

Dated **2020**

TERTIARY MINERALS PLC **(1)**

AND

THE SELLING SHAREHOLDERS **(2)**

OFF-MARKET PURCHASE AGREEMENT



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THIS AGREEMENT is dated

2020

BETWEEN:

- (1) **THOSE PERSONS** whose names and addresses are set out in column 1 of the Schedule (the "**Selling Shareholders**"); and
- (2) **TERTIARY MINERALS PLC** incorporated and registered in England and Wales with company number 03821411 whose registered office is at Sunrise House, Hulley Road, Macclesfield, Cheshire SK10 2LP (the "**Company**").

INTRODUCTION

- (A) Pursuant to Article 7.1.5.2 of the Articles, the Company may acquire all of the Deferred Shares in issue for a consideration of not more than £1.00 in aggregate.
- (B) Pursuant to Article 7.1.4 of the Articles the Company may appoint a person to execute on behalf of the holders of the Deferred Shares a transfer thereof and/or an agreement to transfer the Deferred Shares.
- (C) The Selling Shareholders are the holders of all of the Deferred Shares.
- (D) The Company has determined to buy the Deferred Shares on the terms of this Agreement and such purchase has been approved by resolution of the Company's shareholders. Once purchased by the Company, the Deferred Shares shall be cancelled.

IT IS AGREED that:

1 DEFINITIONS AND INTERPRETATION

1.1 Defined Terms

In this Agreement and the Introduction:

Articles the articles of association of the Company as amended from time to time;

Completion	completion of the sale and purchase of the Deferred Shares under this Agreement;
Deferred Shares	the 267,076,937 (two hundred and sixty-seven million seventy-six thousand nine hundred and thirty-seven) non-voting, non-participating deferred share of 0.99 pence each in the capital of the Company designated as a Deferred Share held by the Selling Shareholders as set out in the Schedule;
Encumbrance	any mortgage, charge, pledge, lien, restriction, assignment, hypothecation, option, right to acquire, right of first refusal or right of pre-emption, third party right or interest or other encumbrance or security interest of any kind or any other agreement or arrangement the effect of which is the creation of security; any other type of preferential arrangement (including a title transfer or retention arrangement) having similar effect; or any agreement or arrangement or obligation to create any of the same;
Notice	a notice, demand, request, statement, instrument, certificate or other communication given, delivered or made by either party to the other under or in connection with this Agreement; and
Representative	Rodney Guy Venables of City Group Plc, 1 Ely Place, London EC1N 6RY.

1.2 Contents Page and Headings

In this Agreement the contents page and headings are included for convenience only and do not affect the interpretation or construction of this Agreement.

1.3 **Clauses and Schedules**

In this Agreement:

- (a) the Introduction forms part of this Agreement and shall have the same force and effect as if expressly set out in the body of this Agreement and any reference to this Agreement shall include the Introduction;
- (b) any reference to the Introduction is a reference to the Statements about the background to this Agreement made above; and
- (c) any reference to a clause is a reference to a clause of this Agreement.

1.4 **Meaning of References**

In this Agreement any reference to:

- (a) a company is to any company, corporation or other body corporate wherever and however incorporated or established;
- (b) a document is to that document as supplemented, otherwise amended, replaced or novated from time to time;
- (c) including means "including without limitation", in particular means "in particular but without limitation" and other general words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things; and
- (d) a person includes any individual (including his legal personal representatives), firm, company, government, state or agency of state or any joint venture, association, trust or partnership, works council or employee representative body (whether or not having a separate legal personality).

1.5 **Meaning of Parties**

In this Agreement any reference to a party or the parties is to a party or the parties (as the case may be) to this Agreement and shall include any successors and permitted assignees of a party.

2 APPOINTMENT OF REPRESENTATIVE

Pursuant to Article 7.1.4, the Company hereby appoints and authorises the Representative to execute this Agreement and any document in connection with this Agreement (including but not limited to the instrument of transfer as listed in clause 5.2(a)) on behalf of each of the Selling Shareholders.

3 AGREEMENT TO SELL AND PURCHASE

Each of the Selling Shareholders shall sell all the Deferred Shares held by him with full title guarantee and free from any Encumbrance for the aggregate consideration of £1 (one pound) for all of the Deferred Shares and the Company shall purchase the Deferred Shares and pay such consideration to the Representative who will hold the consideration on trust for each of the Selling Shareholders.

4 SHAREHOLDER APPROVAL

4.1 The sale and purchase of the Deferred Shares in accordance with clause 3 is conditional on an ordinary resolution of the Company being passed approving the terms of this agreement ("**Shareholder Approval**"). If Shareholder Approval is not granted on or before 6.00pm on 31 December 2020, this agreement shall automatically terminate and cease to have effect immediately after that date and time except for:

- (a) Clauses 1 and 2, and Clauses 6 to 11 (inclusive);
- (b) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination under this Clause 4.

5 COMPLETION

5.1 Completion shall take place at the registered office of the Company on the later of the date hereof and the date of the grant of Shareholder Approval.

5.2 At Completion:

- (a) the Representative shall deliver to the Company a duly executed instrument of transfer of the Deferred Shares in favour of the Company; and

- (b) the Company shall pay the consideration due in respect of the Deferred Shares by payment of the sum of £1 to the Representative to be held on behalf of the Selling Shareholders.

6 ENTIRE AGREEMENT

- 6.1 This Agreement constitutes the whole and only agreement between the parties in relation to the sale and purchase of the Deferred Shares and supersedes and extinguishes all previous drafts, agreements, undertakings, warranties, representations and arrangements between them, whether written or oral, relating to its subject matter.
- 6.2 Subject to clause 9.3, each party represents that it has not relied on, or been induced to enter into this Agreement by, any statement, representation, warranty, assurance, covenant or undertaking ("**Statement**") given by any other party and that the other party is not liable to it for any Statement (including one made negligently).
- 6.3 Nothing in this clause 6 shall have the effect of restricting any liability arising as a result of any fraud, dishonesty, wilful misconduct or wilful concealment.

7 COSTS

The Company shall pay the own costs of preparation of this Agreement.

8 INVALIDITY

If at any time all or any part of any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect, then the remainder of that provision and all other provisions of this Agreement shall remain valid and enforceable.

9 AMENDMENTS, WAIVERS AND RIGHTS

9.1 Amendments

No amendment or variation of this Agreement shall be effective unless it is made or confirmed in writing and signed by the Company and the Representative.

9.2 **Delay in Exercise/Non-Exercise of Rights**

No delay in exercising, or non-exercise, by either party of any right, power or remedy provided by law or under this Agreement impairs, or constitutes a waiver or release of, that right, power or remedy.

9.3 **Waivers**

Any waiver or release must be specifically granted in writing signed by the party granting it and shall:

- (a) be confined to the specific circumstances in which it is given;
- (b) not affect any other enforcement of the same or any other right; and
- (c) unless it is expressed to be irrevocable, be revocable at any time in writing.

9.4 **Exercise of Rights**

No single or partial exercise of any right, power or remedy provided by law or under this Agreement prevents any other or further exercise of it or the exercise of any other right, power or remedy.

9.5 **Rights and remedies cumulative**

The rights, powers and remedies of each party under this Agreement are cumulative and not exclusive of any rights, powers and remedies provided by general law.

9.6 **Provisions remain in force notwithstanding Completion**

Any provision of this Agreement which is capable of being performed after, but which has not been performed at or before, Completion and all warranties, covenants and other undertakings contained in, or entered into pursuant to, this Agreement shall remain in full force and effect notwithstanding Completion.

10 COUNTERPARTS

10.1 Any Number of Counterparts

This Agreement may be executed in any number of counterparts, and by the parties on separate counterparts, but shall not be effective until each of the parties has executed at least one counterpart.

10.2 Each Counterpart an Original

Each counterpart constitutes an original of this Agreement, but all of the counterparts constitute but one and the same instrument.

11 GOVERNING LAW AND JURISDICTION

11.1 Governing Law

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

11.2 English Courts have Jurisdiction

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to determine any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

THE SCHEDULE

The Selling Shareholders

EXECUTION

THIS AGREEMENT has been entered into on the date stated at the beginning of it.

SIGNED by

RODNEY GUY VENABLES

for and on behalf of each of the **SELLING SHAREHOLDERS**

SIGNED by

PATRICK LYNN CHEETHAM

for and on behalf of

TERTIARY MINERALS PLC

Director