

LOAN AGREEMENT

THIS AGREEMENT made the 18th day of December, 2012, between **OCEAN PARTNERS INVESTMENTS LIMITED**, a company incorporated under the laws of England and Wales (hereinafter called the “**Lender**”) and **NUINSCO RESOURCES LIMITED**, a corporation incorporated under the laws of the Province of Ontario (hereinafter called the “**Borrower**”).

WHEREAS:

- A. The Borrower has requested the Lender to provide a credit facility as more particularly described in this Agreement, to be available and used for the purposes specified in this Agreement.
- B. The Lender has agreed to provide the Borrower with such credit facility upon and subject to the terms and conditions herein set forth.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants, agreements and representations hereinafter set forth and other good and valuable consideration, the parties agree as follows:

**ARTICLE 1
RECITALS AND DEFINITIONS**

- 1.1 **Definitions.** In this Agreement the following words shall have the following meanings unless the context requires otherwise:
- (a) “**Advances**” is defined in Section 2.2.
 - (b) "**Agreement**" means this Loan Agreement, as it may be amended or supplemented from time to time, and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to the entirety of this Agreement and not to any particular section or portion of this Agreement.
 - (c) “**Availability Period**” means the period commencing on the date of this Agreement and ending on the earlier of December 18, 2013 and such earlier date as may result from the acceleration of the Indebtedness pursuant to this Agreement.
 - (d) “**Bonus Shares**” is defined in Section 2.5.
 - (e) “**Business Day**” shall mean a day on which chartered banks are open for business in Toronto, Canada.
 - (f) “**CBay**” means CBay Minerals Inc., a corporation incorporated under the laws of Canada.
 - (g) “**Change of Control**” means any Person becoming the owner, directly or indirectly, beneficially or of record, of shares representing more than 50% of the aggregate ordinary voting power represented by the outstanding share capital of the Borrower after the date of this Agreement.
 - (h) “**Common Shares**” means the common shares in the capital of the Borrower as constituted on the date hereof.

- (i) “**Event of Default**” is defined in Section 7.1.
 - (j) “**Facility**” means the non-revolving term loan in the principal amount of \$2,500,000.00.
 - (k) “**Facility Fee**” is defined in Section 2.4.
 - (l) “**Indebtedness**” is defined in Section 2.3.
 - (m) “**Interest Rate**” is defined in Section 3.1(a).
 - (n) “**Loan Documents**” means all documents deliverable by the Borrower hereunder, including, without limitation, this Agreement, the Promissory Note and the Security;
 - (o) “**Maturity Date**” means the earlier of (i) June 18, 2014 subject to a 6 month extension of such date pursuant to the provisions of Section 3.3; and (ii) such earlier date as may result from the acceleration of the Indebtedness pursuant to this Agreement.
 - (p) “**Person**” includes an individual, a partnership, a joint venture, a trust, an unincorporated organization, a company, a corporation, an association, a government or any department or agency thereof and any other incorporated or unincorporated entity.
 - (q) “**Pledged Shares**” means 15,005,000 common shares of CBay held by the Borrower and such other shares of CBay which are hereafter acquired by the Borrower.
 - (r) “**Promissory Note**” means the promissory note dated the date hereof delivered by the Borrower to the Lender.
 - (s) “**Quarter Date**” means March 31, June 30, September 30 and December 31 in each calendar year, or if such day is not a Business Day, the immediately preceding Business Day;
 - (t) “**Security**” is defined in Section 2.3.
 - (u) “**Securities Legislation**” means securities legislation as such term is defined in National Instrument 14-101 *Definitions*, of the Canadian Securities Administrators.
- 1.2 **Currency.** Unless otherwise provided for herein, all payments and references to dollar amounts contemplated herein shall be in lawful currency of Canada.
- 1.3 **Headings.** The division of this Agreement into Articles and Sections and the inclusion of Article headings are for convenience of reference only and shall not affect the interpretation or construction of this Agreement.
- 1.4 **Recitals.** The parties hereto acknowledge and agree that the recitals to this Agreement are true and correct in substance and in fact and are incorporated herein by reference and form an integral part hereof.
- 1.5 **Maximum Interest Rate.**

- (a) In the event that any provision of this Agreement would oblige the Borrower to make any payment of interest or any other payment which is construed by a court of competent jurisdiction to be interest in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the Lender of interest at a criminal rate (as such terms are construed under the *Criminal Code* (Canada)), then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted *nunc pro tunc* to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in a receipt by the Lender of interest at a criminal rate, such adjustment to be effected, to the extent necessary, as follows:
- (i) firstly, by reducing the amount or rate of interest required to be paid under Section 3.1 of his Agreement; and
 - (ii) thereafter, by reducing any fees, commissions, premiums and other amounts which would constitute interest for the purposes of Section 347 of the *Criminal Code* (Canada);
- (b) If, notwithstanding the provisions of clause (a) of this Section and after giving effect to all adjustments contemplated thereby, the Lender shall have received an amount in excess of the maximum permitted by such clause, then such excess shall be applied by the Lender to the reduction of the principal balance of the Outstanding Obligations and not to the payment of interest or if such excessive interest exceeds such principal balance, such excess shall be refunded to the Borrower; and
- (c) Any amount or rate of interest referred to in this Section shall be determined in accordance with generally accepted actuarial practices and principles at an effective annual rate of interest over the term of this Agreement on the assumption that any charges, fees or expenses that fall within the meaning of “interest” (as defined in the *Criminal Code* (Canada)) shall, if they relate to a specific period of time, be prorated over that period of time and otherwise be prorated over the terms of this Agreement and, in the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Lender shall be conclusive for the purposes of such determination.

ARTICLE 2 THE FACILITY, DISBURSEMENT, SECURITY, FEES

- 2.1 **The Facility.** The Lender hereby agrees on the terms and subject to the conditions set forth herein, to make the Facility available to the Borrower during the Availability Period, for the purpose of funding the general working capital purposes of the Borrower, in two tranches as follows:
- (a) Tranche 1: Up to \$1,500,000, available by way of one or more Advances in minimum amounts of \$500,000 or the remaining balance available under this Tranche 1 on or after the date of this Agreement; and
 - (b) Tranche 2: Up to \$1,000,000, available by way of one or two Advances on or after June 18, 2013.
- 2.2 **Disbursement.** No funds shall be advanced by the Lender to the Borrower hereunder (the “Advances”) unless all conditions set out in Section 4.1 or 4.2 (as appropriate) have been

delivered to the Lender, or satisfied by the Borrower, in each case, to the satisfaction of the Lender and the Lender's counsel.

- 2.3 **Security of Borrower.** As security for all indebtedness, liabilities and obligations of the Borrower to the Lender hereunder (collectively, the "**Indebtedness**"), the Borrower shall deliver to the Lender on or before the date hereof the following (collectively, the "**Security**"):
- (a) a first ranking pledge agreement by the Borrower in favour of the Lender in respect of the Pledged Shares; and
 - (b) the original share certificates representing the Pledged Shares endorsed by the Borrower in blank for transfer or accompanied by a stock power of attorney executed by the Borrower in blank and left undated.
- 2.4 **Facility Fee.** As consideration for creating the Facility, the Borrower shall pay the Lender a fee (the "**Facility Fee**") of \$50,000.00 on the date of this Agreement.
- 2.5 **Bonus Shares.** As consideration for creating the Facility, the Borrower shall issue in favour of the Lender 3,634,777 Common Shares (the "**Bonus Shares**") registered to Ocean Partners Investments Limited of 30-36 King Street, Maidenhead, Berkshire, United Kingdom, SL6 1EF, and deliver to the Lender a share certificate representing such shares to the Lender within five (5) Business Days from the date of this Agreement.
- 2.6 **Restrictions on Resale of Bonus Shares.** The Lender hereby acknowledges that the Bonus Shares will be subject to restrictions on resale for a period of four months and a day from the issue date of such Bonus Shares, and that the certificate representing the Bonus Shares will bear the following legend:

"UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE APRIL 19, 2013.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE LISTED ON THE TORONTO STOCK EXCHANGE ("TSX"); HOWEVER, THE SAID SECURITIES CANNOT BE TRADED THROUGH THE FACILITIES OF TSX SINCE THEY ARE NOT FREELY TRANSFERABLE, AND CONSEQUENTLY ANY CERTIFICATE REPRESENTING SUCH SECURITIES IS NOT "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON TSX."

ARTICLE 3 INTEREST AND REPAYMENT

- 3.1 **Interest Rate**
- (a) Interest shall accrue at the rate of eleven and one half (11.5%) per cent per annum (the "**Interest Rate**"), and shall be calculated and accrue quarterly, not in advance, on each Quarter Date, commencing on the date of first Advance.
 - (b) Interest shall be payable quarterly, on each Quarter Date. Where an Advance occurs within a quarter, the first payment of accrued interest under such Advance shall be payable on the first Quarter Date after the date of such Advance on a *pro rata* basis based upon the number of days in the calendar quarter in which the Advance occurred.

- (c) Notwithstanding clause (a) and (b) above, after the occurrence of an Event of Default (as hereinafter defined), interest shall accrue in the manner set out above, provided the interest rate payable shall be fifteen per cent (15%) per annum, compounded on each applicable Quarter Date.
- 3.2 **Repayment.** Unless an Event of Default occurs and the right of the Borrower to obtain further Advances under the Facility is terminated as a result thereof, the Indebtedness pursuant to the Facility, together with all accrued and unpaid interest thereon and all other fees and charges payable in connection therewith, shall be repaid on the Maturity Date without the Lender having to make demand therefor. The Facility shall automatically be terminated at that time.
- 3.3 **Extension of Maturity Date.** Provided no Event of Default has occurred which is continuing, the Borrower shall be entitled to a single extension of the Maturity Date for a period of 6 months subject to receipt by the Lender of:
- (a) a written request from the Borrower no less than thirty (30) days prior to June 18, 2014 requesting such extension and indicating the principal amount to be extended; and
- (b) receipt by the Lender of a fee equal to 3% of the principal amount extended payable in common shares of CBay owned by the Borrower based upon an enterprise value of CBay of \$20 million divided by the total number of outstanding common shares of CBay on a fully diluted basis.
- 3.4 **Pre-prepayment.** The Borrower may at any time and from time to time, without payment of any penalty or fee, upon five (5) Business Days prior written notice to the Lender, which notice shall be irrevocable, make principal repayments in amounts of no less than \$500,000.00, together with all accrued and outstanding interest thereon. Any such prepayment may not be reborrowed by the Borrower and shall result in a permanent reduction of the Facility.

ARTICLE 4 ADVANCE OF FUNDS

- 4.1 **Initial Advance.** The initial Advance under the Facility is subject to the following terms and conditions:
- (a) the Borrower shall have executed and delivered this Agreement, the Security and all other Loan Documents together with all certificates, resolutions and other documents as may be reasonably required by the Lender;
- (b) the Lender shall have received the Security and the Security constitutes a valid, perfected and continuing security interest in the property, assets and undertaking of the Borrower at all times;
- (c) the Lender shall have received opinions from Borrower's counsel addressed to the Lender and the Lender's counsel with respect to corporate good standing of the Borrower and due authorization, execution, delivery, enforceability and priority of the Loan Documents and containing such other opinions as the Lender and the Lender's counsel consider appropriate, all in form and substance satisfactory to the Lender and the Lender's counsel;
- (d) the Lender shall have received any consents of third parties to the execution, delivery and

registration, as applicable, of the Security which may be required, including without limitation a certified copy of a resolution of the board of directors of CBay consenting to the transfer of the Pledged Shares to the Lender or its nominee, and to any third party by the Lender or its nominee, pursuant to any realization under the Security;

- (e) no Event of Default (as hereinafter defined), shall have occurred and be continuing as of the date hereof or of any subsequent Advances;
- (f) the Lender shall have received the Facility Fee and the Bonus Shares;
- (g) the Lender shall have completed to its satisfaction its financial, business and legal due diligence of the Borrower; and
- (h) the Lender shall have received from the Borrower a written request for a specific amount (the “**Advance Request**”) of no less than \$500,000.00 during the Availability Period, on no less than three (3) Business Days notice, certified by a senior officer of the Borrower.

4.2 **Subsequent Advances.** Each subsequent Advance under the Facility is subject to the following terms and conditions:

- (a) no Event of Default (as hereinafter defined), shall have occurred and be continuing as of the date hereof or of any subsequent Advances; and
- (b) the Lender shall have received an Advance Request during the Availability Period, on no less than three (3) Business Days notice, certified by a senior officer of the Borrower.

4.3 **Obligation to Advance.** Provided the terms and conditions under Section 4.1 or 4.2 (as applicable) have been complied with, the Lender shall advance the subject Advance to the Borrower within five (5) Business Days after receipt of the Advance Request.

4.4 **Waiver.** The terms and conditions set forth in this ARTICLE 4 are inserted for the sole benefit of the Lender and may be waived by the Lender in whole or in part (and with or without terms or conditions) and the Borrower hereby so acknowledges and agrees.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

5.1 **Representation and Warranties of the Borrower.** The Borrower represents and warrants to the Lender, on the understanding that such representations and warranties shall indefinitely survive the execution of this Agreement, that:

- (a) *Due Incorporation.* The Borrower is a corporation duly incorporated and organized and is validly subsisting under the laws of the Province of Ontario.
- (b) *Power.* The Borrower has full corporate power and capacity to enter into, deliver and perform its obligations under each of the Loan Documents.
- (c) *Due Authorization and No Conflict.* The execution, delivery and performance by each of the Borrower of the Loan Documents, and the consummation of the transactions contemplated hereby and thereby and the issuance of the Bonus Shares by the Borrower to the Lender:

- (i) have been duly authorized by all necessary corporate action on the part of the Borrower;
 - (ii) do not and will not conflict with, result in any breach or violation of, or constitute a default under the constating documents or by-laws of the Borrower, or any applicable laws, or any determination or award presently in effect and applicable to the Borrower, or of any material commitment, agreement or any other instrument to which the Borrower is now a party or is otherwise bound; and
 - (iii) do not require the consent or approval (other than those consents or approvals already obtained and certified copies of which have been delivered to the Lender) of, or registration or filing with, any other party including shareholders of the Borrower or any governmental authority.
- (d) *Valid and Enforceable Obligations.* The Loan Documents are, or when executed and delivered to the Lender will be, legal, valid and binding obligations of the Borrower, as applicable, enforceable in accordance with their respective terms.
- (e) *No Event of Default.* No event has occurred which constitutes, or which, with notice, lapse of time, or both, would constitute and Event of Default.
- (f) *No Litigation.* There are no litigation proceedings, arbitration proceedings or labour disputes and there are no legal proceedings pending, or to the best of the Borrower's knowledge, threatened against the Borrower, before any court or administrative agency or tribunal of any country which, separately or in the aggregate, could reasonably be expected to materially and adversely affect its financial condition, its assets or operations or its ability to perform its obligations hereunder.
- (g) *Compliance with Laws.* It is in compliance in all material respects with all applicable laws, rules, regulation and orders of any governmental authority.
- (h) *Capitalization.* The authorized capital of the Borrower consists of an unlimited number of Common Shares, an unlimited number of Class A special shares, issuable in series, an unlimited number of Class B special shares, issuable in series, an unlimited number of Class C special shares, issuable in series, an unlimited number of Class D special shares, issuable in series, and an unlimited number of Class E special shares, issuable in series, of which 291,436,423 Common Shares are issued and outstanding as at the date hereof.
- (i) *Creation of Bonus Shares.* The Bonus Shares shall be validly created and issued as fully paid and non-assessable shares in the capital of the Borrower.
- (j) *Reporting Issuer Status.* The Borrower is a reporting issuer in the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Quebec within the meaning of Securities Legislation, is current and up-to-date with all filings required to be made pursuant to applicable Securities Legislation and is not included on the list of defaulting reporting issuers maintained by the respective securities commissions in such jurisdictions.
- (k) *Stock Exchange Listing.* The issued and outstanding Common Shares are listed and posted for trading on the Toronto Stock Exchange.

- (l) *No Cease Trade Orders.* No order ceasing or suspending trading in the Common Shares nor prohibiting the sale of Common Shares has been issued by any securities commission of any Province or Territory of Canada to the Borrower or its directors, officers or promoters which is currently in effect, and to the knowledge of the Borrower, no such investigations or proceedings for such purposes are pending or threatened.
- (m) *Consents and Approvals.* No consent, approval, authorization, order, registration or qualification is required that has not otherwise been obtained from any securities commission or stock exchange in connection with the issuance of the Bonus Shares by the Borrower to the Lender under applicable Securities Legislation or applicable stock exchange requirements.

5.2 **Representation and Warranties of the Lender.** The Lender represents and warrants to the Borrower, on the understanding that such representations and warranties shall indefinitely survive the execution of this Agreement, that:

- (a) the Lender is resident in England and Wales (the “**Foreign Jurisdiction**”) and the Lender is not resident in or otherwise subject to applicable securities laws of any province or territory of Canada;
- (b) the Lender will acquire the Bonus Shares pursuant to an exemption from any prospectus or securities registration or similar requirements under the applicable securities laws of the Foreign Jurisdiction or any other securities laws to which the Lender is otherwise subject;
- (c) the acquisition of the Bonus Shares by the Lender does not contravene any of the applicable securities laws in the Foreign Jurisdiction or any other securities laws to which the Lender is otherwise subject and does not result in: (i) any obligation of the Borrower to prepare and file a prospectus, an offering memorandum or similar document; or (ii) any obligation of the Borrower to make any filings with or seek any approvals of any kind from any regulatory body in such jurisdiction or any other ongoing reporting requirements with respect to such purchase or otherwise; or (iii) any registration or other obligation on the part of the Borrower under the applicable securities laws in the Foreign Jurisdiction or any other securities laws to which the Lender is otherwise subject; and
- (d) the Lender is knowledgeable of, and has been independently advised as to, the securities laws of the Foreign Jurisdiction or any other securities laws to which the Lender is otherwise subject.

5.3 The representations and warranties contained in Section 5.1 shall be deemed to be repeated at the time of each Advance, shall survive the execution and delivery of this Agreement and the making of each Advance, regardless of any investigation or examination by the Lender or its legal counsel, and the Lender shall be deemed to have relied upon each of such representations and warranties in making available each Advance.

**ARTICLE 6
COVENANTS**

- 6.1 **Covenants of the Borrower.** From the date of this Agreement and thereafter until the Indebtedness (including interest thereon) and any other amounts to be paid by the Borrower to the Lender hereunder, are paid in full:
- (a) The Borrower will do or cause to be done all such things as are necessary to maintain its corporate existence, in good standing, to ensure that it has at all times the right and is duly qualified to conduct its business and to obtain and maintain all rights, privileges, licences, approvals, consents and franchises necessary for the conduct of its business.
 - (b) The Borrower will maintain, operate and use its property and assets, and will carry on and conduct its business in a proper and efficient manner so as to preserve and protect the property and assets and business and the profits thereof and shall pay all of its liabilities as they become due.
 - (c) The Borrower will notify the Lender immediately of the occurrence of any of the following events:
 - (i) if the Borrower shall default in a material manner in the payment of any of its indebtedness for borrowed money, whether such indebtedness now exists or shall hereafter be created, and whether such indebtedness is the Indebtedness (as defined hereunder) or indebtedness to any other Person;
 - (ii) if there shall occur a material event of default under any mortgage, indenture or instrument (including without limitation this Agreement and the Loan Documents) under which there may be issued, or by which there may be incurred or evidenced, any indebtedness of the Borrower for borrowed money, whether such indebtedness now exists or shall hereafter be created; and
 - (iii) if there shall occur a material adverse change in the business, property, assets, liabilities, operations, condition (financial or otherwise), affairs or prospect of the Borrower.
 - (d) The Borrower will comply with the requirements of all applicable laws, rules, regulations and orders of any governmental authority, a breach of which would materially and adversely affect the financial condition or businesses of the Borrower, except where contested in good faith and by proper proceedings.
 - (e) The Borrower will promptly give the Lender notice in writing of all litigation and all proceedings before any governmental or regulatory agencies or arbitration authorities affecting the Borrower, except those which, if adversely determined, would not have a material adverse effect on the financial condition or business of the Borrower.
 - (f) The Borrower will provide the Lender with such assistance and do such things as the Lender may from time to time request so that the Security and any other instruments effected pursuant to this Agreement or otherwise will remain registered, recorded or filed from time to time in such manner and in such places as may in the opinion of the Lender

and the Lender's counsel be necessary or advisable in perfecting the security interests constituted thereby.

- (g) The Borrower shall not create, assume, incur or suffer to exist any security interest in or upon the Shares except in favour of the Lender.
- (h) The Borrower shall not permit a Change of Control to occur without the consent of the Lender.
- (i) The Borrower shall maintain its status as a "reporting issuer" not in default of any requirements under the Securities Legislation in the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, and Quebec from the date hereof until June 18, 2014.
- (j) The Borrower shall maintain the listing on the Toronto Stock Exchange of its Common Shares from the date hereof until June 18, 2014.

ARTICLE 7 EVENTS OF DEFAULT

7.1 **Events of Default.** Notwithstanding anything to the contrary herein with respect to the Borrower hereunder at the option of the Lender, the right of the Borrower to obtain further Advances shall cease, and the Indebtedness of the Borrower shall become immediately due and payable to the Lender, and the Lender may without notice to the Borrower apply any amounts outstanding to the credit of the Borrower to repayment of the Indebtedness of the Borrower, and the Security shall, at the option of the Lender and subject to Section 7.2, become immediately enforceable, upon the occurrence of any of the events set out in below (each an "**Event of Default**"):

- (a) *Failure to Pay Principal or Interest or any other amount.* If the Borrower fails to make punctual payment of any principal amount or interest payable hereunder or fails to make punctual payment when due of any amount payable hereunder (other than principal or interest) and if such payment is not made within five (5) Business Days of the day on which such payment is due;
- (b) *False Representations, Etc.* If any representation or warranty made or given herein by the Borrower, in any certificate or other document delivered pursuant hereto, or in any financial statements or delivered pursuant hereto, is false or erroneous in any material respect when made, given or delivered;
- (c) *Cross-Default.* If the Borrower defaults in the payment, when due, of any indebtedness in the principal amount of \$100,000.00 or greater, and such default has not been waived by the creditor(s) within the applicable cure period, or if such indebtedness is accelerated or otherwise becomes due and payable prior to the stated maturity thereof;
- (d) *Default in Certain Covenants.* If, with respect to the Borrower, there is any default or failure in the observance or performance of any covenant contained herein other than as set out in 7.1(a) or in any of the Loan Documents and such default has not been remedied by the Borrower within 10 Business Days of written notice thereof from the Lender;

- (e) *Insurance Lapse.* If any material amount of insurance under the Borrower's normal course insurance policies on the properties or assets of the Borrower lapses and such coverage shall not be reinstated within 24 hours of such lapse;
- (f) *Insolvency.* If the Borrower is unable to pay debts as such debts become due, or is, or is adjudged or declared to be, or admits to being, bankrupt or insolvent;
- (g) *Voluntary Proceedings.* If the Borrower makes a general assignment for the benefit of creditors; or any proceeding or filing is instituted or made by the Borrower seeking relief on its behalf as debtor, or to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding-up, reorganization, arrangement, adjustment or composition of it or its debts under any similar law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its properties or assets; or the Borrower takes any corporate action to authorize any of the actions set forth herein;
- (h) *Involuntary Proceedings.* If any notice of intention is filed or any proceeding or filing is instituted or made against the Borrower in any jurisdiction seeking to have an order for relief entered against it as debtor or to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding-up, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its properties or assets or seeking possession, foreclosure or retention, or sale or other disposition of, or other proceedings to enforce security over, all or a substantial part of the assets of the Borrower unless the same is being contested actively and diligently in good faith by appropriate and timely proceedings and is dismissed, vacated or stayed within 30 days of institution thereof;
- (i) *Receiver, etc.* If a receiver, liquidator, trustee, sequestration or other officer with like powers is appointed with respect to, or an encumbrancer pursuant to a security interest with respect to any Security given by the Borrower or otherwise takes possession of, or forecloses or retains, or sells or otherwise disposes of, or otherwise proceeds to enforce security over any of the properties or assets of the Borrower having a fair market value in excess of \$100,000.00 or gives a Notice of Intention to Enforce Security under the *Bankruptcy and Insolvency Act (Canada)*;
- (j) *Execution, Distress.* If any writ, attachment, execution, sequestration, extent, distress or any other similar process becomes enforceable against the Borrower or if a distress or any analogous process is levied against any of the properties or assets of the Borrower having a fair market value in excess of \$100,000.00 except where the same is being contested actively and diligently in good faith by appropriate and timely proceedings and the enforcement or levy has been stayed;
- (k) *Suspension or Cessation of Business.* If the Borrower suspends or ceases or threatens to suspend or cease its business;
- (l) *Validity.* If any material provision of any Loan Document shall for any reason cease to be valid, binding and enforceable in accordance with its terms; or any material security interest created under any Loan Document shall cease to be a valid and perfected security

interest having, subject to the provisions hereof, the first priority subject to the Permitted Encumbrances;

- (m) *Unremitted Priority Payables.* If the Borrower fails to remit to the applicable governmental authority, any statutory or similarly mandated remittance owing by it within 30 days of the date such remittance became due, except where the same is being contested actively and diligently in good faith by appropriate and timely proceedings; or
- (n) *Material Adverse Change.* If at any time there occurs an event or circumstance which, in the opinion of the Lender, acting reasonably, represents a material adverse change in the business or affairs of the Borrower.

7.2 **Lender May Waive.** The Lender may at any time waive any Event of Default which may have occurred, provided that no such waiver shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights or remedies resulting therefrom. No such waiver shall be effective unless given by the Lender in writing.

7.3 **Remedies are Cumulative.** For greater certainty, the rights and remedies of the Lender under this Agreement are cumulative and are in addition to and not in substitution for any rights or remedies provided by law; and any single or partial exercise by the Lender of any right or remedy for an Event of Default or breach of any term, covenant, condition or agreement contained in any of the Loan Documents shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy to which the Lender may be lawfully entitled for the same default or breach, and any waiver by the Lender of the strict observance, performance or compliance with any term, covenant, condition or agreement contained in any of the Loan Documents and any indulgence granted by the Lender shall be deemed not to be a waiver of that or any subsequent default.

ARTICLE 8 MISCELLANEOUS

8.1 **Evidence of Indebtedness.** The Lender shall maintain on the Promissory Note a record evidencing the liability of the Borrower to the Lender with respect to the Facility and all payments on account thereof. Such record will constitute prima facie evidence of the Indebtedness of the Borrower pursuant to the Facility, the date each Advance under the Facility was made and the amounts the Borrower has paid from time to time on account of the Facility.

8.2 **Expenses and Indemnity.** The Borrower agrees to pay all reasonable legal, consulting and other fees, out-of-pocket costs and expenses of the Lender (including travel expenses) associated with the creation, negotiation and execution of the Loan Documents and the transactions contemplated by the Loan Documents. The Borrower agrees to indemnify and save harmless the Lender against any loss, expense, liability or claim which the Lender may sustain or incur as a consequence of the exercise by the Lender of their rights and remedies hereunder or any of the instruments and documents comprising the Security. The indemnity contained in this provision shall survive the repayment of the Indebtedness and shall continue in full force and effect so long as the possibility of any such liability, claim or loss exists.

8.3 **Payments.** All payments to be made by the Borrower under this Agreement will be made without set-off or counterclaim and without deduction for any taxes, levies, duties, fees, deductions, withholdings, restrictions, or conditions of any nature whatsoever ("**Taxes**"). If at any time any applicable law, regulation or international agreement requires the Borrower to make any such

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M5H 2A4

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Any notice or communication which may or is required to be given or made shall be made or given as herein provided or to such other address or in care of such other officer as a party may from time to time advise to the other party hereto by notice in writing as aforesaid. The date of receipt of any such notice shall be the date of delivery of such notice if delivered, or shall be deemed to be the third business day following the date of mailing, if mailed as aforesaid. Any notice transmitted by telex, telecopier or other form of recorded communication will be deemed given and received on the first business day after its transmission.

If a notice is mailed and regular mail service is interrupted by strike or other irregularity on or before the third business day after the mailing thereof, such notice will be deemed to have not been received unless otherwise personally delivered or transmitted by telex, telecopier or other form of recorded communication.

- 8.7 **Amendment.** No provision of this Agreement or the documents collateral hereto may be changed, modified or amended other than by an agreement in writing signed by the parties thereto.
- 8.8 **Time.** Time is of the essence of this Agreement.
- 8.9 **Further Assurances.** From time to time, the Borrower shall execute and deliver to the Lender such additional documents and will provide such additional information as the Lender may reasonably require to carry out the terms of this Agreement and be informed of the Borrower's status and affairs.
- 8.10 **Enforcement and Waiver.** The Lender shall have the right at all times to enforce the provisions of this Agreement and agreements to be delivered pursuant hereto in strict accordance with the terms hereof and thereof, notwithstanding any conduct or custom on the part of the Lender in refraining from so doing at any time or times. The failure of the Lender at any time or times to enforce its rights under such provisions, strictly in accordance with the same, shall not be construed as having created a custom in any way or manner contrary to specific provisions of this Agreement or as having in any way or manner modified or waived the same. All rights and remedies of the Lender are cumulative and concurrent and the exercise of one right or remedy shall not be deemed a waiver or release of any other right or remedy.
- 8.11 **Assignment.** This Agreement and all documents and agreements delivered pursuant hereto and all its provisions shall enure to the benefit of the Lender, their successors and assigns, and shall be binding upon the Borrower and its successors and assigns. The Borrower shall not assign any of its rights or obligations under this Agreement without the prior written consent of the Lender.
- 8.12 **Entire Agreement.** This Agreement supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral, between the Parties with respect to its subject matter.

8.13 **Counterparts & Facsimile.** This Agreement and any document or agreement delivered in connection herewith or contemplated herein may be executed in counterparts. A facsimile or scanned and email counterpart of this Agreement or any document or agreement delivered pursuant hereto shall be fully effective for all purposes and binding on all parties hereto.

[the remainder of this page is blank]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first above written.

**OCEAN PARTNERS INVESTMENTS
LIMITED**

Per: “Jeff Beck”
Name: Jeff Beck
Title: Director

Per: “Siva Pillay”
Name: Siva Pillay
Title: Director

We have authority to bind the Corporation.

NUINSCO RESOURCES LIMITED

Per: “Sean Stokes”
Name: Sean Stokes
Title: Corporate Secretary

We have authority to bind the Corporation.