

ASX RELEASE: 14 September 2021

## Metalicity Proposal to Nex Metals Shareholders

- Off-market all scrip bid by Metalicity for all of the fully paid ordinary shares in Nex Metals
- Kookynie and Yundamindra Gold Projects to be owned by a single listed entity, with NME shareholders to retain an exposure through an interest of 37.5%<sup>1</sup> of the combined entity
- Compelling combination with improved access to capital, removal of JV structure, cost savings and enhanced balance sheet position, leading to accelerated project development
- Metalicity controls the Kookynie and Yundamindra Projects with a 51% interest, providing a strong platform for consolidation and development of the Projects
- Offer is at an attractive 30% premium to NME's most recent closing price

Metalicity Limited (**Metalicity**) (ASX: MCT) is pleased to announce a proposal to rationalise ownership of the Kookynie and Yundamindra Gold Projects into a single listed entity. Metalicity intends to make an off-market all scrip takeover bid for all of the fully paid ordinary shares in its Joint Venture (**JV**) partner, Nex Metals Exploration Limited (ASX: NME) (**Nex Metals**)(**Nex Metals Shares**).

### Offer Terms

Metalicity's offer to Nex Metals shareholders is 4.81 Metalicity ordinary shares (**Metalicity Shares**) for every 1 Nex Metals Share (**Offer**) on issue as at the date of this announcement, valuing Nex Metals equity at A\$12.8 million based on Metalicity's closing share price on 13 September 2021.

Under Metalicity's Offer, Nex Metals shareholders would own 37.5% of the enlarged entity<sup>1</sup> that would hold a 100% interest in the Kookynie and Yundamindra Gold Projects, with improved access to capital, and an enhanced balance sheet position.

The Offer is equivalent to approximately \$0.048 (4.8 cents) per Nex Metals Share which represents an attractive premium of:

- a) 30% based on the closing price of Nex Metals Shares on 13 September 2021;
- b) 29% based on the volume weighted average price of Nex Metals Shares for the 15 trading days prior to the date of this announcement; and
- c) 27% based on the volume weighted average price of Nex Metals Shares for the 30 trading days prior to the date of this announcement.

The Offer is subject to a number of conditions as set out in Annexure A, including a 90% minimum acceptance of the Offer.

Further details of the Offer and the implications for Nex Metals shareholders will be set out in Metalicity's Bidder's Statement which will be sent to Nex Metals shareholders in accordance with the Corporations Act.

<sup>1</sup> Approximately 35.7% on a fully diluted basis based on MCT share price of \$0.010

For personal use only

The Bidder's Statement will also provide further information on how to accept the offer, details about Metalicity and its business and set out the reasons why Nex Metals shareholders should accept the Offer.

### **Metalicity's Intentions**

Metalicity is a gold exploration company with a management team with significant experience in developing mineral projects from exploration stage to production. Metalicity has earned a 51% controlling interest in the Kookynie and Yundamindra Gold Projects after successfully completing a \$5.0m exploration program, and the Projects are now under the direct operational control of Metalicity. The Kookynie and Yundamindra Gold Projects are the primary assets of both Nex Metals and Metalicity.

Metalicity believes the acquisition of Nex Metals and the opportunity to combine both companies will optimise the exploration and development potential of the Projects by bringing the ownership under one listed entity.

### **Benefits of the Offer**

The Offer is an opportunity for Nex Metals shareholders to join a company with a strong management team, a stronger balance sheet and superior share liquidity and valuation metrics. Furthermore, it provides Nex Metals shareholders with the opportunity to receive an attractive control premium today, while retaining maximum upside in a combined entity with direct operational control of the Kookynie and Yundamindra Gold Projects and the best opportunity to successfully develop and efficiently commercialise these Projects.

Metalicity believes that the successful completion of the Offer will:

- a) accelerate project outcomes by improving the ability to fund the development of the Projects (currently there are two companies, owning the same asset, competing for the required development capital);
- b) create size and scale benefits in the form of increased market capitalisation, enhanced share trading liquidity, and potential for stock re-rate;
- c) lead to the removal of the Joint Venture which will provide management efficiencies, streamlining administration process and eliminating ancillary costs;
- d) provide cost synergy benefits by removing duplicate ASX and other listed company costs such as audit, tax, investor relations, legal, ASX listing fees and share registry costs; and
- e) provide other benefits including a stronger (de-risked) balance sheet with a significantly enhanced cash position and greater certainty regarding its ability to meet its current liabilities and commitments, including resolution of significant related party loans.

### **Andrew Daley, Chairman of Metalicity commented:**

*"The combination of Metalicity and Nex Metals makes logical sense. The primary asset of both companies is the highly attractive Kookynie and Yundamindra Gold Projects. Rationalising the ownership of the Projects into a single listed entity creates a number of compelling benefits for both groups of shareholders, and allows us to better realise and maximise the value of the Projects for all shareholders.*

*"We envisage the combined entity would be able to accelerate the development of the Projects through better access to capital, reduced costs and greater efficiencies from removing the current JV structure.*

*"Metalicity has been in dialogue for over 12 months with NME regarding a combination of the two companies. We have presented a compelling proposal to the board of NME on multiple occasions and believe this Offer should be*

placed in front of their shareholders. We continue to have a close working relationship with NME via the JV and we look forward to the fast and amicable completion of this transaction for the benefit of all shareholders.

*"We expect Nex Metals shareholders want to retain exposure to the potential upside of Kookynie and Yundamindra so have structured the offer on a scrip basis with an attractive premium to the most recent closing price."*

#### Advisors

Metalicity's financial advisors are Harbury and Canaccord Genuity and its legal advisor is Steinepreis Paganin.

#### About Metalicity (ASX: MCT)

MCT is an ASX-listed company and is focussed on exploration and development of the Kookynie and Yundamindra Gold Projects. MCT is currently NME's farm-in partner in these projects, which are under Metalicity's direct operational control.

This release has been authorised by the Board of Metalicity.

For more information, please contact:

#### ENQUIRIES

##### Justin Barton

CEO & Finance Director

+61 8 6500 0202

jbarton@metalicity.com.au

##### Shane Murphy

FTI Consulting

+61 420 945 291

shane.murphy@fticonsulting.com

#### Forward Looking Statements

This announcement may contain certain "forward-looking statements" which may not have been based solely on historical facts, but rather may be based on the Company's current expectations about future events and results. Where the Company expresses or implies an expectation or belief as to future events or results, such expectation or belief is expressed in good faith and believed to have reasonable basis. However, forward-looking statements:

(a) are necessarily based upon a number of estimates and assumptions that, while considered reasonable by the Company, are inherently subject to significant technical, business, economic, competitive, political and social uncertainties and contingencies;

(b) involve known and unknown risks and uncertainties that could cause actual events or results to differ materially from estimated or anticipated events or results reflected in such forward-looking statements. Such risks include, without limitation, resource risk, metals price volatility, currency fluctuations, increased production costs and variances in ore grade or recovery rates from those assumed in mining plans, as well as political and operational risks in the countries and states in which the Company operates or supplies or sells product to, and governmental regulation and judicial outcomes; and

(c) may include, among other things, statements regarding estimates and assumptions in respect of prices, costs, results and capital expenditure, and are or may be based on assumptions and estimates related to future technical, economic, market, political, social and other conditions.

The words "believe", "expect", "anticipate", "indicate", "contemplate", "target", "plan", "intends", "continue", "budget", "estimate", "may", "will", "schedule" and similar expressions identify forward-looking statements.

All forward-looking statements contained in this presentation are qualified by the foregoing cautionary statements. Recipients are cautioned that forward-looking statements are not guarantees of future performance and accordingly recipients are cautioned not to put undue reliance on forward-looking statements due to the inherent uncertainty therein.

The Company disclaims any intent or obligation to publicly update any forward-looking statements, whether as a result of new information, future events or results or otherwise.

## ANNEXURE A - CONDITIONS TO THE OFFER

The Offer for all the ordinary shares in Nex Metals Exploration Limited (**Nex Metals**) and any contract resulting from the acceptance of the Offer is subject to satisfaction or waiver of the following conditions before the end of the Offer Period:

(a) **Minimum acceptance condition**

During or at the end of the period during which the Offer is open for acceptance (**Offer Period**), Metalicity Limited (**Bidder**) and its associates have relevant interests in at least 90% of Nex Metals Shares then on issue.

(b) **Regulatory approvals**

During the Offer Period, all Regulatory Approvals which are required by law or by a Regulatory Authority in order to permit the Offer to be made to and accepted by Nex Metals Shareholders and the lawful completion of the Offer if it is accepted and becomes unconditional are granted, given, made or obtained in each case on an unconditional basis and remain in full force and effect in all respects and do not become subject to any notice, intimation or indication of intention to revoke, suspend, restrict, modify or not renew the same.

(c) **No material adverse event**

Except as publicly announced to ASX prior to the date of this announcement (**Announcement Date**), none of the following has happened or happens, is announced, disclosed or otherwise becomes known to Bidder (whether it becomes public or not) during the period from and including the Announcement Date to the end of the Offer Period:

- (i) any event, action, proceeding, circumstance or change in circumstance that (individually or with others) has or is reasonably likely to have a material adverse effect on the assets, liabilities, financial condition or prospects of Nex Metals, including but not limited to any one or more of the following effects:
  - (A) when considered together with any related events, occurrences or matters, but disregarding the effects of any unrelated events, occurrences or matters, a diminution in the value of the net assets of Nex Metals by an amount equal to 20% or more by reference to the value of the net assets of Nex Metals as at 31 December 2020 as shown in the Interim Financial Report for Nex Metals for the period ended 31 December 2020 (**Nex Half Year Report**); or
  - (B) the incurring of any obligations, liabilities, costs or expenses (contingent or otherwise), other than capital expenditure previously disclosed publicly or to the Bidder in writing, where the quantum (whether individually or when aggregated with all such other events) exceeds \$100,000;
- (ii) any event or circumstance which constitutes or gives rise to, or may (upon the passage of time, the fulfilment of any condition, or the giving of notice or taking of any other action by a Regulatory Authority or any other person) give rise to, the suspension, revocation, disclaimer, invalidity, unenforceability, variation, lapse or termination of all or any material rights under any Mining Interest, or any material contract to which Nex Metals or any subsidiary of Nex Metals is a party; or

(iii) the grant of mining or other rights or interests of any kind over all or part of any area covered by or the subject of a Mining Interest to any person other than the holder(s) of that Mining Interest (in that capacity) which materially conflict or could reasonably be expected to materially conflict with the enjoyment of the rights conferred or purported to be conferred by a Mining Interest; or

(iv) any other Material Adverse Event occurs in relation to NME.

(d) **Unrelated Party Loans**

The amount stated as “Loans – other (iv)” in note 5 on page 19 of the Nex Half Year Report and being \$366,065 at that date (**Unrelated Party Loan**):

(i) has a balance no greater than as disclosed in the Nex Half Year Report; and

(ii) there has been no material amendment to the terms of the Unrelated Party Loan (including the grant of security or the payment of interest) nor is the Unrelated Party Loan the subject of any default, termination, review or acceleration.

(e) **Accrued Director Fees**

The amount stated as “Accrued director fees” in the Nex Half Year Report and being \$1,907,097 as at 31 December 2020 together with any additional Director fees accrued on commercial terms:

(i) has increased to no more than \$2,100,000 during the Offer Period with no provision for review; and

(ii) are otherwise on terms that these fees are not able to be demanded until NME is in a financial position to pay, being that the payment does not materially prejudice NME’s ability to pay its other creditors as and when they fall due.

(f) **Loans – Ken Allen Loan**

The amount stated as “Loans – related party” in the Nex Half Year Report and being \$535,620 as at 31 December 2020 payable to Allen’s Business Group Pty Ltd, an entity controlled by Ken Allen (a director of Nex Metals):

(i) has increased to no more than \$600,000 during the Offer Period with no provision for review;

(ii) is not due for payment until at least 31 December 2021; and

(iii) is otherwise on terms that it is not able to be demanded until Nex Metals is in a financial position to pay, being that the payment does not materially prejudice Nex Metals’ ability to pay its other creditors as and when they fall due.

(g) **Provisions**

The amount stated as “Provisions” in the Nex Half Year Report and being \$282,099 as at 31 December 2020 has increased to no more than \$350,000 during the Offer Period with no provision for review.

(h) **No material acquisitions, disposals, commitments, etc**

Between the Announcement Date and the end of the Offer Period, neither Nex Metals nor any of its subsidiaries:

- (i) enters into or announces an intention or proposal to enter into or offers to enter into;
- (ii) discloses the existence of; or
- (iii) incurs, becomes subject to, or brings forward the time for performance of (or is reasonably likely to incur, become subject to or bring forward the time for performance of),

an obligation or arrangement (other than pursuant to and in the proper discharge of a legally binding obligation entered into and fully disclosed to the ASX prior to the Announcement Date) or a decision by it, whether conditional or otherwise:

- (i) to acquire an interest in property or other assets for an amount or having a market value in aggregate greater than \$100,000;
- (ii) to dispose of an interest in any property or other asset for an amount, or in respect of which the book value (as recorded in Nex Metal's balance sheet set out in the Nex Half Year Report) is, in aggregate, greater than \$100,000;
- (iii) to perform or acquire the benefit of any services or supplies of goods or services in relation to any asset, business or interest where the aggregate financial liability of Nex Metals or any subsidiary of Nex Metals in respect of those services exceeds or may exceed \$100,000 or the term of the arrangement exceeds and cannot be terminated within 12 months;
- (iv) to enter into or terminate, or, in any material respect, amend or waive, any of the terms applicable to, or rights (including any rights of pre-emption or first or last refusal) under, a shareholders agreement, joint-venture, asset or profit sharing agreement, royalty agreement, partnership or joint-selling agreement or sale or purchase agreement or merger of business or of corporate entities; or
- (v) to make or incur capital expenditure of more than \$100,000 (whether for an individual item or on an aggregated basis),

unless approved in writing by Bidder.

(i) **No Prescribed Occurrences between Announcement Date and service of Bidder's Statement**

Between the period beginning on the Announcement Date up to the date Bidder gives its Bidder's Statement to Nex Metals, no Prescribed Occurrence occurs in relation to Nex Metals or any of its subsidiaries.

(j) **No Prescribed Occurrences**

Between the period beginning on the date Bidder gives its Bidder's Statement to Nex Metals and ending three Business Days after the end of the Offer Period, no Prescribed Occurrence occurs in relation to Nex Metals or any of its subsidiaries.

(k) **Conduct of Nex Metal's business**

Between the Announcement Date and the end of the Offer Period, none of the following events occurs:

- (i) except as required by law, Nex Metals or a subsidiary of Nex Metals:
  - (A) increases the remuneration of or pays any bonus or issues any securities or options to, or otherwise varies the employment agreements with, any of its directors or employees except:

- (I) as expressly required under the terms of any employment agreement existing as at the Announcement Date; or
- (II) that the remuneration of employees (not including directors) may be increased provided that:
  - (aa) the remuneration of any one employee is not increased by more than 10% of the remuneration payable to that employee as at the Announcement Date; and
  - (ab) the aggregate of all the increases in remuneration do not exceed 10% of the total remuneration payable by Nex Metals to all its employees (including the employees of Nex Metal's Related Entities) as at the Announcement Date; or
- (B) accelerates the rights of any of its directors or employees to benefits of any kind; or
- (C) pays a director, executive or employee a termination payment, other than as provided for in an existing employment contract and approved by shareholders for the purposes of the Corporations Act or ASX Listing Rules (as appropriate) before the Announcement Date;
- (ii) Nex Metals or a subsidiary of Nex Metals gives or agrees to give a financial benefit to a related party of Nex Metals within the meaning of Chapter 2E of the Corporations Act;
- (iii) Nex Metals or a subsidiary of Nex Metals enters into any arrangement for the borrowing of an amount in excess of \$100,000 except as a consequence of the renegotiation of its loan facilities that exist as at the Announcement Date, but without increasing the amount available under those facilities;
- (iv) Nex Metals or a subsidiary of Nex Metals enters into any arrangement under which Nex Metals or a subsidiary of Nex Metals may be required to advance or provide financial accommodation to another party, other than in the ordinary course of business;
- (v) Nex Metals or any of its subsidiaries exercises or waives any pre-emptive rights or rights of first or last refusal in respect of any shares, assets or property held by another person prior to the final date on which those rights may be exercised;
- (vi) Nex Metals declaring, paying or distributing any dividend, bonus or other share of its profits or assets by way of dividend, capital reduction or otherwise; or
- (vii) Nex Metals or a subsidiary of Nex Metals amends its constitution, or amends the terms of issue of any shares, options, performance rights or other convertible securities.

(I) **No untrue statements**

Between the Announcement Date and the end of the Offer Period, Bidder does not become aware of:

- (i) any statement that is untrue or misleading in any material respect; or
- (ii) any fact that is required to be stated to make a statement not misleading in any material respect,

in any document filed by or on behalf of Nex Metals with ASX, other than changes, events or conditions fully and publicly announced or fully and publicly disclosed by Nex Metals prior to the Announcement Date.

(m) **No regulatory action**

Between the Announcement Date and the end of the Offer Period:

- (i) there is not in effect any preliminary or final decision, order or decree issued by a Regulatory Authority; or
- (ii) no action or investigation is announced, commenced or threatened by any Regulatory Authority with respect to Nex Metals or a subsidiary of Nex Metals; or
- (iii) no application is made to any Regulatory Authority (other than by Bidder or any associate of Bidder),

in consequence of or otherwise relating to the Offer (other than an application or determination by ASIC or the Australian Takeovers Panel in exercise of the powers and discretions conferred by the Corporations Act or if the regulatory action results from action or inaction of Bidder or its associates) which is reasonably likely to or purports or threatens to:

- (iv) restrain, prohibit or impede, or otherwise materially adversely impact on, the making of the Offer or the completion of any transaction contemplated by the Bidder's Statement (including the acquisition of Nex Metals Shares) or the continued ownership and operation of the business of Nex Metals or a subsidiary of Nex Metals; or
- (v) require the variation of the terms of the Offer; or
- (vi) require or approve the divestiture of any Nex Metals Shares or the divestiture of any assets of Nex Metals or a subsidiary of Nex Metals or the Bidder or a subsidiary of the Bidder.

(n) **Non-existence or exercise of certain rights**

Between the Announcement Date and the end of the Offer Period, there is no person (other than the Bidder or any of its subsidiaries) having any rights, being entitled to or exercising any rights, alleging an entitlement, or expressing or announcing an intention (whether or not that intention is stated to be a final or determined decision of that person) and in all cases whether subject to conditions or not, as a result of any change of control event in respect of Nex Metals (including Bidder acquiring shares in Nex Metals) or any of its subsidiaries or assets, to:

- (i) terminate or alter any Mining Interest or any material contract to which Nex Metals or any of its subsidiaries is a party;
- (ii) require the termination, modification or disposal or offer to dispose of any material interest or asset, corporate body, other entity, partnership or joint venture (incorporated or unincorporated); or
- (iii) accelerate or adversely modify the nature or performance of any material obligations of Nex Metals or any of its subsidiaries under any Mining Interest or material contract.

(o) **Equal access to information**

At all times between the Announcement Date and the end of the Offer Period, Nex Metals promptly (and in any event within two Business Days) provides to Bidder a copy of all material information



concerning Nex Metals or any subsidiary of Nex Metals business and operations and that has not already been provided to Bidder relating to Nex Metals or any subsidiary of Nex Metals or any of their respective businesses or operations that is provided by Nex Metals or any of its related parties (within the meaning of section 228 of the Corporations Act) to any person (other than Bidder) for the purpose of soliciting, encouraging or facilitating a proposal or offer by that person, or by any other person, in relation to a Competing Proposal.

(p)

**No break fees**

- (i) Subject to paragraph (l)(ii) below, between the Announcement Date and the end of the Offer Period, neither Nex Metals nor any body corporate which is or becomes a subsidiary of Nex Metals, agrees (whether conditionally or contingently) to pay or provide any benefit to any person, or to forego or otherwise reduce any payment or benefit to which it would otherwise be entitled, in connection with any person other than Bidder making or agreeing to participate in, or enter into negotiations concerning a Competing Proposal.
- (ii) Paragraph (p)(i) above does not apply to a payment:
  - (A) for providing professional advisory services to Nex Metals;
  - (B) which is approved in writing by Bidder;
  - (C) lawfully made to any Nex Metals directors, officers or employees (subject to paragraph (k)(i)(A)); or
  - (D) which is approved by a resolution passed at a general meeting of Nex Metals.

(q)

**No direct or indirect Disposal of or encumbrance over Mining Interests**

Between the Announcement Date and the end of the Offer Period, neither Nex Metals nor any of its subsidiaries:

- (i) enters into or announces an intention or proposal to enter into or offers to enter into; or
- (ii) discloses the existence of; or
- (iii) becomes subject to,  
an obligation or arrangement, whether conditional or otherwise and irrespective of the consideration or value:
  - (iv) to Dispose of all or any of, or any interest in, a Mining Interest; or
  - (v) to Dispose or issue, or grant an option or other rights over or in respect of, all or any of the shares or other voting or economic interests in Nex Metals or any subsidiary of Nex Metals; or
  - (vi) to grant, permit, suffer to subsist or enter into any encumbrance or other security interest over all or any of, or any interest in, a Mining Interest.

(r)

**Material fall in S&P/ASX All Ordinaries Gold index**

The S&P/ASX All Ordinaries Gold (Sub-Industry) index (ASX:XGD) does not fall by 20% from its level immediately before the Announcement Date and remain at or below that level (as at the close of trade) for at least five consecutive Business Days before the end of the Offer Period.

(s) **Material fall in the gold price**

The spot price of gold in \$A as specified on the Australian Gold and Silver Exchange website (XAU:AUD) does not fall to a level that is below A\$2,000 per ounce and remain at or below that level for at least five consecutive Business Days before the end of the Offer Period.

**Definitions**

For the purposes of this Annexure A, the following capitalised terms have the meanings set out below:

**Announcement Date** means the date of the announcement of the Offer by Metalicity on the ASX on 14 September 2021.

**ASIC** means the Australian Securities and Investments Commission.

**Associate** has the meaning set out in section 12 of the Corporations Act as if subsection 12(1) of the Corporations Act included a reference to this document and Metalicity was the designated body.

**ASX** means ASX Limited (ABN 98 008 624 691) and, where the context requires, the financial market that it operates.

**Bidder's Statement** means the statement of Metalicity under Part 6.5 Division 2 of the Corporations Act relating to the Offer.

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

**Competing Proposal** means any proposal, offer or transaction by a Third Party (other than Bidder or its related parties (within the meaning of section 228 of the Corporations Act) that, if completed, would mean:

- (a) a person would acquire a relevant interest or voting power in 10% or more of Nex Metals Shares or of the securities of any subsidiary of Nex Metals;
- (b) a person would enter into, buy, dispose of, terminate or otherwise deal with any cash settled equity swap or other synthetic, economic or derivative transaction connected with or relating to 10% or more of Nex Metals Shares or of the securities of any subsidiary of Nex Metals;
- (c) a person would directly or indirectly acquire or obtain an interest (including an economic interest) in all or a substantial part or material part of the business conducted by, or assets or property of, Nex Metals or any subsidiary of Nex Metals;
- (d) a person would acquire Control of Nex Metals or any subsidiary of Nex Metals;
- (e) a person may otherwise acquire, or merge with, Nex Metals or any subsidiary of Nex Metals (including by way of takeover bid, scheme of arrangement, capital reduction, sale of assets, sale of securities, strategic alliance, dual listed company structure, joint venture or partnership); or
- (f) Nex Metals will issue, on a fully diluted basis, 10% or more of its capital as consideration for the assets or share capital to another person; or
- (g) any proposal by Nex Metals to implement any reorganisation of capital or dissolution.

**Control** has the meaning given under section 50AA of the Corporations Act and **Controlled** has the same meaning.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Dispose** means to sell, offer for sale, transfer, assign, swap, surrender, gift, create or allow to exist an encumbrance, option or trust or otherwise deal with or dispose of that property (or any legal or beneficial interest in it or part of it) or authorise, or agree conditionally or otherwise to do, any of the things referred herein.

**Metalicity Share** means a fully paid ordinary share in the capital of Metalicity.

**Mining Interests** means any and all tenements that Nex Metals or its Subsidiaries have a direct or indirect interest in from time to time (including as holder, owner, operator or joint venturer), including any tenement that is a successor, renewal, modification, extension or substitute for the whole or part of any such tenement.

**Nex Metals Option** means an option, issued by Nex Metals, to acquire a Nex Metals Share.

**Nex Metals Share** means a fully paid ordinary share in the capital of Nex Metals.

**Offer** means the off-market takeover offer for Nex Metals Shares (including any Nex Metals Shares to be issued on exercise of Nex Metals Options and on conversion of any convertible securities) by Metalicity (or one of its Subsidiaries) on the basis of 4.81 Metalicity Shares for every Nex Metals Share to be implemented in compliance with Chapter 6 of the Corporations Act.

**Offer Period** means the period during which the Offer is open for acceptance in accordance with the Bidder's Statement.

**Prescribed Occurrence** means any of the following events which event is not consented to in writing by Bidder:

- (a) Nex Metals converts all or any of the Nex Metals Shares into a larger or smaller number of shares;
- (b) Nex Metals or a subsidiary of Nex Metals resolves to reduce its share capital in any way;
- (c) Nex Metals or a subsidiary of Nex Metals:
  - (i) enters into a buy-back agreement; or
  - (ii) resolves to approve the terms of a buy-back agreement under section 257C(1) or 257D(1) of the Corporations Act;
- (d) Nex Metals or a subsidiary of Nex Metals issues shares, or grants an option over its shares, or agrees to make such an issue or grant such an option, except for the issue of Nex Metals Shares on the exercise of any Nex Metals Options or the conversion of any convertible securities to Nex Metals Shares, each in accordance with their terms (as disclosed to the ASX prior to the Announcement Date);
- (e) Nex Metals or a subsidiary of Nex Metals issues, or agrees to issue, convertible notes;
- (f) Nex Metals or a subsidiary of Nex Metals disposes or agrees to dispose of the whole, or a substantial part, of its business or property;
- (g) Nex Metals or a subsidiary of Nex Metals charges, or agrees to charge, the whole, or a substantial part, of its business or property;
- (h) Nex Metals or a subsidiary of Nex Metals resolves to be wound up;
- (i) a liquidator or provisional liquidator of Nex Metals or of a subsidiary of Nex Metals is appointed;
- (j) a court makes an order for the winding up of Nex Metals or of a subsidiary of Nex Metals;
- (k) an administrator of Nex Metals, or of a subsidiary of Nex Metals, is appointed under section 436A, 436B or 436C of the Corporations Act;
- (l) Nex Metals or a subsidiary of Nex Metals executes a deed of company arrangement; or

- (m) a receiver, a receiver and manager, or other controller (as defined in the Corporations Act) is appointed in relation to the whole, or a substantial part, of the property of Nex Metals or of a subsidiary of Nex Metals.

**Regulatory Approvals** means such consents, approvals, instruments or other acts made or given by a Regulatory Authority required for the Offer.

**Regulatory Authority** means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity or any minister of the Crown in right of the Commonwealth of Australia or any State, and any other federal, state, provincial, or local government, whether foreign or Australian, including ASX and ASIC.

**Relevant Interest** has the meaning given in sections 608 and 609 of the Corporations Act.

**Subsidiary** has the meaning given in Division 6 of Part 1.2 of the Corporations Act.

**Takeovers Panel** means the Australian Takeovers Panel.

**Third Party** means a person other than Metalicity and its Associates.