

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS  
OF ENGLAND AND WALES  
COMPANIES COURT (ChD)**

**CR-2020-000377**

**Mr Justice Fancourt**

**IN THE MATTER OF SIRIUS MINERALS PLC**

**- and -**

**IN THE MATTER OF THE COMPANIES ACT 2006**

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**ORDER**

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**UPON THE ADJOURNED APPLICATION** by Part 8 Claim Form issued on 29 January 2020 of the above-named Sirius Minerals Plc (the **Company**) (company number 04948435) whose registered office is situated at 3rd Floor Greener House, 68 Haymarket, London, United Kingdom, SW1Y 4RF

**AND UPON HEARING** Andrew Thornton, Counsel for the Company

*and Mr Gavin Palmer,  
a shareholder*

**AND UPON READING** the Claim Form and the evidence

**AND UPON** Anglo American Projects UK Limited appearing by Counsel for the Company, being its Counsel for this purpose, undertaking to be bound by the provisions of the Scheme of Arrangement hereinafter sanctioned in so far as it relates to Anglo American Projects UK Limited and to execute and do or procure to be executed and done all such documents, acts and things as may be necessary or desirable to be executed or done by it for the purpose of giving effect to the Scheme of Arrangement

**THIS COURT HEREBY SANCTIONS** the Scheme of Arrangement as set out in the Schedule to this Order

**AND IT IS ORDERED** that a copy of this Order be delivered to the Registrar of Companies

**Dated 13 March 2020**

**TUESDAY**



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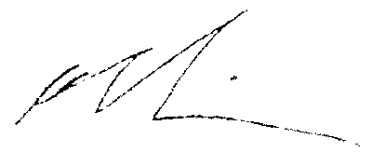
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COMPANIES HOUSE

**PART FOUR**  
**THE SCHEME OF ARRANGEMENT**



IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS  
OF ENGLAND AND WALES  
COMPANIES COURT (ChD)

CR-2020-000377

**IN THE MATTER OF SIRIUS MINERALS PLC**  
**and**  
**IN THE MATTER OF THE COMPANIES ACT 2006**

**SCHEME OF ARRANGEMENT**  
**(under Part 26 of the Companies Act 2006)**

**between**  
**SIRIUS MINERALS PLC**  
**and**  
**THE HOLDERS OF THE SCHEME SHARES**  
**(as defined below)**

**PRELIMINARY**

- (A) In this Scheme, unless inconsistent with the subject or context, the following expressions have the following meanings:

<b>Bidco</b>	Anglo American Projects UK Limited, a company incorporated in England and Wales with registered number 12366241;
<b>Bidco Group</b>	Bidco, its parent company and its subsidiary undertakings and, where the context permits, each of them;
<b>Business Day</b>	a day (other than Saturdays, Sundays and public holidays in the UK) on which banks are open for business in the City of London;
<b>CADE</b>	Brazil's Council for Economic Defence and its entities;
<b>certificated or in certificated form</b>	in relation to a Scheme Share, one which is not in uncertificated form (that is, not in CREST),
<b>Code</b>	the City Code on Takeovers and Mergers issued from time to time by the Panel;
<b>Companies Act</b>	the Companies Act 2006, as amended, modified, consolidated, re-enacted or replaced from time to time;
<b>Conditions</b>	the conditions to the implementation of the Scheme, as set out in Part A of Part Three ( <i>Conditions to and further terms of the Scheme and the Acquisition</i> ) of the Scheme Document;
<b>Court</b>	the High Court of Justice in England and Wales;
<b>Court Hearing</b>	the hearing of the Court at which the Court Order will be sought;
<b>Court Meeting</b>	the meeting of Scheme Shareholders (and any adjournment of such meeting) convened pursuant to an order of the Court pursuant to section

	896 of the Companies Act for the purpose of considering and, if thought fit, approving (with or without modification) this Scheme;
<b>Court Order</b>	the order of the Court sanctioning this Scheme under section 899 of the Companies Act;
<b>CREST</b>	the relevant system (as defined in the CREST Regulations) in respect of which Euroclear is the Operator (as defined in the CREST Regulations) for the paperless settlement of trades in securities and the holding of uncertificated securities;
<b>CREST Regulations</b>	the Uncertificated Securities Regulations 2001 (SI 2001/3755), as amended;
<b>CSOP</b>	the Sirius Minerals Plc Company Share Option Plan;
<b>Effective Date</b>	the date on which this Scheme becomes effective in accordance with clause 5.1;
<b>Euroclear</b>	Euroclear UK & Ireland Limited;
<b>Holder</b>	a registered holder and includes any person(s) entitled by transmission;
<b>IOS</b>	the Sirius Minerals Plc Incentive Option Scheme;
<b>Latest Practicable Date</b>	4 February 2020 (being the latest practicable date before the publication of the Scheme Document);
<b>Link Asset Services</b>	Link Asset Services, a trading name of Link Market Services Limited;
<b>Panel</b>	the UK Panel on Takeovers and Mergers, or any successor to it;
<b>Registrar of Companies</b>	the registrar of companies in England and Wales;
<b>SBIP</b>	the Sirius Minerals Plc Share Based Incentive Plan;
<b>Scheme</b>	this scheme of arrangement in its present form or with or subject to any modification, addition or condition which Sirius, Anglo American and Bidco each agree and which is approved or imposed by the Court;
<b>Scheme Document</b>	the circular dated 7 February 2020 sent by Sirius to Sirius Shareholders and persons with information rights, of which this Scheme forms a part;
<b>Scheme Effective Time</b>	the time on the Effective Date at which this Scheme becomes effective in accordance with clause 5.1;
<b>Scheme Record Time</b>	6.30 p.m. on the date the Court makes the Court Order;
<b>Scheme Shareholder</b>	a holder of Scheme Shares at any relevant date or time;
<b>Scheme Shares</b>	means together: <ul style="list-style-type: none"> <li>(a) the Sirius Shares in issue at the date of this Scheme and (where the context requires) which remain in issue at the Scheme Record Time;</li> <li>(b) any Sirius Shares issued after the date of this Scheme and before the Voting Record Time and (where the context requires) which remain in issue at the Scheme Record Time; and</li> <li>(c) any Sirius Shares issued at or after the Voting Record Time and before the Scheme Record Time on terms that the holder of such Sirius Shares shall be bound by this Scheme, or in respect of which the original or any subsequent holders of such Sirius Shares are, or shall have agreed in writing to be, bound by this Scheme and, in each case, (where the context requires) which remain in issue at the Scheme Record Time,</li> </ul> <p>excluding, in any case, any Sirius Shares (i) held in treasury, or (ii) registered in the name of, or beneficially owned by, Bidco, any member of the Bidco Group or their respective nominees;</p>

<b>Sirius</b>	Sirius Minerals Plc, a company incorporated in England and Wales with registered number 04948435;
<b>Sirius Shareholders</b>	the holders of Sirius Shares from time to time;
<b>Sirius Share Plans</b>	each of the following share plans of Sirius: the SBIP, the CSOP, the IOS and the USOP;
<b>Sirius Shares</b>	ordinary shares of 0.25 pence each in the capital of Sirius with ISIN GB00B0DG3H29;
<b>subsidiary undertaking</b>	has the meaning given in section 1162 of the Companies Act,
<b>uncertificated or in uncertificated form</b>	in relation to a Scheme Share, one which is recorded on the relevant register as being held in uncertificated form in CREST;
<b>UK or United Kingdom</b>	the United Kingdom of Great Britain and Northern Ireland;
<b>USOP</b>	the Sirius Minerals Plc Unapproved Share Option Plan; and
<b>Voting Record Time</b>	6.30 p.m. on the day which is two days (excluding any part of a day that is not a Business Day) before the date of the Court Meeting or any adjournment of it (as the case may be).

- (B) References to clauses, sub-clauses and paragraphs are to clauses, sub-clauses and paragraphs of this Scheme.
- (C) The issued share capital of Sirius as at the Latest Practicable Date was 7,020,196,560 ordinary shares of 0.25 pence each.
- (D) As at the Latest Practicable Date, no Sirius Shares are registered in the name of, or beneficially owned by, Bidco, any member of the Bidco Group or their respective nominees.
- (E) Bidco has, subject to the satisfaction or, where capable, waiver of the Conditions agreed to appear by Counsel at the Court Hearing and to undertake to the Court to be bound by the provisions of this Scheme in so far as it relates to Bidco and to execute and do or procure to be executed and done all such documents, acts and things as may be necessary or desirable to be executed or done by it to give effect to this Scheme.
- (F) References to times are to London (UK) time.
- (G) All references to £ and pence are to the lawful currency of the United Kingdom.

## THE SCHEME

### 1. Transfer of Scheme Shares

- 1.1 Upon and with effect from the Scheme Effective Time, Bidco (and/or its nominee(s)) shall acquire all the Scheme Shares fully paid with full title guarantee, free from all liens, equities, charges, encumbrances, rights of pre-emption and any other third party rights and interests of any nature, and together with all rights attaching or accruing to such Scheme Shares at the Scheme Effective Time or thereafter, including (without limitation) voting rights and the right to receive and retain, in full, (subject to sub-clause 2.4) all dividends and other distributions (if any), authorised, declared, made or paid or any other return of capital (whether by reduction of share capital or share premium account or otherwise) in respect of the Scheme Shares that is made or paid by Sirius by reference to a record date on or after the Scheme Effective Time.
- 1.2 For the purposes of such acquisition, the Scheme Shares shall be transferred to Bidco (and/or its nominees) and such transfer shall be effected by means of a form or forms of transfer or other instrument or instruction of transfer and, to give effect to such transfers, any person may be appointed by Sirius as attorney and/or agent, and is authorised as such attorney and/or agent, on behalf of the holder or holders concerned to execute and deliver as transferor a form of transfer or other instrument of transfer (whether as a deed or otherwise) of, or give any instructions to transfer (whether as a deed or otherwise), such Scheme Shares and every form, instrument or instruction of transfer so executed or instruction given shall be effective as if it had been executed or given by the holder or holders of the Scheme Shares transferred by it. Such instrument, form or instruction of transfer shall be deemed to

be the principal instrument of transfer and the equitable or beneficial interest in the Scheme Shares shall only be transferred to Bidco (and/or its nominee(s)), together with the legal interest in such Scheme Shares, pursuant to such instruction, form or instrument of transfer.

1.3 With effect from the Scheme Effective Time and until the register of members of Sirius is updated to reflect the transfer of the Scheme Shares pursuant to sub-clauses 1.1 and 1.2:

- (a) Bidco or its agents shall be entitled to direct the exercise of any votes and any or all other rights and privileges (including the right to requisition the convening of a general meeting of Sirius or of any class of its shareholders) attaching to any Scheme Shares;
- (b) each Scheme Shareholder irrevocably appoints Bidco (and/or any one or more of its directors or agents) as its attorney and/or agent to exercise on its behalf (in place of and to the exclusion of the relevant Scheme Shareholder) any voting rights attached to the Scheme Shares and any or all rights and privileges (including the right to requisition the convening of a general meeting of Sirius or of any class of its shareholders) attaching to the Scheme Shares;
- (c) each Scheme Shareholder irrevocably appoints Bidco and/or any one or more of its directors or agents to sign on behalf of such Scheme Shareholder any such documents, and do such things, as may in the opinion of Bidco and/or any one or more of its directors or agents be necessary or desirable in connection with the exercise of any votes or other rights or privileges attaching to the relevant Scheme Shares (including, without limitation, an authority to sign any consent to short notice of any general or separate class meetings of Sirius as attorney or agent for, and on behalf of, such Scheme Shareholder and/or to attend and/or execute a form of proxy in respect of its Scheme Shares appointing any person nominated by Bidco and/or any one or more of its directors or agents to attend any general and separate class meetings of Sirius (or any adjournment of any such meeting) and to exercise or refrain from exercising the votes attaching to the Scheme Shares on such Scheme Shareholder's behalf);
- (d) each Scheme Shareholder irrevocably authorises Sirius and/or its agents to send to Bidco at its registered office any notice, circular, warrant or other document or communication which may be required to be sent to a Scheme Shareholder as a member of Sirius in respect of such Scheme Shares (including any share certificate(s) or other document(s) of title issued as a result of conversion of their Scheme Shares into certificated form); and
- (e) each Scheme Shareholder irrevocably undertakes: (i) not to exercise any votes or any other rights attaching to the relevant Scheme Shares without the consent of Bidco; and (ii) not to appoint a proxy or representative for or to attend any general meeting or separate class meeting of Sirius,

such that from the Scheme Effective Time, no Scheme Shareholder shall be entitled to exercise any voting rights attached to the Scheme Shares or (subject to sub-clause 2.3) any other rights or privileges attaching to the Scheme Shares.

## **2. Consideration for the transfer of Scheme Shares**

2.1 In consideration for the transfer of the Scheme Shares to Bidco (and/or its nominee(s)) referred to in sub-clause 1.1, Bidco shall, subject to the provisions of this clause 2, pay or procure that there shall be paid to or for the account of each Scheme Shareholder (as appearing on the register of members of Sirius at the Scheme Record Time) an amount of 5.50 pence in cash for each Scheme Share held by such Scheme Shareholder at the Scheme Record Time.

2.2 Subject to sub-clause 2.4, if any dividend, distribution or return of capital is authorised, declared, made or paid by Sirius in respect of a Sirius Share before the Effective Date, Bidco reserves the right to reduce the value of the consideration payable for each Scheme Share by up to the amount per Scheme Share of such dividend, distribution or other return of capital (as the case may be) which has been authorised, declared, made or paid, except where the Scheme Share is, or will be, acquired pursuant to the Scheme on a basis which entitles Bidco to receive such dividend, distribution or return of capital (as the case may be) and to retain it.

2.3 If Bidco exercises the right referred to in sub-clause 2.2 to reduce the consideration payable by Bidco for each Scheme Share by all or part of the amount of the dividend, distribution or return of capital (as the case may be), then: (a) Scheme Shareholders shall be entitled to receive and retain that dividend, distribution or return of capital in respect of the Scheme Shares they hold; (b) any reference

in this Scheme to the consideration payable under the Scheme shall be deemed to be a reference to the consideration as so reduced; and (c) the exercise of such right shall not be regarded as constituting any revision or variation of the terms of this Scheme.

- 2.4 If and to the extent that any such dividend, distribution or other return of capital is authorised or declared and it is cancelled before the Effective Date, the consideration payable under the Scheme shall not be reduced under sub-clause 2.3.
- 2.5 No amounts of cash of less than one penny shall be paid to any Scheme Shareholder pursuant to this Scheme and the aggregate amount of cash to which a Scheme Shareholder shall be entitled under sub-clause 2.1 shall be rounded down to the nearest penny. For the purposes of determining fractional entitlements, each portion of a Scheme Shareholder's holding which is recorded in the register of members of Sirius by reference to a separate designation at the Scheme Record Time, whether in certificated or uncertificated form, shall be treated as a separate holding.

**3. Share certificates and cancellation of CREST entitlements**

With effect from, or as soon as practicable after, the Scheme Effective Time:

- (a) all certificates representing Scheme Shares shall cease to have effect as documents of title to the Scheme Shares comprised in the certificates and every Scheme Shareholder shall be bound at the request of Sirius to deliver up the same to Sirius (or any person appointed by Sirius to receive them), or, as it may direct, to destroy the same;
- (b) Sirius shall procure that entitlements to Scheme Shares held within CREST are disabled and Euroclear is instructed to cancel or transfer the entitlements of Scheme Shareholders to Scheme Shares in uncertificated form and (if necessary) that entitlements to such Scheme Shares are rematerialised; and
- (c) subject to completion and delivery of any form or forms of transfer or other instrument or instruction of transfer as may be required in accordance with sub-clause 1.2 and the payment of any stamp duty on them, Sirius shall make, or procure to be made, appropriate entries in the register of members of Sirius to reflect the transfer of the Scheme Shares to Bidco (and/or its nominee(s)).

**4. Settlement**

- 4.1 No later than 14 days after the Effective Date (or such other period as may be agreed between Sirius and Bidco and approved by the Panel), Bidco shall, subject to sub-clause 4.6:
- (a) in the case of the Scheme Shares which at the Scheme Record Time are in certificated form, despatch, or procure the despatch of, to the persons entitled to them in accordance with the provisions of sub-clause 4.2, cheques for the sums payable to them respectively in accordance with sub-clause 2.1; and
- (b) in the case of the Scheme Shares which at the Scheme Record Time are in uncertificated form, procure that Euroclear is instructed to create an assured payment obligation in favour of the payment bank of the persons entitled to the sums payable in accordance with sub-clause 2.1 and in accordance with the CREST assured payment arrangements, provided that Bidco shall be entitled to make payment of the consideration by cheque or electronic payment as aforesaid in sub-clause 4.1(a) if, for any reason, it is not able to effect settlement in accordance with this sub-clause 4.1(b).
- 4.2 All deliveries of cheques pursuant to this Scheme shall be effected by sending the same by first class post (or by international standard post, if overseas) in pre-paid envelopes addressed to the persons entitled to them at their respective registered addresses as appearing in the register of members of Sirius at the Scheme Record Time (or in the case of any joint holders, at the address of the joint holder whose name stands first in the register of members of Sirius in respect of such joint holding at the Scheme Record Time) and none of Sirius, Bidco or their respective agents or nominees or Link Asset Services shall be responsible for any loss or delay in the transmission of any cheques sent in accordance with this sub-clause 4.2 which shall be sent at the risk of the person or persons entitled to them.
- 4.3 All cheques shall be in Sterling drawn on a branch of a UK clearing bank and shall be made payable to the Scheme Shareholder concerned, or, in the case of joint holders, the joint holder whose name stands first in the register of members of Sirius in respect of such joint holding at the Scheme Record

Time (save that, in the case of joint holders, Bidco reserves the right to make the cheque payable to all joint holders), and the encashment of any such cheque shall be a complete discharge of Bidco's obligation under this Scheme to pay the monies represented by such cheques.

- 4.4 In the case of Scheme Shareholders that have not encashed cheques within six months from the Effective Date, the consideration due to such Scheme Shareholders under the Scheme shall be remitted to Sirius within seven months and two weeks from the Effective Date to be held by it on trust for such Scheme Shareholders (subject to the legal requirements of any jurisdiction relevant to such Scheme Shareholders) and Sirius shall procure that a notification is sent to such Scheme Shareholders at their addresses as appearing in the register of members at the Scheme Record Time. Sirius shall (subject to the legal requirements of any jurisdiction relevant to such Scheme Shareholders) hold the consideration due to such Scheme Shareholders on trust for a period of 12 years from the Effective Date, in a separate, interest-bearing UK bank account established solely for that purpose, and such Scheme Shareholders may (subject to the legal requirements of any jurisdiction relevant to such Scheme Shareholders) claim the consideration due to them (plus any interest accrued on such consideration, but net of any expenses or taxes) by written notice to Sirius in a form which Sirius determines evidences their entitlement to such consideration at any time during the period of 12 years from the Effective Date.
- 4.5 In respect of payments made through CREST, Bidco shall procure that Euroclear is instructed to create an assured payment obligation in accordance with the CREST assured payment arrangements. The creation of such an assured payment obligation shall be a complete discharge of Bidco's obligation under this Scheme with reference to the payments made through CREST.
- 4.6 In the case of any Scheme Shares issued or transferred under the Sirius Share Plans after the Court Order is made and before the Scheme Record Time, Bidco may satisfy the consideration due to the relevant Scheme Shareholders in respect of such Scheme Shares under sub-clause 4.1 by the payment to Sirius (or any of its subsidiary undertakings or otherwise at its or their discretion) of the aggregate consideration in respect of such Scheme Shares by no later than 14 days after the Effective Date, by such method as may be agreed with Sirius, and Sirius shall procure that any such sums paid to it (or any of its subsidiary undertakings or otherwise at its or their discretion) are paid to the relevant Scheme Shareholders through the payroll of the relevant Scheme Shareholders' employing company as soon as practicable and subject to all deductions or withholdings required by law (including applicable exercise price, income taxes and social security contributions or their equivalent in any jurisdiction).
- 4.7 The preceding paragraphs of this clause 4 shall take effect subject to any prohibition or condition imposed by law.

## **5. Effective time**

- 5.1 This Scheme shall become effective upon a copy of the Court Order being delivered to the Registrar of Companies.
- 5.2 Unless this Scheme has become effective on or before 30 April 2020 or, if CADE do not consider that the application form is eligible for the fast-track review procedure, 18 June 2020 or such later date as may be agreed in writing by Bidco and Sirius (with the Panel's consent and as the Court may approve (if such approval(s) are required)), this Scheme shall never become effective.

## **6. Modification**

Sirius, Anglo American and Bidco may jointly consent on behalf of all persons concerned to any modification of or addition to this Scheme or to any condition which the Court may approve or impose. Any such modification or addition shall require the consent of the Panel where such consent is required under the Code.

## **7. Governing law**

This Scheme is governed by the laws of England and Wales and is subject to the jurisdiction of English courts. The rules of the Code will apply to this Scheme on the basis provided in the Code.

Dated: 7 February 2020