

**MASTER SERVICES AGREEMENT**

**BY AND AMONG**

**SILVER ELEPHANT MINING CORP.,  
APOGEE MINERALS BOLIVIA S.A.  
ASC BOLIVIA LDC SUCURSAL BOLIVIA, AND  
ILLUMINA SILVER MINING CORP.**

**AND**

**ANDEAN PRECIOUS METALS, CORP. AND  
EMPRESA MINERA MANQUIRI, S.A.**

**DATED**

**SEPTEMBER 11, 2023**

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## MASTER SERVICES AGREEMENT

**THIS MASTER SERVICES AGREEMENT** (this “**Agreement**”) is entered into on September 11, 2023 (“**Execution Date**”), by and among Silver Elephant Mining Corp. (“**Silver Elephant**”), Apogee Minerals Bolivia, S.A. (“**Apogee**”), ASC Bolivia LDC (**ASC**), ASC Bolivia LDC Sucursal Bolivia (“**ASC Sucursal**”) and Illumina Silver Mining Corp. (“**Illumina**”, and together with Silver Elephant, ASC, ASC Sucursal, and Apogee the “**Silver Elephant Entities**” and individually, a “**Silver Elephant Entity**”), and Empresa Minera Manquiri, S.A. (“**Manquiri**”) and Andean Precious Metals, Corp. (“**Andean**”, and together with Manquiri, the “**Andean Entities**” and individually, an “**Andean Entity**”). The Silver Elephant Entities and the Andean Entities may be referred hereto individually each as a “**Party**” and collectively as the “**Parties.**”

### RECITALS

**WHEREAS**, Silver Elephant is experienced in mining, exploration, and environmental protection worldwide, particularly with familiarity at the PACA Project (as defined below), and Manquiri wishes to engage Silver Elephant to provide certain technical, advisory and consulting services for Paca operation in Bolivia;

**WHEREAS**, the Silver Elephant Entities have entered with Corporacion Minera de Bolivia (“**COMIBOL**”) one mining production contract for the Temeridad and Real del Monte mining areas and have signed with Autoridad Jurisdiccional Administrativa Minera (“**AJAM**”) a mining administrative contract for the Apuradita mining area, and pursuant such contracts, the Silver Elephant Entities own the mining rights of the Temeridad, Real del Monte and Apuradita mining areas, as more particularly set forth in **Exhibit “A”** of this Agreement (the “**PACA Project**”);

**WHEREAS**, the mineral resources of the PACA Project are described in the Technical Report (as defined herein);

**WHEREAS**, Silver Elephant acquired certain exclusivity to purchase oxide materials from the PACA Project from ASC Sucursal and Apogee pursuant to a sales purchase contract dated July 7, 2023 a copy of which is attached hereto as **Exhibit “B”** (the “**SPC**”), which such exclusivity as part of the SPC are transferable by Silver Elephant upon notice to ASC Sucursal and Apogee;

**WHEREAS**, the Parties or their Affiliates executed and delivered on the Execution Date the following agreements:

- (i) a notice of transfer of Silver Elephant’s Exclusivity, obligations and interests to the SPC to Manquiri attached hereto as **Exhibit “C”** (the “**Notice of Transfer**”);
- (ii) that certain sales and purchase agreement for up to 800,000 tonnes of the Products from the PACA Project attached hereto as **Exhibit “D”** (the “**Purchase Agreement**”) and
- (iii) that certain escrow agreement attached hereto as **Exhibit “E”** (the “**Escrow Agreement**”) and together with the Notice of Transfer and Purchase Agreement, the “**PACA Agreements**” and collectively with this Agreement the “**Transaction Agreements**”); and

**WHEREAS**, the Parties desire to enter into this Agreement to, among other things, set forth certain terms and conditions for the consolidated performance of the Parties under the Transaction Agreements.

**NOW THEREFORE**, in consideration of the mutual agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

## AGREEMENT

### ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 **Definitions.** Capitalized terms not defined in this Section 1.1 or in this Agreement shall have the meanings ascribed to them in the relevant Transaction Agreements, as applicable.

(a) **“Affiliate”** shall mean, with reference to any Person or any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with the first person.

(b) **“Anti-Bribery Laws”** shall mean any laws, regulations or orders relating to anti-bribery or anti-corruption (governmental or commercial) that prohibit the corrupt or inappropriate payment, offer, promise, or authorization of the payment or transfer of anything of value (including gifts or entertainment), directly or indirectly, to any government official or any other person to obtain an improper business advantage; including the U.S. Foreign Corrupt Practices Act of 1977, the Corruption of Foreign Public Officials Act (S.C. 1998, c.34) (Canada), any laws of any jurisdiction enacted to implement the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions, and any related or similar law issued, administered or enforced by any governmental authority with jurisdiction over the Andean Entities and their Affiliates, or the Silver Elephant Entities, in each case, as amended from time to time.

(c) **“Anti-Money Laundering Laws”** shall mean any laws, regulations, rules or guidelines relating to money laundering, including financial recordkeeping and reporting requirements, including the U.S. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, the U.S. Currency and Foreign Transaction Reporting Act of 1970, the U.S. Money Laundering Control Act of 1986, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (S.C. 2000, c. 17) of Canada, all money laundering-related laws of Canada, Bolivia, the United States, and other jurisdictions where the Andean Entities or their Affiliates, or the Silver Elephant Entities conduct business or own assets, and any related or similar law issued, administered or enforced by any governmental authority with jurisdiction over the Andean Entities and their Affiliates, or the Silver Elephant Entities, in each case, as amended, supplemented or replaced, from time to time.

(d) **“Applicable Law”** means all applicable laws, treaties, regulations, administrative provisions, decrees, ordinances, resolutions, judgments, administrative orders and any other rules, guidelines or decisions of any nature issued by any Governmental Authority of competent jurisdiction.

(e) **“Andean Entities Fault”** has the meaning ascribed thereto in Section 9.2.

(f) **“Business Day”** shall mean a Day other than a Saturday, Sunday, a holiday according to the Law of Bolivia or Canada and any other Day on which principal banks located in Bolivia or the City of Vancouver, British Columbia are authorized or obligated to close under Applicable Law.

(g) **“Control”** shall mean the ability to direct the management and policies of a Person through ownership of voting shares or other equity rights, pursuant to a written agreement, or otherwise.

The terms “Controls”, “Controlling” and “Controlled by” and other derivatives shall be construed accordingly.

(h) “**Day**” shall mean the twenty-four (24) hours beginning at 00:00 a.m. La Paz City Time on a given day and ending at 23:59 p.m. La Paz City Time.

(i) “**Dispute**” shall mean any dispute, claim, difference or controversy arising out of, relating to or having any connection with any of the Transaction Agreements, including any question regarding its existence, validity, formation, interpretation, performance, breach or termination, or the consequences of its nullity, and any dispute relating to any non-contractual obligations arising out of or in connection with it.

(j) “**Facility**” means the San Bartolome mine and processing facility located near Potosi, Bolivia and owned and operated by Manquiri.

(k) “**Force Majeure**” shall have the meaning ascribed in Section 13.2 of this Agreement.

(l) “**Governmental Authority**” means any national, federal, state, regional or local government, or other political subdivision thereof with jurisdiction in Canada, the Plurinational State of Bolivia, Cayman, Islands or otherwise with respect to the Agreement and/or the Parties and any Person with jurisdiction in the State or otherwise with respect to the Agreement and/or the Parties that exercises executive, legislative, judicial, regulatory or administrative functions of or pertaining to government or quasi-governmental issues (including any court).

(m) “**ICC**” shall mean the International Chamber of Commerce.

(n) “**Liability**” shall mean any debt, liabilities (including natural resource damages), or obligations of any nature (whether accrued or fixed, absolute or contingent, matured or not matured, determined or determinable, or as a guarantor or otherwise), costs, expenses (including reasonable attorneys’ fees), losses, damages, claims, demands, judgments and awards.

(o) “**LBMA**” means the London Bullion Market Association.

(p) “**Material Adverse Effect**” means any acts, omissions, conducts, occurrences, conditions, situations, facts or circumstances, or any combination thereof, if the same have resulted or could reasonably be expected to result in an adverse effect upon the ownership, business, financial condition or operation of, or any losses or diminution of value of, this Agreement having a value or in an amount, in the aggregate, in excess of \$200,000.00 (Two Hundred Thousand Dollars).

(q) “**Milestones**” shall mean the following:

(i) execution of the requisite agreements with Mining Subcontractors each in form reasonably satisfactory to Andean and Silver Elephant, each acting reasonably, pursuant to which Mining Subcontractors will provide the services required for the extraction and delivery of Products from the PACA Project;

(ii) obtaining all necessary licenses, approvals, environmental permits for the mining of the Products from the PACA Project including, without limitation, the Declaratoria de Impacto Ambiental (DIA);

(iii) completion by the Andean Entities of the necessary analysis and evaluation of the geological structure of the PACA Project and the completion of the mining plan for at least 475,000 tonnes of Products from the PACA Project at a cut-off grade to be determined by the Andean Entities, which shall be subject to the approval of the Silver Elephant Entities (the “**Mining Plan**”); and

(iv) there shall not have occurred a Material Adverse Effect on the PACA Project that prevents the Andean Entities from exercising their the ability to acquire Products pursuant to the Purchase Agreement, including, without limitation, that no community group shall have made any material claim against any Silver Elephant Entity and/or the PACA Project that materially affects the ability of the Andean Entities from exercising their the ability to acquire Products pursuant to the Purchase Agreement.

(r) “**Mining Subcontractors**” shall have the meaning ascribed in Section 4.1(b)(ii) of this Agreement.

(s) “**Month**” shall mean a period commencing at 00:00 a.m. La Paz City Time on the first Day of a calendar month and ending at 23:59 p.m. La Paz Time on the last Day of such calendar month.

(t) “**NI 43-101**” means National Instrument 43-101 - Standards of Disclosure for Mineral Projects of the Canadian Securities Administrators.

(u) “**Operating Expenses**” has the meaning ascribed thereto in the Purchase Agreement.

(v) “**Other Expenses**” has the meaning ascribed thereto in the Purchase Agreement.

(w) “**PACA CP Date**” shall mean the date on which the Milestones have been satisfied by the relevant Party pursuant to the terms thereunder.

(x) “**PACA CP Outside Date**” shall mean January 31, 2024 (as may be extended pursuant to Section 3.2).

(y) “**Person**” shall mean any individual or entity, including any corporation, limited liability company, partnership (general or limited), joint venture, association, joint stock company, trust, unincorporated organization or Governmental Authority or any other entity.

(z) “**Products**” means the oxide minerals that are in the mining areas of the PACA Project which are described in the Technical Report and as set forth in Exhibit “A”.

(aa) “**Sanctioned Country**” shall mean any of the countries subject to country-wide economic or financial sanctions or trade embargoes imposed or administered by a Sanctions Authority applicable to a Party.

(bb) “**Sanction**” means, any sanction administered or enforced by the United States Government (including, without limitation, OFAC), the United Nations Security Council or the Government of Canada.

(cc) “**Sanctions Authority**” is defined in the definition of “Sanctions Law” below.

(dd) “**Sanctions Laws**” means any economic sanctions Laws, regulations, embargoes or restrictive measures, as amended from time to time, administered, enacted or enforced by any of the following (each, a “**Sanctions Authority**”): (a) the United States, (b) Canada, (c) any Governmental Authorities, (d) any other governmental authority outside of Bolivia with jurisdiction over the Andean Entities or the Silver Elephant Entities, or (e) the respective governmental institutions and agencies of any of the foregoing responsible for administering, enacting or enforcing Sanctions, including the Office of Foreign Assets Control of the US Department of Treasury (“**OFAC**”), the US Department of State or any other replacing the same, if any.

(ee) “**Sanctions List**” means: (a) the “Specially Designated Nationals and Blocked Persons” list maintained by OFAC; (b) the Sectoral Sanctions Identification List maintained by OFAC; and (c) the Consolidated Canadian Autonomous Sanctions List maintained by the Government of Canada.

(ff) “**Senior Executives**” shall mean the duly appointed officers of a Party, or such other Persons as may be designated by the board of directors of such Party.

(gg) “**Silver Elephant Entities Fault**” has the meaning ascribed thereto in Section 9.1.

(hh) “**Silver Elephant Shares**” means the common shares of Silver Elephant.

(ii) “**Technical Report**” means the report dated November 17, 2020 and entitled “Mineral Resource Estimate Technical Report for the Pulacayo Project, Potosí Department, Anttonio Quijarro Province, Bolivia”, prepared by Matthew Harrington, P. Geo, Michael Cullen, P. Geo, and Osvaldo Arcé, P. Geo.

(jj) “**Third Party**” shall mean any Person other than (a) the Andean Entities or their Affiliates, or (b) the Silver Elephant Entities or their Affiliates.

(kk) “**Trading Interval**” means a continuous period of Days on which the LME is open for trading.

(ll) “**TSX**” means the Toronto Stock Exchange, or any other stock exchange on which the Silver Elephant Shares may be listed or posted for trading from time to time.

1.2 **Interpretation.** The following shall apply to this Agreement and any other certificate, instrument, agreement or other document contemplated hereby or delivered hereunder.

(a) The terms “hereof,” “herein” and “hereunder” and terms of similar import are references to this Agreement as a whole and not to any particular provision of this Agreement. Article, Section, Clause, Appendix, Schedule and Exhibit references contained in this Agreement are references to Articles, Sections, Clauses, Appendices, Schedules and Exhibits in or to this Agreement, unless otherwise specified.

(b) Whenever the words “include,” “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation.” Where the context permits, the use of the term “or” shall be equivalent to the use of the term “and/or.”

(c) When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last Day of such period is a Day other than a Business Day, the period in question shall end on the next succeeding Business Day.

(d) Words denoting any gender shall include all genders, including the neutral gender. Where a word is defined herein, references to the singular shall include references to the plural and vice versa.

(e) The word “will” will be construed to have the same meaning and effect as the word “shall.” The words “shall,” “will,” or “agree(s)” are mandatory, and “may” is permissive.

(f) All references to a Day or Days shall be deemed to refer to a calendar Day or calendar Days, as applicable, unless otherwise specifically provided.

(g) All references to Dollars shall mean Dollars of the United States of America.

(h) Any reference to any agreement or contract shall be a reference to such agreement or contract, as amended, modified, supplemented or waived.

(i) The language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any person.

(j) The headings of the articles, sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall in no way restrict or otherwise modify any of the terms or provisions hereof.

## **ARTICLE 2 PAYMENT FOR SERVICES**

2.1 **Engagement for Services and Transfer of SPC.** Manquiri hereby engages (the “**Engagement**”) Silver Elephant to provide its expertise in the mining operations, community relations, logistics and such other services as may reasonably be requested to extract up to 800,000 tonnes of the Products from the PACA Project (the “**Threshold Tonnage**”), with a cut-off grade to be determined by Andean (the “**Services**”). Pursuant to and in connection with the provision of the Services, Silver Elephant has agreed to transfer to Andean and Andean agrees to the transfer of the entitlements, obligations and interests of Silver Elephant’s under the SPC to Manquiri, including full access to and use of all technical and geological information of the PACA Project (the “**Transfer**”). Notwithstanding the foregoing, Silver Elephant and Manquiri acknowledge and agree that upon payment of the Initial Payment and execution of the Transaction Agreements, as part of the Threshold Tonnage, Manquiri shall only be entitled to acquire up to 36,000 tonnes of Products from the Execution Date up until the Second Payment is made, and shall not be entitled to purchase in excess of 36,000 tonnes of Products until the Second Payment is made.

2.2 **Term.** The Parties agree that the Transaction Agreements shall be valid, binding and enforceable, and Silver Elephant shall only provide the Services and Transfer pursuant to the Engagement to Manquiri, as of the Execution Date until the earlier of (the “**Term**”):

- (a) this Agreement is terminated by the mutual written agreement of the Parties;
- (b) this Agreement is terminated pursuant to the provisions set forth herein;
- (c) the date on which an aggregate of 800,000 tonnes of Products have been purchased by Manquiri under the Purchase Agreement;

(d) when fewer than 20,000 tonnes of Products have been purchased by Manquiri in any 9 (nine) month period commencing following the date that Manquiri have purchased an aggregate of 475,000 tonnes of Products under the Purchase Agreement, the last Day of such 9 month period; and

(e) January 31, 2029.

For avoidance of doubt, immediately upon the conclusion of the Term, the Parties shall take all necessary actions to cause the concurrent termination of all other Transaction Agreements.

2.3 **Purchase Agreements.** The Parties agree that the Engagement of Services and Transfer of SPC shall be subject to the further terms and conditions of the SPC Notice of Transfer and Purchase Agreement.

### **ARTICLE 3 CONSIDERATION FOR SERVICES**

3.1 **Cash Consideration.** In consideration for the Engagement of Services and Transfer of SPC, Manquiri shall pay to Silver Elephant (together, the “**Consulting Fee**”) as follows:

(a) \$1,200,000, which shall be non-refundable, immediately upon the later of the execution of the Transaction Agreements and one (1) day after the date when the Escrowed Shares are received by the escrow agent pursuant the Escrow Agreement, of which the Parties acknowledge \$120,000 has already been paid by Andean to Silver Elephant (the “**Initial Payment**”) Andean is to deposit Initial Payment with a jointly approved Payment Escrow Agent in Canada in Andean’s favor. The Initial Payment is released to Silver Elephant within one day after Escrowed Shares are received by the escrow agent pursuant the Escrow Agreement;

(b) \$1,800,000, which shall be non-refundable, (the “**Second Payment**”) upon the earlier of:

(i) the PACA CP Outside Date; and

(ii) the PACA CP Date,

subject to extension in accordance with Section 3.2 hereof.

(c) \$1,500,000, which shall be non-refundable, on or before January 31, 2025; and

(d) \$500,000, which shall be non-refundable, upon the earlier of:

(i) January 31, 2026; and

(ii) the date upon which the Andean Entities have purchased 475,000 tonnes of Products from the PACA Project,

and in the event that Manquiri fails to pay any of the installments of the Consulting Fee and the Additional Consideration, Operating Expenses or Other Expenses due to Silver Elephant Entities when due hereunder, Silver Elephant shall be entitled to terminate this Agreement (and the Transaction Agreements) upon a 10 (ten) Days (30 days, in the case of Operating Expenses and Other Expenses) prior written notice delivered to the Andean Entities, provided that, the Andean Entities have the right to cure such payment default in such 10 (ten) Day (30 days, in the case of Operating Expenses and Other Expenses) period, and if such

payment default is cured by Andean Entities, this Agreement will continue in full force and effect. If this Agreement is terminated pursuant the terms hereof, the Silver Elephant Entities shall have no further obligations of any nature or type whatsoever to Andean Entities under any of the Transaction Agreements.

3.2 **PACA CP Outside Date Extension.** In the event the Milestones have not been satisfied by the PACA CP Outside Date, Andean may extend the PACA CP Outside Date to April 30, 2024 by payment of a non-refundable extension fee of \$150,000 to Silver Elephant on or before the PACA CP Outside Date (the “**Extension Fee**”). Andean shall have the right to offset such Extension Fee from the last Consulting Fee payment payable under Section 3.1(d), if so paid.

3.3 **Additional Consideration.** In addition to the Consulting Fee and in further consideration for the provision of the Services and Transfer of SPC by Silver Elephant to Manquiri pursuant to the Engagement, if the LBMA silver spot price averages over (the “**Additional Consideration**”):

(a) \$28/oz in any given 260 Day Trading Interval during the Term, then Andean shall immediately pay to Silver Elephant an additional non-refundable cash payment of \$1,000,000; and

(b) \$32/oz in any given 150 Day Trading Interval during the Term, then Andean immediately pay to Silver Elephant an additional non-refundable cash payment of \$1,000,000 in cash in addition to the payment set forth in Section 3.3(a),

provided further and for avoidance of doubt, the Additional Consideration: (A) cannot be greater than \$2,000,000 in aggregate; and (B) once either the Section 3.3(a) or Section 3.3(b) payment is made, the Trading Interval resets to zero for further Additional Consideration, provided that only one (1) Additional Consideration shall be paid under each of the payments mentioned in Section 3.3(a) or Section 3.3(b), even if such parameters are met in more than one occasion during the Term of this Agreement.

3.4 **Operating and Other Expenses.** The Andean Entities shall pay to the Silver Elephant Entities, the Operating Expenses and Other Expenses on the basis as more particularly set forth in the Purchase Agreement.

3.5 **Payments to Silver Elephant.** Notwithstanding any other term herein, all payments of Consulting Fee and the, Additional Consideration, shall be strictly due on the date or dates set forth for such payment in the Transaction Agreements, as applicable, and shall be paid by wire transfer to the bank accounts set forth in **Exhibit “F”** hereto, or such other account as Silver Elephant may notify the Andean Entities from time-to-time, provided further that all such payments must be received by Silver Elephant within three (3) Business Days of the date such payments are made. Silver Elephant is to receive Consulting Fee and Additional Consideration minus a total maximum of 6.25% of transaction tax, withhold, remittance tax, VAT, foreign exchange tax, or other tax and fees incurred by Andean Entities while making Consulting Fee and the Additional Consideration to Silver Elephant (“**Deduction**”).

#### **ARTICLE 4 DIVISION OF SERVICES**

4.1 **Division of Responsibilities.** The Parties will be responsible under the Transaction Agreements for the following responsibilities:

(a) **Silver Elephant Entities:** Pursuant to the Engagement, Silver Elephants shall, or shall cause the Silver Elephant Entities to, be responsible for the following, provided that all cost incurred by such entities shall be reimbursed by the Andean Entities in the form of Operating Expenses and Other Expenses (any for avoidance of doubt, all costs, expenses, disbursements and taxes incurred by the Silver

Elephant Entities in connection with any of the following shall constitute Operating Expenses or Other Expenses as applicable):

(i) **Mining Contracts:** use of commercially reasonable efforts to maintain in good standing the mining production contracts with COMIBOL and the mining administrative contracts with AJAM as described in more detail in **Exhibit “A”** of this Agreement.

(ii) **Permits:** use of commercially reasonable efforts to obtain and maintain the environmental, explosives storage, diesel purchase and any other permits, rights or access, or Third Party authorizations required for mining the Products at the PACA Project. The Parties will use commercially reasonable efforts to integrate the requisite environmental permits for oxide and sulphide plant operations to reduce cost and create efficiencies where prudent, provided that all technical information of the sulphide plant shall be provided by Silver Elephant, at its cost and expense, and provided further that in the event obtaining of the requisite environmental permits for the construction and operation of a sulphide plant creates a material delay for the obtaining of the requisite environmental permits for the mining of Products by the PACA CP Outside Date, the Parties agree that they will prioritize obtaining the requisite environmental permits for mining the Products at the Paca Project to the extent necessary to obtain such permits by the PACA CP Outside Date.

(iii) **Royalties to COMIBOL and Bolivian Government:** the payment of royalties owing to COMIBOL and the Bolivian Government with respect to Products mined from the PACA Project.

(iv) **Social Matters:** use of commercially reasonable efforts to manage and maintain good standing with surrounding communities of the PACA Project mining areas and responsible for social support to such communities and for the social contribution payments to the extent necessary to permit the Andean Entities to acquire Products pursuant to the Purchase Agreement.

(v) **Mining:** mining of the Products in the PACA Project mining areas through a duly appointed Mining Subcontractor, pursuant the Mining Plan.

(vi) **Environment:** to comply with all the environmental, monitoring and treatment activities as required by Applicable Law and pursuant the Mining Plan.

(vii) **Transportation:** the transportation of the Products to the Facility through a Mining Subcontractor, pursuant the Mining Plan.

(viii) **Project Infrastructure:** use of commercially reasonable efforts to provide access, construct, and maintain of road, water, electricity and other utilities necessary to permit the Andean Entities to acquire Products pursuant to the Purchase Agreement and the Mining Plan.

(ix) **Miscellaneous:** All other responsibilities for the obligations mentioned above but not explicitly set forth herein.

(b) **Andean Entities:** The Andean Entities shall be responsible for the following:

(i) **Project Management:** Management of the PACA Project, from the mining to the transportation and delivery of the Products from the PACA Project mining areas to the Facility.

(ii) **Technical Assistance:** Andean will provide technical assistance and support to the Silver Elephant Entities in connection with all the mining activities that are required to process and obtain the Products from the PACA Project mining areas, including assisting Silver Elephant Entities in the selection of the Mining Subcontractor that will perform such mining under Section 4.1(a)(v) and transportation under Section 4.1(a)(vii) (the “**Mining Subcontractor**”) and in connection with the obtention and the maintenance of all the permits required to develop the PACA Project and to permit the Andean Entities to acquire Products pursuant to the Purchase Agreement.

(iii) **Management of Mining Subcontractors and Legal Advisors:** Assist and support the Silver Elephant Entities in the management of all Mining Subcontractors and any legal advisors, including the revision and acceptance of the invoices issued by the Mining Subcontractors.

(iv) **Grade Control:** responsible of the grade control of the mining in the PACA Project.

(v) **Weighing and Humidity:** scaling, weighing, assaying of all Products at the Facility.

(vi) **Lab Testing and Grade Determination:** Testing and grade determination of the Products in the certified laboratories of the Facility.

(vii) **Expenses:** All Operating Expenses and Other Expenses for the PACA Project.

(viii) **Reports:** Work with Mining Subcontractors to provide operational, mine and production plans, records, forecasts, environmental plan updates, upon request by Silver Elephant Entities on a monthly basis or as may be otherwise required by law.

(ix) **Miscellaneous:** All other responsibilities related to the mining of Products at the PACA Project, including all costs related thereto, not otherwise explicitly set forth herein.

## **ARTICLE 5 AUDIT AND INSPECTION**

5.1 **Audit and Inspection.** In addition to any other audit and inspection rights set forth in the Transaction Agreements, Manquiri (on behalf of the Andean Entities) shall have the right, at its sole cost, risk and expense, during reasonable operating hours of the Silver Elephant Entities, to make physical and documentary inspections of all or part of the Transaction Agreements to the extent related to the transactions under the same, including operating, safety, health and environmental compliance records as they relate to the transactions contemplated in the Transaction Agreements (but excluding any confidential information not related to the PACA Project) upon providing written notice at least two (2) Business Days prior to its visit so long as such visit does not disrupt the services or the operations of the Silver Elephants Entities and such right does not contravene applicable privilege and confidentiality restrictions on the Silver Elephant Entities and is in compliance with Applicable Law.

5.2 The Andean Entities do hereby release, indemnify, defend and hold harmless each of the Silver Elephant Entities and their contractors from and against any and all claims and Liabilities arising out of, resulting from or relating to any field visit, inspection or other activity conducted by the Andean Entities,

their Affiliates or their contractors with respect to the PACA Project, to the extent caused by Andean Entities Fault.

## **ARTICLE 6 CROSS-GUARANTEE**

6.1 **Andean Cross-Guarantee.** The Silver Elephant Entities shall jointly, severally, absolutely, unconditionally and irrevocably guarantee for the benefit of the Andean Entities, at any time and from time to time, full payment (including any related interest and taxes thereunder) of all Liabilities that any of the Silver Elephant Entities is or shall become obligated to pay, or be responsible or liable for, in accordance with the terms and conditions under this Agreement and/or the Purchase Agreement, in favor of the Andean Entities, including (i) any and all Liabilities arising from the failure of any Silver Elephant Entity to carry out or satisfy any representation, warranty, covenant or obligation of such Silver Elephant Entity under this Agreement and/or the Purchase Agreement, or any Liability, other than that arising as a result of a Force Majeure event, and (ii) by reason of this Agreement and/or the Purchase Agreement not being or ceasing to be valid, legal or enforceable as aforesaid on any grounds whether known or unknown to the Andean Entities (including all reasonable legal and other costs and expenses incurred by the Andean Entities in connection with enforcing, or attempting to enforce, its rights under this Agreement and/or the Purchase Agreement) (the “**Silver Elephant Guaranteed Obligations**”); *provided, however*, that (i) in no event shall the Andean Entities be able to obtain duplicative payment or recovery for the same claim from Silver Elephant Entities, and (ii) all recovery for any Silver Elephant Guaranteed Obligations shall be at all times subject to the limitations set forth under Articles 10 and 12.

6.2 **Silver Elephant Cross-Guarantee.** The Andean Entities shall jointly, severally, absolutely, unconditionally and irrevocably guarantee for the benefit of the Silver Elephant Entities, at any time and from time to time, full payment (including any related interest and taxes thereunder) of all Liabilities that any of the Andean Entities is or shall become obligated to pay, or be responsible or liable for, in accordance with the terms and conditions under this Agreement and/or the Purchase Agreement, in favor of the Silver Elephant Entities, including (i) any and all Liabilities arising from the failure of any Andean Entity to carry out or satisfy any representation, warranty, covenant or obligation of such Andean Entity under this Agreement and/or the Purchase Agreement, or any Liability, other than that arising as a result of a Force Majeure event, and (ii) by reason of this Agreement and/or the Purchase Agreement not being or ceasing to be valid, legal or enforceable as aforesaid on any grounds whether known or unknown to the Silver Elephant Entities (including all reasonable legal and other costs and expenses incurred by the Silver Elephant Entities in connection with enforcing, or attempting to enforce, its rights under this Agreement and/or the Purchase Agreement) (the “**Andean Guaranteed Obligations**”); *provided, however*, that in no event shall the Silver Elephant Entities be able to obtain duplicative payment or recovery for the same claim from Andean Entities. and (ii) all recovery for any Andean Guaranteed Obligations shall be at all times subject to the limitations set forth under Article 12.

6.3 **Guaranty of Payment.** Each guarantee provided in this Article 6 is a guaranty of payment and not of collection. If any Silver Elephant Entity or any Andean Entity, as applicable, fails to timely pay any Silver Elephant Guaranteed Obligation or Andean Guaranteed Obligation, as applicable, in whole or in part, pursuant to the terms and conditions under this Agreement and/or the Purchase Agreement, then the other Silver Elephant Entities or Andean Entities, as applicable, shall, within thirty (30) Business Days of receipt of a Valid Demand (as defined below) by the Andean Entities or Silver Elephant Entities, as applicable, make the payment for any such Silver Elephant Guaranteed Obligation or Andean Guaranteed Obligation, or otherwise cause the same to be paid, whether or not the Andean Entities or the Silver Elephant Entities, as applicable, have attempted to enforce any rights against the Silver Elephant Entities or Andean Entities, as applicable, or any other Person. All payments shall be made by wire transfer of immediately

available funds to the account provided by the Andean Entities or the Silver Elephant Entities, as applicable, for such purpose in the Valid Demand.

6.4 **Principal Debtors.** The obligations and liabilities of the Silver Elephant Entities with regards to the Silver Elephant Guaranteed Obligations under Section 6.1 and of the Andean Entities with regards to the Andean Guaranteed Obligations under Section 6.2 will each be primary, direct, independent and immediate obligations and shall in no way be affected, limited, reduced, impaired, modified, released or terminated, and may be enforced against the Silver Elephant Entities and Andean Entities, as applicable, irrespective of:

- (a) any present or future guarantee, indemnity, mortgage, charge or other security or right or remedy held by or available to the Silver Elephant Entities or Andean Entities, as applicable, being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Andean Entities from time to time dealing with, varying, realizing, releasing or failing to perfect or enforce any of the same;
- (b) any voluntary or involuntary change, restructuring or termination of the corporate structure or existence of, or the bankruptcy, insolvency, dissolution, reorganization, moratorium, liquidation or similar proceeding involving any Silver Elephant Entity and Andean Entity, as applicable;
- (c) any merger, corporate restructure or similar transaction that may be effected by the Silver Elephant Entities or Andean Entities, as applicable, with any Person;
- (d) any change in the organizational documents of any Silver Elephant Entity or Andean Entity, as applicable; or
- (e) any other event or circumstance (with or without notice to or knowledge of any Silver Elephant Entities or Andean Entities, as applicable) which might otherwise constitute a legal or equitable discharge, release or defense of a guarantor or surety, whether similar or dissimilar to any of the foregoing.

6.5 **Additional Obligations.** As an original and independent obligation, if this Agreement and/or the Purchase Agreement or any provision thereof, or any representation, warranty, covenant, obligation or liability of any Silver Elephant Entity or Andean Entity, as applicable, under this Agreement and/or such Purchase Agreement, is not, or ceases to be, legal, valid, or enforceable on any ground whatsoever (whether or not known to the Silver Elephant Entities or Andean Entities), including, but not limited to, any defect in or want of powers of any Silver Elephant Entity or Andean Entity or irregular exercise thereof or lack of authority by any Person apparently authorized to act on behalf of any Silver Elephant Entity or Andean Entity, or any legal or other limitation, disability or incapacity affecting directly or indirectly, any Silver Elephant Entity or Andean Entity, or the Purchase Agreement, or any such representation, warranty, covenant, obligation or liability thereunder expressed to be assumed or owed by any Silver Elephant Entity or Andean Entity, being or becoming void, voidable, unenforceable, invalid, rescinded, declared fraudulent, set aside or ineffective against any Silver Elephant Entity or Andean Entity, the other Silver Elephant Entities or Andean Entities, as applicable, to the extent practicable, shall nevertheless be liable in respect of that purported representation, warranty, covenant, obligation or liability as if the same were fully legal, valid and enforceable subject to the terms of this Article 6 and Article 12.

6.6 **Valid Demand.** The Andean Entities and the Silver Elephant Entities, as applicable shall only be liable to pay under this Article 6 if they receive from the Andean Entities, in the case of a claim made against a Silver Elephant Entity, or the Silver Elephant Entities, in the case of a claim made against an Andean Entity, a demand in writing accompanied with an statement setting out with reasonable detail to

the extent information is available the payment obligation which the relevant Silver Elephant Entity or Andean Entity, as applicable, has defaulted under this Agreement or under the Purchase Agreement and a good faith calculation of the amount owing by such Silver Elephant Entity or Andean Entity, as applicable, and under demand, and delivered or sent pursuant to Section 14.1 (a “**Valid Demand**”); provided that such information may be updated or adjusted by the Andean Entities or Silver Elephant Entities, as applicable, making such claim from time to time. Notwithstanding any other provision, no Valid Demand may be made by any Silver Elephant Entity or Andean Entity in respect of any Liability, claim or other matter properly under dispute pursuant to the provisions of this Agreement or the Purchase Agreement. Any dispute arising as of result of any Valid Demand made pursuant to this Agreement shall be settled pursuant to the provisions of Article 16.

6.7 **Termination.** Subject to Section 16, the obligations of the Silver Elephant Entities and the Andean Entities pursuant to this Article 6 shall terminate and be of no further force or effect after twenty four (24) months following the termination of this Agreement.

## ARTICLE 7 REPRESENTATIONS AND WARRANTIES

7.1 **Representations and Warranties of the Silver Elephant Entities.** On the Execution Date, each Silver Elephant Entity hereby represents and warrants through its corresponding legal representative that all such representations and warranties provided in the applicable Transaction Agreements for such Silver Elephant Entity remain as set forth in such Transaction Agreements and also the following:

(a) It has duly and validly obtained all the necessary authorizations and approvals (which are in full force and effect on the date hereof) in order to execute this Agreement and carry out the transactions contemplated hereunder in compliance with Applicable Law.

(b) The entering into and performance of this Agreement does not violate, or constitute a breach under (i) its bylaws, deed of incorporation or any other organizational documents; (ii) any agreement, contract, license or permit to which it is a party or by which it is bound; or (iii) any law, regulation, circular, order or decree of any Governmental Authority.

(c) The individual executing this Agreement on its behalf has sufficient power and authority to validly execute and deliver this Agreement and to validly bind it under the terms herein, as evidenced through the Public Deed which is attached to this Agreement and that such powers, authority and authorizations have not been revoked, modified or limited in any manner.

(d) It has or will use commercially reasonable efforts to obtain, directly or indirectly, all the reasonably necessary technical, operational and financial resources to comply with its obligations under the Transaction Agreements either by itself or through its contractors and/or Affiliates, and for avoidance of doubt, the Parties acknowledge and agree that the Silver Elephant Entities expressly do not represent or warrant regarding: (i) the availability, quantity, grade or any other attribute of the Products at PACA Project mining area; (ii) the ability to obtain any and all necessary approvals to extract Products from the PACA Project, and (iii) the availability of transportation of the Products to the Facility.

(e) Apogee is a corporation (sociedad anónima) duly organized and validly existing under the laws of the Plurinational State of Bolivia, as evidenced in Public Deed number 569/2004, dated July 14<sup>th</sup> 2004, modified by Public Deed N° 94/2005 dated February 11<sup>th</sup> 2005 both deeds issued before Mrs. Daysi Benito Pozzo, Notary Public number 038 of La Paz, modified by Public Deed N° 189/2021 dated July 13<sup>th</sup> 2021 and finally modified by Public Deed N° 198/2022 dated March 30<sup>th</sup> 2022, both deeds issued before Mr. Christian Hernandez Sanchez, Notary Public number 030 of La Paz and registered in the

Public Registry of Commerce of the Plurinational State of Bolivia under number 123319023, N.I.T. N° 123319023, legally domiciled at Calacoto, Av. Inofuentes No. 1640, La Paz, Bolivia; legally represented by Gustavo Adolfo Miranda Pinaya, in merit to Official Transcript of Power of Attorney N° 328/2021 dated May 14<sup>th</sup>, 2021 issued before Notary Public N° 030 of Judicial District of La Paz.

(f) ASC is a corporation duly organized and validly existing under the laws of the Plurinational State of Bolivia, as evidenced in Public Deed number 49, dated November 10<sup>th</sup> 1995, issued before Mrs. Maria Esther Vallejos, Special Mines and Oil Notary Public of La Paz and registered in the Public Registry of Commerce of the Plurinational State of Bolivia under number 1020411028, N.I.T. N° 1020411028, legally domiciled at Calacoto, Av. Inofuentes No. 1640, La Paz, Bolivia; legally represented by Gustavo Adolfo Miranda Pinaya, in merit to Official Transcript of Power of Attorney N° 579/2022 dated September 27<sup>th</sup> 2022, issued before Notary Public N° 030 of Judicial District of La Paz.

7.2 **Representations and Warranties of Andean Entities.** On the Execution Date, each Andean Entity hereby represents and warrants through its corresponding legal representative that all such representations and warranties provided in the applicable Transaction Agreement for such Andean Entity remain as set forth in such Transaction Agreement and also the following:

(a) It has duly and validly obtained all the necessary authorizations and approvals (which are in full force and effect on the date hereof) in order to execute this Agreement and carry out the transactions contemplated hereunder in compliance with Applicable Law.

(b) The entering into and performance of this Agreement does not violate or constitute a breach under (i) its bylaws, deed of incorporation or any other organizational documents; (ii) any agreement, contract, license or permit to which it is a party or by which it is bound; or (iii) any law, regulation, circular, order or decree of any Governmental Authority.

(c) The individual executing this Agreement on its behalf has sufficient power and authority to validly execute and deliver this Agreement and to validly bind it under the terms herein, as evidenced through the Public Deed which is attached to this Agreement and that such powers, authority and authorizations have not been revoked, modified or limited in any manner.

(d) It has or will obtain, directly or indirectly, all the reasonably necessary technical, operational and financial resources to comply with its obligations under the Transaction Agreements either by itself or through its contractors and/or Affiliates.

## **ARTICLE 8 COVENANTS**

8.1 **Silver Elephant Entities Covenants.** During the Term of this Agreement, each of the Silver Elephant Entities covenant and agree:

(a) to provide Manquiri and the Mining Subcontractors, provided that each of such parties has the requisite approvals, insurance and bonding needed to acquire Products pursuant to the Purchase Agreement, with access to the PACA Project mining area, in accordance with standard mining practices and under a 24 hour / 7 day per-week basis as permitted by Applicable Law;

(b) use commercially reasonable efforts to permit the Mining Subcontractors to perform its services and to the Andean Entities to acquire Products pursuant to the Purchase Agreement, in both cases without material intrusion or disruption as a result of any exploration or development activities

undertaken or proposed to be undertaken by Silver Elephant Entities (or any subcontractors on behalf of such Parties) on the PACA Project mining areas in compliance with Applicable Law;

(c) use commercially reasonable efforts to provide Andean Entities with all available technical information in the possession of Silver Elephant Entities with respect to the PACA Project necessary for Andean Entities to acquire Products pursuant to the Purchase Agreement and to enable Andean to prepare a technical report compliant with the requirements of NI 43-101;

(d) to not sell, assign, option, or transfer any rights or entitlements to the PACA Project, grant any liens, security interests, rights or royalties in respect of the PACA Project and/or the Silver Elephants Entities to any other party, or to otherwise encumber the PACA Project without the prior written approval of Andean, which approval shall not be unreasonably withheld; and

(e) to not sell, assign, option or transfer any interests in any of Illumina, ASC, or Apogee (together, the “**Escrowed Entities**”) owned directly or indirectly by Silver Elephant, without the prior written approval of Andean, which approval shall not be unreasonably withheld, and in connection therewith, Silver Elephant shall deposit the shares of such Escrowed Entities owned directly or indirectly by Silver Elephant (together, the “**Escrowed Shares**”) in escrow pursuant to the Escrow Agreement, as further set forth in therein (the “**Escrow**”). For avoidance of doubt, and notwithstanding any other term herein or elsewhere, the Escrow shall not restrict in any way the ability of Silver Elephant or the Escrowed Entities to obtain any secured financing, provided further that such secured financing shall not impair the rights of Andean Entities under such Escrow Agreement;

(f) to not terminate any of the agreements with the Mining Subcontractors and any legal advisors without the prior written approval of Andean Entities, which approval shall not be unreasonably withheld;

(g) to allow the Andean Entities to perform the necessary tests, analysis and evaluation of the geological structure of the PACA Project in order to allow the elaboration of a mining plan and to determine the amount of Products in the PACA Project;

(h) to use commercially reasonable efforts to allow the Andean Entities, upon the execution of the Purchase Agreement to purchase and obtain from the PACA Project all Products as part of Threshold Tonnage pursuant to the Purchase Agreement and Purchase Agreement that are allowed under the environmental permits and subject to the limitation set forth in Section 2.1 above;

(i) to preserve intact and in good standing the present business organization, assets, rights (including all mining rights), properties and goodwill of each Illumina, ASC and Apogee; and

(j) to use commercially reasonable efforts to comply with all of its tax and legal obligations and to maintain in full force and effect without material modification all permits and mining rights of Silver Elephant Entities;

8.2 **Andean Entities Covenants**. During the Term of this Agreement, each of the Andean Entities covenant and agree:

(a) to not sell, assign or transfer any of its rights or entitlements and obligations to the PACA Project, the Purchase Agreement, the SPC or with respect to the Services, grant any liens, security interests, rights or royalties in respect of the PACA Project, the Purchase Agreement, the SPC or with respect to the Services to any other party, or to otherwise encumber the PACA Project, the Purchase

Agreement, the SPC or with respect to the Services without the prior written approval of Silver Elephant, which shall approval shall not be unreasonably withheld;

(b) to pay all Consulting Fees, Additional Consideration, Operating Expenses and Other Expenses due and payable by it pursuant the Transaction Agreements; and

(c) upon the conclusion of the Term and payment of Liquidated Damages, if any, pursuant to Article 10 hereto, and provided that there is no Dispute pending to be resolved pursuant Article 16 of this Agreement, Andean shall promptly take all necessary action, including, without limitation, execution of such directions as may be required pursuant to the Escrow Agreement to result in the release of the Escrowed Shares to Silver Elephant, and, in the event that Andean fails to take any such necessary action within five (5) Business Days of the conclusion of the Term, hereby so appoints any director or officer of Silver Elephant, with full power of substitution, as Andean's true and lawful attorney and agent, with full power and authority, to take any necessary action, including the execution of any applicable documents, instruments or directions, to cause the release of the Escrowed Shares to Silver Elephant.

### 8.3 **Mutual Covenants.**

(a) **ABC Compliance.** Each Party and its Affiliates (to the extent directly involved with, or carrying out activities under, the Transaction Agreements), shall strictly comply, and request their respective contractors to strictly comply, with, and adhere to, the Anti-Bribery Laws, Anti-Money Laundering Laws and Sanctions Laws as set forth in the Transaction Agreements.

(b) **Conflict of Interest.** No Party shall pay any commission, fee, or rebate to any representative of the other Parties or favor any representative of the other Parties with any gift or entertainment of significant value as set forth in the Transaction Agreements.

## ARTICLE 9 DEFAULTS

9.1 **Silver Elephant Entities Fault.** A "Silver Elephant Entities Fault" shall occur in the event each of the following conditions is satisfied: (i) any of the Silver Elephant Entities fails to comply with any of its covenants set forth in Section 8.1 or 8.3 herein; (ii) such failure materially affects the ability of the Andean Entities to acquire Products pursuant to the Purchase Agreement, provided that will be considered to have materially affected the ability of Andean to acquire Products pursuant to the Purchase Agreement, if Andean Entities are not able to purchase Products from the PACA Project mining areas for a period of 9 (nine) consecutive Days or more or for nine (9) non-consecutive Days in a period of thirty (30) consecutive Days; and (iii) Silver Elephant Entities fail to cure such material breach within: (x) sixty (60) Days after the Silver Elephant Entities have received for the first time a written notice from the Andean Entities requesting the Silver Elephant Entities to cure such material default (a "**Default Notice**"), or (y) thirty (30) Days if Andean Entities have notified two (2) Default Notices to Silver Elephant Entities in the twelve (12) month period following the actual occurrence of the last Silver Elephant Entities Fault or (z) five (05) Days if Andean Entities have notified three (3) or more Default Notices to Silver Elephant Entities in the twelve (12) month period following the actual occurrence of the last Silver Elephant Entities Fault. For greater certainty, a Silver Elephant Entities Fault shall not include: (a) any act or omission of (x) any Andean Entity, or (y) any Mining Subcontractor, legal advisor, community group or other Third Party to the extent not caused by Silver Elephant Entities actions or omissions, which leads to a breach of this Agreement, any Transaction Agreement or Applicable Law; or (b) a Silver Elephant Entities Fault caused by a Force Majeure event or to the extent contributed to, arising out of, or resulting from, an Andean Entities Fault. Whether or not a Silver Elephant Entities Fault shall have occurred shall be either agreed upon by the Parties, failing which as determined by arbitration in accordance with Article 16.

9.2 **Andean Entities Fault.** An “Andean Entities Fault” shall occur in the event that each of the following conditions is satisfied:

(a) any of the Andean Entities, or any Mining Subcontractor acting at the direction of an Andean Entity, fails to comply with its covenants set forth in Section 8.2 or 8.3; and

(b) such failure:

(i) materially restricts or affects the ability of Silver Elephant Entities from carrying out their rights, duties or obligations pursuant to any of the Transaction Agreements or in connection with the PACA Project;

(ii) results in Silver Elephant’s breach of Applicable Law, as determined by a final resolution of a Governmental Authority;

(iii) results in breach of Silver Elephant’s mining license or permits to which it is a party or by which it is bound, where such breach of license or permit has been conclusively determined by a Governmental Authority; or

(iv) causes environmental or asset damage to the Paca Project, or to the community, where such environmental or asset damage has been conclusively determined by a Governmental Authority; or

(v) results in the activity or access suspension at Paca Project determined by final resolution of a Government Authority,

in each case provided that the relevant Andean Entity fails to cure any breach within (x) sixty (60) Days after the Andean Entities have received for the first time a Default Notice from the Silver Elephant Entities requesting the Andean Entities to cure such material default, or (y) thirty (30) Days if Silver Elephant Entities have notified two (2) Default Notices to Andean Entities in the twelve (12) month period following the actual occurrence of the last Andean Entities Fault or (z) five (05) Days if Silver Elephant Entities have notified three (3) or more Default Notices to Andean Entities in the twelve (12) month period following the actual occurrence of the last Andean Entities Fault..

For greater certainty, an Andean Entities Fault shall not include: (a) any act or omission of any Silver Elephant Entity, legal advisor, community group or other Third Party which leads to a breach of this Agreement, any Transaction Agreement or Applicable Law; or (b) an Andean Entities Fault caused by a Force Majeure event or to the extent contributed to, arising out of, or resulting from, actions or omissions of any Silver Elephant Entities. Whether or not a, Andean Entities Fault shall have occurred shall be either agreed upon by the Parties, failing which as determined by arbitration in accordance with Article 16.

## **ARTICLE 10 LIQUIDATED DAMAGES**

10.1 **Silver Elephant Entities Fault.** In the event that there has been a Silver Elephant Entities Fault at any time during the Term, Andean shall be entitled, upon the expiration of such cure period, to terminate this Agreement, and if Andean elects to terminate this Agreement (which such termination shall, for avoidance of doubt, result in the conclusion of the Term), the Silver Elephant Entities shall pay to Andean, within thirty (30) Days of such termination, a penalty in cash equal the greater of (the “**Liquidated Damages**”):

(a) \$1,200,000 payable as to \$700,000 in cash and, at the option of Silver Elephant and subject to TSX approval and the policies of the TSX, \$500,000 in Silver Elephant Shares at a price per Silver Elephant Share equal to the greater of: (i) the five (5) trading Day volume-weighted-average price of the Silver Elephant Shares on the TSX (or such other stock exchange on which the greatest volume of Silver Elephant Shares is traded for the relevant five (5) trading Day calculation period) for the five (5) trading Days ended as of the date of the conclusion of the Term; and (ii) the lowest price permitted by the TSX; or

(b) the positive difference, if any, between: (i) one point two (1.2) times the amount of Consulting Fee then received by the Silver Elephant Entities under this Agreement; and (ii) \$12.00 (or \$15.00 if the average LBMA silver spot price exceeds \$26/oz from the start of the Term to the conclusion of the Term) multiplied by the aggregate tonnage of Products that have been acquired from the PACA Project mining area by the Andean Entities during the Term.

Upon payment of the Liquidated Damages, the Silver Elephant Entities shall not have any further liability or obligations to the Andean Entities. For avoidance of doubt, Silver Elephant shall be entitled to satisfy any or all of the \$500,000 payable in Silver Elephant Shares in cash at the sole discretion of Silver Elephant, and the issuance of such Silver Elephant Shares shall be subject to Applicable Laws and the policies of the TSX.

10.2 **Liquidated Damages.** The Parties agree that it would be extremely difficult to determine precisely the amount of actual damages that would be suffered by the Andean Entities due to a Silver Elephant Entities Fault under the Purchase Agreement, but the Liquidated Damages set forth in Section 10.1 above is a fair and reasonable determination of the amount of actual damages that would be suffered by the Andean Entities, and that these Liquidated Damages do not constitute a penalty. The Silver Elephant Entities hereby expressly waive any defense or right to contest the validity of these Liquidated Damages on the grounds that they are void as penalties or are not reasonably related to actual damages.

10.3 **Exclusive Remedy.** Payment by Silver Elephant Entities of the Liquidated Damages shall be in full satisfaction of the Silver Elephant Entities' responsibility for monetary damages for such Silver Elephant Entities Fault and shall be the exclusive remedy of the Andean Entities in respect thereof.

10.4 **Silver Elephant Expenses.** Notwithstanding any other term herein, and for avoidance of doubt, in the event that any penalty is payable by Silver Elephant under any Transaction Agreements (including any Liquidated Damages) to any Andean Entity, Silver Elephant shall be entitled to deduct from such payment, any amount equal to the amount owed by Andean Entities under the Transaction Agreements or any costs incurred by the Silver Elephant Entities pursuant to Section 4.1(a).

10.5 **Andean Special Indemnity.** Andean Entities shall hold harmless and indemnify Silver Elephant Entities against claims and costs incurred as a result of a breach of the obligations of the Mining Subcontractors under the respective services agreement, including as a result of the claims made by the community with respect to actions or omissions of such Mining Subcontractors, any environmental liability in connection with the extraction and/or transportation of the Products by such Mining Subcontractors (the "Mining Subcontractor Fault").

## ARTICLE 11 TERMINATION

11.1 **Silver Elephant Entities Termination.** Except as otherwise set forth in this Agreement and the Transaction Agreements, the Silver Elephant Entities may terminate all Transaction Agreements by written notice to Andean Entities in the event any of the following occurs:

- (a) an Andean Entities Fault occurs;
- (b) the PACA CP Date has not occurred by the PACA CP Outside Date, subject to extension in accordance with Section 3.2;
- (c) any Andean Entity fails to make any payment when due pursuant to any of the Transaction Agreements including, without limitation, in connection with any Consulting Fee, any Additional Consideration, any Operating Expenses or Other Expenses, provided that the relevant Andean Entity fails to cure such breach within ten (10) Days (30 days in the case of Operating Expenses and Other Expenses) after such Andean Entity has received written notice from the Silver Elephant Entities requesting to cure such material default; or
- (d) any of the Andean Entities terminates any Purchase Agreement upon thirty (30) Days' written notice,
- (e) a material breach by any of the Andean Entities of (i) this Agreement (other than for the material breaches mentioned in Section 11.1 (a) through (d)) and/or (ii) any of the Transaction Agreements, provided that the relevant Andean Entity fails to cure such breach within sixty (60) Days after such Andean Entity has received written notice from the Silver Elephant Entities requesting to cure such material breach.

For avoidance of doubt the Term shall conclude upon such termination.

11.2 **Andean Entities Termination.** The Andean Entities may terminate all Transaction Agreements by written notice to Silver Elephant in the event any of the following occurs:

- (a) a Silver Elephant Entities Fault occurs in which liquidated damages may apply;
- (b) if the PACA CP Date has not occurred by the PACA CP Outside Date, subject to extension in accordance with Section 3.2,
- (c) a material breach by Silver Elephant Entities of (i) this Agreement (other than for the material breaches mentioned in Section 11.2 (a) and (b)) and/or any of the Transaction Agreements, , provided that the relevant Silver Elephant Entity fails to cure such breach within sixty (60) Days after such Silver Elephant Entity has received written notice from the Andean Entities requesting to cure such material breach;

provided that the obligations of the Andean Entities pursuant to Section 5.2, Section 10.5 and Silver Elephant and Andean pursuant to Article 12, and any amount due under the Purchase Agreement shall survive any termination of the Transaction Agreements. For purposes of clarity, the Liquidated Damages set forth in Article 10 of this Agreement only apply in the event of a Termination under Section 11.2 (a) for a Silver Elephant Fault.

11.3 **Survival.** If this Agreement is terminated pursuant to this Article 11, the Transaction Agreements shall become void and be of no further force or effect without liability of any Party (or any shareholder, director, officer, employee, agent, consultant or representative of such Party) to any other Party hereto, except that the provisions of this Section 11.3 and the obligations of the Andean Entities and the Silver Elephant Entities pursuant to Section 11.1, and 11.2 above and all related definitions set forth in Section 1.1, as well as Sections 3.2, 4.2 and 8 of the Purchase Agreement, shall survive any termination hereof and thereof, as applicable.

**ARTICLE 12**  
**INDEMNITY, LIABILITY LIMITATION**

12.1 **Indemnification of Andean Entities.** Notwithstanding anything to the contrary in this Agreement or in the PACA Agreements, and to the maximum extent permitted by Applicable Law and subject to the limitations of liability set forth herein, to the extent caused by Silver Elephant, Silver Elephant Entities shall, for and on behalf of itself, its Affiliates, successors, assigns and their contractors, release, indemnify, defend and hold harmless Andean Entities and their Affiliates, successors and assigns against any claims or Liabilities arising from or related to:

- (a) personal injury (including death), pollution, and property damage;
- (b) any environmental damages to the extent caused by Silver Elephant Entities, its Affiliates or their contractors (other than the Mining Subcontractors);
- (c) the material breach by Silver Elephant Entities, its Affiliates or their contractors (other than the Mining Subcontractors) of this Agreement and/or the PACA Agreements, excluding any breach to which Section 10.1 applies; and
- (d) any legal or administrative claim or controversy arising for any of the aforementioned causes.

12.2 **Indemnification of Silver Elephant Entities.** Notwithstanding anything to the contrary in this Agreement or in the PACA Agreements, and to the maximum extent permitted by Applicable Law and subject to the limitations of liability set forth herein, to the extent caused by Andean Entities or any Mining Subcontractor, Andean Entities shall, for and on behalf of itself, its Affiliates, successors, assigns and their contractors, release, indemnify, defend and hold harmless the Silver Elephant Entities and their Affiliates, successors and assigns against any claims or Liabilities arising from or related to:

- (a) personal injury (including death), pollution, and property damage;
- (b) any environmental damages to the extent caused by Andean Entities, its Affiliates or their contractors (including the Mining Subcontractors);
- (c) the breach by Andean Entities, its Affiliates or their contractors (including the Mining Subcontractors) of this Agreement and/or the PACA Agreements;
- (d) the occurrence of any Mining Subcontractor Fault, unless such Mining Subcontractor Fault is caused by a Force Majeure event or to the extent contributed to, arising out of, or resulting from, a Silver Elephant Entity's actions or omissions; and
- (e) any legal or administrative claim or controversy arising for any of the aforementioned causes.

12.3 **Silver Elephant Entities Liability Limitation under Section 12.1.** The maximum liability of the Silver Elephant Entities under or in connection with Section 12.1 of this Agreement shall be limited to the maximum aggregate liability as set forth below, other than in the case of willful misconduct or fraud, and in no event shall the Andean Entities be able to obtain duplicative payment or recovery for the same claim from any of the Silver Elephant Entities:

(a) the maximum cumulative Liability under the Transaction Agreements shall not exceed, in the aggregate, 120% (one hundred and twenty percent) of the amounts of Consulting Fee and Additional Consideration actually received; and

(b) notwithstanding the maximum Liability set forth in Section 12.3(a) above and any provision of the PACA Agreements, the Parties agree that if any Silver Elephant Entity fails to perform its obligations under the PACA Agreements with a bad faith intent to cause the termination of the PACA Agreements to replace Andean Entities as a purchaser of the Products under the PACA Project in whole or in part, with a Third Party that would pay higher fees for any minerals under the PACA Project mining areas (as determined by an arbitration panel or court of competent jurisdiction), then the Andean Entities shall have the right to (a) request specific performance of any and all the provisions of the Purchase Agreement, (b) the immediate reinstatement of the Purchase Agreement so terminated under the same terms and conditions of the Purchase Agreement then in effect, and (c) seek any other recourse available at law or in equity.

#### 12.4 **Consequential Damages Waiver.**

(a) Except as otherwise expressly specified in Section 12.1 and in the PACA Agreements as direct or liquidated damages (which shall include for the avoidance of doubt any liquidated damages payable by a Silver Elephant Entity, subject to Section 12.1), a Party's Liability is limited to the other Parties to direct, immediate actual damages only, and no Party shall be liable to the other Parties for lost profits, or special, consequential, incidental, punitive, exemplary or indirect damages, in tort, contract or otherwise, of any kind, arising out of or in any way connected with the performance, the suspension of performance, the failure to perform or the termination of this Agreement or the Purchase Agreement.

(b) For avoidance of doubt and notwithstanding any other term herein other than Section 3.5 with respect to the payments due and payable by the Andean Entities, the failure by any of the Parties to comply with its obligations and covenants under this Agreement or under the PACA Agreements as a result of a Force Majeure event for so long as such Party has used commercially reasonable efforts to satisfy such obligations and covenants shall not constitute a default under the Purchase Agreement or under this Agreement, as the case may be.

12.5 **Mitigation.** Each Party acknowledges its duty to mitigate damages hereunder and shall act in a commercially reasonable manner in doing so.

### **ARTICLE 13 FORCE MAJEURE**

13.1 If any Party is rendered unable, in whole or in part, by reason of Force Majeure to carry out its obligations hereunder, the Party claiming Force Majeure shall give the other Party prompt notice of the occurrence with reasonably complete particulars (including an estimate of the duration, if practical) and the obligations of the Parties (excluding payment, defense, indemnification, insurance and confidentiality obligations), insofar as they are affected by the Force Majeure event, shall be suspended during, but no longer than, the continuance of the Force Majeure event. The Party claiming Force Majeure shall use reasonable diligence to remedy the Force Majeure event as quickly as possible; provided, however, that the foregoing shall not require a Party to settle labor disputes contrary to its wishes.

13.2 For the purposes of this Agreement, "**Force Majeure**" means any events or circumstances beyond the reasonable control of a Party which prevent or impede the Party's due performance of this Agreement and which by the exercise of all commercially reasonable diligence such Party is unable to prevent or overcome, including: acts of war (declared or not), sabotage, acts of piracy, terrorism, riots,

rebellion or civil commotion, floods, earthquakes, lightning or other natural physical disaster, explosions, or fires; expropriation, nationalization, requisition, orders, directives, restraints and requirements or other interference by any Governmental Authority, compliance with any Applicable Laws; road blockages; opposition from local and community groups; restrictions by quarantines, epidemics, strikes or other labor disputes that are not the result of the breach of any employment contract by the affected Party. The mere shortage of labor, materials, equipment or supplies shall not constitute Force Majeure unless caused by events or circumstances, which are themselves Force Majeure. It is expressly understood that Force Majeure will not include economic difficulty or change in market conditions (including difficulties in obtaining capital or financing funds).

13.3 The Parties acknowledge and agree that none of them will incur any responsibility for non-compliance or delay of their obligations under this Agreement, provided that such breach or delay is caused by Force Majeure, in the understanding that, in order for the Party claiming the Force Majeure event to be released from liability, such event shall be duly proven and accredited.

13.4 For any of the Parties to be released from its responsibility for non-compliance with its obligations due to a Force Majeure event, the Party that invokes such Force Majeure event shall: (i) notify it, even when the existence of the event is a fact notorious or of the public domain and (ii) prove the existence of the Force Majeure event in accordance with the following, in the understanding that if not, the invoked Force Majeure will not be considered as such:

(a) Notify via e-mail to the other Party the occurrence of the act or event that delays or prevents it from complying with its obligations under this Agreement, within 24 (twenty-four) hours after it becomes aware of said event.

(b) Confirm in writing such notification within 48 (forty-eight) hours after the commencement of the occurrence thereof. Said confirmation shall contain a description of the facts and effects of the Force Majeure event and how they affect the compliance or delay of the obligations of this Agreement, as well as the estimated duration thereof.

(c) It shall prove, within a period not to exceed ten (10) Business Days from the corresponding notice regarding the existence of the Force Majeure event, and shall include all supporting documentation and necessary evidence in order to prove its claim. Notwithstanding the foregoing, the Party that invokes the Force Majeure event shall use its best efforts to comply with or continue to comply with the obligations derived from this Agreement.

(d) The Party before whom the Force Majeure event is proved, shall have eight (8) Business Days from the Day following the receipt of the information indicated in the preceding paragraph, to analyze and decide on the existence of the Force Majeure, as well as on the impact that it generated in the breach of the obligations, which will inform the other Party.

(e) No later than the next Business Day in which the Force Majeure event has ceased, the Party claiming the Force Majeure shall notify the other Party, and, as the case may be, inform the actions and the necessary timeframe to resume compliance with the obligations derived from the Agreement.

Nothing contained in this Section shall relieve the Andean Entities of their obligations to pay for Products already delivered by the Silver Elephant Entities under the Purchase Agreement, as well as Other Expenses and Operating Expenses incurred in relation thereto.

## **ARTICLE 14 NOTICES**

14.1 **Notices.** Except as otherwise provided in this Agreement, all notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given (a) when personally delivered, (b) if transmitted by electronic mail (unless if transmitted after 5:00 p.m. La Paz City time or other than on a Business Day, then on the next Business Day), when the recipient transmits a manual written acknowledgment of successful receipt (which the recipient shall have an affirmative duty to furnish promptly after successful receipt), or (c) if sent by internationally-recognized courier in which case it shall be deemed to have been given at the time of actual recorded delivery. The address and other contact details for the Parties are as shown below:

If to any of the Silver Elephant Entities:

Silver Elephant Mining Corp.  
Suite 1610 - 409 Granville Street  
Vancouver, British Columbia V6C 1T2  
Canada

Email: [REDACTED]  
Attention: John Lee, CEO

With a copy (not constituting notice) to:

MLT Aikins LLP  
2600 – 1066 West Hastings Street  
Vancouver, British Columbia V6E 3X1  
Canada

Email: [REDACTED]  
Attention: Mahdi Shams, Partner

If to any of the Andean Entities:

Andean Precious Metals Corp.  
1500 Royal Centre, 1055 West Georgia Street,  
P.O. Box 11117  
Vancouver, British Columbia V6E 4N7  
Canada

Email: [REDACTED]  
Attention: Juan Carlos Sandoval, CFO

With a copy (not constituting notice) to:

Fogler Rubinoff LLP  
77 King St W Suite 3000  
Toronto, Ontario M5K 1G8  
Canada

Email: [REDACTED]  
Attention: Irwin Greenblatt, Partner

14.2 **Changes to Notice Information.** Notice addresses may be changed upon notice at least ten (10) Days in advance of the effective date of the change. The Parties may from time to time designate other individuals and points of contact for management of accounting, payment and scheduling matters.

## **ARTICLE 15 CONFIDENTIALITY**

15.1 **Confidential Information.** The terms and conditions of that certain Confidentiality Agreement between the Andean Entities and the Silver Elephant Entities dated May 10, 2021 shall apply mutatis mutandis to the Parties under this Agreement and shall be deemed incorporated hereunder.

15.2 **Reporting Matters.** Each Party acknowledges that each of Andean and Silver Elephant are reporting issuers in Canada and shall be entitled to take any action necessary to comply with its continuous disclosure and other reporting obligations as a result thereof. In the event that any Party intends to make any disclosure with respect to the Transaction Agreements, the disclosing Party shall use commercially reasonable efforts to provide such draft disclosure in advance to the other Parties and shall adopt any reasonable amendments proposed by such other Parties acceptable to the disclosing Party and in compliance with Applicable Laws and stock exchange policies.

## **ARTICLE 16 DISPUTE RESOLUTION**

16.1 **Dispute Notice.** A Party who desires to submit a Dispute for resolution shall commence the Dispute resolution process by providing the other Party with a written notice of the Dispute (“**Notice of Dispute**”). The Notice of Dispute shall contain a brief statement of the nature of the Dispute and the relief requested. The submission of a Notice of Dispute shall toll any applicable timelines under the Agreement and the PACA Agreements, as applicable, and statutes of limitation related to the Dispute, pending the conclusion or abandonment of Dispute resolution proceedings under this Article 16.

16.2 **Senior Executive Negotiations.** The Parties shall seek to resolve any Dispute by negotiation between Senior Executives. Within fifteen (15) Days following receipt of the Notice of Dispute (which notice shall request negotiations among Senior Executives), the Senior Executives representing the Parties shall meet at a mutually acceptable time and place (which may be virtually) to exchange relevant information in an attempt to resolve the Dispute. If a Senior Executive intends to be accompanied at the meeting by an attorney, the other Party’s Senior Executive shall be given notice of such intention at least three (3) Days in advance and may also be accompanied at the meeting by an attorney. Any Party may initiate arbitration proceedings in accordance with Section 16.3 concerning such Dispute if (a) the Parties are unable to resolve the Dispute within fifteen (15) Days after their initial meeting, (b) the Parties fail to meet within the fifteen (15) Day period after deliver of the Notice of Dispute, or (c) as may be reasonably necessary to protect or safeguard its rights at law or in equity.

16.3 **Arbitration – Scope.** Subject to and in accordance with the provisions of this Section, any Dispute including any and all differences, disputes, claims or controversies arising out of or in any way connected with this Agreement, whether arising before or after the expiration or termination of this Agreement, and including without limitation, its negotiation, execution, delivery, enforceability, performance, breach, discharge, interpretation and construction, existence, validity and any damages resulting therefrom or the rights, privileges, duties and obligations of the parties under or in relation to this Agreement (including any dispute as to whether an issue is arbitrable) shall initially be referred to arbitration under the *Arbitration Act* (British Columbia) or any successor legislation in effect at the time of the arbitration.

16.4 **Limitation Period** The right to seek to arbitrate any matter hereunder or to seek any remedy which may have been available pursuant to an arbitration hereunder shall be brought within two (2) years from the date at which the facts giving rise to the subject matter proposed to be arbitrated were known or ought to have been known with reasonable diligence by the party seeking to invoke the arbitration or seeking the remedy.

16.5 **Applicable Law** The laws of the Province of British Columbia shall be applicable in regards to all questions of governance and interpretation of this Agreement, as well as all matters in any way relating to the arbitration(s) applicable hereunder.

16.6 **Appointment of Arbitrator**. A Party desiring arbitration hereunder, being either the Silver Elephant Entities or the Andean Entities, shall give written notice of arbitration to the other Party containing a concise description of the matter submitted for arbitration ("**Notice of Arbitration**"). Within 10 Days after a Party gives a Notice of Arbitration, the parties shall jointly appoint a single arbitrator (the "**Arbitrator**"). If the Parties fail to appoint an Arbitrator within such time, an Arbitrator shall be designated by a judge of the British Columbia Supreme Court upon application by either party.

16.7 **Powers of Arbitrator**. Subject to Section 16.3, the Arbitrator may determine all questions of law, fact and jurisdiction with respect to the dispute or the arbitration (including questions as to whether a dispute is arbitrable) and all matters of procedure relating to the arbitration. The Arbitrator may grant legal and equitable relief (including injunctive relief), award costs (including legal fees and the costs of the arbitration), and award interest and, without limiting the generality of the foregoing or the Arbitrator's jurisdiction at law, may:

- (a) determine any question of good faith, dishonesty or fraud arising in the dispute;
- (b) order any party to furnish further details of that Party's case, in fact or in law;
- (c) proceed in the arbitration notwithstanding the failure or refusal of a Party to comply with this Article 16 or with the Arbitrator's orders or directions, or to attend any meeting or hearing, but only after giving that party written notice that the Arbitrator intends to do so;
- (d) receive and take into account written or oral evidence tendered by the parties that the Arbitrator determines is relevant, whether or not strictly admissible in law;
- (e) make one or more interlocutory determinations and/or interim awards;
- (f) hold meetings and hearings, and make a decision (including a final decision) in British Columbia (or elsewhere with the concurrence of the parties to the arbitration);
- (g) order the parties to produce to the Arbitrator, and to each other for inspection, and to supply copies of, any documents or classes of documents in their possession or power that the Arbitrator determines to be relevant;
- (h) order the preservation, storage, sale or other disposal of any property or thing under the control of either of the Parties, including without limiting, the Escrowed Shares; and
- (i) make interim orders to secure all or part of any amount in dispute in the arbitration, including providing orders to the escrow agent under the Escrow Agreement.

16.8 **Arbitration Procedure.** The arbitration shall take place in the City of Vancouver at such place therein and time as the Arbitrator may fix. The arbitration shall be conducted in English. Within 20 Days of the appointment of the Arbitrator, the Parties shall either agree on the procedure to be followed for the arbitration or the Arbitrator shall determine the appropriate procedure, in accordance with the principles of natural justice, to be followed. It is agreed that the arbitration and all matters arising directly or indirectly (including all documents exchanged, the evidence and the award) shall be kept strictly confidential by the Parties and shall not be disclosed to any Third Party except as may be compelled by law, unless Andean is entitled to and does initiate court action pursuant to Sections 10.3 and/or 16.3.

16.9 **Arbitrator's Decision.** No later than 20 Business Days after hearing the representations and evidence of the parties, the Arbitrator shall make his or her determination in writing and deliver one copy to each of the Parties. The decision of the Arbitrator shall be final and binding upon the Parties in respect of all matters relating to the arbitration, the conduct of the parties during the proceedings, and the final determination of the issues in the arbitration.

16.10 **Awards and Appeal.** There shall be no appeal from the determination of the Arbitrator to any court. Judgement upon any award rendered by the Arbitrator may be entered in any court having jurisdiction thereof.

16.11 **Costs of Arbitration** The costs of any arbitration hereunder shall be borne by the parties in the manner specified by the Arbitrator in his or her determination.

16.12 **Condition Precedent.** Submission to arbitration under this Article 16 is intended by the Parties to preclude any action in matters, which may be arbitrated hereunder, save and except for enforcement of any arbitral award hereunder. In accordance with the foregoing, if the judgement of the Arbitrator finds in favor of the Andean Entities, the Andean Entities shall have all rights and remedies available under Applicable Law, including without limitation the right to the sale or foreclosure of the Escrowed Shares as an execution creditor in the Province of British Columbia, and will be entitled to pursue any and all such rights and remedies either in the Supreme Court of British Columbia or via arbitration, at the Andean Entities' option. The Parties agree that the Escrow Agreement shall provide that the Escrow Agent shall release the Escrowed Shares as directed by the Arbitrator and/or by the court having jurisdiction thereof.

16.13 **Confidentiality.** All negotiations, arbitration proceedings, and expert determinations relating to a Dispute (including a settlement resulting from Senior Executive negotiations or an arbitral award, documents exchanged or produced during a Senior Executive negotiation or an arbitration proceeding, briefs or other documents prepared for the arbitration) constitute Confidential Information and may not be disclosed by the Parties except as permitted under Article 15 or to the extent necessary to enforce this Article 16, or any arbitration award, or to enforce any other rights of a Party; provided, however, that breach of this confidentiality provision shall not void any settlement, expert determination or award.

## **ARTICLE 17 MISCELLANEOUS**

17.1 **Governing Law.** This Agreement will be governed and construed in accordance with the laws of the Province of British Columbia, without reference to the choice of law principles thereof. The Parties attorn to the non-exclusive jurisdiction of the courts of British Columbia with respect hereto.

17.2 **Specific Performance.** Subject to Sections 10.3 and 12.3, the Parties agree that (a) the Parties shall be entitled to an injunction or injunctions, specific performance or other equitable relief to prevent breaches of this Agreement and any Transaction Agreement, as applicable, and to enforce

specifically the terms and provisions hereof without proof of damages or otherwise, this being in addition to any other remedy to which they are entitled under this Agreement and any Transaction Agreement, as applicable, and (b) the right of specific performance and other equitable relief is an integral part of the Transactions Agreement and without that right, neither the Silver Elephant Entities nor the Andean Entities would have entered into this Agreement or the Transaction Agreements. The Parties acknowledge and agree that any Party pursuing an injunction or other order to prevent breaches of this Agreement or the Transaction Agreements and to enforce specifically the terms and provisions of this Agreement or the Transaction Agreements in accordance with Section 17.2 shall not be required to provide any bond or other security in connection with any such order or injunction, unless required by, and to the extent it cannot be waived under, the Applicable Law. The remedies available to the Parties pursuant to Section 17.2 shall be in addition to any other remedy to which they were entitled under this Agreement or the Transaction Agreements, or at law or in equity, and the election to pursue an injunction or specific performance shall not restrict, impair or otherwise limit either Party from seeking to collect or collecting damages. Each of the Parties agrees that it shall not oppose the granting of an injunction, specific performance and other equitable relief on the basis that the other Party has an adequate remedy at law or that any award of specific performance is not an appropriate remedy for any reason at law or in equity.

17.3 **Taxes and Assessments**. Each Party agrees to pay in a timely manner and for the sufficient amount to cover each and every one of the contributions of any kind corresponding to any jurisdiction, including but not limited to, taxes, liens, fees, encumbrances and any other tax and/or administrative liabilities that may correspond in terms of the Applicable Laws, with respect to its obligations and/or rights under this Agreement. The Parties shall use commercially reasonable efforts to cooperate with each other in order to assist in complying with any Applicable Law.

17.4 **Expenses**. Each Party shall bear its own fees, costs and expenses (including fees, costs and expenses of advisors and representatives, costs and expenses, and travel, lodging, entertainment and associated expenses) incurred in connection with the negotiation of this Agreement and the other documents contemplated hereunder.

17.5 **Waiver**. The Parties agree that no waiver, change, amendment or modification of this Agreement shall be valid or binding upon the Parties hereto unless such change, amendment or modification is in writing and duly executed by all Parties. No waiver of any right under this Agreement at any time will serve to waive of the same right at any future date. Any amendments or modifications to the Transaction Agreements made in accordance with the relevant terms thereunder shall be deemed to amend and modify this Agreement.

17.6 **Relationship of the Parties**. The relationship of the Parties, as established by this Agreement and the Transaction Agreements, is solely that of independent contractors. Nothing in this Agreement or the Transaction Agreements shall be deemed or construed to create any partnership, joint venture or similar business relationship among the Parties. No Silver Elephant Entity shall be deemed to be a legal representative, or may assume or create any obligation, representation, warranty or guarantee, express or implied, on behalf, of any Andean Entity. No Andean Entity shall be deemed to be a legal representative, or may assume or create any obligation, representation, warranty or guarantee, express or implied, on behalf, of any Silver Elephant Entity. Under no circumstances will an employee, agent or subcontractor of a Silver Elephant Entity be considered an employee, agent, or subcontractor of an Andean Entity; similarly, under no circumstances will an employee, agent or subcontractor of a Andean Entity be considered an employee, agent, or Subcontractor of a Silver Elephant Entity.

17.7 **Third Party Beneficiaries**. The Parties agree that, except as otherwise expressly provided in this Agreement, nothing expressed or referred to in this Agreement shall be construed to give any Person other than the Parties any legal or equitable right, remedy or claim under or with respect to this Agreement

or any provision of this Agreement. The representations, warranties and covenants in this Agreement are the product of negotiations among the Parties and are for the sole benefit of the Parties. Any inaccuracies in such representations, warranties or covenants are subject to waiver by the Parties in accordance with this Agreement without notice or liability to any other Person.

17.8 **Severability.** The Parties agree that if any term, provision, covenant or restriction contained in this Agreement is held by a court of competent jurisdiction or other Governmental Authority to be invalid, void, unenforceable or against its regulatory policy, the Parties shall take any actions necessary to render the remaining provisions in this Agreement valid and enforceable to the fullest extent permitted by Applicable Law and, to the extent necessary, this Agreement shall be deemed to be automatically amended to replace any provision that is held invalid or unenforceable with a valid and enforceable provision giving effect to the intent of the Parties to the greatest extent legally permissible and the remainder of the terms, provisions, covenants and restrictions contained in this Agreement shall remain in full force and effect, and shall in no way be affected, impaired or invalidated.

17.9 **Entire Agreement.** This Agreement, its Annexes and Exhibits, together with the Transaction Agreements and any other agreements expressly referred to herein or therein, contain the entire agreement of the Parties respecting to the subject matter hereto and supersede all prior agreements among the Parties respecting such subject matter.

17.10 **Conflict of Documents.** In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, the terms and provisions of the execution version of this Agreement shall control and prior drafts of this Agreement and the documents referenced herein shall not be considered or analyzed for any purpose (including in support of parol evidence proffered by any Person in connection with this Agreement), shall be deemed not to provide any evidence as to the meaning of the provisions hereof or the intent of the Parties with respect hereto, and shall be deemed joint work product of the Parties. If there is any conflict or contradiction between this Agreement, the Transaction Agreements, the relevant provisions shall prevail to the extent permitted under Applicable Law in the following order: first, this Agreement, second, the Escrow Agreement; third, the Purchase Agreement; and forth, the Notice of Transfer and fifth the SPC

17.11 **Further Assurances.** In connection with this Agreement and the Transaction Agreements, each Party shall execute and deliver any additional documents and instruments, and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement, the Transaction Agreements and the transactions contemplated hereunder and thereunder.

17.12 **Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assigns. No Party may assign any of their rights, obligations or interests in this Agreement without obtaining the prior written consent to such assignment from the other Parties hereto, which such consent shall not be unreasonably withheld, conditioned or delayed.

17.13 **Counterparts.** This Agreement may be executed in counterparts (including by .pdf, facsimile or other electronic transmission), all of which together will constitute an agreement binding on all the Parties. Each Party will become bound by this Agreement immediately upon affixing its signature hereto.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

**SILVER ELEPHANT ENTITIES:**

**SILVER ELEPHANT MINING CORP.**

By: \_\_\_\_\_  
Name: John Lee  
Title: Chief Executive Officer

**ILLUMINA SILVER MINING CORP.**

By: \_\_\_\_\_  
Name: John Lee  
Title: Director

**APOGEE MINERALS BOLIVIA S.A**

By: \_\_\_\_\_  
Name: Gustavo Adolfo Miranda Pinaya  
Title: Executive President

**ASC BOLIVIA LDC SUCURSAL**

By: \_\_\_\_\_  
Name: Gustavo Adolfo Miranda Pinaya  
Title: Legal Representative

**ANDEAN ENTITIES:**

**ANDEAN PRECIOUS METALS, CORP.**

By: \_\_\_\_\_  
Name: Federico Gil Chaveznava  
Title: VP Legal

**EMPRESA MINERA MANQUIRI, S.A**

By: \_\_\_\_\_  
Name: Humberto Rada Gómez  
Title: Director

**EXHIBIT "A"**  
**MINING AREAS**

Mining Production Contract

<b>Parties</b>	<b>Date of Contract</b>	<b>Term of the Contract</b>	<b>Mining Areas</b>	<b>ID Number</b>	<b>Size of Mining Areas</b>
Bolivian Mining Corporation COMIBOL	October/2/2019	15 years renewable for another 15 years	Temeridad Real del Monte	1281 1312	10 Has. 24 Has.
Apogee Minerals Bolivia S.A.					

Administrative Mining Contract

<b>Parties</b>	<b>Date of Contract</b>	<b>Term of the Contract</b>	<b>Mining Areas</b>	<b>ID Number</b>	<b>Size of Mining Areas</b>
Autoridad Jurisdiccional Administrativa Minera AJAM	January/9/2020	30 years	Apuradita	150046	750 Has.
ASC Bolivia LDC Sucursal Bolivia					

**EXHIBIT "B"**  
**Sales and Purchase Contract (SPC)**

(see attached.)

**SALES PURCHASE CONTRACT (“SPC”)**

**THIS AGREEMENT** made the 7<sup>th</sup> day of July, 2023 (the “**Effective Date**”)

**BETWEEN:**

**SILVER ELEPHANT MINING CORP.**, a company existing pursuant to the laws of the Province of British Columbia with an address for service at Suite 1610 - 409 Granville Street, Vancouver, British Columbia V6C 1T2 Canada

(“**Silver Elephant**”)

**AND:**

**APOGEE MINERALS BOLIVIA, S.A.**, an entity existing pursuant to the laws of Bolivia with an address for service at Suite 1610 - 409 Granville Street, Vancouver, British Columbia V6C 1T2 Canada

(“**Apogee**”)

**AND:**

**ASC BOLIVIA LDC SUCURSAL**, an entity existing pursuant to the laws of Bolivia with an address for service at Suite 1610 - 409 Granville Street, Vancouver, British Columbia V6C 1T2 Canada

(“**ASC**”, and together with Apogee, the “**Vendors**”)

**WHEREAS:**

- A. the Vendors own certain mining rights of the Temeridad, Real del Monte and Apuradita mining areas, as more particularly set forth in **Exhibit “A”** of this Agreement (the “**PACA Project**”); and
- B. the Vendors agree to sell to Silver Elephant, during the SPC Term, all oxide minerals that are in the mining areas of the PACA Project on mutually agreeable terms to be determined at prevailing market rates on each incidence of acquisition (the “**Products**”) in accordance with the terms and conditions set out herein (the “**Exclusivity**”).

**IN CONSIDERATION** of the mutual premises and covenants and agreements contained therein, the parties covenant and agree each with the others as follows:

1. With effect on the Effective Date, Silver Elephant hereby agrees to pay the Vendors US\$100,000.00 (US\$50,000 for Apogee, US\$50,000 for ASC) for the Exclusivity, payable immediately upon the Effective Date, subject to the terms and conditions set out herein (the “**Transaction**”).
2. Silver Elephant and the Vendors acknowledge and agree to use commercially reasonable efforts to enter into an ore purchase or similar agreement at prevailing market prices and conditions (the “**Purchase Agreement(s)**”).
3. Each party will make all necessary filings required by applicable securities law in relation to the Transaction, and shall execute such documents as may be necessary to effect the Transaction.

4. Each of Silver Elephant and the Vendors shall be solely responsible for all taxes, levies and duties incurred by such party in connection with the Transaction contemplated herein.
5. Each of the Vendors, and Silver Elephant mutually represent and warrant that as of the date of this Agreement it:
  - (a) has full corporate power and capacity to enter into this Agreement and this Agreement has been validly authorized, executed and delivered; and
  - (b) has obtained all corporate authorizations for the execution of this Agreement and for the performance of this Agreement by it, and the entering into and the performance of this Agreement and the transactions contemplated herein will not result in the violation of any of the terms and provisions of its constating documents.
6. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand or mailed postage prepaid addressed to the addressee at their respective addresses set out on the first page of this Agreement, or to such other address as may be given in writing by any party, or if sent by email to a party at their respective addresses, and shall be deemed to have been received, if delivered, on the date of delivery, if mailed as aforesaid then on the fifth business day following the posting thereof, and if emailed, on the next business day.
7. This Agreement shall enure to the benefit of and be binding upon the parties and their respective successors. The Vendors may not transfer any of their entitlements, obligations or interests in this Agreement without obtaining the prior written consent to such transfer from the other parties hereto. Silver Elephant may transfer any of its entitlements, obligations or interests in this Agreement at any time upon written notice to the Vendors.
8. The Exclusivity Entitlement granted hereunder and this Agreement shall be in effect from the Effective Date until the earlier of (the “**SPC Term**”): (i) termination by mutual written agreement of the Vendors and Silver Elephant; and (ii) December 31, 2029.
9. Time shall be of the essence of this Agreement.
10. The terms and provisions contained herein constitute the entire agreement between the parties and shall supersede all previous oral or written communications.
11. If any part of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, then this Agreement shall be read as if such invalid or unenforceable provision were removed.
12. The parties shall execute such further assurances and other documents and instruments and do such further and other acts and things as may be necessary to implement and carry out the intent of this Agreement.
13. This Agreement shall be governed by and construed in accordance with the laws of British Columbia and the parties hereto attorn to the jurisdiction of the British Columbia Supreme Court. This Agreement may be signed in counterpart.

*[Signature Page to Immediately Follow]*

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

**SILVER ELEPHANT MINING CORP.**

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*by its authorized signatory*

**APOGEE MINERALS BOLIVIA, S.A.**

---

*by its authorized signatory*

**ASC BOLIVIA LDC SUCURSAL**

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*by its authorized signatory*

**EXHIBIT "A"**  
**MINING AREAS**

Mining Production Contract

<b>Parties</b>	<b>Date of Contract</b>	<b>Term of the Contract</b>	<b>Mining Areas</b>	<b>ID Number</b>	<b>Size of Mining Areas</b>
Bolivian Mining Corporation COMIBOL	October/2/2019	15 years renewable for another 15 years	Temeridad Real del Monte	1281 1312	10 Has. 24 Has.
Apogee Minerals Bolivia S.A.					

Administrative Mining Contract

<b>Parties</b>	<b>Date of Contract</b>	<b>Term of the Contract</b>	<b>Mining Areas</b>	<b>ID Number</b>	<b>Size of Mining Areas</b>
Autoridad Jurisdiccional Administrativa Minera AJAM	January/9/2020	30 years	Apuradita	150046	750 Has.
ASC Bolivia LDC Sucursal Bolivia					

**EXHIBIT “C”  
NOTICE OF TRANSFER**

**FROM: SILVER ELEPHANT MINING CORP. (“Silver Elephant”)**  
**TO: APOGEE MINERALS BOLIVIA S.A. (“Apogee”)**  
**AND TO: ASC BOLIVIA LDC SUCURSAL BOLIVIA (“ASC”)**  
**RE: Transfer of Entitlements of Silver Elephant pursuant to the sales purchase contract dated July 7, 2023 between Silver Elephant Apogee and ASC (the “SPC”)**

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Capitalized terms not otherwise defined in this notice of transfer have the meanings ascribed thereto in the SPC.

Pursuant to Section 7 of the SPC, notice is hereby given by Silver Elephant to Apogee and ASC that Silver Elephant has transferred its entitlements, obligations or interests under the SPC in respect of the Exclusivity to Empresa Minera Manquiri, S.A. (“**Manquiri**”) subject to the terms and conditions and for the limited purposes and term of that master services agreement to which this notice of transfer is attached as Exhibit “C” (the “**Master Services Agreement**”).

For avoidance of doubt, it is acknowledged that the sales and purchase agreement of oxide materials dated September 11<sup>th</sup>, 2023 between Apogee, ASC, and Manquiri, shall constitute the sole Purchase Agreement for the term of the Master Services Agreement.

Dated this 11<sup>th</sup> day of September, 2023.

**SILVER ELEPHANT MINING CORP.**

\_\_\_\_\_  
*by its authorized signatory*

Acknowledged and agreed as of the date immediately written above.

**APOGEE MINERALS BOLIVIA, S.A.**

\_\_\_\_\_  
*by its authorized signatory*

**ASC BOLIVIA LDC SUCURSAL BOLIVIA**

\_\_\_\_\_  
*by its authorized signatory*

**EMPRESA MINERA MANQUIRI, S.A.**

\_\_\_\_\_  
*by its authorized signatory*

**EXHIBIT “D”  
PURCHASE AGREEMENT**

(see attached.)

**SALE AND PURCHASE AGREEMENT OF OXIDE MATERIALS**

**BY AND BETWEEN**

**APOGEE MINERALS BOLIVIA, S.A. AND  
ASC BOLIVIA LDC SUCURSAL BOLIVIA  
(AS “SELLERS”)**

**AND**

**EMPRESA MINERA MANQUIRI, S.A.  
(AS “BUYER”)**

**DATED: SEPTEMBER 11, 2023**

This **Sale and Purchase Agreement of Oxide Materials** (this “**Agreement**”) is entered into effective as of September 11, 2023 (the “**Effective Date**”) by and between **APOGEE MINERALS BOLIVIA S.A. (“APOGEE”)**, **ASC BOLIVIA LDC SUCURSAL BOLIVIA (“ASC BOLIVIA”)** ( APOGEE and ASC BOLIVIA collectively referred to as “**Sellers**”) and **EMPRESA MINERA MANQUIRI, S.A. (“Buyer”)**. Sellers and Buyer may be referred to individually as a “**Party**” and collectively as the “**Parties**”.

### **RECITALS**

- A. The intent of the Parties is that Sellers shall sell and deliver, and Buyer shall purchase and accept delivery of Products, pursuant the terms and conditions set forth in this Agreement.
- B. The Parties further intend that the cut-off grade of the Products to be purchased and sold under this Agreement shall be determined by Buyer, from time to time.

### **REPRESENTATIONS AND WARRANTIES**

**I. APOGEE hereby represents and warrants through its legal representative that as of the Effective Date:**

- I.1 It is a corporation (*sociedad anónima*) duly organized and validly existing under the laws of the Plurinational State of Bolivia, as evidenced in Public Deed number 569/2004, dated July 14<sup>th</sup> 2004 , modified by Public Deed N° 94/2005 dated February 11<sup>th</sup> 2005 both deeds issued before Mrs. Daysi Benito Pozzo , Notary Public number 038 of La Paz, modified by Public Deed N° 189/2021 dated July 13<sup>th</sup> 2021 and finally modified by Public Deed N° 198/2022 dated March 30<sup>th</sup> 2022, both deeds issued before Mr. Christian Hernandez Sanchez, Notary Public number 030 of La Paz and registered in the Public Registry of Commerce of the Plurinational State of Bolivia under number 123319023, N.I.T. N° 123319023, legally domiciled at Calacoto, Av. Inofuentes No. 1640, La Paz, Bolivia; legally represented by Gustavo Adolfo Miranda Pinaya, in merit to Official Transcript of Power of Attorney N° 328/2021 dated May 14<sup>th</sup>, 2021 issued before Notary Public N° 030 of Judicial District of La Paz.
- I.2 It has duly and validly obtained all the necessary authorizations and approvals (which are in full force and effect on the date hereof) in order to execute this Agreement and carry out the transactions contemplated hereunder in compliance with all Applicable Regulations. It has or will obtain with commercially reasonable efforts, directly or indirectly, all the reasonably necessary technical, operational and financial resources to comply with its obligations under this Agreement either by itself or through its contractors and/or Affiliates. Provided that the Sellers expressly do not represent or warrant regarding: (i) the availability of Products at PACA Project mining area; (ii) the ability to obtain any and all necessary approvals to extract Products from the PACA Project mining area, and (iii) the availability of transportation of the Products to Manquiri’s San Bartolome Plant.

- I.3 The entering into and performance of this Agreement does not violate, or constitute a breach under (i) its bylaws, deed of incorporation or any other organizational documents; (ii) any agreement, contract, license or permit to which the Sellers is a party or by which the Sellers is bound; or (iii) any law, regulation, circular, order or decree of any Governmental Authority; and
- I.4 The individual executing this Agreement on its behalf has sufficient power and authority to validly execute and deliver this Agreement and to validly bind it under the terms herein, as evidenced through Public Deed number [\*], dated [\*], issued before Mr. [\*], Notary Public number [\*] of [\*] and that such powers, authority and authorizations have not been revoked, modified or limited in any manner.

**II. ASC BOLIVIA hereby represents and warrants, through its legal representative that:**

- II.1 It is a corporation duly organized and validly existing under the laws of the Plurinational State of Bolivia, as evidenced in Public Deed number 49, dated November 10<sup>th</sup> 1995, issued before Mrs. Maria Esther Vallejos, Special Mines and Oil Notary Public of La Paz and registered in the Public Registry of Commerce of the Plurinational State of Bolivia under number 1020411028, N.I.T. N° 1020411028, legally domiciled at Calacoto, Av. Inofuentes No. 1640, La Paz, Bolivia; legally represented by Gustavo Adolfo Miranda Pinaya, in merit to Official Transcript of Power of Attorney N° 579/2022 dated September 27<sup>th</sup> 2022, issued before Notary Public N° 030 of Judicial District of La Paz.
- II.2 It has duly and validly obtained all the necessary authorizations and approvals (which are in full force and effect on the date hereof) in order to execute this Agreement and carry out the transactions contemplated hereunder in compliance with all Applicable Regulations. It has or will obtain with commercially reasonable efforts, directly or indirectly, all the reasonably necessary technical, operational and financial resources to comply with its obligations under this Agreement either by itself or through its contractors and/or Affiliates. Provided that the Sellers expressly do not represent or warrant regarding: (i) the availability of Products at PACA Project; (ii) the ability to obtain any and all necessary approvals to extract Products from the PACA Project, and (iii) the availability of transportation of the Products to Facility.
- II.3 The entering into and performance of this Agreement does not violate, or constitute a breach under (i) its bylaws, deed of incorporation or any other organizational documents; (ii) any agreement, contract, license or permit to which the Sellers is a party or by which the Sellers is bound; or (iii) any law, regulation, circular, order or decree of any Governmental Authority; and
- II.4 The individual executing this Agreement on its behalf has sufficient power and authority to validly execute and deliver this Agreement and to validly bind it under the terms herein, as evidenced through Public Deed number [\*], dated [\*], issued before Mr. [\*], Notary Public number [\*] of [\*] and that such powers, authority and authorizations have not been revoked, modified or limited in any manner.

**III. Buyer hereby represents and warrants, through its legal representative that:**

- III.1 It is a corporation (*sociedad anónima*) duly organized and validly existing under the laws of the Plurinational State of Bolivia, as evidenced in Public Deed N° 1176/97 dated November 21st 1997, modified by Public Deed N° 286/99 dated June 21st 1999, both subscribed before First Class Notary Public N° 51 of the Judicial District of La Paz , Dr. Katherine Ramírez de Loayza, with Commerce Registry N° 00013566, N.I.T. N° 1017233026, legally domiciled at Km. 3 on the road to Tarija in the City of Potosí; legally represented by Humberto Rada Gómez, in merit to Official Transcript of Power of Attorney N° 168/2008 dated September 12, 2008 issued before Notary Public N° 045 of Judicial District of La Paz.
- III.2 It has duly and validly obtained all the necessary authorizations and approvals (which are in full force and effect on the date hereof) in order to execute this Agreement and carry out the transactions contemplated hereunder in compliance with all Applicable Regulations.
- III.3 The entering into and performance of this Agreement does not violate, or constitute a breach under (i) its bylaws, deed of incorporation or any other organizational documents; (ii) any agreement, contract, license or permit to which the Buyer is a party or by which the Buyer is bound; or (iii) any law, regulation, circular, order or decree of any Governmental Authority; and
- III.4 The individual executing this Agreement on its behalf has sufficient power and authority to validly execute and deliver this Agreement and to validly bind the Buyer under the terms herein, as evidenced through the Official Transcript of Power of Attorney N° 168/2008 dated September 12, 2008 issued before Notary Public N° 045 of Judicial District of La Paz, and that such powers, authority and authorizations have not been revoked, modified or limited in any manner.

**NOW THEREFORE**, in consideration of the representations and warranties set forth above, and the terms and conditions set forth hereunder, the Parties covenant and agree as follows:

**SECTIONS**

**1 DEFINITIONS**

As used in this Agreement, the following terms shall have the meanings set forth below:

- 1.1 **Affiliate** means any company, partnership, joint venture, or entity Controlled by, Controlling, or under common Control with a Party hereto.
- 1.2 **Agreement** means this Sale and Purchase Agreement of Oxide Materials together with its Annexes, as they are amended and restated, supplemented or otherwise modified from time to time.

- 1.3 Annex or Annexes** means any or all of the Annexes attached hereto, incorporated herein by reference and which are an integral part of this Agreement.
- 1.1 Applicable Regulation** means all applicable laws, treaties, regulations, administrative provisions, decrees, ordinances, resolutions, judgments, administrative orders and any other rules, guidelines or decisions of any nature issued by any Governmental Authority of competent jurisdiction.
- 1.2 Approved Cut-Off Grade** means with respect to the Oxide Minerals of the PACA Project the cut-off approved, from time to time, by the Buyer at its entire discretion.
- 1.3 Authorizations** has the meaning ascribed to such term in Section [12].
- 1.4 Business Day** shall mean a Day other than a Saturday, Sunday, a holiday according to the Law of Bolivia or Canada and any other Day on which banks located in Bolivia are authorized or obligated to close under Applicable Law.
- 1.5 Control** shall mean the ability to direct the management and policies of a Person through ownership of voting shares or other equity rights, pursuant to a written agreement, or otherwise. The terms “Controls”, “Controlling” and “Controlled by” and other derivatives shall be construed accordingly.
- 1.6 Day** shall mean the twenty-four (24) hours beginning at 00:00 a.m. La Paz City Time on a given day and ending at 23:59 p.m. La Paz City Time.
- 1.7 Delivery Volume** shall mean the volume of Products from the PACA Project as per the requirements of quantity made by Buyer to the Sellers in a given Delivery Period.
- 1.8 Delivery Period** means each calendar month.
- 1.9 Delivery Point** means the scale station in the Facility specified in this Agreement, where the transfer of ownership and physical delivery of the Products shall take place.
- 1.10 Effective Date** has the meaning given in the preamble.
- 1.11 Facility** means San Bartolomé Processing Plant owned by Buyer which has the necessary infrastructure, capacity, equipment, and personnel to receive the corresponding Contractual Volumes to be delivered by the Sellers.
- 1.12 Governmental Authority** means any national, federal, state, regional or local government, or other political subdivision thereof with jurisdiction in the Plurinational State of Bolivia or otherwise with respect to the Agreement and/or the Parties and any Person with jurisdiction in the State or otherwise with respect to the Agreement and/or the Parties that exercises executive, legislative, judicial, regulatory or administrative functions of or pertaining to government or quasi-governmental issues (including any court).
- 1.13 Material Adverse Effect** means any acts, omissions, conducts, occurrences, conditions, situations, facts or circumstances, or any combination thereof, if the same have resulted or could reasonably be expected to result in an adverse effect upon the ownership, business, financial condition or operation of, or any losses or diminution of value of, this Agreement

having a value or in an amount, in the aggregate, in excess of \$200,000.00 (Two Hundred Thousand Dollars).

- 1.14 Mining SubContractors** companies contracted by the Sellers that will perform mining of the Products in the PACA Project, transportation of the Products from PACA Project to the Facility, build and maintain infrastructure to support above referenced mining and transport, assist with obtention and the maintenance of all the permits required to develop PACA Project, the foregoing pursuant the Mining Plan.
- 1.15 Minin Plan** means the mining plan of the PACA Project that will be prepared for the mining of the Products, which shall be acceptable by both Parties.
- 1.16 Month** means a period commencing at 00:00 AM La Paz, Bolivia Time of the first Day of a calendar month and ending at 23:59 PM La Paz, Bolivia Time on the last Day of such calendar month.
- 1.17 Operating Expenses** shall include all costs of Mining SubContractors, plant and equipment, social services, environmental measurements and works, infrastructure improvements (such as access, and utilities), parts and consumables (such as fuel), royalties/fees/taxes (including VAT), legal, revenue and volume measure and audit, safety, and quality control, and supervisory support, and other activities directly required to develop and operate the PACA Project pursuant the Mining Plan and transportation of Products to fulfill Threshold Tonnage.
- 1.18 Other Expenses** shall include all amounts required to pay all (including legal, technical, and environmental and regulatory) services engaged specifically for the obtaining all necessary licenses, approvals, insurance required for extraction, transportation and ore treatment of the Products for the PACA Project as per the Mining Plan, and all costs incurred by the Sellers and Silver Elephant Mining Corp. (“Silver Elephant”) in connection with the escrow agreement entered into among Silver Elephant, Andean Precious Metals, Corp (“Andean”). and Olympia Trust Corporation.
- 1.19 Products** means all the oxidized materials from the PACA Project with an Approved Cut-Off Grade.
- 1.20 PACA Project, or Project:** Outlined in Exhibit A, and described as Paca Deposit in the Technical Report dated November 17, 2020 and entitled ““Mineral Resource Estimate Technical Report for the Pulacayo Project, Potosí Department, Anttonio Quijarro Province, Bolivia”, prepared by Matthew Harrington, P. Geo, Michael Cullen, P. Geo, and Osvaldo Arcé, P. Geo.
- 1.21 Person** means any individual, corporation, company, partnership, limited partnership, limited liability company, trust, estate, Governmental Authority or any other entity.
- 1.22 Price** means the consideration payable by Buyer to Sellers in exchange for the Products pursuant the price formula set forth in Annex “1” of this Agreement.

## **SECTION 2. AUTHORIZED REPRESENTATIVE**

- 2.1 Each Party shall appoint an authorized representative, who shall be responsible for the administration, supervision and coordination of the Parties' activities under this Agreement ("**Authorized Representative**").
- 2.2 Each Authorized Representative shall have the necessary legal authority to commit the Party it represents to any matters arising under or relating to this Agreement and, subject to any delegation of such authority, shall be responsible for issuing and receiving all notices, information and instructions.
- 2.3 Buyer and Sellers may change their Authorized Representative at any time by providing written notice of such change to the other Party.

## **SECTION 3. VOLUME**

- 3.1 During the term of this Agreement, and subject to the terms and conditions hereof, Sellers agree to sell and deliver to Buyer, and Buyer agrees to receive and purchase from Seller, Products from the Project up to a maximum amount of 800,000 tons of Products (the "**Threshold Tonnage**").
- 3.2 Buyer shall not be obligated to purchase any Product with a cut-off grade below the Approved Cut-Off Grade.
- 3.3 Buyer is to make a written delivery request to the Sellers which specifies Approved Cut-Off Grade and Delivery Volume to purchase for the forth coming Delivery Period ("**Delivery Request**"), 14 days before the start of each Delivery Period, provided that in the event the Sellers are unable to fulfill a Delivery Request for a Delivery Period due to weather and natural causes, political, social, environmental force majeure, Mining Subcontractor breach, or otherwise, in such event the Buyer by default will accept the Product Delivery in the following Delivery Period, or cancel any outstanding unfulfilled Delivery Request by providing Sellers a 20 day written notice. The Buyer will remain responsible for Operating Expenses and Other Expenses, and any additional expenses incurred as the result of a cancellation of a Delivery Request. Seller will make reasonable commercial efforts to fulfil a Delivery Request within the Delivery Period.
- 3.4 **Expenses.** Prior to the beginning of each Delivery Period, the Sellers along with the Mining SubContractor and advisors will estimate the Operating Expenses and Other Expenses (the "**Required Monthly Expenses**") for each Delivery Period, 7 (seven) days before the start of each Delivery Period and shall provide written notice to the Buyer of this amount and the particulars thereof. The Buyer agrees to top-up on a monthly basis the Security Deposit before the start of each Delivery Period which shall be for at least an amount equal to the Required Monthly Expenses of such Delivery Period. The Sellers shall utilize the Security

Deposit, in case the Buyer has not paid in time the Purchase Price of the Products of such Delivery Period.

- 3.5 Quality Tests.** Quality Tests will be performed in the Facility by Buyer in batches, for which Buyer will designate the necessary personnel for the reception, arrangement and identification of these batches and their corresponding sampling. Sellers will have the right to have a representative witness the corresponding sampling and to collect a sample for their own analysis. Duplicate batch samples are retained by Sellers, in case Sellers disagree with the Quality Tests results at the Facility, parties agree to test the batch samples at an agreed independent lab and abide by the independent lab results.
- 3.6 Measurement.** The Measurement of the Products delivered during each Delivery Period shall be carried out by Sellers leaving the PACA Project and by Buyer on the scales certified by IBMETRO that are installed in the Facility. The Parties agree that the Measurement of the Products carried out by Sellers at the PACA Project by a weight bridge as part of Operating Expense. The Parties agree that any measurement difference, that is equal or exceeds the amount of \$10,000.00 USD, must be resolved within five (05) Business after the relevant claim is made, provided that, the purchase of the Products will not be suspended, if the differences are properly guaranteed by the Buyer by increasing the Security Deposit within such five (05) period. Copy of the weighing logs will be delivered to each Party daily, and the originals will be kept by the Party conducting the measurement, as applicable. The Parties shall keep the documents related to the measurement of the Products for a period of two (2) Years. The Sellers have the right to request, at their own cost (reimbursed if Buyer scale is incorrect), an independent certification of the Buyer's scales by an authorized party.
- 3.7 Delivery Receipts.** Sellers and Buyer shall sign on daily and monthly basis the delivery receipts of the Delivery Volume as per the terms and conditions of this Agreement.
- 3.8 Delivery Point – Title and Risk of Loss.** Sellers will deliver to Buyer, who will receive the ownership of the Products at the Delivery Point. Sellers will assume all the risks for loss, as well as the risks and liabilities for the management of the Delivery Volume before the Delivery Point.
- 3.9 General.** Sellers warrants good title to the Delivery Volume delivered hereunder and agrees to indemnify and hold harmless Buyer from and against any and all loss, claim or demand by reason of any failure of such title to such Delivery Volume or failure or breach of this warranty. Title to, possession and risk of loss of the Delivery Volume shall, pass to Buyer as such Products are delivered and accepted at the Delivery Point under this Agreement.
- 3.10** During the Term of this Agreement, the Sellers covenant and agree:

- (i) to provide Buyer and the Mining Subcontractors, provided that each of such parties has the requisite approvals, insurance and bonding needed, with access to the PACA Project mining area, in accordance with standard mining practices and under a 24 hour / 7 day per-week basis as permitted by Applicable Law;
- (a) use commercially reasonable efforts to permit the Mining Subcontractors to perform its services and Buyer to exercise its right to purchase the Products under this Agreement as provided in this Agreement, in both cases without material intrusion or disruption as a result of any exploration or development activities undertaken or proposed to be undertaken by the Sellers (or any subcontractors on behalf of such Parties) on the PACA Project mining areas in compliance with Applicable Law;
- (b) to not terminate any of the agreements with the Mining Subcontractors and any legal advisors without the prior written approval of the Buyer, which approval shall not be unreasonably withheld;
- (c) to allow the Buyer, upon the execution of this Agreement to purchase and obtain from the PACA Project all Products as part of Threshold Tonnage that are allowed under the environmental permits.

#### **SECTION 4. PRICE & SECURITY DEPOSIT**

- 4.1 The Price of the Products shall be determined pursuant to **Annex 1** of this Agreement.
- 4.2 The Parties agree that the Buyer shall provide to the Sellers a security deposit for an amount equal to the Required Monthly Expenses, provided that such amount shall in no event be less than a minimum amount of \$150,000, of which \$50,000 is payable 10 (ten) days after the Effective Date and remainder at least 1 (one) month prior to the commencement of the delivery of the Products to the Buyer (the “**Security Deposit**”). The Security Deposit shall be returned by Sellers to the Buyer within 10 (ten) Days following termination of the Agreement, upon receipt of Buyer’s written request, and the Sellers shall have the right to apply such Security Deposit for the payment of any invoice due and not paid by the Buyer under this Agreement. The Buyer agrees to top-up Security Deposit as per the terms set forth in Section 3.4 above.

#### **SECTION 5. INVOICING**

- 5.1 The Products delivered during a Delivery Period shall be settled on the fifth (5<sup>th</sup>) day of the month following the Delivery Period (or if the 5<sup>th</sup> is not a Business Day, the next succeeding Business Day) (the “**Settlement Date**”).
- 5.2 The Price shall be determined in accordance with the price formulas set forth in **Annex 1**.

- 5.3 Sellers shall send the corresponding consolidated invoices to Buyer within 3 (three) Business Days after the Settlement Date. Invoices shall be sent by email, must comply with all Applicable Regulations, and shall include the Delivery Volume, Total Purchase Price, Product Sales Price per ton, and any requirements issued by any Governmental Authorities.
- 5.4 The Parties acknowledge and agree that Buyer shall pay the Total Purchase Price, in US Dollars by wire transfer to the bank account set forth in Section 5.5, within the following 7 (seven) Business Days after receipt of the relevant Invoices.
- 5.5 All amounts due and payable to Sellers pursuant to this Agreement shall be paid in US Dollars by wire transfer to the following account or any other account that Sellers may notify to Buyer from time to time:

APOGEE:

Name of Bank: [REDACTED]  
Beneficiary's Name: [REDACTED]  
Account Number: [REDACTED] *"redacted - personal banking information"*  
SWIFT Code: [REDACTED]  
:

ASC BOLIVIA:

Name of Bank: [REDACTED]  
Beneficiary's Name: [REDACTED]  
Account Number: [REDACTED] *"redacted - personal banking information"*  
SWIFT Code: [REDACTED]

In the event an error is discovered or there is a disputed charge in the amount contained in any invoice rendered by Seller, Buyer shall (a) provide written notice of claim to Seller, including the facts on which the claim is based and all documentation in support of the claim, and (b) make timely payment of all undisputed amounts due to Sellers. The Parties shall use good faith efforts to resolve the disputed amounts fifteen (15) Days following delivery of claim notice by Buyer. Any amounts subsequently resolved shall be due and payable within five (5) Business Days following such resolution. If the Parties are unable to resolve the dispute within the fifteen (15) Day period set forth above (or such longer period as the Parties mutually agree), either Party may submit the dispute to be resolved by an Independent Inspector as set forth in [Section 17].

- 5.6 Each Party, upon three (3) Business Days written notice to the other Party, may during the Party's regular office hours examine, at the offices of the other Party, the books and records of the other Party that pertain to the basis of payment and deliveries made hereunder. Any such examination shall be completed within five (5) Business Days after

the other Party's relevant books and records have been made available to the Party conducting the audit. Within five (5) Business Days following the completion of the examination, the Party conducting the examination shall provide the other Party a copy of the audit report. Each Party agrees to keep records and books of the account in accordance with generally accepted accounting principles and practices in the industry. If an examination discloses an error in any invoiced amount under this Agreement, then the Party conducting the audit shall, within thirty (30) Days following completion of the examination relating to the affected invoice, provide written notice to the other Party describing the error and providing a copy of the audit report and supporting documentation. Promptly after the other Party's receipt of such written notice, the Parties shall commence discussions regarding such error in order to expeditiously, and in good faith, achieve resolution of such dispute.

## **SECTION 6. TERM**

- 6.1 Unless earlier terminated in accordance with the provisions of this Agreement, the term (the "**Term**") of this Contract shall commence on the Effective Date and shall continue until January 31, 2029.

## **SECTION 7. EVENTS OF DEFAULT**

- 7.1 In the event a Party fails to fulfill or perform any of its obligations as outlined under this Agreement, the non-defaulting Party shall (a) notify the defaulting Party in writing, the causes of such Event of Default, and (b) will have the right, but not the obligation, to suspend, withhold or refuse the purchase and/or sale of Products and the completion of ongoing transactions, as well as additional transactions, until the Defaults are cured/rectified.
- 7.2 If the defaulting Party fails to cure the Event of Default within sixty (60) Days after receipt of aforementioned notice, then the non-defaulting Party shall have the right, but not the obligation, to terminate this Agreement subject to the terms set forth in this Section 7.
- 7.3 An "**Event of Default**" will be deemed to occur upon one or more of the following events:
- (A) Events attributable to the Buyer:
- 1) Buyer fails to make a payment for more than ten (10) Days after such payment became due as set forth in this Agreement;
  - 2) Buyer fails to perform or repudiates any material obligation, or breaches any representation, warranty or covenant in any material respect, under this Agreement;
- provided in the case of (A)(1), (A)(2), such breach, failure to perform or repudiation is not a result of an Event of Default by the Seller, the community for causes not attributable to the Buyer neither the Mining Subcontractors, social, political, or an event of force majeure.

(B) Events attributable to Sellers:

- 1) Sellers fail to perform or repudiate any material obligation, or breaches any representation, warranty or covenant in any material respect, under this Agreement;
- 2) Sellers fail to have all necessary permits or authorizations as required under Applicable Regulations to conduct the transactions as contemplated in this Agreement;

provided in the case of (B)(1), and B(2), such breach, failure to perform or repudiation is not a result of an Event of Default by the Buyer, the acts or omissions of a Mining Subcontractor, the community, social, political, or an event of force majeure.

- 7.4 The Parties agree that this Agreement may be terminated without penalty and without judicial or arbitral declaration, by no fault and by mutual agreement with the prior written consent of the Parties.
- 7.5 Buyer has the right to terminate this Agreement, at its discretion without penalty and without judicial or arbitral declaration, by providing a 30 (thirty) days prior written notice to the Sellers.
- 7.6 If a non-defaulting Party exercises its right to unilaterally terminate this Agreement following the defaulting Party's failure to cure the Event of Default as provided in Section 7.3, this Agreement shall terminate upon delivery of the termination notice to the defaulting Party. Notwithstanding anything to the contrary hereunder, termination for breach shall not relieve the Parties from compliance with any obligations or payments which accrued prior to the termination date, and compliance with those obligations which, by their nature, shall be fulfilled after termination.
- 7.6 Each Party's rights under this Section 7 are in addition to, and not in limitation or exclusion of, any rights of setoff, recoupment, combination of accounts, liens or rights to damages, which it may have whether by agreement, operation of law or otherwise. No delay or failure by a Party to exercise any right or remedy shall constitute a waiver of such right or remedy at any time after an Event of Default has occurred or is continuing.

## **SECTION 8. CONFIDENTIALITY**

- 8.1 The Parties agree that this Agreement and any technical, operational, legal, administrative, accounting, or financial information that has been developed and is related directly or indirectly to this Agreement shall be considered "**Confidential Information**".
- 8.2 The Parties, their Affiliates, subsidiaries, branches, directors, officers, agents or employees who have access to the information of each Party shall consider and keep the Confidential Information provided by the other Party for the execution and performance of this Agreement as confidential, and may not disclose it, use it or reproduce it in whole or in

part for purposes other than those specified in this Agreement without the prior written consent of the other Party. The Parties agree that they shall not disclose any Confidential Information to any Person other than to its employees, contractors or subcontractors who require such Confidential Information in order to perform any part of the services or an obligation under this Agreement without the prior written consent of the other Party.

- 8.3 Each Party agrees that the obligations contained in this Section 8 shall be strictly enforced as to its respective personnel, contractors and subcontractors. Each Party shall take all necessary measures to ensure that its personnel, contractors and subcontractors keep such the Confidential Information in confidence, including without limitation, the establishment of procedures and the signing of contracts or agreements to ensure its confidentiality, preventing its disclosure to any unauthorized Persons, and establishing measures and remedies for any breaches thereunder.
- 8.4 Notwithstanding the provisions of this Section 8, the obligation of confidentiality shall not apply to any information: (a) which, through no fault of a Party, becomes a part of the public domain, (b) that has been obtained prior to its disclosure without violating any confidentiality obligation, (c) obtained from third parties entitled to disclose it without violating a confidentiality obligation, (d) that must be furnished in compliance with Applicable Regulations, or pursuant to any legal proceedings or because of any order of any Governmental Authority binding upon a Party, (e) that must be provided to a bank or other financial institution to the extent appropriate to a Party arranging for funding, and (f) that must be disclosed pursuant to any rules or requirements of any stock exchange having jurisdiction over such Party or its Affiliates.
- 8.5 Confidentiality obligations contained in this Section 8 shall continue in effect for a period of five (5) years following the termination date of the Agreement.

## **SECTION 9. INTERPRETATION**

- 9.1 The captions in this Agreement are for convenience only and shall not be considered a part of, or affect the construction or interpretation of, any provision of this Agreement.
- 9.2 As used in this Agreement, unless the context otherwise requires, the term “includes” and its syntactical variants means “includes but is not limited to.”
- 9.3 Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not be construed more severely against one of the Parties than against the other.
- 9.4 The words “hereof,” “herein” and “hereunder” and words of similar import when used in any agreement or instrument shall refer to such agreement or instrument as a whole and not to any particular provision of such agreement or instrument.

- 9.5 All references herein to “Sections” in this Agreement shall refer to the corresponding Section of this Agreement unless specific reference is made to such Sections of another document or instrument.
- 9.6 As used in this Agreement, references to the singular includes the plural, and vice versa, unless the context requires otherwise.
- 9.7 As used in this Agreement, references to any Annex mean an Annex to this Agreement, all of which are incorporated into, and made a part of, this Agreement.

## **SECTION 10. AMENDMENTS**

- 10.1 This Agreement may be amended only by an instrument in writing executed by all Parties.

## **SECTION 11. ASSIGNMENT**

- 11.1 The Agreement shall extend to and be binding upon the successors and assignees of the Parties, but neither Party shall assign its rights or obligations under the Agreement, in whole or in part, directly or indirectly, without the prior written consent of the other Party, including whether by operation of law, merger or otherwise; provided, however, that Buyer shall be free to assign this Agreement to an Affiliate which is capable of performing the obligations of Buyer hereunder, including receipt and payment for the Products.
- 11.2 Any assignment made in violation of this Section 11 shall be null and void.
- 11.3 Unless otherwise agreed by the Parties, if consent for an assignment is given, the assignor shall remain jointly and severally liable with the assignee for the full performance of its obligations under the Agreement.

## **SECTION 12. NEW OR AMENDED REGULATIONS**

- 12.1 Sellers and Buyer are entering into this Agreement relying upon (a) the Applicable Regulations in effect as at the Effective Date, and (b) any applicable agreements, arrangements, permits and authorizations entered into or granted by the Governmental Authorities in effect as at the Effective Date (“**Authorizations**”).

## **SECTION 13. MISCELLANEOUS**

- 13.1 **Severability.** If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by Applicable Regulations or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby

is not affected in any adverse manner to either Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

#### **SECTION 14. ENTIRE AGREEMENT**

- 14.1 This Agreement sets forth the entire understanding and agreement between the Parties as to the subject matter hereof and supersedes any prior understanding, agreement, or statement (written or oral) of intent among the Parties with respect to the subject matter hereof. No supplement, amendment, alteration, modification, waiver, or termination of this Agreement shall be binding unless executed in writing by the Parties and specifically referencing this Agreement as being supplemented, amended, altered, modified, waived, or terminated.
- 14.2 No waiver of any of the provisions of this Agreement or rights hereunder shall be deemed or shall constitute a waiver of any other provisions hereof or right hereunder (whether similar or not), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

#### **SECTION 15. THIRD PARTY BENEFICIARIES**

- 15.1 Except with respect to the Persons included within the definition of Sellers' Indemnified Parties or Buyer' Indemnified Parties (and in such cases, only to the extent expressly provided herein), nothing in this Agreement shall provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind, it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

#### **SECTION 16. NOTICES**

- 16.1 Notices. Except as otherwise provided in this Agreement, all notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given (a) when personally delivered, (b) if transmitted by electronic mail (unless if transmitted after 5:00 p.m. La Paz City time or other than on a Business Day, then on the next Business Day), when the recipient transmits a manual written acknowledgment of successful receipt (which the recipient shall have an affirmative duty to furnish promptly after successful receipt), or (c) if sent by internationally-recognized courier in which case it shall be deemed to have been given at the time of actual recorded delivery. The address and other contact details for the Parties are as shown below:

**Sellers:** Address: Calacoto, Av. Inofuentes No. 1640 La Paz, Bolivia

Email: [REDACTED] "redacted - personal contact information"  
Attention: Gustavo Miranda

With a copy to: Senior Management  
Email: [REDACTED] "redacted - personal contact information"  
Attention: John Lee

**Buyer:** EMPRESA MINERA MANQUIRI, S.A.  
Address: Km. 3. Carretera a Tariia. Potosí, Bolivia  
Email: [REDACTED] "redacted - personal contact information"  
Attention: Humberto Rada Gomez

With a copy to: Senior Management  
Email: [REDACTED] "redacted - personal contact information"  
Attention: Juan Carlos Sandoval Amare  
Email: [REDACTED] "redacted - personal contact information"  
Attention: Federico Gil Chaveznava

16.1 Changes to Notice Information. Notice addresses may be changed upon notice at least ten (10) Days in advance of the effective date of the change. The Parties may from time to time designate other individuals and points of contact for management of accounting, payment and scheduling matters.

## **SECTION 17. GOVERNING LAW AND DISPUTE RESOLUTION**

17.1 This Agreement and any non-contractual rights or obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of the Plurinational State of Bolivia.

17.2 Subject to Section 3.6, either Party may submit a dispute relating to an invoice, quality and measurements of Delivery Volume and other related matters to be resolved by an Independent Inspector selected by mutual agreement of the Sellers and Buyer. Sellers and Buyer shall instruct the Independent Inspector to (a) focus solely on the items that are in dispute, (b) make a final determination based only on the terms and conditions of this Agreement, the Applicable Regulations and the evidence presented by each Party, and (c) use commercially reasonable efforts to complete its work within thirty (30) Days following its engagement, provided that any dispute regarding measurement under section 3.6 must be resolved within five days after the relevant claim is made. The determination of the Independent Inspector shall be final and binding on the Parties, without right of appeal. The fees, costs and expenses of the Independent Inspector shall be borne solely by the Party that submitted the dispute to the Independent Inspector.

- 17.3 Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, which has not been settled amicably by mutual agreement of the Parties within fourteen (14) Days following delivery of a dispute written notice shall be exclusively referred to and finally resolved by arbitration under the *Arbitration Act* (British Columbia) or any successor legislation in effect at the time of the arbitration.. As used in this Section 17.3, the term “dispute” shall be construed broadly to include any dispute, controversy, claim or difference of whatever nature arising out of, relating to, or having any connection with, this Agreement, including a dispute regarding the existence, formation, validity, interpretation, performance or termination of this Agreement or the consequences of its nullity, and also including any dispute relating to non-contractual rights or obligations arising out of, relating to, or having any connection with this Agreement. Notwithstanding the foregoing, this Section 17.3 shall not apply to matters that are to be resolved by the Independent Inspector pursuant to Section 17.2.
- 17.4 APPOINTMENT OF ARBITRATOR. A party desiring arbitration hereunder, being either the Sellers or the Buyer, shall give written notice of arbitration to the other party containing a concise description of the matter submitted for arbitration ("**Notice of Arbitration**"). Within 10 days after a party gives a Notice of Arbitration, the parties shall jointly appoint a single arbitrator (the "**Arbitrator**"). If the Parties fail to appoint an Arbitrator within such time, an Arbitrator shall be designated by a judge of the Supreme Court of British Columbia upon application by either party.
- 17.5 POWERS OF ARBITRATOR. The Arbitrator may determine all questions of law, fact and jurisdiction with respect to the dispute or the arbitration (including questions as to whether a dispute is arbitrable) and all matters of procedure relating to the arbitration. The Arbitrator may grant legal and equitable relief (including injunctive relief), award costs (including legal fees and the costs of the arbitration), and award interest and, without limiting the generality of the foregoing or the Arbitrator's jurisdiction at law, may:
- 17.5.1 determine any question of good faith, dishonesty or fraud arising in the dispute;
  - 17.5.2 order any party to furnish further details of that party's case, in fact or in law;
  - 17.5.3 proceed in the arbitration notwithstanding the failure or refusal of any party to comply with this Section 17 or with the Arbitrator's orders or directions, or to attend any meeting or hearing, but only after giving that party written notice that the Arbitrator intends to do so;
  - 17.5.4 receive and take into account written or oral evidence tendered by the parties that the Arbitrator determines is relevant, whether or not strictly admissible in law;
  - 17.5.5 make one or more interlocutory determinations and/or interim awards;
  - 17.5.6 hold meetings and hearings, and make a decision (including a final decision) in Ontario (or elsewhere with the concurrence of the parties to the arbitration);

- 17.5.7 order the parties to produce to the Arbitrator, and to each other for inspection, and to supply copies of, any documents or classes of documents in their possession or power that the Arbitrator determines to be relevant;
- 17.5.8 order the preservation, storage, sale or other disposal of any property or thing under the control of any of the parties; and
- 17.5.9 make interim orders to secure all or part of any amount in dispute in the arbitration.
- 17.6 ARBITRATION PROCEDURE. The arbitration shall take place in the City of Vancouver at such place therein and time as the Arbitrator may fix. The arbitration shall be conducted in English. Within 20 days of the appointment of the Arbitrator, the Parties shall either agree on the procedure to be followed for the arbitration or the Arbitrator shall determine the appropriate procedure, in accordance with the principles of natural justice, to be followed. It is agreed that the arbitration and all matters arising directly or indirectly (including all documents exchanged, the evidence and the award) shall be kept strictly confidential by the parties and shall not be disclosed to any third party except as may be compelled by law.
- 17.7 ARBITRATOR'S DECISION. No later than 20 Business Days after hearing the representations and evidence of the parties, the Arbitrator shall make his or her determination in writing and deliver one copy to each of the parties. The decision of the Arbitrator shall be final and binding upon the parties in respect of all matters relating to the arbitration, the conduct of the parties during the proceedings, and the final determination of the issues in the arbitration.
- 17.8 AWARDS AND APPEAL. There shall be no appeal from the determination of the Arbitrator to any court. Judgement upon any award rendered by the Arbitrator may be entered in any court having jurisdiction thereof.
- 17.9 COSTS OF ARBITRATION. The costs of any arbitration hereunder shall be borne by the parties in the manner specified by the Arbitrator in his or her determination.

## **SECTION 18. COUNTERPARTS**

- 18.1 This Agreement may be executed in one or more counterparts (including by means of signature page delivery by electronic transmission in portable document format (.pdf), all of which taken together shall constitute one and the same instrument. This Agreement to the extent signed and delivered by means of a facsimile machine or electronic transmission in portable document format (.pdf), shall be treated in all manner and respects as an original instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

**INTENDING TO BE LEGALLY BOUND**, the Parties have executed this Agreement through their duly authorized representatives.

**EMPRESA MINERA MANQUIRI, S.A.**

By: Humberto Rada Gómez  
Title: Legal Representative

**APOGEE MINERALS BOLIVIA, S.A.**

By: Gustavo Adolfo Miranda Pinaya  
Title: Executive President

**ASC BOLIVIA LDC SUCURSAL BOLIVIA, S.A.**

By: Gustavo Adolfo Miranda Pinaya  
Title: Executive President

### **Annex 1 – Price Formula**

“**Price**” for the Products delivered during a Delivery Period shall be, per Tons of Products, for each month M (delivery month) equal to A divided by B

#### **Total Purchase Price**

A = Total Operating Expenses and Other Expenses incurred by the Sellers for the Delivery Period, excluding the Operating Expenses and Other Expenses already paid or reimbursed by Buyer to Seller, pursuant the terms set forth in Section 3.3. of the Agreement,

B = Delivery Volume to Buyer during the Delivery Period, computed in Tons;

EXHIBIT "A"

Mining Production Contract

<b>Parties</b>	<b>Date of Contract</b>	<b>Term of the Contract</b>	<b>Mining Areas</b>	<b>ID Number</b>	<b>Size of Mining Areas</b>
Bolivian Mining Corporation COMIBOL	October/2/2019	15 years renewable for another 15 years	Temeridad Real del Monte	1281 1312	10 Has. 24 Has.
Apogee Minerals Bolivia S.A.					

Administrative Mining Contract

<b>Parties</b>	<b>Date of Contract</b>	<b>Term of the Contract</b>	<b>Mining Areas</b>	<b>ID Number</b>	<b>Size of Mining Areas</b>
Autoridad Jurisdiccional Administrativa Minera AJAM	January/9/2020	30 years	Apuradita	150046	750 Has.
ASC Bolivia LDC Sucursal Bolivia					

**EXHIBIT “E”  
ESCROW AGREEMENT**

(see attached.)

## ESCROW AGREEMENT

THIS ESCROW AGREEMENT (the “**Agreement**”) is made as of the 11<sup>th</sup> day of September, 2023.

### BETWEEN:

**SILVER ELEPHANT MINING CORP.**, a corporation existing under the laws of the Province of British Columbia

(“**Silver Elephant**”)

### AND:

**ANDEAN PRECIOUS METALS CORP.**, a corporation existing under the laws of the Province of British Columbia

(“**Andean**”)

### AND:

**ODYSSEY TRUST COMPANY**, a company continued under the laws of Canada with an office in the City of Vancouver, in the Province of British Columbia

(the “**Escrow Agent**”)

### RECITALS:

- A. Silver Elephant and Andean are parties to a master agreement between dated September 11<sup>th</sup>, 2023 (the “**Master Agreement**”) between Silver Elephant, Apogee Minerals Bolivia S.A., ASC Bolivia LDC (“**ASC**”), ASC Holdings Limited (“**ASC Holdings**”), Illumina Silver Mining Corp. (“**Illumina**”, and together with the foregoing, the “**Silver Elephant Entities**”), Empresa Minera Manquiri, S.A and Andean pursuant to which, *inter alia*, Andean acquired certain rights from Silver Elephant with respect to oxide ores extracted from Silver Elephant’s Paca Silver Project located in Bolivia.
- B. Pursuant to the terms of the Master Agreement, Silver Elephant has agreed not to sell, assign, option or transfer any interests held by the Silver Elephant Entities in the shares or other evidences of ownership of such entities listed in Schedule “B” hereto, and place such evidences of ownership and/or other instruments listed in Schedule “B” hereto (together, the “**Escrowed Assets**”) in escrow with the Escrow Agent, to be released in accordance with the terms and conditions herein.
- C. Silver Elephant and Andean have requested that the Escrow Agent act as escrow agent in connection with the escrow of the Escrowed Assets and in accordance with the terms of this Agreement.

**NOW THEREFORE** in consideration of the premises and mutual representations, warranties, covenants and agreements hereinafter set forth and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), Silver Elephant, Andean, and the Escrow Agent (each, a “**Party**”, and two or more being, “**Parties**”) hereby agree as follows:

#### 1. Interpretation

- (a) Capitalized terms used in this Agreement, including the recitals hereto, and not defined shall have the meanings given to such terms in the Master Agreement.
- (b) The headings have been inserted for convenience of reference only and in no way define, limit, or enlarge the scope or meaning of the provisions of this Agreement.

- (c) All references to any Party, whether a Party to this Agreement or not, will be read with such changes in number and gender as the context or reference requires.
- (d) When the context hereof makes it possible, the word “person” includes in its meaning any firm and any body corporate or politic.

## **2. Appointment of Escrow Agent**

Silver Elephant and Andean hereby appoint the Escrow Agent to act as the escrow agent in accordance with the terms and conditions of this Agreement, and the Escrow Agent hereby agrees to act in accordance with the terms and conditions of this Agreement. For the purposes of this Agreement, all references herein to “Escrow Agent” will mean Odyssey Trust Company acting in the capacity of escrow agent hereunder or any other person that replaces Odyssey Trust Company as escrow agent hereunder pursuant to the provisions hereof.

## **3. Deposit of Escrow Shares**

- (a) The Parties agree that the Escrowed Assets will be delivered directly to the Escrow Agent to be deposited into escrow and released in accordance with the terms of this Escrow Agreement. The Escrowed Shares shall be accompanied by duly endorsed transfers and powers of attorney in blank executed by Silver Elephant, ILLUMINA, ASC and ASC Holding Limited, as the case may be, which shall be deemed to be included in the definition of Escrowed Assets.
- (b) The Escrow Agent will accept the Escrowed Assets upon their delivery and will hold them and administer them in accordance with the provisions of this Agreement.

## **4. Escrow Release**

- (a) The Escrow Agent shall not release any of the Escrowed Assets until the earlier of:
  - (i) the Escrow Agent receives a joint written notice from Silver Elephant and Andean to release the Escrowed Assets (or any portion thereof) in the form set out in Schedule “A” attached hereto (each, a “**Release Notice**”); or
  - (ii) the Escrow Agent receives a written direction or decision of a duly appointed arbitrator or court of competent jurisdiction in each case pursuant to the dispute resolution mechanisms provided for in the Master Agreement directing the Escrow Agent to release the Escrowed Assets (each, a “**Direction**”).
- (b) Upon receipt of such Release Notice or Direction, as applicable, the Escrow Agent shall be entitled to and shall deliver such Escrowed Assets as so directed.

## **5. Rights of Escrow Agent**

The acceptance by the Escrow Agent of its duties and obligations under this Agreement is subject to the following terms and conditions, which shall govern and control the rights, duties, liabilities and immunities of the Escrow Agent:

- (a) the Escrow Agent shall be entitled to act and rely upon (and shall not be liable for so acting and relying upon) any resolution, affidavit, direction, notice, request, waiver, consent, receipt, declaration, certificate, receipt, opinion, report, statement or other paper or document purported to be delivered pursuant to this Agreement and shall not be required to inquire as to the veracity, accuracy or adequacy thereof or be bound by any notice or direction to the contrary by any person other than a person entitled to give such notice;
- (b) the Escrow Agent shall not be required to make any determination or decision with respect to the validity of any claim made by any party or of any denial thereof but shall be entitled to rely

conclusively on the terms hereof and the documents tendered to it in accordance with the terms hereof;

- (c) the Escrow Agent shall have no duties except those which are expressly set forth herein. It is understood and agreed that the Escrow Agent is not acting as a trustee or in any fiduciary capacity, that the duties of the Escrow Agent hereunder are purely administrative in nature and it shall not be liable for any error of judgment, or for any act done or step taken or omitted by it in good faith, or for any mistake of fact or law, or for anything it may do or refrain from doing in connection herewith. Silver Elephant and Andean shall not hold the Escrow Agent liable for any loss or injury to them;
- (d) except for failure to comply with the terms of this Agreement, the Escrow Agent, its partners, associates, employees and agents shall incur no liabilities hereunder or in connection herewith for anything whatsoever and Silver Elephant and Andean hereby release the Escrow Agent from any actions, causes of action, claims, demands, damages, losses, costs, liabilities, penalties and expenses whatsoever, whether arising directly or indirectly, by way of statute, contract, tort or otherwise;
- (e) upon the Escrow Agent's delivery of the Escrowed Assets (or part thereof) in accordance with the provisions of this Agreement, the Escrow Agent shall be automatically and immediately released from all obligations under this Agreement to any party hereto and to any other person with respect to the Escrowed Assets (or such part that is delivered);
- (f) the Escrow Agent shall not be bound by any notice of a claim or demand with respect thereto, or any waiver, modification, amendment, termination or rescission of this Agreement, unless received by it in writing and signed by Silver Elephant and Andean and, if its duties herein are affected, unless it shall have given its prior written consent thereto;
- (g) the Escrow Agent shall have the right, if in its sole discretion it deems it necessary or desirable, to retain such independent counsel or other advisors as it reasonably may require for the purpose of discharging and/or determining its duties, obligations or rights hereunder, and may act and rely on the advice or opinion so obtained;
- (h) the Escrow Agent shall have the right, if in its sole discretion it deems it necessary or desirable, to seek advice and directions from a court of competent jurisdiction with respect to its duties and obligations hereunder;
- (i) the duties and obligations of the Escrow Agent shall at all times be subject to the orders or directions of a court of competent jurisdiction; and
- (j) the Escrow Agent is not a party to, and is not bound by, the Master Agreement and shall not, by reason of signing this Agreement, assume any responsibility or liability for any transaction or agreement between Silver Elephant and Andean, other than the performance of its obligations under this Agreement, notwithstanding any reference herein to such other transactions or agreements.

## **6. Interpleader**

The Escrow Agent may, in its sole discretion, deliver the Escrowed Assets into court by way of interpleader if any person, whether or not a party hereto, sues or threatens to sue the Escrow Agent in connection with the Escrowed Assets or the actions or omissions of any of the parties hereunder including the Escrow Agent or if the Escrow Agent is unable or unwilling to continue acting and there is no replacement under Section 7 within 30 days after the written notice of resignation in Section 7 or in the event of any disagreement or apparent disagreement between the parties hereto resulting in conflicting claims or demands with respect to the Escrowed Assets or if any of the parties hereto, including the Escrow Agent, are in or appear to be in disagreement about the interpretation of this Agreement or about the rights and obligations of the Escrow Agent or the propriety of an action contemplated by the Escrow Agent under this Agreement. Upon the

Escrow Agent making such delivery, the Escrow Agent shall be released from all its duties and obligations under this Agreement.

## **7. Resignation of Escrow Agent**

The Escrow Agent may at any time upon giving at least 30 days written notice to Silver Elephant and Andean, or such sooner time as may be agreed between the Parties, resign as Escrow Agent in favour of any person, firm or corporation named and agreed to by Silver Elephant and Andean within such 30 days or, failing such agreement, in favour of any corporate trustee licensed to do business in the province of British Columbia that the Escrow Agent may name in such notice which agrees in writing with the other parties hereto to be bound by this Agreement as Escrow Agent. The Escrow Agent will deliver the Escrowed Assets to the new escrow agent and shall then be released from all its duties and obligations under this Agreement but shall remain entitled to the benefit of Section 8.

## **8. Indemnification**

- (a) **Indemnity.** In consideration of the premises and of the Escrow Agent agreeing to act hereunder, Silver Elephant and Andean agree to save, defend and keep harmless and fully indemnify the Escrow Agent, its partners, associates, employees and agents, and their respective heirs, executors, administrators, successors and assigns, from and against all losses, costs, liabilities, charges, suits, demands, claims, damages (including consequential damages) and expenses of any nature which the Escrow Agent, its successors or assigns, may at any time hereafter bear, sustain, suffer or be put to for or by any reason of or on account of its acting as escrow agent or anything in any matter relating thereto or by reason of the Escrow Agent's compliance with the terms hereof, except to the extent caused by or arising from the Escrow Agent's arising from the Escrow Agent's bad faith, fraud, wilful misconduct or gross negligence. Notwithstanding any other provision of this Agreement, the Escrow Agent's liability shall be limited, in the aggregate, to the amount of fees paid by Andean to the Escrow Agent under this Agreement, provided that such limitation shall not apply to any liability arising from the Escrow Agent's bad faith, fraud, wilful misconduct or gross negligence.
- (b) **Not Obligated to Defend.** Without restricting the foregoing indemnity, if proceedings are taken by arbitration or in any court respecting the Escrowed Assets, the Escrow Agent shall not be obliged to defend or otherwise participate in any such proceedings until it shall have such security as the Escrow Agent determines, in its sole discretion, to be adequate for its costs in such proceedings in addition to the indemnity set out above.
- (c) **Survival.** The provisions of Sections 8(a) and 8(b) will survive the resignation or removal of the Escrow Agent or the termination of this Agreement.
- (d) **Not to Expend Own Funds.** None of the provisions contained in this Agreement shall require the Escrow Agent to expend or to risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless funded and indemnified as aforesaid.

## **9. Fees & Expenses**

- (a) Andean shall pay all the reasonable and customary compensation of the Escrow Agent and will reimburse the Escrow Agent for any and all reasonable expenses, disbursements and advances made by the Escrow Agent in the performance of its duties hereunder, including reasonable fees, expenses and disbursements incurred by its counsel. Andean agrees to satisfy all outstanding fees and expenses invoiced by the Escrow Agent before (i) any final release of the Escrowed Assets and/or (ii) any transfer of the Escrowed Assets and any and all related instruments or documents to a successor escrow agent.
- (b) **Survival.** The provisions of Sections 9(a) will survive the resignation or removal of the Escrow Agent or the termination of this Agreement.

**10. General**

- (a) **Notices.** Any notice, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service or mail, or (iii) sent by fax, email, or other similar means of electronic communication, in each case to the applicable address set out below:

If to Silver Elephant     Silver Elephant Mining Corp.  
Suite 1610 - 409 Granville Street  
Vancouver, British Columbia V6C 1T2

Email: [REDACTED] *"redacted - personal contact information"*  
Attention: John Lee, CEO

If to Andean     Andean Precious Metals Corp.  
1500 Royal Centre, 1055 West Georgia Street,  
P.O. Box 11117  
Vancouver, British Columbia V6E 4N7

Email: [REDACTED] *"redacted - personal contact information"*  
Attention: Juan Carlos Sandoval, CFO

If to Escrow Agent     Odyssey Trust Company  
United Kingdom Building  
350 – 409 Granville Street  
Vancouver BC V6C 1T2

Email: [REDACTED] *"redacted - personal contact information"*  
Attention: Corporate Trust

Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing, emailing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, faxed, emailed, or sent prior to 4:30pm (at the place of receipt) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day. Any such communication sent by mail shall be deemed to have been given and made and to have been received on the fifth Business Day following the mailing thereof; provided however that no such communication shall be mailed during any actual or apprehended disruption of postal services. Any such communication given or made in any other manner shall be deemed to have been given or made and to have been received only upon actual receipt.

Any party may from time to time change its address under this Section 10(a) by notice to the other parties given in the manner provided by this Section.

- (b) **Time of Essence.** Time shall be of the essence of this Agreement in all respects.
- (c) **Further Assurances.** Each Party shall promptly do, execute, deliver, or cause to be done, executed and delivered all further acts, documents and things in connection with this Agreement that another Party may reasonably require for the purposes of giving effect to this Agreement.
- (d) **Successors and Assigns.** This Agreement shall enure to the benefit of, and be binding on, the parties and their respective successors and permitted assigns. No party may assign or transfer,

whether absolutely, by way of security or otherwise, all or any part of its respective rights or obligations under this Agreement without the prior consent of the other parties.

- (e) **Amendment.** No amendment of this Agreement will be effective unless made in writing and signed by all of the parties.
- (f) **Entire Agreement.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no conditions, warranties, representations or other agreements between the parties in connection with the subject matter of this Agreement (whether oral or written, express or implied, statutory or otherwise) except as specifically set out in this Agreement.
- (g) **Waiver.** A waiver of any default, breach, or non-compliance under this Agreement is not effective unless in writing and signed by the Parties to be bound by the waiver. No waiver shall be inferred from or implied by any failure to act or delay in acting by a Party in respect of any default, breach or non-observance or by anything done or omitted to be done by another party. The waiver by a Party of any default, breach, or non-compliance under this Agreement shall not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature).
- (h) **Severability.** Any provision of this Agreement, which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.
- (i) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein. Any legal action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in the courts of the Province of British Columbia, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such action or proceeding. The Parties irrevocably and unconditionally waive any objection to the laying of venue of any action or any proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.
- (j) **Counterparts.** This Agreement may be executed by the parties in separate counterparts (by original or facsimile signature) each of which when so executed and delivered shall be deemed to be an original, and all such counterparts shall together be construed as one and the same document.
- (k) **Termination.** Silver Elephant and Andean may terminate the Escrow Agent by giving not less than thirty days' written notice to the Escrow Agent. Such termination will be effective immediately after compliance by the Escrow Agent with such joint direction. This Agreement shall automatically terminate if and when all of the Escrowed Assets shall have been distributed by the Escrow Agent in accordance with this Agreement. For greater certainty, all indemnities granted to the Escrow Agent herein will survive the termination of this Agreement or the termination or resignation of the Escrow Agent.
- (l) **Business Days.** References to "Business Days" or "business days" shall mean any day other than a Saturday, Sunday or any other day that the Escrow Agent and banking institutions in the City of Vancouver, British Columbia are not generally open for business.
- (m) **Force Majeure.** No Party shall be liable or responsible to the other Parties, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from

acts beyond the affected Party's reasonable control, including, without limitation: (a) acts of God; (b) flood, earthquake, tsunami, fire or explosion, epidemics and pandemics; (c) war, invasion, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; and (h) strikes, labour stoppages or slowdowns or other industrial disturbances (each a "**Force Majeure Event**"). The Party suffering a Force Majeure Event shall give notice to the other Parties, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and ensure that the effects of such Force Majeure Event are minimized.

## **11. Privacy**

The parties acknowledge that federal and/or provincial legislation that addresses the protection of individuals' personal information (collectively, "**Privacy Laws**") applies to certain obligations and activities under this Agreement. Notwithstanding any other provision of this Agreement, neither party shall take or direct any action that would contravene, or cause the other to contravene, applicable Privacy Laws. Silver Elephant and Andean shall, prior to transferring or causing to be transferred personal information to the Escrow Agent, obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or shall have determined that such consents either have previously been given upon which the parties can rely or are not required under the Privacy Laws. The Escrow Agent shall use commercially reasonable efforts to ensure that its services hereunder comply with Privacy Laws. Specifically, the Escrow Agent agrees: (i) to have a designated chief privacy officer; (ii) to maintain policies and procedures to protect personal information and to receive and respond to any privacy complaint or inquiry; (iii) to use personal information solely for the purposes of providing its services under or ancillary to this Agreement and to comply with applicable laws and not to use it for any other purpose except with the consent of or direction from Silver Elephant, Andean, or the individual involved or as permitted by Privacy Laws; (iv) not to sell or otherwise improperly disclose personal information to any third party; and (v) to employ administrative, physical and technological safeguards to reasonably secure and protect personal information against loss, theft, or unauthorized access, use or modification.

## **12. Right Not to Act**

The Escrow Agent shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Escrow Agent, in its sole judgment, acting reasonably, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering, anti-terrorist or economic sanctions legislation, regulation or guideline. Further, should the Escrow Agent, in its sole judgment, acting reasonably, determine at any time that its acting under this Agreement has resulted in its being in non-compliance with any applicable anti-money laundering, anti-terrorist or economic sanctions legislation, regulation or guideline, then it shall have the right to resign on ten (10) days prior written notice sent to all parties hereby provided that: (i) the Escrow Agent's written notice shall describe the circumstances of such non-compliance; and (ii) that if such circumstances are rectified to the Escrow Agent's satisfaction within such ten (10) day period, then such resignation shall not be effective.

*[Signature Page Follows]*

**IN WITNESS WHEREOF** the parties have executed and delivered this Agreement on the day and year first above written.

**SILVER ELEPHANT MINING CORP.**

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*by its authorized signatory*

**ANDEAN PRECIOUS METALS CORP.**

---

*by its authorized signatory*

**ODYSSEY TRUST COMPANY**

---

*by its authorized signatory*

---

*by its authorized signatory*

**SCHEDULE "A"**  
**Form of Joint Direction**

**TO:** Odyssey Trust Company (the "**Escrow Agent**")  
Attention: **Corporate Trust**

**RE:** Escrow Agreement dated September 11, 2023 (the "**Escrow Agreement**") between Silver Elephant Mining Corp. ("**Silver Elephant**"), Andean Precious Metals Corp. ("**Andean**") and the Escrow Agent

**DATE:** \_\_\_\_\_

Capitalized terms in this letter that are not otherwise defined herein shall have the same meaning given to them in the Escrow Agreement.

The Escrow Agent is hereby irrevocably authorized and directed to deliver all of the Escrowed Assets to \_\_\_\_\_ at the address set forth below pursuant to the provisions of the Escrow Agreement.

Delivery Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

This direction may be executed by the undersigned in several counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall constitute but one and the same instrument. A signed copy of this direction delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this direction.

**SIGNED** as of the date first written above:

**SILVER ELEPHANT MINING CORP.**

\_\_\_\_\_  
*by its authorized signatory*

**ANDEAN PRECIOUS METALS CORP.**

\_\_\_\_\_  
*by its authorized signatory*

**SCHEDULE "B"**

**Escrowed Assets together with executed transfers and powers of attorney in blank**

<b>Issuer</b>	<b>Certificate Number / Description of Instrument</b>	<b>Number of Securities</b>
Illumina Silver Mining Corp.	C-6	2,360,101
Apogee Minerals Bolivia S.A.	000010	98
Apogee Minerals Bolivia S.A.	000006	1
Apogee Minerals Bolivia S.A.	000008	1
ASC Bolivia LDC	2	1
ASC Bolivia LDC	1	999
ASC Holdings Limited	1	40,647

**EXHIBIT "F"**  
**SILVER ELEPHANT PAYMENT INFORMATION**

(see attached.)

**SILVER ELEPHANT MINING CORP.**

**US DOLLAR ACCOUNT**

For a wire transfer, please use the following wire instructions:

Beneficiary Name: SILVER ELEPHANT MINING CORP.

*"redacted - personal banking information"*

Beneficiary Address: 1610-409 Granville St. VANCOUVER, BC V6C 1T2

Beneficiary Bank: [REDACTED]

BMO SWIFT CODE: [REDACTED]

BMO Bank Number: [REDACTED]

*"redacted - personal banking information"*

Transit Number: [REDACTED]

Account Numbers: [REDACTED]

**TO SEND FUNDS FROM A U.S. BANK only,**

(Applicable for US Dollar funds only):

Pay through: Wells Fargo Bank (FKA Wachovia Bank)

S.W.I.F.T BIC Code: [REDACTED]

AND

Fedwire ABA: [REDACTED]

*"redacted - personal banking information"*

OR

CHIPS UID: [REDACTED]