

Corporate Grantee Exploration Access and Heritage Agreement

Between

**Wajarri Yamaji Aboriginal Corporation RNTBC
(the Native Title Party)**

and

**Ngoonooru Wajarri Land Committee
(the NWLC)**

and

**[insert name of company] ACN: [insert ACN number]
(the Grantee)**

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This Agreement is made the _____ day of _____ 2021

Between:

Wajarri Yamaji Aboriginal Corporation RNTBC ICN 7878 of (INSERT ADDRESS) Western Australia
(the “Native Title Party”)

and

Ngoonooru Wajarri Land Committee (INSERT ADDRESS)
(the “NWLC”)

and

(insert company name) (ACN insert) of (insert address)
(“the Grantee”)

RECITALS:

- A The Grantee has made tenement applications to the Department of Mines, Industry Regulation and Safety of Western Australia for the tenements listed in **Schedule 1** to this agreement [“the Tenements”].
- B The Tenements are located wholly or partially within the Determination Area.
- C The Native Title Party holds the native title rights and interests of the Wajarri native title holders pursuant to the NTA.
- D The NWLC has endorsed the Native Title Party as its Heritage Service Provider.
- E Given that the parties have entered into this Agreement, subject to the Grantee’s ongoing compliance with the Agreement, the Native Title Party will not lodge Objections to the grant and use of the Tenements and will withdraw any existing Objections
- F The parties have entered into this Agreement to ensure:
 - a.a the expeditious grant and validity of the Tenements without Objection by the Native Title Party;
 - a.b that the grant of the Tenements will not interfere with the community life of the members of the Native Title Party, will not cause damage, disturbance or interference to areas or sites of particular significance to the members of the Native Title Party, will not involve major disturbance to any land or waters in the Determination Area, and that all work done pursuant to the Tenement is in compliance with the provisions of the Heritage Act and the Federal Heritage Act; and

- a.c if the Grantee is specifically exploring for uranium, or the Low Impact Exploration and/or Exploration Activity generally includes uranium exploration to any extent, then the Grantee shall be bound by the clauses in **Schedule 5** (*Uranium Exploration Conditions*).
 - a.d that environmental impact or possible environmental impact by Low Impact Exploration and/or Exploration Activity is avoided or minimised.
- d.F For the avoidance of doubt, Heritage Surveys and Heritage Due Diligence Inspections and Monitoring conducted pursuant to this Agreement will be for the purpose of locating Aboriginal Sites which are to be avoided by the Grantee unless the NWLC, through the HSP, consents to a Section 16 and/or Section 18 Notice.
- d.G From time to time the NWLC will review its decisions about who are the appropriate Heritage Service Providers for the Ngoonooru Wajarri portion of the Determination Area and for this Agreement.
- d.H The current HSP as at the date of entry into this Agreement is the Native Title Party and it was appointed as HSP for the Ngoonooru Wadjari people by resolution at its meeting on 13 August 2020.
- d.I The Parties agree that any HSP has the functions and duties of the HSP as set out in this Agreement and has authority to carry out same.

NOW IT IS AGREED:

1 Definitions and Interpretation

In this Agreement, the following words have the following meanings:

Aboriginal Object means:

- a Any significant natural or created object of spiritual, sacred, ritual or ceremonial importance to persons of Aboriginal descent, including members of the Native Title Party, in accordance with their traditional laws or customs, or which is or was used for, or made or adapted for use for, any purpose connected with the traditional cultural life of the Aboriginal people past or present, including members of the Native Title Party; or
- b any significant natural or created object of ethnographical, archaeological or other special national or local interest, or of outstanding aesthetic value connected with the traditional cultural life of the Aboriginal people past or present, including members of the Native Title Party.

Aboriginal Site means:

- a any "Aboriginal Site" and "heritage place" as defined in the *Aboriginal Heritage Act 1972 (WA)* including any site or place of cultural significance to the members of the Native Title Party; or
- b any "Significant Aboriginal Area" or "Significant Aboriginal Object" as defined in the Federal Heritage Act;

whether recorded or not.

ACMC means the Aboriginal Cultural Material Committee referred to in the Heritage Act.

Affected Area means the part or parts of the Tenements that overlaps the Ngoonooru Wajarri portion of the Determination Area from time to time.

Agreement means this document, including the recitals and schedules, as amended from time to time by agreement in writing of the Parties.

Anthropologist means a suitably qualified person contracted by the Heritage Service Provider to carry out an Ethnographic Survey, or such other suitably qualified person as may be appointed by the NWLC and/or Native Title Party to perform that function.

Approved Costs and Expenses has the meaning defined in clause 14.1.

Archaeological Survey means a survey conducted by an Archaeologist to identify and assess an archaeological Aboriginal Site and/or Aboriginal Object or potential archaeological Aboriginal Site, and/or Aboriginal Object for the purposes of preparing a Survey Report in accordance with the terms of this Agreement.

Archaeologist means a suitably qualified person contracted by the Heritage Service Provider to carry out an Archaeological Survey, or such other suitably qualified person as may be appointed by the NWLC and/or Native Title Party to perform that function.

Calendar Quarter means a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October in any year.

Determination means the various Federal Court determinations on Wajarri native title claims during 2017, 2018 and 2021

Determination Area means the land and waters from time to time the subject of the Determination.

Cleared means Low Impact Exploration Activity and/or Exploration Activity that has been cleared to proceed by members of the Native Title Party in a Due Diligence Inspection team and/or Heritage Survey team and/or through Monitoring following completion of a Due Diligence Inspection and/or a Heritage Survey and/or Monitoring because such activity will not be impacting any Aboriginal Objects and/or Aboriginal Sites.

CPI means, in respect of a Calendar Quarter, the Consumer Price Index Groups index number for the weighted average of 8 capital cities published by the Australian Bureau of Statistics (excluding the GST impact) for that Calendar Quarter.

Current Work Program means any Low Impact Exploration and/or Exploration Activity described in a Heritage Notice that the Grantee identifies as activity it has planned and intends to conduct.

DPLH means the Western Australian State Government Department administering the Heritage Act, which as at the date of this Agreement is the Department of Planning,

Lands and Heritage.

Due Diligence Inspection means an inspection of the Affected Area or portion of the Affected Area in accordance with clause 11 of this Agreement.

Due Diligence Inspection Report means a report arising out of a Due Diligence Inspection as set out in clause 11.6.

Ethnographic Survey means a survey conducted by an Anthropologist to identify and assess an ethnographic Aboriginal Site or potential ethnographic Aboriginal Site, for the purposes of preparing a Survey Report in accordance with the terms of this Agreement.

Exploration Activity means any activity that may be lawfully conducted on the Tenement under the Mining Act, including the right to enter upon the Tenement with vehicles, machinery and equipment to explore, which includes digging pits, trenches and holes and sinking bores, but excludes Low Impact Exploration Activity.

Exploration Tenement means a miner's right, section 40E permit, special prospecting licence, prospecting licence or exploration licence as defined in the Mining Act.

Federal Heritage Act means the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth).

Final Survey Report means a final version report arising out of a Heritage Survey as set out in clause 15 and **Schedule 4**.

Heritage Act means the *Aboriginal Heritage Act 1972* (WA).

Heritage Information means information provided by members of the Native Title Party during the course of or in relation to a Due Diligence Inspection, Monitoring and/or a Heritage Survey including that information contained in any report.

Heritage Notice means a notice issued to the Heritage Service Provider by the Grantee pursuant to clause 8 substantially in the form in **Schedule 2**.

Heritage Officer means the Ngonorru Wajarri heritage officer appointed from time to time by the NWLC who coordinates and arranges heritage processes under this Agreement in consultation with the HSP and the Grantee, including review and editing of all draft reports.

Heritage Service Provider (or HSP) means:

- a the person or entity from time to time nominated by the NWLC to perform the heritage service functions necessary to implement this Agreement and notified to the Grantee in writing and, for the avoidance of doubt, does not include any similarly qualified person who is not nominated or recognised, or has ceased to be nominated or recognised, by the NWLC; or
- b in the absence of any person or entity nominated by the NWLC in accordance with (a), or where the person or entity nominated by the NWLC in accordance with (a)

fails to comply with the obligations of the Heritage Service Provider under this Agreement, the NWLC.

Heritage Survey means an Archaeological Survey and/or an Ethnographic Survey conducted pursuant to this Agreement.

Low Impact Exploration Activity includes geological mapping; traversing land on foot or light vehicles; establishing tent or caravan camps of a temporary nature; metal detecting; rock chipping; hand specimen and water and soil and drainage sampling, only using hand-held tools; non-ground disturbing ground and field inspections, investigations and surveys (including engineering, mapping, heritage and environmental); non-ground disturbing geophysical surveys including electrical and magnetic surveys ; use, maintenance and rehabilitation of existing roads and tracks; incidental activities; and such other activities as the Parties may agree upon from time to time.

Map means a map of the area the subject of the proposed Heritage Survey, on the scale of 1:250,000 or greater depicting relevant cadastral and topographic features.

Mining Act means the *Mining Act* 1978 (WA).

Monitor means any traditional owner who holds suitable knowledge and authority nominated by the Native Title Party to monitor potential impacts of the Grantee's activities in proximity to Aboriginal Sites within the Affected Area, in accordance with clause 16 of this Agreement.

Monitoring is the monitoring of Low Impact Exploration Activity and/or Exploration Activity by Monitors.

Monitors Report means a report arising out of Monitoring as set out in clause 16.7.

Not Cleared means Low Impact Exploration Activity and/or Exploration Activity that has not been cleared to proceed by members of the Native Title Party in a Due Diligence Inspection team and/or Heritage Survey team and/or by Monitors following completion of a Due Diligence Inspection and/or a Heritage Survey and/or Monitoring because such activity may or will impact any Aboriginal Objects and/or Aboriginal Sites.

NTA means the *Native Title Act* 1993 (Cth).

NWLC means the land committee of that name established and varied from time to time under the Native Title Party's rule book.

Objection includes any objection under section 32(3) of the NTA to the inclusion in a notice under section 29 of the NTA of a statement that an act is an act attracting the expedited procedure; or to the grant of a Tenement under the provisions of the Mining Act.

Parties or parties means the parties to this Agreement and their respective successors and permitted assigns. Where under clause 26.2(b) any additional grantee

parties are permitted by the Native Title Party to join the Agreement, **Parties** or **parties** refers to them too.

Preliminary Advice means a draft report arising out of a Heritage Survey which identifies which areas are Cleared or Not Cleared for the conduct of the proposed Exploration Activity or Low Impact Exploration Activity.

Proponent Performance Register means any such public register established by or for the NWLC by the Native Title Party that records the performance and behaviour of the Grantee and other proponents such as government agencies, prospectors, explorers and miners and other third party land users.

Protected Area has the same meaning as in the Heritage Act.

Register means the Register of Native Title Claims established and maintained in accordance with Part 7 of the NTA.

Section 16 and/or Section 18 Notice means an application or notice to the DPLH under the Heritage Act to disturb or destroy Aboriginal Objects and/or Aboriginal Sites and includes any equivalent process under any future Aboriginal heritage legislation.

Tenement(s) means the **[insert exploration licence/prospecting licence]** applications specified in **Schedule 1** pursuant to the Mining Act, depicted on the colour topographic map(s) attached to this agreement as **Schedule 6**, and includes any renewal, replacement, substitution or variation of the same.

2 Interpretation

Headings and margin notes are for convenience only and do not affect interpretation. The following rules also apply in interpreting this Agreement unless the context makes it clear that a rule is not intended to apply:

- 2.1 Words defined in the NTA and the Heritage Act have the same meaning in this Agreement.
- 2.2 A reference to a document, agreement or instrument is to that document, agreement or instrument as varied, amended, supplemented, or replaced.
- 2.3 The singular includes the plural and conversely.
- 2.4 Any reference to gender includes both genders.
- 2.5 If a word is defined, its other grammatical forms have a corresponding meaning.
- 2.6 A reference to a person includes any corporation, trust, partnership, unincorporated body or other entity, whether or not it is incorporated or has a separate legal entity.
- 2.7 A reference to a clause or Schedule is a reference to a clause or schedule of this Agreement.

- 2.8 A reference to a Party or party to this Agreement or another agreement or document includes the Party's successors, permitted substitutes and permitted assigns (and, where applicable, to a Party's legal personal representatives).
- 2.9 A reference to legislation or to a provision of legislation is a reference to that legislation as amended, replaced or re-enacted and includes any subordinate legislation issued under it.
- 2.10 A reference to conduct includes, without limitation, an omission, statement or undertaking, whether or not it is in writing.
- 2.11 'Including' means including but not limited to, and other grammatical forms of 'including' have a corresponding meaning.
- 2.12 A reference to anything is a reference to the whole of or any part of it and a reference to a group of persons is a reference to one or more of them.
- 2.13 Reference to "members of the Native Title Party" refers to members of the Ngoonooru Wajarri people.
- 2.14 Reference to the "NWLC" in this Agreement is reference to the appointed heritage management delegates of the NWLC as may be appointed from time to time.
- 2.15 Although a HSP is not a formal Party to this Agreement, it is agreed by the parties that it has the full authority to conduct the functions and duties of the HSP as set out in this Agreement and such other role under the Agreement, if any, as determined from time to time by the NWLC and notified to the Grantee.

3 Time

- 3.1 The Parties must co-operate to complete the processes contemplated by this Agreement expeditiously.
- 3.2 The Grantee acknowledges that:
 - 3.2.1 members of the Native Title Party may have cultural obligations which will necessitate a reasonable extension of some of the time frames specified in this Agreement, to take account of those cultural obligations; and
 - 3.2.2 disputes between the Grantee and the HSP, if any, are to be resolved between them as quickly as possible.

4 Authorities

- 4.1 The directors and NWLC members signing this Agreement warrant that they have been authorised to execute this Agreement.
- 4.2 The NWLC warrants that the HSPs as validly authorised from time to time and notified to the Grantee in writing by the NWLC are authorised to arrange the conduct of Heritage Surveys, Due Diligence Inspections and Monitoring within

the Determination Area and to otherwise fully implement this Agreement for and with the NWLC and the Native Title Party.

5 Role of the HSP

- 5.1 The NWLC will ensure that there is a Heritage Service Provider to perform heritage surveys and related functions under this Agreement, noting that the current HSP is the Native Title Party.
- 5.2 For the avoidance of doubt, where no Heritage Service Provider is appointed, or where the Heritage Service Provider fails to comply with its obligations under this Agreement, the NWLC shall be directly responsible for performance of the Heritage Service Provider's obligations under this Agreement.
- 5.3 The NWLC may appoint new Heritage Service Providers from time to time and if so will notify the Grantee in writing as to the new HSP.
- 5.4 The NWLC will ensure that any HSP that is replaced will cooperate in any required handover to a new HSP so as to minimise any material delays or other negative impact on the Parties.

6 Exchange and Provision of information

- 6.1 The Parties acknowledge the importance of a regular flow of information between the Grantee and the Native Title Party, through the HSP, to ensure that people within the members of the Native Title Party and the HSP know what is going on, to avoid misunderstandings and to enable informed decisions to be made. In accordance with this objective:
 - 1.a The Grantee will provide the Heritage Service Provider with an annual scope of works outlining the proposed nature, location and timing of Exploration Activities and Low Impact Exploration Activities on the Affected Area proposed for that year , prior to conducting those activities. Such scope of works will also include the type of inspection or survey proposed by the Grantee where known, with this Agreement enabling work area, work programme, site avoidance, and agreed fit for purpose Heritage Surveys.
 - 1.b The Grantee will provide reasonable notice to the Heritage Service Provider of any changes to the scope of Exploration Activities and Low Impact Exploration Activities notified under clause 6.1(a).

- 1.c Where, as a result of receiving the above information, the Heritage Service Provider and/or the NWLC becomes aware of any particular cultural heritage and/or environmental impacts concerns arising from a proposal to conduct the relevant Exploration Activity and/or Low Impact Exploration Activity, the Heritage Service Provider and/or the NWLC will raise those concerns with the Grantee as soon as reasonably practicable and the Grantee, in consultation with the HSP and the NWLC, must address those concerns in a manner that ensures that any impacts to Aboriginal Sites and/or to the environment as a result of the proposed Exploration Activity and/or Low Impact Exploration Activity will be avoided.
- 6.2 The Heritage Service Provider is required to keep the heritage co-ordinator of the NWLC and/or Native Title Party informed of:
- 2.a Clause 6.1 information;
 - 2.b Heritage Survey requests (including through provision of a Heritage Notice);
 - 2.c Heritage Survey Reports;
 - 2.d Details of completed Heritage Surveys including but not limited to participants, recommendations/conditions, maps and plans and outcomes; and
 - 2.e Outcomes of Due Diligence Inspections and Monitoring

and if the Grantee, acting reasonably, has doubts about the Heritage Service Provider's compliance with this clause it may raise that direct with the HSP and, subject to first raising those doubts with the HSP and providing the HSP with a reasonable opportunity to address such doubts, may then raise such doubts directly with the NWLC and/or Native Title Party (and notify the HSP that it has done so).

7 Additional Specific Obligations and Acknowledgements of the Grantee

- 7.1 Additional specific obligations of the Grantee throughout the term of this Agreement include:
- 1.a funding and facilitating Heritage Surveys and other heritage management processes set out in this Agreement with the involvement of the Heritage Service Provider in accordance with the terms of this Agreement;
 - 1.b ensuring that Heritage Surveys, Monitoring and Due Diligence Inspections are conducted in accordance with the Grantee's obligations under the Agreement and in accordance with the terms of this Agreement;

- 1.c ensuring that any Due Diligence Inspection Report, Monitoring Report and Final Survey Report is fully complied with at all times by the Grantee, its staff, contractors and invitees (including farm in/farm out and joint venture persons and entities) and in accordance with the terms of this Agreement;
- 1.d providing to the HSP the contact details of all third party applicants for or holder of an Exploration Tenement within the boundary of the Tenement;
- 1.e on the written request of the HSP, notifying such third party applicants to contact the HSP to make heritage management and protection arrangements;
- 1.f on the written request of the HSP, not approving fossicking on the Tenement by a third party without the prior written consent of the HSP;
- 1.g on the written request of the HSP, either separately or with the HSP (at the election of the HSP), making submissions to the relevant mining registrar to procure heritage and environmental management protection conditions (or such other reasonable conditions proposed by the HSP) on section 40E Mining Act permits;
- 1.h on the written request of the HSP, and in consultation with the HSP, making a written statement regarding minimising or avoiding the impacts of activities under a section 40E Mining Act permit that is provided to permit applicants and holders; and
- 1.i immediately reporting to the HSP any Aboriginal Object, Aboriginal Site and /or environmental impacts, or possible impacts, believed to have been caused, or suspected to have been caused, by third party Exploration Tenement holders, including reporting to the HSP the identity of the third party if known or suspected.

7.2 The Grantee acknowledges that:

- 2.a the members of the Native Title Party's traditional laws and customs include obligations in relation to protection and management of the environment within the Affected Area;
- 2.b Clearance for the conduct of Low Impact Exploration Activity and/or Exploration Activity under this Agreement may include reasonable conditions, proposed by the members of the Native Title Party through the HSP, relating to protection of the environment in accordance with the members of the Native Title Party's traditional laws and customs, and the Grantee agrees to comply with same;
- 2.c its activities on the Tenement and its compliance, or not, with this Agreement (including the compliance or not of its joint venturers

and farm in/farm out proponents) will be recorded through the HSP on the Proponent Performance Register;

- 2.d If the NWLC has any concerns regarding the Grantee Party's compliance with this Agreement (including regarding compliance with any conditions included in Survey Reports or other heritage management reports), it will notify the HSP and the Native Title Party and the Heritage Service Provider will raise those concerns with the Grantee Party. The Grantee Party will consult with the Heritage Service Provider and the Native Title Party and take reasonable steps to address the concerns raised. The Parties acknowledge and agree that, if the Native Title Party's concerns are not addressed to the satisfaction of the Native Title Party, the Native Title Party may issue a Dispute Notice under clause 23 of this Agreement in relation to the concerns and, both parties acknowledging clause 9.2, may also take other steps to secure redress including to indicate concerns associated with the Grantee within the Proponent Performance Register.

8 The Heritage Notice

- 8.1 If the Grantee intends to undertake Low Impact Exploration and/or Exploration Activity in the Affected Area, it must issue a Heritage Notice to the Heritage Service Provider, including the information in the form stipulated in Schedule 2. The purpose of a Heritage Notice is to provide information about the proposed Grantee activity, and to determine whether a Heritage Survey, Due Diligence Inspection and/or Monitoring is required by the HSP and, with regard to a Heritage Survey, what kind of proposed survey methodology.

9 Circumstances when no Heritage Survey or Due Diligence Inspection and/or Monitoring required

- 9.1 A Heritage Survey or Due Diligence Inspection and/or Monitoring need not proceed where:
- (a) after consultation the Parties so agree; or
 - (b) A Heritage Survey consisting of both an Ethnographic Survey and an Archaeological Survey or Due Diligence Inspection and/or Monitoring has already been conducted by the Grantee with the Native Title Party over the relevant portion of the Affected Area and the Native Title Party and the HSP agree that that Heritage Survey or Due Diligence Inspection and/or Monitoring has Cleared the same activities and the same location the subject of the new Heritage Notice.
- 9.2 Nothing in this Agreement purports to authorise any act or omission that would be in breach of the Heritage Act and, subject to clause 25, the Parties may

otherwise publicly express any concerns or issues arising under this Agreement, and otherwise reserve all of their rights at law.

10 Considering the Heritage Notice

- 10.1 Where the Grantee submits a Heritage Notice, the following will apply:
- 1.a where no previous Heritage Survey or Due Diligence Inspection and/or Monitoring (whether under this Agreement or otherwise) has been undertaken in relation to the area of the proposed Low Impact Exploration Activity and/or Exploration Activity, a Heritage Survey or Due Diligence Inspection is required unless otherwise agreed;
 - 1.b where a previous Heritage Survey or Due Diligence Inspection has occurred on the Tenement, but has not covered the Low Impact Exploration Activity and/or Exploration Activity and location the subject of the Heritage Notice, a Heritage Survey or Due Diligence Inspection is required, unless otherwise agreed;
 - 1.c where this Agreement does not deal with the particular circumstance, there is a presumption that a Heritage Survey or Due Diligence Inspection is required, unless otherwise agreed.
- 10.2 Where the proposed activity is confined to Low Impact Exploration Activity, no Heritage Survey will be required unless otherwise agreed, but a Due Diligence Inspection and/or Monitoring may be required and will be done where required by the NWLC and/or the HSP where either of them are of the view that Aboriginal Objects and/or Aboriginal Sites may be impacted by the Low Impact Exploration Activity.
- 10.3 The Heritage Service Provider will notify the Grantee following no later than 21 days of receipt of the Heritage Notice whether it considers that:
- 1.a a Heritage Survey is required and, if so, the proposed type of Heritage Survey required; or
 - 1.b a Due Diligence Inspection is required; or
 - 1.c Monitoring is required; or
 - 1.d the proposed Low Impact Exploration Activity and/or Exploration Activity is Cleared to proceed without a
Heritage Survey or Due Diligence Inspection and/or Monitoring, with the Parties acknowledging that aerial aeromagnetic surveys are exempt from requiring any heritage processes under this Agreement.
- 10.4 If the Grantee is of the view, acting reasonably, that a Heritage Survey or Due Diligence Inspection and/or Monitoring is not required for any particular Heritage Notice it may bring that to the attention of the HSP and the Grantee

and HSP will confer and, subject to clause 10.1, in the HSP's determining at its sole discretion as to whether or not a Heritage Survey or Due Diligence Inspection and/or Monitoring is required, the HSP will have regard to the following factors (where known):

- 1.a the nature of the Low Impact Exploration and/or Exploration Activity outlined in the Heritage Notice and any anticipated development identified;
 - 1.b whether there has been any previous heritage survey or due diligence inspection or monitoring (whether under this Agreement or otherwise) on the Affected Area and the age, methodology, participants, standard and results of that survey or inspection or monitoring;
 - 1.c the extent to which the Affected Area has been affected by previous ground disturbing activities;
 - 1.d whether the register maintained by the DPLH discloses any Aboriginal Object and/or Aboriginal Sites and/or heritage places on or immediately adjacent to the Affected Area;
 - 1.e any relevant matter relating to the Native Title Party's practices, laws and customs; and
 - 1.f any other relevant factor raised by any of the Parties.
- 10.5 Either Party may request reasonable additional information from the other at any time to enable discussion and proper consideration of the Heritage Notice.
- 10.6 Where following receipt of a Heritage Notice, a Heritage Survey or Due Diligence Inspection and/or Monitoring is required by the HSP, the HSP will liaise with the Grantee so that the Heritage Survey or Due Diligence Inspection and/or Monitoring arrangements can be made by the Parties.

11 Due Diligence Inspection Methodology

- 11.1 If it is determined by the HSP that a Due Diligence Inspection is required, then the methodology to be adopted and the report delivered will be in accordance with this clause.
- 11.2 Following receipt of a Heritage Notice pursuant to clause 10.6, and where the HSP requires a Due Diligence Inspection, the Heritage Service Provider will organise a Due Diligence Inspection team to attend to inspect the area of proposed Low Impact Exploration and/or Exploration Activity and advise the Grantee if the activity is Cleared or Not Cleared. Unless otherwise stipulated by the Due Diligence Inspection team, the team will not thereafter need to inspect the daily conduct of any Low Impact Exploration Activity and/or Exploration Activity that has been Cleared. Where Monitors are required under a Due Diligence Inspection Report, Monitoring will be undertaken on each day (or at such other times as required) of the Low Impact Exploration and/or Exploration Activity for the purposes of ensuring that Aboriginal Objects and/or Aboriginal Sites are avoided during the course of the activity.
- 11.3 The Due Diligence Inspection team shall consist of:

- (a) a representative of the Heritage Service Provider to act as heritage co-ordinator (through the CEO or nominee);
 - (b) such members of the Native Title Party as are necessary to examine and assist in the Due Diligence Inspection, to a maximum of four (4).
- 11.4 The Due Diligence Inspection team will at all times comply with any notified work practices and safety requirements of the Grantee and its contractors when carrying out the Due Diligence Inspection duties.
- 11.5 If any member of the Due Diligence Inspection team is expected to be absent because of illness, commitments to funerals or some other overriding circumstance, then the Heritage Service Provider will arrange an alternative member of the Native Title Party to attend the Due Diligence Inspection.
- 11.6 At the conclusion of a Due Diligence Inspection, the Heritage Officer on the Due Diligence Inspection team and a representative of the Grantee (with authority to bind the Grantee) will sign a Due Diligence Inspection Report form, to be retained by the Grantee and with a copy provided to the HSP, identifying the details and location of the Low Impact Exploration and/or Exploration Activity and evidencing that those activities are Cleared to proceed, save that such activity may require Monitoring if that is required by the Due Diligence Inspection team (as confirmed by the Heritage Officer).

12 Survey Methodology

- 12.1 If it is determined by the HSP that a Heritage Survey is required, then the methodology to be adopted and the report delivered will be in accordance with this clause.
- 12.2 The Grantee will discuss the Heritage Survey methodology with the Heritage Service Provider, with a view to determining which methodology is fit-for-purpose, having regard to the Native Title Party's concerns for the area in and about the Affected Area, the Current Work Program and any other relevant factors raised by either Party.
- 12.3 If it is determined by the HSP that a Heritage Survey is required, then the Heritage Service Provider has sixty (60) days from receipt of the Heritage Notice to organise and ensure the appropriate Heritage Survey is undertaken.
- 12.4 Subject to clause 12.5, the Native Title Party is not obliged or required to provide culturally sensitive information to the Grantee.
- 12.5 The information provided by the Native Title Party and recorded in the Final Survey Report will be determined as follows:
- (a) Where the Grantee provides details in its Heritage Notice only of a particular Exploration Activity to be undertaken pursuant to its Current Work Program, the Final Survey Report will clearly indicate (using maps and co-ordinates) that part of the Exploration Activity that is Cleared or Not Cleared. Should the proposed activities materially change then a new Heritage Notice must be issued and new Heritage

Survey be undertaken if required by the HSP, unless the Parties otherwise agree.

- (b) Where the Grantee provides details in its Heritage Notice of a range of possible Exploration Activities in an area (including activities outside its Current Work Program), the Final Survey Report will clearly indicate (including by using plans, maps and co-ordinates) any parts of that area to be avoided because they contain or may contain Aboriginal Objects and/or Aboriginal Sites.
- (c) Where any of the following applies:
 - (i) a Heritage Survey that the Native Title Party accepts as valid has been conducted and a Final Survey Report completed pursuant to 12.5(a) or 12.5(b) above; or
 - (ii) an Ethnographic Survey in relation to the relevant area which the Native Title Party accepts as valid has been completed; or
 - (iii) an Archaeological Survey in relation to the relevant area which the Native Title Party accepts as valid has been completed;and
 - (iv) the Grantee provides details in its Heritage Notice of possible future developments (outside what is permitted by the Tenement, such as the possible location of a mine and/or road),

then the Final Survey Report will give a clear indication of the ethnographic landscape, such that the Grantee can understand the heritage situation in order to facilitate consultation between the Parties about any proposed future mine and/or mine infrastructure development.

13 The Heritage Survey

13.1 A Heritage Survey team shall consist of:

- (a) a representative of the Heritage Service Provider to act as heritage co-ordinator (through the CEO or nominee);
- (b) an Anthropologist and an Archaeologist (where both are reasonably required by the HSP);
- (c) such members of the Native Title Party as are necessary to examine and assist in the Heritage Survey, to a maximum of six (6); and
- (d) the exploration manager or other suitably qualified nominee of the Grantee, with the Grantee to ensure that that person has delegated authority to provide all relevant information and to make all relevant decisions for the Grantee during the Heritage Survey and with that

person to enable the other Heritage Survey team members to confer in private as required from time to time.

- 13.2 The Grantee may appoint one or more representatives to observe or assist the survey team. These representatives must respect the privacy of the members of the survey team when sensitive Aboriginal heritage matters are indicated as being discussed.
- 13.3 The members of the survey team will at all times comply with the notified work practices and safety requirements of the Grantee and its contractors when carrying out the Heritage Survey or a Due Diligence Inspection and/or Monitoring, with the Grantee to brief all survey team members before the survey or Due Diligence Inspection and/or Monitoring.
- 13.4 Subject to clause 15.4, the Heritage Service Provider must procure that the fieldwork component of the Heritage Survey is completed within forty-five (45) days of the date of receipt of the Heritage Notice by the HSP.

14 Survey and Inspection Costs

- 14.1 Not less than ten (10) Business Days prior to commencement of the Heritage Survey or Due Diligence Inspection and/or Monitoring, the Heritage Service Provider shall submit an estimate of the costs to the Grantee for its approval and if the Grantee so approves, acting reasonably, then it shall notify the Heritage Service Provider of its approval not less than seven (7) days prior to the commencement of the Heritage Survey or Due Diligence Inspection and/or Monitoring (**Approved Costs and Expenses**).
- 14.2 The Grantee shall pay the Approved Costs and Expenses set at the rates set out in Schedule 3 to this Agreement.
- 14.3 Subject to clause 14.7, the Grantee agrees to pay seventy-two (72) hours in advance of the commencement of the Heritage Survey or Due Diligence Inspection and/or Monitoring fifty percent (50%) of the Approved Costs and Expenses of the Heritage Survey and, following completion of the fieldwork component, make a further twenty five percent (25%) payment of the Approved Costs and Expenses.
- 14.4 In the event that a Heritage Survey or Due Diligence Inspection and/or Monitoring is cancelled before its completion:
 - (a) by the Grantee; or
 - (b) by the Heritage Service Provider, due to non-payment by the Grantee of any monies due and owing to the Heritage Service Provider for that Heritage Survey or Due Diligence Inspection and/or Monitoring, or due to circumstances beyond the Heritage Service Provider's control,

then the payment referred to in clause 14.3 less any fees and/or disbursements already paid and/or owing and which cannot be reasonably recovered will be refunded by the HSP to the Grantee.

14.5 In the event that a Heritage Survey is cancelled before its completion by:

- (a) the Native Title Party; or
- (b) the Heritage Service Provider,

then the remnant balance of any of the payment referred to in clause 14.3 and any disbursements able to be recovered will be refunded to the Grantee in full and the Parties will use their best endeavors to reschedule the Heritage Survey in order to minimize costs and time.

14.6 Following the completion of the fieldwork component of the Heritage Survey or the Due Diligence Inspection and/or Monitoring, the balance of the Heritage Survey or Due Diligence Inspection and/or Monitoring costs to be paid will be paid by the Grantee to the HSP within seven (7) days after the Final Survey Report and/or Monitoring Report or the Due Diligence Inspection Report is delivered to the Grantee, subject to receipt of a valid tax invoice from the HSP to the Grantee. The tax invoice of the costs must reconcile the costs advanced with the costs incurred.

14.7 The Grantee acknowledges that due to the HSP's cashflow requirements, the Heritage Service Provider may require pre-payments that are in excess of the fifty percent payment referred to at clause 14.3 to be made to it by the Grantee prior to Heritage Surveys and Due Diligence Inspections and/or Monitoring. If the Heritage Service Provider requires such an alternative costs payment process for Due Diligence Inspections and/or Heritage Surveys and/or Monitoring it shall notify the Grantee of that process. A common example would be for the Grantee to pre-pay for all estimated field work costs and the costs of preparation of reports and with a final payment made once final reports are provided to the Grantee.

14.8 If during a Heritage Survey or Due Diligence Inspection and/or Monitoring the Grantee finds an Aboriginal Object and/or suspected Aboriginal Object, it shall:

- a record (and if necessary, photograph) the location of the Aboriginal Object;
- b contact the Heritage Service Provider about the Aboriginal Object, including identifying the location of the Aboriginal Object and, if the Aboriginal Object is deemed to be of high significance by an Archaeologist, on request of the HSP (acting reasonably), consult with the HSP and members of the Native Title Party and the Anthropologist and/or Archaeologist as reasonably required by the HSP;
- c ensure compliance with the requirements of any applicable law, including the Heritage Act and the applicable native title rights and interests of the Native Title Party;
- d not take possession of, or move the Aboriginal Object; and
- e not undertake any activity that interferes with, damages, disturbs, alters or impacts upon the Aboriginal Object.

15 Survey Reports

15.1 The Heritage Service Provider must provide the Grantee with:

- a a Preliminary Advice within Fifteen (15) days; and
- b a Final Survey Report within thirty (30) days.

of completion of the Heritage Survey fieldwork, noting that a draft of the report may have been provided by the Anthropologist and/or Archaeologist to the Native Title Party, through the HSP, for approval prior to that time.

15.1A The Grantee may provide comments to the Heritage Service Provider in relation to the Preliminary Advice, and the Heritage Service Provider must procure that the Heritage Consultant (acting reasonably) consider and take into account any such comments in preparing the Final Survey Report.

15.2 In accordance with clause 12, the Preliminary Advice and the Final Survey Report will record sufficient information to enable the Grantee to plan and, subject to the law, this Agreement and any recommendations and/or conditions in the report, undertake the things that are the subject of the Heritage Notice.

15.3 Unless otherwise agreed, the Final Survey Report will substantially be in the form of **Schedule 4**.

15.4 Delay caused by any of the following matters will be excluded from the time frames referred to in clauses 12, 13,14 and 16:

- (a) exceptional and unforeseeable circumstances beyond the control of the Heritage Service Provider and/or the Native Title Party;
- (b) the cultural responsibilities (such as law business or funerals) of the Native Title Party;
- (e) the acts or omissions of the Grantee otherwise than in accordance with compliance with this Agreement.

15.5 A Party asserting the existence of a delay under clause 15.4 must advise the other Party of that delay not later than forty-eight (48) hours after becoming aware of the fact and take reasonable steps to mitigate the delay.

15.6 Noting and applying clause 15.4, if the Final Survey Report is not delivered as required by this clause, the Grantee will be released from its obligations under this Agreement in relation to the matters the subject of the relevant Heritage Notice. However, the Grantee will remain responsible for compliance with the Heritage Act and all other obligations under this Agreement and the Native Title Party and the HSP reserve their rights.

16 Monitoring

16.1 Clause 16.1 to 16.7 applies if:

a.a.any Due Diligence Inspection Report or a Final Survey Report identifies Aboriginal Sites, Aboriginal Objects or Protected Areas and the Grantee intends to conduct Low Impact Exploration Activity and/or Exploration Activity adjacent to those sites or areas; or

a.b.any Due Diligence Inspection Report or a Final Survey Report requires the Grantee to engage Monitors in respect of Low Impact Exploration and/or Exploration Activity; or

a.c.the Grantee (acting reasonably) requests the assistance of Monitors for any other reason.

16.2 In each of the cases specified in clause 16.1, the Grantee will give at least fourteen (14) days written notice to the Heritage Service Provider that it requires the assistance of Monitors. The notice must include a detailed description of the Low Impact Exploration and/or Exploration Activity to be undertaken, including a work program and schedule. The Grantee must inform the Heritage Service Provider of any material changes to the work program and schedule as soon as practicable.

16.3 The Heritage Service Provider will, within ten (10) days of receipt of the notice under clause 16.2, advise the Grantee of up to two (2) nominated members of the Native Title Party who will monitor the Low Impact Exploration and/or Exploration Activity.

16.4 The Monitors will at all times comply with the notified work practices and safety requirements of the Grantee and its contractors when carrying out their monitoring duties.

16.5 If any Monitor is expected to be absent because of illness, commitments to funerals or some other overriding circumstance, then the Heritage Service Provider will arrange an alternative Monitor to attend the monitoring.

16.6 This section applies (with such modifications as may be necessary) to a budget for the conduct of the Monitoring work as if:

(a) the notice under clause 16.2 were a Heritage Notice under clause 8 of this Agreement, requesting an Archaeological Survey; and

b the Monitoring work were archaeological fieldwork.

16.7 The Monitors and Grantee representative attending Monitoring will prepare Monitoring Reports for the Grantee to use in its activities. Where the Heritage Officer attends Monitoring, that officer shall prepare the Monitoring Report.

17 Heritage information

17.1 No heritage information to be released

Except as provided in clause 25.2, no Heritage Information shall be recorded or released by or for the Grantee to any person or entity whatsoever, without the express written permission of the Native Title Party through the HSP.

17.2 Acknowledgment of unrelated information

In the course of the Heritage Survey, Due Diligence Inspection and/or Monitoring being conducted, the Heritage Service Provider may obtain or cause to be obtained, information in relation to the Claim that is not related to the purpose of the Heritage Survey or Due Diligence Inspection and/or Monitoring, provided that the obtaining of such information does not increase the costs of the Heritage Survey or Due Diligence Inspection and/or Monitoring or delay the completion of the Heritage Survey or Due Diligence Inspection and/or Monitoring. Such information is separate from the Heritage Survey or Due Diligence Inspection and/or Monitoring and is confidential to the Native Title Party.

18 Non extinguishment of Native Title

18.1 Nothing in this Agreement is intended to nor will in any way derogate from the native title rights and interests of the Native Title Party and the non-extinguishment principle will apply to the Tenement.

18.2 For the benefit of doubt, payments made under this Agreement by or for the Grantee are not native title compensation payments for the impact on the native title rights and interests of the Native Title Party and the Grantee acknowledges that the Native Title Party's rights to seek compensation remain unaffected by this Agreement.

19 Arrangements about Section 16 and Section 18 Notices under the Heritage Act

The Grantee agrees not to submit, nor arrange for any staff and/or agent of the Grantee to submit, a Section 16 and/or Section 18 Notice under the Heritage Act for the Tenement unless it has first consulted on-site with the members of the Native Title Party and the HSP and the Native Title Party through the HSP has agreed in writing that it consents to the above notice(s) being submitted for consideration by the government. The Grantee shall procure that none of its joint venturer and/or farm-in/farm-out proponents nor any of their staff and/or agents submit a Section 16 and/or Section 18 Notice unless there has been full prior compliance with this clause 19.

20 No Objections to Tenement Applications

20.1 Provided that the Grantee has complied with and continues to comply with all obligations on its part to be performed under this Agreement, and ensures that any joint venturer and/or farm-in/farm-out proponent does the same, the Native Title Party:

- (a) will not make (or procure anyone to make) any Objection to the grant and/or use of the Tenement; and
- (b) agrees to the Grantee accessing and carrying out Low Impact Exploration Activity and Exploration Activity within the area of the Tenements; and

- (c) will enter into any further or supplementary agreement (including an agreement of the type referred to in section 31 of the NTA) necessary to perfect the grant of the Tenement from time to time.

21 Assignment and Native Title Party Caveat

- 21.1 The Grantee may from time to time assign to any person (whether by farm-out, joint venture, sale or otherwise) all or any part of its rights under this Agreement, but must first procure an executed deed of assignment and assumption in favour of the Native Title Party by which the assignee, to the extent of the assignment, agrees to be bound, alone or jointly with the Grantee, as the case may be, by the provisions of this Agreement and to assume, observe and perform (alone or jointly with the Grantee, as the case may be) the obligations of the Grantee under the Agreement. Where the Grantee is in a joint venture and/or farm-in/farm-out agreement prior to the commencement of this Agreement, it will arrange that the proponents in those agreements enter into this Agreement as a co-party with the Grantee.
- 21.2 If the Grantee makes an assignment in accordance with sub-clause 21.1 then the Grantee is released from its obligations under this Agreement to the extent of the assignment.
- 21.3 The Grantee warrants that any person in a farm in and/or farm out and/or joint venture agreement(s) with the Grantee shall comply with this Agreement to the extent that the Agreement applies to the role of that person under its farm in and/or farm out and/or joint venture agreement.
- 21.4 The Native Title Party must not assign any of its rights under this Agreement, except, subject to clause 21.5, to another Registered Native Title Body Corporate appointed under the Native Title Act as agent of the Native Title Party or to hold native title rights and interests of the Native Title Party on trust in the event of a Determination of Native Title in favour of the Native Title Party.
- 21.5 Where the Native Title Party assigns its rights under this Agreement to another Registered Native Title Body Corporate in accordance with clause 21.4 of this Agreement, it must procure an executed deed of assignment and assumption in favour of the Grantee by which the Registered Native Title Body Corporate agrees to be bound by the provisions of this Agreement and to assume, observe and perform the obligations of the Native Title Party under the Agreement.
- 21.6 The Parties agree that the Native Title Party may lodge a caveat under section 122A(2) of the Mining Act against the Tenements (including any future tenements) under this Agreement forbidding the registration of a dealing or surrender affecting the Tenements or interest, together with a copy of this Agreement. Where the Native Title Party elects to lodge any caveats, the Grantee agrees to pay the prescribed fee for lodging of the caveats.

22 Notices

- 22.1 All notices must be:

- (a) in writing and signed by a person duly authorised by the sender; and
- a delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered mail) or by email to the address detailed below, or the address last notified in writing by the intended recipient to the sender:

Party	Address	Email
The Grantee	Insert postal address	Insert
The Native Title Party	insert	Insert
NWLC	insert	insert
Heritage Service Provider	insert	insert

22.2 All notices will be taken to be duly given or made:

- (a) in the case of delivery in person, when delivered;
- (b) in the case of delivery by post, five (5) business days after the date of posting (if posted to an address in the same country) or fourteen (14) business days after the date of posting (if posted to an address in another country); and
- (c) in the case of email, at the time shown in the delivery confirmation report generated by the sender’s email system which indicates that the email was sent to the recipient’s email address. Where an email has been sent after 4.00pm (local time) on a Business Day, it will be deemed to have been received at 9.00am (local time) on the next Business Day.

23 Dispute Resolution

23.1 Noting clause 7.2, 9.2 and 24, if a dispute arises under this Agreement, before resorting to external dispute resolution mechanisms, the Parties shall attempt to resolve the dispute pursuant to this clause.

23.2 Either Party may give the other Party notice of a dispute, whereupon the dispute will be submitted to the dispute resolution process described in this clause.

23.3 A dispute shall be dealt with in the following manner:

- (a) if the dispute is between the Grantee and the Heritage Service Provider then it shall be referred initially to the nominated officers of the Grantee and the Heritage Service Provider, with the Native Title Party given sufficient written notice contemporaneous with the notice that the other parties give each other, and the Native Title Party may be involved to such extent as it wishes;
- (b) if the dispute is between the Grantee and the Native Title Party, then it shall be referred initially to nominated officers of the Grantee and the Native Title Party, with the Heritage Service Provider only to be informed at the Native Title Party's discretion except to the extent reasonably necessary to ensure performance by the Heritage Service Provider with its obligations under this Agreement;
- (c) if the representatives of the Parties are unable to resolve the dispute within twenty (20) working days or such other period as is mutually agreed between the Parties, then the dispute must (subject to clause 23.3(d)) be referred to mediation in accordance with this clause, unless otherwise agreed by the Parties;
- (d) if the Parties agree, the matter may be referred to arbitration instead of mediation, or to arbitration after the mediation is concluded;
- (e) a mediation shall be conducted by a single mediator appointed by the Parties or, in the absence of agreement by the Parties, by the President of the Law Society of Western Australia. The mediation shall take place at a town or regional centre in Western Australia that is agreed between the Parties.

23.4 If the dispute is not resolved by mediation with fifty-five (55) working days (or such longer period as the Parties agree in writing) after formal notice of the dispute was given to the other Party, then either Party may take whatever action is available to it under the general law.

23.5 The Native Title Party and the HSP shall consult with the NWLC regarding any disputes under this Agreement and shall involve them in the dispute resolution process to the extent sought by the NWLC.

24 Default

24.1 The Parties acknowledge that an aim and intention for this Agreement is to endeavour to avoid terminating this Agreement for default by any Party and will aim to resolve Agreement issues in preference to terminating the Agreement.

25 Confidentiality & Disclosure

25.1 Confidential Information

All Survey Reports, Due Diligence Inspection Reports, Monitoring Reports and Heritage Information provided under or pursuant to this Agreement, and all information given by the Grantee to the other Parties in respect of its Low Impact Exploration and/or Exploration Activity, is confidential. All information provided during the course of, or in relation to, any Heritage Survey, Due Diligence Inspection and/or Monitoring remains the intellectual property and confidential information of the Native Title Party and the NWLC.

25.2 Disclosure

A Party may divulge clause 25.1 confidential information to a third party:

- 4.a with the prior consent of the Party which provided the information and the Native Title Party and the NWLC;
- 4.b to the extent required by any law or applicable securities regulation or rule;
- 4.c in connection with any dispute or litigation concerning this Agreement or its subject matter;
- 4.d being an employee, agent, consultant or advisor of the Party, or the Heritage Service Provider, an Anthropologist or an Archaeologist appointed by the Party pursuant to this Agreement;
- 4.e who is an employee of or contractor to the Grantee for the purpose of managing or planning any existing, planned or potential activity on the land the subject of the Tenement;
- 4.f to the extent that the information is already in, or comes into, the public domain otherwise than by breach of this clause;
- 4.g where the Native Title Party is assigning the Agreement to a native title prescribed body corporate; and
- 4.h as otherwise permitted or required by the terms of this Agreement.

25.3 A Party shall require that any third party receiving confidential information in accordance with clause 25.2 enter into a confidentiality undertaking to not disclose that information or to give conditional disclosure only.

25.4 The Grantee may also disclose this Agreement on a confidential basis to a bona fide proposed assignee of the Grantee and to any employee, officer, financier, bona fide proposed financier, joint venture partner, bona fide joint venture partner or related body corporate of the Grantee, with such person to enter into a confidentiality undertaking regarding the Agreement.

25.5 The rights and obligations of the Parties under this clause survive the termination of this Agreement.

26.1 Entire agreement

This Agreement constitutes the entire agreement between the Parties relating to its subject matter and supersedes and cancels all existing agreements, letters of intent and undertakings including correspondence, negotiations and communications between the Parties.

26.2 Waiver, review and variation

- (a) A provision of or a right created under this Agreement may not be waived except in writing signed by the Party granting the waiver; or varied except in writing signed by the Parties.
- (b) The Parties record their understanding that there may be, from time to time, reviews of this Agreement and/or the overall Native Title Party and Grantee heritage administration frameworks of which this Agreement forms part. The Parties agree that such reviews will be with a view to ensuring that there are clear lines of communication between the Parties, that the Parties are aware of and comply with their respective responsibilities under this Agreement and that best practice in Aboriginal heritage management and protection is intended to prevail in the Agreement at all times. Subject to the Grantee's compliance with the Agreement and its position on the Proponent Performance Register, if the Grantee seeks to include additional Exploration Tenements into this Agreement and/or include other Exploration Tenement applicants and/or holders as parties to this Agreement, the Native Title Party and the HSP will give that due consideration.
- (c) When a review occurs pursuant to clause 26.2(b) and has identified variations proposed by any Party to this Agreement, the Parties will, in good faith, jointly consider making a variation to this Agreement in accordance with the outcomes of the review. However, no Party will be obliged to agree to a variation of this Agreement.
- (d) The Parties acknowledge that the Agreement will need to be reviewed and likely varied following the amendment and or replacement of key legislation including the NTA, the Federal Heritage Act and the Heritage Act and their subsidiary legislation.
- (e) This Agreement may be varied at any time where agreed in writing by the parties.

26.3 Termination

26.3.1 This Agreement may be terminated in any of the following ways:

- (a) by the mutual agreement of the Parties;
- (b) if the Tenement or Claim are withdrawn, amended, dismissed or otherwise terminated such that there is no longer any Affected Area;
- (c) subject to clause 21, where the Grantee ceases to have any interest in any of the Tenement;

(d) by the Grantee in accordance with clause 26.3.2, whichever is the earlier.

26.4 Further assurances

Each Party will, on the request of the other Party, execute agreements, deeds and other documents and do everything reasonably necessary to give effect to this Agreement.

26.5 Severance

If any part of this Agreement is or becomes unenforceable, that part is, or will be, severed from this Agreement so that all parts that are not, or do not become, void or unenforceable remain in full force and effect or are unaffected by that severance. This clause has no effect if the severance alters the basic nature of this Agreement or is contrary to public policy.

26.6 Costs & duty

On invoicing by the HSP following execution of this Agreement, the Grantee will pay five thousand dollars (\$5000) plus GST towards the Native Title Party's costs associated with the preparation and execution of this Agreement. The Grantee agrees to make this payment within fourteen (14) days of invoicing by the HSP.

The Grantee will pay all duty, if any, assessed in relation to this Agreement and will attend to all duty requirements.

Where the HSP indicates in writing to the Grantee, with an itemised costs estimate, that it has additional costs of undertaking its roles in this Agreement that exceed the quantum of any administration payment in Schedule 3, the Grantee agrees to pay all such reasonable costs within fourteen (14) days of invoicing by the HSP.

26.7 Governing law

This Agreement is subject to the laws of Western Australia and of the Commonwealth of Australia as applicable in Western Australia. The Parties submit to the non-exclusive jurisdiction of the courts having jurisdiction in the State.

26.8 Counterparts

This Agreement may be signed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

26.9 Address for notices

Subject to this Agreement, any agreement, advice, notice, request, consent, proposal, modification, waiver, approval, allowance or other communication or any document to be given under this Agreement must be in writing to the addresses specified in the Notice clauses of this Agreement or to such other address as a Party may nominate in writing to the other Party.

27 Goods and Services Tax

27.1 Words defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this clause unless the context otherwise requires.

27.2 GST exclusive amounts

All consideration in respect of a supply under this Agreement is exclusive of GST except to the extent that it is expressed to include GST.

27.3 GST payable in addition to consideration

If GST is imposed on or in respect of any supply under or in connection with this Agreement by one party (the "**Supplier**") to another party (the "**Recipient**"), then in addition to paying the consideration for that supply, the Recipient must:

- 3.a pay to the Supplier an amount equal to any GST payable on any supply by the Supplier under or in connection with this Agreement, without deduction or set-off of any other amount; and
- 3.b make that payment as and when the consideration or part of it must be paid or provided, except that the Recipient need not pay unless the Recipient has received a tax invoice (or an adjustment note) for that supply.

27.4 Tax invoice

The Supplier must issue a tax invoice (or an adjustment note) to the Recipient for any supply for which the Supplier may recover GST from the Recipient under this Agreement, and must include in the tax invoice (or adjustment note) the particulars required by the GST law.

27.5 Adjustments

The Supplier must promptly create an adjustment note for, and refund to the Recipient, the amount of any overpayment by the Recipient for GST.

27.6 GST on claims

If a Party has a claim under or in connection with this Agreement for a cost on which that Party must pay GST, the claim is for the cost plus all GST (except any GST for which that Party is entitled to an input tax credit).

28 Recitals and Schedules

The recitals and schedules form a binding part of this Agreement.

EXECUTED BY THE PARTIES AS AN AGREEMENT

THE NATIVE TITLE PARTY

Signed by Directors for and on behalf of the Native Title Party in accordance with its rule book.

(insert sealing clause)

(INSERT NWLC sealing clause)

Signed by _____ for and on the behalf of the NWLC.
signature

NWLC signatory's name

In the presence of:

Witness signature

Witness name

Signed by _____ for and on the behalf of the NWLC.
signature

NWLC signatory's name

In the presence of:

Witness signature

Witness name

THE GRANTEE

COMPANY SIGNING (TWO DIRECTORS):

Signed by (insert company name) (ACN insert) in accordance with section 127 of the Corporations Act 2001 (Cth):

Director / Secretary (signature)

Director (signature)

Director / Secretary (print name)

Director (print name)

COMPANY SIGNING (ONE DIRECTOR):

Signed by (insert company name) (ACN insert) in accordance with section 127 of the Corporations Act 2001 (Cth):

Director (signature)

Director (print name)

Schedule 1

The Tenements

[INSERT]

SCHEDULE 2

HERITAGE NOTICE

The purpose of the information provided in and with the Heritage Notice is to determine whether a Heritage Survey or Due Diligence Inspection and/or Monitoring is required and, if so, its nature and extent. A Heritage Notice form is provided in this Schedule to facilitate this objective.



HERITAGE NOTICE

Please return completed form to WYAC at heritage@wajarri.com.au

REQUESTED BY:			
Date:			
Name:			
ABN/ACN/ICN:			
Postal Address:			
Contact Name:		Position:	
Email:		Phone:	
PROJECT DETAILS:			
Project Title:			
Tenement ID Number/s:			
Does the Grantee have an Access and Heritage Agreement for the tenement/s?	<input type="checkbox"/> YES If yes, please provide date of agreement and/or agreement number if known. For earlier agreements that do not have an assigned number, WYAC will assign a number for your records and advise accordingly.		
	<input type="checkbox"/> NO		
REQUEST (please tick box)			
For further information, refer to survey type section of the Access and Heritage Agreement. If you are unsure what survey type or methodology you require, tick unknown and our Ngoonooru Wajarri Heritage Officer can discuss the various options relevant to your proposed activities.			
Request Type	Survey Methodology Requested		
<input type="checkbox"/> Archaeological survey <input type="checkbox"/> Ethnographic survey <input type="checkbox"/> Due Diligence Inspection <input type="checkbox"/> Monitoring <input type="checkbox"/> Community engagement <input type="checkbox"/> Environmental assessment <input type="checkbox"/> Unknown at this stage	<input type="checkbox"/> Work Program Clearance <input type="checkbox"/> Work Area Clearance <input type="checkbox"/> Site Avoidance <input type="checkbox"/> Site Identification <input type="checkbox"/> Site Protection <input type="checkbox"/> Unknown at this stage		

PROPOSED WORKS AND ACTIVITIES

Please provide a detailed description of proposed project and activities, including;

- details of current work program and impacts to ground surface and subsurface deposits,
- details of any ancillary works required,
- methods and equipment to be used to undertake the proposed activities,
- details of vehicles to be used to undertake the proposed activities,
- potential environmental impacts and proposed avoidance or mitigation measures,
- details of water, biological or other materials/resources proposed to be obtained from the Tenement area in relation to proposed activities,
- approximate number of personnel who will be involved in the exploration activity or low impact exploration activity, including information as to the role of any joint venturer and/or farm-in/farm-out proponent.

Project Area/s

Please provide following details to indicate actual areas to be surveyed.

Attach clear map showing; <ul style="list-style-type: none"> • location of area/s to be surveyed, • location of proposed activities, and • proposed access routes to area/s 		: Map attached
Attach spatial data of survey area/s including access track/s location. <i>Accepted datum/projection include WGS84, GDA94 and Transverse Mercator MGA.</i>		<input type="checkbox"/> Spatial data attached
Total Area/Length of survey area (in m or m²)	Need to survey access track to areas?	Approximate length of access track to be surveyed
	<input type="checkbox"/> YES <input type="checkbox"/> NO	

Provide information on the extent of any known previous ground disturbing activities on the land.

Provide details of any known hazards to personnel or equipment (e.g. livestock, feral animals such as dingos or camels etc)

--

Access Description

Please detail access (e.g. existing tracks or area for proposed new track) to the project area, general terrain as well as whether access is required to be surveyed to any project areas. If access does not exist, or requires works, then this will need to be surveyed.

--

Previous Heritage and Environmental Surveys

Is there any completed heritage or environmental report been completed for the location of the proposed activities?	<input type="checkbox"/> YES If yes, please provide copy of the report/s with this notice.	: NO
Does the Department of Planning, Land and Heritage register of Aboriginal sites (AHIS) list any Aboriginal Objects and/or sites on the land?	<input type="checkbox"/> YES If yes, list site numbers:	: NO
Have project areas been pegged/marked/ground-truthed in preparation for the survey?	<input type="checkbox"/> YES	: NO
Is there any ground disturbing notice provided to the District Mining Engineer?	<input type="checkbox"/> YES If yes, please provide details.	: NO
Is the proponent undertaking exploration for Uranium or Coal Seam Gas?	<input type="checkbox"/> YES	: NO

PPE/Additional Gear

List any PPE or additional gear required by participants, and whether these will be provided. List COVID-19 risk management procedures

List any Required PPE			
	Will the required PPE be supplied?	<input type="checkbox"/> YES	<input type="checkbox"/> NO

Please outline (or attach) your COVID-19 management risk procedures:	
--	--

LOGISTICS

Bookings

Please note whether the Grantee or WYAC will make the bookings/arrangements for below. For more information, please contact WYAC.

Flights	<input type="checkbox"/> Grantee	<input type="checkbox"/> WYAC	<input type="checkbox"/> N/A	Transport to Site	<input type="checkbox"/> Grantee	<input type="checkbox"/> WYAC	<input type="checkbox"/> N/A
Accommodation	<input type="checkbox"/> Grantee	<input type="checkbox"/> WYAC	<input type="checkbox"/> N/A	Travel Meals	<input type="checkbox"/> Grantee	<input type="checkbox"/> WYAC	<input type="checkbox"/> N/A
Eskies/Fridges in vehicles for survey	<input type="checkbox"/> Grantee	<input type="checkbox"/> WYAC	<input type="checkbox"/> N/A	Meals during survey	<input type="checkbox"/> Grantee	<input type="checkbox"/> WYAC	<input type="checkbox"/> N/A

Locations

Provide information on the locations, distances and travel time

	Name	KMs to/ from site	Travel time to/from site
Accommodation or nearest town			
Nearest Hospital			

ADDITIONAL CONTACTS

List any additional contacts WYAC should send information to

Type	Name	Email	Phone Number
Estimate Approval			
Invoicing			
Report/PA Revision			

Please attach any additional information which explains what sort of survey or other heritage management outcome is being sought or any other background material which will assist in understanding the potential of impacts of the activities proposed.

DISCLAIMERS

Release of data

No data is to be released to the Grantee without the corresponding recommendations and/or conditions contained within the Preliminary Advice/Report.

Changes to request/scope of works

Once a request has been accepted, changes to the request or scope of works will require a new request form. Changes to the scope or works in the field must be negotiated with WYAC. Please submit all requests for amendments to the scope in writing to WYAC.

WYAC assessment of request

By submitting this form you acknowledge that survey requests are subject to assessment by WYAC. Notwithstanding the information provided in this form, WYAC may wish to negotiate changes to the proposed heritage management process to ensure that such work is in accordance with Ngooonooru Wajarri and WYAC principles of best practice heritage management and in the best interests of the Wajarri Yamatji native title holders.

Signed For Grantee: _____

Date: _____

SCHEDULE 3

COSTS PAYABLE BY THE GRANTEE FOR COSTS ASSOCIATED WITH HERITAGE MANAGEMENT UNDER THIS AGREEMENT: COSTS OF HERITAGE SURVEYS, DUE DILIGENCE INSPECTIONS AND MONITORING

Item	Rate (Exclusive of GST)	Description
Ethnographic Survey		
Heritage Officer (one person)	\$1100.00	per day or part thereof (includes all travel time)
Anthropologist (fieldwork and reporting)	At Cost	per person per day or part thereof (includes all travel time)
Archaeological Survey		
Archaeologist (fieldwork and reporting)	At Cost	per person per day or part thereof (includes all travel time)
Aboriginal Consultants (clause 13.1(c)) – maximum of 6 people per survey	\$650.00	per person per day or part thereof (includes all travel time)
Aboriginal Monitors (clause 16) – maximum of 2 people	\$650.00	per person per day or part thereof (includes all travel time)
Due Diligence Inspection		
Heritage Officer (one person)- (clause 11.3(a))	\$1100.00	per day or part thereof (includes all travel time)
Aboriginal Consultants – (clause 11.3(b) - maximum of 4 people per inspection	\$650.00	per person per day or part thereof (includes all travel time)
Field Expenses		
Accommodation, meals and incidentals	\$280 per day	
Camping Meals and incidentals	\$150 per day	
Note: Aboriginal consultants generally stay with relatives/fellow native title holders in Meekatharra and their accommodation, meals and incidentals costs are used to defray the costs of hosts. There are no receipts for such costs.		
Travel Expenses		
Hire Vehicle (per vehicle) plus insurance, fuel, tyre replacement etc	\$250 per day upon production of receipts	
Aboriginal Consultants travel expenses	ATO Travel Rates	per km
Airfares	At cost upon production of receipts	At economy class fare rates unless otherwise agreed
Taxi travel (to and from airports or meetings)	At cost upon production of receipts	
Incidental Expenses		

Item	Rate (Exclusive of GST)	Description
Insurance	\$250.00	
Other incidentals	At cost upon production of receipts	
Administration Fee to HSP		
Administration Fee (% of total fees and disbursements expenditure made by either party)	20%	
<p>(Schedule of Fees may be subject to change if the Parties agree and all Schedule rates as from 1 January each year commencing 1 January 2022 are increased by CPI for the preceding year and with the ATO rates in this Schedule varying as such ATO rates are varied by the ATO from time to time).</p>		

SCHEDULE 4

CONTENTS OF FINAL SURVEY REPORT

The Final Survey Report will contain the following:

- **Copyright/Confidentiality**

A statement to the effect that copyright vests in the Native Title Party and that the Final Survey Report may only be copied in accordance with this Agreement and subject to other any other restriction agreed to by the Native Title Party and the Grantee from time to time.

- **Who conducted the Survey**

- : Name and contact details of the Anthropologist, Archaeologist or Heritage Service Provider
- : Names of Native Title Party members consulted
- : Confirmation that the Native Title Party members speak for the land and waters surveyed
- : Names of any other persons who participated in the survey

- 3 Survey Date**

The date the fieldwork was conducted

- 4 Survey Methodology**

A description of the survey methodology that was adopted (in accordance with clause 12 of the Agreement).

- 5 Information in relation to the Area Surveyed**

The information required by clauses 8, 10, 12, 13 and 15 of the Agreement, including but not limited to:

- The general location of the area within which the survey was undertaken (possibly by reference to the tenement boundaries, pastoral lease or a map)
- Grid references of the area surveyed
- Results of search of the sites register at the DPLH including the site number and name, if given and the reference number
- A description of the fieldwork undertaken
- Sufficient information to enable the Grantee to plan and (subject to the Law and this Agreement) undertake the things that are the subject of the Heritage Notice including appropriate maps and co-ordinates
- Any discussion and recommendations and/or conditions

- 6 Survey database information**

Details of information to be provided to DPLH, which will include:

Information	Description of Content	Further comments
Title of Survey Report	Title of Survey Report containing information on survey.	
Project Name	Project name.	
Grantee	Name(s) of the Grantee	
Consultant Organisation	Lead consultant or consultant group undertaking study.	
Reporting Person(s)	Role in survey: <ul style="list-style-type: none"> • Author(s) • Recorder (if not the same as author) Name Group/Organisation they represent Contact Details	These will include the Anthropologist and Recorder (if not the same as author)
Survey Date	Date that survey commenced	
Report Date	Date of report	
Survey Area(s)	: A text description of survey area. : Boundary to be defined by: <ul style="list-style-type: none"> ○ coordinates; or ○ cadastral or tenement identifier. The coordinates of survey boundaries, maps and capture of ground coordinates as described in Introductory Notes.	
Organisation that holds complete report	Organisation name.	
Aboriginal People Consulted (Claim Group)	Native Title Claim Group(s) represented	
Other Participants	Role in survey (e.g. Grantee representative) Name Group/Organisation they represent Contact details	
Survey Type	<ul style="list-style-type: none"> • Archaeological • Ethnographic • Both 	
Survey Methodology	Reference to relevant clause in Agreement	
Archaeological Method	Description of archaeological method employed (e.g. sampling strategy); Transect; and/or purposive; and/or random or arbitrary; or none stated. Percentage coverage of survey area.	
Ethnographic Method	Provide an account of the consultation process (including all informants/ reporters, any potentially relevant people who were not consulted, and why)	
Further information	Name of relevant Native Title Representative Body	YMAC

Additional survey information to be provided to DPLH, ONLY if claimants wish to do so:

Information	Description of Content
Aboriginal Consultants (see clause 12.1 (c)) (For each area)	Group/organisation they represent.
Name of each area	<ul style="list-style-type: none"> Names of area(s) if applicable (e.g. drill hole xyz) Define location and extent of site with three or more listed coordinate points. The coordinates of site area, maps and capture of ground coordinates are to be as described in the End Notes
Area characteristics	<ul style="list-style-type: none"> A textual description of each area. Boundaries to be defined by coordinates. The coordinates of each area, maps and capture of ground coordinates as described in the End Notes Provide a textual description of the site. DPLH's preference is for sufficient information about the site to be provided to enable the Aboriginal Cultural Material Committee to perform its site evaluation function with reference to sections 5 and 39 of the <i>Aboriginal Heritage Act 1972</i>.
Cleared or Not Cleared for activity? Conditions or recommendations?	<ul style="list-style-type: none"> Activity (specify type(s) of activity) Activity(s) Cleared or Not Cleared? To be specified. Outline any conditions associated with the Cleared and/or Not Cleared areas (if applicable) and/or recommendations/conditions for heritage management.

All coordinates should be expressed in northings and eastings, in Map Grid of Australia (MGA). **A Mapping Grid Australia (MGA) reference (or series of references) was recorded for each site using a hand-held Garmin GPS unit, employing the GDA 94 Datum.** Maps are to include relevant land cadastre, mining tenure (tenement numbers "x" to "z"), pastoral leases ("abc"), other relevant topography, map scale and north point. Ground coordinates should be recorded using GPS, DGPS or terrestrial survey.

Schedule 5

Uranium Exploration Conditions

1 URANIUM CONDITIONS ARE ADDITIONAL

- 1.1 This Schedule applies to Low Impact Exploration/Exploration Activity that the Grantee conducts that are likely to expose radioactive material.
- 1.2 To avoid doubt, the obligations imposed on the Grantee by this Schedule (if it applies) are in addition to the obligations imposed on the Grantee pursuant to the Agreement to which this schedule is attached (the "Agreement").

2. Interpretation

Unless the contrary intention appears, a reference in this Schedule to a clause or sub-clause is to a clause or sub-clause of this Schedule.

In this Schedule, unless the contrary intention appears, the following words and phrases have the following meanings:

"Baseline Measurements" means the reference baseline measurements of radioactivity.

"End Measurements" means the measurements of radioactivity taken after the conduct of Exploration Activities to which this Schedule applies.

"Radiation Management Plan" includes radiation management plans as specified in the regulation 16.7 of the Mines Safety and Inspection Regulations 1995 (WA) and the associated guideline.

"Uranium Monitoring Team" means two Traditional Owners nominated by the members of the Native Title Party through the HSP and an appropriately qualified radiation specialist nominated by the members of the Native Title Party through the HSP, such qualifications to be provided by the Heritage Service Provider to the Grantee.

3. BEFORE GROUND DISTURBING ACTIVITIES

- 3.1 Before the Grantee commences activities pursuant to a Work Program involving Low Impact Exploration/Exploration Activity to which this Schedule applies, the Parties shall consult with each other to determine which aspects of the Work Program may be monitored by the Uranium Monitoring Team pursuant to item 7 of this schedule, with the nominated members of the Native Title Party to have the final decision about that, and with the Grantee complying with such decision.
- 3.2 Prior to carrying out any Low Impact Exploration/Exploration Activity to which this Schedule applies, the Grantee shall:

- a Provide to the HSP a copy of any relevant draft Radiation Management Plan proposed to be provided to any governmental body for input by the nominated members of the Native Title Party through the HSP; and
- b Take and record Baseline Measurements as required by a final version Radiation Management Plan approved by a governmental body, and provide to the HSP a copy of all Baseline Measurements.

4. DURING LOW IMPACT EXPLORATION/EXPLORATION ACTIVITY

4.1 Whilst undertaking Low Impact Exploration/Exploration Activity to which the Schedule applies the Grantee shall adhere to the conditions detailed in the Radiation Management Plan in regards to:

- a Minimisation of any possible dust emissions;
- b Controlled storage of potentially radioactive samples;
- c Disposal of any waste materials;
- d Clean up and restoration of the site upon the completion of ground disturbing activities; and
- e Any other conditions, including any additional conditions reasonably proposed by the HSP and agreed by the Grantee.

4.2 The Grantee may leave the site unattended but before doing so must ensure all drill holes are at least temporarily capped and all samples are either:

- a removed from the area; or
- b clearly signposted to enable their location to be easily identifiable.

5. AFTER LOW IMPACT EXPLORATION/EXPLORATION ACTIVITY

5.1 As soon as possible following the completion of any Low Impact Exploration/Exploration Activity to which this Schedule applies, and in any event prior to the relinquishment by the Grantee of the relevant part of the Tenement, the Grantee shall:

- a Carry out site rehabilitation as required by the Radiation Management Plan approved by a governmental body;
- b Take and record End Measurements as detailed in the Radiation Management Plan approved by a governmental body, and provide to the HSP a copy of all End Measurements.

5.2 If End Measurements show the site may be contaminated or potentially contaminated as defined under the *Contaminated Sites Act 2003 (WA)* ("CSA"), the Grantee must immediately comply with the requirements of the CSA in relation to notification of the site under the CSA.

6. GENERAL

- 6.1 The Grantee shall provide to the HSP copies of any reports, records or plans which are produced as an outcome of implementing the Radiation Management Plan as approved by governmental body relating to radiation safety and the environment at the site of the Low Impact Exploration/Exploration Activity to which this Schedule applies within one week of providing these reports, records or plans to any governmental body.
- 6.2 If there is any inconsistency between the Grantee's Radiation Management Plan and this Schedule, the Grantee shall notify the HSP of that inconsistency and the Parties shall consult with each other to resolve the matter.

7. URANIUM EXPLORATION MONITORING

- 7.1 In relation to any Work program involving Low Impact Exploration/Exploration Activity to which this Schedule applies, the HSP may appoint an Uranium Monitoring Team to monitor and report back to the Ngoonooru Wadjari members of the Native Title Party on the Grantee's compliance with this Schedule and adherence to the procedures detailed in the approved Radiation Monitoring Plan;
 - 7.2 Subject to item 3.1, the Uranium Monitoring Team may carry out monitoring as specified in this Schedule;
 - 7.3 In addition to monitoring under this item 7, the Uranium Monitoring Team may:
 - a Take independent Baseline Measurements; and
 - b Take independent End Measurements.
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Schedule 6

Colour Topographic Map(s)