

# KING & WOOD MALLESONS

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[www.kwm.com](http://www.kwm.com)

27 March 2013

## Confidential communication

Announcements Platform  
Australian Securities Exchange  
20 Bridge Street  
SYDNEY NSW 2000  
Fax 1300 135 638

YTC Resources Limited  
2 Corporation Place  
ORANGE NSW 2800  
Fax +61 2 6361 4711

Dear Sir/Madam

### YTC Resources Limited ("YTC")

We act for Glencore Australia Finance Holdings Pty Limited ("**Glencore Australia Finance**").

In accordance with the Corporations Act 2001 (Cwlth), we attach an ASIC Form 604 (Notice of change of interests of substantial holder) issued by Glencore Australia Finance in relation to the shares in YTC.

Yours faithfully



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Solicitor  
Direct line +61 2 9296 3476  
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## Form 604

Corporations Act 2001  
Section 671B

### Notice of change of interests of substantial holder

To Company Name/Scheme YTC Resources Ltd

ACN/ARSN 108 476 384

#### 1. Details of substantial holder (1)

Name Glencore Australia Finance Holdings Pty Ltd, Singpac Investment Holding Pte Limited, Glencore Finance (Bermuda) Ltd, Glencore International AG and Glencore International Plc

ACN/ARSN (if applicable) N/A

There was a change in the interests of the substantial holder on

26/03/2013

The previous notice was given to the company on

08/03/2012

The previous notice was dated

08/03/2012

#### 2. Previous and present 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 when last required, and when now required, to give a substantial holding notice to the company or scheme, are as follows:

| Class of securities (4)    | Previous notice |                  | Present notice |                  |
|----------------------------|-----------------|------------------|----------------|------------------|
|                            | Person's votes  | Voting power (5) | Person's votes | Voting power (5) |
| Fully paid ordinary shares | 16,560,316      | 6.55%            | 25,930,316     | 9.9%             |

#### 3. Changes in relevant interests

Particulars of each change in, or change in the nature of, a relevant interest of the substantial holder or an associate in voting securities of the company or scheme, since the substantial holder was last required to give a substantial holding notice to the company or scheme are as follows:

| Date of change        | Person whose relevant interest changed                                                                                                                                        | Nature of change (6)                                                                                                                                                                                                                                                                                                                                                                                                                                  | Consideration given in relation to change (7)                                                                                                                   | Class and number of securities affected | Person's votes affected |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-------------------------|
| Tuesday 26 March 2013 | Glencore Australia Finance Holdings Pty Ltd, Singpac Investment Holding Pte Limited, Glencore Finance (Bermuda) Ltd, Glencore International AG and Glencore International Plc | Relevant interest arises under sections 608(1) and 608(3) of the Corporations Act 2001 (Cwlth) by virtue of a Equity Subscription Agreement dated 11 February 2013 between YTC Resources Limited and Glencore Australia Finance Holdings Pty Ltd which is annexed and marked Annexure "A" and by virtue of the issue to Glencore Australia Finance Holdings Pty Ltd of 9,390,000 fully paid ordinary shares in YTC Resources Limited on 26 March 2013 | 9,390,000 fully paid ordinary shares issued to Glencore Australia Finance Holdings Pty Ltd by YTC Resources Limited for \$2,946,582.00 (at \$0.3138 per share). | 9,390,000 fully paid ordinary shares.   | 9,390,000 votes.        |

#### 4. Present relevant interests

Particulars of each relevant interest of the substantial holder in voting securities after the change are as follows:

| Holder of relevant interest                                                                                                                                                   | Registered holder of securities              | Person entitled to be registered as holder (6) | Nature of relevant interest (6)                                                                                                                                                | Class and number of securities         | Person's votes    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-------------------|
| Glencore Australia Finance Holdings Pty Ltd, Singpac Investment Holding Pte Limited, Glencore Finance (Bermuda) Ltd, Glencore International AG and Glencore International Plc | Glencore Australia Finance Holdings Pty Ltd. | Glencore Australia Finance Holdings Pty Ltd.   | Glencore Australia Finance Holdings Pty Ltd has a relevant interest under section 608(1)(a) of the Corporations Act 2001 (Cwlth) as it is the registered holder of the shares. | 25,930,316 fully paid ordinary shares. | 25,930,316 votes. |

**5. Changes in association**

The persons who have become associates (2) of, ceased to be associates of, or have changed the nature of their association (9) with, the substantial holder in relation to voting interests in the company or scheme are as follows:

| Name and ACN/ARSN (if applicable)                                                                                                | Nature of association                                                                                                                     |
|----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| Singpac Investment Holding Pte Limited, Glencore Finance (Bermuda) Ltd, Glencore International AG and Glencore International Plc | Bodies corporate that control Glencore Australia Finance Holdings Pty Ltd or are associates pursuant to the Corporations Act 2001 (Cwth). |

**6. Addresses**

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

| Name                                                     | Address                                                      |
|----------------------------------------------------------|--------------------------------------------------------------|
| Glencore Australia Finance Holdings Pty Ltd              | Level B, 484 St Kilda Road, Melbourne VIC 3004               |
| Singpac Investment Holding Pte Limited                   | 1 Temasek Avenue, # 34-01 Millenia Tower, Singapore (039192) |
| Glencore Finance (Bermuda) Ltd                           | Victoria Street 22, Hamilton, Bermuda                        |
| Glencore International Plc and Glencore International AG | Baaremattstrasse 3, CH-6341 Baar, Switzerland                |

**Signature**

print name Richard J. Manning Secretary Seo-ae Cha

sign here [Signature] date 27, 3, 2017

**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 6 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 person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (6) Include details of:
  - (a) any relevant agreement or other circumstances because of which the change in relevant interest occurred. 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.
- (7) 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.
- (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) Give details, if appropriate, of the present association and any change in that association since the last substantial holding notice.

"A"

This is annexure "A" of 39 pages referred to in Form 604 ("Notice of change of interests of substantial holders")

Richard Marshall  
General Counsel

Date: 27.03.2013

KING & WOOD  
MALLESONS

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# Equity Subscription Agreement

Dated *11 FEBRUARY 2013*

Glencore Australia Finance Holdings Pty Ltd (ACN 160 626 102)  
("Glencore Australia")  
YTC Resources Limited (ACN 108 476 384) ("YTC")

**King & Wood Mallesons**  
Level 61  
Governor Phillip Tower  
1 Farrer Place  
Sydney NSW 2000  
Australia  
T +61 2 9296 2000  
F +61 2 9296 3999  
DX 113 Sydney  
[www.kwm.com](http://www.kwm.com)

# Equity Subscription Agreement

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## Equity Subscription Agreement

### Details

|                           |                            |                                                                                                                                                                                                                        |
|---------------------------|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Parties</b>            | Glencore Australia and YTC |                                                                                                                                                                                                                        |
| <b>Glencore Australia</b> | <b>Name</b>                | <b>Glencore Australia Finance Holdings Pty Ltd</b>                                                                                                                                                                     |
|                           | <b>ACN</b>                 | 160 626 102                                                                                                                                                                                                            |
|                           | <b>Address</b>             | Level 8, 484 St Kilda Road<br>Melbourne<br>3004                                                                                                                                                                        |
|                           | <b>Telephone</b>           | +41 41 709 2000                                                                                                                                                                                                        |
|                           | <b>Fax</b>                 | +41 41 700 3000                                                                                                                                                                                                        |
|                           | <b>Email</b>               | richard.marshall@glencore.com/peter.reist@glencore.com                                                                                                                                                                 |
|                           | <b>Attention</b>           | General Counsel                                                                                                                                                                                                        |
| <b>YTC</b>                | <b>Name</b>                | <b>YTC Resources Limited</b>                                                                                                                                                                                           |
|                           | <b>ACN</b>                 | 108 476 384                                                                                                                                                                                                            |
|                           | <b>Address</b>             | 2 Corporation Place<br>Orange, NSW 2800                                                                                                                                                                                |
|                           | <b>Telephone</b>           | +61 2 6361 4700                                                                                                                                                                                                        |
|                           | <b>Fax</b>                 | +61 2 6361 4711                                                                                                                                                                                                        |
|                           | <b>Email</b>               | richard.willson@ytcresources.com                                                                                                                                                                                       |
|                           | <b>Attention</b>           | Richard Willson                                                                                                                                                                                                        |
| <b>Recital</b>            | <b>A</b>                   | YTC has agreed to issue the Subscription Shares to Glencore Australia and Glencore Australia has agreed to subscribe for the Subscription Shares and pay the Subscription Price to YTC on the terms of this agreement. |
| <b>Governing law</b>      | New South Wales            |                                                                                                                                                                                                                        |
| <b>Date of agreement</b>  | See signing page           |                                                                                                                                                                                                                        |

# Equity Subscription Agreement

## General terms

### 1 Interpretation

#### 1.1 Definitions

These meanings apply unless the contrary intention appears:

**Announcement Date** means the day on which YTC announces to the ASX that it will issue or agree to issue any Securities as contemplated by clause 5.3.

**ASX** means ASX Limited (ABN 98 008 624 691).

**ASX Listing Rules** means the listing rules of ASX.

**Authorised Officer** means a director or secretary of a party or any other person appointed by a party to act as an Authorised Officer for the purposes of this agreement.

**Availability Period** has the meaning given in the Facility Agreement.

**Business Day** means a day other than a Saturday, Sunday or public holiday in Sydney, Australia and Baar, Switzerland.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

**Competing Transaction** means any unsolicited, bona fide approach, proposal or offer from or involving any third person which, if completed, would mean that the third person (other than Glencore Australia or its Related Bodies Corporate or Representatives) would:

- (a) directly or indirectly, acquire:
  - (i) a Relevant Interest in 20% or more of the Shares; or
  - (ii) all or a substantial part or a material part of the business conducted by the Group,

including by way of takeover bid, scheme of arrangement, placement, capital reduction, sale of assets, sale of shares or a joint venture in respect of any Group Member's assets;
- (b) acquire control of YTC, within the meaning of section 50AA of the Corporations Act; or
- (c) otherwise acquire any Group Member's assets or merge (including by a reverse takeover bid or dual listed company structure) with YTC.

**Completion** means the completion of the issue and allotment of the Subscription Shares in accordance with this agreement and **Complete** has a corresponding meaning.

**Completion Date** means 5 Business Days after the satisfaction or waiver of the last Condition Precedent (other than the Conditions Precedent referred to in

clause 3.1(c) and clause 3.1(d)) or any other date agreed by YTC and Glencore Australia.

**Conditional Securities** has the meaning given in clause 5.3(b)(ii)(A).

**Conditions Precedent** means the conditions precedent set out in clause 3.1 ("Conditions Precedent").

**Confidential Information** means all Information exchanged between the parties before, on or after the date of this agreement including:

- (a) information which, either orally or in writing is designated or indicated as being the proprietary or confidential information of a party or any of its Related Bodies Corporate;
- (b) information derived or produced partly or wholly from the Information including any calculation, conclusion, summary or computer modelling;

whether the Information was disclosed:

- (c) orally, in writing or in electronic or machine readable form;
- (d) before, on or after the date of this agreement;
- (e) as a result of discussions between the parties concerning or arising out of the subscription for the Subscription Shares; or
- (f) by a party or any of its Representatives, any of its Related Bodies Corporate, any Representatives of its Related Bodies Corporate or by any third person.

**Constitution** means the constitution of YTC.

**Controller** has the meaning it has in the Corporations Act.

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

**Costs** includes all costs, charges and expenses incurred in connection with advisers.

**Current Market Price** has the meaning given in the Deed Poll.

**Deed Poll** means the deed poll entitled "YTC Resources Limited – Convertible Notes Deed Poll" issued by YTC, Hera and Nymagee dated on or about the date of this agreement.

**Details** means the section of this agreement headed "Details".

**Director** means a director of YTC.

**Disclosure Letter** means the letter given to Glencore Australia by YTC no later than 2 Business Days prior to the date of this agreement, which contains disclosures in respect of the Warranties.

**Dispute** includes any dispute, controversy, difference or claim arising out of or in connection with the Transaction Documents or the subject matter of any of the Transaction Documents, including any question concerning their formation, validity, interpretation, performance, breach and termination.

**Encumbrance means:**

- (a) security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power, title retention or flawed deposit arrangement; or
- (b) right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off; or
- (c) right that a person (other than the owner) has to remove something from land (known as a profit à prendre), easement, public right of way, restrictive or positive covenant, lease or licence to use or occupy;
- (d) any "security interest" as defined in sections 12(1) or (2) of the Personal Properties Securities Act 2009 (Cwth); or
- (e) third party right or interest or any right arising as consequence of the enforcement of a judgment,

or any agreement to create any of them or allow them to exist.

**End Date** means 21 May 2013 unless otherwise agreed between the parties.

**Excluded Information means:**

- (a) Confidential Information which is in or becomes part of the public domain other than through breach of this agreement or an obligation of confidence owed to a party or any Related Body Corporate of a party;
- (b) Confidential Information which the party receiving the Confidential Information can prove by contemporaneous written documentation was already known to it at the time of disclosure by a party or its Related Bodies Corporate or Representatives (unless such knowledge arose from disclosure of information in breach of an obligation of confidentiality);
- (c) Confidential Information which the party receiving the Confidential Information acquires from a source other than the party disclosing the Confidential Information or any Related Body Corporate or Representative of that party where such source is entitled to disclose it; or
- (d) Confidential Information which the party receiving the Confidential Information is required by law to keep; or
- (a) documents or other materials to the extent they are legal advice, internal working papers, legal opinions or materials used for the purpose of providing legal opinions or due diligence reports prepared for the Inquirer; or
- (b) documents or other materials to the extent they are directors' papers of a party or its Related Bodies Corporate, or the minutes of the board of a party or its Related Bodies Corporate or any committee of such board; or
- (c) Confidential Information that is located on an off-site server as a result of the automatic back-up of data in the usual operations of a party (for example, for archive, disaster recovery or other purposes) and is not readily available to the party.

**Exempt Securities means:**

- (a) any Securities, options to subscribe for any Securities, or right granted to be issued any Securities, which is issued or granted by YTC to any Director or any of YTC's employees pursuant to: (i) YTC's Performance Rights Plans approved at the 2011 YTC Annual General Meeting; (ii) YTC's Employee Share Option Plan dated 7 February 2007; (iii) issues of options to Directors approved at the 2012 YTC Annual General Meeting; or (iv) any other issue or grant of Securities by YTC to any of its employees;
- (b) the 555,556 Shares to be allotted to OZ Minerals Investments Pty Limited as consideration for the acquisition by YTC of exploration licences 7446, 7447, 7524 and 7529; and
- (c) the 874,126 Shares to be allotted to Templar Resources Pty Limited, a wholly owned subsidiary of Straits Resources Limited, as consideration for the acquisition by YTC of 100% of exploration licence 6258.

**Facility Agreement** means the agreement entitled "YTC Resources Limited – Facility Agreement" dated on or about the date of this agreement between YTC, Hera, Nymagee, Glencore Group Funding and others.

**Facility Provider** has the meaning given to that term in the Facility Agreement.

**Financiers** means each Noteholder and Facility Provider and includes their successors and assigns.

**Glencore Australia Director** has the meaning given in clause 6(a).

**Glencore Australia Group** means Glencore Australia and any of its Related Bodies Corporate from time to time.

**Glencore Group Funding** means Glencore Group Funding Limited, a UAE company.

**Government Agency** means any government, governmental, semi-governmental, administrative, fiscal, judicial or quasi judicial body, department, commission, authority, tribunal, agency or entity.

**Group** means YTC and its Subsidiaries from time to time.

**Group Member** means any member of the Group.

**Hera** means Hera Resources Pty Ltd (ACN 138 992 999).

**Hera Project** means the base metal, gold mine and processing facility to be established in relation to exploration tenement EL 6162 and mining licence MLA 417 located in the Lachlan Fold Belt of New South Wales, Australia and any prospecting licence, retention licence, mining right or rights that may substituted for or issued in consequence of such tenements under New South Wales or Commonwealth legislation.

**Indebtedness Period** means the period beginning on the Completion Date and subsisting until the later of:

- (a) the date that all Secured Money (as defined in the Security Trust Deed) is repaid in full; or
- (b) the last day of the final Availability Period.

**Information** means all information, regardless of its material form, relating to or developed in connection with:

- (a) the business, technology or other affairs of a party or any Related Body Corporate of a party; or
- (b) any systems, technology, ideas, concepts, know-how, techniques, designs, specifications, blueprints, tracings, diagrams, models, functions, capabilities and designs (including computer software, manufacturing processes or other information embodied in drawings or specifications), intellectual property or any other information which is marked "confidential" or is otherwise indicated to be subject to an obligation of confidence owned or used by or licensed to a party or a Related Body Corporate of a party.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act); or
- (b) is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to its property; or
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this agreement); or
- (d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above; or
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this agreement reasonably deduces it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the law of any jurisdiction.

**JV Agreement** means the agreement entitled "Nymagee Farm-In and Joint Venture Agreement" between Ausminex NL (ACN 003 287 634) and YTC dated 10 July 2001 (as amended from time to time).

**Material Adverse Change** means any change, effect, event, occurrence, state of facts or development that could reasonably be expected to be materially adverse to the business, operations, assets, or financial position of Hera, Nymagee or the Group (taken as a whole).

**New Issue** has the meaning given in clause 5.3.

**Notes** has the meaning given in the Deed Poll.

**Noteholder** has the meaning given in the Deed Poll.

**Nymagee** means Nymagee Resources Pty Ltd (ACN 154 131 138).

**Nymagee Project** means the base metal, gold mine and processing facility to be established in relation to tenements ML53, ML90, ML5295, ML5828, PLL847, EL4232 and EL4458 located in the Lachlan Fold Belt of New South Wales, Australia and any prospecting licence, retention licence, mining right or rights that may substituted for or issued in consequence of that tenement under New South Wales or Commonwealth Mining legislation.

**Official Quotation** means quotation by ASX.

**Offtake Agreements** means each of the following agreements:

- (a) the life of mine offtake agreement to be entered into by YTC (and/or any of YTC's Related Bodies Corporate) ("**Seller**") and Glencore International AG under which Seller agrees to sell to Glencore International AG all copper concentrates produced at any of the Nymagee Project and the Hera Project;
- (b) the life of mine offtake agreement to be entered into by YTC (and/or any of YTC's Related Bodies Corporate) ("**Seller**") and Glencore International AG under which Seller agrees to sell to Glencore International AG all bulk concentrates, zinc concentrates and/or lead concentrates produced at any of the Nymagee Project and the Hera Project.

**Related Body Corporate** has the meaning it has in the Corporations Act.

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

**Relevant Period** has the meaning given in clause 6(a).

**Representative** of a party includes an employee, agent, officer, director, auditor, adviser, partner, associate, consultant, joint-venturer, contractor or sub-contractor of that party or of a Related Body Corporate of that party.

**Securities** means Shares or securities which are convertible into Shares, any options to subscribe for any such Shares or convertible securities or instruments, warrants, options or other arrangements which would lead to YTC issuing Shares to the holder of the relevant security or arrangement (or any other person).

**Security** has the meaning given to that term in the Facility Agreement.

**Security Trustee** means has the meaning given to that term in the Facility Agreement.

**Security Trust Deed** means the deed entitled "YTC Resources Limited – Security Trust Deed" dated on or about the date of this agreement between, among others, YTC, Hera, Nymagee and the Security Trustee (who will initially be a Related Body Corporate of Glencore Group Funding).

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

**Subscription Price** means A\$2,946,582.00 payable for the Subscription Shares.

**Subscription Shares** means 9,390,000 fully paid ordinary shares in the capital of YTC.

**Subsidiary** has the meaning given in the Corporations Act.

**Term Sheet** means the term sheet entitled "YTC Financing and Offtake Terms" between YTC and Glencore International AG dated 21 November 2012.

**Transaction Documents** means each of:

- (a) this agreement;
- (b) each Security;
- (c) the Security Trust Deed;
- (d) the Deed Poll (including the Notes constituted under the Deed Poll);
- (e) the Facility Agreement; and
- (f) the Offtake Agreements.

**Warranties** means the warranties, undertakings and representations set out in schedule 2 ("Warranties") and **Warranty** has a corresponding meaning.

**YTC Board** means the board of Directors of YTC.

**YTC Prescribed Event** means any of the following events occurring:

- (a) YTC or any of its Related Bodies Corporate becomes Insolvent; or
- (b) YTC or any of its Related Bodies Corporate enters into a Competing Transaction.
- (c) YTC or any of its Related Bodies Corporate undertaking or announcing an intention to undertake, any capital reorganisation (including a consolidation, subdivision, reduction or return of capital); or
- (d) YTC or any of its Subsidiaries:
  - (i) issues shares;
  - (ii) grants an option over its shares; or
  - (iii) agrees to make such an issue or grant such an option,
 in each case to a person outside the Group other than as contemplated by the Transaction Documents or in respect of Exempt Securities;
- (e) YTC or any of its Subsidiaries:
  - (i) issues securities or other instruments convertible into shares;
  - (ii) agrees to issue securities or other instruments convertible into shares,
 in each case to a person outside the Group other than as contemplated by the Transaction Documents or in respect of Exempt Securities;
- (f) any information previously disclosed by YTC becoming untrue in any material respect, which has a material adverse impact to the project economics or financial position on the Group (taken as a whole);
- (g) YTC or any of its Subsidiaries disposes, or agrees to dispose of the whole or a substantial part of the Group's business;

- (h) YTC or any of its Subsidiaries acquires or agrees to acquire any major asset; or
- (i) any exploration tenement, mining licence, prospecting licence, retention licence, mining right or right that may substituted for or issued in consequence thereof, of YTC or any of its Subsidiaries, or that is material to the Group's business (taken as a whole), being liable to forfeiture.

## 1.2 References to certain general terms

Unless the contrary intention appears, a reference in this agreement to:

- (a) **(variations or replacement)** a document (including this agreement) includes any variation or replacement of it;
- (b) **(clauses, annexures and schedules)** a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this agreement;
- (c) **(reference to statutes)** a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) **(law)** law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (e) **(singular includes plural)** the singular includes the plural and vice versa;
- (f) **(person)** the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association or any Government Agency;
- (g) **(executors, administrators, successors)** a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (h) **(jointly and individually)** an agreement, representation or warranty by two or more persons binds them jointly and each of them individually;
- (i) **(calculation of time)** a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (j) **(reference to a day)** a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (k) **(reference to a group of persons)** a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (l) **(meaning not limited)** the words "include", "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (m) **(time of day)** to time is a reference to Sydney time;

- (n) **(reference to any thing)** any thing (including any amount) is a reference to the whole and each part of it; and
- (o) **(dollars)** Australian dollars, dollars, \$, A\$ or AUD is a reference to the lawful currency of Australia.

### 1.3 Next Business Day

If an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day.

### 1.4 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this agreement.

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## 2 Subscription

### 2.1 Issue and subscription

YTC agrees to issue and allot and Glencore Australia agrees to subscribe for the Subscription Shares and pay YTC the Subscription Price on the terms and conditions of this agreement.

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## 3 Conditions Precedent

### 3.1 Conditions Precedent

Completion is conditional on:

- (a) **(Term Sheet)** each of the parties to the Term Sheet having notified the other party that the Term Sheet has been terminated;
- (b) **(Transaction Documents)** the parties executing each of the Transaction Documents and Glencore Australia being reasonably satisfied;
  - (i) that each of the obligations under or in connection with the Transaction Documents are in full force and effect;
  - (ii) that each of the obligations under or in connection with the Transaction Documents represent the enforceable undertakings of any of YTC, Hera and Nymagee;
  - (iii) that each of the conditions precedent in the Transaction Documents have been satisfied or waived in accordance with their terms;
  - (iv) that each of the Transaction Documents have (or will be) duly stamped by each relevant duties office under the laws of each applicable jurisdiction;
  - (v) no Group Member is in breach of any obligations under or in connection with any Transaction Document arising before Completion;
- (c) **(no Material Adverse Change)** no Material Adverse Change occurring between the date of this agreement and Completion;

- (d) **(no YTC Prescribed Event)** no YTC Prescribed Event occurring between the date of this agreement and Completion;
- (e) **(approval of Members)** the shareholders of YTC approving the issue of the Subscription Shares, the issue of the Notes and the issue of Shares on conversion of the Notes as contemplated in the Deed Poll in accordance with item 7 of section 611 of the Corporations Act; and
- (f) **(JV Agreement waiver)** a waiver from Ausminindex Pty Limited (formerly Ausminindex NL) (ACN 003 287 634) under which Ausminindex Pty Limited (ACN 003 287 634) waives any claim or rights it may have under or in connection with any of clauses 10.1 and 11(b) of the JV Agreement arising out of any member of the Group entering into and performing its obligations under the Transaction Documents in a form reasonably satisfactory to the Facility Providers.

### 3.2 Reasonable endeavours

Each party must use its reasonable endeavours to obtain the satisfaction of the Conditions Precedent, including procuring performance by a third party. Each party must keep each other informed of any circumstances which may result in any Condition Precedent not being satisfied in accordance with its terms.

### 3.3 Benefit of Conditions Precedent and termination

- (a) All of the Conditions Precedent in clause 3.1, except the Condition Precedent in clause 3.1(e) ("approval of Members") which is for the benefit of both Glencore Australia and YTC, are for the benefit of Glencore Australia only and, if they are not fulfilled or waived by the End Date, then Glencore Australia may at any time before Completion, subject to Glencore Australia having complied with clause 3.2 ("Reasonable endeavours"), terminate all, but not some, of the Transaction Documents by written notice to YTC.
- (b) If the Condition Precedent in clause 3.1(e) ("approval of Members") is not fulfilled or waived by the End Date, then either party may at any time before Completion, subject to that party having complied with clause 3.2 ("Reasonable endeavours"), terminate all, but not some, of the Transaction Documents by written notice to the other.

### 3.4 Effect of termination

If the Transaction Documents are terminated under clause 3.3 ("Benefit of Conditions Precedent and termination") then, in addition to any other rights, powers or remedies provided by law:

- (a) each party is released from its obligations under each Transaction Document other than in relation to clauses 10 ("Costs and duty") and 11 ("Confidentiality") of this agreement and the equivalent costs and expenses provisions in the other Transaction Documents;
- (b) each party retains the rights it has against any other party in connection with any breach or claim that has arisen before termination; and
- (c) Glencore Australia must return to YTC all documents and other materials in any medium in its possession, power or control which contain information received from or on behalf of YTC.

## **4 Completion**

### **4.1 Time and place of Completion**

Completion will take place on the Completion Date at the offices of King & Wood Mallesons, Solicitors, Level 61, Governor Phillip Tower, 1 Farrer Place, Sydney NSW or any other time and place agreed by YTC and Glencore Australia.

### **4.2 Glencore Australia's obligations at Completion**

At Completion, Glencore Australia will:

- (a) deliver to YTC an application for the Subscription Shares, duly completed and executed by Glencore Australia, in the form set out in schedule 1 ("Application for Subscription Shares"); and
- (b) pay the Subscription Price to YTC in immediately available funds.

### **4.3 YTC's obligations at Completion**

At Completion, YTC will:

- (a) issue the Subscription Shares to Glencore Australia;
- (b) register Glencore Australia as the holder of the Subscription Shares; and
- (c) deliver to Glencore Australia a certified copy of the signed minutes of a meeting of YTC Board resolving, subject to Completion occurring and receiving a signed consent to act, to approve the appointment of Glencore Australia Director to YTC Board with effect on and from Completion.

### **4.4 YTC's obligations after Completion**

As soon as practicable after Completion, and in any event within 2 Business Days of Completion, YTC must:

- (a) **(quotation)** apply for and use its best endeavours to obtain Official Quotation of the Subscription Shares by ASX;
- (b) **(holding statement)** deliver to Glencore Australia the holding statement for its Subscription Shares; and
- (c) **(re-sale notice)** provide ASX with a notice in relation to the Subscription Shares in accordance with section 708A(5)(e) of the Corporations Act which complies with section 708A(6) of the Corporations Act.

### **4.5 Simultaneous actions at Completion**

In respect of Completion:

- (a) the obligations of the parties under this agreement are interdependent; and
- (b) all actions required to be performed will be taken to have occurred simultaneously on the Completion Date.

## 5 Anti-dilution rights

### 5.1 Duration

The provisions in this clause 5 apply at all times during the Indebtedness Period.

### 5.2 Conditionality

- (a) The obligations of YTC under this clause 5 are subject to the ASX granting a waiver from the requirements under ASX Listing Rule 6.18 in relation to the rights YTC grants to Glencore Australia under this clause 5. YTC must apply to the ASX for the waiver as soon as reasonably practical after the date of this agreement and use its reasonable endeavours to obtain this ASX waiver prior to Completion.
- (b) In its application to ASX for a waiver from the requirements under ASX Listing Rule 6.18 for the obligations of YTC under this clause 5, YTC must request that the ASX exclude any issuance of Exempt Securities in the calculation of the minimum Relevant Interest in YTC which Glencore Australia or a Related Body Corporate must maintain in order for the waiver to continue to apply. If the ASX does not agree to that request, then YTC's application to the ASX must request that the minimum Relevant Interest in YTC which Glencore Australia or a Related Body Corporate must maintain in order for the waiver to continue to apply, is 5%.
- (c) YTC must include all reasonable comments Glencore Australia may have on all communications with the ASX concerning the aforementioned waiver. YTC must keep Glencore Australia informed of any circumstances which may prevent the waiver being granted on the terms applied for. If the ASX grants the waiver other than on the terms applied for, the parties will co-operate to allow Glencore Australia as many of the rights referred to in this clause 5 which do not conflict with the ASX ruling (and to allow the rights to the extent that they do not conflict). If the ASX does not grant the waiver prior to Completion, YTC and Glencore Australia must co-operate to implement alternative measures to achieve the same or similar outcome and re-apply to the ASX to the extent that such alternative measures require ASX approval.

### 5.3 Participation in further issues

If YTC issues or agrees to issue any Securities other than Exempt Securities at any time during the Indebtedness Period (a "**New Issue**");

- (a) YTC must also offer, to the maximum extent permitted by law, to Glencore Australia that number of Securities which is equal to:

$$\left[ (NI + B) \times \frac{A}{B - E} \right] - A$$

where:

**A** is the aggregate number of Shares in which Glencore Australia or a Related Body Corporate has a Relevant Interest at the date of the offer with respect to the New Issue;

**B** is the total issued share capital of YTC at the date of the offer;

**E** is the total number of Shares issued on or since the date of the last New Issue pursuant to an issue of Exempt Securities; and

**NI** is the total number of Securities comprised in the New Issue,

provided that the total number of Shares offered to Glencore Australia under this paragraph (a) is not more than the aggregate number of Shares in which Glencore Australia or a Related Body Corporate has a Relevant Interest immediately after Completion. For the avoidance of doubt, this clause does not prevent Glencore Australia or any of its Related Bodies Corporate from acquiring or subscribing for any additional Securities in YTC.

(b) any offer of Securities by YTC under clause 5.3(a) must:

(i) be preceded by notices from YTC to Glencore Australia:

- (A) of the New Issue (other than the price per Share comprising the New Issue if it is not then known) no later than 5 Business Days before the Announcement Date; and
- (B) of the price per Share comprising the New Issue no later than 24 hours before 9:30am on the Announcement Date;

(ii) be on the same terms of issue as are applicable to the New Issue, except that:

- (A) if any Securities offered under clause 5.3(a) and under the New Issue are unable to be issued because the issue requires the approval of YTC's shareholders in accordance with ASX Listing Rule 7.1 ("**Conditional Securities**") then:
  - (aa) the offer of those Securities which are Conditional Securities will be conditional on receipt of approval of the shareholders of YTC in accordance with ASX Listing Rule 7.1, as interconditional resolutions; and
  - (ab) the offer of those Securities which are not Conditional Securities will not be conditional on receipt of approval of the shareholders of YTC in accordance with ASX Listing Rule 7.1;
- (B) where the New Issue constitutes an issue of Shares for non-cash consideration, the price per Share offered to Glencore Australia will be no more than the Current Market Price on the third Business Day after the day on which the final terms of the New Issue are announced to the ASX;
- (C) Glencore Australia must, if it wishes to participate in the New Issue, accept the offer within 1 Business Day of it being received from YTC pursuant to clause 5.3(b)(i)(B);
- (D) if Glencore Australia accepts the offer, the issue of the relevant Securities to Glencore Australia will be made:

- (aa) to the extent that the offer is either not subject to the condition contemplated by clause 5.3(b)(ii)(A) or where the offer is the subject of the condition contemplated by the clause 5.3(b)(ii)(A) but in relation to Securities which are not Conditional Securities only, on the date Securities are issued under the New Issue; and
- (ab) to the extent that the offer is subject to the condition contemplated by clause 5.3(b)(ii)(A), on the later of the day Securities are issued under the New Issue and the day which is two Business Days after the satisfaction of the condition contemplated by that clause; and
- (iii) allow Glencore Australia to accept the whole or part of the number of Securities offered; and
- (c) if Glencore Australia accepts the offer, Glencore Australia must pay the agreed subscription amount in accordance with (and on the date for issue of the new Securities pursuant to the offer specified in) the offer.

#### 5.4 Obligations to seek shareholder approval

If an offer of Securities by YTC under clause 5.3(a) is subject to the condition contemplated by clause 5.3(b)(ii)(A), then YTC must promptly convene a meeting of its shareholders to consider the passing of a resolution giving the approval contemplated by clause 5.3(b)(ii)(A), and must use all reasonable endeavours to procure (subject to the fiduciary and statutory duties of YTC's directors) that a majority of YTC's directors recommend that YTC's shareholders vote in favour of the resolution.

#### 5.5 Failure to obtain shareholder approval

If shareholder approval is contemplated by clause 5.4 and is not obtained, or if for any other reason (including operation of law) any of the Securities described in clause 5.3(a) are not able to be issued to Glencore Australia then YTC will, subject to acceptance of the offer made pursuant to clause 5.3 and otherwise on the terms of that offer, issue to Glencore Australia the maximum number of Securities that may be issued without shareholder approval.

#### 5.6 Exempt Securities information

YTC must provide Glencore Australia with copies of any scheme, arrangement or incentive plan in terms of which Exempt Securities may be issued, immediately upon it being approved by the board or the shareholders, as the case may be.

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### 6 Board representation

- (a) During the period commencing on Completion and continuing for so long as the Glencore Australia Group (taken as a whole) has a Relevant Interest in at least 5% of the Shares on issue from time to time (the "Relevant Period") Glencore Australia will have the right to appoint a nominee to the YTC Board (the "Glencore Australia Director"), subject to YTC receiving a signed consent to act from the Glencore Australia Director. The Glencore Australia Director shall have the right to appoint an alternate director.

- (b) For the purposes of clause 6(a), any Exempt Securities will be excluded from the calculation of the aggregate Shares on issue at any time until the earlier occurring of:
  - (i) 90 days from the date on which the Glencore Australia Group (taken as a whole) ceased to have a Relevant Interest in at least 5% of the Shares on issue from time to time; and
  - (ii) Glencore Australia has been offered Shares under clause 5.3(a) and has not accepted so many of those Shares offered which would result in Glencore Australia Group (taken as a whole) having a Relevant Interest in at least 5% of the Shares on issue from time to time.
- (c) After the appointment of the Glencore Australia Director in accordance with clause 6(a), the YTC Board must:
  - (i) ensure that the Glencore Australia Director is proposed for election as a Director at the next general meeting of YTC's shareholders convened after the appointment;
  - (ii) recommend the election of the Glencore Australia Director to YTC's shareholders at the general meeting referred to in clause 6(c)(i) and do all things as may be reasonably necessary or expedient on its part to ensure that such resolution is passed by the requisite majority; and
  - (iii) if the resolution to elect any Glencore Australia Director is not approved by shareholders at any general meeting of the Company, recommit with clauses 6(c)(i) and (ii) as many times as required during the Relevant Period until such election is made and the Glencore Australia Director is appointed to the YTC Board.
- (d) For the avoidance of doubt:
  - (i) YTC must (to the extent permitted by law, the ASX Listing Rules and the fiduciary duties of the Directors), continue to take all necessary steps to procure that any Glencore Australia Director is appointed to the YTC Board during the Relevant Period; and
  - (ii) Glencore Australia's right to make the election under clause 6(a):
    - (A) may be made at any time during the Relevant Period;
    - (B) does not merge on Completion; and
    - (C) does not cease after either the first nomination to appoint the Glencore Australia Director or if any resolution to elect any Glencore Australia Director is not approved by shareholders at any general meeting of the Company.
- (e) YTC's obligations under this clause 6 will be subject to the fiduciary duties of the Directors so that YTC will not be obliged to comply with these requirements to the extent that the Directors have received written legal advice that complying with YTC's obligations under this clause would be reasonably likely to constitute a breach of the Directors' fiduciary obligations.

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## **7 Warranties**

### **7.1 Accuracy**

YTC represents and warrants to Glencore Australia that each Warranty is correct and not misleading in any material respect on the date of this agreement and will be correct and not misleading in any material respect on the Completion Date as if made on and as of each of those dates.

### **7.2 Separate Warranties**

Each Warranty is to be treated as a separate representation and warranty. The interpretation of any statement made may not be restricted by reference to or inference from any other statement.

### **7.3 Matters disclosed**

Each Warranty is to be read down and qualified by any information fully and fairly disclosed to Glencore Australia by YTC in the Disclosure Letter.

### **7.4 No extinguishment**

The Warranties are not extinguished or affected by any investigation made by or on behalf of Glencore Australia into the affairs of YTC or by any other event or matter unless:

- (a) Glencore Australia has given a specific written waiver or release; or
- (b) the claim relates to a thing done or not done after the date of this agreement at the request or with the approval of Glencore Australia.

### **7.5 Inducement**

YTC acknowledges that:

- (a) it has made and given the Warranties with the intention of inducing Glencore Australia to enter into this agreement; and
- (b) Glencore Australia has entered into this agreement in full reliance on the Warranties.

### **7.6 Breach on or before Completion**

If any Warranty is found to have been incorrect or misleading when made on or before the Completion Date, Glencore Australia may, by notice to YTC, terminate all, but not some, of the Transaction Documents without prejudice to any other remedy available to it. If the Transaction Documents are so terminated then clause 3.4 ("Effect of termination") applies with the necessary changes.

### **7.7 Reduction in purchase price**

If payment is made for a breach of any Warranty, the payment is to be treated as an equal reduction in the price of each Subscription Share.

### **7.8 Warranty cap**

YTC's total liability for loss or damage of any kind however caused, in contract, tort (including negligence), under any statute or otherwise arising from or relating to any and all Claims arising from or relating in any way to a Claim by Glencore

Australia for a breach of Warranty is limited to, in aggregate, the Subscription Price.

#### 7.9 Access to records before Completion Date

Up and until the Completion Date, YTC agrees to notify (and will procure that its Subsidiaries notify) Glencore Australia immediately after any of YTC, its Subsidiaries or their Representatives (which does not include any joint-venturer) becomes aware of any fact, matter or circumstance that, could be expected to cause any Warranty or any warranties in any of the other Transaction Documents, to be incorrect or misleading when made.

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### 8 Glencore Australia's warranties

Glencore Australia represents and warrants to YTC that each of the following statements is correct and not misleading in any material respect on the date of this agreement and will be correct and not misleading in any material respect as at the Completion Date as if made on each of those dates:

- (a) **(power)** it has the power to enter into and perform this agreement and has obtained all necessary consents and authorisations to enable it to do so;
- (b) **(binding obligation)** this agreement constitutes valid and binding obligations upon it enforceable in accordance with its terms by appropriate legal remedy;
- (c) **(no breach)** this agreement and Completion do not conflict with or result in a breach of any obligation (including any statutory, contractual or fiduciary obligation) or constitute or result in any default under any provision of its constitution or any material provision of any agreement, deed, writ, order, injunction, judgment, law, rule or regulation to which it is a party or is subject or by which it is bound; and
- (d) **(solvency)** it is not Insolvent.

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### 9 Announcements

#### 9.1 Public announcements

Except in relation to any public announcement concerning the transactions referred to in this agreement already made by YTC before the date of this agreement but subject to clause 9.2, neither party may, before or after Completion, make or send a public announcement, communication or circular concerning the transactions referred to in this agreement unless it has first provided the other party with a draft of the announcement, communication or circular and obtained the written consent of the other party, which consent is not to be unreasonably withheld or delayed.

#### 9.2 Public announcements required by law

Clause 9.1 does not apply to a public announcement, communication or circular required by law or a regulation of a stock exchange, if the party required to make or send it has:

- (a) to the extent practicable, provided the other party with sufficient notice to enable it to seek a protective order or other remedy; and

- (b) provided all assistance and co-operation that the other party considers necessary (acting reasonably) to prevent or minimise that disclosure.

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## **10 Costs and duty**

### **10.1 Costs and expenses**

- (a) Subject to clause 10.1(b), each party agrees to pay its own legal and other Costs and expenses in connection with the negotiation, preparation, execution and completion of this agreement and the Transaction Documents.
- (b) YTC agrees to pay each of Glencore Australia's and any Financier's Costs and expenses in connection with the negotiation, preparation, execution and completion of this agreement and the Transaction Documents up to a maximum amount of \$200,000, in aggregate.

### **10.2 Duty**

YTC agrees to pay all duty (including fines and penalties) chargeable, payable or assessed in relation to:

- (a) this agreement and the issue of the Subscription Shares to Glencore Australia;
- (b) any of the Transaction Documents.

### **10.3 Set-off and payment direction**

- (a) Glencore Australia may set off any amount due for payment to it by YTC under clauses 10.1 and/or 10.2 against any amount due for payment by Glencore Australia to YTC under this agreement.
- (b) YTC directs Glencore Australia to pay (on YTC's behalf) to the Financiers, up to the maximum amount referred to in clause 10.1(b), any amounts owed by YTC to any of the Financier's under the equivalent costs and expenses clause in the other Transaction Documents to which any of YTC, Hera or Nymagee is a party and Glencore Australia may subtract any amounts paid to those Financiers in accordance with this clause from any payment owed by Glencore Australia to YTC under this agreement.
- (c) This clause 10 applies despite any other agreement between YTC, Glencore Australia and the Financiers.

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## **11 Confidentiality**

### **11.1 Disclosure of Confidential Information**

All Confidential Information exchanged between the parties under this agreement or during the negotiations preceding this agreement is confidential to them and may not be disclosed to any person except:

- (a) employees, legal advisers, auditors and other consultants of the party or its Related Bodies Corporate requiring the information for the purposes of this agreement;
- (b) with the consent of the party who supplied the information;

- (c) if a party or its Related Bodies Corporate is required to do so by law, a stock exchange or any regulatory authority; or
- (d) if a party is required to do so in connection with legal proceedings relating to this agreement.

## 11.2 Use of Confidential Information

A party must not use any Confidential Information, except for the purpose of performing its obligations under this agreement or as otherwise required by operation of law.

## 11.3 Excluded Information

Clauses 11.1 ("Disclosure of Confidential Information") and 11.2 ("Use of Confidential Information") do not apply to the Excluded Information.

## 11.4 Survival of termination

This clause 11 ("Confidentiality") will survive termination of this agreement.

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# 12 GST

## 12.1 Construction

In this clause 12:

- (a) subject to **paragraph (b)**, words and expressions which are not defined in this agreement but which have a defined meaning in GST Law have the same meaning as in the GST Law;
- (b) **GST** has the meaning given to it in GST Law and in addition includes amounts payable by way of interest and penalties on the primary GST liability;
- (c) **GST Law** has the same meaning given to that expression in the *A New Tax System (Goods and Services Tax) Act 1999*; and
- (d) references to GST payable and input tax credit entitlement include GST payable by, and the input tax credit entitlement of, the representative member for a GST group of which the entity is a member.

## 12.2 Consideration GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this document are exclusive of GST.

## 12.3 Payment of GST

If GST is payable on any supply made by a party (or any entity through which that party acts) (**Supplier**) under or in connection with this agreement, the recipient will pay to the Supplier an amount equal to the GST payable on the supply.

## 12.4 Timing of GST payment

The recipient will pay the amount referred to in clause 12.3 in addition to and at the same time that the consideration for the supply is to be provided under this agreement.

**12.5 Tax invoice**

The Supplier must deliver a tax invoice or an adjustment note to the recipient before the Supplier is entitled to payment of an amount under clause 12.3. The recipient can withhold payment of the amount until the Supplier provides a tax invoice or an adjustment note, as appropriate.

**12.6 Adjustment event**

If an adjustment event arises in respect of a taxable supply made by a Supplier under this agreement, the amount payable by the recipient under clause 12.3 will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the Supplier or by the Supplier to the recipient as the case requires.

**12.7 Reimbursements**

Where a party is required under this agreement to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

- (a) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and
- (b) if the payment or reimbursement is subject to GST, an amount equal to that GST.

**12.8 No Merger**

This clause 12 does not merge on the completion or termination of this agreement or on the transfer of the property supplied under this agreement.

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**13 Notices and other communications****13.1 Form - all communications**

Unless expressly stated otherwise in this agreement, all notices, certificates, consents, approvals, waivers and other communications in connection with this agreement must be:

- (a) in writing;
- (b) in English or accompanied by a certified translation into English;
- (c) signed by the sender (if an individual) or an Authorised Officer of the sender; and
- (d) marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.

**13.2 Delivery**

Communications must be:

- (a) left at the address set out or referred to in the Details; or
- (b) sent by prepaid ordinary post (airmail if appropriate) to the address set out or referred to in the Details; or

- (c) sent by fax to the fax number set out or referred to in the Details;
- (d) sent by email to the email address set out or referred to in the Details; or
- (e) given in any other way permitted by law.

However, if the intended recipient has notified a changed address or fax number, then communications must be to that address or fax number.

### **13.3 When effective**

Communications take effect from the time they are received or taken to be received under clause 13.4 ("When taken to be received") (whichever happens first) unless a later time is specified.

### **13.4 When taken to be received**

Communications are taken to be received:

- (a) if sent by post, three days after posting (or seven days after posting if sent from one country to another);
- (b) if sent by email, on the day when it is transmitted; or
- (c) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent.

whichever happens first.

### **13.5 Receipt outside business hours**

Despite clauses 13.3 ("When effective") and 13.4 ("When taken to be received"), if communications are received or taken to be received under clause 13.4 after 5.00pm in the place of receipt or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day and take effect from that time unless a later time is specified.

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## **14 Miscellaneous**

### **14.1 Discretion in exercising rights**

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this agreement expressly states otherwise.

### **14.2 Partial exercising of rights**

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

### **14.3 No liability for loss**

A party is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this agreement.

**14.4 Approvals and consents**

By giving its approval or consent, a party does not make or give any warranty or representation as to any circumstance relating to the subject matter of the consent or approval.

**14.5 Conflict of interest**

The parties' rights and remedies under this agreement may be exercised even if it involves a conflict of duty or a party has a personal interest in their exercise.

**14.6 Remedies cumulative**

The rights and remedies provided in this agreement are in addition to other rights and remedies given by law independently of this agreement.

**14.7 Rights and obligations are unaffected**

Rights given to the parties under this agreement and the parties' liabilities under it are not affected by anything which might otherwise affect them by law.

**14.8 Variation and waiver**

A provision of this agreement or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

**14.9 No merger**

The warranties, undertakings and indemnities in this agreement do not merge and are not extinguished on Completion and will survive after Completion.

**14.10 Indemnities**

The indemnities in this agreement are continuing obligations, independent from the other obligations of the parties under this agreement and continue after this agreement ends. It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this agreement.

**14.11 Further steps**

Each party agrees, at its own expense, to do anything the other party asks (such as obtaining consents, signing and producing documents and getting documents completed and signed) as may be necessary or desirable to give full effect to the provisions of this agreement and the transactions contemplated by it.

**14.12 Time of the essence**

Time is of the essence of this agreement in respect of any date or period determined under this agreement.

**14.13 Entire agreement**

The Transaction Documents constitute the entire agreement of the parties about its subject matter and supersede all previous agreements, understandings and negotiations on that subject matter (including the Term Sheet).

#### 14.14 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this agreement or any part of it.

#### 14.15 Inconsistent agreements

If a provision of this agreement is inconsistent with a provision of any of the Transaction Documents, the provision of this agreement prevails.

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### 15 Assignment

Glencore Australia may transfer either:

- (a) all of the Subscription Shares it holds at any time; or
- (b) any of its rights and obligations under this agreement,

to a wholly-owned subsidiary of Glencore International plc or Xstrata plc, provided the transferee agrees to be bound by the provisions of this agreement.

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### 16 Rights attaching to shares

As part of the consideration for the Subscription Shares referred to in clause 2.1, YTC agrees that:

- (a) if YTC proposes to transfer, sell or otherwise deal with YTC's or any of YTC's Related Body Corporate's interest in the Hera Project and/or the Nymagee Project, then YTC will ensure that Glencore Australia is granted a "right of first refusal" to participate in any such transaction; and
- (b) ensure that a technical steering committee is formed in relation to the Hera Project and the Nymagee Project,

each on agreed terms.

---

### 17 Governing law and jurisdiction

#### 17.1 Governing law

This agreement is governed by the law in force in the place specified in the Details. Each party submits to the non-exclusive jurisdiction of the courts of that place.

#### 17.2 Jurisdiction

Subject to clause 18, each party submits to the non-exclusive jurisdiction of the courts of the place specified in the Details and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

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## 18 Dispute resolution

### 18.1 Injunctive or interim relief

Nothing in this clause prevents a party seeking urgent injunctive or similar interim relief from a court.

### 18.2 Submission to arbitration

If a Dispute arises that cannot be resolved between the parties, then that Dispute is hereby submitted to arbitration in accordance with the requirements and procedures set out in this clause.

### 18.3 International arbitration

Any Dispute is to be referred to and finally resolved by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce ("Rules"). The seat of the arbitration will be Sydney, Australia. The tribunal is to consist of three arbitrators appointed in accordance with the Rules. The language of the arbitration is English.

By agreeing to conduct the arbitration in accordance with the Rules, the parties are not contracting out of the Model Law for the purpose of Section 21 of the International Arbitration Act 1974 (Cwlth).

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## 19 Counterparts

This agreement may consist of a number of copies, each signed by one or more parties to the agreement. If there are a number of signed copies they are treated as making up the one document and the date on which the last counterpart is executed will be the date of the agreement.

This agreement may be executed in counterparts. All counterparts when taken together are to be taken to constitute one instrument.

EXECUTED as an agreement

## Equity Subscription Agreement

### Schedule 1 - Application for Subscription Shares (clause 4.2(a))

To: YTC Resources Limited ("YTC")  
2 Corporation Place  
Orange, NSW 2800

Attention: Chairman

[insert date]

Dear Sirs

**Application for shares pursuant to Equity Subscription Agreement dated #insert date#**

Glencore Australia Finance Holdings Pty Ltd ("**Glencore Australia**") (Level 8, 484 St Kilda Road, Melbourne, 3004):

- (a) hereby applies for the issue of 9,390,000 ordinary shares in the capital of YTC ("**Subscription Shares**");
- (b) agrees to pay the Subscription Price upon Completion in accordance with the Equity Subscription Agreement; and
- (c) agrees to be bound by the constitution of YTC.

Capitalised terms which are used but not defined in this application have the meaning given to them (if any) in the Equity Subscription Agreement.

Yours faithfully

For and on behalf of Glencore Australia Finance Holdings Pty

## Schedule 2 - Warranties

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### **1 Incorporation and power**

#### **1.1 Incorporation**

YTC is validly incorporated, organised and subsisting in accordance with all applicable laws.

#### **1.2 Power**

YTC has the power to own its assets and to carry on its business as it is now being conducted.

#### **1.3 Compliance with constituent documents**

The business and affairs of YTC have at all times been and continue to be conducted in accordance with the Constitution and the Corporations Act and the ASX Listing Rules (other than ASX Listing Rule 3.1) in all material respects.

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### **2 Power and authority**

#### **2.1 Power**

YTC has the power to enter into and perform this agreement and has obtained all necessary consents and authorisations to enable it to do so.

#### **2.2 Binding obligations**

This agreement constitutes valid and binding obligations upon YTC enforceable in accordance with its terms by appropriate legal remedy.

#### **2.3 No breach**

This agreement and Completion do not conflict with or result in a breach of any obligation (including any statutory, contractual or fiduciary obligation) or constitute or result in any default under any provision of the Constitution or any material provision of any agreement, deed, writ, order, injunction, judgment, law, rule or regulation to which YTC is a party or is subject or by which it is bound.

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### **3 Disclosure**

#### **3.1 Compliance with ASX Listing Rule 3.1**

YTC has at all times during the 12 months up to and including the date of this agreement been, and continues to be, in compliance with ASX Listing Rule 3.1 in all material respects such that no lapse of compliance has or will cause a Material Adverse Change. YTC is not withholding from disclosure any information on the basis of ASX Listing Rule 3.1A.

#### **3.2 Information**

- (a) Save for the information referred to in paragraphs (b) and (c) below, no information provided to Glencore Australia by YTC is incomplete, false or misleading in any material respect.

- (b) No information provided to Glencore Australia by YTC which was prepared by a person other than YTC and clearly marked as such, is, to the best of YTC's knowledge, information and belief having made due and diligent enquiries, incomplete, false or misleading in any material respect.
- (c) To the extent that information provided to Glencore Australia by YTC was prepared by YTC based on materials prepared by a person other than YTC and reliance was placed by YTC on such materials (and the reliance concerned was clearly marked), such information is to the best of YTC's knowledge, information and belief having made due and diligent enquiries, not incomplete, false or misleading in any material respect.
- (d) No information provided by YTC for use in preparation of the information referred to in paragraph (b) above, is incomplete, false or misleading in any material respect.

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## **4 Solvency**

### **4.1 Solvency**

YTC is not Insolvent.

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## **5 Subscription Shares and share capital**

### **5.1 Proportion of capital**

The Subscription Shares will, upon issue, comprise 3.35% of the total issued capital of YTC and will, upon issue, be fully paid.

### **5.2 Share capital**

At the date of this agreement, YTC has no other Securities on issue or agreed to be issued other than the following:

- (a) 252,724,334 Shares;
- (b) 340,000 unlisted options over Shares expiring 31/12/2014, exercisable into a total of 340,000 Shares with an exercise price of \$0.40 per option;
- (c) 950,000 unlisted options over Shares expiring 31/12/2014, exercisable into a total of 950,000 Shares with an exercise price of \$0.45 per option;
- (d) 1,850,000 unlisted options over Shares expiring 29/11/2015, exercisable into a total of 1,850,000 Shares with an exercise price of \$0.35 per option;
- (e) 1,850,000 unlisted options over Shares expiring 11/11/2015, exercisable into a total of 1,850,000 Shares with an exercise price of \$0.45 per option;
- (f) 840,000 performance rights expiring 15/03/2016, which on vesting convert into a total of 840,000 Shares;
- (g) 555,556 Shares to be allotted to OZ Minerals Investments Pty Limited as consideration for the acquisition by YTC of exploration licences 7446, 7447, 7524 and 7529; and

- (h) 874,126 Shares to be allotted to Templar Resources Limited, a wholly owned subsidiary of Straits Resources Limited, as consideration for the acquisition by YTC of exploration licence 6258.

### **5.3 Ranking**

The Subscription Shares will rank equally in all respects with existing issued fully paid ordinary shares in YTC, including the payment of any distributions following allotment.

### **5.4 No Encumbrances**

The Subscription Shares will be free from all Encumbrances.

### **5.5 No restriction**

There is no restriction on Issue of the Subscription Shares to Glencore Australia.

### **5.6 No restriction of sale**

Following compliance by YTC with clause 4.4(c) ("YTC's obligations after Completion"), an offer of the Subscription Shares for sale (or an assignment of a right in respect of an interest in the Subscription Shares) in the 3 month period commencing on the date which is immediately after the Completion Date may be made without a disclosure document.

### **5.7 Consents**

YTC has obtained all consents necessary to enable it to issue the Subscription Shares.

### **5.8 No breach**

The offer, issue and Official Quotation of the Subscription Shares complies with:

- (a) the Corporations Act and the ASX Listing Rules; and
- (b) all other obligations and agreements binding on YTC or its members.

### **5.9 No breach**

The issue of the Subscription Shares does not breach any obligation or agreement binding on YTC or its members.

### **5.10 No restrictions on allotment**

There is no restriction on the allotment and issue of the Subscription Shares and that the allotment and issue of the Subscription Shares does not need approval from shareholders under the ASX Listing Rules or Corporations Act.

### **5.11 No suspension**

Trading in Securities of YTC on ASX has not been suspended at any time for more than one day.

### **5.12 Subsidiary details**

Schedule 4 ("Hera and Nymagee") contains complete, accurate and up-to-date details of Hera and Nymagee.

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## **6 Litigation**

### **6.1 Threatened or pending Claims**

There are no prosecutions, litigation, arbitration, other dispute resolution proceedings, investigations or audits involving any member of the Group, in each case which would result in a Material Adverse Change, nor (so far as YTC is aware) is any such matter pending or threatened against any member of the Group.

### **6.2 Judgments**

There is no unsatisfied judgment, order, arbitral award or decision of any court, tribunal or arbitrator, or unsatisfied settlement of proceedings in any court, tribunal or arbitration, against any member of the Group or any of their assets.

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## **7 No breach of law**

No member of the Group is in breach, in any respect which would result in a Material Adverse Change, of its constitution, any rules, regulations or requirements of ASX, or any applicable law, decree, judgment, legislation, order, regulation, statute, ordinance, treaty or other legislative measure including any environmental law.

## Equity Subscription Agreement

Schedule 3 – [Not used]

## Equity Subscription Agreement

### Schedule 4 – Hera and Nymagee

| Name of Subsidiary         | ABN/ACN /ARBN | Place of incorporation (if not Australia) | Registered office (if different to the Company) | Issued capital | Registered shareholder(s) | Beneficial owners of shares (if not the registered shareholders) |
|----------------------------|---------------|-------------------------------------------|-------------------------------------------------|----------------|---------------------------|------------------------------------------------------------------|
| Hera Resources Pty Limited | 138 992 999   |                                           |                                                 | 2 ORD          | YTC                       |                                                                  |
| Nymagee Resources Pty Ltd  | 154 131 134   |                                           |                                                 | 1 ORD          | YTC                       |                                                                  |

# Equity Subscription Agreement

## Signing page

DATED: 11 February 2013

**EXECUTED** by **YTC RESOURCES LIMITED** in accordance with section 127(1) of the Corporations Act 2001 (Cwlth) by authority of its directors:

.....  
Signature of director

.....  
Name of director (block letters)

.....  
Signature of director/~~company~~  
secretary\*

\*delete whichever is not applicable

.....  
Name of director/~~company~~ secretary\*  
(block letters)

\*delete whichever is not applicable

**SIGNED** by **ADAM LUCKIE** as attorney for **GLENCORE AUSTRALIA FINANCE HOLDINGS PTY LTD** under power of attorney dated 31 JANUARY 2013 in the presence of:

.....  
Signature of witness

.....  
Name of witness (block letters)

.....  
By executing this agreement the attorney states that the attorney has received no notice of revocation of the power of attorney

## Equity Subscription Agreement

### Signing page

DATED: 11 FEBRUARY 2013

EXECUTED by YTC RESOURCES  
LIMITED in accordance with section  
127(1) of the Corporations Act 2001  
(Cwlth) by authority of its directors:

.....  
Signature of director

.....  
Name of director (block letters)

.....  
Signature of director/company  
secretary\*

\*delete whichever is not applicable

.....  
Name of director/company secretary\*  
(block letters)

\*delete whichever is not applicable

SIGNED by ADAM LUCKIE as  
attorney for GLENCORE AUSTRALIA  
FINANCE HOLDINGS PTY LTD under  
power of attorney dated 31 JANUARY  
2013 in the presence of:

.....  
Signature of witness

.....  
Name of witness (block letters)

.....  
By executing this agreement the  
attorney states that the attorney has  
received no notice of revocation of the  
power of attorney