

EARN-IN AND OPTION TO FORM JOINT VENTURE AGREEMENT

THIS MINING OPTION AGREEMENT (the “**Agreement**”) is made the 31 day of July, 2020 (the “**Effective Date**”)

AMONG:

AMERICAN PACIFIC MINING (US) INC., a Nevada company with an address at 510 Burrard Street, Suite 910, Vancouver, BC V6C 3A8

(the “**Optionor**”)

AND:

ELKO SUN MINING CORP., a British Columbia company with an address at 6th Floor, 905 West Pender Street, Vancouver, BC V6C 1L6

(the “**Optionee**”)

RECITALS:

- A. Pursuant to an option agreement dated November 6, 2017 (“**Novo Option Agreement**”) between Novo Resources (USA) Corp. and Novo Resources Corp. (collectively, “**Novo**”) and American Pacific Mining Corp. (“**APMC**”), the parent company of the Optionor, APMC acquired the exclusive option to acquire a 100% right, title and interest in and to 24 unpatented mining claims (the “**Novo Claims**”) located in Elko County, State of Nevada (the “**Novo Option**”), as more particularly described in Schedule “A” hereto;
- B. APMC has assigned its rights in the Novo Option Agreement to the Optionor;
- C. The Optionor is the owner of 67 unpatented mining claims (the “**APM Claims**”) and, together with the Novo Claims and any additional unpatented mining claims located by the parties in the “**Area of Interest**”, as designated in Appendix 1 to Schedule “A”, and all other property interests and rights acquired by the parties in the Area of Interest which become subject to this Agreement under §14, the “**Property**”) located in Elko County, state of Nevada, as more particularly described in Schedule “A” hereto; and
- D. Pursuant to the terms and conditions of this Agreement and subject to the Optionor exercising the Novo Option, the Optionor desires to grant to the Optionee the exclusive right and option to acquire up to an 80% right, title, and interest in and to the Property upon the terms and conditions set forth herein.

THEREFORE, in consideration of the mutual covenants and the payment of funds set forth herein, the parties agree as follows:

1. **Interpretation.**

- (a) **Definitions.** The following terms, wherever used in this Agreement, shall have the meanings set forth below:
- (i) **“APM Claims”** means the 67 unpatented mining claims owned by APM US located in Elko County, State of Nevada, as more particularly described in **Schedule “A”** hereto, including all Mining Rights thereunder;
 - (ii) **“Discrepancy Notice”** has the meaning set out in §9;
 - (iii) **“Encumbrances”** means security interests, liens, royalties, charges, mortgages, pledges, encumbrances, adverse claims or challenges of any nature or kind whatsoever, whether written or oral, or direct or indirect;
 - (iv) **“Environmental Standards”** means all laws, orders, rules and regulations of whatever authority, as they may apply to and affect environmental and pollution control standards in effect, whether federal, state, provincial, or municipal;
 - (v) **“Expenditures”** means all costs, expenses and charges, direct or indirect, of or incidental to the Mining Operations incurred by the Optionee, as further set out in **Schedule “B”** hereto, which costs, expenses and charges shall otherwise be determined in accordance with the Optionee’s accounting practices applicable from time to time to the extent that those practices are consistent with Canadian generally accepted accounting principles;
 - (vi) **“Force Majeure”** means, with respect to a party, any event or circumstance, regardless of whether it was foreseeable, that was not caused by the party and that prevents the party from complying with any of its obligations under this agreement (other than an obligation to pay money), including fires, floods, earthquakes, inclement weather, subsidence, ground collapse or landslides, interruptions or delays in transportation or power supplies, strikes, lockouts, wars, epidemics and pandemics, acts of God, native title claims, inability to obtain required governmental permits or approvals in a timely manner, provided that, where applicable, the party diligently and timely applies for and prosecutes its applications for such permits and approvals, government regulation or interference (but excluding a lack of funds), except that a Force Majeure Event will not include: a strike or other labor unrest that affects only one party; an increase in prices; a change in law; or, in the case of the Optionee, the obligations under §§5(a)(i), 5(a)(ii), 5(a)(iii) and 5(b)(i);
 - (vii) **“Government or Regulatory Authority”** means any federal, state, provincial, regional, municipal or other government, governmental department, regulatory authority, commission, board, bureau, agency or instrumentality having lawful authority to regulate or administer or govern an business or property or affairs of any person, and for the purposes of this Agreement also includes any corporation or other entity owned or controlled by any of the foregoing and any stock exchange on which shares of a party are listed for trading;
 - (viii) **“Insurance Policy”** has the meaning set out in §18(c);

- (ix) **"Irrevocable Obligation"** has the meaning set out in §6;
- (x) **"Issuance Date"** means the date upon which the Payment Shares are issued or otherwise transferred to APMC or another designated person of the Optionor;
- (xi) **"Joint Venture Agreement"** has the meaning set out in §11;
- (xii) **"Legacy Royalties"** has the meaning set out in Section 2(f);
- (xiii) **"Minerals"** means the end products recovered, produced or derived from the Property;
- (xiv) **"Mining Operations"** means every kind of work done on or in respect of the Property or any product derived from the Property by or under the direction of the Optionee including, without limiting the generality of the foregoing, the work of assessment, geophysical, geochemical and geological surveys, studies and mapping, investigating, drilling, designing, examining, equipping, improving, surveying, shaft-sinking, raising, cross-cutting, searching for, drifting, trucking, sampling, working and procuring minerals, ores and metals, surveying and bringing any mining claims to lease or patent, and all other work usually considered to be prospecting, exploration, development and mining work; in paying wages and salaries of workers engaged in the work and in supplying food, lodging, transportation and other reasonable needs of the workers; in paying assessments or premiums for workers' compensation insurance, contributions for unemployment insurance or other pay allowances or benefits customarily paid in the district to those workers; in paying rentals, licence renewal fees, taxes and other governmental charges required to keep the Property in good standing; in purchasing or renting plant, buildings, machinery, tools, appliances, equipment or supplies and in installing, erecting, detaching and removing them; mining, milling, concentrating, rehabilitation, reclamation, and environmental protections and in the management of any work which may be done on the Property or in any other respect necessary for the due carrying out of the prospecting, exploration and development work;
- (xv) **"Mining Rights"** includes mineral rights and the right to conduct Mining Operations on the Property;
- (xvi) **"News Acquiror"** has the meaning set out in §20(j);
- (xvii) **"Novo Claims"** means the 24 unpatented mining claims located in Elko County, State of Nevada, as more particularly described in **Schedule "A"** hereto, including all Mining Rights thereunder;
- (xviii) **"Option"** has the meaning set out in §5;
- (xix) **"Option Period"** means the period commencing on the Effective Date and ending on the 4th anniversary of the Effective Date or such later date as the parties may

agree in writing, unless terminated earlier by the exercise of the full amount of the Option by the Optionee or as otherwise provided in this Agreement;

- (xx) **“Payment Shares”** means the common shares of PubCo to be issued to APMC or to another person determined by Optionor in its sole discretion, pursuant to this Agreement;
- (xxi) **“Permitted Encumbrances”** means
 - A. the Legacy Royalties;
 - B. easements, rights of way, servitudes or other similar rights in land including, without limiting the generality of the foregoing, rights of way and servitudes for railways, sewers, drains, gas and oil pipelines, gas and water mains, electrical light, power, telephone, telegraph or cable television conduits, poles, wires and cables;
 - C. the right reserved to or vested in, or paramount title of, any government or other public authority by the terms of any or by any statutory provision, to terminate, revoke or forfeit any of the lease or mining claims or to require annual or other periodic payments as a condition of the continuance thereof;
 - D. rights reserved to or vested in any municipality or governmental, statutory or public authority to control or regulate in any manner, and all applicable laws, rules and orders of any governmental authority; and
 - E. the reservations, limitations, provisos and conditions in any original grants from the Crown or interests therein and statutory exceptions to title;
- (xxii) **“Pre-Feasibility Study”** and **“Feasibility Study”** have the respective meanings set out in the CIM Definition Standards on Mineral Resources and Mineral Reserves adopted by Canadian Institute of Mining, Metallurgy and Petroleum Council, as amended)
- (xxiii) **“Property”** means, collectively, the Novo Claims and the APM Claims;
- (xxiv) **“PubCo”** means the Optionee, if it is listed on the Canadian Securities Exchange, or another publicly listed company trading on the Canadian Securities Exchange, as applicable;
- (xxv) **“Remaining Party”** has the meaning set out in §21(b);
- (xxvi) **“Report”** has the meaning set out in §8;
- (xxvii) **“Restricted Phase”** has the meaning set out in §13(a);
- (xxviii) **“Review Period”** has the meaning set out in §5(c);

- (xxix) **“Right of Entry”** has the meaning set out in §13(a);
 - (xxx) **“ROFR”** has the meaning set out in §21(b);
 - (xxxi) **“Selling Party”** has the meaning set out in §21(b);
 - (xxxii) **“United States”** means the United States of America, its territories and possessions, any State of the United States, and the District of Columbia; and
 - (xxxiii) **“Venture Agreement”** has the meaning set out in §11.
- (b) **Headings.** The headings of this Agreement and the schedules are solely for convenience of reference and do not affect the interpretation of it or define, limit or construe the contents of any provision of this Agreement.
 - (c) **Number and Gender.** Words importing the singular number shall include the plural and vice versa, words importing the neuter gender shall include the masculine and feminine genders, and words importing persons shall include firms and corporations and vice versa.
 - (d) **Governing Law.** The laws of the state of Nevada and the federal laws of the United States applicable therein (but without giving effect to any conflict of law rules) govern this Agreement and the rights and obligations and relations of the parties to it. The parties agree that the courts of Nevada have jurisdiction over any action or other legal proceedings based on any provisions of this Agreement. Each party attorns to the jurisdiction of the courts of the state of Nevada.
 - (e) **Currency.** All references to currency in this Agreement are references to Canadian currency.
 - (f) **Further Assurances.** Each party agrees from time to time, subsequent to the date hereof, to execute and deliver or cause to be executed and delivered such instruments or further assurances as may, in the reasonable opinion of either party, be necessary or desirable to give effect to the provisions of this Agreement or as may be reasonably required for registering or recording changes in ownership interests in the Property.
 - (g) **Schedules.** The following are schedules attached to and form part of this Agreement:
 - Schedule A – The Property
 - Schedule B – Exploration and Development Expenses
 - Schedule C – Net Smelter Returns
2. **Optionor’s Representations and Warranties.** The Optionor hereby represents and warrants to the Optionee as of the Effective Date:
- (a) the Optionor is the registered and beneficial owner of a 100% undivided interest in and to the APM Claims, free and clear of all Encumbrances except for the Permitted Encumbrances;

- (b) the Optionor holds a valid, enforceable and exclusive option to acquire a 100% undivided interest in and to the Novo Claims, and upon the exercise of the Novo Option under the Novo Option Agreement, the Optionor will become the registered and beneficial owner of a 100% undivided interest in and to the Novo Claims, free and clear of all Encumbrances, subject to the Permitted Encumbrances,;
- (c) to the best of the Optioner's knowledge, the Novo Option Agreement is valid and in full force and effect, and the Optionor is not in breach of the Novo Option Agreement;
- (d) the sole obligation remaining under the Novo Option Agreement on the part of the Optionor (excluding the Permitted Encumbrances and certain notice requirements) is the payment of \$150,000 on or before January 31, 2021 (the "**Final Payment**") and, upon the Final Payment being made to Novo on or before January 31, 2021 and the Optionor providing notice to Novo in accordance with the Novo Option Agreement, the 100% undivided interest in and to the Novo Claims will pass to the Optionor, or its designee, free and clear of all Encumbrances, subject to the Permitted Encumbrances;
- (e) there is no contract, option, or any other right of another binding upon the Optionor to option, sell, transfer, assign, pledge, charge, mortgage, explore or in any other way option, dispose of or encumber all or part of the Property or any portion thereof or interest therein, other than pursuant to the provisions of the Novo Option Agreement, this Agreement or the Permitted Encumbrances;
- (f) except in respect of (i) the 0.5% net smelter return royalty owed to Novo (the "**Novo NSR**") and (ii) the net smelter return royalties owed to Ely Gold Royalties of (A) 2% in respect of precious metals, if the average daily price per troy ounce of gold during the production period for which the royalty is payable (the "**Price of Gold**") is less than or equal to \$1,500, (B) 3% in respect of precious metals, if the Price of Gold is greater than \$1,500 and less than or equal to \$2,000, (C) 4% in respect of precious metals, if the Price of Gold is greater than \$2,000, and (D) 2.5% in respect of all non-precious metals (the "**Ely NSR**" and, together with the Novo NSR, the "**Legacy Royalties**"), of which minimum advanced royalty payments are payable as follows: (A) \$4,000 before November 7, 2020; (B) \$8,000 before November 7, 2021; (C) \$8,000 before November 7, 2022; (D) \$8,000 before November 7, 2023; (E) \$8,000 before November 7, 2024; (F) \$8,000 before November 7, 2025; and (G) \$12,000 before November 7, 2026 and on each succeeding anniversary, and the Permitted Encumbrances more generally, no person, firm or corporation has any proprietary or possessory interest in the Property other than the Optionor and the Optionee, and no person, firm or corporation is entitled to any royalty or other payment in the nature of rent or royalty on any minerals, ores, metals or concentrates or any other such products removed from the Property;
- (g) the Optionor has not received any notice of, nor is aware of, any non-compliance with any Environmental Standards applicable to the Property, nor any actions, suits, or proceedings pending or threatened against or adversely affecting, or which could adversely affect, the property or the ownership thereof;

- (h) (i) the Property, as described in **Schedule "A"** hereto, is valid and was properly located and monumented, free and clear of any conflicting claims; (ii) the certificates of location and mining claim maps for the Property were properly recorded and filed for the Property; (iii) all payments, filings and recordings required to maintain the Property in good standing through the Effective Date, including timely payment of the federal annual mining claim maintenance fees, have been properly made in the appropriate governmental offices; and (iv) all required federal annual claim maintenance fees and other payments necessary to maintain the Property through the annual assessment year ending September 1, 2020, have been timely and properly made.
- (i) the Optionor has full power and authority to enter into this Agreement and any agreement or instrument referred to or contemplated by this Agreement, and has the requisite corporate power and capacity to carry on business as presently conducted;
- (j) this Agreement, when executed and delivered by it (assuming valid execution and delivery by the other party), will constitute a legal, valid and binding obligation of the Optionor enforceable in accordance with the terms herein. Notwithstanding the foregoing, no representation is made as to the availability of equitable remedies for the enforcement of this Agreement. Additionally, this representation is limited by applicable bankruptcy, insolvency, moratorium, and other similar laws affecting generally the rights and remedies of creditors and secured parties.
- (k) the execution and delivery of this Agreement and any agreements contemplated hereby will not violate or result in the breach of the laws of any jurisdiction applicable or pertaining thereto;

3. **Optionee's Representations and Warranties.** The Optionee hereby represents and warrants to the Optionor as of the Effective Date:

- (a) the Optionee is duly incorporated under the laws of British Columbia and is in good standing. The Optionee has the requisite corporate power and capacity to carry on business as presently conducted, to enter into this Agreement and any agreement or instrument referred to or contemplated by this Agreement, and to perform all of its obligations hereunder and thereunder;
- (b) the execution and delivery of this Agreement and any agreements contemplated hereby will not violate or result in the breach of the laws of any jurisdiction applicable or pertaining thereto;
- (c) all requisite corporate action on the part of the Optionee, and on the part of its officers, directors and shareholders, necessary for the execution, delivery and performance by it of this Agreement and all other agreements contemplated hereby, have been taken. This Agreement and all agreements and instruments contemplated hereby are, and when executed and delivered by it (assuming valid execution and delivery by the other party), will be legal, valid and binding obligations enforceable in accordance with their respective terms. Notwithstanding the foregoing, no representation is made as to the availability of equitable remedies for the enforcement of this Agreement. Additionally, this

representation is limited by applicable bankruptcy, insolvency, moratorium, and other similar laws affecting generally the rights and remedies of creditors and secured parties;

- (d) the Optionee has obtained all consents required under any agreement to which it is a party and all required consents and approvals from governmental agencies and any stock exchange, as necessary for it to execute, deliver and perform its obligations under this Agreement;
- (e) the Optionee shall take all commercially reasonable steps to enter into any agreement, consent, approval or otherwise with Novo that is required for the parties to perform any of their obligations under this Agreement;
- (f) the Optionee is not a party to any actions, suits or proceedings which could materially affect its proposed activities on the Property, and to the best of the Optionee's knowledge no such actions, suits or proceedings are contemplated or have been threatened; and
- (g) to the best of the Optionee's knowledge, there are no judgments against the Optionee which are unsatisfied, nor is the Optionee subject to any consent decrees or injunctions which would have a materially adverse impact on the proposed activities on the Property.

4. **PubCo Representations and Warranties.** The Optionee on behalf of itself (to the extent the Optionee issues or otherwise transfers the Payment Shares) and on behalf of PubCo (to the extent the Optionee is not PubCo) hereby represents and warrants to the Optionor and to the beneficial holder of the Payment Shares that, as of the Effective Date and the Issuance Date:

- (a) PubCo and any of its subsidiaries are valid and subsisting corporations duly incorporated and in good standing under the laws of the jurisdictions in which they are incorporated, continued or amalgamated;
- (b) PubCo is not in default of any of the requirements of applicable securities laws;
- (c) PubCo has complied, or will comply, with all applicable corporate and securities laws and regulations in connection with the offer, sale and issuance or transfer of the Payment Shares;
- (d) the creation, issuance, transfer and sale of the Payment Shares by PubCo does not and will not conflict with and does not and will not result in a breach of any of the terms, conditions or provisions of its constating documents or any agreement or instrument to which PubCo is a party;
- (e) the Payment Shares will, at the time of issue or transfer, as applicable, be validly created and issued, and the Payment Shares will, at the time of issue, be duly allotted, validly issued, fully paid and non-assessable and will be free of all liens, charges and encumbrances;
- (f) all further agreements, conveyances, assignments or other documents applicable to the Payment Shares, when accepted, will have been duly authorized by all necessary corporate action on the part of PubCo and, subject to acceptance by PubCo, will

constitute a valid obligation of PubCo legally binding upon it and enforceable in accordance with its terms; and

- (g) neither PubCo nor any of its subsidiaries is a party to any actions, suits or proceedings which could materially affect its business or financial condition, and to the best of PubCo's knowledge no such actions, suits or proceedings have been threatened as at the Effective Date and PubCo will re-affirm such status to the Optionor and the beneficial holder of the Payment Shares as at the Issuance Date.

5. **The Option.** Subject to the Optionor exercising the Novo Option under the Novo Option Agreement and any obligations to pay the Legacy Royalties, the Optionor shall grant to the Optionee for the duration of the Option Period the sole, exclusive option to acquire up to an 80% interest in and to the Property (the "**Option**") on the terms and conditions set forth herein and for total consideration comprised of (a) cash payment of \$200,000, (b) issuance of 3,000,000 Payment Shares and (c) funding of aggregate Expenditures of \$4,350,000. The Option will be exercisable in three phases, as follows:

- (a) **First 51%.** The initial 51% of the Option (the "**First Option**"), is exercisable, subject to the Optionee satisfying the following conditions:
- (i) Within 4 months following the Effective Date, the Optionee shall make a non-refundable cash payment of \$50,000 to the Optionor;
 - (ii) On or before January 31, 2021, the Optionee shall make a cash payment of \$150,000 to Novo in satisfaction of the Final Payment under the Novo Option Agreement;
 - (iii) In accordance with escrow release schedule set out under §7 but, in any event, no later than the second anniversary of the Effective Date, the Optionee shall cause 2,000,000 Payment Shares to be issued or transferred to APMC or to another person designated by the Optionor in its sole discretion; and
 - (iv) On or before the second anniversary of the Effective Date, the Optionee shall fund Expenditures on the Property in the minimum amount of \$1,350,000;

following which the Optionee will be deemed to have exercised the First Option and will be entitled to a 51% right, title and interest in and to the Property.

- (b) **Subsequent 14%.** A subsequent 14% of the Option (the "**Second Option**") is exercisable upon written notice from the Optionee to the Optionor, subject to the Optionee satisfying all conditions set out in §5(a) in addition to the following conditions:
- (i) On the date the Optionee delivers notice to the Optionor in accordance with this §5(b), the Optionee shall cause an additional 1,000,000 Payment Shares to be issued to APMC or to another person designated by the Optionor in its sole discretion; and

- (ii) On or before the fourth anniversary of the Effective Date, the Optionee shall fund additional Expenditures on the Property in the minimum amount of \$3,000,000;

following which the Optionee will be deemed to have exercised the Second Option and will be entitled to an additional 14% right, title and interest in and to the Property.

- (c) **Final 15%.** Upon written notice from the Optionee to the Optionor, subject to the Optionee completing all conditions under §§5(a) and 5(b), the Optionee may exercise its option to acquire the final 15% of the Option (the “**Third Option**”) on or before the fourth anniversary of the Effective Date conditional upon the Optionee completing a Pre-Feasibility Study on the Property, following which the Optionee will be deemed to have exercised the Third Option and will be entitled to the final 15% right, title and interest in and to the Property.

The conditions precedent set out in this §5 are for the benefit of the Optionor and may be waived by the Optionor, in whole or in part, without prejudice to the Optionor’s right to rely on any other condition in favour of the Optionor.

6. **Irrevocable Payment Obligation.** The Optionee’s obligation to pay to the Optionor a \$50,000.00 cash payment within 4 months of the Effective Date, in accordance with §5(a)(i), is a firm and irrevocable obligation (“**Irrevocable Obligation**”). If the Optionee elects to terminate this Agreement at any time and for any reason without fulfilling the Irrevocable Obligation, the Optionee shall promptly following termination of this Agreement pay to the Optionor the sum equal to \$50,000.00.
7. **Payment Share Escrow.** The Optionor acknowledges and agrees that any Payment Shares issued pursuant to §5(a)(iii) will be subject to a pooling agreement between the Optionor and the Optionee providing for release of such shares as follows: (i) one-third (1/3) six (6) months from the date of date of issuance; (ii) one-third (1/3) nine (9) months from the date of date of issuance; and (iii) one-third (1/3) twelve (12) months from the date of issuance.
8. **Reporting on Expenditures.** Not later than 45 days after (a) the end of each calendar year during the Option Period (the end of the first calendar year being December 31, 2020) and (b) the date the Optionee is deemed to have exercised the First Option, Second Option or Third Option (under §§5(a), 5(b) or 5(c), respectively) the Optionee shall deliver to the Optionor a report of its Expenditures, field work and dual reporting of assays (the “**Report**”), and at the Optionor’s request the Optionee shall provide copies of billings, invoices and other documents to substantiate the information in each Report. The Optionor will then have 60 days following the date the Optionee delivers its Report (the “**Review Period**”) to request that the Optionee substantiate the information in such Report, in accordance with §9. If the Optionor has not contested such information by this time, the Optionor shall have no further recourse to contest the same. If the Optionee does not incur the minimum Expenditures required under §§5(a) or 5(b) by the applicable deadline set out therein, the Optionee does not complete the Pre-Feasibility Study by the applicable deadline, and Expenditures associated therewith, required under §5(c) or there are material deficiencies in the field work or the dual reporting of assays, the Optionor shall have the right and option, as determined in accordance with §9, to terminate this Agreement in accordance with §16(c). For greater certainty, expenditures relating to the reasonable

maintenance of the tenements and other reasonable fees and charges required to keep the Property in good standing are excluded from the calculation of the Expenditures under §§5(a) and 5(b).

9. **Review Period and Discrepancy Notice.** Upon receipt of a Report from the Optionee in accordance with §8, the Optionor shall review the Report and notify the Optionee within the Review Period that the Optionor accepts or objects to the Optionee's Expenditures or to the other information provided in the Report. If the Optionor objects to and does not accept the Optionee's Report, the Optionor shall notify the Optionee by serving the Optionee a discrepancy notice ("**Discrepancy Notice**") within the Review Period. If the parties are unable to resolve the issues described in the Discrepancy Notice within 30 days after delivery of a Discrepancy Notice, then the parties shall appoint, by mutual agreement, an external auditor to review the matter and shall otherwise proceed with the dispute resolution mechanism under §24. If at the end of the Review Period a Discrepancy Notice has not been sent by the Optionor, then the Report provided by the Optionee will be considered approved and final for all purposes of this Agreement.
10. **Form of Transfer.** During the Option Period, except as otherwise provided for during the Restricted Phase, the Optionor shall hold title to the Property subject to the terms of this Agreement and in trust for the Optionee. Upon the deemed exercise of each of the First Option, the Second Option, or the Third Option (under §§5(a), 5(b) or 5(c), respectively), subject to §§8 and 9, the Optionor shall deliver to the Optionee a signed transfer in registrable form (the "**Transfer**") conveying to the Optionee all of the Optionor's right, title and interest in and to that portion of the Property corresponding to the First Option, Second Option, or the Third Option, as applicable. The Optionor will make commercially reasonable efforts to expeditiously execute all agreements and instruments necessary or advisable in the discretion of the Optionee, acting reasonably, to transfer, record and register all interest in the applicable portion of the Property in favour of the Optionee or its designee.
11. **Formation of Joint Venture.** Upon the deemed exercise of the First Option in accordance with §5(a), subject to §§8 and 9, the parties shall execute a definitive joint venture agreement in a form similar to the most current publicly available version of the Rocky Mountain Mineral Law Foundation Exploration, Development and Mine Operating Agreement (the "**Venture Agreement**") to reflect the conveyance of the 51% interest (being the First Option) and the formation of an exploration joint venture between the Optionor and the Optionee over the Property ("**Joint Venture**"). The Optionor and the Optionee agree and covenant to begin negotiation of the Venture Agreement no later than the date the Optionee is deemed to have exercised the First Option.
12. **Terms of the Joint Venture.** The parties hereby acknowledge and agree that:
 - (a) The Optionee shall be the initial operator of the Joint Venture and shall have full control and decision making power over the content of work programs and expenditures. The position of operator will thereafter be fulfilled by that party which has the greater interest in the Property, unless that party agrees that the other party may act as operator;
 - (b) upon the deemed exercise of the First Option and formation of the Joint Venture, if the Optionee elects to not exercise the Second Option, Third Option or both, then:

- (i) the parties shall contribute capital for the Joint Venture's Expenditures in accordance with their respective participating interests. The participating interest of a party which elects to not contribute to the extent of its full interest shall be diluted in accordance with a straight-line dilution formula based on the parties' respective capital contributions to the Joint Venture. For the purposes of dilution, the Optionee's initial contribution shall be \$1,350,000.00 and the Optionor's initial deemed contribution shall be \$1,297,058.82. The operator shall prepare and deliver to each party a work plan or budget for each operating year of the Joint Venture. The work plan and budget will include provisions for all operating expenses and capital expenditures. The initial cash call following approval of a work plan and budget shall be 60 days following approval of the work plan and budget; and
 - (ii) the minimum annual milestone program spend for the first year of the Joint Venture will be \$500,000. For all years thereafter, the minimum annual milestone program spend will be \$1,000,000, except as unanimously agreed upon by the Joint Venture management committee;
 - (c) if a party's participating interest in the Joint Venture is reduced to 10% or less, such party's participating interest will automatically be converted to a mineral production royalty of 2% of the net smelter returns, calculated as set forth in **Schedule "C"** hereto, to be paid by the Joint Venture to the party whose interest is converted;
 - (d) the Joint Venture management committee will be formed generally in accordance with the provisions of Model Form 5 LLC published by the Rocky Mountain Mineral Law Foundation. The committee members representing each Joint Venture member shall have voting power in proportion to such member's participation. Annual programs and budgets will be reviewed and approved by a management committee comprised of members from the Optionee and the Optionor voting in proportion to their participating members' interests;
 - (e) all exploration and related data generated by either party to this Agreement and each member of the Joint Venture must be provided as soon as reasonably possible to each other party and each other member of the Joint Venture. The operator will provide quarterly reports of the Joint Venture's activities in respect of the Property to each non-operator party to this Agreement and to each non-operator member of the Joint Venture; and
 - (f) each party shall deliver to the Joint Venture a bill of sale of all data, information and personal property regarding the Property such as core, cuttings and samples, free and clear of all liens, claims and encumbrances arising by, through or under the parties.
13. **Rights and Obligations During the Option Period.** Subject to the terms of the Joint Venture Agreement and the terms of this Agreement, the parties hereby acknowledge and agree that:

- (a) During the Option Period, the Optionee will be the operator (subject to certain exceptions set out in this Agreement) and will have a collaborative working relationship with the Optionor;
- (b) During the Option Period, the Optionee shall have the right to enter on and conduct such Mining Operations on the Property as the Optionee in its sole discretion may decide (the "**Right of Entry**"), as is permitted by federal and Nevada laws and subject to any approval requirements under the Novo Option Agreement. Under such Right of entry, subject to the Optionor exercising the Novo Option and any obligations to pay the Legacy Royalties, the Optionee shall have quiet and exclusive possession of the Property during the Option Period, with full power and authority to the Optionee, its servants, agents, workers or contractors, to carry on Mining Operations in searching for Minerals in such manner as the Optionee in its discretion may determine, including, subject to permit obligations, the right to erect, bring and install on the Property all buildings, plant, machinery, equipment, tools, appliances or supplies as the Optionee deems necessary and proper and the right to remove therefrom reasonable quantities of rocks, ores and Minerals (but in any event not to exceed an aggregate of 5,000 tons) and to transport them for the purposes of sampling, metallurgical testing, and assaying. For greater certainty, if at any time during Option Period the Optionor has not exercised the Novo Option (the "**Restricted Phase**"), the Right of Entry will be subject to the terms and conditions of the Novo Option Agreement, and any approval requirements thereunder, in addition to the terms and conditions of this Agreement. Upon written request by the Optionee, the Optionor shall exercise the Novo Option in accordance with the terms of the Novo Option Agreement and within 30 days of receipt of the written notice from the Optionee;
- (c) any metals produced from bulk sampling shall be distributed in kind 49%, 35% or 20% to the Optionor and 51%, 65% or 80% to the Optionee, as the case may be, depending on whether the Optionee has exercised the First Option, Second Option and/or Third Option, as applicable;
- (d) in the conduct of its exploration, development and other activities on the Property, including any Mining Operations, the Optionee shall be responsible for compliance with applicable laws and regulations, including laws and regulations related to exploration, development, mining and reclamation;
- (e) the Optionee shall be responsible for the timely payment of the federal annual mining claim maintenance fees, property taxes, and any other payments required to maintain the Property, including any underlying leases. The Optionee shall also be responsible for the timely filing and recording of all documents required to evidence the payment of required claim maintenance fees. The Optionee shall perform its obligations under this §13(e) not later than 60 days before the applicable federal or state deadline and shall deliver to the Optionor proof of the Optionee's performance of its obligations not later than 30 days before the applicable federal or state deadline.
- (f) subject to the Optionor's prior written approval (which shall not be unreasonably withheld), the Optionee shall have the full, exclusive right, but not the obligation, to abandon (for the purpose of relocation), relocate, amend, defend contests or adverse

actions or suits and negotiate settlement thereof with respect to any portion of and all of the Property. Any of the Property that is relocated, or any new claims located within the Area of Interest, shall be located in the name of the Optionor, and shall be subject to the terms and conditions of this Agreement. The Optionor shall cooperate with the Optionee and shall execute any and all documents necessary or desirable in the opinion of the Optionee, acting reasonably, to further such amendments, relocations, contests, adverse actions or suits, or settlement of such contests or adverse actions or suits; and

- (g) all exploration, development and related data generated by a party in respect of the Property must be delivered to the other party as soon as reasonably possible following its creation or receipt. The Optionee shall assure that the Optionor receives all assay results, assay reports, and other time-sensitive data and reports. The Optionor will consider all data and reports received from the Optionee to be in preliminary form, and shall not rely in any way on such data or results until the QA/QC procedures are completed. The Optionor may request copies of any data or information pertaining to the Property at any time. The Optionee shall promptly deliver such data following receipt of the Optionor's request.

14. **Area of Interest.**

- (a) The Area of Interest shall include all lands within one mile from the exterior boundaries of the Property existing on the Effective Date as depicted in **Exhibit 1** to **Schedule "A"**. Any ownership interest in or right to acquire (i) any interest in unpatented mining claims or any other real property interests or mineral rights within the Area of Interest described in **Exhibit 1** to **Schedule "A"** or (ii) unpatented mining claims or other property interests and mineral rights which are contiguous to the Property and which extend beyond the Area of Interest acquired or located, as applicable, during the Option Period by or on behalf of either party or any affiliate or subsidiary of either party will become subject to the terms and provisions of this Agreement in accordance with the provisions of §14(b). The Property and all acquired property interests which have become part of the Property will at all times be and constitute a single project property subject to this Agreement and the Venture Agreement. This Agreement and the Venture Agreement will govern the parties' obligations to acquire interests in the Property and the Area of Interest. The parties shall have no obligation to one another concerning the acquisition of interests in properties outside the Area of Interest;
- (b) within 30 days after the acquisition of any additional property, all or any portion of which lies within the Area of Interest (or constitutes a contiguous property that may extend beyond the Area of Interest), the acquiring party shall notify the other party of such acquisition. Such notice shall describe in detail the acquisition, the lands, the nature of the interest therein, the mining claims or other real property interest covered thereby, and the acquisition cost. In addition to such notice, the acquiring party shall make any and all information concerning the additional property available to the other party. The other party shall then have 30 days after receipt of such notice and information to elect in its sole discretion to include such additional interest contained within the Area of Interest in the Property;

- (c) all costs incurred by the Optionee to acquire additional unpatented mining claims, property interests or mineral rights that become subject to this Agreement will be in addition to the Expenditures. If the Optionor is the party which acquires any such interest and the Optionee elects to accept the additional interests as part of the Property, the Optionee shall reimburse the Optionor for its acquisition costs;
- (d) If a party elects not to include an additional interest as part of the Property, then the acquiring party shall be free to take actions with respect to such interest, including acquisition of such interest, without any obligation to the other party; and
- (e) all real property interests and additional unpatented mining claims which become part of the Property will be acquired in the name of the Optionor until such time as the Optionee is deemed to have exercised the First Option in accordance with §4(g) and subject to §§8 and 9. The Optionee shall execute and deliver to the Optionor a special warranty deed for the unpatented mining claims located by the Optionee in the Area of Interest until such date. The parties to the Agreement and the members of the Joint Venture, as applicable, shall execute and record an amendment or supplement of the memorandum of this Agreement or the Venture Agreement, as applicable, to identify the additional real property interests and unpatented mining claims as part of the Property subject to this Agreement and the Joint Venture, as applicable.

15. Force Majeure.

- (a) In circumstances where the Optionee is prevented from carrying out any of the Expenditures contemplated in §5 prior to the dates set out therein as a result of Force Majeure, then the Optionee shall promptly give the Optionor notice of the commencement and termination of the Force Majeure and shall take all reasonable steps to remove the cause of such delay or prevention and thereafter the dates for incurring Expenditures will be deemed to be extended by the period of time during which the Force Majeure remains in effect.
- (b) In circumstances where the Optionor is prevented from carrying out any of the terms, covenants or conditions of this Agreement as a result of Force Majeure, then the Optionor shall promptly give the Optionee notice of the commencement and termination of the Force Majeure and shall take all reasonable steps to remove the cause of such delay or prevention and thereafter the time within which the Optionor is obliged to comply with any terms, covenants or conditions of this Agreement will be extended by the period of all such delays resulting from the Force Majeure.

16. Default and Termination of Option.

- (a) Upon having deemed exercised the full Option, subject to §§5, 8 and 9, this Agreement will terminate automatically and the Joint Venture Agreement will fully govern the relationship between the parties.
- (b) Subject to §16(d), the Optionee may terminate this Agreement at any time prior to exercising the full amount of the Option by giving 30 days' prior notice of termination to the Optionor, and upon the effective date of termination as specified in the termination

notice, this Agreement will terminate and be of no further effect, except for (i) any obligations of the Optionee incurred prior to the effective date of termination, including, without limitation, the Optionee's irrevocable Obligation to pay the Optionor \$50,000.00 in accordance with §6, (ii) the Optionee's obligation to reclaim (in accordance with applicable law) any disturbances of the Property made by the Optionee and (iii) the Optionee's obligation to pay the federal annual mining claim maintenance fees and mining claim annual recording fees for all claims on the Property for which the federal annual mining claim maintenance fees become due within sixty (60) days after the termination date, with no further right, interest or title in the Property being earned by the Optionee. For greater certainty, the Optionee shall retain its right, title and interest in and to the Property to the extent the Optionee exercised the First Option or the Second Option prior to terminating this Agreement.

- (c) If, at any time prior to exercising the full amount of the Option, the Optionee is in default in performing any material obligation under this Agreement or in breach of any material provision contained in this Agreement, including, without limitation, any obligations under §5, then the Optionor may terminate this Agreement by giving notice of termination to the Optionee but only if:
- (i) it has given to the Optionee notice of the particular failure, default, or breach on the part of the Optionee; and
 - (ii) the Optionee has not, within 30 calendar days following delivery of the notice of default, taken reasonable steps to cure the default by the appropriate performance, which the Optionee after due inquiry reasonably believes will cure the default. If the default relates to a payment of money or issuance of Payment Shares under §5, "taken reasonable steps" means actual payment of the amounts or issuance of Payment Shares that are in default within the 30 day period.

If the Optionor terminates this Agreement under this §16(c), the Optionee shall retain its right, title and interest in the Property to the extent the Optionee exercised the First Option or the Second Option prior to the Optionor terminating this Agreement.

- (d) Notwithstanding any termination of this Agreement, the Optionee will remain liable for its obligations under §§5(a)(i), 6, 18 and 22 hereof, and the Optionor will remain liable for its obligations under §18 hereof.
17. **Acceleration.** The Optionee at its sole discretion may make any of the payments or Payment Share issuances described in §4(g) on dates that are earlier in time from the dates specified in §4(g). Notwithstanding the foregoing, nothing in this section will affect the order in which the Optionee may exercise the First Option, Second Option and Third Option and the Optionee's right to exercise its interest (partial or otherwise) in the Option remains subject to the conditions under §4(g).
18. **Indemnity and Insurance.**
- (a) Each party shall indemnify and save harmless the others, including its officers, directors, and shareholders, from and against any and all claims, losses, liabilities, damages, fees,

finances, penalties, interests, deficiencies, costs and expenses, of any nature or kind whatsoever (“**Losses**”), including reasonable attorney’s fees and expenses associated with such Losses, arising by virtue or in respect of any breach of covenant contained herein or failure to comply with any provision herein, or any inaccuracy, misstatement, misrepresentation or omission made by the party in connection with any matter set out herein, and any and all actions, suits, proceedings, demands, claims, costs, legal and other expenses related or incidental thereto, except that no party is entitled to indemnification hereunder for Losses resulting from the negligence or wilful misconduct of the party or anyone for whom the party is responsible in law.

- (b) Notwithstanding any other provision of this Agreement and any termination of this Agreement, the indemnities provided herein will remain in force until all possible liabilities of the persons indemnified thereby are extinguished by the operation of law and will not be limited to or affected by any other indemnity obtained by any indemnified person from any other person.
- (c) Unless the parties agree otherwise, at its sole cost the Optionee shall keep in force during this Agreement term a policy of commercial general liability insurance covering property damage and liability for personal injury occurring on or about the Property, with limits in the amount of at least \$2,000,000 per occurrence for injuries to or death of any person and limits in the amount of at least \$1,000,000 per occurrence for property damage in respect of the Optionee’s activities on the Property (the “**Insurance Policy**”). The parties acknowledge and agree that the Optionee needs to advise its insurance carrier regarding any new areas or rights acquired in relation to the Property and any new insured notation and may need to provide or disclose any information or documents requested by its insurance carrier in this regard. The Optionee shall cause its insurance carrier to identify the Optionor and APMC as additional insureds of the Insurance Policy and upon written request, shall deliver to the Optionor a certificate of such insurance policy. It shall be a condition precedent to the Optionee’s assignment of this Agreement that the assignee procure and maintain the Insurance Policy in accordance with this Section.

19. **Covenants of the Optionors.**

During the term of this Agreement, the Optionor shall:

- (a) promptly provide the Optionee with any and all notices and correspondence from Government or Regulatory Authorities in respect of the Property;
- (b) subject to the terms of the Novo Option Agreement, including the Optionee completing all conditions to the First Option in accordance with §5(a), use its best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to exercise the Novo Option under the Novo Option Agreement and to obtain a 100% undivided interest in and to the Novo Claims;
- (c) co-operate with the Optionee in obtaining any permits or licences required by Government or Regulatory Authorities in the jurisdiction in which the Property is situate; and

- (d) excluding the Permitted Encumbrances, do or permit or suffer to be done any act or thing which would or might in any way adversely affect the rights of the Optionee hereunder.

20. Covenants of the Optionee.

During the Option Period or to the extent the Optionee acquires any interest in the Property, the Optionee shall:

- (a) comply with all applicable laws, regulations, by-laws, rules, orders and ordinances whether federal, state, provincial, or municipal, with respect to Mining Operations hereunder;
- (b) conduct all Mining Operations in accordance with good exploration, development and mining practice, and in compliance with all applicable legislation;
- (c) take all reasonable steps to enter into any agreement, consent, approval or otherwise with Novo that is required for the parties to perform any of their obligations under this Agreement;
- (d) maintain the Insurance Policy in accordance with §18(c) or such other adequate insurance coverage in respect of the Property, as agreed upon by the parties;
- (e) pay or cause to be paid all workmen's wages and for all materials, supplies and services delivered to or performed on or in respect of the Property, so as to avoid any woodsman, builders, or construction liens or similar Encumbrances from arising;
- (f) maintain the Property in good standing by doing all assessment work, recording all exploration and development work done on the Property in accordance with all applicable laws, paying all exploration licenses fees and by doing all other acts and things that may be necessary in that regard until the termination or expiration of the Agreement or the abandonment of rights and options granted hereunder;
- (g) abide by all directions of any other Government or Regulatory Authority having jurisdiction over its operations hereunder;
- (h) with respect to the issuance or transfer of any Payment Shares, execute or cause to be executed (if the Optionee and PubCo are not the same) such further agreements or other documents as are required by the Optionor to issue or transfer such Payment Shares in accordance with §5, and cause PubCo (if the Optionee and PubCo are not the same) to provide the same representations and warranties as set out in §4 and as further required by the Optionor, acting reasonably;
- (i) perform all the obligations of the Optionor to be performed under the Novo Option Agreement in respect of the interest to be acquired under the Option and, to the extent the Optionee acquires any interest in the Property, continue during and subsequent to the Option Period, as applicable, to perform all the obligations of the Optionor to be performed under the Novo Option Agreement in respect of such acquired interest; and

- (j) to the extent the Optionee sells, transfers, grants or otherwise disposes of its interest in and to the Property, the Option, this Agreement or any portion hereof or thereof, as applicable, the Optionee shall require the purchaser, grantee or transferee (the “**New Acquiror**”) to first deliver an agreement to the Optionor and Novo subjecting the New Acquiror to the restrictions and obligations in this Agreement.

21. **Assignment.**

- (a) This Agreement will be binding upon and inure to the benefit of the parties and their permitted successors and assigns. Either party may, upon the prior written approval of the other party, which approval will not be unreasonably conditioned, withheld or delayed, assign this Agreement to other parties that are not affiliated with the assigning party, provided that the assignee agrees in writing to assume all the assigning party’s obligations under this Agreement and that the assignee is a financially viable entity. On such assignment, the assigning party shall have no further obligations or liabilities under this Agreement. At any time, and without the Optionor’s consent, the Optionee may assign this Agreement (a) to an affiliate on the affiliate’s assumption of all of the Optionee’s obligations under this Agreement (affiliate meaning any entity which directly or indirectly controls or is controlled by, or under common control with, the Optionee); (b) in connection with an arm’s length bona fide pledge by the Optionee for financing purposes; (c) in connection with a sale of all or substantially all of the Optionee’s assets. A subsequent change of control of the Optionee’s assignee affiliate will constitute an assignment subject to the assignment consent provisions of this Section.
- (b) Except as otherwise provided in §21(a), if either party (the “**Selling Party**”) receives an offer from a third party to purchase all or a portion of its interests hereunder, including royalty rights, the other party (the “**Remaining Party**”) shall have a right of first refusal to acquire such interests as provided in this §21(b) (“**ROFR**”). In the event the Selling Party proposes to accept a bona fide offer to purchase, directly or indirectly, all or any portion of its interest hereunder, from a third party, the Selling Party shall provide written notice of the offer to Remaining Party, and the Remaining Party shall have a ROFR to acquire all or the portion of the interests that the Selling Party proposes to sell subject to the following terms and conditions:
 - (i) The Remaining Party must notify the Selling Party within 30 days after receipt of the written notice that the Remaining Party intends to exercise the ROFR. The purchase price and payment terms shall be substantially the same as those in the offer from the third party;
 - (ii) The Remaining Party shall have the longer of (i) 45 days or (ii) the time provided in the offer from the third party to close the purchase. If the Remaining Party fails to exercise the ROFR and Selling Party fails to close the transaction with the third party in accordance with the terms of the offer, the ROFR will continue in full force and effect. If the Remaining Party fails to exercise the ROFR and the terms or conditions of the purchase by the third party thereafter are modified, the Remaining Party shall be given a ROFR with respect to the modified offer as provided herein as if it were a new offer;

- (iii) This ROFR will remain in effect with respect to any portion of the interests hereunder not sold pursuant to the offer; and
- (iv) The ROFR will not apply to transfers to affiliated corporations that remain affiliated corporations.

22. **Confidentiality.**

- (a) All data and information coming into possession of either party by virtue of this Agreement with respect to the business or operations of the other party, or the Property generally, will be kept confidential and will not be disclosed to any person not a party hereto without the prior written consent of the other party, except:
 - (i) as required by law, rule, regulation or policy of any stock exchange or securities commission having jurisdiction over a party;
 - (ii) as may be required by a party in the prosecution or defense of a lawsuit or other legal or administrative proceedings, including for certainty the enforcement of rights under this Agreement;
 - (iii) as required by a financial institution in connection with a request for financing relating to development or mining activities;
 - (iv) as may be required in connection with a proposed conveyance to a third party of an interest in the Property or this Agreement, provided such third party agrees in writing in a manner enforceable by the other party to abide by all of the provisions of this §22 with respect to such data and information; or
 - (v) a party may disclose the existence of terms of this Agreement, provided that if such disclosure is by way of press release, such party must comply with §22(b).
- (b) To the extent either party intends to disclose the terms of this Agreement or any data or information via press release or other similar format as described in this Section, the disclosing party shall provide the other party with not less than two business days' notice of the text of the proposed disclosure, and the other party shall have the right to consult with the disclosing party on the same. No data, reports or resource information will be released publicly until the respective procedures are completed.

23. **Notices.** All notices, consents, demands and requests (in this §23, "**Communications**") required or permitted under this Agreement must be in writing and delivered, faxed, emailed, or sent by courier or prepaid registered mail to the parties, at their following respective addresses:

Optionee: Elko Sun Mining Corp.
Attention: Dave Bowen
11686 Summit Cres,
Delta, BC V4E 2Z5

e-mail: dbowen14@hotmail.com

Optionor: American Pacific Mining (US) Inc.
Attention: Warwick Smith, CEO
510 Burrard Street, Suite 910,
Vancouver, BC V6C 3A8

e-mail: w@datasystems.ca

and if any Communication is sent by courier or prepaid registered mail, it shall, be conclusively deemed to have been received on the third business day following the mailing of it and, if delivered, faxed or emailed, it will be deemed to have been received at the time of delivery or transmission. Notwithstanding the foregoing provisions with respect to mailing, in the event that it may be reasonably anticipated that, due to any strike, lock-out or similar event involving an interruption in postal service, any Communication will not be received by the addressee by no later than the third business day following the mailing of it, then the Communication must be sent by an alternative means of delivery in order that the payment or communication may be received expeditiously by the addressee. Either party may from time to time change its address by notice to the other in accordance with this §23.

24. **Dispute Resolution.** The parties hereby agree that any dispute arising under this Agreement will be subject to the informal dispute resolution procedure stated in this §24. For purposes of this §24, the party asserting the existence of a dispute as to the interpretation of any provision of this Agreement or the performance by the other party of any of its obligations hereunder shall notify the other party of the nature of the asserted dispute. Within 7 business days after receipt of such notice, the President (or person of equivalent authority) of the Optionee and the President (or person of equivalent authority) of the Optionor, or their respective assignees, shall arrange for a personal or telephone conference in which they use good faith efforts to resolve such dispute. If those individuals are unable to resolve the dispute, they shall each prepare and, within 7 business days after their conference, circulate to the President (or person of equivalent authority) of the Optionee and the President (or person of equivalent authority) of the Optionor a memorandum outlining in reasonable detail the nature of the dispute. Within 5 business days after receipt of the memoranda, the individuals to whom the memoranda were addressed shall arrange for a personal or telephone conference in which they attempt to resolve such dispute. If those individuals are unable to resolve the dispute, such dispute must be submitted to final, binding arbitration in accordance with the following provisions, provided, however, that the parties agree that any statement made as to the subject matter of the dispute in any of the conferences referred to in this §24 will not be used against the party that made such statement:

- (a) the arbitration will be conducted in the English language in state of Nevada, in the Country of the United States;

- (b) the arbitration will be conducted by a single arbitrator appointed by the applicable dispute authority governing the arbitration, unless the parties agree otherwise in writing;
 - (c) each party shall bear its own costs incurred in such arbitration and the parties shall equally defray the fees and costs of the arbitrator and/or the applicable dispute authority; and
 - (d) the arbitration will be private and confidential, and the arbitrator shall have the ability to award costs in its final and binding decision.
25. **Time of the Essence.** Time is of the essence of this Agreement.
26. **Unenforceability.** In the event that any one or more of the provisions contained in this Agreement or in any other instrument or agreement contemplated hereby shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision of this Agreement or any such other instrument or agreement contemplated hereby.
27. **Other Ventures.** This Agreement is, and the rights and obligations of the parties are, strictly limited to the matters stated herein. Subject to the provisions of §§18 and 22, each of the parties shall have the free and unrestricted right to independently engage in and receive the full benefits of any and all business ventures of any sort whatsoever, whether or not competitive with the matters contemplated hereby, without consulting the other or inviting or allowing the other to participate therein. The doctrines of “corporate opportunity” or “business opportunity” will not be applied to any other activity, venture, or operation of either party, whether adjacent to, nearby, or removed from the Property, and, except as provided in this Agreement, neither party shall have any obligation to the other with respect to any opportunity to acquire any interest in any property outside the Property at any time, or within the Property after termination of this Agreement, regardless of whether the incentive or opportunity of a party to acquire any such property interest may be based, in whole or in part, upon information learned during the course of operations or activities hereunder.
28. **Amendments.** This Agreement may not be amended or modified, nor may any obligation hereunder be waived, except by writing duly executed on behalf of all parties, and unless otherwise specifically provided in such writing, any amendment, modification, or waiver will be effective only in the specific instance and for the purpose it is given.
29. **Counterparts.** This Agreement may be executed in counterparts (by original or electronic signature), each of which when so executed will be deemed an original and all counterparts together will constitute one and the same instrument.

[Signature Page Follows]

The parties, intending to be contractually bound, have entered into this agreement as of the Execution Date.

ELKO SUN MINING CORP.

AMERICAN PACIFIC MINING (US) INC.

Per:

Per:

“Dave Bowen”
Authorized Signatory

“Warwick Smith”
Authorized Signatory

SCHEDULE A

THE PROPERTY

(Description of the Claims)

The "Novo Claims" -

<u>Claim ID</u>	<u>BLM Serial</u>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Acres</u>
TN 1	NMC1105496	039N	051E	03	20
TN 3	NMC1105498	039N	051E	03	20
TN 5	NMC1105500	039N	051E	03	20
TN 26	NMC1105517	039N	051E	03	20
TN 2	NMC1105497	039N	051E	03	20
TN 4	NMC1105499	039N	051E	03	21
TN 6	NMC1105501	039N	051E	02/03	20
TN 7	NMC1105502	039N	051E	02	21
TN 9	NMC1105504	039N	051E	02	20
TN 11	NMC1105506	039N	051E	02	21
TN 13	NMC1105508	039N	051E	02	21
TN 27	NMC1105518	039N	051E	03	20
TN 28	NMC1105519	039N	051E	03	20
TN 19	NMC1105510	039N	051E	02	21
TN 8	NMC1105503	039N	051E	02	20
TN 10	NMC1105505	039N	051E	02	20
TN 12	NMC1105507	039N	051E	02	21
TN 14	NMC1105509	039N	051E	02	21
TN 20	NMC1105511	039N/040N	051E	02/35	21
TN 21	NMC1105512	039N/040N	051E	02/35	21
TN 22	NMC1105513	039N/040N	051E	02/35	21
TN 23	NMC1105514	039N/040N	051E	02/35	21
TN 24	NMC1105515	040N	051E	35	21
TN 25	NMC1105516	040N	051E	35	20

The "APM" Claims -

<u>Claim</u>	<u>Claim Name</u>	<u>Claim Numb</u>	<u>Date Locat</u>	<u>Comment</u>	<u>Acres US</u>	<u>County</u>	<u>BLM NMC</u>
TNAP-1	TNAP	1	12/1/2017	West Map	0	Elko	116589
TNAP-2	TNAP	2	12/1/2017	West Map	0	Elko	116590
TNAP-3	TNAP	3	12/1/2017	West Map	0	Elko	116591
TNAP-4	TNAP	4	12/1/2017	West Map	0	Elko	116592
TNAP-5	TNAP	5	12/1/2017	West Map	0	Elko	116593
TNAP-6	TNAP	6	12/1/2017	West Map	0	Elko	116594

TNAP-7	TNAP	7	12/2/2017	West Map	0	Elko	116595
TNAP-8	TNAP	8	12/2/2017	West Map	0	Elko	116596
TNAP-9	TNAP	9	12/2/2017	West Map	0	Elko	116597
TNAP-10	TNAP	10	12/2/2017	West Map	0	Elko	116598
TNAP-11	TNAP	11	12/2/2017	West Map	0	Elko	116599
TNAP-12	TNAP	12	12/2/2017	West Map	0	Elko	116600
TNAP-13	TNAP	13	12/2/2017	West Map	0	Elko	116601
TNAP-14	TNAP	14	12/2/2017	West Map	0	Elko	116602
TNAP-15	TNAP	15	12/1/2017	West Map	0	Elko	116603
TNAP-16	TNAP	16	12/1/2017	West Map	0	Elko	116604
TNAP-17	TNAP	17	12/1/2017	West Map	0	Elko	116605
TNAP-18	TNAP	18	12/1/2017	West Map	0	Elko	116606
TNAP-19	TNAP	19	12/1/2017	West Map	0	Elko	116607
TNAP-20	TNAP	20	12/1/2017	West Map	0	Elko	116608
TNAP-21	TNAP	21	12/1/2017	West Map	0	Elko	116609
TNAP-22	TNAP	22	12/1/2017	West Map	0	Elko	116610
TNAP-23	TNAP	23	12/1/2017	West Map	0	Elko	116611
TNAP-24	TNAP	24	12/1/2017	West Map	0	Elko	116612
TNAP-25	TNAP	25	12/1/2017	West Map	0	Elko	116613
TNAP-26	TNAP	26	12/1/2017	West Map	0	Elko	116614
TNAP-27	TNAP	27	12/1/2017	West Map	0	Elko	116615
TNAP-28	TNAP	28	12/1/2017	West Map	0	Elko	116616
TNAP-29	TNAP	29	12/2/2017	West Map	0	Elko	116617
TNAP-30	TNAP	30	12/2/2017	West Map	0	Elko	116618

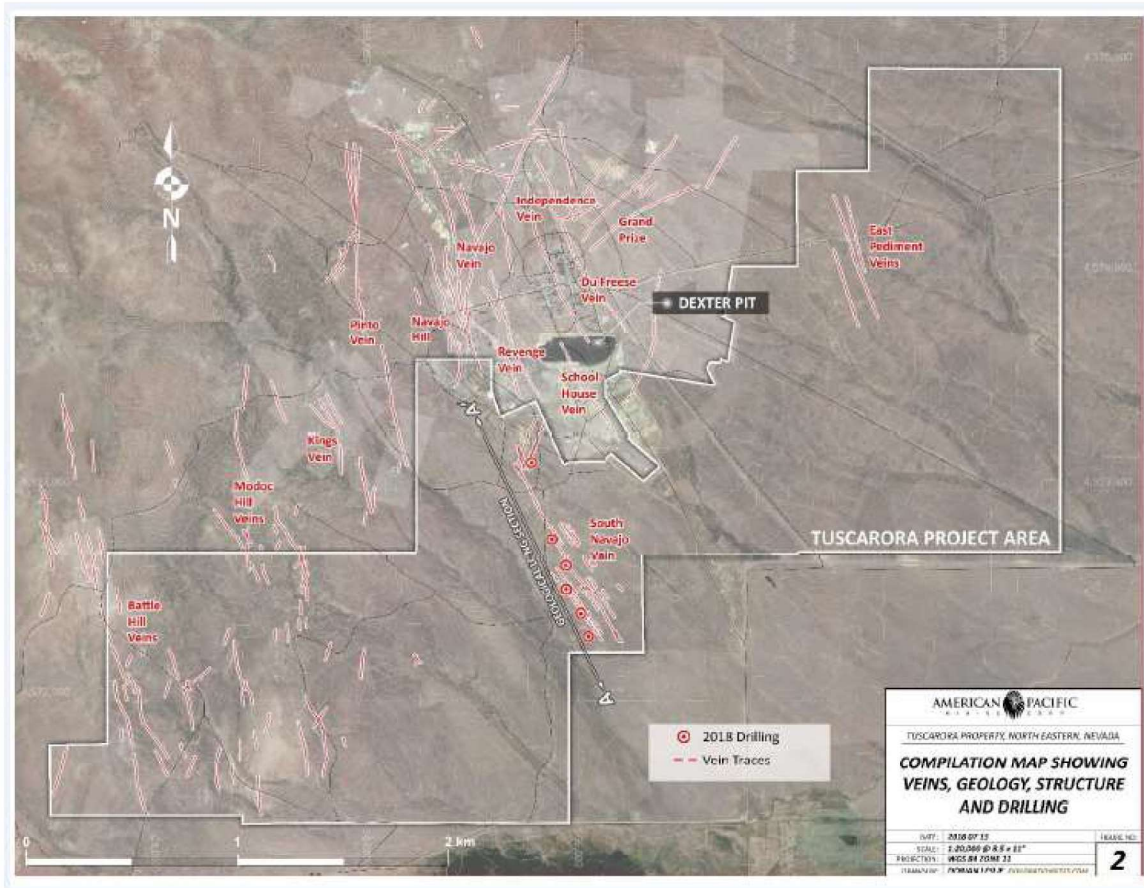
TNAP-31	TNAP	31	12/23/2017	West Map	0	Elko	116619
TNAP-32	TNAP	32	12/23/2017	West Map	0	Elko	116620
TNAP-33	TNAP	33	12/23/2017	West Map	0	Elko	116621
TNAP-34	TNAP	34	12/23/2017	West Map	0	Elko	116622
TNAP-35	TNAP	35	12/2/2017	West Map	0	Elko	116623
TNAP-36	TNAP	36	12/2/2017	West Map	0	Elko	116624
TNAP-37	TNAP	37	12/2/2017	West Map	0	Elko	116625
TNAP-38	TNAP	38	12/2/2017	West Map	0	Elko	116626
TNAP-39	TNAP	39	12/4/2017	East Map	0	Elko	116627
TNAP-40	TNAP	40	12/4/2017	East Map	0	Elko	116628
TNAP-41	TNAP	41	12/4/2017	East Map	0	Elko	116629
TNAP-42	TNAP	42	12/4/2017	East Map	0	Elko	116630
TNAP-43	TNAP	43	12/4/2017	East Map	0	Elko	116631
TNAP-44	TNAP	44	12/4/2017	East Map	0	Elko	116632
TNAP-45	TNAP	45	12/4/2017	East Map	0	Elko	116633
TNAP-46	TNAP	46	12/4/2017	East Map	0	Elko	116634
TNAP-47	TNAP	47	12/2/2017	East Map	0	Elko	116635
TNAP-48	TNAP	48	12/2/2017	East Map	0	Elko	116636
TNAP-49	TNAP	49	12/2/2017	East Map	0	Elko	116637
TNAP-50	TNAP	50	12/2/2017	East Map	0	Elko	116638
TNAP-51	TNAP	51	12/2/2017	East Map	0	Elko	116639
TNAP-52	TNAP	52	12/2/2017	East Map	0	Elko	116640
TNAP-53	TNAP	53	12/2/2017	East Map	0	Elko	116641
TNAP-54	TNAP	54	12/2/2017	East Map	0	Elko	116642

TNAP-55	TNAP	55	12/2/2017	East Map	0	Elko	116643
TNAP-56	TNAP	56	12/2/2017	East Map	0	Elko	116644
TNAP-57	TNAP	57	12/2/2017	East Map	0	Elko	116645
TNAP-58	TNAP	58	12/2/2017	East Map	0	Elko	116646
TNAP-59	TNAP	59	12/2/2017	East Map	0	Elko	116647
TNAP-60	TNAP	60	12/2/2017	East Map	0	Elko	116648
TNAP-61	TNAP	61	12/2/2017	East Map	0	Elko	116649
TNAP-62	TNAP	62	12/2/2017	East Map	0	Elko	116650
TNAP-63	TNAP	63	12/29/2017	East Map	0	Elko	116651
TNAP-64	TNAP	64	12/29/2017	East Map	0	Elko	116652
TNAP-65	TNAP	65	12/29/2017	East Map	0	Elko	116653
TNAP-66	TNAP	66	12/29/2017	East Map	0	Elko	116654
TNAP-67	TNAP	67	12/29/2017	East Map	0	Elko	116655

EXHIBIT 1 TO SCHEDULE "A"

AREA OF INTEREST

(Defined as one mile from the exterior boundary of the Claims)



**SCHEDULE B
EXPLORATION AND DEVELOPMENT EXPENSES**

*Capitalized terms used but not defined in this **Schedule "B"** are intended to have the meanings given thereto, as applicable, in the Earn-In and Option to Form Joint Venture Agreement (the "**Agreement**") to which this schedule is attached.*

"Expenditures" means all costs, expenses and charges, direct or indirect, of or incidental to the Mining Operations incurred by the Optionee, as further set out below, which costs, expenses and charges shall otherwise be determined in accordance with the Optionee's accounting practices applicable from time to time to the extent that those practices are consistent with Canadian generally accepted accounting principles:

- (a) The any and all payments payable by the Optionee in accordance with §§5(a)(iv), 5(b)(ii) and 5(c), and all costs and expenses incurred in conducting exploration and prospecting activities on or in connection with the Property, including, without limitation, the active pursuit of required federal, state or local authorizations or permits and the performance of required environmental protection or reclamation obligations, the building, maintenance and repair of roads, drill site preparation, drilling, tracking, sampling, trenching, digging test pits, shaft sinking, acquiring, diverting and/or transporting water necessary for exploration, logging of drill holes and drill core, completion and evaluation of geological, geophysical, geochemical or other exploration data and preparation of interpretive reports, and surveying and laboratory costs and charges (including assays or metallurgical analyses and tests);
- (b) All direct expenses incurred in conducting development activities on or in connection with the Property, the active pursuit of required federal, state or local authorization or permits and the performance of required environmental protection or reclamation obligations, pre-stripping and stripping, the construction and installation of a mill, leach pads or other beneficiation facilities for valuable minerals, and other activities, operations or work performed in preparation for the removal or testing of valuable minerals from the Property;
- (c) All costs of acquiring additional interests in real property within the Area of Interest, to the extent such interests become subject to the Agreement, including without limitation costs and expenses incurred by the Optionee in conducting negotiations and due diligence, attorneys' fees and all amounts paid by the Optionee to third parties in acquiring such interests;
- (d) All costs incurred in performing any reclamation or other restoration or clean-up work required by any federal, state or local agency or authority, and all costs of insurance or bonding obtained or in force to cover activities undertaken by or on the Optionee's behalf on the Property;
- (e) Salaries (not including bonuses), wages (not including bonuses), expenses, benefits, and other compensation paid in the ordinary course of the Optionee's employees or consultants engaged in operations directly relating to the Property, including salaries (not

including bonuses) and fringe benefits of those who are temporarily assigned to and directly employed on work relating to the Property for the periods of time such employees are engaged in such activities and reasonable transportation expenses for all such employees to and from their regular place of work to the Property; provided that all payments under this Section (e) shall be made at rates not greater than comparable market and industry standards;

- (f) All costs incurred in connection with the preparation of baseline environmental surveys or studies, scoping or preliminary economic assessments, Pre-Feasibility Study or Feasibility Study and economic and technical analyses pertaining to the Property, whether carried out by the Optionee or by third parties under contract with the Optionee;
- (g) Taxes and assessments, other than income taxes, assessed or levied upon or against the Property or any improvements thereon situated thereon for which the Optionee is responsible or for which the Optionee reimburses the Optionor;
- (h) Costs of material, equipment and supplies acquired, leased or hired, for use in conducting exploration or development operations relating to the Property; provided, however, that equipment owned and supplied by the Optionee shall be chargeable at rates no greater than comparable market rental rates available in the area of the Property;
- (i) Costs and expenses of establishing and maintaining field offices, camps and housing facilities;
- (j) Costs incurred by the Optionee in examining and curing title to any part of the Property, in maintaining the Property, whether through the performance of assessment work, the payment of claim maintenance fees or otherwise, in satisfying surface use or damage obligations to landowners, or in conducting any analyses of the environmental conditions at the Property; and
- (k) A 5% administrative fee based on all Expenditures with the exception of those expenditures related to drilling including, without limitation, costs associate with drill pad work, permitting costs, site excavation costs and all costs related to water, time, materials, per diem, move and demove and assays reclamation.

SCHEDULE C
NET SMELTER RETURNS

*Capitalized terms used but not defined in this **Schedule "C"** are intended to have the meanings given thereto, as applicable, in the Earn-In and Option to Form Joint Venture Agreement (the "**Agreement**") to which this schedule is attached.*

Calculation.

(a) As used herein, "**Payor**" means the Joint Venture and the Joint Venture's successors and assigns and "**Payee**" means the Royalty grantee (as per §12(c) of the Agreement) and its successors and assigns.

(b) As used herein, "**Net Smelter Returns**" means the Gross Returns from any and all ores, metals, minerals and materials of every kind and character found in, on or under the Property ("**Valuable Minerals**"), extracted, produced and sold or deemed to have been sold from the Property, less all Allowable Deductions.

(c) As used herein, "**Gross Returns**" has the following meanings for the following categories of Valuable Minerals:

(i) If Payor causes refined gold that meets or exceeds the generally accepted commercial standards for refined gold to be produced by an independent third party refinery from ores mined from the Property, for purposes of determining the Production Royalty, the refined gold shall be deemed to have been sold in the calendar month in which it was produced at the refinery at the Monthly Average Gold Price for that month. The Gross Returns from such deemed sales shall be determined by multiplying Gold Production during the month by the Monthly Average Gold Price. As used herein, "**Gold Production**" means the quantity of refined gold that is outturned to Payor's account by the refinery during the calendar month on either a provisional or final settlement basis. If outturn of refined gold is made by the refinery on a provisional basis, the Gross Returns shall be based upon the amount of such provisional settlement, but shall be adjusted in subsequent statements to account for the amount of refined metal established by final settlement by the refinery. As used herein, "**Monthly Average Gold Price**" means the average London Bullion Market Association P.M. Gold Fix, calculated by dividing the sum of all such prices reported for the month by the number of days for which such prices were reported. If the London Bullion Market Association P.M. Gold Fix ceases to be published, the Monthly Average Gold Price shall be determined by reference to prices for refined gold for immediate delivery in the most nearly comparable established market selected by Payor as such prices are published in "Metals Week" or a similar publication.

(ii) If Payor causes refined silver that meets or exceeds the generally accepted commercial standards for refined silver to be produced by an independent third party refinery from ore mined from the Property, for purposes of determining the Production Royalty, the refined silver shall be deemed to have been sold in the calendar month in which it was

produced at the Monthly Average Silver Price for that month. The Gross Returns from such deemed sales shall be determined by multiplying Silver Production during the calendar month by the Monthly Average Silver Price. As used herein, "**Silver Production**" shall mean the quantity of refined silver that is outturned to Payor's account by the refinery during the calendar month on either a provisional or final settlement basis. If outturn of refined silver is made by the refinery on a provisional basis, the Gross Returns shall be based upon the amount of such provisional settlement but shall be adjusted in subsequent statements to account for the amount of refined metal established by final settlement by the refinery. As used herein, "**Monthly Average Silver Price**" shall mean the average New York Silver Price as published daily by Handy & Harman, calculated by dividing the sum of all such prices reported for the calendar month by the number of days for which such prices were reported. If the Handy & Harman quotation ceases to be published, the Monthly Average Silver Price shall be determined by reference to prices for refined silver for immediate delivery in the most nearly comparable established market selected by Payor as published in "Metals Week" or a similar publication.

(iii) If Payor sells refined metals (other than refined gold and refined silver), doré or concentrates produced from Valuable Minerals from the Property, the Gross Returns for such refined metals shall be the proceeds actually received by Payor from their sale. If such sales are to an Affiliate, the refined metals, doré, or concentrates shall be deemed, solely for the purpose of computing Gross Returns, to have been sold at prices and on terms no less favorable to Payor than those which would have been received under similar circumstances from an unaffiliated third party. As used herein, "**Affiliate**" means any person, partnership, limited liability company, joint venture, corporation, or other form of enterprise which Controls, is Controlled by, or is under common Control with a party, and "**Control**" means the ability, directly or indirectly through one or more intermediaries, to direct or cause the direction of the management and policies of such entity through (A) the legal or beneficial ownership of voting securities or membership interests; (B) the right to appoint managers, directors or corporate management; (C) contract; (D) operating agreement; (E) voting trust; or (F) otherwise.

(d) As used herein, "**Allowable Deductions**" means the following costs, charges, and expenses incurred or accrued by Payor:

(i) If Payor sells or is deemed to have sold refined gold or refined silver:

(A) all costs, charges and expenses for smelting and refining doré or concentrates to produce the refined gold or refined silver (including handling, processing, and provisional settlement fees, sampling, assaying and representation costs, penalties, and other processor deductions);

(B) all costs, charges, and expenses for weighing, sampling, determining moisture content and packaging Valuable Minerals and for loading and transportation of doré or concentrates from the Property to the refinery or smelter and

then to the place of sale (including freight, insurance, security, transaction taxes, handling, port, demurrage, delay, and forwarding expenses incurred by reason of or in the course of such transportation); and

(C) actual sales and brokerage costs incurred by Payor.

(ii) If Payor sells refined metals (other than refined gold or refined silver), doré, concentrate or ores:

(A) all costs, charges, and expenses for (I) beneficiation, processing or treatment of such materials at any plant or facility not owned by Payor and (II) smelting or refining to produce a refined metal (including handling, processing, and provisional settlement fees, sampling, assaying and representation costs, penalties, and other processor deductions);

(B) all costs, charges, and expenses for weighing, sampling, determining moisture content and packaging Valuable Minerals and for loading and transportation of doré, concentrates or other products from the Property (I) to the place of sale, or (II) if such dore, concentrates or other products are beneficiated, processed, treated, smelted or refined at any plant or facility more than five (5) miles from the exterior boundary of the Property, to such plant or facility and then to the place of sale (including freight, insurance, security, transaction taxes, handling, port, demurrage, delay, and forwarding expenses incurred by reason of or in the course of such transportation); and

(C) actual sales and brokerage costs.

(e) Payor shall have the right to market and sell or refrain from selling refined gold, refined silver and other mineral products from the Property in any manner it may elect, including the right to engage in forward sales, future trading or commodity options trading, and other price hedging, price protection, and speculative arrangements ("**Trading Activities**") which may involve the possible delivery of gold, silver or other mineral products from the Property. With respect to Production Royalty payable on refined gold and refined silver and any other Valuable Minerals, Payee shall not be entitled to participate in the proceeds or be obligated to share in any losses generated by Payor's actual marketing or sales practices or by its Trading Activities and no such profits or losses shall be included in Gross Returns.

2. Manner of Payment. Production Royalty payments shall be paid by Payor to Payee (or notice of a credit against Production Royalties as provided above shall be given to Payee) on or before thirty (30) days following the calendar quarter during which Payor shall have received payment for Valuable Minerals sold by Payor or during which Valuable Minerals are deemed sold as provided above. Production Royalties shall accrue to Payee's account upon such final payment or upon being credited to the account of Payor by the smelter, refinery or other ore buyer to Payor for the Valuable Minerals sold

and for which the Production Royalty is payable. All Production Royalty payments shall be accompanied by a statement and settlement sheet showing the quantities and grades of Valuable Minerals mined and sold from the Property, the proceeds of sales, cost, assays and analyses, and other pertinent information in reasonably sufficient detail to explain the calculation of the Production Royalty payment.

3. Payments; Where Made. All payments hereunder shall be sent by certified U.S. mail to Payee at the address which Payee provides to Payor or by wire transfer to an account designated by and in accordance with written instructions from Payee. The date of placing such payment in the United States mail by Payor, or the date the wire transfer process is initiated, shall be the date of such payment. Payments by Payor in accordance herewith shall fully discharge Payor's obligation with respect to such payment, and Payor shall have no duty to otherwise apportion or allocate any payment due to Payee or its successors or assigns.

4. Audits; Objections to Payments. Payee, at its sole election and expense, shall have the right to perform, not more frequently than once annually following the close of each calendar year, an audit of Payor's accounts relating to payment of the Production Royalty hereunder by any authorized representative of Payee. Any such inspection shall be for a reasonable length of time during regular business hours, at a mutually convenient time, upon at least five (5) business day's prior written notice by Payee. All royalty payments made in any calendar year shall be considered final and in full accord and satisfaction of all obligations of Payor with respect thereto, unless Payee gives written notice describing and setting forth Payor's delivery to Payee of the annual audit for the calendar year. Payor shall account for any agreed upon deficit or excess in Production Royalty payments made to Payee by adjusting the next quarterly statement and payment following completion of such audit to account for such excess.

5. Conduct of Operations. Payor shall have the sole and exclusive control of all operations on or for the benefit of the Property, and of any and all equipment, supplies, machinery, and other assets purchased or otherwise acquired or under its control in connection with such operations. Payor may carry out such operations on the Property as it may, in its sole discretion, determine to be warranted, so long as such operations are conducted in accordance with procedures acceptable in the mining and metallurgical industry. The timing, nature, manner and extent of any exploration, development, mining or processing operations carried out or in connection with the Property shall be within the sole discretion of Payor, and there shall be no implied covenant whatsoever to begin or continue any such operations. If Payor at any time, and from time to time after commencing operations, desires to shut down, suspend or cease operations for any reason, it shall have the right to do so. Any decision as to the time, manner and form, if any, in which ores or other products containing Valuable Minerals are to be sold shall be made by Payor in its sole discretion.

6. Ore Processing. All determinations with respect to: (a) the methods of beneficiating, processing or milling any such ore; (b) the constituents to be recovered therefrom, and (c) the purchasers to whom doré and concentrates deriving the Property may be sold shall be made by Payor in its sole and absolute discretion.

7. Ore Samples. The mineral content of all ore mined and removed from the Property (but excluding ore leached in place) and the quantities of constituents recovered by Payor shall be determined by Payor, or with respect to such ore which is sold, by the mill or smelter to which the ore is sold, in accordance with standard sampling and analysis procedures, and shall be weighted average based on the total amount of ore from the Property crushed and sampled, or the constituents recovered, during an entire calendar quarter. Upon reasonable advance written notice to Payor, Payee shall have the right to have representatives present at the time samples are taken for the purpose of confirming that the sampling and analysis procedure is standard and acceptable according to accepted industry practices.

8. Commingling of Ores. Payor shall have the right to mix or commingle, either underground, at the surface, or at processing plants or other treatment facilities, any material containing Valuable Minerals mined or extracted from the Property with ores or material derived from other lands or properties owned, leased or controlled by Payor; provided, however, that before commingling, Payor shall calculate from representative samples the average grade of the ore from the Property and shall either weigh or volumetrically calculate the number of tons of ore from the Property to be commingled. As products are produced from the commingled ores, Payor shall calculate from representative samples the average percentage recovery of products produced from the commingled ores during each month. In obtaining representative samples, calculating the average grade of commingled ores and average percentage of recovery, Payor may use any procedures acceptable in the mining and metallurgical industry. In addition, comparable procedures may be used by Payor to apportion among the commingled ores any penalty charges imposed by the smelter or refiner on commingled ores or concentrates. Payor shall deliver to Payee all records relating to commingled ores.

9. Waste Rock, Spoil and Tailings. Any ore, mine waters, leachates, pregnant liquors, pregnant slurries, and other products or compounds or metals or minerals mined from the Property shall be the property of Payor, subject to the Production Royalty as provided for in Section 1. Payor shall have the sole right to dump, deposit, sell, dispose of, or reprocess waste rock, spoil, tailings, or other mine wastes and residues, and Payee shall have no claim or interest therein other than for the payment of the Production Royalty to the extent any Valuable Minerals are produced and sold therefrom.

10. No Covenants. The Parties agree that in no event shall Payor have any duty or obligation, express or implied, to explore for, develop, mine or produce ores, minerals or mineral substances from the Property, and the timing, manner, method and amounts of such exploration, development, mining or production, if any, shall be in the sole discretion of Payor. Payee acknowledges that the expenditures made by Payor to advance activities on the Property and the right to the Production Royalty are sufficient consideration for the conversion of its Participating Interest. None of the provisions of this Section 10 shall be deemed to limit or restrict Payor's ability to sell or otherwise convey or transfer to any third party all or any portion of Payor's interest in the Property.

11. Nature of Payee's Interest. Payee shall have only a royalty interest in the Property and any real property interest within the Area of Interest acquired during the term of the Venture Agreement and the rights and incidents of ownership of a non-executive royalty owner. Payee shall not have any

possessory or working interest in the Property nor any of the incidents of such interest. By way of example but not by way of limitation, Payee shall not have (a) the right to participate in the execution of applications for authorities, permits or licenses, mining leases, options, farm-outs or other conveyances, (b) the right to share in bonus payments or rental payments received as the consideration for the execution of such leases, options, farm-outs, or other conveyances, or (c) the right to enter upon the Property and prospect for, mine, drill for, or remove ores, minerals or mineral products therefrom.