

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 14th 2004 , modified by Public Deed N° 94/2005 dated February 11th 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 13th 2021 and finally modified by Public Deed N° 198/2022 dated March 30th 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 14th, 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 10th 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 27th 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 (5th) day of the month following the Delivery Period (or if the 5th 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