



OPERATING LICENSE AND INDEMNITY AGREEMENT BETWEEN GLENCORE CANADA CORPORATION AND FALCO RESOURCES (OLIA) DATED JANUARY 23, 2024



28 août 2024

**OPERATING LICENSE AND INDEMNITY AGREEMENT
BETWEEN
GLENCORE CANADA CORPORATION
AND
FALCO RESOURCES LTD.**

Dated as of:

January 23, 2024

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OPERATING LICENSE AND INDEMNITY AGREEMENT

THIS OPERATING LICENSE AND INDEMNITY AGREEMENT is made as of the 23rd day of January, 2024 (the “**Effective Date**”).

BETWEEN:

GLENCORE CANADA CORPORATION, a company governed by the laws of the Province of Ontario

(“**Glencore**”)

AND

FALCO RESOURCES LTD., a company governed by the laws of Canada

(“**Falco**”)

WHEREAS Glencore is the owner and operator of the Horne Smelter (as hereinafter defined);

AND WHEREAS Falco is the owner and operator of the Project Properties (as hereinafter defined);

AND WHEREAS Glencore and Falco are parties to (i) an asset purchase agreement (the “**APA**”) dated as of March 28, 2011 between Xstrata Canada Corporation and Alexis Minerals Corporation, as such agreement was assigned by Alexis Minerals Corporation to Falco; (ii) a memorandum of understanding (the “**MOU**”) dated as of September 28, 2016 between Glencore and Falco; and (iii) several license and indemnity agreements between Glencore and Falco pursuant to which Falco was granted licenses (within the meaning of the APA) to undertake discrete programs or work on the Upper Controlled Properties (as hereinafter defined) (the “**Historical License Agreements**”);

AND WHEREAS Falco wishes to develop, construct, operate and close a mining and milling facility located in part on the Controlled Properties (as hereinafter defined), which will require access through and use of certain lands which are held by Glencore pursuant to mining concessions or otherwise, including those lands referred to in the APA and MOU as the Upper Controlled Properties, and which is expected to create Horne Smelter Risks (as hereinafter defined);

AND WHEREAS, pursuant to the APA, Falco wishes to obtain a license from Glencore in order to access the Upper Controlled Properties and certain other properties of Glencore to carry out Project Operations (as hereinafter defined) in accordance with the terms of this Agreement, so that it can develop, construct, operate and close the Project (as hereinafter defined);

NOW, THEREFORE, in consideration of the premises and covenants contained herein, and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

For the purposes of this Agreement, unless the context otherwise requires, all capitalized terms referred to in this Agreement shall have the following meanings:

- (1) **“Acceptable Security”** means a (i) letter of credit, (ii) performance or guarantee bond, (iii) guarantee by the government of Canada or the Province of Québec, or an agency or mandatary of such government, or (iv) any other form of security instrument acceptable to Glencore, acting reasonably;
- (2) **“Affiliate”** in reference to a Party, means any Person, that directly or indirectly Controls, is Controlled by, or is under common Control with, such Party;
- (3) **“Agreement”** means this Operating License and Indemnity Agreement and its schedules, as amended or modified from time to time;
- (4) **“Anti-Corruption Laws”** means:
 - (i) the *Corruption of Foreign Public Officials Act* (Canada);
 - (ii) the *Foreign Corrupt Practices Act, 1977*; and
 - (iii) any other Applicable Law which prohibits bribery and corruption;
- (5) **“APA”** has the meaning given to such term in the Recitals hereof;
- (6) **“Applicable Law”** or **“Applicable Laws”** means all applicable federal, provincial, territorial, state, regional and local laws (statutory or common), rules, ordinances (including mineral removal ordinances), regulations, by-laws, franchises, orders, directives, guidelines, judgments, and other restrictions and requirements of Governmental Authority, whether legislative, municipal, administrative or judicial in nature (including requirements of Authorizations, any Environmental Laws, and any applicable securities laws or regulations or rules of a stock exchange);
- (7) **“Appointee”** means an individual appointed by a Party to be a member of the Technical Committee;
- (8) **“Approval”** has the meaning given to such term in Section 9.2(3);
- (9) **“Arbiter”** has the meaning given to such term in Section 16.2(1);
- (10) **“Assumed Zone Liabilities”** has the meaning given to such term in Section 4.1(1)(iii);
- (11) **“Authorizations”** means all authorizations, leases, licences, permits, decrees, concessions, claims, approvals, consents, and other similar authorization of and from, and any declaration or notice to, any Governmental Authority;
- (12) **“Board of Directors”** means the board of directors of Falco;

- (13) **“Business Day”** means any day that is not a weekend or public holiday in the Provinces of Ontario or Québec;
- (14) **“Change of Control”** has the meaning given to such term in Section 1.1(64)(i);
- (15) **“Commencement of Commercial Production”** means, in respect of the Project, the achievement for the first time of Commercial Production for the Project;
- (16) **“Commencement of Dewatering Activities”** means the earliest to occur of:
- (i) the pumping of the first liter of water from the historical Horne, Quemont and/or Donalda mines or from any other hydraulically connected mine or groundwater system as part of the Dewatering Activities;
 - (ii) the installation of any one hydrostatic plug at or between any of the Chadbourne, Joliet, Horne, Quemont and Donalda mines, or any similar work intended to dewater or isolate hydraulically any such mine; and
 - (iii) the commencement of deliveries of water to Glencore (other than for testing purposes) pursuant to the terms of the Water Agreement;
- (17) **“Commencement of Mining Activities”** in respect of the Project means the commencement of blasting in the orebody of the Project for the purposes of extraction of ores. For greater certainty, early development work, the creation of galleries and other underground infrastructure, blasting for purposes of obtaining technical samples and other preparation work performed, in advance of blasting in the orebody of the Project for the purposes of extraction of ores shall not constitute the Commencement of Mining Activities;
- (18) **“Commercial Production”** means, in respect of the Project’s mine, the operation of such mine for the commercial production, transportation and sale of mineral products, being at the volume and for the period that is stipulated to be commercial production in the feasibility study in respect of such mine, if any such volume and period is so specified (and if no such volume and period is so specified, the date on which commercial production is publicly announced by Falco in respect of the Project), but does not include bulk sampling or preparation for testing purposes or the operation of a pilot plant;
- (19) **“Committee Information”** means information, discussions, matters, materials, records and any other documentation related to the Strategic Committee, the Technical Committee or any other committee created pursuant to this Agreement;
- (20) **“Conditioned Activities”** means any of the Dewatering Activities or Mining (from and after Commencement of Mining Activities);
- (21) **“Conditions”** has the meaning given to such term in Section 7.2(1);
- (22) **“Confidential Information”** of a Party means all information of a confidential nature to such Party and its Affiliates disclosed by whatever means by such Party or any of its Affiliates or Representatives to the other Party or any of its Affiliates or Representatives;

(23) **“Control”** of a Person means possession, directly or indirectly, of the power to direct or cause direction of management and policies of such Person through ownership of voting securities, contract, voting trust or otherwise. For greater certainty, ownership or control in the following circumstances shall be deemed to be sufficient to control such Person:

- (i) a Person controls a body corporate if securities of the body corporate to which are attached more than 50% of the votes that may be cast to elect directors of the body corporate are beneficially owned by the Person and the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;
- (ii) a Person controls an unincorporated entity, other than a limited partnership, if more than 50% of the ownership interests, however designated, into which the entity is divided are beneficially owned by that Person and the Person is generally able to direct the business and affairs of the entity; and
- (iii) a general partner of a limited partnership controls the limited partnership;

In addition, a Person who Controls a Person is deemed to Control any entity that directly or indirectly is Controlled, or deemed to be Controlled, by such Person; and a Person is deemed to beneficially own, for the purposes of subparagraphs (i) or (ii):

- A. any securities of the entity that are beneficially owned by that Person; and
- B. any securities of the entity that are beneficially owned by any entity directly or indirectly controlled by that Person,

and the terms **“Controls”** and **“Controlled”** have corresponding meanings;

(24) **“Controlled Operation”** means a Project Operation (including blasting, shaft sinking or widening, dewatering, boring and tunnelling or alteration or backfilling) that could (or where such Project Operation is only in the planning stage, that could, when and if built and/or performed) interfere with Horne Smelter Operations, create a Horne Smelter Risk or exacerbate, aggravate, increase the likelihood of materialization of or increase the severity of a Horne Smelter Risk;

(25) **“Controlled Properties”** means the properties and concessions set out in Part III of Schedule 2.02(1)(a) to the APA together with all tailings areas, operating facilities, structures, workings, roads, easements, servitudes, rights of way and other facilities or infrastructure located thereon;

(26) **“Dewatering Activities”** means the installation of hydrostatic plugs at or between any of the Chadbourne, Joliet, Horne, Quemont and Donalda mines, the pumping out of water from the historical Horne, Quemont and/or Donalda mines or from any other hydraulically connected mine or groundwater system (including Chadbourne and Joliet to the extent then hydraulically connected), and any similar work intended to dewater or isolate hydraulically any such mine, provided that

Dewatering Activities shall not include early work, preparation work or sampling work done in advance of and in preparation for the Dewatering Activities;

- (27) **“Dispute”** has the meaning given to such term in Section 16.1(1);
- (28) **“Effective Date”** means the date first herein written above;
- (29) **“Eligible Transferee”** means a Person that meets all of the following qualifications:
- (i) Neither it nor any of its Affiliates, nor any shareholder holding more than 10% of the issued and outstanding shares of it or an Affiliate is a Sanctioned Person;
 - (ii) It (a) or its Ultimate Control Person has a direct and primary listing of its equity securities on the Toronto Stock Exchange, the TSX Venture Exchange, the New York Stock Exchange, the London Stock Exchange, the Australian Stock Exchange or the Tokyo Stock Exchange or any of their successors or (b) has its domicile, management headquarters and/or presence of substantial assets in the United States, Canada, Western Europe, Australia or Japan or other jurisdictions with an equivalent rule of law environment and ability to enforce judgements;
 - (iii) It, on its own or together with its Affiliates, has the financial wherewithal and technical and operational expertise to develop, construct, operate and close the Project in accordance with Applicable Law; provided that, in order for a Person to have sufficient technical expertise, such Person (together with its Affiliates) must have the ability to operate a base and/or precious metals mine of comparable size and type to the Project, including having a team with the ability and experience to do so;
 - (iv) Neither it nor any of its Affiliates has, as determined by Glencore (acting reasonably), a reputation in the mining industry in Canada for poor environmental stewardship or poor social practices compared to other operators in such mining industry in Canada; and
 - (v) Neither it nor any of its Affiliates is a direct competitor of Glencore which operates primarily (individually or on a group consolidated basis) in the base metals processing and/or base metals trading industries;
- (30) **“Encumbrance”** means any mortgage, lien, charge, pledge or security interest, whether fixed or floating, or any assignment, easement, hypothec, pledge, title retention agreement, reservation of title, servitude, right of way, or any matter capable of registration against title or any other similar encumbrance of whatever kind or nature; and **“Encumber”** means to create an Encumbrance on real or personal property; and words like **“Encumbered”** and **“Encumbering”** have cognate meanings;
- (31) **“Environment”** means the environment, as defined pursuant to Environmental Laws, including air (and all layers of the atmosphere, ambient air and the air within any structure or underground space), water (including groundwater and surface water), soil, sediments, land (including any soil below the surface of the land or

below water), humans, animals, plants, wildlife (including endangered species) and all other living organisms including the ecological systems of which they form part;

- (32) **“Environmental Laws”** means Applicable Laws relating to the protection of the Environment, the protection of workplace health and safety as it relates to Hazardous Substances, pollution, the management or protection of natural resources, public safety, the characterization, monitoring, sampling, reclamation, remediation, restoration or rehabilitation of any property, the abatement of pollution, and all other Applicable Laws relating to the presence of, exposure to, or the manufacturing, containment, processing, distribution, use, management, treatment, storage, Release, handling, controlling or transport of Hazardous Substances;
- (33) **“Environmental Liabilities”** means any and all Liabilities of a Person (including with respect to studies, testing or investigatory costs, cleanup costs, response costs, removal costs, remediation costs, containment costs, restoration costs, corrective action costs, closure costs, reclamation costs, natural resource damages, property damages, personal injuries, penalties or fines) arising out of, relating to or resulting from (i) the presence of, exposure to, or the manufacturing, containment, processing, distribution, use, management, treatment, storage, Release, handling, controlling or transport of Hazardous Substance; (ii) reclamation, remediation, rehabilitation or restoration of the Environment and the decommissioning and removal of any structure, facility, equipment, Hazardous Substance or movable or corporeal property, including the obligation to submit and update the Rehabilitation and Restoration Plan, to furnish financial guarantees in connection with such plan pursuant to the Mining Act, and to carry out such a plan and other protective, rehabilitation and restoration measures as may be required by Applicable Laws in connection with mining activities; or (iii) any violation or requirement of Environmental Laws;
- (34) **“Event of Default”** has the meaning given to such term in Section 12.1;
- (35) **“Existing Intercreditor Agreement”** has the meaning given to such term in Section 17.3(1);
- (36) **“Expert”** means an independent expert with appropriate qualifications and experience in the context for which an expert is required under this Agreement;
- (37) **“Expert Determination Notice”** has the meaning given to such term in Section 8.4(1);
- (38) **“Falco Affiliate Assignment Agreement”** means the agreement in the form of Schedule A attached hereto, pursuant to which Falco assigns all but not less than all of its right, title and interest in and to this Agreement to an Affiliate Transferee, the Affiliate Transferee assumes all obligations and liabilities of Falco under this Agreement and agrees that it must re-Transfer the Project and the Agreement to Falco in the event that, at any point in time, it ceases to be an Affiliate of Falco, and Falco agrees to guarantee the due and punctual performance of the Affiliate Transferee’s obligations hereunder;

- (39) **“Falco Assignment Agreement”** means the agreement in the form of Schedule B attached hereto, pursuant to Falco assigns all or a portion of its right, title and interest in and to this Agreement to a Transferee and the Transferee assumes the obligations and liabilities of Falco under the Agreement;
- (40) **“Falco Insider”** means any Person that has beneficial ownership of, or control or direction over, directly or indirectly, shares carrying 10% or more of the voting rights of Falco;
- (41) **“Falco Parties”** means Falco, its Affiliates, and their respective officers, directors, employees, contractors, agents and representatives;
- (42) **“Falco Project Zone”** means:
- (i) (1) the surface and subsurface area of the portion of mining concession CM243 which is identified by a red triangle in Schedule H of this Agreement, and (2) the area below 200 meters below the surface of the portion of mining concession CM156PTB which is identified by a blue rectangle in Schedule H of this Agreement, in each case with such area to be delineated by a land survey to be performed jointly by Falco and Glencore prior to the earlier of (A) the subdivision of such mining concessions and transfer of such portions of mining concessions by Glencore pursuant to the process contemplated at Section 13.3, and (B) the date of Commencement of Dewatering Activities; and
 - (ii) the subsurface areas comprising Permanent/Exclusive Project Infrastructure.
- (43) **“Financial Assurance”** has the meaning given to such term in Section 15.2(1);
- (44) **“Geotechnical Issue”** means any geotechnical or stability issues in or related to the Horne Complex, except (i) any issues associated with **[REDACTED: Commercially sensitive information]** and (ii) any geotechnical or stability issues, as determined by agreement of the parties or by final non-appealable decision obtained pursuant to the dispute resolution mechanisms herein, caused exclusively by any Horne Smelter Operations conducted underground or above surface after the Effective Date;
- (45) **“Glencore Assignment Agreement”** means the agreement in the form of Schedule C attached hereto, pursuant to which Glencore assigns its rights, interest and title in and to this Agreement to a Transferee which, immediately following such assignment, will also hold Glencore’s interest in the Horne Smelter, the Transferee assumes all obligations and liabilities of Glencore under this Agreement with respect to the interest Transferred and Falco releases and forever discharges Glencore in respect of the obligations and liabilities assumed by the Transferee;
- (46) **“Glencore Environmental Operations”** means all operations carried out or required to be carried out by or for Glencore and/or its Affiliates pursuant to Environmental Laws or to satisfy any Environmental Liabilities of Glencore and/or its Affiliates;

- (47) **“Glencore Nominee”** has the meaning given to such term in Section 9.4(1);
- (48) **“Glencore Parties”** means Glencore, its Affiliates and their respective officers, directors, employees, contractors, agents and representatives;
- (49) **“Good Mining Practice”** means, in relation to any activity, those practices, methods and acts engaged in or approved by a Person which, in the conduct of its undertaking, exercises that degree of safe and efficient practice, diligence, prudence, and foresight reasonably and ordinarily exercised by skilled and experienced explorers, developers and mining operators in the Canadian exploration, development, mining and metallurgical industry, engaged in a similar activity under similar circumstances or conditions;
- (50) **“Governmental Authority”** means any (i) national, federal, provincial, territorial, regional, county, state, municipal, local or other governmental or public department, central bank, court, commission, board, bureau, office, agency, tribunal or instrumentality, domestic or foreign, (ii) subdivision or authority of any of the foregoing exercising any executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government, (iii) securities regulatory authority or stock exchange, and (iv) quasi-governmental, self-regulatory organization or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing; in each case, having jurisdiction in the relevant circumstances;
- (51) **“Governmental Requirement”** means any order, directive, fine, penalty, writ, judgment, injunction, decree, stipulation, lien, requirement, determination or award issued, made or entered by or from any Governmental Authority, including any condition or requirement of any Authorization;
- (52) **“Groundwater”** means any water beneath the surface of the ground, including water located within or flowing through aquifers, underground workings, pore spaces between rocks and soil particles, pipes, drains and sewers;
- (53) **“Hazardous Substance”** means any material, substance, residual material, waste, vibration, noise or radiation that is or becomes prohibited, controlled or regulated by any Governmental Authority pursuant to Environmental Laws, including a pollutant, a contaminant or a toxic or hazardous substance pursuant to Environmental Laws, waste rock, mine tailing, effluent, acid mine drainage, air emissions, petroleum, its derivatives, by-products or other hydrocarbons and asbestos;
- (54) **“Historical License Agreements”** has the meaning given to such term in the Recitals hereof;
- (55) **“Horne Complex”** means the complex of underground mines, voids, workings, pipelines, roads, rail lines, and other facilities in Rouyn-Noranda relating to the Horne Smelter or any Horne Smelter Operation, including the Quemont mine, the Horne mine, the Donald Mine, the Chadbourne Mine, the Joliet Mine, and all storage, transportation, water, power, waste, tailings, monitoring, reclamation and other facilities associated with the historic, current or future operations of such complex;

- (56) **“Horne Process Materials”** means deposits of flux and other catalysts (whether or not such deposits also contained other valuable metals or materials) (i) located on the Project Properties for which Glencore has the right to explore, develop and mine in accordance with Section 2.06 of the APA and/or (ii) located on the Upper Controlled Properties;
- (57) **“Horne Smelter”** means Glencore’s Horne smelting and processing facility, and associated transportation facilities and infrastructure, pipeline and electrical facilities and infrastructure, waste and tailings storage facilities and associated infrastructure, all located in and around Rouyn-Noranda, Québec;
- (58) **“Horne Authorization”** means any current and future Authorization held by Glencore or Government Requirement applicable to Glencore for the Horne Complex or to any Horne Smelter Operation, including the Horne Ministerial Authorization.
- (59) **“Horne Ministerial Authorization”** means the Authorization Renewal issued by the MELCCFP to Glencore on March 16, 2023 pursuant to section 31.18 of the *Environment Quality Act*, CQLR c Q-2.
- (60) **“Horne Smelter Operations”** means those current and future operations of, at and with respect to the Horne Smelter (in all phases of development, construction, operation and closure), including the operation of the Horne Smelter and the transportation of concentrates, ore, copper anodes and other mineral products, and reagents and other inputs into the Horne Smelter processes; the exploration, development and mining of Horne Process Materials, Glencore Environmental Operations and other operations and activities engaged in by Glencore and its Affiliates from time to time on its properties in the Rouyn Noranda area (including the Upper Controlled Properties);
- (61) **“Horne Smelter Risk”** means a Risk to the Horne Smelter (including the personnel or infrastructure associated with Horne Smelter Operations) or to Horne Smelter Operations;
- (62) **“IFRS”** means the international financial reporting standards issued by the International Accounting Standards Board, from time to time, applied on a consistent basis;
- (63) **“Indemnified Person”** and **“Indemnified Persons”** has the meaning given to such term in Section 6.3(1);
- (64) **“Indirect Transfer”** means, in respect of Falco, a Change of Control of Falco provided that, such transaction shall only constitute an Indirect Transfer to the extent that if a Person acquires control of Falco through the acquisition of the securities of Falco or an Affiliate of Falco, at least 70% of the fair market value of all the consolidated assets of Falco or such Affiliate, as the case may be, are comprised of the Project and further, provided that for the purposes of this definition of “Indirect Transfer”:
- (i) a **“Change of Control”** of Falco shall occur if Falco comes to have an Ultimate Control Person who was not the Ultimate Control Person of Falco,

if any, as of the Effective date (or, in respect of a second or further Change of Control transaction, as of the most recently completed Change of Control);

- (ii) the “**Ultimate Control Person**” of a Party is the Person who ultimately Controls the Party, whether directly or indirectly through Affiliates, and where such Control is exercised by the Ultimate Control Person indirectly through other Affiliates of the Ultimate Control Person, the replacement, insertion or removal of any such Affiliates shall not constitute a Change of Control; provided that the Ultimate Control Person continues, notwithstanding such replacement or removal, to Control the Party as aforesaid; and
 - (iii) the Parties record that, as of the Effective Date, Falco does not have an Ultimate Control person;
- (65) “**Insolvency Event**” means, with respect to a Person, any one or combination of the following or any event or circumstance analogous to the following:
- (i) the commencement of proceedings for a voluntary winding up or dissolution of the Person (otherwise than as part of a bona fide amalgamation, takeover, or corporate reorganization), or the commencement of involuntary proceedings for the winding up or dissolution of the Person if such proceedings are not contested by the Person in good faith;
 - (ii) a mortgagee taking possession of, or commencing the disposition of, all or substantially all of the Person's assets, operations or business where such proceedings are not contested by the Person in good faith;
 - (iii) the commencement of proceedings by the Person under applicable bankruptcy or insolvency legislation in respect of the disposition of the Person's debts, or the taking by the Person of any similar step under any similar legislation to effect an arrangement between the Person and its creditors; or
 - (iv) the appointment of an administrator, receiver, receiver and manager or trustee in bankruptcy for all or substantially all of the assets of the Person otherwise than as part of a bona fide amalgamation, takeover, or corporate reorganization, or the commencement of involuntary bankruptcy proceedings against the Person, if such proceedings are not contested by the Person in good faith;
- (66) “**Insurance Policies**” has the meaning given to such term in Section 15.1(1);
- (67) “**Insured Parties**” and “**Insured Party**” have the meaning given to such terms in Section 15.1(3)(i);
- (68) “**Invitees**” means the respective directors, officers, employees, agents, contractors, subcontractors, representatives and other invitees of a Party and its Affiliates;

- (69) **“Legal Claim”** means any civil, criminal, administrative, regulatory, arbitral or investigative action, suit, order, proceeding, notice (including a notice of violation or a notice of infraction), inquiry, audit, demand, claim, citation, summons, subpoena or any other similar claim or demand of whatever nature or kind;
- (70) **“Lender”** means a lender or other financier that provides debt, royalty, stream or similar financing to Falco to finance (i) the development, construction, operation and/or closure of the Project or (ii) the general corporate purposes of Falco;
- (71) **“Liabilities”** means any and all obligations, liabilities, responsibilities, Legal Claims and Losses of any Person, whether absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person, including Environmental Liabilities;
- (72) **“License”** has the meaning given to such term in Section 3.1;
- (73) **“Losses”** means any and all damages, fines, penalties, losses, monetary obligations and liabilities of whatever nature or kind, costs, fees and expenses (including reasonable fees and expenses of lawyers, accountants and other experts and professionals) as well as interest and/or penalties charged thereon; and including (except where excluded by operation of Sections 4.2(6) and 4.2(7) of this Agreement) lost production, loss of contracts, lost revenues and lost profits. When referring to Losses incurred or suffered by Glencore or its Affiliates in this Agreement, Losses will also include the types of items defined above that are incurred or suffered by Glencore and its Affiliates in respect of Glencore’s integrated Quebec copper operations;
- (74) **“Material”** means with respect to a Horne Smelter Risk or a Horne Smelter Operation, a Risk, operation, activity or event that could reasonably be expected to pose, create or result in one or more of the following:
- (i) a risk to human health and/or safety;
 - (ii) a risk that Glencore will be in breach of any Horne Authorizations or any Applicable Laws or that it will be required to change or cease any Horne Smelter Operation in order to comply with any Horne Authorization, or will be subject to any increase, materialization or aggravation of any Governmental Requirements applicable to any Glencore Party in respect of the Horne Complex (including, for the avoidance of doubt, any additional condition, limit or restriction relating to the Release of Hazardous Substances or any other Environmental matter);
 - (iii) a proposed or actual interference with Horne Smelter Operations, a creation of a Horne Smelter Risk or an exacerbation, aggravation, increase in likelihood of materialization of or increase the severity of a Horne Smelter Risk, or a materialization of a Horne Smelter Risk or Environmental Liabilities that, individually or in the aggregate, could reasonably be expected to result in costs or damages to Glencore of **[REDACTED: Dollar amount deleted]** or more,

and words like “**Materially**” shall have a cognate meaning;

- (75) “**MELCCFP**” means the Québec *Ministère de l’Environnement, de la Lutte contre les changements climatiques, de la Faune et des Parcs* (Ministry of the Environment, the Fight against Climate Change, Wildlife and Parks), as may be renamed or replaced from time to time;
- (76) “**Member**” has the meaning given to such term in Section 9.3(2);
- (77) “**Mineral Rights**” means prospecting licences, mining leases, mineral concessions, mining claims and other forms of tenure or other rights to minerals or to work upon land for the purpose of searching for, developing or extracting minerals under any form of title recognized under the Applicable Laws, whether contractual, statutory or otherwise, or any interest therein;
- (78) “**Mining**” means the mining or extraction of mineral products from the Project;
- (79) “**Mining Act**” means the *Mining Act*, CQLR c M-13.1 (Québec);
- (80) “**Mitigation Measures**” means physical or operational measures designed to avoid, minimize, mitigate or otherwise control Horne Smelter Risks or mitigate any impacts of the materialization of Horne Smelter Risks (including by remediating or curing any damage caused through the materialization of a Horne Smelter Risk);
- (81) “**Monitor**” means, when used as a verb, to implement a formal process or procedure to actively track and evaluate risks; and, when used as a noun, the implementation of a formal process or procedure to actively track and evaluate risks; and words such as “**Monitored**” and “**Monitoring**” shall have cognate meanings;
- (82) “**MOU**” has the meaning given to such term in the Recitals hereof;
- (83) “**MRNF**” means the Québec *Ministère des Ressources naturelles et des Forêts* (Ministry of Natural Resources and Forests), as may be renamed or replaced from time to time;
- (84) “**Notice**” has the meaning given to such term in Section 17.4(1);
- (85) “**Notice of Arbitration**” has the meaning given to such term in Section 16.2(1);
- (86) “**Notice of Loss**” has the meaning given to such term in Section 15.5(2);
- (87) “**Notice of Default**” means a written notice specifying the nature of the Event of Default delivered by Glencore to Falco pursuant to Section 12.2;
- (88) “**Offtake Agreements**” has the meaning given to such term in Section 13.1;
- (89) “**Operating Parameters**” means those parameters and limits within which Falco is permitted to conduct Controlled Operations, as set by an Approval or Order, as further defined in Section 9.2(9)(i);

- (90) “**Orders**” has the meaning given to such term in Section 8.1(2); and “**Ordered**” has a cognate meaning;
- (91) “**Parties**” mean the parties to this Agreement and “**Party**” means any one such party, or a particular such party, as the context requires;
- (92) “**Permanent/Exclusive Project Infrastructure**” means (i) the Quemont shaft, and (ii) such other subsurface areas which Glencore determines in writing, in its discretion and at the request of Falco, constitute Permanent/Exclusive Project Infrastructure;
- (93) “**Permitted Encumbrances**” means:
- (i) any existing Encumbrances granted by Falco to Lenders as disclosed in Schedule J, and Encumbrances granted by Falco to Lenders after the Effective Date in compliance with Section 11.2(3);
 - (ii) statutory Encumbrances which relate to obligations not overdue;
 - (iii) restrictive covenants, servitudes and other similar rights, granted to, reserved or taken on any registered subdivision, development, servicing, site plan or other similar agreement, provided that any such rights are in favour of a Governmental Authority;
 - (iv) any subsisting restrictions, reservations, limitations, provisos, exceptions or conditions (including royalties, mineral rights and timber rights, access to navigable waters and similar rights) expressed or implied in any original grants from the Crown in right of Québec or Canada;
 - (v) the provisions of Applicable Laws (including any Environmental Laws);
 - (vi) any servitude for public utility, rights of access, rights of way and rights in the nature of servitudes, including servitudes, rights of way and rights in the nature of servitudes for railways, public ways, sewers, drains, gas and oil pipelines, steam and water mains or electrical light and power; and
 - (vii) the right reserved to or vested in any Governmental Authority by the terms of any lease, license, franchise, grant, concession or permit acquired by Falco or by any statutory provision to terminate any such lease, license, franchise, grant, concession or permit, or to require annual or other payments as a condition to the continuance thereof;
- (94) “**Person**” means a natural person, partnership, limited partnership, limited liability partnership, corporation, limited liability company, joint stock company, trust, unincorporated association, joint venture, juridical person or Governmental Authority, and related personal pronouns have a similarly extended meaning, as the context requires;
- (95) “**Priority Principle**” has the meaning given to such term in Section 2.2;

- (96) **“Project”** means Falco’s Horne 5 mining project, as further described in the Project Technical Report;
- (97) **“Project Agreements”** means the MOU, the APA, the Historical License Agreements, the deed of hypothec referred to in Section 7.2(1)(vii), this Agreement and any other agreements entered into by the Parties or Affiliates thereof in connection with the Project or any work related thereto, but excluding the Offtake Agreements;
- (98) **“Project Liabilities”** has the meaning given to such term in Section 4.1(1)(ii);
- (99) **“Project Operations”** means any exploration, development, construction, operation, mining, closure operations or other activities (including, where applicable, plans for any of the foregoing) conducted upon or with respect to the Project Properties or the Project by or on behalf of Falco;
- (100) **“Project Properties”** means the Mineral Rights, surface rights and other immovable rights of whatsoever nature or kind that are described in the tables set out under the heading “Description of Project Properties” in Schedule D and the areas of which are outlined on the map set out under the heading “Map of Project Properties” in Schedule D, including any other Mineral Rights, surface rights and other immovable rights acquired, obtained or otherwise held by Falco or a Falco Affiliate on or after the Effective Date in connection with the Project;
- (101) **“Project Technical Report”** means Falco’s technical report for the Horne 5 gold project, filed on SEDAR by Falco on April 29, 2021, as same may be amended, restated, supplemented or replaced from time to time;
- (102) **“Protection Principle”** has the meaning given to such term in Section 2.3(1);
- (103) **“Reasonableness Standard”** has the meaning given to such term in Section 8.1(4);
- (104) **“Rehabilitation and Restoration Plan”** means the rehabilitation and restoration plan approved by the MRNF under the *Mining Act* in respect of the Project, as amended, restated, supplemented or replaced from time to time with the approval of the MRNF;
- (105) **“Release”** means releasing, issuing, discharging, spraying, injecting, abandoning, depositing, spilling, leaking, seeping, pouring, emitting, emptying, dumping, leaching, migrating, dispensing, dispersal, disposing, and exhausting, and when used as a noun, has a correlative meaning;
- (106) **“Remediation Plan”** has the meaning given to such term in Section 12.3(1)(i);
- (107) **“Representative”** means, with respect to any Party, any director, officer, employee, consultant, mandatory, accountant, insurer, agent or counsel of that Party or an Affiliate of that Party;
- (108) **“Required Disclosure”** has the meaning given to such term in Section 14.2(1);

- (109) **“Risk”** means a potential health & safety, technical, operational, environmental or other risk that, upon the application of those risk identification and assessment methods and practices customarily used in Good Mining Practice (including Glencore’s risk assessment and management practices and procedures, where applicable), would be a risk that ought to be Monitored, controlled, managed, mitigated and/or avoided;
- (110) **“Sanctioned Person”** means:
- (i) any Person that is sanctioned under any economic or trade sanction, regulation, statute or official embargo measure imposed by the United Nations or the laws of Canada, the United States of America, the United Kingdom, Australia, or a European Union member state; or
 - (ii) a Person organized or resident in a sanctioned country under the laws of Canada, the United States of America, Australia, the United Kingdom or a European Union member state;
- (111) **“Strategic Committee”** has the meaning given to such term in Section 9.3(1);
- (112) **“Synergies”** has the meaning given to such term in Section 2.3(3)(iii);
- (113) **“Synergy Agreements”** has the meaning given to such term in Section 13.1(2);
- (114) **“TC Chair”** has the meaning given to such term in Section 9.2(1);
- (115) **“Technical Committee”** has the meaning given to such term in Section 9.2(1);
- (116) **“Temporary Project Infrastructure”** means dewatering equipment, surface pipelines for tailings, ventilation raises and all other all surface infrastructure owned or used by Falco in conducting Project Operations which are located on surface areas owned or controlled by Glencore;
- (117) **“Term”** has the meaning given to such term in Section 10.1;
- (118) **“Third Party”** means any Person other than a Party hereto or an Affiliate of a Party hereto;
- (119) **“Transfer”** means, when used as a verb, to sell, grant, assign, pledge or otherwise convey, or dispose of or commit to do any of the foregoing; and, when used as a noun, a sale, grant, assignment, pledge or other conveyance or disposition (or a commitment to do any of the foregoing); and words such as **“Transferred”** and **“Transferring”** shall have cognate meanings;
- (120) **“Ultimate Control Person”** in respect of Falco has the meaning given to such term in Section 1.1(64)(ii);
- (121) **“Unapproved Controlled Operation”** means a Controlled Operation for which Falco has:
- (i) not received an Approval or Order approving such operation; or

- (ii) previously received an Approval or Order approving such operation but which is no longer current due to Falco, in compliance with Vigilance Standard, or Glencore, acting reasonably in accordance with Section 8.1 (and by providing notice thereof to Falco), having determined that such Approval is no longer valid due to changes in circumstances and/or the acquisition by either or both Parties of additional data or knowledge since the time of the initial Approval or Order (as the case may be);
- (122) **“Upper Controlled Properties”** has the meaning given to such term in the APA;
- (123) **“Vigilance Standard”** has the meaning given to such term in Section 7.1(3);
- (124) **“Water Agreement”** has the meaning given to such term in Section 13.2; and
- (125) **“Year”** means a calendar year.

1.2 Rules of Interpretation

The following rules of interpretation shall apply in this Agreement unless something in the subject matter or context is inconsistent therewith:

- (1) the singular includes the plural and vice-versa;
- (2) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (3) the headings in this Agreement form no part of this Agreement and are deemed to have been inserted for convenience only and shall not affect the construction or interpretation of any of its provisions;
- (4) all references in this Agreement shall be read with such changes in number and gender that the context may require;
- (5) references to “Articles,” “Sections” and “Recitals” refer to articles, sections and recitals of this Agreement;
- (6) the use of the words “including” or “includes” followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it;
- (7) the rule of construction that, in the event of ambiguity, the contract shall be interpreted against the Party responsible for the drafting or preparation of the Agreement, shall not apply;
- (8) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Section or other subdivision;
- (9) any reference to a statute is a reference to the applicable statute and to any regulations made pursuant thereto and includes all amendments made thereto and in force, from time to time, and any statute or regulation that has the effect of supplementing or superseding such statute or regulation;

- (10) any reference to an agreement or contract is deemed to be a reference to that agreement or contract, as amended, restated, supplemented or otherwise modified from time to time;
- (11) all calculations and computations made pursuant to this Agreement shall be carried out in accordance with IFRS; and
- (12) the words “written” or “in writing” include printing, typewriting or any electronic means of communication capable of being visibly reproduced at the point of reception including fax or email.

1.3 Incorporation of Parties and Recitals

All the foregoing descriptions of the Parties hereto and the terms and provisions of the Recitals are hereby incorporated in this Agreement by this reference thereto as if fully set forth herein.

1.4 Currency

All references to moneys hereunder are references to Canadian dollars and all obligations hereunder shall be denominated in Canadian dollars.

1.5 Computation of Time

In this Agreement, unless something in the subject matter or context is inconsistent therewith, a “day” shall refer to a calendar day and in calculating all time periods the first day of a period is not included and the last day is included and in the event that any date on which any action is required to be taken hereunder is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

1.6 Schedules

The following schedules are attached to and incorporated in this Agreement by this reference:

- Schedule A - Form of Falco Affiliate Assignment Agreement
- Schedule B - Form of Falco Assignment Agreement
- Schedule C - Form of Glencore Assignment Agreement
- Schedule D - Project Properties
- Schedule E - Synergy Agreements
- Schedule F - Access and Use Rights
- Schedule G - Insurance Policies
- Schedule H - Falco Project Zone
- Schedule I - License Area
- Schedule J - Permitted Encumbrances

ARTICLE 2 PRINCIPLES

2.1 Foundational Principles

The Parties acknowledge and agree that the principles set forth in this Article 2 are foundational to the arrangements agreed by them in this Agreement and will guide the Parties in their implementation of these arrangements.

2.2 Priority Principle

Falco hereby acknowledges and agrees that Horne Smelter Operations (as established at the sole discretion of Glencore) shall retain priority over the Project Operations at all times throughout the term of this Agreement (the “**Priority Principle**”).

2.3 Protection Principle

- (1) The Parties hereby agree that Glencore must be afforded protection from incremental Risks and Losses to the Horne Smelter and its businesses and assets (including from Horne Smelter Risks and impacts on Glencore’s integrated Quebec Copper Operations business unit) occasioned by Project Operations and the presence of Falco, its Invitees and components of the Project on the Upper Controlled Properties (the “**Protection Principle**”).
- (2) Falco acknowledges and agrees that in designing the Project and in conducting Project Operations, it will do so in accordance with Good Mining Practice and in a way that seeks to avoid the creation of Horne Smelter Risks; and that where the creation of Horne Smelter Risks are unavoidable or where Horne Smelter Risks materialize through the design of the Project or Project Operations, Falco will seek to minimize or mitigate or otherwise control such Horne Smelter Risks.
- (3) As certain Horne Smelter Risks cannot be avoided completely, and as the presence of Falco and Project assets on, in and under the Controlled Properties may create incremental obligations and liabilities for Glencore, Falco has agreed to:
 - (i) provide Financial Assurance at the times, in the amounts and in the manner set forth in Sections 15.2 to 15.5, and to carry the Insurance Policies contemplated in Section 15.1;
 - (ii) provide the releases from liability and indemnification set forth in Section 4.2; and
 - (iii) align the interests of the Parties and compensate Glencore by entering into certain arrangements (or agreeing to enter into arrangements or further explore ways) in which Glencore can acquire certain products or waste streams from Falco and/or Falco can acquire certain products or waste streams from Glencore and otherwise benefit from the safe and long-term operation of the Project, including via (i) offtake, (ii) other commercial interests and (iii) other synergies as contemplated in this Agreement (collectively, “**Synergies**”).

2.4 Regulatory Certainty

The Parties recognize the centrality of the Horne Smelter to both the Project and to Glencore's business in Canada. The Parties also recognise that the arrangements contemplated herein are being entered into within a complex broader regulatory environment for each of the Project, the Horne Smelter and the broader Glencore business. Accordingly, the Parties acknowledge that the engagement of Governmental Authorities (both prior to advancing development of the Project and thereafter) in order to obtain sufficient assurances and confirmations as to such regulatory matters represents a critical condition to the satisfaction of the transactions, rights and obligations contemplated by this Agreement.

2.5 Information, Communication and Coordination

- (1) Falco has a general obligation to avoid creating Horne Smelter Risks and minimizing, mitigating and otherwise controlling Horne Smelter Risks where complete avoidance is not practicable or feasible. The Parties acknowledge that Glencore, as the entity that would be affected by the presence and materialization of a Horne Smelter Risk, has a role to play in ensuring that Horne Smelter Risks are avoided and appropriately minimized, mitigated and otherwise controlled. Further, it will be appropriate from time to time for Glencore to communicate changes in Horne Smelter Operations to Falco, so that Falco can appropriately take that information into account so as to better assess Risk and not to interfere with such activities. Accordingly, the Parties have provided for several structures through which information can be exchanged in Article 9.
- (2) The Vigilance Standard will require, however, that information be shared from time-to-time outside the structures set forth in Article 9. The Parties agree to document any information provided outside such structures.

ARTICLE 3 GRANT OF LICENSE

3.1 Grant

Glencore hereby grants to Falco a license to conduct Project Operations on that portion of the Upper Controlled Properties set forth in Schedule I (the "**License**") in accordance with the terms of this Agreement.

ARTICLE 4 INDEMNITY AND RELEASE

4.1 Liability

- (1) Falco shall be the sole operator of the Project and, as between the Parties, except as otherwise provided herein, and except in respect of any benefits or revenues accruing directly or indirectly, or Liabilities or obligations expressly assumed or retained by, Glencore or its Affiliates pursuant to the Project Agreements and the Offtake Agreements, Falco shall:
 - (i) be entitled to all the benefits of and revenues and profits from the development, construction, operation and closure of the Project;

- (ii) be responsible and liable for all past, present and future Liabilities howsoever incurred, directly or indirectly, in connection with or resulting from, or arising out of, the development, construction, operation and closure of the Project and/or from the acts or omissions of Falco, its Affiliates and their respective Representatives and other Invitees (including, for certainty, (A) any Liabilities in connection with, resulting from or arising out of the Temporary Project Infrastructure, (B) Environmental Liabilities, and (C) any Losses of Falco arising directly or indirectly out of any Approvals, Orders or decisions by Falco to avoid interfering with Horne Smelter Operations or to mitigate or avoid causing or otherwise aggravating Horne Smelter Risks) (such Liabilities, the **“Project Liabilities”**); and
 - (iii) be responsible and liable for any and all Liabilities howsoever caused and whenever arising, and whether arising out of, as a result of, or in connection with past, present or future acts or omissions of the Falco Parties, the Glencore Parties, their respective Invitees, any predecessors in title to Glencore or Falco or any other Person, in connection with, resulting from or arising out of (collectively, the **“Assumed Zone Liabilities”**):
 - A. from and after the Date of Commencement of Dewatering Activities, Groundwater in and/or Released from or flowing to the underground workings comprising the Project and all other underground workings and voids within the Horne Complex which are, as of the Effective Date, or which at any time in the future become, hydraulically connected to the Project underground infrastructure (except as a result of an active and willful discharge by Glencore of Hazardous Substances into such Groundwater or underground workings that is both unauthorized and outside of the ordinary course of the Horne Smelter Operations), the waste facilities of the Project (including any tailings management facility), the Falco Project Zone and the historical Horne, Quemont or Donalda mines or underground workings;
 - B. from and after the Date of Commencement of Dewatering Activities, the Falco Project Zone;
 - C. from and after the Date of Commencement of Dewatering Activities, any Geotechnical Issue; and
 - D. Falco’s plant site, and any waste storage facilities and stockpiles associated with the Project (including the Project tailings management facility, waste rock storage facilities and run-of-mine or other stockpiles).
- (2) While Glencore will have certain decision-making powers, including the power to make Orders and to participate in making Approvals, Glencore will not be liable in any way for any Project Liabilities or Assumed Zone Liabilities, including those that flow from any Orders or Approvals (or any actions taken by or for Falco in accordance with such Orders or Approvals).

4.2 Release and Indemnification

- (1) Falco hereby assumes and will be solely responsible for, and releases and forever discharges the Glencore Parties from, each of the following:
 - (i) any Project Liabilities;
 - (ii) any Assumed Zone Liabilities (for greater certain, effective from and after the Date of Commencement of Dewatering Activities with respect to the portions of the definition of Assumed Zone Liabilities referred to in Sections 4.1(1)(iii)A, 4.1(1)(iii)B and 4.1(1)(iii)C);
 - (iii) any Liabilities (including Losses associated with bodily injury and death) suffered or incurred by the Falco Parties and their Invitees arising from any such Person's presence on or use of, or presence of Project components on, the Upper Controlled Properties (or any part thereof) or other Glencore properties, other than in cases of gross negligence or wilful misconduct on the part of the Glencore Parties or their Invitees (which, for the purposes of this Section 4.2(1)(iii), exclude the Falco Parties); and
 - (iv) any Legal Claims by Third Parties (including current and past shareholders, Lenders or other investors in Falco) arising out of or resulting from any restrictions on Project Operations imposed in accordance with this Agreement or any other Project Agreement, the exercise by Glencore of any of its rights in compliance with the terms of this Agreement or any misrepresentation (or alleged misrepresentation) contained in any written information related to the Project included in any public disclosure of Falco or its Affiliates or any violation or alleged violation by Falco or its Affiliates of securities laws in connection with any such public disclosure.

- (2) Falco hereby agrees to indemnify and hold forever harmless the Glencore Parties from and against any Legal Claims asserted against, and all Losses suffered or incurred by, any Glencore Party directly or indirectly arising out of or resulting from the matters released pursuant to Section 4.2(1) and/or the presence of and use by the Falco Parties and their Invitees of, and presence of Project components on, the Upper Controlled Properties and/or other properties of Glencore, and/or Project Operations and other acts or omissions of the Falco Parties and their Invitees, and/or any disclosure made by Falco and its Affiliates with respect to the Project or the Horne Complex to any Person (including the public) other than with the prior written consent of Glencore, and/or impacts by the Falco Parties and their Invitees on the Environment or Third Parties including, for the purposes of Section 4.2(2) any Losses arising from any one or more of the following:
 - (i) any interference with Horne Smelter Operations;
 - (ii) the materialization or aggravation of any Horne Smelter Risk;
 - (iii) any changes in Horne Smelter Operations resulting from or entered into to avoid, minimize or mitigate or otherwise control the matters in sub-clauses (i) and (ii);

- (iv) any change to Horne Smelter Operations in order to comply with any Horne Authorization;
 - (v) damage to the Horne Smelter;
 - (vi) any increase in, or materialization or aggravation of the Environmental Liabilities of any Glencore Party or of any Governmental Requirement applicable to any Glencore Party in respect of the Horne Complex (including, for the avoidance of doubt, any additional condition, limit or restriction relating to the Release of Hazardous Substances or any other Environmental matter, and any requirement to change or cease any Horne Smelter Operation in order to comply with any Horne Authorization), to the extent that Glencore had not intended or would not have been obligated to incur such Liabilities at such time, or would not have been subject to such Governmental Requirement at such time but for any of (a) Project Operations, including any actual or anticipated Release of Hazardous Substances relating to any Project Operations or the impact that any Project Operation on any Horne Authorization or on the ability of any Glencore Party to comply with any Horne Authorization, (b) the use by the Falco Parties and Falco's Invitees, and the presence of Project components on, the Upper Controlled Properties and/or other properties of Glencore, (c) the disclosure of information (or the authorisation of such disclosure) by Falco, or any Person for whom Falco is responsible at law, concerning Environmental Liabilities in any part of the Horne Complex after the Effective Date to any Governmental Authority or to any Third Parties other than with the prior written consent of Glencore and/or (d) the acts or omissions of the Falco Parties and its Invitees.
- (3) Notwithstanding anything to the contrary contained in this Article 4, Falco shall not be liable for any Liabilities that Glencore would have been required to incur at such time pursuant to the Horne Ministerial Authorization had there been no Project Operation or Project Agreement.
- (4) The indemnity in this Section 4.2 shall survive the expiry or termination of this Agreement for any reason.
- (5) Notwithstanding anything herein to the contrary, Falco shall not be liable or responsible for, and Glencore hereby releases and forever discharges the Falco Parties from and against any Legal Claims asserted against and all Losses suffered or incurred by any Glencore Parties arising out of, resulting from or connected to any Glencore Parties' gross negligence or wilful misconduct during the Term.
- (6) Except to the extent set forth in Section 6.3(2), in no way shall Glencore be responsible to any Falco Party, whether at law, under any statute or in equity (including Legal Claims for contribution or other rights of recovery arising under any Environmental Law, Legal Claims for breach of contract (other than in the case of a breach arising out of the wilful misconduct of Glencore), breach of representation and warranty, negligent representation and all Claims for breach of duty), or otherwise, directly or indirectly, relating to the provisions of this Agreement or the transaction contemplated by this Agreement, for any indirect or

consequential losses, such as lost production, loss of contracts, lost profits, loss of opportunity, loss of goodwill and diminution in the value of property.

- (7) Except in respect of the matters for which Falco has released the Glencore Parties under Section 4.1(1), is indemnifying the Glencore Parties under this Section 4.2(2), and except to the extent set forth in Section 6.3(2), in no way shall Falco be responsible to any Glencore Party, whether at law, under any statute or in equity (including Legal Claims for contribution or other rights of recovery arising under any Environmental Law, Legal Claims for breach of contract (other than a breach arising out of the wilful misconduct of Falco), breach of representation and warranty, negligent representation and all Claims for breach of duty), or otherwise, directly or indirectly, relating to the provisions of this Agreement or the transaction contemplated by this Agreement, in all cases for any indirect or consequential losses, such as lost production, loss of contracts, lost profits, loss of opportunity, loss of goodwill and diminution in the value of property. For the avoidance of doubt, the foregoing sentence shall not preclude any rights of Glencore to draw on the Financial Assurance under Section 15.5.

4.3 Glencore Parties; Falco Parties

- (1) Glencore accepts the above releases and indemnities in favour of the Glencore Parties other than Glencore as agent and trustee for such Glencore Parties, and Falco agrees that Glencore may enforce such indemnity in favour and for the benefit of such other Glencore Parties.
- (2) Falco accepts the above release in favour of the Falco Parties other than Falco as agent and trustee for such Falco Parties, and Glencore agrees that Falco may enforce such release in favour and for the benefit of such other Falco Parties.

ARTICLE 5 RELATIONSHIP BETWEEN THE PARTIES

5.1 Limitation on Authority

- (1) Nothing contained in this Agreement shall be deemed to constitute any Party as the partner or joint venturer of the other or, except as otherwise herein expressly provided, to constitute any Party as the agent or legal representative of the other, or to create any duty of care or fiduciary relationship between them. The Parties do not have any intention to create, nor shall this Agreement be construed to create, any general, limited or undeclared partnership under any Applicable Laws.
- (2) No Party shall have any authority to act for the other Party or, except as specifically contemplated by this Agreement, assume any obligations or liabilities on behalf of the other Party.

5.2 Implied Covenants

There are no implied covenants contained in this Agreement. Neither Party shall have any fiduciary duties to the other Party, and the Parties' duties and liabilities with respect to the subject matter of this Agreement that otherwise exist at law or in equity are, to the maximum extent

permissible under Applicable Laws, restricted and limited to those duties and liabilities expressly set forth in this Agreement and the other Project Agreements.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

6.1 Mutual Representations and Warranties

As of the Effective Date, each of the Parties represents and warrants to the other that:

- (1) it is a corporation duly organized and in good standing under the Applicable Laws of its jurisdiction of incorporation and is duly licensed or qualified to do business and is in good standing in each of the jurisdictions in which the failure to be so licensed or qualified would have a material adverse effect on its financial condition or its ability to perform its obligations hereunder;
- (2) it has the full power, authority and capacity to enter into and perform this Agreement and all transactions contemplated herein and all corporate, board of directors and shareholder, consents and Authorizations required to authorize it to enter into and perform this Agreement have been properly taken;
- (3) the execution, delivery and performance of this Agreement does not and shall not conflict with, accelerate the performance required by, result in any breach or contravention of or constitute a default under the provisions of its constating documents and bylaws or any resolutions of its shareholders or directors, or any indenture, agreement or other instrument whatsoever to which it is a party, by which it is bound or to which it may be subject;
- (4) upon execution and delivery of this Agreement by it, this Agreement shall constitute a legal, valid and binding obligation of such Party enforceable against it in accordance with its terms except that:
 - (i) enforceability may be limited by an Insolvency Event;
 - (ii) equitable remedies, including the remedies of specific performance and injunctive relief, are available only in the discretion of the applicable court;
 - (iii) a court may stay proceedings before it by virtue of equitable or statutory powers; and
 - (iv) rights of indemnity and contribution hereunder may be limited under Applicable Laws;
- (5) no Insolvency Event has occurred in relation to such Party and it is able to pay its debts as they become due.

6.2 Representations and Warranties of Falco

As of the Effective Date, Falco represents and warrants to Glencore that:

- (1) Schedule D accurately sets out all material Project Properties required for the development, construction, operation and closure of the Project, as currently designed. Other than those Project Properties which are registered in the name of Glencore or as otherwise disclosed in Schedule D, Falco holds a 100% undivided ownership interest in the Project Properties, free and clear of all Encumbrances whatsoever except for Permitted Encumbrances or Encumbrances disclosed in Schedule J;
- (2) there is no Legal Claim active, pending or, to the best of its knowledge, threatened by any Person against it or against, affecting or pertaining to the ownership of or entitlement to, the Project or the Project Properties;
- (3) there are no facts, events, circumstances or information relating to the Project or the Project Properties which has come to the attention of Falco and would reasonably be expected to result in a material adverse effect on (i) Glencore, (ii) the Horne Smelter Operations, or (iii) the development, construction, operation or closure of the Project;
- (4) neither Falco nor any of its officers or directors, has made any payment, transferred anything of value, or offered any financial or other advantage, to any Person (whether government official or agent or otherwise) in connection with Falco's investment in the Project or the other activities of Falco, if such payment, transfer or offer of advantage would violate Anti-Corruption Laws;
- (5) it has no Affiliates as of the Effective Date other than its 100% interest in Golden Queen Mining Consolidated Ltd.;
- (6) it is not, and none of its directors, are, a Sanctioned Person;
- (7) there is no Legal Claim initiated by or on behalf of any Aboriginal group or, to the best of its knowledge, threatened by or on behalf of any Aboriginal group with respect to the Project, the Project Properties or the proposed Project Operations;
- (8) Falco has performed and complied in all material respect with any other covenants, obligations and conditions contained in other Project Agreements and the Offtake Agreement which remain in effect as of the Effective Date; and
- (9) no representation or warranty made by it in this Agreement, the Offtake Agreement or the other Project Agreements contains any untrue statement of a material fact or omits to state a material fact required to be stated herein or therein or necessary to make the statements contained herein or therein not misleading.

6.3 Indemnification

- (1) Each Party shall indemnify and save harmless the other Party, its respective Affiliates and each of its respective directors, officers, employees, agents and representatives (in this Section 6.3, collectively, the "**Indemnified Persons**") from and against any and all Legal Claims asserted against, and all Losses suffered or incurred by any Indemnified Person directly or indirectly arising out of or resulting from any breach or inaccuracy of any representation or warranty given by the indemnifying Party in Section 6.1 or 6.2.

- (2) The indemnity in Section 6.3(1) shall not apply to any indirect or consequential loss such as loss of opportunity, loss of profit or loss of goodwill of an Indemnified Person, provided that an indemnifying Party shall indemnify an Indemnified Person against any Legal Claim asserted by a Third Party resulting from or arising out of any breach or inaccuracy of any representation or warranty given by the indemnifying Party in Section 6.1 or 6.2 even if such Legal Claim is itself a Legal Claim for any such indirect or consequential loss such as loss of opportunity, loss of profit or loss of goodwill.
- (3) Each Party accepts the above indemnities in favour of its respective Affiliates and their respective directors, officers, employees, agents and representatives as agent and trustee for each such Indemnified Person which is not a Party hereto, and each Party agrees that each other Party may enforce such indemnity in favour and for the benefit of such other Party's Indemnified Persons.

ARTICLE 7 COVENANTS AND CONDITIONS

7.1 Covenants of Falco

Falco hereby covenants and agrees with Glencore, throughout the term of this Agreement, as follows:

- (1) Falco shall design the Project (and the components thereof) and conduct Project Operations in accordance with Good Mining Practice, Applicable Laws and the terms of its Authorizations;
- (2) Falco shall design the Project (and the components thereof) and conduct Project Operations in such a way so as not to interfere with Horne Smelter Operations and so as to avoid the creation and/or materialization of Horne Smelter Risks or aggravation of existing Horne Smelter Risks; or, to the extent that the creation of Horne Smelter Risks are unavoidable or where Horne Smelter Risks materialize through the design of the Project (or components thereof) or Project Operations, in such a way so as to minimize or mitigate or otherwise control Horne Smelter Risks;
- (3) Falco shall engage in proactive identification, assessment and management of Horne Smelter Risks, in accordance with Good Mining Practice, and shall notify Glencore promptly, in writing, (whether through its participation at the Technical Committee or otherwise) of any non-compliance by Falco with any Operating Parameters, Approvals and Orders, and of any potential Horne Smelter Risks, changes to existing Horne Smelter Risks or materialization of Horne Smelter Risks arising from or connected to completed, ongoing or planned Project Operations and/or the presence of or use by the Falco Parties, Falco's Invitees or Project components on the Upper Controlled Properties which Falco is (or could reasonably be expected to be) aware (the "**Vigilance Standard**");
- (4) Falco shall not undertake any Controlled Operations except in accordance with a current Approval or Order;

- (5) Falco shall, at all times, comply with all Approvals and Orders, and shall not undertake or conduct any Unapproved Controlled Operations;
- (6) Falco shall carry out studies and investigations, design the Project (and all components thereof), conduct Project Operations and carry out Mitigation Measures in accordance with all Approvals and Orders; and
- (7) Falco shall comply with the terms and conditions of the other Project Agreements and the Offtake Agreement.

7.2 Conditions to Commence Conditioned Activities

- (1) The right of Falco to conduct any Conditioned Activity is conditional upon the satisfaction by Falco of each of the following conditions (the “**Conditions**”):
 - (i) the Parties shall have obtained confirmations from the relevant Governmental Authorities, including the MRNF and the MELCCFP, in connection with regulatory matters relating to such Conditioned Activity, the potential impact of the Project on Horne Smelter Operations and on Glencore’s Environmental Liabilities, to the satisfaction of Glencore, acting reasonably;
 - (ii) the Parties will have entered into the definitive Synergy Agreements contemplated in Schedule E;
 - (iii) the Parties will have entered into the Water Agreement, and deliveries of water to Glencore in conformity with the Water Agreement will have begun;
 - (iv) Falco will have provided Glencore evidence, satisfactory to Glencore, acting reasonably, that Falco holds all of the Insurance Policies;
 - (v) Falco will have delivered to Glencore the Financial Assurance that is required by the terms of Section 15.2(1) to have been delivered prior to the commencement of such Conditioned Activity;
 - (vi) Falco will hold all Authorizations needed to carry out such Conditioned Activity; and
 - (vii) Falco shall have granted and registered a hypothec over the Project Properties in favour Glencore as security for the payment and performance by Falco and its successors and assigns of its obligations pursuant to this Agreement and the Project Agreements, provided that upon request of Falco, if Falco is not in default under any of the Project Agreements or Offtake Agreement, Glencore will negotiate in good faith towards settling an agreement whereby Glencore will subordinate the rank of such hypothec and related waterfall ranking in the Existing Intercreditor Agreement in favour of any Lenders and agree to execute and authorize the filing of cessions of rank in relation thereto.
- (2) The Conditions are for the exclusive benefit of Glencore, and cannot be waived, extended or otherwise varied unless expressly agreed to in writing by Glencore.

Glencore may waive, extend or otherwise vary any or all Conditions in its absolute discretion, and nothing in this Agreement will oblige Glencore to waive, extend or otherwise vary any or all of the Conditions. For the avoidance of doubt, the covenants of Falco in this Agreement are not conditional upon the satisfaction or waiver of the Conditions.

7.3 Anti-Bribery and Anti-Corruption

- (1) Falco agrees to:
 - (i) not, either directly or indirectly, in respect of its investment in the Project or the activities of Falco, make any payment, transfer anything of value, or offer any financial or other advantage, to any Person (whether government official or agent or otherwise) if such payment, transfer or offer of advantage would violate the Anti-Corruption Laws; and
 - (ii) take all reasonable steps to ensure that any Person providing services to Falco in connection with the Project or otherwise in respect of this Agreement acknowledges and agrees to comply with the Anti-Corruption Laws.

ARTICLE 8 RIGHTS OF GLENCORE

8.1 Right to Make Orders

- (1) Falco hereby agrees that Glencore shall have the power to issue Orders in order to protect the Horne Smelter and Horne Smelter Operations in accordance with this Section 8.1.
- (2) Where Glencore reasonably believes that:
 - (i) Falco or its Invitees are undertaking one or more Unapproved Controlled Operations; or
 - (ii) Project Operations or situations or conditions at the Project could interfere with Horne Smelter Operations, create a Horne Smelter Risk or exacerbate, aggravate, increase the likelihood of materialization of or increase the severity of a Horne Smelter Risk, or have interfered with Horne Smelter Operations or caused the materialization of a Horne Smelter Risk,

Glencore will have the right to:

- (iii) at first instance, order Falco through a formal written Notice to that effect, to undertake risk assessments, data collection, engineering studies or other measures, at Falco's expense, in order to study or address (as the case may be) the Horne Smelter Risk (or change thereto) or interference with Horne Smelter Operations, in each case, to Glencore's reasonable satisfaction;

- (iv) order Falco to engage in reasonable Mitigation Measures, taking into account the totality of circumstances including the relative impact on Falco and Glencore; and
- (v) concurrently with or independently from paragraphs (iii) and/or (iv) of this Section 8.1 if Glencore reasonably believes that the urgency of the situation or timing of the potential materialization of a Horne Smelter Risk or interference with Horne Smelter Operations is Material and/or requires same, order Falco through a formal written Notice to that effect, to alter, cease or refrain from conducting any specified Project Operations

(any such order referred to in paragraphs (iii), (iv) or (v) of this Section 8.1, an **"Order"**).

- (3) Glencore shall have the right to vary or vacate an Order at any time (whether on account of further information made available to Glencore since the time of the initial Order or otherwise). Glencore shall notify Falco promptly of any variation to an Order (which, upon written Notice thereof, shall replace such original Order) or any termination of an Order.
- (4) Glencore shall, in making an Order, act in good faith and in a reasonable manner (based on the information available to Glencore at the time of the Order, including information provided by Falco to Glencore), utilizing and applying those risk identification and risk assessment methods and practices customarily used in Good Mining Practice (including, if applicable, Glencore's risk assessment and management practices and procedures) and taking into account whether the Risk, event or action is Material, but shall not be required to act in any way that deviates from the application of the Primacy Principle and Protection Principle, except to the extent set forth in this Section 8.1(4) (such standard of acting, the **"Reasonableness Standard"**).
- (5) Where Falco objects to an Order for any reason, such Order shall nevertheless be complied with until (i) an Approval thereon is obtained that varies or terminates the Order, (ii) Glencore has amended or vacated the Order or (iii) any dispute concerning such Order is otherwise resolved, including by way of issuance of a decision of the Expert pursuant to Section 8.4.

8.2 Communications on Orders

- (1) Prior to making an Order, Glencore shall consult with Falco (whether through the Technical Committee or otherwise) in relation to the Horne Smelter Risk or interference with Horne Smelter Operations, the measures available to address such Horne Smelter Risk or interference and Glencore's proposed measures to address such Horne Smelter Risks or interference, provided that no such consultation prior to making an Order shall be required where Glencore reasonably determines that the urgency of the situation or timing of the potential materialization of a Horne Smelter Risk or interference with Horne Smelter Operations do not permit this.
- (2) Falco shall promptly inform Glencore (promptly through any consultation contemplated in Section 8.2(1) or, where no such pre-Order consultation is

conducted in accordance with Section 8.2(1), promptly following the issuance of an Order), in writing:

- (i) details of any actual or apprehended impact to Falco that it reasonably believes may ensue from the Order (including a preliminary assessment of Losses, where practicable to include);
 - (ii) any alternative measures that it reasonably considers should be taken as an alternative or in addition to Glencore's proposal to address the noted Horne Smelter Risks or interference with Horne Smelter Operations; and
 - (iii) the reasons (if any) why Falco doesn't believe an Order satisfies the Reasonableness Standard.
- (3) Comments and objections raised by Falco pursuant to Section 8.2(2) shall not relieve Falco from its obligations to comply with an Order once made.

8.3 Technical Committee Review of Orders

If Falco disagrees with an Order, it may submit the matter for assessment by the Technical Committee. The Technical Committee will have the power to uphold, vary or terminate the Order by means of an Approval, in accordance with the provisions of Section 9.2.

8.4 Disputes Over Orders

- (1) If the Technical Committee upholds the Order or if the Technical Committee fails to make an Approval on the matter subject to the Order within thirty (30) days after the matter was submitted to it for assessment or within such shorter period as is warranted by the nature and circumstances of the matter submitted to it for assessment, Falco may notify Glencore in writing of its intention to submit the matter for resolution by an Expert in accordance with the provisions of this Section 8.4 (such Notice, the "**Expert Determination Notice**").
- (2) If Falco delivers the Expert Determination Notice, the matter shall be referred to and resolved by an Expert, jointly appointed by the Parties. The Expert will be a lawyer with experience resolving disputes of a technical nature. The Expert will be entitled to obtain advice and assistance from such technical and/or legal experts as he or she determines necessary to evaluate and decide the matter at hand, and the costs of any such assistance will be covered by the Parties in the manner that the costs of the Expert are covered. The Expert must enter into an agreement with the Parties to maintain the confidentiality of the information provided to it in connection with the matter and his or her decision on the matter, on terms acceptable to the Parties, acting reasonably, and shall be appointed on the terms and conditions set out in this Section 8.4.
- (3) If the Parties cannot agree on the selection of the Expert within thirty (30) days of the delivery of the Expert Determination Notice (or, after the Commencement of Commercial Production and to the extent the prejudice to Falco arising out of the Order warrants an expedited treatment, within ten (10) days of the delivery of the Expert Determination Notice), or if the Expert does not accept or withdraws from his or her appointment, then any Party shall be entitled to refer the matter in dispute

to **[REDACTED: Name of expert]** (or such other body as may be agreed by the Parties) for appointment of the Expert and, in such case, the Expert shall be appointed by **[REDACTED: Name of expert]** (or such other body) in accordance with this Agreement.

- (4) As soon as reasonably practicable after the appointment of the Expert and in any event within ten (10) days after the appointment of the Expert, Glencore shall submit to the Expert a copy of this Agreement, a copy of the Order (and any variations made thereto) a description of the rationale for making the Order (including a description of any Horne Smelter Risks (or changes thereto) it was seeking to control or interferences with Horne Smelter Operations it was seeking to avoid by making the Order), the information that Glencore had at the time of making the Order (and any variations made thereto), and any other documents or information that it considers relevant; and Falco shall submit to the Expert its rationale to support its position, and any other documents or information that it considers relevant. The Expert shall have power to request any of the Parties to provide him or her with such statements (which shall be written unless otherwise specifically required), documents or information as he or she may determine are relevant to the matters in dispute, other than documents subject to legal privilege. Any statement, information or document provided to the Expert shall be promptly provided to the other Party. The Parties may be assisted or represented by their counsel, technical or other advisors in making submissions to the Expert.
- (5) The Parties confirm their desire to have the Expert determine whether Glencore complied with the Reasonableness Standard at the time of making the Order at issue (or any variation thereof) within fifteen (15) days after the Expert's receipt of such materials. The Expert shall provide reasons for such determination. If the Expert determines that Glencore failed to comply with the Reasonableness Standard, the Order at issue will be deemed to be terminated and Falco shall (subject to the terms of this Agreement) then be permitted to immediately commence, restart or continue the Project Operations previously affected, restricted or otherwise impacted by the Order.
- (6) The Expert's fees and expenses with respect to its engagement under this Section 8.4 shall be paid by Glencore if the Expert considers and confirms that, in issuing the Order, Glencore failed to comply with the Reasonableness Standard, and in all other circumstances shall be paid by Falco. Each Party shall execute, if requested by the Expert, a reasonable engagement letter with the Expert with respect to its engagement under this Section 8.4. Glencore shall not be entitled to indemnification from Falco for the fees of counsel defending Glencore in the matter before the Expert.
- (7) The Expert's decision under this Section 8.4 shall be final and binding on all of the Parties and not subject to further review, and the Parties shall promptly give effect to any such decision (subject to compliance with Applicable Law); provided that either Party may challenge any adverse decision or finding of the Expert in the context of arbitration conducted pursuant to Section 8.4(8).
- (8) If it is determined in accordance with the provisions of Section 8.4(5) that Glencore did not comply with the Reasonableness Standard at the time of giving an Order, Glencore will be liable to Falco for any Losses suffered or incurred by Falco arising

out of the impugned Order, but solely to the extent that Falco had provided Glencore with details of the actual or apprehended impacts of the impugned Order in strict accordance with the provisions of Section 8.2(2) and provided that Glencore shall not be liable to Falco to the extent Falco had failed to provide Glencore with sufficient information to assess a Horne Smelter Risk or a potential interference to a Horne Smelter Operation in accordance with the Vigilance Standard. If the Parties are unable to agree on the quantum of Losses for which Glencore is responsible hereunder, either Party may refer the matter for determination in accordance with the provisions of Article 16.

- (9) If it is determined in accordance with the provisions of Section 8.4(5) that Glencore did not comply with the Reasonableness Standard at the time of giving an Order on two separate occasions within a rolling 12-month period, then: for a period of 12 months after such second occasion where (i) Glencore makes any further Order and (ii) Falco, acting in good faith and reasonably, asserts that such further Order does not comply with the Reasonableness Standard, and (iii) either Party has initiated proceedings to resolve such dispute, Falco shall not be obliged to comply with such Order pending resolution of such dispute except to the extent that any imminent harm is identified by Glencore in such Order; and provided that if Glencore makes an Order that is based on similar facts and circumstances which were the object of a prior decision by the Expert in which the Expert held that Glencore failed to meet the Reasonableness Standard, Glencore shall consider all material information provided to the Expert and the reasons of the Expert in fashioning such new Order.
- (10) The provisions of this Section 8.4 shall be the exclusive means by which Falco may seek third-party adjudication or review of an Order. For the avoidance of doubt the procedures for the settlement of disputes over Orders set forth in this Section 8.4 shall not derogate from the express powers of the Technical Committee set forth in Article 9.

8.5 Access

- (1) Falco will provide Glencore and its Representatives access to all data generated with respect to the Project that is reasonably necessary or desirable for Glencore to review compliance with this Agreement (including in respect of the avoidance of Horne Smelter Risks and interferences with the Horne Smelter Operations), including copies of monthly survey reports and establishment of quarterly check surveys, real-time access to seismic monitoring, crown pillar monitoring, turbidity and water quality monitoring and any other data generated or which is required to be generated to ensure the protection of the Horne Smelter and Horne Smelter Operations and protection of the Environment.
- (2) Falco will provide access to Glencore's Representatives to the Project during the regular operating hours of the Project on the provision of notice so as to enable such Representatives to witness Project Operations conducted by or on behalf of Falco from time-to-time and otherwise inspect the books and records of Falco and the facilities of the Project so that it can (i) assess any potential impacts to the Horne Smelter, (ii) verify compliance by Falco with any Operating Parameters, Approvals and Orders and (iii) verify compliance by Falco with the other terms of this Agreement. Glencore will attempt in good faith to minimize any disruptions to

Falco's Operations in connection with the exercise of such rights of access. Falco will ensure that its employees and consultants cooperate with Glencore's Representatives in any such inspections.

8.6 Rights to Determine Operations

- (1) Glencore shall be entitled to determine the nature and scope of the Horne Smelter Operations (including whether, when and how to increase or decrease processing capacity, to explore for, develop and mine Horne Process Materials, build new infrastructure, demolish and/or reclaim existing infrastructure, including as may be required to comply with any Horne Authorization, and conduct Glencore Environmental Operations) from time to time in its sole and absolute discretion. Without limiting the foregoing, Glencore shall be entitled to cease milling, smelting and processing operations at the Horne Smelter and commence final reclamation and rehabilitation activities at its sole and absolute discretion. Glencore will not be liable to Falco for any impacts to, diminution or loss of rights, title, interest or value to Falco that do, may or could result from such changes in Horne Smelter Operations, provided however that this Section shall not operate to release Glencore or its Affiliates from any Liabilities for failure to perform their obligations under the Offtake Agreements.
- (2) To the extent reasonably practicable, Glencore shall use its reasonable efforts to consult with Falco and provide relevant information or, upon request, documents to Falco of any planned material changes to Horne Smelter Operations that might reasonably be expected to materially impact the Project. Where Falco determines, acting reasonably, that any such planned changes to Horne Smelter Operations would reasonably be expected to materially impact the Project Operations, the assets and infrastructure of Falco or otherwise result in a diminution or loss of rights, title, interest or value to Falco (including interference with or loss of access rights, tenures or Authorizations), Falco will provide written Notice to Glencore setting out details of any actual or apprehended impact to Falco that it reasonably believes may ensue from such change in Horne Smelter Operations and any measures that it reasonably considers should be taken by Glencore to mitigate the impact on Falco of the change in Horne Smelter Operations. Subject at all times to the Primacy Principle, Glencore will use its good faith efforts to accommodate the concerns raised by Falco so as to lessen any detrimental impact to the Project but, for certainty, shall not be obligated to incur any additional costs or pursue any course of action that might (i) cause a Horne Smelter Risk, (ii) make an existing Horne Smelter Risk more severe or more likely to materialize, (iii) affect the profitability or efficient operations of the Horne Smelter, (iv) affect the ability of Glencore to comply with any Horne Authorization (or any future renewals or modifications to the Horne Ministerial Authorization) or (v) otherwise detrimentally impact the Horne Smelter's operations and/or contemplated future operations (including HSEC, environmental, community and other obligations) in any manner whatsoever, in Glencore's sole discretion.
- (3) Where Glencore requires the relocation, replacement or substantial modification to Temporary Project Infrastructure and Permanent/Exclusive Project Infrastructure, Glencore shall, in addition to the provisions of Section 8.6(2) and subject to Section 8.6(4), to the extent practicable, use its reasonable efforts to provide to Falco prior written Notice thereof in order to allow Falco to study and

process such required relocation, replacement or substantial modification and obtain any required Authorizations in relation thereto.

- (4) Glencore agrees that it shall not, in connection with proposed changes to Horne Smelter Operations under this Section 8.6, require Falco to relocate, replace or make substantial modification to the Permanent/Exclusive Project Infrastructure except: (i) in cases where Glencore issues an Order in respect to a Horne Smelter Risk that is Material; or (ii) in connection with the closure, reclamation or rehabilitation of the Horne Smelter and other mines and facilities for which Glencore is responsible.

ARTICLE 9 COMMITTEES; BOARD RIGHTS

9.1 Committees and Boards, Generally

- (1) The Parties recognize that successful development, construction, operation and closure of the Project in a manner that ensures the safety and operational integrity of the Horne Smelter and non-interference with Horne Smelter Operations will require consistent coordination and communication between Falco and Glencore at multiple levels. As such, the following three levels of coordination and communication are hereby established: the Strategic Committee, the Technical Committee and nomination rights to the Board of Directors.
- (2) Glencore participation at the committee level will focus on ensuring adherence to the Primacy Principle and the Protection Principle.
- (3) Neither the Technical Committee nor the Strategic Committee will be committees or subcommittees of the Board of Directors.

9.2 Technical Committee

- (1) Promptly following the Effective Date, the Parties shall establish a technical committee (the "**Technical Committee**"). The Technical Committee shall consist of two (2) Appointees appointed by each Party, confirmed in writing by the relevant Party as being its Appointees. Each Party may, in writing, appoint one or more alternates to act in the absence of a regular Appointee. Any alternate so acting, from time to time, shall, at such times, be deemed an Appointee. A Party may change its Appointees or alternates by Notice in writing to the other Party. Save as provided in this Agreement, the Technical Committee shall determine its own procedural rules. Each Party may, at its own cost, have advisers or observers (subject to such advisers being bound by a duty of confidentiality substantially in the form of Section 14.1) present at each meeting of the Technical Committee in addition to its Appointees, to the extent it reasonably considers such presence necessary, provided that the presence of any such Person does not impede or interfere with the ordinary conduct of such meeting. Falco shall designate one of its Appointees to serve as the chairperson ("**TC Chair**") of the Technical Committee.
- (2) Each Appointee shall have appropriate qualifications, knowledge and experience to serve on the Technical Committee. Appointees will preferably be part of a

recognized professional body associated with mining, engineering or other applicable discipline. The Parties shall consider in good faith the advantages of long tenure or continuity of representation of their Appointee at the Technical Committee in order to ensure that historical knowledge and perspective with respect to prior discussions and consultations is maintained and taken into account in the decision-making process.

- (3) Each Appointee will have one (1) vote and the chair of the Technical Committee will not have a casting vote. Decisions of the Technical Committee will be made by simple majority vote of the Appointees. Any matter approved by simple majority vote of the Appointees at a valid meeting of the Appointees will be an “**Approval**” for the purposes hereof.
- (4) The Technical Committee shall meet on an ad-hoc basis when requested by an Appointee. The Appointee calling a meeting shall give no less than seven (7) days’ notice to the Appointees or the Parties of such meetings. Notwithstanding the foregoing, in the case of an emergency (including any Order or other matter which materially impacts or restricts the Project Operations), reasonable notice of a meeting shall be tailored to the nature, circumstances and urgency of the matters to be submitted to the Technical Committee. Each notice of a meeting shall be accompanied by such material documents as may be appropriate and shall include an itemized agenda prepared by the Appointee calling the meeting, but any other matters can be considered during any such meeting.
- (5) Meetings shall be held in a mutually agreed location, and any or all Appointees may participate in a meeting of the Technical Committee by means of such telephonic, electronic or other communication facilities as to permit all Appointees participating in the meeting to hear and communicate with each other simultaneously and an Appointee participating in such a meeting by such means is deemed to be present at the meeting.
- (6) A written resolution signed by all of the Appointees shall be a valid Approval for all purposes of this Agreement.
- (7) There shall be a quorum if all four (4) Appointees (or alternate) are present in person or participating by telephone. If there is not a quorum represented at a properly constituted meeting of the Technical Committee, then within 30 minutes from the time appointed for the meeting, such meeting may be adjourned and reconvened on not less than seven (7) days’ notice or, in the case of a meeting called on an emergency basis, no less than one (1) day’s notice to all Appointees and Parties.
- (8) The TC Chair shall prepare or cause to be prepared minutes of each meeting of the Technical Committee and shall distribute or cause to be distributed copies of such minutes to the Appointees within fifteen (15) days after such meeting. The minutes, when signed by an Appointee of Glencore shall be the official record of the decisions made by the Technical Committee and shall be binding on the Parties.
- (9) The Appointees of Glencore and Falco will work collaboratively at the Technical Committee to:

- (i) determine objective operating parameters or limits (“**Operating Parameters**”) within which Falco can conduct Project Operations so as not to interfere with Horne Smelter Operations, pose Horne Smelter Risks or exacerbate, aggravate, increase the likelihood of materialization of or increase the severity of existing Horne Smelter Risks; and, where the creation of Horne Smelter Risks or exacerbation, aggravation, increase to the likelihood of materialization of or increase to the severity of existing Horne Smelter Risks are unavoidable, to minimize or mitigate or otherwise control such Horne Smelter Risks in accordance with Good Mining Practice;
- (ii) determine whether Mitigation Measures are required, and approve the scoping and design of such Mitigation Measures;
- (iii) determine whether Monitoring, data collection and/or studies are required for the analysis of whether proposed Project Operations could pose a Horne Smelter Risk, or how Project Operations might be designed so as to avoid or mitigate Horne Smelter Risks, and oversee the scoping and review of such Monitoring, data collection and studies;
- (iv) determine and where appropriate, approve, any amendments to any of the foregoing; and
- (v) determine any other matters with respect to potential Horne Smelter Risks arising from the design, construction, operation or closure of the Project or the presence on and use of, by the Falco Parties and their Invitees, or the presence of Project components on, the Upper Controlled Properties and/or other property of Glencore.

The Parties acknowledge that there will be areas or activities for which it may not be practicable to define Operating Parameters, in which case an *ad hoc* approach relying on the Vigilance Standard and the Reasonableness Standard and involving, among other things, in-depth reviews of plans will be required by the Technical Committee.

- (10) Falco or its Appointees shall be entitled to submit to the Technical Committee bundled requests for Approval, comprising any number of technical activities Falco plans on carrying out in a period of time (including one or more phases of the development, construction, operation or closure of the Project). Subject to complying with the provisions of Article 14, Falco will be entitled to disclose the existence and substance of Approvals from time to time to Lenders or other potential equity financiers or other stakeholders of Falco.
- (11) In the event that an Appointee fails to attend more than one third of the duly called meetings in any 12-month rolling period (excluding emergency meetings), following the written request to replace such Appointee by the Party that did not appoint such Appointee, the other Party shall replace such Person with a new Appointee.

9.3 Strategic Committee

- (1) Promptly following the Effective Date, the Parties shall establish a strategic committee (the “**Strategic Committee**”), which will be a forum for discussion and the exchange of information on matters of strategic importance to the interaction of the development, construction, operation and closure of the Project with the Horne Smelter Operations, the search for Synergies and other synergies, matters relating to community and regulatory agency engagement and stakeholder concerns and the sharing of information on the Project and Horne Smelter.
- (2) Each Party shall be entitled to appoint two members (each a “**Member**”) to the Strategic Committee, confirmed in writing by the relevant Party as being its Members. Each Party may, in writing, appoint one or more alternates to act in the absence of a Member. Any alternate so acting, from time to time, shall, at such times, be deemed a Member. A Party may change its Members or alternates by notice in writing to the other Party. Save as provided in this Agreement, the Strategic Committee shall determine its own procedural rules. Falco will be entitled to select the chairperson of the Strategic Committee from among its Members.
- (3) The Strategic Committee will not be required to make decisions at every meeting. In the event that Members determine to take a matter to a vote of its members, each Member will be entitled to one vote. Decisions of the Strategic Committee will be made by simple majority vote of the Members, but decisions will not be binding on any Party and, for greater certainty, will not affect or limit the ability of Falco to operate the Project as the Board of Directors of Falco or its management determine.
- (4) The Strategic Committee shall meet on an *ad hoc* basis when requested by a Member. The Member calling a meeting of the Strategic Committee shall give no less than seven (7) days’ notice to the other Members of such meetings. Notwithstanding the foregoing, in the case of an urgent matters, reasonable notice of a meeting shall suffice. Each notice of a meeting shall be accompanied by such material documents as may be appropriate and shall include an itemized agenda prepared by the Member calling the meeting. Meetings shall be held in a mutually agreed location and any or all Members may participate in a meeting of the Strategic Committee by means of such telephonic, electronic or other communication facilities as permit all Members participating in the meeting to hear and communicate with each other simultaneously, and a Member participating in such a meeting by such means is deemed to be present at the meeting.

9.4 Board Nomination Right

- (1) From and after the Effective Date until the end of the Term, Glencore shall be entitled (but shall, for certainty, not be obligated) to designate one individual (a “**Glencore Nominee**”) to serve on the Board of Directors.
- (2) Falco covenants and agrees to appoint the initial Glencore Nominee within five (5) Business Days of receiving notice thereof from Glencore. Glencore shall consult with Falco on the selection of the initial Glencore Nominee; however, for avoidance of doubt, the Glencore Nominee may be selected at Glencore’s sole discretion

provided such Glencore Nominee meets the necessary requirements for a board director under Applicable Law.

- (3) Provided that Glencore has designated a Glencore Nominee in accordance with this Agreement, Falco shall, in respect of every meeting of the shareholders at which the election of directors to the Board of Directors is considered, and at every reconvened meeting following an adjournment or postponement thereof, nominate for election to the Board of Directors such Glencore Nominee, and shall recommend to shareholders that they vote "FOR" said nominee and use other commercially reasonable efforts to obtain shareholder approval for the election of the Glencore Nominee at such meeting of shareholders (including by soliciting proxies in favour of the Glencore Nominee); and, to that end, Falco shall (i) support the Glencore Nominee for election in a manner no less rigorous or favourable than the manner in which Falco supports all of its other nominees, and (ii) use commercially reasonable efforts to cause management and any Falco Insider to vote their voting shares, and the voting shares in respect of which management is granted a discretionary proxy, in favour of the election of the Glencore Nominee at such meeting.
- (4) Glencore shall advise Falco of the identity of any Glencore Nominee at least fifteen (15) Business Days prior to the date on which proxy solicitation materials are to be mailed for purposes of any meeting of shareholders of Falco at which the election of directors to the Board of Directors is to be considered. If Glencore does not advise Falco of the identity of any such Glencore Nominee prior to such deadline, then Glencore shall be deemed to have nominated its incumbent nominee. Falco shall advise Glencore of the mailing date of any such proxy solicitation materials at least twenty-five (25) Business Days prior to such date.
- (5) In the event that a Glencore Nominee is not elected to the Board of Directors at a meeting of shareholders of Falco or a Glencore Nominee resigns as a director or otherwise refuses to or is unable to serve as a director for any reason, including as a result of death or disability, Glencore shall be entitled to designate a replacement director and Falco agrees to appoint, subject to Applicable Laws, such individual to the Board of Directors to serve as a Glencore Nominee until the next meeting of shareholders of Falco at which the election of directors to the Board of Directors is considered.
- (6) Each Glencore Nominee shall be entitled to the benefit of customary director's and officer's liability insurance and a contractual indemnity agreement with Falco no less favourable than that offered to any other director of Falco and which insurance shall continue on a run-off basis for a period of at least five years following the resignation or other departure of such nominee.
- (7) Glencore acknowledges that the Glencore Nominee may be excluded from participation or voting at any meeting of the Board of Directors to the extent required by Applicable Laws, and that the Chair of the Board of Directors at any meeting thereof may exclude the Glencore Nominee from any discussions at the level of the Board of Directors that involve this Agreement, the other Project Agreements, the Offtake Agreements, a potential or actual conflict or dispute among Falco, on one hand, and Glencore or one of its Affiliates, on the other hand,

or other negotiations or commercial relationships among Falco, on one hand, and Glencore or one of its Affiliates, on the other hand.

- (8) Where Falco ceases to be a reporting issuer under applicable Canadian securities laws, Glencore's rights will be to nominate a Glencore Nominee to sit on the board of directors or similar governing body of the Ultimate Control Person of Falco (instead of on the Board of Directors of Falco) to the extent that (i) the assets of Falco and its subsidiaries, on a consolidated basis, represent more than 66 2/3% of the assets of such Ultimate Control Person, on a consolidated basis, as at the end of the most recently completed financial year of such Ultimate Control Person, or (ii) the revenues of Falco and its subsidiaries, on a consolidated basis, represent more than 66 2/3% of the revenues of such Ultimate Control Person, on a consolidated basis, for the most recently completed financial year of such Ultimate Control Person.

ARTICLE 10 TERM AND TERMINATION

10.1 Term and Termination

The term of the License (the "**Term**") shall be from the Effective Date until the earliest to occur of:

- (1) the effective date of termination of the License by Glencore in accordance with Section 12.3(1);
- (2) the later of (a) the tenth (10th) anniversary of the Effective Date if the Project has not undertaken the Commencement of Dewatering Activities by such date and (b) the date of delivery by Glencore to Falco of a written Notice of termination to that effect;
- (3) the later of (a) the fifteenth (15th) anniversary of the Effective Date if the Project has not undertaken the Commencement of Mining Activities by such date and (b) the date of delivery by Glencore to Falco of a written Notice of termination to that effect;
- (4) following the permanent cessation of Commercial Production, on the delivery of Notice of termination by Glencore following the earlier of the (i) completion of the rehabilitation and restoration work in respect of the Project as described in the Rehabilitation and Restoration Plan (as determined by Glencore, acting reasonably) and (ii) the date of issuance by the MRNF of a Certificate of Release to Falco pursuant to Section 232.10 of the *Mining Act* in connection with the Project;
- (5) the written agreement of the Parties to terminate this Agreement; and
- (6) post-Commencement of Commercial Production, on the later of the seventh anniversary of temporary suspension of Commercial Production and the delivery of Notice of termination by Glencore.

10.2 Post-Termination Obligations

At the end of the Term:

- (1) The License shall be terminated and Falco shall have no further rights to conduct Project Operations under the License except insofar as needed to comply with the terms of this Section 10.2;
- (2) To the extent not already completed, Falco will promptly commence and thereafter continue to take (until completed to the satisfaction of Glencore) all actions needed to reclaim those portions of the Controlled Properties to which Falco had access under the License and/or otherwise impacted through Project Operations in accordance with and to the extent required under the Rehabilitation and Restoration Plan, Authorizations for the Project, Orders, Approvals and all Applicable Laws.
- (3) Continue to carry out long-term care and maintenance obligations on the Project in accordance with and to the extent required under the Rehabilitation and Restoration Plan, Authorizations for the Project, Orders, Approvals and all Applicable Laws.
- (4) At Glencore's request, within eighteen months following the end of the Term or such longer period as is reasonable based on the extent of the work to be conducted, Falco will, at its sole risk and expense: (i) remove from the Controlled Properties and any other immovable properties or properties owned or held by Glencore any and all buildings, structures, machinery, equipment, power transmission lines, pipelines, sewage facilities, storage tanks and contents belonging to or constructed or installed by Falco or its Invitees, and any Hazardous Substance Released on the Controlled Properties by a Falco Party or in connection with the Project, and shall remediate such properties in compliance with Applicable Laws, failing which such materials, infrastructure and Hazardous Substance may be removed, and such properties may be rehabilitated, by Glencore at the cost and expense of Falco, provided that no such removal or rehabilitation shall be required with respect to structures, equipment, Hazardous Substance, assets and properties that are located underground to the extent that such removal or rehabilitation is not required under the Rehabilitation and Restoration Plan, Authorizations for the Project, Orders, Approvals and all Applicable Laws; and (ii) provide to Glencore a report prepared by a reputable independent consultant acceptable to Glencore confirming the satisfaction of the foregoing removal and rehabilitation obligations, together with a reliance letter in favour of Glencore, all in form and substance satisfactory to Glencore, acting reasonably.

Notwithstanding the end of the Term, the following terms of this Agreement shall remain in full force and effect: Article 1, Article 2, Article 4, Article 5, Section 7.1, Section 7.3, Article 8, Article 10, Article 11, Article 14, Article 15 (only where the Commencement of Dewatering Activities has occurred, and to the extent applicable for the stage of the Project), Article 16 and Article 17 (other than Sections 17.1 and 17.3). In addition, the provisions of the Offtake Agreements and the other Project Agreements, including the APA and MOU shall not be affected by the end of the Term (unless terminated in accordance with their respective terms).

ARTICLE 11 TRANSFER OF INTEREST

11.1 General

- (1) Falco shall not Transfer or Encumber its rights, title and/or interest in and to the Project, the Project Properties and/or this Agreement, in whole or in part, except in accordance with Section 11.2. For greater certainty, any transfer or issuance of shares or other securities in the capital of Falco or a Change of Control of Falco shall not be considered a Transfer or Encumbrance of this Agreement.
- (2) Falco acknowledges and agrees that any Indirect Transfer that occurs, unless the indirect acquiror of Falco is an Eligible Transferee, shall constitute a material default under this Agreement. Any Transfer or issuance of shares or other securities in the capital of Falco or a Change of Control of Falco shall not be considered an Indirect Transfer of Falco to the extent that Falco is, immediately before such issuance, Transfer or Change of Control, a reporting issuer under Canadian securities laws (or equivalent under the laws of another jurisdiction); provided that, where the resulting Ultimate Control Person does not meet the criteria of "Eligible Transferee" hereunder, the transaction shall be considered an Indirect Transfer.
- (3) Glencore shall not be restricted in any way from Transferring or Encumbering any of its right, title and/or interest in and to the Horne Smelter. Glencore shall Transfer its right, title and interest in and to this Agreement (and selected Project Agreements) to the same extent and to the same Person to which it Transfers its interests in the Horne Smelter and shall cause the transferee to execute a joinder to and assume the obligations of Glencore (but only in respect of this Agreement) under the Existing Intercreditor Agreement; provided that if Glencore and such Transferee enter into the Glencore Assignment Agreement with Falco, Glencore shall be released of all obligations and liabilities arising from and after the date of Transfer to the extent of the interest so Transferred.

11.2 Permitted Transfers

Falco shall be permitted to Transfer or Encumber all or any portion of its right, title and interest in and to the Project, the Project Properties and this Agreement as follows:

- (1) Falco may Transfer all but not less than all of its right, title and interest in and to the Project and the Project Properties to an Affiliate, provided that Falco and such Transferee enter into the Falco Affiliate Assignment Agreement with Glencore;
- (2) Falco may Transfer all or a portion all of its right, title and interest in and to the Project and the Project Properties to a Third Party, provided that in the case of a Transfer of a majority interest or more in the Project or in the case of a Transfer which results in the Transferee (or an Affiliate thereof) becoming the operator of the Project:
 - (i) the Transferee qualifies as an Eligible Transferee or, where the Transferee is not an Eligible Transferee, Glencore has consented to the Transfer,

(which consent may be withheld or conditioned in the sole and absolute discretion of Glencore); and

- (ii) Falco and such Transferee enter into the Falco Assignment Agreement with Glencore.
- (3) Falco shall be entitled to Encumber the Project (or any part thereof), the Project Properties and this Agreement in favour of a Lender provided that such Lender has agreed to abide by the transfer restrictions and other provisions of Article 11 of this Agreement in connection with the Transfer of the Project to a Third Party) and has entered into, or otherwise signed a joinder to, the Existing Intercreditor Agreement, provided that upon request of Falco and subject to Section 17.3, Glencore hereby agrees and covenants to subordinate the rank of its hypothec securing obligations of Falco under this Agreement, and related waterfall ranking in the Existing Intercreditor Agreement, in favour of any Lenders and to execute and authorize the filing of cessions of rank in relation thereto.

11.3 Offtake Agreements; Project Agreements

Falco will not be permitted to Transfer and/or Encumber its right, title or interest in and to this Agreement without also Transferring and/or Encumbering its right, title or interest in and to the Offtake Agreements and the other Project Agreements upon equivalent terms and conditions. Falco will not be permitted to Transfer and/or Encumber its right, title or interest in and to the Offtake Agreements and the other Project Agreements except to a Person to which it has Transferred or Encumbered its right, title or interest in and to this Agreement.

ARTICLE 12 EVENTS OF DEFAULT

12.1 Events of Default

The occurrence of any one or more of the following shall, so long as it subsists, constitute an “**Event of Default**” by Falco:

- (i) the failure by Falco to maintain Financial Assurance in accordance with the terms and levels set forth in Article 15;
- (ii) the breach by Falco of a covenant of Falco in Section 7.3;
- (iii) Falco has (a) operated outside of the Operating Parameters or (b) commenced and, after so commencing, failed to cease an Unapproved Controlled Operation forthwith following written Notice thereof by Glencore to Falco;
- (iv) Falco has (a) commenced a Controlled Operation after it was Ordered not to do so, or (b) failed to comply with an Order (other than an Order contemplated by subclause (a) hereof) or an Approval of the Technical Committee within ten (10) days following the date on which Falco was required to comply therewith;
- (v) Falco has (a) failed to make any payment owing to Glencore pursuant to this Agreement, an Offtake Agreement or another Project Agreement when due or (b)

breached any other material provision of this Agreement, an Offtake Agreement or another Project Agreement;

- (vi) Falco Transfers any or all of its right, title and interest in and to the Project, the Project Properties, this Agreement, the Offtake Agreements or another Project Agreement in contravention of Article 11, or undergoes an Indirect Transfer for the purposes of with Section 11.1(2);
- (vii) the Offtake Agreements are terminated other than by Glencore, or the Offtake Agreements cease to be in the name of the Person that operates the Project; and
- (viii) Falco or a Person that Controls Falco experiences an Insolvency Event.

12.2 Notice of Default

Upon the occurrence of an Event of Default, Glencore may deliver to Falco a Notice of Default specifying the Event of Default that occurred.

12.3 Failure To Remedy Event of Default

- (1) If
 - (i) on the expiry of:
 - A. five (5) days following service of the Notice of Default in respect of an Event of Default contemplated by Section 12.1(i);
 - B. ten (10) days following service of the Notice of Default in respect of an Event of Default contemplated by Section 12.1(iii) or 12.1(iv); or
 - C. thirty (30) days following service of the Notice of Default in respect of an Event of Default contemplated by Section 12.1(v);
- either:
- (1) the Event of Default has not been remedied to the satisfaction of Glencore, acting reasonably; or
 - (2) in the case of an Event of Default contemplated by Sections 12.1(iii), 12.1(iv) or 12.1(v)(b), if the Event of Default is incapable of being remedied within the applicable period, and Falco has not (X) within such applicable period, provided to Glencore written Notice containing a plan to remedy the Event of Default (a "**Remediation Plan**"), acceptable to Glencore (acting reasonably), and proceeded with all due diligence to execute the Remediation Plan and (Y) thereafter, continued to exercise all due diligence in executing the Remediation Plan until the Event of Default is remedied;

- (3) if the Event of Default is incapable of being remedied (either within the applicable period or at all) and Falco has not paid monetary compensation to Glencore that is acceptable to Glencore, acting reasonably, in lieu of remedying the Event of Default; or
- (ii) upon the delivery of the Notice of Default in respect of an Event of Default contemplated by Section 12.1(ii), 12.1(vi), 12.1(vii) or 12.1(viii);

then Glencore may, without prejudice to any other rights and remedies available to it, elect by written Notice to Falco, at any time during the pendency of the Event of Default, to:

- (iii) in the case of an Event of Default contemplated by Section 12.1(i) only, draw the entirety of the Financial Assurance and hold such funds in a segregated account to offset against amounts owing from time to time to Glencore pursuant to Article 15; and/or
 - (iv) suspend the License granted hereby or pursuant to the terms hereof; and/or
 - (v) terminate the License granted hereby or pursuant to the terms hereof; and/or
 - (vi) suspend or terminate the provision of any services provided by Glencore (or an Affiliate thereof) to Falco (or an Affiliate thereof) under any Project Agreement.
- (2) The election by Glencore of a remedy under Section 12.3(1) shall not constitute the remedying of an Event of Default.

12.4 Rights and Remedies Not Exclusive

The rights and remedies for an Event of Default provided in this Article 12 shall be in addition to, and not in lieu of, any other rights or remedies available to Glencore under this Agreement or pursuant to Applicable Law including the equitable remedies of specific performance or injunction.

12.5 Rights and Remedies Not Penal

The Parties agree that the rights and remedies conferred by this Article 12 do not constitute a penalty or unlawful forfeiture and are necessary to promote the interests of the Parties and preserve the Priority Principle and Protection Principle, and constitute an equitable mechanism for the purposes of making Glencore whole in the event of an Event of Default by Falco.

ARTICLE 13 ADDITIONAL PROJECT AGREEMENTS

13.1 Synergy Agreements

- (1) The Parties confirm that (i) they have entered into an offtake agreement dated October 26, 2020 for the sale by Falco to Glencore of 100% of the copper

concentrate to be produced from the Project, and (ii) Falco and an Affiliate of Glencore entered into an offtake agreement dated October 26, 2020 for the sale by Falco to Glencore of 100% of the zinc concentrate to be produced from the Project (collectively, the “**Offtake Agreements**”).

- (2) On or as soon as practicable following the Effective Date, the Parties will negotiate in good faith towards settling the definitive terms of agreements addressing the topics and incorporating the principles set out in Schedule E (the “**Synergy Agreements**”) to provide Glencore with additional Synergies.
- (3) The Parties will, from and after the Effective Date, continue to negotiate in good faith to explore further synergies (commercial and otherwise) for the benefit of both Parties, and as part of such exercise, Falco will use commercially reasonable efforts to provide Glencore with additional synergies in order to compensate Glencore from certain of the Horne Smelter Risks that the Project Operations may create.

13.2 Water Replacement Agreement

The Parties will, from and after the Effective Date, negotiate in good faith towards settling an agreement whereby Falco will secure the supply of, for no further consideration to Glencore, no less than a volume per year of water that will be specified by Glencore, which water is suitable for use as process water for milling, smelting and other processing operations at the Horne Smelter (such an agreement, the “**Water Agreement**”), for a term equal to the life of the operations of the Horne Smelter. For certainty, the Water Agreement will provide that the quality, quantity and reliability of water to be delivered under the Water Agreement must meet the standards imposed by Glencore and be provided at the cost of Falco.

13.3 Tenures and Access

- (1) The Parties acknowledge that they intend to negotiate in good faith towards settling one or more agreements whereby Falco, directly or indirectly through a special purpose vehicle, would obtain real rights, legal tenures and other exclusive property rights beyond those that were contemplated in the APA. Such agreements will seek to provide rights to Falco so as to facilitate the financing and permitting of the Project, while at the same time preserving all of the rights of Glencore as Glencore may deem necessary or advisable in connection with Horne Smelter Operations (including as same may be modified to comply with any Horne Authorization) or to exploit any Horne Process Materials and other resources held by Glencore in or on the Upper Controlled Properties.
- (2) The Parties acknowledge that they intend to negotiate in good faith towards settling one or more agreements whereby Glencore would grant to Falco, directly or indirectly through a special purpose vehicle, certain additional access and use rights (including with respect to the Quemont Shaft, the galleries comprised in the definition of Permanent/Exclusive Project Infrastructure and other uses rights described in Schedule F), whether in the form of dismemberments of real rights, servitudes, right of passage or other form as may otherwise be agreed upon by the Parties.

- (3) The agreements contemplated in this Section 13.3 will also provide for the assumption of certain historical, present and future Liabilities with respect to mining concessions, tenures or real rights transferred or made available to Falco, directly or indirectly through a special purpose vehicle. All such rights will be made available to Falco, directly or indirectly through a special purpose vehicle, on an "as is where is" basis and without any representation or warranty by Glencore, subject to such hypothecs, charges, resolatory and retention rights, and other legal arrangements as Glencore may deem necessary or advisable in order to implement the Foundational Principles set out in Article 2 and retain personal and real rights over such concessions, tenures and real rights, including securing ownership by Glencore of the land where the Horne Smelter is located.
- (4) Notwithstanding any other clause in this Agreement, the rights of Falco to access the portions of the Upper Controlled Properties set forth in Schedule I for the purpose of conducting Project Operations is subject to the Parties having (i) agreed upon in writing the specific portions of the Upper Controlled Properties to be accessed by Falco to conduct such Project Operations, or (ii) entered into the definitive agreements contemplated in this Section 13.3, in each case to the satisfaction of Glencore.

ARTICLE 14 CONFIDENTIALITY

14.1 Confidentiality

Except as provided in Section 14.2 and 14.3, each Party shall maintain as confidential and shall not disclose the terms of this Agreement, the Confidential Information of the other Party or any Committee Information to any Third Party or to the public without the other Party's express prior written consent. The obligations of confidentiality set forth in this Section 14.1 shall not apply with respect to:

- (i) any Confidential Information or Committee Information that is or becomes part of the public domain other than through a breach of this Agreement or breach of any other obligation of confidentiality;
- (ii) any Confidential Information of a Party that is already in the possession of the other Party or its Affiliates prior to receipt thereof from any such first-mentioned Party or its Affiliates or their Representatives and which is not otherwise covered by an obligation of confidentiality;
- (iii) any Confidential Information of a Party that is lawfully received by the other Party, its Affiliate or their Representatives from a Third Party not under an obligation of confidentiality; or
- (iv) any Confidential Information of a Party that is independently developed by one or more employees of the other Party, its Affiliates or their Representatives without using the Confidential Information or the Committee Information.

14.2 Disclosure Required by Applicable Laws

- (1) The consent required by Section 14.1 shall not apply to a disclosure of the terms of this Agreement, Committee Information or the Confidential Information of the other Party in any manner (including a press release) by a Party where:
 - (i) in respect of Committee Information only, the Party so disclosing has received a Governmental Requirement to disclose the Committee Information or has received a request for the disclosure of information by a Governmental Authority in connection with an investigation (for which the Committee Information at issue is relevant); or
 - (ii) in respect of the terms of this Agreement, or the Confidential Information of the other Party, only the Party so disclosing reasonably believes in good faith that such disclosure is required by Applicable Laws, any Governmental Authority or any stock exchange on which the shares in the capital of a Party or its Affiliates are traded; and
 - (iii) such Party complies with the provision of this Section 14.2,
(each, a “**Required Disclosure**”).
- (2) If Falco intends to file a copy of this Agreement on SEDAR, Falco shall first provide Glencore with its proposed redactions to the Agreement and will effect such further redactions to the Agreement as are proposed by Glencore to respect confidentiality provisions and/or otherwise respect commercially sensitive information, to the extent that such redactions comply with applicable Canadian securities laws and regulations.
- (3) In all cases other than those covered by Section 14.2(2), where a Party intends to make a Required Disclosure, it shall provide the other Party with the proposed Required Disclosure in writing (or a general script thereof in the event of an oral disclosure) at least five (5) Business Days before its first disclosure or publication, unless pursuant to Applicable Laws or a request of a Governmental Authority such Required Disclosure must be made within a shorter period, in which case the Party intending to make such Required Disclosure shall provide the full written text (or a general script thereof in the event of an oral disclosure) of the proposed Required Disclosure to the other Party for as long a period as is practicable or allowed by Applicable Laws in advance of its first disclosure or publication. A Party may not issue a press release or other public statement concerning this Agreement or containing the Confidential Information of the other Party unless it shall have obtained the consent from such other Party as to the contents of such press release or public statement (such consent not to be unreasonably withheld), provided that Glencore will be deemed to have acted reasonably where it withholds its consent to the release of any Confidential Information of Glencore that it asserts is commercially sensitive to Glencore.
- (4) The Party making the Required Disclosure shall be solely and entirely responsible for the contents of the Required Disclosure and shall include in the Required Disclosure a statement as to that Party’s sole and entire responsibility.

For the avoidance of doubt, nothing in this Section 14.2 shall prevent any of the Parties or their respective Affiliates from complying in good faith with obligations under Applicable Laws.

14.3 Exceptions

- (1) The consent required by Section 14.1 shall not apply to a disclosure:
 - (i) of the terms of this Agreement, Confidential Information of the other Party or Committee Information to any of the Affiliates or Representatives of a Party that has a bona fide need to be informed, provided that such Affiliates or Representatives are bound by obligations of confidentiality that are substantially similar to those contained in Section 14.1;
 - (ii) of the terms of this Agreement, Confidential Information of the other Party or Committee Information to any potential acquirors who have entered into a confidentiality agreement with the disclosing Party that contains provisions substantially similar to those contained in Section 14.1 to whom the disclosing Party bona fide contemplates a Transfer (in whole or in part) of its right, title and interest in and to the Project or the Horne Smelter (as applicable); or
 - (iii) of the terms of this Agreement, Confidential Information of the other Party or Committee Information to any bona fide Lenders or other financing sources who have entered into a confidentiality agreement with the disclosing Party that contains provisions substantially similar to those contained in Section 14.1.
- (2) In the case of a disclosure pursuant to Sections 14.3(1)(i), the disclosing Party shall be liable to the non-disclosing Party for any breach of the provisions of this Article 14 by such Affiliates or Representatives, as the case may be, as if it had committed the breach of such provisions itself.
- (3) In any case where any of Sections 14.3(1)(ii) or 14.3(1)(iii) are applicable, the disclosing Party shall:
 - (i) give not less than 48 hours prior Notice to the other Party of the intended disclosure;
 - (ii) only disclose such information as such Third Party or Lender, as the case may be, shall have a legitimate business need to know;
 - (iii) inform such Third Party or Lender, as the case may be, of the disclosing Party's obligations hereunder;
 - (iv) ensure that such Third Party or Lender, as the case may be, agrees in writing in favour of the disclosing Party to protect such information from further disclosure to the same extent as such Party is obligated under this Article 14, and shall provide a copy of such written agreement to the Parties prior to disclosure to the Third Party or Lender, as the case may be; and

- (v) be liable to the non-disclosing Party for any breach of the provisions of this Article 14 by such Third Party or Lender, as the case may be, as if it had committed the breach of such provisions itself.

14.4 Confidential Information, Generally

This Article 14 sets out the entire agreement between the Parties pertaining to the disclosure and use by the Parties of the Committee Information and by a receiving Party of a disclosing Party's Confidential Information shared from and after the Effective Date, and supersedes any rights that a disclosing Party may have at law or equity regarding the receiving Party's possession or use of the Committee Information and such Confidential Information.

ARTICLE 15 FINANCIAL ASSURANCE AND INSURANCE

15.1 Insurance Policies

- (1) At all times during the conduct of Operations, Falco shall obtain and maintain the insurance coverages specified in Schedule G, from reputable insurance companies (the "**Insurance Policies**").
- (2) Falco shall promptly provide Glencore with evidence of each Insurance Policy obtained in accordance with Section 15.1 prior to conducting a Conditioned Activity as contemplated in Section 7.2 and, thereafter, on the date on which a renewal or amended policy becomes effective and the date on which any Party requests evidence of the policy.
- (3) Falco shall ensure that each Insurance Policy placed and maintained pursuant to Section 15.1 shall include provisions or endorsements providing that:
 - (i) Glencore and its Affiliates, and their respective Affiliates, and their respective directors, officers, employees, agents and servants (each an "**Insured Party**" and collectively, the "**Insured Parties**") is named as an additional insured on such Insurance Policies as are indicated in Schedule G;
 - (ii) the insurer waives any right of subrogation it may have against Glencore or any other Insured Party;
 - (iii) the insurance provided by the policy shall include cross liability and severability of interest provisions that shall apply to an action brought against any Insured Party in the same manner as though a separate policy had been issued to each of them;
 - (iv) all coverages in the Insurance Policies shall be primary and any coverage Glencore may have in any of its own insurance policies shall not be considered contributory;
 - (v) notwithstanding any:
 - A. default by an Insured Party under the policy; or

B. Insolvency Event in respect of an Insured Party,

the policy shall respond to any claim that arises out of an event that occurs before the default or Insolvency; and

- (vi) the insurer undertakes to provide to Glencore not less than thirty (30) days' prior notice of any amendment or cancellation of the policy.

(4) Falco shall:

- (i) promptly notify Glencore of any proposed variation, amendment or endorsement of any of the Insurance Policies which adversely affect the amount, scope or term of insurance cover provided by such Insurance Policies and of any pending or actual non-renewal of any Insurance Policy and not effect or consent to effect any such variation, amendment or endorsement of an Insurance Policy that reduces the insurance coverage provided thereunder to less than what has been stipulated in Schedule G without first obtaining the approval in writing of Glencore;
- (ii) ensure that all conditions of the Insurance Policies are complied with at all times;
- (iii) not do or omit to do anything which might vitiate, impair or derogate from the cover under the Insurance Policies or which might prejudice any claim under such Insurance Policies; and
- (iv) promptly notify Glencore if the insurer gives notice of cancellation in respect of any Insurance Policy or of any event which may result in any of the Insurance Policies being cancelled.

15.2 Financial Assurance

- (1) Falco hereby agrees to provide to Glencore and maintain financial assurance ("**Financial Assurance**") in the amounts and for the durations of the terms set forth below:
 - (i) prior to the Commencement of Dewatering Activities and until replaced by the Acceptable Security contemplated in Section 15.2(1)(ii), Falco shall provide to and maintain with Glencore Acceptable Security in the amount of no less than C\$40,000,000;
 - (ii) prior to the Commencement of Mining Activities until replaced by the Acceptable Security contemplated in Section 15.2(1)(iii), Falco shall provide to and maintain with Glencore Acceptable Security in the amount of no less than C\$80,000,000; and
 - (iii) upon the delivery by Falco to the MELCCFP of the notice of permanent cessation of commercial production activities in respect of the Project and the commencement of the rehabilitation and restoration work further to such cessation of activities in accordance with the Rehabilitation and Restoration Plan approved by the MRNF, and until the later of (A) the 10th

anniversary of the completion of the rehabilitation and restoration work in respect of the Project and (B) the issuance by the MRNF of a Certificate of Release in respect thereof pursuant to Section 232.10 of the Mining Act, Falco shall provide to and maintain with Glencore Acceptable Security in the amount of no less than C\$10,000,000 (subject to adjustment in accordance with Section 15.2(2) up to a maximum amount of C\$20,000,000).

- (2) The amounts set forth in Section 15.2(1) shall be adjusted upwards or downwards as follows:
- (i) if the Commencement of Dewatering Activities has not occurred by the fourth anniversary of the Effective Date, the amounts set forth in Sections 15.2(1)(i) and 15.2(1)(ii) shall be adjusted annually on February 1 of each calendar year commencing after the fourth anniversary of the Effective Date;
 - (ii) if the Commencement of Dewatering Activities has occurred by the fourth anniversary of the Effective Date but the Commencement of Mining Activities has not occurred by the seventh anniversary of the Effective Date, the amounts set forth in Section 15.2(1)(ii) shall be adjusted annually on February 1 of each calendar year commencing after the seventh anniversary of the Effective Date; and
 - (iii) the amounts set forth in Section 15.2(1)(iii) shall be adjusted annually on February 1 of each calendar year commencing on February 1, 2024,

in each case, at a rate equivalent to the year-over-year change in the Consumer Price Index data (All-Items, annual average, not seasonally adjusted) for the two prior calendar years, as published by Statistics Canada, up to the maximum amount set forth in Section 15.2(1)(iii).

- (3) Financial Assurance shall be pledged to Glencore, shall not be subordinated to Lenders or Third Parties (including Governmental Authorities), and shall be in addition to any financial assurance required to be delivered in favour of Governmental Authorities pursuant to Applicable Law.

15.3 Composition of Financial Assurance

The obligation of Falco to post and maintain Financial Assurance as required by Sections 15.2 and 15.4 will be satisfied by Acceptable Security in an amount equal to the full amount of the Financial Assurance.

15.4 Adequacy of Financial Assurance; Replacement Financial Assurance

- (1) Falco will ensure that, at all times, the aggregate value of all of its posted Financial Assurance is at least equal to its then currently required amount of Financial Assurance and that its Financial Assurance is current, valid, enforceable and in an acceptable form, including (i) increasing the amount of posted Financial Security if the required amount increases in accordance with Section 15.2 and (ii) providing replacement security for any letter of credit or other Acceptable Security (A) which

expires, terminates or fails, or ceases to be in full force and effect for the purposes hereof, (B) which is disaffirmed, disclaimed, dishonoured, repudiated or rejected in whole or in part by the provider thereof, or (C) the validity of which is challenged by the provider thereof.

- (2) If Falco fails to provide replacement Acceptable Security for any letter of credit or other Acceptable Security within six (6) Business Days prior to expiry date of such Financial Assurance, it will constitute an Event of Default.
- (3) All costs associated with the posting of Financial Assurance will be borne by Falco. Any interest earned on any Financial Assurance will be for the account of Falco and, to the extent payment of interest thereon requires approval or other action of Glencore, such approval or action will be taken within five (5) Business Days after Falco provides a request for same.
- (4) If existing Financial Assurance is replaced with new Financial Assurance, including pursuant to a reduction of necessary Financial Assurance, Glencore will return the existing Financial Assurance held by it to Falco within five (5) Business Days of the receipt of such new Financial Assurance.

15.5 Right to Draw on Financial Assurance

Glencore will only be entitled to draw on the Financial Assurance in the following circumstances:

- (1) Glencore shall have suffered Losses (or continue to suffer Losses) subject to indemnification by Falco under Section 4.2(2) of this Agreement, in each case, as determined by Glencore, acting reasonably;
- (2) Glencore shall inform Falco of such Losses, including a description of the Losses or costs claimed to have been suffered (or continuing to suffer) or incurred by Glencore, and the rationale for the Losses ("**Notice of Loss**");
- (3) Falco shall have been given the opportunity to investigate such Losses or costs for a period of at least ten (10) Business Days following receipt of the Notice of Loss, including through appointment of an independent claim adjuster; and
- (4) At the expiry of the ten (10) Business Day-period referred to above, Glencore shall be entitled to draw on the Financial Assurance,

provided however that in the event that it is finally determined that Glencore was not entitled to indemnification (where that is the basis for Glencore's claim) after presentment for payment of an instrument representing Financial Assurance, Glencore shall have the obligation to reimburse Falco for the amount obtained (plus applicable interest incurred thereon and reasonable costs and expenses incurred in connection therewith) upon presentment thereof.

ARTICLE 16 DISPUTE RESOLUTION

16.1 General

- (1) Subject to Section 16.3, any dispute arising under or in connection with the provisions of this Agreement (other than a dispute with respect to an Order, which may only be resolved in accordance with the provisions of Section 8.4) which has not been resolved or settled by the Parties (a “**Dispute**”) shall be escalated to the Strategic Committee, which shall endeavour to arrive at an amicable solution to such Dispute as soon as practicable.
- (2) For the avoidance of doubt, the procedures for the settlement of Disputes set forth in this Article 16 shall not derogate from the express powers of the Technical Committee set forth in Article 9. An Arbiter shall not be permitted to over-turn decisions of the Technical Committee that are within the scope of their authority hereunder, and any failure of the Technical Committee to unanimously agree on any action or matter before it, shall not be a Dispute to be resolved pursuant to this Article 16.

16.2 Arbitration

- (1) Any Dispute that has not been resolved to the satisfaction of a Party shall be referred to and finally resolved by arbitration in accordance with the *Arbitration Act* (Ontario), subject to Section 16.2(2) (and it shall not be necessary for the matter to have first been escalated to the Strategic Committee). The Party wishing to refer the matter to arbitration shall issue a Notice to the other Party to that effect (a “**Notice of Arbitration**”). The arbitration shall be conducted before a sole arbitrator (the “**Arbiter**”) appointed by the Parties, provided that if the Parties fail to agree on the Arbiter within thirty (30) days of the delivery of the Notice of Arbitration, the Arbiter will be selected by a justice of the Superior Court of Ontario, on application by either Party. The place of arbitration shall be Toronto, Ontario, Canada or such other place as the Parties may agree in writing, and the language of the arbitration shall be English.
- (2) Notwithstanding Section 16.2(1) and anything to the contrary in the *Arbitration Act* (Ontario), the Arbiter shall be bound, and the Parties hereby agree that the Arbiter shall be bound, by the procedures described in this Section 16.2(2) and in Sections 16.2(3) and 16.2(4). Unless otherwise agreed by the Parties in writing, the Arbiter shall deliver his or her decision in writing to the Parties within thirty (30) days of the date the hearings in connection with the Dispute is closed.
- (3) The arbitration award shall be final and binding on the Parties, and judgment on the award may be entered by any court of competent jurisdiction. If the Parties settle the dispute in the course of the arbitration, the settlement shall be approved by the Arbiter on request of either Party and shall become the award.
- (4) The expense of the arbitration, including travel costs and attorney’s fees and costs of the prevailing Party, will be paid as specified in the final award.

16.3 Interlocutory Relief

Nothing contained in this Article 16 or this Agreement shall prevent or restrict a Party from seeking urgent interlocutory relief from any court of competent jurisdiction; provided that upon the granting of any application for preliminary interlocutory relief, further hearings on the matter by the court shall be stayed pending disposition of the matter pursuant to the procedures described in this Article 16 and this Agreement.

16.4 Continued Performance

Each Party shall continue performance of its obligations under this Agreement notwithstanding the existence of a Dispute.

ARTICLE 17 GENERAL PROVISIONS

17.1 License

The License granted hereunder constitutes a license as contemplated by sections 4.01(4) and 4.01(5) of the APA.

17.2 Costs

The Costs incurred by Glencore in connection with participating in the Technical Committee and Strategic Committee and in connection with exercising the rights of Glencore under Article 8 hereof (other than costs of the Expert required by the Expert to be paid by Glencore in accordance with Article 8 hereof) shall be reimbursed by Falco within forty-five (45) days of the presentation of invoices therefor.

17.3 Reasonable Cooperation, Financing Matters and Intercreditor Agreement

- (1) The Parties recognize that Falco, Glencore and current Lenders to Falco have entered into a Second Amended and Restated Intercreditor Agreement dated as of the date hereof (the “**Existing Intercreditor Agreement**”) which will continue to apply following the execution of this Agreement, until such Existing Intercreditor Agreement is further amended, restated, replaced or supplement in accordance with its terms. This Agreement shall constitute a “Glencore Property Documents” for the purposes of the Existing Intercreditor Agreement.
- (2) The Parties recognize that the financing of the Project could require the amendment of the Existing Intercreditor Agreement in order to add future Lenders to the Existing Intercreditor Agreement and reflect the particulars of future financing from such Lenders. The Parties agree to act in good faith and reasonably negotiate the terms of such amended intercreditor agreement or new intercreditor agreements as necessary provided, however, that the following principles shall apply to such intercreditor relationships:
 - (i) The rights, obligations, covenants, restrictions and other terms contained herein, the Offtake Agreements and the other Project Agreements and other contractual and legal relationships entered into between the Parties shall form a single legal and contractual framework, indivisible by creditors

except upon consent of the Parties, whether upon the realization of security or otherwise;

- (ii) Glencore shall retain a first priority security interest in respect of Financial Assurance provided in accordance with this Agreement;
- (iii) Glencore will subordinate the rank of its deed of hypothec referred to in Section 7.2(1)(vii) and related waterfall ranking in the Existing Intercreditor Agreement in favour of any Lenders and agree to execute and authorize the filing of cessions of rank in relation thereto when requested to do so by Falco; and
- (iv) nothing in any intercreditor agreement shall require Glencore to violate or deviate from the Primacy Principle and Protection Principle unless consented to by Glencore in its discretion.

In addition to the rights currently contemplated in the Existing Intercreditor Agreement, Glencore will, upon request from Falco, enter into a customary direct agreement with the Lenders to provide the Lenders with customary notice of breaches of this Agreement and an opportunity to step in and cure breaches to the same extent as Falco is entitled to cure (or with such additional cure periods to the extent reasonably required by the Lenders and agreed upon by Glencore, in its sole and absolute discretion) and with the opportunity to Transfer the Project, this Agreement, the Offtake Agreements and the other Project Agreements to an Eligible Transferee in accordance with the terms of this Agreement.

- (3) Glencore will agree to provide non-confidential information as may be reasonably requested by Falco in connection with Falco's regulatory applications and draft submissions to Governmental Authorities.

17.4 Notices

- (1) All notices and other required or permitted communications (each a "**Notice**") to the Parties shall be in writing, and shall be addressed respectively as follows:

- (i) If to Glencore:

Glencore Canada Corporation
100 King St. West
Suite 6900, PO Box 405
Toronto, ON
M5X 1E3

Attention: **[REDACTED: Personal information]**

Email: **[REDACTED: Personal information]**

- (ii) If to Falco:

Falco Resources Ltd.
1100, avenue des Canadiens-de-Montréal

Suite 300
Montréal, Québec H3B 2S2

Attention: President and Chief Executive Officer
Email: [REDACTED: Personal information]

With a copy to:

Attention: Vice-President, Legal Affairs
Email: [REDACTED: Personal information]

- (2) All Notices shall be given:
- (i) by personal delivery;
 - (ii) by email;
 - (iii) by registered or certified mail, return receipt requested; or
 - (iv) by overnight or other express courier service.
- (3) All Notices shall be effective and shall be deemed given on the date of receipt at the principal address if received during normal business hours, and, if not received during normal business hours, on the next Business Day following receipt, or if by electronic communication, on the date of such communication. Any change of address may be made by Notice to the other Parties.

17.5 Payments

Unless otherwise provided herein, all payments to be made to any Party hereunder may be made by cheque or bank draft mailed or delivered to such Party at its address for Notices, or deposited for the account of such Party at such bank or banks as it may designate, from time to time, by notice to the other Party. Such bank or banks shall be deemed the agent of the designating party for the purpose of receiving, collecting and receipting such payment.

17.6 Set-off

Neither Party will be authorized to set off any payments or obligation owed by one Party to the other under the Offtake Agreements against obligations or liabilities owed under this Agreement or the other Project Agreements.

17.7 Waiver

- (1) No failure on the part of a Party to exercise, no delay in exercising, and no course of dealing with respect to, any right, power or privilege established by this Agreement shall operate as a waiver thereof.
- (2) Except as otherwise expressly provided for herein, no waiver of any provision of this Agreement or consent to any departure by any Party from any provision of this Agreement shall be effective unless it is confirmed in writing. The waiver or consent shall be effective only in the specific instance, for the specific purpose and for the specific length of time for which it is given.

- (3) The single or partial exercise of any right, power or privilege established by this Agreement shall not preclude any other exercise thereof.

17.8 Amendment

This Agreement may only be amended by the written agreement of all the Parties or, as applicable, their permitted successors and assigns.

17.9 Governing Law and Attornment

This Agreement and any non-contractual obligations arising out of or in connection with it shall be, and shall be conclusively deemed to be, made under, and for all purposes governed by and construed according to the laws of the Province of Ontario and the federal laws of Canada applicable thereof without regard for any conflict of laws or choice of laws principles that would permit or require the application of the laws of another jurisdiction. As to matters pertaining to real property and the transfer or creation of real rights and legal tenures in favour of Falco as contemplated in this Agreement and the hypothec to be granted in favour of Glencore pursuant to Section 7.2(1)(vii), the laws of the Province of Québec will apply. Subject to the procedures described in Article 16, the Parties irrevocably submit to the exclusive jurisdiction of the courts of the Province of Ontario.

17.10 Severability

If any provision of this Agreement is or becomes illegal, invalid or unenforceable, in whole or in part, in any jurisdiction:

- (1) the remaining provisions shall nevertheless be and remain valid and subsisting in such jurisdiction and shall be construed as if this Agreement had been executed without the illegal, invalid or unenforceable portion so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to the Parties; and
- (2) that provision shall nevertheless be and remain valid and subsisting in other jurisdictions.

17.11 Benefit of the Agreement

This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns, provided that any Transfer of any rights under this Agreement not made in accordance with this Agreement shall be null and void and of no force or effect.

17.12 No Third Party Beneficiary Rights

- (1) This Agreement is for the benefit of the Parties and their respective successors and permitted assigns only, and shall not be construed to create beneficiary rights in any other Person (other than in respect of an Indemnified Person). Notwithstanding anything in this Agreement to the contrary, no Person other than a Party shall have the right to enforce any representation or warranty of a Party hereunder, or any obligation of a Party or to reimburse or indemnify any other Party or an Indemnified Person hereunder, and specifically except pursuant to an

intercreditor agreement or a direct agreement entered into by Glencore with a Lender, no creditor of any Party or creditor of any other Person or any other Person other than a Party shall have any such rights. Further, notwithstanding anything in this Agreement to the contrary, no director or officer of each Party or any of their respective Affiliates nor any Appointee or Member appointed hereunder shall have any personal liability whatsoever to the other Party or any Third Party under this Agreement.

- (2) This Agreement may be amended, rescinded or varied in any way and at any time by the Parties without the consent of any Person that is not a Party hereto. For the avoidance of doubt, the consent of an Indemnified Person shall not be required in respect of any amendment or rescission of this Agreement or the waiver by a Party of any obligation of any Party under this Agreement.

17.13 Entire Agreement

This Agreement, together with the APA, MOU, Offtake Agreements and the other Project Agreements, constitutes the entire agreement between the Parties and, except as hereafter set out, replaces and supersedes all prior agreements, memoranda, correspondence, communications, negotiations and representations, whether oral or written, express or implied, statutory or otherwise between the Parties with respect to the subject matter thereof, including the Agreement in Principle term sheet dated June 25, 2021 entered into between the Parties, but excluding the APA, the MOU, the Project Agreements and the Offtake Agreements which, subject to Section 17.14, shall remain in force in accordance with their respective terms.

17.14 Paramountcy

In the event of a conflict between the terms of the APA, the MOU or the Project Agreements entered into prior to the Effective Date, on one hand, and the terms of this Agreement, on the other hand, the terms of this Agreement shall prevail, provided that nothing herein shall have the effect of qualifying or diminishing any rights, title or interest of Glencore under the APA or MOU. In the event of an inconsistency or conflict between the terms of this Agreement, on one hand, and one or both of the Offtake Agreements, on the other hand, the terms of the Offtake Agreements shall prevail. In the event of an inconsistency or conflict between the terms of this Agreement, on one hand, and another Project Agreement entered into after the date of this Agreement, the terms of this Agreement shall prevail unless such other Project Agreement otherwise provides.

17.15 Counterparts and Electronic Execution

This Agreement may be executed in any number of counterparts, and it shall not be necessary that the signatures of all Parties be contained on any counterpart. Each counterpart shall be deemed an original, but all counterparts together shall constitute one and the same instrument. Counterparts may be delivered by electronic transmission and the Parties adopt any signatures so received as original signatures of the Parties.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

GLENCORE CANADA CORPORATION

By: (s) Authorized Representative

FALCO RESOURCES LTD.

By: (s) Luc Lessard

Name: Luc Lessard

Title: President and Chief Executive Officer

SCHEDULE A
FORM OF FALCO AFFILIATE ASSIGNMENT AGREEMENT¹

THIS ASSIGNMENT AGREEMENT (the “**Assignment Agreement**”) is dated [●] (the “**Effective Date**”)

AMONG:

FALCO RESOURCES LTD., a company governed by the laws of
Canada

(“**Falco**” or the “**Assignor**”)

- and -

[FALCO AFFILIATE], a company governed by the laws of [●]

(the “**Assignee**”)

- and -

GLENCORE CANADA CORPORATION, a company governed by the laws of
the Province of Ontario

(“**Glencore**” and together with Falco and the Assignee, the “**Parties**” and
each, a “**Party**”)

WHEREAS Falco and Glencore entered into an operating license and indemnity agreement dated [●] (the “**OLIA**”), pursuant to which Glencore granted a license to Falco in order to access the Upper Controlled Properties and certain other properties of Glencore to carry out Project Operations in accordance with the terms of the OLIA so that Falco can develop, construct, operate and close the Project;

AND WHEREAS the Assignee is an Affiliate of Falco;

AND WHEREAS on [●], Falco entered into [●] [**NTD: insert details of relevant transfer/purchase agreement to be entered into between Falco and Affiliate**] (the “**[Transfer Agreement]**”), pursuant to which Falco agreed to assign, transfer and convey all of its right, title and interest in the Project and the Project Properties to the Assignee upon closing of the transaction contemplated in the Transfer Agreement (the “**Time of Closing**”);²

AND WHEREAS pursuant to Section 11.2(1) of the OLIA, Falco is permitted to assign, transfer and convey all but not less than all of its right, title and interest in and to the Project

¹ [Note: This form of Falco Affiliate Assignment agreement may need to be modified in order to account for the Project’s real rights holding structure and related arrangements with the special purpose vehicle as contemplated under section 13.3 of the OLIA, including any resolatory rights in favour of Glencore.]

² [Note: Additional clauses may be added to this Assignment Agreement depending on the terms and conditions set out in the Transfer Agreement, and timing of transaction contemplated therein.]

and the Project Properties to an Affiliate, subject to the terms contained in such Section, including that Falco and such Affiliate shall have entered into this Assignment Agreement;

NOW THEREFORE, in consideration of the above and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows:

Section 1 Preamble and Definitions.

The preamble is true and correct, and shall form an integral part of this Assignment Agreement. Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the OLIA.

Section 2 Assignment and Assumption of Contracts.

The Assignor hereby agrees to assign, transfer and convey to the Assignee, at the Time of Closing, all of its right, title and interest in and to the OLIA, the Project Agreements in respect of the Project and Project Properties (including the Synergy Agreements) and the Offtake Agreement (the “**Assigned Contracts**”), and the Assignee hereby accepts such assignment, agrees to assume all obligations and liabilities of the Assignor under such Assigned Contracts as and from the Time of Closing, and undertakes in favour of the Assignor and Glencore to perform and discharge, as and from the Time of Closing, all the obligations and liabilities of the Assignor in relation to such Assigned Contracts.

Section 3 Transfer of Project and Project Properties. Registrations.

Pursuant to the [Transfer Agreement], Falco shall assign, transfer and convey to the Assignee, at the Time of Closing, all of its right, title and interest in and to the Project and the Project Properties (the “**Property Rights**”), subject to any Encumbrance in favour of Glencore. Such assignment, transfer and conveyance shall be made pursuant to a deed of transfer, together with all registrations, filings or recordings necessary or desirable to effect, register or perfect the enforceability of the assignment, transfer and conveyance of Property Rights, all to be in form and substance satisfactory to Glencore, acting reasonably, to be duly executed and completed as of the Time of Closing, and for registration forthwith thereafter, in all public registries, including all such registrations and filings in the Québec Land Registry, Registration Division of Rouyn-Noranda and in the Public Register of Real and Immovable Mining Rights (Québec) (the “**Public Registries**”).

Drafts of such deeds, registrations, filings and recordings shall be provided in advance to Glencore, on a timely basis, for review and approval by Glencore, acting reasonably. Falco shall provide Glencore with a copy of all such deeds and evidence of all such registrations, filings or recordings on title to the Project Properties from the Public Registries.

Section 4 Affiliate Status.

Each of Falco and the Assignee agrees and covenants that the Assignee shall remain at all time an Affiliate of Falco. In the event the Assignee is no longer an Affiliate of Falco, then prior to such Assignee no longer being an Affiliate of Falco:

- (a) the Assignee shall notify Glencore of such proposed change in control;
- (b) the Assignee shall assign, transfer and reconvey to Falco, or any other Affiliate of Falco acceptable to Glencore, all of its right, title and interest in and to the

Assigned Contracts, and Falco shall have accepted in writing the assignment, transfer and reconveyance of the Assigned Contracts from the Assignee, and shall have assumed, undertaken and agreed in writing in favour of Glencore to perform and discharge all the obligations and liabilities of the Assignee in relation to such Assigned Contracts, which shall be effected pursuant to written agreements in form and substance satisfactory to Glencore, acting reasonably;

- (c) the Assignee shall assign, transfer and reconvey the Property Rights to Falco, or any other Affiliate of Falco acceptable to Glencore, free and clear of all Encumbrances whatsoever except for Permitted Encumbrances or Encumbrances in favour of Glencore. Such assignment, transfer and reconveyance shall be made pursuant to a deed of transfer, together with all registrations, filings or recordings necessary or desirable to effect, register or perfect the enforceability of the transfer of Property Rights, shall be in form and substance satisfactory to Glencore, acting reasonably, and shall be duly executed and completed as of the Time of Closing, and for registration forthwith thereafter, in all Public Registries;
- (d) drafts of such agreements, deeds, registrations, filings and recordings shall be provided in advance to Glencore, on a timely basis, for review and approval by Glencore, acting reasonably. Falco shall provide Glencore with a copy of all such agreements, deeds and evidence of all such registrations, filings or recordings on title to the Project Properties from the Public Registries.

Section 5 Falco Guarantee.

Falco hereby guarantees, in favour of Glencore (and its successors and assigns), the due and punctual performance of all of the Assignee's obligations under this Assignment Agreement, the Assigned Contracts and the Property Rights.

Section 6 Further Assurances.

On or after the date of this Assignment Agreement, each Party shall execute and deliver such documents and take all such action as is reasonably required to carry out the intent and purpose of this Assignment Agreement.

Section 7 Binding Nature.

This Assignment Agreement is binding upon and will enure to the benefit of the Parties and their respective successors, legal representatives and permitted assigns. Neither this Assignment Agreement nor any of the rights or obligations under this Assignment Agreement, including any right to payment, may be assigned or transferred, in whole or in part, by any Party without the prior written consent of the other Parties.

Section 8 Governing Law.

This Assignment Agreement is governed by and will be interpreted and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada as applicable therein.

Section 9 Counterparts.

This Assignment Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by email or other electronic means is as effective as a manually executed counterpart of this Assignment Agreement.

[Remainder of page intentionally left blank; Signature page follows.]

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

FALCO RESOURCES LTD.

By: _____

Name:

Title:

[FALCO AFFILIATE]

By: _____

Name:

Title:

GLENCORE CANADA CORPORATION

By: _____

Name:

Title:

APPENDIX I – TRANSFER AGREEMENT

**SCHEDULE B
FORM OF FALCO ASSIGNMENT AGREEMENT¹**

THIS ASSIGNMENT AGREEMENT (the “**Assignment Agreement**”) is dated [●]
(the “**Effective Date**”)

AMONG:

FALCO RESOURCES LTD., a company governed by the laws of
Canada

(“**Falco**” or the “**Assignor**”)

- and -

[TRANSFEREE], a company governed by the laws of [●]

(the “**Assignee**”)

- and -

GLENCORE CANADA CORPORATION, a company governed by the laws of
the Province of Ontario

(“**Glencore**” and together with Falco and the Assignee, the “**Parties**” and
each, a “**Party**”)

WHEREAS Falco and Glencore entered into an operating license and indemnity agreement dated [●] (the “**OLIA**”), pursuant to which Glencore granted a license to Falco in order to access the Upper Controlled Properties and certain other properties of Glencore to carry out Project Operations in accordance with the terms of the OLIA so that Falco can develop, construct, operate and close the Project;

AND WHEREAS on [●], Falco entered into [●] **[NTD: insert details of relevant transfer/purchase agreement to be entered into between Falco and Assignee]** (the “**[Transfer Agreement]**”), pursuant to which Falco agreed to assign, transfer and convey to the Assignee [all of] its right, title and interest in the Project and the Project Properties (the “**Transferred Interest**”) upon closing of the transaction contemplated in the Transfer Agreement (the “**Time of Closing**”);²

AND WHEREAS pursuant to Section 11.2(2) of the OLIA, Falco is permitted to assign, transfer and convey the Transferred Interest to a Third Party, subject to the terms contained

¹ [Note: This form of Falco Assignment agreement may need to be modified in order to account for the Project's real rights holding structure and related arrangements with the special purpose vehicle as contemplated under section 13.3 of the OLIA, including any resolatory rights in favour of Glencore.]

² [Note: Additional clauses may be added to this Assignment Agreement depending on the terms and conditions set out in the Transfer Agreement, proposal to form a JV in connection with the Project and all Project Properties (if applicable), and timing of transaction contemplated therein.]

in such Section, including that Falco and such transferee shall have entered into this Assignment Agreement;

AND WHEREAS [the Assignee qualifies as an Eligible Transferee / Glencore consents to the transfer of the Transferred Interest to the Assignee];

NOW THEREFORE, in consideration of the above and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows:

Section 1 Preamble and Definitions.

The preamble is true and correct, and shall form an integral part of this Assignment Agreement. Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the OLIA.

Section 2 Assignment and Assumption of Contracts.

The Assignor hereby agrees to assign, transfer and convey to the Assignee, at the Time of Closing, all of its right, title and interest in and to the OLIA, the Project Agreements in respect of the Project and Project Properties (including the Synergy Agreements) and the Offtake Agreement (the “**Assigned Contracts**”), and the Assignee hereby accepts such assignment, agrees to assume all obligations and liabilities of the Assignor under such Assigned Contracts as and from the Time of Closing, and undertakes in favour of the Assignor and Glencore to perform and discharge, as and from the Time of Closing, all the obligations and liabilities of the Assignor in relation to such Assigned Contracts.

Section 3 Transfer of Project and Project Properties. Registrations.

Pursuant to the [Transfer Agreement], Falco shall assign, transfer and convey to the Assignee, at the Time of Closing, all of its right, title and interest in and to the Project and the Project Properties (the “**Property Rights**”), subject to any Encumbrance in favour of Glencore. Such assignment, transfer and conveyance shall be made pursuant to a deed of transfer, together with all registrations, filings or recordings necessary or desirable to effect, register or perfect the enforceability of the assignment, transfer and conveyance of Property Rights, all to be in form and substance satisfactory to Glencore, acting reasonably, to be duly executed and completed as of the Time of Closing, and for registration forthwith thereafter, in all public registries, including all such registrations and filings in the Québec Land Registry, Registration Division of Rouyn-Noranda and in the Public Register of Real and Immovable Mining Rights (Québec) (the “**Public Registries**”).

Drafts of such deeds, registrations, filings and recordings shall be provided in advance to Glencore, on a timely basis, for review and approval by Glencore, acting reasonably. Falco shall provide Glencore with a copy of all such deeds and evidence of all such registrations, filings or recordings on title to the Project Properties from the Public Registries.

Section 4 Falco Guarantee.

Falco hereby guarantees, in favour of Glencore (and its successors and assigns), the due and punctual performance of all of the Assignee’s obligations under this Assignment Agreement, the Assigned Contracts and the Property Rights.

Section 5 Further Assurances.

On or after the date of this Assignment Agreement, each Party shall execute and deliver such documents and take all such action as is reasonably required to carry out the intent and purpose of this Assignment Agreement.

Section 6 Binding Nature.

This Assignment Agreement is binding upon and will enure to the benefit of the Parties and their respective successors, legal representatives and permitted assigns. Neither this Assignment Agreement nor any of the rights or obligations under this Assignment Agreement, including any right to payment, may be assigned or transferred, in whole or in part, by any Party without the prior written consent of the other Parties.

Section 7 Governing Law.

This Assignment Agreement is governed by and will be interpreted and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada as applicable therein.

Section 8 Counterparts.

This Assignment Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by email or other electronic means is as effective as a manually executed counterpart of this Assignment Agreement.

[Remainder of page intentionally left blank; Signature page follows.]

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

FALCO RESOURCES LTD.

By: _____

Name:

Title:

[ASSIGNEE]

By: _____

Name:

Title:

GLENCORE CANADA CORPORATION

By: _____

Name:

Title:

APPENDIX I – TRANSFER AGREEMENT

**SCHEDULE C
FORM OF GLENCORE ASSIGNMENT AGREEMENT¹**

THIS ASSIGNMENT AGREEMENT (the “**Assignment Agreement**”) is dated [●]
(the “**Effective Date**”)

AMONG:

GLENCORE CANADA CORPORATION, a company governed by the laws of
the Province of Ontario

(“**Glencore**” or the “**Assignor**”)

- and -

[TRANSFEREE], a company governed by the laws of [●]

(the “**Assignee**”)

- and -

FALCO RESOURCES LTD., a company governed by the laws of
Canada

(“**Falco**” and together with Glencore and the Assignee, the “**Parties**”
and each, a “**Party**”)

WHEREAS Glencore and Falco entered into an operating license and indemnity agreement dated [●] (the “**OLIA**”), pursuant to which Glencore granted a license to Falco in order to access the Upper Controlled Properties and certain other properties of Glencore to carry out Project Operations in accordance with the terms of the OLIA so that Falco can develop, construct, operate and close the Project;

AND WHEREAS on [●], Glencore entered into [●] **[NTD: insert details of relevant transfer/purchase agreement to be entered into between Glencore and Assignee]** (the “**[Transfer Agreement]**”), pursuant to which Glencore agreed to assign, transfer and convey to the Assignee [all of] its right, title and interest in the Horne Smelter (the “**Transferred Interest**”) upon closing of the transaction contemplated in the Transfer Agreement (the “**Time of Closing**”);

AND WHEREAS Glencore wishes to assign to Assignee all of its right, title and interest in and to the OLIA [(and the Project Agreement[s] listed in Schedule “A”, annexed hereto) ([together with the OLIA,] the “**Applicable Project Agreement[s]**”), and Assignee wishes to assume all of Glencore’s obligations and liabilities under the Applicable Project Agreement[s];

AND WHEREAS, pursuant to Section 11.2(3) of the OLIA, Glencore shall be released of all obligations and liabilities arising from the Applicable Project Agreement[s] after the Time of

¹ [Note: This form of Glencore Assignment agreement may need to be modified in order to account for, among other things, the scope of the Transferred Interest and specific Project Agreements being assigned by Glencore, if any.]

Closing to the extent of the interest so Transferred, subject to the execution of this Assignment Agreement;

NOW THEREFORE, in consideration of the above and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows:

Section 1 Preamble and Definitions.

The preamble is true and correct, and shall form an integral part of this Assignment Agreement. Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the OLIA.

Section 2 Assignment and Assumption of Contracts.

The Assignor hereby agrees to assign, transfer and convey to the Assignee, at the Time of Closing, all of its right, title and interest in and to the Applicable Project Agreement[s], and the Assignee hereby accepts such assignment, agrees to assume all obligations and liabilities of the Assignor under the Applicable Project Agreement[s] as and from the Time of Closing, and undertakes to perform and discharge, as and from the Time of Closing, all the obligations and liabilities of the Assignor in relation to the Applicable Project Agreement[s] (the “**Assumed Obligations**”).

Section 3 Falco Release.

Falco hereby releases and forever discharges Glencore in respect of the Assumed Obligations, effective as of the Time of Closing.

Section 4 Further Assurances.

On or after the date of this Assignment Agreement, each Party shall execute and deliver such documents and take all such action as is reasonably required to carry out the intent and purpose of this Assignment Agreement.

Section 5 Binding Nature.

This Assignment Agreement is binding upon and will enure to the benefit of the Parties and their respective successors, legal representatives and permitted assigns. Neither this Assignment Agreement nor any of the rights or obligations under this Assignment Agreement, including any right to payment, may be assigned or transferred, in whole or in part, by any Party without the prior written consent of the other Parties.

Section 6 Governing Law.

This Assignment Agreement is governed by and will be interpreted and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada as applicable therein.

Section 7 Counterparts.

This Assignment Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by email or other electronic means is as effective as a manually executed counterpart of this Assignment Agreement.

[Remainder of page intentionally left blank; Signature page follows.]

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

GLENCORE CANADA CORPORATION

By: _____
Name:
Title:

[ASSIGNEE]

By: _____
Name:
Title:

FALCO RESOURCES LTD.

By: _____
Name:
Title:

**SCHEDULE D
PROJECT PROPERTIES**

[REDACTED: Commercially sensitive information]

**SCHEDULE E
SYNERGY AGREEMENTS**

[REDACTED: Commercially sensitive information]

**SCHEDULE F
ACCESS AND USE RIGHTS**

- rehabilitation, transformation, use and maintenance of shafts and galleries,
- construction, use and maintenance of the shaft headframe,
- use of existing galleries for disposal purposes,
- creation of new galleries,
- installation and use of pipelines and conveyors,
- tailings transportation to the Project's tailing site, and
- installation and use of pumping, dewatering, ventilation, environmental monitoring equipment, barricades and other equipment on surface areas.

**SCHEDULE G
INSURANCE POLICIES**

[REDACTED: Commercially sensitive information]

**SCHEDULE H
FALCO PROJECT ZONE**

[REDACTED: Commercially sensitive information]

**SCHEDULE I
LICENSE AREA**

[REDACTED: Commercially sensitive information]

SCHEDULE J
PERMITTED ENCUMBRANCES

- (a) Encumbrances in favour of Glencore with respect to the APA, including the back-in right and the off-take right reserved by Glencore under the APA;
- (b) Encumbrances in favour of Sandstorm Gold Ltd. (“**Sandstorm**”) with respect to the royalty agreement dated July 29, 2011 (the “**Sandstorm Royalty Agreement**”) between Sandstorm (as assignee of BaseCore Metals LP, itself successor of Glencore, which in turn is successor to Xstrata Canada Corporation) and Falco (as assignee to Alexis Minerals Corporation), including the net smelter return royalty described in the Sandstorm Royalty Agreement;
- (c) Encumbrances with respect to the Underlying Agreements (as defined in the APA) to the extent applicable to the Project Properties;
- (d) The deed of immovable hypothec dated September 13, 2018 granted by Falco in favour of Osisko Gold Royalties Ltd (“**Osisko Gold**”) and entered into before Mtre. Paul Hallé, Notary, registered under number 24 139 229 with respect to the secured senior loan agreement dated as of February 22, 2019, as amended and restated on November 27, 2020, and as amended and restated pursuant to the Second Amended and Restated Convertible Secured Senior Loan Agreement dated January 24, 2023 between Falco, as borrower, and Osisko Gold, as lender;
- (e) the deed of hypothec dated October 26, 2020 granted by Falco in favour of Glencore, on the universality of Falco’s movable and immovable property, entered into before Mtre. Angelo Febbraio, Notary, registered under number 25 793 804 with respect to the senior secured convertible debenture dated October 27, 2020 between Falco and Glencore, as amended and restated pursuant to the Second Amended and Restated Senior Secured Convertible Debenture dated January 24, 2023 between Falco, as issuer, and Glencore as holder;
- (f) the deed of hypothec dated February 27, 2019 granted by Falco in favor of Osisko Gold as collateral agent, on the universality of Falco’s movable and immovable property, entered into before Mtre. Paul Hallé, Notary, registered under number 24 444 823 with respect to the silver purchase agreement dated February 27, 2019, as amended (the “**Stream Agreement**”) among Falco as seller, Osisko Gold as purchaser, Osisko Gold as purchaser agent, and Osisko Gold as collateral agent;
- (g) the deed of hypothec dated February 27, 2019 granted by Falco (as assignee of Alexis Minerals Corporation) in favour of Glencore (as successor to Xstrata Canada Corporation) on the universality of Falco’s movable and immovable property, entered into before Mtre. Paul Hallé, Notary, registered under number 24 482 246 with respect to certain obligations under the APA;
- (h) the deed of hypothec dated February 27, 2019 granted by Falco (as assignee of Alexis Minerals Corporation) in favour of Sandstorm (as assignee of BaseCore Metals LP, itself successor of Glencore, which in turn is successor to Xstrata Canada Corporation) on the universality of Falco’s movable and immovable property, entered into before Mtre. Paul Hallé, Notary, registered under numbers 24 482 896 and 27 435 058 with respect to the Sandstorm Royalty Agreement;

- (i) the deed of hypothec granted by Falco in favour of the town of Rouyn-Noranda pursuant to a deed of hypothec published on July 3, 2017 under number 23 208 205.