



# Purchase Order Terms and Conditions

"Agreement" means the Purchase Order and any related Change Orders, if any, which are incorporated herein by this reference, together with these Purchase Order Terms and Conditions and its exhibits, if any.

"Effective Date" means (a) with respect to an electronic Purchase Order, the date on which Supplier electronically accepts and/or otherwise confirms such electronic Purchase Order in accordance with the acceptance terms set forth therein, and (b) with respect to a printed Purchase Order, the "Order Date" set forth at the top of page one of such printed Purchase Order.

"Electronic Procurement System" means Newmont's current electronic Purchase Order and Service Order system.

"Newmont" means the Newmont-related entity named at the top of page one of such printed Purchase Order.

"Purchase Order" means either an electronic Purchase Order or a printed Purchase Order, in either case as issued by Newmont and executed or otherwise legally accepted by both parties and which references and incorporates these Purchase Terms and Conditions, together with any statement of work, scope of work, work order, or similar type of ancillary contractual document that is attached or linked thereto and executed or otherwise legally accepted by both parties.

"Supplier" means (a) with respect to an electronic Purchase Order, the individual or entity to whose Electronic Procurement System account such electronic Purchase Order has been posted, and (b) with respect to a printed Purchase Order, the entity designated as "Supplier" on page one of such Purchase Order.

In consideration of the mutual promises and conditions contained in this Agreement, including the definitions set forth above, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **TERM.** This Agreement shall be effective commencing as of the Effective Date and continuing until the last to occur of delivery of all Goods (as such term is defined in Section 2.1, below) or completion of all Services (as such term is defined in Section 2.2, below); provided, however, that if Supplier delivers no Goods and never commences Services, then this Agreement shall terminate one year from the Effective Date (the "Term"), unless terminated earlier as permitted herein. The Term may only be extended by a written agreement between the parties.

2. **GOODS; INCIDENTAL SERVICES.**

2.1. **Goods.** Supplier shall sell to Newmont, and Newmont shall purchase from Supplier, the goods, articles, or materials specified in the Purchase Order ("Goods"). Neither trade custom or usage and prior course of dealing, nor the United Nations Convention for the International Sale of Goods, the Sale of Goods Act or similar statutory provisions related to the sale of goods, shall apply to the Goods or this Agreement; provided, however, that the transactions with respect to Goods which are effected pursuant to this Agreement shall be deemed "sales of goods" under the Uniform Commercial Code. Supplier shall not send to Newmont any goods, articles, or materials which are not authorized by the Purchase Order. Newmont objects to the inclusion of any different or additional terms by Supplier in Supplier's acceptance of this Agreement, and Newmont's willingness to proceed with the transaction set forth in this Agreement is expressly made conditional upon Supplier's acceptance of the terms of this Agreement. If Supplier includes or attaches any different or additional terms in Supplier's purported acceptance of this Agreement, commences performance of any Services, or tenders Goods, a contract shall result upon the terms and conditions as stated in this Agreement, without inclusion of any different or additional terms or conditions. Supplier shall not substitute, or ship more or less than the quantity of, Goods, or perform services in addition to the Services, specified in the Purchase Order without the prior written approval of Newmont. All Goods shall be subject to inspection by Newmont at all reasonable times for progress and conformance with the requirements of this Agreement. Supplier expressly grants Newmont the right to access, during normal business hours, all facilities and premises wherein the Goods are manufactured or prepared for the purposes of such inspection.

2.1.1. **Packaging; Labeling.** Supplier shall package all Goods in accordance with the packaging specifications set forth in the Purchase Order. If no such specifications are set forth in the Purchase Order, Supplier shall package all Goods in such a manner as to ensure preservation of such Goods during transportation and storage, having due regard for the conditions and environment at the areas through which the Goods will traverse and be delivered, including climate, roads, and requirements for multiple handling. In packaging, marking and transporting Goods, Supplier shall abide by all Laws regarding the transportation of the Goods and the protection of safety, health and the environment. All hazardous Goods shall be clearly labeled. If the Goods include or constitute dangerous, hazardous or toxic items, Supplier shall include Material Safety Data Sheets (or the applicable jurisdiction's equivalent) and clearly mark or label the Goods with appropriate information, provide necessary shipping certification and otherwise comply with all shipping Laws. Supplier shall ensure that all packaging, invoices, and bills of lading indicate the applicable country of destination, point of destination, Purchase Order number, description and quantity of Goods enclosed, names of Supplier and Newmont, and such other information as may be customary in the industry for packaging of similar goods. Costs arising from Supplier's failure to follow required packaging, marking and transporting procedures and instructions shall be at Supplier's expense. If requested by Newmont, Supplier shall give Notice (as such term is defined in Section 18, below) to Newmont of the date of shipping, Purchase Order number, number of transportation units used (railway cars, trucks, containers, or other), bill of lading number, description of Goods, number of crates, and cargo weight. Such Notice shall be given within such reasonable time period after the Goods are dispatched from their point of origin as Newmont may request.

2.1.2. **Delivery Location.** Supplier shall deliver the Goods to the location specified in the Purchase Order (the "Designated Location"). If Supplier is to transport or arrange transport of the Goods, Supplier shall do so by such method as is specified in the Purchase Order, and in accordance with any other delivery terms specified in the Purchase Order; provided, however, that if no method is specified in the Purchase Order, Supplier shall transport Goods by such method as is customary in the industry for transportation of similar goods. Newmont's count shall be accepted as final and conclusive on shipments not accompanied by Supplier's itemized delivery docket/packaging list. All Goods received in excess of the number specified in the Purchase Order shall be subject to return for credit at Supplier's cost. Costs arising from Supplier's failure to follow required shipping instructions shall be at Supplier's expense. Supplier shall comply with the delivery time requirements set forth in the Purchase Order. If no delivery time requirements are specified in the Purchase Order, Supplier shall deliver Goods by such time as is customary in the industry for delivery of similar goods via the delivery method used. Delivery terms for Goods shall be as specified in the Purchase Order. Supplier shall not deliver any Goods ahead of schedule except upon Newmont's request.

2.1.3. **Title.** Title to Goods shall pass to Newmont upon the earlier of: (A) payment in full by Newmont for such Goods, (B) receipt by Newmont of such Goods at the Designated Location, or (C) incorporation of such Goods into any premises owned, operated, or otherwise controlled by Newmont ("Newmont Premises"). Supplier shall clearly identify Goods as property of Newmont by conspicuously marking or tagging the Goods, and Newmont shall have the right to inspect and verify that Goods have been identified as Newmont's property.

2.1.4. **Risk of Loss.** If Goods are to be used or consumed by Supplier, or incorporated into a project or other work, in connection with other work being performed for Newmont by Supplier ("Consumable Goods"), the risk of loss of such Consumable Goods shall remain with Supplier until such Consumable Goods are used or consumed by, or the project or work has been completed to the satisfaction of Newmont by Supplier. Otherwise, risk of loss of Goods shall remain in Supplier until Newmont's physical receipt of Goods at the Designated Location. If, pursuant to warranty or otherwise, Supplier repairs any Goods, at the Designated Location or anywhere else, risk of loss in such Goods shall pass back to Supplier when the repair work commences or Supplier takes possession of the Goods for such repair work, whichever is earlier, until the repair is complete and the Goods returned to the Designated Location and the Goods are safely reinstalled and accepted by Newmont, whereupon risk of loss will pass again to Newmont. Risk of loss shall transfer as set forth in this Section 2.1.4 notwithstanding any contrary risk of loss transfer typically associated with any Incoterm specified in the Purchase Order; provided, however, that if the Purchase Order specifically states that risk of loss shall transfer in accordance with the stated Incoterm, then that provision shall control.

2.2. **Incidental Services.** If the Purchase Order specifies the Supplier shall perform one or more of the following: delivery, installation, maintenance, or other services incidental to the Goods (collectively, the "Services"), Supplier shall perform such Services in compliance with this Agreement, and, except as otherwise specified in the Purchase Order, Supplier, at its sole expense, shall provide all labor, supervision, materials, equipment, consumables, insurance, transportation, and such other items and



services as are necessary to perform the Services, and shall be solely responsible for demobilization, job site cleanup, and disposition of all residual materials once Services are completed. Supplier acknowledges that Newmont is relying solely on the skill and expertise of Supplier and its employees and agents for proper performance of the Services. Any reviews, inspections or approvals that are required, allowed, or otherwise undertaken by Newmont with respect to any of the Services shall in no way (A) alter Newmont's right and ability to rely on the skill and expertise of Supplier, (B) alter, diminish, waive, or relieve Supplier of any obligation or responsibility under this Agreement, or (C) constitute an assumption by Newmont of any of Supplier's obligations or responsibilities. The period of performance for Services shall be as set forth in the Purchase Order. Supplier shall keep Newmont informed at all times as to the progress of the Services. If Supplier believes that any of the Services will not be completed in accordance with the applicable schedule requirements, Supplier promptly shall give Notice to Newmont of such anticipated delay. Supplier shall, after consultation with and if so directed by Newmont, take such remedial steps as necessary to expedite the Services so that the Services are completed in accordance with such schedule requirements. Supplier understands that performance of the Services may need to be coordinated with Newmont and its other vendors and contractors, and Supplier shall coordinate its performance of Services and otherwise cooperate with Newmont and its other vendors and contractors in this regard.

### 3. **PRICE OF GOODS; FEES FOR SERVICES; INVOICING; PAYMENT.**

3.1. **Price of Goods.** The prices of Goods shall be as specified in the Purchase Order (in each case, the "Price"). Supplier shall not invoice any Goods at any Price higher than that set forth in the Purchase Order without the prior written consent of Newmont. The Price shall remain firm and fixed for the duration of this Agreement and, unless specifically stated in the Purchase Order, shall not be subject to any escalation, additional charges or any other increases of whatsoever description. Unless specifically excluded under the Purchase Order, the Price of Goods shall include all costs, royalties and license fees, taxes, customs duties, fees or charges of any kind incurred by Supplier, including charges and expenses in connection with the packaging, marking, crating, handling and shipping of such Goods and their carriage to the Designated Location. Supplier shall ensure that the Price charged to Newmont for any Goods is the lowest price charged by Supplier to any purchaser of such Goods.

3.2. **Fees for Services.** If Services are to be performed, as specified in the Purchase Order, the fees for such Services shall be as specified in the Purchase Order (in each case, the "Fees"). Unless otherwise specified in the Purchase Order, the Fees shall remain firm and fixed for the duration of this Agreement and unit and rate based pricing shall not be adjusted irrespective of any variations in the quantity of Services. If and to the extent specifically set forth in the Purchase Order, Newmont also shall reimburse Supplier for the actual amount of reasonable and necessary expenses incurred in the performance of the Services; provided, however, that any individual expense in excess of U.S. \$250 must be approved in writing in advance by Newmont in order to be reimbursable.

3.3. **Invoice Procedures.** Invoices shall contain a reasonable itemization of Goods provided, Services rendered and charges made and expenses incurred for those Goods and Services. Copies of receipts, statements, and any other documents that verify the accuracy of such invoice shall also be included. Services that have been performed at, and Goods provided to, regional Newmont sites must be itemized for that specific site or region. Invoices received that do not comply with applicable invoicing procedures will be rejected and treated as disputed until the invoice is re-submitted correctly.

3.3.1.1. If Supplier is a registered user of Newmont's current electronic Purchase Order and Service Order system ("Electronic Procurement System"), Supplier shall invoice Newmont in accordance with the most current requirements of the Electronic Procurement System.

3.3.1.2. If Supplier is not a registered user of the Electronic Procurement System, Supplier shall submit invoices electronically, on a monthly basis (unless the applicable Purchase Order specifies otherwise), to Newmont Accounts Payable at [CorpAP@newmont.com](mailto:CorpAP@newmont.com). All such invoices must reference the PO or SO Number ("PO#") assigned to the Purchase Order and/or Change Order applicable to the Goods and/or Services. Supplier must correct all invoice compliance issues and resubmit the corrected invoice to the correct email address noted above.

3.3.1.3. Common invoicing problems to avoid:

- NO PO#: Valid PO# is not listed on invoice.
- PO# COMPLETE: PO# referenced on invoice has been invoiced in its entirety.
- INCORRECT/INVALID PO#: PO# referenced on invoice is incorrect or invalid.
- NO PO LINE #: Invoice contains multiple line items. Invoice line-items must correspond to the relevant line item(s) on associated PO#. For assistance, please contact the individual Newmont Buyer listed in the Purchase Order or such other Newmont contract representative as may be designated in writing by Newmont to Supplier.
- INCORRECT/INVALID PO LINE#: PO# line number stated on invoice is incorrect or invalid.

3.4. **Payment Terms.** Within 45 days after the end of the month in which an Accepted Invoice (as defined below) is posted to Newmont's Electronic Procurement System, Newmont shall pay the Supplier all undisputed amounts invoiced. If applicable law requires a different payment term, or if Supplier and Newmont have specifically agreed to payment terms which differ from those stated herein, payment shall be made as stated in the negotiated payment terms or as required by applicable law, which shall be referenced in the relevant Procurement Order or Purchase Order.

3.4.1. An invoice shall be deemed an Accepted Invoice which has been posted to Newmont's Electronic Procurement System where:

3.4.1.1. In cases where the invoice relates to the supply of any Goods:

3.4.1.1.1. the Goods have been delivered to the delivery point; **and**

3.4.1.1.1.1. the Goods have been acknowledged with a goods receipt ("GR") issued by Newmont in the Electronic Procurement System; or

3.4.1.1.1.2. if a GR is not capable of being issued for your transaction, then the date on which the invoice has been acknowledged as received by way of email.

3.4.2. In cases where the invoice relates to the supply of any Services:

3.4.2.1. the Services have been accepted by Newmont; **and**

3.4.2.1.1. Newmont accepts the invoice by issuance of a service entry sheet ("SES") in the Electronic Procurement System; or

3.4.2.1.2. if a SES is not capable of being issued for your transaction, then the date on which the invoice has been acknowledged as received by way of email.

3.5. If Newmont determines that the invoice contains errors, the invoice will not be deemed an Accepted Invoice and Newmont will send it back to Supplier so that Supplier can reissue and send a corrected invoice to Newmont. The 45-day period specified in Section 3.4 will only begin after the re-issued invoice has been deemed an Accepted Invoice as specified in Section 3.4.1.

3.6. Any credit notes that may have been previously generated may be deducted from an Accepted Invoice prior to payment due to goods returns or penalties for non-compliance with any applicable KPIs.

3.7. **Payments to Subcontractors; Vendors.** Supplier shall timely make payments to subcontractors and materialmen/vendors as provided for in its subcontracts and purchase orders or at such earlier time as may be necessary to avoid having a mechanic's lien or other lien placed on any of Newmont's property, and Supplier shall indemnify and hold Newmont harmless against any demand or actions of its subcontractor as a result of Supplier's breach of such obligation. Newmont reserves the right to



make payments due hereunder directly to suppliers or subcontractors of Supplier if Newmont, in its reasonable discretion, believes that Supplier has not paid or is likely not to timely pay the amounts due to them for Goods or Services provided to Newmont. The making of payment shall not prejudice Newmont's right to reject Goods or Services that do not comply with the requirements of this Agreement. Newmont shall have the right to setoff amounts owing from Supplier to Newmont against payment under this Agreement. In addition, if Newmont reasonably believes it might become obligated to pay any amount to a third party or incur other costs, expenses or losses as a result of Supplier's negligence, or failure to fulfill obligations under this Agreement, Newmont shall have the right, in addition to any other remedy available in law or in equity, to setoff and deduct from monies due or to become due to Supplier the sum that is reasonably necessary to cover such amounts, costs, expenses and losses. Any sums so deducted that are subsequently determined to be due Supplier shall thereafter be due and promptly paid to Supplier.

3.8. Change Orders; Adjustments. Newmont reserves the right at any time to change, by Notice to Supplier, any of the following: (A) the quantity of Goods; (B) methods of shipment and/or packaging; (C) place and/or time of delivery; (D) scope of the Services; and (E) any other matters affecting the Purchase Order. Supplier shall provide Notice to Newmont within five (5) working days after any occurrence that Supplier believes may give rise to a claim by Supplier for additional time or money or otherwise requires a change to the Purchase Order. Failure to give such Notice to Newmont in the manner set forth in this Section shall constitute a waiver of any such claim that Supplier may have. Any such modification or change to the Purchase Order shall be evidenced by a change order as issued by Newmont and executed or otherwise legally accepted by both parties (each, a "Change Order"), which shall specify the compensation agreed upon by the parties for such changes.

#### 4. PERFORMANCE MANAGEMENT.

4.1. Time for Performance. Time is of the essence to this Agreement. The delivery and performance dates specified in the Purchase Order are of critical importance to avoid substantial loss and inconvenience to Newmont. Supplier agrees that such time schedules are reasonable. In the event of delay or anticipated delay in delivery or performance, from any cause, Supplier shall promptly give Notice to Newmont of the delay or anticipated delay and shall undertake to shorten or make up the delay by all reasonable means, at Supplier's sole cost and expense; provided, however, that if such delay results from a Force Majeure Event (as such term is defined in Section 12, below) and Newmont requests that Supplier try to overcome the delay or advance the delivery date, the costs and expenses thereof shall be paid by Newmont to the extent the same are attributable to action authorized by Newmont in writing in advance. Material slippage in Supplier's delivery or performance schedule shall be deemed to be reasonable grounds for Newmont's insecurity, in which event Newmont may demand that Supplier provide adequate assurances that Supplier will perform on time.

4.2. Performance Management. Supplier shall participate in all reasonable contract performance management activities that may be requested by Newmont (for example, operational review meetings, contract review meetings, key performance indicator discussions, etc.), with the grade level of involved personnel (e.g., executive, manager, or other) and the nature and frequency of such activities to be as reasonably determined by Newmont. To the extent risks are reasonably identified by Newmont in connection with any such management activities (including as a result of information provided by Supplier to Newmont on Newmont's risk control assessment form), Supplier promptly shall implement and actively manage the mitigations activities requested of it by Newmont in connection with managing such risks.

#### 5. WARRANTIES; ACCEPTANCE; NONCONFORMANCE.

5.1. Goods. Supplier represents, warrants, and covenants to Newmont that: (A) all Goods shall be, at the time of delivery to Newmont and for the time period specified in the Purchase Order (the "Warranty Period"): (I) as described and specified in this Agreement, including in compliance with the standards of quality specified in the Purchase Order or, if none are so specified, with those specifications which are customary in the industry for similar goods; (II) free of defects in design, materials, construction, and workmanship and of standard quality for the industry unless otherwise agreed in a written document signed by Newmont; (III) in compliance with all applicable laws, regulations, decrees, codes, ordinances, resolutions, or other acts of any applicable governmental authority, whether federal, regional, state, county, local, or other governmental agency (collectively, "Laws"); and (IV) fit for their intended purpose, and (B) Supplier shall have good and marketable title to all Goods, free and clear of any and all liens, restrictions, reservations, security interests, claims and encumbrances at the time title to such Goods passes to Newmont pursuant to the provisions of this Agreement. If no Warranty Period is specified in the Purchase Order, the Warranty Period shall be 18 months from Newmont's acceptance of the Goods, determined as provided below, or 12 months from the date such Goods are placed in regular operation, whichever is earlier.

5.2. Services. Supplier represents, warrants, and covenants that: (A) it is fully competent and possesses the requisite skill, knowledge, resources, experience and expertise to perform the Services in accordance with the standards and the degree of skill and judgment which is normally exercised in the United States mining and metals industry and other relevant industry by those engaged in the performance of services similar in nature to the Services, (B) the Services shall be performed in accordance with said standards, skill and judgment, (C) the Services shall be performed in strict compliance with the requirements of this Agreement, including any specifications set forth in the Purchase Order, (D) all Services performed shall be free from defect, (E) Supplier is properly qualified, licensed, trained, organized, equipped, and financed to perform the Services, (F) in performing the Services, Supplier shall not install or otherwise cause to exist on any of Newmont's computer systems (hardware or software components) any computer instructions, circuitry, or other technological means whose purpose or effect is to disrupt, damage, or interfere with any Newmont computer facilities or equipment, or to provide unauthorized access to Newmont's computer facilities or equipment, including any code containing viruses, Trojan horses, worms, traps, back doors, disabling devices or like destructive code or code that self-replicates, and (G) Supplier shall comply with Newmont's Acceptable Technology Use Standard (which Supplier acknowledges receiving a copy of) if, in the course of performing the Services, Supplier has access to Newmont's information technology equipment or systems, as such standard may be amended from time to time by Newmont, in its sole discretion, and provided to Supplier.

5.3. Acceptance. Acceptance of the Goods or any portion of the Services shall be deemed to occur on the earlier of: (A) the date on which Newmont notifies Supplier of acceptance; or (B) the date which is sixty (60) days from the date of completion of the Services or delivery of the Goods, as applicable, unless prior to such date Newmont has notified Supplier that it has rejected such Services or Goods or that there is a defect in the Services or Goods. Acceptance of the Services and Goods shall not otherwise be implied or assumed. Newmont's making or failure to make an inspection, examination, or test of, or Newmont's payment for or acceptance of, Goods or Services shall in no way relieve Supplier from its obligation to conform to all of the requirements of this Agreement and shall in no way impair Newmont's right to reject or revoke acceptance of Non-Conforming Goods or Non-Conforming Services (as such terms are defined below) or to avail itself of any other remedies to which Newmont may be entitled, notwithstanding Newmont's knowledge of the non-conformity, its substantiality, or the ease of its discovery.

5.4. Non-Conforming Goods. If, in Newmont's sole reasonable determination, Goods do not materially conform to Supplier's warranties set forth herein ("Non-Conforming Goods"), Newmont may either: (A) give Supplier Notice thereof prior to the expiration of the Warranty Period and Supplier shall promptly, at Newmont's option but Supplier's sole cost and expense, either (I) repair such Non-Conforming Goods to Newmont's reasonable satisfaction, or (II) replace the same with Goods conforming to Supplier's warranties and compensate Newmont for all costs incurred by Newmont in connection with such Non-Conforming Goods (including freight charges); or (B) retain the Non-Conforming Goods. All repaired and replaced Goods shall themselves be subject to Supplier's warranties set forth in herein, and Supplier's obligations under this Section 5.4 through the end of the original Warranty Period or sixty (60) days from Newmont's acceptance of the repaired or replaced Goods (determined as provided in Section 5.3), whichever is later. If Newmont chooses option (A) and Supplier fails to repair or replace the Non-Conforming Goods within a commercially reasonable period of time (not to exceed 10 days), Newmont may, at its sole option by giving Notice thereof to Supplier, repair the Non-Conforming Goods itself or through a third party or reject such shipment in whole or in part and obtain Replacement Goods pursuant to Section 5.4.1, below. Regardless of which of the foregoing remedies Newmont chooses, Supplier shall be liable for all reasonable costs incurred by Newmont as a result thereof, including labor and freight. If Newmont chooses option (B), Newmont shall have a reasonable amount of time (not to be less than forty-five (45) days) to calculate and submit to Supplier a claim for any costs or liabilities incurred as a result of its receipt of Non-Conforming Goods (the "Goods Claim Amount"). Newmont may: (a) deduct the Goods Claim Amount from the invoice amount applicable to such Non-Conforming Goods; (b) if Newmont previously paid such invoice amount or portion thereof, require Supplier to reimburse Newmont for the Goods Claim Amount; or (c) setoff the Goods Claim Amount against any other amount owing to or invoiced by Supplier.

5.4.1. If Supplier fails to supply any Goods or Newmont rejects Non-Conforming Goods in accordance with Section 5.4, above, Newmont shall be entitled to purchase replacements for such Goods from a third-party supplier ("Replacement Goods"). In such event, Supplier shall pay to Newmont, promptly upon receipt of Newmont's invoice therefor: (A) the difference, if any, between the higher price paid by Newmont for the Replacement Goods and the Price that Newmont would have paid to Supplier under the terms of this Agreement for such Goods; plus (B) an outside purchasing fee of U.S. \$50 per Replacement



Good, which fee is intended to offset the additional costs to Newmont of having to purchase from a third-party supplier.

5.5. **Non-Conforming Services.** If, in Newmont's sole reasonable determination, Services do not materially conform to Supplier's warranties set forth herein ("**Non-Conforming Services**"), Newmont may give Supplier Notice thereof, within sixty (60) days from Newmont's acceptance of such Service, determined as provided in Section 6.1, and Supplier shall promptly, at Supplier's sole cost and expense, re-perform such Non-Conforming Services to Newmont's reasonable satisfaction. Supplier shall, upon receipt of Newmont's Notice, promptly furnish, at no cost to Newmont, all labor, equipment, supervision, and materials at the jobsite necessary to correct the Non-Conforming Services. All re-performed Services shall themselves be subject to Supplier's warranties set forth herein, and Supplier's obligations under this Section 5.5 for a period of sixty (60) days from Newmont's acceptance of the re-performed Services, determined as provided in Section 5.3.

5.5.1. If Supplier fails to re-perform the Non-Conforming Services within a commercially reasonable period of time (not to exceed ten (10) days), Newmont may, at its sole option by giving Notice thereof to Supplier, re-perform the Non-Conforming Services itself or obtain replacement services from another service provider. Regardless of which of the foregoing options Newmont chooses, Supplier shall be liable for all reasonable costs incurred by Newmont as a result thereof, including the difference, if any, between the higher price paid by Newmont for the replacement Services and the Fees that Newmont would have paid to Supplier under the terms of this Agreement for such Services. Newmont shall have a reasonable amount of time (not to be less than forty-five (45) days) to calculate and submit to Supplier a claim for any such costs or liabilities incurred (the "**Services Claim Amount**"). Newmont may: (A) deduct the Services Claim Amount from the invoice amount applicable to such Non-Conforming Services; (B) if Newmont previously paid such invoice amount or portion thereof, require Supplier to reimburse Newmont for the Services Claim Amount; or (C) setoff the Services Claim Amount against any other amount owing to or invoiced by Supplier.

6. **INTELLECTUAL PROPERTY.** All records, reports, data, and other information, and all copies thereof and notes related thereto, prepared, generated, researched, developed, compiled, or obtained from any source whatsoever by or through Supplier in connection with performance of the Services, including drawings, sketches, specifications, tracings, diagrams, evaluations, calculations, data books, schedules, operating instructions, and requisitions (the "**Data**"), but specifically excluding any of the same which was in existence as of the Effective Date and owned by Supplier or which is independently developed after the Effective Date by Supplier ("**Supplier IP**"), shall be promptly disclosed to Newmont and, without further consideration, shall be, to the extent legally possible, the property of Newmont and are hereby assigned by Supplier to Newmont. All right, title, and interest in and to all ideas, concepts, know-how, techniques, processes, methods, inventions, discoveries, developments, innovations, and improvements conceived or reduced to practice, whether by Supplier alone or with others, in connection with performance of the Services (collectively, the "**Inventions**"), but specifically excluding any Supplier IP, shall be owned by Newmont, and Supplier hereby sells, assigns, and conveys to Newmont any and all right, title, and interest of Supplier in and to the Inventions, and Newmont shall have the sole and exclusive right to pursue or not pursue patent protection or other forms of protection for the Inventions in the United States or elsewhere. Supplier shall promptly disclose to Newmont full details concerning each Invention. All copyrightable subject matter prepared in connection with performance of the Services (but specifically excluding any Supplier IP), whether by Supplier alone or with others, and all copyrights therein in the United States and other countries, shall be owned by Newmont. Each and every work and each and every contribution to a work prepared by Supplier in connection with performance of the Services that is eligible for copyright protection in the United States or elsewhere shall be a work made for hire. Notwithstanding the foregoing, Supplier hereby sells, assigns, and conveys to Newmont any and all right, title, and interest of Supplier in and to copyrights, including the right to make derivative works and all rights in relation to all mediums of expression now or hereafter known, to any and all works prepared in connection with performance of the Services, including any software, firmware, technical manuals, technical drawings, promotional materials, reports, and product and process specifications. Supplier shall deliver to Newmont a copy of each and every work eligible for copyright protection, and in the case of software and firmware, Supplier shall deliver to Newmont a copy of the source code and flowcharts reasonably demonstrating operation of the software or firmware. To the extent any deliverable provided to Newmont by Supplier pursuant to this Agreement contains any Supplier IP, Supplier hereby grants to Newmont and its affiliates a non-exclusive, irrevocable, perpetual, fully-paid, global license to use the same for the purpose of conducting Newmont's and its affiliates' internal business operations. Supplier shall take such further actions, including execution of documents, as reasonably requested by Newmont, and at Newmont's expense, to effectuate the purpose and intent of this Agreement with respect to the rights, ownership, and interests of Newmont provided in this Section 6, including cooperation with Newmont to prepare, file, and prosecute patent applications, to enforce patents, and to register and enforce copyrights, as well as to execute assignments, and other documents to establish or evidence Newmont's rights, ownership, and interests hereunder. Nothing in this Agreement shall be construed as limiting Supplier's ownership of or rights to use its basic know-how, experience and skills, and the experience and skills of its employees, whether or not acquired during performance of the Services, to perform services for any other party.

7. **COMPLIANCE WITH POLICIES; NEWMONT PREMISES.** The provisions of this Section shall apply **only if**, in the course of performing any of the Services, Supplier or any Supplier Party is present on Newmont Premises. In such event, Supplier shall ensure that it and each Supplier Party present on any Newmont Premises act in strict accordance with this Section 7.

7.1. **On-Site Policies.** Supplier shall: (A) at all times when Supplier is present on Newmont Premises, comply with the applicable provisions of Newmont's site and workplace policies, standards, and procedures, including requirements relating to the areas of health, safety, and loss prevention, in each case, as such document may be amended from time to time by Newmont, in its sole discretion, and provided to Supplier (including in connection with any job hazard analysis training that may be provided to Supplier's personnel by Newmont); (B) conduct all activities on Newmont Premises so as to avoid or minimize delay or interference with any other person or entity performing work or services; (C) perform the Services only during regular working hours (local time, 8:00am to 5:00pm, Monday – Friday) unless prior written consent is obtained from Newmont; and (D) keep Newmont Premises clean and free of any debris and rubbish caused by the Services and on completion of the Services leave such Newmont Premises clean and ready for use. Any personnel of Supplier or of its subcontractors which Newmont deems objectionable shall be removed from the jobsite and from performance of any further Services by Supplier upon Newmont's request without additional cost to Newmont. Without limiting the generality of the foregoing provisions, if Supplier will be present in any high risk and/or sensitive areas, such as the refinery, carbon handling areas, leach preg ponds, refractory ore treatment plant, or any other area designated by Newmont as high risk and/or sensitive (collectively, the "**High Risk Areas**"): (I) Supplier shall submit to Newmont's security department's investigating officer a list of Supplier's personnel assigned to work in the High Risk Area, which list shall include each individual's full name and date of birth; Newmont may use such information to obtain a criminal background check on such individuals, the cost of which shall be charged to, and paid by, Supplier; (II) such Supplier's personnel shall report in person to Newmont's security department's investigating officer and may be required to show a driver's license or other government-issued identification, to be fingerprinted, and to sign a release form for security clearance purposes prior to commencement of any Services; and (III) each of Supplier's personnel entering a High Risk Area shall be subject to a high tech metal detector and/or hand scanner detection search for the detection of metals prior to entering a High Risk Area and upon exiting the High Risk Area.

7.2. **Chemical Substances; Firearms.** While on Newmont Premises (including in any Newmont owned or leased motor vehicles), Supplier Parties shall not: (A) possess, sell, manufacture, dispense, or distribute any controlled substance, unauthorized prescription medication, or any other chemical substance that may affect an individual's mood, senses, responses, or motor functions, or may alter or affect a person's perception, performance, judgment, reactions, or senses, including alcohol and medical marijuana (collectively, the "**Chemical Substances**"); (B) consume or use any Chemical Substance; or (C) possess any firearm. Any such individuals who exhibit behavior while on Newmont Premises which gives rise to a reasonable suspicion of consumption or use of a Chemical Substance may be requested by Newmont to submit to one or more Chemical Substance screening tests, to be conducted or otherwise arranged by Supplier and conducted at Supplier's sole expense. In such event, Newmont will request that the individual review and sign a waiver or consent to test document. An individual's refusal to sign such waiver or document or refusal to submit to any such screening test will be deemed admission by such individual of consumption or use of a Chemical Substance. At the request of Newmont, Supplier shall immediately remove from any job site and from participation in any aspect of the Services any of its or its subcontractor's or supplier's personnel that Newmont determines, in its sole, absolute, and non-reviewable discretion, pose a danger to the safety or health of those around them (including because of the individual's violation of the first sentence of this Section 7.2) or are otherwise unfit or incompetent to perform the Services. If requested by Newmont, Supplier shall conduct drug testing of its employees and agents, and ensure that its subcontractors and, if they have personnel coming onto Newmont's Premises, its suppliers conduct drug testing of their employees and agents, within one month prior to initial admission of such personnel to Newmont Premises for performance of the Services. Upon Newmont's request, Supplier shall provide to Newmont all appropriate documents showing that Supplier is in compliance with the requirements of this Section 7.2.

7.3. **Newmont Equipment.** If Newmont authorizes Supplier to use any of Newmont's equipment in the performance of the Services, the terms and conditions of this Section 7.3 shall govern such use. Supplier shall designate in writing those individuals authorized to use Newmont's equipment to perform the Services (the "**Permitted**





Operators). The list of Permitted Operators shall be subject to Newmont's approval. The Permitted Operators shall be authorized to use only that equipment specifically designated in writing by Newmont for use by the Permitted Operators ("Newmont's Equipment") and only for the purpose of performing the Services. The Permitted Operators shall comply with all restrictions on use of Newmont's Equipment as may be imposed from time to time by Newmont. Prior to use of Newmont's Equipment, Supplier shall ensure that: (A) each Permitted Operator has received hazard, health, and safety training commensurate with the risks to be encountered in using Newmont's Equipment; and (B) if required by Newmont, each Permitted Operator has received additional training from Newmont's personnel in the safe and proper operation of Newmont's Equipment. Supplier shall be solely responsible and liable for all damage to Newmont's Equipment incurred during or caused by use of Newmont's Equipment by Permitted Operators. When required by Newmont, Supplier shall perform maintenance work on Newmont's Equipment in compliance and conformity with the manufacturer's and Newmont's maintenance standards, intervals, and procedures. Supplier shall be solely responsible and liable for any damage to Newmont's Equipment caused by Supplier's failure to perform required maintenance work. Prior to any use of Newmont's Equipment, Supplier shall provide evidence satisfactory to Newmont that Supplier's insurance policies as required by this Agreement specifically: (I) extend to injury, damage, or loss caused by Supplier's use of Newmont's Equipment; and (II) cover the full replacement value in the event of damage to Newmont's Equipment. Supplier assumes all risk of and responsibility for any and all losses, settlements, judgments, awards, damages, costs, and other liabilities (including for injury, bodily or otherwise, to or death of persons and loss, damage to, or destruction of property), including legal costs and reasonable attorneys' fees, of any nature whatsoever ("Losses") caused by Supplier's use of Newmont's Equipment. Supplier discharges and releases Newmont, its affiliates and their respective directors, officers, employees, and agents ("Newmont Parties") from any and all claims, suits and other actions ("Claims") and Losses, of any nature whatsoever, relating to Supplier's use of Newmont's Equipment. Supplier covenants that Supplier shall not at any time in the future, directly or indirectly, commence or prosecute any Claim against any Newmont Party in any way related to Supplier's use of Newmont's Equipment.

7.4. Inherent Dangers. Supplier hereby expressly acknowledges that: (A) certain Newmont Premises are operational mine sites, plant sites, exploration sites and/or laboratories which, in the normal course of business, contain certain physical conditions which are, by their inherent nature, dangerous, including blasting operations, open pits, high walls, heavy machinery, high-voltage electrical equipment, and other chemical and industrial hazards ("Inherent Dangers"); (B) it has had the opportunity to undertake any desired investigation of such sites; and (C) it is fully aware of and understands the risks associated with its performance of the Services at a site with Inherent Dangers and hereby assumes all such risks associated with the performance by Supplier Parties of the Services, and the presence of any Supplier Party's invitees, at such a site to the extent the same are caused by any Inherent Danger (collectively, "Assumed Risks"). Supplier (I) discharges and releases each Newmont Party from any and all Losses that Supplier, or any Supplier Party or Supplier invitee claiming through Supplier, may have now or in the future as a result of Assumed Risks; and (II) covenants that Supplier shall not at any time in the future, directly or indirectly, commence or prosecute against any Newmont Party any Claims for Losses incurred as a result of Assumed Risks; provided, however, that the foregoing release and covenant shall not apply with respect to Losses to the extent caused by Newmont's gross negligence or willful misconduct.

7.5. Values-Based Commitments. Supplier shall comply with the values-based commitments set forth on Exhibit B attached herein and incorporated herein by this reference.

8. **INSURANCE**. Supplier shall comply with the terms and conditions of Exhibit A attached hereto and maintain the required insurance coverages and endorsements at Supplier's cost for the duration of the Term.

9. **INDEMNIFICATION**.

9.1. General Indemnity by Supplier. Supplier shall indemnify, defend, and hold harmless each Newmont Party against and from any and all Claims and Losses, including (A) injury, bodily or otherwise, to or death of persons, (B) damage to or destruction of property belonging to Supplier, Newmont, or others, (C) violation of any Laws, and (D) environmental liabilities, to the extent the same arises out of or are caused by Supplier's breach of this Agreement or any Supplier Party's or Supplier Party's invitee's acts, omissions, or performance in connection with this Agreement; provided, however, that the foregoing indemnification shall not apply to the extent such Claim or Loss arises out of or is caused by Newmont's negligence or willful misconduct.

9.2. Intellectual Property Indemnity by Supplier. Supplier warrants, represents, and covenants to Newmont that all Goods, the sale thereof by Supplier to Newmont, the use thereof by any Newmont Party, the performance of the Services, the use by Supplier of materials, methods, products, or equipment in performing the Services, and Newmont's use of any materials, methods, products, or equipment provided to Newmont by Supplier in connection with the Services do not and will not infringe, directly or indirectly, on any patents or violate any copyrights, trademarks, trade secrets, or any other intellectual property rights ("Third Party Rights"), or cause any Newmont Party to be liable for any fees or royalties arising under any Third Party Rights. Supplier shall, at its sole cost and expense, indemnify, defend, and hold harmless all Newmont Parties from and against any and all Claims of infringement or violation of any Third Party Rights and all Losses related thereto arising with respect to any Goods, the sale to or use thereof by Newmont, the performance of the Services, the use of materials, methods, products or equipment in performance of the Services by any Supplier Party, or Newmont's use of any materials, methods, products, or equipment provided to Newmont by Supplier in connection with the Services. In the event Goods or any part thereof are alleged to infringe or violate any Third Party Rights, at Newmont's request, Supplier either shall obtain, at its sole cost and expense, an irrevocable, perpetual, royalty-free license for the applicable Newmont Party to legally use such Goods on the same terms and conditions under this Agreement, shall modify such Goods to be non-infringing but with equivalent functionality and performance, or shall replace such Goods with other non-infringing Goods with equivalent functionality and performance; provided, however, that such license, modification, or replacement shall in no way amend or relieve Supplier of its warranties and obligations set forth in this Agreement.

9.3. General Indemnity by Newmont. Newmont shall indemnify, defend, and hold harmless Supplier against and from any and all claims and losses, including (A) injury, bodily or otherwise, to or death of persons, (B) damage to or destruction of property belonging to Supplier, Newmont, or others, (C) violation of any Laws, and (D) environmental liabilities, to the extent the same are caused by the negligence or willful misconduct of Newmont in its performance of its obligations under this Agreement.

10. **STATUS OF SUPPLIER; TAXES**.

10.1. Independent Contractor. Supplier shall perform the Services as an independent contractor in accordance with its own methods and the terms of this Agreement. Supplier shall have complete charge of its personnel engaged in the performance of the Services. Individuals employed or subcontracted by Supplier ("Contract Staff") shall not be deemed for any purpose to be employees, agents, servants, workers, or representatives of Newmont and shall not have authority to enter into agreements on behalf of Newmont or otherwise bind Newmont in any manner. None of Supplier, Supplier's subcontractors, or their respective employees or agents (collectively, "Supplier Parties") shall be eligible for any retirement plan, insurance program, or any other employee benefits provided to employees of Newmont. **NO SUPPLIER PARTY SHALL BE ENTITLED TO ANY BENEFITS ON ACCOUNT OF OCCUPATIONAL ACCIDENTS OR TO ANY OTHER WORKERS' COMPENSATION, LABOR RIGHTS BENEFITS, OR SIMILAR BENEFITS PROVIDED BY NEWMONT TO ITS EMPLOYEES.** It is not the intent of the parties to create, nor shall this Agreement be construed as creating, a partnership, joint venture, employment relationship, agency relationship, or association, or to render the parties liable as partners, co-venturers, or principals.

10.2. Taxes. Supplier shall be solely responsible for all income, withholding and similar taxes levied upon the remunerations earned by Supplier hereunder. Without limiting the generality of the foregoing, Supplier accepts any and all withholdings that Newmont may be obligated to make, pursuant to Laws, from compensation payments to Supplier under this Agreement. If Supplier is exempt from any such withholding taxes, it shall make available to Newmont such documentation and other information as may be required by the applicable taxing authority in order to establish Supplier's exemption. Any use, sales, or similar taxes imposed by any governmental authority on or measured by any transaction between Supplier and Newmont pursuant to this Agreement shall be paid by Newmont in addition to the Prices and Fees (unless the Prices or Fees specifically include such taxes, as set forth on the Purchase Order). Supplier shall cooperate with Newmont in opposing the imposition of such taxes on any Goods or Services, the legality of which is reasonably contested by Newmont, and in securing any abatement or refund thereof sought by Newmont. Supplier shall pay all other taxes imposed on any Goods or Services before transfer of title or performance thereof to or for Newmont.

10.3. Indemnification for Taxes and Employment Claims. Supplier shall indemnify, defend, and hold harmless each Newmont Party from and against any and all Claims, and all Losses related to or arising from Supplier's failure to pay such taxes, levies, duties, and assessments as required herein as well as any and all Claims or Losses related to or arising out of this Agreement brought by any Contract Staff, including:

10.3.1. relating to or arising out of any Contract Staff's Claims that any such Contract Staff are employees of any Newmont Party or joint employees of Supplier



and any Newmont Party, including without limitation any and all Claims that such Contract Staff are or may be employed by any Newmont Party, directly, constructively or indirectly, including but not limited to under any joint or single employer theory or agency theory; any and all Claims that such persons are or were not paid all compensation purportedly due and owing to them are employees of any Newmont Party or joint employees of Supplier and any Newmont Party in accordance with applicable law or contract; any Claim arising out of the Immigration and Nationality Act or similar acts of other countries; any claim arising under any wage and hour law (including without limitation any laws relating to minimum wage, overtime, off-the-clock work, pay frequency, meal, rest and other legally required breaks, and other wage and hour laws), employee benefits law (including but not limited to ERISA), anti-discrimination law, anti-harassment law, anti-retaliation law, whistleblower law, background check law, workers' compensation, unemployment, disability; or any other employment law, rule, regulation or common law. The foregoing obligations shall apply regardless of whether such Claims are asserted on an individual, class or collective basis, or under any Laws.

#### 11. **TERMINATION; EXPIRATION.**

11.1. Newmont may immediately terminate this Agreement at any time, for its convenience, by giving Notice of the same to Supplier, which Notice shall specify the effective date of termination (the "Termination Date"). Upon Supplier's receipt of any such Notice (the "Termination Notice Date"), Supplier shall, unless the Notice requires otherwise, (A) promptly discontinue work on applicable Goods as of the Termination Notice Date, and on applicable Services as of the Termination Date; (B) place no further orders for Goods covered by the terminated documents; (C) promptly make reasonable efforts to either obtain cancellation on terms satisfactory to Newmont of all orders to sub-suppliers for Goods or assign those orders to Newmont; and (D) assist Newmont, at Newmont's expense and upon Newmont's request, in the maintenance, protection, and disposition of Goods already acquired by Newmont under this Agreement.

11.2. Upon termination by Newmont as provided in this Agreement, Supplier shall be paid: (I) the unit Price for each item of Goods for which title has passed to Newmont in accordance with the provisions of Section 2.1.3, above, prior to the Termination Date; (II) Supplier's actual costs incurred for Goods in the process of manufacture as of the Termination Notice Date, including unused materials and castings, which are identified to and being manufactured or fabricated specifically and solely as a result of this Agreement, if any; and (III) for the applicable Services performed and related allowable expenses incurred by Supplier through the Termination Date. Notwithstanding the foregoing: (a) Newmont shall not be liable for any Goods which Newmont can show, to Supplier's reasonable satisfaction, are Non-Conforming Goods, for which the provisions of Section 5, above, shall control; (b) Newmont shall not be liable for any Services which Newmont can show, to Supplier's reasonable satisfaction, are Non-Conforming Services, for which the provisions of Section 5, above, shall control, and (c) the amount payable by Newmont shall not exceed the total Price of Goods or Fees for Services specified in the Purchase Order less any payments previously made thereon by Newmont and shall not, in any event, include any consideration for loss of anticipated profits on the terminated portion of Goods or Services. Supplier shall invoice Newmont for the foregoing allowable charges in accordance with the requirements set forth in this Agreement and Newmont shall pay Supplier within ninety (90) days of its receipt of a correct invoice.

11.3. Within five (5) days after: (A) the effective date of expiration or termination of this Agreement; or (B) if earlier, the completion of all Services under this Agreement, Supplier shall return to Newmont all identification and access badges, codes, VPN tokens, and similar items provided to Supplier by Newmont in connection with the applicable Services (except to the extent the same are applicable to other on-going services).

12. **FORCE MAJEURE.** Any of the following that are beyond a party's reasonable control shall be deemed a "Force Majeure Event" under this Agreement: governmental regulation, labor dispute, strike, war, riot, insurrection, civil commotion, explosion, fire, flood, storm or any act of God, delay of common carriers, embargo, pandemic, or other causes beyond a party's reasonable control. Supplier shall not be liable for any delay in delivery or performance of, or failure to deliver or perform, any Goods or Services if such delay or failure is caused by a Force Majeure Event. Where only a part of Supplier's capacity to perform is excused under this Section, Supplier shall make a fair allocation of production and deliveries among the various customers then under contract for similar goods or services during the Force Majeure Event period. Newmont shall not be liable for failure to take delivery of Goods or failure to allow performance of Services if such failure is caused by a Force Majeure Event. Supplier shall not be obligated to provide, nor Newmont obligated to purchase, at a later date, that portion of Goods or Services that Supplier is unable to deliver or perform, or Newmont is unable to take delivery of, because of a Force Majeure Event. The party which will be unable to perform its obligation hereunder as a result of a Force Majeure Event shall give the other party Notice within ten (10) days from the beginning of such Force Majeure Event with reasonably full particulars thereof and the probable extent to which it will be unable to perform or be delayed in performing its obligations. The party giving such Notice shall use its good faith, commercially reasonable efforts to mitigate the effects of such Force Majeure Event as soon as possible after the occurrence thereof. If it appears that a time for delivery or performance will be extended for more than twenty (20) days by reason of a Force Majeure Event, the party receiving Notice under the prior sentence shall have the right to terminate, by Notice to the other party, any portion of the Purchase Order covering the delayed performance and receive a refund of any amounts paid with respect to the obligations not performed. A Force Majeure Event shall not be a basis for a claim for additional compensation, and each party shall bear its own costs and expenses associated with or caused by such an event.

#### 13. **CONFIDENTIALITY; DATA SECURITY.**

13.1. Confidential Information. Each party ("Receiving Party"), agrees (1) to treat as confidential and proprietary, (2) not to disclose to others, during or subsequent to the Term, and (3) not to use, except for purposes of performing its obligations hereunder, without the express prior written consent of the disclosing party ("Disclosing Party") any and all information of any description whatsoever (expressly including any technical information, experiments, or data) regarding plans, programs, plants, processes, products, minerals, real property interests, costs, equipment, operations, or customers of the Disclosing Party or its affiliates that is marked confidential or proprietary, or that is of the type of information that a reasonable person would know is confidential or proprietary in nature and that comes within the knowledge of such Receiving Party in the performance of this Agreement (collectively, "Confidential Information"). Receiving Party shall take all necessary, reasonable precautions, contractual and otherwise, to prevent unauthorized disclosure or use of Confidential Information.

13.1.1. Confidential Information shall not include information which: (1) is, or shall have been, in the possession of Receiving Party and not subject to a confidentiality obligation prior to Receiving Party's acquisition thereof in connection with the performance of this Agreement; (2) through no act or omission of Receiving Party, becomes published or otherwise available to the public under circumstances such that the public may utilize the same without any direct or indirect confidentiality obligation to Disclosing Party or its affiliates; or (3) is acquired by Receiving Party from any third party rightfully in possession of the same and having no direct or indirect confidentiality obligation to Disclosing Party or its affiliates with respect to the same; provided, however, that the foregoing exceptions shall not apply with respect to Confidential Information which meets the definition of Personal Data (as set forth in Section 13.2. below).

13.1.2. All Confidential Information shall be delivered to Disclosing Party or destroyed by Receiving Party, at Disclosing Party's discretion, upon the termination or expiration of this Agreement or at any earlier time upon Disclosing Party's request. Receiving Party shall not retain any copies of Confidential Information without Disclosing Party's express written authorization. Notwithstanding the foregoing, Receiving Party may retain one archival hard copy of the Confidential Information for such period of time that Receiving Party normally retains archival hard copies, and such hard copy shall remain subject to this Section 13. until it is destroyed. In addition, if Receiving Party's computer system automatically retains back-up copies of Confidential Information, Receiving Party may retain such copies in Receiving Party's archival computer storage for the period of time that Receiving Party normally archives backed-up computer records, and such computer copies shall remain subject to this Section 13 until they are destroyed or erased. Receiving Party acknowledges that the Confidential Information is an important asset of Disclosing Party and/or its affiliates and that there is not an adequate remedy at law for a breach by Receiving Party of this Section 13, and Disclosing Party and/or its affiliates may suffer irreparable harm as a result of such a breach. Therefore, Receiving Party agrees that Disclosing Party and/or its affiliates shall be entitled to seek equitable relief, including temporary and permanent injunctive relief without the obligation of posting a bond (cash or otherwise), in the event of actual or threatened unauthorized disclosure or use of Confidential Information in breach of this Section.

13.2. Sensitive Information. For purposes of this Agreement, "Personal Data" means information regarding any individual (whether an employee or agent of either party, its affiliates, or contractors of it or its affiliates, or other individuals) recorded in any format, which is obtained by Receiving Party in connection with this Agreement



and that identifies or could identify an individual personally, either by itself or together with other information, including demographic information such as name, sex, age and contact information, financial information such as taxpayer identification numbers and bank account information, and health information such as medical records and insurance claims. Receiving Party shall, for as long as it has possession of any Personal Data or other Confidential Information (collectively, "Sensitive Information") on Receiving Party's information technology systems, maintain reasonable security procedures and practices that are both (1) appropriate to the nature of the Sensitive Information, and (2) reasonably designed to help protect the Sensitive Information from unauthorized access, use, modification, disclosure, or destruction. Receiving Party shall promptly notify Disclosing Party if it becomes aware, or has reason to believe, that any breach of this Section has occurred, that any unauthorized access to or use of, or any security breach relating to or otherwise affecting, any Sensitive Information has occurred, or that any person who has had access to Sensitive Information has violated or intends to violate the terms of this Agreement. Receiving Party shall, at its own expense, cooperate with Disclosing Party in investigating and responding to the foregoing.

13.3. Personal Data Processing Provisions. If and to the extent that Laws governing the protection, storage, or handling of Personal Data conflict with any of the provisions set forth in this Section 13, each party shall protect, store, and otherwise handle such Personal Data in accordance with such Laws and, to the extent Section 13 is more protective or restrictive, also in compliance with such more protective or restrictive contractual requirement. Notwithstanding the foregoing, if this Agreement requires Supplier to process Personal Data, Supplier shall perform all such processing in compliance with the General Data Protection Regulation ("GDPR") (Regulation (EU) 2016/679) as applicable, any other applicable data protection laws, and the Personal Data Processing Provisions as set forth in Supplier Terms & Conditions tab of the webpage located at <https://www.newmont.com/suppliers>.

#### 14. TRADE COMPLIANCE.

14.1. Export Laws. Supplier shall notify Newmont in advance if any item or information to be provided to Newmont by Supplier under or otherwise in connection with this Agreement is subject to United States or any other country's export control Laws and, upon Newmont's request, shall provide Newmont with all information Supplier has which relates to the export controls applicable to such item or information (e.g., information relating to applicable jurisdiction and classification determinations). Notwithstanding any obligation to the contrary which may be otherwise associated with any Incoterm that is applicable thereto, for all international deliveries of items and information by Supplier under this Agreement, Supplier shall be the exporter of record (and US principal party in interest ("US PPI") in the U.S.) and shall comply with all export control Laws relating thereto. Without limiting the generality of the foregoing sentence, for all such international deliveries, Supplier shall be responsible for reviewing and classifying such items and information under the export compliance Laws for all applicable countries of export, for determining whether an export license is required for each international delivery and/or whether any export license exception applies thereto, for obtaining all such required export licenses, and for all export reporting (e.g., EEI in AES for U.S. exports) and any other requirements to effect export clearance.

14.2. Sanctions. Each Party represents and warrants to the other Party as at the date of this Agreement and throughout its duration that:

- 14.2.1. neither it nor any of its subsidiaries (collectively, the "Company") or directors, senior executives or officers, or to the knowledge of the Company, any person on whose behalf the Company is acting in connection with the subject matter of the Agreement, is an individual or entity ("Person") that is, or is 50% or more owned or controlled by, a Person (or Persons) that is the subject of any economic or financial sanctions or trade embargoes administered or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") the U.S. Departments of State or Commerce, the United Nations Security Council ("UNSC"), the United Kingdom ("UK"), the European Union ("EU"), Switzerland or any other applicable sanctions authority (collectively, "Sanctions") or based, organized or resident in a country or territory that is the subject of comprehensive (i.e., country-wide or territory-wide) Sanctions (including, but not limited to, Crimea, Cuba, Iran, North Korea, Syria, Russia, Belarus, Donetsk People's Republic (DNR) and Luhansk People's Republic (LNR) regions of Ukraine, as may be updated from time to time) (each a "Sanctioned Country") (collectively, a "Sanctioned Person");
- 14.2.2. no Sanctioned Person has any beneficial or other property interest in the Agreement nor will have any participation in or derive any other financial or economic benefit from the Agreement; and
- 14.2.3. it will not use, or make available, items or funds (as applicable) provided by the other Party in terms of the Agreement (i) to fund or facilitate any activities or business of, with or related to any Sanctioned Country or Sanctioned Person, or (ii) in any manner that would result in a violation of Sanctions, or (iii) for any activities or business that could result in the designation of the other Party as a Sanctioned Person ("Sanctionable Activity").

#### 14.3. Forced Labor.

- 14.3.1. Except to the extent specially prohibited by applicable Law, Supplier shall perform a reasonable inquiry to ensure that it does not, and shall ensure that its suppliers, subcontractors, and other business partners involved in the production, or manufacture of the Equipment or any items/components necessary to perform the Services ("Subcontractors") do not, use any form of prison labor, indentured labor, bonded labor, or other forms of forced labor, including but not limited to, forced or indentured child labor or labor of North Korean or Chinese citizens or nationals ("Forced Labor"), at any stage of the production or manufacturing process for the Equipment or any items/components necessary to perform the Services.

#### 14.4. Compliance.

- 14.4.1. Supplier agrees to provide within five (5) business days of Newmont's request a certificate in form and substance satisfactory to Newmont, signed by Supplier's duly authorized representative, certifying compliance with this Section 14. Upon Newmont's request, Supplier shall also obtain such certificates from its Subcontractors and provide a copy of such certificates to Newmont.
- 14.4.2. In addition to any other audit rights provided in this Agreement, Newmont or its third-party auditor has the right to conduct on-site inspections of Supplier's facilities and any other facilities used in connection with the production or manufacture of the Equipment or any items/components necessary to perform the Services and audit all pertinent books and records to verify Supplier's compliance with this Section 14.

#### 15. ADDITIONAL COVENANTS.

15.1. Compliance with Laws. Supplier shall comply with all Laws applicable to this Agreement, including privacy, labor, and tax Laws and Laws addressing bribery and corruption. Supplier assumes full responsibility for the payment of all wages, payroll burdens, fringe benefits, and payroll taxes as to its employees, servants, and agents, including payroll deductions for income tax, workers' compensation premiums, and unemployment insurance. Supplier shall ensure that Supplier Parties' personnel at all times have applicable visas, work permits, and other necessary documentation, and that all immigration requirements applicable to such Supplier Parties' personnel are complied with.

15.2. Anti-Corruption / Anti-Bribery. Without limiting the generality of the first sentence of Section 15.1, Supplier represents, warrants and covenants to Newmont, as of the Effective Date and the date that each invoice is submitted to Newmont, that in carrying out its responsibilities, neither Supplier, nor any of its equity holders, beneficial owners, partners, officers, directors, employees, agents, or representatives shall, directly or indirectly, offer, pay, promise to pay, or authorize the payment of any money, or offer, give, promise to give, or authorize the giving of anything of value: (A) to (I) any official or employee of any government, or any department, agency, or instrumentality thereof, (II) any political party or official thereof, or any candidate for political office, (III) any official or employee of any public international organization, or (IV) any person acting in an official capacity for or on behalf of such government, department, agency, instrumentality, party, or public international organization, in each case for the purpose of influencing any act or decision of such party, or of such official, employee or candidate in his official capacity, or inducing such official, employee, party or candidate



to do or omit to do any act in violation of the lawful duty of such official, employee, party or candidate, or securing any improper advantage, or inducing such official, employee, party or candidate to use his or its influence with a government or instrumentality thereof to improperly or illegally affect or influence any act or decision of such government or instrumentality; or (B) to an officer, employee, agent, or representative of another company or organization, with the intent to influence or reward the recipient's action(s) with respect to his/her company's or organization's business, or to gain a commercial benefit to the detriment of the recipient's company or organization, or to induce or reward the improper performance of the recipient's duties.

15.3. **Code of Conduct.** Supplier acknowledges having reviewed Newmont's Supplier Code of Conduct and Newmont's Code of Conduct, each of which is available under the About Us/ Governance and Ethics tabs at [www.Newmont.com](http://www.Newmont.com). Supplier shall abide by the principles expressed in its own Code of Conduct; provided, however, that in the event its own Code of Conduct is less stringent than Newmont's Code of Conduct, it shall comply with the latter during the Term of this Agreement.

15.4. **Human Rights.** Supplier commits to establish and maintain a human rights due diligence process appropriate to its size and circumstances to identify, prevent, mitigate and account for how Supplier addresses the impacts of its activities on the human rights of individuals directly or indirectly affected by their operations and supply chains, consistent with the 2011 United Nations Guiding Principles on Business and Human Rights. Supplier represents, warrants, and covenants to Newmont, as of the date hereof, and the date that each invoice is submitted to Newmont hereunder, that no violation of Human Rights, as defined in the Universal Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work, exists in any of its or its affiliates' own operations or, to its knowledge, within the operations of any of its or its affiliates' subcontractors and vendors.

15.5. **Suspension.** Notwithstanding any other provision of this Agreement, Newmont may immediately suspend this Agreement in the event it should receive information which, in its sole discretion, it determines to be evidence of a breach by Supplier of any undertaking in Sections 15.1, 15.2, 15.3 or 15.4 above. In the event of receipt of such evidence and/or such suspension, Newmont shall consult with Supplier and may thereafter immediately terminate this Agreement if Newmont, in its sole discretion, is reasonably satisfied that such a breach has occurred. In the event of such termination, Newmont shall have no liability to Supplier under this Agreement for any fees, reimbursements, or other compensation under this Agreement or for any other loss, cost, claim, or damage resulting, directly or indirectly, to Supplier from such termination, other than for Services already performed and/or Goods already delivered; provided that in no event shall Newmont be required to pay Supplier for any such Services or Goods if such payment would cause Newmont to be in violation of any applicable Law.

15.6. **No Conflict.** Supplier represents and warrants to Newmont that the following conditions exist as of the date of this Agreement and shall continue to exist during and after the Term: (A) there is no actual or potential conflict between Supplier's performance of the Services, provision of the Goods, or obligations owed by Supplier under this Agreement and any obligation that Supplier may have to any third party with respect to confidentiality, intellectual property, or otherwise, and (B) Supplier has no current or potential rights that could be infringed or otherwise violated through Newmont's use of the Goods or use of results of the Services.

15.7. **Audit and Record Retention.** Supplier shall maintain a copy of records and documentation related to all Goods and Services, including correspondence, directions, subcontracts, and associated Change Orders, document submittals, test records and orders, meeting minutes, transmittals, plans, drawings, specifications, books, accounts, accounting records, receipts, vouchers and other memoranda of any description related to this Agreement (collectively "Purchase Order Documentation"). With respect to accounting records, Supplier shall maintain a true, correct, and complete set of records, including books and accounts, prepared in accordance with generally accepted accounting principles consistently applied, relating to the costs and, if reimbursable, expenses for which Supplier seeks compensation or reimbursement under this Agreement, including time expended by Supplier and payments to any subcontractors and suppliers or as may otherwise be necessary for proper financial management under this Agreement, as well as all other records relating to the Goods or Services which may be required by applicable legal requirement (e.g., hazardous material handling records). All such records shall be made available to audit, inspect, and copy by Newmont or its designated representative during the Term and for a period of seven years following termination or expiration of this Agreement, upon 24 hours' prior Notice, and during business hours (8:00 a.m. to 5:00 p.m. where the records are kept); provided, however, that Newmont shall not have audit rights into any fixed rates, agreed-upon percentage multipliers or lump sum amounts. Upon termination or expiration this Agreement, and at Newmont's request, Supplier shall deliver, as a condition precedent to final payment, all Purchase Order Documentation requested by Newmont within thirty (30) days after receiving Newmont's request. In addition, during the Term, upon Newmont's request, Supplier promptly shall provide Newmont with information relating to Supplier's processes, activities and actions that may pose a reputational or compliance risk to Newmont in order to allow Newmont to conduct an audit of the same, and shall allow Newmont reasonable access to its personnel and facilities in connection with such audit. All information obtained by Newmont pursuant to such audit shall be subject to reasonable confidentiality requirements in a form acceptable to Newmont, if so requested by Supplier.

15.8. **Publicity.** Supplier shall not make news or media releases or issue other advertising pertaining to this Agreement or otherwise referencing the name or logo of Newmont or any of its affiliates without first obtaining the written approval of Newmont.

16. **ASSIGNMENT; SUBCONTRACTORS.** The rights and obligations under this Agreement may not be assigned by Supplier without the prior written consent of Newmont, which consent may be denied in its sole discretion. Any attempted assignment without such consent shall be void. If such consent is granted, such assignment shall not increase or alter Newmont's obligations nor diminish or alter Newmont's rights. With respect to any Services to be performed by Supplier, such Services are unique and, therefore, Supplier may not subcontract any portion of its performance thereof to any third party without the prior written consent of Newmont. If Newmont consents to Supplier's use of a subcontractor for the performance of all or any portion of the Services, Supplier nevertheless is and shall remain fully responsible for compliance with all provisions of this Agreement by, and the acts and omissions of, such subcontractor and all of its personnel. In addition, Supplier shall ensure that each such subcontractor's agreement requires the subcontractor specifically to comply with the provisions set forth in Sections 6 (Intellectual Property), 7 (Policies; Newmont Premises), 8 (Insurance), 9 (Indemnification) 10 (Status of Supplier; Taxes), 13 (Confidentiality; Data Security); 14 (Trade Compliance) and 15 (Additional Covenants). This Agreement shall be binding upon and inure to the benefit of the parties' respective successors and permitted assigns.

17. **SURVIVAL.** All provisions of this Agreement which, by their general terms, reasonably may be interpreted as being intended to survive the expiration or termination of this Agreement, shall survive.

18. **NOTICES.** All notices and other required communications under this Agreement ("Notices") shall be in writing, and shall be sent to the addresses set forth below, if to Newmont, and to Supplier's address as set forth in the Purchase Order, if to Supplier. A party may change its address by sending Notice to the other party of the new address. Notices shall be given: (A) by personal delivery to the other party; (B) by email; (C) by registered or certified mail, return receipt requested; or (D) by express courier (e.g., DHL, Federal Express, etc.). Notices shall be effective and shall be deemed delivered: (I) if by personal delivery, on the date of the personal delivery; (II) if by email, on the date sent if sent during normal business hours (8:00 a.m. to 5:00 p.m. at recipient's location) and, if not delivered during normal business hours, on the next business day following delivery; (III) if solely by mail, on the date of receipt as stated on the return receipt; or (IV) if by express courier, on the date signed for or rejected as reflected in the courier's delivery log.

Notice address for Newmont:

Newmont  
6900 E. Layton Ave, Suite 700  
Denver, Colorado 80237  
Attn: Supply Chain  
Email: N/A

With a copy of any Notice of breach of this Agreement by Newmont or other legal Notice to:

Newmont USA Limited  
6900 E. Layton Ave, Suite 700  
Denver, Colorado 80237  
Attn: Legal Department





Email: [LegalNotices@Newmont.com](mailto:LegalNotices@Newmont.com)

19. **GOVERNING LAW; VENUE.** This Agreement shall be governed by and interpreted in accordance with the Laws of the State of Colorado, excepting Colorado law pertaining to choice of law or conflicts of law or any other laws, rules, regulations and case law that would result in the application of laws of a jurisdiction other than the State of Colorado. The parties hereby submit to the jurisdiction of the state and federal courts in the State of Colorado and agree that the state and federal courts in the State of Colorado shall be the exclusive forum for the resolution of any dispute related to, arising out of, or arising under this Agreement, whether based in tort, contract, or other legal theory.

20. **AGREEMENT TO TRANSACT ELECTRONICALLY.** If applicable, the Parties agree that a Purchase Order may be executed, and/or otherwise issued and accepted, in counterparts, each of which is deemed an original, but all of which constitutes one and the same agreement and delivery of an issued or accepted counterpart electronically or by facsimile shall be effective as delivery of an original, executed counterpart. The Parties agree to conduct business via electronic means, and any electronic signatures communicated by electronic transmission or digital signature, whether or not encrypted or provided through DocuSign (or other similar service) shall be considered an original signature and are intended to authenticate such writing and have the same legal effect, validity, and enforceability as a signature affixed by hand or other manual means. The use of an electronic-based record-keeping system is deemed to have the same force and effect as a paper-based record-keeping system.

21. **MISCELLANEOUS.**

21.1. **Entire Agreement.** This Agreement, its Exhibits, the Purchase Order, and Change Orders, if any, constitute the complete and entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes, merges, and voids all negotiations, prior discussions, and prior agreements and understandings, whether written or oral, relating to the subject matter hereof.

21.2. **Amendment.** This Agreement may not be altered or amended except by a document executed, or otherwise legally accepted, by each party.

21.3. **Severability.** Should any Section or provision of this Agreement be held or deemed unenforceable or illegal by any court, the remaining provisions of this Agreement shall survive and be fully enforceable as if the illegal or offending provision was never included herein.

21.4. **Waiver.** The failure of Newmont or Supplier to insist upon or enforce strict performance of any of the terms of this Agreement or to exercise any rights herein shall not be construed as a waiver or relinquishment to any extent of Newmont's or Supplier's respective right to assert or rely upon such terms or rights. Any waiver hereunder by a party of a right or entitlement shall be effective against such party only if in a writing signed by such party, and any such waiver shall be effective only with respect to the particular matter to which it relates and shall not be a continuing waiver.

21.5. **Construction.** In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

21.6. **PRECEDENCE.** These Purchase Order Terms and Conditions, the Purchase Order, and any Change Orders are intended to be complementary and shall be interpreted and construed as complementary, whenever possible. In the event, however, of any contradiction, discrepancy, ambiguity, or inconsistency between such documents, the following order of precedent shall apply:

- i. Sections 1 to 21 of these Purchase Order Terms and Conditions;
- ii. Change Orders, if any; then
- iii. the Purchase Order.

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**Exhibit A**  
**INSURANCE REQUIREMENTS**

- A. During the Term and for such additional period(s) of time as required herein, Supplier shall have in effect the following insurance coverages:
- (1) Worker's Compensation and Employer's Liability Insurance, covering all claims by or in respect to the employees of Supplier providing:
    - a. Coverage for the statutory limits as required by Laws;
    - b. Sufficient endorsements to extend the full policy coverage to all areas in which operations or Services are to be conducted hereunder (including if applicable, international operations); and
    - c. Employer's Liability Insurance with minimum limits of U.S. \$500,000 for all personal injuries and death in one accident.
  - w(2) Commercial General Liability Insurance with a limit of not less than U.S. \$1,000,000 each occurrence and U.S. \$2,000,000 annual aggregate. This Commercial General Liability Insurance shall include:
    - a. where an exposure exists, explosion, collapse, and underground (XCU) coverage; and
    - b. cross-liability coverage. If Supplier's liability policy(ies) does not contain a separation of insured provision, it shall be endorsed to provide cross-liability coverage.
- Clauses A(3) through A(8) of this Exhibit A apply only if applicable, as specified within the language of each such clause.
- (3) Automobile Liability Insurance, covering owned, non-owned, and hired vehicles which either are used by Supplier on Newmont Premises or are otherwise used in the performance of the Services, covering bodily injury and property damage, with a combined single limit of not less than U.S. \$1,000,000 each occurrence; in addition, for all vehicles which will carry Goods which may be categorized as pollutants under Laws, the policy shall also include sudden and accidental pollution coverage for hauled materials resulting from an accident and an MCS-90 endorsement with the appropriate coverage limit for the type of Goods being transported.
  - (4) Comprehensive Aircraft Liability Insurance, if any of the Services involve use of a chartered or private aircraft, carried by Supplier or, if Supplier is not the owner of the aircraft, by the aircraft owner, including Passenger Liability without any seat limitation, with limits of not less than U.S. \$1,000,000 if Services are to be performed solely in Ghana, Peru, or Suriname or U.S. \$4,000,000 if any of the Services are to be performed outside of the aforementioned countries, per seat, combined single limit for bodily injury and property damage, per occurrence.
  - (5) Professional Indemnity/Errors and Omissions Liability Insurance, for any of the Services which involve medical, legal, accounting, engineering, or similar types of professional services which are typically insurable under professional indemnity policies, covering liability for financial loss or damage due to an act, error, omission, breach of duty, or negligence resulting from errors or omissions in the delivery of professional services with a minimum limit per event of U.S. \$1,000,000 if Services are to be performed solely in Ghana, Peru, or Suriname or U.S. \$5,000,000 if any of the Services are to be performed outside of the aforementioned countries.
  - (6) Medical, Accident, and Travel Insurance; covering all Supplier personnel who will travel, in connection with performance of the Services, outside of the individual's country of residence or to any mine site or exploration site, including coverage of any cost associated with comprehensive emergency medical evacuation, treatment, and repatriation, including repatriation of mortal remains and any costs related thereto. In the alternative, Supplier may choose to not obtain the insurance required by this clause, in which event, Supplier shall indemnify, defend, and hold harmless each Newmont Party against and from any and all Claims and Losses incurred in connection with Supplier personnel traveling, in connection with the performance of the Services, outside of the individual's country of residence or to any mine site or exploration site; provided, however, that the foregoing indemnification shall not apply to the extent such Claim or Loss arises out of or is caused by Newmont's negligence or willful misconduct.
  - (7) Marine Hull and Protection & Indemnity Insurance, if Supplier is chartering a vessel in connection with performance of the Services, for full loss or damage coverage of not less than the value of the vessel in use. All chartered vessels must be members of the International Protection & Indemnity Association Group.
  - (8) Unless otherwise specified in the Purchase Order, Newmont shall arrange Marine Transit and/or Inland Transit Insurance coverage that insures all Goods that are transported by air, sea, or land from any place in the world to the Designated Location. If directed by Newmont, Supplier shall obtain such insurance. This provision shall apply notwithstanding any contrary responsibility for such insurance that may typically be associated with any Incoterm specified in the Purchase Order; provided, however, that if the Purchase Order specifically states that responsibility for such insurance shall be borne in accordance with the stated Incoterm, then that provision shall control.
- C. Supplier shall deliver to Newmont, at least five (5) business days prior to commencement of the Services, certificate(s) of insurance for all of the above-required insurance policies containing the following:
- (1) evidence that coverage is on an occurrence, not claims made, basis (not required for Professional Indemnity/Errors and Omissions Liability Insurance);
  - (2) evidence that Newmont is listed as an additional insured or has its interest noted on the insurance policy with respect to the Commercial General Liability insurance, Automobile Liability insurance, and Comprehensive Aircraft Liability insurance and that Newmont Corporation is listed as an additional insured or has its interest noted on the insurance policy with respect to Comprehensive Aircraft Liability insurance;
  - (3) a statement that the insurance provider has waived subrogation rights with respect to Newmont (not required for Professional Indemnity/Errors and Omissions Liability Insurance); and
  - (4) a statement that the policy will not be materially changed or canceled without at least thirty (30) days prior written notice, by registered or certified mail, to Newmont.
- D. The effecting of the insurance set out herein shall not in any way limit, alter, or affect the liability and obligations of Supplier under this Agreement.
- E. Notwithstanding anything herein to the contrary, any policies written on a claims made basis must provide cover in respect of claims arising out of this Agreement for at least five years from the expiration or termination of this Agreement.
- F. In the event that Supplier is permitted to subcontract any of the Services, Supplier shall require the types and limits of insurance coverage set forth in this Exhibit A (or such other coverage as may be acceptable to Newmont) from such subcontractors and shall require and ensure that such subcontractors certify insurance coverage to Newmont prior to commencement of any Services. In the event that any Supplier is going to go onto Newmont's Premises in connection with the Services, Supplier shall require the types and limits of insurance coverage set forth in Sections A.(1), (2), and (3) of this Exhibit A (or such other coverage as may be acceptable to Newmont) from such Supplier and shall require and ensure that such Suppliers certify insurance coverage to Newmont prior to commencement of any Services.



- G. Supplier shall effect all insurance policies required under this Exhibit A with insurance providers that have a Best rating of B+ XII (or equivalent) or better. Should any insurance company which is providing insurance required by this Agreement fall below a Best B+ XII (or equivalent) rating, Supplier shall promptly give Notice to Newmont and, as soon as practicable, effect coverage with another insurance provider that has a Best rating of B+ XII (or equivalent) or better.
- H. Supplier may insure or self-insure its own tools, plant, and equipment as it deems appropriate. Whether Supplier insures or self-insures such tools and equipment, Supplier hereby releases from liability, and waives all rights of recovery (including rights of subrogation) from and against, each Newmont Party for all loss or damage to such tools and equipment irrespective of the theory upon which any claim is brought. Supplier shall include in all subcontracts a provision equivalent to this Section H affording each Newmont Party a release from and waiver of liability for loss or damage to subcontractors' tools and equipment.

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## Exhibit B

### Value Based Commitments

1. **Inclusion & Diversity.** Except as otherwise prohibited by applicable Laws, Supplier will not discriminate based on a person's national origin, race, religion, gender, gender identity, gender expression, sexual orientation, disability, age, or any other legally protected status in making hiring, compensation, promotion, discipline, and other decisions relating to employment. Supplier will seek to maximize local employment and to increase diversity in its workforce to better reflect the communities in which it performs work for Newmont.
2. **Diversity in Design.** Supplier shall utilize its good faith efforts to address and incorporate diversity-in-design considerations in the, as applicable to this Agreement, (a) performance of the Services; and (b) operation, maintenance and repair procedures of the Goods, in a manner that do not limit an individual's ability to safely and effectively perform required activities related to the Services or Goods based on such individual's:
  - 2.1. Gender, including physical characteristics like height and weight that may vary based on a person's gender (for example, Supplier shall not design a solution that is suitable for an average male, but is not suitable for an average female);
  - 2.2. Disability, with or without reasonable accommodation (provided, however, that such design-in-design considerations shall not be required to the extent that adjustments cannot be made without causing a direct threat to the health and safety of the individual or others, or without posing an undue hardship to Supplier);
  - 2.3. Age; or
  - 2.4. Pregnancy status.
3. **Safety - Live Work Elimination.**
  - 3.1. The Parties acknowledge that sharing learning and improvement initiatives relating to the safe performance of Services and safe operation, maintenance and repair of equipment is an important step in preventing accidents. Subject to any applicable confidentiality obligations, the Parties will use good faith efforts to share among each other safety-related information and lessons learned regarding the safe performance of the Services and safe operation, maintenance and repair of the equipment as applicable to this Agreement.
  - 3.2. Supplier shall utilize its good faith efforts to eliminate the requirement to: (a) perform Services; and (b) operate, maintain or repair equipment, in a manner that places personnel in the line of fire of un-isolated or energized equipment with the potential to strike, crush or entangle ("Live Work") through Supplier's continuous development and implementation of Live Work elimination solutions, including, but not limited to, engineering controls; use of specialized tooling, and updating of procedures that are able to be applied to new and existing items of equipment and Services, as applicable.
4. **Climate Strategy and Decarbonization.**
  - 4.1. Supplier acknowledges that Newmont has established industry-leading climate targets of at least 30% reduction in Scope 1, Scope 2, and Scope 3 greenhouse gas emissions by 2030 compared to baseline years, with an ultimate goal of achieving net zero carbon emissions by 2050.
  - 4.2. Supplier shall use its good faith efforts to reduce greenhouse gas emissions associated with the performance of the Services/supply of the Goods, as applicable to this Agreement, and shall collaborate with Newmont on emissions reductions and reporting throughout the Term of this Agreement as reasonably requested by Newmont.
5. **Environmental and Social Responsibility.**
  - 5.1. Supplier understands that Newmont is committed to conducting all of its mining operations and related activities in an environmentally and socially responsible manner. To that end, Supplier shall make all commercially reasonable efforts:
    - 5.1.1. to perform the Services and provide the Goods, if any, in a manner aligned with such principles, including the use of pollution-controlled equipment and facilities, if and as applicable;
    - 5.1.2. to assess the potential impact of its activities on local communities and, when applicable, to integrate mitigation measures into its work plans, including ensuring that such measures are appropriately budgeted;
    - 5.1.3. to timely address third-party complaints received by it in connection with any work or Goods provided hereunder (including from employees, subcontractor, suppliers, and local community members);
    - 5.1.4. to identify opportunities that incorporate local procurement and employment; and
    - 5.1.5. to the extent involving activities conducted for or on behalf of Newmont, to coordinate engagement with local community stakeholders through Newmont's site-level Social Responsibility department.
6. **Compliance.** Upon Newmont's request, Supplier shall promptly provide documentation reasonably satisfactory to Newmont of the actions, process and activities it has undertaken to verify good faith compliance with each of the commitments set forth in this Exhibit.

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