

Form 603Corporations Act 2001
Section 671B**Notice of initial substantial holder**To Company Name/Scheme Capricorn Metals Ltd (**Capricorn**)

ACN/ARSN 141 700 105

1. Details of substantial holder (1)Name Hawke's Point Holdings I Limited, (**Hawke's Point**) and each of the entities listed in Annexure "A" (**Hawke's Point Group Entity**)

ACN/ARSN (if applicable) Not applicable

The holder became a substantial holder on 9 March 2017

2. Details of voting power

The total number of votes attached to all the voting shares in the company or voting interest 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	54,852,304	54,852,304	10.12% (based on 541,716,677 ordinary shares on issue)

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
Hawke's Point	Relevant interest under section 608(1) of the Corporations Act 2001, being a relevant interest arising through Hawke's Point being the registered holder of the shares. (See Annexure "B" for further details.)	54,852,304 ordinary shares
Each Hawke's Point Group Entity	Relevant interest under section 608(3)(a) and/or section 608(3)(b) of the Corporations Act 2001, being a relevant interest held through a body corporate (Hawke's Point) in which the voting power of the relevant Hawke's Point Group Entity is more than 20% or which the relevant Hawke's Point Group Entity controls.	54,852,304 ordinary shares

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
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Hawke's Point and each Hawke's Point Group Entity	Hawke's Point	Hawke's Point	54,852,304 ordinary shares
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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	
Hawke's Point and each Hawke's Point Group Entity	9 March 2017	A\$6,417,720		54,852,304 ordinary shares

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
Hawke's Point and each Hawke's Point Group Entity	These entities are all associates of each other by virtue of section 12(2)(a) of the Corporations Act 2001 as the entities are related bodies corporate of each other.

7. Addresses

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

Name	Address
Hawke's Point and each Hawke's Point Group Entity	c /- Polygon Global Partners LLP, 4 Sloan Terrace, London, SW1X 9DQ, United Kingdom

Signature

print name Erik Caspersen

capacity Authorised signatory

sign here



date 09/03/2017

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.

Annexure “A” – Hawke’s Point Group Entities

This is Annexure “A” of 1 page referred to in the Form 603 (Notice of Initial Substantial Holder), signed by me and dated 9 March 2017



...

Erik Caspersen

Authorised signatory, Hawke’s Point Holdings I Limited

Hawke’s Point Group Entities

ENTITY	Company/partnership Number
Hawke's Point Holdings L.P.	00081192
Hawke's Point GP Limited	00296621
Hawke's Point Manager L.P.	00081068
Polygon Global Partners LLP	OC343805
Polygon Global Partners LP	4716238
Tetragon Financial Group Limited and each of its related bodies corporate	43321

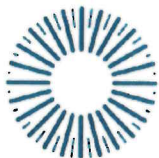
Annexure "B" – Subscription Agreement

This is Annexure "B" of 44 pages referred to in the Form 603 (Notice of Initial Substantial Holder), signed by me and dated 9 March 2017.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

Erik Caspersen

Authorised signatory, Hawke's Point Holdings I Limited



HERBERT
SMITH
FREEHILLS

Agreement

EXECUTION VERSION

Subscription agreement

Capricorn Metals Limited

Hawke's Point Holdings L.P.



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Subscription agreement

Date

Between the parties

Company

Capricorn Metals Limited

ACN 141 700 105 of 15 Lovegrove Close, Mount Claremont, Western
Australia, 6010, Australia

(the **Company**)

Subscriber

Hawke's Point Holdings L.P.

of Ugland House, Grand Cayman, KY1-1104, Cayman Islands

(the **Subscriber**)

Recitals

The Company has agreed to issue Capricorn Shares and Capricorn
Options to the Subscriber on the terms and conditions of this
agreement.

The parties agree as follows:



1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this document are set out below.

Term	Meaning
10% Shareholding	at least 10% of the shares on issue in the Company (excluding any Capricorn Shares issued through the exercise of any options on issue as at the date of this agreement or through stock options plans) except where the Subscriber, its Nominee or its Affiliates ceases to hold at least 10% of the Capricorn Shares as the result of non-compliance by the Company with the requirements of clause 8.
Aboriginal heritage laws	means: <ol style="list-style-type: none">1 the <i>Aboriginal Heritage Act 1972</i> (WA); and2 the <i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i> (Cth).
Aboriginal Site	a place or object which is: <ol style="list-style-type: none">1 an Aboriginal site as defined in the <i>Aboriginal Heritage Act 1972</i> (WA); or2 a significant Aboriginal area or a significant Aboriginal object as defined in the <i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i> (Cth).
Affiliate of a party	<ol style="list-style-type: none">1 a shareholder of the party;2 a Related Corporation of the party;3 a director, secretary or officer of the party;4 an entity the party controls;5 an entity that controls the party; and6 an entity that is controlled by an entity that controls the party, (where 'control' has the meaning given in section 50AA of the Corporations Act).
Aggregate Hawke's Point Investment	means the total amount paid by the Subscriber or the Nominee to the Company under this agreement.
Alternative Funding	has the meaning given in clause 12.1.



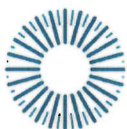
Term	Meaning
Proposal	
Anti-Bribery Act	has the meaning given in Schedule 1 paragraph A.
Anti-Corruption Laws	has the meaning given in Schedule 1 paragraph A.
ASIC	Australia Securities & Investments Commission.
ASX	ASX Limited (ACN 008 624 691).
ASX Listing Rules	the official listing rules of the ASX as amended from time to time.
Authorisation	<p>includes:</p> <ol style="list-style-type: none">1 any consent, registration, filing, agreement, notice of non-objection, notarisation, certificate, licence, approval, permit, authority or exemption from, by or with a Government Agency; and2 in relation to anything that a Government Agency may prohibit or restrict within a specific period, the expiry of that period without intervention or action or notice of intended intervention or action.
Bribery Act	has the meaning given in Schedule 1 paragraph A.
Business Day	a day on which banks are open for business in Perth, Western Australia excluding a Saturday, Sunday or public holiday in Perth, Western Australia.
Capricorn Board	the board of directors of the Company.
Capricorn Directors' Shares	any Capricorn Shares a director of the Company, or their associates, directly or indirectly own or control.
Capricorn Equity Offer	an offer by the Company to issue any equity securities (as that term is defined in the ASX Listing Rules).
Capricorn Group	the Company and each of its Related Corporations and Capricorn Group Member means any member of the Capricorn Group.



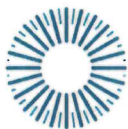
Term	Meaning
Capricorn Material Adverse Change	in relation to the Capricorn Group means any event, charge, condition, matter or thing that will have, could reasonably be expected to have or that evidences that there has been a material adverse effect on the Karlawinda Project, or the business, assets, liabilities, financial position and performance, material contracts, profitability or prospects of the Capricorn Group (taken as a whole) since 30 June 2016.
Capricorn Options	call options issued on the terms and conditions set out in Schedule 8.
Capricorn Option Price	\$0.15 per Capricorn Share.
Capricorn Share	a fully paid ordinary share in the capital of the Company.
Capricorn Shareholders' Meeting	a general meeting of the shareholders of the Company to approve the issue of the Tranche 2 Subscription Securities to the Subscriber for all purposes, including (without limitation) for the purposes of ASX Listing Rule 7.1.
Capricorn Tenements	each of the mining tenements set out in Schedule 7.
Claim	any claim, demand, legal proceedings or cause of action, including any claim, demand, legal proceedings or cause of action under common law or under statute in any way relating to this agreement or the Private Placement, and includes a claim, demand, legal proceedings or cause of action arising from a breach of Warranty, or under an indemnity in this agreement.
Claim Amount	has the meaning given in clause 7.13.
Company Warranties	the representations and warranties set out in Schedule 4.
Confidentiality Deed	the confidentiality deed between the Company and the Subscriber dated 4 October 2016.
Constitution	the constitution of the Company as amended or varied from time to time.
Corporations Act	the <i>Corporations Act 2001</i> (Cth).



Term	Meaning
Corporate Warranties	each Company Warranty set out in Part A of Schedule 4.
Disclosure Materials	<ol style="list-style-type: none">1 all documents and information which were at any time during the period commencing 23 December 2016 and up to 10 February 2017 contained in the online Dropbox data room made available to the Subscriber, its representatives or advisers;2 all information set out, or referred to, in any document provided by the Company or any of its, advisers or representatives to the Subscriber or any of its advisers or representatives in connection with the negotiations for the Private Placement;3 all written answers given to written questions submitted by the Subscriber, its representatives or advisers as part of the question and answer process; and4 written minutes (or other agreed documentary evidence) of the interviews of the management of the Company and the management presentations to the Subscriber, its representatives or advisers, that were provided to the Subscriber or its advisers by the Company or its advisers before execution of this agreement.
Duty	any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount imposed in respect of any of them, but excludes any Tax.
Encumbrance	<p>any interest or power:</p> <ol style="list-style-type: none">1 reserved in or over any interest in any asset including, but not limited to, any retention of title; or2 created or otherwise arising in or over any interest in any asset under a bill of sale, mortgage, charge, lien, pledge, trust or power, <p>by way of, or having similar commercial effect to, security for payment of a debt, any other monetary obligation or the performance of any other obligation, or any trust or any retention of title and includes, but is not limited to, any agreement to grant or create any of the above.</p>
Environmental Law	means any and all applicable Australian laws relating to the regulation or emission of pollutants to, or the protection of, the environment or natural resources, or exposure to hazardous substances.
Exclusivity Periods	<p>means each of:</p> <ol style="list-style-type: none">1. the First Exclusivity Period; and2. the Second Exclusivity Period.
FCPA	has the meaning given in Schedule 1 paragraph A.



Term	Meaning
First Exclusivity Period	the period from the date of this agreement until the first to occur of Tranche 1 Completion and the date on which this agreement is terminated.
Foreign Official	has the meaning given in Schedule 1 paragraph B (1).
Fundamental Matter	each matter set out in Schedule 3.
Government Agency	any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity in any part of the world.
GST	goods and services tax or similar value added tax levied or imposed in Australia under the GST Law or otherwise on a supply or importation.
GST Act	the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
GST Law	has the same meaning as in the GST Act.
Hawke's Point Nominated Director	has the meaning given in clause 9.1.
Hawke's Point Reimbursable Costs	the Subscriber's and its Affiliates' reasonable external expenses in connection with the preparation, negotiation and execution of this agreement including any term sheet or heads of agreement relating to this agreement (including, but not limited to, any and all reasonable external due diligence expenses incurred by the Subscriber and its Affiliates in connection with the Private Placement) up to a maximum of \$200,000.
Immediately Available Funds	payment by bank cheque or electronic funds transfer into an account nominated by the Company.
Independent Capricorn Directors	means: <ol style="list-style-type: none">1 Guy Marie Francois LeClezio;2 Jonathan Nicholas Shellabear; and3 any replacement director of Guy Marie Francois LeClezio or Jonathan Nicholas Shellabear, or any other director of the Company, who is an independent director of the Company in accordance with the Corporate Governance Principles and



Term	Meaning
	Recommendations (3rd Edition) issued by the ASX Corporate Governance Council.
ITAA97	the <i>Income Tax Assessment Act 1997</i> (Cth).
Karlawinda Project	the Company's 100% owned Karlawinda gold exploration and development project located in Western Australia and located within the Capricorn Tenements, comprising each of the mining tenements set out in Schedule 7.
Land Access Agreement	the agreement between Greenmount Resources Pty Ltd (ACN 607 613 650) and the applicant in relation to the Nyiyaparli native title claim dated 18 November 2016.
Loss	losses, liabilities, damages, costs, charges and expenses and includes Taxes and Duties.
Madagascan Anti-Corruption Law	has the meaning given in Schedule 1 paragraph A.
Material Proceeding	has the meaning give in Schedule 4 – paragraph 3.2.
Mining Act	the <i>Mining Act 1978</i> (WA).
Native Title Act	the <i>Native Title Act 1993</i> (Cth).
Nominee	has the meaning given in clause 3.1(b).
Official List	the official list of the ASX as defined in the ASX Listing Rules as amended from time to time.
Option Exercise Period	has the meaning given in Schedule 8.
Option Notice	a written notice from the Subscriber or the Nominee to the Company under which the Subscriber or the Nominee elects to exercise a Capricorn Option in return for payment of the Capricorn Option Price.



Term	Meaning
Payments	has the meaning given in Schedule 1 paragraph B.
Private Placement	the issue of the Tranche 1 Subscription Securities and the Tranche 2 Subscription Securities to the Subscriber or its Nominee on the terms and conditions set out in this agreement.
Project Warranty	each Company Warranty set out in Part B of Schedule 4.
Project Technical Steering Committee	the advisory technical steering committee (to be established within 30 days of Tranche 1 Completion or as otherwise agreed by the parties in writing) for the Karlawinda Project and certain other developmental matters, comprising representatives of the Company and, subject to clause 9.2, one representative of the Subscriber.
Project Warranty Claim	any claim, demand, legal proceedings or cause of action including any claim, demand, legal proceedings or cause of action arising from a breach of a Project Warranty.
Recovery Amount	has the meaning given in clause 7.13.
Related Corporation of an entity	each company: <ol style="list-style-type: none">1 that is a subsidiary of that entity;2 of which the entity is a subsidiary; or3 that is a subsidiary of a company of which the entity is also a subsidiary.
Related Persons	in respect of a party or its Related Corporations, each director, officer, employee, advisor, agent, external consultant or representative of that party or Related Corporations.
relevant interest	has the meaning given in sections 608 and 609 of the Corporations Act.
ROFR Exercise Notice	has the meaning given in clause 8.3.
ROFR Option Notice	has the meaning given in clause 8.3.
Second Exclusivity	The period from the Tranche 1 Completion until 2 Business Days after



Term	Meaning
Period	the conclusion of the Capricorn Shareholders' Meeting.
South 32 Royalty	the 2% net smelter return royalty with respect to the Karlawinda Project payable by the Company to South 32 Royalty Investments Pty Ltd Limited (formerly BHP Billiton Royalty Investments Pty Ltd) (ACN 601 349 562) on the terms of the Memorandum of Agreement between BHP Billiton Nickel West Pty Ltd and Independence Group NL dated 7 January 2008 as assigned to South 32 Royalty Investments Pty Ltd by the Deed of Assignment and Assumption dated 22 May 2015.
subsidiary	has the meaning given in Division 6 of Part 1.2 of the Corporations Act.
Subscriber Warranties	the representations and warranties set out in Schedule 5.
Subscription Price	\$0.117 per Capricorn Share.
Tax	any tax, levy, charge, impost, duty, fee, GST, deduction, compulsory loan or withholding, that is assessed, levied, imposed or collected by any Government Agency and includes, but is not limited to any interest, fine, penalty, charge, fee or any other amount imposed on, or in respect of any of the above but excludes Duty.
Tax Law	a law with respect to or imposing any Tax or Duty.
Trading Day	has the meaning given in the ASX Listing Rules.
Tranche 1 Completion	completion of the issue of the Tranche 1 Subscription Securities under this agreement.
Tranche 1 Completion Date	the date on which Tranche 1 Completion occurs.
Tranche 1 Conditions Precedent	the conditions precedent set out in clause 2.1.
Tranche 1 Conditions Precedent Cut Off Date	10 March 2017.



Term	Meaning
Tranche 1 Subscription Options	the number of Capricorn Options equal to 1 Capricorn Option for every 3 Tranche 1 Subscription Shares, being 18,284,101 Capricorn Options.
Tranche 1 Subscription Price	\$6,417,720
Tranche 1 Subscription Securities	the Tranche 1 Subscription Options and the Tranche 1 Subscription Shares.
Tranche 1 Subscription Shares	54,852,304 Capricorn Shares.
Tranche 2 Completion	completion of the issue of the Tranche 2 Subscription Securities under this agreement.
Tranche 2 Completion Date	the date on which Tranche 2 Completion occurs.
Tranche 2 Conditions Precedent	the conditions precedent set out in clause 2.2.
Tranche 2 Conditions Precedent Cut Off Date	means the later of: 1 7 April 2017; and 2 5 weeks after dispatch of the notice of meeting for the Capricorn Shareholders' Meeting.
Tranche 2 Subscription Options	the number of Capricorn Options equal to 1 Capricorn Option for every 3 Tranche 2 Subscription Shares, being 10,205,927 Capricorn Options.
Tranche 2 Subscription Price	\$3,582,280
Tranche 2 Subscription Securities	the Tranche 2 Subscription Options and the Tranche 2 Subscription Shares.
Tranche 2 Subscription Shares	30,617,781 Capricorn Shares.



Term	Meaning
Warranties	the Company Warranties and the Subscriber Warranties.

1.2 Interpretation

In this agreement:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this agreement;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this agreement have a corresponding meaning;
- (e) an expression importing a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual;
- (f) a reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this agreement and a reference to this agreement includes any schedule, attachment and exhibit;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;
- (h) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to a party to a document includes that party's successors and permitted assignees;
- (j) a promise on the part of 2 or more persons binds them jointly and severally;
- (k) a reference to an agreement other than this agreement includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing;
- (l) a reference to liquidation or insolvency includes appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding-up, dissolution, deregistration, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death;
- (m) no provision of this agreement will be construed adversely to a party because that party was responsible for the preparation of this agreement or that provision;
- (n) a reference to a body, other than a party to this agreement (including an institute, association or authority), whether statutory or not:
 - (1) that ceases to exist; or
 - (2) whose powers or functions are transferred to another body,



is a reference to the body that replaces it or that substantially succeeds to its powers or functions;

- (o) a reference to any thing (including, but not limited to, any right) includes a part of that thing but nothing in this clause 1.2(o) implies that performance of part of an obligation constitutes performance of the obligation;
- (p) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (q) a reference to '\$' or 'dollars' is to Australian currency unless denominated otherwise; and
- (r) a reference to time is a reference to Perth, Western Australia time.

1.3 Agreement components

This agreement includes any schedule.

1.4 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the preceding Business Day.

1.5 Inclusive expressions

Specifying anything in this agreement after the words 'including', 'includes' or 'for example' or similar expressions does not limit what else is included.

1.6 Minimum shareholding requirements

To avoid doubt, the effect of the Subscriber not satisfying a minimum shareholding requirement under this agreement is that the relevant right or obligation is suspended (but not terminated) until such time that the Subscriber again satisfies the relevant minimum shareholding requirement.

2 Conditions Precedent

2.1 Conditions precedent (Tranche 1)

The obligations of the parties under clause 3.1(a)(1) and 5 are conditional on, and do not become binding unless and until:

- (a) **no Capricorn Material Adverse Change:** no Capricorn Material Adverse Change between the date of this agreement and immediately before Tranche 1 Completion;
- (b) **regulatory consents:** any regulatory consents or approvals from any Government Agency that are necessary for the parties to perform their respective obligations under this agreement (in respect of both the Tranche 1 Subscription Securities and Tranche 2 Subscription Securities) have been obtained;
- (c) **ASX waiver:** all necessary waivers of, or confirmations under, the ASX Listing Rules which are required for the parties to perform their respective obligations under this agreement (in respect of both the Tranche 1 Subscription Securities



and Tranche 2 Subscription Securities) are obtained on terms and conditions satisfactory to the Subscriber;

- (d) **ASX quotation:** immediately before Tranche 1 Completion, the ASX not indicating to the Company that it will refuse to grant quotation of the Tranche 1 Subscription Shares or otherwise make quotation conditional;
- (e) **warranties:** each of the representations and warranties of the Company under clause 7.1 are true and correct as at Tranche 1 Completion;
- (f) **pre-emptive rights:** any third party pre-emptive rights with respect to the Capricorn Group or the Karlawinda Project or its material assets and contracts which may be triggered by the Private Placement are waived or otherwise resolved to the satisfaction of the Subscriber; and
- (g) **KYC:** the Company for and on behalf of the Company and each Capricorn Group Member has provided an executed anti-corruption and anti-bribery certification substantially in the form set out in Schedule 1.

2.2 Conditions precedent (Tranche 2)

The obligations of the parties under clause 3.1(a)(2) and 6 are conditional on, and do not become binding unless and until:

- (a) **Tranche 1 Completion:** Tranche 1 Completion has occurred;
- (b) **Tranche 1 Conditions:** to the extent that the conditions in clause 2.1 were not satisfied prior to the date on which Tranche 1 Completion occurred, satisfaction of those conditions has occurred;
- (c) **Shareholder approval:** the members of the Company in general meeting have approved by the appropriate majority the issue of the Tranche 2 Subscription Shares and the Tranche 2 Subscription Options to the Subscriber for all purposes, including (without limitation) for the purposes of ASX Listing Rule 7.1;
- (d) **no Capricorn Material Adverse Change:** no Capricorn Material Adverse Change between the date of this agreement and immediately before Tranche 2 Completion;
- (e) **ASX quotation:** immediately before Tranche 2 Completion, the ASX not indicating to the Company that it will refuse to grant quotation of the Tranche 2 Subscription Shares or otherwise make quotation conditional;
- (f) **KYC:** the Company for and on behalf the Company and each Capricorn Group Member has provided an executed anti-corruption and anti-bribery certification substantially in the form set out in Schedule 1; and
- (g) **warranties:** each of the representations and warranties of the Company under clause 7.1 are true and correct as at Tranche 2 Completion.

2.3 Reasonable endeavours to satisfy conditions precedent

- (a) The parties must use reasonable endeavours and otherwise work together in good faith to ensure that the conditions precedent in clause 2.1 and clause 2.2 are satisfied as expeditiously as possible and in any event, with respect to the Tranche 1 Conditions Precedent, on or before the Tranche 1 Conditions Precedent Cut Off Date and with respect to the Tranche 2 Conditions Precedent, on or before the Tranche 2 Conditions Precedent Cut Off Date.
- (b) Each party must provide reasonable assistance to the other as is necessary to satisfy the conditions.



- (c) Each party must provide all information as may be reasonably requested by the other party in connection with any notices or applications for approvals.
- (d) Each party must reasonably cooperate with each other party in approaching the relevant regulatory bodies for the purposes of satisfying the conditions in clause 2.1(b).
- (e) To avoid doubt, nothing in this clause 2.3 requires the Subscriber to incur any external expenses in order to satisfy its obligations under this clause 2.3.

2.4 Shareholder approval

Without limiting clause 2.3, in connection with satisfying the condition in clause 2.2(c), the Company will:

- (a) promptly prepare a notice of meeting to seek the approval of the members of the Company for the purposes of the condition in clause 2.2(c), and:
 - (1) the Company will consult in good faith with the Subscriber in relation to the form and content of the notice including providing the Subscriber with a draft of the notice and taking into account the Subscriber's comments prior to providing the draft notice to ASX for its review; and
 - (2) the notice will include:
 - (A) a unanimous recommendation by the Capricorn Board that members vote in favour of the required resolutions; and
 - (B) a statement that each member of the Capricorn Board intends to vote, or procure the voting of, their Capricorn Director Shares in favour of the resolutions;
- (b) as soon as reasonably practicable after the date of this agreement (and no later than 2 weeks following Tranche 1 Completion), convene a general meeting and dispatch the notice of meeting to its members; and
- (c) procure that each member of the Capricorn Board:
 - (1) publicly recommends in the notice of meeting and any public announcements (including ASX releases) in relation to the resolutions that the shareholders of the Company vote in favour of the required resolutions (which must not be subsequently varied), and consults with the Subscriber as to the form of any public announcements and does not issue any public announcement which refers to or otherwise identifies the Subscriber and its Affiliates without the prior written consent of the Subscriber; and
 - (2) vote, or procure the voting of, any Capricorn Director Shares of that member of the Capricorn Board in favour of the resolutions.

2.5 Notice

Each party must promptly notify the other in writing if it becomes aware that any condition in clause 2.1 has been satisfied or has become incapable of being satisfied.

2.6 Waiver

- (a) The conditions in clauses 2.1(b) ("regulatory consents") and 2.2(c) ("shareholder approval") are for the benefit of the Subscriber and the Company



and may only be waived by agreement between the Subscriber and the Company.

- (b) Subject to clause 2.6(c)(1), each of the conditions in clauses 2.1 and 2.2 (other than clause 2.1(b) ("regulatory consents") and 2.2(c) ("shareholder approval")) is for the benefit of the Subscriber only and may only be waived by the Subscriber in its sole and absolute discretion. To avoid doubt, the Company cannot waive the conditions that are expressed in this clause 2.6(b) to be for the benefit of the Subscriber only, and no consent is required from the Company for the Subscriber to waive them.
- (c) A waiver of a condition:
 - (1) contained in clause 2.1 with respect to Tranche 1 Completion, does not operate as a waiver of the condition contained in clause 2.2(b) in relation to Tranche 2 Completion;
 - (2) will not be effective unless it is given in writing and duly executed in relation to a particular condition;
 - (3) may be given unconditionally or on the conditions the Subscriber or the Company (as applicable) considers fit, and in relation to the Subscriber, in its sole and absolute discretion;
 - (4) will only apply to the obligations in relation to which it is expressed to be given unless the Subscriber or the Company (as applicable) states otherwise in writing; and
 - (5) will not preclude the Subscriber or the Company (as applicable) from refusing to waive a particular condition on another occasion or from requiring the Company to satisfy conditions that differ from the conditions applying on a prior occasion.

2.7 Cut Off Date

- (a) A party may, by not less than 2 Business Days' notice to the other party, terminate this agreement at any time before Tranche 1 Completion
 - (1) if the conditions in clause 2.1 are not satisfied, or waived in accordance with clause 2.6, by the Tranche 1 Conditions Precedent Cut Off Date or within the 2 Business Day period referred to above; or
 - (2) if:
 - (A) the conditions in clause 2.1 become incapable of satisfaction and are not waived by the party entitled to do so in accordance with clause 2.6 within 2 Business Days after any notice given under this clause 2.7(a); or
 - (B) the parties agree that any of the conditions in clause 2.1 cannot be satisfied and those conditions have not been waived by the party entitled to do so in accordance with clause 2.6 within 2 Business Days after any notice given under this clause 2.7(a).
- (b) A party may, by not less than 2 Business Days' notice to the other party, terminate this agreement at any time before Tranche 2 Completion:
 - (1) if the conditions in clause 2.1 or clause 2.2 become incapable of satisfaction and are not waived by the party entitled to do so in accordance with clause 2.6 within 2 Business Days after any notice given under clause 2.7(b); or



- (2) if Tranche 1 Completion has not occurred and the parties agree that any of the conditions in clause 2.1 or clause 2.2 cannot be satisfied, and those conditions have not been waived by the party entitled to do so in accordance with clause 2.6 within 2 Business Days after any notice given under this clause 2.7(b).
- (c) This agreement will immediately terminate if the conditions in clause 2.1 or clause 2.2 are not satisfied, or waived in accordance with clause 2.6 by the Tranche 2 Conditions Precedent Cut Off Date and Tranche 1 Completion has not occurred.
- (d) If Tranche 1 Completion has occurred, a party may, by not less than 2 Business Days' notice to the other party, terminate clause 3.1(a)(2) and clause 6 of this agreement at any time before Tranche 2 Completion:
 - (1) if the conditions in clause 2.2 are not satisfied, or waived in accordance with clause 2.6, by the Tranche 2 Conditions Precedent Cut Off Date or within the 2 Business Day period referred to above; or
 - (2) if:
 - (A) the conditions in clause 2.2 become incapable of satisfaction and are not waived by the party entitled to do so in accordance with clause 2.6 within 2 Business Days after any notice given under this clause 2.7(d); or
 - (B) the parties agree that any of the conditions in clause 2.2 cannot be satisfied and are not waived by the party entitled to do so in accordance with clause 2.6 within 2 Business Days after any notice given under this clause 2.7(d).

3 Subscription and issue

3.1 Subscription shares and options

- (a) Other than as otherwise provided herein, the Company must issue, and the Subscriber must subscribe for or procure that the Nominee subscribe for:
 - (1) the Tranche 1 Subscription Securities on the date determined for Tranche 1 Completion in accordance with clause 5.1, for the Subscription Price; and
 - (2) the Tranche 2 Subscription Securities on the date determined for Tranche 2 Completion in accordance with clause 6.1, for the Subscription Price.
- (b) The Subscriber may nominate in writing to the Company prior to Tranche 1 Completion a Related Corporation of the Subscriber to act as subscriber of the Tranche 1 Subscription Securities and Tranche 2 Subscription Securities (**Nominee**). Such Nominee will assume all the rights and obligations of the Subscriber under this agreement.

3.2 Constitution

On issue of the Tranche 1 Subscription Shares and Tranche 2 Subscription Shares, the Subscriber agrees to be bound by the Constitution or procure that the Nominee agrees to be bound by the Constitution.



3.3 Rights and ranking

All Tranche 1 Subscription Shares and Tranche 2 Subscription Shares issued to the Subscriber or the Nominee will:

- (a) be issued as fully paid;
- (b) be free of Encumbrances; and
- (c) rank equally in all respects with the other Capricorn Shares on issue as at the date of Tranche 1 Completion or Tranche 2 Completion (as applicable).

3.4 Option terms

All Tranche 1 Subscription Options and Tranche 2 Subscription Options are granted on, and subject to, the terms set out in Schedule 8 of this agreement and each party undertakes in favour with the other that it will comply with those terms.

3.5 Waiver of standstill

For the purposes of clause 7.2 of the Confidentiality Deed ("Standstill"), the Company consents to the Private Placement (including, for the avoidance of doubt, the issuance of any shares upon conversion of the Tranche 1 Subscription Options and Tranche 2 Subscription Options).

4 Company undertakings

4.1 Company undertakings prior to completion

The Company will not, directly or indirectly, prior to Tranche 1 Completion and Tranche 2 Completion, without the Subscriber's prior written consent carry on its business except in the ordinary course and in the same manner as conducted on the date of this document, including, without limitation:

- (a) dispose or acquire, or agree to dispose or acquire, or apply for, any mining licence or title, other than the acquisition of a mining licence or title which results from an application identified in Schedule 7;
- (b) dispose of or agree to dispose of any of its right, title or interest in and to any asset that it may own or to which it may become entitled (other than any assets wholly related to operations outside of Australia) with an aggregate value in excess of \$100,000;
- (c) charge or agree to Encumber the whole or any part of its right, title and interest in and to any asset that it may own or to which it may become entitled (other than any assets wholly related to operations outside of Australia) with an aggregate value in excess of \$100,000;
- (d) other than the Tranche 1 Subscription Securities and the Tranche 2 Subscription Securities and any Capricorn Shares issued on the exercise of Capricorn Options on issue as at the date of this agreement, issue, or agree to issue, any securities in its capital or grant any options or rights to take up by way of subscription, conversion or substitution further shares in its capital (including, without limitation, any hybrid equity securities such as convertible notes, redeemable preference shares or subordinated notes), whether the



shares rank in preference to, equally with or after the Tranche 1 Subscription Shares or Tranche 2 Subscription Shares in respect of any right or interest;

- (e) enter into, or agree to enter into, any agreement, arrangement or obligation to borrow or lend funds in excess of \$100,000;
- (f) grant any special voting or other rights that attach to the ordinary issued shares in its capital; or
- (g) acquire, or agree to acquire, any business or undertaking which is not owned by the Capricorn Group as at the date of this agreement.

4.2 Quotation on ASX

- (a) The Company will apply to ASX for official quotation of the Tranche 1 Subscription Shares on the date of issue of the Tranche 1 Subscription Securities.
- (b) The Company will apply to ASX for official quotation of the Tranche 2 Subscription Shares on the date of issue of the Tranche 2 Subscription Securities.
- (c) The Company will give to the ASX a notice under section 708A(6) of the Corporations Act with respect to Tranche 1 Subscription Shares on the day following Tranche 1 Completion, or, if the Company is unable to satisfy the Corporations Act requirements to give such a notice, lodge a prospectus with ASIC that qualifies the Tranche 1 Subscription Shares for resale under section 708A(11) of the Corporations Act.
- (d) The Company will give to the ASX a notice under section 708A(6) of the Corporations Act with respect to Tranche 2 Subscription Shares on the day following Tranche 2 Completion, or, if the Company is unable to satisfy the Corporations Act requirements to give such a notice, lodge a prospectus with ASIC that qualifies the Tranche 2 Subscription Shares for resale under section 708A(11) of the Corporations Act.

4.3 Use of proceeds

The Company must ensure the proceeds of the Private Placement are only applied to advance additional exploration, ongoing resource development, a bankable feasibility study in respect of the Karlawinda Project and general working capital purposes substantially in accordance with the use of funds table set out in Schedule 9.

4.4 Compliance with laws

The Company undertakes to the Subscriber that it will, and will procure that each member of the Capricorn Group will:

- (a) comply in all material respects with the Mining Act and all applicable anti-bribery or anti-corruption laws;
- (b) put in place an appropriate ethics and compliance program, including a Code of Business Conduct and related policies and procedures (including without limitation, an anti-bribery and corruption policy) within 90 days of Tranche 1 Completion and recommend adoption of such a policy to its board;
- (c) maintain and enforce policies and procedures designed to promote and ensure compliance with all appropriate anti-bribery and anti-corruption laws including providing adequate training to employees and contractors of the Capricorn Group; and



- (d) obtain, maintain and, to the extent necessary, update any permits, licences, approvals, authorizations and registrations that are required for the good standing, the updated shareholding structure and the regular activities of any member of the Capricorn Group, including, within 30 days of the date of this agreement, any registration that may be outstanding as of the date of this agreement of foreign equity investments and/or loans or other debt transactions involving any member of the Capricorn Group.

4.5 Dividends

- (a) Words used in this clause 4.5, that have a defined meaning in the ITAA97, have the same meaning as in the ITAA97 unless the context indicates otherwise.
- (b) Where the Company pays a distribution on Capricorn Shares, the Company must use its best endeavours to:
 - (1) allocate franking credits on the distribution to the greatest extent franking credits are available and franking the distribution is permissible under the Tax Law; and
 - (2) where a distribution is not fully franked, declare in the distribution statement that so much of the unfranked part of the distribution is conduit foreign income, to the greatest extent this is permissible under the Tax Law.
- (c) Where the Company pays a distribution on Capricorn Shares, the Company must provide a distribution statement to the Subscriber (or where applicable its Nominee) in the approved form, by the time required under the Tax Law.

5 Tranche 1 Completion

5.1 Time and place for Tranche 1 Completion

Completion of the issue of the Tranche 1 Subscription Securities under this agreement must take place:

- (a) within 2 Business Days of the satisfaction or waiver of the last of the conditions precedent in clause 2.1 (other than the conditions precedent in clauses 2.1(d) and 2.1(e) which must be satisfied or waived immediately prior to Tranche 1 Completion);
- (b) at Level 36, 250 St Georges Terrace Perth, Western Australia or at any other place the parties agree; and
- (c) at the time (but during banking hours at that place) that the parties agree.

5.2 Obligations of Company at Tranche 1 Completion

On or before Tranche 1 Completion, the Company must procure that a meeting of directors of the Company is convened and approves, subject to Tranche 1 Completion, the issue of the Tranche 1 Subscription Securities to the Subscriber.



5.3 Subscription at Tranche 1 Completion

At Tranche 1 Completion, the Subscriber must:

- (a) **(subscription)** subscribe for and accept the issue of, or procure that its Nominee subscribes for and accepts the issue of, the Tranche 1 Subscription Securities by means of an application substantially in the form of Schedule 2; and
- (b) **(subscription price)** pay to the Company the Tranche 1 Subscription Price in Immediately Available Funds.

5.4 Issue at Tranche 1 Completion

At Tranche 1 Completion, the Company must:

- (a) issue or procure the issue of the Tranche 1 Subscription Securities to the Subscriber free from any Encumbrance or other third party rights; and
- (b) provide the documentation required by clause 5.5.

5.5 Documents to be delivered by the Company at Tranche 1 Completion

- (a) At Tranche 1 Completion, the Company must give:
 - (1) **(acknowledgement of subscription)** a countersigned application substantially in the form of Schedule 2 acknowledging receipt of the Subscriber's application provided under clause 5.3(a);
 - (2) **(evidence of issue)** evidence satisfactory to the Subscriber of the due allotment and issue of the Tranche 1 Subscription Securities;
 - (3) **(cleansing notice)** a draft of the document referred to in clause 4.2(c); and
 - (4) **(officer's certificate)** an officer's certificate in the form of Schedule 10 given in respect of and on behalf of the Company to the Subscriber and dated the same date as the Tranche 1 Completion Date.
- (b) Within 2 Business Days after Tranche 1 Completion, the Company must give, at the election of the Subscriber, a CHESS holding statement or issuer-sponsored holding statement in respect of the Tranche 1 Subscription Shares.

5.6 Completion simultaneous

The actions to take place as contemplated by this clause 5 are interdependent and must take place, as nearly as possible, simultaneously. If one action does not take place, then without prejudice to any rights available to any party as a consequence:

- (a) there is no obligation on any party to undertake or perform any of the other actions;
- (b) to the extent that such actions have already been undertaken, the parties must do everything reasonably required to reverse those actions; and
- (c) the Subscriber must return to the Company all documents delivered under clause 5.5 and the Company must repay to the Subscriber all payments received by it under clause 5.3, without prejudice to any other rights any party may have in respect of that failure.



6 Tranche 2 Completion

6.1 Time and place for Tranche 2 Completion

Completion of the issue of the Tranche 2 Subscription Securities under this agreement must take place:

- (a) within 2 Business Days of the satisfaction or waiver of the last of the conditions precedent in clause 2.2 (other than the conditions precedent in clauses 2.2(e) and 2.2(g) which must be satisfied or waived immediately prior to Tranche 2 Completion);
- (b) at Level 36, 250 St Georges Terrace Perth, Western Australia or at any other place the parties agree; and
- (c) at the time (but during banking hours at that place) that the parties agree.

6.2 Obligations of Company at Tranche 2 Completion

On or before Tranche 2 Completion, the Company must procure that a meeting of directors of the Company is convened and approves, subject to Tranche 2 Completion, the issue of the Tranche 2 Subscription Securities to the Subscriber.

6.3 Subscription at Tranche 2 Completion

At Tranche 2 Completion, the Subscriber must:

- (a) **(subscription)** subscribe for and accept the issue of, or procure that its Nominee subscribers for an accepts the issue of, the Tranche 2 Subscription Securities by means of an application substantially in the form of Schedule 2; and
- (b) **(subscription price)** pay to the Company the Tranche 2 Subscription Price in Immediately Available Funds.

6.4 Issue at Tranche 2 Completion

At Completion, the Company must:

- (a) issue or procure the issue of the Tranche 2 Subscription Securities to the Subscriber free from any Encumbrance or other third party rights; and
- (b) provide the documentation required by clause 6.5.

6.5 Documents to be delivered by the Company at Tranche 2 Completion

- (a) At Tranche 2 Completion, the Company must give:
 - (1) **(acknowledgement of subscription)** a countersigned application substantially in the form of Schedule 2 acknowledging receipt of the Subscriber's application provided under clause 6.3(a);
 - (2) **(evidence of issue)** evidence satisfactory to the Subscriber of the due allotment and issue of the Tranche 2 Subscription Securities;
 - (3) **(cleansing notice)** a draft of the document referred to in clause 4.2(d); and



- (4) **(officer's certificate)** an officer's certificate in the form of Schedule 10 given in respect of and on behalf of the Company to the Subscriber and dated the same date as the Tranche 2 Completion Date.
- (b) Within 2 Business Days after Tranche 2 Completion, the Company must give, at the election of the Subscriber, a CHESS holding statement or issuer-sponsored holding statement in respect of the Tranche 2 Subscription Shares.

6.6 Completion simultaneous

The actions to take place as contemplated by this clause 6 are interdependent and must take place, as nearly as possible, simultaneously. If one action does not take place, then without prejudice to any rights available to any party as a consequence:

- (a) there is no obligation on any party to undertake or perform any of the other actions;
- (b) to the extent that such actions have already been undertaken, the parties must do everything reasonably required to reverse those actions; and
- (c) the Subscriber must return to the Company all documents delivered under clause 6.5 and the Company must repay to the Subscriber all payments received by it under clause 6.3, without prejudice to any other rights any party may have in respect of that failure.

6.7 Subscriber rights if shareholder approval not obtained

If the shareholder approval referred to in clause 2.2(c) is not obtained, if in the period from the date of the Capricorn Shareholders' Meeting until the date that is 180 days after the Capricorn Shareholders' Meeting, the Company proposes to undertake a Capricorn Equity Offer, but excluding an offer under an employee incentive plan approved by shareholders, the Company must ensure that the Subscriber is given at least 2 weeks' written notice of any proposal to conduct a Capricorn Equity Offer and provide the Subscriber with a reasonable opportunity to participate in that Capricorn Equity Offer:

- (a) on the same terms (including as to the proposed issue price of the equity securities) as the Capricorn Equity Offer is proposed to be made to third parties;
- (b) on a basis that enables the Subscriber to be issued the equivalent number of equity securities as the Tranche 2 Subscription Securities; and
- (c) subject to the parties obtaining any regulatory consents or approvals from any Government Agency and the Company obtaining any required shareholder approvals (if any) provided that if such consents or approvals are not obtained, the Company cannot proceed with the Capricorn Equity Offer.

7 Warranties

7.1 Company Warranties

The Company gives the Company Warranties to and for the benefit of the Subscriber.

7.2 Subscriber Warranties

The Subscriber gives the Subscriber Warranties to and for the benefit of the Company.



7.3 Repetition warranties

The Warranties given by the Company and the Subscriber are given:

- (a) in respect of each Warranty which is expressed to be given on a particular date, on that date; and
- (b) in respect of each other Warranty, on the date of this agreement and immediately before Tranche 1 Completion and Tranche 2 Completion.

7.4 Survival

The Warranties survive the execution, Tranche 1 Completion and Tranche 2 Completion of this agreement.

7.5 Reliance

- (a) The Company acknowledges that the Subscriber enters into this agreement in reliance on each Company Warranty.
- (b) The Subscriber acknowledges that the Company enters into this agreement in reliance on each of Subscriber Warranty.

7.6 Indemnity for breach of Company Warranties

The Company indemnifies the Subscriber or the Nominee (as applicable) against, and must pay the Subscriber or the Nominee (as applicable) an amount equal to, any Loss suffered or incurred by the Subscriber or the Nominee (as applicable) in connection with a breach of a Company Warranty:

- (a) except to the extent that the Warranty or the Company's liability for the Loss are limited or qualified under this clause 7; and
- (b) provided that the Company shall not be liable under this agreement for any indirect, special or consequential loss or damage suffered or incurred by the Subscriber in connection with a breach of a Company Warranty, including loss of profits, loss of goodwill and loss of reputation.

7.7 Independent Warranties

Each Warranty is separate and independent and not limited by reference to any other Warranty or any notice or waiver given by any party in connection with anything in this agreement.

7.8 Maximum and minimum amounts

- (a) The Company is not liable under a Claim unless the amount finally agreed or adjudicated to be payable in respect of that Claim exceeds \$100,000, in which event, subject to clauses 7.8(b) and 7.8(c), the Company is liable all of that amount including the initial \$100,000.
- (b) Subject to clause 7.8(a), the maximum aggregate amount that the Company is required to pay in respect of all Claims whenever made is limited to 100% of the Aggregate Hawke's Point Investment.
- (c) For the purposes of clause 7.8(a), Claims of the same or similar nature arising out of the same or similar facts, matters and circumstances will be treated as one Claim.



7.9 Time limits on claims

The Company is not liable under a Claim unless:

- (a) the Subscriber notifies the Company of the Claim within:
 - (1) 5 years after the date of the Capricorn Shareholders' Meeting in the case of a Claim with respect to a breach of the Warranties set out in Schedule 4, paragraph 3.4 ("Title and tenements");
 - (2) 18 months after the date of the Capricorn Shareholders' Meeting, in the case of a Project Warranty Claim (other than a Claim with respect to a breach of the Warranties set out in Schedule 4, paragraph 3.4 ("Title and tenements"));
 - (3) 12 months after the date of the Capricorn Shareholders' Meeting in all other cases; and
- (b) within 18 months after the date on which the Subscriber is required to notify the Company of the Claim under clause 7.9(a), either the Claim has been satisfied or settled or the Subscriber has commenced legal proceedings against the Company in respect of the Claim.

7.10 Insurance cover

If the Subscriber has a right to recover any Loss suffered or incurred under any contract of insurance in respect of any fact, matter or circumstance giving rise to a Claim, the Company is not liable in respect of that Claim to the extent that the Subscriber recovers from the relevant insurer or would have so recovered had it taken all reasonable steps to enforce its rights of recovery.

7.11 Disclosure and knowledge

- (a) Other than a Claim with respect to a breach of a Warranty set out in Schedule 4, paragraph 3.4 ("Title and tenements") or paragraph 3.5 ("Ongoing liabilities in Madagascar"), the Company is not liable in respect of a Claim if the fact, matter or circumstance giving rise to the Claim:
 - (1) is fairly disclosed in, or otherwise evident from the information contained in this agreement; or
 - (2) is fairly disclosed in, or otherwise evident from the information contained in the Disclosure Materials.
- (b) For purposes of this clause 7.11, a fact, matter or circumstance is 'fairly disclosed' if sufficient information has been disclosed that an investor, experienced in transactions of this nature, would be aware of the substance and significance of the information and would be aware of the nature and extent of the breach of Warranty.

7.12 Other limitations

The Company is not liable in respect of a Claim to the extent:

- (a) the loss or damage giving rise to the Claim is made good or otherwise compensated, to the reasonable satisfaction of the Subscriber, without cost to the Subscriber;



- (b) the circumstances giving rise to the Claim are remedied by the Company to the reasonable satisfaction of the Subscriber within 20 Business Days after receiving notice of the Claim from the Subscriber; or
- (c) the Claim arises from:
 - (1) a change in any legislation or regulation;
 - (2) a change in any judicial or administrative interpretation of the law; or
 - (3) a change in any practice or policy of a regulatory authority,after the date of this agreement (whether or not retrospective in effect).

7.13 Reimbursement of benefits subsequently received

If the Company has made a payment to the Subscriber in respect of a Claim (**Claim Amount**) and after that payment is made the Subscriber or any of its Affiliates receives any payment, benefit or credit by reason of the fact, matter or circumstance to which the Claim relates (**Recovery Amount**), then the Subscriber must as soon as reasonably practicable repay to the Company an amount equal to the lesser of the Claim Amount and the Recovery Amount less:

- (a) all costs incurred by the Subscriber or any of its Affiliates in recovering the Recovery Amount; and
- (b) any tax payable by the Subscriber or any of its Affiliates as a result of receiving the Recovery Amount.

8 Anti-dilution and pre-emptive rights

8.1 Right to participate

Following Tranche 1 Completion or Tranche 2 Completion, if the Company proposes, directly or indirectly, to undertake a Capricorn Equity Offer, but excluding an offer under an employee incentive plan approved by shareholders, and the Subscriber and its Affiliates hold a 10% Shareholding, the Company must ensure that the Subscriber is given at least 2 weeks' written notice of the proposal to conduct the Capricorn Equity Offer and provide the Subscriber with a reasonable opportunity to participate in that Capricorn Equity Offer on a basis that enables the Subscriber to maintain its percentage shareholding in the Company following the issue of Capricorn Shares under the Capricorn Equity Offer and on equivalent terms to the terms offered to other potential subscribers.

8.2 Conditions

The obligations and rights of the Company and the Subscriber under clause 8.1 are subject to:

- (a) the grant of a waiver of ASX Listing Rule 6.18 by ASX in favour of the Company; and
- (b) any conditions imposed by ASX pursuant to the waiver of ASX Listing Rule 6.18 granted by ASX in favour of the Company for the purpose of this clause 8.



8.3 Right of first refusal for debt or alternative capital raising

- (a) Subject to clause 8.3(b), if any Capricorn Group Member wishes to issue debt or enter into any royalty or metal streaming agreement (which excludes, for the avoidance of doubt, any existing royalty to which any Capricorn Group Member is party as at the date of this agreement), provided the Subscriber and its Affiliates hold a 10% Shareholding, the Company must first offer the Subscriber, by written notice, the first right to participate (to the amount 50% of the total debt issuance or value of the royalty agreement or streaming agreement) in the debt issuance or any royalty agreement or streaming agreement (**ROFR Option Notice**).
- (b) The Company is not required to offer to the Subscriber the first right to participate in any proposed debt issuance under clause 8.3(a) where the debt issuance is to fund the construction of the Karlawinda Project or any associated processing or other facilities.
- (c) Each ROFR Option Notice given by the Company must specify the material commercial terms of the proposed debt issuance, royalty agreement or streaming agreement and a statement to the effect that the Subscriber has the option to participate in the debt issuance, royalty agreement or streaming agreement on the material commercial terms set out in the ROFR Option Notice.
- (d) The Subscriber may exercise its option under clause 8.3(a) by giving notice to that effect to the Company within 2 weeks after the date of the Subscriber's receipt of the ROFR Option Notice (**ROFR Exercise Notice**).
- (e) Completion of any transaction contemplated by an ROFR Exercise Notice will be subject to and conditional on:
 - (1) the Subscriber and its Affiliates holding a 10% Shareholding as at the time of completion for that transaction; and
 - (2) any shareholder approvals required under the ASX Listing Rules or the Corporations Act being obtained.

9 Appointment of directors

9.1 Nomination of directors by the Subscriber

- (a) Following Tranche 2 Completion, or if Tranche 2 Completion does not occur, following the Capricorn Shareholders' Meeting, provided the Subscriber and its Affiliates hold a 10% Shareholding, the Subscriber may nominate one person to be appointed as a non-executive director of the Company (**Hawke's Point Nominated Director**).
- (b) To avoid doubt, the Subscriber may nominate any person to be a non-executive director under clause 9.1(a), including, without limitation, a person who is not an employee or consultant of the Subscriber or its Affiliates.
- (c) The Subscriber will consult with the Capricorn Board prior to any nomination under clause 9.1(a) and seek to nominate a person that has the appropriate qualifications and experience.



- (d) The Subscriber may:
 - (1) nominate for appointment by the Company a Hawke's Point Nominated Director by written notice to the Company specifying the identity of the person to be appointed as a director; or
 - (2) replace a Hawke's Point Nominated Director by written notice to the Company specifying the identity of the person to be replaced as a director and their replacement.
- (e) Where the Company receives a notice from the Subscriber pursuant to clause 9.1(d) of nomination of a Hawke's Point Nominated Director, subject to receipt by the Company of a proposed consent to act signed by the Hawke's Point Nominated Director, the directors shall appoint the Hawke's Point Nominated Director as a director.
- (f) The Subscriber acknowledges that a Hawke's Point Nominated Director appointed under clause 9.1(a) holds office until the next annual general meeting of the Company, and is then eligible for re-election at that meeting pursuant to the Constitution, the Corporations Act and the ASX Listing Rules.
- (g) The Company must ensure that the Hawke's Point Nominated Director is proposed for election at the next annual general meeting of the Company convened after their appointment and recommend the election of any Hawke's Point Nominated Director at that annual general meeting.
- (h) If a Hawke's Point Nominated Director is not re-elected at an annual general meeting of the Company:
 - (1) the Subscriber may nominate another Hawke's Point Nominated Director to replace that director (which, to avoid doubt, cannot be the same person who was not re-elected by the shareholders of the Company at the previous annual general meeting); and
 - (2) the Capricorn Board must not appoint a successor director to the Hawke's Point Nominated Director who is not a Hawke's Point Nominated Director.
- (i) The Hawke's Point Nominated Director may provide the Subscriber with any information acquired by the Hawke's Point Nominated Director in his or her capacity as a director of the Company provided that such information is provided to the Subscriber in a manner that does not conflict with any information protocols to be agreed between the Subscriber and the Company and such information is to be maintained by the Subscriber in accordance with the confidentiality obligations in clause 14.
- (j) In the event that the Subscriber and its Affiliates cease to hold a 10% Shareholding at any time following Tranche 2 Completion, or if Tranche 2 Completion does not occur, following the Capricorn Shareholders' Meeting, upon receipt of notice in writing from the Company, the Subscriber shall reasonably assist the Company so that the Hawke's Point Nominated Director promptly resigns as a director of the Company by notice in writing to the Company.

9.2 Representation on Project Technical Steering Committee

- (a) Following Tranche 2 Completion, or if Tranche 2 Completion does not occur, following the Capricorn Shareholders' Meeting, the Subscriber may, by written notice to the Company, nominate any person (including, to avoid doubt, a person who is not an employee or consultant of the Subscriber or its Affiliates) as the Subscriber's representative on the Project Technical Steering



- Committee. Subject to the consent of the Capricorn Board (not to be unreasonably withheld or delayed), on receipt of a written notice under clause 9.2(a), the Company must promptly procure that the Subscriber's nominated representative is appointed to the Project Technical Steering Committee.
- (b) The parties agree that the Project Technical Steering Committee is charged with the oversight of any mining tenement acquisitions and relinquishments for the Company and that the Subscriber's representative appointed under this clause 9.2 must be involved in any action by the Project Technical Steering Committee with respect to any mining tenement acquisitions and relinquishments.

10 Corporate governance

10.1 Fundamental Matters

- (a) Following Tranche 2 Completion, or if Tranche 2 Completion does not occur, following the Capricorn Shareholders' Meeting, provided the Subscriber and its Affiliates hold a 10% Shareholding, in addition to any shareholders' approval that may be required under applicable law, the Company must not undertake any action which is a Fundamental Matter without the Subscriber's prior written consent and such consent is not to be unreasonably withheld or delayed.
- (b) Fundamental Matters (b), (d) and (f) in Schedule 3 may be undertaken without the Subscriber's prior written consent if unanimously approved by the Independent Capricorn Directors.

10.2 Financial statements and records

Following Tranche 2 Completion, or if Tranche 2 Completion does not occur, following the Capricorn Shareholders' Meeting, provided the Subscriber and its Affiliates hold a 10% Shareholding:

- (a) the Subscriber will be entitled to inspect (in person and have remote access through a virtual data room operated by the Company) and make copies of information from the Company in relation to the Capricorn Group including, but not limited to, all books, records, accounts, working papers, budgets and cash flows, financial information, technical studies and documents in the possession of the Capricorn Group relating to the business, assets, affairs of the Capricorn Group or its clients to the extent such information would be available to a director; and
- (b) the Company must ensure that the Subscriber has reasonable access to senior management of the Capricorn Group for the purpose of regular consultation regarding the business affairs and activities of the Capricorn Group.

10.3 Subscriber's rights

The Subscriber's rights under this agreement (including under clauses 4, 8-10 and 12) are not provided to enable it to directly participate in or control the management of the Company's affairs, but merely to protect its passive interest as a Capricorn Shareholder to maximise its long-term returns on Capricorn Shares.



11 Termination

11.1 Termination by the Subscriber

The Subscriber may terminate this agreement at any time before Tranche 2 Completion by notice in writing to the Company if:

- (a) an order is made or an effective resolution is passed for the winding up or dissolution without winding up (otherwise than for the purposes of reconstruction or amalgamation) of the Company;
- (b) a receiver, receiver and manager, judicial manager, liquidator, administrator or like official is appointed over the whole or a substantial part of the undertaking or property of the Company;
- (c) a holder of an Encumbrance takes possession of the whole or any substantial part of the undertaking and property of the Company; or
- (d) the Company materially breaches the agreement, including breach of a Warranty occurring before Tranche 2 Completion.

11.2 Termination by the Company

The Company may terminate this agreement at any time before Tranche 2 Completion by notice in writing to the Subscriber if:

- (a) an order is made or an effective resolution is passed for the winding up or dissolution without winding up (otherwise than for the purposes of reconstruction or amalgamation) of the Subscriber;
- (b) a receiver, receiver and manager, judicial manager, liquidator, administrator or like official is appointed over the whole or a substantial part of the undertaking or property of the Subscriber;
- (c) a holder of an Encumbrance takes possession of the whole or any substantial part of the undertaking and property of the Subscriber; or
- (d) the Subscriber materially breaches the agreement, including breach of a Warranty occurring before Tranche 2 Completion.

11.3 Effect of termination prior to Tranche 1 Completion

If this agreement is terminated by a party under clause 2.7 or this clause 11 prior to Tranche 1 Completion:

- (a) each party will be released from its obligations under this agreement, except its obligations under clauses:
 - (1) clause 1 (Definitions and interpretation);
 - (2) clause 11.3 (Effect of termination prior to Tranche 1 Completion);
 - (3) clause 13 (Expenses);
 - (4) clause 14 (Confidentiality and announcements);
 - (5) clause 15 (GST); and
 - (6) clauses 16 and 17 (Notices and General);
- (b) each party will retain the rights it has or may have against the other party in respect of any past breach of this agreement; and



- (c) in all other respects, all future obligations of the parties under this agreement will immediately terminate and be of no further force or effect, including, without limitation, any further obligations in respect of the Private Placement.

11.4 Effect of termination prior to Tranche 2 Completion

- (a) If this agreement is terminated by a party under clause 2.7 or this clause 11 after Tranche 1 Completion but prior to Tranche 2 Completion each party will be released from its obligations under clauses:
 - (1) clause 3.1(a)(2) (Subscription shares and options); and
 - (2) clause 6 (Tranche 2 Completion);
- (b) this agreement will otherwise remain in full force and effect in accordance with its terms; and
- (c) each party will retain the rights it has or may have against the other party in respect of any past breach of this agreement.

11.5 No other right to terminate or rescind

Unless otherwise agreed by the parties in writing, no party may terminate or rescind this agreement except as permitted under clause 2.7 or this clause 11.

11.6 Specific performance

The Company acknowledges that monetary damages alone would not be adequate compensation to the Subscriber for the Company's breach of its obligation to issue the Tranche 1 Subscription Securities and Tranche 2 Subscription Securities under this agreement and that accordingly specific performance of that obligation is an appropriate remedy.

12 Exclusivity

12.1 Exclusivity obligations

- (a) During the Exclusivity Periods, the Company must ensure that neither it nor any of its Related Persons:
 - (1) directly or indirectly solicits, facilitates, encourages, invites or initiates steps with the objective of receiving any offer or proposal pursuant to which a person other than the Subscriber or its Affiliates would, if the proposal was successfully completed, be issued any equity in the Company (including, without limitation, Capricorn Shares or options over Capricorn Shares) or any of its Related Corporations or the Company or any of its Related Corporations would raise any debt finance (**Alternative Funding Proposal**);
 - (2) directly or indirectly participates in any negotiations or discussions or provide any information to any person with respect to any inquiry, expression of interest, offer or proposal by any person to make an Alternative Funding Proposal;



- (3) accepts or enters into, or offers to accept or enter into, any agreement, arrangement or understanding regarding an Alternative Funding Proposal;
 - (4) discloses any non-public information about the business or affairs of the Company to a third party with a view to obtaining, or which may reasonably be expected to lead to receipt of, an Alternative Funding Proposal, other than as required by any applicable law or the requirement of a Government Agency; or
 - (5) communicates any intention to do any of the things listed in clauses 12.1(a)(1), 12.1(a)(2), 12.1(a)(3) and 12.1(a)(4) in respect of or in response to any expression of interest, offer or proposal by any person in relation to any Alternative Funding Proposal.
- (b) Nothing in this clause 12.1 prevents the Company from continuing to make normal presentations to brokers, portfolio investors and analysts in the ordinary course of business or promoting the merits of the Private Placement.

12.2 Notification

During the Exclusivity Periods, the Company must immediately notify the Subscriber if:

- (a) any approach, enquiry or proposal is made, directly or indirectly, to the Company or any of its Related Persons with respect to an Alternative Funding Proposal, whether solicited or otherwise; or
- (b) any request is made to the Company or any of its Related Persons for any information relating to the Company or any of its Related Corporations or their businesses or operations in connection with a current or future Alternative Funding Proposal.

13 Expenses

13.1 Costs reimbursement

- (a) If Tranche 1 Completion occurs, the Company must pay the Hawke's Point Reimbursable Costs to the Subscriber within 14 days of the Subscriber notifying the Company in writing of the amount of the Hawke's Point Reimbursable Costs (provided it is accompanied by reasonable supporting evidence).
- (b) If the Company breaches its obligations under clause 12 of this agreement the Company must pay to the Subscriber the Hawke's Point Reimbursable Costs plus \$100,000 (being a reasonable estimate of the Subscriber's costs associated with its internally allocated time and resources) within 5 Business Days of the breach occurring and the Subscriber demanding payment of the relevant amounts.

13.2 Duty, costs and expenses

- (a) The Subscriber must pay all Duty in respect of the execution, delivery and performance of this agreement and any agreement, transaction or document entered into or signed under this agreement.
- (b) Subject to clause 13.1, each party must pay its own costs and expenses in respect of the negotiation, preparation, execution, delivery and registration of



this agreement and any other agreement or document entered into or signed under this agreement.

- (c) Subject to clause 13.1, any action to be taken by the Subscriber or the Company in performing its obligations under this agreement must be taken at its own cost and expense unless otherwise provided in this agreement.

14 Confidentiality and announcements

14.1 Announcement

- (a) Immediately after execution of this agreement, the parties will issue public announcements regarding the execution of this agreement in a form previously agreed to in writing between them.
- (b) Unless disclosure is required by the ASX Listing Rules or the Corporations Act and then subject to:
 - (1) the Company only including the minimum information required to comply with the ASX Listing Rules and applicable law in the disclosure; and
 - (2) before making the disclosure, the Company must give the Subscriber reasonable written notice of the full circumstances of the disclosure the Company proposes to make and consult with the Subscriber as to the form of that disclosure,

the Company and each of its Related Corporations must not issue any public announcement which refers to or otherwise identifies the Subscriber and its Affiliates without the prior written consent of the Subscriber.

14.2 Confidentiality

Each party acknowledges and agrees that it continues to be bound by the Confidentiality Deed.

15 GST

15.1 Definitions

Words used in this clause 15 that have a defined meaning in the GST Law, have the same meaning as in the GST Law unless the context indicates otherwise.

15.2 GST

- (a) Unless expressly included, the consideration for any supply under, or in connection with, this agreement does not include GST.
- (b) To the extent that any supply made under, or in connection with, this agreement is a taxable supply (other than any supply made under another agreement that contains a specific provision dealing with GST), the recipient must pay, in addition to the consideration provided under this agreement for that supply (unless it expressly includes GST) an amount (**additional amount**) equal to the



amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. The recipient must pay the additional amount at the same time as the consideration to which it is referable.

- (c) Whenever an adjustment event occurs in relation to any taxable supply to which clauses 15.2(a) and 15.2(b) applies:
- (1) the supplier must determine the amount of the GST component of the consideration payable; and
 - (2) if the GST component of that consideration differs from the amount previously paid, the amount of the difference must be paid by, refunded to or credited to the recipient, as applicable.

15.3 Tax invoices

The supplier must issue a Tax Invoice to the recipient of a supply to which clause 15.2 applies no later than 7 days following payment of the GST inclusive consideration for that supply under that clause.

15.4 Reimbursements

If either party is entitled under this agreement to be reimbursed or indemnified by the other party for a cost or expense incurred in connection with this agreement, the reimbursement or indemnity payment must not include any GST component of the cost or expense to the extent that the cost or expense is the consideration for a creditable acquisition made by the party being reimbursed or indemnified, or by its representative member.

16 Notices

16.1 How and where Notices may be sent

A notice or other communication under this agreement (**Notice**) must be in writing and delivered by hand, sent by pre-paid post, fax or email to a party at the address, fax number or email address for that party in clause 16.3 or as otherwise specified by a party by Notice.

16.2 When Notices are taken to have been given and received

- (a) A Notice sent by post is regarded as given and received on the second Business Day following the date of postage.
- (b) A fax is regarded as given and received on production of a transmission report by the machine from which the fax was sent that indicates that the fax was sent in its entirety to the recipient's fax number, unless the recipient informs the sender that the Notice is illegible or incomplete within 4 hours of it being transmitted.
- (c) An email is regarded as given and received when the email (including any attachment) comes to the attention of the recipient party or a person acting on its behalf
- (d) A Notice delivered or received other than on a Business Day or after 4.00pm (recipient's time) is regarded as received at 9.00am on the following Business



Day and a Notice delivered or received before 9.00am (recipient's time) is regarded as received at 9.00am.

16.3 Parties' details

Capricorn

Address: 15 Lovegrove Close
Mount Claremont
Western Australia, 6010, Australia

Attention: Company Secretary

Facsimile: +61 (08) 9284 3801

Email: gboden@capmet.com.au

Hawke's Point

Address: Notice to be sent to both addresses below:

Ugland House
Grand Cayman
KY-1104, Cayman Islands

c/o Polygon Global Partners LLP
4 Sloane Terrace
London, SW1X 9DQ, United Kingdom

Attention: Hawke's Point Holdings L.P

Facsimile: +44 20 7901 8301

Email: notice@hawkespointcapital.com

17 General

17.1 Governing law and jurisdiction

- (a) This agreement is governed by the law in force in Western Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in Western Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this agreement.
- (c) Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

17.2 Invalidity and enforceability

- (a) If any provision of this agreement is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 17.2(a) does not apply where enforcement of the provision of this agreement in accordance with clause 17.2(a) would materially affect the nature or effect of the parties' obligations under this agreement.



17.3 Waiver

No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

The meanings of the terms used in this clause 17.3 are set out below.

Term	Meaning
conduct	includes delay in the exercise of a right.
right	any right arising under or in connection with this agreement and includes the right to rely on this clause.
waiver	includes an election between rights and remedies, and conduct that might otherwise give rise to an estoppel.

17.4 Variation

A variation of any term of this agreement must be in writing and signed by the parties.

17.5 Assignment of rights

- (a) Unless otherwise provided for in this agreement, rights arising out of or under this agreement are not assignable by a party without the prior written consent of the other party, provided that the Subscriber may assign its rights arising out of or under this agreement to an Affiliate of the Subscriber without the prior written consent of the Company.
- (b) A breach of clause 17.5(a) by a party entitles the other party to terminate this agreement.
- (c) Clause 17.5(b) does not affect the construction of any other part of this agreement.

17.6 Further action to be taken at each party's own expense

Each party must, at its own expense, do all things and execute all documents necessary to give full effect to this agreement and the transactions contemplated by it.

17.7 Entire agreement

This agreement states all the express terms of the agreement between the parties in respect of its subject matter. It supersedes all prior discussions, negotiations, understandings, arrangements and agreements, express or implied in respect of its subject matter.



17.8 No merger

The Warranties, undertakings and indemnities in this agreement will not merge on Completion.

17.9 No reliance

Neither party has relied on any statement by the other party not expressly included in this agreement.

17.10 Counterparts

- (a) This agreement may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this agreement by signing any counterpart.

17.11 Relationship of the parties

- (a) Nothing in this agreement gives a party authority to bind any other party in any way.
- (b) Nothing in this agreement imposes any fiduciary duties on a party in relation to any other party.

17.12 Exercise of discretions

- (a) Unless expressly required by the terms of this agreement, a party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this agreement.
- (b) A party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this agreement. Any conditions must be complied with by the party relying on the consent, approval or waiver.



HERBERT
SMITH
FREEHILLS

Signing page

Executed as an agreement

Signed by
Capricorn Metals Limited
by

sign here ► 
Company Secretary/Director

print name Natasha Ford

sign here ► 
Director

print name PETER THOMPSON

Signed by HAWKE'S POINT HOLDINGS LP

By its investment manager POLYGON GLOBAL PARTNERS LLP

Name:

Position:

Date:



HERBERT
SMITH
FREEHILLS

Signing page

Executed as an agreement

Signed by
Capricorn Metals Limited
by

sign here ► _____
Company Secretary/Director

print name _____

sign here ► _____
Director

print name _____

Signed by HAWKE'S POINT HOLDINGS LP

By its investment manager POLYGON GLOBAL PARTNERS LLP

Name: Michael Humphries

Position: Authorized Signatory

Date: February 28, 2017