

# MinterEllison

L A W Y E R S

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**Direct line**

**From** Stephanie Rowland **Facsimile** (08) 9429 7666  
**Direct line** (08) 9429 7410  
**Our Ref** 60-1422870  
E.mail  
stephanie.rowland@minterellison.com

**Date** 25 September 2009 **Number of pages (including this one):** 31

**Subject** Incoming fax

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Please find **attached** Notice of initial substantial holder in relation to China Growth Minerals Limited, being for:

- A-Cap Resources Limited; and
- Impact Minerals Limited.

If you have any queries please do not hesitate to contact us.

*Minter Ellison*  
Yours faithfully  
**MINTER ELLISON**

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**If you do not receive all pages please telephone 08 9429 7444**

**IMPORTANT** - The contents of this facsimile may be privileged and confidential. Any unauthorised use of the contents is expressly prohibited. If you have received the document in error, please advise us by telephone (reverse charges) immediately and then shred the document. Thank you.

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**Form 603**Corporations Act 2001  
Section 671B**Notice of initial substantial holder**To Company Name/Scheme A-Cap Resources LimitedACN/ARSN 104 028 542**1. Details of substantial holder (1)**Name China Growth Minerals Limited

ACN/ARSN (if applicable) \_\_\_\_\_

The holder became a substantial holder on 23/09/2009**2. Details of voting power**

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

Class of securities (4)	Number of securities	Person's votes (5)	Voting power (6)
Ordinary fully paid shares	26,000,000	26,000,000	16.22%

**3. Details of relevant interests**

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
See Section 3 of Annexure A		

**4. Details of present registered holders**

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
See section 4 of Annexure A			

**5. Consideration**

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration (9)		Class and number of securities
		Cash	Non-cash	
See Annexure B				

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**6. Associates**

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

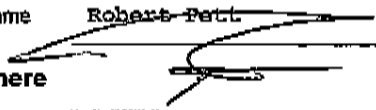
Name and ACN/ARSN (if applicable)	Nature of association
Not applicable	

**7. Addresses**

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

Name	Address
See Section 7 of Annexure A	

**Signature**

print name Robert Petzl capacity Director of China Growth Minerals Limited  
 sign here  date 25/09/2009

**DIRECTIONS**

- (1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (7) Include details of:
  - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
  - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).

See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (8) If the substantial holder is unable to determine the identity of the person (eg. if the relevant interest arises because of an option) write "unknown".
- (9) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

## Form 603 – Annexure A

This is Annexure A of 1 page referred to in Form 603 Notice of initial substantial holder signed by me, Robert Pett, Director of China Growth Minerals Limited on 25 September 2009

To: Company Name/Scheme: A-Cap Resources Limited  
ACN/ ARSN: 104 028 542

## Section 3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
China Growth Minerals Limited	Beneficial owner	26,000,000 ordinary
Indochina Minerals Limited ACN 114 013 624	By virtue of s608(3) of the Corporations Act 2001	26,000,000 ordinary
Shanghai Ansheng Group	By virtue of s608(3) of the Corporations Act 2001	26,000,000 ordinary
East China Capital Investment Limited	By virtue of s608(3) of the Corporations Act 2001	26,000,000 ordinary

## Section 4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 4 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
China Growth Minerals Limited	China Growth Minerals Limited	Not applicable	26,000,000 ordinary
Indochina Minerals Limited ACN 114 013 624	China Growth Minerals Limited	Not applicable	26,000,000 ordinary
Shanghai Ansheng Group	China Growth Minerals Limited	Not applicable	26,000,000 ordinary
East China Capital Investment Limited	China Growth Minerals Limited	Not applicable	26,000,000 ordinary

## Section 7. Addresses

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

Name	Address
China Growth Minerals Limited	Unit 1906, 19 Floor, China Insurance Group Building, 141 Des Voeux Road Central, Hong Kong
Indochina Minerals Limited ACN 114 013 624	Level 36, Exchange Plaza, 2 The Esplanade Perth Western Australia
Shanghai Ansheng Group	16 Floor, 988 Dingxi Road, Shanghai, P.R. China, 200050
East China Capital Investment Limited	16H, China Development Bank Tower, 500 Pudong South Road, Shanghai, P.R. China 200120

**Form 603 -- Annexure B**

*This is Annexure B of 12 pages referred to in Form 603 Notice of initial substantial holder signed by me, Robert Pett, Director of China Growth Minerals Limited on 25 September 2009*



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To:      Company Name/Scheme:      A-Cap Resources Limited  
            ACN/ ARSN:                   104 028 542

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# Share sale agreement

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Polo Australasia Limited (**Polo**)

Polo Resources Limited (**Guarantor**)

China Growth Minerals Limited (**CGM**)

## Details

**Date** 23 September 2009

## Parties

**Name** Polo Australasia Limited  
**Short form name** Polo  
**Notice details** Craigmuir Chambers, Road Town, Tortola, British Virgin Islands  
 Facsimile: + 44 (0)20 70228735  
 Email: neil.herbert@57kgs.com  
 Attention: Neil Herbert

**Name** Polo Resources Limited  
**Short form name** Guarantor  
**Notice details** Craigmuir Chambers, Road Town, Tortola, British Virgin Islands  
 Facsimile: + 44 (0)20 70228735  
 Attention: Neil Herbert

**Name** China Growth Minerals Limited  
**Short form name** CGM  
**Notice details** Unit 1906, 19 Floor, China Insurance Group Building, 141 Des Voeux Road  
 Central, Hong Kong  
 Facsimile: +852 2199 2826  
 Attention: Company Secretary

## Background

- A A-Cap is an Australian ASX listed company which has a share capital comprising 160,245,078 fully paid ordinary shares and has issued 14,190,000 options.
- B Impact is an Australian ASX listed company which has a share capital comprising 93,403,328 fully paid ordinary shares and has issued 8,300,000 options.
- C Polo is the beneficial owner of not less than 26,000,000 shares in A-Cap and not less than 11,840,470 shares in Impact.
- D Polo has agreed to sell the Sale Shares and CGM has agreed to buy the Sale Shares on the terms and conditions set out in this agreement.
- E Polo is a wholly owned subsidiary of the Guarantor, which has agreed to guarantee the obligations of Polo under this agreement.

## Agreed terms

### 1. Defined terms & interpretation

In this agreement:

**A-Cap** means A-Cap Resources Limited ACN 104 028 542 of Suite 510 Level 5 Pacific Tower 737 Burwood Road Hawthorn Victoria 3122.

**A-Cap Sale Shares** means the Initial A-Cap Shares and the Final A-Cap Shares.

**A-Cap Shares** means all shares in the capital of A-Cap.

**ASX** means ASX Limited ACN 008 624 691.

**Business Day** means a day that is not a Saturday, Sunday, public holiday or bank holiday in Western Australia or Hong Kong.

**Business Hours** means from 9.00am to 5.00pm on a Business Day.

**Cash** means payment by bank cheque or telegraphic transfer to the following account:

Branch: Jersey St Helier Branch

Account name: Polo Resources Ltd

Account No: 68934086

Sort Code: 40-05-15

IBAN: GB60 MIDL 4005 1568 9340 86

Swift/BIC: MIDLGB22

**CGM Agent** means CGM's settlement agent, being Minter Ellison Perth of Level 49, Central Park, 152 – 158 St Georges Terrace Perth WA. 6000.

**CGM Shares** has the meaning given in clause 5.4(a).

**Companies** means A-Cap and Impact.

**Completion** means completion of the sale and purchase of the Initial Shares under clause 3.

**Completion Date** means the second Business Day following the date of execution of this agreement.

**Encumbrance** means any mortgage, charge, lien, restriction against transfer or any other encumbrance of any kind whatsoever including any pre-emptive right of any entity in relation to the Sale Shares.

**Final A-Cap Shares** means 13,000,000 fully paid ordinary shares in A-Cap.

**Final A-Cap Date** is defined in clause 4.1.

**Final Completion** is defined in clause 5.1.

**Final Completion Date** is defined in clause 5.1.

**Final Impact Shares** means 5,920,235 fully paid ordinary shares in Impact.

**Final Impact Date** is defined in clause 4.2.

**Final Purchase Price** has the meaning given in clause 5.1.

**Final Shares** is defined in clause 5.1.



**Impact** means Impact Minerals Limited ACN 119 062 261 of 309-315 Newcastle Street Northbridge Western Australia 6003.

**Impact Sale Shares** means the Initial Impact Shares and the Final Impact Shares.

**Impact Shares** means all shares in the capital of Impact.

**Initial A-Cap Shares** means 13,000,000 fully paid ordinary shares in A-Cap.

**Initial Impact Shares** means 5,920,235 fully paid ordinary shares in Impact.

**Initial Purchase Price** means USD5.28 million, representing AUD0.385 per Initial A-Cap Share and AUD0.175 per Initial Impact Share at an agreed exchange rate of AUD1.00 = USD0.8740.

**Initial Shares** means the Initial A-Cap Shares and the Initial Impact Shares.

**Legal Owners** means either Citicorp Nominees PTY Limited of GPO Box 764G, Melbourne, Victoria 3001 (Chess Hin No. - 607339, Chess ID. - 20018) or Polo.

**Sale Shares** means the Initial Shares and the Final Shares.

**Transaction** means the sale of the Initial Shares and Final Shares by Polo to CGM on the terms and conditions as set out in this agreement.

**VWAP** means the daily volume weighted average market price during each of the relevant trading days taking into account all trades on the relevant trading platform.

The Background is true and correct and forms part of this agreement.

Headings are for ease of reference only and do not affect interpretation.

## 2. Sale and purchase

Polo agrees as beneficial owner to sell to CGM and CGM agrees to buy from Polo the Initial Shares free from Encumbrances, with all rights, including dividend and voting rights, attached or accrued to them on or after the date of this agreement for the Initial Purchase Price and otherwise subject to this agreement.

## 3. Completion

3.1 Completion must take place at 3pm Australian Western Standard Time on the Completion Date at Minter Ellison Perth, Level 49, Central Park 152-158 St Georges Terrace Perth WA 6000.

3.2 At or before Completion, Polo must:

- (a) procure from the Legal Owners and deliver to the CGM Agent executed and completed transfers in favour of CGM (or its nominee) of the Initial Shares in registrable form (except for the impression of stamp duty or similar other tax);
- (b) produce to the CGM Agent any power of attorney or other authority under which the transfers of the Initial Shares are executed together with any evidence required of the removal of any Encumbrance over the Initial Shares; and
- (c) do all other things within its power reasonably necessary to transfer the Initial Shares to CGM.

3.3 At Completion, CGM (or its nominee) must pay the Initial Purchase Price to Polo in Cash.

3.4 All actions required to be performed at Completion are interdependent and the parties need not complete unless the sale and purchase of all the Initial Shares is completed simultaneously.

Furthermore:

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- (a) if Polo has not complied with any provision of clause 3.2 at Completion, CGM at its election may:
- (i) Complete as far as practicable (without prejudice to its rights under this agreement);
  - (ii) defer Completion to a date not more than 5 Business Days after the Completion Date (and the provisions of this clause 3 apply to the deferred Completion); or
  - (iii) terminate this agreement by written notice to Polo; or
- (b) if CMG has not complied with clause 3.3 at Completion and provided that Polo is not in breach of its obligations in clause 3.2, Polo at its election may:
- (iv) Complete as far as practicable (without prejudice to its rights under this agreement);
  - (v) defer Completion to a date not more than 5 Business Days after the Completion Date (and the provisions of this clause 3 apply to the deferred Completion); or
  - (vi) terminate this agreement by written notice to CGM.

3.5 After Completion and until the Initial Shares are registered in the name of CGM (or its nominee), Polo irrevocably appoints CGM as its attorney to act for it only to:

- (a) exercise the voting rights attaching to the Initial Shares as CGM sees fit including, convening, attending and voting at general meetings of the Companies and taking all other action in the capacity of the registered holder of the Sale Shares; and
- (b) do all such acts and execute all documents as necessary to exercise the voting rights of Polo under clause 3.5(a).

3.6 After the Initial Shares are registered in the name of CGM and until the Final A-Cap Shares or Final Impact Shares (as applicable) are registered in the name of CGM or the date on which the relevant option lapses (as set out in clause 4), Polo, acting reasonably and in good faith, must promptly notify CGM and consult with CGM for a reasonable time prior to Polo exercising its voting rights attaching to the Final A-Cap Shares or Final Impact Shares (as applicable) (including prior to convening, attending and voting at general meetings of the relevant Company) and Polo taking all other action in the capacity of the registered holder of the Final A-Cap Shares or Final Impact Shares (as applicable). While Polo must notify and consult with CGM in accordance with this clause, Polo is not obligated to act under CGM's directions given pursuant to this clause.

3.7 Polo is bound by all acts of CGM acting in its capacity as attorney under clause 3.5.

#### 4. Options to acquire Final Shares

4.1 Subject to clause 4.3, Polo grants CGM an option to acquire all, but not part of, the Final A-Cap Shares by giving written notice to Polo. If CGM gives such notice within the relevant time period in this clause, Final Completion will take place at 3pm Australian Western Standard Time at Minter Ellison Perth, Level 49, Central Park 152-158 St Georges Terrace Perth WA 6000 on the date 5 Business Days after the date of receipt of such notice (Final A-Cap Date). This option must be exercised by notice in writing given by CMG to Polo:

- (a) if a takeover bid by any third party other than Polo or its associates is announced for all of the shares in issue (other than any shares held by the bidder) of A-Cap which becomes or is declared unconditional, so that such notice is received by Polo at least 96 hours before the closing of acceptances of that bid or within six months of the Completion Date, whichever first occurs; or
- (b) in any other case, within six months of the Completion Date,

failing which this option will lapse.

4.2 Subject to clause 4.3, Polo grants CGM an option to acquire all, but not part of, the Final Impact Shares by giving written notice to Polo. If CGM gives such notice within the relevant time period in this clause, Final Completion will take place at 3pm Australian Western Standard Time at Minter Ellison Perth, Level 49, Central Park 152-158 St Georges Terrace Perth WA 6000 on the date 5 Business Days after such notice (Final Impact Date). This option must be exercised by notice in writing given by CMG to Polo:

- (a) if a takeover bid by any third party other than Polo or its associates is announced for all of the shares in issue (other than any shares held by the bidder) of Impact which becomes or is declared unconditional, so that such notice is received by Polo at least 96 hours before the closing of acceptances of that bid or within six months of the Completion Date, whichever first occurs; or
- (b) in any other case, within six months of the Completion Date,

failing which this option will lapse.

4.3 Regarding the options set out in this clause 4:

- (a) CGM must exercise the options in clauses 4.1 and 4.2 simultaneously unless a notice of exercise is given pursuant to clause 4.1(a) or 4.2(a), in which case the options may be exercised separately; and
- (b) notwithstanding clause 8, a notice by facsimile given under this clause is taken to be received when the sender's facsimile system generates a message confirming successful transmission of the entire Notice, and, without prejudice to this, a copy of each such notice must also be sent by email at the same time to the contact email address for Polo in the Details section of this agreement.

## 5. Final Completion

5.1 In this clause 5 (and where relevant throughout this agreement):

- (a) if the A-Cap option has been exercised in accordance with clause 4.1:
  - (i) "Final Completion" means completion of the sale and purchase of the Final A-Cap Shares following notice being given by CGM to Polo under clause 4.1;
  - (ii) "Final Completion Date" means the Final A-Cap Date;
  - (iii) "Final Purchase Price" means the final purchase price for the Final A-Cap Shares determined in accordance with clause 5.3;
  - (iv) "Final Shares" means the Final A-Cap Shares; or
- (b) if the Impact option has been exercised in accordance with clause 4.2:
  - (i) "Final Completion" means completion of the sale and purchase of the Final Impact Shares following notice being given by CGM to Polo under clause 4.2;
  - (ii) "Final Completion Date" means the Final Impact Date;
  - (iii) "Final Purchase Price" means the final purchase price for the Final Impact Shares determined in accordance with clause 5.3;
  - (iv) "Final Shares" means the Final Impact Shares; and
- (c) if the A-Cap and Impact options are exercised simultaneously, then each Final Completion under this clause 5 must occur simultaneously.

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- 5.2 At or before Final Completion, Polo must:
- (a) procure from the Legal Owners and deliver to the CGM Agent executed and completed transfers in favour of CGM (or its nominee) of the Initial Shares in registrable form (except for the impression of stamp duty or similar other tax);
  - (b) produce to the CGM Agent any power of attorney or other authority under which the transfers of the Final Shares are executed together with any evidence required of the removal of any Encumbrance over the Final Shares; and
  - (c) do all other things within its power reasonably necessary to transfer the Final Shares to CGM.

- 5.3 The Final Purchase Price is the greater of:
- (a) the 15 day VWAP of the Final Shares for the 15 trading days prior to the Final Completion Date plus 10%; and
  - (b) in the case of Final A-Cap Shares, AUD0.40 for each Final A-Cap Share and in the case of the Final Impact Shares, AUD0.20 for each Final Impact Share.

5.4 If CGM is:

- (a) listed when it gives the notice under clause 5.1, Polo must notify CGM at least 2 Business Days prior to the Final Completion Date of the form of the Final Purchase Price, being Cash or the issue of listed shares in CGM (CGM Shares) in the equivalent amount of the Final Purchase Price where the number of CGM Shares to be issued must be determined by:
  - (i) if CGM has been listed on the Australian, Hong Kong or Toronto Stock Exchanges or on the NASDAQ market for not less than one calendar month, the traded market price of the CGM Shares based on the 15 day VWAP for the 15 trading days prior to the Final Completion Date; or
  - (ii) otherwise, the lowest price at which CGM shares were first issued to institutional investors at the time of its first admission to listing or quotation on one of those markets,

with any currency conversion (in the event that the CGM Shares are priced in any currency other than Australian dollars) being calculated at the relevant mid-market rate set out on the relevant Bloomberg screen at 5.00 pm Australian Eastern Standard Time on the Business Day immediately before the Final Completion Date and at Final Completion, following the receipt of the necessary documents by the CGM Agent pursuant to clause 5.2, CGM will ensure the CGM Agent will promptly inform CGM of this and CGM must pay the Final Purchase Price to Polo in the form elected by Polo; and

- (b) not listed when it gives the notice under clause 5.1, at Final Completion, following the receipt of the necessary documents by the CGM Agent pursuant to clause 5.2, CGM will ensure the CGM Agent will promptly inform CGM of this and CGM must pay the Final Purchase Price in Cash.

- 5.5 If Polo has elected to be paid the Final Purchase Price in CGM Shares under clause 5.4(a), at Final Completion, following the receipt of the necessary documents by the CGM Agent pursuant to clause 5.2, CGM will ensure the CGM Agent will promptly inform CGM of this and CGM must issue the relevant number of CGM Shares to Polo or its nominee (free from all Encumbrances and on-sale restrictions).

- 5.6 All actions required to be performed at Final Completion are interdependent and the parties need not complete unless the sale and purchase of all the Final Shares is completed simultaneously. Furthermore,

- (a) if Polo has not complied with any provision of clause 5.2 on the Final Completion Date, CGM may:
- (i) proceed to Final Completion as far as practicable (without prejudice to its rights under this agreement);
  - (ii) defer Final Completion to a date not more than five Business Days after the Final Completion Date and the provisions of this clause 5 apply to Final Completion as deferred; or
  - (iii) terminate this agreement by written notice to Polo; and
- (b) if CGM has not complied with any provision of clause 5.4 or 5.5 on the Final Completion Date and provided that Polo is not in breach of its obligations in clause 5.2, Polo may:
- (i) proceed to Final Completion as far as practicable (without prejudice to its rights under this agreement);
  - (ii) if it has given notice requiring that the consideration for the Final Shares be in the form of CMG Shares, give a further notice requiring CMG immediately to pay the Final Purchase Price instead in Cash;
  - (iii) defer Final Completion to a date not more than five Business Days after the Final Completion Date and the provisions of this clause 5 apply to Final Completion as deferred; or
  - (iv) terminate this agreement by written notice to CGM.

5.7 Polo and the Guarantor must not directly or indirectly solicit or respond to any enquiries or proposals by any entity other than CGM (or its nominee) concerning any disposal or acquisition of any of the Sale Shares prior to Final Completion.

## 6. Representations and Warranties

6.1 Polo represents and warrants to CGM that each of the following is true and accurate as at the date of this agreement, on the Completion Date and on the Final Completion Date:

- (a) Polo is the beneficial owner of the Initial Shares (and the Legal Owners are the legal owners of the Initial Shares) as at the Completion Date and there are no Encumbrances over or affecting the Initial Shares;
- (b) Polo is the beneficial owner of the Final Shares (and the Legal Owners are the legal owners of the Final Shares) as at the Final Completion Date and there are no Encumbrances over or affecting the Final Shares; and
- (c) Polo has the power and lawful authority to enter into and perform this agreement and this agreement constitutes a legal, valid, enforceable and binding obligation on Polo.

Each warranty above is separate and independent, remains in full force and effect and is not affected by any investigation made by or on behalf of CGM.

6.2 CGM represents to Polo that, as at the date of this agreement, on the Completion Date and on the Final Completion Date CGM has the power and lawful authority to enter into and perform this agreement and this agreement constitutes a legal, enforceable, valid and binding obligation on CGM.

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## 7. Publicity

Subject to any legal requirements and the parties behaving reasonably. Neither party will make any announcement or disclosure in relation to this agreement to any stock exchange, or make any other media release, announcement or other public statement or communication of any kind, without the prior written consent of the other party (which consent must not be unreasonably delayed or withheld).

## 8. Notice

A notice, demand, consent, approval or communication under this agreement (Notice) must be in writing, in English and signed by a person duly authorised by the sender and hand delivered or sent by facsimile to the recipient's address for Notices specified in the Details, as varied by any Notice given by the recipient to the sender. A Notice given in accordance with this clause takes effect when taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight Business Hours after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

## 9. Guarantee

In consideration of CGM entering into this agreement at the request of the Guarantor (which request is evidenced by the Guarantor's execution of this agreement), the Guarantor unconditionally and irrevocably guarantees the due and punctual performance and observance by Polo of its obligations under this agreement.

## 10. Miscellaneous

- 10.1 This agreement may be altered only in writing signed by each party.
- 10.2 Each party must pay its own costs of negotiating, preparing and executing this agreement. CGM must pay any stamp duty incurred in connection with the transfer of the Sale Shares (including any transfer of CGM Shares to Polo).
- 10.3 Any indemnity or any obligation of confidence under this agreement is independent and survives termination of this agreement. Any other term by its nature intended to survive termination of this agreement survives termination of this agreement. Termination of this agreement is the sole remedy of each party to this agreement in respect of the Transaction.
- 10.4 The rights and obligations of the parties under this agreement do not merge on completion of any transaction contemplated by this agreement.
- 10.5 This agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.
- 10.6 Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this agreement and the Transaction.
- 10.7 A term or part of a term of this agreement that is illegal or unenforceable may be severed from this agreement and the remaining terms or parts of the term of this agreement continue in force.
- 10.8 A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent

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another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

10.9 A party may only use confidential information of another party for the purposes of this agreement, and must keep the existence and the terms of this agreement and any confidential information of another party confidential except where:

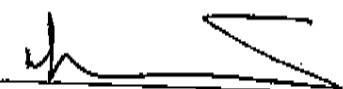
- (a) the information is public knowledge (but not because of a breach of this agreement) or the party has independently created the information;
- (b) disclosure is required by law or a regulatory body (including a relevant stock exchange);
- (c) for the purposes of capital raising disclosure is made to any of its professional advisors, auditors, bankers, financiers or potential investors who have a need to know that confidential information; or
- (d) disclosure is made to a person who must know for the purposes of this agreement on the basis that the person keeps the information confidential.

10.10 This agreement may be executed in counterparts. All executed counterparts constitute one document.

10.11 This agreement is governed by the law of Western Australia.

**EXECUTED** as an agreement.

**Executed by Polo Australasia Limited**


  
\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/company secretary  
(Please delete as applicable)

NEIL HERBERT  
\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Name of director/company secretary (print)

**Executed by Polo Resources Limited**

  
\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/company secretary  
(Please delete as applicable)

NEIL HERBERT  
\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Name of director/company secretary (print)

  
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Executed by ~~China Growth Minerals Limited~~

Signature of director

ROBERT PEIT  
Name of director (print)

Signature of director/company secretary

(Please delete as applicable)

MICHAEL M. LIU  
Name of director/company secretary (print)

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