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## Submission to the International Seabed Authority regarding the Draft Framework for the Regulation of Exploitation activities in the Area

Marawa Research and Exploration Ltd. (Marawa) wishes to thank the Authority for the opportunity to provide input to the development of Exploitation Regulations, particularly with respect to seafloor polymetallic nodules.

Marawa holds a contract to explore for polymetallic nodules in the Clarion Clipperton Zone (CCZ) of the East Pacific Ocean. As a Contractor, Marawa is a direct stakeholder in the drafting of the Exploitation Regulations, and is committed to working with the Authority to provide valuable input to this process.

The concepts and approach set forth in the Draft Framework for the Regulation of Exploitation activities in the Area (the "Draft Framework") is broadly supported by Marawa, and is a welcome step at harmonizing the multiple stakeholder requirements for permitting the economic development of seafloor polymetallic nodules. This development will in turn contribute significantly to mankind, including by contributing to global economic development, by diversifying the supply of critical metals leading to greater stability in the supply and price of raw materials, by widening the United Nation's revenue base and funds available to provide assistance to Developing States, by generating skilled employment, as well as by acting as a catalyst for broader investment in marine activities, technology development as well as contributing greatly to scientific research.

Recognizing that the metals and products derived from seafloor polymetallic nodules will play an important role in global social and economic development, it is recommended that the regulatory framework provides a stable, predictable and commercially sound regulatory environment in which Contractors can make long-term decisions with confidence and certainty.

Importantly, and given the pioneering stage of the polymetallic nodule industry, consideration should also be given to what may be required to encourage commercial development. For example, as per UNCLOS Article 150, the policies relating to activities in the Area shall be aimed at ensuring "*the development of the resources of the Area*". Additionally, the regulations should be drafted in such a manner as "*to attract investments and technology to the exploration and exploitation of the Area*" (ANNEX III, Article 13 (b)).

The comments set forth below are focused on seafloor polymetallic nodules, and are intended to reflect the conceptual stage of the stakeholder consultation. Marawa would propose to submit more detailed comments on future drafts of the Exploitation Regulations as they become available. Moving



forward we would welcome the opportunity to engage further with the Authority in its efforts to develop the Exploitation Regulations.

First, given the high capital cost and specialised technology involved in full scale polymetallic nodule exploitation, it is likely that each project will require a number of stakeholders providing capital, technology and equipment. As is common on almost all large land based projects, multiple groups come together in various financial and technical arrangements to provide the adequate capital necessary for construction, operation, processing, and sale of minerals. The Exploitation Regulations will need to reflect that global financial institutions, and other forms of investment capital (from equipment providers, off-takers, royalty holders etc.) will need to have the ability to secure their financing arrangements against some form of direct or indirect equitable or legal right to the underlying mineral exploitation tenure. This may be accomplished in a variety of ways, but may most easily (and most commonly on land) be achieved through a registry system in which security interests are recorded with respect to each granted tenure, and any transfer, or dealing with respect to such tenure shall be restricted in accordance with the security interest granted. For example, following exploration and completion of engineering and feasibility studies, it may be determined that the surface vessel and subsea equipment required for full scale nodule exploitation will require capital investments of US\$ 1 billion. In such case, the owner of the project ("Project Owner") may finance US\$ 150 million from its own capital. It may be able to enter into an off-take arrangement with a refinery (the "Off-taker") for the pre-sale of ore from the project for an additional US\$ 100 million. The Project Owner may then enter into an engineering, design and construction agreement with an equipment manufacturer (the "Manufacturer") for US\$ 250 million worth of services and equipment which the Manufacturer agrees to finance on behalf of the Project Owner. The remaining US\$ 500 million will need to be financed by banks or other financial institutions (collectively the "Financial Institutions"). Each party – the Project Owner, the Off-taker, the Manufacturer and the Financial Institutions will all need to secure their interest in the project before agreeing to finance such large sums of money. Each will expect to be able to register their financial interest, in an order of priority, within a registry or similar system. The Exploitation Regulations will need to reflect these requirements in a fair and equitable method. In addition, following construction and operation, the Contractor should have the right, subject to the consent of the Authority (not to be unreasonably withheld or delayed), to grant further security interests in its mineral development rights, as may be required from time to time, and as is the norm for the land based mining industry.

Second, it is noted that the seafloor polymetallic nodule industry will require significant assumption of financial risk by initial and early industry participants until the industry has a successful track record of commercial production and the development risk and cost of capital reduces to a similar level as experienced on land based projects. Accordingly, it is recommended that there be a series of early mover incentives that would encourage those taking the most financial risk to develop the industry to receive benefits reflecting the increased financial risk they take on, compared against those who in the future invest in a more robustly established industry where technology has been proven and the cost of capital is likely to be lower. The source of incentives could take a variety of approaches. For purposes of the Exploitation Regulations, it is respectfully submitted that the early mover Contractors (for example, those Contractors who commence exploitation within say the first 10 years of the Exploitation Regulations coming into force) (the "First Movers") should receive appropriate incentives to reflect the increased financial risk that they face in enabling the global seafloor polymetallic nodule industry to become a reality. Forms of incentives could include (i) reduced fees, royalties, or other financial payments, (ii) increased flexibility in the form of regulatory mandates on First Movers, and (iii)



consideration that First Movers may be entitled to other reasonable, time limited, incentives appropriate to assist in the development of the industry, for example regarding performance obligations, grand-father clauses etc.

Third, it is submitted that the regime under the Exploitation Regulations concerning transfer of title to minerals must be robustly clarified. Without clear property interest in and title to the ore from the moment the ore is raised to the surface, then the security arrangements surrounding the financing of projects could become exceptionally complex and potentially unviable. Under the Convention, title is transferred upon "recovery". This term should be further clarified so it is absolutely clear that "recovery" is defined as the moment polymetallic nodules are raised from the seafloor and arrive on to the surface production vessel ("SPV"). For example, in the event the Contractor exploits nodules and raises them to the SPV, it is recommended that from the moment the ore is recovered to the SPV, then at that moment title should automatically and unconditionally pass. This is important, as the Contractor may wish to sell the ore to a third party under an arrangement whereby the third party purchases the ore from the Contractor upon the ore being transferred from the SPV to the third party's transport vessel. As such, the Contractor must have unconditional title to the ore upon the ore being recovered to the SPV in order for the Contractor to make an effective sale and transfer of title to the third party purchaser. For example on land, it is customary that title will transfer on the crossing of the ore across the bow of the transport vessel. Further, it is recommended that even if the Contractor is adjudicated to be in default under any applicable Exploitation Regulation, it is asserted that the financing arrangements will dictate that a "claw back" of ore risen from the seafloor and transferred or sold would undermine certainty of title and financiability of a project, and hence, the Exploitation Regulations should make unconditional that from the moment ore is raised to the surface and reaches the SPV, then title should immediately and irrevocably transfer.

Fourth, it is submitted that certainty in the chain of title progression be clarified with unquestionable precision. Annex III Article 10 of UNCLOS provides that "an operator who has an approved plan of work for exploration only, as provided in article 3, paragraph 4(c), of this Annex shall have a preference and a priority among applicants for a plan of work covering exploitation of the same area and resources. ***However, such preference or priority may be withdrawn if the operator's performance has not been satisfactory.***" It is important that the holder of an Exploration Contract is guaranteed the priority right to obtain an Exploitation Contract, and that priority right should only be withdrawn in very limited and defined circumstances, such as the Exploration Contract being terminated in accordance with the Exploration Contract terms e.g. due to the Contractor's willful and persistent breach of that contract. It is submitted that if the Authority has the right to refuse the priority right simply because "*the operator's performance has not been satisfactory*", then this may inhibit the financiability of a project as the term "satisfactory" may be considered too subjective and not the norm for the mining industry. It is asserted that the Authority should have no discretion (or very prescribed limitations) to withdraw the priority right, and that the Exploitation Regulations should bring further clarity and certainty to this issue in order to encourage large scale investment.

Fifth, it is submitted that while the Authority has discretion to amend and revise the regulatory framework over the passage of time, the commitment by a Contractor should not be undermined, for example, through a significant increase in royalties or other regulatory imposts on its operation that have a material adverse impact on the Contractor's operations and/or economic return. Often, land based mineral resource regulatory frameworks may provide "fiscal stabilisation" terms for a period to enable financing and operation of a project to commence. It is therefore recommended that the



Authority consider providing for “regulatory stabilisation” terms for the First Movers who commence commercial production. This might entail that for the First Movers who commence commercial production within the first 10 years of the Exploitation Regulations coming into force, the Authority grants them stabilisation terms under which they will be assured that the regulatory framework will not change for a period of time e.g. the first 10 years of their individual Exploitation Contracts. In the event new regulatory terms are adopted that materially impact the operation of a project developed by one of the First Movers, it is suggested that a recovery mechanism be adopted such that the project is able to be made financially whole. This will assist to bring the certainty needed for the First Movers to make the necessary financial commitment, and will take into account the fact that the First Movers face the highest financial risk.

Sixth, it is submitted that if a Contractor has an Exploration Contract in a Reserved Area, the Enterprise should not have the right to seek a joint venture arrangement with that Contractor over that Reserved Area if the Enterprise had previously indicated that it has no intention of carrying out activities in that area at the time the Contractor submitted its application for an Exploration Contractor. Of course, that Contractor may itself decide to engage with the Enterprise with a view to potentially negotiating a commercially sound joint venture arrangement, however that should not be a right of the Enterprise but rather subject to whether the parties meet a mutually acceptable joint venture agreement on commercial terms. In the future, the Enterprise may elect to do a joint venture over a Reserved Area that is currently not subject to an Exploration Contract and for which it has already not foregone its right by indicating that it does not intend to carry out activities in that area. However, for those Reserved Areas that are currently subject to an Exploration Contract, the Enterprise should not have a right to do a joint venture if the Enterprise had previously indicated that it has no intention of carrying out activities in that area at the time the Contractor submitted its application for an Exploration Contractor.

Seventh, with regards to the issue concerning "High Grading" (as referenced in High Level Issue 12) it is noted that Section 6 Paragraph 1(a) of the 1994 Agreement states “*development of the resources of the Area shall take place in accordance with **sound commercial principles***”. It is important that Contractors are able to carry out exploitation in accordance with a commercially focused mine plan that optimizes the economics and allows the contractor to achieve the necessary return on investment. Ultimately, it is the market that should drive what resources are developed and when. For example, in a period of resource scarcity where metal prices rise, this will consequently encourage low grade resource recovery. On the other hand, during times of low metal prices, the Contractor will need to have the ability to focus their operation on those areas where the value of the ore is such that revenues remain at an acceptable margin above operating costs. Contractors also need to be able to focus on high grade areas at the start of their commercial operations in order to ensure the quickest pay back of capital.

Eighth, Contractors should have the ability to place the project on "care and maintenance" during times when metal prices are too low for profitable operations. For example, during the Exploitation Contract approval process the economic value in certain polymetallic nodule areas may be high, but then it may very well be that certain nodule areas could become uneconomic during the term of the Exploitation Contract, due to a downturn in metal prices, resulting in operating costs exceeding revenues. In such circumstances, the operator should not be required under the Exploitation Regulations to continue to exploit uneconomic deposits during the period of such low metal prices. As an example, and as is occurring at the moment, in the midst of a commodity price downturn, hundreds of operations across the extractive industry are ceasing production and being placed on "care and



maintenance". It is submitted that the Exploitation Regulations should provide for a mechanism in which the Contractor is able to place its polymetallic nodule project under an analogous care and maintenance system, pending a return to the economic viability of the project. Also, Article 17(2)(b)(iii) discusses the concept of the economic life of a mining project, and importantly, refers to the term "ore". The term "ore" is typically defined in the industry as material that can be **mined at a profit**. Material that is classified as "ore" will therefore change over time depending upon fluctuations in metal prices and advancements in technology. Contractors will submit a plan of work to exploit "ore", i.e. those polymetallic nodule deposits that can be mined for profit. Concepts such as "ore" are fundamental to the mining industry and the Exploitation Regulations should be consistent with what is typical for the mining industry on land.

Ninth, it is submitted that once an Exploitation Contract has been granted, then provided a Contractor is making bona fide efforts to commission mining equipment, the Contractor should have an extended timeline to commence commercial scale operations. This is important given the significantly long lead-time to build a mining vessel, and delays in commissioning often occur due to circumstances that typically fall outside of the Contractor's control. Further, standard terms of force majeure should apply to any delays to commencing commercial production. Provided the Contractor is making bona fide efforts to get into production, it would not be prudent to create a situation where a Contractor is forced to rush their commissioning activities as this could result in construction safety issues and adverse commercial situations.

Tenth, it is submitted that during the evaluation process for finalizing the Exploitation Regulations, the Authority have reference to certain well established regulatory systems such as the jurisdictions regularly rated as among the more "investment conducive" mining regulatory frameworks by the Canadian Fraser Institute. Factors such as certainty, stability, simplicity, and long term considered development reflecting safe and profitable mineral development operations that protect the environment and communities in which they operate is indeed an important factor and should influence the Exploitation Regulations. Several additional sources could be evaluated in the final process of adoption of the Exploitation Regulations, including reference to the Model Mineral Development Agreement negotiation framework (the "MMDA"), reference to the regulations that have already been developed in Exclusive Economic Zone for dredging and offshore oil and gas industries, and the principles adopted by international organizations such as the International Council on Mining and Metals, as well as such bodies as the Minerals Council of Australia.

Eleventh, as acknowledged in High Level Issue Four and Eleven of the Draft Framework, the regulation of specific boundary points for defining activities should be provided more clarity, and the conflicts of laws and roles of various regulatory bodies needs certainty and specificity. As a starting principle, it is submitted that two separate authorities should not be granted the regulatory scope over the same subject matter, as this may lead to a situation where the Contractor is required to comply with two separate standards, which combined may not be practical or feasible. For example, if activities are already being adequately regulated by the IMO then it will likely not be necessary for the same activity to be regulated by the ISA.

Twelfth, it is submitted that the Exploitation Regulations should reflect the life of mine considerations commonly provided in land-based regulation. Whilst Article 17(2)(b)(iii) provides that *"The duration of exploitation should be related to the economic life of the mining project, taking into consideration such factors as the depletion of the ore, the useful life of mining equipment and processing*



*facilities and commercial viability*", it is noted that other factors including commercial finance requirements have resulted in the majority of land based regulations providing at least a minimum tenure period. For example, it would be common that a mining license could be granted for 20 or 30 years, with an automatic renewal right. The Model Mining Development Agreement, for example, provides as an option, grant of a 25 year mining right, followed by 10 year extensions that could be granted up to four times (for a total of 65 years). This certainty in life of mine exploitation rights is critical to ensuring the financiability of projects and the likelihood projects will be commenced, particularly given the long repayment period for high capital expenditures. It is submitted that the land based regulations should not be fundamentally distinct from seafloor mining regulations for life of mine license periods. Ultimately, the high capital cost of a seafloor polymetallic nodule mining and processing operation will likely only be justified if there is a long term license to mine with certainty of tenure and long term stability. This is particularly the case for the First Movers in this industry.

Thirteenth, it is submitted that while the Authority should encourage a broad stakeholder engagement with reference to the rules, there be very clear limitations around the standing of third parties to review, comment, object or otherwise interfere in the power of the Authority to grant an Exploitation Contract. Marawa does not object to the right for a fair and unfettered airing of views with respect to any project development, but ultimately, the emerging industry will be considerably limited and challenged if all third party organizations concerns will mandatorily require investigation and adjudication. It is therefore submitted that while a publication of an EIS / EIA should be considered and third party views sought, such parties should not be granted standing before the Authority to delay, defer or otherwise interfere with the assessment of the Authority.

Fourteenth, the Authority has requested consideration of what key elements should be considered in terms of an operator's financial and technical capability. It is asserted that this has been broadly adopted by the mining industry on land and has become the functional equivalent of customary international law. Case law in common law jurisdictions have addressed this issue and the Authority may wish to rely upon that. With respect to the seafloor polymetallic nodule industry proof of satisfaction should (i) allow for Contractors and countries to prove technical capability by showing contractual relationships with third parties that have the required specialist expertise, through license rights from entities who have developed seafloor mining intellectual property, or by contracting specialised vessel operators, deep sea mining equipment suppliers and sub-contractors, and (ii) not require that the Contractor possess the financial assets required to carry out the exploitation prior to the Exploitation Contract being granted, as often such funding is not raised until after an Exploitation Contract has been granted and there is certainty of title. Also, as a conceptual matter, financial capability may be proven through (i) guarantees, (ii) joint venture associations, (iii) insurances, and (iv) other forms of financial investment and commitment beyond cash reserves. Financial and Technical Capability should recognize this is a new industry, as well as make reference to the common approaches established in land based mining codes.

Fifteenth, the Authority has requested consideration of a classification system of breaches and penalties. As per Annex III, Article 18, it is noted that penalties must be "**proportionate** to the seriousness of the violation". As such, it is important that penalties are always proportionate. Furthermore, given that in the extractive industry tenure is critical, the circumstances under which the Authority is able to terminate the contract must be limited and very clearly defined. For example, termination should be limited to only very serious willful and persistent breaches of the fundamental terms of the contract.





Sixteenth, the Authority has requested consideration on environmental guarantees, bonds or trust fund payments. It is important to firstly clarify the purpose of such instruments. For example, such instruments should be linked with “Mine Closure”. As detailed in the Seventeenth point below, the concept of Mine Closure, particularly as it pertains to seafloor polymetallic nodules, will need to be considered and clarified. Additionally, it is submitted that there is no need for multiple instruments to achieve the same outcome. As such, only one source of financial instrument should need to be provided. With respect to a trust fund, it is also noted that the Western Australia Mining Rehabilitation Fund is designed to **replace** the bond system. That is, the fund is *not* in addition to bonds, but rather those companies who transition to the trust fund system are able to have their bonds retired. Indeed the WA Mining Rehabilitation Fund was implemented on 1 July 2013 on a voluntary ‘opt in’ basis. This provided companies with an early opportunity to have their bonds retired. Moreover, whilst it is agreed that the concept of a Mining Rehabilitation Fund is a positive development in Western Australia, it is noted that in that jurisdiction mining has been ongoing for well over one hundred years with many hundreds of participants. At this stage the seafloor polymetallic nodule industry has not reached a similar equivalent stage, and it would be costly and ineffectual to place a financing obligation for a fund on a small class of initial Contractors when beneficiaries may be in decades to come. If a Trust Fund were to be established it would be suggested that such structure be implemented only when a reasonable number of participants become active in the industry, and in any event no sooner than 10 years from the adoption of the final Exploitation Regulations.

Alternatively, Member States could be levied a charge to assist in the development of this fund, in the interest of developing the long term productivity and profitability of the industry, with repayment coming from royalties received by the ISA in the future. The Member States of course will be the ultimate beneficiaries of the metals derived from seafloor polymetallic nodules, particularly through the increase in supply of globally traded products made from such metals.

Furthermore, and with reference to bonds, there should also not be an overlap with other regimes. For example, events such as a vessel sinking or the loss of a cargo or a ship oil spill are already events that are appropriately covered under existing regimes for vessels that currently transit across international waters. For the events that are already regulated by the IMO an additional bond should not be required by the Authority to cover such events. Likewise, Insurance may be a more appropriate means of dealing with accidents and similar insurable events. For example, pollution caused by a vessel leaking oil or a vessel collision may be better dealt with through appropriate insurance cover. If the event can be covered by insurance, and in particular if there is a requirement to cover an event through insurance, then requiring an additional bond to cover that event will likely place a disproportionate financial burden on the contractor. As such, there should not be any unnecessary overlap between insurance and bonds. It is recommended that the Authority consider what the main issues are from seafloor polymetallic nodule mining that cannot be covered by insurance and that are not already covered under current regimes that regulate vessels transiting through international waters. This issue ties in with the concept of Mine Closure as detailed below.

Seventeenth, the concept of “Mine Closure” should be further defined, and we recommend that a workshop is held to bring clarity to this issue with respect to what Mine Closure will look like for seafloor polymetallic nodules. Once the concept of Mine Closure has been determined, this will then influence the type of bond required, as the bond is there to ensure that notwithstanding something may happen to the Contractor, full and appropriate Mine Closure is nevertheless achieved. We note that unlike many land based mines, seafloor polymetallic nodule mining will not involve building tailings dams in the Area, or building open pit mines that need to be refilled. Further, polymetallic nodule



mining does not involve deforestation. As such, many of the Mine Closure issues associated with typical land based mines will not be applicable to seafloor polymetallic nodule mining. e.g. rehabilitation on land often involves stabilizing erosion of waste dumps and of tailings dams to avoid damage to river systems. With respect to seafloor polymetallic nodule mining, it is suggested that Mine Closure will deal with:

- (i) removing installations and any other equipment that have been left on the seafloor (items affixed to the seafloor such as communications or positioning beacons etc.);
- (ii) for environmental damage that is not permitted under the Exploitation Contract, rehabilitation to an agreed base standard.

Eighteenth, it is submitted that the bond should be limited to covering the actual costs caused by the failure of the Contractor to comply with Mine Closure obligations. Accordingly, the level of the bond should vary between operators depending upon their proposed activities. That is, the bond should be an accurate representation of future cost for doing work that is required to satisfy the conditions of the Mine Closure. For example, those Contractors proposing to carry out metallurgical processing of polymetallic nodules at sea will likely have higher Mine Closure costs than those who are carrying out metallurgical processing on land, and whose operations in the Area merely involve collecting the nodules from the seafloor. Seafloor nodule harvesting is of course also a relatively benign activity compared to the risks involved with offshore oil and gas. The major decommissioning for polymetallic nodules will likely be removing the mining vessel and associated subsea equipment from the Area.

Nineteenth, it is submitted that the final Exploitation Regulations clearly recognize that with respect to environmental rehabilitation it is impracticable and inappropriate to "replace" nodules on the seabed, but rather the Authority should accept that some areas may not be capable of rehabilitation to its previous state. The extractives industry is based on extracting metals and other valuable properties from a resource. In such activities it is inevitable that changes to the environment will occur. For example, copper mines in the Andes are not required to replace the mountain that is mined, and of course those mines are not required to put the copper back. Mitigation measures should be aimed at minimizing environmental harm and limiting the environmental impact to a reasonable extent. Further, the Clarion Clipper Zone ("CCZ") essentially contains one single large deposit of polymetallic nodules. As such, the area of the impact should be considered in the context of the CCZ area as a whole. Thus, while some mineral development impact may be significant in defined local areas, such impact may not be significant in terms of the CCZ area as whole. These concepts should be captured.

Twentieth, it is proposed that a better environmental management plan may involve classifying certain (or all) of the Areas of Particular Environmental Interest ("APEI's") as one or more Marine Protection Areas ("MPAs") to protect the overall environment across the CCZ polymetallic nodule area. This network of representative areas would then preserve the overall CCZ environment and allow regional biodiversity to be maintained. There are currently 9 APEI's in the CCZ covering a combined area of 360, 000 square kilometers. When buffer zones are included, this rises to a combined area of 1.44 million square kilometers. If the APEI's are changed to Marine Protection Areas, this could then provide significant protection of the ecological function of the CCZ.

Twenty-First, the Authority has expressed interest in encouraging investment in environmental related activities/technologies. Marawa suggests that the Authority could consider allowing operators to deduct environmental technology investments and research expenditure at a multiple greater than 1 for a period of time, or credit environmental expenditure against royalties/taxes at a multiple greater than





1. There should be a balancing between those entities (such as those who are the initial developers within the first 10 years of the industry) which are already developing IP and technology to facilitate mineral development, and those which will come into the industry after it has been established by the market makers. Any such environmental expenditure should be voluntary until such time (say 10 years) as the industry has developed.

Twenty-Second, the Exploitation Regulations should encourage self-reporting by Contractors, and reflect a reasonable balance in this regard with respect to self reporting and inspection. Any inspections should to the maximum extent possible limit interference with exploitation operations. To reduce the costs of inspections for the Authority it may be possible for the inspectors to join the Contractor's transport vessel that brings crew out to the Surface Production Vessel.

Twenty-Third, the Authority should not be entitled to assert any customs or other tariffs with respect to the import or transport of equipment into, or ore out of, the exploitation area on the high seas.

Twenty-Fourth, to the extent to which it falls within the Authority's jurisdiction, it is submitted that the exploitation rights granted by the Authority shall extend to the reasonable use of sea-water and other sea-bed materials, as provided within a Contractor's EIA/EIS, provided such use is ancillary and not intended for direct economic benefit.

Twenty-Fifth, it is submitted that in the event the Authority wrongly terminates, revokes, limits, or otherwise infringes on any Exploitation Contract granted in connection with the Exploitation Regulations that the contractor shall have the right to appeal such decision to the Seabed Disputes Chamber and if such action by the Authority is found to be wrongful, that the Authority shall indemnify the Contractor to the extent of the direct and indirect damages caused.

Twenty-Sixth, it is submitted that the Exploitation Regulations acknowledge that time is of the essence for both the Contractor and the Authority, and neither party shall unreasonably delay the obtaining or providing any relevant documentation, written response or authorization or approval.

Twenty-Seventh, it is submitted that the contractor shall be entitled to surrender its Exploitation Contract at any time subject to (i) fulfilling Mine Closure obligations, (ii) payment to the Authority of any outstanding fees and (iii) any other reasonable requirement of the Authority, provided however the Contractor shall not be liable to any penalty or termination fee.

