

## SERVICE TERMS AND CONDITIONS

**"Agreement"** means the Service Order, which is incorporated herein by this reference, together with these Service Terms and Conditions.

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

**"Newmont"** means (a) with respect to an electronic Service Order, the entity listed as the "Sold-to-Party" in the Partner Information box in such electronic Service Order, and (b) with respect to a printed Service Order, the Newmont-related entity named at the top of page one of such printed Service Order.

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

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

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

1. **TERM.** This Agreement shall be effective commencing as of the Effective Date and continuing until the last to occur of completion of all Services (as such term is defined in Section 2.A., below) or delivery of all Equipment (as such term is defined in Section 2.B., below); provided, however, that if Supplier never commences Services and delivers no Equipment, then this Agreement shall terminate one year from the Effective Date (the "**Term**"), unless terminated earlier as permitted herein. The Term may only be extended by a written agreement between the parties.

2. **STATEMENT OF SERVICES.**

A. During the Term, Supplier shall perform the work described in the Service Order (the "**Services**"). Unless otherwise agreed in writing by the parties, any work performed by Supplier for Newmont prior to the Effective Date, which is not covered by a separate agreement between the parties and which falls within the specified scope of services set forth in the Service Order, shall be deemed to have been performed subject to the terms and conditions of this Agreement. Except as otherwise specified in the Service Order, Supplier shall provide all labor, supervision, materials, equipment, tools, consumables, transportation, fuel, maintenance, and such other items and services as are necessary to perform the Services, and shall be solely responsible for demobilization, job site cleanup, and disposition of all residual materials once Services are completed. At any time, without invalidating this Agreement or any portion hereof, Newmont may request reasonable additions, deletions, revisions, or changes to the Services of either a major or minor nature. Any such modification shall be evidenced by a change order to the Service Order, as issued by Newmont and executed or otherwise legally accepted by both parties (each, a "**Change Order**"), which shall specify the compensation agreed upon by the parties for such changes and the additional time, if any, allotted for the completion of the Services as so modified. This Agreement shall not be construed as an exclusive dealing contract for the provision of the Services and does not preclude Supplier from undertaking work of this general nature for others.

B. Supplier warrants that (i) it is fully competent and possesses the requisite skill, knowledge, resources, experience and expertise to perform the Services in accordance with the standards and the degree of skill and judgment which is normally exercised in the United States mining and metals industry and other relevant industry by those engaged in the performance of services similar in nature to the Services, (ii) the Services shall be performed in accordance with said standards, skill and judgment, (iii) the Services shall be performed in strict compliance with the requirements of this Agreement, including any specifications set forth in the Service Order ("**Specifications**" as applicable to Services), (iv) all Services performed shall be free from defect, (v) all equipment, supplies, and other tangible materials to be incorporated into the Services by Supplier and thereafter owned by Newmont, as specified in the Service Order (the "**Equipment**"), shall be in conformance with any specifications applicable thereto as set forth in the Service Order ("**Specifications**" as applicable to the Equipment) and be free from defects and of standard quality for the industry unless otherwise agreed in a written document signed by Newmont, (vi) Supplier shall have good and valid title to all Equipment directly supplied by Supplier at the time title passes to Newmont, (vii) Supplier is properly qualified, licensed, trained, organized, and financed to perform the Services, and (viii) in performing the Services, Supplier shall not install or otherwise cause to exist on any of Newmont's computer systems (hardware or software components) any computer instructions, circuitry, or other technological means whose purpose or effect is to disrupt, damage, or interfere with any Newmont computer facilities or equipment, or to provide unauthorized access to Newmont's computer facilities or equipment, including any code containing viruses, Trojan horses, worms, traps, back doors, disabling devices or like destructive code or code that self-replicates. Supplier warrants all Services performed by its subcontractors in the same manner as if Supplier had performed the Services itself.

C. Supplier acknowledges having reviewed Newmont's Code of Conduct and Newmont's Supplier Code of Conduct, each of which is available under the About Us/Governance and Ethics tabs at [www.Newmont.com](http://www.Newmont.com) and, when Supplier is engaged in activities on Newmont's behalf, Supplier shall abide by the principles expressed in Newmont's Code of Conduct, to the extent applicable. Supplier shall (i) (a) comply with Newmont's Acceptable Technology Use Standard (which Supplier acknowledges receiving a copy of) if, in the course of performing the Services, Supplier has access to Newmont's information technology equipment or systems, and (b) at all times when Supplier is present on premises owned, operated, or otherwise controlled by Newmont ("Newmont Premises"), comply with the applicable provisions of Newmont's site and workplace policies, standards, and procedures, including requirements relating to the areas of health, safety, and loss prevention, in each case, as such document may be amended from time to time by Newmont, in its sole discretion, and provided to Supplier (including in connection with any job hazard analysis training that may be provided to Supplier's personnel by Newmont), (ii) perform the Services only during regular working hours (local time, 8:00am to 5:00pm, Monday – Friday) unless prior written consent is obtained from Newmont, (iii) conduct all activities on Newmont Premises so as to avoid or minimize delay or interference with any other person or entity performing work or services, and (iv) keep Newmont Premises clean and free of any debris and rubbish caused by the Services and, upon completion of the Services, leave such Newmont Premises clean and ready for use. Any personnel of Supplier or of its subcontractors which Newmont deems objectionable shall be removed from the jobsite and from performance of any further Services by Supplier upon Newmont's request without additional cost to Newmont and shall be replaced promptly by Supplier with a person acceptable to Newmont. Without limiting the generality of the foregoing provisions, if Supplier will be present in any high risk and/or sensitive areas, including the refinery, carbon handling areas, leach preg ponds, refractory ore treatment plant, or any other area designated by Newmont as high risk and/or sensitive (collectively, "High Risk Areas"): (A) Supplier shall submit to Newmont's security department's investigating officer a list of Supplier's personnel assigned to work in the High Risk Area, which list shall include each individual's full name and date of birth; Newmont may use such information to obtain a criminal background check on such individuals, the cost of which shall be charged to, and paid by, Supplier; (B) each of Supplier's personnel shall report in person to Newmont's security department's investigating officer and may be required to show a driver's license or other government-issued identification, to be fingerprinted, and to sign a release form for security clearance purposes prior to commencement of any Services; and (C) each of Supplier's personnel entering a High Risk Area shall be subject to a high tech metal detector and/or hand scanner detection search for the detection of metals prior to entering a High Risk Area and upon exiting the High Risk Area.

D. As soon as practicable after completion of each milestone set forth in the Service Order (each, a "Milestone") or, if there are no Milestones, after completion of the Services and/or delivery of the Equipment, Newmont may conduct such tests as it deems necessary, using its own sample or test data, to determine whether the applicable Services have been completed successfully and/or Equipment delivered and installed, and whether they meet the Specifications in all material respects. If Newmont determines, in its sole reasonable discretion, that such Services or Equipment fail to meet the Specifications, Newmont promptly shall give Notice (as such term is defined in Section 16, below) to Supplier and shall specify with as much detail as practicable in which respects the Services or Equipment have failed to meet the Specifications. Supplier shall then, at its sole expense, promptly reperform the applicable Services or deliver substitute Equipment. In the event that Supplier does not successfully reperform such Services or redeliver Equipment within 15 days after the date of Newmont's Notice, Supplier shall return all deposits or other amounts paid by Newmont with respect to such Services or Equipment, as applicable. Acceptance of any portion of the Services or of any Equipment shall be deemed to occur on the earlier of (i) the date on which Newmont notifies Supplier of acceptance, or (ii) the date which is 60 days from the date of completion of the applicable Milestone or of the Services or delivery of the Equipment, as applicable, unless prior to such date Newmont has notified Supplier that it has rejected such Services or Equipment or that there is a defect in the Services or Equipment. Acceptance of the Services and Equipment shall not otherwise be implied or assumed.

E. Where Supplier is not the manufacturer or direct supplier to Newmont of Equipment, Supplier shall obtain from each manufacturer or supplier of such Equipment such warranties with respect to quality, workmanship and performance as are generally made available for such types of Equipment, including (i) warranties that the Equipment shall strictly comply with any Specifications applicable thereto and be free from defects and fit for the purposes specified unless otherwise agreed in a written document signed by Newmont, and (ii) warranties that Newmont shall receive good and unencumbered title at the time title is transferred to Newmont. The warranties on such Equipment shall, at a minimum, extend for a period of 18 months from receipt of the Equipment by Newmont or 12 months from the date such Equipment is placed in regular operation, whichever is earlier, and cover all repair and replacement costs and expenses associated with or incurred as a result of non-compliance with the Equipment warranties. Supplier shall include appropriate language in Supplier's purchase orders for such Equipment that makes each and every warranty obtained by Supplier run directly to Newmont and permits Newmont to enforce or pursue such warranties as if Newmont had purchased the Equipment itself. Supplier's obligations under this Section 2.E. shall in no way diminish, reduce or otherwise relieve Supplier of, and shall be in addition to, its warranty obligations under Section 2.B.

F. Without limitation of any other rights or remedies of Newmont, if a defect in any of the Services in violation of any of the warranties set forth in Section 2.B.(ii), (iii), or (iv) ("Warranties" as applicable to Services) arises within one year of Newmont's acceptance of such Services ("Warranty Period" as applicable to Services), or a defect in any Equipment in violation of any of the warranties set forth in Section 2.B.(v) or (vi) ("Warranties" as applicable to Equipment) arises within a period of 18 months from acceptance of the Equipment by Newmont or within 12 months from the date such Equipment is placed in regular operation, whichever is earlier ("Warranty Period" as applicable to Equipment), Newmont may require Supplier to correct promptly the nonconformance at Supplier's expense. Supplier shall, upon receipt of a written request from Newmont to correct the nonconformance, promptly furnish, at no cost to Newmont, all labor, equipment, supervision, and materials necessary to correct such nonconformance and cause the Services or Equipment to comply fully with the Warranties. The Warranties shall apply to any Services performed or Equipment provided by Supplier to correct a nonconformance, commencing on the date of acceptance of such corrective Services or Equipment, as provided in Section 2.D., and extending for a period of time equal to the number of days in the

Warranty Period that was applicable to the original Services or Equipment that were corrected (e.g., if the original Services had a 30-day Warranty Period, the corrected Services would have a 30-day Warranty Period from the date of acceptance). If Supplier fails to so correct such nonconformance within 15 days after receipt of Newmont's Notice, Newmont may, in addition to any other rights and remedies available at law or in equity, elect to (i) retain a third party to correct the nonconformance at Supplier's expense, or (ii) correct the nonconformance with Newmont personnel at Supplier's expense.

G. Specifications may not be complete in every detail. Supplier shall comply with their manifest intent and general purpose, taken as a whole. Should any conflict, error, or omission appear in the Specifications, Supplier immediately shall give Notice to Newmont and Newmont will issue written clarifications. If Supplier proceeds with any of the Services or Equipment in question prior to receiving such instructions, all necessary corrections shall be at Supplier's sole expense.

H. Supplier shall comply with all applicable laws, regulations, decrees, codes, ordinances, resolutions, and other acts of any applicable governmental authority, including federal, regional, state, county, and local labor laws (such as the Fair Labor Standards Act of 1938, as amended), tax laws, laws addressing bribery and corruption, and laws addressing the preservation of health, safety, and the environment, including the Mine Safety and Health Act of 1977 ("MSHA") and Occupational Safety and Health Act of 1970 ("OSHA"), each as amended, and other laws that are applicable to this Agreement or Supplier's performance of the Services. Supplier shall furnish personnel that are qualified, competent, fit, and skilled to perform the Services and shall ensure that Supplier, Supplier's subcontractors, and their respective employees and agents (collectively, "Supplier Parties") are properly licensed and certified if and as required by applicable laws, including any MSHA and OSHA certifications. Without limiting the generality of the first sentence of this Section 2.H.:

(i) Supplier represents, warrants, and covenants to Newmont, as of the Effective Date and the date that each invoice is submitted to Newmont, that in carrying out its responsibilities, neither Supplier, nor any of its equity holders, beneficial owners, partners, officers, directors, employees, agents, or representatives shall, directly or indirectly, offer, pay, promise to pay, or authorize the payment of any money, or offer, give, promise to give, or authorize the giving of anything of value: (A) to (1) any official or employee of any government, or any department, agency, or instrumentality thereof, (2) any political party or official thereof, or any candidate for political office, (3) any official or employee of any public international organization (as defined in 22 USC Section 288), or (4) any person acting in an official capacity for or on behalf of such government, department, agency, instrumentality, party, or public international organization, in each case for the purpose of influencing any act or decision of such party, or of such official, employee or candidate in his official capacity, or inducing such official, employee, party or candidate to do or omit to do any act in violation of the lawful duty of such official, employee, party or candidate, or securing any improper advantage, or inducing such official, employee, party or candidate to use his or its influence with a government or instrumentality thereof to improperly or illegally affect or influence any act or decision of such government or instrumentality; or (B) to an officer, employee, agent, or representative of another company or organization, with the intent to influence or reward the recipient's action(s) with respect to his company's or organization's business, or to gain a commercial benefit to the detriment of the recipient's company or organization, or to induce or reward the improper performance of the recipient's duties.

(ii) Notwithstanding any other provision of this Agreement, Newmont may immediately suspend this Agreement in the event it should receive information which, in its sole discretion, it determines to be evidence of a breach by Supplier of any undertaking above. In the event of receipt of such evidence and/or such suspension, Newmont shall consult with Supplier and may thereafter immediately terminate this Agreement if Newmont, in its sole discretion, is reasonably satisfied that such a breach has occurred. In the event of such termination, Newmont shall have no liability to Supplier under this Agreement for any fees, reimbursements, or other compensation under this Agreement or for any other loss, cost, claim, or damage resulting, directly or indirectly, to Supplier from such termination, other than for Services already performed and/or goods already delivered.

I. Supplier understands that Newmont is committed to conducting all of its mining operations and related activities in an environmentally and socially responsible manner. To that end, Supplier shall make all commercially reasonable efforts (i) to perform the Services in a manner aligned with such principles, including the use of pollution-controlled equipment and facilities, if and as applicable, (ii) to assess the potential impact of its activities on local communities and, when applicable, to integrate mitigation measures into its work plans, including ensuring that such measures are appropriately budgeted, (iii) to timely address third party complaints received by it in connection with any work or goods provided hereunder (including from employees, subcontractors, suppliers, and local community members), (iv) to identify opportunities that incorporate local procurement and employment, and (v) to the extent involving activities conducted for or on behalf of Newmont, to coordinate engagement with local community stakeholders through Newmont's site-level Social Responsibility department.

J. Supplier commits to respect human rights in line with the Universal Declaration of Human Rights ("Human Rights"). Supplier represents, warrants, and covenants to Newmont, as of the date hereof, and the date that each invoice is submitted to Newmont hereunder, that no violation of Human Rights exists in any of its or its affiliates' own operations or, to its knowledge, within the operations of any of its or its affiliates' subcontractors and vendors ("Representation"). If, during the Term, Supplier becomes aware of any breaches of the Representation, it will promptly provide Notice thereof to Newmont. Notwithstanding any other provision of this Agreement, Newmont may immediately suspend this Agreement in the event it should receive information which, in its sole discretion, it determines to be evidence of a breach by Supplier of any undertaking set forth above. In the event of receipt of such Notice or evidence and/or such suspension, Newmont shall consult with Supplier and may thereafter immediately terminate this Agreement if Newmont, in its sole discretion, is reasonably satisfied that such a breach has occurred. In the event of such termination, Newmont shall have no liability to Supplier under this Agreement for any fees, reimbursements, or other compensation

under this Agreement or for any other loss, cost, claim, or damage resulting, directly or indirectly, to Supplier from such termination, other than for Services already performed and/or goods already delivered.

K. Supplier assumes full responsibility for the payment of all wages, payroll burdens, fringe benefits, and payroll taxes as to its employees, servants, and agents engaged in the performance of the Services, including payroll deductions for income tax, workers' compensation premiums, and unemployment insurance. Supplier shall ensure that Supplier Parties at all times have applicable visas, work permits, and other documentation necessary for performance of the Services, and that all immigration requirements applicable to such Supplier Parties are complied with.

L. Supplier shall timely make payments to subcontractors and materialmen/vendors as provided for in its subcontracts and purchase orders or at such earlier time as may be necessary to avoid having a mechanic's lien or other lien placed on any of Newmont's property.

M. Newmont, at its option, may designate one individual to act as Newmont's technical representative for this Agreement (the "Newmont Technical Representative") who shall be identified in writing by Newmont to Supplier. Newmont may change the Newmont Technical Representative at any time by providing Notice thereof to Supplier. If Newmont chooses to designate a Newmont Technical Representative, Supplier shall perform the Services in accordance with the general directives of the Newmont Technical Representative and shall keep such Newmont Technical Representative informed as to the progress of such Services. Newmont's contract department representative shall be the person designated as "Buyer" in the Service Order or as otherwise designated in writing by Newmont to Supplier ("Newmont Contract Representative"). The Newmont Contract Representative shall be Supplier's main contact with respect to questions about the status of this Agreement.

N. While on Newmont Premises (including in any Newmont owned or leased motor vehicles), Supplier Parties shall not (i) possess, sell, manufacture, dispense, or distribute any controlled substance, unauthorized prescription medication, or any other chemical substance that may affect an individual's mood, senses, responses, or motor functions, or may alter or affect a person's perception, performance, judgment, reactions, or senses, including alcohol and medical marijuana (collectively, "Chemical Substances"), (ii) consume or use any Chemical Substance, or (iii) possess any firearm. Any such individuals who exhibit behavior while on Newmont Premises which gives rise to a reasonable suspicion of consumption or use of a Chemical Substance may be requested by Newmont to submit to one or more Chemical Substance screening tests, to be conducted or otherwise arranged by Supplier and conducted at Supplier's sole expense. In such event, Newmont will request that the individual review and sign a waiver or consent to test document. An individual's refusal to sign such waiver or document or refusal to submit to any such screening test will be deemed admission by such individual of consumption or use of a Controlled Substance. At the request of Newmont, Supplier shall immediately remove from any job site and from participation in any aspect of the Services any of its or its subcontractor's or supplier's personnel that Newmont determines, in its sole, absolute, and unreviewable discretion, pose a danger to the safety or health of those around them (including because of the individual's violation of the first sentence of this Section 2.N.) or are otherwise unfit or incompetent to perform the Services. If requested by Newmont, Supplier shall conduct drug testing of its employees and agents, and ensure that its subcontractors and, if they have personnel coming onto Newmont's Premises, its suppliers conduct drug testing of their employees and agents, within one month prior to initial admission of such personnel to Newmont Premises for performance of the Services. Upon Newmont's request, Supplier shall provide to Newmont all appropriate documents showing that Supplier is in compliance with the requirements of this Section 2.N.

O. Supplier represents and warrants to Newmont that the following conditions exist as of the date of this Agreement and shall continue to exist during and after the Term: (i) there is no actual or potential conflict between Supplier's performance of the Services or obligations owed by Supplier under this Agreement and any obligation that Supplier may have to any third party with respect to confidentiality, intellectual property, or otherwise, and (ii) Supplier has no current or potential rights that could be infringed or otherwise violated through use of results of the Services or exercise of Newmont's rights under Section 4.

P. Delivery terms for Equipment shall be as specified in the Service Order. Title to Equipment shall pass to Newmont upon the earlier of (i) payment in full by Newmont for such Equipment, (ii) receipt by Newmont of such Equipment, or (iii) incorporation of such Equipment into any Newmont Premises. Supplier shall clearly identify all Equipment as property of Newmont by conspicuously marking or tagging, and Newmont shall have the right to inspect and verify that Equipment has been identified as Newmont's property. Risk of loss for Equipment shall pass from Supplier to Newmont upon Newmont's acceptance of such Equipment in accordance with the provisions of Section 2.D. If, pursuant to warranty or otherwise, Supplier repairs or replaces any Equipment, risk of loss in such Equipment shall pass back to Supplier when Supplier takes possession of such Equipment for such repair or replacement, and, upon completion of the repair or replacement, risk of loss in such Equipment will pass back to Newmont upon Newmont's acceptance of such Equipment in accordance with the provisions of Section 2.D.

Q. If Newmont authorizes Supplier to use any of Newmont's equipment in the performance of the Services, the terms and conditions of this Section 2.Q. shall govern such use. Supplier shall designate in writing those individuals authorized to use Newmont's equipment to perform the Services (the "Permitted Operators"). The list of Permitted Operators shall be subject to Newmont's approval. The Permitted Operators shall be authorized to use only that equipment specifically designated in writing by Newmont for use by the Permitted Operators ("Newmont's Equipment") and only for the purpose of performing the Services. The Permitted Operators shall comply with all restrictions on use of Newmont's Equipment as may be imposed from time to time by Newmont. Prior to use of Newmont's Equipment, Supplier shall ensure that (i) each Permitted Operator has received hazard, health, and safety training commensurate with the risks to be encountered in using Newmont's Equipment, and (ii) if required by Newmont, each Permitted Operator has received additional training from Newmont's personnel in the safe and proper operation of Newmont's

Equipment. Supplier shall be solely responsible and liable for all damage to Newmont's Equipment incurred during or caused by use of Newmont's Equipment by Permitted Operators. When required by Newmont, Supplier shall perform maintenance work on Newmont's Equipment in compliance and conformity with the manufacturer's and Newmont's maintenance standards, intervals, and procedures. Supplier shall be solely responsible and liable for any damage to Newmont's Equipment caused by Supplier's failure to perform required maintenance work. Prior to any use of Newmont's Equipment, Supplier shall provide evidence satisfactory to Newmont that Supplier's insurance policies as required by this Agreement specifically (a) extend to injury, damage, or loss caused by Supplier's use of Newmont's Equipment, and (b) cover the full replacement value in the event of damage to Newmont's Equipment. Supplier assumes all risk of and responsibility for any losses (including injury to or death of any person), settlements, judgments, awards, damages, costs, and other liabilities (including legal costs and reasonable attorneys' fees) ("Losses") caused by Supplier's use of Newmont's Equipment. Supplier discharges and releases Newmont, its affiliates, and their respective officers, directors, employees, and agents ("Newmont Parties") from any and all any and all claims, suits, and other actions ("Claims") and Losses, of any nature whatsoever, relating to Supplier's use of Newmont's Equipment. Supplier covenants that Supplier shall not at any time in the future, directly or indirectly, commence or prosecute any Claim against any Newmont Party in any way related to Supplier's use of Newmont's Equipment. The indemnity obligations set forth in Section 8.B. of this Agreement shall apply with respect to Supplier's use of Newmont's Equipment.

R. Supplier shall notify Newmont in advance if any item or information to be provided to Newmont by Supplier under or otherwise in connection with this Agreement is subject to United States or any other country's export control laws and, upon Newmont's request, shall provide Newmont with all information it has which relates to the export controls applicable to such item or information (e.g., information relating to applicable jurisdiction and classification determinations).

### 3. COMPENSATION FOR SERVICES.

A. As compensation for the performance of the Services, Supplier shall be paid in accordance with the applicable rates set forth in the Service Order. Unless otherwise specified in the Service Order, the pricing is firm for the Term and unit and rate based pricing shall not be adjusted irrespective of any variations in the quantity of the Services. If, and to the extent specifically, set forth in the Service Order, Newmont also shall reimburse Supplier for the actual amount of reasonable and necessary expenses incurred in the performance of the Services; provided, however, that any individual expense in excess of U.S. \$250 must be approved in writing in advance by Newmont in order to be reimbursable.

#### B. Invoice Procedures.

(1) If Supplier is a registered user of Newmont's electronic Purchase Order and Service Order system ("SRM"), Supplier shall invoice Newmont in accordance with the requirements of SRM. Without limiting the generality of the foregoing sentence, Supplier shall (a) electronically create a service entry confirmation for all Services in SRM prior to invoicing Newmont for such Services, (b) electronically create an invoice for Services in SRM only after receiving an approved service confirmation from Newmont via SRM, and (c) electronically create an invoice for Equipment in SRM only after receiving an approved goods receipt confirmation from Newmont via SRM.

(2) The provisions of this Section 3.B.(2) shall apply if Supplier is not a registered user of SRM. Supplier shall submit invoices electronically, on a monthly basis, to Newmont Accounts Payable at [CorpAP@Newmont.com](mailto:CorpAP@Newmont.com). All such invoices must reference the PO or SO Number ("PO#") assigned to the Service Order and/or Change Order applicable to the Services. Invoices shall contain a reasonable itemization of the Services rendered and charges made for those Services and of travel and other expenses incurred. Copies of receipts, statements, and any other documents that verify the accuracy of such invoice shall also be included. Services that have been performed at regional Newmont sites must be itemized and will include travel, expenses and services for that specific site or region. Invoices received that do not comply with invoicing procedures and details set forth above will be rejected and treated as "disputed" until the invoice is re-submitted correctly. Supplier must correct all invoice compliance issues and resubmit the corrected invoice to [CorpAP@Newmont.com](mailto:CorpAP@Newmont.com). Payment terms will begin upon the date Newmont receives the corrected invoice at [CorpAP@Newmont.com](mailto:CorpAP@Newmont.com). Common invoicing problems to avoid:

- NO PO#: Valid PO# is not listed on invoice.
- PO# COMPLETE: PO# referenced on invoice has been invoiced in its entirety.
- INCORRECT/INVALID PO#: PO# referenced on invoice is incorrect or invalid.
- NO PO LINE #: Invoice contains multiple line items. Invoice line-items must correspond to the relevant line item(s) on associated PO#. For assistance, please contact the Newmont Contract Representative.
- INCORRECT/INVALID PO LINE#: PO# line number stated on invoice is incorrect or invalid.

C. Unless different payment terms are set forth in the Service Order, payment terms of two percent, 10 days, net 45 days will apply to this Agreement. Payment terms will be computed from the date a correct invoice is received by Newmont; provided, however, that (i) disputed amounts may be withheld pending resolution of the dispute, (ii) Newmont shall not be obligated to pay any amounts for Services or Equipment if it has not received an invoice for such Services or Equipment within 90 days after completion of such Services or delivery of such Equipment, (iii) Newmont may withhold payment of the final invoice until it receives all deliverables, if any, specified in the Service Order, and (iv) if Supplier fails to comply with its obligations set forth in Section 9.B., Newmont may withhold from the final invoice an amount reasonably necessary to replace such missing items and revise applicable security access codes and other procedures. Disputed amounts, when reconciled, shall be invoiced and paid as part of the next following monthly invoice. If the parties are unable to reach a mutual reconciliation with respect to disputed invoiced amounts, Newmont shall be

entitled to withhold payment of disputed invoiced amounts until such time as a court of competent jurisdiction enters an order, judgment, or other final ruling determining the parties' rights and liabilities, at which time Newmont shall, as appropriate, retain, pay to Supplier, or credit against other amounts owed by Supplier to Newmont the disputed invoiced amounts in accordance with the final ruling.

D. Supplier shall provide Notice to Newmont within five working days after any occurrence that Supplier believes may give rise to a Claim by Supplier for additional time or money. Failure to give such Notice to Newmont in the manner set forth in this Section 3.D. shall constitute a waiver of any such Claim that Supplier may have.

4. OWNERSHIP AND SUBMISSION OF INFORMATION, RECORDS, INVENTIONS, COPYRIGHTS, AND FURTHER ASSURANCES. All records, reports, data, and other information, and all copies thereof and notes related thereto, prepared, generated, researched, developed, compiled, or obtained from any source whatsoever by or through Supplier in connection with performance of the Services, including drawings, sketches, specifications, tracings, diagrams, evaluations, calculations, data books, schedules, operating instructions, and requisitions (the "Data"), but specifically excluding any of the same which was in existence as of the Effective Date or which is independently developed after the Effective Date by Supplier, shall be promptly disclosed to Newmont and, without further consideration, shall be, to the extent legally possible, the property of Newmont and are hereby assigned by Supplier to Newmont. All right, title, and interest in and to all ideas, concepts, know-how, techniques, processes, methods, inventions, discoveries, developments, innovations, and improvements conceived or reduced to practice, whether by Supplier alone or with others, in connection with performance of the Services (collectively, the "Inventions"), but specifically excluding any of the same which was in existence as of the Effective Date or which is independently developed after the Effective Date by Supplier, shall be owned by Newmont, and Supplier hereby sells, assigns, and conveys to Newmont any and all right, title, and interest of Supplier in and to the Inventions, and Newmont shall have the sole and exclusive right to pursue or not pursue patent protection or other forms of protection for the Inventions in the United States or elsewhere. Supplier shall promptly disclose to Newmont full details concerning each Invention. All copyrightable subject matter prepared in connection with performance of the Services (but specifically excluding any of the same which was in existence as of the Effective Date or which is independently developed after the Effective Date by Supplier), whether by Supplier alone or with others, and all copyrights therein in the United States and other countries, shall be owned by Newmont. Each and every work and each and every contribution to a work prepared by Supplier in connection with performance of the Services that is eligible for copyright protection in the United States or elsewhere shall be a work made for hire. Notwithstanding the foregoing, Supplier hereby sells, assigns, and conveys to Newmont any and all right, title, and interest of Supplier in and to copyrights, including the right to make derivative works and all rights in relation to all mediums of expression now or hereafter known, to any and all works prepared in connection with performance of the Services, including any software, firmware, technical manuals, technical drawings, promotional materials, reports, and product and process specifications. Supplier shall deliver to Newmont a copy of each and every work eligible for copyright protection, and in the case of software and firmware, Supplier shall deliver to Newmont a copy of the source code and a flowchart or flowcharts reasonably demonstrating operation of the software or firmware. To the extent any deliverable provided to Newmont by Supplier pursuant to this Agreement contains any intellectual property other than Data or Inventions, Supplier hereby grants to Newmont and its affiliates a non-exclusive, irrevocable, perpetual, fully-paid, global license to use the same for the purpose of conducting Newmont's and its affiliates' internal business operations. Nothing in this Agreement shall be construed as limiting Supplier's ownership of or rights to use its basic know-how, experience and skills, and the experience and skills of its employees, whether or not acquired during performance of the Services, to perform services for any other party. Supplier shall take such further actions, including execution of documents, as reasonably requested by Newmont, and at Newmont's expense, to effectuate the purpose and intent of this Agreement with respect to the rights, ownership, and interests of Newmont provided in this Section 4, including cooperation with Newmont to prepare, file, and prosecute patent applications, to enforce patents, and to register and enforce copyrights, as well as to execute assignments, and other documents to establish or evidence Newmont's rights, ownership, and interests hereunder.

5. NONDISCLOSURE/NON-USE; DATA SECURITY.

A. Supplier shall not disclose to third parties, or use for purposes other than performing the Services, any Data, Inventions, or any other information that relates to the technical, legal, or business affairs or activities of Newmont or its affiliates which was obtained by or on behalf of Supplier in connection with the performance of the Services (collectively, "Confidential Information"), without the prior written consent of Newmont. Confidential Information shall not include information which: (i) is, or shall have been, in the possession of Supplier and not subject to a confidentiality obligation prior to Supplier's acquisition thereof in connection with the performance of the Services; (ii) through no act or omission of Supplier, becomes published or otherwise available to the public under circumstances such that the public may utilize the same without any direct or indirect confidentiality obligation to Newmont or its affiliates; or (iii) is acquired by Supplier from any third party rightfully in possession of the same and having no direct or indirect confidentiality obligation to Newmont or its affiliates with respect to the same; provided, however, that the foregoing exceptions shall not apply with respect to personally identifiable information regarding the employees or agents of Newmont or any of its affiliates or contractors (other than Supplier). All Confidential Information shall be delivered to Newmont or destroyed by Supplier, at Newmont's discretion, upon the termination or expiration of this Agreement or at any earlier time upon Newmont's request. Supplier shall not retain any copies of Confidential Information without Newmont's express written authorization. Notwithstanding the foregoing, Supplier may retain one archival hard copy of the Confidential Information for such period of time that Supplier normally retains archival hard copies, and such hard copy shall remain subject to this Section 5.A. until it is destroyed. In addition, if Supplier's computer system automatically retains back-up copies of Confidential Information, Supplier may retain such copies in Supplier's archival computer storage for the period of time that Supplier normally archives backed-up computer records, and such computer copies shall remain subject to this Section 5.A. until they are destroyed or erased. Supplier acknowledges that the Confidential Information is an important asset of Newmont and/or its affiliates and that there is not an adequate remedy at law for a breach by

Supplier of this Section 5.A. and Newmont and/or its affiliates will suffer irreparable harm as a result of such a breach. Therefore, Supplier agrees that Newmont and/or its affiliates shall be entitled to equitable relief, including temporary and permanent injunctive relief without the obligation of posting a bond (cash or otherwise), in the event of actual or threatened unauthorized disclosure or use of Confidential Information in breach of this Section 5.A.

B. If Supplier has any Confidential Information or other data owned by Newmont or any Newmont affiliate (collectively, "Sensitive Information") on Supplier's information technology systems, Supplier shall, for as long as any Sensitive Information resides on Supplier's information technology system: (i) employ industry-standard firewall and encryption protection for its information technology systems, and (ii) use commercially reasonable efforts to scan its information technology system for viruses and malware and promptly mitigate the effects of any viruses or malware detected. Supplier immediately shall notify Newmont if it becomes aware, or has reason to believe, that any breach of this Section 5.B. has occurred, that any unauthorized access to or use of, or any security breach relating to or otherwise affecting, any Sensitive Information has occurred, or that any person who has had access to Sensitive Information has violated or intends to violate the terms of this Agreement. Supplier shall, at its own expense, cooperate with Newmont in investigating and responding to the foregoing.

6. TIME OF PERFORMANCE. Supplier shall complete the Services in accordance with the time schedule (including the Milestones, if any) set forth in the Service Order. Supplier agrees that such time schedule is reasonable. Time is of the essence of this Agreement. If Supplier believes that the Services will not be completed in accordance with such Milestones and/or time schedule, Supplier promptly shall give Notice to Newmont of such anticipated delay. If such delay is due to Supplier's acts or omissions, Supplier, after consultation with Newmont, shall take such remedial steps as may be necessary, at Supplier's sole cost and expense, to expedite the Services so that the Services are completed in accordance with such Milestones and/or time schedule.

7. STATUS OF SUPPLIER; TAXES.

A. Supplier shall perform the Services as an independent contractor in accordance with its own methods, the terms of this Agreement, and applicable laws and regulations. Supplier shall have complete charge of its personnel engaged in the performance of the Services. No one employed or subcontracted by Supplier shall be deemed for any purpose to be an employee, agent, servant, worker, or representative of Newmont and shall not have authority to enter into agreements on behalf of Newmont or otherwise bind Newmont in any manner. No Supplier Party shall be eligible for any retirement plan, insurance program, or any other employee benefits provided to employees of Newmont. NO SUPPLIER PARTY SHALL BE ENTITLED TO ANY BENEFITS ON ACCOUNT OF OCCUPATIONAL ACCIDENTS NOR TO ANY OTHER WORKERS' COMPENSATION, LABOR RIGHTS BENEFITS, OR SIMILAR BENEFITS PROVIDED BY NEWMONT TO ITS EMPLOYEES. It is not the intent of the parties to create, nor shall this Agreement be construed as creating, a partnership, joint venture, employment relationship, agency relationship, or association, or to render the parties liable as partners, co-venturers, or principals.

B. Other than taxes, levies, or duties assessed upon and attributable to Newmont under express provisions of controlling law or as otherwise specifically set forth herein, Supplier assumes liability for and shall pay all taxes, levies, duties, and assessments of every nature due in connection with the Services performed and revenues received under this Agreement, including (i) income, withholding, franchise, business privilege, and occupational taxes, (ii) sales, use, and related excise taxes imposed on the Services and Supplier's property, (iii) employment and payroll, unemployment, worker's compensation, and related taxes, (iv) ad valorem taxes imposed on Supplier's property and its employees' and agents' property, and (v) interest and/or penalties imposed with respect to any of the above. Without limiting the generality of the foregoing, Supplier accepts any and all withholdings that Newmont may be obligated to make, pursuant to applicable law, from compensation payments to Supplier under this Agreement. If Supplier is exempt from any such withholding taxes, it shall make available to Newmont such documentation and other information as may be required by the applicable taxing authority in order to establish Supplier's exemption. Supplier shall indemnify, defend, and hold harmless each Newmont Party from and against any and all Claims, and all Losses related thereto, incurred in connection with Supplier's failure to pay such taxes, levies, duties, and assessments.

8. INSURANCE AND INDEMNITY.

A. Insurance.

(1) Supplier shall procure and maintain at its own expense, during the Term and for such additional periods of time as required below, the following insurance coverage:

a. Worker's Compensation and Employer's Liability Insurance, covering all claims by or in respect to the employees of Supplier providing:

(i) coverage for the statutory limits as required by applicable laws;  
(ii) sufficient endorsements to extend the full policy coverage to all areas in which operations or Services are to be conducted hereunder (including if applicable, international operations); and  
(iii) Employer's Liability Insurance with minimum limits of U.S. \$500,000 for all personal injuries and death in one accident.

b. Commercial General Liability insurance, with a limit of not less than U.S. \$1,000,000 each occurrence and \$2,000,000 annual aggregate. This Commercial General Liability insurance shall include:

(i) where an exposure exists, explosion, collapse, and underground (XCU) coverage; and

(ii) cross-liability coverage. If Supplier's liability policy(ies) does not contain a separation of insured provision, it shall be endorsed to provide cross-liability coverage.

Sections 8.A.(1)c. through A.(1)g., below, apply only if applicable, as specified within the language of each such section.

c. Automobile Liability Insurance, covering owned, non-owned, and hired vehicles which either are used by Supplier on Newmont Premises or are otherwise used in the performance of the Services, covering bodily injury and property damage, with a combined single limit of not less than U.S.\$1,000,000 each occurrence.

d. Comprehensive Aircraft Liability Insurance, if any of the Services involve use of a chartered or private aircraft, carried by Supplier or, if Supplier is not the owner of the aircraft, by the aircraft owner, including Passenger Liability without any seat limitation, with limits of not less than U.S.\$1,000,000 if Services are to be performed solely in Ghana, Peru, or Suriname, or U.S.\$4,000,000 if Services are to be performed solely outside of the aforementioned countries, per seat, combined single limit for bodily injury and property damage, per occurrence.

e. Professional Indemnity/Errors and Omissions Liability Insurance, for any of the Services which involve medical, legal, accounting, engineering, or similar types of professional services which are typically insurable under professional indemnity policies, covering liability for financial loss or damage due to an act, error, omission, breach of duty, or negligence resulting from errors or omissions in the delivery of professional services with a minimum limit per event of U.S.\$1,000,000 if Services are to be performed solely in Ghana, Peru, or Suriname, or U.S.\$5,000,000 if Services are to be performed solely outside of the aforementioned countries.

f. Medical, Accident, and Travel Insurance, covering all Supplier personnel who will travel, in connection with performance of the Services, outside of the individual's country of residence or to any mine site or exploration site, including coverage of any cost associated with comprehensive emergency medical evacuation, treatment, and repatriation, including repatriation of mortal remains and any costs related thereto. In the alternative, Supplier may choose to not obtain the insurance required by this Section 8.A.(1)f, in which event, Supplier shall indemnify, defend, and hold harmless each Newmont Party against and from any and all Claims and Losses incurred in connection with Supplier personnel traveling, in connection with the performance of the Services, outside of the individual's country of residence or to any mine site or exploration site; provided, however, that the foregoing indemnification shall not apply to the extent such Claim or Loss arises out of or is caused by Newmont's negligence or willful misconduct.

g. Marine Hull and Protection & Indemnity Insurance, if Supplier is chartering a vessel in connection with performance of the Services, for full loss or damage coverage of not less than the value of the vessel in use. All chartered vessels must be members of the International Protection & Indemnity Association Group.

(2) If Supplier is performing procurement Services under this Agreement, unless Supplier is otherwise directed by Newmont, Newmont shall arrange Marine Transit and/or Inland Transit Insurance coverage that insures all materials and equipment procured on Newmont's behalf that are transported by air, sea, or land from any place in the world to the site at which the Services are being performed or other approved point of delivery. If directed by Newmont, Supplier shall obtain such insurance.

(3) The forms of the policies, the companies issuing the same, and all other matters with respect to the adequacy of protection shall be subject to the prior and continuing approval of Newmont. Supplier shall deliver to Newmont, at least five business days prior to commencement of the Services, certificate(s) of insurance for all of the above-required insurance policies containing the following:

a. evidence that coverage is on an occurrence, not claims made, basis (not required for Professional Indemnity/Errors and Omissions Liability Insurance);

b. evidence that Newmont is listed as an additional insured or has its interest noted on the insurance policy with respect to the Commercial General Liability insurance, Automobile Liability insurance, and Comprehensive Aircraft Liability insurance and that Newmont Mining Corporation is listed as an additional insured or has its interest noted on the insurance policy with respect to Comprehensive Aircraft Liability insurance;

c. a statement that the insurance provider has waived subrogation rights with respect to Newmont (not required for Professional Indemnity/Errors and Omissions Liability Insurance); and

d. a statement that the policy will not be materially changed or canceled without at least 30 days' prior written notice, by registered or certified mail, to Newmont.

(4) The effecting of the insurance set out herein shall not in any way limit, alter, or affect the liability and obligations of Supplier under this Agreement. Notwithstanding anything herein to the contrary, any policies written on a claims made basis must provide cover in respect of claims arising out of this Agreement for at least seven years from the expiration or termination of this Agreement.

(5) In the event that Supplier is permitted to subcontract any of the Services, Supplier shall require the types and



limits of insurance coverage set forth in this Section 8.A. (or such other coverage as may be acceptable to Newmont) from its subcontractors and shall require and ensure that subcontractors certify insurance coverage to Newmont prior to commencement of any Services. In the event that any supplier of Supplier is going to go onto Newmont's Premises in connection with the Services, Supplier shall require the types and limits of insurance coverage set forth in Sections 8.A.(1) a., b., and c. (or such other coverage as may be acceptable to Newmont) from such supplier and shall require and ensure that such suppliers certify insurance coverage to Newmont prior to commencement of any Services.

(6) If Supplier fails to effect or keep in force any of the insurance required by this Agreement, Newmont may, but is not obligated to, effect and keep in force any such insurance and pay such premiums as may be necessary for that purpose and may recover as a debt due from Supplier the amount so paid or may deduct the amount so paid from any amount due or becoming due to Supplier, or in the alternative, suspend payment of amounts owed to Supplier until Supplier obtains the required insurance.

(7) Supplier shall effect all insurance policies required under this Section 8.A. with insurance providers that have a Best rating of B+ XII (or equivalent) or better. Should any insurance company which is providing insurance required by this Agreement fall below a Best B+ XII (or equivalent) rating, Supplier shall promptly give Notice to Newmont and, as soon as practicable, effect coverage with another insurance provider that has a Best rating of B+ XII (or equivalent) or better.

(8) Supplier may insure or self-insure its tools and equipment as it deems appropriate. Whether Supplier insures or self-insures such tools and equipment, Supplier hereby releases from liability, and waives all rights of recovery (including rights of subrogation) from and against, each Newmont Party for all loss or damage to such tools and equipment irrespective of the theory upon which any claim is brought. Supplier shall include in all subcontracts a provision equivalent to this Section 8.A.(8) affording each Newmont Party a release from and waiver of liability for loss or damage to subcontractors' tools and equipment.

B. Supplier shall indemnify, defend, and hold harmless all Newmont Parties from and against any and all Claims and Losses, including: (i) injury, bodily or otherwise, to or death of persons; (ii) damage to or destruction of property belonging to Supplier, Newmont or others; (iii) violation of any law, regulation, decree, code, ordinance, or other act of any governmental authority; and (iv) environmental liabilities, to the extent the same arise out of or are caused by Supplier's breach of this Agreement or any Supplier Party's or Supplier invitee's acts, omissions, or performance of the Services; provided, however, that the foregoing shall not apply to the extent such Claim or Loss arises out of or is caused by Newmont's negligence or willful misconduct.

C. Supplier represents and warrants to Newmont that neither Supplier's performance of the Services nor Supplier's use of materials, methods, products, or equipment in performance of the Services will infringe any third party patents or violate any trademarks, copyrights, trade secrets, or other intellectual property rights, or cause any Newmont Party to be liable for any fees or royalties arising under any of the same. Supplier shall indemnify, defend, and hold harmless each Newmont Party from and against any and all Claims of patent infringement or violation of trademarks, copyrights, trade secrets, or other intellectual property rights and all Losses related thereto arising from the performance of the Services or use of materials, methods, products, or equipment in the performance of the Services by any Supplier Party or Newmont's use of any materials, methods, products, or equipment provided to Newmont by Supplier in connection with the Services.

## 9. TERMINATION; EXPIRATION.

A. Newmont may terminate this Agreement and/or the Services being performed hereunder by giving Notice of such termination to Supplier. Upon receipt of such Notice, Supplier shall stop all work related to the terminated Services on the date specified in the Notice. Newmont shall pay Supplier for the applicable Services performed and expenses incurred to the date of such termination, subject to Section 3. Newmont shall not be liable to pay any bonus, damage, or other claim asserted by Supplier for its expected profit on the terminated portion of such Services.

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

C. Newmont may suspend performance of all or any portion of the Services at any time by providing 15 days' prior Notice of such suspension to Supplier. Upon receipt of such Notice, Supplier shall (i) cease performance of the Services to the extent specified in the Notice and on the date and time specified, and (ii) take such other action as is specified in the Notice or as may be necessary to minimize costs associated with the suspension. Upon receipt of a Notice from Newmont to resume the Services, Supplier shall resume performance of the Services as specified in such Notice and subject to the terms of this Agreement. Provided Supplier has complied with the foregoing requirements, Supplier will, as full compensation for the suspension, be paid (a) a standby charge, in such amount as may be mutually agreed to by the parties, for Supplier to keep its organization, personnel, and equipment committed to the Services on a standby basis, and (b) the actual amount of reasonable out-of-pocket costs incurred by Supplier for demobilizing and remobilizing its personnel and equipment. Supplier shall invoice Newmont for such costs and Newmont shall pay such costs in accordance with the provisions of this Agreement.

10. ASSUMPTION OF RISK. Supplier hereby expressly acknowledges that (a) certain Newmont Premises are operational mine sites, plant sites, exploration sites and/or laboratories which, in the normal course of business, contain certain physical conditions which are, by their inherent nature, dangerous, including blasting operations, open pits, high walls, heavy machinery, high-

voltage electrical equipment, and other chemical and industrial hazards ("Inherent Dangers"), (b) it has had the opportunity to undertake any desired investigation of such sites, and (c) it is fully aware of and understands the risks associated with its performance of the Services at a site with Inherent Dangers and hereby assumes all risks associated with the performance by Supplier Parties of the Services, and the presence of Supplier invitees, at such a site to the extent the same are caused by any Inherent Danger (collectively, "Assumed Risks"). Supplier (i) discharges and releases each Newmont Party from any and all Losses of any nature whatsoever that Supplier, or any Supplier Party or Supplier invitee claiming through Supplier, may have now or in the future as a result of Assumed Risks; and (ii) covenants that Supplier shall not at any time in the future, directly or indirectly, commence or prosecute against any Newmont Party any Claim for Losses incurred as a result of Assumed Risks; provided, however, that the foregoing release and covenant shall not apply with respect to Losses to the extent caused by Newmont's gross negligence or willful misconduct.

11. EVACUATIONS. It is possible that Newmont, in its reasonable discretion, may determine that an evacuation of any or all personnel from a Newmont worksite or other work location (a "Site") is necessary for health, safety, or any other reason (an "Evacuation"). Under such circumstances, Newmont generally employs the services of one or more third party contractors ("Evacuation Providers") to carry out all aspects of the Evacuation. In such event, Newmont shall use reasonable, good faith efforts to notify Supplier of the impending Evacuation and, either at the request of Supplier or of Newmont safety personnel, in the event of a safety emergency, or at the request of Supplier, medical personnel, or Newmont health and safety personnel, in the event of a medical emergency, Newmont shall use reasonable, good faith efforts to notify the Evacuation Providers of the presence of Supplier Party personnel or invitees at the Site and direct Evacuation Providers to provide, at Supplier's sole expense, evacuation services (of a substantially similar type as that provided to Newmont's personnel) to Supplier Party personnel or invitees ("Evacuation Services"). Supplier hereby assumes all risks of and responsibility for any Losses (including damage (property or otherwise), injury, or death), excluding, however, any of the same to the extent caused by the gross negligence or willful misconduct of Newmont, to any Supplier Party personnel or invitees based on or arising out of any Evacuation Provider's provision or lack of provision of Evacuation Services (collectively, "Evacuation Injuries"). Supplier (i) hereby discharges and releases each Newmont Party from any and all Claims and Losses, of any nature whatsoever, that Supplier or any Supplier Party or Supplier invitee claiming through Supplier may have now or in the future as a result of Evacuation Injuries, (ii) covenants that Supplier shall not at any time in the future, directly or indirectly, commence or prosecute any action, suit, or other proceeding against any Newmont Party related to the same, and (iii) shall indemnify and hold harmless each Newmont Party from and against any and all third party Claims, and shall reimburse each Newmont Party for any and all Losses reasonably incurred by such Newmont Party in connection with investigating, mitigating or defending against any such third party Claims, which Claims or Losses are sustained or incurred by or asserted against any of them and arise out of, in connection with, or are based on allegations, whenever made, related to the Evacuation Services or Evacuation Injuries, excluding, however, any such Claims or Losses to the extent caused by the gross negligence or willful misconduct of Newmont. In addition, Supplier acknowledges that any and all Evacuation Services shall be provided at Supplier's sole cost and expense and Supplier shall be solely liable to Evacuation Providers for all such costs and expenses. If any Evacuation Providers charge Newmont for provision of Evacuation Services to Supplier Party personnel or invitees, Supplier shall promptly, upon receipt of an invoice from Newmont, reimburse Newmont for the same. If such charge includes amounts due for services provided to non-Supplier Party personnel/invitees, Supplier shall be responsible only for its pro rata share thereof (based on the number of Supplier Party personnel and invitees evacuated in relation to all personnel evacuated).

12. ASSIGNMENT; SUBCONTRACTORS. This Agreement is a contract for Supplier's unique services and, therefore, Supplier may not assign or subcontract this Agreement to any third party without the prior written consent of Newmont. If Newmont consents to Supplier's use of a subcontractor for performance of all or any portion of the Services, Supplier nevertheless is and shall remain fully responsible for compliance with all provisions of this Agreement by, and the acts and omissions of, such subcontractor and all of its personnel. In addition, Supplier shall ensure that each such subcontractor's agreement requires the subcontractor specifically to comply with the provisions set forth in Sections 2.C., 2.H., 2.J., 2.N., 4, 5, 8.A., 9.B., 10, 11, and 17 of this Agreement as if such subcontractor were the "Supplier" hereunder. This Agreement shall be binding upon and inure to the benefit of the parties' respective successors and permitted assigns.

13. ENTIRE AGREEMENT; SEVERABILITY. This Agreement constitutes the complete and entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes, merges, and voids all negotiations, prior discussions, and prior agreements and understandings, whether written or oral, relating to the subject matter hereof. This Agreement may not be altered or amended except by a written document executed or otherwise legally accepted by each party. Should any Section or provision of this Agreement be held or deemed unenforceable or illegal by any court or other final authority, the remaining provisions of this Agreement shall survive and be fully enforceable as if the unenforceable or illegal provision was never included herein.

14. FORCE MAJEURE. Neither Newmont nor Supplier shall be considered in breach of its obligations hereunder to the extent that performance or the need for performance is delayed or prevented by an act of God or a public enemy, fire, flood, area-wide strike, freight embargo, unusually severe weather, or similar type of circumstance beyond such party's reasonable control; provided that the party claiming force majeure shall, within 10 days from the beginning of such event, give Notice to the other party of the fact of the event and its probable effect on performance. A force majeure event shall not be a basis for a claim for additional compensation, and each party shall bear its own costs and expenses associated with or caused by such an event. The party claiming force majeure shall take reasonable measures to mitigate the potential impact of the force majeure event on performance of obligations created by this Agreement.

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

16. **NOTICE.** All notices and other required communications under this Agreement ("**Notices**") shall be in writing, and shall be sent to the addresses set forth below, if to Newmont, and to Supplier's address as set forth in the Service Order, if to Supplier. A party may change its Notice address by sending Notice to the other party of the new address. Notices shall be given: (a) by personal delivery to the other party; (b) by facsimile, with electronic delivery confirmation received; (c) by registered or certified mail, return receipt requested; or (d) by express courier (e.g., DHL, Federal Express, etc.). Notices shall be effective and shall be deemed delivered: (i) if by personal delivery, on the date of the personal delivery; (ii) if by facsimile, on the date stated in the electronic confirmation, delivered during normal business hours (8:00 a.m. to 5:00 p.m. at recipient's location) and, if not delivered during normal business hours, on the next business day following delivery; (iii) if solely by mail, on the date of receipt as stated on the return receipt; or (iv) if by express courier, on the date signed for or rejected as reflected in the courier's delivery log.

Notice address for Newmont:

**[NAME OF NEWMONT ENTITY WHICH IS PARTY TO THIS AGREEMENT]**

6363 S. Fiddler's Green Circle, Suite 800  
Greenwood Village, CO 80111  
Attn: Global Supply Management  
Fax Number: (303) 837-5801

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

Newmont USA Limited  
6363 S. Fiddler's Green Circle, Suite 800  
Greenwood Village, CO 80111  
Attn: Legal Department  
Fax Number: (303) 837-5810

17. **PUBLICITY.** Supplier shall not make news or media releases or issue other advertising pertaining to the Services, this Agreement, or otherwise referencing the name or logo of Newmont or any of its affiliates without the prior written consent of Newmont.

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

19. **AUDIT AND RECORD RETENTION.** Supplier shall maintain a true, correct, and complete set of records, including books and accounts, prepared in accordance with generally accepted accounting principles consistently applied, relating to the costs and, if reimbursable, expenses for which Supplier seeks compensation or reimbursement under this Agreement, including time expended by Supplier and payments to any subcontractors and suppliers, as well as all other records relating to the Services or Equipment which may be required by applicable legal requirement (e.g., hazardous material handling records). Such records shall be made available to audit, inspect, and copy by Newmont or its designated representative during the Term and for a period of five years following termination or expiration of this Agreement, upon 24 hours' prior Notice, and during business hours (8:00 a.m. to 5:00 p.m. where the records are kept).

20. **NONWAIVER; CONSTRUCTION.** The failure of Newmont or Supplier to insist upon or enforce strict performance of any of the terms of this Agreement or to exercise any rights herein shall not be construed as a waiver or relinquishment to any extent of Newmont's or Supplier's respective right to assert or rely upon such terms or rights. A waiver shall not be effective unless it is evidenced by a written document executed by the party waiving the term or right. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

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

1. Sections 1 to 21 of these Service Terms and Conditions;
2. Change Orders, if any; then
3. the Service Order.

**\\END OF DOCUMENT//**