

# Form 603

Corporations Act 2001  
Section 671B

## Notice of initial substantial holder

To Company Name/Scheme UNITED KIMBERLEY DIAMONDS NL ("UKD")

ACN/ARSN 107 061 343

### 1. Details of substantial holder (1)

Name THUNDELARRA EXPLORATION LTD ("THX")

ACN/ARSN (if applicable) 085 782 994

The holder became a substantial holder on 30/11/2004

### 2. Details of voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

Class of securities (4)	Number of securities	Person's votes (5)	Voting Power (6)
Ordinary Shares	21,350,000	21,350,000	23.02%

### 3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
THX	Seed Capital	1,350,000
THX	Purchase of securities pursuant to a conditional Sale Agreement with UKD of 23 pages dated 29 September 2004 a copy of which is annexed to this Form 603 and is marked "A" (Sale Agreement).	20,000,000

### 4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
THX	THX	THX	21,350,000 Ordinary Shares

## 5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder becomes a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration		Class and number of securities
		Cash	Non-cash	
THX	17/09/2004	\$0.06 per share	-	1,350,000
THX	30/11/2004	-	\$0.10 per share	20,000,000

## 6. Associates

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

Name and ACN/ARSN (if applicable)	Address
Not Applicable	

## 7. Addresses

The addresses of persons named in this form are as follows:

Name	Address
THX	Level 33, QV1 Building, 250 St Georges Terrace, Perth, WA, 6000

## Signature

print name FRANK DEMARTE capacity: DIRECTOR

sign here



date: 10/12/2004

## DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate of scheme multiplied by 100.

(7) Include details of:

- (a) any relevant agreement or other circumstances because of which the change in relevant interest occurred. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
- (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).

See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.

- (8) If the substantial holder is unable to determine the identity of the person (eg. If the relevant interest arises because of an option) write "unknown".
  - (9) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.
-

**THUNDELARRA EXPLORATION LTD**

**ACN: 085 782 994**

**"A"**

This is annexure A of 23 pages referred to in the Form 603 signed by me and dated 10 December 2004.



---

Frank DeMarte  
DIRECTOR

Date: 10 December 2004

**THUNDELARRA EXPLORATION LTD  
UNITED KIMBERLEY DIAMONDS NL**

---

**AGREEMENT FOR SALE OF JOINT VENTURE INTEREST  
PHILLIPS RANGE JOINT VENTURE AGREEMENT**

---

**Blakiston & Crabb**  
Solicitors  
1202 Hay Street  
WEST PERTH WA 6005  
Tel: (08)93227644  
Fax: (08) 9322 1506  
Ref:HPL.CB.THX/11937

## TABLE OF CONTENTS

1.	DEFINITIONS AND INTERPRETATION	1
2.	CONDITIONS PRECEDENT	3
3.	SALE AND PURCHASE	4
4.	APPOINTMENT OF DIRECTORS	4
5.	SETTLEMENT	4
6.	PERFECTION OF TITLE	5
7.	POSSESSION AND ADMINISTRATION OF MINING TENEMENTS	5
8.	VENDOR'S WARRANTIES AND COVENANTS	7
9.	FURTHER ASSURANCES	9
10.	RESTRICTED SECURITIES	10
11.	CAVEATS	10
12.	DEFAULT BY THE PURCHASER	10
13.	DEFAULT BY THE VENDOR	10
14.	TIME OF THE ESSENCE	10
15.	GOODS AND SERVICES TAX	11
16.	NOTICES	12
17.	GOVERNING LAW	12
18.	SOLE AGREEMENT - VARIATIONS	12
19.	COSTS	12
	SCHEDULE	
	ANNEXURE A	
	ANNEXURE B	

# AGREEMENT FOR SALE OF JOINT VENTURE INTEREST

AGREEMENT made *29<sup>th</sup> SEPTEMBER* 2004.

## BETWEEN:

**THUNDELARRA EXPLORATION LTD** ACN 085 782 994 of Level 33, QV1 Building, 250 St George's Terrace, Perth, Western Australia ("Vendor");

## AND

**UNITED KIMBERLEY DIAMONDS NL** ACN 107 061 343 of Level 1, 173 Mounts Bay Road, Perth Western Australia ("Purchaser").

## RECITALS:

- A. The Vendor is the beneficial owner and is entitled to be the registered proprietor of a 95% interest in the Mining Tenements.
- B. The Vendor is a party to the Joint Venture Agreement relating to the Mining Tenements.
- C. The Vendor has agreed to sell and the Purchaser has agreed to purchase the Joint Venture Interest for the consideration and upon the terms and conditions set out in this Agreement.

## AGREED as follows:

### 1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement unless the context or subject matter otherwise requires:

"Agreement" and "this Agreement" means the agreement hereby constituted and includes the Schedule and the recitals hereto;

"ASX" means Australian Stock Exchange Limited;

"BHP Information" means the geological, geochemical and geophysical information and data (in whatever form) relating to the Mining Tenements given by or on behalf of the Vendor to the Purchaser which was generated by BHP Billiton Minerals Pty Limited during the course of its activities on the Mining Tenements pursuant to a farmin agreement that was previously in place between the Vendor and BHP Billiton Minerals Pty Limited;

"Conditions" means the conditions referred to in clause 2;

"Deed of Assumption" means a deed in substantially the same form as the deed attached as Annexure A;

**"Disclosures"** means the Permitted Encumbrances and the matters disclosed in the Schedule under the heading "Disclosures";

**"Existing Bond"** means all unconditional performance bonds lodged with the Department of Industry and Resources by or on behalf of the Vendor in connection with mining lease 80/331;

**"Joint Venture Agreement"** means the agreement dated 21 March 2000 between the Vendor and the Other Participant;

**"Joint Venture Interest"** means the Vendor's 95% participating interest pursuant to the Joint Venture Agreement including, without limitation, its 95% beneficial interest in the Mining Tenements;

**"Listing Rules"** means the listing rules of the ASX as amended from time to time;

**"Mining Act"** means the Mining Act 1978 of the State of Western Australia or any amendment or statutory replacement of that Act and includes regulations and orders made under that Act;

**"Mining Tenements"** means:

- (a) the mining tenements which are the subject of the Joint Venture Agreement, and which are specified in the Schedule;
- (b) any other mining tenement or mining tenements which may be granted in lieu of or relate to the same ground as, the mining tenements specified in the Schedule; and
- (c) includes all rights to mine and other privileges appurtenant to the Mining Tenements;

**"Minister"** means the Minister of the Crown in the right of the State of Western Australia responsible for the administration of the Mining Act from time to time;

**"Nominee Directors"** means those directors of the Vendor to be appointed to the Board of the Purchaser, who shall be Phil Crabb and Mal Randall, or other directors as agreed between the parties;

**"Other Participant"** means Ragged Range Mining Pty Ltd ACN 074 428 907;

**"Options"** means 5,000,000 options to acquire the same number of fully paid ordinary shares in the capital of the Purchaser with an exercise price of 20 cents each on the terms and conditions set out in Annexure B;

**"Permitted Encumbrances"** means the agreements registered against the Mining Tenements as noted in the Schedule under the heading "Registered Agreements";

**"Replacement Bond"** means one or more bonds or guarantees in the name of the Vendor given by a bank or financial institution on behalf the Purchaser replacing the Existing Bond;

**"Securities"** means the Options and the Shares;

**"Settlement"** means the actual settlement of the sale and purchase pursuant to this Agreement, whether on the Settlement Date or otherwise;

**"Settlement Date"** means the day being 5 business days after the satisfaction of the Conditions or such other date as the parties agree;

**"Shares"** means 20,000,000 ordinary fully paid shares in the capital of the Purchaser; and

**"Transaction Period"** means the period between the date of execution of this Agreement and the date that the Mining Tenements are registered in the name of the Purchaser.

- 1.2 Unless the context otherwise requires, every covenant or agreement expressed or implied in this Agreement in which more persons than one covenant or agree shall bind such persons and every two or more of them jointly and each of them severally.
- 1.3 Reference to any party shall mean and include a reference to that party his successors or personal representatives (as the case may be) and transferees.
- 1.4 References to recitals, schedules, pages and clauses are references to recitals, schedules, pages and clauses of this Agreement.
- 1.5 Headings in this Agreement are for convenience only and shall not affect its construction or interpretation.

## 2. CONDITIONS PRECEDENT

- 2.1 The sale of the Joint Venture Interest pursuant to this Agreement is conditional upon and subject to:
  - (a) to the Vendor obtaining the approval of the Minister to the transfer of the Joint Venture Interest in respect to those of the Mining Tenements that are granted pursuant the Mining Act;
  - (b) the Other Participant either waiving or failing to exercise its pre-emptive rights pursuant to the Joint Venture Agreement; and
  - (c) the Purchaser obtaining conditional approval to admission to the Official List of ASX and satisfying all the conditions imposed by ASX apart from settlement of the acquisition under this Agreement.
- 2.2 The offer of the Securities contained in this Agreement is subject to and conditional upon the Purchaser issuing such prospectus or other disclosure



document as may be required under the provisions of the Corporations Act to enable the Purchaser to make that offer ("**Prospectus**").

- 2.3 The Conditions in clauses 2.1(a) and 2.1(b) are not capable of waiver. The Condition in clause 2.1(c) is included for the benefit of both parties and may be waived in whole or in part by agreement of the parties.
- 2.4 The Vendor and the Purchaser shall forthwith do all things and sign all documents necessary for satisfying the Conditions.
- 2.5 If the Conditions are not duly satisfied or waived by 31 March 2005, then either party may terminate this Agreement by giving notice to that effect to the other party and upon giving such notice this Agreement shall be automatically at an end and neither party shall have any claim against the other either at law or in equity except in respect of antecedent breaches.

### 3. **SALE AND PURCHASE**

Subject to clause 2, the Vendor shall sell and the Purchaser shall purchase all the Vendor's right, title and interest in and to the Joint Venture Interest, free of encumbrances, for the consideration of the issue to the Vendor of the Securities.

### 4. **APPOINTMENT OF DIRECTORS**

As soon as practicable after the date of execution of this Agreement, the Purchaser shall procure the appointment of the Nominee Directors as directors of the Purchaser, provided first that each Nominee Director has first consented to act as a director of the Purchaser.

### 5. **SETTLEMENT**

- 5.1 The Settlement of the sale and purchase of the Joint Venture Interest shall take place on the Settlement Date at the office of the Purchaser or such other place as the Purchaser may reasonably appoint.
- 5.2 At Settlement:
  - (a) the Vendor shall deliver to the Purchaser:
    - (i) unstamped but registrable transfer forms for the interest in the Mining Tenements represented by the Joint Venture Interest duly executed by the Vendor and all documents of title evidencing the Vendor's interests in the Mining Tenements;
    - (ii) the Replacement Bond;
    - (iii) one counterpart of the Deed of Assumption duly executed by the Vendor and the Other Participant; and
    - (iv) a duly completed application for the Securities pursuant to the Prospectus; and

(b) the Purchaser shall:

- (i) subject to clause 9, issue the Securities to the Vendor and cause certificates or holding statements for the Securities to be issued to the Vendor as soon as is reasonably practicable after Settlement; and
- (ii) deliver to the Vendor two counterparts of the Deed of Assumption duly executed by the Purchaser.

5.3 The Purchaser agrees that after Settlement, the Vendor shall be entitled to lodge the Replacement Bond with the Department of Industry and Resources and request cancellation of the Existing Bond.

## 6. PERFECTION OF TITLE

- 6.1 If any of the rights of the Vendor as beneficial owner of the interest in the Mining Tenements represented by the Joint Venture Interest or any share therein are for any reason whatsoever not capable of being legally transferred to, conferred upon or exercised by the Purchaser in the Purchaser's name (which, with the exception of Mining Tenements which are not granted, the Vendor warrants not to be the case) the Vendor transfers such rights to be exercised by the Purchaser in the name of the Vendor as and with effect from Settlement and the Vendor shall hold such rights in trust for the Purchaser.
- 6.2 If any of the Mining Tenements have not been granted as at the date of this Agreement the Purchaser may, at its cost but in the name of the Vendor, pursue the applications for the relevant Mining Tenements with all due expedition and diligence and take all proper steps to have the applications perfected and the Mining Tenements granted.

## 7. POSSESSION AND ADMINISTRATION OF MINING TENEMENTS

- 7.1 From the date of this Agreement until Settlement or earlier termination of this Agreement ("Access Period"), the Vendor grants to the Purchaser the non-exclusive possession of the Mining Tenements on the terms set out in this clause.
- 7.2 During the Access Period, the Purchaser shall have the right to carry out exploration upon the Tenements in such manner as the Purchaser thinks fit provided that the Purchaser must, in the exploitation of these rights:
- (a) comply with the conditions of the Mining Tenements;
  - (b) comply with the Mining Act, the Mines Safety and Inspection Act 1994 (WA) and any other relevant acts and laws;
  - (c) comply with the terms of the Joint Venture Agreement as if it applied to the Purchaser in place of the Vendor;

- (d) carry out its operations upon the Tenements in accordance with good mining practices;
- (e) not do or suffer to be done anything which will or may place in jeopardy the Vendor's interest in the Mining Tenements or render the Mining Tenements liable to forfeiture or non-renewal; and
- (f) insure its workmen as required by law and maintain customary public liability insurances.

7.3 During the Access Period, the Purchaser shall be responsible for the administration of the Mining Tenements and must use its best endeavours to keep the Mining Tenements in full force and good standing by:

- (a) undertake sufficient expenditure upon the Mining Tenements to comply with the minimum expenditure obligations in respect of the Mining Tenements or, with the prior consent of the Vendor, in the name of, as attorney for and with the full authority of the Vendor, make and pursue whatever applications for exemption from the expenditure conditions applicable to the Mining Tenements as the Purchaser thinks fit;
- (b) payment of all rents, rates and taxes in relation to the Mining Tenements;
- (c) preparing and lodging with the Department of Industry and Resources any periodical reports or returns required in respect of the Mining Tenements;
- (d) applying and pursuing applications for exemption from any expenditure obligations in respect of the Mining Tenements; and
- (e) where required in order to maintain title over the ground the subject of the Mining Tenements, making application for and pursuing renewals of the Mining Tenements or conversion of the Mining Tenements into new mining titles under the Mining Act provided that the Vendor first consents to the proposed conversion.

7.4 The Vendor shall provide all reasonable assistance to enable the Purchaser to comply with its obligations under clause 7.3.

7.5 The Vendor shall have the right to inspect the Purchaser's activities upon the Tenements at all times for the purpose of ensuring that the Purchaser is complying with this Agreement.

7.6 The Purchaser must indemnify the Vendor from and hold it harmless against any claim, loss, cost, expense, damage or liability incurred by the Vendor as a result of the Purchaser's presence or activities on the Mining Tenements prior to Settlement.

7.7 The Purchaser shall be entitled to possession of the Mining Tenements subject to the Joint Venture Agreement forthwith after Settlement.

## 8. VENDOR'S WARRANTIES AND COVENANTS

8.1 The Vendor represents and warrants to the Purchaser (which representations and warranties shall survive Settlement) that:

- (a) subject to due satisfaction of the Conditions, the Vendor has full right, power and authority to sell, assign and transfer the Joint Venture Interest to the Purchaser in accordance with this Agreement and such assignment shall convey to the Purchaser lawful, valid and unencumbered beneficial title to the Joint Venture Interest;
- (b) the Vendor holds the absolute beneficial titles and all proprietary rights of whatsoever nature in the Joint Venture Interest and no other person has any rights of whatsoever nature in respect of the Joint Venture Interest;
- (c) upon Settlement, the Joint Venture Interest transferred to the Purchaser will be free from all mortgages, charges, liens and other encumbrances of whatsoever nature;
- (d) to the best of the Vendor's knowledge and belief, all information given by or on behalf of the Vendor to the Purchaser or to any director, agent or adviser of the Purchaser, with respect to the Mining Tenements, the Joint Venture Agreement and all operations thereunder other than the BHP Information is true and accurate in all material respects and none of that information is misleading in any material particular, whether by inclusion of misleading information or omission of material information or both;
- (e) the BHP Information given by or on behalf of the Vendor to the Purchaser or to any director, agent or adviser of the Purchaser is a true copy of the BHP Information;
- (f) the Vendor has not committed an act of bankruptcy or attempted to make any composition or arrangement with its creditors or take advantage of any legislation for the time being in force for insolvent debtors;
- (g) there are no writs of execution against the Vendor as regards any of the property comprising the Joint Venture Interest;
- (h) the Mining Tenements that are applications have been duly applied for in accordance with the Mining Act;
- (i) the Mining Tenements that are granted are in good standing and are not liable to cancellation or forfeiture for any reason;
- (j) all provisions of the Mining Act and all other relevant laws have been complied with in all material respects insofar as they apply to the Mining Tenements;

- (k) all rent and rates and all expenditure conditions (up to and including the current year) in respect of the Mining Tenements have been paid and complied with;
- (l) the Vendor is not engaged in litigation, arbitration, prosecution or other legal proceedings relating to the Mining Tenements or the Joint Venture Agreement and there are no facts known or which ought to be known to the Vendor which are likely to give rise to the same;
- (m) no notice of application for a special prospecting licence or mining lease in respect of any of the land the subject of the Mining Tenements has been served on the Vendor under the Mining Act and to the best of the Vendor's knowledge no such application has been or is being made in respect of any of the land the subject of the Mining Tenements;
- (n) the Vendor is not in default of any of its obligations under the Joint Venture Agreement and in particular (without limitation) is not suffering dilution nor has the Vendor committed any act or made any omission which may give rise to the Other Participant enforcing any of the default or dilution provisions of the Joint Venture Agreement; and
- (o) that all representations and warranties contained or implied in this Agreement and made by the Vendor shall be true and correct in every respect as at Settlement and with the same effect as though such representations and warranties had been made at and as of that time.

8.2 The warranties contained in clause 8.1 are qualified by, and the Purchaser and its directors may not make a claim for any breach of or inaccuracy in any of those warranties for, anything:

- (a) that is contained in the Disclosures; or
- (b) the Purchaser has actual knowledge of before entering into this Agreement; or
- (c) revealed by any due diligence investigations undertaken by the Purchaser.

8.3 Subject to clauses 8.4 - 8.6, the Vendor shall indemnify and keep indemnified the Purchaser against all loss, damage and costs suffered by the Purchaser by reason of any of the warranties or representations contained in clause 8.1 proving to be incorrect.

8.4 The Vendor will not be liable for any claim for any breach of or inaccuracy in any of the warranties or representations contained in clause 8.1 or under the indemnity contained in clause 8.3 unless:

- (a) it receives notice of the claim within 1 year after the Settlement Date; and
- (b) if the claim has not already been satisfied, settled or withdrawn – legal proceedings for the claim have been properly issued and served on the



Vendor within 6 months after the date the Vendor receives notice of the claim under 8.4(a).

8.5 The Vendor will not be liable for any claim for any breach of or inaccuracy in any of the warranties or representations contained in clause 8.1 or under the indemnity contained in clause 8.3 unless:

- (a) the amount of the claim is more than \$100,000; and
- (b) the aggregate amount of all claims more than \$100,000 exceeds \$500,000, then the Vendor will be liable for the whole amount of the claims, including the first \$500,000.

8.6 The Vendor's maximum aggregate liability for claims for breach of or inaccuracy in any of the warranties or representations contained in clause 8.1 or under the indemnity contained in clause 8.3 is limited to \$3,500,000.

8.7 The Vendor will serve on the Purchaser copies of all notices, requisitions or documents whatsoever in respect of the Mining Tenements received by the Vendor during the Transaction Period forthwith upon receipt thereof.

8.8 The Vendor covenants with the Purchaser that, subject to the due performance of the Vendor's obligations under this Agreement, the Vendor will promptly deliver to the Purchaser all documents of title evidencing the Vendor's interests in the Mining Tenements for whatever reason not delivered to the Purchaser at Settlement or coming into the control of the Vendor after Settlement.

## 9. FURTHER ASSURANCES

9.1 Subject to the due performance of the Purchaser's obligations under this Agreement, the Vendor shall execute all such transfers, assurances, declarations and notices and do all such acts and things as the Purchaser may deem necessary to effectually vest the beneficial and legal title in the Joint Venture Interest and the interest in the Mining Tenements represented by the Joint Venture Interest in the Purchaser free from encumbrances and enable the Purchaser to have the full benefit of this Agreement.

9.2 All matters required to be done by the Vendor pursuant to clause 9.1 shall be done at the expense of the Purchaser except in the case of any document, writing or thing required to be executed or done by reason of any defect in the title of the Vendor or any breach or non-fulfilment by the Vendor of any of the provisions of this Agreement.

9.3 Without limiting clause 9 the Parties shall make, do, execute and deliver all such further acts, instruments and things as may be necessary or expedient to implement and give full effect to the provisions of this Agreement including (without limitation) a deed of assignment and assumption substantially in the form comprising Annexure A to this Agreement.

## **10. RESTRICTED SECURITIES**

The parties acknowledge that part or the whole of the Securities may be deemed to be "restricted securities" as defined by the Listing Rules. The Purchaser agrees to execute a Restriction Agreement as required pursuant to Chapter 9 of the Listing Rules prior to the allotment or issue of the Securities.

## **11. CAVEATS**

The Purchaser may lodge such caveats pursuant to section 122 of the Mining Act as it thinks fit to protect its interests in the Mining Tenements pursuant to this Agreement.

## **12. DEFAULT BY THE PURCHASER**

12.1 If the Purchaser defaults in the due:

- (a) allotment and issue of the Securities; or
- (b) observance or performance of any other obligation of the Purchaser under this Agreement:

and such default shall continue for one month after the receipt of notice in writing from the Vendor to remedy the default, then the Vendor may, by further notice to the Purchaser but without being obliged to tender any transfers and without prejudice to its other rights at law or in equity, at its option, either:

- (c) rescind this Agreement and retake possession of the Joint Venture Interest; or
- (d) sue the Purchaser for specific performance.

## **13. DEFAULT BY THE VENDOR**

13.1 If the Vendor defaults in the due observance or performance of any of the Vendor's obligations under this Agreement and such default shall continue for one month after the receipt of notice in writing from the Purchaser to remedy the default, then the Purchaser may without prejudice to its other rights at law, by a further notice to the Vendor, rescind this Agreement and thereupon the Purchaser shall be entitled to:

- (a) cancel the issue of the Securities; and
- (b) such damages to which the Purchaser may be entitled at common law or in equity.

## **14. TIME OF THE ESSENCE**

Time is of the essence of this Agreement in all respects but neither party shall be at liberty to enforce any rights or remedies under this Agreement or at common law or in equity arising out of the default of the other party in performing or observing any of the terms and conditions of this Agreement unless that party has given due notice in

accordance with clauses 12 and 13 (as the case may be) and the other party has failed within the stipulated period to remedy the default.

## 15. GOODS AND SERVICES TAX

- 15.1 For the purposes of this clause 15, the terms "Supply", "Taxable Supply", "GST" and "Tax Invoice" have the meanings given to those terms under the A New Tax System (Goods and Services Tax) Act 1999 ("GST Act").
- 15.2 The parties agree that the sale of the Mining Property under this Agreement is a supply:
- (a) of a going concern (within the meaning of the GST Act);
  - (b) under an arrangement under which the Vendor is supplying to the Purchaser all of the things that are necessary for the continued operation of an enterprise; and
  - (c) under an arrangement under which the Vendor carries on, or will carry on, the enterprise until the day of the supply (whether or not as part of a larger enterprise carried on by the Vendor).
- 15.3 The Purchaser warrants that it is a person who is registered or required to be registered under the GST Act and will continue to be so at all relevant times up until and including the day of the supply.
- 15.4 If:
- (a) the sale of the Mining Tenements under this Agreement is not a supply of a going concern or otherwise does not satisfy the description in clause 15; or
  - (b) the Purchaser breaches the warranty given in clause 15.3,
- then the Purchaser will upon receiving notice in writing from the Vendor, be liable to pay an amount to the Vendor in respect of GST under clause 15.5 within 14 days of receiving such notice.
- 15.5 If any Supply, under this Agreement, by the Vendor to the Purchaser is a Taxable Supply, then subject to this clause 15, the Purchaser must pay to the Vendor an additional amount equal to the consideration in respect of the relevant Supply (but for this clause 15) multiplied by the rate of GST prevailing at the relevant time which the parties agree is 10% as at the date hereof.
- 15.6 The Purchaser's obligation to pay an amount equal to the GST under clause 15.5 only applies if the Vendor has given the Purchaser a Tax Invoice for the Supply.
- 15.7 If the amount paid by the Purchaser under clause 15.5 differs from the amount of GST payable at law by the Vendor on the Supply, the amount paid by the Purchaser to the Vendor will be adjusted accordingly.



## **16. NOTICES**

- 16.1 All notices to be given by the Vendor may be given on the Vendor's behalf by the Vendor's solicitors or any other authorised agent and may be served on the Purchaser at the Purchaser's address stated in this Agreement or at such address as may be specified in writing by the Purchaser to the Vendor from time to time.
- 16.2 All notices to be given by the Purchaser may be given on the Purchaser's behalf by the Purchaser's solicitors or other authorised agent and may be served on the Vendor at the Vendor's addresses stated in this Agreement or at such address or addresses as may be specified in writing by the Vendor to the Purchaser.
- 16.3 In proving service of all notices it shall be sufficient to show that such notice was sent by facsimile transmission or registered letter and any such notice shall be deemed to have been delivered in the normal course of transmission or post (as the case may be).

## **17. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of Western Australia and the parties agree to submit to the non-exclusive jurisdiction of the Courts of that State and all Courts competent to hear appeals therefrom.

## **18. SOLE AGREEMENT - VARIATIONS**

- 18.1 This Agreement shall constitute the sole understanding of the parties with respect to its subject matter and with respect to the rights and obligations of the Parties and replaces all other agreements with respect thereto.
- 18.2 No modification or alteration of the terms of this Agreement shall be binding unless made in writing dated subsequent to the date of this Agreement and duly executed by the parties.

## **19. COSTS**

- 19.1 The Purchaser shall pay the stamp duty and registration fees on this Agreement and all incidental documents.
- 19.2 Each Party shall pay their own legal costs of and incidental to the preparation and execution of this Agreement.

# SCHEDULE

Tenement No. and Type	Holder/Applicant	Shares Held	Status	Expiry Date	Registered Agreements	Disclosures
P80/1294	RRM/THX	RRM 5/THX 95	Live	Grant of M80/489	Agreement 86H/001 Agreement 87H/001 Agreement 88H/001	2004 Form 5 due 25/09/04 Application made to convert to M80/489
P80/1295	RRM/THX	RRM 5/THX 95	Live	Grant of M80/489	Agreement 86H/001 Agreement 87H/001 Agreement 88H/001	Exemption for 2003 expenditure pending 2004 Form 5 due 25/09/04 Application to convert to M80/489
M80/489	RRM/THX	RRM 5/THX 95	Pending	-	-	-
M80/329	RRM/THX	RRM 5/THX 95	Live	29/07/12	Agreement 86H/001 Agreement 87H/001 Agreement 88H/001	2004 Form 5 due 27/09/04 Unconditional performance bond of \$50,000
M80/331	RRM/THX	RRM 5/THX 95	Live	05/01/13	Agreement 86H/001 Agreement 87H/001 Agreement 88H/001	-
E80/1499	RRM/THX	RRM 5/THX 95	Live	16/02/05	Agreement 86H/001 Agreement 87H/001 Agreement 88H/001	Exemption for 2003 expenditure pending
E80/2306	RRM/THX	RRM 5/THX 95	Live	12/11/04	Agreement 86H/001 Agreement 87H/001 Agreement 88H/001	-
E80/2307	RRM/THX	RRM 5/THX 95	Live	12/11/04	Agreement 86H/001 Agreement 87H/001 Agreement 88H/001	-
E80/2462	RRM/THX	RRM 55/THX 45	Pending	-	-	-
E80/2486	RRM/THX	RRM 5/THX 95	Live	05/04/05	Agreement 86H/001 Agreement 87H/001 Agreement 88H/001	-
M80/545	RRM/THX	RRM 5/THX 95	Live	13/07/25	-	-
E80/2510	RRM/THX	RRM 56/THX 44	Pending	-	-	-
E80/2561	RRM/THX	RRM 5/THX 95	Live	08/05/07	-	-
E80/2630	RRM/THX	RRM 5/THX 95	Live	07/04/08	-	-

Tenement No. and Type	Holder/Applicant	Shares Held	Status	Expiry Date	Registered Agreements	Disclosures
E80/2650	RRM/THX	RRM 5/THX 95	Live	07/04/08	-	Amalgamation applications lodged to amalgamate the area of land contained within P80/1379 and P80/1375 into E80/2650 but not yet granted.
E80/2652	RRM/THX	RRM 5/THX 95	Live	07/04/08	-	-
E80/2684	RRM/THX	RRM 5/THX 95	Live	13/11/08	-	This exploration licence is in the first year of its term
P80/1375	RRM/THX	RRM 5/THX 95	Live	19/11/06	-	Application to amalgamate the land within this tenement into E80/2650 pending
P80/1379	RRM/THX	RRM 5/THX 95	Live	19/11/06	-	Application to amalgamate the land within this tenement into E80/2650 pending
E80/2699	RRM/THX	RRM 5/THX 95	Live	17/02/09	-	-
P80/1500	RRM/THX	RRM 56/THX 44	Live	03/12/06	-	-
P80/1501	RRM/THX	RRM 56/THX 44	Live	03/12/06	-	-

**Key:**

**Parties:**

RRM = Ragged Range Mining Pty Ltd  
THX = Thundelarra Exploration Ltd

**Tenements:**

E = Exploration Licence  
M = Mining Lease  
P = Prospecting Licence

**Agreements:**

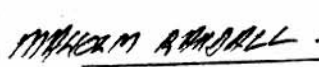
86H/001 Agreement (Deed) RRM and THX registered 10 April 2001  
87H/001 Agreement (Joint Venture) THX and RRM registered 10 April 2001  
88H/001 Agreement (Sale) RRM and THX registered 10 April 2001

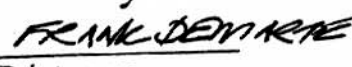
EXECUTED by the parties.

SIGNED for and on behalf of  
THUNDELARRA  
EXPLORATION LTD  
by authority of its Directors in  
accordance with section 127 of  
the Corporations Act



)   
)  
) Director

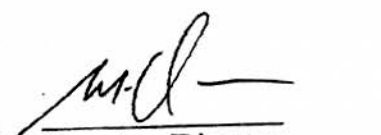
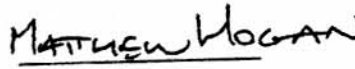
)   
) Secretary/Director

)   
)  
) Print name

)   
) Print name

SIGNED for and on behalf of  
UNITED KIMBERLEY  
DIAMONDS NL  
by authority of its Directors in  
accordance with section 127 of  
the Corporations Act

)   
) Director  
)  
)   
) Print name

)   
) Secretary/Director  
)  
)   
) Print name

**ANNEXURE A**

**THUNDELARRA EXPLORATION LTD  
UNITED KIMBERLEY DIAMONDS NL**

---

**DEED OF ASSUMPTION AND CONSENT  
PHILLIPS RANGE JOINT VENTURE**

---

**Blakiston & Crabb**  
Solicitors  
1202 Hay Street  
WEST PERTH WA 6005  
Tel: (08) 9322 7644  
Fax: (08) 9322 1506  
Ref: HPL.CB.THX/11937

ANNEXURE A

DEED OF ASSUMPTION AND CONSENT

PHILLIPS RANGE JOINT VENTURE

DEED dated 29 September 2004.

BETWEEN:

THUNDELARRA EXPLORATION LTD ACN 085 782 994 of Level 33, QV1 Building, 250 St George's Terrace, Perth, Western Australia ("Vendor");

AND

UNITED KIMBERLEY DIAMONDS NL ACN 107 061 343 of Level 1, 173 Mounts Bay Road, Perth Western Australia ("Purchaser");

AND

RAGGED RANGE MINING PTY LTD ACN 074 428 907 of Level 33, QV1 Building, 250 St George's Terrace, Perth, Western Australia ("Continuing Venturer").

RECITALS:

- A. The Assignor and the Continuing Venturer are parties to the Joint Venture Agreement dated 22 November 1999 ("Joint Venture Agreement") whereby they agreed to jointly conduct exploration on the Mining Tenements as defined in the Joint Venture Agreement ("Tenements"). A copy of the Joint Venture Agreement is attached as Attachment 1.
- B. The Assignor has agreed to assign the whole of its interest in the Tenements and under the Joint Venture Agreement ("Assigned Interest") to the Assignee.
- C. Pursuant to clause 11.4 of the Joint Venture Agreement no assignment is effective unless the acquiring party agrees in writing with the other party to assume all the obligations of the assigning party with respect to the interest being assigned and for this purpose this Deed is entered into.

AGREED:

1. INTERPRETATION

- 1.1 Words and expressions defined in the Joint Venture Agreement shall have the same meanings where used in this Deed unless the context otherwise requires.



- 1.2 In this Deed, the following words and expressions shall have the following meanings, unless the context otherwise requires:

"Effective Date" means the date on which settlement of the sale of the Assigned Interest to the Assignee occurs;

"Mining Act" means the Mining Act 1978 of Western Australia; and

"Obligations" means each and every one or more of the covenants, agreements, obligations and liabilities of the Assignor requiring observance, performance or fulfilment by the Assignee under the Joint Venture Agreement or otherwise relating to the Tenements.

## **2. ASSIGNMENT**

- 2.1 The Assignor hereby assigns to the Assignee absolutely all its Assigned Interest and the Assignee hereby confirms acceptance of the assignment of the Assigned Interest so as to take effect on and from the Effective Date.

## **3. COVENANTS BY THE ASSIGNEE**

- 3.1 The Assignee hereby covenants with the Assignor and the Continuing Venturer that, as from the Effective Date, the Assignee will assume the Obligations and agrees to be bound by all the terms and conditions, restrictions and Obligations of the Joint Venture Agreement to the extent of the Assigned Interest.
- 3.2 The Assignee indemnifies and agrees to hold the Assignor harmless in respect of all Obligations and liabilities which accrue on or after the Effective Date in respect of the Assigned Interest.

## **4. CONSENT AND RELEASE BY THE CONTINUING VENTURER**

- 4.1 The Continuing Venturer hereby:
- (a) consents to the assignment by the Assignor to the Assignee of the Assigned Interest; and
  - (b) releases the Assignor from all further liability under the Joint Venture Agreement to the extent of the Assigned Interest with effect from the Effective Date without prejudice to any liability incurred or obligation accruing before the Effective Date.

## **5. GENERAL**


- 5.1 Each of the parties to this Deed shall make, do, execute and deliver all such acts, instruments and things as are necessary or desirable to implement and give full effect to the provisions of this Deed.
- 5.2 All the costs of preparation, execution and stamping of this Deed, all counterparts thereto and all documents ancillary thereto together with the

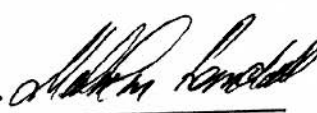
reasonable legal costs incurred by the other parties in relation hereto shall be borne and paid by the Assignee.

- 5.3 For all purposes this Deed shall be governed by and construed in accordance with the laws of the State of Western Australia for the time being in force. The parties hereby agree and covenant with each other to submit to the non-exclusive jurisdiction of the Supreme Court of Western Australia and all Courts competent to hear appeals therefrom.

EXECUTED by the parties.


SIGNED for and on behalf of  
THUNDELARRA  
EXPLORATION LTD  
by authority of its Directors in  
accordance with section 127 of  
the Corporations Act

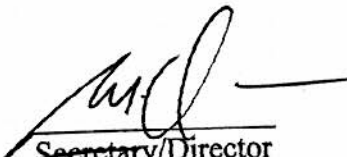
  
Director

  
Secretary/Director

FRANK DENIARIE MALCOLM RANDALL  
Print name Print name


SIGNED for and on behalf of  
UNITED KIMBERLEY  
DIAMONDS NL  
by authority of its Directors in  
accordance with section 127 of  
the Corporations Act

  
Director

  
Secretary/Director

B. FENBERG MATTHEW HOGAN  
Print name Print name

SIGNED for and on behalf of  
RAGGED RANGE MINING  
PTY LTD by authority of its  
Director/Secretary in accordance  
with section 127 of the Corporations Act

  
Sole Director & Secretary

PHILIP GEORGE CROSS  
Print name



**ATTACHMENT 1**  
**JOINT VENTURE AGREEMENT**

*[To be attached]*

## ANNEXURE B

### OPTION TERMS & CONDITIONS

The terms and conditions of the Options are:

1. Each option entitles the holder to subscribe for one ordinary share in United Kimberley Diamonds NL ACN 107 061 343 (the "**Company**") upon the payment of \$0.20.
2. The options will lapse at 5.00 pm, Western Standard Time on 31 July 2008 ("**Expiry Date**").
3. The options are transferable and will not be listed for official quotation on the ASX.
4. There are no participating rights or entitlements inherent in these options and holders of the options will not be entitled to participate in new issues of capital that may be offered to shareholders during the currency of the option.
5. Optionholders have the right to exercise their options prior to the date of determining entitlements to any capital issues to the then existing shareholders of the Company made during the currency of the options, and will be granted a period of at least 12 business days before books closing date to exercise the options.
6. In the event of any re-organisation (including reconstruction, consolidation, subdivision, reduction or return of capital) of the issued capital of the Company, the options will be re-organised as required by the Listing Rules, but in all other respects the terms of exercise will remain unchanged.
7. The options shall be exercisable at any time during the period commencing on the date the Company's ordinary shares are admitted to quotation on Australian Stock Exchange Limited and ending on or before the Expiry Date ("**Exercise Period**") by the delivery to the registered office of the Company of a notice in writing ("**Notice**") stating the intention of the optionholder to exercise all or a specified number of options held by them accompanied by an Option Certificate and a cheque made payable to the Company for the subscription monies for the shares. The Notice and cheque must be received by the Company during the Exercise Period. An exercise of only some options shall not affect the rights of the optionholder to the balance of the options held by him.
8. The Company shall allot the resultant shares and deliver a statement of shareholdings with a holders' identification number within 5 business days of exercise of the options.
9. The shares allotted shall rank, from the date of allotment, equally with the existing ordinary shares of the Company in all respects.

**Form 603**Corporations Act 2001  
Section 671B**Notice of initial substantial holder**

To: Company Name/Scheme

UNITED KIMBERLEY DIAMONDS

ACN/ARSN

65 107 061 343

**1. Details of substantial holder (1)**

Name

JAMES MCARTHUR RICHARDS

ACN/ARSN (if applicable)

The holder became a substantial holder on

30/11/04

**2. Details of voting power**

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

Class of securities (4)	Number of securities	Person's votes (5)	Voting power (6)
ORDINARY	5,625,000	5,625,000	6.06%

**3. Details of relevant interests**

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
JAMES MCARTHUR RICHARDS	SHARE HOLDER	5,625,000 ORDINARY

**4. Details of present registered holders**

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
JAMES MCARTHUR RICHARDS	JAMES RICHARDS	JAMES RICHARDS	5,625,000 ORDINARY

**5. Consideration**

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration (9)		Class and number of securities
		Cash	Non-cash	
JAMES MCARTHUR RICHARDS	30/Nov/04	—	\$0.01	5,625,000 ORDINARY

**6. Associates**

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

Name and ACN/ARSN (if applicable)	Nature of association
N/A	N/A

**7. Addresses**

The addresses of persons named in this form are as follows:

Name	Address
JAMES MCARTHUR RICHARDS	12 MOIR ST, PERTH, WA 6000

*Jim Richards*

**Signature**

print name

JAMES MCARTHUR RICHARDS

capacity

SELF

sign here

*Jim Richards*

date 10 / 12 / 2004

**DIRECTIONS**

- (1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (7) Include details of:
  - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
  - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).

See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (8) If the substantial holder is unable to determine the identity of the person (eg. if the relevant interest arises because of an option) write "unknown".
- (9) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

**JAMES MCARTHUR RICHARDS**

**OZWEST HOLDINGS PTY LTD**

**YORKTON RESOURCES NL**

---

**SHARE SALE AGREEMENT  
OZWEST HOLDINGS PTY LTD**

---

**Blakiston & Crabb**  
Solicitors  
1202 Hay Street  
WEST PERTH WA 6005  
Tel: (08) 9322 7644  
Fax: (08) 9322 1506  
Ref: MC.YORK/11953

## **TABLE OF CONTENTS**

<b>1.</b>	<b>DEFINITIONS AND INTERPRETATIONS</b>	<b>1</b>
<b>2.</b>	<b>SALE AND PURCHASE OF OZWEST SECURITIES</b>	<b>5</b>
<b>3.</b>	<b>CONDITIONS PRECEDENT</b>	<b>5</b>
<b>4.</b>	<b>OBLIGATIONS AND CONDUCT PENDING COMPLETION</b>	<b>6</b>
<b>5.</b>	<b>COMPLETION</b>	<b>9</b>
<b>6.</b>	<b>WARRANTIES AND REPRESENTATIONS</b>	<b>12</b>
<b>7.</b>	<b>CONFIDENTIALITY AND ANNOUNCEMENTS</b>	<b>14</b>
<b>8.</b>	<b>NOTICES</b>	<b>15</b>
<b>9.</b>	<b>GENERAL</b>	<b>16</b>
<b>10.</b>	<b>GST</b>	<b>17</b>
	<b>SCHEDULE 1</b>	
	<b>SCHEDULE 2</b>	
	<b>SCHEDULE 3</b>	
	<b>SCHEDULE 4</b>	
	<b>SCHEDULE 5</b>	
	<b>ANNEXURE A</b>	

## SHARE SALE AGREEMENT

AGREEMENT made *9<sup>th</sup> September* 2004.

### BETWEEN:

**JAMES MCARTHUR RICHARDS** of 12 Moir Street, Perth, Western Australia ("Vendor");

AND

**OZWEST HOLDINGS PTY LTD** ACN 097 093 340 of C/- Elite Accounting and Business Consultancy, 30 Lacey Street, Perth, Western Australia ("**Ozwest**");

AND

**YORKTON RESOURCES NL** ACN 107 061 343 of 173 Mounts Bay Road, Perth, Western Australia ("**Purchaser**").

### RECITALS:

- A. The Vendor is the registered and beneficial owner of the Securities.
- B. The Vendor has agreed to sell and the Purchaser has agreed to purchase all of Ozwest Securities on the terms and conditions of this Agreement.
- C. Ozwest has agreed to be joined as a Party to this Agreement in order to give full effect to the terms and conditions of this Agreement.

**AGREED** as follows:

## 1. DEFINITIONS AND INTERPRETATIONS

### 1.1 Definitions

In this Agreement and the recitals and any attachments and schedules, unless the context otherwise requires:

"**Accounts Date**" means 31 August 2004;

"**Agreement**" means this Agreement;

"**ASIC**" means the Australian Securities and Investments Commission;

"**ASX**" means the Australian Stock Exchange Limited ACN 008 642 691;

"**ASX Listing Rules**" means the listing rules published by the ASX as replaced or amended from time to time;

**"Business Day"** means a weekday on which trading banks are open for business in Perth, Western Australia;

**"Completion"** means the completion of the sale and purchase of the Ozwest Securities under clause 5;

**"Completion Date"** means the date on which Completion occurs being 5 Business Days after the last of the Conditions is satisfied or waived or any other date agreed in writing between the Parties;

**"Conditions"** means the conditions precedent set out in clause 3.1;

**"Confidential Information"** means any trade secrets, lists of information pertaining to clients or suppliers, specifications, drawings, inventions, ideas, records, reports, software, patents, designs, copyright material, secret processes or other information, whether in writing or otherwise;

**"Consideration Options"** means a total of 2,225,000 Yorkton Options;

**"Consideration Shares"** means a total of 5,625,000 Yorkton Shares issued at a deemed issue price of 1 cent per Yorkton Share;

**"Constitution"** means the constitution of Ozwest;

**"Corporations Act"** means the Corporations Act 2001 (Cth);

**"Cut-off Date"** means 31 March 2005;

**"Encumbrance"** means an interest or power:

- (a) reserved in or over an interest in an asset including, but not limited to, any retention of title; or
- (b) created or otherwise arising in or over an interest in an asset under a mortgage, charge, bill of sale, lien, pledge, trust or power,

by way of security for the payment of a debt, another monetary obligation or the performance of another obligation, and includes, but is not limited to, an agreement to grant or create any of the above and **"Encumber"** has a corresponding meaning;

**"Government Agency"** means any government, government department, or governmental, semi-governmental or judicial body or person charged with the administration of any applicable law;

**"GST"** means the goods and services tax described in the GST Act or any similar tax;

**"GST Act"** means *A New Tax System (Goods and Services Tax) Act 1999* and related Acts;



**"Loss or Claim"** means damage, loss, cost (including legal costs), expense or liability incurred by or a claim, demand, action, proceeding or judgment made against, a person, however arising and whether present or future, fixed or unascertained, actual or contingent;

**"Mining Act"** means the *Mining Act 1978* (WA);

**"Mining Information"** means all information in the possession or custody of Ozwest with respect to the Mining Tenements including, but not limited to, all surveys, maps, mosaics, aerial photographs, electromagnetic tapes, sketches, drawings, memoranda, drill cores, logs of such drill cores, geophysical, geological or drill maps, sampling and assay reports, notes, and other relevant information and data;

**"Mining Tenements"** means the applications, exploration permits or mining leases and all other matters which have been entered into a register maintained under the Mining Act and outlined in Schedule 2;

**"Nominated Director"** means the nominee of the Vendor who is to become a director of the Purchaser as from Completion as outlined in clause 4.1(b);

**"Notice"** is defined in clause 8.1;

**"Ozwest Accounts"** means the financial accounts for Ozwest being current to 31 August 2004, a copy of which are contained in Schedule 5;

**"Ozwest Options"** means all of the issued options granted over the capital of Ozwest held by the Vendor which is more particularly described in Schedule 1;

**"Ozwest Securities"** means the Ozwest Shares and Ozwest Options;

**"Ozwest Shares"** means all of the issued shares in the capital of Ozwest held by the Vendor which is more particularly described in Schedule 1;

**"Party"** means a party to this Agreement and **"Parties"** or **"Party's"** will have a corresponding meaning;

**"Purchase Consideration"** means the Consideration Shares and Consideration Options to be issued to the Vendor;

**"Purchaser Warranty"** means any one of the Purchaser's warranties and representations contained in clause 5.7, clause 6 and Schedule 4;

**"Yorkton Options"** means options to subscribe for Yorkton Shares on the terms set out in Annexure A to this Agreement;

**"Yorkton Shares"** means fully paid ordinary shares in the capital of the Purchaser;

**"Supply"** has the same meaning as in section 9.10 of the GST Act;

**"Tax"** means any tax (including GST), levy, charge, impost, duty (including stamp duty), fee, rate, deduction, compulsory loan or withholding which is assessed, levied, imposed or collected by any Government Agency and includes, but is not limited to, any interest, fine, penalty, charge, fee or other amount imposed in respect thereof;

**"Tax Invoice"** means a valid tax invoice that meets the requirements of the GST Act and any regulations governing the GST and any relevant requirements of the Australian Taxation Office (or other relevant administering body or person);

**"Tax Law"** means any statute, legislation, regulation or by-law relating to the imposition of Tax; and

**"Vendor Warranty"** means any one of the Vendor's warranties and representations contained in clause 6 and Schedule 3.

## **1.2 Interpretation**

In this Agreement unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) a reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust, state or government and vice versa;
- (c) a reference to any gender includes all genders;
- (d) a reference to a recital, clause, schedule or annexure is to a recital, clause, schedule or annexure of or to this Agreement;
- (e) a reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions) as amended, novated, restated or replaced from time to time;
- (f) a reference to any Party includes that Party's executors, administrators, substitutes, successors and permitted assigns;
- (g) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replace it, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (h) no provision of this Agreement will be construed adversely to a Party solely on the ground that the Party was responsible for the preparation of this Agreement or that provision;
- (i) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;

- (j) all references to currency are references to Australian dollars; and
- (k) "including" and similar expressions are not and must not be treated as words of limitation.

### **1.3 Headings**

In this Agreement, headings are for convenience of reference only and do not affect interpretation.

## **2. SALE AND PURCHASE OF OZWEST SECURITIES**

### **2.1 Sale and Purchase**

Subject to the satisfaction of the Conditions, the Vendor will sell and the Purchaser will purchase full legal and beneficial indefeasible title to and property in the Ozwest Securities, free from Encumbrances at and from the Completion Date, for full legal and beneficial indefeasible title to and property in the Purchase Consideration free from Encumbrances and upon the terms and conditions referred to in this Agreement.

### **2.2 Title, Property and Risk**

The title to, property in and risk of the Ozwest Securities shall:

- (a) remain solely with the Vendor until Completion; and
- (b) pass to the Purchaser on and from Completion.

## **3. CONDITIONS PRECEDENT**

### **3.1 Conditions Precedent**

Settlement is subject to and conditional upon (as conditions precedent):

- (a) the Purchaser issuing an initial public offer disclosure document pursuant to the Corporations Act and raising a minimum of \$8,000,000 by way of the issue of Yorkton Shares; and
- (b) ASX providing the Purchaser with conditional approval to the admission of the Purchaser to the official list of ASX and for quotation of its securities.

### **3.2 Best Efforts**

The Purchaser must use its best efforts to satisfy each of the Conditions contained in clause 3.1 as soon as practicable after the date of this Agreement. The Vendor, where necessary, will provide all reasonable assistance to the Purchaser.

### **3.3 Notice**

A Party must promptly notify the other Parties in writing if that Party becomes aware that any Condition is waived, satisfied or cannot be satisfied.

### **3.4 Cut-Off Date**

- (a) If any of the Conditions contained in clause 3.1 are not satisfied or waived by the Cut-off Date, or such later date as the Parties agree in writing, then any Party may terminate this Agreement by written notice to the other Parties.
- (b) On termination, this Agreement has no further effect, the Parties shall be released from all further obligations under this Agreement and shall have no liability to any other Party except in respect of any breach of this Agreement occurring before termination.

## **4. OBLIGATIONS AND CONDUCT PENDING COMPLETION**

### **4.1 Obligations of Vendor Pending Completion**

- (a) Prior to Completion, the Vendor must procure that a duly convened meeting of the directors of Ozwest is held and procure at that meeting and effective as from Completion:
  - (i) the approval of the registration (subject to payment of stamp duty) of the transfers of the Ozwest Securities to the Purchaser, the issue of new certificates for the Ozwest Securities in the name of the Purchaser and the cancellation of all existing certificates for the Ozwest Securities;
  - (ii) the appointment of nominees of the Purchaser as directors, secretary and public officer of Ozwest, such nominees to be notified in writing to the Vendor by the Purchaser no later than five (5) Business Days prior to Completion;
  - (iii) the resignation of the existing directors, secretary and public officer of Ozwest effective from Completion and the secretary of Ozwest shall prior to the closure of the meeting complete and execute and hold in escrow pending Completion all necessary ASIC forms evidencing such resignations;
  - (iv) the change in location of the registered office of Ozwest to a location nominated by the Purchaser, such location to be notified in writing to the Vendor by the Purchaser no later than 5 Business Days prior to Completion;
  - (v) as from Completion the revocation of existing authorities to operate bank accounts and the appointment of the persons nominated by the Purchaser as signatories of the bank accounts, such nominees to be notified in writing to the Vendor by the

Purchaser no later than 5 Business Days prior to Completion;  
and

- (vi) the transaction of any other business of which the Purchaser may give notice prior to the Completion Date and which is necessary to fully vest the Ozwest Shares in the Purchaser with effect from Completion.
- (b) The Vendor must no later than 5 Business Days prior to Completion notify the Purchaser in writing of its nominee to be a director of the Purchaser as from Completion.

#### **4.2 Obligations of Purchaser Pending Completion**

- (a) The Purchaser must no later than 5 Business Days prior to Completion notify the Vendor in writing of:
  - (i) the details of its nominees to be directors, secretary and public officer of Ozwest as from Completion;
  - (ii) the details of its nominees to be signatories of the bank accounts of Ozwest as from Completion; and
  - (iii) the address to be used by Ozwest as its registered address and principal place of business as from Completion.
- (b) The Purchaser must use its best efforts to procure the signing of all Agreements and documents required to enable the Vendor to comply with its obligations pursuant to clause 4.1(a) and in particular the Vendor's obligations under subclauses 4.1(a), 4.1(a)(i), 4.1(a)(iv) and 4.1(a)(v).
- (c) Prior to Completion the Purchaser must procure that a duly convened meeting of the directors of the Purchaser is held and procure at that meeting and effective as from Completion that the director nominated by the Vendor pursuant to clause 4.1(b) above is appointed as director of the Purchaser as from Completion.

#### **4.3 Covenants by Vendor**

- (a) The Vendor covenants from the date of this Agreement until Completion that it shall take all reasonable steps to protect and maintain each of the assets of Ozwest so as to comply with all applicable laws, regulations, ordinances and codes.
- (b) The Vendor covenants from the date of execution of this Agreement until Completion that it shall ensure that Ozwest does not without the prior written consent of the Purchaser, which consent must not be unreasonably withheld, and otherwise than is required or otherwise contemplated by this Agreement or any laws or statutes including but not limited to the Mining Act:

- (i) enter into, terminate or alter any term of any contract or commitment;
  - (ii) incur any liabilities other than in the ordinary course of business and in any event not to a value in excess of \$10,000;
  - (iii) acquire or dispose or in anyway Encumber of any asset or authorise any capital expenditure;
  - (iv) allot or issue or agree to allot or issue any share or loan capital or any security convertible into any share or loan capital;
  - (v) declare or pay any dividend or make any other distribution of its assets or profits;
  - (vi) alter or agree to alter the Constitution;
  - (vii) hire or terminate the employment of or pay or agree to pay any bonus or allowance to any employee or alter the terms of employment (including the terms of superannuation or any other benefit) of any employee;
  - (viii) resolve to reduce or consolidate its share capital in any way;
  - (ix) enter into a buy-back agreement or resolve to approve the terms of a buy-back agreement; or
  - (x) pass any resolution other than in the ordinary course of business or otherwise contemplated by this Agreement.
- (c) If, before Completion, an event occurs which has or may have a material effect on the profitability or value of the Ozwest Securities, the Vendor covenants that it will, as soon as practicable upon becoming aware of that event, give written notice to the Purchaser fully describing the event.

#### **4.4 Covenants by Purchaser**

The Purchaser covenants that from the date of this Agreement until Completion that it shall not declare or pay any dividend or make any other distribution of its assets or profits.

#### **4.5 Assistance by Vendor**

From the date of this Agreement until Completion, the Vendor must use its best efforts to:

- (a) give the Purchaser all assistance and information in respect to the property and affairs of the Ozwest as it possesses; and

- (b) make available for access by the Purchaser or its representatives all books, records and documents (whether in written, electronic or other form) in its possession or under its control;

as the Purchaser may reasonably require to enable it to gain sufficient knowledge about Ozwest and its business (and its operation and conduct) to enable the Purchaser to conduct the business of Ozwest as from Completion.

## **5. COMPLETION**

### **5.1 Time and place of Completion**

Completion is to occur on the Completion Date at the offices of the Purchaser at 10am Perth time or at any other time or place agreed in writing by the Parties.

### **5.2 Obligations of Vendor at Completion**

- (a) On Completion the Vendor must deliver or cause to be delivered to the Purchaser or to a place the Purchaser is in control of:
  - (i) the certificates in respect of the Ozwest Securities;
  - (ii) resignations for each director, company secretary and public officer of Ozwest duly executed by each director, company secretary and public officer of Ozwest and the necessary ASIC forms evidencing such resignations;
  - (iii) separate instruments of transfer of the Ozwest Securities supplied by the Purchaser and executed by the Vendor and naming the Purchaser as transferee in registrable form;
  - (iv) duly executed, stamped (if necessary) and registrable discharges of any Encumbrances over the Ozwest Securities or Ozwest;
  - (v) the certificate of incorporation of Ozwest;
  - (vi) the common seal (and any duplicate common seal, share seal or official seal) of Ozwest, if any;
  - (vii) a copy of the Constitution certified by the secretary of Ozwest;
  - (viii) the minute books and other records of meetings or resolutions of members and directors of Ozwest;
  - (ix) all registers of Ozwest (including the register of members, register of options, register of directors, register of directors' shareholdings and register of charges);
  - (x) all cheque books, bank records, financial and accounting books and records, copies of taxation returns and assessments,

agreements, title documents, licences, indicia of title, certificates and all other records, papers, books and documents of Ozwest;

- (xi) all current permits, licences and other documents issued to Ozwest under any legislation or ordinance relating to its assets or activities;
  - (xii) originals of any contracts involving Ozwest;
  - (xiii) the Mining Information;
  - (xiv) any other document which the Purchaser reasonably requires to enable the Purchaser to obtain good title to the Ozwest Securities and to enable the Purchaser to procure the registration of the Ozwest Securities in the name of the Purchaser;
  - (xv) if required by the Purchaser, duly completed application form(s) attached to a disclosure document issued by the Purchaser for the Purchase Consideration; and
  - (xvi) duly executed restriction agreements in respect of the Purchase Consideration as referred to in clause 5.6.
- (b) On Completion the Vendor must do all other things necessary or desirable to confer on the Purchaser title to the Ozwest Securities and place the Purchaser in operating control of Ozwest.

### **5.3 Obligations of Purchaser at Completion**

- (a) At Completion the Purchaser must:
- (i) issue and allot the Purchase Consideration to the Vendor or as the Vendor directs and as soon as practicable thereafter cause holding statements for the Purchase Consideration to be issued to the Vendor or as the Vendor directs; and
  - (ii) procure the appointment of the Nominated Director as a director of the Purchaser in accordance with clause 4.2(c).
- (b) Upon the Purchaser complying with its obligations pursuant to clause 5.3(a) and 5.3(b), the Purchaser must lodge all notices required to be lodged with the ASX, ASIC and all other relevant Government Agencies to give full effect to Completion and this Agreement.

### **5.4 Completion in full**

- (a) Completion is conditional on the Purchaser, the Vendor and Ozwest complying with all of their obligations under this clause 5.
- (b) If any of the Vendor or the Purchaser fails to comply fully with its obligations under this clause 5 and the Parties do not complete this



Agreement then, without prejudice to any other rights any Party may have in respect of that failure:

- (i) each Party must return to the other all documents delivered to it under this clause 5;
- (ii) each Party must repay to the other all payments received by it under this clause 5; and
- (iii) each Party must do everything reasonably required by the other Party to reverse any action taken under this clause 5.

#### **5.5 Power of Attorney until registration**

- (a) The Vendor appoints the Purchaser to be the Vendor's attorney from the Completion Date until the Ozwest Securities are registered in the name of Purchaser (for the purposes of this clause 5.5 only, the "term").
- (b) The Purchaser may do in the name of the Vendor and on the Vendor's behalf everything necessary or expedient in the Purchaser's sole discretion to:
  - (i) transfer the Ozwest Securities as contemplated by this Agreement;
  - (ii) exercise any rights, including rights to appoint a proxy or representative and voting rights, attaching to the Ozwest Securities;
  - (iii) receive any dividend or other entitlement paid or credited to the Vendor in respect of the Ozwest Securities; and
  - (iv) do any other act or thing in respect of the Ozwest Securities.
- (c) The Vendor declares that:
  - (i) this power of attorney in favour of the Purchaser is given for valuable consideration and is irrevocable for the term;
  - (ii) all acts and things done by the Purchaser in exercising powers under this power of attorney will be as good and valid as if they have been done by the Vendor and the Vendor agrees to ratify and confirm whatever the Purchaser does in exercising powers under this power of attorney; and
  - (iii) the Purchaser is expressly authorised to do any act as a result of which a benefit is conferred on it.

## **5.6 ASX Escrow of the Purchase Consideration**

- (a) The Vendor acknowledges that the whole or part of the Purchase Consideration may be deemed to be "restricted securities" as defined by the ASX Listing Rules.
- (b) If the Purchase Consideration is deemed to be "restricted securities", the Vendor must use its best efforts to procure that restriction agreements are executed pursuant to Chapter 9 of the ASX Listing Rules.

## **5.7 Purchase Consideration Warranty**

The Purchaser warrants in favour of the Vendor that:

- (a) the Consideration Shares at Completion will represent a minimum of 4.5% of the Yorkton Shares after the issue of shares to the public under the initial public offer disclosure document; and
- (b) save for the Consideration Options and any options to be granted to directors of the Purchaser, the only other options in respect of Yorkton at Completion will be 8,875,000 options on the same terms as the Consideration Options.

# **6. WARRANTIES AND REPRESENTATIONS**

## **6.1 Warranties**

- (a) Subject to this clause 6, the Vendor warrants and represents to the Purchaser, as an inducement to the Purchaser to enter into this Agreement, and it is a condition of this Agreement, that each of the statements set out in the Vendor Warranties is true, complete and accurate as at the date of execution of this Agreement and will be true, complete and accurate at Completion. The provisions of this clause 6 and the Vendor Warranties shall not merge on Completion.
- (b) Subject to this clause 6, the Purchaser warrants and represents to the Vendor, as an inducement to the Vendor to enter into this Agreement, and it is a condition of this Agreement, that each of the statements set out in the Purchaser Warranties is true, complete and accurate as at the date of execution of this Agreement and will be true, complete and accurate at Completion (save for clause 5.7, which warranties will be true, complete and accurate at Completion). The provisions of this clause 6 and the Purchaser Warranties shall not merge on Completion.

## **6.2 Indemnity**

- (a) The Vendor indemnifies, and must keep indemnified, the Purchaser against any Loss or Claim which may be suffered or incurred by the Purchaser directly or indirectly as a result of a breach of any Vendor Warranty.

- (b) The Purchaser indemnifies, and must keep indemnified, the Vendor against any Loss or Claim which may be suffered or incurred by the Vendor directly or indirectly as a result of a breach of any Purchaser Warranty.

### **6.3 Construction of Warranties**

- (a) Each Vendor Warranty is independent of each other Vendor Warranty and any other representation made under or in respect of this Agreement and accordingly is not affected by any of them.
- (b) Each Purchaser Warranty is independent of each other Purchaser Warranty and any other representation made under or in respect of this Agreement and accordingly is not affected by any of them.

### **6.4 Remedies to Continue**

- (a) The remedies of the Purchaser in respect of the Vendor Warranties and the indemnity in clause 6.2(a) will continue notwithstanding Completion.
- (b) The remedies of the Vendor in respect of the Purchaser Warranties and the indemnity in clause 6.2(b) will continue notwithstanding Completion.

### **6.5 No Implied Warranties**

- (a) Notwithstanding anything in this Agreement to the contrary, the Vendor gives no warranties and makes no representations other than the Vendor Warranties and all warranties and conditions which could otherwise be implied are excluded to the maximum extent permitted by law.
- (b) Notwithstanding anything in this Agreement to the contrary, the Purchaser gives no warranties and makes no representations other than the Purchaser's Warranties and all warranties and conditions which could otherwise be implied are excluded to the maximum extent permitted by law.

### **6.6 No Warranty on Native Title**

Notwithstanding anything in this Agreement to the contrary and without limiting clause 6.5, the Vendor gives no warranties and makes no representations in respect of Native Title or in respect of the rights of any person to Native Title and any such warranty or representation which would otherwise be implied in this Agreement is excluded.

### **6.7 No Loss of Profit Claim**

- (a) Notwithstanding anything in this Agreement to the contrary, it is agreed that the Vendor shall not be liable to the Purchaser for any loss of profit claim or consequential damage or loss of any kind in respect of a breach of the Vendor's Warranties.

- (b) Notwithstanding anything in this Agreement to the contrary, it is agreed that the Purchaser shall not be liable to the Vendor for any loss of profit claim or consequential damage or loss of any kind in respect of a breach of the Purchaser's Warranties.

#### **6.8 Notice of Breach**

- (a) Before Completion, the Vendor must immediately give notice in writing to the Purchaser of any breach by the Vendor of the Vendor Warranties. Such notification does not limit or affect the liability of any Party for any such breach.
- (b) Before Completion, the Purchaser must immediately give notice in writing to the Vendor of any breach by the Purchaser of the Purchaser Warranties. Such notification does not limit or affect the liability of any Party for any such breach.

### **7. CONFIDENTIALITY AND ANNOUNCEMENTS**

#### **7.1 Confidentiality**

The terms of this Agreement, the negotiations of the Parties preceding the Agreement and any Confidential Information belonging to either Party are to remain strictly confidential to the Parties and may only be disclosed:

- (a) as is necessary to enforce a Party's respective rights and obligations under this Agreement;
- (b) to their technical, legal, accounting or financial advisers where necessary for the purposes of this Agreement provided such advisers are bound by confidentiality arrangements on terms similar to those prescribed by this clause;
- (c) with the written consent of all Parties;
- (d) to the extent as may be required by law or for inclusion in a disclosure document to be issued by a Party in accordance with the Corporations Act; or
- (e) by the Purchaser to the ASX as required by the ASX Listing Rules.

#### **7.2 Survive Termination**

The provisions of clause 7 shall survive termination of this Agreement.

#### **7.3 Announcement**

The Purchaser shall not make any announcement in relation to the purchase of the Ozwest Shares contemplated by this Agreement unless a reasonable opportunity has first been given to the Vendor to comment on the terms of the proposed announcement.

## **8. NOTICES**

### **8.1 Notice**

Any notice, demand, consent or other communication ("**Notice**") given or made pursuant to this Agreement:

- (a) must be in writing and signed by a person duly authorised by the sender; and
- (b) must either be delivered to the intended recipient by prepaid post, courier, by hand or by facsimile to the address or facsimile number specified below or the address or facsimile last notified by the intended recipient to the sender:

**James McArthur Richards**

Address : 12 Moir Street  
PERTH, WA 6000

**Yorkton Resources NL**

Attention : Company Secretary  
Address : 173 Mounts Bay Road  
PERTH WA 6000

Facsimile : (08) 9322 1258

### **8.2 Deemed Delivery**

Notices shall be deemed given or made:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, on the fourth Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia);
- (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within one Business Day after the transmission, the recipient informs the sender that it has not received the entire Notice; and
- (d) if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

### **8.3 Change of Address**

Any Party may change its address or facsimile number by giving notice to that effect to the other Party.

## **9. GENERAL**

### **9.1 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of Western Australia and the Parties submit themselves to the non-exclusive jurisdiction of the Courts of that State.

### **9.2 Further Assurance**

Each Party shall sign, execute and do all acts, documents and things that may be reasonably required in order to implement and give full effect to the provisions and purposes of this Agreement whether before or after its execution.

### **9.3 Costs**

- (a) Each Party will bear their own costs in respect of the negotiation, preparation and completion of this Agreement and the documents executed under it.
- (b) Except where stated otherwise, the Purchaser will pay any stamp duty under or in respect of this Agreement.

### **9.4 Variation**

No variation, modification or waiver of any provision of this Agreement nor consent to any departure by any Party therefrom, shall in any event be of any force or effect unless the same shall be confirmed in writing, signed by the Parties and then such variation, modification, waiver or consent shall be effective only to the extent for which it may be made or given.

### **9.5 Waivers**

No failure, delay, relaxation or indulgence on the part of any Party in exercising any right or power conferred upon such Party in terms of this Agreement shall operate as a waiver of such power or right, nor shall any single exercise of any such power or right preclude any other or future exercise thereof, or the exercise of any other power or right under this Agreement.

### **9.6 Severability**

If any provision of this Agreement is void, voidable by any Party, unenforceable or illegal in any jurisdiction or contrary to the Corporations Act or the ASX Listing Rules it shall be read down so as to be valid and enforceable or if it cannot be so read down, the provision (or where possible the offending words), shall be severed from this Agreement without affecting the validity, legality or enforceability of the remaining provisions (or parts of those provisions) of this Agreement which will continue in full force and effect.

9.7 **Counterparts**

This Agreement may be executed in any number of counterparts and by facsimile copies, all of which taken together constitute one and the same document.

10. **GST**

10.1 **Financial supply**

Amounts payable under this Agreement are exclusive of GST however the Parties acknowledge that this sale of the Ozwest Securities is a financial supply and is input taxed. Notwithstanding the foregoing, if GST is imposed on any Supply made under this agreement by a Party ("**Supplier**") to another Party ("**Recipient**") (including, but not limited to, an assignment of an interest in the Tenements) then the Recipient must pay to the Supplier an amount equal to that GST in addition to any other amount payable or other consideration provided for the Supply.

10.2 **Tax Invoice**

The Recipient's obligation to pay an amount equal to the GST under clause 10.1 only applies if the Supplier has given the Recipient a Tax Invoice for the Supply that details the relevant amount in respect of which GST is payable and the amount of that GST.

10.3 **Adjustment**

If the amount paid by the Recipient under clause 10.1 differs from the amount of GST payable at law by the Supplier on the Supply, the amount paid by the Recipient to the Supplier will be adjusted accordingly.

10.4 **Interpretation**

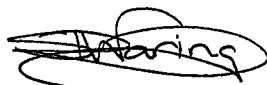
For the purpose of this clause 10 the amount of GST on any Supply is calculated before the allowance of any input tax or other credits.

**EXECUTED** as an Agreement.

**SIGNED** by JAMES  
MCARTHUR RICHARDS  
in the presence of:

)  9/Sept/04

Witness:



Name: SHERILEE WARING

Address: 65 TUNNICLIFFE ST. PARMELIA

Occupation: ADMINISTRATION

**SIGNED** for and on behalf of )  
**OZWEST HOLDINGS** )  
**PTY LTD** by authority of its )  
Directors in accordance with )  
section 127 of the Corporations Act )

Michael - Sole Director  
Director

\_\_\_\_\_  
Director/Secretary

**SIGNED** for and on behalf of )  
**YORKTON RESOURCES NL** )  
by authority of its Directors in )  
accordance with section 127 of the )  
Corporations Act )

[Signature]  
Director

[Signature]  
Director/Secretary