



Registration of a Charge

Company name: **NORTH RIVER RESOURCES PLC**

Company number: **05875525**



X8Z38YSX

Received for Electronic Filing: **18/02/2020**

Details of Charge

Date of creation: **13/02/2020**

Charge code: **0587 5525 0004**

Persons entitled: **CL VENTURES LUX S.A.R.L.**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) .

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5875525

Charge code: 0587 5525 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 13th February 2020 and created by NORTH RIVER RESOURCES PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th February 2020 .

Given at Companies House, Cardiff on 19th February 2020

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

**AGREEMENT FOR THE
CESSION AND PLEDGE OF SHARES AND CLAIMS**

Entered into and dated

on 13 February 2020

between

NORTH RIVER RESOURCES PLC

A company duly incorporated under the
laws of England and Wales, with registration number 05875525
6th Floor, 60 Gracechurch Street, London, EC3V 0HR
(hereinafter referred to as the "**Pledgor**")

and

CL VENTURES LUX S.A.R.L.

A company duly incorporated under the
laws of Luxembourg, with registration number B221056
534 rue de Neudorf, L2220, Luxembourg
(hereinafter referred to as the "**Lender**")

and

WEST AFRICA GOLD EXPLORATION (NAMIBIA) (PROPRIETARY) LIMITED

A company duly incorporated under the
laws of Namibia, with registration number 96/467
c/o Grant Thornton Commercial Services Close Corporation, 12th Floor,
Sanlam Centre, 145-157 Independence Avenue, Windhoek, Republic of Namibia
(hereinafter referred to as the "**Company**")

I certify that, save for material
redacted pursuant to s.859G
of the Companies Act 2006,
this copy instrument is a correct copy
of the original instrument.

Norton Rose Fulbright LLP
Sign & Dated 14 February 2020

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PREAMBLE

- (A) On 10 December 2019, the Pledgor, as borrower, entered into a facility agreement (the "**Facility Agreement**") with the Lender in terms whereof the Lender makes available to the Pledgor a US Dollar term loan facility in an amount equal to the Commitment, as defined in the Facility Agreement
- (B) It is a term and condition of the Facility Agreement that the Pledgor executes a first-ranking cession and pledge in respect of all the shares of the Company held by the Pledgor in, and all shareholder loans from the Pledgor to, the Company in favour of the Lender.

1. DEFINITIONS AND INTERPRETATION

1.1. Unless the context otherwise requires, terms defined in the Facility Agreement but not in this Agreement shall have the same meanings in this Agreement as in the Facility Agreement. In addition, in this Agreement the words and expression set forth below, shall bear the following meanings and cognate expressions shall bear corresponding meanings:

1.1.1. **"Agreement"** means this Agreement including any annexes and schedules hereto, if any;

1.1.2. **"Cession"** means the cession *in securitatem debiti* as set out in this Agreement and more specifically clause 2.1 hereunder;

1.1.3. **"Claims"** means in relation to the Pledgor, its current and future claims of whatsoever nature against the Company, whether in the form of shareholder loans, intercompany loans or any other form of credit provided or otherwise, together with the benefit of any security interest given to the Pledgor in respect of those claims;

1.1.4. **"Companies Act"** means the Namibian Companies Act 28 of 2004, as amended from time to time;

1.1.5. **"Documents of Title"** means

- (a) the original share certificates in respect of the Shares;
- (b) share transfer forms (Form CM42 or similar forms required under the Companies Act) in respect of the Shares duly signed by the Pledgor as transferor, left blank as to transferee, and undated; and
- (c) power of attorney authorising the Lender to fill in the dates, blanks and required information on the document set out in (b) above on behalf of the Pledgor following the enforcement of the Pledge and Cession in accordance with this Agreement;

1.1.6. **"Encumbrance"** means

- (a) any mortgage, pledge, lien or cession conferring security, hypothecation, security interests, preferential right or trust arrangement or other encumbrance securing any obligation of any persons;
- (b) any arrangement under which money or claims to, or the benefit of, a bank account or other account may be applied, set off or made subject to a combination of accounts so as to effect discharge of any sum owed or payable to any person; or

- (c) any other type of preferential agreement or arrangement (including any title transfer and retention arrangement), the effect of which is the creation of security,

and "**Encumber**" shall have a corresponding meaning;

1.1.7. "**Event of Default**" has the meaning given to it in clause 1 (*Definitions and Interpretation*) of the Facility Agreement;

1.1.8. "**Finance Documents**" has the meaning given to it in clause 1 (*Definitions and Interpretation*) of the Facility Agreement;

1.1.9. "**Legal Reservations**" means:

- (a) the limitation of enforcement by the laws of Namibia relating to insolvency, reorganisation and other laws generally affecting the rights of creditors; and
- (b) the time barring of claims under the Prescription Act 68 of 1969 of Namibia.

1.1.10. "**Obligors**" has the meaning given to it in clause 1 (*Definitions and Interpretation*) of the Facility Agreement;

1.1.11. "**Parties**" means the Pledgor, the Lender and the Company, and "**Party**" shall mean any one of them as indicated by the context;

1.1.12. "**Pledge**" means the pledge of the Secured Property as set out in this Agreement and more specifically clause 2.1 hereunder;

1.1.13. "**Rights and Interests**" means all of the Pledgor's rights of any nature, whatsoever, and interest of any nature whatsoever in the Shares and in the Claims, whether present or future, actual or contingent, direct or indirect, whether a claim to the payment of money or to the performance of any other obligation, and whether or not the said Rights and Interests were within the contemplation of the Parties at the Signature Date, and whether derived by way of redemption, bonus, preference, option, substitution, conversion or otherwise; and all claims of whatsoever nature and howsoever arising which the Pledgor at present has, and may from time to time have in the future, against the Company, including but without limitation, any claim which the Pledgor may from time to time have against the Company in respect of monies owing by such company to the Pledgor under the Pledgor's loan account (if any), as well as in respect of any unpaid dividends, salaries, emoluments, or other remuneration or payments;

1.1.14. "**Secured Obligations**" means, in relation to the Pledgor, all present and future obligations, liabilities or indebtedness (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever, including any liability to pay damages or pursuant to enrichment) from whatsoever cause and howsoever arising which the Pledgor may now or at

any time hereafter owe or have towards the Lender under or in connection with, the Finance Documents (as may from time to time be amended, novated, supplemented, extended, restated or replaced (however fundamentally, including by a change of any of the parties, an increase of any size in the amount of the facility made available under the Facility Agreement or the alteration of the nature, purpose or period of such facility).

1.1.15. **"Secured Property"** means:

- (a) the Shares;
- (b) the Claims;
- (c) the Rights and Interests;

and all of the Pledgor's rights, title and interests in or to (a) or (b) and claims against any person in respect of (a) or (b), of whatsoever nature and howsoever arising (whether actual, prospective or contingent, direct or indirect, arising under common law or statute, whether a claim for the payment of money or the performance of another obligation and regardless of whether those rights and interests were within the contemplation of the Parties at the Signature Date) and, individually, any property forming part of (a) or (b);

1.1.16. **"Shares"** means, at any time, all issued shares in the Company of any class and nature held by the Pledgor, which at the Signature Date consist of 5,600,000 (five million six hundred thousand) ordinary par value shares of N\$1 (one Namibia Dollar) each; and

1.1.17. **"Signature Date"** means the date reflected on the first page of the Agreement.

1.1.18. **"Subordination Agreement"** means the subordination agreement dated 14 August 2019 entered into between the Pledgor and the Company.

1.2. Clause 1 (*Definitions and Interpretation*) of the Facility Agreement shall apply as if set out in full again here, with references to "this Agreement" being construed as references to this Agreement and with such other changes as are appropriate to fit the context.

1.3. The schedules to this Agreement, if any, form an integral part hereof and words and expressions defined in this Agreement shall bear, unless the context otherwise requires, the same meaning in such schedules. To the extent that there is any conflict between the schedules to this Agreement and the provisions of this Agreement, the provisions of this Agreement shall prevail.

1.4. The headings to the clauses and annexes to this Agreement are for reference purposes only and shall in no way govern or affect the interpretation of, nor modify nor amplify the terms of this Agreement, nor any clause or annexure hereof.

- 1.5. Where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the same meaning as ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause.
- 1.6. The rule of construction that, in the event of ambiguity, the contract shall be interpreted against the Party responsible for the drafting thereof (*contra proferentem*), shall not apply in the interpretation of this Agreement.
- 1.7. The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.8. The use of any expression in this Agreement covering a process available under Namibian law such as winding-up (without limitation *eiusdem generis*) shall, if any of the Parties to this Agreement is subject to the law of any other jurisdiction, be construed as including any equivalent or analogous proceedings under the law of such other jurisdiction.
- 1.9. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.10. This Agreement, and all rights, benefits, interests, obligations, liabilities and duties arising hereunder, shall be subject to the terms of the Subordination Agreement.
- 1.11. It is agreed that this Agreement is a Security Document and a Finance Document for the purposes of the Facility Agreement

2. PLEDGE AND CESSION

- 2.1. With effect from the Signature Date, and as security for the proper and timely payment and discharge of the past, present and future actual and contingent Secured Obligations, the Pledgor hereby pledges, and cedes *in securitatem debiti*, to the Lender all of the Secured Property.
- 2.2. Unless otherwise agreed by the Parties, this Agreement shall only terminate upon the unconditional and irrevocable fulfilment to the satisfaction of the Lender of all the Secured Obligations by the Pledgor. The Lender shall, at the request of the Borrower, notify the Pledgor in writing promptly following such fulfilment of all Secured Obligations.
- 2.3. The Lender hereby accepts the Pledge and Cession.
- 2.4. To the extent that this may be required by law, the Company hereby consents to the cession constituted in this clause 2, and agrees not to act in any manner contrary to the rights acquired by the Lender in terms of this Agreement.

- 2.5 The Pledge and Cession operate as a pledge and a cession of each part and all of the Shares and Secured Property, individually and collectively.
- 2.6 If, for any reason, any rights or Encumbrances intended to be created under this Agreement are or become illegal, invalid or unenforceable in respect of some of the Secured Property, the Pledge of those Shares and the Cession of that Secured Property shall be severed from this Agreement and this Agreement and all the rights and Encumbrances created over the remainder of the Shares and Secured Property shall continue in full force and effect.
- 2.7 The Cession created by this Agreement operates as a security cession and not as an outright cession and the Pledgor retains bare ownership of its Secured Property, subject to the rights of the Lender as secured creditor.
- 2.8 The Lender may at any time notify, or procure the notification of, any person against whom any of the Secured Property is enforceable of the existence of this Agreement and the Cession under this Agreement.
- 2.9 Notwithstanding any other provision of the Finance Documents, the Pledgor shall be or remain liable to perform all its duties and obligations, whether contractual or otherwise, in respect of its Secured Property and nothing in this Agreement or the exercise by the Lender of any right under the Finance Documents shall constitute or be deemed to constitute a delegation to or acceptance by the Lender of any such obligation of the Pledgor or any other person.

3. CONTINUING COVERING SECURITY

- 3.1 The Pledge and Cession referred to in 2.1 above shall be a continuing general covering security for the due, proper and timeous payment and performance in full of the Secured Obligations by the Pledgor, on the terms and conditions set out in this Agreement.
- 3.2 The Pledge and Cession created under this Agreement shall, subject to clause 2.2. above, remain in full force and effect, notwithstanding:-
- 3.2.1. any intermediate discharge or settlement of, or temporary fluctuation in, the Secured Obligations;
- 3.2.2. any reduction in the obligations or debts owing by the Pledgor under the Finance Documents;
- 3.2.3. any cancellation or termination of or any variation or amendment to any agreement or other undertaking for the time being in existence between the Pledgor and Lender and/or any other person, save for any cancellation or termination or release by the Lender of the Secured Obligations;
- 3.2.4. any variation or novation of Finance Documents (including any amendment providing for the increase in the amount of a facility or an additional facility under the Facility Agreement);

- 3.2.5. any indulgence which may be shown or given by the Lender to the Pledgor and/or any other person;
- 3.2.6. the receipt by the Lender of any benefit in any liquidation or judicial management proceedings, compromise or composition of the Pledgor or any other person;
- 3.2.7. the whole or partial release or abandonment of, or failure to acquire or perfect, any other security (including a release of any surety or other guarantor or of any mortgage, pledge, cession, lien or hypothec) by the Lender; or
- 3.2.8. any other fact or circumstance may arise on which the Pledgor may otherwise be able to rely on a defence based on prejudice, waiver or estoppel.

4. ADDITIONAL SECURITY

The Pledge and Cession shall be in addition to, independent of, and not in substitution for, any other security held or hereafter to be held by the Lender from any party, including the Pledgor, in connection with the Secured Obligations or otherwise.

5. WARRANTIES AND REPRESENTATION BY THE PLEDGOR

5.1. General

- 5.1.1. The Pledgor makes the representations and warranties set out in this clause 5 (*Warranties and Representations by the Pledgor*) to the Lender on each day that this Agreement is in force.
- 5.1.2. The Lender has entered into this Agreement and the Finance Documents on the strength of and relying on the representations and warranties set out in this clause 5 (*Warranties and Representations by the Pledgor*), each of which is a separate representation and warranty, given without prejudice to any other representation or warranty and is deemed to be a material representation or warranty (as applicable) inducing the Lender to enter into this Agreement and the Finance Documents.

5.2. Status

- 5.2.1. The Pledgor is a company incorporated under the laws of England and Wales and validly existing under those laws.
- 5.2.2. The Company is a company incorporated under the Companies Act and validly existing under Namibian law.
- 5.2.3. The Pledgor has the power to own its assets and carry on its businesses as they are currently being conducted and to enter into, and comply with its obligations under this Agreement.
- 5.2.3. No insolvency, administration, judicial management, reorganisation, arrangement, readjustment of debt, dissolution, liquidation or similar

proceedings have been taken against the Pledgor or the Company, nor is the Pledgor aware of any threat of such proceedings in respect of the Company.

5.3. *Powers and Authority*

- 5.3.1. The Pledgor has the power to enter into and perform in terms of this Agreement and the Agreement has been duly executed by the Pledgor.
- 5.3.2. No limit on its powers (including under the Pledgor's or the Company's constitutional documents or any shareholders' agreement entered into between the shareholders of the Company) will be exceeded as a result of this Agreement.
- 5.3.3. The Pledgor has taken all necessary corporate action and obtained all necessary approvals to authorise the entry into, performance, delivery validity and enforcement of, this Agreement and the transactions contemplated by this Agreement ("**Authorisations**").
- 5.3.4. No steps have been taken to revoke, adversely modify or cancel any Authorisation, and such Authorisations are not subject to any condition which the Pledgor does not expect to be satisfied.
- 5.3.5. If it is required to give notice to or obtain consents or waivers from any person to pledge the Shares and cede the Secured Property under this Agreement, all such notices have been given and consents or waivers obtained on or before the Signature Date.

5.4. *Legal Validity*

- 5.4.1. Subject to the Legal Reservations, this Agreement constitutes legal, valid and binding obligations for the Pledgor and the Company and the execution of this Agreement and the fulfilment of the Pledgor's obligations in accordance with the terms hereof do not contravene any applicable law, or any contractual obligations applicable to the Pledgor.
- 5.4.2. Subject to the Legal Reservations, this Agreement creates the security it purports to create, which security is not liable to be avoided or otherwise set aside on the liquidation, judicial management, administration or otherwise of the Company.

5.5. *Secured Property*

- 5.5.1. The Pledgor is and will remain the sole, legal and beneficial owner of and has full title to the Secured Property to the exclusion of all others and no person (other than the Lender) has a lien, an option or right of refusal over the Secured Property and there are no counterclaims against the Secured Property as to which a right of set-off or right of retention could be exercised.

5.5.2. Subject to the Legal Reservations, the Secured Property is and will be valid and all rights evidenced thereby or construed in respect thereof are and will be legally valid, binding and fully enforceable in accordance with their terms in all respects.

5.5.3. Other than pursuant to the Finance Documents, no part of the Secured Property has been pledged, ceded (either outright or as security), discounted, factored, mortgaged under notarial bond or otherwise, or otherwise disposed of or Encumbered, nor is it subject to any other right or claim in favour of any person (including any rights of pre-emption) which would apply on enforcement by the Lender of its rights under this Agreement. If any Secured Property is Encumbered in breach of this representation and warranty then, without prejudice to any other rights that the Lender may have, any reversionary or other interests which the Pledgor may have in the said Secured Property are also ceded to the Lender.

5.5.4. The Shares are fully paid up and have been issued and allotted by the Company to the Pledgor in accordance and compliance with all applicable laws.

5.6. *Governing Law and Jurisdiction*

Subject to the Legal Reservations:

5.6.1. the choice of Namibian law as the governing law of this Agreement will be recognised and enforced in its jurisdiction of incorporation;

5.6.2. the submission to the High Court of Namibia, Main Division - Windhoek in this Agreement will be recognised and enforced in its jurisdiction of incorporation; and

5.6.3. any judgment obtained in Namibia in relation to this Agreement will be recognised and enforced in its jurisdiction of incorporation.

6. **UNDERTAKINGS BY THE PLEDGOR**

6.1. *Noting and Notification of the Pledge and Cession*

By signing this Agreement, the Company confirms that it has received notification of the Cession and Pledge. The Pledgor and the Company undertakes to procure the noting of this Pledge and Cession in such registers as the Company is by law obliged to keep.

6.2. *Delivery of Notices and Communications*

The Pledgor shall notify the Lender in writing immediately on receiving or becoming aware of any claims raised by third parties, including any communication or request for attachments, or any other lien or claim, raised by any person, in relation to the Secured Property or any event whatsoever which may have a negative effect on the legal title or ownership of the Secured Property.

6.3. *Negative Pledge*

The Pledgor undertakes that, for as long as this Agreement is in force, the Pledgor will not alienate, realise, negotiate, transfer, pledge, cede or otherwise Encumber or deal with any of the Secured Property or purport to do so, except for the Pledge and Cession hereby established.

6.4. *Preservation of Secured Property*

- 6.4.1. The Pledgor undertakes not to take or omit to take any action that might adversely (directly or indirectly) affect the validity of the Pledge and Cession or its enforceability by the Lender.
- 6.4.2. The Pledgor undertakes to defend the Lender's right and security interest in and to the Secured Property against the claims of any person as far as it is reasonably within its powers.
- 6.4.3. The Pledgor undertakes at all times of not to do anything that would, or might reasonably be expected to, result in the Secured Property becoming subject to judicial attachments and other Encumbrances, shall not do anything that would, or might reasonably be expected to, prejudice or compromise the Secured Property and shall not grant any indulgences or agree to vary the terms of any document creating the Secured Property, without the prior written consent of the Lender.
- 6.4.4. The Pledgor undertakes timeously to comply in full with all its obligations in respect of the Secured Property, from time to time.
- 6.4.5. The Pledgor undertakes, as far as reasonably possible, not to allow any alteration to the authorised or issued share capital (including the issue of any new shares) of the Company or variation of the value or the rights relating to the Secured Property, unless so previously authorised in writing by the Lender or, in the case, of an issue of any new shares, such shares are issued subject to and in accordance with clause 6.5 (*Future Shares*) this Agreement.
- 6.4.6. If the Lender considers it reasonably necessary or desirable that the constitutional documents of the Company be amended to perfect the Pledge and Cession provided under this Agreement or to enhance its ability to sell and transfer Shares or Claims when the Lender is entitled to do so under this Agreement, the Pledgor must, on request and at its own cost, to the extent that it is within its power to do so, ensure that the constitutional documents of the Company are so amended.

6.5. *Future Shares*

The Pledgor agrees that the Cession includes all existing and future Shares and therefore undertakes and agrees, without delay, to notify (in writing) the Lender of the issue of any future shares (of whatever class or nature) it may obtain in the Company and simultaneously to deliver the Documents of Title in respect of those Shares as per

clause 7.2 (*Delivery of Documents and Other Authorisations*) below and furthermore undertakes not to waive or prejudice any rights of pre-emption in respect of such future shares.

6.6. *Assistance to the Lender*

The Pledgor undertakes to take all actions reasonably within its powers and to give the Lender all assistance that may be necessary in the opinion of the Lender or requested by the Lender in order (1) to ensure the perfection, protection or maintenance of the Cession and Pledge, (2) to enable the Lender to exercise and enforce its rights and remedies regarding the Cession and Pledge, and (3) otherwise to realise the purposes of this Agreement and the Finance Documents;

6.7. *Amounts Received on account of the Secured Property*

6.7.1. On the occurrence of an Event of Default that is continuing the Pledgor will forthwith pay over to the Lender any interest or other benefits of any nature which accrues to or is received by the Pledgor at any time prior to, upon and/or after an Event of Default in respect of the Secured Property by depositing the same into a nominated account as the Lender may from time to time direct in writing; provided that the Pledgor shall not be required to claw-back any amount received and subsequently applied by it if such amount has been applied in a manner which is not in contravention of the provisions of the Finance Documents.

6.7.2. Upon the occurrence of an Event of Default that is continuing, the Pledgor shall execute and do all such assurances, acts and things, including entering into any additional agreement or documentation as the Lender may require to give effect to any cession, delegation and/or transfer required in relation to any of the Secured Property under this Agreement.

7. DELIVERY OF DOCUMENTS AND OTHER AUTHORISATIONS

7.1. The Parties agree that execution and delivery of the Documents of Title by the Pledgor to the Lender shall be regarded as sufficient delivery for purposes of constituting the Cession and Pledge.

7.2. The Pledgor shall execute, sign and deliver the Documents of Title to the Lender:

7.2.1 in respect of all Shares held by the Pledgor on the Signature Date, upon the Signature Date; and

7.2.2 in respect of any Shares subsequently held by the Pledgor, upon the date such Shares are issued to, acquired or otherwise held by the Pledgor.

7.3. The Lender shall be entitled to retain possession of the Documents of Title and to deal with them in accordance with the provisions of this Agreement and the Finance Documents until all the Secured Obligations have been unconditionally, completely, irrevocably and finally, discharged or released, as the case may be, whereupon the Documents of Title shall be returned to the Pledgor and the security constituted by

this Agreement released in full within 10 (ten) business days of any request in writing from the Pledgor at the Pledgor's cost and expense.

- 7.4. In addition to the Documents of Title, the Pledgor shall sign and deliver to the Lender any other documents, in such form as the Lender may reasonably require, relating to the Secured Property to give effect to the Cession and Pledge or which the Lender may at any time reasonably require ("**Other Documents**"), which Other Documents shall be delivered to the Lender within a reasonable period, as agreed between the Pledgor and the Lender and, in any event, within 10 (ten) business days of request by the Lender, provided that upon the occurrence of an Event of Default that is continuing the Other Documents shall be signed and delivered by the Pledgor, as aforesaid, immediately upon demand by the Lender.
- 7.5. The Pledgor shall generally do everything that may be required by the Lender for the purpose of and to give effect to this Agreement and the Finance Documents, failing which the Lender may, if possible, attend thereto and recover from the Pledgor any expenses incurred in doing so.
- 7.6. All documents delivered to the Lender in terms of this clause 7 (*Delivery of Documents and Other Authorisations*) shall be delivered to ensure that the Lender has full, complete and up-to-date information relating to the Secured Property and evidence of the Pledgor's title to such Secured Property and, accordingly:
- 7.6.1. delivery of any such documents shall not constitute a novation or alteration of this Agreement;
- 7.6.2. the breach by the Pledgor of the obligation to deliver any document in terms of this clause 7 (*Delivery of Documents and Other Authorisations*) shall not affect the legality, validity or binding effect of the Cession and Pledge of the Secured Property embodied in this Agreement or affect, or in any manner infringe on the rights of the Lender under this Agreement; and
- 7.6.3. the Cession and Pledge of the Secured Property have been perfected and completed purely by virtue of the entry into this Agreement, and the delivery of the documents, or any of them, in terms of this clause 7 (*Delivery of Documents and Other Authorisations*), shall not be required to effect such completion or perfection of the Cession and Pledge of the Secured Property.

8. INDEMNITY

In addition to any other indemnities given elsewhere in this Agreement and those given in the Finance Documents, the Pledgor hereby absolves the Lender and its shareholders, officers, trustees, agents, beneficiaries, employees and advisors ("**Indemnified Parties**") absolutely from, and indemnify the Indemnified Parties against the loss, cost, liability, damage or expenses which the Indemnified Parties may suffer as a consequence, directly or indirectly, of the Lender:

- 8.1. lawfully exercising any of its rights set out and provided for herein; and/or

- 8.2. failing or omitting to take up or collect any rights, interest, monies, income and benefits under the Secured Property or to protect the Pledgor's interest in the Secured Property in any other way,

unless the aforesaid loss, cost, liability, damage or expenses arise solely from the gross negligence, willful misconduct or fraud of the Indemnified Parties.

9. RIGHTS, POWERS AND PRIVILEGES OF THE SECURED PROPERTY

- 9.1. This Agreement operates in respect of all rights, powers and privileges attaching to the Secured Property including, but not limited, to those set out in clause 9.2. below and such rights, power and privileges shall accordingly vest in the Lender with the power to exercise them either in its own name or the name of the Pledgor, during the occurrence of any Event of Default that is continuing. Alternatively, the Pledgor shall, if the Lender so directs, exercise its rights, power and privileges in its own name and in accordance with the Lender's discretions to the greatest extent permitted by applicable law.
- 9.2. Subject to clause 9.1. above, such rights, powers and privileges attaching to the Secured Property include, but are not limited to the following:
- 9.2.1. the right to receive payment of 100% (one hundred percent) of that portion of the dividends and other benefits and payments which become due in respect of the Secured Property from time to time;
 - 9.2.2. the right to receive notice of any general meeting of the Company, which is to be forwarded to the Lender just as if it was a Pledgor; and
 - 9.2.3. the right to attend every general meeting of the Company and to exercise the vote attaching to the Shares at such meeting.
- 9.3. Notwithstanding anything contained in this Agreement, it is agreed that until the occurrence of an Event of Default that is continuing, the Pledgor shall have the right and remain entitled to exercise any of the Rights and Interests (including, without limitation, their rights to receive and retain dividends, distributions and other payments to members/shareholders paid by the Company and the right to vote the Shares) for the Pledgor's benefit.
- 9.4. Notwithstanding the provisions of clauses 9.1. and 9.2. above, at any time prior to the unconditional and irrevocable fulfilment to the satisfaction of the Lender of all the Secured Obligations by the Pledgor pursuant to clause 2.2, the Pledgor shall require the prior written consent of the Lender to institute and prosecute any legal proceedings in respect of the Secured Property in its own name. If the Lender consents to such legal proceedings in writing, the Lender hereby authorises the Pledgor to institute and prosecute any legal proceedings in respect of the Secured Property in its own name. Upon the occurrence of an Event of Default that is continuing, the Lender may at any time before the close of pleadings during any such legal proceedings, by notice to the Pledgor:-
- 9.4.1. revoke this authority;

- 9.4.2. require that the relevant legal proceedings be instituted in the name of the Lenders (in its capacity as cessionary under this Agreement); or
- 9.4.3. impose such conditions in relation to the conduct of the relevant legal proceedings or the re-cession of the applicable Secured Property to the Cedents as it sees fit.
- 9.5. Unless the Lender revokes the authority given to the Pledgor under clause 9.4. above, the relevant Secured Property will be re-ceded to the Pledgor to the extent required in law to enable it to institute and prosecute the relevant legal proceedings in its own name.
- 9.6. The Pledgor undertakes to institute and prosecute all legal proceedings in respect of the Secured Property that may be re-ceded to it under this clause 9 (*Rights, Powers and Privileges of the Secured Property*) from time to time diligently and in good faith. If, for any reason, the Pledgor ceases to prosecute any such legal proceedings or if the Lender revokes the authority given to the Pledgor under this clause 9 (*Rights, Powers and Privileges of the Secured Property*) in relation to any Secured Property which has been re-ceded to the Pledgor, that Secured Property shall immediately (and without any further action or consent required from any person) be re-ceded to the Lender, subject to the terms of this Agreement.
- 9.7. The Pledgor, in addition to the provisions of clause 8 (*Indemnity*) above, hereby indemnifies the Lender against all costs and expenses (including legal fees) incurred by the Lender regarding any legal proceedings instituted or prosecuted by the Pledgor or any re-cession of any Secured Property pursuant to this clause 9 (*Rights, Powers and Privileges of the Secured Property*).

10. REALISATION

- 10.1. Subject to applicable law, during the occurrence of any Event of Default that is continuing, the Pledgor hereby irrevocably, unconditionally and *in rem suam* authorizes and empowers the Lender or its nominee, without any further authority or consent of any nature whatsoever required from the Pledgor, (including the obtaining of an order of court), and in the name of the Lender, its nominee or in the name of the Pledgor, and at the Lender's election:
 - 10.1.1. to exercise any or all the rights, including voting rights, attaching to the Shares, powers and privileges and enforce any or all obligations attaching to the Secured Property in such manner and on such terms as the Lender in its sole discretion deems fit;
 - 10.1.2. to receive payment for delivery of and/or performance in respect of the Secured Property in its own name;
 - 10.1.3. to sell or otherwise realise the Secured Property or any one of them, either by public auction or by private treaty, as the Lender in its sole and absolute discretion deems fit, and in the case of a private treaty, on reasonable notice to the Pledgor (to the extent required by law);

- 10.1.4. to take over the Secured Property (without prejudice to the rights of the Lender to purchase the same at any sale by public auction referred to above) for a fair market value at the date of default as determined by the Lender and, subject to the provisions of clause 11 (*Appropriation of Proceeds and Excess*), set-off the purchase price payable by the Lender for the Secured Property against the Pledgor's indebtedness to the Lender in respect of the Secured Obligations, on the basis that any excess on realisation or any balance owing by the Pledgor, as the case may be, will be paid to the Pledgor and any shortfall will remain as a debt owing by the Pledgor to the Lender; provided, however, that if the Pledgor does not agree with the fair value as determined by the Lender, the Pledgor may, within 10 (ten) business days from the date that the value has been disclosed to the Pledgor, issue a written notice to the Lender that it disputes the value determined by the Pledgor, in which case the Parties shall meet and use reasonable endeavours to agree on a value within 10 (ten) business days from the date of notice, failing which the Secured Property shall be realised under clause 10.1.3;
 - 10.1.5. to institute any legal proceedings which the Lender may deem necessary in connection with any sale or other realisation or transfer of the Secured Property by the Lender or its nominee; and/or
 - 10.1.6. to convey valid title in the Secured Property to any purchaser thereof (including the Lender) and/or to take all such further or other steps as the Lender may consider necessary to deal with the Secured Property.
- 10.2. On the Lender taking any action in terms of clause 10.1. above, or otherwise as required by the Lenders, the Pledgor shall on demand by the Lender:-
- 10.2.1. notify the Company or any purchaser in writing, *inter alia*, that payment for delivery of, or performance in respect of, the Secured Property must be made to the Lender, and that payment, delivery or performance to the Pledgor or anyone else will not constitute valid payment, delivery or performance, and the Lender shall be entitled to do likewise. The Pledgor shall on demand by the Lender provide proof to the Lender that such notification has been duly given;
 - 10.2.2. refuse to accept any payment, delivery or performance tendered in respect of any of the Secured Property in order that such payment, delivery or performance be tendered to the Lender, which will apply any payment so received in accordance with the provisions of clause 11 (*Appropriation of Proceeds and Excess*) below; and
 - 10.2.3. at its own costs carry out any lawful directions the Lender may give in regard to the realisation of the Secured Property and sign any document or do any other lawful act necessary to vest the Secured Property in any purchaser, or the Lender, to enable the sale or disposition of the Secured Property, which may otherwise be necessary or required to effect the Pledge and Cession created in this Agreement.

10.3. The Lender shall not be:-

- 10.3.1. obliged to take steps which it is authorised and entitled to take or otherwise exercise any rights granted to it in this Agreement;
- 10.3.2. liable to the Pledgor for any loss or damage which any Pledgor may suffer or sustain as a consequence, directly or indirectly, of:
 - 10.3.2.1. the Lender exercising any of its rights under this Agreement; and/or
 - 10.3.2.2. any omission or delay by the Lender including any delay in exercising any of its rights hereunder and its failure to protect the Pledgor's interest in the Secured Property in any way, save and except for any monetary loss sustained as a result of the fraud, wilful misconduct or gross negligence of the Lender.

11. APPROPRIATION OF PROCEEDS AND EXCESS

- 11.1. Subject to and in accordance with the terms of the Finance Documents, the Lender shall apply the net proceeds or amounts received pursuant to the sale or other realisation of the Secured Property (after deducting all properly evidenced costs and expenses incurred by the Lender in relation to such sale and/or realisation), in reduction or discharge, as the case may be of the Pledgor's obligations and indebtedness under the Secured Obligations in accordance with the provisions of the Finance Documents.
- 11.2. If the proceeds of any sale or realisation under clause 10 (*Realisation*) above are insufficient to extinguish the obligations or indebtedness of the Pledgor, arising out of or in connection with the Secured Obligations, on the relevant date, the Pledgor shall remain fully and irrevocably liable to pay such shortfall to the Lender.

12. PLEDGOR BOUND NOTWITHSTANDING CERTAIN CIRCUMSTANCES

- 12.1. The Pledgor agrees that as of the Signature Date it will be bound under this Agreement to the full extent thereof, despite the fact that:-
 - 12.1.1. any additional security from the Pledgor or the other Obligors for the Secured Obligations or otherwise may not be obtained or perfected or may be released or may cease to be held for any other reason;
 - 12.1.2. the Lender and any of the Obligors may agree on the variation or novation of any of the Secured Obligations;
 - 12.1.3. the Lender may grant any indulgence to the Pledgor or any other Obligor or other surety or may not exercise one or more of the Lender's rights hereunder or with respect to the Secured Obligations, either timeously or at all;

- 12.1.4. any insolvency, administration, judicial management, re-organisation, arrangement, re-adjustment of debt, dissolution, liquidation or similar proceedings by or against the Lender, the Pledgor or any other person; and
 - 12.1.5. any other fact or circumstance which may arise (including any act or omission by the Lender), on which the Pledgor or any other Obligor might otherwise be able to rely on a defence based on prejudice, waiver or estoppel.
- 12.2. If the Pledgor suffers any loss arising from any of the facts, circumstances, acts or omissions referred to above, the Pledgor will have no claim against the Lender in respect thereof, unless the aforesaid loss arises solely from the Lender's gross negligence, willful misconduct or fraud.
- 12.3. The Lender shall be entitled to cede, delegate or transfer all or any of, its rights or obligations as the case may be under this Agreement to any person to whom it transfers its interest under the Facility Agreement. To the extent that any such cession, transfer or delegation may give rise to a splitting of claims against the Pledgor, the Pledgor hereby consents to such splitting of claims. The provisions of this clause 12.3. shall also apply in respect of any novation under the Finance Documents. For the avoidance of doubt, the Pledgor hereby consents (insofar as consent is required), to any cession, delegation, transfer or novation under this Agreement and under the Finance Documents. The Lender is hereby authorised to execute any cession, delegation, transfer or novation on behalf of the Pledgor based on the consent granted by the Pledgor under this clause 12.3, should the Pledgor fail to do so.
- 12.4. Any settlement, discharge or release between the Pledgor and the Lender shall be conditional upon no security or payment granted or made to the Lender by the Pledgor or any other person being avoided or reduced by virtue of any provisions or enactments relating to bankruptcy, insolvency or liquidation for the time being in force and, in the event of such security or payment being so avoided or reduced, the Lender shall be entitled to recover the value or amount of such security or payment from the security created by or pursuant to this Agreement subsequently as if such settlement, discharge or release had not occurred. The Pledgor agrees that, in such circumstances, this Agreement and the security hereby constituted shall be deemed to have remained in full force and effect notwithstanding any such assurance, security, guarantee, payment, release, settlement, discharge or arrangement.

13. EXEMPTION FROM LIABILITY

- 13.1. Neither the Lender nor any of its respective shareholders, officers, trustees, agents, beneficiaries, employees and advisors ("**Exempt Parties**") shall be liable for any loss or damage, whether direct, indirect, consequential or otherwise, suffered by the Pledgor howsoever arising in connection with this Agreement, whether that loss or damage arises as a result of a breach of contract (whether total, fundamental or otherwise), delict or any other cause and whether this Agreement has been terminated or not, other than as a result of the gross negligence, wilful misconduct or fraud of the Exempt Parties.

13.2. No Exempt Party shall be liable for any loss or damage, whether direct, indirect, consequential or otherwise, suffered by the Pledgor howsoever arising in connection with this Agreement, whether that loss or damage arises as a result of a breach of contract (whether total, fundamental or otherwise), delict or any other cause and whether this Agreement has been terminated or not, other than as a result of the gross negligence, wilful misconduct or fraud of that Exempt Party. The provisions of this clause constitute a stipulation for the benefit of each of the Exempt Parties not a party to this Agreement, which benefit is capable of acceptance at any time.

14. DISPUTE OF RIGHTS

Where in this Agreement it is provided that the Lender may only exercise a right if an Event of Default has occurred or is continuing (or the exercise of a right is constrained by words to similar effect) and the Pledgor disputes that an Event of Default has occurred or is continuing (as applicable), then, pending final resolution of that dispute, the Lender shall be entitled, without restriction, to exercise its rights under this Agreement in all respects, and the Pledgor shall in all respects continue to perform its obligations under this Agreement and to give effect to its terms (including provisions relating to the enforcement of the security) as if all requirements for the exercise by the Lender of that right have been met.

15. CERTIFICATE OF INDEBTEDNESS

A certificate signed by any manager or director of the Lender whose appointment need not be proved, reflecting the amount owing by the Pledgor to the Lender or any Lender with respect to the Secured Obligations and the due date for payment of such amount will be *prima facie* evidence of the contents thereof.


16. RENUNCIATION OF BENEFITS

The Pledgor hereby renounces the legal benefits and exceptions of *ordinis seu excussionis* (benefit of excussion that the creditor should claim payment from the debtor first before claiming payment from security grantors), *divisionis* (benefit of division by a security grantor only to be liable pro rata for its share of the debt), *non numeratae pecuniae* (defence that moneys claimed were never advanced to or received by the debtor), *non causa debiti* (defence that there is no reason or cause for the obligation to pay the debt), revision of accounts and *errore calculi* (defence relating to errors in calculation of the debt, including interest), the Pledgor declaring to be fully acquainted with the full meaning and effect of this renunciation.

17. NOTICES

17.1. Communications in Writing

17.1.1 Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, shall be made by email (in the case of the Pledgor to James Beams at [REDACTED]@northriverresources.com and André Nel at [REDACTED]@northriverresources.com, in the case of the Lender to [REDACTED]@astlelake.com and in the case of the Company to James Beams at [REDACTED]

@northriverresources.com and André Nel at
@northriverresources.com.

17.1.2 Any electronic communication made between the Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Lender only if it is addressed in such a manner as the Lender shall specify for this purpose.

17.1.3 Any electronic communication which becomes effective, in accordance with Clause 17.1.2 above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

17.2. *English Language*

Any notice or other document given under or in connection with this Agreement must be in English.

18. KEEPING AND INSPECTION OF RECORDS

18.1. The Pledgor shall at all times keep up-to-date records of the Secured Property and shall comply with any reasonable directions the Lender may give in regard to the keeping of such records.

18.2. The Lender or anyone authorised by the Lender may at any time and on reasonable notice inspect any of the Pledgor's books of account and other records including books of account and records in the possession of a third party.

18.3. If the Lender at any time so requests, the Pledgor shall at its own cost deliver to the Lender certified copies of any of the books and records referred to above.

19. GENERAL PROVISIONS

19.1. *Governing Law and Jurisdiction*

19.1.1. This Agreement is governed by the laws of Namibia.

19.1.2. The Parties consent to the non-exclusive jurisdiction of the High Court of Namibia, Main Division – Windhoek (or its successor – in – title), to settle any dispute in connection with this Agreement.

19.1.3. The Parties agree that the High Court of Namibia, Main Division - Windhoek is the most appropriate and convenient court to settle any such dispute in connection with this Agreement. The Parties agree not to argue to the contrary and waive objection to this court on the grounds of inconvenient forum or otherwise in relation to proceedings in connection with this Agreement.

19.1.4. Notwithstanding the provisions of clause 19.1.3. above, the Lender shall not be prevented from taking proceedings relating to a dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take

concurrent proceedings in any number of jurisdictions. This clause operates only for the benefit of the Lender and no other party.

19.2. *Waiver of Immunity*

- 19.2.1. To the extent applicable, the Pledgor hereby irrevocably and unconditionally agrees not to claim any immunity from proceedings brought by the Lender against it in relation to this Agreement and to ensure that no such claim is made on its behalf.
- 19.2.2. The Pledgor, to the extent applicable, consents generally to the giving of any relief or the issue of any process in connection with those proceedings and waives all rights of immunity in respect of it or its assets.

19.3. *Relaxation of Terms*

The Lender shall not be regarded as having waived, or be precluded in any way from exercising, any right under or arising from this Agreement, whether for the enforcement or cancellation of this Agreement or for any claim for damages arising from any breach thereof, by reason of the Lender having at any time:

- 19.3.1. granted any extension of time for, and/or having shown any indulgence to the Pledgor with reference to any payment or performance under this Agreement;
- 19.3.2. accepted payment or performance under this Agreement or the Finance Documents at any time when it would otherwise have been legally entitled not to accept a payment or the performance; or
- 19.3.3. delayed in the enforcement of any right of action against the Pledgor, and without limiting the generality of the foregoing, the acceptance of the payment or the performance in terms of this Agreement or the Finance Documents by the Lender at the time when it had the right to terminate this Agreement on account of the Pledgor's breach of the terms hereof, shall not constitute a waiver by the Lender of any accrued right to terminate this Agreement nor give rise to any estoppel, and the Lender shall not be precluded in any way from exercising any right of termination that it would otherwise have been entitled to exercise prior to the acceptance of the payment or the performance concerned.

19.4. *Severability*

Each provision in this Agreement is severable from all others, notwithstanding the manner in which they may be linked together or grouped grammatically, and if in terms of any judgment or order, any provision, phrase, sentence, paragraph or clause is found to be defective or unenforceable for any reason, the remaining provisions, phrases, sentences, paragraphs and clauses shall nevertheless continue to be of full force. In particular, and without limiting the generality of the foregoing, the Pledgor hereby acknowledges its intention to continue to be bound by this Agreement notwithstanding that any provision may be found to be unenforceable or void or

voidable, in which event the provision concerned shall be severed from the other provisions, each of which shall continue to be of full force.

19.5. *Rights and Remedies*

The rights and remedies of the Lender under the Finance Documents:-

- 19.5.1. are cumulative and not exclusive of its rights under the general law;
- 19.5.2. may be exercised as often as the Lender requires; and
- 19.5.3. may be waived only in writing and specifically.

19.6. *Successors and Assigns*

This Agreement shall inure for the benefit of and be binding upon the successors and permitted assigns of the Parties.

19.7. *Entire Contract and Variation*

- 19.7.1. This Agreement read together with the other Finance Documents contain all the express provisions agreed on by the Parties with regard to the subject matter of the Finance Documents and each Party waives the right to rely on any alleged express provision not contained in the Finance Documents.
- 19.7.2. For the avoidance of doubt, the Pledgor confirms herewith that it has received a copy of each Finance Document and that it is familiar with and has approved the terms and conditions of each Finance Document.
- 19.7.3. No contract varying, adding to, deleting from or cancelling this Agreement will be effective unless reduced to writing and signed by or on behalf of the Parties, except if otherwise provided for in this Agreement.
- 19.7.4. The expiry or termination of this Agreement will not prejudice the rights of the Lender in respect of any antecedent breach by the Pledgor of, or non-performance under, this Agreement.

19.8. *Third-Party Rights*

Unless expressly provided to the contrary elsewhere in this Agreement, no provision of this Agreement constitutes a stipulation for the benefit of any person (*stipulatio alteri*) who is not a party to this Agreement. Notwithstanding any term of any Finance Document, no consent of any third party is required for any amendment (including any release or compromise of any liability) or termination of this Agreement.

19.9. *Subordination Agreement*

Each of the Pledgor and the Company agree that it shall not amend, restate, replace or modify any of the terms of the Subordination Agreement, unless the Lender has given

its prior written consent to such amendment, restatement, replacement or modification.

19.10 Independent Advice

Each Party acknowledges that it has been free to secure independent legal and other advice as to the nature and effect of this Agreement and that it has either taken such independent legal and other advice or dispensed with the necessity of doing so. Further, each Party acknowledges that all the provisions of this Agreement and the restrictions herein contained have been negotiated as between the Parties and are part of the overall intention of the Parties in connection with this Agreement.

19.11. No Representations

A Party may not rely on any express or implied term, representation, warranty, promise of the like which allegedly induced that Party to enter into this Agreement or any other Finance Document, unless such express or implied term, representation, warranty, promise of the like is recorded in this Agreement or another Finance Document.

19.12. Costs

The provisions of clause 13 (*Costs and Expenses*) of the Facility Agreement shall apply as to the responsibility for all the costs in connection with the negotiation, preparation, drafting and execution of this Agreement and all attendances and charges thereto including legal costs and stamp duties, if any.

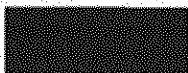
19.13. Counterparts

This Agreement may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.


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SIGNED AT London, United Kingdom ON THIS 6th DAY OF February 2020
..... IN THE PRESENCE OF THE UNDERSIGNED WITNESSES:

As Witnesses:

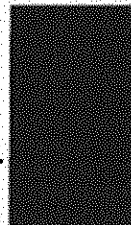


.....
PETE GARDNER, ACCOUNTANT
Signature of Witness



.....
Peter Lane - Assistant
Signature of Witness

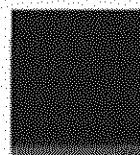
Pledgor:



.....
Signature

.....
JAMES BEAMS, DIRECTOR

Full Name of Representative



SIGNED AT Luxembourg ON THIS 7th DAY OF February 2020
..... IN THE PRESENCE OF THE UNDERSIGNED WITNESSES:

As Witnesses: MARIA PETROVA

Signature of Witness

.....

Signature of Witness

Lender:

Signature

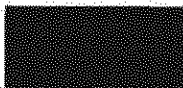
Graciela Magdaong
Manager

.....

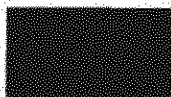
Full Name of Representative

SIGNED AT London, United Kingdom ON THIS 6th DAY OF February 2020
..... IN THE PRESENCE OF THE UNDERSIGNED WITNESSES:

As Witnesses:

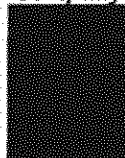


PETE GARDNER, ACCOUNTANT
Signature of Witness



Graham Lane - Assistant
Signature of Witness

Company:



Signature

JAMES BEAMS, DIRECTOR

Full Name of Representative

