

## **SETTLEMENT AGREEMENT**

This Settlement Agreement ("Agreement") dated January 7, 2021, is made by and between Sunnyside Gold Corporation ("SGC"), Kinross Gold Corporation ("KGC"), and Kinross Gold U.S.A., Inc. ("KGUSA"), on the one hand (collectively, the "Mining Defendants"), and the State of New Mexico ("State"), the New Mexico Environment Department ("NMED") (the State and NMED are referred to herein collectively as "New Mexico"), and the New Mexico Office of the Natural Resources Trustee ("ONRT"), on the other hand (each a "Party," and collectively, the "Parties"). Unless otherwise indicated, capitalized terms used in this Agreement are defined in Appendix A, attached and incorporated herein.

### **RECITALS**

WHEREAS, New Mexico has made claims against the Mining Defendants in the following litigation: *In re Gold King Mine Release in San Juan County, Colorado on August 5, 2015* (1:18-md-02824 (D.N.M.)) and *State of New Mexico v. USEPA, et al.* (1:16-cv-00465 (D.N.M.)) consolidated with 1:16-cv-00931 (D.N.M.) (collectively, the "Litigation" as further defined in Appendix A), which litigation arose from the release that occurred on August 5, 2015 at the Gold King Mine ("Gold King Blowout" as further defined in Appendix A), which claims include, but are not limited to, tort claims and claims under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675 ("CERCLA");

WHEREAS, SGC has made counterclaims against New Mexico in the Litigation, including claims under CERCLA;

WHEREAS, except for Natural Resource Damages claims not arising from the Gold King Blowout ("Excluded NRD Claims" as further defined in Appendix A), the Parties desire to enter into this Agreement to have a full and final resolution of any and all claims that were brought or could have been brought by New Mexico or ONRT against the Mining Defendants, or the Mining Defendants against New Mexico or ONRT, in connection with the "Matters" as defined below in Section 5, to avoid the complication and expense of litigation of such claims between the Parties, and to avoid exposure to liability at trial;

WHEREAS, the Parties agree that this Agreement is fair, reasonable, and in the public interest;

WHEREAS, the Mining Defendants and New Mexico do not admit any liability in the Litigation; and

WHEREAS, except for the Excluded NRD Claims, the Parties enter into this Agreement as a full and final settlement of all claims that have been brought or could have been brought with regard to the Matters.

THEREFORE, the Parties hereby agree as follows.

**1. Payment.** Payment of Eleven Million Dollars (\$11,000,000.00) USD by SGC on behalf of the Mining Defendants shall be made to New Mexico, as directed by New Mexico, within 30 days of execution of this Agreement and issuance of a final order by the United States District Court for the District of New Mexico Court (the “Court”) with respect to the joint motion for entry of the Consent Decree described in Section 6.A (the “Payment”). In the event SGC does not make the Payment, it shall be made by KGC or KGUSA. The Payment shall be made in two separate payments as follows and subject to Section 2 below: (1) Ten Million Dollars (\$10,000,000.00) USD for claims that were or could have been asserted by New Mexico in the Litigation, allocated first for Response Costs, with the remainder applied to damages based on the tort claims asserted by New Mexico against the Mining Defendants; and (2) One Million Dollars (\$1,000,000.00) USD to ONRT for Natural Resource Damages claims arising from the Gold King Blowout to be paid to ONRT or its designee.

**2. Release by New Mexico.**

A. In consideration of the promises and covenants contained herein, the Payment and other good and valuable consideration, the sufficiency of which New Mexico hereby acknowledges, New Mexico, on its behalf, as *parens patriae*, and on behalf of its past, present, and future affiliates, agents, officers, directors, employees, members, representatives, consultants, attorneys, trustees, and related entities, as well as their heirs, predecessors, successors, and assigns (hereafter collectively referred to as the “Releasing New Mexico Parties”) hereby forever releases and discharges Mining Defendants, and Mining Defendants’ past, present, and future insurers, reinsurers, affiliates, parents, subsidiaries, agents, officers, directors, employees, representatives, consultants, attorneys, and related entities, as well as their heirs, predecessors, successors, and assigns (hereafter collectively referred to as the “Released Mining Defendant Parties”), from all claims, demands, obligations, judgments, Actions, liens, indebtedness, and liabilities, known or unknown, asserted or unasserted, accrued or unaccrued, in law or equity, for injuries, losses, or damages, of whatever kind or character, whether personal, property, economic, noneconomic, environmental, or natural resources, of all civil claims that have been brought or could have been

brought with regard to the Matters, including any and all claims relating to fraudulent or improper conveyance of assets or dividends, including without limitation those under the New Mexico Uniform Voidable Transactions Act and/or the Colorado Uniform Fraudulent Transfers Act; provided, however, that this release does not include the Excluded NRD Claims.

B. New Mexico acknowledges that it may hereafter discover facts different from or in addition to those which it now knows to be or believes to be true with respect to the Matters, and agrees that this Agreement and the obligations imposed and the release contained in it shall remain in effect in all respects, notwithstanding such different or additional facts, or the subsequent discovery thereof. It is possible that other injuries, damages, losses, or future consequences or results relating to or arising from the Matters not now known will develop or be discovered. This release, and the compromise upon which it is based, is expressly intended to cover and include, and does cover and include, a release by the Releasing New Mexico Parties as to the Released Mining Defendants Parties of all such future injuries, damages, losses, or future consequences or results of known or unknown injuries, including a release and waiver of all rights that may exist or arise in the future because of such future injuries, damages, losses, or future consequences or results of known or unknown injuries relating to or arising from the Matters, excepting only the Excluded NRD Claims. The Releasing New Mexico Parties are giving up any right they may have to bring any claim whatsoever, whether known or unknown, suspected or unsuspected, relating to or arising from the Matters against any of the Released Mining Defendant Parties, except for the Excluded NRD Claims and claims based on breach of this Agreement. Nothing in this release shall prohibit or release any claims for breach of this Agreement.

C. New Mexico expressly consents and agrees that this release shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown claims, injuries, demands or rights relating to or arising from the Matters.

D. As provided above, the Excluded NRD Claims are excluded from the release in this Section 2, and the Excluded NRD Claims will be the subject of separate good faith negotiations.

### **3. Release by Mining Defendants.**

A. In consideration of the promises and covenants contained herein, and other good and valuable consideration, the sufficiency of which Mining Defendants hereby acknowledge, each of the Mining Defendants, on its behalf and on behalf of its past, present, and future affiliates, agents, officers, directors, employees, members, representatives, consultants, attorneys, trustees,

and related entities, as well as their heirs, predecessors, successors, and assigns (hereafter collectively referred to as the “Releasing Mining Defendants Parties”) hereby forever releases and discharges New Mexico, and New Mexico’s past, present, and future insurers, reinsurers, affiliates, parents, subsidiaries, agents, officers, directors, employees, representatives, consultants, attorneys, and related entities, as well as their heirs, predecessors, successors, and assigns (hereafter collectively referred to as the “Released New Mexico Parties”), from all claims, demands, obligations, judgments, Actions, liens, indebtedness, and liabilities, known or unknown, asserted or unasserted, accrued or unaccrued, in law or equity, for injuries, losses, or damages, of whatever kind or character, whether personal, property, economic, noneconomic, environmental, or natural resources, relating to or arising from the claims brought or which could have been brought with regard to the Matters, provided, however, that such release does not impact, interfere with, or limit any Mining Defendant’s claims or defenses with respect to the Excluded NRD Claims, and each Mining Defendant reserves all rights with respect to such Excluded NRD Claims.

B. Mining Defendants acknowledge that they may hereafter discover facts different from or in addition to those which they now know to be or believe to be true with regard to the Matters, and agree that this Agreement and the obligations imposed and the release contained in it shall remain in effect in all respects, notwithstanding such different or additional facts, or the subsequent discovery thereof. It is possible that other injuries, damages, losses, or future consequences or results relating to or arising from the Matters not now known will develop or be discovered. This release, and the compromise upon which it is based, is expressly intended to cover and include, and does cover and include, a release by the Releasing Mining Defendants Parties of all such future injuries, damages, losses, or future consequences or results of known or unknown injuries, including a release and waiver of all rights that may exist or arise in the future because of such future injuries, damages, losses, or future consequences or results of known or unknown injuries relating to or arising from the Matters, subject to Section 3.A with respect to Mining Defendants’ claims, defenses and rights with respect to Excluded NRD Claims. The Releasing Mining Defendants Parties are giving up any right they may have to bring any legal claim whatsoever, whether known or unknown, suspected or unsuspected, relating to or arising from the Matters against any of the Released New Mexico Parties, except for claims based on breach of this Agreement and subject to Section 3.A with respect to Mining Defendants’ claims, defenses and rights with respect to Excluded NRD Claims. Nothing in this release shall prohibit

or release any claims for breach of this Agreement.

C. Each Mining Defendant expressly consents and agrees that this release shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown claims, injuries, demands or rights relating to or arising from the Matters.

**4. New Mexico and ONRT Covenants Not to Sue.**

A. New Mexico, on behalf of itself and the Releasing New Mexico Parties, agrees and hereby covenants that it will not commence any Action against the Released Mining Defendant Parties relating to the Matters. New Mexico, on its own behalf and on behalf of the Releasing New Mexico Parties, further agrees that the Released Mining Defendant Parties are entitled to the immediate dismissal with prejudice or, in the event that relief is not granted, preliminary and permanent injunctive relief prohibiting the prosecution of any such Action as well as any resulting monetary damages, including but not limited to attorneys' fees and costs related to defending any such Action.

B. ONRT agrees and hereby covenants that it will not commence any Action against the Released Mining Defendant Parties relating to or arising from the Matters, including but not limited to any Action for the recovery of Natural Resource Damages arising from the Gold King Blowout. For the avoidance of doubt, this agreement and covenant by ONRT does not preclude any future Action by ONRT related to the Excluded NRD Claims, subject to Section 2.D above.

C. Any Action brought by New Mexico or ONRT to enforce (but not to rescind or reform) the terms of this Agreement is excepted from the covenants not to sue included in Sections 4.A and 4.B.

**5. Matters.** "Matters" as used herein shall mean all claims, whether known or unknown, which have been brought or could have been brought with regard to the matters in the Litigation, including without limitation SGC's counterclaims against New Mexico in the Litigation. "Matters" specifically includes any/all claims relating to fraudulent or improper conveyance of assets or dividends, including without limitation those under the New Mexico Uniform Voidable Transactions Act and/or the Colorado Uniform Fraudulent Transfers Act. As used herein, "Matters" shall not include the Excluded NRD Claims.

**6. Consent Decree.**

A. The Parties shall enter into a consent decree substantially in the form set forth in

Appendix B (“Consent Decree”). Such Consent Decree shall effectuate the provisions in Sections 6.B and 6.C. Such Consent Decree shall be submitted for approval and entry to the Court, and the Parties shall jointly move the Court for entry of such Consent Decree and cooperate in supporting its entry and make additional filings as reasonably requested by any of the Parties or required by the Court in support thereof. If requested by the Mining Defendants, such Consent Decree shall include the Navajo Nation as a party. If Court approval of the Consent Decree is not obtained, the Parties agree this Agreement shall be deemed to be an “Administrative Settlement Agreement” pursuant to applicable law governing such agreements under CERCLA, and shall take further action as appropriate pursuant to Section 15 (Further Assurances) to effectuate same.

B. Such Consent Decree shall reflect the intention of the Parties with respect to the following provisions:

1. New Mexico forever covenants not to sue, and agrees not to assert (by way of the commencement of an Action or in any other fashion) any claim that New Mexico may have had, or hereafter has against the Released Mining Defendants Parties relating to or arising from the Matters under CERCLA Sections 107 and 113, 42 U.S.C. §§ 9607 and 9613, to recover Past Response Costs or Future Response Costs incurred or to be incurred by New Mexico in connection with the Site.
2. With regard to any claims for costs, damages, or other claims of New Mexico against the Released Mining Defendants Parties related to the Matters under CERCLA, the Parties agree that the Released Mining Defendants Parties have resolved their liability and are entitled to contribution protection consistent with Section 113(f) of CERCLA, 42 U.S.C. § 9613(f), the Uniform Comparative Fault Act, and any other applicable provision of federal or state law, whether by statute or common law, extinguishing the Released Mining Defendants Parties’ liability to persons not party to this Agreement for “matters addressed” in this Agreement (as described in this paragraph). Any rights the Released Mining Defendants Parties may have to obtain contribution or otherwise recover costs or damages from persons not party to this Agreement are preserved. For purposes of this paragraph, the “matters addressed” in this Agreement are any liability of Released Mining Defendants Parties for Past Response Costs or Future Response Costs of New Mexico arising from the Matters incurred or to be incurred in connection with

the Site. The contribution protection set forth in this paragraph is intended to provide the broadest protection afforded by CERCLA or and any other applicable provision of federal or state law, or otherwise for “matters addressed” in this Agreement.

3. If Court approval of the Consent Decree is not obtained, then pursuant to Section 6.A above, the Parties agree that Sections 6.B.1 and 6.B.2 will become effective and incorporated in the “Administrative Settlement Agreement” provided for in Section 6.A.

7. **No Admissions.** The Parties explicitly acknowledge that this Agreement represents a settlement of disputed claims, and the Parties understand and agree that nothing contained in this Agreement is to be considered as an admission of any alleged fact, liability or fault, and that all such allegations, liability and fault are expressly denied. Accordingly, neither this Agreement nor any of its terms shall be offered or received as evidence in any proceeding in any forum as an admission of liability or wrongdoing on the part of any Mining Defendant or New Mexico.

8. **Acknowledgements.** Each of the Parties declares that it has read and understands the terms of this Agreement, that it has been represented by counsel in the negotiation, execution, and delivery of this Agreement, and that it executes this Agreement voluntarily after consultation with counsel. Each of the Parties participated in the drafting of this Agreement. In the event of any ambiguity, the Parties agree that it shall not be construed against any of them.

9. **No Reliance on Extrinsic Facts.** No Party (or any owner, member, manager, officer, director, partner, associate, employee, representative, attorney, or agent of any Party) has made any statement or representation to any other Party regarding any facts relied upon in entering into this Agreement other than those set forth in this Agreement. Likewise, no Party relies upon any statement, representation, or promise of any other Party (or any owner, member, manager, officer, director, partner, associate, employee, representative, attorney, or agent of any Party) in executing this Agreement, except as expressly stated in this Agreement. The Parties expressly assume the risk that the facts or law may be, or may become, different from the facts or law as presently believed or understood by the Parties.

10. **Dismissal of Claims.** The Parties shall file pleadings necessary to effect dismissal

with prejudice of all claims in the Litigation against one another within five business days of the Payment.

**11. Fees/Costs.** Each Party shall bear its own costs, expenses, experts' fees, any mediator's fees, and attorneys' fees.

**12. Remaining Litigation.** This Agreement does not impact, interfere with, or limit any Party's claims or defenses against non-Parties in the remaining Litigation. Notwithstanding any other provision of this Agreement, each Party reserves all rights with respect to such remaining Litigation.

**13. Representations and Warranties.**

A. Each Party represents and warrants that this Agreement covers all claims and damages brought or which could have been brought by it against the other Party in the Litigation. Each Party further represents and warrants that it is the owner of all claims being released, and that such claims have not been assigned or transferred, and that it is not aware of any other person or entity that has any interest in the claims that have been or could have been asserted in the Litigation and that are referred to in this Agreement. Each Party further represents and warrants that it has been truthful and has acted in good faith in negotiating this Agreement.

B. New Mexico further represents and warrants that it is unaware of other agencies or instrumentalities of the State of New Mexico that now have any rights to proceed against the Mining Defendants on any Action or controversy arising out of or relating to the claims and damages released in this Agreement, and agrees that New Mexico, through the Office of Attorney General, releases any additional claims against the Mining Defendants for the same costs and damages addressed in this Agreement, and warrants that there are no other Actions pending or referred to the Office of the Attorney General by any agency of the State of New Mexico with respect to any such claim.

**14. Authority to Execute.** Each of the Parties represents and warrants that it has full power and authority to execute, deliver, and perform this Agreement and that it has taken all necessary steps for the execution and delivery of this Agreement. Each signatory to this Agreement represents and warrants that he/she has full power and authority to execute on behalf of the Party for whom he/she has executed this Agreement, and to bind legally such Party.

**15. Further Assurances.** The Parties agree to reasonably cooperate with each other in



the implementation of this Agreement, and to execute and deliver any further legal instruments and perform any acts which are or may become reasonably necessary, appropriate or desirable to effectuate this Agreement, including but not limited to entering into and obtaining judicial approval of the Consent Decree to provide the Mining Defendants with contribution protection under CERCLA with respect to CERCLA response cost claims, as provided in Section 6.

**16. Press Releases.** New Mexico agrees that 24 hours prior to issuing its official press release on behalf of New Mexico regarding this Agreement, New Mexico will provide the content of the press release to Brad Berge (bberge@hollandhart.com) and Neil Westesen (nwestesen@crowleyfleck.com). The Mining Defendants shall have the right to comment on the press release regarding this Agreement, and New Mexico will consider those comments in good faith. New Mexico further agrees that its official press release regarding this Agreement by New Mexico will not disparage the Mining Defendants. The Mining Defendants agree that 24 hours prior to issuing any official press release(s) on behalf of the Mining Defendants regarding this Agreement, the Mining Defendants will provide the content of the press release(s) to William Jackson (bjackson@kelleydrye.com), Annie Maxfield (Annie.Maxfield@state.nm.us) and Cholla Khoury (ckhoury@nmag.gov). New Mexico shall have the right to comment on any press release and the Mining Defendants agree to consider those comments in good faith. The Mining Defendants further agree that their official press release(s) regarding this Agreement will not disparage New Mexico. Pending any such press release by any Party, the existence and terms of this Agreement shall remain confidential to the full extent permitted by law, except to the extent the Parties notify the Court.

**17. Applicable Law and Dispute Resolution.**

A. This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico, without giving effect to any choice or conflict of law provisions or rule that would cause the application of laws of any other than those of the State of New Mexico.

B. Any and all controversies, disputes, or claims between the Parties arising under or related to this Agreement, and any and all claimed breaches thereof, shall be resolved solely by proceedings before the Court, unless the Parties mutually agree to an alternative dispute resolution proceeding. The Parties irrevocably and unconditionally waive any objection to jurisdiction and venue of any proceeding before the Court and irrevocably waive and agree not to plead or claim

that any such proceeding brought in the Court has been brought in an inconvenient forum.

**18. Successors and Transferees.** This Agreement shall be binding upon and inure to the benefit of each Party's current and former parent companies, subsidiaries, affiliates, successors, heirs, and assigns.

**19. Damages for Breach.** In the event of a breach of this Agreement, in addition to any other damage, the prevailing party is entitled to recover its reasonable costs and attorneys' fees to the extent authorized by law.

**20. Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable, such provision(s) shall be fully severable and the invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.

**21. Entire Agreement.** Subject to Section 15 (Further Assurances) and Section 6 regarding the Consent Decree, this Agreement is a fully integrated agreement which sets forth the entire agreement and understanding of the Parties concerning the subject matter of this Agreement. Accordingly, this Agreement supersedes and controls over the Binding Term Sheet entered into by the Parties on November 12, 2020. This Agreement may not be waived, rescinded, canceled, terminated, supplemented, amended, or modified in any manner without the prior written consent of all Parties.

**22. Counterparts.** This Agreement may be executed in any number of counterparts, and by different Parties upon different counterparts with the same effect as if the signatures thereto were upon the same instrument. Each counterpart shall be deemed an original, but together all counterparts shall constitute one and the same instrument. The date of execution of this Agreement shall be the last date any individual counterpart was signed by either of the Parties. Facsimile and Email .pdf copies shall be as valid as originals.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties enter into this Agreement.

**STATE OF NEW MEXICO ex rel. Hector Balderas, ATTORNEY GENERAL for the State of New Mexico**

By: Cholla Khoury

Dated: 1/7/2021

**NEW MEXICO ENVIRONMENT DEPARTMENT**

By: \_\_\_\_\_

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

Approved as to form:

\_\_\_\_\_  
William J. Jackson  
Kelley Drye & Warren LLP  
Counsel for New Mexico

**NEW MEXICO OFFICE OF THE NATURAL RESOURCES TRUSTEE**

By: \_\_\_\_\_

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

Approved as to form:

\_\_\_\_\_  
William Grantham  
Assistant Attorney General  
Counsel for ONRT

IN WITNESS WHEREOF, the Parties enter into this Agreement.

**STATE OF NEW MEXICO ex rel. Hector Balderas, ATTORNEY GENERAL for the State of New Mexico**

By: \_\_\_\_\_

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

**NEW MEXICO ENVIRONMENT DEPARTMENT**

By:  Digitally signed by James Kenney  
Date: 2021.01.07 16:32:46 -07'00'

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

Approved as to form:

  
\_\_\_\_\_

William J. Jackson  
Kelley Drye & Warren LLP  
Counsel for New Mexico

**NEW MEXICO OFFICE OF THE NATURAL RESOURCES TRUSTEE**

By: \_\_\_\_\_

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

Approved as to form:

\_\_\_\_\_

William Grantham  
Assistant Attorney General  
Counsel for ONRT

IN WITNESS WHEREOF, the Parties enter into this Agreement.

**STATE OF NEW MEXICO ex rel. Hector Balderas, ATTORNEY GENERAL for the State of New Mexico**

By: \_\_\_\_\_

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

**NEW MEXICO ENVIRONMENT DEPARTMENT**

By: \_\_\_\_\_

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

Approved as to form:

\_\_\_\_\_  
William J. Jackson  
Kelley Drye & Warren LLP  
Counsel for New Mexico

**NEW MEXICO OFFICE OF THE NATURAL RESOURCES TRUSTEE**

By: Maggie Grant SPO

Dated: January 7, 2021

Approved as to form:

\_\_\_\_\_  
William Grantham  
Assistant Attorney General  
Counsel for ONRT

**SUNNYSIDE GOLD CORPORATION**

By: Walter D. Felt

Dated: 1-8-21

Approved as to form:

Neil G. Westesen

Neil G. Westesen  
Crowley Fleck, PLLP  
Counsel for SGC

**KINROSS GOLD CORPORATION**

By: Julie Crowley

Dated: 01-08-2021

Approved as to form:

Bradford C. Berge

Bradford C. Berge  
Holland & Hart LLP  
Counsel for KGC and KGUSA

**KINROSS GOLD U.S.A., INC.**

By: Walter D. Felt

Dated: 1-8-21

Approved as to form:

Bradford C. Berge

Bradford C. Berge  
Holland & Hart LLP  
Counsel for KGC and KGUSA

**APPENDIX A  
TO SETTLEMENT AGREEMENT BETWEEN NEW MEXICO  
AND MINING DEFENDANTS**

**DEFINITIONS**

1.1 “Action” means any claim, demand, cause of action, lawsuit, arbitration, administrative or regulatory proceeding, or other proceeding of any kind whatsoever, in law or in equity.

1.2 “CERCLA” has the meaning ascribed in the first Recital in the Agreement.

1.3 “Complaint” means the Second Amended Complaint filed by New Mexico on October 17, 2019 in the Litigation.

1.4 “Consent Decree” has the meaning ascribed in Section 6.A of the Agreement.

1.5 “Court” means the United States District Court for the District of New Mexico presiding over the Litigation.

1.6 “EPA” means the U.S. Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

1.7 “Excluded NRD Claims” means potential Natural Resource Damages claims, if any, of the State of New Mexico or the ONRT against any or all of the Mining Defendants that do not arise from the Gold King Blowout, which will be the subject of separate good faith negotiations between the Parties as provided in Section 2.D of the Agreement.

1.8 “Future Response Costs” means all Response Costs that New Mexico incurs in connection with the Site, but after the date of execution of the Agreement.

1.9 “Gold King Blowout” means the incident on August 5, 2015 at the Gold King Mine, which is located within the Site, when an estimated three million gallons of water, approximately, exited the Gold King Mine Level 7 adit and ultimately flowed into the Animas River and downstream waterways, which is referenced in the Complaint.

1.10 “KGC” has the meaning ascribed in the initial paragraph of the Agreement.

1.11 “KGUSA” has the meaning ascribed in the initial paragraph of the Agreement.

1.12 “Litigation” means the litigation *State of New Mexico v. USEPA, et al.* (1:16-cv-00465 (D.N.M.)) consolidated with the litigation by the Navajo Nation (1:16-cv-00931 (D.N.M.)), which has been centralized in the United States District Court for the District of New Mexico with litigation by the Allen Plaintiffs’ (1:18-cv-00744 (D.N.M.)), and the State of Utah (2:17-cv-00866-

TS, (D. Utah)), pursuant to an April 4, 2018 Transfer Order issued by the United States Panel on Multi-District Litigation as MDL Case No. 2824. The Litigation includes the Complaint, and all allegations made by New Mexico therein or otherwise asserted during the course of the Litigation.

1.13 "Matters" has the meaning ascribed in Section 5 of the Agreement.

1.14 "Mining Defendants" has the meaning ascribed in the initial paragraph of the Agreement.

1.15 "Natural Resource Damages" means damages for purposes of CERCLA § 107(f)(1) and § 107(a)(4)(C) to "Natural Resources" as defined in CERCLA § 101(16), including those that may be recovered by a Natural Resource Trustee pursuant to 43 C.F.R. § 11.15.

1.16 "Natural Resource Trustee" means the official(s) or person(s) designated as natural resource trustee(s) with authority over Natural Resource Damages under 42 U.S.C. § 107(f); 33 U.S.C. § 2706, or other applicable federal or state law, including the ONRT with respect to the State of New Mexico.

1.17 "New Mexico" has the meaning ascribed in the initial paragraph of the Agreement.

1.18 "ONRT" has the meaning ascribed in the initial paragraph of the Agreement.

1.19 "Party" and "Parties" have the meaning ascribed in the initial paragraph of the Agreement.

1.20 "Past Response Costs" means all Response Costs that New Mexico has paid or incurred in connection with the Site, including but not limited to direct and indirect costs, and enforcement costs, through the date of execution of the Agreement.

1.21 "Payment" has the meaning ascribed in Section 1 of the Agreement.

1.22 "Released Mining Defendants Parties" has the meaning ascribed in Section 2.A of the Agreement.

1.23 "Releasing Mining Defendants Parties" has the meaning ascribed in Section 3.A of the Agreement.

1.24 "Released New Mexico Parties" has the meaning ascribed in Section 3.A of the Agreement.

1.25 "Releasing New Mexico Parties" has the meaning ascribed in Section 2.A of the Agreement.

1.26 "Response Costs" means all costs of response, within the meaning of Sections 107(a)(4)(A), 107(a)(4)(B) 101(25) of CERCLA, (42 U.S.C. §§ 9607(a)(4)(A), 9607(a)(4)(B),



9601(25)), including, but not limited to, direct and indirect costs, and enforcement costs, that New Mexico incurs arising from the Matters in connection with the Site.

1.27 “SGC” has the meaning ascribed in the initial paragraph of the Agreement.

1.28 “Site” means the Bonita Peak Mining District Superfund Site in San Juan County, Colorado, EPA Docket ID No. EPA-HQ-OLEM-2016-0152, as published in the Federal Register on September 9, 2016, 81 Fed. Reg. 62397. The definition for this Site will be construed to include all areas of the Site ever defined or described by EPA for purposes of or in relation to the National Priorities List, 40 C.F.R. Part 300, including any further expansion of such Site as may in the future be determined by EPA, including any land in the State of New Mexico in the Site.

**APPENDIX B  
TO SETTLEMENT AGREEMENT BETWEEN NEW MEXICO  
AND MINING DEFENDANTS**

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

In re: Gold King Mine Release in San Juan  
County, Colorado on August 5, 2015

No. 1:18-md-02824-WJ

This Document Relates to:

*No. 1:16-cv-00465-WJ-LF*

*No. 1:16-cv-00931-WJ-LF*

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**CONSENT DECREE**

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This Consent Decree is made and entered into by and between the State of New Mexico, and the New Mexico Environment Department (collectively “NM Plaintiffs”), and the New Mexico Office of the Natural Resources Trustee (“ONRT”) (NM Plaintiffs and ONRT collectively “New Mexico”), and the Navajo Nation (“Navajo Nation” as further defined below), on the one hand, and Sunnyside Gold Corporation (“SGC”), Kinross Gold Corporation (“KGC”), and Kinross Gold U.S.A., Inc. (“KGUSA”), on the other hand (collectively, the “Mining Defendants”).

## I. BACKGROUND

A. NM Plaintiffs have made claims under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675 (“CERCLA”) against the Mining Defendants in the following litigation: *In re Gold King Mine Release in San Juan County, Colorado on August 5, 2015* (1:18-md-02824 (D.N.M.)) and *State of New Mexico v. USEPA, et al.* (1:16-cv-00465 (D.N.M.)) (“NM Litigation”) consolidated with 1:16-cv-00931 (D.N.M.), which litigation arose from the release that occurred on August 5, 2015 at the Gold King Mine (“Gold King Blowout” as further defined below).

B. Navajo Nation has similarly made claims under CERCLA against the Mining Defendants in the following litigation: *In re Gold King Mine Release in San Juan County, Colorado on August 5, 2015* (1:18-md-02824 (D.N.M.)) and *Navajo Nation v. USEPA, et al.* (1:16-cv-00931 (D.N.M.)) (“NN Litigation”) consolidated with 1:16-cv-00465 (D.N.M.), which litigation also arose from the Gold King Blowout (such litigation, together with the NM Litigation, the “Litigation”)

C. The above-described CERCLA claims by NM Plaintiffs and Navajo Nation are under Sections 107(a) and 113(g)(2) of CERCLA, 42 U.S.C. §§ 9607(a), and 9613(g)(2), in

connection with the release or threatened release of hazardous substances as alleged in the Litigation.

D. SGC has made counterclaims under CERCLA for cost recovery and contribution against NM Plaintiffs in the NM Litigation.

E. New Mexico and the Mining Defendants have entered into a Settlement Agreement dated January \_\_, 2021 with respect to the NM Litigation (“NM Settlement Agreement”), and such NM Settlement Agreement provides that New Mexico and the Mining Defendants will enter into a consent decree with respect to those CERCLA Response Cost and Natural Resource Damages claims resolved by the NM Settlement Agreement, and that the Navajo Nation will also be a party to such consent decree upon the request of the Mining Defendants. The NM Settlement Agreement also provides that the Court will retain jurisdiction to resolve any disputes between New Mexico and the Mining Defendants, subject to the terms therein.

F. Navajo Nation and the Mining Defendants have entered into a Settlement Agreement dated January \_\_, 2021 with respect to the NN Litigation (“NN Settlement Agreement”), and such NN Settlement Agreement provides that Navajo Nation and the Mining Defendants will enter into a consent decree with respect to CERCLA claims, and that New Mexico will also be a party to such consent decree upon the request of the Mining Defendants. The NN Settlement Agreement also provides that the Court will retain jurisdiction to resolve any disputes between Navajo Nation and the Mining Defendants, subject to the terms therein.

G. This Consent Decree is the consent decree provided for in the NM Settlement Agreement and the NN Settlement Agreement.

H. The Mining Defendants do not admit any liability to New Mexico or Navajo Nation arising out of the transactions or occurrences alleged in the NM Litigation and the NN Litigation. New Mexico does not admit any liability to the Mining Defendants in the NM Litigation. The form of this Consent Decree is unique to the specific circumstances involved, and is not precedent for any other consent decree.

I. New Mexico, Navajo Nation, and Mining Defendants agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that this Consent Decree in connection with settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

**NOW, THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED:**

## **II. JURISDICTION**

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 9607 and 9613(b). Solely for the purposes of this Consent Decree, Mining Defendants waive all objections and defenses that any of them may have to subject matter jurisdiction of, personal jurisdiction of, or venue in this Court.

## **III. PARTIES BOUND**

2. This Consent Decree is binding upon New Mexico and Navajo Nation, and upon Mining Defendants and their respective successors and assigns. Any change in ownership or corporate or other legal status, including, but not limited to, any transfer of assets or real or personal property, will in no way alter the status or responsibilities of Mining Defendants under this Consent Decree.

#### IV. DEFINITIONS

3. Unless otherwise expressly provided in this Consent Decree, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA will have the meaning assigned to them in CERCLA or in such regulations. All other words will be assigned their normal meaning. Whenever terms listed below are used in this Consent Decree, the following definitions will apply:

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675;

“Consent Decree” means this Consent Decree;

“Court” means the United States District Court for the District of New Mexico presiding over the Litigation;

“Day” means a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period will run until the close of business of the next working day;

“Effective Date” means 30 days from the date that this Court enters the Consent Decree, unless an appeal of the entry of judgment is filed during the 30-day period; if an appeal is taken, the Effective Date means the date on which the Court’s judgment is affirmed;

“EPA” means the U.S. Environmental Protection Agency and its successor departments, agencies, or instrumentalities;

“Future Response Costs” means all Response Costs after the Effective Date of this Consent Decree;

“Gold King Blowout” means the incident on August 5, 2015 at the Gold King Mine, when an estimated three million gallons of water, approximately, exited the Gold King Mine



Level 7 adit and ultimately flowed into the Animas River and downstream waterways, which is referenced in the Litigation;

“KGC” has the meaning ascribed in the initial paragraph in this Consent Decree;

“KGUSA” has the meaning ascribed in the initial paragraph in this Consent Decree;

“Litigation” has the meaning ascribed in Paragraph I.B.;

“Mining Defendants” has the meaning ascribed in the initial paragraph in this Consent Decree;

“Mining Defendants’ Related Parties” means: (i) Mining Defendants’ successors and assigns but only to the extent that the liability of such person or entity is based on the liability of Mining Defendants; (ii) Mining Defendants’ former or current officers, directors and employees, but only to the extent that the liability of any such person is based on acts and/or omissions which occurred in the scope of the person’s employment or capacity as an officer, director, and employee; (iii) affiliates of Mining Defendants (“Mining Defendants’ Affiliates”); (iv) Mining Defendants’ Affiliates’ successors and assigns, but only to the extent that the liability of such person or entity is based on the liability of Mining Defendants’ Affiliates; and (v) Mining Defendants’ Affiliates’ former or current officers, directors and employees, but only to the extent that the liability of such person is based on acts and/or omissions which occurred in the scope of the person’s employment or capacity as an officer, director, and employee;

“Natural Resource Damages” means damages for purposes of CERCLA § 107(f)(1) and § 107(a)(4)(C) to “Natural Resources” as defined in CERCLA § 101(16), including those that may be recovered by a Natural Resource Trustee pursuant to 43 C.F.R. § 11.15;

“Natural Resource Trustee” means the official(s) or person(s) designated as natural resource trustee(s) with authority over Natural Resource Damages under 42 U.S.C. § 107(f); 33

U.S.C. § 2706, or other applicable federal or state or tribal law, including the ONRT with respect to the State of New Mexico, and the applicable Natural Resource Trustee for Navajo Nation;

“Navajo Nation” means the Navajo Nation including in its capacities as sovereign, including each department, agency, and instrumentality of the Navajo Nation, as *parens patriae*, and as landowner, and it shall also mean the Natural Resource Trustee for the Navajo Nation;

“New Mexico” has the meaning ascribed in the initial paragraph in this Consent Decree;

“NM Litigation” has the meaning ascribed in Paragraph I.A.;

“NM Plaintiffs” has the meaning ascribed in the initial paragraph in this Consent Decree;

“NM Settlement Agreement” has the meaning ascribed in Paragraph I.E.;

“NN Litigation” has the meaning ascribed in Paragraph I.B.;

“NN Settlement Agreement” has the meaning ascribed in Paragraph I.F.;

“ONRT” has the meaning ascribed in the initial paragraph in this Consent Decree;

“Paragraph” means a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter;

“Parties” means New Mexico, Navajo Nation, and the Mining Defendants;

“Past Response Costs” means all Response Costs , including but not limited to direct and indirect costs, and enforcement costs that New Mexico or Navajo Nation, as applicable, have paid or incurred through the Effective Date of this Consent Decree, plus accrued interest on all such costs through such date;

“Response Costs” means all costs of response, within the meaning of Sections 107(a)(4)(A), 107(a)(4)(B) 101(25) of CERCLA, (42 U.S.C. §§ 9607(a)(4)(A), 9607(a)(4)(B),

9601(25)), including, but not limited to, direct and indirect costs, and enforcement costs, that New Mexico and/or Navajo Nation incurred or incurs arising from the release or threatened release of hazardous substances as alleged in the Litigation.

“Section” means a portion of this Consent Decree identified by a Roman numeral;

“SGC” has the meaning ascribed in the initial paragraph in this Consent Decree;

“Site” means for purposes of this Consent Decree the Bonita Peak Mining District Superfund Site in San Juan County, Colorado, EPA Docket ID No. EPA-HQ-OLEM-2016-0152, as published in the Federal Register on September 9, 2016, 81 Fed. Reg. 62397. The definition for this Site will be construed to include all areas of the Site ever defined or described by EPA for purposes of or in relation to the National Priorities List, 40 C.F.R. Part 300, including any further expansion of such Site as may in the future be determined by EPA, and shall include any lands of the state of New Mexico or Navajo Nation within the Site.

## **V. STATEMENT OF PURPOSE**

4. By entering into this Consent Decree, the mutual objective of the Parties is to effectuate the provisions of the NM Settlement Agreement and the NN Settlement Agreement with respect to the consent decrees referenced therein, and for New Mexico and Mining Defendants to resolve their alleged and respective civil CERCLA liability, and the CERCLA liability of Mining Defendants’ Related Parties, consistent with how such alleged liability is addressed in the NM Settlement Agreement and the NN Settlement Agreement, as provided in the covenants by New Mexico and Navajo Nation in Section VII, and as provided in the covenants by Mining Defendants in Section VIII, subject to the Reservation of Rights by the Parties in Section IX. With respect to such alleged liability, subject to the terms and conditions herein, this Consent Decree is intended to provide finality and the broadest protection afforded

by law to the Mining Defendants and Mining Defendants' Related Parties.

## **VI. PAYMENTS**

5. Payments by Mining Defendants. The Mining Defendants' payments for CERCLA claims have been or shall be paid as provided in the NM Settlement Agreement and the NN Settlement Agreement. The amount of the payments for CERCLA claims are as follows: (a) to NM Plaintiffs - \$\_\_\_\_\_ for CERCLA cost recovery claims, (b) to ONRT - One Million Dollars (\$1,000,000.00) for Natural Resource Damages claims arising from the Gold King Blowout, and (c) to Navajo Nation - One Million Dollars (\$1,000,000.00) for the Navajo Nation's CERCLA claims resolved by the NN Settlement Agreement.

## **VII. COVENANTS BY NEW MEXICO AND NAVAJO NATION**

6. Covenants for Mining Defendants. Except as specifically provided in Paragraph 10 (General Reservation of New Mexico and Navajo Nation Rights), New Mexico and Navajo Nation covenant: (a) not to sue or to take administrative action against Mining Defendants or Mining Defendants' Related Parties pursuant to Sections 106, 107(a), and 113 of CERCLA, 42 U.S.C. §§ 9606, 9607(a), and 9613, or under New Mexico state law, or Navajo Nation tribal law to recover Past Response Costs and Future Response Costs incurred by New Mexico or Navajo Nation; and (b) not to sue or to take administrative action against Mining Defendants or Mining Defendants' Related Parties for those Natural Resource Damages settled and resolved in the NM Settlement Agreement and the NN Settlement Agreement.

7. All covenants in Paragraph 6 will take effect upon the Effective Date.

## **VIII. COVENANTS BY MINING DEFENDANTS**

8. Covenants by Mining Defendants. Except as specifically provided in Paragraph

12 (General Reservation of Mining Defendants' Rights), Mining Defendants covenant not to sue and agree not to assert any claims or causes of action against New Mexico or Navajo Nation for:

a. any claim pursuant to Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, or state law or Navajo Nation law regarding Past Response Costs and Future Response Costs and this Consent Decree; or

b. any alleged response costs which Mining Defendants allege or may allege they have incurred, as alleged in their CERCLA claims against NM Plaintiffs in the NM Litigation.

9. The covenants in this Section shall not apply in the event New Mexico or Navajo Nation bring a cause of action or issue an order pursuant to any of the reservations in Section IX (Reservations of Rights by Parties), other than in Paragraph 10.a (liability for failure to meet a requirement of the Consent Decree) or 10.b (criminal liability), but only to the extent that Mining Defendants' claims arise from the same response action or response costs that New Mexico or Navajo Nation is seeking pursuant to the applicable reservation.

#### **IX. RESERVATIONS OF RIGHTS BY PARTIES**

10. General Reservations of New Mexico and Navajo Nation Rights. New Mexico and Navajo Nation reserve, and this Consent Decree is without prejudice to, all rights against Mining Defendants and Mining Defendants' Related Parties, and this Consent Decree is without prejudice to, with respect to all matters not expressly included within Paragraph 6 (Covenants for Mining Defendants). Notwithstanding any other provision of this Consent Decree, New Mexico and Navajo Nation reserve, and this Consent Decree is without prejudice to, all rights against Mining Defendants and Mining Defendants' Related Parties, with respect to:

- a. liability for failure of Mining Defendants to meet a requirement of this Consent Decree;
- b. criminal liability; and
- c. claims and rights of New Mexico and Navajo Nation reserved under the NM Settlement Agreement and the NN Settlement Agreement;

11. Notwithstanding any other provision of this Consent Decree, NM Plaintiffs and Navajo Nation specifically reserve the ability and right to assert claims and defenses against any parties in the Litigation other than the Parties.

12. General Reservations of Mining Defendants' Rights. The Mining Defendants reserve, and this Consent Decree is without prejudice to, all rights against New Mexico and Navajo Nation with respect to all matters not expressly included within Paragraph 8 (Covenants by Mining Defendants). Notwithstanding any other provision of this Consent Decree, the Mining Defendants reserve, and this Consent Decree is without prejudice to, all rights against New Mexico and Navajo Nation with respect to:

- a. liability for failure of New Mexico or Navajo Nation to meet a requirement of this Consent Decree; and
- b. claims and rights of the Mining Defendants reserved under the NM Settlement Agreement and the NN Settlement Agreement.

13. Notwithstanding any other provision of this Consent Decree, the Mining Defendants specifically reserve the ability and right to assert claims and defenses against any parties in the Litigation other than the Parties.

#### **X. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION**

14. Except as provided in Paragraphs 4, 6, 7, and 15 as applicable to Mining

Defendants' Related Parties, nothing in this Consent Decree will be construed to create any rights in, or grant any cause of action to, any person or entity not a Party to this Consent Decree. Except as provided in Section VIII (Covenants by Mining Defendants), each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action that it may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party. Nothing in this Consent Decree diminishes the right of New Mexico or Navajo Nation, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2); provided, however, that nothing in this Paragraph 14 affects: (a) the enforceability of the covenants by New Mexico and Navajo Nation set forth in Paragraph 6 (Covenants for Mining Defendants), (b) New Mexico's and Navajo Nation's reserved rights set forth in Paragraph 10 (General Reservations of New Mexico and Navajo Nation Rights) and Paragraph 11, or (c) the Mining Defendants' reserved rights set forth in Paragraph 12 (General Reservation of Mining Defendants' Rights) and Paragraph 13.

15. The Parties agree, and by entering this Consent Decree this Court finds, that this Consent Decree constitutes a judicially-approved settlement pursuant to which each Mining Defendant and Mining Defendants' Related Party, as of the Effective Date, resolved liability to New Mexico and Navajo Nation within the meaning of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, or as may be otherwise provided by law, for the "matters addressed" in this Consent Decree. The

“matters addressed” in this Consent Decree are any liability of Mining Defendants and Mining Defendants’ Related Parties for Past Response Costs and Future Response Costs of New Mexico and Navajo Nation. The contribution protection set forth in this Paragraph is intended to provide the broadest protection afforded by CERCLA or state law or Navajo Nation tribal law or otherwise for “matters addressed” in this Consent Decree.

16. The Parties further agree, and by entering this Consent Decree this Court finds, that the NM Litigation and the NN Litigation filed by New Mexico and Navajo Nation are civil actions within the meaning of Section 113(f)(1) of CERCLA, 42 U.S.C. § 9613(f)(1), and that this Consent Decree constitutes a judicially-approved settlement pursuant to which each Mining Defendant, and each Mining Defendants’ Related Party, has, as of the Effective Date, resolved liability to New Mexico and Navajo Nation within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

#### **XI. NOTICES AND SUBMISSIONS**

17. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one Party to another, it will be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Except as otherwise provided, notice to a Party by email (if that option is provided below) or by regular mail in accordance with this Section satisfies any notice requirement of the Consent Decree regarding such Party.

**As to NM Plaintiffs by email:**

**As to NM Plaintiffs by mail:**

**As to ONRT by email:**

**As to ONRT by mail:**



**As to Navajo Nation by email:**

**As to Navajo Nation by mail:**

**As to Mining Defendants by email:**

**As to Mining Defendants by mail:**

## **XII. RETENTION OF JURISDICTION**

18. This Court will retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree. This Court will also retain jurisdiction over the NM Settlement Agreement and the NN Settlement Agreement, subject to the terms therein.

## **XIII. INTEGRATION**

19. Subject to the NM Settlement Agreement and the NN Settlement Agreement, this Consent Decree constitutes the final, complete and exclusive agreement and understanding among the Parties with respect to the matters in this Consent Decree. Subject to the NM Settlement Agreement and the NN Settlement Agreement, the Parties acknowledge that there are no representations, agreements, or understandings relating to the matters in this Consent Decree other than those expressly contained in this Consent Decree.

## **XIV. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT**

20. This Consent Decree will be lodged with the Court for a period of at least 30 Days for public notice and comment.

21. If for any reason this Court should decline to approve this Consent Decree in the form presented, New Mexico and Navajo Nation and the Mining Defendants agree to cooperate in an effort to revise this Consent Decree to address the reason(s) provided by the

Court in declining to approve. If subsequent Court approval is not obtained despite such effort, the Parties agree to rely on the NM Settlement Agreement and the NN Settlement Agreement to govern their respective settlements, including any CERCLA-related provisions therein.

**XV. SIGNATORIES**

22. Each undersigned representative of a Mining Defendant and of New Mexico and Navajo Nation certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

**XVI. FINAL JUDGMENT**

23. Upon entry of this Consent Decree by the Court, this Consent Decree will constitute the final judgment between and among New Mexico, Navajo Nation, and the Mining Defendants with respect to the matters in this Consent Decree. The Court enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.

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The Honorable William P. Johnson  
Chief United States District Judge

[SIGNATURE PAGES FOLLOW]

**STATE OF NEW MEXICO ex rel. Hector Balderas, ATTORNEY GENERAL for the State of New Mexico**

By: \_\_\_\_\_

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

**NEW MEXICO ENVIRONMENT DEPARTMENT**

By: \_\_\_\_\_

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

Approved as to form:

\_\_\_\_\_  
William J. Jackson  
Kelley Drye & Warren LLP  
Counsel for NM Plaintiffs

**NEW MEXICO OFFICE OF THE NATURAL RESOURCES TRUSTEE**

By: \_\_\_\_\_

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

Approved as to form:

\_\_\_\_\_  
William Grantham  
Assistant Attorney General  
Counsel for ONRT

**THE NAVAJO NATION:**

(in all capacities set out in the definition of Navajo Nation in Section IV)

By: \_\_\_\_\_

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

Approved as to form:

\_\_\_\_\_  
Andrew K. Walsh  
Hueston Hennigan LLP  
Counsel for Navajo Nation

**SUNNYSIDE GOLD CORPORATION**

By: \_\_\_\_\_

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

Approved as to form:

\_\_\_\_\_  
Neil G. Westesen  
Crowley Fleck, PLLP  
Counsel for SGC

**KINROSS GOLD CORPORATION**

By: \_\_\_\_\_

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

Approved as to form:

\_\_\_\_\_  
Bradford C. Berge  
Holland & Hart LLP  
Counsel for KGC and KGUSA

**KINROSS GOLD U.S.A., INC.**

By: \_\_\_\_\_

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

Approved as to form:

\_\_\_\_\_  
Bradford C. Berge  
Holland & Hart LLP  
Counsel for KGC and KGUSA