at reasonable intervals, and the Manager must give, on reasonable notice at the Joint Venturer's expense and risk, access to, and the right to inspect any Joint Venture Property, including all books and records maintained by the Manager, provided that the Joint Venturer ensures that there is no interference with Joint Venture Activities.

## 11. Dilution and withdrawal

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### 11.1 Dilution

The Dilution provisions contained in Schedule 3 form part of this agreement.

### 11.2 Withdrawal Generally

- (a) A Defaulting Joint Venturer may not withdraw from this agreement while a Default Event it has committed has not been remedied in full.
- (b) A Non-Defaulting Joint Venturer may, by giving thirty (30) days' notice in writing to the other Joint Venturers, withdraw from this agreement and the Joint Venture, provided that a Joint Venturer may not give a notice of withdrawal unless it has first met and satisfied, or provided for, in full to the satisfaction of

the continuing Joint Venturers, all of its obligations accruing to the date of withdrawal under this agreement, the Tenements (for the whole of the current Year), the Act and any other Law, including obligations in respect of any Emergency, environmental protection or Rehabilitation Obligations, or which are required to keep its Joint Venture Interest in good standing and its Percentage Share in Joint Venture Property in good condition.

- (c) If the Joint Venture Interest of a Joint Venturer reduces by dilution, Assignment or any other means to less than the Minimum Interest, then that Joint Venturer is deemed to have withdrawn from the Joint Venture.
- (d) Upon a withdrawal from the Joint Venture, unless otherwise provided in this agreement, the withdrawing Joint Venturer:
  - (i) surrenders absolutely to the other Joint Venturer (and if more than one, pro-rata in the proportion that their respective Percentage Shares bear to each other) all its Joint Venture Interest;
  - (ii) the withdrawing Joint Venturer must, within thirty (30) days of withdrawal, execute and deliver all deeds and documents necessary for, and complete, the Assignment (and registration, if required by the law of the Nominated State) of its Joint Venture Interest to the remaining Joint Venturers;
  - (iii) the withdrawing Joint Venturer must pay all stamp duty and other transfer costs which become payable upon the withdrawing Joint Venturers transferring its Joint Venture Interest to the remaining Joint Venturers; and
  - (iv) upon approval and registration of the withdrawing Joint Venturer's Joint Venture Interest to the remaining Joint Venturers, the withdrawing Joint Venturer is released from all future obligations relating to the Joint Venture.
- (e) Any withdrawal from the Joint Venture is without prejudice to any rights or obligations of the Joint Venturers arising prior to the withdrawal, and any surrender of a Joint Venture Interest is not to be taken as satisfaction, wholly or partly, of the obligations of a withdrawing Joint Venturer prior to withdrawal.

### 11.3 Withdrawal by COB Prior to completion of Stage 4 Earning Period

Notwithstanding clause 11.2:

- (a) Provided that the Tenements have been kept in good standing by COB during the Earning Period, COB may withdraw from the Joint Venture at any time prior to COB completing the Stage 4 Farmin Period and acquiring the Stage 4 Interest by providing thirty (30) days prior written notice of intention to withdraw to BHPL.
- (b) If COB notifies BHPL of its intention to withdraw from the Joint Venture in accordance with clause 11.3(a), then:



- (c) The effective date of COB's withdrawal from the Joint Venture (**Effective Date of Withdrawal**) will be the earlier to occur of:
  - (i) the date on which BHPL exercises its pre-emptive right under clause 11.3(d) below; or
  - (ii) if BHPL does not exercise its pre-emptive right under clause 11.3(d), the date upon which a Third Party purchaser acquires COB's entire accrued Percentage Share of the Joint Venture Interest; or
  - (iii) (at COB's election) the date upon which COB notifies BHPL that it otherwise forfeits its accrued Percentage Share of the Joint Venture Interest to BHPL;
- (d) BHPL will have a pre-emptive right (exercisable by notice in writing to COB within forty-five (45) days of the date of receipt by BHPL of the notice of intention to withdraw given under clause 11.3(a)) to re-acquire COB's accrued Percentage Share of the Joint Venture Interest for an amount equal to the total aggregate Expenditure incurred by COB during the Stage 1 Earning Period, Stage 2 Earning Period, Stage 3 Earning Period and Stage 4 Earning Period (excluding the Execution Payment); and
- (e) On and from the Effective Date of the Withdrawal, COB will be released from all further obligations and liabilities arising under this agreement.

## 12. Assignment

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### 12.1 Restriction on Assignment

- (a) A Joint Venturer may not Assign the whole or any part of its Joint Venture Interest otherwise than:
  - (i) as permitted by this agreement; or
  - (ii) with the consent of all the other Joint Venturers, which they may give or refuse in their absolute discretion.
- (b) Except as otherwise provided in this agreement, a Defaulting Joint Venturer may not Assign the whole or any part of its Joint Venture Interest.
- (c) Any purported dealing by a Joint Venturer with its Joint Venture Interest contrary to this agreement is void.

### 12.2 Assignment to Related Body Corporate

A Joint Venturer which is not a Defaulting Joint Venturer may at any time without obtaining the prior consent of the other Joint Venturers Assign the whole (but not part) of its Joint Venture Interest to a Related Body Corporate. If a Joint Venturer Assigns the whole of its Joint Venture Interest to a Related Body Corporate, then that Joint Venturer:

- (a) must, within 14 days following the date of the Assignment, notify all of the other Joint Venturers of the identity of the Assignee and its relationship to the Joint Venturer;
- (b) continues to be bound by this agreement and is not released from any of its obligations or discharged from any of its liabilities under this agreement, unless all the other Joint Venturers agree; and
- (c) must, by the time that the Related Body Corporate to which the whole of its Joint Venture Interest has been Assigned ceases to be a Related Body Corporate of the Ultimate Holding Company of the Joint Venturer, ensure that all the rights Assigned to that Related Body Corporate have been re-Assigned to that Joint Venturer or Assigned to another Related Body Corporate of that Joint Venturer.

An Assignment made pursuant to this clause is free of any rights of pre-emption set out in this agreement.

### 12.3 Permitted right of pre-emption

- (a) A Joint Venturer has the right of pre-emption on the terms and conditions set out in this clause in respect of a sale of the whole or part of the Joint Venture Interest by another Joint Venturer.
- (b) Where a Joint Venturer receives a bona fide offer to purchase or farm-in to, or intends to make an offer to sell or farm-out, for a consideration involving payment of cash to the Joint Venture or a Joint Venturer in whatever form and over any period (including immediate cash, deferred cash, royalty, net smelter return, net profit interest and the like, and including payment of Expenditure on Exploration) the whole or part of its Joint Venture Interest which it is willing to accept and dispose of or farm-out, the Joint Venturer (**Selling Joint Venturer**) must promptly send written notice to the other Joint Venturers of the offer to purchase, or farm-in, or sell or farm-out making the same offer to the other Joint Venturers (**Offer**).
- (c) The Offer must:
  - (i) set out all the details of the offer to purchase, farm-in, sell or farm-out that the Selling Joint Venturer has received or intends to make, including the identity of the proposed acquirer (if then known), to enable an assessment of the acquirer's financial standing including, where applicable, details of the financial standing of the acquirer's Ultimate Holding Company, and any proposed parent company guarantees; and
  - (ii) attach a copy of all of the Offer documents.
- (d) Each other Joint Venturer (**Non-Selling Joint Venturer**) has the right for a period of 45 days following receipt of an Offer (**Option Period**) to accept the Offer in full for the whole of the Joint Venture Interest.

- (e) To accept the Offer a Non-Selling Joint Venturer which wishes to accept the Offer must give written notice of acceptance to the Selling Joint Venturer during the Option Period.
- (f) Where more than one Non-Selling Joint Venturer accept the Offer from the Selling Joint Venturer the accepting Non-Selling Joint Venturers are deemed to have accepted the Offer pro rata in proportion to their respective Percentage Shares, unless otherwise mutually agreed between them.

#### 12.4 Selling Joint Venturer free to Assign

If none of the Non-Selling Joint Venturers accept the Offer and provided that no Joint Venturer would hold a Joint Venture Interest of less than the Minimum Interest as a consequence of the Assignment then, following the Option Period, the Selling Joint Venturer is free within six (6) months from the date of the Offer and, subject to subsequent completion and delivery of the required Assignment documentation specified in this agreement, to Assign its Joint Venture Interest the subject of the Offer to the prospective acquirer at a price and subject to the terms and conditions which are no less favourable to the Selling Joint Venturer than the price, terms and conditions set out in the Offer.

#### 12.5 Requirements of Assignee

An Assignment of part or all of a Joint Venture Interest is not effective unless and until the Assignee:

- (a) obtains all relevant Authorisations; and
- (b) executes and delivers to each Joint Venturer a form of assumption deed approved by the Joint Venturers (which approval must not be unreasonably withheld or delayed) under which the Assignee agrees to assume the obligations of the Assignor under, and be bound by the terms and conditions of, this agreement to the extent of the Joint Venture Interest Assigned or upon the Joint Venture Interest being earned under the terms of the Assignment.

#### 12.6 Joint Venturer ceasing to be a Joint Venturer

- (a) If an Assignment of the whole or part of a Joint Venture Interest is made in accordance with this agreement (other than an Assignment to a Related Body Corporate) the Assignor is released from its obligations under this agreement arising after the Assignment to the extent of the Joint Venture Interest Assigned, other than the obligations of confidentiality contained in this agreement.
- (b) If a person ceases to be a Joint Venturer, that person is not relieved of any liability under this agreement which was incurred or arose on or before the date when it ceased to be a Joint Venturer, unless this agreement otherwise provides.

## 12.7 Tag Along Right

- (a) Notwithstanding any other provision of this clause 12, if COB proposes to Assign its entire Joint Venture Interest to a third party prior to a Decision to Mine being made and in accordance with this clause 12, then COB must give written notice (**Tag-Along Notice**) to BHPL setting out:
  - (i) the Joint Venture Interest proposed to be Disposed of (**Relevant Interest**);
  - (ii) the identity of the proposed purchaser(s) of the Relevant Interest; and
  - (iii) the full terms of the proposed purchase (including the cash price payable) and of any related agreements with the proposed purchaser of the Relevant Interest.
- (b) If BHPL has received a Tag-Along Notice and wishes to Assign its entire Joint Venture Interest (**Tag-Along Interest**) on the same terms as those specified in the Tag-Along Notice, then BHPL must, within 10 Business Days of receipt of the Tag-Along Notice, give written notice to COB specifying its intention to Assign.
- (c) If BHPL gives a notice under clause 12.7(b), COB must:
  - (i) provided that the third party purchaser wishes to acquire the entire Tag-Along Interest and the Relevant Interest, ensure that the Tag-Along Interest is purchased on the same terms as COB is selling its Relevant Interest; and
  - (ii) ensure that completion of the sale of the Relevant Interest occurs contemporaneously with completion of the sale of the Tag-Along Interest (and that one does not occur without the other occurring).
- (d) Where clause 12.7(a) applies, COB must not Assign any of its Joint Venture Interest:
  - (i) unless the COB has given a Tag-Along Notice in compliance with clause 12.7(a) and BHPL has confirmed in writing to COB in response to the Tag-Along Notice that it does not wish to transfer the Tag-Along Interest or has not served a notice under clause 12.7(b) within the period set out in that clause for the service of that notice; or
  - (ii) if BHPL has given a notice under clause 12.7(b), unless the proposed third party purchaser(s) contemporaneously completes the purchase of the Tag-Along Interest.

## 13. Default

### 13.1 Breach Default Events to be remedied

- (a) The Manager or any Non-Defaulting Joint Venturer may at any time after a Breach Default Event occurs serve a written notice on the Defaulting Joint Venturer specifying the nature of the Breach Default Event and requiring it to be remedied. The Defaulting Joint Venturer must then:
  - (i) if the Breach Default Event is capable of being remedied, remedy the default within fourteen (14) days of its receipt of the notice of default; or
  - (ii) if the Breach Default Event is not remedied within fourteen (14) days or is not capable of being remedied, pay adequate monetary compensation to the Non-Defaulting Joint Venturers, such payment to be made within seven days of receipt of notification of the amount of compensation payable as determined under this agreement.
- (b) The Joint Venturers must agree in writing the amount of adequate monetary compensation to be paid by the Defaulting Joint Venturer under this clause. If the Joint Venturers have not reached agreement within fourteen (14) days after the date on which notice of default is given, that amount must be determined by an Expert appointed under this agreement, who must make such determination within thirty (30) days of his or her appointment.
- (c) On agreement or determination of the amount of adequate monetary compensation under this clause, that amount, and any interest and costs payable or reimbursable under this agreement, becomes Unpaid Moneys due under this agreement after the seven (7) day period referred to in the next clause.

### 13.2 Unpaid Moneys Default Event to be remedied

- (a) If an Unpaid Moneys Default Event occurs, the Manager must promptly give to the Defaulting Joint Venturer a notice to pay all Unpaid Moneys within seven (7) days after the Due Date (**Non-payment Notice**).
- (b) If the Defaulting Joint Venturer fails to comply with the Non-payment Notice, the Manager must promptly give notice of such failure to all of the other Joint Venturers together with the amount of Unpaid Moneys due but not paid (**Unpaid Moneys Default Notice**).
- (c) Each Joint Venturer receiving an Unpaid Moneys Default Notice has the right (but not the obligation) after seven (7) days from receipt of the notice to pay to the Manager all or part of Unpaid Moneys referred to in the Unpaid Moneys Default Notice on behalf of the Defaulting Joint Venturer. A Joint Venturer which makes a payment of Unpaid Moneys on behalf of the Defaulting Joint Venturer becomes a Paying Joint Venturer.

- (d) All moneys paid by the Manager or a Paying Joint Venturer on behalf of a Defaulting Joint Venturer to remedy an Unpaid Moneys Default Event constitute a debt due by the Defaulting Joint Venturer.
- (e) The rights of the Manager or a Paying Joint Venturer against a Defaulting Joint Venturer under this clause are in addition to any other rights or remedies available to it or them.
- (f) Upon payment of all Unpaid Moneys including all interest and costs payable or reimbursable in respect of the Default Event, the Defaulting Joint Venturer is released from liability to pay the Called Sum on which it defaulted, but otherwise remains liable to indemnify each other Joint Venturer and the Manager as provided in this agreement.

### 13.3 Interest and costs

- (a) Interest at the Agreed Interest Rate is payable on all Unpaid Moneys not paid on or before the Due Date, from, but excluding, the Due Date up to and including the date upon which the moneys are paid.
- (b) All interest paid on Unpaid Moneys by the Manager, a Paying Joint Venturer or a Non-Defaulting Joint Venturer directly attributable to a Default Event become Unpaid Moneys due for payment by the Defaulting Joint Venturer to the payer on demand.
- (c) A Defaulting Joint Venturer must pay or reimburse all reasonable costs and expenses (including legal costs and expenses on a full indemnity basis) incurred by the Manager, a Paying Joint Venturer or a Non-Defaulting Joint Venturer consequent upon, or which are directly attributable to remedying, a Default Event. All reasonable costs and expenses so paid become Unpaid Moneys due for payment by the Defaulting Joint Venturer to the payer on demand.

### 13.4 Period of Unpaid Moneys Default

An Unpaid Moneys Default Event must not be treated as having been remedied for the purposes of this agreement until:

- (a) the Defaulting Joint Venturer has paid, or caused to be paid, all Unpaid Moneys due to the Manager, the Paying Joint Venturer or the Non-Defaulting Joint Venturers (as the case may be); or
- (b) the whole of the Joint Venture Interest of the Defaulting Joint Venturer is acquired pursuant to this agreement by a Non-Defaulting Joint Venturer or a Third Party.



## 14. Consequences of Default

### 14.1 Buy-Out Election following an Unpaid Moneys Default Event

- (a) If an Unpaid Moneys Default Event is not remedied within fourteen (14) days from the Due Date, a Non-Defaulting Joint Venturer may (but is not obliged to) give notice to each other Joint Venturer (including the Defaulting Joint Venturer) and the Manager stating that it wishes to acquire the whole (but not part) of the Defaulting Joint Venturer's Joint Venture Interest (**Buy-Out Election**).
- (b) If a Non-Defaulting Joint Venturer makes a Buy-Out Election, any other Non-Defaulting Joint Venturer which wishes to make a Buy-Out Election must do so within fourteen (14) days of receiving notice of the first Buy-Out Election;
- (c) If more than one Non-Defaulting Joint Venturer makes a Buy-Out Election, those Non-Defaulting Joint Venturers must acquire the Defaulting Joint Venturer's Joint Venture Interest severally in the proportion to their respective Percentage Shares, unless otherwise mutually agreed between them; and
- (d) If the Unpaid Moneys Default Event is remedied in accordance with this agreement before the Buy-Out Election is made, the right to make the Buy-Out Election in respect of that Unpaid Moneys Default lapses.

### 14.2 Effect of Buy-Out Election

- (a) If one or more Non-Defaulting Joint Venturer elect to acquire the whole of the Defaulting Joint Venturer's Joint Venture Interest (**Enforcing Joint Venturer**), then the Defaulting Joint Venturer must transfer the whole of the Defaulting Joint Venturer's Joint Venture Interest to the Enforcing Joint Venturers, and the Enforcing Joint Venturers must severally in the proportion to their respective Percentage Shares:
  - (i) cure any Default Event of the Defaulting Joint Venturer which is capable of being cured;
  - (ii) assume all future obligations and liabilities in respect of the whole of the Defaulting Joint Venturer's Joint Venture Interest;
  - (iii) pay the amount of consideration to the Defaulting Joint Venturer being the fair market value of the Joint Venture Interest being acquired by the Enforcing Joint Venturers as at the date of the Default Event, less:
    - (A) 10% of the fair market value, or such greater or lesser amount as determined by an Expert appointed under this agreement as being sufficient and appropriate compensation for the loss suffered by the Enforcing Joint Venturers for the loss of the Defaulting Joint Venturer's participation in the Joint Venture; and

- (B) all amounts due from the Defaulting Joint Venturer to any party or Third Party under or pursuant to this agreement, including interest and costs; and
- (C) all amounts paid by the Enforcing Joint Venturers to cure any Default Event of the Defaulting Joint Venturer, including interest and costs, and
- (D) the amount of all liability of the Defaulting Joint Venturer to meet existing Rehabilitation Obligations as determined by the Manager as at the date of payment,

such fair market value and date to be agreed between the parties and, in default of agreement within fourteen (14) days, then as determined by an Expert appointed under this agreement, who must make such determination within thirty (30) days of his or her appointment and who may determine that the Defaulting Joint Venturer's Joint Venture Interest has nil or a negative value.

- (b) No payment is due to the Defaulting Joint Venturer if the amount of consideration payable is determined to be nil or negative and:
  - (i) the Defaulting Joint Venturer must, within thirty (30) days of receipt of the notice of acquisition, execute and deliver all deeds and documents necessary for, and complete, the Assignment (and registration, if required by the law of the Nominated State) of its Joint Venture Interest to the Enforcing Joint Venturers;
  - (ii) the Defaulting Joint Venturer must pay all stamp duty and other transfer costs which become payable upon the Enforcing Joint Venturers acquiring its Joint Venture Interest;
  - (iii) each Enforcing Joint Venturer must pay any amounts deducted by them from the fair market value for payment to any party or Third Party, to that party or Third Party as soon as reasonably possible;
  - (iv) each Enforcing Joint Venturer must release the Defaulting Joint Venturer from all claims it has against the Defaulting Joint Venturer in connection with the Default Event; and
  - (v) upon completion of the Assignment of its Joint Venture Interest to the Enforcing Joint Venturers, including the payment of all transfer costs, the Defaulting Joint Venturer is released from its obligations under this agreement arising after completion of the Assignment, other than the obligations of confidentiality set out in this agreement.

### 14.3 Acknowledgement

The Joint Venturers acknowledge that the consideration for the acquisition by an Enforcing Joint Venturer of a Defaulting Joint Venturer's Joint Venture Interest (including the assumption of all future obligations and liabilities):



- (a) is agreed following negotiations involving all Joint Venturers which accepted that the consideration does not constitute or give rise to a penalty, forfeiture or unjust enrichment; and
- (b) represents a reasonable and good faith assessment of the just and fair compensation for the Defaulting Joint Venturer in all the circumstances surrounding the relevant Default Event.

#### 14.4 Attorney

For so long as it is in default, each Defaulting Joint Venturer irrevocably appoints the Enforcing Joint Venturers jointly and severally as its lawful attorney to act for it in its name or otherwise as the Manager (acting reasonably) deems fit for the purposes of:

- (a) doing all such acts and executing all such documents as may appear to the Enforcing Joint Venturers (acting reasonably) to be necessary or desirable to comply with the obligations and, to the extent necessary to perform obligations, to exercise the rights of the Defaulting Joint Venturer under this agreement;
- (b) with the agreement of all other Non-Defaulting Joint Venturers (if any), terminating the Joint Venture and doing all things reasonably necessary or desirable for completion and winding up of Joint Venture Activities.

The Defaulting Joint Venturer is bound by all acts of the Enforcing Joint Venturers as attorney pursuant to this clause.

#### 14.5 Preservation of other rights

Nothing in this agreement affects the right of a party to:

- (a) subject to observance of the Dispute resolution provisions of this agreement, commence litigation in respect of a Default Event; or
- (b) exercise any other rights or remedies available to the party under this agreement or at law or in equity.

### 15. Term and termination of Joint Venture

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#### 15.1 Term of agreement

This agreement commences on the date of this agreement and continues until the earliest to occur of any of the following Termination Events:

- (a) COB acquires the Stage 4 Percentage Share following the completion of the Earning Period, and receives a transfer of a 100% legal and beneficial interest in the Joint Venture Property pursuant to clause 3.4(h); or

- (b) all of the Non-Defaulting Joint Venturers (for themselves and as attorney for each Defaulting Joint Venturer) agree in writing to terminate the Joint Venture; or
- (c) the Joint Venturers cease to hold any interest in any Tenement,

and continues thereafter until completion of the winding up of Joint Venture Activities.

## 15.2 Winding up of Joint Venture Activities

- (a) (Except in the case of a Termination Event under clause 15.1(a), which assumes that COB will proceed to undertake Mining for the Mineral within the JV Area on its own account), immediately following the occurrence of a Termination Event under clause 15.1(b) or clause 15.1(c), the Manager must commence winding up Joint Venture Activities including:
  - (i) arranging for an evaluation of the Shutdown Costs as at the date of the termination of the Joint Venture, including the cost of satisfying the Rehabilitation Obligations;
  - (ii) taking such steps to dispose of Joint Venture Property as it is directed to take by the Management Committee;
  - (iii) to the extent reasonably possible, meeting the Shutdown Costs from the proceeds of realization of Joint Venture Property;
  - (iv) after paying the Shutdown Costs and satisfying all Rehabilitation Obligations distributing any net amount remaining from the proceeds of realization of Joint Venture Property among the Joint Venturers pro rata in proportion to their respective Percentage Shares; and
  - (v) requiring payment of a Called Sum from each Joint Venturer to the extent that the proceeds of realization of Joint Venture Property are insufficient to meet the Shutdown Costs and satisfy all Rehabilitation Obligations.
- (b) If a Joint Venturer fails to pay any Called Sum to meet the Shutdown Costs, the Non-Defaulting Joint Venturers are obliged, severally in proportion to their respective Joint Venture Interests, to contribute any amount unpaid by the Defaulting Joint Venturer and the Defaulting Joint Venturer is liable to repay all amounts paid by the Non Defaulting Joint Venturers, together with interest and costs payable under this agreement. The amount paid by the Non-Defaulting Joint Venturers is a debt payable by the Defaulting Joint Venturer to the Non-Defaulting Joint Venturers on demand.

## 15.3 Certain obligations continue beyond termination

Upon termination of this agreement for any reason, all rights and obligations of the Joint Venturers to each other in their capacity as Joint Venturers cease, other than:

- (a) the obligations of confidentiality set out in this agreement; and

- (b) the obligation to pay any actual or contingent liabilities relating to Joint Venture Activities, including the cost of all Rehabilitation Obligations, or otherwise arising from this agreement that have not been discharged as at the date of termination.

#### 15.4 Extension of term

The Joint Venturers may at any time consult with each other for the purpose of determining whether the term of this agreement should be extended beyond the period it would otherwise expire. A failure by any Joint Venturer to agree to such extension may not be referred to any dispute resolution procedure.

### 16. Confidentiality

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#### 16.1 Agreement is confidential

The terms and conditions of this agreement and all information flowing to any Joint Venturer from Joint Venture Activities, or in relation to Joint Venture Activities, including Mining Information, other than information which is already within the public domain independently of any breach by a party of this agreement (Confidential Information) are confidential.

#### 16.2 No disclosure except as permitted

Except as permitted by this agreement, each Joint Venturer and the Manager undertakes that it will keep confidential all Confidential Information received by it and that neither it nor its employees will, without the consent of each of the other Joint Venturers, disclose any Confidential Information to any Third Party.

#### 16.3 Permitted disclosure

A Joint Venturer may disclose Confidential Information:

- (a) to the professional advisers or agents of that Joint Venturer;
- (b) to a Related Body Corporate of that Joint Venturer;
- (c) as required by Law or by any competent Authority, whether the obligation arises as a consequence of the act of the Joint Venturer or otherwise;
- (d) to any stock exchange pursuant to Listing Rules which require disclosure;
- (e) where reasonably necessary for the purposes of any arbitration or administrative or legal proceedings involving only the Joint Venturers; or
- (f) to a Third Party, and its advisers, bona fide tendering for or negotiating the purchase of all or part of the interest of that Joint Venturer in the Joint Venture or for the provision of finance to that Joint Venturer but only if the Third Party

and its advisers first covenant in writing to the disclosing Joint Venturer to preserve confidentiality of information disclosed in the same terms as this clause.

A Joint Venturer making a permitted disclosure under this clause must take all reasonable steps to ensure that the person to whom disclosure is made keeps confidential all Confidential Information disclosed.

#### 16.4 Permitted disclosure by Manager

The Manager may disclose Information to any person it considers necessary or desirable in connection with the conduct of the Joint Venture Activities upon obtaining from such person an undertaking of confidentiality in writing to the Manager and the Joint venturers to preserve the confidentiality of information disclosed as required by this agreement.

#### 16.5 Confidential Information disclosed only as necessary

- (a) Each Joint Venturer and the Manager must take all steps reasonably necessary to ensure that the Confidential Information obtained is disclosed to and known by only those persons who need to acquire that knowledge in the course of their duties.
- (b) Each Joint Venturer, but not the Manager, may use for its own internal purposes not related to Joint Venture Activities any geological, geophysical, geochemical, metallurgical or operational concept, model or principle of any kind, even if derived from the Confidential Information.

#### 16.6 Publicity and disclosure

- (a) Except for an announcement or other disclosure required by Law or permitted by this agreement, no public announcement naming a Joint Venturer or other public disclosure may be made in relation to Joint Venture Activities or Joint Venture Property unless the text of the announcement or disclosure has been approved by the other Joint Venturers.
- (b) To the extent that an announcement or other disclosure is required by Law, the Joint Venturers must use all reasonable endeavours to agree, as soon as reasonably practicable, the wording of such announcement or disclosure before it is made.

#### 16.7 Obligations exist beyond termination

The obligations in relation to Confidential Information imposed by this agreement continue until all the Confidential Information ceases to be confidential despite the termination of this agreement for any reason.

## 17. Dispute Resolution

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### 17.1 Limitation on proceedings

Subject to any matter specifically referred to Expert determination under this agreement, the parties agree that it is a condition precedent to the commencement of any litigation proceedings by a party in respect of a dispute under, or in relation to, this agreement (**Dispute**) that the party has complied fully with the agreed process of resolving a Dispute (**Dispute Resolution Process**) under this clause (regardless of the level or levels on which the Dispute has previously been considered) except where the Dispute is the non-payment of moneys due or:

- (a) if the party seeks urgent interlocutory, injunctive or declaratory relief; or
- (b) if the other party has failed to observe the requirements of this clause and the party seeks to enforce compliance with the Dispute Resolution Process

in respect of the Dispute.

### 17.2 Dispute Resolution Process

The Dispute Resolution Process for this agreement is set out in Schedule 4.

## 18. Expert Determination

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### 18.1 Expert determination

Where a matter is permitted or required by this agreement to be determined by an Expert, or if the parties otherwise agree, any party may refer the matter to the determination of an Expert and the following provisions apply:

- (a) subject to any other determination by the Expert, the costs of obtaining the determination must be at the cost and expense of the parties equally (except that each party must pay its own advisers, consultants and legal fees and expenses) unless the parties otherwise agree;
- (b) the Expert determination must be conducted by a person or body agreed to by the parties or, failing agreement within fourteen (14) days after a party proposes a person or body, by the person or body nominated by the Institute of Arbitrators & Mediators Australia; and
- (c) in making a determination:
  - (i) the Expert must act in that capacity and not as an arbitrator;
  - (ii) the Expert's finding is final and binding upon the parties in the absence of manifest error;

- (iii) the Expert must determine which party or parties should bear the costs of any such determination and in what proportion. In making this decision, the Expert must consider the degree to which he or she considers such party was unreasonable in failing to agree to the matter; and
- (iv) the Expert may employ consultants to assist the Expert to carry out his or her duties.

## 19. Force Majeure

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### 19.1 Meaning of Force Majeure

In this agreement, the term 'Force Majeure' means any cause which is not reasonably within the control of the Joint Venturer or the Manager claiming relief by reason of Force Majeure, which cause may include:

- (a) an act of God, earthquake, lightning, fire, flood, storm, cyclone, explosion or epidemic;
- (b) strike, lockout, stoppage, ban or other types of labour difficulty whether at the JV Area, railway or port or otherwise;
- (c) war (whether declared or undeclared), blockade, act of the public enemy, act of terrorism, revolution, insurrection, riot, or civil commotion, sabotage, malicious damage, radioactive contamination, toxic or dangerous chemical contamination;
- (d) action, inaction, embargo or restraint by an Authority (including heritage related restraints and, refusal or failure to grant any Authorisation despite timely reasonable endeavours to obtain the same);
- (e) inability to access all or part of a JV Area because of Native Title Claims or otherwise;
- (f) unavailability or mechanical and electrical breakdown and failure of equipment, plant, pipelines, transmission lines or transport; or
- (g) any other cause whether specifically listed above or otherwise which is not reasonably within the control of the party claiming Force Majeure except where:
  - (i) the cause is the inability to obtain, use or pay, moneys for any reason; or
  - (ii) the consequences of the cause could have been prevented, overcome or remedied by the exercise by the party affected of care and diligence normally exercised by duly qualified persons in the performance of comparable work.

## 19.2 Relief

If, as a direct result of an event or occurrence of Force Majeure (**Force Majeure Event**), a Joint Venturer or the Manager becomes unable, wholly or in part, to perform an obligation (other than an obligation to obtain, use or pay money) under this agreement (**Affected Party**):

- (a) that Affected Party may give the other Joint Venturers and the Manager notice of the Force Majeure Event with reasonably full particulars and, insofar as is known to it, the probable extent to which it will be unable to perform, or be delayed in performing, that obligation;
- (b) on giving the notice of the Force Majeure, that obligation is suspended but only to the extent that and for so long as it is affected by the Force Majeure Event;
- (c) the Affected Party must use all reasonable diligence to remove, overcome or abate the effect of the Force Majeure Event as quickly as possible;
- (d) if the Force Majeure Event cannot be removed, overcome or abated to an extent that allows resumption of performance within six (6) months (or such other period as the Joint Venturers agree) from the date of the notice, the Joint Venturers must consider and determine whether this agreement must be modified or terminated; and
- (e) notwithstanding the Force Majeure Event, the Joint Venturers must continue to pay the Manager such moneys as are necessary keep the Tenements in good standing and to maintain the other Joint Venture Property in good condition.

## 19.3 Labour disputes and Native Title matters

The obligation to use all reasonable diligence to overcome or remove the effect of the Force Majeure does not require the Affected Party to:

- (a) settle any strike, or other labour dispute;
- (b) contest the validity or enforceability of any law, regulation or legally enforceable order by way of legal proceedings; or
- (c) settle any Native Title Claim or enter into any agreement with respect to Native Title Rights,

on terms not acceptable to it solely for the purpose of removing the event of Force Majeure.

## 19.4 Resumption

The Affected Party must resume performance of its obligations as soon as, and to the extent that, it is no longer affected by the Force Majeure Event.



## 20. Goods and Services Tax

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### 20.1 Joint Venturers registered for GST

Each Joint Venturer warrants that it is as at the Commencement Date, and will be during the term of this agreement, registered for GST. The Joint Venturers agree to form a GST Joint Venture and require the Manager to apply for registration of the Joint Venture as a GST Joint Venture.

### 20.2 Supply of going concern

- (a) The Joint Venturers agree that the transfer of any Joint Venture Interest under this agreement is a supply of a going concern within the meaning of subdivision 38-J of the GST Act, and the parties intend that such a supply will be GST free.
- (b) If, despite the agreement of the parties, the transfer of all or any part of any Joint Venture Interest is not the supply of a going concern for GST purposes and is a Taxable Supply, the following provisions of this agreement will apply to that supply. In addition the transferee will indemnify the transferor for all interest, fines, penalties, charges and similar amounts payable as a result of the supply being incorrectly treated in whole or in part as the supply of a going concern. It will not be a defence to any claim for indemnification pursuant to this clause that the transferor failed to mitigate its damages by paying an amount of GST when it fell due under the GST Act.

### 20.3 GST liability

- (a) Except where the consideration for a supply (other than a supply of a going concern) is expressed to be GST inclusive, if any Joint Venturer (Supplier) (or the Representative Member of any GST Group of which that party is a Member) is liable to pay GST on any Supply made to any other Joint Venturer (the Recipient) under this agreement, then the Recipient agrees to pay the Supplier an additional amount equal to that GST (additional GST amount).
- (b) Where a party is liable to pay GST in respect of any indemnity payment made by another party under this agreement, the other party must in addition to any amount it is required to pay by way of indemnity also pay to that party on demand the GST imposed in respect of the indemnity payment.
- (c) The additional GST amount is payable at the same time and in the same manner as the consideration for the Supply to which the additional GST amount relates.
- (d) The obligation to pay the additional GST amount arises only if the Supplier of the Supply has issued the Recipient of the Supply with a valid Tax Invoice for the Supply.
- (e) If the additional GST amount differs from the amount of GST payable by the Supplier on the Supply:



- (i) the Supplier must promptly issue an Adjustment Note to the Recipient; and
- (ii) an amount equal to the difference must be paid by the Supplier to the Recipient, or by the Recipient to the Supplier, as appropriate.

## 20.4 Reimbursement

An amount required to be reimbursed or contributed to must not include the amount of any Input Tax Credit where:

- (a) a Joint Venturer is required to or does pay an amount to another Joint Venturer (Payee) (including by way of adjustment or set-off) to reimburse or contribute to an amount payable by the Payee for a Supply to the Payee from a Third Party; and
- (b) the Payee or the Representative Member of any GST Group of which the Payee is a Member is entitled to an Input Tax Credit in respect of that Supply.

## 20.5 Definitions

In this clause, the following terms have the same meaning as in the GST Act:  
**Adjustment Note, GST, GST Group, GST Joint Venture, Input Tax Credit, Member, Representative Member, Supply, Tax Invoice and Taxable Supply.**

# 21. Notices

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## 21.1 Notice requirements

Any notice, demand, approval, consent or other communication under this agreement (**Notice**) must be in writing in English or accompanied by a certified translation into English and must be:

- (a) delivered personally;
- (b) sent by facsimile; or
- (c) sent by regular post (or airmail if posted to or from a place outside Australia); or
- (d) sent by email,

to a party at:

- (e) the address of the party set out in clause 21.4 (**Nominated Contact Details**); or
- (f) such other contact details as the party may from time to time notify to the other party for the purposes of, and in accordance with, this clause.

## 21.2 When Notices considered given and received

A Notice given in accordance with clause 21.1 takes effect when received (or such later time as specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent from and to a place within Australia by regular post, at 9:00 am on the sixth Business Day after the date of posting;
- (c) if sent from a place within Australia to a place outside Australia by airmail, at 9.00 am on the tenth Business Day after the date of posting;
- (d) if sent from a place outside Australia by airmail, at 9.00 am on the twelfth Business Day after the date of posting;
- (e) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the total number of pages of the Notice, unless within four business hours (being a period of time between 9.00 am and 5.00 pm on a Business Day) after the transmission, the recipient informs the sender that it has not received the entire Notice;
- (f) if sent by email to the email address set out in the Notified Contact Details, when the email (including any attachment) is sent to the receiving party at that email address, unless the sending party receives a notification of delivery failure within 24 hours of the email being sent,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00 pm on a Business Day, the Notice is taken to be received at 9.00 am on the next Business Day after that delivery, receipt or transmission.

## 21.3 No electronic communication of Notices

A Notice must not be given by electronic means of communication other than facsimile and email as permitted under clause 21.2.

## 21.4 Nominated Contact Details

For the purposes of this clause 21, the Nominated Contact Details of the parties are as follows:

### (a) BHPL

Address: Level 14, 52 Phillip Street, Sydney NSW 2000

Facsimile: 02 9252 8400

Contact Person: Ian Morgan

Email: [ian.morgan@bhpl.com.au](mailto:ian.morgan@bhpl.com.au)

**(b) COB**

Address: Level 14, 52 Phillip Street, Sydney NSW 2000

Facsimile: 02 9252 8400

Contact Person: Rob Biancardi

Email: [rob.biancardi@hwl.com.au](mailto:rob.biancardi@hwl.com.au)

## 22. Ancillary provisions

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### 22.1 Entire agreement

This agreement contains everything the parties have agreed and overrides and supersedes all earlier agreements in relation to the Joint Venture.

### 22.2 Enurement

The provisions of this agreement enure for the benefit of and are binding on each party and their respective successors and permitted Assigns.

### 22.3 No reliance or inducement

Each party warrants and agrees that when entering into this agreement it relied exclusively on the terms expressly contained in this agreement and on:

- (a) its own inspections, investigations, skill and judgement; and
- (b) opinions and advice obtained by it

and did not rely on any statements, inducements, undertakings, representations or advice given or made, whether orally or in writing, by or on behalf of any other party, including without limitation by any officer, employee or agent of any party.

### 22.4 Amendment

No modification, variation or amendment of this agreement is of any force unless it is in writing and has been signed by each of the parties.

### 22.5 Severability

If any provision of this agreement is void, illegal or unenforceable, it may be severed without affecting the enforceability of other provisions in this agreement.

## 22.6 Waiver

A waiver of any right, power or remedy under this agreement must be in writing signed by the party granting it. A waiver is only effective in relation to the particular right, power or remedy in respect of which it is given. It is not to be taken as an implied waiver of any other right, power or remedy or as an implied waiver of that right, power or remedy in relation to any other occasion.

## 22.7 Applicable law

- (a) This agreement is governed by and must be construed in accordance with the laws of the Nominated State.
- (b) The parties submit irrevocably to the non-exclusive jurisdiction of the Courts of the Nominated State and all Courts competent to hear appeals from those Courts.

## 22.8 Fees and charges

- (a) Each party must bear its own costs for the preparation, execution, delivery and performance of this agreement.
- (b) Unless otherwise agreed, all stamp duties and registration fees paid relating to the registration and performance of this agreement, and of all other documents arising out of this agreement will be paid by COB.

## 22.9 Counterparts

This agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed is deemed an original but all of which together constitute one and the same instrument.

## Reference Schedule

Item 1	<b>Approvals Period (clause 2.3)</b>	30 June 2017, or such other date as the parties may agree.
Item 2	<b>Budget Preparation Date (clause 9.1(a))</b>	15 May in each Year
Item 3	<b>Conditions Precedent (clause 2.3)</b>	<ol style="list-style-type: none"> <li>1. The execution of the Management Services Agreement by the date which is ninety (90) days following the Execution Date; and</li> <li>2. COB achieving a successful listing of quoted securities on the ASX via an initial public offering which is sufficient to enable COB to meet its Earning Obligations under this agreement by 31 March 2017 or such other date as the parties may mutually agree in writing</li> </ol>
Item 4	<b>Contract Limit (clause 9.2(b))</b>	\$50,000
Item 5	<b>Management Fee (clauses 1.1 and 7.3)</b>	An amount to be agreed between the parties that is reflective of a reasonable, market-driven, arms-length monthly commercial fee for the performance of mining services similar to the services to be provided under the Management Services Agreement, and being an amount which is intended to reimburse, the Manager for its indirect or overhead costs which it, or its Related Bodies Corporate, incur in providing corporate, administration and other services for the Joint Venture, inclusive of a ten percent (10%) margin.
Item 6	<b>Minerals(s) (clause 1.1)</b>	Cobalt, subject to the Mineral Reservation Principles.

Item 7	<b>Minimum Interest (clause 1.1)</b>	5% Joint Venture Interest.
Item 8	<b>Mining Act</b>	Mining Act 1992 (NSW)
Item 9	<b>Nominated State (clause 1.1)</b>	New South Wales
Item 10	<b>Passmark (clause 1.1)</b>	A Percentage Share of Joint Venturers entitled to vote which is equal to not less than 51%.
Item 11	<b>Matters requiring a unanimous vote (clause 1.1 and 6.5(c))</b>	<ol style="list-style-type: none"> <li>1. The incurring of capital expenditures or any liability over AUD 100,000 where such expenditure or liability falls outside of an Approved Programme and Budget;</li> <li>2. A Decision to Mine, but only where the proposed decision would be for the development of a mine with a production profile that is less than the production profile supported by the Bankable Feasibility Study (otherwise, a Decision to Mine may be made by COB in its absolute discretion);</li> <li>3. Extensions of the Earning Period (or any staged part of the Earning Period);</li> <li>4. Suspension or termination of Joint Venture Activities for any reason, including extended Force Majeure;</li> <li>5. Sale or disposition of any item of Joint Venture Property exceeding AUD100,000 and which is material to the operation of the Joint Venture;</li> <li>6. Surrender of the whole or any part of the Tenements (or any of them) except as may be necessary for minor boundary adjustments, or as may be required under the Mining Act;</li> <li>7. Granting of security or any Encumbrance over the Tenements (or any of them);</li> <li>8. Agreement on the scope and standard required for completion of the Scoping Study, Pre-feasibility Study</li> </ol>

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and Bankable Feasibility Study;

9. Agreement on the identity of appropriately qualified independent consultants to be appointed to prepare the Scoping Study, Pre-feasibility Study and Bankable Feasibility Study; and
10. Any other matter which is specified elsewhere in this agreement as requiring a Unanimous Vote.

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**Item 12 Year (clause 1.1)** a period of 12 calendar months commencing on and including the 1st day of July and ending on and including the following 30<sup>th</sup> day of June

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## Schedule 1 List of Tenements as at the Commencement Date

No.	Name	Status	Reg. Holder	Area (ha or units applicable)	Division	Region	Grant date	Expiry date
ML86	N/A	Granted	BHPL	205.9 ha	Broken Hill	Western	5/11/75	4/11/17
ML87	N/A	Granted	BHPL	101.2 ha	Broken Hill	Western	5/11/75	4/11/17
EL6622	N/A	Granted	BHPL	17 units	Broken Hill	Western	30/8/06	29/8/17
EL8143	N/A	Granted	BHPL	4 units	Broken Hill	Western	26/7/13	26/7/17
ELA5319	N/A	Application	BHPL	14 units	Broken Hill	Western	13/7/16 (Application Date)	N/A



## Schedule 2 Expenditure

### 1. Introduction

---

- (a) It is the intent of this Schedule 2 that, except as otherwise provided by this agreement, the Manager does not gain or lose by reason of its duties and responsibilities pursuant to this agreement.
- (b) Nothing in this Schedule 2 may be interpreted as:
  - (i) relating to the tax accounting of any party or of any joint venture or undertaking including such parties or any of them; or
  - (ii) an election by a party with respect to a matter under the tax laws or other laws of the jurisdiction to which a party may be subject or an election with respect to any method of accounting for the purpose of reporting to government or an election for any other purpose.

### 2. Definitions

---

Terms used in this Schedule 2 have the same meanings as defined in the agreement to which Schedule 2 is annexed and in addition:

**Expenditure** means expenditure in respect of the Exploration, Scoping Study, Pre-feasibility Study and Bankable Feasibility Study phases of the Joint Venture and includes:

- (a) salaries, wages and on costs of the Manager's employees engaged in Joint Venture Activities including the cost of:
  - (i) annual leave (including leave loading), sick leave, public holidays, long service leave and other benefits, assessments and obligations paid by agreement or required to be paid by law;
  - (ii) all taxes (including fringe benefits tax and payroll tax), workers' compensation and common law insurance in connection with such employees; and
  - (iii) payments for employee group life insurance, medical/dental services/hospitalisation, superannuation, pension, and other benefits of like nature all on a pro rata basis for the time such employees are engaged in performing Joint Venture Activities;
- (b) indirect administration and support services, comprising managerial, administrative, secretarial, legal, accounting and personnel services, to be taken to be an amount equal to **ten percent (10%)** of total Expenditure excluding the items specified in this paragraph (b);

- (c) payments for provision of the Manager's senior staff and technical services staff at an appropriate hourly or daily all inclusive rate;
- (d) reasonable travel and living expenses (other than as charged under paragraph (b)) of the Manager's employees and contract personnel whilst away from their regular place of employment all on a pro rata basis for the time they are engaged in performing Joint Venture Activities;
- (e) charges for provision of items of equipment from the Manager's machinery pool which charges include depreciation, licensing, insurance and repairs (but not routine maintenance nor fuel, each of which is to be separately charged to the Joint Venture) such charges being no more than the usual commercial rental rate for such items in the area in which they are being used;
- (f) purchase (or depreciation, as appropriate), lease or hire of buildings, vehicles, plant and equipment used in Joint Venture Activities except for items provided from the Manager's machinery pool;
- (g) routine maintenance of all buildings, machinery, plant and equipment (including the Manager's machinery pool items) used in Joint Venture Activities and repairs, insurance and licensing of all buildings, machinery, plant and equipment other than the Manager's machinery pool items, in accordance with usual reasonable accounting practices;
- (h) premiums paid on insurance effected pursuant to this agreement and all damages paid in settlement of claims and costs not recovered from insurers;
- (i) provision of accommodation and food in connection with field operations, camp establishment, field office costs, first aid and safety costs;
- (j) costs incurred in complying with environmental protection and rehabilitation requirements imposed by an Authority, by law or pursuant to the conditions on which the Tenements are held;
- (k) the cost of all consumables and expendable supplies, materials and stores, including fuel, oil, light, power, water, gas, field office supplies and tools;
- (l) the cost of all freight and transport for or in connection with Joint Venture Activities, including transport of the Manager's machinery pool items to and from the JV Area;
- (m) payments made to, or in respect of, contract personnel engaged in Joint Venture Activities including drilling, assaying, surveying, and geo-scientific tasks;
- (n) costs of consultants engaged in Joint Venture Activities including legal and accounting fees and the cost of the Auditor; and
- (o) any other cost or expense specified in this agreement as Expenditure, or which the parties agree to treat as Expenditure;

PROVIDED THAT where any of the above facilities or services are used not only for Joint Venture Activities but also for unrelated operations of the Manager the costs must be adjusted on a pro-rata basis on the proportion of time such facilities or services are used for Joint Venture Activities.

## Schedule 3      Dilution Provisions – Optional and Default Dilution

Terms used in this Schedule 3 have the same meanings as defined in the agreement to which this Schedule 3 is scheduled.

### 1.      Dilution Notice

---

So long as no notice of a Buy-Out Election has been given, the Joint Venturer Interest of a Joint Venturer may be reduced and diluted in either of the following circumstances, whereupon the Joint Venturer becomes a **Diluting Joint Venturer**:

- (a) If, within fourteen (14) days of the adoption by the Management Committee of an Approved Programme and Budget (but only in respect of Approved Programmes and Budgets that are not adopted within the Earning Period), and not otherwise, a Joint Venturer gives notice to the other Joint Venturers and the Manager that it does not wish to contribute to Joint Venture Activities pursuant to that Approved Programme and Budget (**Optional Dilution Notice**) for the purposes and duration of that Approved Programme and Budget; or
- (b) If a Defaulting Joint Venturer fails to remedy a Breach Default Event or an Unpaid Moneys Default Event within the period required by this agreement, upon all the Non-Defaulting Joint Venturers giving notice to the Defaulting Joint Venturer that they require its Joint Venture Interest to be reduced and diluted specifying the relevant Default Event which has not been remedied (**Default Dilution Notice**),

provided that:

- (c) a Joint Venturer may not give an Optional Dilution Notice in respect of an Approved Programme and Budget for Joint Venture Expenditure:
  - (i) for an Emergency, environmental protection or Rehabilitation Obligations; or
  - (ii) which is required to meet obligations lawfully prescribed by an Authority or by Law including maintenance of the Tenements in good standing and to keep other Joint Venture Property in good condition.

### 2.      Effect of Dilution Notice

---

Upon an Optional Dilution Notice or a Default Dilution Notice being given, the Diluting Joint Venturer is not obliged to make any further contribution to that Approved Programme and Budget and its Joint Venture Interest must be reduced in accordance with the following formula (**Dilution Formula**), with the Joint Venture Interest of each other Joint Venturer which is not a Diluting Joint Venturer (**Non-Diluting Joint**

**Venturer**) increasing pro-rata in the proportion that their respective Percentage Shares bear to each other:

$$JVI = \frac{DE}{TE} \times 100$$

Where:

- JVI = the ongoing Joint Venture Interest of the Diluting Joint Venturer after the Dilution Notice;
- DE = the total Joint Venture Expenditure actually incurred by the Diluting Joint Venturer up to the date of the Dilution Notice, plus Historical Expenditure deemed to have been incurred by the Diluting Joint Venturer; and
- TE = the total Joint Venture Expenditure actually incurred by all Joint Venturers up to the date of the calculation, plus Historical Expenditure deemed to have been incurred by all the Joint Venturers.

For the purpose of the calculation of DE and TE, the following amounts are deemed to be included in DE or TE in the Dilution Formula, as **Historical Expenditure** for each Joint Venturer, as applicable:

- (a) The Execution Payment; and
- (b) If a Joint Venturer is the Assignee of a Joint Venture Interest, the amount of Called Sums actually paid after the Commencement Date by the Joint Venturer's predecessors in title to its Assigned Joint Venture Interest.

### 3. Recalculation of Joint Venture Interests

---

- (a) If a Dilution Notice has been received from or given to a Diluting Joint Venturer, then throughout the period of the applicable Approved Programme and Budget the Manager must recalculate the Joint Venture Interest of each Joint Venturer in accordance with the Dilution Formula and notify the Joint Venturers of their respective Joint Venture Interest:
  - (i) when the Joint Venture Interest of the Diluting Joint Venturer reduces by each multiple of [5] percentage points below its Joint Venture Interest immediately before the time at which it became a Diluting Joint Venturer;
  - (ii) when the Joint Venture Interest of a Diluting Joint Venturer reduces to the Minimum Interest or less;
  - (iii) immediately before each meeting of the Management Committee;
  - (iv) on request in writing by any Joint Venturer; and

- (v) every three (3) months as and from the date that the Non-Diluting Joint Venturers pay the first Called Sums after the Dilution Notice is given.
- (b) On request by a Joint Venturer, the Diluting Joint Venturer must within thirty (30) days of receiving the request, at its cost and expense:
  - (i) transfer to the Non-Diluting Joint Venturers sufficient Joint Venture Interest in the Tenements to give effect to the Dilution Notice and the Dilution Formula; and
  - (ii) execute and deliver all documents and pay all stamp duty and other transfer costs necessary to complete (and register, if required by the law of the Nominated State), the Assignment and transfer of the applicable Joint Venture Interest to the Non-Diluting Joint Venturers.

#### 4. Additional Called Sums

---

- (a) Within seven (7) days of receiving a Dilution Notice, the Manager must request additional Called Sums from the Joint Venturers in proportion to their respective Percentage Shares (other than the Diluting Joint Venturer) to replace the contributions not being made by the Diluting Joint Venturer.
- (b) Within fourteen (14) days of receiving a request for further Called Sums, a Joint Venturer (other than a Diluting Joint Venturer) may elect:
  - (i) to proceed with the Approved Programme and Budget and pay the additional Called Sums; or
  - (ii) not to contribute to the Approved Programme and Budget and give a Dilution Notice.

#### 5. Re-assessment of Programme and Budget

---

If a further Dilution Notice is given by another Joint Venturer, the Manager must, within fourteen (14) days of further Dilution Notice being given, call a meeting of the Management Committee to revise the Approved Programme and Budget. A Diluting Joint Venturer is entitled to vote at such meeting or any adjournment.

#### 6. Withdrawal of Dilution Notice

---

Upon an Approved Programme and Budget being revised or confirmed at a meeting of the Management Committee, a Diluting Joint Venturer may within fourteen (14) days of that meeting give notice to the Manager and the other Joint Venturers withdrawing any prior Dilution Notice thereby electing to pay all further Called Sums.

## Schedule 4 Dispute Resolution Process

### 1. Dispute Resolution Process

---

- (a) Where a Dispute arises between the parties, a party may give notice to the other parties initiating a Dispute Resolution Process in respect of the Dispute (Dispute Notice) which Dispute Notice must:
  - (i) state that the notice is given under this subclause;
  - (ii) describe the nature of the Dispute; and
  - (iii) nominate a representative of the party who is authorised to negotiate and settle the Dispute on the party's behalf.
- (b) **(Representative of other parties):** Each other party must within seven (7) days after receipt of a Dispute Notice nominate in writing to the other parties a representative authorised to negotiate and settle the Dispute on its behalf.
- (c) **(Negotiation by Representatives):** The parties' representatives must negotiate in good faith with a view to resolving the Dispute within twenty-one (21) days after the receipt of the Dispute Notice, (or such longer period as those representatives agree), failing which the Dispute must be immediately referred to the Chief Executive Officers of the parties.
- (d) **(Chief Executive Officers):** The Chief Executive Officers must negotiate in good faith with a view to resolving the Dispute within fourteen (14) days of the Dispute being referred to them (or such longer period as the Chief Executive Officers agree) failing which, the Dispute may be immediately referred by a party by notice to mediation or Expert determination under this agreement.

### 2. Mediation

---

Mediation of a Dispute must:

- (a) be conducted in the Nominated State by the person or body agreed to by the parties or, failing agreement within thirty-five (35) days after receipt of the Dispute Notice, as nominated by the President for the time being of the Law Society of the Nominated State on request by either party;
- (b) be conducted in accordance with such rules as may be agreed to by the parties or, failing agreement within thirty-five (35) days after receipt of the Dispute Notice, in accordance with the rules nominated by the person or body agreed or nominated to conduct the mediation;
- (c) be at the cost and expense of the parties equally (except that each party must pay its own advisers, consultants and legal fees and expenses) unless the parties otherwise agree;



- (d) if not earlier resolved, be continued for a period expiring on the date being fourteen (14) days after the nomination of the mediator (or such other period as the parties may agree) after which either party may at any time after that date seek Expert determination in accordance with this agreement or commence litigation proceedings in respect of the Dispute.

### 3. Dispute Resolution Process not to interrupt Joint Venture Activities

---

The parties must ensure that neither the commencement nor conduct of any Dispute Resolution Process, including mediation, or Expert determination, causes any interruption to Joint Venture Activities or to the performance by the parties of their respective obligations under this agreement, nor will it affect any of the time limits fixed in this agreement unless the performance of Joint Venture Activities or a party under this agreement is materially affected by the submission of the matter in dispute to arbitration, litigation or by the result of the litigation or arbitration.

### 4. Clause does not apply to matters where consent required

---

If this agreement refers to the parties reaching agreement on a matter or the consent of any party being given then, except where this agreement requires that consent or agreement is not to be unreasonably withheld or delayed, the Dispute Resolution Process cannot be used to resolve a dispute between the parties in relation to the reaching of that agreement or the giving of that consent.

## Schedule 5 Warranties and Acknowledgements

(Clause 4.5(b))

### 1. BHPL Warranties and Acknowledgements

---

BHPL gives the warranties and makes the acknowledgements in favour of COB set out below:

- (a) BHPL warrants as at the date of this agreement, for the benefit of COB, that
  - (i) it is the sole legal and beneficial owner of the Tenements, free of Encumbrances or claims by Third Parties, and
  - (ii) the Tenements are in good standing under the Mining Act and are not liable to cancellation or forfeiture for any reason.
- (b) BHPL covenants that it will not, during the Earning Period, permit the creation of any Encumbrance or sell, assign or otherwise deal with or dispose of the whole or any part of its interest in the Tenements, except in accordance with this agreement.
- (c) During the Earning Period, BHPL will not voluntarily relinquish acreage or surrender any other rights held under a Tenement. If BHPL is required to do so under the Mining Act it must first agree with COB the area of the Tenements to be surrendered to comply with the compulsory relinquishment provisions of the Mining Act.
- (d) COB may lodge a caveat to protect its interest under this agreement.

### 2. COB Warranties and Acknowledgements

---

COB gives the warranties and makes the acknowledgements in favour of BHPL set out below:

- (a) COB acknowledges that the Tenements are or may be subject to Native Title Rights or Native Title Claims.
- (b) COB covenants that, during the Earning Period, it will:
  - (i) keep the Tenements in good standing under the Mining Act (including satisfying expenditure obligations and paying all fees, rent, rates and other similar charges) for the duration of the Earning Period;
  - (ii) conduct all Exploration on the Tenements in accordance with good and generally accepted Australian exploration practice;

- (iii) provide BHPL with Exploration reports quarterly, including copies of all reports filed under the Mining Act;
- (iv) give an annual technical presentation to BHPL on the outcome of Exploration activities in the Tenements; and
- (v) not permit the creation of any Encumbrance or sell, assign or otherwise deal with or dispose of the whole or any part of its interest in the Tenements, except in accordance with this agreement.

## Schedule 6 Mineral Reservation Principles

1. BHPL retains the rights to all lead, zinc, copper, silver and gold contained within the area of the Tenements, to the extent that such base and precious metals are not contained within and do not otherwise intersect with economically mineable cobalt mineralisations within the Tenements (**BHPL Base and Precious Metals**).
2. COB retains the rights to:
  - (a) all cobalt; and
  - (b) all other co-products contained within host rock for all cobalt mineralisations within the area of the Tenements that are not BHPL Base and Precious Metals, including but not limited to pegmatite and feldspar ores (**COB Mineralisations**).
3. If BHPL wishes to explore for or mine BHPL Base and Precious Metals that intersect with or which are otherwise contained within COB Mineralisations (**Overlapping Products**), then it may do so on the following conditions:
  - (a) BHPL will only be entitled to access, explore for and mine Overlapping Products:
    - (i) with the prior written agreement of COB (not to be unreasonably withheld); and
    - (i) provided that the mining of the Overlapping Products:
      - A. is determined to be economic (acting reasonably); and
      - B. does not have any adverse logistical, cost or timing impacts on COB's right to explore and mine the COB Mineralisations.
  - (b) BHPL will be entitled to receive either:
    - (i) the net proceeds from the sale of the Overlapping Products; or
    - (ii) the Overlapping Products actually recovered from the Tenements,

but only after accounting for and meeting the full upfront capital and operating costs associated with their extraction, as agreed with COB or, in default of agreement, as determined by an independent Expert in accordance with the process set out in clause 18 of this agreement.

## Signing page

Executed as an agreement

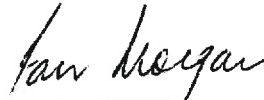
**Executed by Broken Hill Prospecting Limited ARBN 003 453 503** in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by:



Signature of Director

FRANCIS CREAGH O'CONNOR

Full name (print)

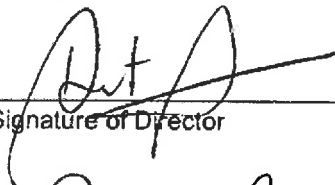


Signature of ~~Director~~/Company Secretary

IAN HENRY MORGAN

Full name (print)

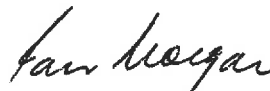
**Executed by Cobalt Blue Holdings Limited ACN 614 466 607** in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by:



Signature of Director

ROBERT BIANCARDI

Full name (print)



Signature of ~~Director~~/Company Secretary

IAN HENRY MORGAN

Full name (print)

# Amendment Deed

## Amending Exploration Farmin Joint Venture Agreement (Thackaringa)

Parties                      **Broken Hill Prospecting Limited ARBN 003 453 503 (BHPL)**

**Cobalt Blue Holdings Limited ACN 614 466 607 (COB)**

                                 (collectively in their capacity as **Joint Venturers**)

and                            **Cobalt Blue Holdings Limited ACN 614 466 607** (in its capacity  
as **Manager**)

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**THIS DEED** is made on 30 June 2017

**BETWEEN:**

- (1) **Broken Hill Prospecting Limited ARBN 003 453 503** of Level 10, 171 Clarence Street, Sydney NSW 2000 (**BHPL**); and
- (2) **Cobalt Blue Holdings Limited ACN 614 466 607** of Level 2, 66 Hunter Street, Sydney NSW 2000 (**COB**) (collectively in their capacity as **Joint Venturers**); and
- (3) **Cobalt Blue Holdings Limited ACN 614 466 607** of Level 2, 66 Hunter Street, Sydney NSW 2000 (**COB**) (in its capacity as **Manager**).

**RECITALS:**

- (A) The parties to this document are all the parties to the JV Agreement.
- (B) Clause 22.4 of the JV Agreement provides no modification, variation or amendment of this agreement is of any force unless it is in writing and has been signed by each of the parties
- (C) The parties wish to amend the JV Agreement in the manner set out in this document.

**THE PARTIES AGREE AS FOLLOWS:**

**1. INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this document.

**JV Agreement** means the document entitled "Exploration Farmin Joint Venture Agreement (Thackaringa)" dated 31 October 2016 between BHPL and COB (collectively in their capacity as Joint Venturers) and COB (in its capacity as Manager) as amended and/or amended and restated from time to time.

**1.2 Terms defined in the JV Agreement**

Terms that are not defined in clause 1.1 and that are defined in the JV Agreement (as amended by this document, and including by reference to one or more other documents) have the same meaning in this document.

**1.3 Rules for interpreting this document**

The provisions of clauses 1.2 of the JV Agreement (as amended by this document) apply, with the necessary changes, as if set out in full in this document.

**1.4 Multiple parties**

If a party to this document is made up of more than one person, or a term is used in this document to refer to more than one party:

- (a) an obligation of those persons<sup>3</sup> is joint and several;
- (b) a right of those persons is held by each of them severally; and
- (c) any other reference to that party or term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking is given by each of them separately.

**2. AMENDMENT**

**2.1 Amendments**

- (a) On and from the date of this document, the JV Agreement is amended as set out in Schedule 1 of this document.
- (b) The parties confirm and ratify the JV Agreement as amended by this document.
- (c) With effect on and from the date of this document, the JV Agreement (as amended by this document) is to be read as a single integrated document incorporating the amendments effected by this document.

## 2.2 **Amendments not to affect validity, rights and obligations**

- (a) The JV Agreement continues in full force and effect and remains enforceable against the parties to it in accordance with its terms.
- (b) Nothing in this document:
  - ⓐ prejudices or adversely affects any right, power or authority discretion or remedy arising under the JV Agreement before the date of this document;
  - ⓑ discharges, releases or otherwise affects any liability or obligation arising under the JV Agreement before the date of this document.

## 3. **REPRESENTATIONS AND WARRANTIES**

Each party represents and warrants that:

- (a) **(status)** it is a corporation validly existing under the laws of its place of incorporation;
- (b) **(power)** it has full legal capacity and power to enter into this document and to carry out the transactions that it contemplates;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into this document and its carrying out the transactions that it contemplates;
- (d) **(document effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration;
- (e) **(authorisations)** it holds each authorisation that is necessary or desirable to:
  - (i) execute this document and to carry out the transactions that it contemplates; and
  - (ii) ensure that this document is legal, valid, binding and admissible in evidence;
- (f) **(no contravention)** neither its execution of this document, nor the carrying out by it of the transactions that it contemplates, does or will:
  - (i) contravene any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
  - (ii) contravene any Authorisation;
  - (iii) contravene any undertaking or instrument binding on it or any of its property; or

- (iv) contravene its constitution;
- (g) **(no trust)** it is not entering into this document as trustee of any trust or settlement;
- (h) **(representations and warranties)** the representations and warranties made by it in the JV Agreement are true as though they had been made on the date of this document.

#### 4. **GENERAL**

##### 4.1 **Governing law**

This document is governed by the law in force in New South Wales.

##### 4.2 **Liability for expenses**

Each party is responsible for its own costs and expenses incurred in connection with:

- (a) the negotiation, preparation, execution, stamping and registration of this document; and
- (b) any amendment to, or any consent, approval, waiver, release or discharge of or under, this document.

##### 4.3 **Giving effect to this document**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this document.

##### 4.4 **Amendments to this document**

This document can only be amended, supplemented, replaced or novated by another document signed by the parties.

##### 4.5 **Counterparts**

This document may be executed in counterparts.

##### 4.6 **Attorneys**

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

## Amendments to JV Agreement

The JV Agreement is amended as follows:

### 1. Stage 1 Earning Period

Clause 3.1 is amended by replacing paragraph (d) as follows:

- “(d) In order for COB to retain the Stage 1 Percentage Share transferred to it in accordance with clause 3.1(b), then during the period commencing on the Commencement Date and ending no later than 1 April 2018 (**Stage 1 Earning Period**), COB must:
- (i) Complete prior to 30 June 2017 an Exploration program of works within the JV Area (with a minimum 'in ground' expenditure of AUD 2 million (inclusive of GST and in addition to the Execution Payment)) to define an Inferred /Indicated Mineral Resource of 54.5 million tonnes (to JORC 2012 standards), and give a notice to BHPL verifying the amount of Expenditure
  - (ii) Complete after 30 June 2017 a further Exploration program of works within the JV Area with a maximum 'in ground' expenditure of AUD 1,200,000 (inclusive of GST) to achieve an Indicated Resource of 40 million tonnes (to JORC 2012 standards) or such other tonnage as may be agreed unanimously by the Joint Venture Committee and give a notice to BHPL verifying the amount of Expenditure that COB has incurred on Exploration in the JV Area;
  - (iii) Spend not less than AUD 200,000 and not more than AUD 400,000 to undertake an aerial geophysical survey of the JV mining tenements in a form and with a scope agreed and approved by both parties to determine additional exploration targets and to obtain greater delineation of the geology of the existing mineral resources;
  - (iv) Give a notice to BHPL verifying the amounts of Expenditure under (d)(ii) and (d)(iii) that COB has incurred which amounts in the aggregate must be not less than AUD 1,400,000 and not greater than AUD 1,600,000; and
  - (v) Complete prior to 30 June 2017 a Scoping Study (to JORC 2012 standards),
- (Stage 1 Earning Obligations)."**

### 2. Stage 2 Earning Period

Clause 3.2 is amended by replacing paragraph (b) as follows:

“(b) In order to earn the Stage 2 Percentage Share, COB must have completed Stage 1 Earning Obligations during the period commencing on 1 July 2017 and ending no later than 30 June 2018 (**Stage 2 Earning Period**):

- (i) Complete, in addition to or concurrent with the works referred to in clause 3(d)(ii) and (iii), an approved exploration program of works within the JV Area (with a minimum Expenditure of AUD 2,500,000 (GST inclusive) and give a notice to BHPL verifying the amount of Expenditure that COB has incurred on Exploration in the JV Area; and
- (ii) Complete prior to 30 June 2018 a Pre-feasibility Study (to JORC 2012 standards)

**(Stage 2 Earning Obligations)."**

**EXECUTED** as a deed.

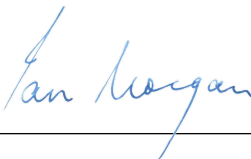
**EXECUTED** by **Broken Hill Prospecting Limited ARBN 003 453 503** in accordance with section 127 of the Corporations Act 2001:



Signature of director

F Creagh O'Connor

Name



Signature of director/secretary

Ian Morgan

Name

**EXECUTED** by **Cobalt Blue Holdings Limited ACN 614 466 607** in accordance with section 127 of the Corporations Act 2001:



Signature of director

Robert Biancardi

Name



Signature of director

Joe Kaderavek

Name