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Sample – Terms and Conditions	

[AGREEMENT #]

This Agreement, made and entered into this [DAY]th day of [MONTH], [YEAR].

Between:

[V FIRST NAME] [V LAST NAME]
[VENDOR COMPANY NAME]
[V ADDRESS]
[V CITY], [V STATE] [V ZIP]

[V PHONE]
[V EMAIL]

(hereinafter called "Vendor")

And:

[O FIRST NAME] [O LAST NAME]
[OWNER COMPANY NAME]
[O ADDRESS]
[O CITY], [O STATE] [O ZIP]

[O PHONE]
[O EMAIL]

(hereinafter called "Owner")

Witnessed that in consideration of mutual covenants and agreements herein, that the "Owner" and the "Vendor" each agree as follows:

[THIS IS A SAMPLE SET OF TERMS AND CONDITIONS. DETAILS REGARDING THE SPECIFICS OF THE AGREEMENT SHOULD BE INCLUDED]

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1. ENVIRONMENTAL HEALTH & SAFETY

- a) Prior to commencing Work, [VENDOR COMPANY NAME], hereinafter known as the Vendor, will receive from [OWNER COMPANY NAME], hereinafter known as the Owner, a detailed account of proposed safety measures and procedures. All new employees working at the site will be thoroughly and properly informed of all applicable rules and regulations pertaining to environmental health and safety, security and first aid; and receive such other training and indoctrination as deemed appropriate by the Owner from time to time.
- b) The Vendor shall designate and make known to the Owner one or more Safety Coordinators who shall: implement the safety program as approved by the Owner; enforce all safety rules and regulations; post appropriate warning signs at all hazardous places; and obtain and file all permits required of the Vendor.
- c) One or more Safety Coordinators shall be onsite at all times that the Vendor is doing Work and make frequent and regular inspections of work areas; take remedial action as appropriate; notify the Owner of accidents; notify government authorities of all incidents as stipulated by local laws
- d) The Vendor will provide to all the Vendor's employees, at no charge to said employees, appropriate safety equipment including but not limited to; hardhats; safety glasses; gloves; cold weather clothing; safety boots; safety ropes; and any other items as may be required to safely complete the Work.
- e) The Vendor will be responsible for general safety and employee conduct ensuring that; equipment is operated, maintained and repaired by persons with adequate training, certification, and experience; all employees are adequately fitted with and utilizing appropriate safety equipment; employees understand and comply with all acts, rules and regulations pertaining to the safe performance of their work; proper personal and work place hygiene is observed.
- f) The Vendor will maintain all work sites in a clean and safe manner ensuring that; garbage and waste is adequately stored and removed in a timely fashion to a location approved by the Owner; adequate fire protection equipment is available at all times and employees are trained in its use; and the Owner's permission is obtained prior to welding, grinding, cutting, burning or other hot work. All worksite should be related to erection site and Vendor maintenance area.

2. INDEMNIFICATION

[VENDOR COMPANY NAME] shall indemnify, defend and hold [OWNER COMPANY NAME] harmless from any and all claims, demands, causes of action, damages, penalties, fines, costs and expenses of any kind or character (including, without limitation, attorneys fees, court costs and litigation expenses), whether made by third parties or whether direct or indirect arising from the performance of the erection work by the Vendor.

3. COMPLIANCE WITH LAWS AND REGULATIONS

The Vendor shall perform the erection in accordance with all “Applicable Laws” and shall release, indemnify, defend and hold [OWNER COMPANY NAME] harmless from any and all loss, liability, claims, demands, causes of action, damages, penalties, fines, costs and expenses of any kind or character (including, without limitation, attorneys fees, court costs and litigation expenses), arising from its failure to do so. Without prejudice to the generality of the foregoing, the Vendor shall be responsible for timely payment of wages, salaries, unemployment compensation, social security and other similar taxes, insurance and benefits covering its employees.

4. VENDOR NAME PERSONNEL, TOOLS AND EQUIPMENT

[VENDOR COMPANY NAME] agrees to supply at all times an adequate number of qualified supervisory and craft personnel to perform the erection. Any employee of the Vendor deemed by [OWNER COMPANY NAME] to be objectionable shall be removed from the jobsite immediately upon request and shall be promptly replaced by the Vendor at no expense to the Owner. All tools and equipment used by the Vendor shall be in satisfactory operating condition, fit for the uses intended and suitable for the safe and efficient performance of the work, and the Vendor shall provide insurance on the material as set out in Section 7, Insurance on Equipment and Temporary Buildings.

5. CLEANUP

The Vendor shall keep [OWNER COMPANY NAME] premises and the vicinity thereof clean and free of any debris and rubbish caused by the erection and, on completion of the erection, shall leave such premises clean and ready for use.

6. CONSEQUENTIAL DAMAGES

Neither party shall be responsible or held liable for consequential damages, including without limitation, liability for loss of profit, loss of product or business interruption however the same may be caused, except to the extent of the loss actually incurred.

7. INSURANCE

7.1 Insurance to be provided by [OWNER COMPANY NAME]. The Owner will provide and maintain during the continuance of the Purchase Order:

7.1.1 Course of Construction Insurance (applies only during Construction Period)

7.1.1.1 Insurance, in an amount to be decided by [OWNER COMPANY NAME], against “All Risks” of physical loss or damage on all Work which will enter into and form part of the completed permanent surface facilities. The insurance will cover such Work while at the project site. Coverage for such Work while in transit to the

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project site and while temporarily stored at premises other than the project site shall be arranged as noted in 7.1.3 and 7.2.5 below.

7.1.1.2 The insurance noted in 7.1.1 shall include the interests of the Vendor in the work, as the case may be, but the term Work as used herein shall not include temporary structures (except temporary maintenance facilities), tools, equipment and apparatus, the ownership of which remains with the Vendor.

7.1.1.3 A deductible to be set by [OWNER COMPANY NAME] will apply to each and every loss to the Work to which the Vendor has an interest, if any, at the time of such loss. With respect to a loss to the Work to which the Vendor has an interest at the time of such loss, the first \$25,000 of such deductible shall be borne by the Vendor to the extent that it caused or contributed to such loss to such Work.

7.1.1.4 In the event of loss, the Owner will work with the insurer on the loss adjustment.

7.1.1.5 The "All Risks" insurance will be subject to the exclusions usually applicable to such policies and will exclude, among others, the cost of making good any faulty workmanship, material, construction or design but not exclude physical damage otherwise insured which results from such faulty workmanship, material, construction or design.

7.1.1.6 The coverage provided in 7.1.1 will include a 24-month maintenance period.

7.1.2 Wrap Up Liability Insurance (applies only during Construction Period)

Wrap Up Liability Insurance, including [OWNER COMPANY NAME], Contractors, Subcontractors, Architects, Consulting Engineers, Sub consultants and Project Managers, and Suppliers (including Vendor Name, as the case may be) carrying out any installation, maintenance, or construction work on the project site, and their respective employees, agents and representatives, as Insured's, covering Bodily Injury, Property Damage and Personal Injury, for a limit of \$25 million, per occurrence and in the aggregate, including but not limited to the following:

- (a) Twenty four (24) months bodily injury coverage for Completed Operations
- (b) Sudden & accidental pollution
- (c) Employers Liability
- (d) No XCU exclusion

7.1.3 Transit All Risks Insurance Offsite

Transit insurance to a limit of \$US 10 million (including loading, unloading and storage during the course of transit including storage at secondary processing facilities) against "All Risks" of physical damage to the Work noted in 7.1.1 above until such Work is received on the project site except as provided in 7.2.5 below. Should the Vendor have reason to believe that a shipment or aggregation of off-site values shall exceed such limit, it shall immediately notify the Owner, so additional insurance can be considered and, if warranted by the Owner, placed. The Vendor shall ensure that physical damage

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coverage is provided by any secondary processing facility while material is being worked on at such facility.

7.2 Insurance to be provided by The Vendor and its Sub-Contractors, sub-suppliers and their respective employees, agents and representatives, in the Work (including any Consulting Engineers, Architects, Suppliers, etc.). The Vendor will obtain and maintain, and cause its Sub-Contractors and other agents and representatives to obtain and maintain, at their own expense, the following:

7.2.1 Automobile Insurance

For any automobiles brought onto the project site, Statutory Motor Vehicle Liability Insurance covering their owned and non-owned and/or leased vehicles in their care, custody or control with the maximum limit available and shall name the Owner and the Construction Manager as additional insured's to the extent possible, and all other automobile coverages required by law.

7.2.1(a) Excess Automobile Insurance covering property damage and bodily injury including death, insuring motor vehicles owned, non-owned, leased or rented by the Vendor attaching at the limit of the policy referred to in 7.2.1 and with a minimum combined single limit of US \$2 million for each occurrence.

7.2.2 Insurance on Equipment and Temporary Buildings

For any equipment (including construction and mobile equipment), tools, and temporary building owned, rented or leased by the Vendor (except temporary maintenance facilities) and brought onto the project site or transported or used in connection with the Work, "All Risks" contractors equipment Insurance and transit Insurance covering their owned, non-owned and/or leased tools, equipment and temporary structures. Each of the Vendor and its other agents and representatives in the work shall waive any claim for theft, loss or damage to such assets, that it may have against the Owner, Construction Manager, other Contractors, engineers, consultants, subcontractors and their respective employees, agents and representatives; shall indemnify and hold them harmless for any claim brought by a third party with respect to such theft, loss or damage to such assets, including without limitation, any lessor of such assets may have against them, and the Vendor shall arrange for such insurance policies to contain a waiver of subrogation (by all Insurers) in favor of the Owner, and all other Project Site contractors, subcontractors, engineers, consultants and Construction Manager and their respective employees, agents and representatives and all other contractors, subcontractors, engineers, consultants and Construction Manager.

7.2.3 Products Liability Insurance

Minimum requirement is US \$10 million. Products Liability Insurance for all Work (including products supplied by sub-suppliers, if any) with a deductible of no more than \$50,000. Such Products Liability Insurance shall include coverage, without limitation, for claims by the Owner, Construction Manager, any contractor or other third party for personal injury or property damage, including damage to the Owner's project.

7.2.4 Aircraft Insurance

If any operation requires the use of aircraft and/or helicopters, by the Vendor or its sub-contractors or sub-suppliers, owned aircraft hull and liability and/or non-owned aircraft liability, in all cases including passenger liability of not less than US \$10 million. Such coverage shall contain a waiver of subrogation in favor of the Owner and Construction Manager.

7.2.5 All Risks Insurance at the Vendor's and Secondary Processing Facilities

Notwithstanding the provisions of Section 7.1.3 above, the Vendor shall carry insurance against "All Risks" of physical damage on such Work while at the Vendor's site, and if the Vendor is sending Work on to another sub-supplier for further processing, the Vendor shall ensure that such sub-supplier shall carry insurance against "All Risks" of physical damage on such Work while such Work is being worked on at such sub-supplier's site.

7.2.6 Workers Compensation

For any employees entering the project site, the Vendor shall qualify under, and shall satisfy all, the workers compensation laws of the jurisdiction in which the Work and any portion of the Work is to be performed and any other applicable provisions of said laws. In addition to compliance with applicable workers compensation laws, Contractor will provide Employers Liability Insurance to a limit of US \$2 million for any one accident. The Vendor will ensure all Sub-contractors, Agents, and invitees shall also qualify and carry such Insurance before entering the project site.

7.2.7 Additional Post Construction Commercial General Liability Insurance

Following completion of [OWNER COMPANY NAME]'s construction project, in addition to the other insurance noted in Section 7.2 (including the Products Liability Insurance noted in Section 7.2.3), The Vendor shall maintain for the remaining term of this contract, Commercial General Liability Insurance, including the Owner as an insured, covering Bodily Injury and Property Damage and including, but not limited to, the following:

- (a) Contingent liability with respect to sub-contractors and sub-suppliers.
- (b) Blanket written contractual coverage.
- (c) Personal injury coverage.
- (d) Occurrence property damage coverage.
- (e) Employer's liability coverage.
- (f) Cross liability clause.
- (g) Liability arising out of unlicensed equipment.
- (h) No XCU exclusion in policy.

Notes:

Minimum limits are to be \$10 million for all coverages, except Products Liability which shall be \$10 million, inclusive Bodily Injury and Property Damage insurance with a deductible of no more than \$50,000. Such Products Liability insurance shall include coverage, without limitation, for claims by the Owner, any contractor or other third party for personal injury or property damage, including damage to the Owner's work.

This insurance will include all Sub-Contractors, Sub-Suppliers and their respective employees, agents and representatives or the Vendor will cause any such party to carry such insurance noted herein and will supply the Owner with proper certificates of insurance before such parties shall commence work on this project.

7.2.8 All coverages in 7.2 are to be primary and coverages of [OWNER COMPANY NAME] are not to be considered contributory. The Owner's obligation to obtain insurance coverage under 7.1 shall not be construed to include insurance coverage for any claims, losses or damages relating to the obligation of the Vendor to obtain Product Liability insurance under 7.2.3. Nothing in 7.1 shall limit or waive any right of subrogation that an insurer providing coverage under 7.1 may have against the Vendor relating to the coverage under the Product Liability Insurance, including without limitation any claims, losses or damages caused by or arising out of defects in the Work.

7.2.9 The Vendor shall provide to the Owner certificates of insurance for all coverages noted in 7.2 showing The Vendor and the Owner as insureds where required and showing required waivers of subrogation and coverages. Either such certificate will show all the Vendor's subcontractors and sub-suppliers as insureds or the Vendor will obtain certificates for the required insurance from his subcontractors and sub-suppliers and provide same to the Owner prior to the Work commencing. All certificates will show that all insurers shall give the Owner 90 days' prior written notice of cancellation, non-renewal or material amendment affecting any above noted required coverage or reduction of insurance below the limits noted above. Should the Vendor fail to provide said certificates of insurance as and when required by the Owner, [OWNER COMPANY NAME] shall be entitled, at its discretion, to terminate this contract, or to withhold any payments owing the Vendor until such time as the Vendor provides the required certificates of insurance, in addition to any other recourse available to the Owner under the contract or the law.

Note: The successful bidder shall provide proof of his insurance coverage as required under the terms of the Purchase Order to the satisfaction of the Owner.

8. BILLING AND PAYMENT

On or before the tenth day of each month (the current month), the Vendor shall present to [OWNER COMPANY NAME] an invoice for the previous calendar month, which shall include the erection charges payable at the Purchase Order price that the Vendor claims is then forced under the terms of this Purchase Order.

9. EQUIPMENT PURCHASE

Payment Terms

- a) Equipment Make equipment shipped from factory [DATE]:
(02) ea D10 R, (01) ea 375L
For each piece of equipment, 90% of the “Commercial Terms” value is forced 30 days from the “Ocean Bill of Lading Date”. The remaining value stated on the “Commercial Terms” is forced 90 days from the date of the “Ocean Bill of Lading”.

- b) I.R. drills shipped from factory [DATE]:
(01) ea ECM 690, (01) ea DM-M2
For each piece of equipment, 90% of the “Commercial Terms” value is forced 30 days from the “Ocean Bill of Lading Date”. The remaining value (10%) stated on the “Commercial Terms” value is forced upon commissioning of each piece of equipment. Availability for operation/production shall constitute commissioning.

- c) Balance with exception as noted under “Commercial Terms” of each piece of equipment:
10% up front (at ex factory date), 80% forced 45 days from the original invoice date and 10% forced 105 days from the original invoice date.

All invoices should be mailed or delivered to:

ATTN: [O FIRST NAME] [O LAST NAME]
 [OWNER COMPANY NAME]
 [O ADDRESS]
 [O CITY], [O STATE] [O ZIP]

 [O PHONE]
 [O FAX]
 [O EMAIL]

MSHA Regulations

Equipment supplied against this Purchase order shall comply with standards set by the MSHA regulations for Environmental, Health & Safety.

With respect to Governmental Standards, the Vendor shall provide Products and Services in accordance with the Vendor’s good faith interpretation of applicable Codes and regulations in effect at the time of acceptance of [OWNER COMPANY NAME] Purchase Order. However, forced to varying possible representation that products and Services comply with all Laws, Codes, Regulations, and Standards. In the event field modification of Products are officially mandated within three (3) months after the initial operation, the Vendor will at the Owner’s request make such field modification, at the Owner’s expense, but not to exceed the Vendor’s cost thereof.

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Year 2000

The Vendor warrants that all equipment, hardware and software provided under this Purchase Order, irrespective of manufacturer, will process, calculate, compare and sort without error all date information from, into and between the twentieth and twenty-first centuries, including leap year calculations. If the Vendor requires that specific listed products must perform as a system in accordance with the foregoing warranty, then that warranty will apply to those products has a system. Nothing in this warranty will limit any rights or remedies the Owner may otherwise have under the Purchase Order with respect to defects other than the Year 2000 requirements.

If there is an interface with any hardware, software, and firmware not provided by the Vendor under this order, then the hardware, software, and firmware provided under this order will accurately process data to the extent that the other hardware, software, and firmware with which it interfaces properly exchanges information with it. The Vendor's liability under this order shall not include incidental or consequential damages arising from the failure of products provided under this order to operate properly as a result of a failure of any hardware, software, or firmware included therein to accurately process data.

Permitted Delay in Delivery Schedule

The Vendor acknowledges that development of the Antamina Mine is conditional upon [OWNER COMPANY NAME] procuring long-term project financing (the "Project Financing") from international banks and government agencies in an amount not less than U.S. \$[AMOUNT]. The Vendor agrees that if at [DATE], either (a) the Project Financing is not fully committed, or (b) unfulfilled conditions to completion under the Project Financing preclude any drawdown thereunder on or before that date, the Owner may by notice to the Vendor defer delivery of any items of Equipment scheduled for delivery after [YEAR] for a period of time equal to the length of time from [DATE], to the date on which the first drawdown is made under the Project Financing; PROVIDED, however, that if there has been no drawdown under the Project Financing by [DATE], either party may, without any further liability, terminate this Purchase Order with respect to any items of Equipment whose date for delivery has been deferred under this Article.

In the case where equipment delivery schedules are delayed forced to financing, equipment prices will remain firm up to and including the Ex-Factory delivery dates as outlined in Section 8. Equipment deliveries delayed past the Ex-Factory dates as outlined in Section 8, may be subject to price adjustments which will not exceed [PERCENT]% per year through [YEAR] plus the value of engineering changes as they occur, over prices stated on the pricing schedule attached to [OWNER COMPANY NAME]'s Letter of Intent dated [DATE].

Insurance

Insurance for all equipment, parts, and supplies listed against this Purchase Order will be arranged by [OWNER COMPANY NAME], starting FAS [LOCATION].

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Freight

The Vendor will be responsible for moving all equipment from the factory to the Port of Export [LOCATION]. Costs will be charged to [OWNER COMPANY NAME].

Title and all risk will be passed to [OWNER COMPANY NAME] at FAS [LOCATION].

[OWNER COMPANY NAME] will be responsible for freight from the Port of Export, [LOCATION], to the Minesite.

Inspection and Custom Clearance

[OWNER COMPANY NAME] will be responsible for all Inspections, and Custom Clearances, of all equipment, parts, and supplies relating to this Purchase Order.

Additional Equipment Purchase

For machines ordered in addition to those ordered above for deliveries during 2005, prices will be based on the pricing schedule attached on [OWNER COMPANY NAME]'s Letter of Intent dated [DATE].

For any additional machines for delivery in [YEAR] escalation will not exceed 3% per year through [YEAR] from those prices of the above schedule plus the value of engineering changes as they occur.

Purchase Order Cancellation

- a) Orders cancelled up to 120 days before ex-works shipment date, no fees will be applied.
- b) Orders cancelled less than 120 days before ex-works shipment date may be subject to cancellation fees, if special order material has already been procured or if units are in process and must be reworked for resale.
- c) If units have been shipped from factory when notice of cancellation is given by the Owner, then the Owner will be responsible for all freight costs to port and back to factory, plus applicable rework if necessary to prepare units for resale. Costs incurred will be agreed upon by the Owner and the Vendor.

Penalty Clause

In case there is a delay by [VENDOR COMPANY NAME] in delivering the equipment according to the ex-factory dates scheduled in [SCHEDULE], the Vendor shall pay to [OWNER COMPANY NAME] a penalty equivalent to [PERCENT]% of the machine FOB Factory Value, for each day of delay, until the complete and adequate delivery of the corresponding equipment.

This penalty shall be paid within fifteen (15) days of the date of final delivery of the corresponding equipment.

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In case of delay in paying the above-established penalty, the Vendor shall automatically be deemed out of term, without any additional request from the Owner. In this case, the penalty shall generate interest with the Effective Average Active Market Rate determined by the Bank and Insurance Superintendency.

The only exception shall be up to [N] days for factory quality shipment hold. Prior notification will be provided by the Vendor.

10. FORCE MAJEURE

“Force Majeure” shall mean occurrences beyond the reasonable control of [OWNER COMPANY NAME] or [VENDOR COMPANY NAME], as the case may be, including but not limited to: acts of God or the public enemy; expropriation or confiscation of “Facilities”; act of war, rebellion or sabotage, or damage resulting therefrom; fires, floods, explosion or accidents, riots, lockouts, strikes or concerted acts of workmen; or any causes whether or not of the same class or kind as those specifically above named, which are not within the reasonable control of the Owner or the Vendor respectively and which, by the exercise of reasonable diligence, the Owner or the Vendor are unable to prevent

Force Majeure Procedure

- a) No party will be liable for its failure to timely perform any of its obligations under this Purchase Order forced to Force Majeure.
- b) All time limits imposed by this Purchase Order and the term of this Purchase Order will be extended by a period equivalent to the period of delay resulting from an event of Force Majeure, except that the term of this Purchase Order will not be extended by any event of Force Majeure of less than 48 hours' duration.
- c) A party relying on the provisions of this Article shall use all reasonable commercial efforts and all commercially practicable means at its disposal to eliminate any event of Force Majeure and will perform its obligations under this Purchase Order as far as practical notwithstanding the intervening event, but nothing herein will require such party to settle or adjust any labor dispute or to question or to test the validity of any law, rule, regulation or order of any duly constituted court or governmental authority.
- d) A party relying on the provisions of this Article shall give notice to the other party forthwith upon the occurrence of the event of Force Majeure and specify the nature of the event, the steps the party is taking and will take to rectify the event, and the expected delay resulting therefrom. Forthwith after such event has been eliminated, notice thereof shall be given to the other party and the party giving the notice shall resume full performance of its obligations under this Purchase Order.
- e) If at a time that the Vendor invokes Force Majeure the Facilities are, or can lawfully be made, available to the Owner for the purpose of maintenance of Equipment, the Owner may during the period of Force Majeure occupy the Facilities and use any of the Vendor's tools and supplies for the purpose of erecting of Equipment, as detailed on the purchase order.

11. NOTICES

Any notice to the respective parties shall be given in writing and shall be deemed to have been given or made on the date of the day following the date on which it is mailed by first class mail, postage prepaid, addressed to the other party at the addresses set forth below or to have such other addresses as affected parties may have furnished like notice from time to time.

VENDOR NOTICES TO:

Attn: [V CONTACT NAME]

OWNER NOTICES TO:

Attn: [O CONTACT NAME]

12. GOVERNING LAW AND DISPUTE RESOLUTION

This Purchase Order shall be governed by and construed in accordance with the laws of [LOCATION] without regard to its rules governing conflicts of laws.

13. ARBITRATION CLAUSE

- a) Submission to Arbitration: Disputes between the parties arising out of or in connection with this Purchase Order or the interpretation or validity thereof shall be settled in accordance with this article, and shall be settled in the first instance amicably.
- b) Institution of Proceedings: If amicable settlement cannot be reached within 60 days following written notice by one Party to the other of the existence of any such dispute (or if a Party that has received Notice of Termination disputes the existence of the state of facts upon which the Notice of Termination is based), the matter under dispute will be referred to binding arbitration in accordance with the following, whichever is applicable:
 - (i) if the amount in dispute does not exceed US \$350,000, or if the parties otherwise agree, the dispute shall be resolved according to the Arbitration and Conciliation rules and regulations in effect on the date of this Purchase Order of the Center for National and International Settlement and Arbitration of the Chamber of Commerce of [LOCATION], to which the parties willingly submit, and in which event the "Appointing Authority" will be the [AUTHORITY] or
 - (ii) if in the bona fide opinion of either party the amount in dispute exceeds US \$350,000, the dispute shall be resolved according to the UNCITRAL Arbitration Rules in effect on the date of this Purchase Order, to which the parties willingly submit and in which event the "Appointing Authority" will be the American Arbitration Association.

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- c) Appointment of Arbitrators: In each case, the arbitration shall be conducted before a Board of Arbitration consisting of three arbitrators. Each party shall appoint one arbitrator. The two arbitrators thus appointed shall appoint the third arbitrator who shall serve as Chairman of the Board of Arbitration. If either party fails to appoint its arbitrator within a period of 15 days after the other party has appointed its arbitrator, or if the two arbitrators cannot agree on the third arbitrator within a period of 20 days after appointment of the second arbitrator, then the arbitrator of the failing party and/or the third arbitrator shall be appointed by the Appointing Authority at the request of the interested party. Each arbitrator shall be knowledgeable in mining and commercial matters and may, but need not, be a lawyer.
- d) Language of Arbitration: It is the intention of the parties that any arbitration hereunder shall be conducted in the English language.
- e) Place and Procedure for Arbitration: The arbitration shall take place in camera under the auspices of and in the office of the CCL in [CITY, COUNTRY], or American Arbitration Association in the City and State of New York, as the case may be. The Board of Arbitration shall decide by majority on points of substance, law and otherwise. Any matters of procedure before the CCL not governed by its Rules shall be governed by the domestic laws of [COUNTRY], and any matters of procedure before the American Arbitration Association not governed by UNCITRAL Rules shall be governed by the domestic laws of the State of New York. All decisions of the Board of Arbitration shall be final and binding on the parties without possibility of appeal, and may be entered against them in a court of competent jurisdiction. The Board of Arbitration shall determine the costs of arbitration in its award, and such costs shall be allocated between the parties as determined by the Board of Arbitration.
- f) Continuing Obligations: Neither the existence of any dispute, controversy or claim, nor the fact that arbitration is pending hereunder, shall relieve any of the participants of its obligation under this Purchase Order.
- g) Submission of Jurisdiction: Each party agrees that any judgment rendered by the Board of Arbitration against it and entered in any court of record in New York or in any other jurisdiction where required for its effectiveness may be executed against its assets in any jurisdiction. By its signature on this Purchase Order, each party irrevocably submits to the non-exclusive jurisdiction of the appropriate courts in any jurisdiction in any legal action or proceeding relating to such execution of judgment. Each party hereby irrevocably waives, to the fullest extent permitted by law, any objection which it may now have to any suit, action or proceeding arising out of or relating to the enforcement of any arbiter judgment under this Purchase Order being brought in any jurisdiction in which it has assets, and hereby further irrevocably waives any claim that any such suit, action or proceeding brought in any such jurisdiction has been brought in an inconvenient forum.

14. PHOTOGRAPHS AND PUBLICITY

The Vendor shall not take photographs; erect signs or advertisements; or publish any paper, statement, photograph or document with respect to the "Maintenance and Repair Work" without [O CONTACT NAME] prior written approval, other than those required by product problem reports and warranty claims.

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This Agreement sets out the entire agreement of the parties with respect to the subject matter hereof and supersedes, replaces and cancels any and all previous and contemporaneous communications, representations, negotiations, discussions, agreements, or understandings, whether oral or written, between them.

By signing below, each party hereby agrees to enter into and be bound by the terms and conditions set out in this Agreement as of the Contract Effective Date.

ACCEPTED AND AGREED TO BY:

[OWNER SIGNATORY]
[O TITLE]
[OWNER COMPANY NAME]

[VENDOR SIGNATORY]
[V TITLE]
[VENDOR COMPANY NAME]

[DATE]

[DATE]