

**Execution version**

**DATED 2 October 2017**

**LA GÉNÉRALE DES CARRIÈRES ET DES MINES  
SA  
(as Borrower)**

and


**FLEURETTE MUMI HOLDINGS LIMITED  
(as Lender)**

**EUR 200 MILLION TERM LOAN AGREEMENT**

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**THIS AGREEMENT** is dated 2 October 2017 and made between:

- (1) **LA GÉNÉRALE DES CARRIÈRES ET DES MINES SA**, a company incorporated under the laws of the Democratic Republic of the Congo, registered with the Trade and Personal Property Credit Register (*Registre du Commerce et du Crédit Mobilier*) of Lubumbashi under number CD/L SHI/RCCM/14-B-1678, with its registered office at 419 Boulevard Kamanyola, Boite Postale 450, Lubumbashi, Democratic Republic of the Congo (the "**Borrower**"); and
- (2) **FLEURETTE MUMI HOLDINGS LIMITED**, whose registered office is located at Trident Chambers, PO Box 146, Palm Grove House, Road Town, Tortola, British Virgin Islands (the "**Lender**").

**IT IS AGREED** as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Agreement:

"**Affiliate**" means, in respect of any party hereto, any other person or entity that is directly or indirectly controlling, controlled by, or under the same control as, such Party and the term.

"**Control**", when used in respect of any person or entity, means the right, power or authority to manage or advise such person or entity, whether directly or indirectly, through the holding of shares or interests, through the ownership of voting rights, through a contract or otherwise.

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Availability Period**" means the period from and including the date of this Agreement to and including the day falling twenty (20) Business Days after the date of this Agreement (or such later date as the Parties may agree).

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in Kinshasa.

"**Default**" means an Event of Default or any event or circumstance specified in Clause 12 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"**Drawdown Date**" means the date specified as such in the Drawdown Request.

"**Drawdown Request**" means a notice substantially in the form set out in Schedule 2 (*Form of Drawdown Request*).

"**DRC**" means the Democratic Republic of the Congo.

"**Euros**" and "**EUR**" mean the lawful currency for the time being of member states of the European Union which have adopted the single currency in accordance with the European Union Treaty (as amended from time to time).

"**Event of Default**" means any event or circumstance specified as such in Clause 12 (*Events of Default*).

"**Facility**" means the loan facility made available under this Agreement as described in Clause 2 (*Facility*).



**"Facility Amount"** means EUR 200,000,000 (as such amount may be reduced in accordance with the provisions of this Agreement).

**"Finance Documents"** means this Agreement and any other document entered into pursuant to it

**"Interest Period"** with respect to each Facility, means a period commencing on the Drawdown Date and ending on the date of repayment or prepayment in full of that Facility and all interest in respect thereof.

**"LIBOR"** in relation to the relevant Interest Period:

- (a) the applicable British Bankers' Association Interest Settlement Rate for Euros for the relevant Interest Period, displayed on the appropriate page of the Reuters screen at or about 11:00am London time on the first day of the Interest Period as determined by the Lender and notified to the Borrower. If the agreed page is replaced or the service ceases to be available, the Lender may specify another page or services displaying the appropriate rate after consultation with the Borrower; or
- (b) if no such screen rate is available for Euros or for the relevant Interest Period such equivalent rate as may be determined by the Lender and notified to the Borrower with reference to the London interbank market.

**"Loan"** means the advance made or to be made under the Facility or the principal amount thereof outstanding for the time being together with any costs and expenses incurred under clause 21.2 and not reimbursed by the Borrower and any other amount outstanding under any of the Finance Documents.

**"Loan Account"** means the special bank account opened by the Borrower with Trust Merchant Bank (or any other institution agreed between the Parties in writing prior to the Drawdown Date) for the sole purpose of this Agreement

**"Material Adverse Effect"** means a material adverse effect on:

- (a) the Borrower's ability to perform any of its payment obligations under any of the Finance Documents; or
- (b) the validity or enforceability of the Finance Documents.

**"Maturity Date"** means the date falling six (6) months after the Drawdown Date (or if that day is not a Business Day, the next Business Day).

**"Original Financial Statements"** means the Borrower's audited financial statements for its financial year ended 31 December 2015.

**"Tax"** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same) applicable in the DRC.

**"Unpaid Sum"** means any sum due and payable but unpaid by the Borrower under the Finance Documents.

## 1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
  - (i) the Lender or the Borrower shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

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- (ii) "assets" includes present and future properties, revenues and rights of every description;
  - (iii) a document being in the "agreed form" means the form thereof agreed by the parties on or before the date of this Agreement;
  - (iv) a Finance Document or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
  - (v) a "person" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing;
  - (vi) "indebtedness" includes any obligation (whether incurred as principal or surety) for the payment or repayment of money whether present or future actual or contingent; and
  - (vii) a provision of law is a reference to that provision as amended or re-enacted.
- (b) Clause and Schedule headings are for ease of reference only.
- (c) A Default or Event of Default is "continuing" if it has not been remedied or waived.

## 2 THE FACILITY

### 2.1 Facility

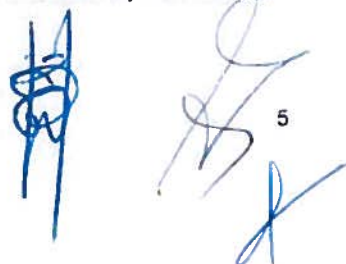
- (a) Subject to the terms of this Agreement, the Lender shall make available to the Borrower, and the Borrower shall draw down, as provided in Clause 3 (*Conditions*), a term loan facility in Euros in a principal amount equal to the Facility Amount.
- (b) The Facility Amount should be paid by the Lender to the Borrower by credit to the Loan Account.

### 2.2 Purpose

- (a) The Borrower shall apply all amounts borrowed by it under the Facility:
  - (i) for its general working capital purposes;
  - (ii) for the financing of any project in connection with its corporate purpose;
  - (iii) to repay or refinance outstanding debt facilities; and
  - (iv) for any other purpose in connection with its corporate purpose.
- (b) The Borrower shall give the Lender a prior written notice, before withdrawing any amount from the Loan Account
- (c) The Lender is not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

### 2.3 Cancellation

- (a) The Facility shall automatically be cancelled in full (with the result that the Lender shall have no obligation to advance funds to the Borrower hereunder and the Borrower shall be released from all obligations hereunder) if by 5pm (Kinshasa time) on the Business Day preceding the last day of the Availability Period, the Lender has not received (or waived receipt of), all of the documents and other evidence listed in Schedule 1 (*Conditions Precedent*) in form and substance satisfactory to the Lender.



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- (b) The Borrower may at any time, if it gives the Lender not less than five (5) Business Days' prior written notice (which shall be irrevocable and shall specify the date on which the cancellation is to take effect), cancel the whole or any part of the Facility.

### 3. CONDITIONS

#### 3.1 Conditions Precedent

The Borrower may not deliver a Drawdown Request unless the Lender has received (or waived receipt of) all of the documents and other evidence listed in Schedule 1 (*Conditions Precedent*) and notified the Borrower that they are in form and substance satisfactory to the Lender. The Lender shall notify the Borrower promptly upon being so satisfied.

#### 3.2 Further Conditions Precedent

The Lender will only be obliged to comply with Clause 4.2 (*Lender's Obligations*) if:

- (a) the drawdown shall not be earlier than three (3) Business Days after the date on which the Lender receives, or is deemed to have received, the Drawdown Request;  
  
Provided that for this purpose, if the Drawdown Request is delivered on a day that is not a Business Day or after 3pm (Kinshasa time) the Lender shall be deemed to have received it on the next succeeding Business Day;
- (b) on the date of a Drawdown Request and on the Drawdown Date no Event of Default or Default is continuing or would result from the making of the proposed advance; and
- (c) on the date of a Drawdown Request and on the Drawdown Date each of the representations set out in Clause 9 (*Representations*) is then true in all material respects.

### 4. DRAWDOWN

#### 4.1 Delivery of a Drawdown Request

- (a) Subject to Clause 3 (*Conditions*), the Borrower may utilise the Facility by delivery to the Lender of a duly completed Drawdown Request no later than 5pm (Kinshasa time) on the last day of the Availability Period.
- (b) Only one advance shall be made under the Facility.
- (c) A Drawdown Request shall only be duly completed if the date therein specified as the Drawdown Date is a Business Day that falls no less than three (3) days after delivery by the Borrower of the Drawdown Request.

#### 4.2 Lender's Obligations

- (a) If:
  - (i) the conditions set out in this Agreement have been met or waived (as appropriate); and
  - (ii) the Lender has received a duly completed Drawdown Request,the Lender shall make the Facility Amount available to the Borrower on the Drawdown Date.
- (b) As soon as practicable after the Drawdown Date, the Lender shall notify the Borrower the estimated amount due on repayment of the Facility Amount (principal and interest),



on the assumption that no prepayment is made and that repayment is made in full with interest on the Maturity Date

## 5. INTEREST

### 5.1 Calculation and payment of interest

Interest shall accrue monthly on the Loan during the period from and including the Drawdown Date until repayment in full at the 30-day LIBOR rate plus five percent (5%) per annum, be added to principal monthly and shall be payable on the Maturity Date. Subject to Clause 6.1 (*Repayment at Maturity*), any prepayment by the Borrower in respect of the Loan shall first be applied to accrued interest, and thereafter to principal.

### 5.2 Default Interest

Interest shall accrue on the Unpaid Sum from and including its due date up to but not including the date of actual payment (both before and after judgment) at the rate specified in Clause 5.1 plus five percent (5%) per annum. Any interest accruing on an Unpaid Sum under this Clause 5.2 shall be immediately payable by the Borrower on demand by the Lender.

## 6. REPAYMENT

### 6.1 Repayment at Maturity

The Borrower shall repay the Loan in full on the Maturity Date.

### 6.2 Voluntary Prepayment

- (a) At any time prior to the Maturity Date, the Borrower may, if it gives the Lender not less than ten (10) Business Days' (or such shorter period as the Lender may agree) prior written notice (which shall be irrevocable and shall specify the date on which the prepayment is to be made), prepay the whole or any part of the Loan (but, if in part, being an amount that reduces the amount of the Loan by a minimum amount of EUR 5,000,000) with all accrued interest thereon.
- (b) If the Borrower makes an early prepayment of the Loan, this early prepayment will not affect the Borrower's obligations to repay in full any outstanding amount of the Loan on the Maturity Date, including all accrued interest thereon.

### 6.3 Prepayment on change of control

If the State of the DRC shall cease beneficially to own (directly or indirectly) more than 50% of the Borrower's issued share capital or shall cease to have the power (whether through the ownership of voting share capital, by contract or otherwise) to direct the Borrower's management and policies, the Borrower shall promptly notify the Lender thereof whereupon, unless the Lender agrees otherwise:

- (a) if no advance has been made, the Lender shall cease to be obliged to advance funds hereunder and the Facility shall be cancelled; and
- (b) if an advance has been made, the Borrower shall, on such date as the Lender, acting reasonably, may specify, repay the Loan in full together with all interest accrued thereon.

### 6.4 Prepayment on illegality

If it becomes unlawful in any applicable jurisdiction for the Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain the Loan (or a part thereof), the Lender shall, promptly after becoming aware of that event, notify the Borrower thereof whereupon:



- (a) if no advance has been made, the Lender shall cease to be obliged to advance funds hereunder and the Facility shall be cancelled, and
- (b) if an advance has been made, the Borrower shall, no later than the latest date the Loan may remain outstanding under applicable law, repay the Loan in full together with all interest accrued thereon.

The Lender shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under this Clause 6.4

#### 6.5 General

The Borrower shall not repay or prepay all or any part of the Loan except at the times and in the manner expressly provided for in this Agreement and shall not be entitled to re-borrow any amount repaid.

#### 7. TAXES

- 7.1 All payments to be made by the Borrower to or for account of the Lender under the Finance Documents shall be made free and clear of and without any deduction or withholding for or on account of Tax (a "Tax Deduction") except as required by law.
- 7.2 The Borrower shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of calculating a Tax Deduction) notify the Lender accordingly.
- 7.3 If the Borrower is required by law to make a Tax Deduction, the amount of the payment due from the Borrower shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- 7.4 If the Borrower is required to make a Tax Deduction, it shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- 7.5 Within thirty (30) days of making a Tax Deduction or a payment required in connection therewith, the Borrower shall deliver to the Lender evidence reasonably satisfactory to the Lender showing that the Tax Deduction has been made and (as applicable) the appropriate payment has been paid to the relevant taxing authority.

#### 8 INDEMNITIES

##### 8.1 Currency indemnity

- (a) If any sum due from the Borrower under a Finance Document, or any order, judgment or award given or made in relation to any such sum, has to be converted from the currency (the "First Currency") in which that sum is payable into another currency (the "Second Currency") for the purpose of:
  - (i) making or filing a claim or proof against the Borrower; or
  - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Borrower shall as an independent obligation, within three (3) Business Days of demand, indemnify the Lender against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange





used to convert that sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to the Lender at the time of its receipt of that sum.

- (b) The Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

## 8.2 Other indemnities

The Borrower shall, within three (3) Business Days of demand, indemnify the Lender against any cost, loss or liability incurred by it as a result of:

- (a) the occurrence of any Event of Default;
- (b) a failure by the Borrower to pay any amount due under a Finance Document on its due date or in the required currency;
- (c) funding, or making arrangements to fund, the advance requested by the Borrower in a Drawdown Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by the Lender alone);
- (d) the Loan not being prepaid in accordance with a notice of prepayment given by the Borrower;
- (e) investigating any event which it reasonably believes is a Default; or
- (f) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

## 9 REPRESENTATIONS

The Borrower makes the representations set out in this Clause 9 to the Lender on the date of this Agreement and on each day that any sums due under the Finance Documents remain outstanding.

### 9.1 Status

It is a corporation, duly incorporated and validly existing under the laws of the DRC, with the power to own its assets and carry on its business as it is now being conducted.

### 9.2 Binding obligations

Subject to any generally applicable legal principles that might apply thereto, the obligations expressed to be assumed by it in each Finance Document are legal, valid, binding and enforceable obligations.

### 9.3 Non-conflict

Its entry into and performance of its obligations under the Finance Documents and the borrowing of the Facility Amount do not conflict in any material way with:

- (a) any law or regulation to which it is subject;
- (b) its constitutional documents; or
- (c) any agreement or instrument to which it is a party or which is applicable to it.

### 9.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all action necessary to authorise its entry into and its performance and delivery of, the Finance Documents.



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**9.5 Validity and admissibility in evidence**

All Authorisations required to enable it lawfully to enter into, exercise its rights and comply with its obligations under the Finance Documents and to make the Finance Documents admissible in evidence in the DRC have been obtained or effected and are in full force and effect.

**9.6 No Default**

On the date of this Agreement and on the Drawdown Date, no Default is continuing or might reasonably be expected to result from the entry into, the performance of, or any transaction contemplated by, any Finance Document.

**9.7 No misleading information**

Save as disclosed in writing to the Lender prior to the date of this Agreement, all factual information provided in writing by it to the Lender in connection with this Agreement and the transactions hereby contemplated was true and accurate in all material respects as at the date of the relevant document containing the information or (as the case may be) as at the date the information is expressed to be given.

**9.8 Financial statements**

- (a) The Original Financial Statements were prepared in accordance with generally accepted accounting principles consistently applied and give a true and fair view of its financial condition and results of operations during the financial year to which they relate.
- (b) There has been no material adverse change in its business or financial condition since the date as of which the Original Financial Statements were prepared.

**9.9 Solvency**

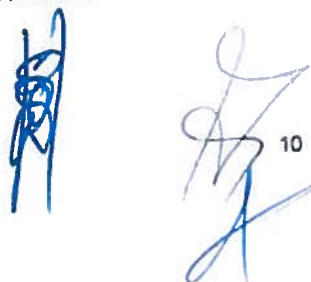
No corporate action, legal proceeding or other procedure or step described in Clause 12.5 (*Insolvency Proceedings*) has been taken or, to the best of its knowledge and belief, threatened.

**9.10 Compliance with laws etc.**

- (a) Only in respect of the activities and projects that are under the control of the Borrower, it is in compliance in all material respects with all applicable environmental, social and other laws applicable to it and to the best of its knowledge and belief no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.
- (b) Only in respect of the activities and projects that are under the control of the Borrower, no environmental claim has been commenced or (to the best of its knowledge and belief) is threatened against it where that claim has or is reasonably likely, if determined against it, to have a Material Adverse Effect.
- (c) None of the proceeds of the Facility will be used by the Borrower for a purpose in contravention of any applicable anti-corruption laws and the Borrower conducts and will conduct its business in compliance with all such laws.

**9.11 Pari passu ranking**

The Lender's claims against the Borrower under this Agreement will rank at least *pari passu* with the claims of all the Borrower's other unsecured and unsubordinated creditors save those whose claims are mandatorily preferred by laws of general application.



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**9.12 No filings or stamp taxes**

Under the laws of the DRC it is not necessary that any of the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to any of the Finance Documents or the transactions contemplated by any of the Finance Documents.

**9.13 Immunity**

In any proceedings taken in the DRC in relation to the Finance Documents, it will not be entitled to claim for itself, or any of its assets, immunity from suit, execution, attachment, set-off, judgment or other analogous process.

**9.14 No money laundering**

It is not, and has not been, involved in any illegal activities in relation to money laundering or similar activities.

**9.15 Currency restriction**

There are no currency restrictions applicable to the Borrower which would prevent it from making payments under this Agreement in Euros.

**9.16 Repetition**

Each of the foregoing representations is deemed to be made by the Borrower on the date of the Drawdown Request, on the Drawdown Date and on each day that any sums under the Finance Documents remain outstanding by reference to the facts and circumstances then existing.

**10. NOTIFICATION OF DEFAULT**

The Borrower shall notify the Lender of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

**11. UNDERTAKINGS**

**11.1 Authorisations**

The Borrower shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect all Authorisations required by the laws of the DRC to enable it lawfully to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in the DRC of each Finance Document.

**11.2 Compliance with laws**

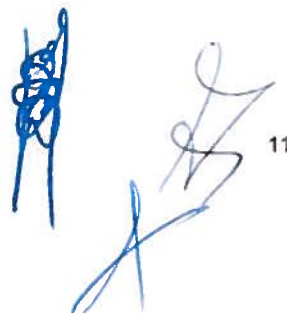
The Borrower shall comply in all material respects with all environmental and other laws to which it is subject if failure so to comply would have (or would be reasonably likely to have) a Material Adverse Effect.

**11.3 Change of Business**

The Borrower shall procure that no substantial change is made to the general nature of its business from that carried on at the date of this Agreement.

**11.4 Pari passu ranking**

The Borrower shall ensure that at all times the Lender's claims against it hereunder rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors save those whose claims are mandatorily preferred by laws of general application.



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## 12. EVENTS OF DEFAULT

Each of the events or circumstances set out in Clauses 12.1 through 12.6 is an Event of Default.

### 12.1 Non-payment

The Borrower does not pay on the due date any amount payable by it pursuant to a Finance Document at the place and in the currency in which it is expressed to be payable unless:

- (a) its failure to pay is caused by administrative or technical error, and
- (b) payment is made within three (3) Business Days of its due date.

### 12.2 Covenants

The Borrower fails to perform any of its material non-payment obligations under the Finance Documents and such failure has not been remedied or waived by the date that falls thirty (30) days (or, if the Borrower has taken steps to remedy such failure within fifteen (15) days after the Lender has given notice to the Borrower requiring that such failure be remedied, forty-five (45) days) after the Lender has given notice to the Borrower requiring that the failure be remedied.

### 12.3 Misrepresentation

- (a) Any representation or statement made or deemed to be made by the Borrower in the Finance Documents or any other document delivered by or on behalf of the Borrower under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.
- (b) No Event of Default will occur by virtue of paragraph (a) above unless the circumstances giving rise to the misrepresentation have not been altered in such a way as to ensure that, if repeated, the representation or statement would again be accurate by the date that falls thirty (30) days after the Lender has given notice to the Borrower requiring that it cause those circumstances to be so altered.

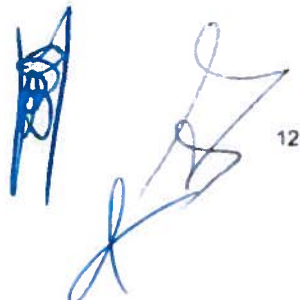
### 12.4 Insolvency

- (a) The Borrower:
  - (i) is unable, or admits its inability, to pay its debts as they fall due; or
  - (ii) by reason of actual or anticipated financial difficulties, suspends making payments on any of its debts (unless the relevant payment is suspended in accordance with a contractual entitlement).
- (b) The value of the assets of the Borrower is less than its liabilities (taking into account contingent and prospective liabilities).
- (c) A moratorium is declared in respect of any indebtedness of the Borrower.

### 12.5 Insolvency Proceedings

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (a) a suspension of payments by the Borrower or a moratorium with respect to any of its indebtedness that results from an inability to make such payments when due;
- (b) the winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower otherwise than in



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connection with a solvent reorganisation on terms which have been disclosed to the Lender;

- (c) a composition, assignment or arrangement with any creditor of the Borrower otherwise than in connection with a solvent reorganisation on terms which have been disclosed to the Lender;
- (d) the appointment of a liquidator, receiver, administrator, administrative receiver or other similar officer in respect of the Borrower or any of its assets,

or any analogous procedure or step is taken in any jurisdiction in which the Borrower conducts business.

#### 12.6 Repudiation

The Borrower repudiates a Finance Document, or evidences an intention to do so.

#### 12.7 Unlawfulness

It is or becomes unlawful for the Borrower to perform any of its payment or other material obligations under the Finance Documents.

#### 12.8 Litigation etc.

Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes specifically connected with the Finance Documents or the transactions contemplated therein are commenced or threatened which has or is reasonably likely to have a Material Adverse Effect.

#### 12.9 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Lender may, by notice to the Borrower:

- (a) cancel the Facility, whereupon it shall immediately be cancelled;
- (b) declare the Loan, together with accrued interest thereon and all other amounts accrued or outstanding under the Finance Documents, to be immediately due and payable, whereupon the same shall become immediately due and payable; and/or
- (c) declare the Loan, and accrued interest thereon and all other amounts accrued or outstanding under the Finance Documents, to be payable on demand, whereupon the same shall immediately become payable on demand by the Lender.

#### 12.10 Other action

The Lender may take any other action which, as a result of the occurrence of an Event of Default, it is entitled to take under any Finance Document or applicable law.

### 13. PAYMENT MECHANICS

#### 13.1 Payments between the Parties

On each date on which the Borrower or the Lender is required to make a payment under a Finance Document, it shall make the same available for value on the due date at the time and in such funds as are customary at the time for settlement of transactions in the relevant currency in the place of payment for credit to such account of the payee with such bank in the place of payment as the payee shall have specified at least five (5) Business Days before that date.



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**13.2 Currency of account**

Euros is the currency of account and payment for any sum due from the Borrower under any Finance Document, but each payment in respect of Taxes shall be made in the currency in which the Taxes are incurred.

**14. NOTICES**

**14.1 Communications**

Any communication to be made under or in connection with the Finance Documents shall be made in writing (and in the English language or if not in English, and is so required by the Lender, accompanied by a certified English translation) and, unless otherwise stated, may be given in person, by fax or by letter.

**14.2 Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party hereto for any communication or document to be made or delivered to it under a Finance Document is that identified with its name on the relevant signature page of this Agreement unless it has provided the other party hereto with a substitute address and fax number or department or officer by not less than five (5) Business Days' notice.

**14.3 Delivery**

Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will be effective:

- (a) if delivered in person, at the time of delivery;
- (b) if by way of fax or email, when received in legible form; or
- (c) if by way of letter, when it has been left at the relevant address or five (5) Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address.

and, if a particular department or officer is specified as part of its address details provided under Clause 14.2 (*Addresses*), if addressed to that department or officer.

**15. CALCULATIONS AND CERTIFICATES**

**15.1 Accounts**

In any proceedings arising out of or in connection with this Agreement, the entries made in the accounts maintained by the Lender are *prima facie* evidence of the matters to which they relate.

**15.2 Certificates and Determinations**

Any certification or determination by the Lender of a rate or amount under this Agreement is, in the absence of manifest error, conclusive evidence of the matters to which it relates

**15.3 Day count convention**

All interest accruing under this Agreement will accrue from day to day and be calculated on the basis of the actual number of days elapsed and a year of 360 days irrespective of whether or not the year in question is a leap year.



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**16. REMEDIES**

**16.1 Partial Invalidity**

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

**16.2 Remedies and Waivers**

No failure by the Lender to exercise nor any delay by the Lender in exercising, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

**17. AMENDMENTS AND WAIVERS**

No term of the Finance Documents may be amended or waived otherwise than by a written instrument signed on behalf of the Lender and the Borrower.

**18. COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

**19. CONFIDENTIALITY**

**19.1 Save as permitted by Clauses 19.2 and 19.3:**

- (a) all information, reports or documents relating to the assets, liabilities or business, or the management or operating plans, of the parties hereto or their subsidiaries furnished by one party to the other in connection with the Finance Documents shall be kept confidential by the recipient and shall not be used for any purpose other than as contemplated by the Finance Documents; and
- (b) the terms and conditions (and existence) of the Finance Documents, any loan participation notes issued by the Lender for the purpose of funding its obligations under this Agreement (and the identity of any holder thereof) and details of the negotiations between the parties in connection with the Finance Documents shall be kept confidential by each of the parties hereto.

and none of the same shall be disclosed to any third parties for a period of three (3) years from the date of this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).

**19.2 The provisions of Clause 19.1 shall not apply to:**

- (a) any information required to be disclosed by law, court order or any governmental or regulatory authority;
- (b) any information which is or becomes public knowledge other than pursuant to a breach of this Agreement by the recipient;
- (c) any information received by the recipient which was known to it prior to disclosure by the disclosing party.



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- (d) any information disclosed to the professional advisers of the recipient for purposes relating to the Facility where the advisers have been made aware of and agree to be bound by the obligations under this Clause 19 or are in any event subject to confidentiality obligations as a matter of law or professional practice; or
  - (e) any information that was, is or becomes available to the recipient on a non-confidential basis from a person who, to the recipient's knowledge, is not bound by a confidentiality obligation
- 19.3 The Lender may disclose such information about the Borrower and the Finance Documents as it shall consider appropriate to any of its Affiliates and associates and to any other person:
- (a) to whom the Lender assigns (or may potentially assign) all any of its rights under this Agreement, or
  - (b) with whom the Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, this Agreement.

## 20 ANNOUNCEMENTS

- 20.1 Subject to Clauses 20.2 and 20.3, each party agrees to obtain the written consent of the other prior to making any publicity release or public announcement concerning the Finance Documents or the transactions contemplated therein.
- 20.2 Where an announcement is required by law or any governmental or regulatory authority (including, without limitation, any relevant securities exchange), or by any court or other authority of competent jurisdiction, the party required to make the announcement shall promptly notify and consult with the other party. The announcing party shall, so far as permitted under applicable law, and prior to making such announcement, agree the contents of such announcement with the other party (such agreement not to be unreasonably withheld or delayed).
- 20.3 The Lender, acting reasonably, may make such announcements as it deems appropriate in response to inaccurate information regarding the Finance Documents or the transactions contemplated therein that has been disseminated in the public domain. The Lender shall promptly notify the Borrower of its decision to make an announcement, and prior to making such announcement, use all reasonable efforts to agree the contents of such announcement with the Borrower (such agreement not to be unreasonably withheld or delayed).

## 21 FEES; COSTS AND EXPENSES

- 21.1 Each Party shall pay the legal fees and disbursements incurred by it of negotiating and documenting this Agreement or any other Finance Document (including notarial and registration fees and disbursements incurred in relation thereto).
- 21.2 The Borrower shall, within three (3) Business Days of demand, pay to the Lender the amount of all duly documented costs and expenses (including legal fees) properly incurred by it in connection with the enforcement of, or the preservation of any rights under, this Agreement or any other Finance Document. Any amount not so paid shall be treated as part of and added to the Loan.

## 22 ASSIGNMENT AND TRANSFER

- 22.1 The Borrower may not assign any of its rights or transfer any of its rights or obligations under any of the Finance Documents without the prior written consent of the Lender.





22.2 The Lender may at any time assign its rights and obligations under any of the Finance Documents in whole or in part to any Affiliate.

22.3 For the avoidance of doubt, the Lender may only assign its rights and obligations under any of the Finance Documents in whole or in part to any person other than an Affiliate with the prior written consent of the Borrower, such consent not to be unreasonably withheld or delayed.

**23. GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by the laws of the DRC.

**24. ENFORCEMENT AND JURISDICTION**

**24.1 Jurisdiction**

(a) The courts of the DRC have jurisdiction to settle any dispute (including any non-contractual disputes) arising out of or in connection with this Agreement or any other Finance Document (including a dispute regarding the existence, validity or termination of this Agreement) (a "Dispute").

(b) The parties hereto agree that the courts of the DRC are the most appropriate and convenient courts to settle Disputes in relation to this Agreement and accordingly no party will argue to the contrary.

**24.2 Waiver of Immunity**

To the extent that the Borrower may be entitled in any jurisdiction to claim for itself or its assets immunity in respect of its obligations under this Agreement or any other Finance Document from any suit, execution, attachment (whether provisional or final, in aid of execution, before judgment or otherwise) or other legal process or to the extent that in any jurisdiction such immunity (whether or not claimed) may be attributed to it or its assets, the Borrower irrevocably agrees not to claim and irrevocably waives such immunity to the fullest extent permitted by the laws of such jurisdiction.

**In Witness Whereof** this Agreement has been entered into on the date first above written.



**The Borrower**  
**LA GÉNÉRALE DES CARRIÈRES ET DES MINES SA**



By: **Jacques KAMENGA TSHIMUANGA**  
Title: General Manager a.

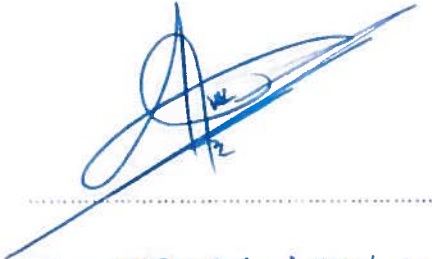


By: **Albert YUMA MULIMBI**  
Title: Chairman of the Board of Directors

Address: 419 Boulevard Kamanyoia, Boite Postale 450  
Lubumbashi  
Democratic Republic of the Congo

E-mail: [kamenga.tshimuanga@gecamines.cd](mailto:kamenga.tshimuanga@gecamines.cd) ; Copy: [ngele.masudi@gecamines.cd](mailto:ngele.masudi@gecamines.cd)  
Attn: General Manager (*Directeur Général*)

The Lender  
FLEURETTE MUMI HOLDINGS LIMITED



By: KINTALEG, ALVIN MUKONSA  
Title: DIRECTOR

Address: Trident Chambers  
PO Box 146, Palm Grove House,  
Road Town, Tortola  
British Virgin Islands

E-mail/Fax:  
Attn:

  
  
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**Schedule 1**  
**CONDITIONS PRECEDENT**

1. A copy of the Borrower's constitutive documents.
2. A copy of a resolution of the Borrower's board of directors:
  - (a) approving the terms of, and the transactions contemplated by, the Finance Documents and resolving that the Borrower execute the Finance Documents;
  - (b) authorising a specified person or persons to execute the Finance Documents on the Borrower's behalf; and
  - (c) authorising a specified person or persons, on the Borrower's behalf, to sign and/or dispatch all documents and notices (including the Drawdown Request) to be signed and/or dispatched by it under or in connection with the Finance Documents.
3. A certificate of an authorised signatory of the Borrower certifying that the copy documents referred to in paragraphs 1 and 2 above are correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.
4. A specimen of the signature of each person authorised by the resolution referred to in paragraph 2 above.
5. A certified copy of the Original Financial Statements.
6. Legal opinion as to matters of the laws of the DRC from the Lender's counsel.



**Schedule 2**  
**FORM OF DRAWDOWN REQUEST**

From: LA GÉNÉRALE DES CARRIÈRES ET DES MINES SA

To: FLEURETTE MUMI HOLDINGS LIMITED

Dated: \_\_\_\_\_

Dear Sirs

**LA GÉNÉRALE DES CARRIÈRES ET DES MINES SA**  
Term Loan Facility Agreement dated \_\_\_\_\_ 2017 (the "Facility Agreement")

We refer to the Facility Agreement. This is a Drawdown Request. Terms defined in the Facility Agreement have the same meaning when used herein.

We hereby request that on [●], you make an advance to us in Euros in an amount equal to the Facility Amount in accordance with the provisions of the Facility Agreement.

We confirm that each condition specified in Clause 3 (*Conditions*) of the Facility Agreement is satisfied on the date of this Drawdown Request.

The net proceeds of this advance should be paid to us by credit to the Loan Account, which details are:



- Bank: [●]
- SWIFT: [●]
- Account number: [●]
- Account holder: Gécamines

or as otherwise agreed between us in writing prior to the Drawdown Date.

This Drawdown Request is irrevocable.

Yours faithfully

.....  
authorised signatory for  
**LA GÉNÉRALE DES CARRIÈRES ET DES MINES SA**



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