

XXX FIRST NATION PARTICIPATION AGREEMENT

THIS AGREEMENT made this ____ day of _____ 2004

BETWEEN

XXX First Nation

(the “**XXX First Nation**” or the “**XXX First Nations**” where there is more than one of your communities)

AND

YYY INC.

(the “**YYY CORPORATION**”)

(each being a “Party” and, collectively, being “Parties”)

WHEREAS:

- A. The XXX Nation holds certain inherent aboriginal title, rights and interests in respect of the XXX First Nation Territory, which includes the XXX Project;
- B. YYY Corporation holds certain rights and interests to explore and develop mineral resources of gold, silver and copper in the XXX Project and wishes to pursue the exploration, permitting, financing, construction, operation and closure of the XXX Mine (or the Project, as defined herein) within XXX First Nation Territory;
- C. YYY Corporation and the XXX Nation entered into the Negotiation Agreement on DATE, 200X, pursuant to which the Parties agreed, among other things, to enter into without prejudice negotiations to settle the terms of an agreement with respect to the Project;
- D. The XXX Nation is committed to the principles of economic sustainability, environmental stewardship, and self-determination in respect of the XXX First Nation Territory, including the resources therein, and wishes to establish a cooperative and respectful long-term relationship with YYY Corporation in respect of the Project that is in keeping with these principles;
- E. YYY Corporation is committed to carrying out the Project in a cooperative and respectful long-term relationship with the XXX Nation in a manner which provides it certainty with respect to investment, access, extraction and ownership of the mineral rights in respect of the Project; and

- F. The Parties wish to enter into this Agreement to set out their mutual commitments to establish a cooperative and respectful long-term relationship for the Project.

PART 1: OBJECTIVES

1.1 Purpose of this Agreement

1.1.1 The purpose of this Agreement is to establish a cooperative and mutually beneficial working relation between the Parties for the Project in a way that fosters an understanding and awareness of their respective interests and meets the following general objectives in accordance with this Agreement:

- (a) provides a long-term framework for communication, collaboration and cooperation with respect to the matters addressed in this Agreement;
- (b) facilitates the regulatory approval, financing, development and operation of the Project in an efficient and environmentally sound manner;
- (c) provides the XXX Nation with economic opportunities and social and financial benefits, including employment, education, training and business opportunities in respect of the Project;
- (d) minimizes any negative social and environmental effects of the Project and protects the members of the XXX Nation's way of life in respect of the XXX First Nation Territory;
- (e) promotes a Project that is financially viable, cost efficient and competitive;
- (f) provides for ongoing monitoring of the economics benefits and opportunities and environmental impacts of the Project;
- (g) secures the support of the XXX Nation during all of the Project Phases; and
- (h) does not limit or derogate any of the aboriginal rights, including title, of the XXX Nation, including any potential claims by the XXX Nation against the Crown in respect of such rights relating in any way to the Project or the XXX First Nation Territory.

1.2 Meaning of these Objectives

1.2.1 The general objectives of this Agreement as set out in paragraph 1.1.1 above and the purposes of the each of the Parts below are integral to the intentions of the Parties in this Agreement. The Parties agree that these general objectives and the purposes in each of the Parts below will be used by the Parties to inform their interpretation of this Agreement and will be relevant in any discussions or resolutions between them regarding their intentions and the interpretation of this Agreement, including Disputes that are dealt with under the dispute resolution provisions of the Agreement set out in paragraph 11.18. In the event of conflict between the general objectives in paragraph 1.1.1 and the purposes set out in each Part of this Agreement, the purposes of each Part will prevail for the purpose of interpreting that Part.

PART 2: DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Agreement, unless the context otherwise requires, the following capitalized terms have the meanings set forth below (and, with respect to the Schedules, certain capitalized terms used therein are separately defined in such Schedules):

- 2.1.1 **“Access Road”** means the access road to be constructed connecting the Project to the XXX Highway as set out in the EA Project Approval;
- 2.1.2 **“Additional Payments”** means the payments described in paragraph 8.5.7;
- 2.1.3 **“Additional Reviewable Permit”** means those permits that are not Reviewable Permits and are permits that could have a material Environmental Impact, and are added to the Reviewable Permits as provided in paragraph 4.6.1;
- 2.1.4 **“Agreement”** means this Agreement between the Parties, including any recitals and Schedules to this Agreement, in each case as the same may, in writing, be amended, supplemented, or restated from time to time;
- 2.1.5 **“Affiliate”** means an affiliate of a body corporate, having the same meaning as set out in the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, in force as of the Effective Date of this Agreement, which for ease of reference is set out in Schedule 2.1.5;
- 2.1.6 **“Business Entity”** has the meaning described in paragraph 7.2.2;
- 2.1.7 **“Business Opportunities”** means the opportunities for XXX First Nation Businesses to supply goods and services to the Project during all Project Phases as set out in Part 7;
- 2.1.8 **“Bands”** means, collectively, the XXX First Nation, the XXX First Nation Band, and any other *Indian Act* created with a majority of XXX First Nation Members;
- 2.1.9 **“BET Commitments”** means commitments in respect of opportunities for business contracting and subcontracting for XXX First Nation Businesses, employment of XXX First Nation Members and training of XXX First Nation Members as provided in paragraph 7.12.2(a);
- 2.1.10 **“Business Registry”** means the registry developed by the XXX Nation as provided in paragraph 7.4.1;
- 2.1.11 **“Claims”** means all of the mineral claims, mineral leases, access rights, option rights, and related rights, in whole or in part (collectively referred to in this definition as the “mineral rights and tenures”), which are now held by YYY Corporation or its Affiliates and required in respect of the Project and, as at the Effective Date, are specifically set out as Schedules 2.1.11, and such other mineral rights and tenures which may be subsequently obtained by YYY Corporation or its Affiliates that are within the XXX Project or are directly contiguous to either the existing claims set out in Schedules 2.11.1 or to the XXX Project;
- 2.1.12 **“Closure”** means the Project Phase that begins at the end of Commercial Production and ends with Final Closure and includes such activities as decommissioning, abandonment, habitat restoration, reclamation and all other activities and work required by YYY Corporation pursuant to the Closure Plan;
- 2.1.13 **“Closure Plan”** means the plan prepared by YYY Corporation and approved by the Mines Inspector under the *Mines Act* (B.C), from time to time during the Life of the

Project, providing for YYY Corporation's obligations, including the Reclamation Security, for the Closure for the Project;

- 2.1.14 **"Commencement of Commercial Production"** means the date on which Commercial Production begins;
- 2.1.15 **"Commencement of Construction"** means the date on which Construction begins;
- 2.1.16 **"Commencement of Operations"** means the date on which Operations begin;
- 2.1.17 **"Commercial Production"** means the Project Phase after the Commencement of Operations that begins with the earlier of:
- (a) the date set out by YYY Corporation in written notice to the XXX Nation as provided in paragraph 11.1.2 confirming the date on which the Project has completed the shipment of concentrate to port from the Project at an average monthly rate equal to at least 75% of the average monthly rate based on the Project's design and capacity as estimated in the Feasibility Study; or
 - (b) the date on which the Project has actually completed the shipment of concentrate to the level referred to in the foregoing subparagraph (a);
- 2.1.18 **"Competitive Bid Process"** means the open and competitive bid process that YYY Corporation will pursue after Open Book Negotiations with a XXX First Nation Business have failed as set out in paragraph 7.12;
- 2.1.19 **"Construction"** means the Project Phase after the EA Project Approval is issued and that:
- 2.1.20 **"Construction Payments"** means the payments described in paragraph 8.5.2;
- 2.1.21 **"Crown"** means Her Majesty the Queen in Right of Canada, Her Majesty the Queen in Right of British Columbia or both;
- 2.1.22 **"Core CPI"** means the core consumer price index described in paragraph 8.3.3 for inflation rate adjustments;
- 2.1.23 **"Court Decision"** means any ruling or order of a court granting aboriginal rights or aboriginal title to the XXX Nation with respect to the XXX First Nation Territory;
- 2.1.24 **"Cumulative Net Smelter Returns"** or **"CNSR"** has the meaning described in paragraph 8.5.5;
- 2.1.25 **"Day"** means a calendar day unless otherwise stated in this Agreement;
- 2.1.26 **"Dispute"** means any difference, disagreement, controversy, question or claim arising out of this Agreement, including the existence, interpretation, application, administration, implementation, enforceability or performance of this Agreement, or any alleged breach thereof, that is referred in writing to the Parties by YYY Corporation or the XXX Nation pursuant to paragraph 11.18;
- 2.1.27 **"Effective Date"** means the date set out on the first page of this Agreement, being the date the Parties sign this Agreement;

- 2.1.28 **“Environment”** means”
- (a) land, water and air, including all layers of the atmosphere;
 - (b) all organic and inorganic matter and living organisms;
 - (c) the cultural and spiritual conditions and factors relevant to the XXX Nation, including XXX First Nation values and Heritage Resources; and
 - (d) a part or combination of those things referred to in subparagraph (a) to (c) above and the interrelationship between two or more of them;
- 2.1.29 **“Environmental Assessment”** or **“EA”** means any process to predict the Environmental Effects of the Project that is conducted in accordance with the requirements of Environmental Laws, and that:
- (a) identifies possible Environmental Effects;
 - (b) proposes measures to mitigate adverse Environmental Effects; and
 - (c) predicts whether there will be significant adverse Environmental Effects, even after the proposed mitigation is implemented;
- 2.1.30 **“Environmental Assessment Application”** or **“EA Application”** means the completed application prepared and submitted by YYY Corporation Seeking the EA Project Approval;
- 2.1.31 **“Environmental Assessment Office”** or **“EAO”** means that office within the British Columbia Ministry of Environment, or its successor, that coordinates the environmental impacts of development proposals in British Columbia;
- 2.1.32 **“Environmental Assessment Project Approval”** or **“EA Project Approval”** means the approval for the Project that is obtained on the date that is the later of:
- (i) the date when the environmental assessment approval certificate under the provincial environmental assessment legislation pursuant to the EA Process is issued to YYY Corporation; or
 - (ii) the date when all of the relevant federal approval documents under the federal environmental assessment legislation pursuant to the EA Process have been issued to YYY Corporation;
- 2.1.33 **“Environmental Assessment Report”** or **“EA Report”** means any document in respect of the Project containing findings, recommendations or conclusions of any Environmental Assessment in respect of the Project;
- 2.1.34 **“Environmental Effect”** means, in respect of the Project, any adverse or beneficial change that the Project causes in the physical environment, including any effect of such foregoing change on health or socio-economic conditions, in physical and cultural heritage, in the current use of lands and resources for traditional or contemporary purposes by XXX First Nation Members, or in any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, and any change to the Project that may be caused by the physical environment, whether any such change occurs within or outside Canada;

- 2.1.35 **“Environmental Impact”** means, in respect of the Project, any adverse or beneficial change occurring after the EA Project Approval that the Project causes in the Environment as defined in paragraph 2.1.26;
- 2.1.36 **“Environmental Management System”** or **“EMS”** means the part of YYY Corporation overall management system, as amended from time to time, that includes organizational structure, planning activities, responsibilities, practices, procedures, processes and resources for developing, implementing, achieving, reviewing and maintaining YYY Corporation’s environmental policy, as more particularly described in Schedule 4.7.1;
- 2.1.37 **“Environmental Obligations”** means YYY Corporation’s environmental compliance obligations to the XXX Nation as set out in paragraph 4.2.1;
- 2.1.38 **“Environmental Performance Committee”** or the **“EPC”** means the committee established by the Parties under paragraph 4.8;
- 2.1.39 **“Environmental Laws”** means any statutes, laws, regulations, orders, bylaws, permits or other authorizations of any Regulatory Authority, now or hereafter in force, relating in any way to the physical environment or human health, including common law and equity, and including all regulations promulgated thereunder from time to time, or any other legally binding protocols, codes, or standards adopted by any Regulatory Authority and, for greater certainty, includes the *Mines Act* (BC);
- 2.1.40 **“Feasibility Study”** means the end of Closure, the conclusion of the Closure Plan, and the permanent closure and abandonment of the Project by YYY Corporation;
- 2.1.41 **“Final Closure”** means the end of Closure, the conclusion of the Closure Plan, and the permanent closure and abandonment of the Project by YYY Corporation;
- 2.1.42 **“First Annual Payment”** means the payment described in paragraph 8.5.3;
- 2.1.43 **“Fixed Target”** means the meaning described in paragraph 5.3.1(d);
- 2.1.44 **“Force Majeure Event”** means an event described in paragraph 11.20;
- 2.1.45 **“XXX Project”** means the area described in the map set out in Schedule 2.1.46;
- 2.1.46 **“Guaranteed Annual Payments”** means the guaranteed annual payments(s) described in paragraph 8.5.3;
- 2.1.47 **“Heritage Resource”** means an object, a site or the location of a traditional societal practice within the Project Area that is of historical, cultural or archaeological significance to the XXX Nation, including:
- (a) locations containing, or with the potential to contain, the physical remains of past human activity;
 - (b) landscape features; and
 - (c) any sites that contain evidence indicating that an Aboriginal people have historically utilized an area;
- 2.1.48 **“HR Strategy”** has the meaning described in paragraph 5.3.1;

- 2.1.49 **“Human Resource Inventory”** or **“HR Inventory”** has the meaning described in paragraph 5.2.1;
- 2.1.50 **“Indian Act”** means the *Indian Act* R.S.C. 1985, c. I-5;
- 2.1.51 **“Initial Hiring”** means the placement by YYY Corporation of individuals in employment positions necessary for the Commencement of Operations;
- 2.1.52 **“Initial Training Program”** has the meaning described in paragraph 5.3.1(f);
- 2.1.53 **“XXX First Nation”** means the community located in _____ and represented by the Council of the XXX First Nation pursuant to the *Indian Act*;
- 2.1.54 **“Land Claim Agreement”** has the meaning set out in paragraph 11.15.1;
- 2.1.55 **“Lead Designate”** means those persons appointed as lead designates for each of the Parties pursuant to paragraph 4.8.2, for the EPC, and paragraph 5.11.2, for the HRC, respectively;
- 2.1.56 **“Life of Project”** means the period of time covered by the Regulatory Instruments issued to YYY Corporation for the Project and includes the period from Commencement of Construction to Final Closure;
- 2.1.57 **“Mine Site”** means the area of land containing the integrated mining and processing facility known as the “XXX Mine”, as shown on the map in Schedule 2.1.58, and which includes the mine open pit, supporting infrastructure and facilities, as they exist from time to time;
- 2.1.58 **“YYY Corporation Job”** means any part-time permanent or full-time permanent position or job for an individual to be an employee of YYY Corporation and which is connected to the Construction, Operations or Closure and, for greater certainty, does not include any employment positions with an independent contractor that is engaged by YYY Corporation in respect of the Project;
- 2.1.59 **“Negotiation Agreement”** means the agreement entered into between the Parties governing without prejudice negotiations in respect of the Project between the Parties dated May 24, 2005, leading this Agreement;
- 2.1.60 **“Net Smelter Returns”** or **“NSR”** has the meaning described in paragraph 8.5.4;
- 2.1.61 **“Ongoing Hiring”** means the placement by YYY Corporation of individuals in employment positions after the Commencement of Operations;
- 2.1.62 **“Open Book Negotiations”** means the procedures applicable between YYY Corporation and a XXX First Nation Business for the negotiation of a contract as set out in Part 7 and Schedule 7.8.1;
- 2.1.63 **“Operations”** means the period when there is production of concentrate from ore at the Mine Site and, for greater certainty, includes Commercial Production;
- 2.1.64 **“Operating Cash Flow After Tax”** has the meaning described in paragraph 8.5.7(e);
- 2.1.65 **“Operating Year”** has the meaning described in paragraph 8.6.2;
- 2.1.66 **“Option Exercise Notice”** means written verification by YYY Corporation to the XXX Nation of the Exercise of Option as provided in paragraph 9.1.1;

- 2.1.67 **“Parties”** means the XXX Nation and YYY Corporation, and each of their successors and permitted assigns, and the **“Party”** means either of the XXX Nation or YYY Corporation and each of its successors and permitted assigns;
- 2.1.68 **“Payment Year”** or **“PY”** has the meaning described in paragraph 8.5.5;
- 2.1.69 **“Permit”** means any authorization, license, approval, or similar permission for carrying out any aspect of the Project required or provided by any regulatory Authority under Environmental Laws, including the EA Project Approval;
- 2.1.70 **“Permit Application”** means a written request by YYY Corporation for issuance of a Permit from a Regulatory Authority;
- 2.1.71 **“Person”** includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a government or any political subdivision thereof, or any agency department or other authority of such government;
- 2.1.72 **“Preliminary Competitive Bid Process”** means the initial competitive qualification and pricing process among interested XXX First Nation Businesses described in paragraph 7.9.2;
- 2.1.73 **“Product”** has the meaning described in paragraph 8.5.4;
- 2.1.74 **“Project”** means all Claims, infrastructure, equipment, plants and facilities held, controlled or acquired by YYY Corporation to explore, develop, construct, operate and reclaim **gold-silver-copper-diamonds-moly-etc.** within the XXX Project, including any ancillary or related activities or operations that support the mine processing facilities such as the Access Road; and for greater certainty, “Project” does not include material changes to the Project as described in the Project Description or any proposed additional development by YYY Corporation which requires an additional or separate EA;
- 2.1.75 **“Project Area”** means those lands that are directly required for the purposes of the Project, as shown I the map in Schedule 2.1.78, and that includes:
- (a) the Mine Site;
 - (b) the Claims;
 - (c) the logistics corridors to and from the Mine Site, including the Access Road;
 - (d) the Project Facilities; and
 - (e) such other areas as may be reasonable required for the safe and economic operation of the Project;
- 2.1.76 **“Project Description”** means the description of the Project as set out in the document attached as Schedule 2.1.79;
- 2.1.77 **“Project Facilities”** means the plants, equipment and facilities established by YYY Corporation in and around the Mine Site and required for the Project from time to time;
- 2.1.78 **“Project Phases”** means the following temporal stages of the Project:

- (a) Construction'
- (b) Operations; and
- (c) Closure.

- 2.1.79 **"Purchaser"** means the person acquiring for consideration an interest in respect of the Project as described in paragraph 11.26.2(b);
- 2.1.80 **"Reclamation Security"** means the cash, or other similar form of financial security, that YYY Corporation is required to provide to the Province of British Columbia under the *Mines Act* (B.C.), from time to time during the Life of the Project, to secure payment for the activities to be completed under the Closure Plan;
- 2.1.81 **"Regulatory Authorities"** means any nation or government, any Canadian or foreign federal, state, provincial, city, town municipality, county, local or other political subdivision thereof or thereto and any department, commission, board, bureau, instrumentality, agency or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government responsible for the determination and issuance of Permits or for conducting an Environmental Assessment in respect of the Project;
- 2.1.82 **"Regulatory Instruments"** means any authorization, license, approval, order or permit required under any statute, regulation or other law required for the carrying out of the Project and includes, without limitation, water licenses, fisheries authorizations, land use permits, land leases, mining leases, and explosives permits required for the carrying out of the Project;
- 2.1.83 **"Request for Proposal"** or **"RFP"** has the meaning set out in paragraph 7.6.1;
- 2.1.84 **"Reviewable Permits"** means those permits listed in Schedule 4.4.1, which are anticipated as necessary for the Project and, for greater certainty, means such permits only to the extent is necessary pursuant to applicable Environmental Laws;
- 2.1.85 **"Road Protocol"** means the procedures and protocol for the Access Road developed by the Parties described in paragraph 3.5.3;
- 2.1.86 **"Sale"** has the meaning described in paragraph 11.26.2(a);
- 2.1.87 **"Signing Bonus"** means the payment described in paragraph 8.5.1;
- 2.1.88 **"XXX First Nation Band"** means the community located in _____ and/or _____ and represented by the Council of the XXX First Nation Band pursuant to the *Indian Act*;
- 2.1.89 **"XXX First Nation Business"** means a business entity that is defined in paragraph 7.2.2;
- 2.1.90 **"XXX First Nation Business Report"** means the annual report prepared by YYY Corporation to the XXX Nation described in paragraph 7.13.1;
- 2.1.91 **"XXX First Nation Employment Coordinator"** means the individual described in paragraph 5.2.1(c);

- 2.1.92 **“XXX First Nation Heritage Resources and Environmental Assessment Team”** or **“XXXREAT”** has the meaning described in paragraph 3.1.1;
- 2.1.93 **“XXX First Nation Heritage Trust”** or the **“Trust”** means the XXX First Nation Heritage Trust to be established as provided in paragraph 8.8;
- 2.1.94 **“XXX First Nation Member”** means any person of XXX First Nation ancestry and registered as a member of the XXX Nation by the XXX First Nation, and for greater certainty, includes all those persons who are members of the XXX First Nation and the XXX First Nation Band;
- 2.1.95 **“XXX Nation”** means all XXX First Nation Members, from time to time, acting collectively and represented exclusively by the XXX First Nation for all purposes under this Agreement;
- 2.1.96 **“Temporary Suspension”** means YYY Corporation, in its sole discretion, making a determination to curtail, suspend or cease Construction or Commercial Production, other than regular or scheduled maintenance for the Project for a period of not less than four (4) months, and, in all cases, excludes any Force Majeure Event;
- 2.1.97 **“Term”** means the period from the Effective Date to the date of Termination as provided in paragraph 11.17;
- 2.1.98 **“XXX Nation Development Corporation”** means the corporation incorporated under the laws of British Columbia named as such and is wholly owned by, and controlled for, the benefit of the XXX Nation and includes any alternate or successor entity identified by the XXX Nation to YYY Corporation as assuming the mandate of XXX under this Agreement;
- 2.1.99 **“XXX Business”** means the business enterprises associated with the XXX Nation Development Corporation from time to time;
- 2.1.100 **“XXX Preferred Opportunity”** has the meaning as referred to in paragraph 7.8.1;
- 2.1.101 **“Traditional Knowledge”** or **“TK”** means contemporary and generations-old knowledge accumulated and applied through generations of living in close contact with nature, including Aboriginal environmental knowledge, traditional ecological knowledge, traditional knowledge, local knowledge, indigenous environmental knowledge, land use and occupancy knowledge, empirical observations about the local environment, systems of land tenure, classification and self-management governing use of resources, traditions, beliefs, legends and customs, and that is in oral, written, graphic, or machine-readable form;
- 2.1.102 **“XXX First Nation Territory”** means the geographical area over which the XXX Nation holds certain aboriginal rights and title, including the XXX Project;
- 2.1.103 **“Trustee”** means the person who holds the legal ownership of the property of the XXX First Nation Heritage trust for the benefit of the beneficiaries and is the Trustee described in paragraph 8.8.3(f);
- 2.1.104 **“Unplanned Event”** means any one of the following which, in all cases, exclude acts of God:
- (a) an accident, failure or malfunction of equipment, facilities or infrastructure required for the Project, or from the Project activities;

- (b) an accident release of a substance or effluent into the physical environment and in an amount exceeding reportable thresholds established by Regulatory Authorities from the equipment, facilities, or infrastructure required for the Project or from Project activities;
- (c) an accident involving the transportation, supplies, resources or other materials required for the Project located within, or impacting upon, the XXX First Nation Territory that are part of or relevant to the Project, including the XXX Project; or
- (d) acts or omissions by YYY Corporation, or by YYY Corporation employees, agents or contractors that, in respect of the Project, contravene Environmental Laws.

2.1.105 “**US\$ Conversion Factor**” has the meaning described in paragraph 8.5.6;

2.1.106 “**Year**” means a calendar year, unless otherwise specified.

2.2 Interpretation

2.2.1 In this Agreement the following documents attached as Schedules will form an integral part of this Agreement:

- Schedule 2.1.5 - Definition of Affiliate
- Schedule 2.1.11 - List of Claims
- Schedule 2.1.46 - Map of the XXX Project
- Schedule 2.1.58 - Map of the Mine Site
- Schedule 2.1.78 - Map of the Project Area
- Schedule 2.1.79 - Copy of Project Description
- Schedule 4.4.1 - List of Reviewable Permits
- Schedule 4.7.1 - Criteria for YYY Corporation’s Environmental Management System
- Schedule 5.2.1 - Scope of Work for the Creation of the HR Inventory
- Schedule 7.8.1 - Open Book Negotiation Guidelines
- Schedule 11.4.1(f) - Disclosed Litigation
- Schedule 11.18 - Dispute Resolution

2.2.2 The wording “including”, when following any general statement, will be construed as if it were followed by the phrase “without limiting the generality of the foregoing”.

2.2.3 Unless otherwise specified, any reference to a statute includes and is a reference to such statute and to the regulations made pursuant thereto, with all amendments thereto and in force from time to time, and to any statutes or regulations that may be passed which have the effect of supplementing or superseding such statutes or regulations.

- 2.2.4 Defined terms in this Agreement which are in the plural include the singular and vice versa, and the use of any term is generally applicable to either gender and where applicable, a body corporate or other entity.
- 2.2.5 All references in this Agreement to currency are to Canadian dollars unless otherwise specified.
- 2.2.6 All references in this Agreement to a designated “part”, “section”, “paragraph” or other subdivision or to a Schedule are references to the designated part, section, paragraph or other subdivision of, or Schedule to this Agreement.
- 2.2.7 The insertion of headings is for convenience of reference only and is not intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

PART 3: COLLABORATION DURING COMPLETION OF THE EA PROCESS

3.1 Purpose

3.1.1 The purpose of this Part 3 is to:

- (a) continue the relationship of joint co-operation and mutual respect that the Parties have established in respect of the EA up to the Effective Date, including the participation and input of the XXX Nation through the XXX First Nation Heritage Resources and Environmental Assessment Team (or “XXXREAT”);
- (b) ensure that the XXX Nation is provided with the appropriate resources and funds to effectively participate in the EA and to enhance the Project, primarily resulting from:
 - (i) the need of the XXX Nation for independent professional technical expertise to review and provide support for certain technical information relating to the EA; and
 - (ii) the need of the XXX Nation to cover its costs related to the XXX Nation directly communicating its views and concerns with respect to the EA ; and
 - (iii) the need of the XXX Nation to cover its costs related to the XXX Nation directly communicating its views and concerns with respect to the EA; and
- (c) facilitate communication from the XXX Nation through XXXREAT to identify potentially adverse Environmental Effects and impacts of the Project on XXX Nation title, rights and interests and determine how to avoid or minimize such impacts and effects.

3.2 Nature of EA Process to Completion

3.2.1 After the Effective Date, the following key activities, and all other work necessary or incidental to it, will be carried out by YYY Corporation as the proponent, working with the XXX Nation and Regulatory Authorities, to complete the EA:

- (a) completion of all baseline and other necessary environmental studies required in respect of the EA;

- (b) fulfillment of all obligations set out in the EA's Terms of Reference prescribed by Regulatory Authorities;
- (c) completion of the EA Application to be filed with the Regulatory Authorities; and
- (d) consideration and/or incorporation of XXX Nation's views and concerns in preparing the matters referenced in subparagraphs 3.2.1(1) to (c) above.

3.2.2 The above described activities in paragraph 3.2.1 are not intended to be exhaustive and the Parties acknowledge and agree that these activities may change or be added to in accordance with the requirements of the Regulatory Authorities responsible for the EA.

3.3 Mutual Cooperation for Completing the EA Process

3.3.1 In connection with all remaining activities that YYY Corporation will need to undertake or may need to consider as part of completing the EA, the Parties agree to work in relationship of joint co-operation and mutual respect for completing the EA, including acting in accordance with the following:

- (a) the XXX Nation's continuing participation and input in the EA will be carried out by the XXXREAT continuing as the XXX Nation representative on working groups, committees, studies or other activities the Parties have established in respect of the EA and, for greater certainty, the Parties confirm that the XXXREAT is the XXX Nation representative for all purposes under this paragraph 3.3;
- (b) the Parties will work constructively to address any questions, issues, or concerns related to the XXX Nation's Environmental Effects about the Project prior to the submission of the EA Application to Regulatory Authorities;
- (c) as part of the foregoing activities and as contemplated in paragraph 4.12.1(a) below with respect to the development of the amount and form of the Reclamation Security, YYY Corporation will ensure that it provides the XXX Nation with a description of the closure, decommissioning and reclamation considerations and activities that are part of the preparation of the proposed initial Closure Plan that is part of the EA Application;
- (d) at least 30 Days prior to submitting the final EA Applications, YYY Corporation will advise the XXX Nation, in writing, of the date that YYY Corporation intends to file the EA Application with the Regulatory Authorities and during this 30-Day period, YYY Corporation will office to make a presentation to XXXREAT of the key elements set out in the EA Application;
- (e) during the 30-Day period noted in subparagraph 3.3.1(d) above, YYY Corporation will promptly make available a copy of the draft EA Application to the XXX Nation for review, consideration and input and, for greater certainty, it is agreed that the XXX Nation must provide its concerns, comments or input to YYY Corporation prior to the date that YYY Corporation intends to submit the final EA Application;
- (f) the Parties acknowledge that as part of the drafting of the EA Application, YYY Corporation will be preparing a Closure Plan and, accordingly, as part of the XXX Nation's review, consideration and input on the EA Application contemplated in subparagraph 3.3.1(e) above, YYY Corporation will ensure

that a draft copy of the Closure Plan is clearly separated and marked for the XXX Nation and highlighted in YYY Corporation's presentation, if any, as part of this 30-Day review period prior to submission by YYY Corporation of the final EA Application.

- (g) if the XXX Nation raises Environmental Effects concerns about the Project during this 30-Day period prior to the submission of the EA Application not previously raised in the EA working group context, YYY Corporation will use its reasonable best efforts to respond to and address any reasonable concerns and recommendations of the XXX Nation with respect to the EA Application, including the Closure Plan;
- (h) after the EA Application is submitted by YYY Corporation, if any information from the Regulatory Authorities is received that requires comments, additional information, work or changes to the EA Application, YYY Corporation will share a copy of this information, as soon as reasonable possible, with the XXX Nation or the applicable XXX First Nation working group or contact, as the case may be;
- (i) in preparing its response to the Regulatory Authorities, YYY Corporation will work collaboratively and in a timely way with the XXX Nation, or within the applicable working group context, to constructively address any questions, issues or concerns related to the XXX Nation's Environmental Effects about the Project;
- (j) if, during any point in the EA, the XXX Nation considers that technical support is needed to assist the XXX Nation with considering any information, studies, issues or concerns related to the EA, YYY Corporation will provide for funding to the XXX Nation in order that it may retain such technical support to carry out its work under this paragraph 3.3 subject to the following:
 - (i) the XXX Nation must set out in advance a proposed scope of work and YYY Corporation, acting reasonable, must be satisfied with this proposed scope of work; and
 - (ii) the XXX Nation must promptly provide a copy to YYY Corporation of its Technical advisor's applicable invoice for the work, identifying in sufficient detail, the work performed and the total amounts for such invoices will be paid to the XXX Nation, or at the direction of the XXX Nation, to the person directly providing such services.

3.3.2 For greater certainty, the Parties agree that the foregoing collaborative process applies to any changes or amendments to the scope of the EA or the EA Application that YYY Corporation may seek with Regulatory Authorities and which could have the material adverse impact upon the XXX Nation or the XXX First Nation Territory or which could have a material adverse Environmental Effect.

3.3.3 The Parties acknowledge and confirm that it is their mutual intent that the ongoing collaborative process result in an EA Application and EA Project Approval that both Parties agree with and support but, notwithstanding this, the Parties also understand that, subject to their respective rights and obligations under this Agreement to comply with the processes for finalizing the EA Application and the EA Project Approval, the Parties will be free to disagree on some aspects about the Project or the EA.

3.3.4 As part of the foregoing collaborative process, YYY Corporation agrees that it will consider and incorporate Traditional Knowledge provided by the XXX Nation into YYY Corporation's planning and decision making for the EA Application and as it relates to completing the EA.

3.4 Proposed Changes to EA Project Approval

3.4.1 YYY Corporation agrees that it will not seek any changes or amendments to the EA Project Approval from Regulatory Authorities without first providing information to the XXX Nation about such changes or amendments. The Parties Agree to work constructively to address any questions, issues or concerns related to the XXX First Nation's Environmental Effects about any such changes or amendments relating to the Project prior to finalizing any submission to Regulatory Authorities and, to this end, the collaborative process set out in section 3.3.1 above will apply, *mutatis mutandis*, to any proposed changes or amendments that YYY Corporation may seek in connection with the EA Project Approval or, if the EPC has been established at the time that such changes or amendments are proposed, then this collaborative process will be un

3.5 Use of Access Road

3.5.1 The Parties agree that the Access Road is to be constructed by YYY Corporation to support the Project by providing a safe route for the transportation of goods, people, materials, equipment and supplies for the Project. Such use by YYY Corporation is to have priority over other uses.

3.5.2 YYY Corporation agrees to make reasonable efforts to have the Access Road designated by the provincial government as a statutory right-of-way or private road or to make reasonable efforts to incorporate the joint principles developed in the Road Protocol, as outlined in paragraph 3.5.3 below, into any road permit(s) issued to YYY Corporation by Regulatory Authorities.

3.5.3 The Parties agree that they will jointly develop procedures and protocols relating to the use of the Access Road ("the Road Protocol"), and to the extent permitted by law, the Road Protocol will provide for:

- (a) the establishment of a gate at the entrance to the Access Road, to be operated by personnel to oversee access (or some other equivalent approach to oversee access);
- (b) guidelines for YYY Corporation to provide surface access rights to third parties;
- (c) a process for providing access to the XXX Nation and XXX First Nation Members who wish to use the Access Road to access traditional use areas, and for other reasonable purposes agreed to by YYY Corporation and the XXX Nation without cost to such XXX First Nation Members and subject to paragraph 3.5.4 below;
- (d) access fee so if any, to be determined and charged by YYY Corporation for commercial users; and
- (e) a process for advance notice to YYY Corporation for use of the Access Road by any such third parties.

- 3.5.4 Use of the Access Road by the XXX Nation and XXX First Nation Members will be at their own risk and without liability to YYY Corporation. YYY Corporation may implement reasonable safety and operational measures in order to regulate the use of the Access Road by XXX Nation and XXX First Nation Members.

PART 4: ENVIRONMENTAL PROTECTION

4.1 Purpose

4.1.1 The Parties jointly acknowledge and confirm that the Project will result in the construction and operation of an open pit mine and related industrial activities that will cause adverse Environmental Impacts. As such, the Parties jointly acknowledge and confirm their shared desire to protect the Environment and to mitigate adverse Environmental Impacts during the Life of the Project as provided in this Part 4. Accordingly, the purpose of this Part 4 is to:

- (a) ensure the continuation of a relationship of joint co-operation and mutual respect between the Parties, consistent with the approach established by them for completing the EA, for the process for Permit Applications;
- (b) establish and promote measures in respect of the Project that respect and protect the Environment by minimizing adverse Environmental Impacts of the Project;
- (c) establish procedures and measures that will fully engage the XXX Nation in the development, implementation, management, monitoring and evaluation of measures that prevent or mitigate the adverse Environmental Impacts of the Project;
- (d) remediate and address any long-term adverse Environmental Impacts from the Project at Closure and to return the lands in the Project Area to a condition where the XXX Nation could make use of such lands; and
- (e) ensure compliance with Environmental Laws, including the Closure Plan in all respects.

Note: Environmental Assessment (EA) considerations could be addressed in a Government to Government Agreement and include EA Funding Agreement.

4.2 General Environmental Commitments

4.2.1 During the Life of the Project, YYY Corporation will comply with all Environmental Laws governing the Project, including conditions in the EA Project Approval and the Permits and commitments given by YYY Corporation to Regulatory Authorities in the EA described in paragraph 4.2.2. Subject to paragraph 4.3.1 below, the Parties agree that all of YYY Corporation's compliance obligations under this paragraph 4.2.1 are direct obligations under this Agreement and are binding as between YYY Corporation and the XXX Nation (collectively, the "Environmental Obligations").

4.2.2 If YYY Corporation and the XXX Nation agree on express written commitments or undertakings in the EA Application or in Permit Applications and those express

written commitments or undertakings are not reflected as conditions or terms in the EA Project Approval or the Permits, as the case may be, the Parties agree that such express written commitments will be binding Environmental Obligations under this Agreement. Within 30 Days from the EA Project Approval, the Parties will agree to prepare a written list outlining these commitments and undertakings, which list will become a supplemental schedule to this Agreement.

- 4.2.3 During the Life of the Project, YYY Corporation will ensure that it takes all measures, as may be economically and practically reasonable, to prevent and mitigate adverse Environmental Impacts from the Project, including those that may arise from Unplanned Events. This mitigation may include carrying out measures or practices proposed to YYY Corporation by the XXX Nation through the EPC that are in addition to what may be required by Environmental Laws, including the EA Project Approval and the Permits, so long as the XXX Nation demonstrates to YYY Corporation that such proposed measures or practices are reasonably necessary to protect and respect XXX First Nation values.
- 4.2.4 As elaborated on in paragraph 4.7.1 (relating to the design and implementation of the EMS) and paragraph 4.8.3(c) (relating to the role of the Environmental Performance Committee), YYY Corporation will carry out environmental monitoring of the Project during all Project Phases.
- 4.2.5 As part of the Initial Hiring and the Ongoing Hiring, YYY Corporation will use its reasonable best efforts to recruit, train and maintain XXX First Nation Members for its environmental staff for the Project.
- 4.2.6 During the Commercial Production and Closure Phases, YYY Corporation will keep the XXX Nation informed about the Project's environmental management and performance by implementing the following communications approach, which will be reviewed and considered by the Environmental Performance Committee from time to time as the Parties mutually determine is appropriate:
- (i) YYY Corporation will provide a copy of its environmental policy to the XXX Nation, from time to time as it is revised by YYY Corporation;
 - (ii) YYY Corporation will hold public meetings, at least once a Year, in the community of XXX First Nation, to advise about the Project's environmental management and performance; and
 - (iii) YYY Corporation will publish and make available to XXX First Nation Members, at least once a Year, an annual environmental report directed at reporting to the XXX Nation, YYY Corporation's environmental commitments under this Agreement.

4.3 Non-Compliance Events

- 4.3.1 If YYY Corporation does not comply with any of its Environmental Obligations and, thus, is in breach of its obligation to the XXX Nation under paragraph 4.2.1 of this Agreement, the Parties acknowledge and confirm that such a breach is deemed to be an "Unplanned Event" as defined in this Agreement and, for the purposes of this paragraph 4.3.1, is referred to as a "Non-Compliance Event". The Parties agree that YYY Corporation's first and foremost obligation to the XXX Nation under this Agreement for any such Non-Compliance Event is to take all necessary and reasonable measures to remedy or mitigate the adverse Environmental Impacts related to such Non-Compliance Event. The Parties

further agree that if there is a Dispute between them relating to YYY Corporation's obligations to the XXX Nation under this Agreement to remedy a Non-Compliance Event, in resolving such Dispute, the mediator or arbitrator must be directed to find a resolution that:

- (a) primarily focuses on measures or actions to be taken by YYY Corporation to remedy or mitigate the adverse Environmental Impacts related to such Compliance Event in accordance with the terms of this Agreement, including any recommendations that may be made by the EPC; and
- (b) considers the enforcement actions related to such Non-Compliance Event, if any, that may have been taken against YYY Corporation by Regulatory Authorities. For greater certainty, the Parties agree that the decision as to whether financial payments by YYY Corporation will address any Non-Compliance Event is the responsibility of Regulatory Authorities exercising their governmental enforcement powers using fines or penalties, and, while a financial payment by YYY Corporation to the XXX Nation is not prohibited under this Agreement, such a payment is not intended to be an effective remedy as between the Parties under this Agreement for such a Dispute.

4.4 Nature of Initial Permit Process

4.4.1 The Parties jointly acknowledge and confirm that in addition to the EA Project Approval, YYY Corporation must obtain all other Permits in respect of the Project. As of the Effective Date, the Permits, including any renewals thereof, of interest for review and consideration by the XXX Nation as anticipated permits that are of concern in relation to potential material Environmental Impacts are those Permits listed in Schedule 4.4.I (the "Reviewable Permits").

4.5 Permit Applications Reviewable by the XXX Nation

4.5.1 Subject to this paragraph 4.5.1, YYY Corporation is exclusively responsible for submitting all Permit Applications. At least 30 Days prior to the date that YYY Corporation intends to submit an initial Permit Application for a Reviewable Permit, the Parties agree to work collaboratively to ensure that there is a meaningful opportunity for the XXX Nation to review and provide input in connection with such initial Permit Application as follows:

- (a) prior to the submission of the Permit Application, YYY Corporation will provide a copy of the draft application to the XXX Nation, including any information to be filed or submitted with, or in connection with, such application;
- (b) as soon as reasonably practicable after receiving the draft application, if the XXX Nation considers that technical support is required to assist it in reviewing the application, YYY Corporation will provide funding to the XXX Nation to carry out such work subject to the following:
 - (i) the XXX Nation must set out in advance a proposed scope of work, and YYY Corporation, acting reasonably, must be satisfied with this proposed scope of work; and
 - (ii) the XXX Nation must promptly provide a copy to YYY Corporation of its technical advisor's applicable invoice for the

work, identifying in sufficient detail the work performed and the total amounts for such invoices will be paid to the XXX Nation, or at the direction of the XXX Nation, to the person directly providing such services;

- (c) the XXX Nation may advise YYY Corporation of any concerns it has with respect to adverse Environmental Impacts related to the application and any recommendations that it has in respect of the propose Permit;
- (d) YYY Corporation will use its reasonable best efforts to address the identified concerns of the XXX Nation, subject to the terms of this Agreement, and will respond to the XXX Nation in writing by either accepting, rejecting or modifying such recommendations, including written reasons if requested by the XXX Nation;
- (e) as provided in paragraph 11.12, the XXX Nation retains the right to make comments to Regulatory Authorities setting out legitimate and reasonable Environmental Impacts directly to the Regulatory Authorities concerning any Permit Applications;
- (f) after the initial Permit Application is submitted by YYY Corporation to the applicable Regulatory Authority, if any information is received from the Regulatory Authority that requires comments, additional work and/or changes to the Permit Application, YYY Corporation will share a copy of this information and its proposed response, as soon as reasonably possible, with the XXX Nation; and
- (g) in preparing its response to Regulatory Authorities, YYY Corporation and the XXX Nation will work collaboratively and in a timely way to constructively address any questions or issues raised by the XXX Nation, as may be economically and practically reasonable.

4.5.2 Upon a request from the XXX Nation, YYY Corporation will provide the XXX Nation with a copy of the issued Reviewable Permit, together with any accompanying conditions, within thirty (30) business days of receipt of notification of such Permit.

4.6 Notice for Other Permit Applications and Review of Additional Reviewable Permits

4.6.1 For all other initial Permit Applications that YYY Corporation makes, other than those in connection with the Reviewable Permits, YYY Corporation will advise the XXX Nation, in writing, at least 30 Days prior to the date that YYY Corporation intends to submit the Permit Application that YYY Corporation will be making this initial application and briefly explaining the nature of this Permit. For greater certainty and subject to paragraph 4.6.2 below, this provision is a notice obligation only and does not contemplate the need for prior review and input from the XXX Nation.

4.6.2 If any initial Permit Application referred to in paragraph 4.6.1 above was not identified in the Project Description and it could have a material Environmental Impact (an "Additional Reviewable Permit"), then the permit review process set out in paragraph 4.5.1 above will apply to the initial Application for such Additional Reviewable Permit. Thereafter, for greater certainty, all Permit Applications will be reviewed by the Environmental Performance Committee in accordance with Paragraph 4.8.3.

4.7 Environmental Management

4.7.1 YYY Corporation will establish an environmental management system(or the "EMS") for the Project that meets the criteria set out in Schedule 4.7.1, which EMS will be reviewed and considered by the Environmental Performance Committee pursuant to paragraph 4.8, from time to time as it is revised or updated by YYY Corporation.

4.7.2 As soon as commercially reasonable after the Commencement of Commercial Production, which YYY Corporation expects will be at least 24 months after the Commencement of Commercial Production, YYY Corporation will use its reasonable best efforts to obtain ISO 14001 certification of its EMS or any other equivalent independent certification that YYY Corporation may consider prudent.

4.8 Environmental Performance Committee

4.8.1 Within sixty (60) Days after the issuance of the EA Project Approval, the Parties agree to establish a joint committee to be called the Environmental Performance Committee(or the "EPC"), consisting of a total of six (6) individuals, with three (3) individuals being appointed by the XXX Nation and three (3) individuals being appointed by YYY Corporation. The Parties will ensure that these individuals are provided with a clear and full mandate endorsed by each respective Party for those individuals to function effectively on the EPC and to help fulfill the EPC's mandate.

4.8.2 Each Party will also identify one of their representatives as the "Lead Designate" for the purpose of having responsibility for establishing meeting agendas and being the key contacts to address the logistical needs of the EPC on an ongoing basis. The Parties will appoint successor representatives to the EPC in a manner that considers the need for continuity of representation, knowledge and experience.

4.8.3 The Environmental Performance Committee will have the following mandate and responsibilities:

- (a) to provide a collaborative forum for open and frank dialogue between YYY Corporation and the XXX Nation to review and consider the Project's environmental compliance and performance under this Agreement;
- (b) to meet at least quarterly (or as all members of the EPC may otherwise mutually agree from time to time) and agendas for meetings will be jointly established at least fifteen (15) Days in advance by the Lead Designate appointed by each Party;
- (c) to work collaboratively with YYY Corporation to ensure that the EMS is designed in a manner that provides for the gathering, review and reporting of environmental information about the Project's environmental compliance,

4.8.6 The XXX Nation further agrees that there may be circumstances relating to environmental compliance and performance that YYY Corporation will first review with its legal counsel and, as such, the exchange of information with its legal counsel will be legally privileged information that YYY Corporation will not be at

liberty to share, nor will it have an obligation to share, with the XXX Nation under this Agreement.

4.8.7 The Parties confirm and agree that the EPC will continue to have authority under this Agreement to carry out its activities if there is a Temporary Suspension at any time during the Life of the Project.

4.9 Environmental Monitoring

4.9.1 YYY Corporation agrees that the XXX Nation will, upon giving reasonable advance notice to YYY Corporation, and at the sole cost to the XXX Nation (subject to paragraph 4.9.2 below):

- (a) have access to monitoring locations within the Project Area for the purpose of making measurements or observations, or the taking of samples of water, air or soil, or for gathering other environmental related data; and
- (b) have access to YYY Corporation's environmental samples, records and information for the purpose of conducting its own independent testing, review or audit of YYY Corporation's activities, for the purposes of evaluating YYY Corporation's compliance with the environmental provisions of this Agreement, including compliance with Environmental Laws and conditions in Permits.

4.9.2 If any of the information gathered or obtained by the XXX Nation pursuant to paragraph 4.9.1 above, provides sufficient evidence of any non-compliance by YYY Corporation under the environmental provisions of this Agreement, the XXX Nation must promptly share all relevant information and conclusions with YYY Corporation and will not disclose it to any other Person. The Parties will, through the EPC, promptly thereafter seek to effectively and mutually resolve, address and, if necessary, correct any such non-compliance concern.

4.9.3 YYY Corporation will reimburse the XXX Nation in respect of all of its costs incurred in connection with gathering, to the finding of any environmental non-compliance so long as such finding contains a new and valid interpretation or significantly different conclusion than the conclusions of YYY Corporation based on either new information or information that is different from what YYY Corporation has previously represented as being accurate before the EPC or has failed to address or answer questions about through the EPC within a reasonable time.

4.9.4 For the purposes of this paragraph 4.9, the Parties further acknowledge and agree that the XXX Nation has a primary obligation to protect the confidentiality of all of YYY Corporation's information that it has access to and all of the information that the XXX Nation may independently gather or evaluate in connection with the foregoing data gathering, review or audit processes under this Agreement. For greater certainty, the XXX Nation will not disclose any such information to any other Person except YYY Corporation as provided in paragraph 4.9.2 above. Notwithstanding the foregoing, the XXX Nation may disclose such confidential information where:

- (a) YYY Corporation has had a full opportunity to remedy or address it under paragraph 4.9.2:

- (b) there has been prior reasonable notice to YYY Corporation of the XXX Nation's intention to release such confidential information; and
- (c) such information is required for, or directly relates to, a submission made by the XXX Nation directly and solely to Regulatory Authorities in respect of Environmental Impacts relating to the Project within a Reviewable Permit or in respect of any changes of the EA Project Approval.

4.10 Traditional Knowledge

4.10.1 After the Commencement of Construction, YYY Corporation will fully consider Traditional Knowledge made available by way of input from the XXX Nation in connection with Project planning, design and implementation, including any environmental policies, environmental management plans and the Environmental Management System and in making Permit Applications.

4.10.2 For greater certainty, YYY Corporation will not be entitled to access or retain TK information. The Parties agree that the XXX Nation retains the right to determine YYY Corporation's use of TK input and, at any time, can discontinue such use of TK immediately upon written notice to YYY Corporation.

4.10.3 In addition to the use of TK in the EA, YYY Corporation will fund the collection of TK where it is relevant to the Project and to be carried out by the XXX Nation.

4.11 Heritage Resources

4.11.1 After the EA Project Approval, YYY Corporation will fully consider and use information about Heritage Resources made available by the XXX Nation and YYY Corporation and the XXX Nation will co-operate to agree on measures for protecting the Heritage Resources that may be adversely affected by the Project.

4.11.2 Any Heritage Resources discovered within the Project Area during any Project Phase will be immediately reported, in writing, by YYY Corporation to the XXX Nation. Heritage Resources will not be disturbed or removed without the consent of the XXX Nation until the Parties agree on measures for protecting such Heritage Resources.

4.11.3 No disturbance of any Heritage Resource is permitted before examination by the XXX Nation and until a written approval has been given by the XXX Nation, which will not be unreasonably withheld.

4.11.4 The costs associated with fulfilling the obligations of paragraphs 4.11.1, 4.11.2, and 4.11.3 will be the responsibility of YYY Corporation.

4.12 Security for Closure Obligations

4.12.1 Subject to this paragraph 4.12, the Parties will work collaboratively to ensure that sufficient cash or equivalent financial security is readily available at all times to ensure that all obligations in respect of the Closure Plan may be completed in the event YYY Corporation is either unable or unwilling to fulfill such Closure obligations. This collaboration will include the following:

- (a) prior to the EA Application being submitted, the provision of a copy to the XXX Nation by YYY Corporation of the initial Closure Plan;

- (b) sufficient time and opportunity for the XXX Nation to review such initial Closure Plan in the manner set out in paragraph 3.3;
- (c) prior to the submission to Regulatory Authorities of the Permit that addresses the Reclamation Security, the provision of a copy to the XXX Nation by YYY Corporation of the detailed reclamation costs report prepared by an independent party retained by YYY Corporation analyzing the appropriate amount and form of the proposed Reclamation Security;
- (d) sufficient time and opportunity for the XXX Nation to review the proposed Reclamation Security in the manner set out in paragraph 4.5, including the opportunity for the XXX Nation to retain, at YYY Corporation's cost, an independent party, on a timely basis, to review the analysis and opinion of the adequacy of the Reclamation Security prepared by YYY Corporation's independent party; and
- (e) fair consideration and review by YYY Corporation of the information and analysis provided by the XXX Nation's independent party referred to in subparagraph 4.12.1(d).

4.12.2 After the EA Project Approval and as part of the ongoing review of the Closure Plan set out in paragraph 4.12.3 below, YYY Corporation will provide sufficient details to the EPC of its supporting information relating to the amount and form of the Reclamation Security prior to any submissions being made to the Regulatory Authorities. This information will include a copy of any reclamation costs report or analysis that YYY Corporation may itself undertake, or have an independent party undertake.

4.12.3 The XXX Nation may retain an independent party, at its own cost, to separately analyze the information provided to the EPC pursuant to paragraph 4.12.2 and consider the appropriate amount and form of money or other cash equivalent to be proposed as the Reclamation Security necessary to ensure the fulfillment of all of the obligations in the Closure Plan in the event YYY Corporation is either unable or unwilling to fulfill all such obligations. YYY Corporation agrees to use its reasonable best efforts to review and consider the information and analysis provided by any such independent party retained by the XXX Nation.

4.12.4 If at any time during the Term of this Agreement, there is a change in the application or requirements of the applicable laws governing the Reclamation Security that results in:

- (a) YYY Corporation's obligations to provide Reclamation Security being significantly reduced or relieved (which, for greater certainty, does not include reductions in the amount of Reclamation Security related to YYY Corporation's satisfactory performance of closure activities); or
- (b) any material adverse change to the adequacy in the amount or form of Reclamation Security to fulfill all of the Closure obligations under applicable laws,

YYY Corporation and the XXX Nation agree to carry out good faith discussions to amend this Agreement to provide that YYY Corporation will create an amount and form of closure obligation security, acceptable to the XXX Nation, acting reasonably, that replaces the Reclamation Security. For greater certainty, this replaceable amount and form of security will be held in trust by an independent

party for use by the XXX Nation to carry out the Closure obligations in the Closure Plan in the event YYY Corporation does not meet its obligations under the Closure Plan.

4.13 Ongoing Review of Closure Plan

4.13.1 After the EA Project Approval and during the Term, prior to proposing, or being required to make, any changes of any nature whatsoever to the Closure Plan and submitting such changes to the Regulatory Authorities for approval, YYY Corporation will:

- (a) review its proposed changes to the Closure Plan with the EPC and obtain input or an evaluation from the EPC regarding such proposed changes as provided in subparagraph 4.8.3(i);
- (b) use reasonable best efforts to carefully consider and constructively address any questions or recommendations of the EPC with respect to the concerns of the XXX Nation, including any possible adverse Environmental Impacts of the Project after Final Closure;
- (c) in connection with the foregoing considerations, YYY Corporation will revise the Closure Plan as may be economically and practically reasonable, to incorporate or address measures or practices proposed by the XXX Nation through the EPC that are in addition to what may be required by applicable laws so long as the XXX Nation demonstrates to YYY Corporation that such proposed measures or practices are reasonably necessary to protect and respect XXX First Nation values; and
- (d) unless otherwise agreed to by the XXX Nation, only cash or its equivalent will be used as the form of Reclamation Security in respect of the Closure Plan.

4.14 Final Closure

4.14.1 Before YYY Corporation finalizes its obligations for carrying out and completing the implementation of the Closure Plan, including applying for the return to it of any Reclamation Security provided to the Government of British Columbia or any other placement reclamation security provided under paragraph 4.12.4, as the case may be, the XXX Nation may, in its sole discretion, complete an independent evaluation of whether YYY Corporation has sufficiently carried out and completed all of the obligations set out in the Closure Plan in accordance with the terms thereof. If the XXX Nation decides to carry out this independent evaluation, the Parties agree as follows:

- (a) the XXX Nation must notify YYY Corporation, in writing, at least 6 months prior to the estimated completion date set out in the Closure Plan that the XXX Nation wishes to conduct this independent evaluation; and
- (b) YYY Corporation will pay all reasonable costs for the XXX Nation to carry out this work subject to YYY Corporation reviewing and approving in advance, acting reasonably, a budget prepared by the XXX Nation, that

sets out in sufficient detail the nature and scope of this independent evaluation.

PART 5: HUMAN RESOURCES. XXX NATION EMPLOYMENT & TRAINING

5.1 Purpose

5.1.1 The purpose of this Part 5 is to:

- (a) maximize employment, retention and advancement opportunities for XXX First Nation Members in all categories of employment at the Project;
- (b) reduce barriers for employment or retention and advancement of all XXX First Nation Members in all categories of employment at the Project;
- (c) maximize training opportunities for all XXX First Nation Members during the Initial Hiring and Ongoing Hiring phases so that as many willing XXX First Nation Members seeking employment as are possible are able to qualify for employment positions in all categories of employment at the Project; and
- (d) ensure that the above referenced objectives apply fairly and equally to all XXX First Nation Members.

5.2 Human Resources Inventory

5.2.1 Within 30 Days after the completion of the Feasibility Study, YYY Corporation agrees to provide funding to the XXX Nation for the creation of a XXX Nation human resources inventory or database (the "HR Inventory") on the following terms:

- (a) the HR Inventory will be created by the XXX Nation based on the purposes and scope of work set out at Schedule 5.2.1 to this Agreement;
- (b) the budget for the creation of the HR Inventory and the hiring of the XXX First Nation Employment Coordinator will be mutually agreed upon between the XXX Nation and YYY Corporation;
- (c) as funding is made available, the XXX Nation will recruit and employ an individual to fill the position of the "XXX First Nation Employment Coordinator"; this recruitment will be based on a job description and candidate qualifications that are mutually agreed to by the Parties;
- (d) YYY Corporation agrees to continue to fund the position of the XXX First Nation Employment Coordinator until the completion of the Initial Hiring provided that such funding will not include work done by the XXX First Nation Employment Coordinator not related to this Part 5 of this Agreement;
- (e) the HR Inventory will include the following information, at minimum:
 - (i) an outline of expected YYY Corporation Jobs, and related qualifications, available at the Project and anticipated start dates;
 - (ii) a list of XXX First Nation Members available to work at the Project and the desired area of employment; and

- (iii) results of prior learning assessments to determine appropriate training needs for XXX First Nation Members to match with YYY Corporation Jobs;
- (f) the HR Inventory will be established by no later than _____, 200X;
- (g) the HR Inventory will be maintained by the XXX Nation, at its cost, and the XXX Nation will ensure that the HR Inventory is kept current for the employment and business needs of the Project; and
- (h) the HR Inventory will be owned by the XXX Nation and the XXX Nation has the primary management responsibility under this Agreement, at its cost, to gather, manage and maintain the HR Inventory, including ensuring that all personal information is appropriately protected. The XXX Nation will share the HR Inventory, including information in it about potential XXX First Nation Member candidates with YYY Corporation for the purposes of meeting the provisions of this Agreement related to XXX Nation preferential hiring and the anticipated timing for recruiting.

5.2.2 To facilitate the creation of the HR Inventory and to maximize the job opportunities for XXX First Nation Members connected to the Project, YYY Corporation has, as of the Effective Date, provided the XXX Nation with a preliminary outline of the number and types of job opportunities it anticipates in connection with Construction and the Commercial Production Phases of the Project. YYY Corporation will provide an update of this information to the XXX Nation by no later than 30 Days after the completion of the Feasibility Study, which update will include information about the qualification criteria attached to each job.

5.3 Human Resources Strategy

5.3.1 Within a reasonable time after the completion of the HR Inventory (and, in any case, by no later than _____, 200X), YYY Corporation will prepare an initial Human Resources Strategy (the "HR Strategy") for review and discussion with the XXX Nation. This draft of the HR Strategy will:

- (a) describe the process by which YYY Corporation will seek to maximize job opportunities for XXX First Nation Members related to the Project as set out by the preferential hiring provisions in paragraphs 5.6 and 5.7 of this Agreement;
- (b) discuss the use of prior learning assessments in evaluating XXX First Nation Members as potential job candidates for YYY Corporation;
- (c) comment on ideas or strategies for ensuring that employment opportunities connected to the Project are maximized for XXX First Nation Members;
- (d) propose an initial fixed target (the "Fixed Target") of employment level for XXX First Nation Members in accordance with the criteria set out in paragraph 5.5 below;
- (e) identify the type of training needs that YYY Corporation may consider to enable XXX First Nation Members to qualify as suitable job candidates; and

- (f) outline an initial training program(the "Initial Training Program") that will be Designed on a reasonable and cost effective basis to deliver appropriate Training to allow those XXX First Nation Members who have demonstrated to YYY Corporation a genuine commitment to securing long-term employment with the Project to complete such training in time for the Initial Hiring process.

5.3.2 Within a reasonable period after receiving the draft HR Strategy from YYY Corporation, the XXX Nation, through the XXX First Nation Employment coordinator, will provide constructive input on the draft HR Strategy to assist YYY Corporation to finalize the HR Strategy, including the Initial Training Program, for addressing the Project's Initial Hiring needs.

5.4 Initial Training Program

5.4.1 YYY Corporation will have the primary responsibility for designing the Initial Training Program and is exclusively responsible for paying the costs of the Initial Training Program, including the reasonable living and travel expenses related to the training of a XXX First Nation Member in circumstances where training is to be undertaken outside the place of residence of the XXX First Nation Member. Before a XXX First Nation Member qualifies for and obtains the right to take any training under the Initial Training Program, YYY Corporation must be satisfied, acting reasonably, that the XXX First Nation Member is a suitable candidate to complete the training being offered, including obtaining a written commitment from such XXX First Nation Member that he or she will apply for a job with the Project during the Initial Hiring process.

5.5 Fixed Targets for Employment and Advancement of XXX First Nation Members

5.5.1 As part of completing the HR Strategy and thereafter through the HRC, to maximize the proportion of XXX First Nation Members employed in YYY Corporation Jobs, the Parties agree to establish the Fixed Target for employment and advancement to be met or exceeded by YYY Corporation.

5.5.2 The Fixed Target will be based on a reasonable estimate of employment of XXX First Nation Members in YYY Corporation Jobs having regard to circumstances that may exist from time to time, including the following:

- (a) availability for employment of XXX First Nation Member candidates who meet the minimum qualifications for available positions;
- (b) availability of YYY Corporation Jobs; and
- (c) satisfactory job performance by XXX First Nation Member employees in YYY Corporation Jobs.

5.5.3 The Fixed Target established from time to time by the HRC under this Agreement represents a minimum employment commitment by YYY Corporation.

5.5.4 YYY Corporation will take all reasonable steps, acting in good faith, to meet or exceed the Fixed Target and the XXX Nation will cooperate to assist YYY Corporation in meeting or exceeding the Fixed Target.

5.5.5 The Fixed Target will not act as a quota nor will the achievement of the Fixed Target be legally enforceable. However, YYY Corporation will take all

reasonable steps, acting in good faith to meet or exceed the Fixed Target, and this obligation to take all such reasonable steps, acting in good faith, is legally enforceable.

5.5.6 Through the HRC and as provided in subparagraph 5.11.3(g) below, the Parties will annually review progress towards the Fixed Target, and the XXX Nation may make recommendations to YYY Corporation regarding the measures taken to assist in meeting or exceeding the Fixed Target.

5.6 Initial Hiring for Project Jobs: Preferential Hiring to XXX First Nation Members

5.6.1 Prior to pursuing an open competition for, or otherwise filling, any YYY Corporation Jobs, YYY Corporation will provide preferential hiring to XXX First Nation Members for all Initial Hiring of YYY Corporation Jobs in respect of the Project. This preferential hiring will be done through the following job posting system that will provide XXX First Nation Members with priority consideration for all available jobs (except specified management jobs that YYY Corporation, acting reasonably, will identify in advance to the XXX Nation, are in place for the purposes of managing the Construction Phase, the Initial Hiring needs, and the activities leading up to the Commercial Production Phase):

- (a) YYY Corporation will provide reasonable advance notice to the XXX First Nation Employment Coordinator of each job posting and the timeframe for filling it;
- (b) the XXX First Nation Employment coordinator will use the HR Inventory, prior learning assessments and the HR Strategy, to identify appropriate XXX First Nation Members who qualify as potential job candidates and fairly evaluate candidates that are significantly qualified but have minor deficiencies that could be appropriately addressed with either short-term pre-employment or on-the-job training;
- (c) YYY Corporation will review the list of XXX First Nation Member candidates provided to it and, acting reasonably, offer jobs to such qualified candidates; and
- (d) in circumstances where short-term training has been identified as a need to qualify a candidate, YYY Corporation will provide this training if it concurs, acting reasonably, with the judgement made by the XXX First Nation Employment Coordinator that the identified minor deficiency can be addressed with training.

5.7 Ongoing Hiring for YYY Corporation Jobs: Preferential Hiring for XXX First Nation Members

5.7.2 YYY Corporation will use reasonable best efforts to notify, in advance, each of its existing employees that are XXX First Nation Members of a job vacancy and the timeframe for filling it. Concurrent with this notice to its existing employees, YYY Corporation will also advise the XXX Nation of the job vacancy and the timeframe for filling it.

5.7.3 XXX First Nation Members who are existing employees of YYY Corporation will have 10 Days after the notice in paragraph 5.7.2 above to apply for such vacancy. YYY Corporation will evaluate each applicant, including using prior learning assessments and by fairly evaluating this applicant as a candidate if he

or she is significantly qualified but has minor deficiencies that could be appropriately addressed with on-the-job training.

- 5.7.4 YYY Corporation, acting reasonably, will offer the job to the best qualified existing employee that is a XXX First Nation Member and, in circumstances where training has been identified as a need to qualify the candidate, YYY Corporation will provide training if it considers that, acting reasonably, the identified minor deficiency can be addressed with training.
- 5.7.5 If the vacancy is not filled by an existing employee who is a XXX First Nation Member based on the procedures and considerations set out in paragraphs 5.7.2 to 5.7.4, YYY Corporation will post the job vacancy to the balance of YYY Corporation's existing employees.
- 5.7.6 If the vacancy is not filled by a non-XXX First Nation existing employee as set out in paragraph 5.7.5 above, YYY Corporation will consider for employment XXX First Nation Member candidates, who are not currently employees provided to it by the XXX Nation.
- 5.7.7 The XXX Nation will use the HR Inventory, including prior learning assessments and the HR Strategy, if applicable, to consider appropriate XXX First Nation Members who qualify as potential job candidates. This evaluation will also fairly evaluate individuals as a candidate if he or she is significantly qualified but has minor deficiencies that could be appropriately addressed with on-the-job training.
- 5.7.8 YYY Corporation will review the list of XXX First Nation Member candidates provided to it and, acting reasonably, offer the job to any qualified candidate.
- 5.7.9 In circumstances where training has been identified as a need to qualify a candidate, YYY Corporation will provide this training if it concurs, acting reasonably, with the judgement made by the XXX Nation that the identified minor deficiency can be addressed with training.
- 5.7.10 If the job remains vacant after YYY Corporation has completed the activities set out in paragraphs 5.7.1 to 5.7.9 above, YYY Corporation will be free to advertise the job in the public domain.

5.8 Role of XXX First Nation Employment Coordinator

- 5.8.1 The Parties expect the XXX First Nation Employment Coordinator to identify as many XXX First Nation Members as possible for YYY Corporation's consideration as job candidates in order to maximize the opportunities available to XXX First Nation Members. The XXX First Nation Employment Coordinator will evaluate XXX First Nation Members for potential job opportunities by:
- (a) considering eligible candidates in a fair and even-handed manner and without prioritization or exclusion based on where a XXX First Nation Member lives, his or her relationship to the XXX Nation, membership or status in a Band or any particular family grouping or clan affiliation;
 - (b) using prior learning assessments, or similar evaluation tools recognized as acceptable in the human resources field, to determine an individual's suitability for an available Project position, including management positions (except specified management positions that YYY Corporation, acting reasonably, will identify in advance to the XXX Nation are in place for the purposes of managing the Construction Phase, the Initial Hiring

needs, and the activities leading up to the Commercial Production Phase); and

- (c) if required, proposing for YYY Corporation's consideration, suitable training programs and initiatives to be included in the HR Strategy that would enable XXX First Nation Members to qualify for available YYY Corporation Jobs, including management positions (except specified management positions that YYY Corporation, acting reasonably, will identify in advance to the XXX Nation are in place or the purposes of managing the Construction Phase, the Initial Hiring needs, and the activities leading up to the Commercial Production Phase).

5.9 Applicability of YYY Corporation's Ordinary Course Hiring Procedures to Preferential Hiring

5.9.1 As part of the preferential hiring processes set out above, the Parties agree that YYY Corporation will apply its normal hiring processes consistent with its ordinary course of business practices, such as interviews or reference checks, to evaluate any XXX First Nation Member candidates. In addition, if there is more than one XXX First Nation Member candidate for any particular job vacancy, YYY Corporation may, in its sole discretion, select the most suitable XXX First Nation Member candidate.

5.10 Job Descriptions

5.10.1 With respect to the Initial Hiring process, job descriptions and related qualifications prepared by YYY Corporation for YYY Corporation Jobs will be made available for review by the XXX First Nation Employment Coordinator. Thereafter, the Human Resources Committee will only review job descriptions for Ongoing Hiring if they relate to newly created positions for the Project.

5.11 Human Resources Committee

5.11.1 By no later than sixty (60) Days after the Commencement of Construction, the Parties agree to establish a joint committee, to be called the Human Resources Committee (or the "HRC"), consisting of a total of six (6) individuals, with three (3) individuals being appointed by the XXX Nation and three (3) individuals being appointed by YYY Corporation. The Parties will ensure that these individuals are provided with a clear and full mandate endorsed by each respective Party for those individuals to function effectively on the HRC and to help fulfill the HRC's mandate.

5.11.2 Each Party will also identify one of their representatives as the "Lead Designate" for the purpose of having responsibility for establishing meeting agendas and being the key contact to address the logistical needs of the HRC on an ongoing basis. The Parties will appoint successor representatives to the HRC in a manner that considers the need for continuity of representation, knowledge and experience.

5.11.3 The Human Resources Committee will have the following mandate and responsibilities:

- (a) to provide a collaborative forum for open and frank dialogue between YYY Corporation and the XXX Nation and to share information about the XXX Nation's human resource objectives as they relate to YYY Corporation Jobs and as provided in this Agreement, including

employment opportunities, workplace conditions and training needs. The HRC will not have a mandate to address any XXX Nation concerns that may exist outside of the YYY Corporation workplace although these concerns may impact the XXX Nation and be considered by the HRC from time to time;

- (b) to meet at least quarterly, unless otherwise mutually agreed, and agendas for meetings will be jointly established at least fifteen (15) Days in advance by the Lead Designate appointed by each Party;
- (c) to review, from time to time as the HRC deems appropriate, the HR Strategy developed by YYY Corporation for the Initial Hiring of YYY Corporation Jobs with a view to revising the HR Strategy to continue to maximize the opportunities for YYY Corporation Jobs for XXX First Nation Members. This review may also include consideration of the general advancement of XXX First Nation Members within the workplace as compared to the rest of the employee base and analyze reasons for successor failure;
- (d) to receive progress reports from YYY Corporation with respect to its obligations under this Part 5 of this Agreement and make appropriate recommendations for improving performance;
- (e) to make recommendations to YYY Corporation on human resources and workplace policies as they relate to the XXX Nation's concerns or interests. In particular, as an initial policy task, the HRC will develop the following policies for recommendation to YYY Corporation:
 - (i) a bereavement policy; and
 - (ii) a policy for XXX First Nation cultural activities;
- (f) in recommending the approach to the policies identified in subparagraph 5.11.3(e) above or any other policies that HRC may develop from time to time, the HRC will endeavour to define parameters that at all times:
 - (i) meet or exceed the amounts of leave provided for in the Employment Standards Act (British Columbia), or other applicable legal requirements ,as the case maybe; and
 - (ii) balance the interests of YYY Corporation's employees to reasonable amounts of paid and unpaid leave with YYY Corporation's interest in ensuring the normal day-to-day needs of the Project's operations are maintained;
- (g) as a key role, the HRC will monitor the Fixed Target for employment and advancement and review it, at least annually, to consider appropriate adjustments as the Project's activities and operations unfold; and
- (h) the HRC will evaluate the successes and failures of the Initial Training Program and will recommend any actions or adjustments for future training activities by YYY Corporation.

5.11.4

The Parties acknowledge and agree that the HRC and its representatives must carry on the work of the HRC in a professional manner that supports and respects YYY Corporation's management responsibility to provide a safe and fair

workplace that treats all employees fairly when applying employee policies and in dealing with workplace conditions.

- 5.11.5 The Parties acknowledge and agree that any implementation of employee policies by YYY Corporation and dealing with workplace conditions which seeks to foster the XXX Nation's employment objectives under this Agreement will be consistent, to the extent possible, with YYY Corporation's management responsibility to provide a fair workplace for all of its employees.
- 5.11.6 The Parties acknowledge and agree that the HRC's role is to address the XXX Nation's issues of concern related to achieving the human resource objectives under this Part 5, including maximizing training needs and employment opportunities, and addressing workplace conditions, and in no circumstances will the HRC or its representatives have the right or obligation to intervene directly in the workplace unless expressly authorized by YYY Corporation.
- 5.11.7 All information before the HRC is confidential and each of the XXX Nation and YYY Corporation will ensure that their appointed representatives to the HRC keep all information presented or discussed at the HRC strictly confidential in accordance with paragraph 11.8 of this Agreement.
- 5.11.8 YYY Corporation will be responsible for making final decisions as to whether to follow the recommendations, advice or reports of the HRC. However, YYY Corporation must provide written reasons to the HRC for any decision not to follow recommendations, advice or reports of the HRC. Implementation of any HRC recommendations will be the sole responsibility of YYY Corporation.
- 5.12 YYY Corporation to Hire Senior Management Liaison Officer
- 5.12.1 Within a reasonable time prior to the start of the Commercial Production Phase, YYY Corporation will hire an individual to fill a full-time permanent job position, as a senior management function reporting directly to the mine manager, with responsibility for managing YYY Corporation's commitments to the XXX Nation under this Agreement. The title of this job will be the "Senior Management Liaison Officer" or another appropriate title chosen by YYY Corporation.
- 5.13 Co-Existence of Collective Agreements with this Agreement
- 5.13.1 If any collective agreement negotiations take place between YYY Corporation and a union as a result of a labour relations board certification or voluntary recognition of a bargaining agent at the Project, YYY Corporation will use its reasonable best efforts to:
- (a) negotiate a collective agreement, or letter agreement that is attached to and forms part of a collective agreement, that either recognizes the rights of the XXX Nation for preferential employment and advancement in the collective agreement or does not conflict with the preferential employment and advancement of XXX First Nation Members; and
 - b) include in any collective agreement, or letter agreement that is attached to and forms part of a collective agreement, a "No Discrimination" provision that recognizes and affirms YYY Corporation's ability under the collective agreement to address adverse effects discrimination experienced by Aboriginal Peoples and communities, and, if necessary, obtain a ruling from the Human Rights Tribunal to confirm that this

Agreement is not discriminatory in accordance with the requirements of applicable law.

A representative of the XXX Nation will attend all such negotiations where YYY Corporation obligations to the XXX Nation under this Agreement are at issue.

- 5.13.2 In circumstances where a collective agreement is being resolved by a third party, YYY Corporation will make submissions consistent with its commitments to the XXX Nation under this Agreement, providing a copy of those submissions to the XXX Nation.
- 5.13.3 YYY Corporation agrees that it will notify all potential contractors who are unionized and may compete in a Competitive Bid Process that a firm commitment to use XXX First Nation Members in performing services at the Project is part of YYY Corporation's selection criteria in the Competitive Bid Process pursuant to paragraph 7.12.2.
- 5.13.4 YYY Corporation agrees to provide the XXX Nation with immediate written notice in respect of each of the following:
- (a) attempts by a union for certification as a bargaining agent at the Project;
 - (b) the potential for voluntary recognition of a union as a bargaining agent at the Project; and
 - (c) the commencement of collective agreement negotiations with a union authorized to represent a bargaining unit at the Project.
- 5.13.5 The notice referred to in paragraph 5.13.4 above will include written notification to the XXX Nation of the name and contact details of the union that is seeking certification or voluntary recognition as a bargaining agent or with whom collective agreement negotiations are expected.
- 5.13.6 YYY Corporation will not object to and will support the XXX Nation's standing in any labour relations board hearing and any court proceeding where XXX Nation employment and other benefits under this Agreement have the potential to be impacted or are at issue, provided that such support for the XXX Nation's standing in any labour relations board hearing or court does not necessarily include support for the positions advanced by XXX Nation before such boards or courts.

PART 6: WORKPLACE MATTERS

- 6.1 Purpose
- 6.1.1 The purpose of this Part 6 is to promote a safe and respectful workplace culture.
- 6.2 YYY Corporation Work place Commitments
- 6.2.1 YYY Corporation will promote a safe and respectful workplace culture for all of its employees and contractors during all Project Phases. In particular, YYY Corporation agrees that it will during the Commercial Production Phase:
- (a) provide cross-cultural training related to the XXX Nation culture for all employees;

- (b) implement an anti-discrimination policy;
- (c) provide free round-trip transportation to and from the Mine Site for XXX First Nation Members, on a scheduled basis, to XXX First Nation Community and other designations to be determined solely by YYY Corporation;
- (d) create an Occupational, Health & Safety Committee in accordance with applicable law and ensure that this committee reserves at least 2 positions for interested XXX First Nation Members who are YYY Corporation employees;
 - (e) provide work-site counseling and an employee assistance program for all employees, which will be designed to include addressing specific XXX Nation concerns and coordination of counseling provided off-site by the XXX Nation: and
- (f) promote awareness in the workplace of the cultural significance of (special dates: ie June 21) to XXX First Nation Members by holding celebratory events in the workplace as may be recommended by the HRC so long as such events do not unreasonably interfere with the Project's operational needs.

6.3 Workplace Policies Related to Bereavement and XXX First Nation Cultural Activities

6.3.1 As soon as reasonable after the Commencement of Commercial Production, YYY Corporation will establish a general bereavement policy, which will entitle all employees, including XXX First Nation Members, to take paid bereavement leave in accordance with applicable employment legislation. In addition, YYY Corporation agrees that its employees that are XXX First Nation Members will be entitled to take unpaid bereavement leave based on a XXX First Nation Bereavement Policy to be developed by YYY Corporation with reference to recommendations made by the Human Resources Committee.

6.3.2 As soon as reasonable after the Commencement of Commercial Production, YYY Corporation will establish a general vacation policy, which will entitle all employees, including XXX First Nation Members, to paid vacation in accordance with applicable employment legislation. In addition, YYY Corporation agrees that its employees that are XXX First Nation Members will be entitled to take unpaid leave to pursue XXX First Nation cultural activities based on a XXX First Nation Cultural Activities Policy to be developed by YYY Corporation with reference to recommendations made by the Human Resources Committee.

PART 7: XXX FIRST NATION BUSINESS OPPORTUNITIES

7.1 Purpose

7.1.1 The purpose of this Part 7 is to:

- (a) identify Business Opportunities aimed at developing the delivery of long-term sustainable opportunities and benefits to XXX First Nation Businesses;

- (b) maximize the Business Opportunities available for XXX First Nation Businesses; and
- (c) set out processes that YYY Corporation will follow to facilitate the involvement of XXX First Nation Businesses in supplying goods and service to the Project.

(Note: May want to consider inserting a preferential % for XXX First Nation or XXX First Nation membership businesses into this Section ie: 10%)

7.2 Applicability of this Part 7 to "XXX First Nation Businesses"

7.2.1 The Business Opportunities being made available by YYY Corporation for the supply of goods or services to the Project under this Agreement apply only to a "XXX First Nation Business" as that term is defined at paragraph 7.2.2 below.

7.2.2 For the purposes of the Part 7, a "Business Entity" means a corporation, sole proprietorship, a joint venture enterprise, a partnership, a limited partnership, a trust, an unincorporated organization, or a combination of two or more of them, and a "XXX First Nation Business" means one of the following:

- (a) Business Entity that is owned by any of the following or a combination thereof, which are hereafter referred to as a "XXX First Nation Person": one or more XXX First Nation Members, the XXX First Nation, the Bands; and "owns" or "ownership" means the shares or equity voting interest of such Business Entity held, directly or indirectly (and other than by way of security only), or beneficially owned (other than by way of security only) by a XXX First Nation Person, and the votes attached to such shares or equity voting interest are sufficient if exercised, to elect or appoint a majority of the directors or similar governing body of such Business Entity whether or not those directors are XXX First Nation Members;
- (b) a Business Entity that is controlled by any one or a combination of XXX First Nation Persons; and "controlled by" or "control" means the ultimate decision-making power for dealing with or voting on material business decisions for such business entity, such as appointing, hiring or firing management, borrowings, or entering into contracts, is held legally or beneficially (other than by way of security only) controlled by a XXX First Nation Person or is beneficially owned (other than by way of security only) by a XXX First Nation Person; or
- (c) a Business Entity that provides for a significant level of employment, training, contracting or subcontracting to XXX First Nation Members, where a "significant level" means:
 - (i) that a majority of the full-time employees of such Business Entity are XXX First Nation Members, including the provision of such employees through contractors or subcontractors; or
 - (ii) that such Business Entity demonstrates a firm commitment and detailed strategy, with legally binding commitments, for training, employment, and business opportunities for the purpose of achieving the goal of the majority of the employees of such

Business Entity being XXX First Nation Members, including the provision of such employees through contractors or subcontractors.

7.3 Business Opportunities Commitments

7.3.1 Each Party will use its reasonable best efforts to meet or exceed the general objective of maximizing the Business Opportunities for XXX First Nation Businesses. For greater certainty, YYY Corporation's principal obligation under this Part 7 is to follow the contracting processes set out herein.

7.4 Registry of XXX First Nation Businesses

7.4.1 As soon as reasonably practicable after the Effective Date, the XXX Nation must establish, at its own cost, a registry of the existing XXX First Nation Businesses ("Business Registry") that may be interested in supplying goods or services to the Project. The Business Registry will be updated, from time to time, by the XXX Nation, at its own cost, to add current XXX First Nation Businesses to it. The XXX Nation will also review, at least annually, the status of a XXX First Nation Business to confirm it continues to meet the definition of a XXX First Nation Business in accordance with paragraph 7.2.2 as provided in paragraph 7.5.5. In establishing and updating the Business Registry, the XXX Nation will take all prudent measures, including obtaining relevant supporting information from a XXX First Nation Business, to ensure that it is satisfied that:

- (a) a Business Entity is a XXX First Nation Business in accordance with 7.2.2 above; and
- (b) a Business Entity is in fact a XXX First Nation Business and is not an entity that is structured as a sham or so as to create the appearance of it being a XXX First Nation Business.

7.3.2 From time to time, the XXX Nation must promptly provide a copy of the list of registered XXX First Nation Businesses to YYY Corporation.

7.5 Verification and Qualification of XXX First Nation Businesses

7.5.1 Prior to YYY Corporation having any obligations to consider a XXX First Nation Business for Open Book Negotiations under this Part 7, YYY Corporation must have received confirmation from the XXX Nation that a XXX First Nation Business is registered on the Business Registry as provided in paragraph 7.4 above. Upon a request from YYY Corporation, the XXX Nation will review with YYY Corporation, within five business days of YYY Corporation's request, its reasons for registering a XXX First Nation Business, including providing copies to YYY Corporation of all relevant documents or information that is supporting the XXX Nation's decision that a Business Entity is a XXX First Nation Business and, also, that it is not reasonably, that a Business Entity is in fact a XXX First Nation Business and, also, that it is not an entity structured as a sham or so as to create the appearance of it being a XXX First Nation Business. The review will be done on a confidential basis and YYY Corporation must keep any information disclosed to it confidential in accordance with paragraph 11.8 of this Agreement.

7.5.2 If the XXX Nation fails, for any reason whatsoever, to make a timely decision about whether a XXX First Nation Business can be registered on the Business Registry, and a XXX First Nation Business expresses an interest directly to YYY Corporation that it is interested in supplying goods or services to the Project,

YYY Corporation may undertake its own evaluation as to whether a Business Entity is a XXX First Nation Business in accordance with paragraph 7.2 above. To address this evaluation by YYY Corporation, the XXX First Nation Business must have provided to YYY Corporation, upon request by YYY Corporation copies of relevant information supporting a finding by YYY Corporation, acting reasonably, that a Business Entity is in fact a XXX First Nation Business and is not an entity that is structured as a sham or so as to create the appearance of it being a XXX First Nation Business. YYY Corporation must keep all such disclosed information confidential in accordance with paragraph 11.8, subject to a request by a Business Entity that the XXX Nation review YYY Corporation's decision. If a Business Entity seeking to qualify as a XXX First Nation Business requests a review of YYY Corporation's evaluation of whether it is a XXX First Nation Business, YYY Corporation will share its reasons with the XXX Nation, and YYY Corporation and the XXX Nation will jointly review and discuss, within five business days, YYY Corporation's decision. The review will be done on a confidential basis.

- 7.5.3 Prior to YYY Corporation having any obligation to consider a XXX First Nation Business for Open Book Negotiations under this Part 7, the XXX First Nation Business must have, based on the applicable contract prequalification or qualification process established by YYY Corporation, sufficient capacity, human resources and financial viability to perform and meet the requirements of any particular contract proposal being offered by YYY Corporation. YYY Corporation agrees that in evaluating the foregoing for a XXX First Nation Business, the qualifications, expertise, management, ability, performance record and financial viability of a non-XXX First Nation business partner within a XXX First Nation Business will be deemed to be those of the XXX First Nation Business for purposes of YYY Corporation's prequalification or qualification assessment.
- 7.5.4 For greater certainty, the Parties acknowledge and confirm that XXX Businesses must meet the verification and qualification provisions set out in paragraph 7.5.1 or 7.5.2, as applicable, and 7.5.3 above.
- 7.5.5 A XXX First Nation Business must continue to meet the definition of a XXX First Nation Business set out in paragraph 7.2.2 above in order to maintain or renew a contract with YYY Corporation under the provisions of this Part 7 where Open Book Negotiations were used for such contract. This requirement may be incorporated into all contracts entered into between YYY Corporation and a XXX First Nation Business.
- 7.6 Advance Notice of Business Opportunities
- 7.6.1 At least 6 months prior to the expected date for the Commencement of Construction, YYY Corporation will develop and provide a copy to the XXX Nation of a list of contracts that it anticipates seeking requests for proposals ("RFPs") from interested Persons with respect to Construction Phase. This list will outline the nature of the work, the term and the estimated dollar value of each RFP based on YYY Corporation's understanding of market conditions.
- 7.6.2 At least 6 months prior to the expected date for the Commencement of Commercial Production, YYY Corporation will develop and provide a copy to the XXX Nation of the initial list of contracts that it anticipates seeking RFPs from interested Persons with respect to the Commercial Production. This initial list will outline the nature of the work, the term and the estimated dollar value of each RFP based on YYY Corporation's understanding of market conditions.

7.6.3 After the Commencement of Commercial Production, YYY Corporation will, no later than December 15 of each Year, develop and provide a copy to the XXX Nation a list of contracts for which it anticipates seeking RFPs from interested persons for the then upcoming Year. This list will outline the nature of the work, the term and the Estimated dollar value of each RFP based on YYY Corporation's understanding of market conditions.

7.7 Prequalification

7.7.1 XXX First Nation Businesses that wish to supply goods or services to the project will be encouraged by the Parties to pre-qualify with YYY Corporation through the pre-qualification process established by YYY Corporation from time to time with respect to sufficient capacity, human resources and financial viability that is applicable to all potential contractors.

7.7.2 Upon written request from the XXX Nation, YYY Corporation will provide, with respect to specific Business Opportunities, a confidential opinion identifying the short-listed companies that based on YYY Corporation's information and its assessment would qualify as partners in a XXX First Nation Business for the purpose of obtaining Business opportunities. Such confidential opinion of YYY Corporation may also include a determination as whether or not a possible XXX Nation joint venture entity, with a proposed partner, would be considered and verified as a XXX First Nation Business.

7.8 Contract Opportunity Preference for XXX Businesses

7.8.1 Subject to meeting the criteria for verification as a XXX First Nation Business in paragraph 7.5.1 or 7.5.2, as applicable, and the qualification criteria in paragraph 7.5.3, the Parties agree that, in accordance with the Open Book Negotiation Guidelines set out at Schedule 7.8.1, XXX Businesses will have a preferential right to negotiate with YYY Corporation for the following types of contracts in advance of any other interested Persons ("XXX Preferred Opportunity"):

(a) Construction Phase

- (i) permanent camp catering and camp support (other than short-term Contracts pursuant to which the short-term contractor provides its own catering or support needs as part of its overall service);
- (ii) road construction (other than Exempt contracts as defined in paragraph 7.11 below);
- (iii) road maintenance or snow removal on any completed road(s);
- (iv) earth work in YYY (other than Exempt Contracts(as defined below);
- (v) environmental monitoring programs; and
- (vi) ground (people) transport;

(b) Commercial Production Phase

- (i) camp catering and camp support;

- (ii) concentrate haulage;
- (iii) road maintenance or snow removal;
- (iv) environmental monitoring programs; and
- (v) ground (people)transport.

7.8.2 For greater certainty, the Parties agree that unless the XXX has provided written notice to YYY Corporation that it will not participate in Open Book Negotiations for such XXX Preferred Opportunity, no other XXX First Nation Business will have a preferential right to engage in Open Book Negotiations with YYY Corporation for any of the XXX Preferred Opportunities.

7.8.3 The written notice referred to in paragraph 7.8.2 above must be provided to YYY Corporation by the XXX within sixty (60) Days of YYY Corporation's anticipated timing for issuing an RFP for the specified XXX Preferred Opportunity.

7.9 Contract Opportunity Preferences for XXX First Nation Businesses

7.9.1 Subject to meeting the criteria for verification as a XXX First Nation Business in paragraph 7.5.1 or 7.5.2, as applicable, and the qualification criteria in paragraph 7.5.3, the Parties agree that for any XXX First Nation Businesses the following types of Commercial Production Phase contracts will be subject to a preferential right for a XXX First Nation Business to engage in Open Book Negotiations with YYY Corporation:

- (a) heavy equipment service;
- (b) avalanche control;
- (c) local food supply;
- (d) contract mining;
- (e) design drafting;
- (f) powerline maintenance;
- (g) concentrate pipeline maintenance;
- (h) logging;
- (i) home-based manufacturing (i.e. clothing, gloves, etc.); and
- (j) small business opportunities.

7.9.2 If more than one XXX First Nation Business expresses interest in a particular contract Opportunity pursuant to paragraph 7.9.1, or paragraph 7.8.1 where XXX has provided notice of its intention not to participate in Open Book Negotiations pursuant to paragraph 7.8.2, the Parties agree that each interested XXX First Nation Business will submit, in writing, to YYY Corporation, on or before the cut-off date set by YYY Corporation, acting reasonably, an indication of how it meets the qualifications for performance and its preliminary pricing for such contract opportunity (the "Preliminary Competitive Bid Process"). YYY Corporation will determine, exclusively on the proposed contract price set out in the Preliminary

Competitive Bid Process indications from a XXX First Nation Business, which XXX First Nation Business may then proceed to Open Book Negotiations with YYY Corporation.

7.9.3 In all cases, it is agreed that if the contract price cannot be reasonably agreed upon between a XXX First Nation Business and YYY Corporation in Open Book Negotiations, YYY Corporation may then seek contracts with other interested parties using the Competitive Bid Process and will provide reasons to the XXX First Nation Business why the Open Book Negotiations were unsuccessful. If such Competitive Bid Process results in a proposed contract price and terms that are not more favourable than the final negotiated position of the XXX First Nation Business in the Open Book Negotiations, then YYY Corporation must enter into a contract with such XXX First Nation Business on such final position. The determination of whether a final negotiated position of a XXX First Nation Business is less favourable than a bid in the Competitive Bid Process will be based primarily on the bid price and then on its qualification for that specific contract opportunity.

7.10 Renewal of Contracts

7.10.1 In order to participate in the contract renewal process under this paragraph 7.10:

- (a) Any business representing itself as a XXX First Nation Business must continue to meet the criteria for meeting the definition of being a XXX First Nation Business as set out in paragraph 7.2.2 of this Agreement; and
- (b) such XXX First Nation Business must have satisfactorily performed its existing contract with YYY Corporation.

7.10.2 Renewals of contracts will be conducted as follows:

- (a) where a contract was originally awarded to a XXX Business through Open Book Negotiations, such XXX Business will have a first opportunity to negotiate the renewal of such contract through Open Book Negotiations;
- (b) where a contract was originally awarded to a XXX First Nation Business through Open Book Negotiations, and no other XXX First Nation Business expresses interest in such contract at the time of renewal, such XXX First Nation Business will have the first opportunity to negotiate the renewal of such contract through Open Book Negotiations;
- (c) where a contract was originally awarded to a XXX First Nation Business through Open Book Negotiations, and more than one XXX First Nation Business expresses interest in such contract at the time of renewal, the process to renew such contract will be through the Preliminary Competitive Bid Process followed by Open Book Negotiations with the successful XXX First Nation Business in such process;
- (d) subject to subparagraph 7.10.2(e) below, where a contract was originally awarded to a XXX First Nation Business through the Preliminary Competitive Bid Process, such XXX First Nation Business will have the first opportunity to negotiate the first renewal ("First Renewal") and if renewed, the second renewal ("Second Renewal") of such contract through Open Book Negotiations provided that all times during the term

of the contracts the XXX First Nation Business has remained a XXX First Nation Business; and

- (e) where more than one XXX First Nation Business expresses interest in the Second Renewal of a contract, and the contract was originally awarded through the Preliminary Competitive Bid Process, this Second Renewal will be awarded through the Preliminary Competitive Bid Process followed Open Book Negotiations with the successful XXX First Nation Business in such process.

7.11 Exempt Contracts

7.11.1 Notwithstanding any other provisions in this Agreement, the Parties agree that YYY Corporation may seek contracts from third parties for the following types of contracts without engaging in Open Book Negotiations or a Competitive Bid Process or providing any other preferential treatment to the XXX Nation under this Part 7:

- (a) any contracts that require YYY Corporation to address an emergency situation or that Are time sensitive;
- (b) any contracts that require YYY Corporation to retain the use of qualified independent professionals to meet a legal, technical, financial, or market-related requirement, including engineering, financial analysis or geotechnical design;
- (c) any contracts that are minor as to time and amount and do not contemplate repeat services or supplies; or
- (d) any contracts that involve sole distributors or specialized vendors.

7.12.1 Where Open Book Negotiations do not apply or where they have been unsuccessful and a contract price cannot be agreed upon, YYY Corporation may tender the contract out by way of a Competitive Bid Process.

7.12.2 As part of such subsequent Competitive Bid Process:

- (a) YYY Corporation will provide notice to all parties that are participating in the review of any RFP that all competitive bids will be compared on the basis of a 100 point total system, including XXX First Nation business, employment and training participation elements ("BET Commitments") in the bid. The BET Commitments will have a total weighting of 20 points as follows:
 - (i) 10 points assigned to firm, funded and legally binding and enforceable commitments for training and employment of XXX First Nation Members; and
 - (ii) 10 points assigned to firm, funded and legally binding and enforceable commitments for business, contracting and subcontracting with XXX First Nation Businesses;
- (b) YYY Corporation will evaluate the invited tender submissions based on general criteria which will apply to all tenders equally and based on the BET Commitments;

- (c) where an invited tender is more favourable than that proposed by the XXX First Nation Business at the conclusion of the Open Book Negotiations, YYY Corporation will award the contract to such invited tender business;
- (d) where all of the invited tenders are less favourable than that proposed by the XXX First Nation Business at the conclusion of the Open Book Negotiations, the contract will be awarded to the XXX First Nation Business; and
- (e) the determination of whether a bid is more or less favourable will be based primarily on the bid price and then on the bidder's qualifications for that specific contract opportunity.

7.12.3 Where a decision is made by YYY Corporation that the invited tender is more favourable than that proposed by the XXX First Nation Business, and in the spirit of maximizing the participation of XXX First Nation Businesses in the supply of goods and services in the Project, YYY Corporation will explain the reasons for such decision and will advise it of recommendations where requested by the XXX First Nation Business.

7.13 Monitoring XXX First Nation Business Opportunities

7.13.1 Within 30 days after each twelve month period after the Commencement of Construction, YYY Corporation will prepare and deliver to the XXX Nation a written report describing the level of XXX First Nation Business providing goods and services to the Project in comparison to all goods and services provided to the Project (the "XXX First Nation Business Report").

7.13.2 Each of YYY Corporation and the XXX Nation will, on an annual basis, meet to discuss and review the XXX First Nation Business Report and potential opportunities for XXX First Nation Businesses or XXX First Nation Members to participate meaningfully in providing goods and services to the Project, including the setting of non-binding targets for XXX First Nation Participation in business opportunities for the next Year.

7.13.3 When discussing any potential opportunities for XXX First Nation Businesses to supply the goods and services to the Project, the respective representatives of YYY Corporation and the XXX Nation will consider the possibility of splitting or paring down contract requirements, on an economically reasonable and practical basis, to provide greater opportunities for a XXX First Nation Business to supply the Project through either Open Book Negotiations or the Competitive Bid Process.

7.13.4 The Parties acknowledge that certain XXX First Nation Businesses may be unable to meet a performance or financial bonding requirement arising for RFPs or contracts due to the majority of business assets of such XXX First Nation Businesses being located on reserve land. In such cases, the Parties will consider and discuss in good faith any appropriate alternative commercial means that such XXX First Nation Businesses can offer to YYY Corporation in order to provide equivalent security and economic benefits as the relevant bonding requirement.

7.14 Dispute Resolution With Respect to Part 7

- 7.14.1 The Parties agree that any disputes or conflicts with respect to the manner or procedure by which an Open Book Negotiation or a Competitive Bid Process takes place or other obligations outlined in this Part 7 will be resolved in accordance with the Dispute resolution provisions contained in Schedule 11.18 of this Agreement. The Parties agree that all commercial decisions made by YYY Corporation with respect to the pre-qualification or qualification in respect of contract criteria, invited bidders list and contract awards are subject to the sole and exclusive discretion of YYY Corporation exercising its reasonable commercial judgement, and that such decisions by YYY Corporation are final and binding and are not subject to the Dispute resolution provisions under this Agreement. For greater certainty, the Parties agree that any dispute about a decision made by either the XXX Nation or YYY Corporation in this Part 7 with respect to whether a XXX First Nation Business meets the definition of a XXX First Nation Business in accordance with paragraph 7.2.2, is subject to the Dispute resolution provisions contained in Schedule 11.18 and is not included in the commercial decisions made by YYY Corporation as contemplated in the foregoing sentence.

PART 8: FINANCIAL CONSIDERATIONS TO ADDRESS XXX FIRST NATION SOCIAL AND CULTURAL OBJECTIVES

8.1 Purpose

8.1.1 The purpose of this Part 8 is to:

- (a) set out the nature of the financial consideration that will be payable to the XXX Nation in consideration for its consent to, and support of, the development and operation of the Project in XXX First Nation Territory and used by the XXX Nation to address and mitigate the potentially adverse social and cultural impacts that the Project may have over time to the XXX Nation;
- (b) set out the due diligence and verification procedures with respect to the calculation of the financial payments; and
- (c) set out the key terms of the XXX First Nation Heritage Trust that will be established for the management and distribution of funds in order to maximize benefits to the XXX Nation and XXX First Nation Members.

8.2 Nature of YYY Corporation's Financial Payments

8.2.1 The Parties agree that the financial payments that are or maybe payable by YYY Corporation under this Part 8 of the Agreement are the only payments that YYY Corporation is obligated to make to the XXX Nation and YYY Corporation has no additional or further obligations to pay, or in any manner whatsoever compensate, the XXX Nation under this Agreement in connection with the Project, subject only to any possible decision of an Arbitrator.

8.3 General Financial Provisions

8.3.1 All references to costs, expenses, expenditures and fees or similar terms defined in this Agreement will be deemed to refer to reasonable costs, expenses, expenditures and fees.

8.3.2 All funds paid by YYY Corporation to the XXX First Nation Heritage Trust, on behalf of and for the benefit of the XXX Nation under this Agreement, will be paid

in Canadian funds and made by wire transfer of funds which will be immediately available and paid to an account or accounts as directed by the XXX Nation for the XXX First Nation Heritage Trust.

8.3.3 All references to the adjustments for inflation in paragraph 8.5.3 and paragraph 8.10.1 will be referenced to the core consumer price index (the "Core CPI") inflation rate as established and published by the Bank of Canada annually and, for greater certainty, the Core CPI is a variant of the consumer price index that excludes eight components with volatile pricing, which as of the Effective Date, are fruit, vegetables, gasoline, fuel oil, natural gas, mortgage interest, intercity transportation and tobacco products.

8.4 Payments to the XXX Nation

8.4.1 Subject to the terms of this Agreement, YYY Corporation will pay to the XXX First Nation Heritage Trust the following at the time specified for each of the following amounts set out in This Part 8:

- (a) the Signing Bonus;
- (b) the Construction Payments;
- (c) the Guaranteed Annual Payments; and
- (d) the Additional Payments, if applicable.

8.5 Definitions in Part 8

8.5.1 In this Part 8:, "**Signing Bonus**" means the payment of \$XXXX paid on the Effective Date.

8.5.2 In this Part 8:, "**Construction Payments**" means the payments of \$XXX to be paid annually during the Construction Phase commencing thirty (30) Days after the Commencement of Construction. Construction Payments are payable for the duration of the Construction Phase. The final Construction Payment will be prorated in circumstances where the Construction Phase ceases on a Day other than the anniversary date of the first of the Construction Payments.

8.5.3 In this Part 8:, "**Guaranteed Annual Payment**" means the annual payment of \$XXX paid and adjusted as set out in this paragraph 8.5.3. The first of the Guaranteed Annual Payments will be paid 30 Days after the Commencement of Commercial Production (the "First Annual Payment"). Subsequent Guaranteed Annual Payments will be paid on the anniversary date of the First Annual Payment for the duration of Commercial Production, except that all payments subsequent to the First Annual Payment will be adjusted by the Core CPI inflation rate change from the First Annual Payment and provided that such adjustment will result in the Guaranteed Annual Payment not being less than \$XXX. The final Guaranteed Annual Payment will be prorated in circumstances where Commercial Production ceases on a Day other than the anniversary date of the First Annual Payment.

8.5.4 In this Part 8:, "**Net Smelter Returns**" or "**NSR**" means in currency of the United States of America ("**US\$**"), in respect of each Year, or portion thereof, the total of all gross revenue received or accrued by YYY Corporation for the sales of all ores, mineral concentrates, metals and mineral resources produced from the Project (the "Product") less the following:

- (a) all smelting, refining and treatment costs or charges and penalties at the smelter or refinery including deductions charged for metal losses and penalties for impurities; and
- (b) all sampling, assaying and representation charges in connection with sampling and assaying carried out after the Product has been removed from the Mine Site.

8.5.5 In this Part 8:; "**Cumulative Net Smelter Returns**" or "**CNSR**" means in US\$ the sum of all Net Smelter Returns since the Commencement of Commercial Production to the end of the respective Year for which the payment is being calculated (the "Payment Year" or "PY").

8.5.6 In this Part 8:; "**US\$ Conversion Factor**" means that US\$ will be converted to Canadian dollars for each Additional Payment referred to in paragraph 8.5.7 by referring to the monthly average US\$-Canadian dollar exchange rate as set and published by the Bank of Canada when converting US\$ to Canadian dollars.

8.5.7 In this Part 8, "**Additional Payments**" means in respect of each twelve month period a payment will be made on or before the thirty (30) Days after each anniversary of the First Annual Payment and will be calculated as follows:

- (a) if the *CNSR* for the PY exceeds US\$XXX, and the *CNSR* for the preceding PY was less than US\$XXX, then the payment for that PY will be the greater of *A* or the Guaranteed Annual Payment for that PY. The value of *A* will be determined by the following calculation:

$$A = (\textit{insert percentage}) \times (\textit{CNSR} - \textit{XXX}) \times \textit{US\$ Conversion Factor}$$

NOTE: (XXX in this formula could be the cost of construction)

- (b) if the *CNSR* in the preceding PY exceeds US\$XXX, and the *CNSR* in the PY is less than US\$XXX, then the payment for that PY will be the greater of *B* or the Guaranteed Annual Payment for that PY. The value of *B* will be determined by the following calculation:

$$B = (\textit{insert percentage}) \times (\textit{NSR}) \times \textit{US\$ Conversion Factor}$$

- (c) if the *CNSR* for the PY exceeds US\$XXX, and the *CNSR* for the Preceding PY was less than US\$XXX, then the payment for that PY will be the greater of *C* or the Guaranteed Annual Payment for that PY. The value of *C* will be determined by the sum of *c* and *d* where:

$$c = (\textit{insert percentage}) \times (\textit{XXX} - \textit{CNSRpp}) \times \textit{US\$ Conversion Factor}$$

$$d = 0.01 \times (\textit{CNSR} - \textit{XXX}) \times \textit{US\$ Conversion Factor}$$

Where "*CNSRpp*" is a Cumulative Net Smelter Return for the preceding PY.

- (d) if the *CNSR* for preceding PY exceeds US\$XXX then the payment for the PY will be the greater of *D* or the Guaranteed Annual Payment for that period. The value of *D* will be determined by the following calculation:

$$D = 0.01 \times (\textit{NSR}) \times \textit{US\$ Conversion Factor}$$

(e) except that in each period for which the calculation in either of subparagraphs (a), (b), (c) or (d) above is made, if Operating Cash Flow After Tax for any Such period is less than **A, B, C** or **D**, then the calculation of **A, B, C and D** will be deemed to be the greater of:

(i) Operating Cash Flow After Tax; or

(ii) zero.

"Operating Cash Flow After Tax" means the net income after taxation for the respective Payment Year for YYY Corporation in accordance with Canadian generally accepted accounting principles, with the following items added back:

(i) any amount of depreciation, depletion and amortization for the PY, and

(ii) any amount provided for deferred income taxes for the PY.

NOTE: (This approach is a combination of yearly payments and sharing of revenue model. Other possible options to consider include equity position in the Project, share transfers on some basis, value added such as agreed to in the NWT where a dollar value of diamonds were cut and polished locally and a combination of various options.)

8.6 Verification of Additional Payments

8.6.1 YYY Corporation will maintain full and complete records with respect to all matters relating to the determination and payment of the Guaranteed Annual Payments and the Additional Payments to the XXX Nation pursuant to this Agreement in accordance with Canadian generally accepted accounting principles.

8.6.2 Within ninety (90) Days after each twelve month period commencing after the first Year when the CNSR exceeds \$3,000,000,000(the "Operating Year"), YYY Corporation will deliver to the XXX Nation a schedule of Net Smelter Returns for the previous Operating Year, including:

(a) a detailed schedule of gross revenue for all sales of Product itemizing the Shipment dates and the total sales;

(b) a schedule of expenses in respect of treatment and refining charges in arriving At Net Smelter Returns in accordance with this Agreement;

(c) a calculation of Net Smelter Returns, Cumulative Net Smelter Returns and the Additional Payment;

(d) a certificate by the most senior financial officer of YYY Corporation stating that the information supplied pursuant to this paragraph 8.6.2 is accurate, complete and in accordance with the provisions of this Agreement; and

- (e) an auditor's report prepared by YYY Corporation's external auditors stating that they have audited the schedule of Net Smelter Returns, Cumulative Net Smelter Returns and the calculation of the Additional Payment and all related determinations made by YYY Corporation; stating that they conducted their audit in accordance with generally accepted auditing standards; and stating the auditor's opinion as to whether the schedule of Net Smelter Returns, Cumulative Net Smelter Returns and Additional Payments are in all material respects in compliance with the provisions of this Part 8.
- 8.6.3 The XXX Nation will have the right to request from YYY Corporation additional information, details or explanations with respect to the information referred to in paragraph 8.6.2 and YYY Corporation will provide such information within forty-five (45) Days of receiving a request for such information.
- 8.6.4 The XXX Nation will have ninety (90) Days from the receipt of both the certificate referred to in paragraph 8.6.2(d) and the auditor's report referred to in paragraph 8.6.2(e) to notify YYY Corporation of the XXX Nation's intentions to appoint, at its own expense, an independent auditor to audit the information supplied pursuant to paragraph 8.6.2.
- 8.6.5 Such audit will be for the purposes of preparing a written report for the XXX Nation on whether the schedules referred to in paragraph 8.6.2 has been prepared in accordance with the provisions of this Part 8.
- 8.6.6 YYY Corporation will co-operate with the examination by the auditor appointed by the XXX Nation and will provide to the auditor full access to accounting records and individuals as reasonably requested by the auditor.
- 8.6.7 If the audit determines that there is a deficiency in the Additional Payment, such deficiency will be resolved immediately by payment of such deficiency to the XXX First Nation Heritage Trust.
- 8.6.8 If the audit determines that there is a deficiency in the amount of the additional payment in excess of ___ percent (%) of the payment amount, then the audit fees will be paid by YYY Corporation.
- 8.7 Disclosure of Certain Financial Information by YYY Corporation
 - 8.7.1 During the Term of this Agreement, YYY Corporation agrees that:
 - (a) within thirty (30) Days after YYY Corporation has approved its budget and projected/forecasted financial position for the Project in an upcoming fiscal year, it will provide a summary of this financial information to the XXX Nation; and
 - (b) concurrent with the distribution of YYY Corporation's audited annual financial statements for the Project, it will provide a summary of this financial information to the XXX Nation.
- 8.8 The XXX First Nation Heritage Trust
 - 8.8.1 All payments made by YYY Corporation under this Part8 to the XXX First Nation Heritage Trust will be made at the direction, and for the benefit, of the XXX Nation.

8.8.2 As soon as reasonably practicable after the Effective Date, the XXX Nation will settle a trust that will receive, manage, invest, and payout funds contributed under paragraph 8.4.1 for the benefit of the XXX Nation and the XXX First Nation Members. Such trust will be entitled the "XXX First Nation Heritage Trust".

8.8.3 The minimum parameters of the XXX First Nation Heritage Trust will be as follows:

- (a) priority payments from the Trust for costs incurred by the XXX Nation in respect of implementing, monitoring and maintaining its obligations and benefits set out in this Agreement, including the maintenance of the Human Resource Inventory, participation on all committees, resolving Disputes, if any, ongoing environmental monitoring and ongoing monitoring of employment, training and business opportunities;
- (b) priority payments in respect of environmental rehabilitation and habitat enhancement;
- (c) fair allocation of payments and benefits to the whole of the XXX Nation and for all XXX First Nation Members, including the communities of XXX First Nation Community;
- (d) a fair and clear allocation and distribution procedure for the review and prioritization of the needs of the XXX Nation that includes representation in such process from among the communities of XXX First Nation Community and from among other XXX First Nation Members;
- (e) no per capita payments or distributions made to XXX First Nation Members or any other persons for their individual benefit;
- (f) an independent and corporate trustee appointed to act as trustee in respect of the Trust ("Trustee");
- (g) prudent, long term investments made by the Trustee in order to protect the interests of future generations;
- (h) distributions from the Trust made for XXX Nation governance and community development purposes which will include, but not be limited to, education, training, capacity development, housing, health, health education and economic development for all XXX First Nation Members, residing both on and off reserve lands;
- (i) annual reporting and accounting by the Trustee to all XXX First Nation Members, with a copy provided to YYY Corporation; and
- (j) such other reasonable and necessary provisions that are consistent with subparagraphs (a) to (j) above, that result from tax related or other professional advice or which is otherwise necessary to maximize long term benefits to the XXX Nation and XXX First Nation Members.

8.9 Delay of Commencement of Construction

8.9.1 The Parties agree that, if the Commencement of Construction has not occurred on or before _____, 200X, and the reason for the delay in the Commencement of Construction is for any reason other than:

- (a) a delay caused primarily by the failure of the XXX Nation to collaborate in good faith in the EA Process or the process for the issuance of any of the Permits as contemplated in this Agreement;
- (b) the taking of any actions by the XXX Nation that results in a delay of the EA Process or the process for the issuance of any of the Permits; or
- (c) any Force Majeure Event, including, for greater certainty, any material adverse changes in market conditions such as metal prices.

YYY Corporation will pay to the XXX First Nation Heritage Trust the total amount of \$XXX for each twelve month period that the start of the Commencement of Construction is delayed beyond _____, 200X, until the earlier of the Commencement of Construction or termination as provided in paragraph 11.17.

8.9.2 With respect to the payment, if any, under paragraph 8.9.1 above, for any periods of time that are less than a Year, the \$XXX will be pro rated for the relevant period of applicable time. Additionally, the \$XXX payments will be adjusted annually based on the Core CPI inflation rate from _____, 200X.

8.9.3 For greater certainty, a delay in the Commencement of Construction will not extend beyond a period of 10 years following _____, 200X. in accordance with paragraph 11.17.1(d), this Agreement will terminate if a delay in the Commencement of Construction has continued until _____, 200X.

8.10 Scholarship Fund

8.10.1 Promptly after the Effective Date, YYY Corporation will establish and maintain during the term of this Agreement an annual scholarship fund in the total amount of \$XXX in support of students who are XXX First Nation Members. This scholarship fund will provide for annual academic awards for both high-school and post-secondary students who are XXX First Nation Members and are interested in careers in the mining industry or acquiring qualifications related to the Project. Starting one Year after the Effective Date, this \$XXX amount will be adjusted by reference to the Core CPI inflation rate as set out in paragraph 8.3.3 above.

PART 9: USE OF FACILITIES AND DISPOSITION OF SURPLUS EQUIPMENT OR FACILITIES

9.1 Purpose

9.1.1 The purpose of this Part 9 is to:

- (a) set out the principles under which YYY Corporation will allow for the use and access by the XXX Nation and XXX First Nation Members of the Project Facilities; and
- (b) set out the principles for the disposition of any surplus equipment or facilities to XXX Nation, XXX First Nation Members or XXX First Nation Businesses.

9.2 Joint Commitments

9.2.1 The Parties will jointly develop and implement policies to govern safety and access to Project Facilities by XXX First Nation Members.

9.3 Emergency Use of Project Facilities

9.3.1 For emergency purposes only and at the reasonable discretion of YYY Corporation, XXX First Nation Members may, on a reasonable cost recovery basis, have access to, and the use of:

- (a) fuel, repair facilities and food supplies at any Project Facilities;
- (b) any shelter, telephones or other emergency facilities; and
- (c) medical first aid and transportation to a medical facility if required.

9.4 On-Site Facilities

9.4.1 YYY Corporation will make available office space at the Mine Site, without cost, to the XXX Nation for its staff or representatives acting under this Agreement when such personnel attend at the Mine Site.

9.4.2 Upon request, YYY Corporation will also provide accommodation at the Mine Site to the XXX Nation for its staff or representatives acting under this Agreement or for XXX representatives acting in respect of the Project, at reasonable cost and subject to availability.

9.5 Transportation for XXX First Nation Representatives

9.5.1 YYY Corporation will provide at reasonable cost, transportation to and from the Mine Site for XXX Nation representatives acting under this Agreement subject to:

- (a) prior notice from the XXX Nation to appropriate YYY Corporation personnel outlining the purpose of the visit; and
- (b) space availability.

9.6 Liability

9.6.1 YYY Corporation will not be liable to any user of Project Facilities for purposes or functions unrelated to the Project, including but not limited to the use by XXX Nation and XXX First Nation Members of Project Facilities as outlined in this Part 9.

9.7 Disposal of Surplus Equipment During Commercial Production

9.7.1 This paragraph 9.7 applies to the Construction Phase, the Commercial Production Phase and the Closure Phase of the Project.

9.7.2 YYY Corporation will make special arrangements with the XXX Nation, XXX First Nation Businesses and XXX First Nation Members in order for the XXX First Nation to have first priority to purchase surplus equipment or facilities.

9.8 Disposal of Surplus Equipment During Commercial Production

10.8.1 Subject to the XXX Nation's first priority rights to acquire surplus equipment as set out in this Part 10:, YYY Corporation may determine in its sole discretion the terms and conditions for the disposition of any surplus equipment.

- 9.8.2 YYY Corporation will make a list of any such surplus equipment available to the XXX Nation.
- 9.8.3 YYY Corporation will provide sixty (60) Days advance notice to the XXX Nation of its intention to dispose of any surplus equipment, prior to disposing of the surplus equipment to a third party.
- 9.8.4 If a XXX First Nation Business or a XXX First Nation Member wishes to acquire any surplus equipment, it will provide written notice of this interest to YYY Corporation within twenty-one (21) Days of YYY Corporation providing notice to the XXX Nation. A XXX First Nation Business or a XXX First Nation Member will have not less than seven (7) Days to view and inspect the surplus equipment commencing within such twenty-one (21) Day period.
- 9.8.5 YYY Corporation will evaluate any expression of interest provided by a XXX First Nation Business or a XXX First Nation Member in any surplus equipment and may, in its sole discretion, transfer, sell or assign any surplus equipment to a XXX First Nation Business or a XXX First Nation Member on terms and conditions agreed to by YYY Corporation and the XXX First Nation Business or a XXX First Nation Member.
- 9.8.6 If YYY Corporation is unable to agree with a XXX First Nation Business or a XXX First Nation Member upon the terms and conditions upon which any surplus equipment will be transferred, sold or assigned, YYY Corporation may offer the surplus equipment to third parties on terms no less favourable than the bid offered by a XXX First Nation Business or a XXX First Nation Member. Less favourable bids will not be considered less favourable solely because of price.
- 9.8.7 If a XXX First Nation Business or a XXX First Nation Member that is a purchaser of surplus equipment fails to remove the surplus equipment within the stipulated timeframe set out in the agreement of purchase and sale, YYY Corporation will dispose of the surplus equipment in its discretion.
- 9.9 Disposal of Surplus Facilities During Closure
- 9.9.1 Subject to the XXX Nation's first priority rights to acquire surplus facilities as set out in this Part 9:, YYY Corporation may determine in its sole discretion the terms and conditions for the disposition of surplus facilities during Closure.
- 9.9.2 Where surplus facilities are to be removed at the time of Closure or have been approved to remain in place under the Closure Plan, YYY Corporation will give the XXX Nation notice that such surplus facilities are available for acquisition as provided in Paragraph 9.9.3 below.
- 9.9.3 YYY Corporation will provide notice to the XXX Nation with a list of surplus facilities, estimated values and approximate time of availability for acquisition at least twelve (12) months prior to the end of Commercial Production.
- 9.9.4 XXX First Nation Businesses will have six (6) months to notify YYY Corporation of any interest they have in acquiring any surplus facilities.
- 9.9.5 Upon receipt of the notice referred to at paragraph 9.9.2, if a XXX First Nation Business wishes to acquire some or all of the surplus facilities upon Closure, YYY Corporation will enter into negotiations with the XXX First Nation Business for a period not to exceed sixty (60) days to determine the terms and conditions under which the surplus facilities could be acquired by the XXX First Nation

Business. The sale, transfer or assignment of any surplus facilities will be on terms and conditions agreed to at such time by YYY Corporation and the XXX First Nation Business.

- 9.9.6 In the event that a XXX First Nation Business expresses an interest in acquiring an item of surplus facilities upon Closure, and YYY Corporation and the XXX First Nation Business are unable to agree on the terms and conditions for the disposition of the surplus facilities within the sixty (60) Day period contemplated in paragraph 9.9.5, the issue of the fair market value of the surplus facilities will be referred to an independent third party to make a non-binding recommendation as to fair market value within thirty (30) Days of being given notice.
- 9.9.7 If YYY Corporation and the XXX First Nation Business are unable to agree on the terms for the sale of the surplus facilities, then YYY Corporation reserves the right to transfer, sell or assign the surplus facilities to a third party on terms and conditions no less favourable than the bid offered by the XXX First Nation Business, or to decommission, rehabilitate and reclaim the surplus facilities in a manner consistent with the Closure Plan. Less favourable bids will not be considered less favourable solely because of price.
- 9.9.8 Surplus facilities that cannot be removed and that a XXX First Nation Business has declined to acquire will be decommissioned, rehabilitated and reclaimed in a manner consistent with the Closure Plan.
- 9.9.9 YYY Corporation will advise any purchaser of surplus facilities of the date and place that the surplus facilities will be available.

PART 10: GENERAL PROVISIONS

- 10.1 Written Notification the Commencement of Construction and Commercial Production
- 10.1.1 YYY Corporation agrees to provide written notice to the XXX Nation confirming the date on which YYY Corporation intends to proceed with any or all of the Construction necessary to prepare for the mining and processing of **gold, silver copper, diamonds, moly, etc.** at the Mine Site.
- 10.1.2 YYY Corporation agrees to provide prompt written notice to the XXX Nation confirming the date on which Commercial Production has commenced, which notice will include sufficient information as to the basis and related calculations for YYY Corporation's conclusion that Commercial Production has commenced.
- 10.1.3 Notwithstanding paragraphs 10.1.1 and 10.1.2 above, the Parties acknowledge that pursuant to the provisions of the Agreement, notice of the Commencement of Construction or notice of the Commencement of Commercial Production will not lead to a definitive determination that Construction or Commercial Production has in fact commenced in circumstances where there is evidence to support a finding that the Commencement of Construction or Commercial Production commenced prior to the delivery of such notice.
- 10.1.4 At anytime prior to the delivery of the notices referred to at paragraphs 10.1.1 and 10.1.2, the XXX Nation will have the right to conduct an independent audit, at its costs, to determine whether there has in fact been a Commencement of Construction or Commencement of Commercial Production.
- 10.2 XXX Nation Representations and Warranties

10.2.1 The XXX Nation represents and warrants to YYY Corporation and acknowledges that YYY Corporation is relying upon such representation and warranties as follows:

- (a) the XXX First Nation Territory comprises all of the lands to which the XXX Nation asserts aboriginal rights and aboriginal title, and the XXX Nation is not aware of any conflicting or overlapping claims or potential claims by any other First Nation or Aboriginal Peoples to any lands in the XXX First Nation Territory that are part of the Project Area, including the XXX Project;
- (b) the XXX Nation has the legal power, capacity and authority to enter into this Agreement and has passed the necessary resolution and has taken all other actions or proceedings necessary within its governance structure to approve, ratify, enter into and carry out this Agreement;
- (c) the XXX First Nation has sole and exclusive authority as the governing body of the XXX Nation to represent and act on behalf of the XXX Nation in respect of the Project Area within the XXX First Nation Territory and for all purposes under this Agreement and, as such, is a proper Party to this Agreement and is the proper authority for YYY Corporation to deal with in implementing this Agreement; and
- (d) this Agreement will, upon execution and delivery, constitute legal, valid, and binding obligations on the XXX Nation and the XXX First Nation, enforceable against them and any successors organized, appointed or asserting the right to represent the XXX Nation in accordance with its respective terms, except as limited by applicable bankruptcy laws or laws affecting the enforcement of creditors' rights generally.

10.3 XXX Status

10.3.1 The XXX Nation represents and warrants to YYY Corporation and acknowledges that YYY Corporation is relying upon such representation and warranty, that XXX is 100% owned by the XXX Nation. The XXX First Nation has a mandate to promote economic development for all XXX First Nation Members and to share all benefits on a fair and equitable basis among the XXX First Nation communities. As such, XXX First Nation is the proper authority for YYY Corporation to deal with in connection with certain of the business development opportunities provided for in Part 7 of this Agreement.

10.3.2 If, during the Term of this Agreement, the foregoing representation and warranty or XXX's status as a XXX First Nation Business, the XXX Nation will promptly advise YYY Corporation, in writing, of such proposed changes outlining in sufficient detail the nature and reason for these changes.

10.4 YYY Corporation's Representations and Warranties

10.4.1 YYY Corporation represents and warrants to the XXX Nation and acknowledges that the XXX Nation is relying upon such representations and warranties as follows:

- (a) YYY Corporation is incorporated, and has been organized, under the laws of British Columbia and is a valid and subsisting corporation in good standing;

- (b) YYY Corporation has the legal power, capacity and authority to enter into this Agreement and all necessary corporate actions, resolutions and proceedings have been taken by YYY Corporation to approve, enter into and carry out this Agreement;
- (c) this Agreement will, upon execution and delivery, constitute legal, valid, and binding obligations on YYY Corporation, enforceable against it in accordance with its respective terms, except as limited by applicable bankruptcy laws or laws affecting the enforcement of creditors' rights generally;
- (e) it has not authorized any unrelated person or entity to explore or develop any mineral resources in respect of the project;
- (f) subject to existing litigation set out in Schedule 10.4.11(f) and, to the best of YYY Corporation's information, knowledge and belief, there is no action, suit, proceeding, claim application, complaint or investigation in any court or before any arbitrator or before or by any regulatory body or governmental or non-governmental body pending or threatened by or against YYY Corporation affecting the business or the operations or capital of YYY Corporation or the matters contemplated by this Agreement, and there is no factual or legal basis which could give rise to any such action, suit, proceeding, claim, application, complaint or investigation that would impair, in any manner, YYY Corporation's ability to fulfill any of its obligations under this Agreement;
- (g) the execution, delivery and performance of this Agreement by YYY Corporation will not result in or constitute a default, breach or violation of any of the terms, conditions or provisions of the contractual agreements that YYY Corporation has concluded with any other person or entity;
- (h) the Project financial information, including all estimates and assumptions related thereto, of YYY Corporation that has been disclosed to the XXX Nation is true and accurate in all material respects as at the time of disclosure and no material changes to such information have occurred; and
- (i) to the best of YYY Corporation's information, knowledge and belief the impacts and mitigation of the Project on the land, water, air, people and wildlife will be accurately set out in the Environmental Assessment Application submitted by YYY Corporation to Regulatory Authorities regarding the Construction, Commercial Production and Closure of the project.

10.5 Acknowledgement of Limitations

10.5.1 The Parties acknowledge that neither of the Parties has made any representations and warranties with respect to this Agreement, except the representations and warranties expressly made in paragraphs 10.2 and 10.4 above.

10.6 Designated Authorities of the Parties

10.6.1 For all purposes in this Agreement, unless otherwise expressly provided for in a specific provision, whenever a commitment or requirement is specified in relation to an act or responsibility of the Parties, each Party will, promptly upon the execution of this Agreement, appoint one key contact person and an alternative contact individual, to act for it in carrying out this Agreement and will notify the other party of the names of the key contact and alternative contact. The Parties agree that they will be entitled to rely on the decisions and actions of the designated individuals or other named key contact persons or the alternates for purposes of carrying out this Agreement.

10.7 Authority Over XXX First Nation Members

10.7.1 The XXX Nation will make all reasonable best efforts to ensure that XXX First Nation Members are aware of and acting in accordance with the XXX Nation's commitments under this Agreement. For greater certainty, this commitment will continue in the event of any modifications and changes to the governance structure and leadership of the XXX Nation and will extend to all future leaders of the XXX Nation.

10.8 Confidentiality

10.8.1 The Parties will take all prudent measures to ensure that any information, documents, Reports or other material provided by one of the Parties to the other Party pursuant to or in connection with his Agreement, including sensitive Traditional Knowledge that may be disclosed to YYY Corporation, is treated as confidential and is not is closed to any person except:

- (a) as may be required by law;
- (b) that becomes generally known or available in the public domain, without a breach of this Agreement;
- (c) as otherwise consented to in advance by the Party providing such information, reports or other material;
- (d) that is disclosed by the XXX Nation in accordance with paragraph 4.9.4.

10.8.2 With respect to the confidentiality of this Agreement and the release of copies of it to third parties, the Parties acknowledge and confirm that, copies of this Agreement will be:

- (a) shared by YYY Corporation with its lenders, investors, advisors and any other third Parties that YYY Corporation may need to share this Agreement with in connection with the management of YYY Corporation's business, including meeting its legal obligations as provided by paragraph 10.34.1; and
- (b) shared by the XXX Nation with the XXX First Nation communities and members.

10.9 Temporary Suspension

10.9.1 The Parties acknowledge that YYY Corporation may determine the need for a Temporary Suspension of the Project.

10.9.2 Should such a circumstance arise, YYY Corporation will assess the situation and if, in its sole discretion, YYY Corporation determines that Temporary Suspension is required it will inform the XXX Nation in writing of the need to curtail, suspend or cease activities and operations. This written notice will be delivered at least 30 Days in advance of a Temporary Suspension and such notice will providing the XXX Nation with a summary of the adverse circumstance and YYY Corporation's expected actions which will include:

- (a) reason for curtailment, suspension or cessation of activities and operations;
- (b) measures taken to ensure that Member employees are treated fairly as YYY Corporation curtails, suspends or ceases employment with the project;
- (c) measures which will be taken to ensure that the Project's facilities will be Maintained in a state which will facilitate reopening when circumstances change;
- (d) expected timetable to restart or a description of the circumstances which will be required to allow the Project to restart;
- (e) measures which have been and will be taken to ensure that the Environment is Protected from adverse impacts during the expected period of temporary Suspension; and
- (f) any support which YYY Corporation is in a position to offer to the XXX First Nation Member Employees to assist with retraining or adjusting to the economic impact of the Temporary Suspension.

10.9.3 During the first year of Temporary Suspension this Agreement will remain in force, to the extent reasonably practicable, and YYY Corporation will remain obligated to pay the applicable Guaranteed Annual Payment.

10.9.4 If Temporary Suspension prevails for a period of greater than one year and less than 10 years, YYY Corporation will be relieved of its obligations under this Agreement except that YYY Corporation will:

- (a) continue to comply with all applicable Environmental Laws and environmental provisions herein, including ongoing monitoring of the project Area as required;
- (b) allow the XXX Nation to have reasonable access to environmental Monitoring records and the Project Area if requested;
- (c) provide the XXX Nation with an annual report summarizing the status of the closure and describing current expectations of possible reopening on or before each anniversary of the date of closure;
- (d) make every reasonable effort to maintain the Project Facilities in a state which can facilitate reopening;
- (e) hire or retain XXX Nation contractors and employees to perform scheduled care, maintenance, security and monitoring activities to the extent that these skills and services are required and available at a cost equal to that of non-XXX Nation service providers;

- (f) continue to make any payment due under this Agreement in respect of any period leading up to Temporary Suspension where payments are intended to be made after a twelve month period, or portion thereof, or there is a calculation to be made after such period; and
- (g) make a payment of \$XXX to the XXX Nation for every Year that Temporary Suspension continues.

10.9.5 If a period of Temporary Suspension continues for more than 10 years from the delivery of the notice of Temporary Suspension referred to at paragraph 10.9.2, this Agreement will terminate pursuant to paragraph 10.17.1.

10.9.6 When reopening is planned to occur, YYY Corporation will advise the XXX Nation in writing at least sixty (60) Days in advance of the date when Commercial Production is expected to recommence. As soon as practical after sending this notice, YYY Corporation and the XXX Nation will meet to discuss and agree upon a process which respects the intent of this Agreement to:

- (a) recruit and train XXX First Nation Members for the Project;
- (b) maximize business opportunities for XXX First Nation Businesses in selection of contractors and providers of services;
- (c) communicate with the local communities; and
- (d) work cooperatively in YYY Corporation's efforts to obtain all necessary Regulatory Instruments.

10.9.7 For greater certainty, at the end of a period of Temporary Suspension, YYY Corporation will either:

- (a) resume Construction or Commercial Production, as applicable, in which case all provisions of this Agreement will continue to apply in all respects; or
- (b) proceed with Closure of the Project.

10.10 XXX Nation General Support

10.10.1 Subject to the terms of this Agreement, the XXX Nation covenants and agrees to fulfill all of its obligations set out in this Agreement and specifically covenants as follows:

- (a) not to interfere with YYY Corporation's lawful use of the Project Area for purposes of the Project;
- (b) not to obstruct the Construction, Operation, Commercial Production or Closure of the Project or engage in any action that would frustrate, delay or Stop the lawful Construction, Operation, Commercial Production or Closure of The Project;
- (c) to use all reasonable best efforts to prevent XXX First Nation Members from actions that would frustrate, delay or stop the lawful Construction, Operation, Commercial Production or Closure of the Project;

- (d) to recognize and respect the Regulatory Instruments that have been or may be granted to YYY Corporation by the Crown or any boards, agencies or commissions thereof for the exploration, Construction, Operation, Commercial Production and Closure of the Project within the Project Area;
- (e) to ensure that the mineral and surface tenures and rights with respect to Regulatory instruments required for the Construction, Operation, Commercial Production and Closure of the Project will be recognized and preserved unaltered if the XXX Nation, either directly or indirectly, acquires rights and obtains recognition for jurisdiction in whole or in part, currently exercised by the Crown, pursuant to any Land Claim Agreement or any other form of land claim agreements, or self-government agreements that the XXX Nation may enter into with the Crown or as a result of any court actions to which the XXX Nation is a party, either directly or indirectly;
- (f) that YYY Corporation will in its relationship with the XXX Nation be in a no less favourable position than otherwise would have existed had such recognition or transfer of rights or jurisdiction from the federal or provincial Crown not occurred;
- (g) not to seek additional compensation from, or make any claim against, YYY Corporation in respect of the potential adverse effects of the Project;
- (h) that this Agreement is in full and final satisfaction of any present or future Claims by the XXX Nation directly against YYY Corporation for any infringements by YYY Corporation of any of the XXX Nation's rights arising from or relating to *Section 35, Constitution Act, 1982*; and
- (i) to inform XXX First Nation Members of the business, employment and training opportunities and benefits arising out of the Project.

10.11 Adequate Consultation by YYY Corporation

10.11.1 The XXX Nation acknowledges and agrees that YYY Corporation has adequately Consulted with respect to all aspects of the Project as of the Effective Date, including the activities undertaken in the EA process.

10.11.2 If this Agreement is followed, the processes between the Parties set out in this Agreement provide for sufficient and adequate consultation in respect of the Project for the completion of the EA and the issuance of all Permits.

10.12 XXX Nation Retains Right to Make Representations

10.12.1 Nothing in this Agreement will be construed to provide any limitation on the ability of the XXX Nation, as part of the EA for the Project or as part of the process for Permit Applications, to make full and fair representations and submissions to a Regulatory Authority relating to any legitimate concerns that the XXX Nation may have, in its sole discretion, with respect to possible adverse Environmental Effects. Furthermore, in accordance with the conditions set out in paragraph 4.9.4, if the XXX Nation has concerns about an environmental non-compliance finding pursuant to paragraph 4.9.2, the Parties confirm that the XXX Nation may make full and fair representations and submissions to a Regulatory Authority

relating to any legitimate concerns that the XXX Nation may have, in its sole discretion, in that regard.

10.13 XXX Nation Consent, Approval and Support of the Project

10.13.1 Subject to the terms of this Agreement, the XXX Nation specifically acknowledges, covenants and confirms that this Agreement serves as its consent, approval and support of the Project.

10.13.2 The Parties jointly acknowledge that arranging financing is critical to the development of the Project and that:

- (a) the development of the mine and infrastructure required to start Construction and Operations of the Project is expected to require significant capital investments;
- (b) devising and implementing a strategy for raising this large amount of capital is the sole responsibility of YYY Corporation;
- (c) potential investors and lenders to the Project will, to a large extent, dictate the terms and conditions upon which they will invest in the Project and these terms and conditions will reflect their understandings of certain factors related to the Project, such as market, environmental, political and social risks;
- (d) working collaboratively to reduce the risks which lenders perceive in relation to the Project will facilitate the rapid and cost-effective financing and development of the Project;
- (e) it will be difficult to raise the capital required to develop the Project if Investors perceive uncertainty regarding YYY Corporation's current or future right to Access and extract the mineral resources from the XXX Project According to the Feasibility Study;
- (f) it will be difficult to raise the capital required to develop the Project if Investors perceive uncertainty regarding the future level of taxation, royalties or other financial burdens on the Project; and
- (e) lenders to the Project may require a legally-binding, unilaterally enforceable, Pledge of the Claims and all significant assets of the Project in order to Provide financing.

10.13.3 In order to support YYY Corporation's need to secure financing for the development of the Project, the XXX Nation will:

- (a) if requested by YYY Corporation, send senior XXX First Nation leaders to meet with potential Partners or lenders to the Project, at the expense of YYY Corporation;
- (b) during meetings with potential partners or lenders, the XXX Nation will use their reasonable efforts to relieve any reasonable concerns that such partners or lenders may have regarding the support for the Project by the XXX Nation, including provision of written assurances of the XXX Nation's commitment to respect the right of YYY Corporation to extract minerals for carrying out the Project; and

- (c) if requested by YYY Corporation, commit in writing to impose no financial or operational restrictions which are more onerous than those in place under this Agreement and in British Columbia at the time of Construction upon the Project as part of, or subsequent to, any Land Claim Agreement the XXX Nation may enter into with respect to XXX First Nation Territory, or as part of any Court Decision.

10.14 Non-derogation of XXX First Nation Rights

10.14.1 The Parties acknowledge and agree that no provision of this Agreement, nor any of the communications, negotiations or consultations between the Parties in respect of the Project or this Agreement will prejudice, limit or derogate from:

- (a) any rights, claims or interests in respect of any aboriginal rights, aboriginal title, or inherent rights of the XXX Nation;
- (b) any rights, claims or interests or positions that the XXX Nation may take in any negotiations or court proceedings with the Crown, or any other party; or
- (c) any rights to, or benefits of, notice, consultation, accommodation, compensation, negotiation or discussion with any party, other than YYY Corporation, arising, directly or indirectly, from claims, rights or interests identified in subparagraphs 10.14.1(a) or (b),

provided that in each instance the terms of this Agreement and the rights established hereunder are preserved and respected.

10.15 Settlement of Claims/Self-Government

10.15.1 The XXX Nation agrees that, during the Term of this Agreement, this Agreement will continue to apply and will not be affected in any way by any resolution, interim or otherwise, (a "Land Claim Agreement") that the XXX Nation may reach with the Crown connected to the XXX Nation land claim or other aboriginal rights or aboriginal title over, in and around the XXX First Nation Territory. For greater certainty, the XXX Nation agrees that to the extent any Land Claim Agreement addresses the Governmental jurisdiction or management of the mineral resources that are part of the Project, including the access, extraction and ownership thereof, such jurisdiction or Management in the Land Claim Agreement will be consistent with existing applicable Laws governing the Project at the time the Land Claim Agreement is entered into such that YYY Corporation will be in the equivalent position had there been no Land Claim Agreement.

10.16 Use of XXX First Nation Traditional Names

10.6.1 The XXX Nation may identify XXX First Nation traditional names for locations or activities Connected to the Project and YYY Corporation will use these XXX First Nation traditional names for The Project.

10.17 Termination

10.17.1 This Agreement will continue for the Life of the Project and will terminate upon the happening of any of the following events:

- (a) completion of all requirements set out in the Closure Plan;

- (b) mutual agreement of the Parties in writing;
- (c) after the effects of a Force Majeure Event have existed for a minimum period of two (2) years and YYY Corporation has provided notice to the XXX Nation that the Project is no longer feasible to operate;
- (d) where Commencement of Construction has not occurred by _____, 200X, for any reason whatsoever;
- (e) where, pursuant to paragraph 10.9.5, a period of Temporary Suspension Continues for more than 10 Years; or
- (f) failure of YYY Corporation to provide to the XXX Nation the Option Exercise Notice on or before Commencement of Construction.

10.17.2 For greater certainty, where a termination arises as a result of paragraph 11.17.1(c) above, the provisions of this Agreement requiring YYY Corporation to comply with its Closure Plan will survive such termination.

10.18 Dispute Avoidance and Joint Resolution Process

10.18.1 The Parties will conduct their activities with respect to the Project in an honest, open and transparent manner and in good faith in order to avoid unnecessary conflict and Dispute. When issues arise which cannot be resolved through day-to-day communications, the Parties will seek to resolve the Dispute in the manner provided in Schedule 10.18.

10.19 Future XXX Nation Claims

10.19.1 YYY Corporation will not oppose, nor intervene in, any claims by the XXX Nation against the Crown in respect of a claim of aboriginal rights, including aboriginal title, in respect of the XXX First Nation Territory, provided that this Agreement, the rights of YYY Corporation and the obligations of the XXX Nation under this Agreement, will remain unaffected.

10.20 Force Majeure

10.20.1 Subject to the provisions in section 10.9 dealing with Temporary Suspension, during the Term of this Agreement, neither of the Parties will be liable for non-performance or delay in performance due, in whole or in part, to any conditions or causes not in its control or not avoidable by reasonable diligence. Upon the occurrence of any such contingency, the Party so affected may suspend its obligations during the period of such contingency and will be allowed a reasonable time to fulfill its obligations under this Agreement having regard to the applicable circumstances. The following will be considered not to be within a Party's control or avoidable by reasonable diligence (any of which, for the purposes of this Agreement, are considered a "Force Majeure Event"):

- (a) acts of God such as fire, explosion, unusually or unforeseeably bad weather conditions, flood, epidemic, landslide, lightning, earthquake, storm or washout;
- (b) vandalism, sabotage, terrorism, civil disobedience, insurrection or unlawful acts against public order or authority;
- (c) court decrees;

- (d) labour troubles or disputes, strikes or lock-outs or other labour controversies;
- (e) unusual or extraordinary damage, breakage or other problems affecting the machinery, equipment or facilities of the Project resulting in curtailment or suspension of operations;
- (f) material curtailment or shut down of operations at the Project due to shortages of supplies or raw materials, including fuel and power, lack of markets, uneconomic conditions adversely affecting YYY Corporation's business, operations or financial conditions: or
- (g) any other reason whether similar or dissimilar to the foregoing that is out of the control or not the fault of the Party affected.

The Party affected by a Force Majeure Event will give the other Party prompt notice of the occurrence and anticipated duration of any Force Majeure Event. For greater certainty, no Party will be responsible to any other Party for any cost, loss or damage sustained by any other Party arising or resulting from any Force Majeure Event.

10.21 Severability

10.21.1 If any provision of this Agreement, or the application thereof to any person or circumstance, is, to any extent, held or rendered invalid, void, illegal or unenforceable for any reason, then the particular provision:

- (a) will be deemed to be independent of and severed from the remainder of this Agreement and all the other provisions of this Agreement will nevertheless Continue in full force and effect; and
- (b) will continue to be applicable and enforceable to the fullest extent permitted by law against any persons and in any circumstances other than those as to which it has been held or rendered invalid, void, illegal or unenforceable. If a severance occurs under this paragraph 10.21 the Parties will use their respective best efforts to negotiate in good faith an enforceable replacement provision that, to the greatest extent possible, reflects the intent or serves the purpose of the severed provision.

10.22 Communications Between the Parties

10.22.1 The Parties will maintain effective communications between each other, and will develop plans to ensure that XXX First Nation Members remain informed about:

- (a) the rules and regulations governing Project Facilities;
- (b) Business Opportunities;
- (c) environmental performance by YYY Corporation under this Agreement;
- (d) timing of Project Phases; and
- (e) other issues of concern to the Parties relating to the Project.

10.23 Notices

10.23.1 Any demand, notice or other communication given in respect of this Agreement will be in writing and delivered or faxed as follows:

To the XXX Nation representative:

The XXX First Nation
(address to be inserted)
Phone:
Fax:

Attention: Chief

To YYY Corporation:

YYY Corporation
(address to be inserted)
Phone:
Fax:

Attention: President

or to such other address or fax number as a Party may advise the other in accordance with this section.

10.24 Further Assurances

10.24.1 Each Party will at all times and from time to time upon reasonable request of the other Party, execute and deliver all such further and other documents and instruments and do and perform all such further and other acts and things as are reasonably required for the purpose of evidencing or giving full force and effect to the terms of this Agreement.

10.25 No Waiver

10.25.1 No failure or delay on the part of either Party in exercising any right, power or privilege under this Agreement will operate as a waiver thereof nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

10.26 Assignment

10.26.1 The Parties may not assign their interest in this Agreement, in whole or in part, without the written consent of the other Party. YYY Corporation may, without the consent of the XXX Nation, be a party to an amalgamation, merger, reorganization, or other transaction (except a sale of the Project assets, addressed below in paragraph 10.26.2), whereby all or substantially all of the undertaking, property and assets of YYY Corporation or an Affiliate to YYY Corporation become the property of such person. For greater certainty, the restrictions on alienation contained in this section 10.26 are intended only to limit YYY Corporation's ability to transfer its interest in the Project. Nothing in this section will restrict, limit or prohibit:

(a) a change in control of YYY Corporation or a change in control of any Affiliate of YYY Corporation by any means whatsoever; or

- (b) a transfer of the rights and obligations of this Agreement or the interests in the Project to an Affiliate of YYY Corporation.

10.26.2

The Parties acknowledge and agree that this Agreement will, run with, and be attached to, the land and the Claims in respect of the Project. Accordingly, subject to paragraph 10.26.1, at any time YYY Corporation will be permitted to sell, transfer or assign all or part of its interest in the Project, including any interest in respect of the Claims, to any third party, subject to the following:

- (a) YYY Corporation will provide the XXX Nation notice of its intent to sell, assign or dispose all or a portion of its interest in the Project, including any interest in respect of the Claims, and provide it an opportunity to raise any reasonable concerns it may have with respect to the potential sale, assignment or disposition (the "Sale"). YYY Corporation will make reasonable best efforts to incorporate XXX Nation concerns into the terms of the final agreement of the Sale;
- (b) in the event of a Sale, YYY Corporation will ensure that the potential purchaser identified in a Sale (the "Purchaser"), as a precondition of the Sale, will assume all of YYY Corporation's obligations and liabilities under this Agreement, either in whole or in proportion to the interest being acquired in the Sale and the Purchaser must also provide sufficient assurance to the XXX Nation that all of the obligations of Nova Gold under this Agreement can be fulfilled in all respects as legally binding and enforceable on it;
- (c) where YYY Corporation has carried out the Sale of all of the Project, and the requirements and the conditions in subparagraphs 10.26.2(a) to (b) are met, YYY Corporation will be released from all covenants and obligations under this Agreement that will be assumed by the Purchaser; and
- (d) the XXX Nation will not assign this Agreement or any part of it, nor be released from its obligation or covenants without the prior written consent of YYY Corporation, except that nothing will prevent the XXX Nation from assigning The benefit or right to receive any cash payments due hereunder, other than the Payments under or to any trust, corporation or entity established for the benefit of the XXX Nation or XXX First Nation Members provided that notice of such assignment has been provided to YYY Corporation in writing and is supported by appropriate resolutions.

10.27

Successors and Assignees

10.27.1

This Agreement will be binding upon all successors and permitted assignees of YYY Corporation and the XXX Nation, as the case may be, in accordance with the terms of this Agreement.

10.29

Governing Law

10.29.1

This Agreement and all matters arising hereunder will be governed by and construed in accordance with the laws of British Columbia, which will be deemed to be the proper law hereof, and the courts of British Columbia will have the non-exclusive jurisdiction to entertain and determine all Disputes in respect of this Agreement, including the validity, existence and enforceability hereof.

10.30 Entire Agreement

10.30.1 With the exception of financial commitments between the Parties arising from the Negotiation Agreement and any agreements in writing between the Parties dated after the Effective Date, this Agreement constitutes the entire agreement and understanding of the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements and understandings between the Parties with respect thereto and there are no oral or written agreements, promises, warranties, guarantees, terms, conditions, representations or collateral agreements whatsoever, express or implied, other than those contained in or contemplated by this Agreement.

10.31 Counterparts/Telecopy

10.31.1 This Agreement may be executed and delivered in any number of counterparts and by telecopy, with the same effect as if all the Parties had signed the same original document and will become effective when one or more counter parts have been signed by each of the Parties and delivered to each of the other Party personally or by telecopy.

10.32 Payment of Fees and Expenses

10.32.1 Subject to the Negotiation Agreement, each Party will pay its own fees, expenses and disbursements incurred in connection with this Agreement and the transactions contemplated hereby and all other costs and expenses incurred in its performance and compliance with all conditions to be performed hereunder and thereunder.

10.33 Time of Essence

10.33.1 Time is of the essence of this Agreement.

10.34 Public Notices

10.34.1 No press release or other announcement concerning the transactions contemplated by this Agreement will be made by either Party without the prior approval of the other (such approval not to be unreasonably withheld) provided, however, that YYY Corporation may, without such approval, make such disclosure if the same is required by law or any stock exchange on which any of the securities of YYY Corporation or any of its Affiliates are listed or by any securities commission or other similar regulatory authority having jurisdiction over YYY Corporation or any of its Affiliates, and if such disclosure is required, YYY Corporation will use best efforts to give prior oral or written notice to the XXX Nation, and if such prior notice is not possible, to give such notice immediately following the making of such disclosure.

10.35 Independent Legal Advice

10.35.1 Each of the Parties acknowledges having obtained its own independent legal advice with respect to this Agreement and the transactions contemplated hereby to the fullest extent deemed necessary by each Party prior to its execution and delivery. Furthermore, the Parties acknowledge that neither acted under any duress in negotiating, drafting and executing this Agreement and any documents contemplated hereby. There will be no presumption that any ambiguity in this Agreement and any documents contemplated hereby be resolved in favour of either Party.

10.36 No Partnership, Joint Venture or Agency

10.36.1 The Parties expressly disclaim any intention to create a partnership, joint venture or joint enterprise. It is understood, acknowledged and agreed that nothing contained in this Agreement nor any acts of the Parties will constitute or be deemed to constitute the XXX Nation and YYY Corporation as partners, joint ventures or principal and agent in any way or for any purpose.

10.37 Signing and Delivery of Agreement - Solicitors' Opinions and Resolutions

10.37.1 Concurrently with the execution of this Agreement, the Parties will deliver to the other:

- (a) The XXX Nation will provide to YYY Corporation a legal opinion from its counsel confirming that the XXX Nation has the legal power, capacity and authority to enter into this Agreement for and on behalf of itself and the XXX First Nation Members and that this Agreement has been duly authorized, ratified, executed and delivered and is enforceable in accordance with its terms; and
- (b) YYY Corporation will provide to the XXX Nation a legal opinion from its counsel confirming that YYY Corporation has the legal power, capacity and authority to enter into this Agreement and that this Agreement has been duly authorized, executed and delivered and is enforceable in accordance with its terms.

10.37.2 Concurrently with the execution of this Agreement, the Parties will deliver to the other:

- (a) to the XXX Nation, a certified copy of a resolution of YYY Corporation's Board of Directors authorizing the execution and delivery of this Agreement by YYY Corporation;
- (b) to YYY Corporation, a declaration of the XXX First Nation Chief evidencing and providing details of the leadership meetings supporting the key business terms document related to this Agreement and the approval of the ratification process, the community information meetings, and the ratification vote of the approval of this Agreement by the XXX First Nation Members; and a resolution of the XXX First Nation authorizing the execution and delivery of this Agreement by the XXX First Nation.