

Prepared by:
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AMENDED AND RESTATED OPTION

I. GRANT OF OPTION:

For and in consideration of \$5.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Homestake Mining Company of California (“Seller”) does hereby give and grant unto the South Dakota Science and Technology Authority (“Purchaser”), the exclusive and irrevocable right and option to purchase the real estate described on the attached Exhibit “A” (the “Real Estate.”) [This Amended and Restated Option supersedes and replaces in its entirety the Option dated November 15, 2014.](#)

II. TERM OF OPTION:

This Option shall be exercisable by Purchaser from after November 11, 2014, through and including 5:00 p.m. (mountain daylight saving time) November 1, 2018.

III. EXERCISE OF OPTION:

This Option shall be exercised by Purchaser giving written notice to Seller in person, by United States mail or courier, of Purchaser's intention to exercise such option. This Option will be deemed to have been exercised if notice is personally delivered to Seller or mailed or sent by courier and actually received at these addresses:

Homestake Mining Company of California
ATTENTION: Closure Manager
11457 Bobtail Gulch St.
Central City, SD 57754

With a copy to:

Homestake Mining Company of California
ATTENTION: Regional Counsel
460 West 50 North, Suite 500
Salt Lake City, Utah 84101

In order to be effective, said written notice must be actually received by Seller no later than 5:00 p.m. (mountain daylight saving time) on November 1, 2018.

This address may be changed at any time during the option period by Seller giving notice of such address change to Purchaser by sending said notice via U.S. Mail to Purchaser, attention Executive Director, 630 E. Summit Street, Lead, South Dakota, 57754.

IV. CONSIDERATION FOR OPTION.

In consideration for Seller's grant of this Option, Purchaser agrees to pay \$45,000.00 upon the terms and conditions set forth in this Section IV. Purchaser agrees to pay \$15,000.00 upon execution of this Option by Seller; \$15,000.00 no later than January 1, 2015 and \$15,000.00 no later than July 1, 2015. All payments made by Purchaser pursuant to this Section IV shall be applied to the purchase price of the Real Estate. Purchaser may exercise this Option prior to making all of the payments called for by this Section IV, but in such event Purchaser shall only be entitled to a credit against the purchase price for the Real Estate in the amount of payments actually made.

V. TERMS AND CONDITIONS OF PURCHASE:

The terms and conditions of the purchase shall be as follows:

(A) PURCHASE PRICE:

The purchase price shall be \$600,000.00, payable in cash at the time of Closing, and subject to (1) any credits to be applied pursuant to Section IV above, and/or (2) any deduction pursuant to Section VII(B) below.

(B) DEED and TITLE INSURANCE:

In the event Purchaser exercises this option, Seller shall furnish to Purchaser a quitclaim deed conveying the Real Estate in the form attached as Exhibit B, specifically subject to the lease agreement between Homestake and the City of Lead dated September 1, 1999. Seller will further reserve easements for access to the Real Estate as reasonably necessary for the purposes of continuing reclamation and closure activities; provided, however, that such access shall not unreasonably interfere with Purchaser's ownership and use of the Real Estate. Seller shall have no obligation to provide title insurance.

(C) TAXES AND ASSESSMENTS:

In the event Purchaser exercises this Option, Seller covenants that Seller will pay all of the real property taxes applicable to the Real Estate up to the time of Closing, including taxes not due and payable until after Closing. The parties acknowledge that real property owned by Purchaser is exempt from real property taxes. Seller shall also pay any special assessments that constitute a lien against the Real Estate or any special assessments, the statutory notice of which has been given by the applicable governmental authority;

(D) ASBESTOS. Within 360 days after Closing, Purchaser shall use its best efforts to remove and dispose of all asbestos in the surface buildings located on the Real

Estate and do so up to industry standards. Seller and Purchaser shall share equally in the reasonable costs of said asbestos removal; provided, however, that Seller's share of the costs shall not exceed \$600,000.00. While conducting the asbestos removal, Purchaser shall provide to Seller monthly written statements of the costs incurred by Purchaser. Seller shall pay Purchaser one-half (1/2) of the amount of each monthly written statement within twenty (20) days after the date of each statement. This covenant on behalf of Seller shall survive Closing and possession by Purchaser.

(E) CLOSING; POSSESSION DATE:

Closing shall occur within 90 days of the date of exercise of this Option.

Possession and risk of loss to pass to Purchaser upon the completion of Closing.

(F) EVALUATION AND INVESTIGATION OF REAL ESTATE:

Purchaser acknowledges, represents, warrants and agrees that (i) Purchaser is and will be relying strictly and solely upon the advice and counsel of its own employees, officers, agents, consultants and contractors, and such physical inspections, examinations, investigations, and tests of the Real Estate as Purchaser deems necessary or appropriate under the circumstances, and Purchaser is and will be fully satisfied that the Purchase Price is fair and adequate consideration for the Real Estate; and (ii) Purchaser has had and will have, pursuant to this Option, an adequate opportunity to make such legal, factual, environmental, and other inquiries and investigations as Purchaser deems necessary, desirable, or appropriate with respect to the Real Estate. Purchaser agrees to provide to Seller when available to Purchaser, but in no event less than 60 days prior to Closing, all

data or information acquired, developed, or generated by Purchaser or its employees', officers', agents', or contractors' work on, or related to, the Real Estate ("**Real Estate Information**"). Further, Purchaser agrees to provide to Seller when available to Purchaser, but in no event less than 60 days prior to Closing, and before such documents become or are deemed final, drafts of all evaluations, investigations, analyses, assessments, findings, studies, results, tests, summaries or the like developed or generated as a result of Purchaser's or its employees', officers', agents', or contractors' work on or related to the Real Estate, including, without limitation, any Phase I or Phase II Environmental Site Assessment or similar investigation ("**Draft Assessments**"). Purchaser shall review and consider all comments received from Seller on either the Real Estate Information or the Draft Assessments before such Draft Assessments become or are deemed final. Purchaser agrees to provide to Seller when available to Purchaser, but in no event less than 10 days prior to Closing, any Draft Assessments that have become or are deemed to be final ("**Final Assessments**"). The parties agree that SDSTA shall not use any investigation, evaluation, or assessment of the Real Estate including, without limitation, any Phase I or Phase II Environmental Site Assessment or similar investigation, as the basis to assert a future right to investigate, evaluate, or assess any other real property or fixtures or personal property of Seller, or an obligation on the part of Seller to allow the same.

- (G) AS IS WHERE IS WITH ALL FAULTS CONDITION OF REAL ESTATE and ASSUMPTION OF LIABILITY: Except for the removal of asbestos from

surface buildings in accordance with Section V(D), Purchaser does hereby acknowledge, represent, warrant and agree, to and with Seller, that (i) Purchaser is purchasing the Real Estate in an “AS IS, WHERE IS, AND WITH ALL FAULTS” condition with respect to any facts, circumstances, conditions and defects of all kinds, including, without limitation, any and all facts or circumstances that may give rise to any Environmental Claims as defined herein; (ii) Seller has no obligation to repair or correct any such facts, circumstances, conditions or defects or compensate Purchaser for same; (iii) Seller is not making and has not made any warranty or representation with respect to the Real Estate as an inducement to Purchaser to enter into this Option and thereafter to purchase the Real Estate, or for any other purpose; and (iv) by reason of all of the foregoing, if Purchaser exercises the option to purchase, or Purchaser or its employees, officers, agents, or contractors undertake any environmental work on or related to the Real Estate, including, without limitation, any Phase I or Phase II Environmental Site Assessment or similar investigation, Purchaser shall assume the full risk of any loss or damage occasioned by any fact, circumstance, condition or defect, any and all liabilities and obligations of any kind, character or nature whatsoever (whether arising or accruing prior to or on or after the Closing, known or unknown, accrued, absolute, contingent, determined, determinable or otherwise) pertaining to the physical and other conditions of the Real Estate and/or the operation of the Real Estate, including, without limitation, any and all Environmental Claims. “**Environmental Claim**” means any claim, action, suit, claim, investigation or other legal proceeding, alleging liability of whatever kind

or nature (including liability or responsibility of Purchaser for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries (including death), medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from:

(i) the presence, release, management, manufacture, use, containment, storage, discharge, reclamation, processing, disposal, transportation of, or exposure to, any hazardous substance or any other material, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or man-made, that is hazardous, acutely hazardous, toxic, or identified or classified as such or similarly under state or federal laws, orders, or permits;

(ii) the presence, release, management, manufacture, use, containment, storage, discharge, reclamation, processing, disposal, transportation of, or exposure to, any petroleum or petroleum-derived products, radon, radioactive materials or wastes, lead or lead-containing materials, below-ground asbestos, urea formaldehyde foam insulation and polychlorinated biphenyls, or (iii) any actual or alleged non-compliance with any applicable state or federal law, governmental order, governmental permit, or binding agreement with any governmental authority relating to pollution (or the cleanup thereof) or the protection of natural resources, endangered or threatened species, human health or safety, or the environment (including ambient air, soil, surface water or groundwater, or subsurface soil, material, rock, bedrock or strata).

VI. EXCLUSIVE OPTION:

This Option is exclusive and irrevocable. It is mutually understood between the parties that during the term hereof, Purchaser shall have the exclusive and irrevocable right to purchase the Real Estate.

VII. MISCELLANEOUS:

(A) PURCHASER ACCESS TO REAL ESTATE - ENVIRONMENTAL SITE ASSESSMENTS. During the term of this Option, Purchaser shall be entitled to reasonable access to the Real Estate for the purpose of conducting Environmental Site Assessments and general surveys of the Real Estate. If Purchaser determines to undertake a Phase I and/or Phase II Environmental Site Assessment of the Real Estate, Seller shall pay one-half of the reasonable cost of said assessment; provided, however, that Seller's share of the cost of said Environmental Site Assessments shall not exceed in the aggregate the sum of \$50,000.00.

(B) SELLER'S PAYMENT FOR ENVIRONMENTAL SITE ASSESSMENTS
While conducting any ~~e~~Environmental ~~s~~Site ~~a~~Assessments, Purchaser shall provide to Seller monthly written statements of the costs incurred by Purchaser for any such ~~environmental~~ assessments. Seller may elect to pay its one-half share of the costs of any such environmental assessments either directly or through a deduction from the purchase price, with such election occurring in writing within thirty (30) days after receipt of the first of the monthly written statements ~~in writing on or before June 30, 2017~~. If Seller has not made its election by that date, Seller shall pay to Purchaser, on or before a date which is

sixty (60) days after the receipt by Seller of each monthly written statement, ~~July 30, 2017~~, one-half of the costs of such environmental assessments, not to exceed in the aggregate \$50,000.00, as such costs were set forth in the Purchaser's monthly written statements to Seller.

- (C) RELATIONSHIP TO PROPERTY DONATION AGREEMENT - INDEMNIFICATION. Anything in the Property Donation Agreement between and among Seller, the State of South Dakota and Purchaser, dated as of April 14, 2006, as amended, or elsewhere in this Option to the contrary notwithstanding, Purchaser shall have no obligation to indemnify, defend or hold Seller or any other person or entity harmless against any claims, damages or losses paid or incurred by Seller or any other person or entity relating to the Real Estate; provided, however, that Purchaser shall indemnify, defend and hold Seller harmless from and against any claims, damages or losses paid or incurred by Seller that arise solely out of activities undertaken by Purchaser on the Real Estate, and provided further that the indemnities for subsurface conditions set forth in the Property Donation Agreement shall still apply. Seller shall have no obligation to indemnify, defend or hold Purchaser harmless for any claims, damages or losses paid or incurred by Purchaser relating to the Real Estate.
- (D). GOVERNING LAW. The terms of this Option shall be construed under and governed by the laws of the State of South Dakota.
- (E). VENUE. Any lawsuits arising out of relating this Option must be brought in a court of the Unified Judicial System of the State of South Dakota.

- (F). SUCCESSORS AND ASSIGNS. The terms, covenants and conditions of this Option shall be binding upon and inure to the benefit of the parties and their successors and assigns.
- (G). ENTIRE AGREEMENT - AMENDMENTS. This Option constitutes the entire agreement of the parties concerning its subject matter and supersedes any prior discussions, negotiations or representations, oral or written, concerning its subject matter. The terms of this Option may only be amended by a writing executed with the same formalities as this Option.
- (H). TIME OF THE ESSENCE. Time is of the essence in the performance of the covenants, terms and conditions of this Option.
- (I). AUTHORITY TO EXECUTE. The persons executing this Option on behalf of the parties each warrant and represent that they have the power and authority to do so on behalf of the party they purport to represent.
- (J). COUNTERPARTS. This Option may be executed in two or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.
- (K). RECORDATION. Seller acknowledges and agrees that the Purchaser may record this Option in the land records in and for Lawrence County, South Dakota.

IN WITNESS WHEREOF, the parties hereto have caused this Amended and Restated Option to be executed the day and year set forth in the acknowledgments.

South Dakota Science and Technology
Authority

Homestake Mining Company of
California

By: _____
Casey Peterson

By: _____

Chairman of the Board

Its: _____

By: _____

Its: _____

State of _____)
)ss
County of _____)

On this the ____ day of _____, 2016, before me the undersigned officer, personally appeared _____, who acknowledged himself/herself to be the _____ of Homestake Mining Company of California, a corporation, and that he/she as such _____, being authorized so to do, executed the foregoing Amended and Restated Option in the name of the corporation by himself/herself as _____.

IN WITNESS WHEREOF I hereunto set my hand and official seal this ____ day of _____, 2016.

(SEAL)

Notary Public
Notary Print Name:
My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE

Tract One - "Ellison Hill": Tract F of the Yates Subdivision of the City of Lead, Lawrence County, South Dakota, as shown on that certain plat recorded in the office of the Lawrence County Register of Deeds as Plat Document number 2005-8217 and comprising 28.69 acres, more or less.

Tract Two - "Tramway": Tramway Tract of the Gold Run Addition to the City of Lead, Lawrence County, South Dakota, as shown on that certain plat recorded in the office of the Lawrence County Register of Deeds as Plat Document number 2005-4941 and comprising 4.70 acres, more or less.