

## Co-operation Agreement

Relating to the takeover offer for the entire issued and to be issued share capital of KAZ Minerals PLC, other than Shares already owned or controlled by the Consortium

Dated 28 October 2020

NOVA RESOURCES B.V.

and

KAZ MINERALS PLC

and

KINTON TRADE LTD

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**This Agreement** is made as an agreement under hand by Offeror and Target, and is executed as a deed and delivered by Guarantor, on 28 October 2020 **between:**

- (1) **NOVA RESOURCES B.V.**, a company incorporated in The Netherlands whose registered office is at Strawinskylaan 1151, Tower C Level 11, 1077 XX Amsterdam, The Netherlands ("**Offeror**");
- (2) **KAZ MINERALS PLC**, a company incorporated in England and Wales whose registered office is at 6th Floor Cardinal Place, 100 Victoria Street, London, SW1E 5JL ("**Target**"); and
- (3) **KINTON TRADE LTD**, a company incorporated in the British Virgin Islands whose registered office is at Craigmuir Chambers, Road Town, Tortola VG1110 British Virgin Islands ("**Guarantor**").

**Whereas:**

- (A) Offeror intends to announce a firm intention to make a recommended offer for the entire issued and to be issued share capital of Target, other than Shares already owned or controlled by the Consortium (the "**Acquisition**") to be implemented by way of a Scheme or, if Offeror so elects and the Panel consents, by way of an Offer, on the terms and subject to the conditions set out in the Announcement.
- (B) The parties are entering into this Agreement to take certain steps to implement the Acquisition and wish to record their respective obligations relating to such matters.
- (C) Guarantor agrees to guarantee the obligations of Offeror under this Agreement, subject to the terms of this Agreement.

**It is agreed** as follows:

## **1 Interpretation**

In this Agreement, unless the context otherwise requires:

### **1.1 Definitions:**

"**2017 DSBP**" means the 2017 Deferred Share Bonus Plan;

"**Acceptance Condition**" means the acceptance condition to any Offer;

"**Acquisition**" has the meaning given to it in Recital (A);

"**Act**" means the Companies Act 2006;

"**Agreed Form**" means in relation to a document such document in the terms agreed between the parties and confirmed as such by way of email exchange by or on behalf of each party;

"**Agreed Switch**" means where the Acquisition is implemented by way of an Offer in accordance with: (i) Clause 6.3.1; or (ii) Clause 6.3.2 in circumstances where an Independent Committee Recommendation is given in respect of the Offer;

"**Announcement**" means the announcement in the Agreed Form detailing the terms and conditions of the Acquisition to be made under Rule 2.7 of the Code;

"**Approval Period**" means the relevant time period set out by the Regulatory Authorities for the approval of such authorities to be obtained or procured;

"**Authority**" means any Tax Authority or Regulatory Authority and any other regulatory authority (in each case) whose consent, or with whom a submission, filing or notification, is necessary in order to satisfy the Regulatory Conditions;

**“Business Day”** means any day which is not a Saturday, a Sunday or a public holiday in England;

**“Clawback Provisions”** means appendix 1 of the Kazakhmys Deferred Share Bonus Plan 2007, rule 6 of the 2017 DSBP, appendix 1 of the Long Term Incentive Plan 2007 and rule 8 of the 2017 Long Term Incentive Plan, as applicable, together with any contractual agreements entered into with any Target employee in respect of malus and/or clawback (or any similar principles);

**“Clearances”** means any approvals, consents, clearances, permissions, confirmations, comfort letters and waivers that are required to be obtained, all filings that are required to be made and all waiting periods that may need to have expired, from or under any of the laws, regulations or practices applied by, any Regulatory Authority in connection with the implementation of the Acquisition; and any reference to any Regulatory Condition relating to Clearances having been **“satisfied”** shall be construed as meaning that the foregoing have been obtained or, where appropriate, made or expired in accordance with the relevant Regulatory Condition;

**“Code”** means the City Code on Takeovers and Mergers as from time to time amended and interpreted by the Panel;

**“Competing Proposal”** means:

- (i) an offer, merger, acquisition, dual-listed structure, scheme of arrangement, reverse takeover and/or business merger (or the announcement of a firm intention to do the same), the purpose of which is to acquire, directly or indirectly, 30 per cent. or more of the issued or to be issued share capital of Target (when aggregated with the shares already held by the acquiror and any person acting or deemed to be acting in concert with the acquiror) or any arrangement or series of arrangements which results in any person acquiring, consolidating or increasing “control” (as defined in the Code) of Target;
- (ii) the acquisition or disposal, directly or indirectly, of all or a significant proportion (being 50 per cent. or more) of the business, assets and/or undertakings of Target Group calculated by reference to any of its revenue, profits or value taken as a whole;
- (iii) a demerger, or any material reorganisation and/or liquidation, involving all or a significant proportion (being 50 per cent. or more) of Target Group calculated by reference to any of its revenue, profits or value taken as a whole;
- (iv) any other transaction which would be alternative to, or inconsistent with, or would be reasonably likely to materially preclude, impede or delay or prejudice the implementation of the Acquisition (including, for the avoidance of doubt, any transaction or arrangement which would constitute a Class 1 transaction for the purposes of the Listing Rules undertaken by a member of Target Group),

in each case which is not effected by Offeror (or a person acting in concert with Offeror) or at Offeror’s direction or with Offeror’s written agreement, whether implemented in a single transaction or a series of transactions and whether conditional or otherwise;

**“Competition Law”** means Chapters I and II of the Competition Act 1998, Section 188 of the Enterprise Act 2002, Articles 101 and 102 of the Treaty on the Functioning of the European Union, Council Regulation 1/2003/EC, Council Regulation 139/2004/EC and any other law or regulation in any jurisdiction (including but not limited to the People’s Republic of China, the Republic of Kazakhstan, the Republic of Turkey, the Russian Federation and the Kyrgyz Republic) relating to fair competition, anti-trust, monopolies or merger control;

**“Conditions”** means

- (i) for so long as the Acquisition is being implemented by means of the Scheme, the terms and conditions to the implementation of the Acquisition as set out in Appendix 1 to the Announcement; or
- (ii) if the Acquisition is implemented by means of an Offer, the conditions referred to in (i) above, as amended by replacing the Scheme Conditions with the Acceptance Condition, and as may be further amended by agreement in writing between Offeror and Target and, where required, in either case, with the consent of the Panel;

**“Confidentiality Agreement”** means the confidentiality agreement between Offeror, Guarantor and Target in relation to the Acquisition dated 8 October 2020;

**“Consortium”** means together, Oleg Novachuk and Vladimir Kim;

**“Court”** means the High Court of Justice in England and Wales;

**“Court Meeting”** means the meeting or meetings of the holders of the Scheme Shares (as defined in the Announcement) which are in issue as at the Voting Record Time or any class or classes thereof (and any adjournment(s) thereof) to be convened pursuant to section 896 of the Act for the purpose of considering, and, if thought fit, approving the Scheme, and any adjournment, postponement or reconvention thereof;

**“Court Order”** means the order of the Court sanctioning the Scheme pursuant to section 899 of the Act;

**“Court Sanction Hearing Date”** means the date on which the Sanction Hearing takes place;

**“DRP”** means the Target's directors' remuneration policy as approved by Shareholders from time to time;

**“DSBP”** means the 2017 DSBP and Kazakhmys Deferred Share Bonus Plan 2007;

**“Effective Date”** means the date upon which:

- (i) the Scheme becomes effective in accordance with its terms; or
- (ii) if Offeror elects to implement the Acquisition by means of an Offer in accordance with the terms of this Agreement, the Offer becomes or is declared unconditional in all respects;

**“Executive Directors”** means Oleg Novachuk and Andrew Southam;

**“General Meeting”** means the general meeting (including any adjournment thereof) of Shareholders to be convened for the purpose of considering, and if thought fit approving, the Resolutions;

**“Group”** means, in relation to any person, its subsidiaries, subsidiary undertakings, holding companies and parent undertakings and the subsidiaries and subsidiary undertakings of any such holding company or parent undertaking, provided that where such person is a member of the Consortium, his subsidiaries and subsidiary undertakings shall be identified by deeming him for the purposes of sections 1159 and/or 1162 of the Act, as applicable, to be an undertaking and/or a company, as applicable;

**“Independent Committee”** means the committee of Target's board of directors, consisting of the Independent Directors, formed for the purpose of assessing and implementing the Acquisition;

**“Independent Committee Adverse Recommendation Change”** means:

- (i) any failure to include the Independent Committee Recommendation in the Scheme Document; or
- (ii) any withdrawal, adverse qualification or adverse modification of the Independent Committee Recommendation;
- (iii) the Independent Committee fails to reaffirm publicly or re-issue a statement of their intention to make the Independent Committee Recommendation on an unmodified and unqualified basis before 5.30 pm on the tenth Business Day following Offeror's reasonable request to do so; or
- (iv) any announcement or public statement of an intention by Target prior to the Court Meeting or General Meeting that: (a) the Independent Committee no longer intends to make the Independent Committee Recommendation or intends to adversely qualify or adversely modify the Independent Committee Recommendation; (b) Target will not convene the Court Meeting or the General Meeting; or (c) Target intends not to post the Scheme Document;

**"Independent Committee Recommendation"** means a unanimous and unconditional recommendation from the Independent Committee that Shareholders vote in favour of the Scheme at the Court Meeting and in favour of the Resolutions at the General Meeting, or, if Offeror proceeds by way of an Offer, to accept the Offer, as the case may be;

**"Independent Directors"** means the directors of Target considered to be independent of Offeror from time to time, being at the date of this Agreement the members of Target's board of directors other than Oleg Novachuk and Vladimir Kim;

**"ISIP"** means the Kazakhmys International Share Incentive Plan 2010;

**"Law"** means any applicable statutes, common law, rules, ordinances, regulations, codes, orders, judgments, injunctions, writs, decrees, directives, governmental guidelines or interpretations having the force of law or bylaws, in each case of a Regulatory Authority;

**"Listing Rules"** means the "listing rules" made by the Financial Conduct Authority pursuant to Part 6 of the Financial Services and Markets Act 2000 and contained in the Financial Conduct Authority's publication of the same name;

**"Long Stop Date"** means 30 July 2021 (or such later date as Offeror and Target may, with the consent of the Panel, agree and, if required, the Court may allow;

**"LTIP"** means the 2017 Long Term Incentive Plan and Long Term Incentive Plan 2007;

**"Notice"** has the meaning given in Clause 13;

**"Offer"** means, if Offeror elects and the Panel consents, implementation of the Acquisition by way of a takeover offer (as that term is defined in Chapter 3 of Part 28 of the Act) by Offeror, or an affiliate thereof, to acquire the entire issued and to be issued share capital of Target, other than Shares already owned or controlled by the Consortium, including, where the context admits, any subsequent revision, variation, extension or renewal of such offer;

**"Offer Document"** means the document despatched to (amongst others) Target Shareholders under which any Offer would be made;

**"Offer Price"** has the meaning given to it in the Announcement;

**"Panel"** means the Panel on Takeovers and Mergers;

**"Regulatory Authority"** means any central bank, ministry, governmental, quasi-governmental, national, supranational, statutory, regulatory, environmental, administrative, supervisory, fiscal or investigative body, agency or authority (including, but not limited to, any

national or supranational anti-trust or merger control authority, any sectoral ministry or regulator and any foreign investment review body), national state, municipal or local government (including any subdivision, court, administrative agency or commission or other authority thereof), any entity owned or controlled by them, any private body exercising any regulatory, taxing, importing or other authority, trade agency, association, institution or professional or environmental body in any jurisdiction (including, but not limited to, the Financial Conduct Authority, the Prudential Regulation Authority and the European Commission);

**“Regulatory Conditions”** means the Conditions set out in sub-paragraph 3(a) to 3(j) of Part A of Appendix 1 to the Announcement;

**“Regulatory Information Service”** means a Regulatory Information Service that is approved by the FCA and is on the list maintained by the FCA;

**“Remedies”** means any conditions, measures, commitments, undertakings, remedies (including disposals, whether before or following completion of the Acquisition, and any pre-vestiture reorganisations by a party) or assurance (financial or otherwise) offered or required in connection with the obtaining of any Clearances and **“Remedy”** shall be construed accordingly;

**“Resolutions”** means the resolutions to be proposed at the General Meeting for the purposes of, amongst other things, approving and implementing the Scheme, certain amendments to the articles of association of Target and such other matters as may be agreed between Target and Offeror as necessary or desirable for the purposes of implementing the Scheme and the delisting of Shares;

**“Sanction Hearing”** means the hearing of the Court (and any adjournment thereof) to sanction the Scheme pursuant to section 899 of the Act at which the Court Order is expected to be granted;

**“Scheme”** means the proposed scheme of arrangement under Part 26 of the Act between Target and Target Shareholders, with or subject to any modification, addition or condition approved or imposed by the Court and agreed by Target and Offeror, under which the Acquisition is proposed to be implemented;

**“Scheme Conditions”** means those conditions referred to in paragraphs 1 and 2 of Part A of Appendix 1 to the Announcement;

**“Scheme Document”** means the circular to be sent to Shareholders setting out, among other things, the full terms and conditions of the Scheme and the explanatory statement required pursuant to Part 26 of the Act and the notices convening the Court Meeting and General Meeting, including any revised or supplementary circular;

**“Sensitive Information”** means, in relation to each party, any commercially or competitively sensitive information in respect of each party’s Group and any personally sensitive data in respect of the shareholders, employees, directors or officers of the members of each party’s Group;

**“Shareholders”** means the holders of Shares;

**“Shares”** means the ordinary shares of 20 pence each in the capital of Target from time to time;

**“Sharesave”** means the Kazakhmys International Sharesave Plan 2010;

**“Share Schemes”** means the LTIP, DSBP, ISIP and Sharesave;

**“Switch”** has the meaning given in Clause 6.3;

**“Target Directors”** means the board of directors of Target;

**“Target EBT”** means the Kazakhmys Employee Benefit Trust;

**“Target Remuneration Committee”** means the remuneration committee of the board of directors of Target as constituted from time to time prior to the Effective Date;

**“Tax Authority”** means any taxing or other authority competent to impose any liability in respect of taxation or responsible for the administration and/or collection of taxation or enforcement of any law in relation to taxation;

**“UK SIP”** means the Kazakhmys UK Share Incentive Plan 2010; and

**“Voting Record Time”** means the date specified in the Scheme Document by reference to which entitlement to vote at the Court Meeting shall be determined, expected to be 6.00 p.m. on the day which is two days prior to the date of the Court Meeting or, if the Court Meeting is adjourned, 6.00 p.m. on the day which is two days prior to the day of the such adjourned meeting.

## **1.2 Announcement**

Terms used but not defined expressly in this Agreement shall, unless the context otherwise requires, have the meaning given to them in the Announcement. In case of inconsistency, the definitions set out in this Agreement shall take precedence.

## **1.3 Clauses, Schedules**

References to this Agreement shall include any Recitals and Schedules to it and references to Clauses and Schedules are to clauses of, and schedules to, this Agreement. References to paragraphs and Parts are to paragraphs and Parts of the Schedules.

## **1.4 Singular, plural, gender**

References to one gender include all genders and references to the singular include the plural and vice versa.

## **1.5 References to persons and companies**

References to:

1.5.1 a person include any company, partnership or unincorporated association (whether or not having separate legal personality); and

1.5.2 a company shall include any company, corporation or any body corporate, wherever incorporated.

## **1.6 References to subsidiaries and holding companies**

References to a **“company”** shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established. The words **“holding company”**, **“parent undertaking”**, **“subsidiary”** and **“subsidiary undertaking”** shall have the same meaning in this Agreement as their respective definitions in the Act, as applicable.

## **1.7 The Code**

When used in this Agreement, the expressions **“acting in concert”**, **“concert parties”**, **“control”** and **“offer”** shall be construed in accordance with the Code.

## **1.8 Modification of Statutes**

References to a statute or statutory provision include:

- 1.8.1 that statute or provision as from time to time modified, re-enacted or consolidated whether before or after the date of this Agreement;
- 1.8.2 any past statute or statutory provision (as from time to time modified, re-enacted or consolidated) which that statute or provision has directly or indirectly replaced; and
- 1.8.3 any subordinate legislation made from time to time under that statute or statutory provision which is in force at the date of this Agreement,

except if and to the extent that any statute, statutory provision or subordinate legislation made or enacted after the date of this Agreement would create or increase a liability of Offeror under this Agreement.

## **1.9 Time of Day**

References to times of day are to London time, unless otherwise stated.

## **1.10 Amendments**

A reference to any other document referred to in this Agreement is a reference to that other document as amended, revised, varied, novated or supplemented at any time.

## **1.11 Headings**

Headings shall be ignored in construing this Agreement.

## **1.12 Information**

References to books, records or other information mean books, records or other information in any form including paper, electronically stored data, magnetic media, film and microfilm.

## **1.13 Legal Terms**

References to any English legal term shall, in respect of any jurisdiction other than England, be construed as references to the term or concept which most nearly corresponds to it in that jurisdiction.

## **1.14 Non-limiting effect of words**

The words “including”, “include”, “in particular” and words of similar effect shall not be deemed to limit the general effect of the words that precede them.

## **1.15 Meaning of “to the extent that” and similar expressions**

In this Agreement, “to the extent that” shall mean “to the extent that” and not solely “if”, and similar expressions shall be construed in the same way.

## **1.16 Reasonable endeavours**

Where the words “reasonable endeavours” are used in this Agreement in relation to the performance of any act by a party, such party shall be required to take only those steps in performing such act as are commercially reasonable having regard to such party’s circumstances at the time, but shall not be required to ensure such act’s performance whether by assuming material expenditure or otherwise.

## **2 Effective date**

The obligations of the parties under this Agreement, other than Clause 1 (*Interpretation*), this Clause 2 (*Effective Date*) and Clauses 10 (*Termination*), 12 (*Code*), 13 (*Notices*) and 15 (*Remedies and Waivers*) to 27 (*Appointment of Process Agent*) (inclusive), shall be conditional on the release of the Announcement via a Regulatory Information Service at or

before 8:00 a.m. on 28 October 2020, or such other date and time as may be agreed by Offeror and Target. Clauses 1 (*Interpretation*), 2 (*Effective Date*), 10 (*Termination*), 12 (*Code*), 13 (*Notices*) and 15 (*Remedies and Waivers*) to 27 (*Appointment of Process Agent*) (inclusive) shall take effect on and from the date of this Agreement.

### **3 Undertakings in relation to Regulatory Conditions**

**3.1** Except where otherwise required by Law or an Authority, Offeror shall:

**3.1.1** determine, having consulted in good faith and on a timely basis with Target, the strategy to be pursued for obtaining the relevant Clearances, including:

- (i) the timing and sequencing regarding the discussion, offer or agreement of any Remedies (if any are required) with any Regulatory Authority; and
- (ii) the determination of any Remedies (if any are required) discussed with, offered to or agreed with any Regulatory Authority;

**3.1.2** not apply, or submit any submission in relation to Clearances without the prior written consent of Target (such consent not to be unreasonably withheld, delayed or conditioned);

**3.1.3** be responsible for contacting and corresponding with any Regulatory Authority in relation to the Clearances, including submitting and preparing, with the assistance of Target in accordance with this Agreement, all necessary filings, notifications and submissions; and

**3.1.4** be responsible for the payment of all filing fees in connection with the Clearances.

**3.2** Target undertakes to co-operate with Offeror to ensure the satisfaction of the Regulatory Conditions and to assist Offeror in communicating with any Regulatory Authority for the purposes of obtaining all Clearances, including providing Offeror with any information or documents reasonably requested and necessary for the purpose of making a submission, filing or notification to any relevant Regulatory Authority in relation to the Acquisition as soon as practicable, provided that nothing in this Clause 3 shall require the Independent Directors of Target to:

**3.2.1** maintain their recommendation of the Acquisition;

**3.2.2** adjourn or seek to adjourn (or refrain from adjourning or seeking to adjourn) any shareholder meeting or court hearing which has been or will be convened in relation to the Acquisition; or

**3.2.3** (without prejudice to any other obligation Target has under this Agreement) require Target to make any change (or refrain from making any change) to the timetable for implementing the Acquisition.

**3.3** Neither Offeror nor Target shall, without the prior written consent of the other: make any filings, notifications or submissions to a Regulatory Authority in connection with the Acquisition that are not, in the reasonable view of both Offeror and Target, required in order to complete the transactions contemplated by this Agreement.

**3.4** To the extent permitted by Law and regulation, and unless the relevant Regulatory Authority stipulates or requires otherwise, Offeror and Target hereby agree that, from the date of this Agreement until the earlier of the Effective Date or (if applicable) the Offer becoming or being declared unconditional in all respects (as the case may be) and the date on which this Agreement is terminated in accordance with its terms, they shall not initiate or enter into any substantive discussions or material telephone calls (except in the event that there has been

no prior notice by the Regulatory Authority) or hold or attend meetings with any Regulatory Authority in relation to the Acquisition and/or the Clearances, without:

- 3.4.1 giving the other party reasonable prior notice and obtaining their approval (such approval not to be unreasonably withheld, delayed or conditioned); and
- 3.4.2 allowing representatives nominated by the other party to participate or attend (as applicable),

and provided further that this Clause 3.4 shall not restrict any such discussion or telephone call or meeting in the event that an invitation to a discussion or telephone call or meeting has been provided on reasonable notice to the other party and that party does not attend.

**3.5** Without prejudice to Clause 3.1, Offeror undertakes to work co-operatively and reasonably with Target and its advisers to satisfy the Regulatory Conditions and, if and to the extent permitted by law or regulation, in particular to (if and to the extent that such steps have not already been taken prior to the date hereof):

- 3.5.1 where reasonably requested by Target,
  - (a) provide, or procure the provision of, to Target (or its advisers) draft copies of all material filings, notifications, submissions and communications to be made to any Regulatory Authority by or on behalf of Offeror in relation to obtaining any Clearance, at such time as will allow Target a reasonable opportunity to provide comments on such filings, notifications, submissions and communications before they are submitted or sent;
  - (b) take into account such comments made by Target as are reasonable on such material filings, notifications, submissions and communications; and
  - (c) provide Target (or its advisers) with copies of all material filings, notifications, submissions and communications in the form submitted or sent to any Regulatory Authority by or on behalf of Offeror in relation to obtaining any Clearance;
- 3.5.2 make as promptly as practicable such filings with any Regulatory Authority as are expedient (in Offeror's view acting reasonably) or necessary for the implementation of the Acquisition and in any event to make such filings before such time that the Approval Period shall have lapsed for each Regulatory Authority;
- 3.5.3 keep Target informed reasonably promptly of developments which are material or potentially material to the satisfaction of the Regulatory Conditions;
- 3.5.4 notify Target promptly of and provide copies of any communications that are not solely administrative and immaterial (such as acknowledgements of receipt) (or, in the case of non-written communications of that nature, reasonable details of the contents of any such communications) from any Regulatory Authority in relation to obtaining any Clearances; and
- 3.5.5 use reasonable endeavours to avoid:
  - (i) any declaration of incompleteness by any Regulatory Authority; and
  - (ii) any suspension of review period by a Regulatory Authority.

**3.6** Without prejudice to Clause 3.2 and to the extent Target's direct involvement in the process of obtaining any Clearance is agreed by the parties or required by any Regulatory Authority, Target undertakes to:

- 3.6.1** provide, or procure the provision of, to Offeror (or its advisers) draft copies of all material filings, notifications, submissions and communications to be made to any Regulatory Authority by or on behalf of Target in relation to obtaining any Clearance, at such time as will allow Offeror a reasonable opportunity to provide comments on such filings, notifications, submissions and communications before they are submitted or sent;
- 3.6.2** take into account such comments made by Offeror as are reasonable on such material filings, notifications, submissions and communications;
- 3.6.3** where reasonable, make Target Group representatives available for meetings and material telephone calls requested by any Regulatory Authority in connection with the obtaining of all requisite Clearances and the implementation of the Acquisition;
- 3.6.4** provide Offeror (or its advisers) with copies of all material, filings, notifications, submissions and written communications in the form submitted or sent to any Regulatory Authority by or on behalf of Target in relation to obtaining any Clearance;
- 3.6.5** keep Offeror informed reasonably promptly of developments which are material or potentially material to the satisfaction of the Regulatory Conditions;
- 3.6.6** notify Offeror promptly of and provide copies of any communications that are not solely administrative and immaterial (such as acknowledgements of receipt) (or, in the case of non-written communications of that nature, reasonable details of the contents of any such communications) from any Regulatory Authority in relation to obtaining any Clearances; and
- 3.6.7** provide to Offeror such information and assistance as may reasonably be required for the identification, structuring and preparation of any Remedies (if any).
- 3.7** The obligations of Target under Clauses 3.2, 3.4 and 3.6 and of Offeror under Clauses 3.4 and 3.5 shall apply also to responses to any requests for information from any Regulatory Authority which, although not required for satisfaction of any Regulatory Condition are, in Offeror's reasonable opinion, desirable in the context of the Acquisition, subject to the proviso in relation to commercially sensitive and confidential information in Clause 5 below.
- 3.8** Offeror shall promptly inform Target if at any time:

  - 3.8.1** it is or becomes aware of any fact, matter or circumstance that might allow any of the Regulatory Conditions to be invoked; or
  - 3.8.2** it is considering invoking any of the Regulatory Conditions,

in each case so as to cause the Acquisition not to proceed, to lapse or to be withdrawn.
- 3.9** Nothing in this Agreement shall oblige Offeror to waive or treat as satisfied any Condition.
- 3.10** Offeror undertakes to Target that until the Regulatory Conditions are satisfied it:

  - 3.10.1** shall not and shall procure that no member of the Consortium or that member's Group takes any action, or enters into an agreement for, or consummates, any acquisition or other transaction which would, or would be reasonably likely to, have the effect of preventing or materially delaying satisfaction of the Regulatory Conditions; and
  - 3.10.2** without prejudice to the obligations of Offeror pursuant to Rule 13.5 of the Code, shall use reasonable endeavours not to omit to take, or cause to be omitted to be taken, and to procure that no member of the Consortium or that member's Group omits to take, or causes to be omitted to be taken, any action which would, or would

be reasonably likely to, have the effect of preventing or materially delaying satisfaction of the Regulatory Conditions (provided that, for the avoidance of doubt and again without prejudice to the obligations of Offeror pursuant to Rule 13.5 of the Code, nothing in this Clause 3.10.2 shall oblige Offeror to offer or accept the imposition of any Remedies).

## **4 Documentation**

### **4.1 Offeror agrees:**

- 4.1.1** to provide as soon as reasonably practicable to Target all such information about itself, its Group and its directors as may be reasonably requested and which is required by Target (having regard to the Code and applicable regulations) for the purpose of inclusion in the Scheme Document (including all information that would be required under the Code or applicable regulations);
- 4.1.2** to provide all other assistance which may be required for the preparation of the Scheme Document including access to, and ensuring that reasonable assistance is provided by, the relevant professional advisers;
- 4.1.3** to procure that the directors of the Offeror and such other persons as the Panel may require accept responsibility, as required by the Code, for all information in the Scheme Document relating to Offeror, its Group and its directors; and
- 4.1.4** that, if any supplemental circular or document is required to be published in connection with the Scheme or, subject to the prior written consent of Offeror, any variation or amendment to the Scheme, it shall promptly provide such co-operation and information necessary to comply with all regulatory provisions as Target may reasonably request in order to finalise such document.

### **4.2** Offeror shall allow Target reasonable opportunity to provide comments on any announcement or communication to Target shareholders, employees, optionholders, or trustees of Target's pension scheme in connection with the Acquisition, and shall take into account Target's reasonable comments on such announcement or communication.

## **5 Qualifications**

### **5.1** Nothing in Clauses 3 and 4 shall require either Offeror or Target (the "**disclosing party**") to provide or disclose to the other any information:

- 5.1.1** which the disclosing party (acting reasonably) considers to be commercially or competitively sensitive or confidential information related to its business and/or any member of its Group which is not relevant to the Acquisition or any Clearance;
- 5.1.2** that is personally identifiable information of a director, officer or employee of the disclosing party or any member of its Group, unless that information can be reasonably anonymised (in which case the disclosing party shall provide the relevant information on an anonymous basis);
- 5.1.3** which the disclosing party is prohibited from disclosing by Law or a Regulatory Authority or the terms of an existing contract;
- 5.1.4** where such disclosure would result in the loss of any privilege that subsists in relation to such information (including but not limited to legal advice privilege); or
- 5.1.5** in circumstances that would result in that party being in breach of a material contractual obligation,

(the “restricted information”).

**5.2** Without prejudice to the obligations of Offeror and Target set out in Clause 3:

- (i) Clause 3.4 shall not require either Offeror or Target to permit the other party or its advisers to attend any part of a contemplated meeting, substantive discussion or material telephone call with any Relevant Authority during which either Offeror or Target determines (acting reasonably and in good faith) that Sensitive Information would be disclosed; and
- (ii) each of Offeror and Target may redact restricted information from any documents shared with the other party and/or take reasonable steps to procure that restricted information is not shared with the other party, including, where relevant, providing restricted information to the other party’s legal counsel and if and to the extent reasonably necessary, its other advisers on an “external counsel only” basis or directly to a Regulatory Authority (with a non-confidential version of any relevant filing, submission or communication being provided to the other party) or pursuant to additional procedures agreed between Offeror and Target to ensure compliance with Competition Law.

## **6 Implementation and switching**

**6.1** Subject to Clause 3.9, Offeror undertakes to confirm in writing to Target prior to the Sanction Hearing that it has, where permissible, waived or treated as satisfied or, if and to the extent permitted by the Panel, invoked or treated as incapable of satisfaction each Condition.

**6.2** Offeror shall, through Counsel, agree to be bound by and consent to the implementation of the Scheme if and to the extent that all of the Conditions have been satisfied or waived prior to or on the Sanction Hearing.

**6.3** Offeror reserves the right, as set out in the Announcement and subject to the consent of the Panel, to elect at any time to implement the Acquisition by way of an Offer, whether or not the Scheme Document has been published, provided that the Offer is made in accordance with the terms and conditions set out in the Announcement (with any modifications or amendments to such terms and conditions as may be required by the Panel or which are necessary as a result of a switch from the Scheme to the Offer) (a “Switch”) if:

**6.3.1** Target provides its written consent; or

**6.3.2** a third party announces a firm intention to make an offer for the issued and to be issued ordinary share capital of Target; or

**6.3.3** there is an Independent Committee Adverse Recommendation Change.

**6.4** In the event of an Agreed Switch, Offeror shall:

**6.4.1** prepare the Offer Document and shall consult Target in relation to the preparation thereof;

**6.4.2** submit, or procure the submission of, drafts and revised drafts of the Offer Document to Target for review and comment and consider in good faith any reasonable comments provided by Target;

**6.4.3** seek Target’s approval of the contents of the information on Target contained in the Offer Document before it is published, and afford Target sufficient time to consider such documents, in order to give its approval (such approval not to be unreasonably conditioned, withheld or delayed); and

- 6.4.4 only publish the Offer Document once the Offer Document is in a form which is satisfactory to Offeror and Target (both acting reasonably). In the event that Target does not approve the Offer Document within 28 days from the date of the Announcement, Offeror shall be entitled to publish the Offer Document containing only the information required by Rule 24 of the Code excluding such information that may be approved by the Panel.

## 7 Revisions to the Acquisition

Offeror and Target shall take all such steps as are reasonably necessary to implement any revised or amended terms of the Acquisition which is recommended by the Independent Directors and the provisions of this Agreement shall apply as nearly as practicable in the same way to such revised Scheme or Offer.

## 8 Share Schemes and Employee Related Matters

- 8.1 Offeror and Target agree that the provisions of Schedule 1 shall apply in respect of Share Schemes and certain employee matters.
- 8.2 Target shall determine the strategy for communicating the provisions of Part 2 of Schedule 1 in respect of employee related matters (excluding Share Schemes) to the employees of Target. Target shall, in consultation with Offeror, prepare joint communications to participants in the Share Schemes in relation to the provisions of Part 1 of Schedule 1 (inclusive of Offeror's proposals), provided that there has not been an Independent Committee Adverse Recommendation Change.
- 8.3 Offeror and Target agree that if the Acquisition is implemented by way of the Scheme, the timetable for its implementation shall be fixed so as to enable options and awards under Share Schemes which provide for exercise and/or vesting on the Court Sanction Hearing Date to be exercised or vest in sufficient time to enable the resulting Shares to be bound by the Scheme on the same terms as Shares held by Shareholders.

## 9 D&O Insurance

- 9.1 To the extent permitted by applicable Law, for six years after the Effective Date, Offeror shall procure that the members of Target Group honour and fulfil their respective obligations (if any) existing at the date of this Agreement under the provisions of their constitutional documents regarding elimination of liability of directors, indemnification of officers and directors and advancement of reasonable expenses with respect, in each case, to matters existing or occurring at or prior to the Effective Date.
- 9.2 If Offeror or any of its successors or assigns:
- 9.2.1 consolidates or merges with any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger, or
- 9.2.2 transfers or conveys all or substantially all of its properties and assets to any corporation or entity, then, and in each such case, if and to the extent necessary, Offeror shall use reasonable endeavours to ensure that the successors and assigns of Offeror shall assume the obligations set out in Clause 9.1 above.
- 9.3 Offeror shall procure that, in respect of all Independent Directors and any of its subsidiary undertakings at the date of this Agreement who thereafter cease to be a director of Target and any of its subsidiary undertakings from the Effective Date or as a result of the Acquisition (the "**Retired Directors**"), Target shall, on the basis described in this Clause, maintain directors and officers insurance for their benefit for a period of six years from the Effective

Date (the "**Run Off Cover**"). The Run Off Cover shall be with reputable insurers, shall be for an aggregate limit commensurate with Target's existing policy and shall provide cover at least as broad in its scope as that provided under Target's directors and officers insurance as at the date of this Agreement, but only if and to the extent that such risks are covered by such insurance.

- 9.4** Offeror consents, for the purpose of Rule 21.1 of the Code, to Target arranging and paying for the Run Off Cover in the period before the Effective Date as an extension to existing cover and/or as a separate insurance policy, subject to Offeror approving the cost of such Run Off Cover (such approval not to be unreasonably withheld, conditioned or delayed).

## **10 Termination**

- 10.1** Subject to Clause 10.2, this Agreement shall be terminated with immediate effect and all rights and obligations of any party under this Agreement shall cease as follows:

**10.1.1** if agreed in writing between the parties at any time prior to the Effective Date;

**10.1.2** if the Announcement is not released at or before 8:00 a.m. on 28 October 2020 (unless, prior to that time, Offeror and Target have agreed another time and date in accordance with Clause 2);

**10.1.3** where the Acquisition is being implemented by the Scheme, upon service of written notice by Offeror to Target:

(i) if the Court Meeting or General Meeting is not held by the 22<sup>nd</sup> day after the expected date of such meetings as set out in the Scheme Document (or such later date as may be agreed between Offeror and Target);

(ii) if the Sanction Hearing is not held by the 22<sup>nd</sup> day after the expected date of such hearing as set out in the Scheme Document (or such later date as may be agreed between Offeror and Target);

**10.1.4** except in the case of a Switch, if the Scheme is not approved by the requisite majority of Shareholders at the Court Meeting or the Resolutions are not passed by the requisite majority of Shareholders at the General Meeting;

**10.1.5** unless otherwise agreed by Offeror and Target in writing, if the Effective Date has not occurred on or before the Long Stop Date;

**10.1.6** upon service of written notice by Offeror to Target, if there is an Independent Committee Adverse Recommendation Change or, in the event of a Switch, the Independent Directors withdraw, adversely qualify or adversely modify their recommendation of the Offer including making any public statement to such effect;

**10.1.7** if a Competing Proposal:

(i) completes, becomes effective, or is declared or becomes unconditional in all respects; or

(ii) is recommended in whole or part by the Independent Directors;

**10.1.8** if the Acquisition (whether implemented by way of the Scheme or the Offer) lapses, terminates or is withdrawn in accordance with its terms on or prior to the Long Stop Date and, where required, with the consent of the Panel (other than where such lapse or withdrawal:

(i) is as a result of the exercise of Offeror's right to implement the Acquisition by way of an Offer pursuant to Clause 6.3.1; or

- (ii) is otherwise to be followed within five Business Days by an announcement under Rule 2.7 of the Code made by Offeror or a person acting in concert with Offeror to implement the Acquisition by a different offer or scheme on substantially the same or improved terms and which is (or intended to be) recommended by Independent Directors); or

10.1.9 upon the occurrence of the Effective Date.

10.2 Termination of this Agreement shall be without prejudice to the rights of any party that may have arisen prior to termination.

10.3 The whole of this Clause 10 (*Termination*), Clauses 11 (*Representations and Warranties*) to 27 (*Appointment of Process Agent*) (inclusive) and Schedule 1 (*Share Schemes and Employee Matters*) shall survive termination of this Agreement.

## 11 Representations and Warranties

11.1 Each of the parties represents and warrants to the other parties on the date hereof that:

11.1.1 it has the requisite power and authority to enter into and perform this Agreement;

11.1.2 this Agreement constitutes its legal, valid and binding obligations in accordance with its terms;

11.1.3 the execution and delivery of, and performance of its obligations under, this Agreement shall not:

- (i) result in a breach of any provision of its constitutional documents;
- (ii) result in a breach of, or constitute a default under, any instrument to which it is a party or by which it is bound; or
- (iii) result in a breach of any order, judgment or decree of any court or governmental agency to which it is a party or by which it is bound.

11.2 Offeror represents to Target that as at the date of this Agreement all material matters or circumstances of which Offeror's directors and employees engaged in consideration of the Regulatory Conditions to the Acquisition are aware and which would or could reasonably be expected to result in any of the Regulatory Conditions not being satisfied in the specific context of the Acquisition have been discussed with Target.

11.3 Each party acknowledges and agrees, on its own behalf and on behalf of its respective Group, that any information and/or assistance provided by any directors, officers, employees or advisers (each, a "**Representative**") to the other party and/or any member of its respective Group or any of its respective officers, employees or advisers, whether before, on or after the date of this Agreement:

11.3.1 pursuant to the obligations of either party or any member of its respective Group under or otherwise in connection with this Agreement; or

11.3.2 in connection with the Acquisition,

shall in each case be given on the basis that the relevant Representative shall not incur any liability nor owe any duty of care to any member of the other party in respect of any loss or damage that any member of the other party or any of its respective officers, employees or advisers may suffer as a result of the provision of any such information and/or assistance (save in each case for loss or damage resulting from the fraudulent misrepresentation of the relevant Representative).

**12 Code**

**12.1** Nothing in this Agreement shall in any way limit the parties' obligations under the Code and any uncontested rulings of the Takeover Panel as to the application of the Code in conflict with the terms of this Agreement shall take precedence over such terms.

**12.2** The parties agree that, if the Panel determines that any provision of this Agreement that requires Target to take or not take action, whether as a direct obligation or as a condition to any other person's obligation (however expressed), is not permitted by Rule 21.2 of the Code, that provision shall have no effect and shall be disregarded.

**13 Notices**

**13.1** Any notice or other communication in connection with this Agreement (each, a "Notice") shall be:

**13.1.1** in writing;

**13.1.2** in English; and

**13.1.3** delivered by email, hand, pre-paid recorded delivery, pre-paid special delivery or courier using an internationally recognised courier company.

**13.2** A Notice to Offeror and/or Guarantor (respectively) shall be sent to the following address, or such other person or address as Offeror and/or Guarantor (respectively) may notify to Target from time to time, by not less than seven calendar days' written notice:

Nova Resources B.V.

Kinton Trade Ltd

[Redacted address line]

Email: [Redacted email address]

With a copy to (but such copy shall not constitute Notice) both [Redacted] and [Redacted] at [Redacted] and [Redacted]

**13.3** A Notice to Target shall be sent to the following address, or such other person or address as Target may notify to Offeror from time to time, by not less than seven calendar days' written notice:

KAZ Minerals PLC

[Redacted address line]

Email: [Redacted email address]

With a copy to (but such copy shall not constitute Notice) both [Redacted] and [Redacted] at [Redacted] and [Redacted]

**13.4** A Notice shall be effective upon receipt and shall be deemed to have been received:

**13.4.1** at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service;

**13.4.2** at the time of delivery, if delivered by hand or courier;

13.4.3 at the time the email is sent, if sent by email, provided that receipt shall not occur if the sender receives an automated message that the e-mail has not been delivered to the recipient; or

13.4.4 at the time of transmission in legible form, if delivered by fax.

13.5 Any Notice sent outside of the hours of 9 a.m. to 5.30 p.m. shall be deemed to be given at the start of the next Business Day.

## 14 Guarantee

14.1 Guarantor hereby unconditionally and irrevocably guarantees to Target the due and punctual performance and observance by Offeror of all its obligations and undertakings under or pursuant to this Agreement (the "**Guaranteed Obligations**" and each a "**Guaranteed Obligation**") and agrees that, if any Guaranteed Obligation is or becomes unenforceable, void or voidable it will, as an independent and primary obligation, indemnify Target promptly on demand against any loss, liability or cost incurred by Target through or arising from any act or omission which would be a breach by Offeror of the Guaranteed Obligations if the relevant Guaranteed Obligation were not unenforceable, void or voidable.

14.2 If and whenever Offeror defaults for any reason whatsoever in the performance of any of the Guaranteed Obligations, Guarantor shall forthwith upon demand unconditionally perform (or procure performance of) and satisfy (or procure the satisfaction of) the Guaranteed Obligations in regard to which such default has been made in the manner prescribed by this Agreement and so that the same benefits shall be conferred on Target as it would have received if the Guaranteed Obligations had been duly performed and satisfied by Offeror.

14.3 This guarantee is to be a continuing guarantee and accordingly is to remain in force so long as Offeror is under any Guaranteed Obligation. This guarantee is in addition to and without prejudice to and not in substitution for any rights or security which Target may now or hereafter have or hold for the performance and observance of the Guaranteed Obligations.

14.4 As a separate and independent stipulation, Guarantor agrees that any of the Guaranteed Obligations which may not be enforceable against or recoverable from Offeror by reason of any legal limitation, disability or incapacity on or of Offeror or the dissolution, amalgamation, reconstruction or reorganisation of Offeror or any other fact or circumstance shall nevertheless be enforceable against Guarantor as though the same had been incurred by Guarantor and Guarantor were the sole or principal obligor in respect thereof and shall be performed by Guarantor on demand.

14.5 The liability of Guarantor under this Clause 14 shall not be affected or released by:

14.5.1 any variation of the terms of the Guaranteed Obligations;

14.5.2 any forbearance, neglect or delay in seeking performance of the Guaranteed Obligations or any granting of time for, or waiver in relation to, such performance;

14.5.3 the illegality, invalidity or unenforceability of, or any defect in, any provision of this letter or Offeror's obligations under it;

14.5.4 any insolvency or similar proceedings; or

14.5.5 any other fact or event which in the absence of this provision would or might constitute or afford a legal or equitable discharge or release or a defence to a guarantor.

**14.6** So long as Offeror remains under any Guaranteed Obligation and, unless Target otherwise directs, Guarantor shall not exercise any rights which it may have by reason of performance by it of its obligations under this Clause 14.

## **15 Remedies and Waivers**

**15.1** The rights and remedies provided for in this Agreement are cumulative and not exclusive of any other rights or remedies, whether provided by law or otherwise.

**15.2** No failure or delay by any party in exercising any right or remedy provided under this Agreement shall operate as a waiver of it, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise of it or the exercise of any other right or remedy.

**15.3** Any waiver of a breach of this Agreement shall not constitute a waiver of any subsequent breach.

**15.4** Without prejudice to any other rights and remedies which any party may have, each party acknowledges and agrees that damages alone would not be an adequate remedy for any breach by any party of the provisions of this Agreement and any party shall be entitled to seek the remedies of injunction, specific performance and other equitable relief (and the parties shall not contest the appropriateness or availability thereof), for any threatened or actual breach of any such provision of this Agreement by any party and no proof of special damages shall be necessary for the enforcement by any party of the rights under this Agreement.

## **16 Invalidity**

**16.1** If any provision in this Agreement shall be held to be illegal, invalid or unenforceable, in whole or in part, the provision shall apply with whatever deletion or modification is necessary so that the provision is legal, valid and enforceable and gives effect to the commercial intention of the parties.

**16.2** If and to the extent it is not possible to delete or modify the provision, in whole or in part, under Clause 16.1, then such provision or part of it shall, if and to the extent that it is illegal, invalid or unenforceable, be deemed not to form part of this Agreement and the legality, validity and enforceability of the remainder of this Agreement shall, subject to any deletion or modification made under Clause 16.1, not be affected.

## **17 No Partnership**

Nothing in this Agreement and no action taken by the parties under this Agreement shall be deemed to constitute a partnership between the parties nor constitute any party the agent of any other party for any purpose.

## **18 Time of Essence**

Except as otherwise expressly provided, time shall be of the essence of this Agreement both as regards any dates and periods mentioned and as regards any dates and periods which may be substituted for them in accordance with this Agreement or by agreement in writing between Target and Offeror.

## **19 Third Party Rights**

**19.1** Clause 9 is intended to confer benefits on and be enforceable by the third parties referred to therein (the "**Relevant Third Parties**").

**19.2** Subject to Clause 19.1, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of, or enjoy any benefit under, this Agreement.

**19.3** The parties may terminate, rescind, vary, amend or waive any provision of this Agreement without the consent of the Relevant Third Parties, except that any variation, amendment or waiver of Clause 9 shall require the consent of any affected Relevant Third Party.

## **20 Variation**

No variation of this Agreement shall be effective unless in writing and signed by or on behalf of each of Target and Offeror.

## **21 Whole Agreement**

**21.1** Save for the Confidentiality Agreement (which remains in force at the date of this Agreement) and any other agreements the parties agree in writing are deemed to be included in this Clause 21, this Agreement contains the whole agreement between the parties relating to the Acquisition and supersedes any previous written or oral agreement between the parties in relation to the Acquisition.

**21.2** Except in the case of fraud, each party agrees and acknowledges that it is entering into this Agreement in reliance only upon this Agreement and that it is not relying upon any pre-contractual statement that is not set out in this Agreement.

**21.3** Except in the case of fraud, no party shall have any right of action (including those in tort or arising under statute) against another party arising out of or in connection with any pre-contractual statement except to the extent that it is repeated in this Agreement.

**21.4** For the purposes of this Clause 21, “**pre-contractual statement**” means any draft, agreement, undertaking, representation, warranty, promise, assurance or arrangement of any nature whatsoever, whether or not in writing, relating to the subject matter of this Agreement made or given by any person at any time before the date of this Agreement.

## **22 Assignment**

Except as otherwise expressly provided in this Agreement, neither Offeror nor Target may assign, grant any security interest over, hold on trust or otherwise transfer the benefit of the whole or any part of this Agreement, without the prior written consent of the other party, provided that Offeror may, without the consent of Target, assign the benefit of the whole or any part of this Agreement to any other corporate entity or other vehicle which is or may become the offeror for Code purposes and in such case Offeror shall procure that such other corporate entity or other vehicle shall assume the obligations of Offeror hereunder.

## **23 Announcements**

**23.1** Subject to Clause 23.2 and unless the recommendation of the Independent Directors has been withdrawn, modified or qualified, no announcement (other than the Announcement or an announcement relating to the exercise of the Switch) in relation to the Acquisition shall be made by or on behalf of Offeror except on a joint basis or on terms approved in advance by Target, such approval not to be unreasonably withheld or delayed.

**23.2** A party may make such announcements as are required by:

**23.2.1** the law of any relevant jurisdiction; or

**23.2.2** court order; or

**23.2.3** any securities exchange or regulatory or governmental body to which that party is subject or submits, wherever situated, including (without limitation) the Financial Conduct Authority (“**FCA**”), the London Stock Exchange and the Panel whether or not the requirement has the force of law,

in which case the party concerned shall take all such steps as may be reasonable and practicable in the circumstances to agree the contents and timing of such announcement and the extent of the required disclosure with the other party before making such announcement.

## **24 Costs and Expenses**

**24.1** Each party shall bear all costs incurred by it in connection with the preparation, negotiation and entry into this Agreement.

**24.2** Offeror shall be responsible for paying any filing, administrative or other merger notice fees, costs and expenses incurred in connection with obtaining any Clearances, unless such fees are payable by Target as specified by applicable local Laws and regulations.

## **25 Counterparts**

This Agreement may be entered into in any number of counterparts, all of which taken together shall constitute one and the same instrument. Any party may enter into this Agreement by executing any such counterpart.

## **26 Governing Law and Submission to Jurisdiction**

**26.1** This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

**26.2** Each of Offeror and Target irrevocably agrees that the courts of England are to have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Agreement and that accordingly any proceedings arising out of or in connection with this Agreement shall be brought in such courts. Each of Offeror and Target irrevocably submits to the jurisdiction of such courts and waives any objection to proceedings in any such court on the ground of venue or on the ground that the proceedings have been brought in an inconvenient forum.

## **27 Appointment of Process Agent**

**27.1** Offeror hereby irrevocably appoints Whitecliff Management Corporation Limited of 7th Floor, Cardinal Place, 100 Victoria Street, London, SW1E 5JL as its agent to accept service of process in England and Wales in any legal action or proceedings arising out of this Agreement, service upon whom shall be deemed completed whether or not forwarded to or received by Offeror.

**27.2** Offeror agrees to inform Target in writing of any change of address of such process agent within 28 days of such change.

**27.3** If such process agent ceases to be able to act as such or to have an address in England and Wales, Offeror irrevocably agrees to appoint a new process agent in England and Wales acceptable to Target and to deliver to Target within 14 days a copy of a written acceptance of appointment by the process agent.

**27.4** Nothing in this Agreement shall affect the right to serve process in any other manner permitted by law or the right to bring proceedings in any other jurisdiction for the purposes of the enforcement or execution of any judgment or other settlement in any other courts.

In witness whereof this Agreement has been duly executed on the date first set out above:

SIGNED by [REDACTED]  
for and on behalf of Nova  
Resources B.V.:

}

[REDACTED]

Signature of Authorised  
Person/Director

EXECUTED AS A DEED  
by Kinton Trade Ltd:

}

\_\_\_\_\_  
Signature of Authorised  
Person/Director

In the presence of:

Signature of witness

Name of witness

Address of witness

SIGNED by \_\_\_\_\_  
for and on behalf of KAZ  
Minerals PLC:

}

\_\_\_\_\_  
Signature of Authorised  
Person/Director

In witness whereof this Agreement has been duly executed on the date first set out above:

**SIGNED** by \_\_\_\_\_  
for and on behalf of Nova  
Resources B.V.:

}

\_\_\_\_\_  
Signature of Authorised  
Person/Director

**EXECUTED AS A DEED**  
by Kinton Trade Ltd:

}

\_\_\_\_\_  
Signature of Authorised  
Person/Director

In the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Address of witness

**SIGNED** by \_\_\_\_\_  
for and on behalf of KAZ  
Minerals PLC:

}

\_\_\_\_\_  
Signature of Authorised  
Person/Director

In witness whereof this Agreement has been duly executed on the date first set out above:

**SIGNED** by \_\_\_\_\_  
for and on behalf of Nova  
Resources B.V.:

}

\_\_\_\_\_  
Signature of Authorised  
Person/Director

**EXECUTED AS A DEED** by  
Kinton Trade Ltd:

}

\_\_\_\_\_  
Signature of Authorised  
Person/Director

In the presence of:

Signature of witness

Name of witness

Address of witness

**SIGNED** by \_\_\_\_\_  
for and on behalf of KAZ  
Minerals PLC:

}

\_\_\_\_\_  
Signature of Authorised  
Person/Director

**Schedule 1**  
**Share Schemes and Employee Matters**

**1 General**

- 1.1** Each party will co-operate with the other parties in order to facilitate the implementation of the arrangements set out in this Schedule 1.
- 1.2** The parties acknowledge that any bonus, vesting or exercise of awards/options or other payments described in this Schedule 1 will be subject to the usual deductions for applicable taxes and national insurance / social security contributions, where such taxes or contributions are required to be withheld.

## **Part 1**

### **Share Schemes Arrangements**

#### **1 Appropriate proposals to be made**

- 1.1** Subject to applicable confidentiality, legal and regulatory requirements, Offeror shall make appropriate proposals to the participants in the Share Schemes, where and as required under Rule 15 of the Code, based on the treatment set out in paragraphs 3.2 to 3.8 below (the "**Proposals**"). Target and Offeror intend that (i) the Proposals will be detailed within joint letters from Target and Offeror to participants in the relevant Share Schemes and (ii) joint letters from Target and Offeror will be sent to participants in the UK SIP, prepared by Target and agreed with Offeror, and distributed by Target at the same time as the Scheme Document is published (or such later time as Target and Offeror and the Panel may agree).
- 1.2** If the Acquisition is implemented by way of a Scheme, the parties will ensure the timetable for its implementation is fixed so far as possible to enable options and/or awards granted under the relevant Share Schemes ("**Awards**") which provide for vesting and/or exercise upon the Court Order being granted to vest or be exercised in sufficient time to enable the resulting Shares to be bound by the Scheme on the same terms as Shares held by Shareholders.
- 1.3** If the Acquisition is implemented by way of an Offer, references to the Court Order being granted in this Schedule will be read as if they refer to the date on which the Offer becomes or is declared unconditional in all respects and the parties shall work together in good faith to agree any modifications to the Proposals as may be necessary or desirable.

#### **2 Exercise of discretions and administration of the Share Schemes**

- 2.1** Offeror acknowledges and agrees that before completion of the Acquisition, the Target Directors (and, where appropriate the Target Remuneration Committee) may operate the Share Schemes as they consider appropriate in accordance with the rules of the relevant Share Scheme, the DRP and Target's normal practice, save as set out in this Agreement.
- 2.2** Subject always to Rule 21 of the Code and the DRP, Offeror agrees that Target may, subject to prior consultation with Offeror, amend the rules of any of the Share Schemes (in accordance with their terms) in relation to the time at which Awards vest or may be exercised if, in the opinion of the Target Directors or the Target Remuneration Committee, the amendments are necessary or desirable to implement the Scheme, comply with this Agreement, comply with any local Law requirement, facilitate the administration of any Share Scheme or to obtain or maintain favourable tax treatment for any participants in the Share Schemes or any member of the Target Group. No amendment shall or may result in increased cost or negative tax consequences for Offeror or the Target Group without Offeror's prior consent.
- 2.3** Offeror acknowledges that, from the date of this Agreement, Target may satisfy the vesting or exercise of any Awards by issuing new Shares or transferring market purchased or treasury shares, or cash-settling Awards, always in accordance with the terms of the relevant Share Scheme.
- 2.4** Subject always to Target's ability to make recommendations to the trustee of the Target EBT to use any unallocated Shares held in the Target EBT to satisfy Awards vesting or being exercised in the normal course, Target intends, in priority to the issue of new Shares or the

transfer out of treasury of Shares held by Target, to recommend to the trustee of the Target EBT that the trustee will use the Shares held in the Target EBT to satisfy the vesting or exercise of any Awards which occurs in connection with the Acquisition.

### **3 Treatment of outstanding Awards under the Share Schemes**

**3.1** The treatment of Awards under the Share Schemes and the UK SIP will be as set out in this paragraph 3.

#### **3.2 LTIP Awards**

**3.2.1** Awards held by participants under the LTIP that are not already exercisable will vest and become exercisable on the Court Order being granted in accordance with the terms of the LTIP, subject to the following principles:

- (i) time pro-rating will apply to Awards; and
- (ii) the satisfaction of performance conditions, and any other relevant performance factors, as determined by the Target Remuneration Committee.

**3.2.2** Vested but unexercised LTIP Awards will lapse no later than one month after the Court Order is granted.

**3.2.3** Offeror agrees that:

- (i) any holding period applying to LTIP Awards; and
- (ii) Clawback Provisions

will cease to apply to LTIP Awards on the Court Order being granted.

**3.2.4** Awards held by Oleg Novachuk under the LTIP:

- (i) that are vested as at the date of this Agreement will not be exercised prior to the Court Order being granted; and
- (ii) whether vested or unvested on the Court Order being granted, will not be exercised and instead will immediately be surrendered by Oleg Novachuk for no consideration, and any entitlement Oleg Novachuk has or had in respect of such awards will be waived in full.

#### **3.3 DSBP Awards (including deferred share incentive scheme awards)**

**3.3.1** Awards granted prior to the date of this Agreement held by participants under the DSBP that are not already exercisable will vest and become exercisable on the Court Order being granted.

**3.3.2** Vested but unexercised DSBP Awards will lapse no later than one month after the Court Order is granted.

**3.3.3** Offeror agrees that Clawback Provisions will cease to apply to DSBP Awards on the Court Order being granted.

#### **3.4 Further 2021 DSBP Awards**

Offeror agrees that Target may grant 2021 DSBP Awards (“**2021 Awards**”) (including deferred share incentive scheme awards) in the ordinary course and in accordance with the rules of the 2017 DSBP, subject to the following additional terms:

3.4.1 if the Acquisition is implemented such that the Court Order is granted on or prior to 31 March 2022, the 2021 Awards:

- (i) will not be capable of vesting on the Court Order being granted and instead will automatically be exchanged for cash awards of equivalent value (based on the Offer Price) and remain capable of vesting in accordance with their terms, on the original vesting schedule; and
- (ii) will immediately be payable in full on a participant's termination of employment with the Target Group after the Effective Date for any reason, other than termination of employment by the employer by reason of gross misconduct or termination by the participant by reason of resignation (except where such resignation would fall within the meaning of Qualifying Termination as defined at paragraph 5.2 of Part 2 of this Schedule 1).

3.4.2 Offeror agrees that Clawback Provisions will cease to apply to 2021 Awards on the Court Order being granted.

### 3.5 Transition Awards

3.5.1 Offeror agrees that it will, following and subject to completion of the Acquisition and delisting of Target, grant to all individuals (except Oleg Novachuk) who:

- (i) were employees of the Target Group on the Effective Date; and
- (ii) held unvested LTIP Awards (that were granted prior to the date of this Agreement) immediately prior to the Court Order being granted,

cash awards (the "**Transition Awards**"), equal to 50% of the aggregate value of the market value (based on the Offer Price) of such number of Shares underlying each relevant Award that lapsed on the Court Order being granted due to the application of time pro-rating (before the application of reduction for performance assessment) on the following terms:

- (i) save as set out below, the terms of the Transition Award will broadly replicate the LTIP;
- (ii) all existing performance conditions will be disappplied;
- (iii) the vesting / payment date will replicate the vesting date of the original Award being replaced;
- (iv) no post-vesting holding period will apply;
- (v) no malus / clawback provisions (or any similar principles) will apply; and
- (vi) Transition Awards will be payable immediately in full on a participant's termination of employment with the Target Group after the Effective Date for any reason, other than termination of employment by the employer by reason of gross misconduct or termination by the participant by reason of resignation (except where such resignation would fall within the meaning of Qualifying Termination as defined at paragraph 5.2 of Part 2 of this Schedule 1).

3.5.2 For the avoidance of doubt, the Transition Awards will not be subject to any further performance conditions.

### **3.6 ISIP**

3.6.1 Shares held in the ISIP will participate in the Scheme on the same terms as all other Shareholders.

3.6.2 Vested but unexercised ISIP Awards will lapse no later than one month after the Court Order is granted.

### **3.7 Sharesave**

3.7.1 Vested but unexercised Sharesave options will lapse no later than 1 May 2021.

3.7.2 Offeror agrees that participants in the Sharesave who hold options may be permitted to exercise their options in a cashless manner (other than where to do so would have negative tax consequences for either the participant or the Target Group).

### **3.8 Articles amendment**

Target and Offeror agree that Target will propose an amendment to the Target articles of association and inclusion of a new article (to be set out in the notice of the Target General Meeting) under which, with effect from the Effective Date, Shares which are issued or transferred after the Effective Date as a result of vesting and/or exercise of Awards under the Share Schemes will be transferred to Offeror for the same consideration as is payable to Shareholders under the Scheme.

### **3.9 UK SIP**

Shares held in the UK SIP will participate in the Scheme on the same terms as all other Shareholders.

## **Part 2**

### **Employment Matters**

#### **1 Ordinary course of business arrangements**

**1.1** Offeror acknowledges that prior to the Effective Date Target:

**1.1.1** will carry out annual (or other periodic) pay reviews, appraisals and promotion rounds in the ordinary course of business and consistent with past practice; and

**1.1.2** may, in respect of employees who are based outside the United Kingdom, award and determine bonuses and other incentives in the ordinary course of business and consistent with past practice.

#### **2 Annual bonus**

**2.1** Offeror acknowledges that the terms of this paragraph 2 will apply in relation to the determination of annual bonuses for employees of Target based in the United Kingdom without prejudice to any bonuses other than annual bonuses which may have been granted to any such employees.

**2.2** Target confirms that in respect of participants in any annual bonus arrangements operated by Target in a financial year which ends prior to the financial year in which the Effective Date occurs:

**2.2.1** any annual bonus for Executive Directors will be determined by the Target Remuneration Committee in accordance with the DRP; and

**2.2.2** any annual bonus for employees of Target other than the Executive Directors will be determined by the Chief Executive Officer of Target.

**2.3** Any annual bonus amount determined in accordance with paragraph 2.2 above shall subject to paragraph 3.4 of Part 1 of this Schedule 1 be paid in accordance with Target's normal practice and timing for the payment of annual bonuses.

**2.4** Target confirms that in respect of participants in any annual bonus arrangement operated by Target in the financial year in which the Effective Date occurs:

**2.4.1** any annual bonus for Executive Directors for the part of such financial year falling prior to the Effective Date shall be determined by the Target Remuneration Committee in accordance with the DRP on the basis of the Target Remuneration Committee's assessment of bonus outcomes at that time; and

**2.4.2** for employees of Target other than Executive Directors any annual bonus for the part of such financial year falling prior to the Effective Date will be determined by the Chief Executive Officer of Target based on his reasonable assessment of bonus outcomes at that time,

and in each case such determination shall be made at the latest time as is reasonably practicable prior to the Effective Date and shall relate only to a pro-rata proportion of each participant's current annual bonus opportunity (where such pro-rata proportion shall reflect the portion of the financial year falling prior to the Effective Date).

**2.5** Any annual bonus amount determined in accordance with paragraph 2.4 shall only become payable (subject to paragraph 2.9) following the end of such financial year in which the Effective Date falls unless the participant ceased to be employed prior to the relevant

payment date by reason of a Qualifying Termination (as defined in paragraph 5.2 below) in which case bonus will be paid as soon as reasonably practicable following the termination date.

- 2.6** For employees who are not Executive Directors who remain in the employment of Target after the Effective Date, bonuses for the period from the Effective Date to 31 December of the financial year in question (or any part of it) will be determined by the then current Chief Executive Officer of Target based on performance criteria in place prior to the Effective Date, subject to such adjustments to any applicable performance measures as he (acting reasonably and in good faith) believes are appropriate having regard to the impact of the Offer on the ability of Target, any member of Target Group or any participant to satisfy any performance measures or individual objectives.
- 2.7** For Executive Directors who remain in employment of Target after the Effective Date, bonuses for the period from the Effective Date to 31 December of the financial year in question (or any part of it) will be determined by the board of directors of Offeror (acting reasonably and in good faith) based on performance measures in place prior to the Effective Date, subject to such adjustments to any applicable performance measures as the board of directors of Offeror (acting reasonably and in good faith) believes are appropriate having regard to the impact of the Offer on the ability of Target, any member of Target Group or any participant to satisfy any performance measures or individual objectives.
- 2.8** For the purposes of paragraphs 2.6 and 2.7, annual bonus shall be determined following the end of the financial year in which the Effective Date falls and will be payable (subject to paragraph 2.9) at such time as is consistent with the Target's normal practice unless the participant ceased to be employed prior to the relevant payment date by reason of a Qualifying Termination (as defined in paragraph 5.2 below) in which case bonus will be paid as soon as reasonably practicable following the termination date.
- 2.9** Any bonus payment made after the Effective Date pursuant to this paragraph 2 will be paid in cash and will not be subject to malus and/or clawback (or any similar principles), save that:
- 2.9.1** Target (or the employee's employer) will retain the ability to deliver a portion of the bonus as a deferred cash award, provided that deferral levels and the timeframe for deferral remain consistent with the Target's normal practice; and
- 2.9.2** if a participant ceases to be employed by reason of a termination other than a Qualifying Termination (as defined in paragraph 5.2 below) the employee shall, unless their employer determines otherwise, forego any deferred cash award that would otherwise have been payable during any relevant notice period or after the employee's termination date.

### **3 Retention arrangements**

Offeror acknowledges that Target intends to put in place deal-related cash incentive awards and cash retention arrangements for certain of its employees in the United Kingdom whose retention is considered by Target to be important for achieving the successful completion of the Acquisition and/or business continuity throughout the period up to the Effective Date, other than the Executive Directors, the total cost of which (excluding employer's social security contributions) will not exceed £1,500,000. The detail of such awards (including but not limited to recipients, quantum and timing of payment) will be determined by Target. Such awards will be in addition to any annual or other bonus arrangements in place at the date of this Agreement.

## **4 Continuing employment**

**4.1** Offeror will, on and following the Effective Date, fully observe the existing terms and conditions of employment (whether or not contractual) of all employees (whether based in the United Kingdom or elsewhere) of Target, including in relation to pensions, in accordance with applicable law.

**4.2** Without prejudice to paragraph 4.1 and subject to paragraph 4.3, for the period of 24 months commencing on the Effective Date, Offeror agrees that in respect of each employee of Target employed in the United Kingdom immediately prior to the Effective Date who remains in employment with Target Group it will:

**4.2.1** maintain base pay, variable pay opportunities (including bonus targets, maximum bonus opportunities and target/maximum long-term incentive opportunities), benefits, allowances and any terms relating to pension accrual and/or contribution (in each case, whether or not contractual) as in place immediately before the Effective Date (for which purpose, variable pay opportunities for 2021 will include a long-term incentive opportunity, based on the relevant employee's prior year's award, notwithstanding the fact that Target may not have made such an award prior to the Effective Date); and/or

**4.2.2** not amend any material terms and conditions of employment (whether or not in writing) to the employee's detriment; and/or

**4.2.3** not change the employee's place of work (other than where the daily travelling time for the employee in question is increased by less than 30 minutes per day in total); and/or

**4.2.4** not make changes to the employee's role, reporting level, responsibilities or status, save (a) where such employee has consented in writing to the amendment; (b) in the case of paragraph 4.2.4 above, where such reasonable change is made in connection with the de-listing of Target and does not diminish the employee's standing or status with Target; or (c) other than in the case of paragraph 4.2.3 above, where such change is made pursuant to the exercise of an contractual right of Target which existed at the date of this Agreement, exercised reasonably and in good faith by Target.

**4.3** Nothing in paragraph 4.2 will require Offeror to offer equity-based plans, whether in the form of bonus or long-term incentive arrangements, or all-employee benefits; comparable cash-based arrangements (ignoring any Transition Awards for this purpose) will be regarded as sufficient.

## **5 Severance arrangements**

**5.1** Offeror acknowledges and agrees that where any employee of Target in the United Kingdom is served with (or serves) notice of a Qualifying Termination on or after the Effective Date and within the period of 24 months from the Effective Date, the employee will:

**5.1.1** be paid any applicable statutory redundancy payment (if any) and a cash payment calculated as two weeks' pay per year of service plus a lump sum of three months' basic salary (less such deductions as are required by law);

**5.1.2** where, at the sole discretion of the employee's employer, an employee is paid in lieu of any applicable contractual notice period, such payment will be paid in a lump sum

and the employee will be under no duty to mitigate (notwithstanding any contrary provision in their contract of employment);

- 5.1.3 be paid on termination a sum representing annual bonus calculated on a pro-rata basis to the date of termination determined in accordance with paragraph 2 above, together with any deferred cash bonus that remains outstanding;
- 5.1.4 be paid on termination, a sum representing any retention or other bonus award put in place pursuant to paragraph 3 (or any part of such bonus award) which remains outstanding at the date of termination;
- 5.1.5 in respect of any 2021 Award granted pursuant to paragraph 3.4 of Part 1 of this Schedule 1 or any Transition Award granted pursuant to paragraph 3.5 of Part 1 of this Schedule 1, have their awards vest and become payable in full on termination of employment; and
- 5.1.6 receive a reasonable and appropriate contribution to their legal fees consistent with Target's past practice if required to sign a settlement agreement on termination of employment.

**5.2** In this Schedule, a “**Qualifying Termination**” is:

- 5.2.1 any termination of employment by reason of redundancy;
- 5.2.2 any termination of employment by the employer other than by reason of gross misconduct;
- 5.2.3 a termination by reason of the employee's resignation in circumstances amounting to constructive dismissal (as determined by a court of competent jurisdiction or otherwise as accepted by Target's Chief Executive Officer, acting reasonably) or, if he has ceased to be employed with Target Group, such employee of Target as he identified (acting reasonably and in good faith) prior to cessation of his employment; or
- 5.2.4 a termination by reason of the employee's resignation by reason of a breach of one or more of the obligations set out in paragraph 4.2 above. In the event of any dispute about whether any such obligation(s) has been breached and/or the resignation was by reason of such breach, the matter shall be determined by Target's Chief Executive Officer (acting reasonably) or, if he has ceased employed with Target Group, such employee of Target as he identified (acting reasonably and in good faith) prior to cessation of his employment.

**6 Application**

References in this Part of this Schedule are to employees of Target or other companies in the same Group as Target immediately prior to the Effective Date.

**7 General**

The parties agree that, in the event of an agreed switch from the Scheme to an Offer, all arrangements in this Schedule shall continue to apply except for any modification necessary to reflect the mechanics of an Offer, and with references to the Court Order being granted being taken to refer to the time at which the Offer becomes or is declared unconditional in all respects. Target and Offeror shall co-operate in good faith to determine what modifications are required in order to give effect to the intentions of the parties as set out in this Schedule in the event of an agreed switch from the Scheme to an Offer.