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Form 42-248(9) 3/22

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Security Interest in a Water Right

and a request to be notified of a change in ownership or any proposed or final action to amend, transfer, or otherwise modify the water right(s)

Attach pages with additional information. Incomplete forms will be returned.

1.

Water Right/Claim No.	Water Right/Claim No.	Water Right/Claim No.	Water Right/Claim No.
55-2134	55-7376		
55-7078	55-7399		
55-7079	55-7429		
55-7081			
55-13881			

2. The following **REQUIRED** information must be submitted with this form:

   A) Evidence of the security interest. This may be a copy of a **DEED of TRUST, MORTGAGE, CONTRACT OF SALE** or other legal document indicating your interest in the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION**.

   B) A **FEE** of **$25.00 per** water right or adjudication claim.

3. Name and Mailing Address of Person or Company Holding Security Interest

   Beedie Investments Ltd.
   1111 West Georgia Street, Suite 1570
   Vancouver, British Columbia V6E 4M3, Canada
   Attn: David Bell
   Phone _____
   Email _____

4. Name of Water Right Owner/Claimant(s) DeLamar Mining Company

5. Expiration Date of Notification Period July 28, 2025

6. Is this a Renewal of Request for Notification? ☐ YES ☒ NO

7. Signature(s) of Security Interest Holder(s) _____

   Title, if applicable President

SUPPORT DATA
IN FILE # 55-2134

For Office Use Only

Receipted by LE Date 10/17/2022 Receipt No. W0508268 Fee $200.00

Processed by AJ _____ Date _____ WR DM Date 2-3-23

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Instrument # 313629
MURPHY, OWYHEE, IDAHO
2022-10-03 04:31:19 No. of Pages: 70
Recorded for: PERKINS COIE
ANGELA BARKELL Fee: $165.00
Ex-Officio Recorder Deputy: PS
Index To: MORTGAGE
Electronically Recorded by Simplifile

PREPARED BY AND UPON RECORDATION RETURN TO:

Beedie Investments Ltd.
1111 West Georgia Street, Suite 1570
Vancouver, British Columbia
V6E 4M3 Canada
Attn: David Bell

TO BE RECORDED IN THE
REAL PROPERTY RECORDS OF
OWYHEE COUNTY, IDAHO

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

By DELAMAR MINING COMPANY,
as Mortgagor

to BEEDIE INVESTMENTS LTD.,
as Mortgagee

October 3, 2022

THIS MORTGAGE CREATES A LIEN ON RIGHTS IN OR RELATING TO LANDS AND MINERAL INTERESTS OF MORTGAGOR WHICH ARE DESCRIBED IN THE EXHIBITS HERETO.

THIS INSTRUMENT IS INTENDED TO BE AND SHALL BE EFFECTIVE AS A UNIFORM COMMERCIAL CODE FINANCING STATEMENT FILED AS A FIXTURE FILING PURSUANT TO CHAPTER 9 OF THE UNIFORM COMMERCIAL CODE - SECURED TRANSACTIONS (IDAHO CODE SECTION 28-9).

THIS INSTRUMENT SHOULD BE INDEXED BOTH AS A MORTGAGE AND AS A FIXTURE FILING IN THE REAL PROPERTY RECORDS OF OWYHEE COUNTY, IDAHO. THE MORTGAGOR IDENTIFIED HEREIN IS THE DEBTOR, THE

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MORTGAGEE IDENTIFIED HEREIN IS THE SECURED PARTY. THE SECURITY INTEREST CREATED HEREIN COVERS THE PERSONAL PROPERTY AND FIXTURES WHICH ARE OR MAY BECOME ATTACHED TO THE REAL PROPERTY ENCUMBERED BY THIS MORTGAGE.

THIS MORTGAGE CONTAINS AFTER-ACQUIRED PROPERTY PROVISIONS AND COVERS FUTURE ADVANCES AND PROCEEDS TO THE FULLEST EXTENT ALLOWABLE UNDER APPLICABLE LAW.

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THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this ***"Mortgage"***), is entered into as of October 4, 2022, by DELAMAR MINING COMPANY, an Oregon corporation, as Mortgagor, whose mailing address for notice hereunder is at 1050 – 400 Burrard Street, Vancouver, British Columbia V6C 3A6, Canada, Attn: George Salamis, CEO, and whose principal place of business is P.O. Box 52, 1 DeLamar Rd., Jordan Valley, Oregon 97910, to and for the benefit of Beedie Investments Ltd., whose address for notice hereunder is 1111 West Georgia Street, Suite 1570, Vancouver, British Columbia V6E 4M3, Canada, Attn: David Bell (the "***Mortgagee***").

SECTION I
DEFINITIONS

1.1 **Definitions.** As used herein, the following terms shall have the following meanings:

"***Affiliate***", "***Anti-Terrorism Laws***", ***"Applicable Laws"***, "***Default Rate***", ***"DeLamar Project"***, "***Encumbrance***", "***Environmental Laws***", "***ERISA***", "***Existing Royalty Agreements***", "***First Ranking Security Interest***", "***GAAP***", "***Governmental Authority***", "***Guarantor***", "***Hazardous Materials***", "***Hedging Transactions***", "***Knowledge***", "***Loan***", "***Loan Documents***", "***Loan Party***", "***Material Adverse Effect***", "***Subsidiary***", ***"Permitted Encumbrances"***, and "***Person***" have the respective meanings assigned to such terms in the Credit Agreement.

"***Architectural Barrier Laws***" means any and all architectural barrier laws including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, and any similar laws of the State, as amended, or any successor thereto.

"***Borrower***" means Integra Resources Corp., a corporation incorporated under the laws of British Columbia, Canada.

"***Charges***" means all fees, charges, and/or other things of value that are treated as interest under applicable law, and are contracted for, charged, received, taken, or reserved by Mortgagee pursuant to the Loan Documents.

"***Contracts***" means all of the right, title, and interest of Mortgagor, including equitable rights, in, to, and under all: (a) contracts for the purchase or sale of all or any portion of the Mortgaged Property, whether such contracts are now or at any time hereafter existing, including without limitation, all earnest money or other deposits escrowed or to be escrowed or letters of credit provided or to be provided by the purchasers under the contracts, including all amendments, supplements, and restatements thereof, and together with all payments, earnings, income, profits, and all other sums due or to become due arising from the sale of any portion of the Mortgaged Property or from the contracts, and together with any and all earnest money, security, letters of credit, or other deposits under any of the contracts; (b) future advance payment agreements, Mineral exchange, refining and processing contracts and agreements, (c) contracts, licenses, permits, and rights relating to any Water Rights or entitlements for water, wastewater, and other utility services whether executed, granted, or issued by a private person or entity or a governmental

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or quasi-governmental agency, which are applicable to the development, ownership, maintenance, or operation of the Mortgaged Property, whether such contracts, licenses, and permits are now or hereafter existing, including without limitation, all entitlements with respect to water, wastewater, and other utility services, certificates, licenses, zoning variances, permits, and no-action letters from each Governmental Authority required (i) to evidence compliance by Mortgagor and all improvements constructed or to be constructed on the Mortgaged Property with all Legal Requirements applicable to the Mortgaged Property, and (ii) to develop and/or operate the Mortgaged Property; (d) financing arrangements relating to the financing or purchase of any portion of the Mortgaged Property by future purchasers; (e) contracts for construction or supplying of Improvements to the Property; and (f) other contracts which apply to the development, use, enjoyment, occupancy, operation, maintenance, repair, management, or ownership of the Mortgaged Property (save and except the Leases), including without limitation maintenance and service contracts and management agreements, Provided: Contracts shall not include any contracts or agreements that solely apply to Excluded Property.

"***Credit Agreement***" means that certain Credit Agreement, dated July 28, 2022, by and among Borrower, Mortgagor as a Guarantor, Mortgagee, and the other parties thereto, as amended, restated, renewed, substituted or otherwise modified from time to time.

"***Debt***" means as of any applicable date of determination, all items of indebtedness, obligation, or liability of a Person, whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, joint or several, including, without limitation, all items that should be classified as liabilities under GAAP. In the case of Mortgagor, the term "***Debt***" shall include, without limitation, the Obligations.

"***Disposition***" means any sale, conveyance, license, transfer, assignment, lease, abandonment or other disposition.

"***Equipment***" has the meaning set forth in the UCC together with all of the following to the extent, if any, the same are not included within such definition: all machinery, equipment, furniture, furnishings, fixtures, and other tangible personal property including, without limitation, data processing hardware and software, motor vehicles, aircraft, dies, tools, jigs, and office equipment, as well as all of such types of property that are leased and all rights and interests with respect thereto under such leases to the extent that any such lease does not prohibit or require a consent to the creation of an Encumbrance in favor of the Mortgagee (including, without limitation, options to purchase) together with all present and future additions and accessions thereto, replacements therefor, component and auxiliary parts and supplies used or to be used in connection therewith, and all substitutes for any of the foregoing, and all manuals, drawings, instructions, warranties and rights with respect thereto wherever any of the foregoing is located to the extent that any of the foregoing are now owned or hereafter acquired by Mortgagor to use in connection with (temporarily or permanently) any of the Improvements or the Land and to the extent that any other Person now or hereafter grants or purports to grant an Encumbrance upon all or any of the foregoing as security for all or any portion of the Obligations. Provided: Equipment shall not include any contracts or agreements that are used or to be used solely in connection with Excluded Property.

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"***Event of Default***" means any happening or occurrence described in **SECTION VI.**

"***Excluded Property***" means the Excluded Property as listed and described in Schedule 5.1(d) of the Credit Agreement, and any right, title, or interest in or to that Excluded Property.

"***Financing Statement***" or "***Financing Statements***" has the meaning set forth in **Section 10.2**.

"***Fixtures***" means all materials, supplies, equipment, systems, apparatus, and other items now owned or hereafter acquired by Mortgagor and now or hereafter attached to, installed in or on any of the Improvements or the Land, including without limitation, all partitions, dynamos, window screens and shades, draperies, rugs and other floor coverings, awnings, motors, engines, boilers, furnaces, pipes, call and sprinkler systems, alarm and security systems, intercom systems, fire extinguishing apparatus and equipment, water tanks, swimming pools, heating, ventilating, refrigeration, plumbing, laundry, lighting, generating, cleaning, waste disposal, transportation systems (of people or things, including without limitation stairways, elevators, escalators, and conveyors), incinerating, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances, and equipment, disposals, dishwashers, refrigerators, ranges, recreational equipment and facilities of all kinds, lighting, traffic control, raw and potable water, gas, electrical, storm and sanitary sewer, telephone and cable television facilities, and all other utilities whether or not situated in easements, together with all accessions, appurtenances, replacements, betterments, and substitutions for any of the foregoing and the proceeds thereof.

"***Hedging Bank***" means any banks or financial institutions which enter into any Hedging Transactions with the Borrower from time to time.

"***Impositions***" means: other than Permitted Exceptions, (a) all real estate and personal property taxes, charges, assessments, standby fees, excises, and levies and any interest, costs, or penalties with respect thereto, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which at any time before or after the execution hereof may be assessed, levied, or imposed upon the Mortgaged Property or the ownership, use, occupancy, or enjoyment thereof, or any portion thereof, or the sidewalks, streets, or alleyways adjacent thereto; (b) any charges, fees, license payments, or other sums payable under any easement, license, or agreement maintained for the benefit of the Mortgaged Property; (c) water, gas, sewer, electricity, and other utility charges and fees relating to the Mortgaged Property; and (d) assessments and charges arising under any other declarations, restrictions, or agreements recorded in the county records affecting the Mortgaged Property.

"***Improvements***" means any and all buildings, structures, and other improvements of any kind or nature, and any and all additions, alterations, betterments, or appurtenances thereto, now or at any time hereafter situated, placed, or constructed upon the Land or any part thereof.

"***Indebtedness***" means (i) the principal of, interest on, or other sums evidenced by the Credit Agreement or the Loan Documents; (ii) any other amounts, payments, or premiums payable under the Loan Documents; (iii) such additional or future sums (whether or not obligatory), with interest thereon, as may hereafter be borrowed or advanced from Mortgagee, its successors or

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assigns, by the then record owner of the Mortgaged Property, when evidenced by a promissory note or similar instrument which, by its terms, is secured hereby, it being contemplated by Mortgagor, and Mortgagee that such future indebtedness may be incurred; (iv) all Hedging Obligations under any Secured Hedging Agreements; and (v) any and all other indebtedness, obligations, and liabilities of any kind or character of any Loan Party to Mortgagee, now or hereafter existing, absolute or contingent, due or not due, arising by operation of law or otherwise, direct or indirect, primary or secondary, joint, several, joint and several, fixed or contingent, secured or unsecured by additional or different security or securities, including indebtedness, obligations, and liabilities to Mortgagee of any Loan Party, whether individually or as a member of any partnership, joint venture, trust or other type of business association, or other group, and whether incurred by any Loan Party as principal, surety, endorser, guarantor, accommodation party or otherwise, and any and all renewals, modifications, amendments, restatements, rearrangements, consolidations, substitutions, replacements, enlargements, and extensions thereof, it being contemplated by Mortgagee and Mortgagor that the Loan Parties may hereafter become indebted to Mortgagee in further sum or sums and includes, without limitation, the Obligations (as defined in the Credit Agreement). Notwithstanding the above, the term "***Indebtedness***" shall not include any other loan, advance, Debt, obligation, or liability with respect to which Mortgagee is by applicable law prohibited from obtaining an Encumbrance on real estate, nor shall this definition operate or be effective to constitute or require any assumption or payment by any person of any Debt or obligation of any other person if it would violate or exceed the limit provided in any applicable usury or other law. This Mortgage secures, and the Indebtedness includes, (i) all advances made by Mortgagee with respect to any of the Mortgaged Property for the payment of costs incurred for the protection of any of the Mortgaged Property or the lien of this Mortgage, (ii) all expenses incurred by Mortgagee by reason of an Event of Default hereunder and (iii) all advances made by Mortgagee to enable completion of construction of the Mortgaged Property.

"Knowledge" means, with respect to Mortgagor, the knowledge of the chief executive officer, the chief financial officer, or the general counsel of Mortgagor, after reasonable inquiry.

"***Land***" means, collectively,

(a) all of that certain real property or interest therein situated in Owyhee County, Idaho, more particularly described in ***Exhibit A***, together with all right, title, interest, and privilege of Mortgagor in and to: (i) the patented and unpatented Mining Claims; (ii) all streets, ways, roads, alleys, easements, rights-of-way, licenses, rights of ingress and egress, and public places, existing or proposed, abutting, adjacent, used in connection with, or pertaining to such real property or the improvements thereon; (iii) any strips or gores of real property between such real property and abutting or adjacent properties; (iv) all air rights, (v) all Water Rights, (vi) any sands, gravel, rocks and soil, timber and crops appurtenant to such real property; and (vii) all other appurtenances, reversions, and remainders in or to such real property. The listing of specific rights or property shall not be interpreted as a limit of general terms;

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(b) all right, title, and interest, whether now owned and existing or hereafter acquired or arising, of Mortgagor in the patented Mining Claims subject to the Mining Claims Leases identified in ***Exhibit A***, rights of way, easements, or other documents described in ***Exhibit A*** for all purposes described or referenced therein, and all renewals and extensions thereof;

(c) all right, title, and interest, whether now owned and existing or hereafter acquired or arising, of Mortgagor in and to the land described in the above Section (b) or otherwise described or referred to in ***Exhibit A***, including, without limitation, the Minerals, and leasehold estates in and to such land; all right, title, and interest, whether now owned and existing or hereafter acquired or arising, of Mortgagor in and to any of the Minerals in, or, or under such lands, including without limitation all Mortgagor contractual rights, fee interests, leasehold interest, overriding royalty interests, nonparticipating royalty interests, mineral interests, production payments, net profits, interests, or any other interest measured by or payable out of production of oil, gas or other Minerals from the lands described in this Section (c).

(d) all right, title, and interest, whether now owned and existing or hereafter acquired or arising, of Mortgagor in, to, and under or derived from all existing and future permits, licenses, easements, and similar rights and privileges that are appurtenant to any of the Land described in the above Sections (b) and (c).

Provided: Land shall not include any Excluded Property.

"***Lease Rent Notice***" has the meaning set forth in **Section 7.1(g)**.

"***Leases***" means all leases, master leases, subleases, licenses, concessions, or other agreements (whether written or oral or now or hereafter in effect) which grant from Mortgagor to third parties a possessory interest in and to, or the right to use or occupy, all or any part of the Mortgaged Property, together with all security deposits and other deposits or payments made in connection therewith, and all renewals and extensions thereof.

"***Legal Requirements***" means (a) judicial decisions, statutes (including, without limitation, Architectural Barrier Laws, Anti-Terrorism Laws, and Environmental Laws), rulings, rules, regulations, permits, or ordinances of any Governmental Authority applicable to Mortgagor or the Mortgaged Property, including without limitation the ownership, use, occupancy, possession, operation, maintenance, alteration, repair, or reconstruction of the Mortgaged Property; (b) all covenants, conditions, and restrictions contained in any deeds, other forms of conveyance, or in any other instruments of any nature that apply to the Mortgaged Property or the ownership, use, or occupancy thereof; (c) Mortgagor's or any Guarantor's presently or subsequently effective bylaws and articles of incorporation, operating agreement and articles of organization, or partnership, limited partnership, joint venture, trust, or other form of business association agreement; (d) all Leases; (e) all Contracts; and (f) any other legal obligation that applies to the Mortgaged Property and to which Mortgagor or any Loan Party may be bound, including without limitation any lease or other contract pursuant to which Mortgagor is granted a possessory interest in and to the Land and/or the Improvements.

"***Lessee***" means individually or collectively, a lessee or tenant under any of the Leases.

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"***License***" has the meaning set forth in **Section 9.2**.

"***Maximum Rate***" means the maximum lawful rate of interest that may be contracted for, charged, taken, received or reserved by Mortgagee in accordance with the applicable laws of Idaho (or applicable United States federal law to the extent that it permits Mortgagee to contract for, charge, take, receive, or reserve a greater amount of interest than under Idaho law), taking into account all Charges made in connection with the transaction evidenced by the Loan Documents. To the extent United States federal law permits Mortgagee to contract for, charge, take, receive, or reserve a greater amount of interest than under applicable Idaho law, Mortgagee shall rely on United States federal law for the purpose of determining the Maximum Rate. Additionally, to the extent permitted by applicable law now or hereafter in effect, Mortgagee may, at its option and from time to time, utilize any other method of establishing the Maximum Rate or under other applicable law by giving notice, if required, to Mortgagor as provided by applicable law now or hereafter in effect.

"***Minerals***" means all substances in, on, under, or above the Land which are now, or may become in the future, intrinsically valuable (that is, valuable in themselves) and which now or may be in the future enjoyed through extraction or removal from the property, including without limitation oil, gas, and all other hydrocarbons, coal, lignite, carbon dioxide, and all other non-hydrocarbon gases, uranium and all other radioactive substances, and gold, silver, copper, iron, and all other metallic substances or ores.

"***Mining Claims***" means all of those patented mining claims and unpatented mining claims owned and/or leased by Mortgagor, as described in ***Exhibit A***, including any amended, relocated, renewal, or replacement of the unpatented mining claims described in ***Exhibit A***.

"***Mining Claims Leases***" means the leases identified in ***Exhibit A*** concerning the patented Mining Claims identified in ***Exhibit A***, and all renewals and extensions thereof, which give rise to Mortgagor's interest in the leased Mining Claims.

"***Mortgaged Property***" means the Land, Minerals, Fixtures, Improvements, Personalty, Contracts, Mining Claims Leases, Leases, Plans, if any, and any interest of Mortgagor now owned or hereafter acquired therein, together with an interest in the Rents, and all other security and collateral of any nature now or hereafter appurtenant thereto given for the performance and discharge of the Obligations. Where the context permits or requires, the term "***Mortgaged Property***" means all or any portion of the above.

Notwithstanding the foregoing, the term "Mortgaged Property" shall not include:

1. any rights arising under any contracts, instruments, licenses, permits, or other documents as to which the grant of a security interest would (A) constitute a violation of a valid and enforceable restriction in favor of a third party on such grant, unless and until any required consents shall have been obtained, or (B) give any other party to such contract, instrument, license or other document a valid and enforceable right to terminate its obligations thereunder. Provided: Mortgagor shall take prompt commercially reasonable steps to remove any restrictions or obtain consents; or

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2. any asset, the granting of a security interest in which would be void, voidable, or illegal under Legal Requirements, or pursuant thereto would result in, or permit the termination of, such asset, including but not limited to any government permit, grant, or other authorization which is not assignable; or

3. any Excluded Property.

Provided further, that the limitation set forth in 1. and 2. above shall (x) exist only for so long as Legal Requirements, or other rights arising under any contracts, instruments, licenses or other documents continue to be effective (and, upon the cessation, termination, expiration of Legal Requirements or other rights arising under any contracts, instruments, licenses or other documents, or if any such Legal Requirements or other rights arising under any contracts, instruments, licenses or other documents are no longer applicable, the security interest granted herein shall be deemed to have automatically attached to such asset) and (y) not apply with respect to any asset if and to the extent that the security interest in and to such asset granted in this Mortgage is permitted under the UCC or under other Legal Requirements.

"***Mortgagee***" means Beedie Investments Ltd., whose mailing address for notice hereunder is 1111 West Georgia Street, Suite 1570, Vancouver, British Columbia V6E 4M3, Canada, Attn: David Bell, and any successor in such capacity.

"***Mortgagor***" means DeLamar Mining Company, whose mailing address for notice hereunder is at 1050 - 400 Burrard Street, Vancouver, British Columbia V6 3A6, Canada, Attn: George Salamis, CEO.

"***Obligations***" means any and all of the covenants, conditions, warranties, representations, and other obligations (other than including the obligation to repay the Indebtedness) made or undertaken by any Loan Party, or any other person or party to the Loan Documents to Mortgagee or others as set forth in the Loan Documents, the Mining Claims Leases, the Leases, and in any deed, lease, sublease, or other form of conveyance, or any other agreement pursuant to which Mortgagor is granted a possessory interest in the Mortgaged Property.

"***Operating Expenses***" means all expenses related to the ownership, operation, management, repair, and leasing of the Land and Improvements, including ground lease payments, Mortgaged Property insurance charges and premiums, ad valorem taxes and other Impositions, waste prevention costs, ordinary repairs and maintenance costs, environmental audit costs, security fees, normal accountant fees, reasonable marketing and promotional expenses, reasonable legal expenses, Lease obligation costs, and Governmental Authority compliance costs.

"***Permitted Exceptions***" means the liens, easements, restrictions, security interests, and other matters (if any) described on ***Exhibit B*** and the liens and security interests created by the Loan Documents.

"***Personalty***" means all of the right, title, and interest of Mortgagor in and to: (a) furniture, furnishings, equipment, machinery, and goods (including, without limitation, crops, farm products, timber and timber to be cut, and as-extracted collateral); (b) general intangibles, money, insurance

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proceeds, accounts, contract and subcontract rights, trademarks, trade names, copyrights, chattel paper, instruments, investment property, letter of credit rights, and inventory; (c) all cash funds, fees (whether refundable, returnable, or reimbursable), deposit accounts, or other funds or evidences of cash, credit, or indebtedness deposited by or on behalf of Mortgagor with any governmental agencies, boards, corporations, providers of utility services, public or private, including, without limitation, all refundable, returnable, or reimbursable tap fees, utility deposits, commitment fees, development costs, any awards, remunerations, reimbursements, settlements, or compensation heretofore made or hereafter to be made by any Governmental Authority pertaining to the Land, Improvements, Fixtures, Contracts, or other personalty, including, but not limited to, those for any vacation of, or change of grade in, any streets affecting the Land or the Improvements and those for municipal utility district or other utility costs incurred or deposits made in connection with the Land; (d) the Plans, and (e) all other personal property of any kind or character as defined in and subject to the provisions of the UCC (Article 9 - Secured Transactions); any and all of which are now owned or hereafter acquired by Mortgagor, and which are now or hereafter situated in, on, or about the Land or the Improvements, or used in or necessary to the complete and proper planning, development, construction, financing, use, occupancy, or operation thereof, or acquired (whether delivered to the Land or stored elsewhere) for use in or on the Land or the Improvements, together with all accessions, replacements, and substitutions thereto or therefor and the proceeds thereof.

"***Plans***" means any plans and specifications for the development of the Land and construction of the Improvements, and all amendments and modifications thereof, and all other related design, engineering, or architectural work, test reports, surveys, shop drawings, and related items.

"***Prohibited Person***" means any person or entity that (a) is specifically named or listed in, or otherwise subject to, any Anti-Terrorism Laws, (b) is owned or controlled by, or acting for or on behalf of any person or entity specifically named or listed in, or otherwise subject to, any Anti-Terrorism Laws, (c) beneficiary is prohibited from dealing with, or engaging in any transaction with, pursuant to any Anti-Terrorism Laws, or (d) is affiliated with any person or entity described in clauses (a) through (c) above.

"***Related Indebtedness***" means all Indebtedness paid or payable by any Loan Party to Mortgagee under the Loan Documents or under any other communication or writing by or between any Loan Party and Mortgagee related to the transaction or transactions described in the Loan Documents, except the debt that has been paid or is payable by any Loan Party to Mortgagee under the Credit Agreement.

"***Rents***" means all rents, revenues, royalties, income, issues, proceeds, bonus monies, profits (including all oil and gas or other Mineral royalties and bonuses), accounts, security deposits and other types of deposits (after Mortgagor acquires title thereto), and other benefits paid or payable by parties (other than Mortgagor) to the Leases for using, leasing, licensing, possessing, operating from, residing in, selling, or otherwise enjoying the Mortgaged Property.

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"***Secured Hedging Agreement***" means any agreements related to Hedging Transactions required or permitted under this Mortgage entered into by and between any Loan Party and any Hedging Bank.

"***State***" means the State of Idaho.

"***Subordinate Mortgage***" means any mortgage, deed of trust, pledge, lien (statutory, constitutional, or contractual), security interest, encumbrance, charge, conditional sale agreement, or other title retention agreement covering all or any portion of the Mortgaged Property executed and delivered by Mortgagor, the lien of which is subordinate and inferior to the lien of this Mortgage.

"***Tax Code***" means the U.S. Internal Revenue Code of 1986, as amended, any and all U.S. Department of Treasury Regulations issued pursuant thereto in temporary or final form, and any and all federal, state, county, municipal and city rules and rulings, notices, requirements, statutes, regulations or laws governing or relating to taxes and/or taxation, and any and all successor statutes thereof.

"***UCC***" means the Uniform Commercial Code, as amended from time to time, in effect in the state in which the Mortgaged Property is located.

1.2 **Additional Definitions; Interpretive Provisions.** As used herein, the following terms shall have the following meanings:

(a) "***hereof***," "***hereby***," "***hereto***," "***hereunder***," and similar terms mean of, by, to, under, and with respect to, this Mortgage;

(b) "***heretofore***" means before, "***hereafter***" means after, and "herewith" means concurrently with, the date of this Mortgage;

(c) "***including***" means including without limitation;

(d) words of any gender shall include the other gender where appropriate;

(e) all terms used herein, whether or not defined in **Section 1.1**, and whether used in singular or plural form, shall be deemed to refer to the object of such term whether such is singular or plural in nature, as the context may suggest or require; and

(f) all references to a particular Section shall refer to a Section in this Mortgage, unless otherwise specifically stated.

"***Water Rights***" means the water rights identified and described in ***Exhibit A***.

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SECTION II
GRANT

2.1 **Grant.** To secure the full and timely payment of the Obligations and the full and timely performance and discharge of the Indebtedness, Mortgagor hereby GRANTS, BARGAINS, SELLS, TRANSFERS, CONVEYS, and MORTGAGES, unto Mortgagee, a mortgage lien on and a security interest in, all of Mortgagor's right, title and interest in and to the Mortgaged Property, subject only to the Permitted Exceptions, TO HAVE AND TO HOLD the Mortgaged Property unto Mortgagee and Mortgagee's successors, substitutes and assigns forever, and Mortgagor hereby binds itself, its successors, and assigns to WARRANT AND FOREVER DEFEND its title to the Mortgaged Property unto Mortgagee against every person whomsoever lawfully claiming or to claim the same or any part thereof, in accordance with and subject to the terms and conditions of this Mortgage.

SECTION III
REPRESENTATIONS AND WARRANTIES

Mortgagor hereby unconditionally represents and warrants to Mortgagee, as of the date hereof and at all times during the term of this Mortgage, as follows:

3.1 **Organization, Authority and No Conflict**.

(a) Mortgagor (i) is an entity of the type set forth in the Preamble to this Mortgage, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation, (ii) is duly qualified and in good standing in the state where the Mortgaged Property is located, and (iii) has the right and power and is duly authorized and empowered to enter into, execute and deliver this Mortgage and perform its obligations hereunder and has all requisite power and all governmental certificates of authority, licenses, permits, qualifications, and documentation to own, lease, and operate its properties and to carry on its business as now being, and as proposed to be, conducted.

(b) Mortgagor's execution, delivery and performance of this Mortgage does not conflict with the provisions of the organizational documents of Mortgagor, any statute, regulation, ordinance or rule of law, or any agreement, contract or other document binding on Mortgagor, and Mortgagor's execution, delivery and performance of this Mortgage will not result in the imposition of any lien or other encumbrance upon any of Mortgagor's property (other than Permitted Exceptions) under any existing indenture, mortgage, deed of trust, loan or credit agreement or other agreement or instrument by which Mortgagor or any of its property may be bound or affected.

3.2 **Financial Statements and Other Information.** The financial statements and other information delivered or to be delivered by Mortgagor to Mortgagee at or prior to the date hereof fairly present in all material respects the financial condition of Mortgagor at the respective dates thereof, subject in the case of unaudited statements to changes resulting from audit and normal year-end adjustment, and there has been no Material Adverse Effect

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with respect to Mortgagor since the date of the financial statements delivered to Mortgagee most recently prior to the date hereof. All written information now or heretofore furnished by Mortgagor to Mortgagee is true and correct as of the date with respect to which such information was furnished.

3.3 **Title and Encumbrances.** Mortgagor owns and possesses and has good and valid right, title and interest in and to the Mortgaged Property, free of any Encumbrances, except for the Permitted Exceptions. This Mortgage constitutes a valid, subsisting First Ranking Security Interest on any and all of Mortgagor's right, title and interest in and to the Land, the Improvements, the Mining Claims Leases, the Leases, Minerals, and the Fixtures; a valid, subsisting First Ranking Security Interest in and to the Personalty, Contracts, the Mining Claims Leases and Leases (to the extent that the term Leases include items covered by the UCC); and a valid, subsisting First Ranking Security Interest in and to the Rents; all in accordance with the terms hereof, and all subject to the Permitted Exceptions.

3.4 **Title to Unpatented Mining Claims.** To Mortgagor's Knowledge: (a) during the time period that Mortgagor has held title to or leased the Mining Claims, all federal annual unpatented claim maintenance and rental fees required to be paid under federal law in lieu of the performance of assessment work, in order to maintain the Mining Claims through the assessment year ending on September 1, 2023, have been paid properly and timely; (b) the Mining Claims are in good standing; (c) Mortgagor owns the entire undivided legal and equitable interest or leasehold interest in the Mining Claims; and (d) Mortgagor has good right and full power to assign, convey, mortgage, pledge, sell and transfer Mortgagor's legal and equitable or leasehold interest in the Mining Claims.

3.5 **Business Purposes.** The Loans are solely for the purpose of development of the DeLamar Project (as defined in the Credit Agreement) and for general working capital purposes in respect of the DeLamar Project, and is not for personal, family, household, or agricultural purposes. The Mortgaged Property forms no part of any property owned, used, or claimed by Mortgagor as a residence or business homestead and is not exempt from forced sale under the laws of the State in which the Mortgaged Property is located. Mortgagor disclaims and renounces all claims to all or any portion of the Mortgaged Property as a homestead.

3.6 **Taxes.** Mortgagor and each Loan Party (a) have filed on or before their respective due dates all federal, state, county, municipal, city income, and other tax returns required to have been filed by them, including, without limitation, those required under the Tax Code, (or have obtained extensions for filing those tax returns), (b) are not delinquent in filing those returns or extensions, if any, and (c) have paid all taxes and related liabilities that are due pursuant to those returns or pursuant to any assessments received by that party to the extent those taxes have become due. Neither Mortgagor nor any Loan Party knows of any basis for any additional assessment regarding any such taxes and related liabilities. Mortgagor and each Loan Party believe that their respective tax returns properly reflect the income and taxes of Mortgagor and each Loan Party for the periods covered thereby, subject only to

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reasonable adjustments required by the Internal Revenue Service or other applicable tax authority upon audit.

3.7 **Control Persons.** Mortgagor is not, and no Person having "control" (as that term is defined in 12 U.S.C. § 375b or in regulations promulgated pursuant thereto) of Mortgagor is, an "executive officer," "director," or "person that directly or indirectly or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10% of any class of voting securities" (as those terms are defined in 12 U.S.C. § 375b or in regulations promulgated pursuant thereto) of Mortgagee, of a holding company of which Mortgagee is a subsidiary, or of any other subsidiary of a holding company of which Mortgagee is a subsidiary, of any bank at which Mortgagee maintains a correspondent account, or of any bank which maintains a correspondent account with Mortgagee.

3.8 **O.S.H.A**. Mortgagor is not, and no Person having "control" (as that term is defined in O.S.H.A. Each of Mortgagor and each Loan Party, has duly complied with and their respective facilities, business assets, property, leaseholds and equipment are in compliance, in all material respects, with the provisions of the Federal Occupational Safety and Health Act and all rules and regulations thereunder and all similar state and local laws, rules and regulations, to the extent required thereby. There are no outstanding citations, notices or orders of non-compliance issued to Mortgagor, any Loan Party or relating to their respective businesses, assets, property, leaseholds or equipment under any such laws, rules or regulations, or with respect to the Mortgaged Property.

3.9 **Labor Relations.** Mortgagor is not a party to any collective bargaining agreement.

3.10 **No Bankruptcy.** No bankruptcy or insolvency proceedings are pending or contemplated by Mortgagor or, to Mortgagor's Knowledge, against Mortgagor or by or against any endorser, cosigner, or guarantor of any Loan.

3.11 **No Litigation.** Except as disclosed to Mortgagee on Schedule 7.1(q) to the Credit Agreement, there are no actions or proceedings which are pending or, to the best of Mortgagor's Knowledge, threatened against Mortgagor which are reasonably likely to have a Material Adverse Effect.3.12 **Compliance with Legal Requirements.** The Land and the Improvements and the intended use thereof by Mortgagor comply in all material respects with all applicable Legal Requirements issued by any state, federal, or municipal authorities having or claiming jurisdiction over the Mortgaged Property. Mortgagor has complied in all material respects with all Legal Requirements applicable to Mortgagor or the Mortgaged Property, including, without limitation, Environmental Laws.

3.13 **Separate Tax Parcel; Legal Lot.** The Mortgaged Property is taxed separately without regard to any other real estate and the Land constitutes legally subdivided lots under all applicable Legal Requirements (or, if not subdivided, no subdivision or platting of the Land is required under applicable Legal Requirements), and for all purposes may be mortgaged, conveyed, or otherwise dealt with as independent parcels.

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3.14 **Utilities; Access.** All utility services necessary and sufficient for the current use, occupancy, operation and disposition of the Land and the Improvements for their intended purposes are available to the Mortgaged Property, including, if applicable, water, storm sewer, sanitary sewer, gas, electric, cable and telephone facilities, through public rights-of-way or duly recorded private easements; all streets, roads, highways, bridges and waterways necessary for access to current use, occupancy, operation and disposition of the Land and the Improvements have been completed, have been dedicated to and accepted by the appropriate municipal authority and are open and available to the Land and the Improvements.

3.15 **Money Laundering; Anti-Terrorism Laws**.

(a) No funds for the purchase or operation of the Mortgaged Property have been or will be derived from sources that are described in 18 U.S.C. §§ 1956 and 1957 as funds or property derived from "specified unlawful activity."

(b) None of Mortgagor nor any Loan Party (nor any person or entity owning an interest in Mortgagor or any Loan Party) (i) is a Prohibited Person, or (ii) has violated any Anti-Terrorism Laws. No Prohibited Person holds or owns any interest of any nature whatsoever in Mortgagor or any Loan Party, as applicable, and none of the funds of Mortgagor or any Loan Party have been derived from any activity in violation of Anti-Terrorism Laws.

3.16 **No Foreign Person.** Neither Mortgagor nor any Loan Party is a "foreign person" within the meaning of 26 U.S.C. § 1445(f)(3) of the Tax Code.

3.17 **No-Defaults.** Mortgagor is not in default under any material Contract to which it is a party or by which it is bound. Mortgagor has not received written notice regarding any threatened dispute regarding any material Contract which would have a Material Adverse Effect.

3.18 **Consents, Approvals and Filings, Etc.** Except as previously obtained or expressly provided in this Mortgage or other Loan Document, no authorization, consent, approval, license, qualification, or formal exemption from, nor any filing, declaration, or registration with, any Governmental Authority and no material authorization, consent, or approval from any other Person, is required in connection with the execution, delivery, and performance by Mortgagor and any Loan Party of any Loan Document to which it is a party. All authorizations, consents, approvals, licenses, qualifications, exemptions, filings, declarations, and registrations that have previously been obtained or made are in full force and effect and are not the subject of any attack, or, to the Knowledge of Mortgagor, any threatened attack, in any material respect, by appeal, direct proceeding, or otherwise.

3.19 **Leases Effective.** All Leases (if any) and Mining Claims Leases are in full force and effect. There are no defaults under any Leases or Mining Claims Leases (other than immaterial defaults in the ordinary course of business), and all current conditions to the

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effectiveness or continuing effectiveness of all Leases and Mining Claims Leases have been satisfied.

3.20 **No Investment Company.** Neither Mortgagor nor any Loan Party are an "investment company" within the meaning of the Investment Company Act of 1940, as amended, nor are any of them "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

3.21 **No Commencement.** As of the date of this Mortgage, no construction has been commenced on the Land, including, without limitation, steps to clear or otherwise prepare the Land for construction or the delivery of material for use in construction (other than for the DeLamar Project or for other past or existing uses); and no contract or other agreement for construction on the Land has been entered into, for furnishing materials for that construction or for any other purpose, the performance of which by the other party to it would give rise to an Encumbrance, other than Permitted Exceptions.

SECTION IV
AFFIRMATIVE COVENANTS

Mortgagor hereby unconditionally covenants and agrees with Mortgagee, until the entire Indebtedness shall have been paid in full and all of the Obligations shall have been fully performed and discharged, as follows:

4.1 **Payment and Performance.** Mortgagor shall cause Borrower to pay the Indebtedness as and when specified in the Loan Documents, and shall cause Borrower to perform and discharge all of the Indebtedness, in full and on or before the dates same are to be performed.

4.2 **Existence.** Except as expressly provided for in the Credit Agreement, Mortgagor shall (a) preserve and maintain its existence and preserve and maintain those rights, licenses, and privileges as are material to the business and operations conducted by it related to the Mortgaged Property, (b) qualify and remain qualified to do business in each jurisdiction in which the Land is located and where that qualification is material to its business and operations or ownership of the Mortgaged Property, and (c) continue to conduct and operate its business respecting the Mortgaged Property substantially as conducted and operated during the present and preceding calendar year or as appropriate for DeLamar Project needs and prudent mining industry standards.

4.3 **Compliance with Legal Requirements.** Mortgagor shall maintain all governmental consents, franchises, certificates, licenses, authorizations, approvals and permits, the lack of which would have a Material Adverse Effect and Mortgagor shall remain in compliance with all Applicable Laws and Legal Requirements, the failure with which to comply would have a Material Adverse Effect on the use or enjoyment of the Mortgaged Property. Following any determination by Mortgagee that there is non-compliance, or any condition which requires any action by or on behalf of such Mortgagor in order to avoid non-compliance, with any Environmental Law, at Mortgagor's expense cause an independent

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environmental engineer acceptable to Mortgagee to conduct such tests of the relevant site(s) as are appropriate and prepare and deliver a report setting forth the results of such tests, a proposed plan for remediation and an estimate of the costs thereof.

4.4 **First Ranking Security Interest Status.** Mortgagor shall protect and preserve the First Ranking Security Interest status of this Mortgage and shall not permit to be created or to exist concerning the Mortgaged Property or any part thereof any lien or security interest on a parity with, superior to, or inferior to any of the liens or security interests hereof, except for the Permitted Exceptions; *provided*, *however*, that Mortgagor shall have the right to contest in good faith the validity of any involuntary junior liens or security interests, *provided* Mortgagor shall first deposit with Mortgagee a bond or other security satisfactory to Mortgagee in such amount as Mortgagee shall reasonably require, but not more than one hundred twenty percent (120.0%) of the amount of the claim, and *provided further* that if Mortgagor loses such contest, Mortgagor shall thereafter diligently proceed to cause such liens or security interests to be removed and discharged.

4.5 **Payment of Impositions.** Mortgagor shall duly pay and discharge, or cause to be paid and discharged when due all Impositions not later than the earlier to occur of (a) the due date thereof, (b) the date any fine, penalty, interest, or cost may be added thereto or imposed thereon or (c) the date before any lien may be filed for the nonpayment thereof (if such date is used to determine the due date of the respective item), *provided*, *however*, that Mortgagor shall have the right to contest in good faith the validity of any Imposition in accordance with Section 8.11.

4.6 **Maintenance and Repair.** Mortgagor shall continue to carry on its business and maintain the Mortgaged Property in accordance with prudent mining industry standards and in good condition subject to normal wear and tear. Mortgagor is not prohibited from relinquishing or otherwise disposing of Mortgaged Property which it deems to be no longer needed for the DeLamar Project in accordance with standard industry practices.

4.7 **Maintenance of Mining Claims**. To the extent required by applicable law, beginning with the annual assessment work period of September 1, 2022 to September 1, 2023, and for each annual assessment work year commencing during the term of this Mortgage, Mortgagor shall perform, or shall cause to be performed, for the benefit of the unpatented mining claims which constitute all or part of the Mining Claims work of a type customarily deemed applicable as assessment work and of sufficient value to satisfy the annual assessment work requirements, if any, of all applicable federal, state and local laws, regulations and ordinances, including Environmental Laws, and shall prepare evidence of the same in form proper for recordation and filing, and shall timely record and file such evidence in the appropriate federal, state and local office as required by applicable federal, state and local laws, regulations and ordinances. If under applicable federal, state or local laws and regulations annual mining claim maintenance or rental fees are required to be paid for the unpatented mining claims which constitute all or part of the Mining Claims, beginning with the annual assessment work year of September 1, 2022, to September 1, 2023, Mortgagor shall timely and properly pay, or cause to be paid, the annual mining claim maintenance or

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rental fees and state mining claim fees, if any, and shall execute and record or file, as applicable, proof of payment of the annual mining claim maintenance or rental fees and of Mortgagor's intention to hold the unpatented mining claims which constitute all or part of the Mining Claims. Mortgagor shall pay, or cause to be paid, such fees and complete such filings and recordings as are required under applicable federal, state and local laws not less than fifteen (15) days before the time required for completion of such acts. Provided, Mortgagor is not prohibited from relinquishing or otherwise disposing of unpatented mining claims which it deems to be no longer needed for the DeLamar Project in accordance with standard industry practices.

4.8 **Maintenance of Leases and Contracts**. Mortgagor will keep and continue all Contracts, Mining Claims Leases, estates and interests herein described and all contracts and agreements relating thereto in full force and effect, in all material respects, in accordance with the terms thereof and will not permit the same to lapse or otherwise become impaired for failure to comply with the obligations thereof, whether express or implied. Provided, Mortgagor is not prohibited from relinquishing or otherwise disposing of Mortgaged Property which it deems to be no longer needed for the DeLamar Project in accordance with standard industry practices.

4.9 **Insurance**.

(a) Mortgagor shall, at all times and at Mortgagor's own expense, provide and maintain in force at all times insurance on the Mortgaged Property with financially sound and reputable insurance companies or associations including all risk property insurance and comprehensive general liability insurance, in amounts and against risk that are determined to be appropriate by the Mortgagor, acting prudently. At Mortgagee's request, Mortgagor shall provide Mortgagee with a counterpart original of any policy, together with a certificate of insurance setting forth the coverage, the limits of liability, the carrier, the policy number and the expiration date. Each such policy of insurance shall be in an amount, for a term, and in form and content satisfactory to Mortgagee. In addition, each policy of hazard insurance shall include a lender's loss payable endorsement in favor of Mortgagee.

(b) Upon any foreclosure under this Mortgage or transfer of title to the Mortgaged Property in extinguishment of all or any part of the Indebtedness, all of Mortgagor's right, title, and interest in the insurance policies referred to in this **Section 4.9** (including unearned premiums) and all proceeds payable under them shall vest in the purchaser at foreclosure or other transfer, to the extent permissible under those policies. Mortgagee may make proof of loss for, settle and adjust any claim under, and receive the proceeds of, all insurance for loss of or damage to the Mortgaged Property. The expenses incurred by Mortgagee in the adjustment and collection of insurance proceeds shall be a part of the Indebtedness, shall be due and payable to Mortgagee on demand, and shall bear interest from the date paid by Mortgagee until reimbursed at the highest rate of interest applicable to any of the Indebtedness. Mortgagee and Mortgagee's employees are each

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irrevocably appointed attorney-in-fact for Mortgagor and are authorized to adjust and compromise each loss without the consent of Mortgagor, to collect, receive, and receipt for all insurance proceeds in the name of Mortgagee or Mortgagor. Mortgagee and Mortgagee's employees are authorized to endorse Mortgagor's name on any check in payment of a loss. Mortgagee is not liable or responsible for failure to collect or to exercise diligence in the collection of any proceeds or for the obtaining, maintaining, or adequacy of any insurance or for failure to see to the proper application of any amount paid over to Mortgagor, under any circumstances.

4.10 **Inspection.** Mortgagor shall permit Mortgagee, and their respective agents, representatives, and employees, to inspect the Mortgaged Property during normal business hours, at their own risk, with prior reasonable notice to Mortgagor, and subject to compliance with all safety and other operations protocols required by applicable law, Governmental Authority or Mortgagor.

4.11 **Property Reports.** Mortgagor shall maintain full and accurate books of account and other records reflecting the results of the operations of the Mortgaged Property.

4.12 **Financial Reporting Requirements**.

(a) Loan Documents. Mortgagor shall comply with the provisions of the Credit Agreement and any other Loan Documents related to financial reporting that are applicable to Mortgagor.

(b) Additional Matters. Mortgagor shall allow Mortgagee from time to time to inspect all books and records relating to the Indebtedness and to Mortgagor's financial condition, and to make and take away copies of such books and records.

4.13 **Leases**.

(a) Mortgagor shall obtain the prior written approval of Mortgagee (which approval shall not be unreasonably withheld or delayed) for the form of the tenant lease to be utilized in leasing the Land or Improvements, or any part of it, prior to entering into any Lease. Once approved, Mortgagor shall utilize the approved form lease in leasing all or any part of the Land or Improvements, and shall provide Mortgagee with a rental rate schedule acceptable to Mortgagee pursuant to which rental rates for tenants of the Land or Improvements, or any part of it, shall be established.

(b) Mortgagor shall (i) submit any and all proposed Leases to Mortgagee for approval (which approval shall not be unreasonably withheld or delayed) prior to the execution thereof, (ii) duly and punctually perform and comply with any and all representations, warranties, covenants, and agreements expressed as binding ,upon the lessor under any Lease, (iii) maintain each of the Leases in full force and effect during the term thereof, (iv) appear in and defend any action or proceeding in any manner connected with any of the Leases, (v) deliver to Mortgagee true, correct, and complete copies of all Leases, and (vi) deliver to Mortgagee such further information, and execute and deliver to

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Mortgagee such further assurances and assignments, with respect to the Leases as Mortgagee may from time to time request.

Without Mortgagee's prior written consent (which consent shall not be unreasonably withheld or delayed), Mortgagor shall not (i) do or knowingly permit to be done anything to impair the value of any of the Leases, (ii) except for security or similar deposits, collect any of the Rents more than one (1) month in advance of the time when the same becomes due under the terms of any Lease, (iii) discount any future accruing Rents, or (iv) amend, modify, rescind, conceal, surrender, assign, or terminate any of the Leases. Provided, Mortgagor is not prohibited from relinquishing or otherwise disposing of Leases which it deems to be no longer needed for the DeLamar Project in accordance with standard industry practices.

(c) All Leases executed after the effective date of this Mortgage must contain a written provision acceptable to Mortgagee in which all rights of the Lessee in the Lease and the Mortgaged Property are subordinated to the liens and security interests granted in the Loan Documents. If requested by Mortgagee, Mortgagor shall cause to be executed and delivered to Mortgagee a subordination, non-disturbance, and attornment agreement, in form and substance reasonably acceptable to Mortgagee, relating to each Lease, fully executed by Mortgagee, Mortgagor, and the applicable Lessee.

4.14 **Payment for Labor and Materials.** Subject to certain contest rights contained in **Section 8.11**, Mortgagor shall promptly pay all bills for labor, materials, and specifically fabricated materials incurred in connection with the Mortgaged Property and shall not permit to exist in respect of the Mortgaged Property or any part thereof any lien or security interest, even though inferior to the liens and security interests hereof, for any such bill, and in any event never permit to be created or exist in respect of the Mortgaged Property or any part thereof any other or additional lien or security interest on a parity with, superior, or inferior to any of the liens or security interests hereof, except for the Permitted Exceptions.

4.15 **Further Assurances and Corrections.** From time to time, at the request of Mortgagee, Mortgagor shall (a) promptly correct any defect, error, or omission which may be discovered in the contents of this Mortgage or Financing Statements or in the execution or acknowledgment thereof, (b) execute, acknowledge, deliver, record, and/or file such further instruments (including, without limitation, further deeds of trust, pledges, mortgages, lien instruments, security agreements, consents, acknowledgments, subordinations, financing statements, continuation statements, and assignments of rents) and perform such further acts and provide such further assurances as may be necessary, desirable, or proper, in Mortgagee's reasonable opinion, to carry out more effectively the purposes of this Mortgage and to subject to the assignments, liens, and security interests hereof and thereof any property intended by the terms hereof or thereof to be covered hereby or thereby, including, without limitation, any renewals, additions, substitutions, replacements, or appurtenances to the Mortgaged Property, (c) execute, acknowledge, deliver, procure, file, and/or record any document or instrument (including, without limitation, any financing statement) deemed advisable by Mortgagee in Mortgagee's reasonable opinion to protect the liens and the security interests herein granted against the rights or interests of third persons, (d) promptly deliver to Mortgagee any

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certification or other evidence requested by Mortgagee confirming compliance by Mortgagor and each Loan Party with all Anti-Terrorism Laws, and confirming that neither Mortgagor nor any Loan Party (nor any person or party owning any interest of any nature whatsoever in Mortgagor or any Loan Party) is a Prohibited Person, and (e) pay all costs connected with any of the foregoing.

4.16 **Tax on Mortgage.** If at any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Mortgage, or upon any rights, titles, liens, or security interests created hereby, or upon the Indebtedness or any part thereof (whether pursuant to the Tax Code or otherwise), Mortgagor shall immediately pay all such taxes, *provided that,* if such law as enacted makes it unlawful for Mortgagor to pay such tax, Mortgagor shall not pay nor be obligated to pay such tax. Nevertheless, if a law is enacted making it unlawful for Mortgagor to pay such taxes, then Mortgagor shall, or shall cause Borrower to, prepay the Indebtedness in full within sixty (60) days after Mortgagee demands such prepayment.

4.17 **Statement of Unpaid Balance.** At any time and from time to time, Mortgagor shall furnish promptly, upon the request of Mortgagee, a written statement or affidavit, in form satisfactory to Mortgagee, stating the unpaid balance of the Indebtedness and that there are no offsets or defenses against full payment of the Indebtedness and the terms hereof, or if there are any such offsets or defenses, specifying them.

4.18 **Expenses.** Subject to the provisions of **Section 8.12** hereof, Mortgagor shall pay on demand all reasonable and bona fide out-of-pocket costs, fees, expenses, and other expenditures, including, without limitation, title insurance fees, examination charges, insurance premiums, filing and recording fees, loan broker fees, out-of-pocket expenses incurred by Mortgagee for reasonable visits by Mortgagee's employees and agents to inspect the Mortgaged Property, and reasonable attorneys' fees and expenses (whether inside or outside counsel is used), paid or incurred by Mortgagee to third parties incident to this Mortgage (including, without limitation, reasonable attorneys' fees and expenses in connection with the negotiation, preparation, and execution hereof and any amendment hereto or thereto, any release hereof, any consent, approval, or waiver hereunder, the making of any advance under the Credit Agreement, and any suit to which Mortgagee is a party involving this Mortgage or the Mortgaged Property) or incident to the enforcement of the Indebtedness or the Obligations or the exercise of any right or remedy of Mortgagee under this Mortgage.

4.19 **Address.** Mortgagor shall give written notice to Mortgagee of any change of address of Mortgagor at least five (5) business days prior to the effective date of such change of address. Absent such official written notice of a change in address for Mortgagor, Mortgagee shall be entitled for all purposes under the Loan Documents to rely upon Mortgagor's address as set forth in the initial paragraph of this Mortgage, as same may have been theretofore changed in accordance with the provisions hereof.

4.20 **Disclosures.** If at any time Mortgagor shall become aware of the existence or occurrence of any financial or economic conditions or natural disasters which might have

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a Material Adverse Effect, Mortgagor shall promptly notify Mortgagee of the existence or occurrence thereof and of Mortgagor's opinion as to what effect such event may have on the Mortgaged Property or Mortgagor. Mortgagor shall also give prompt notice to Mortgagee of (a) the serious illness or death of any principal or key employee of Mortgagor, (b) any litigation or dispute, threatened or pending against or affecting Mortgagor, the Mortgaged Property or any Guarantor which could have a Material Adverse Effect, (c) any Event of Default, (d) any default by Mortgagor or any acceleration of any indebtedness owed by Mortgagor under any contract to which Mortgagor is a party; (e) any default by Guarantor or any acceleration of any indebtedness owed by any Guarantor under any contract to which Guarantor is a party, and any change in the character of Mortgagor's business as it existed on the date hereof. If at any time Mortgagor obtains knowledge that Mortgagor or any Loan Party is, or becomes, a Prohibited Person or are indicted, arraigned or custodially detained on charges or allegations involving or relating to any Anti-Terrorism Laws, Mortgagor shall immediately notify Mortgagee in writing of same.

4.21 **Delivery of Contracts.** Within twenty (20) days after a request by Mortgagee, Mortgagor shall prepare and deliver to Mortgagee a listing of material Contracts in the categories reasonably requested by Mortgagee, showing date, term, parties, subject matter, concessions, whether any defaults exist, and any other information reasonably specified by Mortgagee, regarding each of those Contracts.

4.22 **Sources and Uses of Funds.** Mortgagor has taken, and shall continue to take until the Obligations are satisfied in full, such measures that are required by any and all Anti- Terrorism Laws to assure that the funds invested in Mortgagor and/or used to make payments on the Indebtedness or the Obligations are derived from (a) transactions and sources that do not violate any Anti-Terrorism Laws or, to the extent such funds originate outside the United States, do not violate the laws of the jurisdiction from which they originated, and (b) permissible sources under Anti-Terrorism Laws or, to the extent such funds originate outside the United States, under the laws of the jurisdiction from which they originated. If Mortgagee reasonably believes that Mortgagor any Loan Party, or any Affiliate of any such party may have breached any of the representations, warranties, or covenants set forth in this Mortgage or the other Loan Documents relating to any Anti-Terrorism Laws or the identity of any Person as a Prohibited Person, then, Mortgagee shall have the right, with or without notice to Mortgagor, to (i) notify the appropriate Governmental Authority and to take such action as such Governmental Authority or applicable Anti-Terrorism Laws may direct; (ii) withhold Loan advances and segregate the assets constituting the Loan or any of Mortgagor's funds or assets deposited with or otherwise controlled by Mortgagee pursuant to the Loan Documents; (iii) decline any payment (or deposit such payment with an appropriate United States Governmental Authority) or decline any prepayment or consent request; and/or (iv) declare an Event of Default and immediately accelerate the Indebtedness in connection therewith. Mortgagor agrees that none of Mortgagor or any Loan Party shall assert any claim (and hereby waives, for itself and on behalf of such other Persons, any claim that they may now or hereafter have) against Mortgagee or any of its affiliates, successors, assigns, representatives, or agents for any form of damages as a result of any of the foregoing actions,

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regardless of whether or not Mortgagee's reasonable belief is ultimately demonstrated to be accurate.

4.23 **Surveys.** Mortgagor shall furnish to Mortgagee, at any time and from time to time, upon Mortgagee's reasonable request and at Mortgagor's expense, copies of existing surveys of the Land and Improvements in the possession of Mortgagor.

4.24 **Maintenance of Water Rights; Amendment.** Mortgagor shall file with the applicable Governmental Authority any reports or claims and pay fees necessary to maintain all Water Rights associated with the Mortgaged Property and may not permit any of the Water Rights to lapse, be forfeited or otherwise become impaired for failure to comply with applicable federal, state, and local laws or as a result of failure place water to beneficial use. Provided, Mortgagor is not prohibited from relinquishing or otherwise disposing of Water Rights which it deems to be no longer needed for the DeLamar Project in accordance with standard industry practices.

4.25 **Personalty and Fixtures.** Mortgagor shall deliver to Mortgagee, on demand, any contracts, bills of sale, statements, receipted vouchers, or agreements under which Mortgagor claims title to any Equipment, Fixtures, or other items of personal property incorporated into the Improvements or subject to the lien of this Mortgage or other security agreement that secures the Obligations.

4.26 **Compliance with Loan Documents.** Mortgagor shall comply with all provisions of the Credit Agreement and other Loan Documents that are applicable to Mortgagor.

SECTION V
NEGATIVE COVENANTS

Mortgagor hereby unconditionally covenants and agrees with Mortgagee that, until the entire Indebtedness shall have been paid in full and all of the Obligations shall have been fully performed and discharged:

5.1 **Use Violations.** Mortgagor shall not use, maintain, operate, or occupy, or allow the use, maintenance, operation, or occupancy of, the Mortgaged Property in any manner that (a) violates any Legal Requirement, (b) constitutes a public or private nuisance, or (c) makes void, voidable, or cancelable, or increases the premium (excepting increases in premiums for use, maintenance, operation, or occupancy otherwise allowed by the Loan Documents or in the ordinary course of business) of, any insurance then in force regarding the Mortgaged Property.

5.2 **Waste; Alterations.** Mortgagor shall not commit or permit any waste or impairment of the Mortgaged Property and shall not (subject to the provisions of **Sections 4.3** and 4.6 hereof), without the prior written consent of Mortgagee (which consent shall not be unreasonably withheld or delayed), make or permit to be made any alterations or additions to the Mortgaged Property of a material nature.

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5.3 **Replacement of Fixtures and Personalty.** Mortgagor shall not (subject to the provisions of **Sections 4.3** and 4.6 hereof), without the prior written consent of Mortgagee (which consent shall not be unreasonably withheld or delayed), permit any of the Fixtures or Personalty to be removed at any time from the Land or Improvements unless (a) such item is removed temporarily for maintenance and repair or otherwise in the ordinary course of business, or (b) if removed permanently, such item is replaced by an article of equal suitability and value, owned by Mortgagor, free of any lien or security interest except as may be approved in writing by Mortgagee. Provided: Mortgagor may relinquish or otherwise dispose of Fixtures or Personalty that are not material to the DeLaMar Project and which Mortgagor deems to be no longer needed for the DeLamar Project in accordance with standard industry practices, without being required to replace it.

5.4 **Change in Zoning.** Except for the Permitted Exceptions, without Mortgagee's prior written consent (which consent shall not be unreasonably withheld or delayed), Mortgagor shall not (a) seek or acquiesce in a zoning reclassification, zoning variance, or special exception to zoning of all or any portion of the Mortgaged Property, (b) grant or consent to any easement, dedication, plat, or restriction (or allow any easement to become enforceable by prescription), or (c) seek or acquiesce to any imposition of any addition of a Legal Requirement or any amendment or modification thereof, covering all or any portion of the Mortgaged Property.

5.5 **Encumbrances.** Mortgagor shall not create, incur, assume, or (subject to certain contest rights under **Section 8.11**) suffer to exist any Subordinate Mortgage or other Encumbrance on all or any part of the Mortgaged Property, except for the Permitted Exceptions or as required by Applicable Laws.

SECTION VI
EVENTS OF DEFAULT

The term "***Event of Default***," as used in this Mortgage, shall mean the occurrence or happening, at any time and from time to time, of any one or more of the following:

6.1 **Payment of Indebtedness.** Mortgagor or any other Loan Party fails, refuses, or neglects to pay, in full, any installment or portion of the Indebtedness when it is due and payable, whether on the due date stipulated in the Loan Documents, on acceleration, or otherwise.

6.2 **Performance of Obligations.** Mortgagor or any Loan Party fails, refuses, or neglects or causes the failure, refusal, or neglect to comply with, perform, and discharge fully and timely, as and when required, any of the Obligations.

6.3 **False Representation.** Any representation, warranty, or statement made by Mortgagor or any other Loan Party under or in connection with the Loan Documents or any affidavit or other instrument executed or delivered regarding the Loan Documents or the Obligations is determined by Mortgagee in its reasonable opinion to be false or misleading in any material respect as of the date hereof or when made.

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6.4 **Default Under Other Encumbrance Document.** Mortgagor shall default or commit an event of default under and pursuant to any other mortgage or security agreement which covers or affects any part of the Mortgaged Property.

6.5 **No Further Encumbrances.** Mortgagor creates, places, or permits to be created or placed, or through any act or failure to act, acquiesces in the placing of, or allows to remain, any Subordinate Mortgage or other Encumbrance against the Mortgaged Property (other than the Permitted Exceptions or as required by Applicable Laws), regardless of whether such Encumbrance is expressly subordinate to the liens or security interests of the Loan Documents; *provided, however*, that Mortgagor shall have the right to contest in good faith the validity of any involuntary junior liens or security interests, *provided* Mortgagor shall first deposit with Mortgagee a bond or other security satisfactory to Mortgagee in such amount as Mortgagee shall reasonably require, but not more than one hundred twenty percent (120.0%) of the amount of the claim, and *provided further* that if Mortgagor loses such contest, Mortgagor shall thereafter diligently proceed to cause such liens or security interests to be removed and discharged.

6.6 **Disposition of Mortgaged Property or Beneficial Interest in Mortgagor.** Mortgagor makes a Disposition, without the prior written consent of Mortgagee, except as authorized by this Mortgage or the other Loan Documents.

6.7 **Destruction of Improvements.** Any material part of the Mortgaged Property is demolished, destroyed, or substantially damaged so that it cannot be restored or rebuilt with available funds or insurance proceeds to the condition existing immediately prior to such demolition, destruction, or damage within a reasonable period of time.

6.8 **Abandonment.** Mortgagor permanently abandons or removes all or any portion of the Improvements or Fixtures, or all or any material portion of the Personalty, except as authorized in this Mortgage or the other Loan Documents.

6.9 **Discontinuance of Operations.** Mortgagor permanently vacates, or permanently discontinues operations of or from, any portion of the Mortgaged Property, except as authorized in this Mortgage or the other Loan Documents.

6.10 **Loan Documents.** Any Loan Document is terminated, revoked, or otherwise rendered void or unenforceable except as authorized in the Loan Document, without Mortgagee's prior written consent.

6.11 **Event of Default under Credit Agreement.** The occurrence of any Event of Default as defined under Section 9.1 of the Credit Agreement.

6.12 **Mining Claims Leases.** Any material default occurs and remains uncured for a period of thirty (30) days from notice of such default under any of the Mining Claims Leases, or any event occurs or condition exists, which with the passage of time, the giving of notice, or both, would constitute a material default under any of the Mining Claims Leases and remains uncured for a period of thirty (30) days after notice of such default from the

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lessor; provided that if Mortgagor is exercising diligence and pursuing commercially reasonable actions to cure any such default, such occurrence shall not be considered an Event of Default. Provided further, Mortgagor shall promptly and in any case no later than three (3) business days following receipt of a notice of default from a lessor under any of the Mining Claims Leases, deliver a copy of such notice to Mortgagee. For each Mining Claims Lease where a default under such Mining Claims Lease could reasonably constitute a Material Adverse Effect, Mortgagor shall use commercially reasonable efforts to obtain a non-disturbance agreement or other similar agreement executed by the applicable lessor in form and substance reasonably satisfactory to Mortgagee.

SECTION VII
REMEDIES

7.1 **Mortgagee's Remedies Upon Default.** Upon the occurrence of an Event of Default, Mortgagee may, at Mortgagee's option and to the extent permitted by applicable law, by Mortgagee itself, or otherwise, do any one or more of the following:

(a) Right to Perform Mortgagor's Covenants. If Mortgagor has failed to keep or perform any covenant applicable to Mortgagor contained in this Mortgage or the other Loan Documents, Mortgagee may, but shall have no obligation to, perform or attempt to perform said covenant, and any payment made or expense incurred in the performance or attempted performance of any such covenant shall constitute part of the Indebtedness, and Mortgagor promises, upon demand, to pay to Mortgagee, at the place where the Loans are payable, all sums so advanced or paid by Mortgagee, with interest at the Default Rate from the date when paid or incurred by Mortgagee. No performance or payment by Mortgagee shall constitute a waiver of any Event of Default. In addition to the liens and security interests hereof, Mortgagee shall be subrogated to all rights, titles, liens, and security interests securing the payment of any debt, claim, tax, or assessment for which Mortgagee makes any payment or advance.

(b) Right of Entry. To the extent permitted by applicable law, Mortgagee may, after the institution of any foreclosure proceedings, enter upon the Mortgaged Property and take exclusive possession of the Mortgaged Property and all related books, records, and accounts and may exercise, without interference from Mortgagor, all rights of Mortgagor regarding the management, possession, operation, protection, or preservation of the Mortgaged Property, including, without limitation, the rights to lease the same for the account of Mortgagor and to apply the Rents as set forth in **SECTION IX**. All costs, expenses, and liabilities incurred by Mortgagee in collecting such Rents and in managing, operating, maintaining, protecting, or preserving the Mortgaged Property, shall be added to the Indebtedness and shall bear interest at the Default Rate from the date of expenditure until paid. To the extent permitted by Applicable Laws, if necessary to obtain the possession provided for above, Mortgagee may invoke all legal remedies to dispossess Mortgagor, including, without limitation, one or more actions for forcible entry and detainer, trespass to try title, and restitution. In connection with any action taken by Mortgagee pursuant to this subsection, (i) Mortgagee shall not be liable for any loss

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sustained by Mortgagor resulting from any failure to lease the Mortgaged Property, or any part thereof, or from any other act or omission of Mortgagee in managing the Mortgaged Property unless such loss is caused by the willful misconduct of Mortgagee, and (ii) Mortgagee shall not be obligated to perform or discharge any obligation, duty, or liability under any Lease or this Mortgage, or to exercise any rights or remedies hereunder. **TO THE EXTENT PERMITTED BY APPLICABLE LAWS, MORTGAGOR SHALL INDEMNIFY MORTGAGEE FOR, AND DEFEND AND HOLD MORTGAGEE HARMLESS FROM, ALL LIABILITY, LOSS, OR DAMAGE, THAT MORTGAGEE MAY INCUR UNDER ANY SUCH LEASE, FROM THE EXERCISE OF RIGHTS OR REMEDIES HEREUNDER, AND FROM ALL CLAIMS AND DEMANDS THAT MAY BE ASSERTED AGAINST MORTGAGEE BY REASON OF ANY ALLEGED OBLIGATIONS OR UNDERTAKINGS ON ITS PART TO PERFORM OR DISCHARGE ANY OF THE TERMS, COVENANTS, OR AGREEMENTS CONTAINED IN ANY SUCH LEASE EVEN IF RESULTING FROM MORTGAGEE'S OWN NEGLIGENCE OR ARISING IN STRICT LIABILITY.** Should Mortgagee incur any such liability, the amount thereof, including, without limitation, all costs, expenses, and reasonable attorneys' fees, together with interest at the Default Rate from the date of expenditure until paid, shall be added to the Indebtedness, and Mortgagor shall reimburse Mortgagee therefor immediately upon demand. Nothing in this subsection shall impose any duty, obligation, or responsibility upon Mortgagee for the control, care, management, leasing, or repair of the Mortgaged Property, nor for the performance of any of the terms and conditions of any such Lease; nor shall it operate to make Mortgagee responsible or liable for any waste committed on the Mortgaged Property by the tenants or by any other parties, or for any Hazardous Materials in, on or under the Mortgaged Property, or for any dangerous or defective condition of the Mortgaged Property or for any negligence in the management, leasing, upkeep, repair, or control of the Mortgaged Property resulting in loss, injury, or death to any tenant, licensee, employee, or stranger. Mortgagor hereby ratifies, confirms, and agrees with all actions that Mortgagee takes under this subsection with respect to the Mortgaged Property.

The remedies in this subsection are in addition to other remedies available to Mortgagee and the exercise of the remedies in this subsection shall not be deemed to be an election of non-judicial or judicial remedies otherwise available to Mortgagee. The remedies in this **SECTION VII** are available under and governed by the real property laws of the State and are not governed by the personal property laws of the State, including, without limitation, the power to dispose of personal property in a commercially reasonable manner under section 28-9-610 of the UCC. No action by Mortgagee, taken pursuant to this subsection, shall be deemed to be an election to retain personal property under section 28-9-620 of the UCC. Any receipt of consideration received by Mortgagee pursuant to this subsection shall be immediately credited against the Indebtedness (in the inverse order of maturity) and the value of said consideration shall be treated like any other payment against the Indebtedness.

(c) Right to Accelerate. To the extent permitted by applicable law, Mortgagee may declare the entire unpaid balance of the Indebtedness immediately due and payable,

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without notice, demand, presentment, notice of nonpayment or nonperformance, protest, notice of protest, notice of intent to accelerate, notice of acceleration, or any other notice or any other action, all of which are hereby waived by Mortgagor and all other parties obligated in any manner on the Indebtedness. Upon such declaration, the entire unpaid balance of the Indebtedness shall be immediately due and payable. The failure to exercise any remedy available to Mortgagee shall not be deemed to be a waiver of any rights or remedies of Mortgagee under the Loan Documents, at law, or in equity. Notwithstanding the foregoing, in the case of an Event of Default under **Section 6.5**, and notwithstanding the lack of any notice, demand or declaration by Mortgagee, the entire Indebtedness remaining unpaid and outstanding shall automatically become due and payable in full, and any commitment by Mortgagee to make any further Advances under the Credit Agreement shall be automatically and immediately terminated without any requirement of notice or demand by Mortgagee upon Mortgagor or any other Person, all of which are expressly waived by Mortgagor.

(d) Mortgagee's Judicial Remedies. Mortgagee, may judicially foreclose the liens and security interests of this Mortgage against all or any part of the Mortgaged Property, and to have all or any part of the Mortgaged Property sold under the judgment or decree of a court of competent jurisdiction. To the extent consistent with Applicable Laws, Mortgagee's remedies under this Mortgage shall be cumulative of any other judicial or non-judicial remedies available to Mortgagee with respect to the Loan Documents. Proceeding with a request or receiving a judgment for legal relief shall not be or be deemed to be an election of remedies or bar any available non-judicial remedy of Mortgagee.

(e) Mortgagee's Right to Appointment of Receiver. To the extent permitted by Applicable Laws, Mortgagee, as a matter of right and without regard to the sufficiency of the security for repayment of the Indebtedness and the performance and discharge of the Obligations, without notice to Mortgagor and without any showing of insolvency, fraud, or mismanagement on the part of Mortgagor, and without the necessity of filing any judicial or other proceeding other than the proceeding for appointment of a receiver, shall be entitled to the appointment of a receiver or receivers of the Mortgaged Property or any part thereof, and of the rents, and Mortgagor irrevocably consents to the appointment of a receiver or receivers. Any such appointed receiver shall have the usual powers and duties of receivers in such matters.

(f) Mortgagee's Uniform Commercial Code Remedies. Mortgagee may exercise its rights of enforcement with respect to Fixtures and Personalty under the UCC, and in conjunction with, in addition to, or in substitution for the rights and remedies under the UCC:

(i) Mortgagee may, without demand or notice to Mortgagor, enter upon the Mortgaged Property to take possession of, assemble, receive, and collect the Personalty, or any part thereof, or to render it unusable;

(ii) Mortgagee may require Mortgagor to assemble the Personalty and

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make it available at a place Mortgagee designates which is mutually convenient to allow Mortgagee to take possession or dispose of the Personalty;

(iii) reasonable written notice shall be delivered to Mortgagor as provided herein at least ten (10) days before (A) the date of public sale of the Personalty or (B) the date after which a private sale of the Personalty will be made;

(iv) any sale of Personalty made pursuant to this **Section 7.1(f)** shall be deemed to have been a public sale conducted in a commercially reasonable manner as provided herein upon giving the same notice with respect to the sale of the Personalty or Fixtures hereunder as is required for such sale of the other Mortgaged Property, and such sale shall be deemed to be pursuant to a security agreement covering both real and personal property under section 28-9-604(a) of the UCC;

(v) if a foreclosure sale occurs under judgment of a court, the Personalty and the other Mortgaged Property may, at the option of Mortgagee, be sold as a whole;

(vi) it shall not be necessary that Mortgagee take possession of the Personalty, or any part thereof, prior to the time that any sale pursuant to the provisions of this subsection is conducted, and it shall not be necessary that the Personalty or any part thereof be present at the location of such sale;

(vii) after notice to Mortgagor, Mortgagee may sell, lease, or otherwise dispose of the Personalty, or any part thereof, in one or more parcels at public or private sale or sales, at Mortgagee's offices or elsewhere, for cash, on credit, or for future delivery. Mortgagor shall be liable for all expenses of retaking, holding, preparing for sale or lease, selling, leasing, and the like, and all reasonable attorneys' fees, legal expenses, and all other costs and expenses incurred by Mortgagee in connection with the collection of the Indebtedness and the enforcement of Mortgagee's rights under this Mortgage. Mortgagee shall apply the proceeds of the sale of the Personalty against the Indebtedness in accordance with the provisions of the Credit Agreement. Mortgagor shall remain liable for any deficiency if the proceeds of any sale or disposition of the Personalty are insufficient to pay the Indebtedness in full. Mortgagor waives all rights of marshalling in respect of the Personalty;

(viii) all statements of fact or other recitals made in any bill of sale or assignment or other instrument evidencing any foreclosure sale hereunder regarding the nonpayment of the Indebtedness, the occurrence of any Event of Default, Mortgagee having declared all or a portion of such Indebtedness to be due and payable, the notice of time, place, and terms of sale and of the properties to be sold having been duly given, or any other action by Mortgagee, shall be taken as *prima facie* evidence of the truth of the facts so stated and recited;

(ix) Mortgagee may dispose of the Personalty or Fixtures "as-is", has no

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duty to repair or clean the Personalty or Fixtures before sale, and may disclaim warranties of title, possession, quiet enjoyment, and the like with respect to the Personalty or Fixtures, all without affecting the commercial reasonableness of the sale;

(x) Mortgagee may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by Mortgagee, including sending notices and conducting the sale, but in the name and on behalf of Mortgagee; and

(xi) Mortgagee shall have the right at any time to enforce Mortgagor's rights against account debtors and obligors.

(g) Rights Relating to Rents. Mortgagor has, pursuant to **Section 9.1**, assigned absolutely to Mortgagee all of Mortgagor's right, title, and interest in the Leases and Rents under each of the Leases covering all or any portion of the Mortgaged Property. To the extent permitted by Applicable Laws, Mortgagee may at any time, and without notice, either in person, by agent, or by receiver to be appointed by a court, and in its own name, sue for or otherwise collect the Rents. Mortgagee may (in its sole discretion), upon the occurrence of an Event of Default, terminate the limited license granted to Mortgagor in **Section 9.2**, and thereafter direct the Lessees by written notice ("***Lease Rent Notice***") to pay directly to Mortgagee the Rents due and to become due under the Leases and attorn in respect of all other obligations thereunder directly to Mortgagee, without any obligation on the part of Lessee to determine whether an Event of Default does in fact exist or has in fact occurred. All Rents collected by Mortgagee shall be applied as provided for in **Section 9.3**, *provided, however,* that if the costs, expenses, and attorneys' fees shall exceed the amount of Rents collected, the excess shall be added to the Indebtedness, shall bear interest at the Default Rate, and shall be immediately due and payable. The collection of Rents, and the application thereof as set forth above shall not cure or waive any Event of Default or notice of default, if any, hereunder nor invalidate any action pursuant to such notice. Failure or discontinuance by Mortgagee at any time or from time to time, to collect said Rents shall not in any manner impair the subsequent enforcement by Mortgagee of the right, power, and authority herein conferred upon it. Nothing contained herein, nor the exercise of any right, power, or authority herein granted to Mortgagee shall be, or shall be construed to be, an affirmation by it of any tenancy, lease, or option, nor an assumption of liability under, nor the subordination of, the lien or charge of this Mortgage, to any such tenancy, lease, or option, nor an election of judicial relief, if any such relief is requested or obtained as to Leases or Rents, with respect to the Mortgaged Property or any collateral given by Mortgagor to Mortgagee. In addition, from time to time, Mortgagee may elect, and notice hereby is given to each Lessee of such right, to subordinate the lien of this Mortgage to any Lease by unilaterally executing and recording an instrument of subordination, and upon such election, the lien of this Mortgage shall be subordinate to the Lease identified in such instrument of subordination; *provided, however,* in each instance, such subordination will not affect or be applicable to (and will expressly exclude any) lien, charge, encumbrance, security interest, claim, easement, restriction, option, covenant, and other rights, titles,

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interests, or estates of any nature regarding all or any portion of the Mortgaged Property to the extent that the same may have arisen or intervened during the period between the recordation of this Mortgage and the execution of the Lease identified in such instrument of subordination.

(h) Other Rights. Mortgagee (i) may surrender the insurance policies, or any part thereof, maintained pursuant to **Section 4.9**, and upon receipt shall apply the unearned premiums as a credit on the Indebtedness, in accordance with the provisions of the Credit Agreement, and, in connection therewith, Mortgagor hereby appoints Mortgagee as agent and attorney-in-fact (which is coupled with an interest and is therefore irrevocable) for Mortgagor to collect such premiums; (ii) may apply the reserve for Impositions and insurance premiums, if any, required under this Mortgage, toward payment of the Indebtedness; and (iii) shall have and may exercise all other rights and remedies which Mortgagee may have at law or in equity, or by virtue of any Loan Document or under the UCC, or otherwise.

(i) Mortgagee as Purchaser. To the extent permitted by Applicable Laws, Mortgagee may be the purchaser of the Mortgaged Property or any part thereof, at any sale thereof upon any other foreclosure of the liens and security interests hereof, or otherwise, and Mortgagee shall, upon any such purchase, acquire good title to the purchased Mortgaged Property, free of the liens and security interests hereof. To the extent permitted by Applicable Laws, Mortgagee, as purchaser, shall be treated in the same manner as any third-party purchaser and the proceeds of Mortgagee's purchase shall be applied to the Indebtedness pursuant to the Credit Agreement.

7.2 **Other Rights of Mortgagee.** Should any part of the Mortgaged Property come into the possession of Mortgagee, whether before or after default, Mortgagee may (for itself or by or through other persons, firms, or entities) hold, lease, manage, use, or operate the Mortgaged Property for such time and upon such terms as Mortgagee may deem prudent under the circumstances (making any repairs, alterations, additions, and improvements thereto and taking any other action that Mortgagee may from time to time deem necessary or desirable) for the purpose of preserving the Mortgaged Property or its value, pursuant to the order of a court of competent jurisdiction, or pursuant to any other rights held by Mortgagee regarding the Mortgaged Property. Mortgagor covenants to promptly reimburse and pay to Mortgagee on demand, at the place where the Loans are payable, the amount of all reasonable expenses (including without limitation the cost of any insurance, Impositions, or other charges) incurred by Mortgagee in connection with Mortgagee's custody, preservation, use, or operation of the Mortgaged Property, together with interest at the Default Rate from the date incurred by Mortgagee; and all such expenses, costs, taxes, interest, and other charges shall constitute a part of the Indebtedness. The risk of loss or damage to the Mortgaged Property, however, is on Mortgagor, and Mortgagee shall have no liability for a decline in value of the Mortgaged Property, for failure to obtain or maintain insurance, or for failure to determine whether the insurance in force is adequate in amount or for the risks insured. Possession by Mortgagee shall not be deemed an election of judicial relief, if any such

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possession is requested or obtained, regarding any Mortgaged Property or collateral not in Mortgagee's possession.

7.3 **Possession After Foreclosure.** If the liens or security interests in this Mortgage are foreclosed by judicial action, or otherwise, the purchaser at any such sale shall receive, as an incident to purchaser's ownership, a deed in the form required by Idaho law, after expiration of ten (10) days from the date of sale (or such shorter period as may then be permitted by Applicable Laws) shall receive possession of the purchased property, and if Mortgagor or Mortgagor's successors shall hold possession of said property or any part thereof subsequent to foreclosure, Mortgagor and Mortgagor's successors shall be considered as tenants at sufferance of the purchaser at foreclosure sale (without limitation of other rights or remedies, at a reasonable rental per day, due and payable daily, based upon the value of the portion of the Mortgaged Property so occupied and sold to such purchaser), and anyone occupying such portion of the Mortgaged Property after demand is made for possession thereof shall be guilty of forcible detainer and shall be subject to eviction and removal, forcible or otherwise, with or without process of law, and all damages by reason thereof are hereby expressly waived.

7.4 **Application of Proceeds.** To the extent permitted by Applicable Laws, the proceeds from any sale, lease, or other disposition made pursuant to this **SECTION VII**, or the proceeds from the surrender of any insurance policies pursuant to **Section 7.1(h)**, or any Rents collected by Mortgagee from the Mortgaged Property (following any application of such Rents in accordance with **Section 9.3**), or the reserve for Impositions and insurance premiums, if any, required by the provisions of this Mortgage, or condemnation proceeds received pursuant to **Section 8.1**, or insurance proceeds which Mortgagee elects to apply to the Indebtedness pursuant to **Section 8.2**, shall be applied by Mortgagee to the Indebtedness in accordance with the terms and conditions of the Credit Agreement.

7.5 **Payment of Fees.** If any part of the Indebtedness is collected by, or if any of the Obligations are enforced by, legal proceedings in a probate or bankruptcy court or otherwise, or is placed in the hands of an attorney for collection after maturity, whether matured by the expiration of time or by an option given to Mortgagee to mature same, or if Mortgagee becomes a party to any suit in which this Mortgage or the Mortgaged Property or any part thereof is involved, then Mortgagor shall pay Mortgagee's attorneys' fees and expenses incurred, and such fees shall be added to the Indebtedness and shall bear interest at the Default Rate from the date such costs are incurred.

7.6 **Miscellaneous**.

(a) Discontinuance of Remedies. If Mortgagee invokes any right, remedy, or recourse permitted under the Loan Documents, then Mortgagee may discontinue or abandon same for any reason and Mortgagor and Mortgagee shall be restored to their former positions regarding the Indebtedness, the Loan Documents, the Mortgaged Property, or otherwise, and the rights, remedies, recourses, and powers of Mortgagee shall continue as if they had never been invoked.

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(b) Other Remedies. In addition to the remedies set forth in this **SECTION VII**, upon the occurrence of an Event of Default, Mortgagee shall have all other remedies available at law or in equity.

(c) Remedies Cumulative; Non-Exclusive; Etc. To the extent permitted by Applicable Laws, all rights, remedies, and recourses of Mortgagee granted in the Credit Agreement, this Mortgage, the other Loan Documents, any other pledge of collateral, or otherwise available at law or equity (including, without limitation, those granted by the UCC and applicable to the Mortgaged Property or any portion thereof): (i) are cumulative and concurrent; (ii) may be pursued separately, successively, or concurrently against Mortgagor, the Mortgaged Property, or any one or more of them, at the sole discretion of Mortgagee; (iii) may be exercised as often as occasion therefor shall arise, and the exercise or failure to exercise any of same shall not be construed as a waiver or release thereof or of any other right, remedy, or recourse; (iv) are nonexclusive; (v) are not conditioned upon Mortgagee exercising or pursuing any remedy in relation to the Mortgaged Property before bringing suit to recover the Indebtedness or suit on the Indebtedness; and (vi) if Mortgagee elects to bring suit on the Indebtedness and/or the Obligations and obtains a judgment against Mortgagor before exercising any remedies in relation to the Mortgaged Property, then all liens and security interests, including the lien of this Mortgage, shall remain in full force and effect and may be exercised at Mortgagee's option.

(d) Partial Release; Change of Security; Etc. Mortgagee may release from time to time any part of the Mortgaged Property, regardless of consideration, without impairing, subordinating, or affecting in any way the lien, security interest, and other rights hereof against the remainder of the Mortgaged Property, and without affecting the obligations of Mortgagor or any other party to perform and discharge the Obligations. The taking of additional collateral, or the amendment, extension, renewal, or rearrangement of the Indebtedness or Obligations, or any part thereof, shall not release or impair the lien, security interest, and other rights granted in this Mortgage, or affect the liability of any endorser or guarantor, or improve the right of any junior lien holder, and all collateral shall be considered taken and held as cumulative. This Mortgage, as well as any instrument given to secure any amendment, extension, renewal, or rearrangement of the Indebtedness or Obligations, or any part thereof, shall be and remain a first and prior lien, except as otherwise provided herein, on all of the Mortgaged Property not expressly released until the Obligations is indefeasibly paid in full and the Obligations are fully performed and discharged. Mortgagee may resort to any collateral, in such order and manner as Mortgagee may elect, for payment of the Indebtedness.

(e) Waiver and Release by Mortgagor. To the extent permitted by Applicable Laws, Mortgagor irrevocably and unconditionally waives and releases: (i) all benefits that Mortgagor might accrue under any present or future law exempting the Mortgaged Property from attachment, levy, or sale on execution or providing for any appraisement, valuation, stay of execution, exemption from civil process, redemption, or extension of time for payment; (ii) all notices of exercise of any right, remedy, or recourse provided for

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under the Loan Documents; and (iii) any right to a marshaling of assets or a sale in inverse order of alienation.

(f) No Implied Covenants. Except for the covenants of good faith and fair dealing, here are no, nor shall there be any, implied covenants or agreements in this Mortgage and the other Loan Documents. All agreed contractual duties are set forth in this Mortgage, the Credit Agreement, and the other Loan Documents.

(g) Real Property Laws Govern. To the extent permitted by Applicable Laws, if Mortgagee elects to proceed as to the Fixtures and Personalty together with the other Mortgaged Property, then the remedies in this **SECTION VII** shall be available under and governed by the real property laws of the State and not the personal property laws of the State.

7.7 **Waiver of Benefits of Deficiency Statute**.

(a) Waiver. To the extent permitted under Applicable Laws of the State, if an interest in all or any of the Mortgaged Property is foreclosed upon pursuant to a judicial, Mortgagor agrees that to the extent permitted by law, Mortgagee is entitled to seek a deficiency judgment from Mortgagor and any other party obligated on the Loans equal to the difference between the amount owing on the Loans and the amount for which the Mortgaged Property is sold pursuant to the foreclosure sale.

(b) Alternative to Waiver. Alternatively, if the waiver provided for in **subsection (a)** above is determined by a court of competent jurisdiction to be unenforceable, to the extent allowed by Applicable Laws the following shall be the basis for the fact finder's determination of the fair market value of the Mortgaged Property as of the date of the foreclosure sale; (i) the Mortgaged Property shall be valued in an "as is" condition as of the date of the foreclosure sale, without any assumption or expectation that the Mortgaged Property will be repaired or improved in any manner before a resale of the Mortgaged Property after foreclosure; (ii) the valuation shall be based upon an assumption that the foreclosure purchaser desires a resale of the Mortgaged Property for cash promptly (but no later than six (6) months) following the foreclosure sale; (iii) all reasonable closing costs customarily borne by the seller in commercial real estate transactions should be deducted from the gross fair market value, including, without limitation, brokerage commissions, title insurance, survey costs, tax prorations, attorneys' fees, and marketing costs; (iv) the gross fair market value of the Mortgaged Property shall be further discounted to account for any estimated holding costs associated with maintaining the Mortgaged Property pending sale, including, without limitation, utilities expenses, property management fees, taxes, and assessments (to the extent not accounted for in (iii) above), and other maintenance, operational, and ownership expenses; and (v) any expert opinion testimony regarding a determination of the fair market value must be given by persons having at least five (5) years' experience in appraising property similar to the Mortgaged Property and who have conducted and prepared a complete written appraisal of the

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Mortgaged Property which includes a specification of the appraiser's consideration of the factors set forth above.

SECTION VIII
SPECIAL PROVISIONS

8.1 **Condemnation Proceeds.** Mortgagee shall be entitled to receive all sums that may be awarded or become payable to Mortgagor for condemnation of all or any part of the Mortgaged Property, for public or quasi-public use, or by virtue of private sale in lieu thereof, and any sums which may be awarded or become payable to Mortgagor for damages caused by public works or construction on or near the Mortgaged Property. All such sums are hereby assigned to Mortgagee, and Mortgagor shall, upon request of Mortgagee, make, execute, acknowledge, and deliver any and all additional assignments and documents that may be necessary from time to time to enable Mortgagee to collect any such sums. Mortgagee shall not be liable or responsible for failing to collect, or to exercise diligence in the collection of, any such sums. Any sums received by Mortgagee as a result of condemnation shall be applied to the Indebtedness pursuant to the Credit Agreement.

8.2 **Insurance Proceeds.** The proceeds of any and all insurance upon the Mortgaged Property (other than proceeds of commercial general liability insurance) shall be collected by Mortgagee, and Mortgagee shall have the option, in Mortgagee's sole discretion, to apply any proceeds so collected either to the restoration of the Mortgaged Property, in the amounts, manner, method and pursuant to such requirements and documents as Mortgagee may require, or to the liquidation of the Indebtedness in accordance with the provisions of the Credit Agreement.

8.3 **Reserve for Impositions and Insurance Premiums.** At Mortgagee's request, Mortgagor shall fund a reserve for the payment of all insurance premiums and Impositions against or affecting the Mortgaged Property by paying to Mortgagee, on the first day of each calendar month prior to the maturity of the Credit Agreement, an amount equal to the sum of (a) (i) premiums that will next become due and payable on the insurance policies covering Mortgagor, the Mortgaged Property or any part thereof, or such other insurance policies required hereby, plus (ii) Impositions next due on the Mortgaged Property or any part thereof as estimated by Mortgagee, less (iii) all sums paid previously to Mortgagee therefor, divided by (b) the number of months to elapse until one month before the date when each of such premiums and Impositions will become due; such amount to be held by Mortgagee without interest to Mortgagor, unless interest is required by Applicable Laws, to pay such premiums and Impositions. Mortgagee has the discretion to credit any excess reserve against subsequent reserve payments or subsequent payments on the Loans, and Mortgagor shall pay any deficiency in the reserve amounts to Mortgagee on or before the date when Mortgagee demands such payment to be made, but in no event after the date when such premiums and Impositions become delinquent. If there is a deficiency in such reserve at any time when Impositions or insurance premiums are due and payable, then Mortgagee may, but shall not be obligated to, advance the amount of such deficiency on behalf of Mortgagor and such amounts so advanced shall be added to the Indebtedness, shall be immediately due and

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payable, and shall bear interest at the Default Rate from the date of such advance through and including the date of repayment. Without implying Mortgagee's consent to a transfer, any transfer of legal title to the Mortgaged Property shall automatically include a transfer to the holder of legal title to the Mortgaged Property of Mortgagor's interest in all sums deposited with Mortgagee under the provisions hereof or otherwise.

8.4 **INDEMNITY.** TO THE EXTENT PERMITTED BY APPLICABLE LAWS, MORTGAGOR SHALL INDEMNIFY, DEFEND, PROTECT, AND HOLD HARMLESS MORTGAGEE, ITS PARENTS, SUBSIDIARIES, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, AND ASSIGNS FROM AND AGAINST ALL LIABILITY, DAMAGE, LOSS, COST, OR EXPENSE (INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES AND EXPENSES), ACTION, PROCEEDING, CLAIM, OR DISPUTE INCURRED OR SUFFERED BY THE FOREGOING PARTIES SO INDEMNIFIED WHETHER OR NOT AS THE RESULT OF THE NEGLIGENCE OF ANY PARTY SO INDEMNIFIED AND EVEN IF ARISING IN STRICT LIABILITY, WHETHER VOLUNTARILY OR INVOLUNTARILY INCURRED OR SUFFERED, OTHER THAN SUCH LIABILITY, DAMAGE, LOSS, COST, OR EXPENSE ARISING OUT OF OR RESULTING FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SUCH INDEMNIFIED PARTY, REGARDING THE FOLLOWING: (A) ANY LITIGATION CONCERNING THIS MORTGAGE, THE OTHER LOAN DOCUMENTS, OR THE MORTGAGED PROPERTY, OR ANY INTEREST OF MORTGAGOR OR MORTGAGEE THEREIN, OR THE RIGHT OF OCCUPANCY THEREOF BY MORTGAGOR OR MORTGAGEE, WHETHER OR NOT ANY SUCH LITIGATION IS PROSECUTED TO A FINAL, NON-APPEALABLE JUDGMENT; (B) ANY DISPUTE, INCLUDING DISPUTES AS TO THE DISBURSEMENT OF PROCEEDS OF THE CREDIT AGREEMENT NOT YET DISBURSED, BETWEEN ANY EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, OR MANAGERS OF MORTGAGOR IF MORTGAGOR IS A CORPORATION OR LIMITED LIABILITY COMPANY, OR AMONG OR BETWEEN ANY MEMBERS, TRUSTEES, OR OTHER RESPONSIBLE PARTIES IF MORTGAGOR IS AN ASSOCIATION, TRUST OR OTHER ENTITY; AND (C) ANY ACTION TAKEN OR NOT TAKEN BY MORTGAGEE THAT IS ALLOWED OR PERMITTED UNDER THIS MORTGAGE OR ANY OF THE OTHER LOAN DOCUMENTS RELATING TO MORTGAGOR, THE MORTGAGED PROPERTY, OR OTHERWISE IN CONNECTION WITH THE LOAN DOCUMENTS, INCLUDING WITHOUT LIMITATION, THE PROTECTION OR ENFORCEMENT OF ANY LIEN, SECURITY INTEREST, OR OTHER RIGHT, REMEDY, OR RECOURSE CREATED OR AFFORDED BY THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS.

8.5 **Mortgagor's Waiver of Subrogation.** To the extent permitted by Applicable Laws, Mortgagor waives all right to claim, recover, or subrogation that arises or may arise in its favor against Mortgagee or its officers, directors, employees, agents, attorneys, or representatives for all loss or damage to Mortgagor, the Mortgaged Property, Mortgagor's property, or the property of others under Mortgagor's control from any cause insured against or required to be insured against by the Loan Documents. This waiver is in addition to, and

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not in limitation or derogation of, any other waiver or release contained in this Mortgage regarding any loss or damage to the parties' property. Because the above waivers preclude the assignment of any claim by way of subrogation (or otherwise) to an insurance company (or any other person), Mortgagor shall immediately give to each insurance company that has issued Mortgagor an insurance policy (whether or not such policy is required by the Loan Documents) written notice of the terms of the above waivers, and to have all insurance policies properly endorsed, if necessary, to prevent the invalidation of insurance coverage because of the above waivers.

8.6 **Mortgagor's Waiver of Setoff.** To the extent permitted by Applicable Laws, Mortgagor shall pay the Indebtedness, or any part thereof, without notice, demand, counterclaim, setoff, deduction, or defense and without abatement, suspension, deferment, diminution, or reduction by reason of: (a) any damage to, destruction of, or any condemnation or similar taking of the Mortgaged Property; (b) any interference with any use of the Mortgaged Property; (c) any title defect or encumbrance or any eviction from the Mortgaged Property by superior title or otherwise; (d) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation, or other like proceeding relating to Mortgagee, or Mortgagor, or any action taken under this Mortgage by any trustee or receiver of Mortgagee or Mortgagor, or by any court, in any such proceeding; (e) any claim that Mortgagor has or might have against Mortgagee; (f) any default or failure on the part of Mortgagee to perform or comply with this Mortgage, the Loan Documents, or any other agreement with Mortgagor; or (g) any other occurrence, whether similar or dissimilar to the foregoing, whether or not Mortgagor has notice or knowledge of any of the foregoing. Except as expressly provided herein, Mortgagor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution, or reduction of the Indebtedness.

8.7 **Mortgagee's Setoff.** To the extent permitted by Applicable Laws, Mortgagee shall be entitled to exercise both the rights of setoff and banker's lien, if applicable, against the interest of Mortgagor in and to each and every account and other property of Mortgagor that are in the possession of Mortgagee to the full extent of the outstanding balance of the Obligations. Mortgagor hereby grants to Mortgagee an Encumbrance on and security interest in, and assigns to Mortgagee, all deposits (general or special, time or demand, provisional or final) at any time held by Mortgagor and other indebtedness at any time owing by Mortgagee to or for the credit or for the account of Mortgagor, and any property of Mortgagor from time to time in the possession or control of Mortgagee.

8.8 **Consent to Disposition.** Mortgagee may base its decision to grant or withhold consent to a Disposition, if applicable, on such terms and conditions as Mortgagee may require, in its sole discretion, including, without limitation, (a) consideration of the creditworthiness of the proposed transferee and its management ability with respect to the Mortgaged Property; (b) consideration of whether the security for repayment of the Obligations and the performance and discharge of the Indebtedness, or Mortgagee's ability to enforce its rights, remedies, and recourses with respect to such security, will be impaired in any way by the proposed Disposition; (c) an increase in the rate of interest payable under the

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Credit Agreement or any other change in the terms and provisions of the Credit Agreement and other Loan Documents; (d) reimbursement of Mortgagee for all expenses incurred by Mortgagee in investigating the creditworthiness and management or consulting ability of the proposed transferee and in determining whether Mortgagee's security will be impaired by the proposed Disposition; (e) payment to Mortgagee of a transfer fee to cover the cost of documenting the Disposition in its records; (f) payment of Mortgagee's reasonable attorneys' fees in connection with such Disposition; (g) the express assumption of payment of the Indebtedness and performance and discharge of the Obligations by the transferee (with or without the release of Mortgagor from liability for such Obligations, such release, if any, to be in Mortgagee's sole discretion); (h) the execution of assumption agreements, modification agreements, supplemental loan documents, and financing statements, satisfactory in form and substance to Mortgagee; (i) endorsements (to the extent available under Applicable Laws) to any existing loan title insurance policies insuring Mortgagee's liens and security interests covering the Mortgaged Property; and (j) requiring additional security for the payment of the Indebtedness and performance and discharge of the Obligations.

8.9 **Reserved.**

8.10 **Payment After Acceleration.** If, after an Event of Default, and after any or all of the Indebtedness is accelerated, but before a foreclosure sale of the Mortgaged Property, and Mortgagor tenders to Mortgagee the payment of an amount sufficient to satisfy the accelerated Indebtedness, then such tender shall be deemed a voluntary prepayment of the Indebtedness and accordingly, Mortgagor, to the extent permitted by Applicable Laws, shall also pay to Mortgagee the premium, if any, then required under the Credit Agreement or other Loan Documents to exercise the prepayment privilege contained therein.

8.11 **Contest of Certain Claims.** Notwithstanding the provisions of **Sections 4.5** or **4.14**, Mortgagor shall not be in default for failure to pay or discharge any Imposition or mechanic's or materialman's lien asserted against the Mortgaged Property if, and so long as, (a) Mortgagor shall have notified Mortgagee of same within five (5) days of obtaining Knowledge thereof; (b) Mortgagor shall diligently and in good faith contest the same by appropriate legal proceedings which shall operate to prevent the enforcement or collection of the same and the sale of the Mortgaged Property or any part thereof, to satisfy the same; (c) Mortgagor shall have furnished to Mortgagee a cash deposit, or an indemnity bond satisfactory to Mortgagee with a surety satisfactory to Mortgagee, in the amount of the Imposition or mechanic's or materialman's lien claim, plus a reasonable additional sum to pay all costs, interest and penalties that may be imposed or incurred in connection therewith, to assure payment of the matters under contest and to prevent any sale or forfeiture of the Mortgaged Property or any part thereof, or in Mortgagee's discretion Mortgagor shall have obtained the release of the lien by posting bond as provided in Idaho Code § 45-518; (d) Mortgagor shall promptly upon final determination thereof pay the amount of any such Imposition or claim so determined, together with all costs, interest and penalties which may be payable in connection therewith; (e) the failure to pay the Imposition or mechanic's or materialman's lien claim does not constitute a default under any other deed of trust, mortgage or security interest covering or affecting any part of the Mortgaged Property; and

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(f) notwithstanding the foregoing, Mortgagor shall immediately upon request of Mortgagee pay (and if Mortgagor shall fail so to do, Mortgagee may, but shall not be required to, pay or cause to be discharged or bonded against) any such Imposition or claim notwithstanding such contest, if in the reasonable opinion of Mortgagee the Mortgaged Property shall be in jeopardy or in danger of being forfeited or foreclosed. Mortgagee may pay over any such cash deposit or part thereof to the claimant entitled thereto at any time when, in the judgment of Mortgagee, the entitlement of such claimant is established.

8.12 **Maximum Interest.** It is the intent of Mortgagor and Mortgagee at all times to comply strictly with the applicable Idaho law governing the maximum non-usurious rate or non-usurious amount of interest payable on the Loans or the Related Indebtedness (or applicable United States federal law to the extent that it permits Mortgagee to contract for, charge, take, reserve, or receive a greater amount of interest than under Idaho law). If the applicable law is ever judicially interpreted so as to render usurious any amount (a) contracted for, charged, taken, reserved or received pursuant to the Credit Agreement, any other Loan Documents, or any other communication or writing by or between Mortgagor and Mortgagee related to the Obligations or to the transaction or transactions that are the subject matter of the Loan Documents; (b) contracted for, charged, taken, reserved, or received by reason of Mortgagee's exercise of the option to accelerate the maturity of the Loans and/or the Related Indebtedness; or (c) Mortgagor has paid or Mortgagee has received by reason of any voluntary prepayment by Mortgagor of the Loans and/or the Related Indebtedness, then it is Mortgagor's and Mortgagee's intent that all amounts charged in excess of the Maximum Rate shall be automatically canceled, *ab initio,* and all amounts in excess of the Maximum Rate that have been collected by Mortgagee shall be credited on the principal balance of the Loans and/or the Related Indebtedness (or, if the Loans and all Related Indebtedness have been or would thereby be paid in full, refunded to Mortgagor), and that the provisions of the Credit Agreement and the other Loan Documents immediately be deemed reformed to reduce the amounts thereafter collectible under the Credit Agreement and other Loan Documents, without the necessity of the execution of any new document, to comply with the applicable law, but to permit the recovery of the fullest amount otherwise called for; *provided, however,* if the Loans have been paid in full before the end of the stated term of the Loans, then Mortgagee shall, with reasonable promptness after Mortgagee discovers or is advised by Mortgagor that interest was received in an amount in excess of the Maximum Rate, either refund such excess interest to Mortgagor and/or credit such excess interest against any Related Indebtedness then owing by Mortgagor to Mortgagee. As a condition precedent to any claim seeking usury penalties against Mortgagee, Mortgagor agrees that it shall provide written notice to Mortgagee, advising Mortgagee in reasonable detail of the nature and amount of the violation, and Mortgagee shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Mortgagor or crediting such excess interest against the Loans and/or the Related Indebtedness then owing by Mortgagor to Mortgagee. All sums contracted for, charged, taken, reserved, or received by Mortgagee for the use, forbearance, or detention of any debt evidenced by the Loans and/or the Related Indebtedness shall, to the extent permitted by Applicable Laws, be amortized or spread, using the actuarial method, throughout the stated term of the Loans and/or the Related Indebtedness (including all renewal and extension periods) until payment in full so that the

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rate or amount of interest on account of the Loans and/or the Related Indebtedness does not exceed the Maximum Rate from time to time in effect and applicable to the Loans and/or the Related Indebtedness for so long as debt is outstanding. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Mortgagee to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

SECTION IX
ASSIGNMENT OF RENTS

9.1 **Present Assignment.** Mortgagor hereby absolutely and unconditionally GRANTS, TRANSFERS AND ASSIGNS all of Mortgagor's right, title, and interest in the Leases and the Rents unto Mortgagee to provide a source of future payment of the Indebtedness, subject only to the License and any applicable Permitted Exceptions, it being the intention of Mortgagor and Mortgagee that this conveyance be absolute, unconditional, presently, and immediately effective, and not an assignment for additional security for the repayment of the Indebtedness.

9.2 **Mortgagor's License.** Nevertheless, subject to the terms and conditions of this Mortgage, Mortgagee hereby grants to Mortgagor a limited revocable license (the "***License***"), subject to revocation of the License and to the other terms and provisions of **Section 7.1(g)**, to exercise and enjoy all incidences of the status of a lessor with respect to the Rents, including, without limitation, the right to collect, demand, sue for, attach, levy, recover, and receive the Rents, and to give proper receipts, releases, and acquittances therefor. Under the License, Mortgagor shall receive all Rents and hold the same on behalf of Mortgagee as Mortgagee's agent, and will apply the Rents so collected first to the payment of the Indebtedness, next to the performance and discharge of the Indebtedness, and next to the payment of Operating Expenses. Thereafter, Mortgagor may use the balance of the Rents collected in any manner consistent with the Loan Documents. Neither this assignment nor the receipt of Rents by Mortgagee (except to the extent, if any, that Mortgagee actually receives and applies such Rents to the Indebtedness) shall effect a *pro tanto* payment of the Indebtedness. Rents actually received by Mortgagee shall be applied by Mortgagee as provided in **Section 9.3**. Mortgagee shall not be deemed to have received Rents or to have applied Rents to the Indebtedness until the money is actually received by Mortgagee at its principal office in Vancouver, British Columbia, or at such other place as Mortgagee shall designate in writing. Mortgagee shall not apply Rents to the Indebtedness after foreclosure or any other transfer of all or any part of the Mortgaged Property to Mortgagee or any third party.

9.3 **Reliance Upon Lease Rent Notice.** Upon receipt from Mortgagee of a Lease Rent Notice, each Lessee is authorized and directed to pay directly to Mortgagee all Rents thereafter accruing, and the receipt of Rents by Mortgagee shall be a release of such Lessee to the extent of all amounts so paid. The receipt by a Lessee of a Lease Rent Notice shall be sufficient authorization for such Lessee to make all future payments of Rents directly to Mortgagee and each such Lessee shall be entitled to rely on the Lease Rent Notice and shall have no liability to Mortgagor for any Rents paid to Mortgagee after receipt of the Lease Rent

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Notice. Rents so received by Mortgagee for any period prior to foreclosure under this Mortgage or acceptance of a deed in lieu of such foreclosure shall be applied by Mortgagee to the payment of the following (in such order and priority as Mortgagee shall determine): (a) all Operating Expenses; (b) all expenses incident to taking and retaining possession of the Mortgaged Property and/or collecting Rent as it becomes due and payable; and (c) the Indebtedness. The Indebtedness will not be reduced under this **Section 9.3** except to the extent, if any, that Mortgagee actually receives and applies any Rents to the Indebtedness in accordance with the preceding sentence. Without impairing its rights hereunder, Mortgagee may, at its option, at any time and from time to time, release to Mortgagor any Rents so received by Mortgagee. As between Mortgagor and Mortgagee, and any Person claiming through or under Mortgagor, other than any Lessee who has not received a Lease Rent Notice, this assignment is intended to be absolute, unconditional, presently, and immediately effective, and not a security for the repayment of the Indebtedness. The Lease Rent Notice is intended solely for the benefit of the Lessees and shall never inure to the benefit of Mortgagor or any Person claiming through or under Mortgagor, other than a Lessee who has not received such Lease Rent Notice. It shall never be necessary for Mortgagee to institute legal proceedings of any kind whatsoever to enforce the provisions of this Mortgage with respect to Rents. MORTGAGOR SHALL HAVE NO RIGHT OR CLAIM AGAINST ANY LESSEE FOR THE PAYMENT OF ANY RENTS TO MORTGAGEE HEREUNDER AND MORTGAGOR SHALL INDEMNIFY, DEFEND, AND HOLD FREE AND HARMLESS EACH LESSEE FROM AND AGAINST ALL LIABILITY, LOSS, COST, DAMAGE, OR EXPENSE SUFFERED OR INCURRED BY SUCH LESSEE BY REASON OF SUCH LESSEE'S COMPLIANCE WITH ANY LEASE RENT NOTICE.

9.4 **Collection of Rent.** At any time during which Mortgagor is receiving Rents directly from any of the Lessees, Mortgagor shall, upon receipt of written direction from Mortgagee, make demand and/or sue for all Rents due and payable under one or more Leases, as directed by Mortgagee, as it becomes due and payable, including Rents that are past due and unpaid. If Mortgagor fails to take such action, or at any time during which Mortgagor is not receiving Rents directly from Lessees, Mortgagee may, without obligation, demand, collect, and sue for, in its own name or in the name of Mortgagor, all Rents due and payable under the Leases, as they become due and payable, including Rents that are past due and unpaid.

SECTION X
SECURITY AGREEMENT

10.1 **Security Interest.** This Mortgage (a) shall be construed as a mortgage on real property, (b) shall also constitute and serve as a "Security Agreement" on the Personalty, Fixtures, Contracts, Mining Claims Leases and Leases, (to the extent such property is not real property), and (c) this Mortgage constitutes a security agreement from Mortgagor to Mortgagee under the UCC. To this end, Mortgagor GRANTS, BARGAINS, CONVEYS, ASSIGNS, TRANSFERS, and SETS OVER, unto Mortgagee, a First Ranking Security Interest in all of Mortgagor's right, title, and interest in, to, under, and with respect to the Personalty, Fixtures, Contracts, Mining Claims Leases and Leases to secure the full and timely

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payment of the Obligations and the full and timely performance and discharge of the Indebtedness. It is the intent of Mortgagor and Mortgagee, that this Mortgage encumber all Leases and that all items contained in the definition of "Leases" that are governed by the UCC be covered by the security interest granted in this **SECTION X**; and all items contained in the definition of "Leases" that are not governed by the UCC be covered by the provisions of **SECTION II**. Mortgagor shall cooperate with Mortgagee in obtaining control with respect to portions of the Personalty, if any, that are either or both deposit accounts or letter of credit rights.

10.2 **Financing Statements.** This Mortgage shall also be effective as a financing statement with respect to any other Mortgaged Property as to which a security interest may be perfected by the filing of a financing statement and may be filed as such in any appropriate filing or recording office. Mortgagor shall execute and deliver to Mortgagee, in form and substance satisfactory to Mortgagee, such "Financing Statements" covering the Mortgaged Property and such further assurances as Mortgagee may, from time to time, reasonably consider necessary to create, perfect, and preserve Mortgagee's security interest herein granted on the Mortgaged Property, and Mortgagee may cause such statements and assurances to be recorded and filed, at such times and places as may be required or permitted by law to create, perfect, and preserve such security interest in the Mortgaged Property. Mortgagor authorizes Mortgagee to prepare and file new financing statements, financing statement amendments, and financing statement continuations that describe all or any portion of the Mortgaged Property as collateral thereunder, and Mortgagee may file such statements without any signature of Mortgagor or of a representative of Mortgagor appearing thereon, where such filings are permitted by Applicable Laws.

10.3 **No Changes.** Mortgagor shall not change its principal place of business or chief executive office, or change the state of its organization or registration, or change its name, without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld or delayed. Mortgagee's consent will, however, be conditioned upon, among other things, the execution and delivery of additional financing statements, security agreements, and other instruments that may be necessary to effectively evidence or perfect Mortgagee's security interest in the Mortgaged Property as a result of such changes.

10.4 **Fixture Filing.** This Mortgage shall also constitute a financing statement filed as a "Fixture Filing" under the UCC with respect to all fixtures included within the Mortgaged Property and is to be filed for record in the real estate records of each county where any part of the Mortgaged Property (including such fixtures) is situated. All or part of the Mortgaged Property may be or become fixtures; information concerning the security interest herein granted may be obtained from the debtor (Mortgagor) at the address set forth in the first paragraph of this Mortgage and from the secured party (Mortgagee) at the address set forth in **SECTION I**.

10.5 **Notice of Security Interest in a Water Right.** The Mortgagor authorizes Mortgagee to file with the Idaho Department of Water Resources a Notice of Security Interest

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in a Water Right listing the Water Rights, and any amendment or renewal from time to time, together with a copy of this Mortgage and any amendment thereto.

SECTION XI
MISCELLANEOUS

11.1 **Reconveyance by Mortgagee.** Upon written request of Mortgagee stating that all Obligations (other than inchoate indemnity Obligations for which no demand has been made) have been satisfied in full, and upon surrender of this Mortgage to Mortgagee for cancellation and retention and upon payment by Mortgagor of any costs and expenses, Mortgagee shall reconvey to Mortgagor, or to the person or persons legally entitled thereto, without warranty, any portion of the Mortgaged Property then held hereunder. Upon reconveyance of this Mortgage, all obligations, if any, of Mortgagee to make advances under this Mortgage or the other Loan Documents shall terminate. The recitals in any reconveyance executed under this Mortgage of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee is such reconveyance may be described as 'the person or persons legally entitled thereto'.

11.2 **Performance at Mortgagor's Expense.** Subject to the maximum interest provisions of **Section 8.12**, Mortgagor shall (a) pay all legal fees incurred by Mortgagee in connection with the preparation of this Mortgage and the Financing Statements (including any amendments thereto or consents, releases, or waivers granted thereunder); (b) reimburse Mortgagee, promptly upon demand, for all amounts expended, advanced, or incurred by Mortgagee to satisfy any obligation of Mortgagor under this Mortgage and the Financing Statements, including, without limitation, all court costs, reasonable attorneys' fees (including, without limitation, fees for trial, appeal, or other proceedings), fees of auditors and accountants and other investigation expenses reasonably incurred by Mortgagee in connection with any such matters; and (c) all other expenses of performing or complying with the Indebtedness. Except for the expenses that are included within the definition of "Indebtedness," the payment of any expenses, including, without limitation, those set forth above, shall not be credited against any installment on or portion of the Obligations.

11.3 **Survival of Obligations.** The Obligations shall survive the execution and delivery of this Mortgage and the consummation of the loan called for in the Loan Documents and shall continue in full force and effect until the Indebtedness has been paid in full; *provided, however,* that any Obligations that expressly survive the full payment of the Indebtedness shall continue in full force and effect until otherwise terminated.

11.4 **Recording and Filing.** Mortgagor shall cause this Mortgage and Financing Statements requested by Mortgagee and any amendments, supplements, and restatements thereof to be recorded, filed, re-recorded, and refiled in such manner and in such places that Mortgagee shall reasonably request, and Mortgagor shall pay all recording, filing, re-recording and refiling taxes, documentary stamp taxes, fees, and other charges.

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11.5 **Notices**.

(a) Whenever any notice is required or permitted to be given under the terms of this Mortgage, the same shall, except as otherwise expressly provided for in this Mortgage, be given in writing, and sent by: (a) certified mail, return receipt requested, postage pre-paid; (b) a national overnight delivery service; (c) hand delivery with written receipt acknowledged; or (d) facsimile, followed by a copy sent in accordance with **clause (b)** of this **Section 11.5** sent the same day as the facsimile, in each case to the address or facsimile number (together with a contemporaneous copy to each copied addressee), as applicable, set forth in the opening paragraph of this Mortgage and, the definitions of "Mortgagor" and "Mortgagee" set forth in **Section 1.1**. Mortgagee and Mortgagor shall not conduct communications contemplated by this Mortgage by electronic mail or other electronic means, except by facsimile transmission as expressly provided in this **Section 11.5**, and the use of the phrase "in writing" or the word "written" shall not be construed to include electronic communications except by facsimile transmissions as expressly provided in this **Section 11.5**. Any notice required or given hereunder shall be deemed received the same Business Day if sent by hand delivery or facsimile, the next Business Day if sent by overnight courier, or three (3) Business Days after posting if sent by certified mail, return receipt requested; *provided that* any notice received after 5:00 p.m. local time at the location of delivery on any Business Day or received on any day that is not a Business Day shall be deemed to have been received on the following Business Day.

(b) Notwithstanding any provision contained in this Mortgage or in any of the Loan Documents to the contrary, in the event that Mortgagee shall fail to give any notice to any Person required hereunder, the sole and exclusive remedy for such failure shall be to seek appropriate equitable relief to enforce the requirements of this Mortgage to give such notice and to have any action of such Person postponed or revoked and any proceedings in connection therewith delayed or terminated pending the giving of such notice by Mortgagee, and no Person shall have any right to damages (whether actual or consequential) or any other type of relief not herein specifically set out against Mortgagee, all of which damages or other relief are expressly waived. The foregoing is not intended and shall not be deemed under any circumstances to require Mortgagee to give notice of any type or nature to any Person except as expressly required hereby or thereby, or by applicable Legal Requirements.

(c) To the extent applicable, the notice requirements of Idaho Code §§ 45-1502, *et seq*, shall control.

11.6 **Covenants Running with the Land.** To the extent permitted by Applicable Laws, all Obligations contained in this Mortgage are intended by Mortgagor and Mortgagee to be, and shall be construed as, covenants running with the Land until the lien of this Mortgage has been fully released by Mortgagee.

11.7 **Successors and Assigns.** All of the terms of this Mortgage and the Financing Statements shall apply to, be binding upon, and inure to the benefit of the parties

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thereto, their successors, assigns, heirs, and legal representatives, and all other persons claiming by, through, or under them (without hereby implying Mortgagee's consent to any Disposition of all or any part of the Mortgaged Property).

11.8 **No Waiver; Severability.** Any failure by Mortgagee to insist, or any election by Mortgagee not to insist, upon strict performance by Mortgagor or others of any of the terms, provisions, or conditions of the Loan Documents shall not be deemed to be a waiver of same or of any other terms, provisions, or conditions thereof, and Mortgagee shall have the right at any time or times thereafter to insist upon strict performance by Mortgagor or others of all such terms, provisions, and conditions. No Event of Default or the occurrence of an event or condition which with notice or lapse of time or both would become an Event of Default shall be waived by Mortgagee except by written instrument specifying the scope and terms of that waiver, signed by an authorized officer of Mortgagee. Any written waiver shall be effective only for the purpose(s) and time(s) given. No waiver shall extend to any other or further event or circumstance. Mortgagor expressly agrees that this **Section 11.8** may not be waived or modified by Mortgagee by course of performance, estoppel or otherwise. The Loan Documents are intended to be performed in accordance with, and only to the extent permitted by, all applicable Legal Requirements. If any provision of any of the Loan Documents or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, then neither the remainder of the instrument in which such provision is contained, nor the application of such provision to other persons or circumstances, nor the other instruments referred to herein shall be affected thereby, but rather shall be enforced to the greatest extent permitted by Applicable Laws.

11.9 **Counterparts.** To facilitate execution, this Mortgage may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature and acknowledgment of, or on behalf of, each party, or that the signature and acknowledgment of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Mortgage to produce or account for more than a single counterpart containing the respective signatures and acknowledgment of, or on behalf of, each of the parties hereto. Any signature and acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures and acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature and acknowledgment pages.

11.10 **Waiver of Fraudulent Inducement.** Neither Mortgagee nor any Affiliate of Mortgagee has made any representation, warranty, or statement to Mortgagor to induce Mortgagor to execute this Mortgage. To the extent permitted by Applicable Laws, Mortgagor expressly waives any claim of fraudulent inducement to execute this Mortgage and further disclaims any reliance on statements or representations of Mortgagee in waiving such claim.

11.11 **Governing Law; Venue; Service of Process.** WITH RESPECT TO MATTERS RELATING TO THE ATTACHMENT, CREATION, PERFECTION AND PROCEDURES RELATING TO THE ENFORCEMENT OF THE LIENS CREATED

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PURSUANT TO THIS MORTGAGE, THIS MORTGAGE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF IDAHO (WITHOUT REGARD TO CONFLICT OF LAW PROVISIONS THEREOF); *PROVIDED THAT* MORTGAGEE AND MORTGAGOR SHALL RETAIN ALL RIGHTS UNDER FEDERAL LAW. THE PARTIES HEREBY AGREE THAT ANY LAWSUIT, ACTION, OR PROCEEDING FOR THE ENFORCEMENT OF THIS MORTGAGE SHALL BE BROUGHT IN THE APPROPRIATE COURT IN THE STATE OF IDAHO. THE PARTIES HEREBY FURTHER AGREE THAT ANY OTHER LAWSUIT, ACTION, OR PROCEEDING THAT IS BROUGHT (WHETHER IN CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO ANY OF THE LOAN DOCUMENTS, THE TRANSACTIONS CONTEMPLATED THEREBY, OR THE ACTIONS OF MORTGAGEE IN THE NEGOTIATION, ADMINISTRATION, OR ENFORCEMENT OF ANY OF THE LOAN DOCUMENTS SHALL BE BROUGHT IN A STATE OR FEDERAL COURT OF COMPETENT JURISDICTION LOCATED IN BOISE, IDAHO. MORTGAGOR AND MORTGAGEE HEREBY IRREVOCABLY AND UNCONDITIONALLY (A) SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS, (B) WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH LAWSUIT, ACTION, OR PROCEEDING BROUGHT IN ANY SUCH COURT, AND (C) FURTHER WAIVES ANY CLAIM THAT IT MAY NOW OR HEREAFTER HAVE THAT ANY SUCH COURT IS AN INCONVENIENT FORUM. EACH OF THE PARTIES HERETO AGREE THAT SERVICE OF PROCESS UPON IT MAY BE MADE BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED AT THE ADDRESS FOR NOTICES CONTAINED IN THE RECITALS HEREOF, AS PROVIDED IN **SECTION 11.5** ABOVE.

11.12 **Controlling Agreement.** If the Loans are made pursuant to a loan agreement regarding the construction of Improvements on the Land and the funding of the principal amount of the Loans, the terms of the Credit Agreement shall control over any conflicting provision of this Mortgage. If this Mortgage conflicts with any of the other Loan Documents, then this Mortgage shall control. The parties acknowledge that they were represented by competent counsel in connection with the negotiation, drafting, and execution of this Mortgage and that this Mortgage shall not be subject to the principle of construing their meaning against the drafting party.

11.13 **Subrogation.** If any of the proceeds of the Loans are used to extinguish, extend, or renew any previous indebtedness against the Mortgaged Property, then Mortgagee, to the extent of such funds so used, shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Mortgaged Property previously held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather continue in full force and effect in favor of Mortgagee and shall merge with the lien and security interest created herein as cumulative security for the performance and discharge of the Obligations.

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11.14 **Payments.** Payment of any part of the Indebtedness other than of the required amount in immediately available funds at the place where the Loans are payable shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by Mortgagee in immediately available funds at the place where the Loans are payable (or such other place that Mortgagee, in Mortgagee's sole discretion, has established by delivery of written notice thereof to Mortgagor) and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by Mortgagee of any payment in an amount less than the amount then due shall be deemed an acceptance on account only, and the failure to pay the entire amount then due shall be and continue to be an Event of Default.

11.15 **Exceptions to Covenants.** Mortgagor shall not be permitted to take any action or to fail to take any action with regard to any particular covenant or condition contained herein or in any of the Loan Documents if the action or omission would result in the breach of any other covenant or condition contained herein or in any of the Loan Documents which has not been specifically waived or consented to by Mortgagee, nor shall Mortgagee be deemed to have consented to any such act or omission if the same would provide cause for acceleration of the Indebtedness as a result of the breach of any other covenant or condition contained herein or in any of the Loan Documents which has not been specifically waived or consented to by Mortgagee.

11.16 **Reliance.** Mortgagor acknowledges (a) that Mortgagee, by entering into the loan transaction evidenced by the Loan Documents and by accepting this Mortgage, is expressly and primarily relying on the truth and accuracy of the foregoing warranties and representations set forth in **SECTION III**, without any obligation to investigate the Mortgaged Property and notwithstanding any investigation of the Mortgaged Property that may have been conducted by Mortgagee; (b) that Mortgagee has relied on such warranties and representations before entering into this Mortgage; (c) that such warranties and representations are a material inducement to Mortgagee in making the loan evidenced by the Loan Documents and accepting this Mortgage; and (d) that Mortgagee would not be willing to make the loan evidenced by the Loan Documents and accept this Mortgage in the absence of any of such warranties and representations. Mortgagor further acknowledges that it is experienced in the ownership and operation of the Mortgaged Property. Mortgagor and Mortgagee are relying upon Mortgagor's expertise in connection with the ownership and operation of the Mortgaged Property. Mortgagor is not relying on Mortgagee's expertise or business acumen regarding the Mortgaged Property. In the transactions between Mortgagor and Mortgagee, each of Mortgagor and Mortgagee and their respective principals have been represented by (or have had the opportunity to be represented by) legal counsel independent of the other party and counsel for the other party.

11.17 **Headings.** The Section and Subsection headings in this Mortgage are inserted for convenience of reference only and shall in no way alter, modify, or define, or be used in construing the text of such Sections or Subsections.

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11.18 **Entire Agreement.** THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

11.19 **Amendment.** The provisions hereof may be amended or waived only by an instrument in writing signed by Mortgagor and Mortgagee.

11.20 **WAIVER OF JURY TRIAL.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, MORTGAGOR HEREBY IRREVOCABLY AND EXPRESSLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO ANY OF THE LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED THEREBY OR THE ACTIONS OF MORTGAGEE IN THE NEGOTIATION, ADMINISTRATION, OR ENFORCEMENT THEREOF. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS **SECTION 11.20.**

11.21 **Counting of Days.** The term ***"days"*** when used herein shall mean calendar days. If any time period ends on a Saturday, Sunday or other day not a business day, the period shall be deemed to end on the next succeeding business day. The term "***business day***" or "***Business Day***" when used herein shall mean a weekday, Monday through Friday, except a legal holiday or a day on which banking institutions in Boise, Idaho are authorized by law to be closed.

11.22 **No Merger of Estates.** So long as any part of the Indebtedness and the Obligations secured hereby remain unpaid and unperformed or undischarged, the fee and leasehold estates to the Mortgaged Property shall not merge but rather shall remain separate and distinct, notwithstanding the union of such estates either in Mortgagor, Mortgagee, any lessee, or any third-party purchaser or otherwise.

11.23 **USA Patriot Act Notice.** Mortgagee hereby notifies Mortgagor that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "***Act***"), Mortgagee is required to obtain, verify and record information that identifies Mortgagor, which information includes the name and address of Mortgagor and other information that will allow Mortgagee to identify Mortgagor in accordance with the Act.

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11.24 **Indexing.** Pursuant to Idaho Code § 45-116, the interest rate, payment terms, or balance due with respect to the Loan may be indexed, adjusted, renewed or renegotiated.

11.25 **Relationship of Mortgagor and Mortgagee**. Mortgagee is a shareholder of Borrower. Notwithstanding any prior business or personal relationship between Mortgagor and Mortgagee or any officer, director, or employee of Mortgagee, the relationship between Mortgagor and Mortgagee in and for the purposes of this Mortgage is solely that of debtor and creditor. For purposes of this Mortgage, and to the extent permitted by Applicable Laws, Mortgagee has no fiduciary or other special relationship with Mortgagor. Mortgagor and Mortgagee are not partners or joint venturers and nothing contained in the Loan Documents shall be construed to suggest that the relationship between Mortgagor and Mortgagee is other than that of debtor and creditor, for purposes of this Mortgage.

11.26 **State-Specific Provisions.** In the event of any inconsistencies between the terms and conditions of this Section 11.26, and the other terms and conditions of this Mortgage, the terms of this Section 11.26 will control and be binding.

(a) **One Action Rule**. The Mortgage and any deficiency judgment is subject to Idaho's one action rule and anti-deficiency statute for the recovery of any debt in the event of a foreclosure (Idaho Code Sections 6-101, 6-103, 6-108), including any valuation requirements.

(b) **Additional Fixture Filing Language**. This Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included in the Mortgaged Property and is to be filed and recorded in, among other places, the real estate records of the county where the Mortgaged Property is located. For this purpose the following information is included: Borrower's (debtor's) principal place of business is set forth on page one hereof and the address of Agent (secured party) is set forth on page one hereof. The Borrower's organizational identification number, as issued by the State of Oregon Secretary of State is: 20285011.

(c) **Restraints on Redemption Void.** This Mortgage is subject to Idaho Code Section 45-110, which provides that all contracts for the forfeiture of property subject to a lien, in satisfaction of the obligation secured thereby, and all contracts in restraint of the right of redemption from a lien, are void.

(d) **Mortgagor Redemption Rights.** This Mortgage is subject to Idaho Code Section 45-113 and Section 11-402 regarding Mortgagor's right of redemption.

(e) **Limitation on Waiver of Procedural Requirements.** This Mortgage is subject to the provisions of Idaho Code 29-110 which provides that every stipulation or condition in a contract, by which any party thereto is restricted from enforcing his rights under the contract in Idaho tribunals, or which limits the time within which he may thus enforce his rights, is void as it is against the public policy of Idaho.

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(f) **Limitation on Waiver and Variance of UCC Rights and Duties.** This Mortgage is subject to Idaho Code 28-9-602 which provides that a debtor or obligor may not waive or vary the rules set forth in the Idaho UCC identified in Idaho Code 28-9-602.

(g) **Satisfaction and Release.** This Mortgage is subject to Idaho Code 45-915 requiring a mortgagee to deliver a certificate of discharge in recordable form upon satisfaction of the mortgage and request by the Mortgagor, and otherwise, specifies penalties for failure to provide confirmation of such satisfaction.

[SIGNATURE PAGE FOLLOWS]

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EXECUTED as of the date first above written.

NOTICE OF INDEMNIFICATION:

MORTGAGOR HEREBY ACKNOWLEDGES AND AGREES THAT THIS MORTGAGE CONTAINS CERTAIN INDEMNIFICATION PROVISIONS WHICH, IN CERTAIN CIRCUMSTANCES, COULD INCLUDE AN INDEMNIFICATION BY MORTGAGOR OF MORTGAGEE FROM CLAIMS OR LOSSES ARISING IN STRICT LIABILITY OR AS A RESULT OF MORTGAGEE'S OWN NEGLIGENCE, TO THE EXTENT PERMITTED BY APPLICABLE LAWS.

MORTGAGOR:

DELAMAR MINING COMPANY

By: _____
Name: TIMOTHY ARNOLD
Title: CHIEF OPERATING OFFICER

STATE OF Idaho)
)
COUNTY OF Ada)

The foregoing instrument was ACKNOWLEDGED before me this 29th day of September, 2022, by Timothy Arnold, the Chief Operating Officer of Delamar Mining Company, on behalf of said company.

[SEAL]

KATRINA D. HARBAUGH NOTARY PUBLIC Comm. No. 33783 STATE OF IDAHO

Katrina D. Harbaugh
Notary Public, State of Idaho
My Commission Expires: 5/22/24
Katrina D. Harbaugh
Printed Name of Notary Public

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EXHIBIT A
TO MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

LAND DESCRIPTION—MORTGAGED PROPERTY

All right, title and interest of Mortgagor in the Land and Mortgaged Property, located in Owyhee County, Idaho.

Delamar Mine Area: 112 Patented Mining Claim Owned by DeLamar Mining Company Located in T5S, R4W, S. 4,5,6,8,9; Owyhee County, Idaho

Claim #	Claim Name	MS #	County Tax Parcel #
1	Boston	855	RP 95S04W050106A
2	Cash	859A	RP 95S04W050106A
3	Christian Wahl	642A	RP 95S04W050106A
4	Crown Prince & Bismark Consolidated	923A	RP 95S04W050106A
5	Denver	856A	RP 95S04W050106A
6	Disson	921	RP 95S04W050106A
7	Hidden Treasure	1264	RP 95S04W050106A
8	Hope	920A	RP 95S04W050106A
9	Iburg	1260	RP 95S04W050106A
10	Idaho	548	RP 95S04W050106A
11	London	857A	RP 95S04W050106A
12	Louis Wahl	854	RP 95S04W050106A
13	Michigan	1266	RP 95S04W050106A
14	New York	863A	RP 95S04W050106A
15	Phebe Grace	858	RP 95S04W050106A
16	Stoddard	38	RP 95S04W050106A

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Claim #	Claim Name	MS #	County Tax Parcel #
17	Torpedo	1261	RP 95S04W050106A
18	Wilson	547	RP 95S04W050106A
19	Zulu	1259	RP 95S04W050106A
20	Advance	3066	RP 95S04W050146A
21	Boone	3066	RP 95S04W050146A
22	Chataqua	3066	RP 95S04W050146A
23	Independence	3066	RP 95S04W050146A
24	Portion of Iburg	1260	RP 95S04W8119AA
25	Ella	3067	RP 95S04W050151A
26	Czarina	3067	RP 95S04W050151A
27	Only Chance	3067	RP 95S04W050151A
28	Badger	3067	RP 95S04W050151A
29	Howe	950A	RP 95S04W05074AA
30	Manhattan	866	RP 95S04W05074AA
31	Portion of Manhattan	866	RP 95S04W05074BA
32	Portion of Beck and Last Chance	3066	RP 95S04W050147A
33	Portion of Howe	950A	RP 95S04W05074BA
34	Beck	3066	RP 95S04W050147A
35	Last Chance	3066	RP 95S04W050147A
36	Wallstreet	1265	RP 95S04W050106A
37	San Francisco	860	RP 95S04W050106A
38	Philadelphia	862A	RP 95S04W050106A

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Claim #	Claim Name	MS #	County Tax Parcel #
	Millsites		
39	NDCO Sec 5 #27		RP 95S04W056000A
40	NDCO Sec 5 #28		RP 95S04W056000A
41	NDCO Sec 5 #29		RP 95S04W056000A
42	NDCO Sec 5 #30		RP 95S04W056000A
43	NDCO Sec 5 #31		RP 95S04W056000A
44	NDCO Sec 5 #32		RP 95S04W056000A
45	NDCO Sec 5 #33		RP 95S04W056000A
46	NDCO Sec 5 #34		RP 95S04W056000A
47	NDCO Sec 5 #35		RP 95S04W056000A
48	NDCO Sec 5 #37		RP 95S04W056000A
49	NDCO Sec 5 #38		RP 95S04W056000A
50	NDCO Sec 5 #39		RP 95S04W056000A
51	NDCO Sec 5 #40		RP 95S04W056000A
52	NDCO Sec 6 #17		RP 95S04W068400A
53	NDCO Sec 6 #18		RP 95S04W068400A
54	NDCO Sec 6 #19		RP 95S04W068400A
55	NDCO Sec 6 #21		RP 95S04W068400A
56	NDCO Sec 6 #22		RP 95S04W068400A
57	NDCO Sec 6 #23		RP 95S04W068400A
58	NDCO Sec 6 #24		RP 95S04W068400A
59	NDCO Sec 8 #8		RP 95S04W084300A

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Claim #	Claim Name	MS #	County Tax Parcel #
60	NDCO Sec 8 #9		RP 95S04W084300A
61	NDCO Sec 8 #10		RP 95S04W084300A
62	NDCO Sec 8 #11		RP 95S04W084300A
63	NDCO Sec 8 #12		RP 95S04W084300A
64	NDCO Sec 8 #13		RP 95S04W084300A
65	NDCO Sec 8 #14		RP 95S04W084300A
66	NDCO Sec 8 #15		RP 95S04W084300A
67	NDCO Sec 8 #16		RP 95S04W084300A
68	NDCO Sec 8 #17		RP 95S04W084300A
69	NDCO Sec 8 #18		RP 95S04W084300A
70	NDCO Sec 8 #39		RP 95S04W084300A
71	NDCO Sec 8 #40		RP 95S04W084300A
72	NDCO Sec 8 #41		RP 95S04W084300A
73	NDCO Sec 8 #43		RP 95S04W084300A
74	NDCO Sec 8 #44		RP 95S04W084300A
75	NDCO Sec 8 #45		RP 95S04W084300A
76	NDCO Sec 8 #47		RP 95S04W084300A
77	NDCO Sec 8 #48		RP 95S04W084300A
78	NDCO Sec 8 #51		RP 95S04W084300A
79	NDCO Sec 8 #52		RP 95S04W084300A
80	NDCO Sec 8 #54		RP 95S04W084300A
81	NDCO Sec 8 #55		RP 95S04W084300A

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Claim #	Claim Name	MS #	County Tax Parcel #
82	NDCO Sec 8 #56		RP 95S04W084300A
83	NDCO Sec 8 #57		RP 95S04W084300A
84	NDCO Sec 8 #58		RP 95S04W084300A
85	NDCO Sec 8 #59		RP 95S04W084300A
86	NDCO Sec 8 #60		RP 95S04W084300A
87	NDCO Sec 8 #61		RP 95S04W084300A
88	NDCO Sec 8 #62		RP 95S04W084300A
89	NDCO Sec 8 #63		RP 95S04W084300A
90	NDCO Sec 8 #64		RP 95S04W084300A
91	NDCO Sec 8 #65		RP 95S04W084300A
92	NDCO Sec 8 #66		RP 95S04W084300A
93	NDCO Sec 8 #89		RP 95S04W084300A
94	NDCO Sec 8 #90		RP 95S04W084300A
95	NDCO Sec 9 #13		RP 95S04W094600A
96	NDCO Sec 9 #14		RP 95S04W094600A
97	NDCO Sec 9 #15		RP 95S04W094600A
98	NDCO Sec 9 #16		RP 95S04W094600A
99	NDCO Sec 9 #17		RP 95S04W094600A
100	NDCO Sec 9 #18		RP 95S04W094600A
101	NDCO Sec 9 #19		RP 95S04W094600A
102	NDCO Sec 9 #20		RP 95S04W094600A
103	NDCO Sec 9 #21		RP 95S04W094600A

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Claim #	Claim Name	MS #	County Tax Parcel #
104	NDCO Sec 9 #39		RP 95S04W094600A
105	NDCO Sec 9 #40		RP 95S04W094600A
106	NDCO Sec 9 #41		RP 95S04W094600A
107	NDCO Sec 9 #43		RP 95S04W094600A
108	NDCO Sec 9 #43		RP 95S04W094600A
109	NDCO Sec 9 #45		RP 95S04W094600A
110	NDCO Sec 9 #46		RP 95S04W094600A
111	NDCO Sec 9 #47		RP 95S04W094600A
112	NDCO Sec 9 #48		RP 95S04W094600A

DeLamar Mine Area: 29 Unpatented Lode Mining Claims Owned by DeLamar Mining Company Located in T5S, R4W, S. 4,5,6,8,9; Owyhee County, Idaho

Claim #	Claim Name	BLM IMC #	Loc. Date	Original Bk/Pg/Doc	Amended Bk/Pg/Doc
1	Rawhide A	IMC13716	26-Nov-1974	142450	
2	GS 4	IMC3675	12-Nov-1975	145681	
3	GS 6	IMC13677	12-Nov-1975	145683	
4	North Chance	IMC13705	1-Sep-1968	28/279	143105
5	Summit Amended	IMC13704	28-Jul-1969	28/275	143103
6	DL 7	IMC217434	6-Dec-2016	291631	
7	DL 8	IMC217435	6-Dec-2016	291632	
8	DL 9	IMC217436	6-Dec-2016	291633	
9	DL 17	IMC217444	6-Dec-2016	291641	

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Claim #	Claim Name	BLM IMC #	Loc. Date	Original Bk/Pg/Doc	Amended Bk/Pg/Doc
10	DeLamar Fraction #5	IMC11235	Jul/21/1970	126815	129815
11	DeLamar Fraction #1A	IMC11231	Sep/27/1974	141989	
12	DeLamar Fraction #6	IMC11236	May/15/1973	138029	
13	DeLamar Fraction #7	IMC11237	May/15/1973	138030	
14	DeLamar Fraction #9	IMC13720	Jul/03/1974	141448	
15	DeLamar Fraction #13	IMC11239	Oct 1/1974	142451	
16	DeLamar Fraction #16	IMC11241	Nov/23/1974	142452	
17	DeLamar Fraction #20	IMC11245	May/18/1976	164311	
18	DeLamar Fraction #2A	IMC11232	Sep/23/1974	141990	
19	DeLamar Fraction #3A	IMC11233	Sep/23/1974	141991	
20	DeLamar Fraction #4	IMC11234	Jul/07/1970	126814	129813
21	DeLamar Fraction #17	IMC11242	May/18/1976	147427	
22	DeLamar Fraction #18	IMC11243	May/18/1976	147428	
23	DeLamar Fraction #19A	IMC11244	Jul/27/1976	148027	

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Claim #	Claim Name	BLM IMC #	Loc. Date	Original Bk/Pg/Doc	Amended Bk/Pg/Doc
24	DeLamar Fraction #20	IMC 50823	Jun/10/1980	164311	
25	DeLamar Fraction #21	IMC50824	Jun/10/1980	164312	
26	South DeLamar #11A	IMC11260	Sep/21/1974	141997	
27	South DeLamar #13	IMC11263	Jul/25/1970	126829	130139
28	South DeLamar #14	IMC11264	Jul/25/1970	126830	130140
29	Summer Camp A	IMC13717	Nov /26/1974	142449	

DeLamar Mine Area: 2 Patented Mining Claims Leased to DeLamar Mining Company Located in T5S, R4W, S. 4,6; Owyhee County, Idaho

Claim #	Claim Name	MS #	Patent No.	Lessor	Location
1	Henrietta	630	17275	James Elordi	T5S, R4W, S.6

Included in and under that certain unrecorded lease between James Elordi and Earth Resources Company (predecessor to DeLamar Mining Company) dated October 24, 1974; and

Claim #	Claim Name	MS #	Patent No.	Lessor	Location
2	Ohio	3064	1031892	Getchell/Gross	T5S, R4W, S.4

Included in and under that certain unrecorded lease between Asher F. Getchell and Nelson E. Alcorn and Earth Resources Company (predecessor to DeLamar Mining Company) dated October 25, 1974.

Jacobs Gulch: 4 Unpatented Lode Mining Claims Owned by DeLamar Mining Company T5S, R4W, S. 1,2,11,12; Owyhee County, Idaho

Claim #	Claim Name	BLM IMC #	Loc. Date	Original Bk/Pg/Doc

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1	FM 19 Fraction	IMC111727	7/24/1986	190080
2	FM 20 Fraction	IMC111728	7/24/1986	190081
3	Dam #8	IMC136064	9/16/1988	195975
4	JG-81	IMC223252	4/11/2018	296164

Jacobs Gulch: 6 Patented Mining Claims Leased from Nottingham Estate by DeLamar Mining Company T5S, R4W, S. 1,2,11,12; Owyhee County, Idaho

Claim #	Claim Name	MS #	Patent No.
1	Roosevelt Placer	3103	1019062
2	Tonowanda Placer	1968A	44196
3	Blaine	1968A	44196
4	Shannon	1968A	44196
5	Moly Picher	1968A	44196
6	Harrison	1968A	44196

Included in and under that certain lease between The Estate of Rozella E. Nottingham, Jerry Lawson as Personal Representative and DeLamar Mining Company dated December 12, 2018, recorded January 3, 2019 as Instrument No. 298482 in the Owyhee County, Idaho public records.

Milestone Area: 4 Unpatented Lode Mining Claims Owned by DeLamar Mining Company T4S, R4W, S. 31; T5S, R4W, S. 6 Owyhee County, Idaho

Claim #	Claim Name	BLM #	Loc. Date	Original Bk/Pg/Doc
1	MS-3	IMC217424	Dec/09/2016	291621
2	MS-4	IMC217425	Dec/09/2016	291622
3	MS-5	IMC217426	Dec/09/2016	291623
4	MS-6	IMC217427	Dec/09/2016	291624

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Florida Mtn Area: 18 Patented Mining Claims Owned by DeLamar Mining Company Located in T4S, R4W, S. 36; T5S, R4W, S. 1; Owyhee County, Idaho

Claim #	Claim Name	MS #
1	Justice	1302
2	Tip Top	1303A
3	Apex	1304
4	Black Jack	848-A
5	Empire State	878
6	Phillips	879
7	Sullivan	880
8	Belfast	881
9	Colorado	1091
10	Sierra Nevada	1092
11	Independence	1097
12	Owyhee Treasure	1233-A
13	Seventy Nine	1234-A
14	Economy	1571
15	Rough and Ready	1256-A
16	Little Chief	1329
17	Baltic	1636
18	Sterling	1637

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Florida Mtn Area: 27 Unpatented Lode Mining Claims Owned by DeLamar Mining Company Located in T4S, R4W, S. 36; T5S, R4W, S. 1; T5S, R3W, S. 6; Owyhee County, Idaho

Claim #	Claim Name	BLM IMC #	Loc. Date	Original Bk/Pg/Doc
1	ENGL 5	IMC14691	Sep/13/1975	145601
2	ENGL 6	IMC137928	Aug/02/1988	196041
3	FM-1 Fraction	IMC11485	0ct/06/1975	145674
4	FM Fraction #2	IMC11486	Jun/28/1976	148083
5	FM Fraction #3	IMC11487	Jun/28/1976	148084
6	FM Fraction #5	IMC11489	Jul/14/1976	148086
7	FM Fraction #6	IMC11490	Jul/19/1976	148087
8	FM Fraction #7	IMC11491	Aug/07/1976	148282
9	FM Fraction #8	IMC11492	Aug/18/1976	148283
10	FM Fraction #9	IMC11493	Aug/18/1976	148284
11	FM Fraction #10	IMC11494	Aug/18/1976	148285
12	FMP-4	IMC125864	Aug/08/1987	193604
13	FMP-5	IMC125865	Aug/08/1987	193605
14	FMP-6	IMC125866	Aug/08/1987	193606
15	FMP-7	IMC125867	Aug/08/1987	193607
16	FMP-12	IMC125872	Aug/08/1987	193612
17	FMP-13	IMC125873	Aug/08/1987	193613
18	FMP-14	IMC125874	Aug/08/1987	193614
19	FMP-15	IMC125875	Aug/08/1987	193615
20	FMP-21	IMC125882	Aug/08/1987	193622

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Claim #	Claim Name	BLM IMC #	Loc. Date	Original Bk/Pg/Doc
22	MARY LYNN 2	IMC163891	Oct/23/1990	204291
23	MARY LYNN 3	IMC163892	Oct/23/1990	204292
24	MARY LYNN 4	IMC163893	Nov/14/1990	204294
25	Ontario	IMC11500	Jul/01/1925	31864
26	PAYETTE	IMC20392	Jan/02/1913	275
27	Virginia	IMC11499	Jun/14/1971	129793

Florida Mtn Area: 3 Patented Mining Claims Leased by DeLamar Mining Company Located in T5S, R4W, S. 1; Owyhee County, Idaho

Claim #	Claim Name	MS #	Patent No.	Lessor
1	George Washington	1910	40637	Statham Trust
2	True Blue	1909	40636	Statham Trust

Included in and under that certain lease between U.S. Bank N.A. as Trustee of the Harold and Wilma Lewis Statham Trust dated May 10, 1991 and Integra Holdings US Inc. dated September 6, 2018, recorded December 20, 2018 as Instrument No. 298284 in the Owyhee County, Idaho public records, as assigned to DeLamar Mining Company pursuant to that certain Assignment and Assumption Agreement dated December 21, 2018, recorded January 3, 2019 as Instrument No. 298486; and

Claim #	Claim Name	MS #	Patent No.	Lessor
3	Alright	3101	1019060	Nottingham Estate

Included in and under that certain lease between The Estate of Rozella E. Nottingham, Jerry Lawson as Personal Representative and DeLamar Mining Company dated December 12, 2018, recorded January 3, 2019 as Instrument No. 298482 in the Owyhee County, Idaho public records.

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WATER RIGHTS

Idaho Water Right	55-2134
Idaho Water Right	55-7078
Idaho Water Right	55-7079
Idaho Water Right	55-7081
Idaho Water Right	55-13881
Idaho Water Right	55-7376
Idaho Water Right	55-7399
Idaho Water Right	55-7429

And any and all other water rights held by the Mortgagor as of the effective date of this mortgage that are appurtenant to the mining claim properties listed in this Exhibit A.

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EXHIBIT B

PERMITTED EXCEPTIONS

"***Permitted Exceptions***" means the following:

1. Sale, transfer, or other disposition of any Personalty that is consumed or worn out in ordinary usage and that is promptly replaced with similar items of equal or greater value.

2. Involuntary junior liens or security interests being contested in accordance with Section 4.4 of this Mortgage.

3. This Mortgage.

4. Purchase money liens on items of Personalty collateral.

5. The lien of current real property taxes not yet due and payable.

6. The matters approved by Mortgagee in writing.

7. Such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property similar in character to the Mortgaged Property and as do not materially interfere with or impair the use or value of the Mortgaged Property affected thereby.

8. Permitted Encumbrances as set out in the Credit Agreement, including without limitation the Existing Royalty Agreements. Provided: Mortgagee's security interest as set out in this Mortgage ranks in priority to any such Permitted Encumbrances except those which may have priority in accordance with Applicable Laws. The designation of an Encumbrance as a Permitted Encumbrance is not, and shall not be deemed to be, an acknowledgment by the Mortgagee that the Encumbrance shall have priority over the Mortgage security interest.

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IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082
Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

February 03, 2023

BEEDIE INVESTMENTS LTD
ATTN DAVID BELL
1111 W GEORGIA ST
STE 1570
VANCOUVER BC V6E 4M3

RE: Notice of Security Interest for Water Right/Permit No(s): 55-2134, 55-7089, 55-7079, 55-7081, 55-13881, 55-7376, 55-7399, 55-7429

Dear Security Interest Holder:

The Department of Water Resources (Department) acknowledges receipt of correspondence adding security interest of the above referenced water right(s) to you. The Department has modified its records to reflect the change in security interest and has enclosed a computer-generated report for you.

Updating the ownership record for a water right does not reconfirm the validity of the right. When processing a Notice of Security Interest, the Department does not review the history of water use to determine if the right has been forfeited or deliberately abandoned through five years or more of non-use. To read more about water right forfeiture, including how to protect a water right from forfeiture, please see Idaho Code §§ 42-222 and 42-223.

If you have any questions concerning the enclosed information, please contact me at (208)605-4631.

Sincerely,

Debra Mansfield

Debra Mansfield
Office Specialist II

Enclosure(s)

c: DELAMAR MINING CO

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大成DENTONS DURHAM JONES PINEGAR

Dentons Durham Jones Pinegar, P.C.
111 South Main Street, Suite 2400
Salt Lake City, Utah 84111
United States

dentons.com

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Via Certified Mail No. 70191640000079350347

October 13, 2022

State of Idaho
Department of Water Resources
2735 W. Airport Way
Boise, ID 83705-5082

Re: Notice of Security Interest in Water Rights

Gentlemen:

Enclosed are the following documents for notification of a security interest in the water rights listed in the documents:

1. An original plus a copy of Notice of Security Interest in a Water Right and a request to be notified of a change in ownership;
2. Evidence of the security interest, specifically Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing by Delamar Mining Company as Mortgagor to Beedie Investments Ltd. as Mortgagee; and
3. Our firm's check number 82145 in the amount of $200.00 for the fee.

Please date stamp the extra copy of the Notice of Security Interest in a Water Right and return it to us in the enclosed self-addressed stamped envelope.

If you have any questions, please contact Brad Cahoon, our water rights specialist, directly at (801) 375-6600 or brad.cahoon@dentons.com.

Sincerely,

Anne Janssen

Anne Janssen
Legal Assistant to Elisabeth Calvert

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Enc.

Durham Jones & Pinegar ▸ LEAD Advogados ▸ Rattagan Macchiavello Arocena ▸ Jiménez de Aréchaga Viana & Brause ▸ Lee International ▸ Kensington Swan ▸ Bingham Greenebaum ▸ Cohen & Grigsby ▸ Sayarh & Menjra ▸ Larrain Rencoret ▸ For more information on the firms that have come together to form Dentons, go to dentons.com/legacyfirms

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