

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2022

or

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_  
Commission File Number: 001-39649



**GATOS SILVER, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation or organization)

**27-2654848**

(I.R.S. Employer Identification No.)

**925 W Georgia Street, Suite 910**  
**Vancouver, British Columbia, Canada V6C 3L2**  
(Address of principal executive offices) (Zip Code)

**(604) 424-0984**

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.001 per share	GATO	New York Stock Exchange Toronto Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☐ No ☒

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

☐

Accelerated filer

☐

Non-accelerated filer

☒

Smaller reporting company

☒

Emerging growth company

☒

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☒

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of June 30, 2022, the aggregate market value of voting and non-voting common equity held by non-affiliates of the registrant was \$115,071,927 based on the closing price of the registrant's common stock on the New York Stock Exchange.

As of June 26, 2023, the number of shares of Registrant's common stock outstanding was 69,162,223.

DOCUMENTS INCORPORATED BY REFERENCE

None.

**TABLE OF CONTENTS**

	<u>Page</u>
<u>Part I</u>	
<a href="#">Item 1. Business</a>	8
<a href="#">Item 1A. Risk Factors</a>	16
<a href="#">Item 1B. Unresolved Staff Comments</a>	36
<a href="#">Item 2. Properties</a>	36
<a href="#">Item 3. Legal Proceedings</a>	42
<a href="#">Item 4. Mine Safety Disclosures</a>	43
<u>Part II</u>	
<a href="#">Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities</a>	44
<a href="#">Item 6. [Reserved]</a>	45
<a href="#">Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations</a>	45
<a href="#">Item 7A. Quantitative and Qualitative Disclosures about Market Risk</a>	56
<a href="#">Item 8. Financial Statements and Supplementary Data</a>	57
<a href="#">Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure</a>	95
<a href="#">Item 9A. Controls and Procedures</a>	95
<a href="#">Item 9B. Other Information</a>	97
<a href="#">Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections</a>	97
<u>Part III</u>	
<a href="#">Item 10. Directors, Executive Officers and Corporate Governance</a>	98
<a href="#">Item 11. Executive Compensation</a>	102
<a href="#">Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters</a>	113
<a href="#">Item 13. Certain Relationships and Related Transactions, and Director Independence</a>	116
<a href="#">Item 14. Principal Accountant Fees and Services</a>	117
<u>Part IV</u>	
<a href="#">Item 15. Exhibits and Financial Statement Schedules</a>	119
<a href="#">Item 16. Form 10-K Summary</a>	122

## **Notice Regarding Mineral Disclosure**

### *Mineral Reserves and Resources*

We are subject to the reporting requirements of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) and applicable Canadian securities laws, and as a result, we have separately reported our mineral reserves and mineral resources according to the standards applicable to those requirements. U.S. reporting requirements are governed by subpart 1300 of Regulation S-K (“S-K 1300”), as issued by the U.S. Securities and Exchange Commission (the “SEC”). Canadian reporting requirements are governed by National Instrument 43-101 Standards of Disclosure for Mineral Projects (“NI 43-101”), as adopted from the definitions provided by the Canadian Institute of Mining, Metallurgy and Petroleum. Both sets of reporting standards have similar goals in terms of conveying an appropriate level of consistency and confidence in the disclosures being reported, but the standards embody slightly different approaches and definitions. All disclosure of mineral resources and mineral reserves in this report is reported in accordance with S-K 1300. See “Item 1A. Risk Factors—Risks Related to Our Operations—Mineral reserve and mineral resource calculations at the CLG and at other deposits in the LGD are only estimates and actual production results and future estimates may vary significantly from the current estimates.”

The estimation of measured and indicated resources involve greater uncertainty as to their existence and economic feasibility than the estimation of proven and probable reserves, and therefore investors are cautioned not to assume that all or any part of measured or indicated resources will ever be converted into reserves reported pursuant to S-K 1300. The estimation of inferred resources involves far greater uncertainty as to their existence and economic viability than the estimation of other categories of resources, and, therefore, investors are cautioned not to assume that all or any part of inferred resources exist, or that they can be mined legally or economically. Definitions of technical terms are included below for reference.

### *Technical Report Summaries and Qualified Persons*

The technical information concerning our mineral projects in this Form 10-K have been reviewed and approved by Tony Scott P. Geo, Senior Vice President of Corporate Development and Technical Services. The technical information herein that relates to the CLG and Esther 2022 Mineral Resource set out in the Los Gatos Technical Report was prepared by or under the supervision of Ronald Turner, MAusIMM(CP), an employee of Golder Associates S.A. The technical information that relates to the 2022 Mineral Reserve, the 2022 LOM plan and other economic analyses was based upon information set out in the Los Gatos Technical Report and was based upon information prepared by or under the supervision of Paul Gauthier, P.Eng. an employee of WSP Canada Inc. (formerly Golder Associates Ltd.). Each of Mr. Scott, Mr. Turner and Mr. Gauthier is a “qualified person” under S-K 1300 and have reviewed the contents of this Form 10-K. For a description of the key assumptions, parameters and methods used to estimate mineral reserves and mineral resources included in this Form 10-K, as well as data verification procedures and a general discussion of the extent to which the estimates may be affected by any known environmental, permitting, legal, title, taxation, sociopolitical, marketing or other relevant factors, please review the Los Gatos Technical Report which is included as an exhibit to this Form 10-K.

## Glossary of Technical Terms

Certain terms and abbreviations used in this Report are defined below:

“**Ag**” means the chemical symbol for the element silver.

“**AISC**” means all-in sustaining cost.

“**Au**” means the chemical symbol for the element gold.

“**By-Product**” is a secondary metal or mineral product recovered in the milling process. For the CLG operation, silver is the primary metal product by value and zinc, lead and gold are by-products.

“**Concentrate**” is the product of physical concentration processes, such as flotation or gravity concentration, which involves separating ore minerals from unwanted waste rock. Concentrates require subsequent processing (such as smelting or leaching) to break down or dissolve the ore minerals and obtain the desired elements, usually metals.

“**Dilution**” is an estimate of the amount of waste or low-grade mineralized rock which will be mined with the ore as part of normal mining practices in extracting an orebody.

“**Feasibility Study**” is a comprehensive study of a mineral deposit in which all geological, engineering, legal, operating, economic, social, environmental and other relevant factors are considered in sufficient detail that it could reasonably serve as the basis for a final decision by a mining company and/or a financial institution to finance the development of the deposit for mineral production.

“**Grade**” means the concentration of each ore metal in a rock sample, usually given as weight percent. Where extremely low concentrations are involved, the concentration may be given in grams per tonne (g/t), the grade of an ore deposit is calculated, often using sophisticated statistical procedures, as an average of the grades of a very large number of samples collected from the deposit.

“**g/t**” means grams per tonne.

“**Hectare**” is a metric unit of area equal to 10,000 square meters (2.471 acres).

“**indicated mineral resources**” or “**indicated resources**” is that part of a mineral resource for which quantity and grade or quality are estimated on the basis of adequate geological evidence and sampling. The level of geological certainty associated with an indicated mineral resource is sufficient to allow a qualified person to apply modifying factors in sufficient detail to support mine planning and evaluation of the economic viability of the deposit. Because an indicated mineral resource has a lower level of confidence than the level of confidence of a measured mineral resource, an indicated mineral resource may only be converted to a probable mineral reserve.

“**inferred mineral resources**” or “**inferred resources**” is that part of a mineral resource for which quantity and grade or quality are estimated on the basis of limited geological evidence and sampling. The level of geological uncertainty associated with an inferred mineral resource is too high to apply relevant technical and economic factors likely to influence the prospects of economic extraction in a manner useful for evaluation of economic viability. Because an inferred mineral resource has the lowest level of geological confidence of all mineral resources, which prevents the application of the modifying factors in a manner useful for evaluation of economic viability, an inferred mineral resource may not be considered when assessing the economic viability of a mining project, and may not be converted to a mineral reserve.

“**LOM**” means life of mine.

“**Los Gatos Technical Report**” means the Technical Report titled “Mineral Resource and Reserve Update, Los Gatos Joint Venture, Chihuahua, Mexico,” prepared by Golder Associates, dated November 10, 2022 with an effective date of July 1, 2022, which was prepared in accordance with the requirements of S-K 1300 and NI 43-101.

“**masl**” is meters above sea level.

**“mineral reserves” or “reserves”** are the estimate of tonnage and grade or quality of indicated and measured mineral resources that, in the opinion of the qualified person, can be the basis of an economically viable project. More specifically, it is the economically mineable part of a measured or indicated mineral resource, which includes diluting materials and allowances for losses that may occur when the material is mined or extracted. Mineral reserves quantified herein are on a 100% basis unless otherwise stated.

**“mineral resources” or “resources”** are a concentration or occurrence of material of economic interest in or on the Earth’s crust in such form, grade or quality, and quantity that there are reasonable prospects for economic extraction. A mineral resource is a reasonable estimate of mineralization, taking into account relevant factors such as cut-off grade, likely mining dimensions, location or continuity, that, with the assumed and justifiable technical and economic conditions, is likely to, in whole or in part, become economically extractable. It is not merely an inventory of all mineralization drilled or sampled. Mineral resources quantified herein are on a 100% basis and stated exclusive of mineral reserves, unless otherwise stated.

**“measured mineral resources”** is that part of a mineral resource for which quantity and grade or quality are estimated on the basis of conclusive geological evidence and sampling. The level of geological certainty associated with a measured mineral resource is sufficient to allow a qualified person to apply modifying factors, as defined in this section, in sufficient detail to support detailed mine planning and final evaluation of the economic viability of the deposit. Because a measured mineral resource has a higher level of confidence than the level of confidence of either an indicated mineral resource or an inferred mineral resource, a measured mineral resource may be converted to a proven mineral reserve or to a probable mineral reserve.

**“M&I”** means measured mineral resources and indicated mineral resources.

**“NI 43-101”** means National Instrument 43-101-*Standards of Disclosure for Mineral Projects* adopted by the Canadian Securities Administrators.

**“NSR”** means net smelter return: the proceeds returned from the smelter and/or refinery to the mine owner less certain costs.

**“oz”** means a troy ounce.

**“Pb”** means the chemical symbol for the element lead.

**“probable mineral reserve”** means the economically mineable part of an indicated and, in some cases, a measured mineral resource.

**“proven mineral reserve”** means the economically mineable part of a measured mineral resource and can only result from conversion of a measured mineral resource.

**“S-K 1300”** means 17.C.F.R § 229.1300 through § 229.1305.

**“tailings”** is the material that remains after all economically and technically recovered metals have been removed from the ore during processing.

**“tonne,”** means a metric tonne, equivalent to 1,000 kg or 2,204.6 pounds. “tonne” is referenced under the “Grade” definition.

**“Zn”** means the chemical symbol for the element zinc.

### **Cautionary Information about Forward-Looking Statements**

This Report contains statements that constitute “forward looking information” and “forward-looking statements” within the meaning of U.S. and Canadian securities laws, including the Private Securities Litigation Reform Act of 1995. Forward-looking statements are often identified by words such as “may,” “might,” “could,” “would,” “achieve,” “budget,” “scheduled,” “forecasts,” “should,” “expects,” “plans,” “anticipates,” “believes,” “estimates,” “predicts,” “potential” or “continue,” the negative of these terms and other comparable terminology. These forward-looking statements may include, but are not limited to, the following:

- estimates of future mineral production and sales;
- estimates of future production costs, other expenses and taxes for specific operations and on a consolidated basis;
- estimates of future cash flows and the sensitivity of cash flows to gold, copper, silver, lead, zinc and other metal prices;
- estimates of future capital expenditures, construction, production or closure activities and other cash needs, for specific operations and on a consolidated basis, and expectations as to the funding or timing thereof;
- estimates as to the projected development of certain ore deposits, including the timing of such development, the costs of such development and other capital costs, financing plans for these deposits and expected production commencement dates;
- estimates of mineral reserves and mineral resources statements regarding future exploration results and mineral reserve and mineral resource replacement and the sensitivity of mineral reserves to metal price changes;
- statements regarding the availability of, and terms and costs related to, future borrowing or financing and expectations regarding future debt repayments;
- statements regarding future dividends and returns to shareholders;
- estimates regarding future exploration expenditures, programs and discoveries;
- statements regarding fluctuations in financial and currency markets;
- estimates regarding potential cost savings, productivity, operating performance and ownership and cost structures;
- expectations regarding statements regarding future transactions, including, without limitation, statements related to future acquisitions and projected benefits, synergies and costs associated with acquisitions and related matters;
- expectations of future equity and enterprise value;
- expectations regarding the start-up time, design, mine life, production and costs applicable to sales and exploration potential of our projects;
- statements regarding future hedge and derivative positions or modifications thereto;
- statements regarding local, community, political, economic or governmental conditions and environments;
- statements regarding the outcome of any legal, regulatory or judicial proceeding;
- statements and expectations regarding the impacts of COVID-19 and variants thereof and other health and safety conditions;
- statements regarding the impacts of changes in the legal and regulatory environment in which we operate, including, without limitation, relating to regional, national, domestic and foreign laws;
- statements regarding climate strategy and expectations regarding greenhouse gas emission targets and related operating costs and capital expenditures;

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## [Table of Contents](#)

- statements regarding expected changes in the tax regimes in which we operate, including, without limitation, estimates of future tax rates and estimates of the impacts to income tax expense, valuation of deferred tax assets and liabilities, and other financial impacts;
- estimates of income taxes and expectations relating to tax contingencies or tax audits;
- estimates of future costs, accruals for reclamation costs and other liabilities for certain environmental matters, including without limitation, in connection with water treatment and tailings management;
- statements relating to potential impairments, revisions or write-offs, including without limitation, the result of fluctuation in metal prices, unexpected production or capital costs, or unrealized mineral reserve potential;
- estimates of pension and other post-retirement costs;
- statements regarding estimates of timing of adoption of recent accounting pronouncements and expectations regarding future impacts to the financial statements resulting from accounting pronouncements;
- estimates of future cost reductions, synergies, savings and efficiencies in connection with full potential programs and initiatives; and
- expectations regarding future exploration and the development, growth and potential of operations, projects and investments, including in respect of the Cerro Los Gatos Mine (“CLG”) and the Los Gatos District (“LGD”).

Where we express an expectation or belief as to future events or results, such expectation or belief is expressed in good faith and believed to have a reasonable basis. However, our forward-looking statements are subject to risks, uncertainties and other factors, which could cause actual results to differ materially from future results expressed, projected or implied by those forward-looking statements.

All forward-looking statements speak only as of the date on which they are made. These statements are not a guarantee of future performance and involve certain risks, uncertainties and assumptions concerning future events that are difficult to predict. Therefore, actual future events or results may differ materially from these statements. Important factors that could cause our actual results to differ materially from those expressed or implied by forward-looking statements include, but are not limited to, the risks set forth under “Risk Factors Summary” below, which are discussed in further detail in “Item 1A—Risk Factors.” Such factors should not be construed as exhaustive and should be read in conjunction with the other cautionary statements included in this Report and those described from time to time in our filings with the SEC. These risks and uncertainties, as well as other risks of which we are not aware or which we currently do not believe to be material, may cause our actual future results to be materially different than those expressed in our forward-looking statements. Undue reliance should not be placed on these forward-looking statements. We do not undertake any obligation to make any revisions to these forward-looking statements to reflect events or circumstances after the date of this filing or to reflect the occurrence of unanticipated events, except as required by law. Certain forward-looking statements are based on assumptions, qualifications and procedures which are set out only in the Los Gatos Technical Report. For a complete description of assumptions, qualifications and procedures associated with such information, reference should be made to the full text of the Los Gatos Technical Report.

### **Risk Factors Summary**

We are subject to a variety of risks and uncertainties, including risks related to our business and industry; risks related to government regulations and international operations; risks related to the ownership of our common stock; and certain general risks, which could have a material adverse effect on our business, financial condition, results of operations and cash flows. These risks include, but are not limited to, the following principal risks:

- we are currently dependent on the CLG and the LGD for our future operations and may not be successful in identifying additional proven or probable mineral reserves; we may not be able to extend the current CLG life of mine by adding proven or probable mineral reserves;
- we may not sustain profitability;
- mineral reserve and mineral resource calculations at the CLG and other deposits in the CLG are only estimates and actual production results or future estimates may vary significantly from the current estimates;
- our and the Los Gatos Joint Venture's (the "LGJV") mineral exploration efforts are highly speculative in nature and may be unsuccessful;
- actual capital costs, operating costs, production and economic returns may differ significantly from those we have anticipated and there are no assurances that any future development activities will result in profitable mining operations;
- our operations involve significant risks and hazards inherent to the mining industry;
- the ability to mine and process ore at the CLG or other future operations may be adversely impacted in certain circumstances, some of which may be unexpected and not in our control;
- land reclamation and mine closure may be burdensome and costly and such costs may exceed our estimates;
- we may be materially and adversely affected by challenges relating to stability of underground openings;
- the title to some of the mineral properties may be uncertain or defective and we may be unable to obtain necessary surface and other rights to explore and exploit some mineral properties;
- we are subject to the risk of labor disputes, which could adversely affect our business, and which risk may be increased due to the unionization in the LGJV workforce;
- our success depends on developing and maintaining relationships with local communities and stakeholders;
- the prices of silver, zinc and lead are subject to change and a substantial or extended decline in the prices of silver, zinc or lead could materially and adversely affect our revenues of the LGJV and the value of our mineral properties;
- the Mexican federal and state governments, as well as local governments, extensively regulate mining operations, which impose significant actual and potential costs on us, and future regulation could increase those costs, delay receipt of regulatory refunds or limit our ability to produce silver and other metals;
- the Mexican federal government recently promulgated significant amendments to laws affecting the mining industry; while it is difficult to ascertain if and when the amendments will be fully implemented, and there is some lack of clarity in their drafting including their intended retroactive effect, the amendments could have a material adverse effect on the mining industry, and the LGJV's and our Mexican businesses, particularly in respect of any new concessions, new mining permits, and new operations;
- our operations are subject to additional political, economic and other uncertainties not generally associated with U.S. operations;

- we are required to obtain, maintain and renew environmental, construction and mining permits, which is often a costly and time-consuming process and may ultimately not be possible;
- Electrum and its affiliates and MERS have a substantial degree of influence over us, which could delay or prevent a change of corporate control or result in the entrenchment of our management and/or Board of Directors;
- we are currently, and may in the future be, subject to claims and legal proceedings, including class action lawsuits, that could materially and adversely impact our financial position, financial performance and results of operations; and
- we have identified material weaknesses in our internal control over financial reporting. If we fail to remediate these deficiencies (or fail to identify and/or remediate other possible material weaknesses), we may be unable to accurately report our results of operations, meet our reporting obligations or prevent fraud, which may adversely affect investor confidence in us and, as a result, the value of our common stock.

For a more complete discussion of the material risk factors applicable to us, see “Item 1A. Risk Factors.”

## PART I

### Item 1. Business

#### Our Company

We are a Canadian-headquartered, Delaware-incorporated precious metals exploration, development and production company with the objective of becoming a leading silver producer. We were formed on February 2, 2011, when our predecessor Precious Metals Opportunities LLC, which was formed in December 2009, converted to a Delaware corporation. On March 1, 2011, Los Gatos Ltd. merged with and into us to form Sunshine Silver Mines Corporation. In 2014, we changed our name to Sunshine Silver Mining & Refining Corporation.

We completed our initial public offering in October 2020, as part of which we distributed our equity interest in Silver Opportunity Partners LLC, which held our interest in the Sunshine Complex in Idaho, to our stockholders and changed our name to Gatos Silver, Inc.

Our primary efforts are focused on the operation of the LGJV in Chihuahua, Mexico. The LGJV was formed on January 1, 2015, when we entered into the Unanimous Omnibus Partner Agreement with Dowia Metals and Mining Co., Ltd. (“Dowia”) to further explore, and potentially develop and operate mining properties within the LGD. The entities comprising the LGJV are Minera Plata Real S. de R.L. de C.V. (“MPR”) and Operaciones San Jose de Plata S. de R.L. de C.V. (“OSJ”) (collectively, the “LGJV Entities”). The LGJV Entities own mineral rights and certain surface associated with the LGD. The LGJV ownership is currently 70% Gatos Silver and 30% Dowia. On September 1, 2019, the LGJV commenced commercial production at CLG, which produces silver-containing lead concentrate and zinc concentrate. The LGJV’s lead and zinc concentrates are sold to third-party customers. Pursuant to the Unanimous Omnibus Partner Agreement, Dowia has the right to purchase 100% of the zinc concentrate produced from the CLG, at rates negotiated in good faith based on industry pricing benchmarks, and agreed between Dowia and MPR. The Unanimous Omnibus Partner Agreement requires unanimous partner approval of all major operating decisions (such as annual budgets, the creation of security interests on property, and certain major expenditures); therefore, despite our 70% ownership of the LGJV, we do not exercise control of the LGJV.

In addition to our 70% interest in the LGD, we have 100% ownership of the Santa Valeria property, located in Chihuahua, Mexico, which comprises 1,543 hectares and could provide additional opportunities for resource growth.

#### Our Principal Projects

We are currently focused on the production and continued development of the CLG and the further exploration and development of the LGD:

- *The CLG*, located within the LGD, described below, consists of a polymetallic mine and processing facility that commenced commercial production on September 1, 2019 and currently processes over 2,800 tonnes per day (“tpd”) of ore. The Los Gatos Technical Report estimates that, as of July 1, 2022, the deposit contains approximately 6.07 million diluted tonnes of proven and probable mineral reserves, with approximately 2.32 million diluted tonnes of proven mineral reserves and approximately 3.75 million tonnes of probable mineral reserves. Average proven and probable mineral reserve grades are 244 g/t silver, 4.48% zinc, 2.14% lead and 0.27 g/t gold. As of July 1, 2022, the measured and indicated mineral resource was 1.94 million tonnes grading 96 g/t silver, 3.01% zinc, 1.56% lead and 0.19 g/t gold with 0.38 million tonnes of measured resource and 1.55 million tonnes of indicated resource and the inferred mineral resource was 2.09 million tonnes grading 113 g/t silver, 4.30% zinc, 2.45% lead and 0.20 g/t gold at the CLG. The mineral reserve and resource estimates contained in the Los Gatos Technical Report have an effective date of July 1, 2022 and exclude material that was mined before that effective date. From July 1, 2022 to March 31, 2023, approximately 786,000 tonnes of material was processed by the CLG mill. This processed material included mineral reserve tonnes, and to a lesser extent mineral resource tonnes as well as mineralized material not included in the mineral resource estimates. The mineral resource estimates contained in the Los Gatos Technical Report are presented on an undiluted basis without adjustment for mining recovery.

- *The LGD*, located in Chihuahua, Mexico, is approximately 120 kilometers south of Chihuahua City and is comprised of a 103,087 hectare land position, constituting a new mining district. The LGD consists of multiple mineralized zones. Two of the identified mineralized zones, Cerro Los Gatos and Esther, have reported mineral resources. The Los Gatos Technical Report estimates that the Esther deposit contains 0.28 million tonnes of indicated mineral resources at average grades of 122 g/t silver, 4.30% zinc, 2.17% lead and 0.14 g/t gold, and 1.20 million tonnes of inferred mineral resources at average grades of 133 g/t silver, 3.69% zinc, 1.53% lead and 0.09 g/t gold. The mineral resource estimates for the Esther deposit have an effective date of July 1, 2022 and have not been updated since that time. The mineral resource estimates contained in the Los Gatos Technical Report are presented on an undiluted basis without adjustment for mining recovery. The deposits in the LGD are characterized by predominantly silver-lead-zinc epithermal mineralization. A core component of the LGJV's business plan is to explore the highly prospective, underexplored LGD with the objective of identifying additional mineral deposits that can be developed, mined and processed, possibly utilizing the CLG plant infrastructure. The history of mineral exploration in relation to the LGD is described below.

Prior to our initial acquisition of exploration concession rights in April 2006, very limited historical prospecting and exploration activities had been conducted in the LGD. We were able to acquire mineral concessions covering 103,087 hectares and, through our exploration, discovered a new silver region containing potential high-grade epithermal vein-style mineralization throughout the LGD concession package. In 2008, we negotiated certain surface access rights with local ranch owners and obtained the environmental permits for drilling and road construction necessary for the development of the CLG. Through 2015, we purchased all the surface lands required for the CLG development. Environmental baseline data collection began in May 2010 and was completed in 2016 and approved in 2017 to prepare for the development of future environmental studies required for the CLG. In 2014, we partnered with Dowia to finance and develop the CLG and pursue exploration in the LGD and, as noted above, entered into the Unanimous Omnibus Partner Agreement in early 2015.

We believe that we have strong support from the local community, with about 195 employees from the local community working across multiple areas involving the operation of the CLG, continued underground development, and construction of sustaining development projects. Over 99% of the approximate 824 employees at the CLG are from Mexico, highlighting our commitment to the local workforce.

Our primary areas of focus have been operating and developing the CLG, defining and expanding the mineral reserves and mineral resources associated with the CLG and exploring and delineating resources within the LGD. As of March 31, 2023, 1,926 exploration and definition drill holes have been completed in both CLG and the LGD, totaling 466,104 meters. In 2022, LGD exploration drilling was completed at Esther, Cascabel, Wall-e and El Valle targets and detailed mapping occurred and Wall-e and Cascabel. Definition and expansion drilling was completed around CLG both from surface and underground.

Our objectives at the CLG are to, among other things:

- continue strong operating and cost performance;
- maximize margins and extend the LOM;
- complete key capital projects and other initiatives to enhance mining efficiencies and reduce operating costs; and
- perform additional in-fill and step-out drilling to convert mineral resources to reserves and delineate mineral resources and reserves from the recently discovered mineralization below the South-East zone of the CLG ("South-East Deeps").

Our objectives at the LGD are to realize the district potential through, among other things:

- detailed mapping and drill testing at the Esther, Amapola and El Lince Area deposits;
- district mapping and geophysics in the Rio Conchos basin and additional exposed and underlying andesite in the region to identify additional drill targets; and
- continued expansion of the LGJV's interest in prospective mineral and surface rights.

For the years ended December 31, 2022 and 2021, the LGJV achieved the following production from CLG:

CLG Production (100% Basis)	2022	2021
Tonnes milled (dmt - reconciled)	971,595	909,586
Tonnes milled per day (dmt)	2,662	2,492
Average Feed Grades		
Silver grade (g/t)	368	295
Zinc grade (%)	4.37	3.94
Lead grade (%)	2.31	2.27
Gold grade (g/t)	0.33	0.32
Contained Metal		
Silver ounces (millions)	10.3	7.6
Zinc pounds - in zinc conc. (millions)	60.7	49.6
Lead pounds - in lead conc. (millions)	43.9	39.8
Gold ounces - in lead conc. (thousands)	5.3	5.2
Recoveries*		
Silver - in both lead and zinc concentrates	89.8 %	88.3 %
Zinc - in zinc concentrate	64.8 %	62.9 %
Lead - in lead concentrate	88.7 %	87.6 %
Gold - in lead concentrate	52.0 %	56.3 %
Average realized price per silver ounce	\$ 20.72	\$ 24.38
Average realized price per zinc pound	\$ 1.58	\$ 1.38
Average realized price per lead pound	\$ 0.90	\$ 1.01
Average realized price per gold ounce	\$ 1,678	\$ 1,761

\* Recoveries are reported for payable metals in the identified concentrate.

### Strategic Developments

Our business strategy is focused on creating value for stakeholders through the ownership and advancement of the CLG and the LGD and through the pursuit and the development of other attractive silver-focused projects. The following outlines key strategic developments since January 1, 2022:

- **Inaugural Dividends Paid to LGJV Partners.** In 2022, the LGJV paid three dividends to its partners, totaling \$55 million, of which the Company's share was \$29.2 million, net of withholding taxes and after initial priority distribution payments to Dowa.
- **Reestablished and Extended our Revolving Credit Facility (the "Credit Facility").** On July 12, 2021, we entered into the Credit Facility with Bank of Montreal ("BMO") that provides for a \$50 million revolving line of credit with an accordion feature. On March 7, 2022, we amended the Credit Facility with BMO, to address potential loan covenant deficiencies, which resulted, *inter alia*, in the credit limit being reduced to \$30 million.

On December 19, 2022, we entered into an amended and restated Credit Facility with BMO, extending the maturity date to December 31, 2025, and re-establishing a credit limit of \$50 million, with an accordion feature.

- **New Mineral Resource and Mineral Reserve Estimates.** In the fourth quarter of 2022, we completed a full re-estimation of the Company's mineral resources and mineral reserves as published in the Los Gatos Technical Report. The mineral resources and mineral reserves were completely rebuilt from base data, including data compilation of surface drilling, underground drilling, underground mapping and production data, comprehensive data validation, structural and geological interpretation, resource estimation, reconciliation to actual production, and a new mine design including updates to operating and capital costs.
- **Discovery of South-East Deeps Zone at CLG and further exploration success.** In 2022, through the LGJV, we discovered mineralization below the South-East zone of the CLG. This newly identified zone extends approximately 415 meters below the reported mineral reserve. On January 23, 2023 we announced continued exploration drilling success demonstrating significant mine life extension potential through resource conversion and expansion at CLG. On April 19,

2023 we announced that we were continuing to intercept strong widths and grades of silver, zinc, lead, gold and, copper in the case of the South-East and South-East Deepes zones. We also announced encouraging results from our resource conversion and extension drilling which will be reflected in an updated mineral reserve and mineral resource estimate that is expected to be completed in the third quarter of 2023. We also announced that we continued to see significant potential for new discoveries beyond the CLG deposit, highlighted by progress in our district exploration program.

- **Demonstrated Excellent Operational Performance.** For 2022, we reported record silver production at the CLG, that exceeded our 2022 guidance. Silver production was 10.3 million ounces in 2022, up 36% from 7.6 million ounces in 2021, and above the high-end of the 2022 guidance range. Zinc, lead and gold production also increased during 2022, with zinc and gold near the high-end of guidance, and lead near the guidance midpoint. Compared with 2021, in 2022, zinc production increased by 22%, lead production increased by 10%, and gold production increased by 2%. The higher silver production for 2022 was primarily due to higher silver ore grades and higher mill throughput rates. Production sequencing in 2022 was from the highest-grade sections of the orebody, as considered in the LOM plan included in the Los Gatos Technical Report. We expect to produce 7.4 to 8.2 million ounces of silver, 57 to 63 million pounds of zinc, 36 to 40 million pounds of lead and 5.4 thousand to 6.2 thousand ounces of gold in 2023. On April 12, 2023, we announced record CLG production results for the first quarter ended March 31, 2023, with record mill throughput of 2,894 tonnes milled per day and production of 2.43 million ounces of silver, 14 million pounds of zinc, 9.5 million pounds of lead and 1.38 thousand ounces of gold.
- **Fluorine Leach Plant Construction and Operation to Serve as Payment Towards Priority Distribution to Dow.** As agreed with Dow, the initial payment of the priority distribution was reduced to reflect a portion of both the construction and future estimated operating costs of the new fluorine leach plant, subject to the successful construction and operation of the plant.
- **Optimization of CLG Assets and Capital Improvements.** Mill throughput averaged 2,847 tpd during the fourth quarter of 2022, an increase of 9% compared to the fourth quarter of 2021, and significantly exceeded the mill design rate of 2,500 tpd. During 2022, the mill achieved a record 2,662 tpd, which was 7% higher than in 2021. Silver, zinc and lead recoveries for 2022 were also higher than in 2021. During the fourth quarter of 2022, we completed the construction and commissioning of the paste backfill plant. The paste backfill plant is expected to increase operational flexibility and productivity as well as help lower operating costs going forward. Construction of the fluorine leach plant is progressing well and it is expected to be commissioned in the second quarter of 2023, and reduce the amount of deleterious content in zinc concentrates being sent to Dow. The LGJV expects to spend \$45 million on sustaining capital during 2023 of which \$25 million is expected to be incurred on underground development to access the lower levels of the Northwest and Central zones and to further develop the Southeast zone. The remainder of capital expenditures for 2023 are expected to be primarily associated with equipment replacements and rebuilds, dewatering infrastructure, and for completion of the fluorine leach plant. Commissioning of the fluorine leach plant is expected to commence in the second half of June 2023.
- **Strong Financial Performance.** On June 6, 2023 we reported operating and select unaudited financial results for the three months ended March 31, 2023 ("Q1 2023"), the three months ended December 31, 2022 ("Q4 2022") and the year ended December 31, 2022. For Q1 2023, cash flow from operations for the LGJV was \$44.5 million, up 6% from \$42.1 million a year earlier. For Q4 2022 and the full year 2022 cash flow from operations for the LGJV was \$39.1 million in Q4 2022 and \$157.4 million for the full year 2022, increases of 12% and 31%, respectively, compared with the year-earlier periods. We also announced that we were on track to achieve our previously stated production and cost guidance for 2023 noting that silver production is expected to be higher in the first half of 2023 than in the second half of 2023 based on sequencing of the mine plan while zinc and lead production are expected to be higher in the second half of the year than in the first half.
- **Corporate Developments.** We relocated our corporate office from Denver, Colorado, to Vancouver, British Columbia, providing improved access to experienced mining managerial talent. We strengthened the executive management team with the appointments of a new Chief Financial Officer, a General Counsel and Chief Compliance Officer, and a Senior Vice President, Corporate Development and Technical Services, all with extensive experience working for large multinational mining companies.

## Our Strengths

We believe the following provide us with significant competitive advantages:

- **Our Assets are High Quality:** As noted above, the CLG achieved strong operational performance in 2022. Per the Los Gatos Technical Report, the CLG is expected to produce an average of 7.4 million ounces of silver per annum at low all-in-sustaining-costs over the LOM.
- **Our Assets are Located in an Established Mining Region:** The CLG and the LGD are located in one of the world's premier silver mining regions: the Mexican Silver Belt, which was the world's largest silver producing region in 2021. Mexico is a leading silver mining jurisdiction and has a long history of successful mineral development and operations. We have access to experienced and capable mining employees in Mexico.
- **Further Optimization Potential at CLG:** At the CLG, we apply continuous improvement practices designed to reduce costs, and improve throughput and recoveries. For example, during 2023, we anticipate completing a scoping study on the possible future expansion of the grinding circuit to 3,500 tpd to better utilize the capacity in the existing flotation circuit.
- **Growth Potential in our Mineral Reserves and Resources from Further Exploration of the CLG and the LGD:** Through the LGJV, we have continued our in-mine and near-mine exploration program in the CLG and our exploration activities in the LGD. In the CLG, we expect to convert inferred resources from higher-grade areas located adjacent to planned mine development and also expect there to be further LOM extension opportunity in the South-East Deeps area of the CLG. We expect to complete new mineral resource and mineral resource estimates for the Company in the third quarter of 2023. We also believe the LGD is a highly prospective area, with 103,087 contiguous hectares of mineral rights. The LGD is located in the Mexican Silver Belt, a geologic zone that hosts numerous significant silver producing operations. The LGD represents an underexplored property within this productive belt, where there has been little historical workings or previous exploration. On November 22, 2022, we disclosed our exploration strategy for the LGD which entails a focus on two key areas: an exposed section of andesite running from the northwest boundary of the district to Esther and the CLG, and a large basin southeast of the CLG underlain by andesite and which we anticipate may contain other large, district-scale fault structures conducive to large deposits. We are currently prioritizing exploration efforts on areas closer to the CLG and areas with the highest potential to leverage existing surface and underground infrastructure. The LGJV is expected to incur drilling and exploration expenditures of approximately \$13 million in 2023. At the CLG, there are currently five active drill rigs on surface and three underground, with the primary focus on CLG life extension including drilling of the South-East Deeps zone and gradually shifting focus towards exploration drilling of the LGD in the second half of 2023. We also plan to conduct detailed mapping of the district and undertake a geophysics survey program aiming to define structures and future drilling targets across the property.
- **Management Team and Board of Directors are Highly Experienced:** We have an experienced management team whose members have successful track records in the mining industry. Our Chief Executive Officer, Dale Andres; Chief Financial Officer, André van Niekerk; Senior Vice President of Evaluations and Technical Services, Tony Scott; and General Counsel and Chief Compliance Officer, Stephen Bodley, each has significant experience in developing, financing, and operating successful mining projects. Our Board of Directors is comprised of senior mining, financial and business executives who have broad domestic and international experience in mineral exploration, development and mining operations at notable mining companies. We believe that the specialized skills and knowledge of the management team and the Board of Directors will significantly enhance our ability to cost-effectively operate the CLG and extend its LOM, explore and develop the LGD and pursue other growth opportunities.

## Summary of Mineral Reserves and Mineral Resources

Below is a summary table of estimated mineral resources and mineral reserves. Further information can be found in "Item 2. Properties." The mineral reserve and mineral resource estimates contained in the Los Gatos Technical Report have an effective date of July 1, 2022 and exclude mineral reserves that have previously been mined prior to this date. From July 1, 2022 to March 31, 2023, approximately 786,000 tonnes of material were processed by the CLG mill. This processed material included mineral reserve tonnes, and to a lesser extent mineral resource tonnes as well as mineralized material not included in the mineral resource estimates. The mineral resource estimates contained in the Los Gatos Technical Report are presented on an undiluted basis without adjustment for mining recovery.

*Summary Mineral Reserves as of July 1, 2022*

CLG Mineral Reserves Statement

Reserve Classification	Mt	Ag (g/t)	Zn (%)	Pb (%)	Au (g/t)	Ag (Moz)	Zn (Mlbs)	Pb (Mlbs)	Au (koz)
Proven	2.32	309	4.33	2.20	0.31	23.1	221.6	112.3	23.0
Probable	3.75	204	4.57	2.11	0.24	24.6	377.4	174.4	28.7
<b>Proven and Probable Reserve</b>	<b>6.07</b>	<b>244</b>	<b>4.48</b>	<b>2.14</b>	<b>0.27</b>	<b>47.7</b>	<b>599.1</b>	<b>286.7</b>	<b>51.8</b>

- Mineral Reserves are reported on a 100% basis and exclude all Mineral Reserve material mined prior to July 1, 2022.
- Specific gravity has been assumed on a dry basis.
- Tonnage and contained metal have been rounded to reflect the accuracy of the estimate and numbers may not sum exactly.
- Values are inclusive of mining recovery and dilution. Values are determined as of delivery to the mill and therefore not inclusive of milling recoveries.
- Mineral Reserves are reported within stope shapes using a variable cut-off basis with a Ag price of US\$22/oz, Zn price of US\$1.20/lb, Pb price of US\$0.90/lb and Au price of US\$1,700/oz. The metal prices used for the Mineral Reserves are based on the three-year trailing prices from June 2019 to June 2020 and long-term analyst consensus estimates for the LOM.
- The Mineral Reserve is reported on a fully diluted basis defined by mining method, stope geometry and ground conditions.
- Contained Metal (CM) is calculated as follows:
  - Zn and Pb, CM (Mlb) = Tonnage (Mt) \* Grade (%) / 100 \* 2204.6
  - Ag and Au, CM (Moz) = Tonnage (Mt) \* Grade (g/t) / 31.1035 ; multiply Au CM (Moz) by 1000 to obtain Au CM (koz)
- The SEC definitions for Mineral Reserves in S-K 1300 were used for Mineral Reserve classification which are consistent with Canadian Institute of Mining, Metallurgy and Petroleum (CIM) Definition Standards for Mineral Resources and Mineral Reserves (CIM (2014) definitions).
- Mineral Reserves are those parts of Mineral Resources which, after the application of all mining factors, result in an estimated tonnage and grade which, in the opinion of the Qualified Person(s) making the estimates, is the basis of an economically viable project after taking account of all relevant Modifying Factors. Mineral Reserves are inclusive of diluting material that will be mined in conjunction with the Mineral Reserves and delivered to the treatment plant or equivalent facility.
- Proven Reserves include a 15.4-kt stockpile at June 30, 2022. The in-situ Reserve is 6,052 kt. Rounding and significant figures may result in apparent summation differences between tonnes and grade.
- The Mineral Reserve estimates were prepared by Mr. Paul Gauthier, P.Eng. an employee of WSP Canada Inc. who is the independent Qualified Person for these Mineral Reserve estimates.

*Summary Mineral Resources (Exclusive of Mineral Reserves) as of July 1, 2022*

CLG Mineral Resource Estimate

Resource Classification	Mt	Ag (g/t)	Zn (%)	Pb (%)	Au (g/t)	Ag (Moz)	Zn (Mlbs)	Pb (Mlbs)	Au (koz)
Measured	0.38	151	2.63	1.49	0.26	1.9	22.1	12.6	3.2
Indicated	1.55	82	3.11	1.57	0.17	4.1	106.4	53.8	8.6
Measured and Indicated	1.94	96	3.01	1.56	0.19	6.0	128.5	66.4	11.8
Inferred	2.09	113	4.30	2.45	0.20	7.6	198.4	113.1	13.3

- Mineral Resources are reported on a 100% basis and are exclusive of Mineral Reserves.
- Mineral Resources, which are not Mineral Reserves, do not have demonstrated economic viability. The estimate of Mineral Resources may be materially affected by environmental, permitting, legal, marketing, or other relevant issues.
- The SEC definitions for Mineral Resources in S-K 1300 were used for Mineral Resource classification which are consistent with Canadian Institute of Mining, Metallurgy and Petroleum (CIM) Definition Standards for Mineral Resources and Mineral Reserves (CIM (2014) definitions).
- The quantity and grade of reported Inferred Mineral Resources in this estimation are uncertain in nature and there has been insufficient exploration to define these Inferred Mineral Resources as an Indicated or Measured Mineral Resource. It is uncertain if further exploration will result in upgrading Inferred Mineral Resources to an Indicated or Measured Mineral Resource category.

5. Specific gravity has been assumed on a dry basis.
6. Tonnage and contained metal have been rounded to reflect the accuracy of the estimate and numbers may not sum exactly.
7. Mineral Resources exclude all Mineral Resource material mined prior to July 1, 2022.
8. Mineral Resources are reported within stope shapes using a \$42/tonne or \$52/tonne NSR cut-off basis depending on mining method with an Ag price of \$22/oz, Zn price of \$1.20/lb, Pb price of \$0.90/lb and Au price of \$1,700/oz. The metal prices used for the Mineral Resource are based on the three-year trailing prices from June 2019 to June 2020 and long-term analyst consensus estimates for the LOM.
9. No dilution was applied to the Mineral Resource.
10. Contained Metal (CM) is calculated as follows:
  - Zn and Pb, CM (Mlb) = Tonnage (Mt) \* Grade (%) / 100 \* 2204.6
  - Ag and Au, CM (Moz) = Tonnage (Mt) \* Grade (g/t) / 31.1035; multiply Au CM (Moz) by 1000 to obtain Au CM (koz)
11. The Mineral Resource estimates were prepared by Ronald Turner, MAusIMM(CP) an employee of Golder Associates S.A. who is the independent Qualified Person for these Mineral Resource estimates.

#### Esther Mineral Resource Estimate

Resource Classification	Mt	Ag (g/t)	Zn (%)	Pb (%)	Au (g/t)	Ag (Moz)	Zn (Mlbs)	Pb (Mlbs)	Au (koz)
Indicated	0.28	122	4.30	2.17	0.14	1.1	26.8	13.6	1.2
Inferred	1.20	133	3.69	1.53	0.09	5.1	98.0	40.6	3.3

1. Mineral Resources are reported on a 100% basis.
2. Mineral Resources, which are not Mineral Reserves, do not have demonstrated economic viability. The estimate of Mineral Resources may be materially affected by environmental, permitting, legal, marketing, or other relevant issues.
3. The SEC definitions for Mineral Resources in S-K 1300 were used for Mineral Resource classification which are consistent with Canadian Institute of Mining, Metallurgy and Petroleum (CIM) Definition Standards for Mineral Resources and Mineral Reserves (CIM (2014) definitions).
4. The quantity and grade of reported Inferred Mineral Resources in this estimation are uncertain in nature and there has been insufficient exploration to define these Inferred Mineral Resources as an Indicated or Measured Mineral Resource. It is uncertain if further exploration will result in upgrading Inferred Mineral Resources to an Indicated or Measured Mineral Resource category.
5. Specific gravity has been assumed on a dry basis.
6. Tonnage and contained metal have been rounded to reflect the accuracy of the estimate and numbers may not sum exactly.
7. Mineral Resources are reported within stope shapes using a \$52/tonne NSR cut-off basis assuming processing recoveries equivalent to CLG with an Ag price of \$22/oz, Zn price of \$1.20/lb, Pb price of \$0.90/lb and Au price of \$1,700/oz. The metal prices used for the Mineral Resource are based on the three-year trailing prices from June 2019 to June 2020 and long-term analyst consensus estimates for the LOM. There is a portion of the Esther deposit that is oxidized and metallurgical test work is required to define processing recoveries.
8. No dilution was applied to the Mineral Resource.
9. Contained Metal (CM) is calculated as follows:
  - Zn and Pb, CM (Mlb) = Tonnage (Mt) \* Grade (%) / 100 \* 2204.6
  - Ag and Au, CM (Moz) = Tonnage (Mt) \* Grade (g/t) / 31.1035 ; multiply Au CM (Moz) by 1000 to obtain Au CM (koz)
10. The Mineral Resource estimates were prepared by Ronald Turner, MAusIMM(CP) an employee of Golder Associates S.A. who is the independent Qualified Person for these Mineral Resource estimates.

#### Competition

There is aggressive competition within the mining and precious metals industry. We compete with other precious metals mining companies, as well as other mineral miners, in efforts to obtain financing to explore and develop projects. Many of these mining companies currently have greater resources than we do. In the future, we may compete with such companies to acquire additional properties.

In addition, we also encounter competition for the hiring of key personnel. The mining industry is currently facing a shortage of experienced mining professionals, particularly experienced mine construction and mine management personnel. This competition affects our operations. Larger regional companies can offer better employment terms than smaller companies such as us. In addition, the volatility in our stock price reduces our ability to attract and retain such personnel through the use of share-based compensation.

We also compete for the services of mine service companies, such as project coordinators and drilling companies. Potential suppliers may choose to provide better terms and scheduling to larger companies in the industry due to the scale and scope of their operations.

#### **Environmental, Health and Safety Matters**

We are subject to stringent and complex environmental laws, regulations and permits in the jurisdiction in which we operate. These requirements are a significant consideration for us as our operations involve, or may in the future involve, among other things, the removal, extraction and processing of natural resources, emission and discharge of materials into the environment, remediation of soil and groundwater contamination, workplace health and safety, reclamation and closure of waste impoundments and other properties, and handling, storage, transport and disposal of wastes and hazardous materials. Compliance with these laws, regulations and permits can require substantial capital or operating costs or otherwise delay, limit or prohibit our development or future operation of our properties. These laws, regulations and permits, and the enforcement and interpretation thereof, change frequently and generally have become more stringent over time. If we violate these environmental requirements, we may be subject to litigation, fines or other sanctions, including the revocation of permits and suspension of operations. Pursuant to such requirements, we also may be subject to inspections or reviews by governmental authorities.

#### ***Permits and Approvals***

We were issued the major government approvals required to construct and operate the CLG facilities during 2017. While there are multiple approvals from multiple levels of government, the key government approval for the project is the MIA (Environmental Impact Assessment), issued in July 2017 and valid until 2041. As the mine plan changes, it may be necessary to conduct environmental studies and collect and present to governmental authorities data pertaining to the potential impact that our current or future operations may have upon the environment. Since the original MIA approval was granted in 2017, we have successfully achieved three amendments to the MIA approval to reflect changes to the mine plan and facilities.

We have the approvals necessary to extract and process the mineral reserve as described in the Los Gatos Technical Report. In 2022, the LGJV applied for a permit amendment for the operation of the fluorine leach project and timely submitted all required information. The LGJV has not received a final response from the relevant government authorities within the required timeframe and the permit amendment has, therefore, been presumptively approved by operation of Mexican law. Even if the approval were revoked, we would not expect a material impact to the economics of the CLG operation.

Our and the LGJV's ability to obtain permits and approvals in future may be adversely affected by the significant amendments to laws affecting the mining industry promulgated by the Mexican federal government on May 8, 2023

#### ***Hazardous Substances and Waste Management***

We could be liable for environmental contamination at or from our or our predecessors' currently or formerly owned or operated properties or third-party waste disposal sites. Certain environmental laws impose joint and several strict liability for releases of hazardous substances at such properties or sites, without regard to fault or the legality of the original conduct. A generator of waste can be held responsible for contamination resulting from the treatment or disposal of such waste at any off-site location (such as a landfill), regardless of whether the generator arranged for the treatment or disposal of the waste in compliance with applicable laws. Costs associated with liability for removal or remediation of contamination or damage to natural resources could be substantial and liability under these laws may attach without regard to whether the responsible party knew of, or was responsible for, the presence of the contaminants. In addition to potentially significant investigation and remediation costs, such matters can give rise to claims from governmental authorities and other third parties for fines or penalties, natural resource damages, personal injury and property damage.

#### ***Mine Health and Safety Laws***

All of our current properties are located in Mexico and are subject to regulation by the Political Constitution of the United Mexican States, and are subject to various legislation in Mexico, including the Mining Law, the Federal Law of Waters, the Federal Labor Law, the Federal Law of Firearms and Explosives, the General Law on Ecological Balance and Environmental Protection and the Federal Law on Metrology Standards, as well as the accompanying regulations and regulatory authorities. Mining, environmental and labor authorities may inspect our operations on a regular basis and issue various citations and orders when they believe a violation has occurred under the relevant statute. Regulations and the results of inspections may have a significant effect on our operating costs.

At this time, it is not possible to predict the full effect that the new or proposed statutes, regulations and policies will have on our operating costs, but it may increase our costs and those of our competitors.

#### **Other Environmental Laws**

We are required to comply with numerous other environmental laws, regulations and permits in addition to those previously discussed. These additional requirements include, for example, various permits regulating road construction and drilling at the Mexican properties.

We endeavor to conduct our mining operations in compliance with all applicable laws and regulations. However, because of extensive and comprehensive regulatory requirements, violations during mining operations occur from time to time in the industry.

#### **Facilities and Employees**

We own and lease land at our other exploration properties in Mexico and at the LGD through our ownership interest in the LGJV.

As of May 31, 2023, we had no full-time employees in the United States, twelve full time employees in Canada and eight full-time employees in Mexico. The LGJV had approximately 824 employees in Mexico, including approximately 577 unionized employees as of December 2022. We believe that our employee relations are good and plan to continue to hire employees as our operations expand at the LGJV. The health and safety of our employees and the employees of the LGJV is our highest priority, consistent with our business culture and values. In addition to tracking common lagging indicators, such as injury performance, we focus on leading indicators such as high potential incidents and safety observations, as well as other proactive actions taken at site to ensure worker safety. We are committed to operating in accordance with high ethical standards and believe this is a key motivational factor for our employees. In 2022, we updated our Code of Conduct as well as other core compliance policies and conducted training and compliance certification with all our employees, employees of our wholly-owned subsidiaries and employees of the LGJV. We continue to emphasize employee development and training to empower employees both at the corporate level and at the LGJV level to enhance employees' potential and benefit the business. We leverage both formal and informal programs to identify, foster, and retain top talent at both the corporate and the LGJV level.

#### **Available Information**

Our internet address is [www.gatosilver.com](http://www.gatosilver.com). We make available free of charge through our investor relations website, <https://investor.gatosilver.com>, copies of our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as soon as reasonably practicable after such documents are electronically filed with, or furnished to, the SEC. The information contained on our website is not included as a part of, or incorporated by reference into, this Report.

#### **Item 1A. Risk Factors**

*The following risks could materially and adversely affect our business, financial condition, cash flows, and results of operations, and the trading price of our common stock could decline. These risk factors do not identify all risks that we face; we could also be affected by factors that are not presently known to us or that we currently consider to be immaterial. Due to risks and uncertainties, known and unknown, our past financial results may not be a reliable indicator of future performance, and historical trends should not be used to anticipate results or trends in future periods. Refer also to the other information set forth in this Report, including our consolidated financial statements and the related notes and "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations."*

#### **Risks Related to Our Financial Condition**

***We are currently dependent on the CLG and the LGD for our future operations and may not be successful in identifying additional proven or probable mineral reserves. We may not be able to extend the current CLG life of mine by adding proven or probable mineral reserves.***

The LGD (other than the CLG) does not have identified proven and probable mineral reserves. Mineral exploration and development involve a high degree of risk that even a combination of careful evaluation, experience and knowledge cannot eliminate,

and few properties that are explored are ultimately developed into producing mines. There is no assurance that our mineral exploration programs at the LGD will establish the presence of any additional proven or probable mineral reserves. The failure to establish additional proven or probable mineral reserves would severely restrict our ability to implement our strategies for long-term growth, which include extending the current CLG life of mine.

***We may not sustain profitability.***

Prior to 2022, we had a history of negative operating cash flows and cumulative net losses. For the years ended December 31, 2022 and 2021, we reported net income of \$14.5 million and net loss of \$65.9 million, respectively. For the years ended December 31, 2022 and 2021, operating activities provided \$14.6 million and used 21.5 million, respectively, of cash flow.

We may not sustain profitability. To remain profitable, we must succeed in generating significant revenues at the LGJV, which will require us to be successful in a range of challenging activities and is subject to numerous risks, including the risk factors set forth in this “Risk Factors” section. In addition, we may encounter unforeseen expenses, difficulties, complications, delays, inflation and other unknown factors that may adversely affect our revenues, expenses and profitability. Our failure to achieve or sustain profitability would depress our market value, could impair our ability to execute our business plan, raise capital or continue our operations and could cause our shareholders to lose all or part of their investment.

***Deliveries under concentrate sales agreements may be suspended or cancelled by our customers in certain cases.***

Under concentrate sales agreements, our customers may suspend or cancel delivery of our products in some cases, such as force majeure. Events of force majeure under these agreements generally include, among others, acts of God, strikes, fires, floods, wars, government actions or other events that are beyond the control of the parties involved. Any suspension or cancellation by our customers of deliveries under our sales contracts that are not replaced by deliveries under new contracts would reduce our cash flow and could materially and adversely affect our financial condition and results of operations.

***We do not currently intend to enter into hedging arrangements with respect to metal prices or currencies, which could expose us to losses. We are also subject to risks relating to exchange rate fluctuations.***

We do not currently intend to enter into hedging arrangements with respect to metal prices or currencies. As a result, we will not be protected from a decline in the price of silver and other minerals or fluctuations in exchange rates. This strategy may have a material adverse effect upon our financial performance, financial position and results of operations.

We report our financial statements in U.S. dollars. A portion of our costs and expenses are incurred in Mexican pesos and, to a lesser extent, Canadian dollars. As a result, any significant and sustained appreciation of these currencies against the U.S. dollar may materially increase our costs and expenses. Even if we seek and are able to enter into hedging contracts, there is no assurance that such hedging program will be effective, and any hedging program would also prevent us from benefitting fully from applicable input cost or rate decreases. In addition, we may in the future experience losses if a counterparty fails to perform under a hedge arrangement.

***We and/or the LGJV have historically had significant debt and may incur further debt in the future, which could adversely affect our and the LGJV's financial health and limit our ability to obtain financing in the future and pursue certain business opportunities.***

We have a Credit Facility providing for a revolving line of credit in the principal amount of \$50 million that has an accordion feature, which allows for an increase in the total line of credit up to \$75 million, subject to certain conditions. As of December 31, 2022, we had \$9 million of outstanding indebtedness under the Credit Facility. The Credit Facility contains affirmative and negative covenants. If we are unable to comply with the requirements of the Credit Facility, the facility may be terminated or the credit available thereunder may be materially reduced, and we may not be able to obtain additional or alternate funding on satisfactory terms, if at all. See Note 11 — Debt in our consolidated financial statements included in “Item 8. Financial Statements and Supplementary Data” for additional information regarding our Credit Facility. Our borrowings under the Credit Facility accrues interest based on SOFR; therefore, any increases in interest rates could adversely affect our financial conditions and ability to service our indebtedness.

While the LGJV currently has no significant debt service obligations, the LGJV may in the future incur debt obligations and the above factors would apply to such debt. For more information, see “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Dowa Debt Agreements.”

***The Company's effective tax rate could be volatile and materially change as a result of changes in tax laws, mix of earnings and other factors.***

We are subject to tax laws in the United States and foreign jurisdictions including Mexico and Canada.

Changes in tax laws or policy could have a negative impact on the Company's effective tax rate. The Company operates in countries which have different statutory rates. Consequently, changes in the mix and source of earnings between countries could have a material impact on the Company's overall effective tax rate.

The LGJV is subject to Mexican income and other taxes, and distributions from the LGJV are subject to Mexican withholding taxes. Any change in such taxes could materially adversely affect our effective tax rate and the quantum of cash available to be distributed to us.

#### **Risks Related to Our Operations**

***Mineral reserve and mineral resource calculations at the CLG and at other deposits in the LGD are only estimates and actual production results and future estimates may vary significantly from the current estimates.***

Calculations of mineral reserves and mineral resources at the CLG and of mineral resources at other deposits in the LGD are only estimates and depend on geological interpretation and statistical inferences or assumptions drawn from drilling and sampling analysis, which might prove to be materially inaccurate. There is a degree of uncertainty attributable to the calculation of mineral reserves and mineral resources. Until mineral reserves and mineral resources are actually mined and processed, the quantity of metal and grades must be considered as estimates only and no assurance can be given that the indicated levels of metals will be produced. In making determinations about whether to advance any of our projects to development, we must rely upon estimated calculations for the mineral reserves and mineral resources and grades of mineralization on our properties.

The estimation of mineral reserves and mineral resources is a subjective process that is partially dependent upon the judgment of the persons preparing the estimates. The process relies on the quantity and quality of available data and is based on knowledge, mining experience, statistical analysis of drilling results and industry practices. Valid estimates made at a given time may significantly change when new information becomes available.

Estimated mineral reserves and mineral resources may have to be recalculated based on changes in metal prices, further exploration or development activity or actual production experience. This could materially and adversely affect estimates of the volume or grade of mineralization, estimated recovery rates or other important factors that influence mineral reserves and mineral resources estimates. The extent to which mineral resources may ultimately be reclassified as mineral reserves is dependent upon the demonstration of their profitable recovery. Any material changes in volume and grades of mineralization will affect the economic viability of placing a property into production and a property's return on capital. We cannot provide assurance that mineralization can be mined or processed profitably.

Mineral reserve and mineral resource estimates have been determined and valued based on assumed future metal prices, cutoff grades and operating costs that may prove to be inaccurate. The mineral reserve and mineral resource estimates may be adversely affected by:

- declines in the market price of silver, lead or zinc;
- increased production or capital costs;
- decreased throughput;
- reduction in grade;
- increase in the dilution of ore;
- inflation rates, future foreign exchange rates and applicable tax rates;
- changes in environmental, permitting and regulatory requirements; and

- reduced metal recovery.

Extended declines in the market price for silver, lead and zinc may render portions of our mineralization uneconomic and result in reduced reported volume and grades, which in turn could have a material adverse effect on our financial performance, financial position and results of operations.

In addition, inferred mineral resources have a great amount of uncertainty as to their existence and their economic and legal feasibility. There should be no assumption that any part of an inferred mineral resource will be upgraded to a higher category or that any of the mineral resources not already classified as mineral reserves will be reclassified as mineral reserves.

***Our and the LGJV's mineral exploration efforts are highly speculative in nature and may be unsuccessful.***

Mineral exploration is highly speculative in nature, involves many uncertainties and risks and is frequently unsuccessful. It is performed to demonstrate the dimensions, position and mineral characteristics of mineral deposits, estimate mineral resources, assess amenability of the deposit to mining and processing scenarios and estimate potential deposit value. Once mineralization is discovered, it may take a number of years from the initial exploration phases before production is possible, during which time the potential feasibility of the project may change adversely. Substantial expenditures are required to establish additional proven and probable mineral reserves, to determine processes to extract the metals and, if required, to permit and construct mining and processing facilities and obtain the rights to the land and resources required to develop the mining activities.

Development projects and newly constructed mines have no or little operating history upon which to base estimates of proven and probable mineral reserves and estimates of future operating costs. Estimates are, to a large extent, based upon the interpretation of geological data and modeling obtained from drill holes and other sampling techniques, feasibility studies that derive estimates of operating costs based upon anticipated tonnage and grades of material to be mined and processed, the configuration of the deposit, expected recovery rates of metal from the mill feed material, facility and equipment capital and operating costs, anticipated climatic conditions and other factors. As a result, actual operating costs and economic returns based upon development of proven and probable mineral reserves may differ significantly from those originally estimated. Moreover, significant decreases in actual or expected commodity prices may mean mineralization, once found, will be uneconomical to mine.

***The ability to mine and process materials at the CLG or other future operations may be adversely impacted in certain circumstances, some of which may be unexpected and not in our control.***

A number of factors could affect our ability to mine materials and process the quantities of mined materials that we recover. Our ability to efficiently mine materials and to handle certain quantities of processed materials, including, but not limited to, the presence of oversized material at the crushing stage; material showing breakage characteristics different than those planned; material with grades outside of planned grade range; the presence of deleterious materials in ratios different than expected; material drier or wetter than expected, due to natural or environmental effects; and materials having viscosity or density different than expected.

The occurrence of one or more of the circumstances described above could affect our ability to process the number of tonnes planned, recover valuable materials, remove deleterious materials, and produce planned quantities of concentrates. In turn, this may result in lower throughput, lower recoveries, increased downtime or some combination of all of the foregoing. While issues of this nature are part of normal operations, there is no assurance that unexpected conditions may not materially and adversely affect our business, results of operations or financial condition.

Our ability to efficiently mine materials at the CLG is also affected by the hydrogeology of areas within the mine, which requires the installation of dewatering infrastructure to manage underground water. As the mine expands, additional infrastructure will be required. Existing dewatering infrastructure may be ineffective at managing underground water, and although additional capital for dewatering infrastructure is contemplated in the LOM plan included in the Los Gatos Technical Report, further dewatering infrastructure may be more costly than planned or may otherwise be ineffective.

***Actual capital costs, operating costs, production and economic returns may differ significantly from those we have anticipated and there are no assurances that any future development activities will result in profitable mining operations.***

The actual capital and operating costs at the CLG will depend upon changes in the availability and prices of labor, equipment and infrastructure, variances in ore recovery and mining rates from those assumed in the mining plan, operational risks, changes in governmental regulation, including taxation, environmental, permitting and other regulations and other factors, many of which are beyond our control. Due to any of these or other factors, the capital and operating costs at the CLG may be significantly higher than

those set forth in the Los Gatos Technical Report. As a result of higher capital and operating costs, production and economic returns may differ significantly from those set forth in the Los Gatos Technical Report and there are no assurances that any future development activities will result in profitable mining operations.

***Land reclamation and mine closure may be burdensome and costly and such costs may exceed our estimates.***

Land reclamation and mine closure requirements are generally imposed on mining and exploration companies, such as ours, which require us, among other things, to minimize the effects of land disturbance. Such requirements may include controlling the discharge of potentially dangerous effluents from a site and restoring a site's landscape to its pre-exploration form. The actual costs of reclamation and mine closure are uncertain and planned expenditures may differ from the actual expenditures required. Therefore, the amount that we are required to spend could be materially higher than current estimates. Any additional amounts required to be spent on reclamation and mine closure may have a material adverse effect on our financial performance, financial position and results of operations and may cause us to alter our operations. In addition, we are required to maintain financial assurances, such as letters of credit, to secure reclamation obligations under certain laws and regulations. The failure to acquire, maintain or renew such financial assurances could subject us to fines and penalties or suspension of our operations. Letters of credit or other forms of financial assurance represent only a portion of the total amount of money that will be spent on reclamation over the life of a mine's operation. Although we include liabilities for estimated reclamation and mine closure costs in our financial statements, it may be necessary to spend more than what is projected to fund required reclamation and mine closure activities.

***The development of one or more of our mineral projects that have been, or may in the future be, found to be economically feasible will be subject to all of the risks associated with establishing new mining operations.***

The Los Gatos Technical Report indicates that the CLG is a profitable silver-zinc-lead project with an estimated 5-year mine life currently, at modeled metals prices. If the development of one of our other mineral properties is found to be economically feasible, the development of such projects will require obtaining permits and financing, and the construction and operation of mines, processing plants and related infrastructure. As a result, we will be subject to certain risks associated with establishing new mining operations, including:

- the timing and cost, which can be considerable, of the construction of mining and processing facilities and related infrastructure;
- the availability and cost of skilled labor, mining equipment and principal supplies needed for operations, including explosives, fuels, chemical reagents, water, power, equipment parts and lubricants;
- the availability and cost of appropriate smelting and refining arrangements;
- the need to obtain necessary environmental and other governmental approvals and permits and the timing of the receipt of those approvals and permits;
- the availability of funds to finance construction and development activities;
- industrial accidents;
- mine failures, shaft failures or equipment failures;
- natural phenomena such as inclement weather conditions, floods, droughts, rock slides and seismic activity;
- unusual or unexpected geological and metallurgical conditions, including excess water in underground mining;
- exchange rate and commodity price fluctuations;
- high rates of inflation;
- health pandemics;
- potential opposition from nongovernmental organizations, environmental groups or local groups, which may delay or prevent development activities; and

- restrictions or regulations imposed by governmental or regulatory authorities, including with respect to environmental matters.

The costs, timing and complexities of developing these projects, as well as for the CLG, may be greater than anticipated. Cost estimates may increase significantly as more detailed engineering work is completed on a project. It is common in mining operations to experience unexpected costs, problems and delays during construction, development and mine startup. In addition, the cost of producing silver bearing concentrates that are of acceptable quality to smelters may be significantly higher than expected. We may encounter higher than acceptable contaminants in our concentrates such as arsenic, antimony, mercury, copper, iron, selenium, fluorine or other contaminants that, when present in high concentrations, can result in penalties or outright rejection of the metals concentrates by the smelters or traders. For example, due to the high fluorine content at the CLG, we are finalizing the construction of a leaching plant designed to reduce fluorine levels in zinc concentrates produced. Additional investments to further reduce fluorine content of the concentrates produced may be required. Accordingly, we cannot provide assurance that our activities will result in profitable mining operations at the mineral properties.

***Our operations involve significant risks and hazards inherent to the mining industry.***

Our operations involve the operation of large machines, heavy mobile equipment and drilling equipment. Hazards such as adverse environmental conditions, industrial accidents, labor disputes, unusual or unexpected geological conditions, ground control problems, cave-ins, changes in the regulatory environment, metallurgical and other processing problems, mechanical equipment failure, facility performance problems, fire and natural phenomena such as inclement weather conditions, floods and earthquakes are inherent risks in our operations. Certain of these hazards may be more severe or frequent as a result of climate change. Hazards inherent to the mining industry have in the past caused and may in the future cause injuries or death to employees, contractors or other persons at our mineral properties, severe damage to and destruction of our property, plant and equipment, and contamination of, or damage to, the environment, and can result in the suspension of our exploration activities and future development and production activities. While we aim to maintain best safety practices as part of our culture, safety measures implemented by us may not be successful in preventing or mitigating future accidents.

In addition, from time to time we may be subject to governmental investigations and claims and litigation filed on behalf of persons who are harmed while at our properties or otherwise in connection with our operations. To the extent that we are subject to personal injury or other claims or lawsuits in the future, it may not be possible to predict the ultimate outcome of these claims and lawsuits due to the nature of personal injury litigation. Similarly, if we are subject to governmental investigations or proceedings, we may incur significant penalties and fines, and enforcement actions against us could result in the closing of certain of our mining operations. If claims and lawsuits or governmental investigations or proceedings are ultimately resolved against us, it could have a material adverse effect on our financial performance, financial position and results of operations. Also, if we mine on property without the appropriate licenses and approvals, we could incur liability, or our operations could be suspended.

***We may be materially and adversely affected by challenges relating to slope and stability of underground openings.***

Our underground mines get deeper and our waste and tailings deposits increase in size as we continue with and expand our mining activities, presenting certain geotechnical challenges, including the possibility of failure of underground openings. If we are required to reinforce such openings or take additional actions to prevent such a failure, we could incur additional expenses, and our operations and stated mineral reserves could be negatively affected. We have taken the actions we determined to be proper in order to maintain the stability of underground openings, but additional action may be required in the future. Unexpected failures or additional requirements to prevent such failures may adversely affect our costs and expose us to health and safety and other liabilities in the event of an accident, and in turn materially and adversely affect the results of our operations and financial condition, as well as potentially have the effect of diminishing our stated mineral reserves.

***The title to some of the mineral properties may be uncertain or defective, and we may be unable to obtain necessary surface and other rights to explore and develop some mineral properties, thus risking our investment in such properties.***

Under the laws of Mexico, mineral resources belong to the state, and government concessions are required to explore for or exploit mineral reserves. Mineral rights derive from concessions granted, on a discretionary basis, by the Ministry of Economy, pursuant to the Mexican mining law and the regulations thereunder. While we and the LGJV hold title to the mineral properties in Mexico described in this Report, including the CLG, through these government concessions, there is no assurance that title to the concessions comprising the CLG or our or the LGJV's other properties will not be challenged or impaired. One of our concessions, comprising over 19,000 hectares, the Los Gatos concession, is held by us subject to the terms of an agreement with the original holder

of that concession. The CLG and our or the LGJV's other properties may be subject to prior unregistered agreements, interests or native land claims, and title may be affected by such undetected defects. A title defect on any of our mineral properties (or any portion thereof) could adversely affect our ability to mine the property and/or process the minerals that we mine.

The mineral properties' mining concessions in Mexico may be terminated if the obligations to maintain the concessions in good standing are not satisfied or are not considered to be satisfied, including obligations to explore or exploit the relevant concession, to pay any relevant fees, to comply with all environmental and safety standards, to provide information to the Mexican Ministry of Economy and to allow inspections by the Mexican Ministry of Economy. In addition to termination, failure to make timely concession maintenance payments and otherwise comply, or be considered to comply with applicable laws, regulations and local practices relating to mineral right applications and tenure could result in reduction or expropriation of entitlements.

Title insurance is generally not available for mineral properties and our ability to ensure that we have obtained secure claim to individual mineral properties or mining concessions may be severely constrained. We rely on title information and/or representations and warranties provided by our grantors. Any challenge to our title could result in litigation, insurance claims and potential losses, delay the exploration and development of a property and ultimately result in the loss of some or all of our interest in the property. In addition, if we mine on property without the appropriate title, we could incur liability for such activities. While we have received a title opinion in relation to the LGD dated as of November 5, 2019, which opinion was updated as of August 18, 2021, such opinion is not a guarantee of title and such title may be challenged.

In addition, surface rights are required to explore and to potentially develop the mineral properties. Currently, of the 103,087 hectares of mineral rights owned in the LGD, MPR owns surface rights covering the known extents of the CLG, and Esther Resource areas, totaling 5,479 hectares. We negotiate surface access rights for exploration in other areas.

***Suitable infrastructure may not be available or damage to existing infrastructure may occur.***

Mining, processing, development and exploration activities depend on adequate infrastructure. Reliable roads, bridges, port and/or rail transportation, power sources, water supply and access to key consumables are important determinants for capital and operating costs. The lack of availability on acceptable terms or the delay in the availability of any one or more of these items could prevent or delay exploration, development or exploitation of our projects. If adequate infrastructure is not available in a timely manner, there can be no assurance that the exploitation or development of our projects will be commenced or completed on a timely basis, or at all, or that the resulting operations will achieve the anticipated production volume, or that the construction costs and operating costs associated with the exploitation and/or development of our projects will not be higher than anticipated. In addition, extreme weather phenomena, sabotage, vandalism, government, non-governmental organization and community or other interference in the maintenance or provision of such infrastructure could adversely affect our operations and profitability.

#### **Risks Related to Our Business and Industry**

***The prices of silver, zinc and lead are subject to change and a substantial or extended decline in the prices of silver, zinc or lead could materially and adversely affect revenues of the LGJV and the value of our mineral properties.***

Our business and financial performance will be significantly affected by fluctuations in the prices of silver, zinc and lead. The prices of silver, zinc and lead are volatile, can fluctuate substantially and are affected by numerous factors that are beyond our control. For the year ended December 31, 2022, the LBMA silver price ranged from a low of \$17.77 per ounce on September 1, 2022 to a high of \$26.18 per ounce on March 9, 2022; the LME Official Settlement zinc price ranged from a low of \$2,682 per tonne (\$1.22 per pound) on November 3, 2022 to a high of \$4,530 per tonne (\$2.05 per pound) on April 19, 2022; the LME Official Settlement lead price ranged from a low of \$1,754 per tonne (\$0.80 per pound) on September 27, 2022, to a high of \$2,513 per tonne (\$1.14 per pound) on March 7, 2022. Prices are affected by numerous factors beyond our control, including:

- prevailing interest rates and returns on other asset classes;
- expectations regarding inflation, monetary policy and currency values;
- speculation;
- governmental and exchange decisions regarding the disposal of precious metals stockpiles, including the decision by the CME Group, the owner and operator of the futures exchange, to raise silver's initial margin requirements on futures contracts;

- political and economic conditions;
- available supplies of silver, zinc and lead from mine production, inventories and recycled metal;
- sales by holders and producers of silver, zinc and lead; and
- demand for products containing silver, zinc and lead.

Because the LGJV expects to derive the substantial majority of our revenues from sales of silver, zinc and lead, its results of operations and cash flows will fluctuate as the prices for these metals increase or decrease. A sustained period of declining prices would materially and adversely affect our financial performance, financial position and results of operations.

***Changes in the future demand for the silver, zinc and lead we produce could adversely affect future sales volume and revenues of the LGJV and our earnings.***

The LGJV's future revenues and our earnings will depend, in substantial part, on the volume of silver, zinc and lead we sell and the prices at which we sell, which in turn will depend on the level of industrial and consumer demand. Based on 2021 data from the Silver Institute, demand for silver is driven by industrial demand (including photovoltaic, electrical and electronics) (c. 48%), bar and coin demand (c. 27%) jewelry and silverware (c. 21%) and other demand, especially photography (c. 4%). An increase in the production of silver worldwide or changes in technology, industrial processes or consumer habits, including increased demand for substitute materials, may decrease the demand for silver. Increased demand for substitute materials may be either technologically induced, when technological improvements render alternative products more attractive for first use or end use than silver or allow for reduced application of silver, or price induced, when a sustained increase in the price of silver leads to partial substitution for silver by a less expensive product or reduced application of silver. Demand for zinc is primarily driven by the demand for galvanized steel, used in construction, automobile and other industrial applications. Demand for lead is primarily driven by the demand for batteries, used in vehicles, emergency systems and other industrial battery applications. Any substitution of these materials may decrease the demand for the silver, zinc and lead we produce. A fall in demand, resulting from economic slowdowns or recessions or other factors, could also decrease the price and volume of silver, zinc and lead we sell and therefore materially and adversely impact our results of operations and financial condition. Increases in the supply of silver, zinc and lead, including from new mining sources or increased recycling (driven by technological changes, pricing incentives or otherwise) may act to suppress the market prices for these commodities.

***We are subject to the risk of labor disputes, which could adversely affect our business, and which risk may be increased due to the unionization in the LGJV workforce.***

Although we have not experienced any significant labor disputes in recent years, there can be no assurances that we will not experience labor disputes in the future, including protests, blockades and strikes, which could disrupt our business operations and have an adverse effect on our business and results of operation. Although we consider our relations with our employees to be good, there can be no assurance that we will be able to maintain a satisfactory working relationship with our employees in the future. The LGJV's hourly work force is unionized, which may increase the risk of such disruptions. In addition, the unionized workforce, or further unionization of the workforce, may, among other things, require more extensive human resources staff, increase legal costs, increase involvement with regulatory agencies, result in lost workforce flexibility, and increase labor costs due to rules, grievances and arbitration proceedings.

***Our success depends on developing and maintaining relationships with local communities and stakeholders.***

Our ongoing and future success depends on developing and maintaining productive relationships with the communities surrounding our operations, including local indigenous people who may have rights or may assert rights to certain of our properties, and other stakeholders in our operating locations. We believe our operations can provide valuable benefits to surrounding communities in terms of direct employment, training and skills development and other benefits associated with ongoing payment of taxes. In addition, we seek to maintain partnerships and relationships with local communities. Notwithstanding our ongoing efforts, local communities and stakeholders can become dissatisfied with our activities or the level of benefits provided, which may result in legal or administrative proceedings, civil unrest, protests, direct action or campaigns against us. Any such occurrence could materially and adversely affect our business, financial condition or results of operations.

***We are subject to class action lawsuits.***

We are currently subject to class actions lawsuits. See Note 10—Commitments, Contingencies and Guarantees in our consolidated financial statements included in “Item 8. Financial Statements and Supplementary Data” for additional information regarding our assessment of contingencies related to legal matters. See also “Item 3. Legal Proceedings.” Such actions subject us to significant costs, which may not be adequately covered by insurance, divert management’s time and attention from our operations and reduce our ability to attract and retain qualified personnel. Our inability to successfully defend against such actions could have a material adverse effect on our business and financial condition.

***The COVID-19 pandemic adversely affected our business and operations. The widespread outbreak of any other health pandemics, epidemics, communicable diseases or public health crises could also adversely affect us, particularly in regions where we conduct our business operations.***

Our business could be adversely affected by the widespread outbreak of a health epidemic, communicable disease or any other public health crisis.

For example, the COVID-19 pandemic temporarily affected our financial condition in 2020, in part due to the loss of revenue resulting from the 45-day temporary suspension of all nonessential activities at the LGJV’s CLG site, reduced production rates and the additional expenses associated with the development and implementation of COVID-19 protocols.

Any prolonged disruption of our or the LGJV’s operations and closures of facilities resulting from health pandemic, epidemics communicable diseases or public health crises would delay our current exploration and production timelines and negatively impact our business, financial condition and results of operations and may heighten the other risk factors discussed in this “Risk Factors” section.

***The mining industry is very competitive.***

The mining industry is very competitive. Much of our competition is from larger, established mining companies with greater liquidity, greater access to credit and other financial resources, newer or more efficient equipment, lower cost structures, more effective risk management policies and procedures and/or a greater ability than us to withstand losses. Our competitors may be able to respond more quickly to new laws or regulations or emerging technologies or devote greater resources to the expansion or efficiency of their operations than we can. In addition, current and potential competitors may make strategic acquisitions or establish cooperative relationships among themselves or with third parties. Accordingly, it is possible that new competitors or alliances among current and new competitors may emerge and gain significant market share to our detriment. We may not be able to compete successfully against current and future competitors, and any failure to do so could have a material adverse effect on our business, financial condition or results of operations.

***Our insurance may not provide adequate coverage.***

Our business and operations are subject to a number of risks and hazards, including, but not limited to, adverse environmental conditions, industrial accidents, labor disputes, unusual or unexpected geological conditions, ground control problems, cave-ins, changes in the regulatory environment, metallurgical and other processing problems, mechanical equipment failure, facility performance problems, fires and natural phenomena such as inclement weather conditions, floods and earthquakes. These risks could result in damage to, or destruction of, our mineral properties or production facilities, personal injury or death, environmental damage, delays in exploration, mining or processing, increased production costs, asset write downs, monetary losses and legal liability.

Our property and liability insurance may not provide sufficient coverage for losses related to these or other hazards. Insurance against certain risks, including those related to environmental matters or other hazards resulting from exploration and production, is generally not available to us or to other companies within the mining industry. Our current insurance coverage may not continue to be available at economically feasible premiums, or at all. In addition, our business interruption insurance relating to our properties has long waiting periods before coverage begins. Accordingly, delays in returning to any future production could produce near-term severe impact to our business. Our director and officer liability insurance may be insufficient to cover losses from claims relating to matters for which directors and officers are indemnified by us or for which we are determined to be directly responsible, and regardless are and may continue to be subject to significant retentions or deductibles, including current class action lawsuits. See “Item 3. Legal Proceedings.” Any losses from these events may cause us to incur significant costs that could have a material adverse effect on our financial performance, financial position and results of operations.

***Our business is sensitive to nature and climate conditions.***

A number of governments have introduced or are moving to introduce climate change legislation and treaties at the international, national, state/provincial and local levels. Regulations relating to emission levels (such as carbon taxes) and energy efficiency are becoming more stringent. If the current regulatory trend continues, this may result in increased costs at some or all of our business locations. In addition, the physical risks of climate change may also have an adverse effect on our operations. Extreme weather events, which may become more common and severe due to climate change, have the potential to disrupt our power supply, surface operations and exploration at our mines and may require us to make additional expenditures to mitigate the impact of such events.

***If we are unable to retain key members of management, our business might be harmed.***

Our exploration activities and any future development and construction or mining and processing activities depend to a significant extent on the continued service and performance of our senior management team, including our Chief Executive Officer. We depend on a relatively small number of key officers, and we currently do not, and do not intend to, have keyperson insurance for these individuals. Departures by members of our senior management could have a negative impact on our business, as we may not be able to find suitable personnel to replace departing management on a timely basis, or at all. The loss of any member of our senior management team could impair our ability to execute our business plan and could, therefore, have a material adverse effect on our business, results of operations and financial condition. In addition, the international mining industry is very active and we are facing increased competition for personnel in all disciplines and areas of operation. There is no assurance that we will be able to attract and retain personnel to sufficiently staff our development and operating teams.

***We may fail to identify attractive acquisition candidates or joint ventures with strategic partners or may fail to successfully integrate acquired mineral properties or successfully manage joint ventures.***

As part of our growth strategy, we may acquire additional mineral properties or enter into joint ventures with strategic partners. However, there can be no assurance that we will be able to identify attractive acquisition or joint venture candidates in the future or that we will succeed at effectively managing their integration or operation. In particular, significant and increasing competition exists for mineral acquisition opportunities throughout the world. We face strong competition from other mining companies in connection with the acquisition of properties producing, or capable of producing, metals as well as in entering into joint ventures with other parties. If the expected synergies from such transactions do not materialize or if we fail to integrate them successfully into our existing business or operate them successfully with our joint venture partners, or if there are unexpected liabilities, our results of operations could be adversely affected.

Pursuant to the Unanimous Omnibus Partner Agreement, which governs our and Dowa's respective rights over the LGJV, we and Dowa must jointly approve certain major decisions involving the LGJV, including decisions relating to the merger, amalgamation or restructuring of the LGJV and key strategic decisions, including with respect to expansion, among others. If we are unable to obtain the consent of Dowa, we may be unable to make decisions relating to the LGJV that we believe are beneficial for its operations, which may materially and adversely impact our results of operations and financial condition.

In connection with any future acquisitions or joint ventures, we may incur indebtedness or issue equity securities, resulting in increased interest expense or dilution of the percentage ownership of existing shareholders. Unprofitable acquisitions or joint ventures, or additional indebtedness or issuances of securities in connection with such acquisitions or joint ventures, may adversely affect the price of our common stock and negatively affect our results of operations.

***Our information technology systems may be vulnerable to disruption, which could place our systems at risk from data loss, operational failure or compromise of confidential information.***

We rely on various information technology systems. These systems remain vulnerable to disruption, damage or failure from a variety of sources, including, but not limited to, errors by employees or contractors, computer viruses, cyberattacks, including phishing, ransomware, and similar malware, misappropriation of data by outside parties, and various other threats. Techniques used to obtain unauthorized access to or sabotage our systems are under continuous and rapid evolution, and we may be unable to detect efforts to disrupt our data and systems in advance. Breaches and unauthorized access carry the potential to cause losses of assets or production, operational delays, equipment failure that could cause other risks to be realized, inaccurate recordkeeping, or disclosure of confidential information, any of which could result in financial losses and regulatory or legal exposure, and could have a material adverse effect on our cash flows, financial condition or results of operations. Although to date we have not experienced any material losses relating to cyberattacks or other information security breaches, there can be no assurance that we will not incur such losses in the future. Our risk and exposure to these matters cannot be fully mitigated because of, among other things, the evolving nature of these threats. As such threats continue to evolve, we may be required to expend additional resources to modify or enhance any protective measures or to investigate and remediate any security vulnerabilities.

***Our directors may have conflicts of interest as a result of their relationships with other mining companies.***

Our directors are also directors, officers and shareholders of other companies that are similarly engaged in the business of developing and exploiting natural resource properties. Consequently, there is a possibility that our directors may be in a position of conflict in the future.

***We have identified material weaknesses in our internal control over financial reporting. If we fail to remediate these deficiencies (or fail to identify and/or remediate other possible material weaknesses), we may be unable to accurately report our results of operations, meet our reporting obligations or prevent fraud, which may adversely affect investor confidence in us and, as a result, the value of our common stock.***

Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements in accordance with U.S. generally accepted accounting principles. Under standards established by the United States Public Company Accounting Oversight Board, a material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of annual or interim financial statements will not be prevented or detected and corrected on a timely basis.

We are required, pursuant to Section 404 of the Sarbanes-Oxley Act, to furnish a report by management on, among other things, the effectiveness of our internal controls over financial reporting for fiscal year 2022. This assessment includes disclosure of any material weaknesses identified by our management in our internal controls over financial reporting. Additionally, we are required to disclose changes made in our internal controls and procedures on a quarterly basis.

However, for as long as we are an emerging growth company, or a smaller reporting company that is a non-accelerated filer, our independent registered public accounting firm will not be required to attest to the effectiveness of our internal control over financial reporting pursuant to Section 404(b). At such time, this attestation will be required, our independent registered public accounting firm may issue a report that is adverse in the event it is not satisfied with the level at which our controls are documented, designed or operating. Our remediation efforts may not enable us to avoid a material weakness in the future. We may need to undertake various actions, such as implementing new internal controls and procedures and hiring additional accounting or internal audit staff.

In connection with our review of the internal control structure related to the preparation of the financial statements for the fiscal years ended December 31, 2021 and 2022, we identified the following material weaknesses in our internal controls over financial reporting:

- We did not demonstrate the appropriate tone at the top including failing to design or maintain an effective control environment commensurate with the financial reporting requirements of a public company in the United States and Canada. In particular, we did not design control activities to adequately address identified risks or operate at a sufficient level of precision that would identify material misstatements to our financial statements and did not design and maintain sufficient formal documentation of accounting policies and procedures to support the operation of key control procedures.

- We failed to design and maintain effective controls relating to our risk assessment process as it pertained to the assessment of key assumptions, inputs and outputs contained in our July 2020 technical report.

In connection with our review of the internal control structure related to the preparation of the restated financial statements for the fiscal year ended December 31, 2021, we have identified the following additional material weaknesses in our internal controls over financial reporting:

- We failed to design and maintain effective controls over accounting for current and deferred taxes. This material weakness resulted in a material misstatement of our previously issued financial statements for the year ended December 31, 2021 which resulted in an overstatement of the current income tax expense. Specifically, the financial statements of the LGJV at December 31, 2021, did not accurately reflect the current and deferred tax assets and liabilities at December 31, 2021. Consequently, the impairment of investment in affiliates and the investment in affiliates and the equity income in affiliates were also not accurately presented in the Company's financial statements at December 31, 2021.
- We did not have adequate technical accounting expertise to ensure that complex accounting matters such as the impact of the priority distribution payment due to our joint venture partner and the impairment charge was recognized in accordance with GAAP. This material weakness resulted in a material misstatement of our previously issued financial statement for the year ended December 31, 2021. The financial statements did not accurately reflect the investment in affiliates and the equity income in affiliates. Additionally, caused the impairment of investment in affiliates to be misstated.

We are in the process of implementing measures designed to improve our internal control over financial reporting and remediate the control deficiencies that led to the material weaknesses described above. To date, we have:

- engaged a third-party expert to assist management in documenting key processes related to our internal control environment, designing and implementing an effective risk assessment and monitoring program to identify risks of material misstatements and ensuring that the internal controls have been appropriately designed to address and effectively monitor identified risk;
- hired a new executive leadership team, including a new CEO, CFO and senior executive responsible for technical services, each of which has appropriate experience and has demonstrated a commitment to improving the Company's control environment;
- hired additional personnel with accounting and technical expertise, including hiring new accounting staff in connection with the relocation of the Company's headquarters to Vancouver;
- enhanced the procedures and functioning of our disclosure committee relating to the appropriate reporting of information and review and approval of the Company's public disclosures;
- engaged a new independent third-party subject matter specialist to perform a technical review of the 2022 mineral resource and mineral reserve estimates; and
- enhanced our procedures, including implementing appropriate controls, relating to management verification of the key assumptions, inputs and outputs for our Technical Reports.
- engaged a new independent third-party tax specialist to perform a review of the tax provision calculation at the LGJV and the recognition of deferred tax assets and liabilities; and
- implemented process to identify complex technical accounting matters that would require technical accounting analysis by a technical accounting expert in a timely manner.

We have incurred significant costs in connection with our efforts to remediate these material weaknesses, and we expect to incur additional costs in the future. Neither we nor our independent registered public accounting firm have tested the effectiveness of our internal control over financial reporting and we cannot provide assurance that we will be able to successfully remediate the material weaknesses described above. Even if we successfully remediate such material weaknesses, we cannot provide any assurance that we will not suffer from these or other material weaknesses in the future.

Our remediation efforts may not enable us to avoid a material weakness in the future. We may need to undertake various actions, such as implementing new internal controls and procedures and hiring additional accounting or internal audit staff. If we continue to be unable to assert that our internal controls over financial reporting are effective, or if our independent registered public accounting firm is unable to express an opinion on the effectiveness of our internal controls to the extent required, we could lose investor confidence in the accuracy and completeness of our financial reports, which could cause the price of our common stock to decline, and we may be subject to investigation or sanctions by the SEC.

#### **Risks Related to Government Regulations**

***The Mexican government, as well as local governments, extensively regulate mining operations, which impose significant actual and potential costs on us, and future regulation could increase those costs, delay receipt of regulatory refunds or limit our ability to produce silver and other metals.***

The mining industry is subject to increasingly strict regulation by federal, state and local authorities in Mexico, and other jurisdictions in which we may operate, including in relation to:

- limitations on land use;
- mine permitting and licensing requirements;
- reclamation and restoration of properties after mining is completed;
- management of materials generated by mining operations; and
- storage, treatment and disposal of wastes and hazardous materials.

The liabilities and requirements associated with the laws and regulations related to these and other matters, including with respect to air emissions, water discharges and other environmental matters, may be costly and time consuming and may restrict, delay or prevent commencement or continuation of exploration or production operations. There can be no assurance that we have been or will be at all times in compliance with all applicable laws and regulations. Failure to comply with, or the assertion that we have failed to comply with, applicable laws and regulations may result in the assessment of administrative, civil and criminal penalties, the imposition of cleanup and site restoration costs and liens, the issuance of injunctions to limit or cease operations, the suspension or revocation of permits or authorizations and other enforcement measures that could have the effect of limiting or preventing production from our operations. We may incur material costs and liabilities resulting from claims for damages to property or injury to persons arising from our operations. If we are pursued for sanctions, costs and liabilities in respect of these matters, our mining operations and, as a result, our financial performance, financial position and results of operations, could be materially and adversely affected.

Our Mexican properties are subject to regulation by the Political Constitution of the United Mexican States, and are subject to various legislation in Mexico, including the Mining Law, the Federal Law of Waters, the Federal Labor Law, the Federal Law of Firearms and Explosives, the General Law on Ecological Balance and Environmental Protection and the Federal Law on Metrology Standards. Our operations at our Mexican properties also require us to obtain local authorizations and, under the Agrarian Law, to comply with the uses and customs of communities located within the properties. Mining, environmental and labor authorities may inspect our Mexican operations on a regular basis and issue various citations and orders when they believe a violation has occurred under the relevant statute.

If inspections in Mexico result in an actual or alleged violation, we may be subject to fines, penalties or sanctions, our mining operations could be subject to temporary or extended closures, and we may be required to incur capital expenditures to recommence our operations. Any of these actions could have a material adverse effect on our financial performance, financial position and results of operations.

***The Mexican federal government recently promulgated significant amendments to laws affecting the mining industry; while it is difficult to ascertain if and when the amendments will be fully implemented, and there is some lack of clarity in their drafting including their intended retroactive effect, the amendments could have a material adverse effect on the mining industry, and the LGJV's and our Mexican businesses, particularly in respect of any new concessions, new mining permits, and new operations.***

On May 8, 2023, legislative amendments were promulgated by the Mexican federal government (the “Amendments”). If fully implemented, the Amendments would include the following attributes: new concessions would only be granted through public

bidding and letters of credit would be required; new mining concessions would be granted in respect of specified minerals; the potential to expropriate private land would be discontinued; the term and extension period of new mining concessions would be reduced to 30 and 25 years, respectively; the approval of transferees of mining concessions would be required; minimum payments of 5% of profits to local communities would be imposed; social impact studies and community consultation would be required; restoration, closure and post closure programs would be required; water availability would be a condition for granting new mining concessions; the concept of presumptive approval (afirmativa ficta) for approval matters properly and timely submitted to regulatory agencies would be removed; parastatal entities could be created and would enjoy preferential rights to exploration; environmental obligations and prohibitions would be increased; and water concessions could be significantly modified by governmental authorities in certain circumstances. The foregoing is a non-exhaustive summary of the Amendments.

The Amendments are stated to be immediately effective, but regulations are required for the Amendments to be fully implemented. Although it is not clear in all instances, the Amendments are generally stated to not have retroactive effect, and as such their most significant impact would be expected to be on new mining concessions rather than existing concessions and operations, including those of the LGJV and ours. Certain of the Amendments may also apply to existing operations, such as the requirement for approval of any concession transferee, establishing a closure and post-closure program and additional environmental obligations. We understand that the Amendments could be challenged on the basis of the legislative process followed or by parties directly affected by the Amendments on constitutional or other grounds. The impact of the Amendments on the LGJV and us will depend on the extent and timing of their implementation and the extent of their retroactive effect. We will be continuing to monitor and assess the potential impact of the Amendments on the LGJV, us, and any future opportunities in Mexico.

***Our operations are subject to additional political, economic and other uncertainties not generally associated with U.S. operations.***

We currently have two properties in Mexico: the LGD, which the LGJV controls, and the Santa Valeria property, which is owned 100% by us. Our operations are subject to significant risks inherent in exploration and resource extraction by foreign companies in Mexico. Exploration, development, production and closure activities in Mexico are potentially subject to heightened political, economic, regulatory and social risks that are beyond our control. These risks include:

- the possible unilateral cancellation or forced renegotiation of contracts and licenses;
- unfavorable changes in laws and regulations;
- royalty and tax increases;
- claims by governmental entities or indigenous communities;
- expropriation or nationalization of property;
- political instability;
- fluctuations in currency exchange rates;
- social and labor unrest, organized crime, hostage taking, terrorism and violent crime;
- uncertainty regarding the availability of reasonable electric power costs;
- uncertainty regarding the enforceability of contractual rights and judgments; and
- other risks arising out of foreign governmental sovereignty over areas in which our mineral properties are located.

Local economic conditions also can increase costs and adversely affect the security of our operations and the availability of skilled workers and supplies. Higher incidences of criminal activity and violence in the area of some of our properties could adversely affect the LGJV's ability to operate in an optimal fashion or at all, and may impose greater risks of theft and higher costs, which would adversely affect results of operations and cash flows.

Acts of civil disobedience are common in Mexico. In recent years, many mining companies have been targets of actions to restrict their legally entitled access to mining concessions or property. Such acts of civil disobedience often occur with no warning and

can result in significant direct and indirect costs. We cannot provide assurance that there will be no disruptions to site access in the future, which could adversely affect our business.

Local and regional meteorological conditions can increase our operating costs and adversely affect our ability to mine and process ore. Such inclement conditions, including severe precipitation events, extremely high winds or wildfires could directly impact our surface operations. Northern Mexico is highly dependent upon natural gas from Texas to generate power. Regional inclement weather conditions in the state of Chihuahua, Mexico, or Texas, could adversely impact our ability to maintain sufficient power from the national Mexico power grid. The CLG project was designed to allow the mine and processing plant to operate independently. The project has diesel-powered generators with sufficient capacity to maintain power to the residential camp, surface administrative facilities and the underground mine but not the processing plant. During such events, our ability to mine and process at design capacities could become constrained.

The right to export silver-bearing concentrates and other metals may depend on obtaining certain licenses, which could be delayed or denied at the discretion of the relevant regulatory authorities, or meeting certain quotas. The United States and Mexico began implementation of the United States-Mexico-Canada Agreement (USMCA) in 2020. The United States and Mexico, and any other country in which we may operate in the future, could alter their trade agreements, including terminating trade agreements, instituting economic sanctions on individuals, corporations or countries, and introducing other government regulations affecting trade between the United States and other countries. It may be time-consuming and expensive for us to alter our operations in order to adapt to or comply with any such changes. If the United States were to withdraw from or materially modify international trade agreements to which it is a party, or if other countries imposed or increased tariffs on the minerals we may extract in the future, the costs of such products could increase significantly. Any of these conditions could lead to lower productivity and higher costs, which would adversely affect our financial performance, financial position and results of operations. Generally, our operations may be affected in varying degrees by changing government regulations in the United States and/or Mexico with respect to, but not limited to, restrictions on production, price controls, export controls, currency remittance, importation of products and supplies, income and other taxes, royalties, the repatriation of profits, expropriation of mineral property, foreign investment, maintenance of concessions, licenses, approvals and permit, environmental matters, land use, land claims of local indigenous people and workplace safety.

Such developments could require us to curtail or terminate operations at our mineral properties in Mexico, incur significant costs to meet newly imposed environmental or other standards, pay greater royalties or higher prices for labor or services and recognize higher taxes, which could materially and adversely affect our results of operations, cash flows and financial condition. Furthermore, failure to comply strictly with applicable laws, regulations and local practices could result in loss, reduction or expropriation of licenses, or the imposition of additional local or foreign parties as joint venture partners with carried or other interests.

We continue to monitor developments and policies in Mexico and assess the impact thereof on our operations; however, such developments cannot be accurately predicted and could have an adverse effect on our business, financial condition and results of operations.

***We are required to obtain, maintain and renew environmental, construction and mining permits, which is often a costly and time-consuming process and may ultimately not be possible.***

Mining companies, including ours, need many environmental, construction and mining permits, each of which can be time consuming and costly to obtain, maintain and renew. In connection with our current and future operations, we must obtain and maintain a number of permits that impose strict conditions, requirements and obligations, including those relating to various environmental and health and safety matters. To obtain, maintain and renew certain permits, we have been and may in the future be required to conduct environmental studies, and make associated presentations to governmental authorities, pertaining to the potential impact of our current and future operations upon the environment and to take steps to avoid or mitigate those impacts. Permit terms and conditions can impose restrictions on how we conduct our operations and limit our flexibility in developing our mineral properties. Many of our permits are subject to renewal from time to time, and applications for renewal may be denied or the renewed permits may contain more restrictive conditions than our existing permits, including those governing impacts on the environment. We may be required to obtain new permits to expand our operations, and the grant of such permits may be subject to an expansive governmental review of our operations. We may not be successful in obtaining such permits, which could prevent us from commencing, continuing or expanding operations or otherwise adversely affect our business. Renewal of existing permits or obtaining new permits may be more difficult if we are not able to comply with our existing permits. Applications for permits, permit area expansions and permit renewals can also be subject to challenge by interested parties, which can delay or prevent receipt of needed permits. The permitting process can vary by jurisdiction in terms of its complexity and likely outcomes. The applicable laws and regulations, and the related judicial interpretations and enforcement policies, change frequently, which can make it difficult for us to obtain and renew permits and to comply with applicable requirements. Accordingly, permits required for our operations may not be issued, maintained or renewed in a timely fashion or at all, may be issued or renewed upon conditions that restrict our ability to conduct our operations economically, or may be subsequently revoked. Any such failure to obtain, maintain or renew permits, or other permitting delays or conditions, including in connection with any environmental impact analyses, could have a material adverse effect on our business, results of operations and financial condition.

In regard to the CLG, the LGD and other Mexican projects, Mexico has adopted laws and guidelines for environmental permitting that are similar to those in effect in the United States and South American countries. We are currently operating under permits regulating mining, processing, use of explosives, water use and discharge and surface disturbance in relation to the LGD and the Santa Valeria property. We will be required to apply for corresponding authorizations prior to any production at our other Mexican properties and there can be no certainty as to whether, or the terms under which, such authorizations will be granted or renewed. Any failure to obtain authorizations and permits, or other authorization or permitting delays or conditions, could have a material adverse effect on our business, results of operations and financial condition.

***We are subject to environmental and health and safety laws, regulations and permits that may subject us to material costs, liabilities and obligations.***

We are subject to environmental laws, regulations and permits in the various jurisdictions in which we operate, including those relating to, among other things, the removal and extraction of natural resources, the emission and discharge of materials into the environment, including plant and wildlife protection, remediation of soil and groundwater contamination, reclamation and closure of properties, including tailings and waste storage facilities, groundwater quality and availability, and the handling, storage, transport and disposal of wastes and hazardous materials. Pursuant to such requirements, we may be subject to inspections or reviews by governmental authorities. Failure to comply with these environmental requirements may expose us to litigation, fines or other sanctions, including the revocation of permits and suspension of operations. We expect to continue to incur significant capital and other compliance costs related to such requirements. These laws, regulations and permits, and the enforcement and interpretation thereof, change frequently and generally have become more stringent over time. If our noncompliance with such regulations were to result in a release of hazardous materials into the environment, such as soil or groundwater, we could be required to remediate such contamination, which could be costly. Moreover, noncompliance could subject us to private claims for property damage or personal injury based on exposure to hazardous materials or unsafe working conditions. In addition, changes in applicable requirements or stricter interpretation of existing requirements may result in costly compliance requirements or otherwise subject us to future liabilities. The occurrence of any of the foregoing, as well as any new environmental, health and safety laws and regulations applicable to our business or stricter interpretation or enforcement of existing laws and regulations, could have a material adverse effect on our business, financial condition and results of operations.

We could be liable for any environmental contamination at, under or released from our or our predecessors' currently or formerly owned or operated properties or third-party waste disposal sites. Certain environmental laws impose joint and several strict liability for releases of hazardous substances at such properties or sites, without regard to fault or the legality of the original conduct. A generator of waste can be held responsible for contamination resulting from the treatment or disposal of such waste at any offsite location (such as a landfill), regardless of whether the generator arranged for the treatment or disposal of the waste in compliance with applicable laws. Costs associated with liability for removal or remediation of contamination or damage to natural resources could be substantial and liability under these laws may attach without regard to whether the responsible party knew of, or was responsible for, the presence of the contaminants. Accordingly, we may be held responsible for more than our share of the contamination or other damages, up to and including the entire amount of such damages. In addition to potentially significant investigation and remediation costs, such matters can give rise to claims from governmental authorities and other third parties, including for orders, inspections, fines or penalties, natural resource damages, personal injury, property damage, toxic torts and other damages.

Our costs, liabilities and obligations relating to environmental matters could have a material adverse effect on our financial performance, financial position and results of operations.

***We may be responsible for anticorruption and antibribery law violations.***

Our operations are governed by, and involve interactions with, various levels of government in foreign countries. We are required to comply with anticorruption and antibribery laws, including the Corruption of Foreign Public Officials Act (Canada) and the U.S. Foreign Corrupt Practices Act (together, the "Corruption Legislation") and similar laws in Mexico. These laws generally prohibit companies and company employees from engaging in bribery or other prohibited payments to foreign officials for the purpose of obtaining or retaining business. The Corruption Legislation also requires companies to maintain accurate books and records and internal controls. Because our interests are located in Mexico, there is a risk of potential Corruption Legislation violations.

In recent years, there has been a general increase in both the frequency of enforcement and the severity of penalties under such laws, resulting in greater scrutiny and punishment to companies convicted of violating anti-corruption and anti-bribery laws. A company may be found liable for violations by not only its employees, but also by its contractors and third-party agents. Our internal procedures and programs may not always be effective in ensuring that we, our employees, contractors or third-party agents will comply strictly with all such applicable laws. If we become subject to an enforcement action or we are found to be in violation of such laws, this may have a material adverse effect on our reputation and may possibly result in significant penalties or sanctions, and may have a material adverse effect on our cash flows, financial condition or results of operations.

***We may be required by human rights laws to take actions that delay our operations or the advancement of our projects.***

Various international and national laws, codes, resolutions, conventions, guidelines and other materials relate to human rights (including rights with respect to health and safety and the environment surrounding our operations). Many of these materials impose obligations on government and companies to respect human rights. Some mandate that governments consult with communities surrounding our projects regarding government actions that may affect local stakeholders, including actions to approve or grant mining rights or permits. The obligations of government and private parties under the various international and national materials pertaining to human rights continue to evolve and be defined. One or more groups of people may oppose our current and future operations or further development or new development of our projects or operations. Such opposition may be directed through legal or administrative proceedings or expressed in manifestations such as protests, roadblocks or other forms of public expression against our activities, and may have a negative impact on our reputation. Opposition by such groups to our operations may require modification of, or preclude the operation or development of, our projects or may require us to enter into agreements with such groups or local governments with respect to our projects, in some cases causing considerable delays to the advancement of our projects.

**Risks Related to Ownership of Our Common Stock**

***The market price of our common stock has been, and may continue to be, volatile.***

The trading price of our common stock has been, and may continue to be, volatile. Some of the factors that may cause the market price of our common stock to fluctuate include:

- failure to identify mineral reserves at our properties;
- failure to achieve or continue production at our mineral properties;

- actual or anticipated changes in the price of silver and base metal byproducts;
- fluctuations in our quarterly and annual financial results or the quarterly and annual financial results of companies perceived to be similar to us;
- changes in market valuations of similar companies;
- success or failure of competitor mining companies;
- changes in our capital structure, such as future issuances of securities or the incurrence of debt;
- sales of large blocks of our common stock;
- announcements by us or our competitors of significant developments, contracts, acquisitions or strategic alliances;
- changes in regulatory requirements and the political climate in the United States, Mexico, Canada or all;
- litigation and/or investigations involving our Company, our general industry or both;
- additions or departures of key personnel;
- investors' general perception of us, including any perception of misuse of sensitive information;
- changes in general economic, industry and market conditions;
- accidents at mining properties, whether owned by us or otherwise;
- natural disasters, terrorist attacks and acts of war; and
- our ability to control our costs.

If the market for stocks in our industry, or the stock market in general, experiences a loss of investor confidence, the trading price of our common stock could decline for reasons unrelated to our business, financial condition or results of operations. These and other factors may cause the market price and demand for our common stock to fluctuate substantially, which may limit or prevent investors from readily selling their shares of common stock and may otherwise negatively affect the liquidity of our common stock. In the past, when the market price of a stock has been volatile, holders of that stock have instituted securities class action litigation against the company that issued the stock.

If any of the foregoing occurs it could cause our stock price to fall and may expose us to lawsuits that, even if unsuccessful, could be both costly to defend against and a distraction to management.

***Our anti-takeover defense provisions may cause our common stock to trade at market prices lower than it might absent such provisions.***

Our Board of Directors has the authority to issue blank check preferred stock. Additionally, our Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws contain several provisions that may make it more difficult or expensive for a third party to acquire control of us without the approval of our Board of Directors. These include provisions setting forth advance notice procedures for shareholders' nominations of directors and proposals of topics for consideration at meetings of shareholders, provisions restricting shareholders from calling a special meeting of shareholders or requiring one to be called, provisions limiting the ability of shareholders to act by written consent and provisions requiring a 66.67% shareholder vote to amend our Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws. These provisions may delay, prevent or deter a merger, acquisition, tender offer, proxy contest or other transaction that might otherwise result in our shareholders receiving a premium over the market price for their common stock. In addition, these provisions may cause our common stock to trade at a market price lower than it might absent such provisions.

***Sales of a substantial number of shares of our common stock in the public market, or the perception in the market that the holders of a large number of shares intend to sell shares, could cause the market price of our common stock to drop significantly.***

Sales of a substantial number of shares of our common stock in the public market, or the perception in the market that the holders of a large number of shares intend to sell shares, could reduce the market price of our common stock.

Certain stockholders have rights, subject to specified conditions, to require us to file registration statements covering their shares or to include their shares in registration statements that we may file for ourselves or other stockholders. We have also registered all shares of common stock that we may issue under our equity compensation plans, which can be freely sold in the public market upon issuance, subject to volume limitations applicable to affiliates. Sales of a substantial number of shares of our common stock in the public market, or the perception in the market that holder of a large number of shares intends to sell shares, could cause the market price of our common stock to drop significantly and make it more difficult for us to raise additional funds through future offerings of our common stock or other securities.

***We do not currently intend to pay dividends on our common stock and, consequently, shareholders' ability to achieve a return on their investment will depend on appreciation in the price of our common stock.***

We have never declared or paid any cash dividend on our capital stock. We do not intend to pay any cash dividends on our common stock for the foreseeable future. We currently intend to retain all future earnings, if any, to finance our business. The payment of any future dividends, if any, will be determined by our Board of Directors in light of conditions then existing, including our earnings, financial condition and capital requirements, business conditions, growth opportunities, corporate law requirements and other factors. In addition, our Credit Facility contains, and any of our future contractual arrangements may contain, restrictions on our ability to pay cash dividends on our capital stock.

***Electrum and its affiliates and MERS have a substantial degree of influence over us, which could delay or prevent a change of corporate control or result in the entrenchment of our management and/or Board of Directors.***

As of March 27, 2023, the Electrum Group, LLC and its affiliates (collectively, "Electrum") and the Municipal Employees' Retirement System of Michigan ("MERS") beneficially own approximately 32% and 9% of our outstanding common stock, respectively. We have entered into a shareholder's agreement with Electrum and MERS pursuant to which Electrum and MERS have certain director nomination rights. The shareholders agreement also provides that Electrum approval must be obtained prior to us engaging in certain corporate actions. As a result, Electrum has significant influence over our management and affairs and, if Electrum owns at least 35% of our outstanding common stock, will have approval rights over certain corporate actions, including, among others, any merger, consolidation or sale of all or substantially all of our assets, the incurrence of more than \$100 million of indebtedness and the issuance of more than \$100 million of equity securities.

The concentration of ownership and our shareholders agreement may harm the market price of our common stock by, among other things:

- delaying, deferring or preventing a change of control, even at a per share price that is in excess of the then current price of our common stock;
- impeding a merger, consolidation, takeover or other business combination involving us, even at a per share price that is in excess of the then current price of our common stock; or
- discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control of us, even at a per share price that is in excess of the then-current price of our common stock.

***We are an “emerging growth company” and a “smaller reporting company”, and we cannot be certain if the reduced disclosure requirements applicable to us will make our common stock less attractive to investors.***

We are an “emerging growth company,” as defined in the JOBS Act, and we intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not “emerging growth companies” including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002 (“the “Sarbanes-Oxley Act”), reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and shareholder approval of any golden parachute payments not previously approved. We cannot predict if investors will find our common stock less attractive if we rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

Even after we no longer qualify as an emerging growth company, we may still qualify as a “smaller reporting company,” which would allow us to take advantage of many of the same exemptions from disclosure requirements including reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements. We would also be exempt from the requirement to obtain an external audit on the effectiveness of internal control over financial reporting provided in Section 404(b) of the Sarbanes Oxley Act. These exemptions and reduced disclosures in our SEC filings due to our status as a smaller reporting company mean our auditors do not review our internal control over financial reporting and may make it harder for investors to analyze our results of operations and financial prospects. We cannot predict if investors will find our common stock less attractive because we may rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock prices may be more volatile.

***Our Amended and Restated Certificate of Incorporation and shareholders agreement contain a provision renouncing our interest and expectancy in certain corporate opportunities.***

Our Amended and Restated Certificate of Incorporation and shareholders agreement provide for the allocation of certain corporate opportunities between us and Electrum and MERS. Under these provisions, neither Electrum nor MERS, their affiliates and subsidiaries, nor any of their officers, directors, agents, stockholders, members or partners will have any duty to refrain from engaging, directly or indirectly, in the same business activities or similar business activities or lines of business in which we operate. For instance, a director of our Company who is not also our employee and also serves as a director, officer or employee of Electrum or MERS or any of their subsidiaries or affiliates may pursue certain acquisition or other opportunities that may be complementary to our business and, as a result, such acquisition or other opportunities may not be available to us. These potential conflicts of interest could have a material adverse effect on our financial performance, financial position and results of operations if attractive corporate opportunities are allocated by Electrum or MERS to themselves or their subsidiaries or affiliates instead of to us.

***Our Amended and Restated Certificate of Incorporation provides that the Court of Chancery of the State of Delaware and the federal district courts of the United States are the exclusive forums for substantially all disputes between us and our stockholders, which could limit our stockholders’ ability to obtain a favorable judicial forum for disputes with us or our directors, officers or employees.***

Our Amended and Restated Certificate of Incorporation provides that the Court of Chancery of the State of Delaware is the exclusive forum for the following types of actions or proceedings under Delaware statutory or common law:

- any derivative action or proceeding brought on our behalf;
- any action asserting a breach of fiduciary duty;
- any action asserting a claim against us arising under the Delaware General Corporation Law; and
- any action asserting a claim against us that is governed by the internal affairs doctrine.

The foregoing provision does not apply to claims under the Securities Act, the Exchange Act or any claim for which the U.S. federal courts have exclusive jurisdiction. Our Amended and Restated Certificate of Incorporation further provides that the federal district courts of the United States will, to the fullest extent permitted by law, be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act.

Our Amended and Restated Certificate of Incorporation also provides that any person or entity purchasing or otherwise acquiring or holding any interest in shares of our capital stock will be deemed to have notice of and to have consented to these choice of forum provisions. These exclusive forum provisions may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers or other employees, which may discourage lawsuits against us and our directors, officers, and other employees, although our stockholders will not be deemed to have waived our compliance with federal securities laws and the rules and regulations thereunder.

While Delaware courts have determined that choice of forum provisions are facially valid, it is possible that a court of law in another jurisdiction could rule that the choice of forum provisions contained in our Amended and Restated Certificate of Incorporation are inapplicable or unenforceable if they are challenged in a proceeding or otherwise. If a court were to find the choice of forum provision in our Amended and Restated Certificate of Incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions.

## **General Risk Factors**

***We will continue to incur significantly increased costs and devote substantial management time as a result of operating as a public company.***

As a public company, we will continue to incur significant legal, accounting and other expenses that we did not incur as a private company. We are subject to the reporting requirements of the Exchange Act, and are required to comply with the applicable requirements of the Sarbanes-Oxley Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act, as well as rules and regulations of the SEC, NYSE and TSX, including the establishment and maintenance of effective disclosure and financial controls, changes in corporate governance practices and required filing of annual, quarterly and current reports with respect to our business and results of operations. Compliance with these requirements has increased and will continue to increase our legal and financial compliance costs and will make some activities more time-consuming and costly. In addition, we expect that our management and other personnel will need to divert attention from operational and other business matters to devote substantial time to these public company requirements. In particular, we expect to incur significant expenses and devote substantial management effort toward ensuring compliance with the requirements of Section 404 of the Sarbanes-Oxley Act, which will increase when we are no longer an emerging growth company. We have hired additional accounting personnel and we may need to hire additional accounting and financial staff with appropriate public company experience and technical accounting knowledge and may need to incur additional costs to ensure we meet the applicable requirements of the Sarbanes-Oxley Act.

***If securities or industry analysts do not continue to publish research or reports about our business, or if they issue an adverse or misleading opinion regarding our stock, our stock price and trading volume could decline.***

The trading market for our common stock is influenced by the research and reports that securities or industry analysts publish about us or our business. If analysts who cover us downgrade our common stock or publish inaccurate or unfavorable research about our business model or our stock performance, or if our results of operations fail to meet the expectations of analysts, the price of our common stock would likely decline. If one or more of these analysts cease coverage of us or fail to publish reports on us regularly, we could lose visibility in the financial markets, which in turn might cause the price of our common stock and trading volume to decline.

## **Item 1B. Unresolved Staff Comments**

Not applicable.

## **Item 2. Properties**

The technical information appearing below and elsewhere in this Form 10-K was derived from the Los Gatos Technical Report dated November 10, 2022, with an effective date of July 1, 2022, and updated with additional information up to the date of this Form 10-K where required

### ***The CLG***

The CLG, operated by GSI and located in Chihuahua, Mexico, is within the LGD, described below. The CLG mineral deposit contains silver, zinc, lead, gold and copper. The deposit that is being mined, and the other deposits known in the area, are considered to be examples of epithermal vein deposits. The economic mineralization at CLG is characterized by silver, lead, zinc and copper sulfides with small amounts of gold. The quartz and calcite veins also contain fluorite, manganese and barite.

Site infrastructure consists of a polymetallic mine and processing facility that currently processes over 2,800 tpd of mined material. The processing methodology used for the CLG's silver-lead-zinc deposit is conventional sequential silver-lead-zinc flotation processing, which includes a grinding circuit, flotation circuit, concentrate and tailing thickeners, concentrate loadout and tailings detoxification. Historically, all tailings were disposed of in the tailings storage facility. With the construction and commissioning of a paste backfill plant completed in December 2022, it is expected that approximately 40% of the final tailings will now be pumped to the paste backfill plant and be used to back fill previously mined stopes and the remaining 60% will be deposited in the tailings storage facility. In addition, a new leaching plant is under construction which is designed to further reduce fluorine levels in zinc concentrates. The leaching plant is expected to be commissioned in the second quarter of 2023. The underground mine and associated life of mine production plans support our expected steady-state production rate of 2,900 tpd of mined material. MPR has arranged permissions to enter and perform exploration and mining activities on several land properties in the project area, including surface rights to access the operating mine and processing and tailings facilities.

In addition to the CLG processing plant and other facilities, the LGJV has a community office located in nearby San José del Sitio, a community of approximately 800 persons, with electrical and water services, an elementary school and basic health services. Water resources in the region are mostly related to the Conchos River Basin, which includes the San Pedro, San Francisco de Borja and Satevó River Sub-Basins. Locally, there are significant amounts of water, with shallow groundwater recorded from most exploration drilling. Other infrastructure at CLG includes administration offices, mine dry, fuel storage, mine maintenance workshop, jaw crushing station, dome-covered crushed ore stockpile, process plant, tailing storage facility, electrical substation, 66 kilometers of power line connecting high voltage to the grid substation at San Francisco de Borja, assay lab, mill maintenance workshop, dewatering wells and water cooling and distribution systems, and residential camps and associated infrastructure. Power to the site is supplied via a 115 kV utility transmission line. This originates from the San Francisco de Borja substation in Satevó (Chihuahua), where a 115 kV connection has recently been installed. In early 2022, the LGJV reached an agreement with a local energy supplier to provide 100% of CLG's electrical power requirements from renewable energy sources, enabling the CLG to significantly reduce its dependency on fossil fuels and materially reducing the mine's carbon footprint. All raw water to meet potable and non-potable water demand is supplied by groundwater pumped from dewatering wells. The well water is cooled to below 40°C prior to use. Sewage water treatment systems were included to handle waste as required on the project.

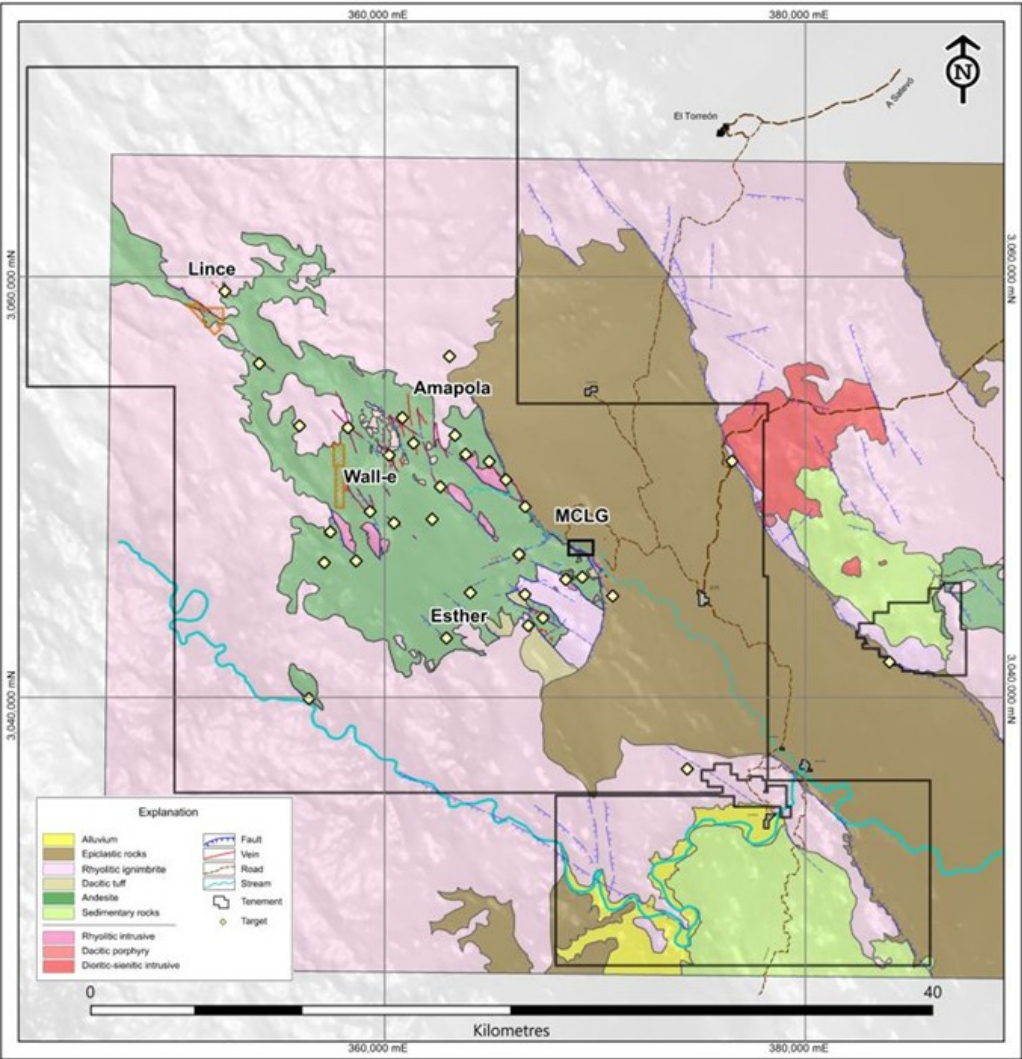
We are committed to safety at the CLG. The CLG is built to higher environmental standards than required by Mexican law, with a fully lined tailings impoundment facility, enclosure of the conveyors and an ore storage dome. The CLG also has state-of-the-art rescue capsules to hoist personnel to surface in the event of an emergency.

Effective as of the date of the Los Gatos Technical Report, the CLG is expected to produce, on average, 7.4 million ounces of silver annually at a low all-in sustaining cost through the LOM. In 2022, the CLG had record silver production of 10.3 million ounces, up 36% from 7.6 million ounces in 2021 and 4.2 million ounces in 2020. Zinc, lead and gold production were 60.7 million pounds, 43.9 million pounds, and 5.3 thousand ounces, respectively. Compared to 2021 zinc production increased by 22% from 49.6 million pounds, lead production by 10% from 39.8 million pounds, and gold production by 2% from 5.2 thousand ounces. In 2020, zinc production was 34.2 million pounds, lead production was 27.4 million pounds and gold 4.9 thousand ounces. In the first quarter of 2023, silver, zinc, lead and gold production were 2.43 million ounces, 14.0 million pounds, 9.5 million pounds, and 1.38 thousand ounces, respectively.

### ***The LGD***

The LGD covers approximately 103,087 hectares in the south-central part of the State of Chihuahua in northern Mexico, within the municipality of Satevó. The LGD is roughly centered on Latitude 27° 34' 17" N, Longitude 106° 21' 33" W, near the town of San José del Sitio. The LGD is located approximately 120 kilometers south of the state capital of Chihuahua City and approximately 100 kilometers northwest of the mining city of Hidalgo del Parral. The LGD is made up of a series of 17 claim titles. These concessions are held by MPR. The concessions have a period of validity that ranges between the years 2054 and 2062. MPR holds the rights to two concessions (comprising approximately 20,000 hectares) subject to the terms of an agreement with the original holder of the concession. MPR has purchased surface lands covering the known extents of the CLG, and Esther Resource areas, totaling 5,479 hectares.

Location of LGD



***Royalty Agreement - La Cuesta International S.A. de C.V. (La Cuesta)***

The LGJV is subject to the terms of an exploration, exploitation and unilateral promise of assignment of rights agreement between La Cuesta International S.A. de C.V. and MPR dated May 4, 2006. The LGJV is required to pay a production royalty of a) 2% net smelter return on production from the concession until all payments reach \$10 million and b) 0.5% net smelter return on production from the concession after total payments have reached \$10 million and c) 0.5% net smelter return on production from other property within a one-kilometer boundary of the Los Gatos concession. After total payments reach \$15 million, the Los Gatos concession ownership will be transferred to the LGJV. The agreement has no expiration date; however, the LGJV may terminate the agreement upon a 30-day notice. The agreement was revised in 2019 to allow a portion of production royalty payments to be deferred. Under the terms of the revised agreement, the LGJV was to pay \$500,000 quarterly through 2021, while incurring interest at 4.5% annually on the outstanding balance, with the balance of the production royalty due in the first quarter of 2022. The agreement was revised further in September 2021, which allowed for payment of the production royalty due and elimination of the interest on the unpaid portion of the production royalty. Following the payment of the balance due in September 2021, the LGJV made its first quarterly payment of the production royalty in October 2021. In May 2022 the production royalty was reduced to 0.5% after total payments reached \$10 million. The LGJV paid \$11.2 million through May 31, 2023.

***Partner Agreement with Dow***

The LGD and the CLG are owned and operated through the Unanimous Omnibus Partner Agreement. Pursuant to this agreement, “Major Decisions” require Dow’s consent. “Major Decisions” include decisions in respect of annual budgets, project financing, capital projects, expansions, major expenditures and other matters. Therefore, despite holding majority equity interest in the LGJV, we do not exercise control over the LGJV. On March 11, 2021, we repurchased an approximate 18.5% interest in the LGJV from Dow, increasing our ownership to 70.0%.

On May 30, 2019, in connection with the memorandum of understanding dated April 16, 2019, we entered into a priority distribution agreement with MPR, OSJ and Dow, pursuant to which we directed the LGJV to contribute dividend payments to an escrow account until an aggregate amount equal to \$20 million has been deposited into the account, which was payable to Dow as a priority dividend.

On March 17, 2022, we entered into a definitive agreement with Dow to build and operate a leaching plant to reduce fluorine levels in zinc concentrates produced at an expected construction cost of \$6 million. As part of the agreement, the initial payment towards the \$20 million priority payment due to Dow under the partner’s priority distribution agreement was reduced to \$10.3 million, after which each partner will retain its pro rata share of any dividends. The reduced priority dividend amount reflects a portion of both the construction and future estimated operating costs of the leaching plant and is dependent on the successful construction and operation of the leaching plant, which is expected to be commissioned in the second quarter of 2023. Should the leaching plant construction not be completed, or the leaching plant not operate according to certain parameters during the first five years, portions of the \$9.7 million priority dividend reduction could be reinstated.

In April 2022, the LGJV paid its first dividend of \$20 million to its partners. After withholding taxes and payment of the initial \$10.3 million priority dividend to Dow, we received \$6 million. In July 2022 and November 2022, the LGJV paid additional dividends in the amount of \$15 million and \$20 million, respectively, to its partners. The Company’s share, after withholding taxes, was \$10 million and \$13.3 million, respectively, for the July 2022 and November 2022 dividend payments.

Under the Unanimous Omnibus Partner Agreement Dow has the right to purchase 100% of the zinc concentrate produced from the CLG, at rates negotiated in good faith and agreed between Dow and us taking into consideration the then prevailing market price based on benchmark terms as reported in industry publications such as Brook Hunt, CRU or Metal Bulletin of London, and to consume or resell or deliver such concentrates for processing by any Dow affiliate or third party.

***Exploration***

Exploration on the LGD property has included geophysical analysis, surface mapping, rock and soil sampling and drilling. As of March 31, 2023, 1,926 drill holes relevant to the LGJV property had been completed by MPR, for a total of 466,104 meters drilled. Drilling has been dominantly by conventional diamond drilling techniques. Surface drillholes are commonly HQ or NQ in diameter. Underground drilling is NQ or LTK48 (35mm) diameter.

As noted above, our exploration strategy for the CLG and the LGD entails a focus on two key areas: an exposed section of andesite running from the northwest boundary of the district to Esther and the CLG, and a large basin southeast of the CLG underlain by andesite which we anticipate may contain other large district-scale fault structures conducive to large deposits. We are currently prioritizing exploration efforts on areas most proximate to the CLG; areas with the highest potential to leverage existing surface and underground infrastructure.

### Mineral Reserves and Resources

The table below summarizes the mineral reserve estimates at the CLG as of July 1, 2022, which includes dilution and recovery factors.

*CLG Mineral Reserve Estimates as of July 1, 2022*

Reserve Classification	Mt	Ag (g/t)	Zn (%)	Pb (%)	Au (g/t)	Ag (Moz)	Zn (Mlbs)	Pb (Mlbs)	Au (koz)
Proven	2.32	309	4.33	2.20	0.31	23.1	221.6	112.3	23.0
Probable	3.75	204	4.57	2.11	0.24	24.6	377.4	174.4	28.7
<b>Proven and Probable Reserve</b>	<b>6.07</b>	<b>244</b>	<b>4.48</b>	<b>2.14</b>	<b>0.27</b>	<b>47.7</b>	<b>599.1</b>	<b>286.7</b>	<b>51.8</b>

1. Mineral Reserves are reported on a 100% basis and exclude all Mineral Reserve material mined prior to July 1, 2022.
2. Specific gravity has been assumed on a dry basis.
3. Tonnage and contained metal have been rounded to reflect the accuracy of the estimate and numbers may not sum exactly.
4. Values are inclusive of mining recovery and dilution. Values are determined as of delivery to the mill and therefore not inclusive of milling recoveries.
5. Mineral Reserves are reported within stope shapes using a variable cut-off basis with a Ag price of US\$22/oz, Zn price of US\$1.20/lb, Pb price of US\$0.90/lb and Au price of US\$1,700/oz. The metal prices used for the Mineral Reserves are based on the three-year trailing prices from June 2019 to June 2020 and long-term analyst consensus estimates for the LOM.
6. The Mineral Reserve is reported on a fully diluted basis defined by mining method, stope geometry and ground conditions.
7. Contained Metal (CM) is calculated as follows:
  - o  $\text{Zn and Pb, CM (Mlb)} = \text{Tonnage (Mt)} * \text{Grade (\%)} / 100 * 2204.6$
  - o  $\text{Ag and Au, CM (Moz)} = \text{Tonnage (Mt)} * \text{Grade (g/t)} / 31.1035$ ; multiply Au CM (Moz) by 1000 to obtain Au CM (koz)
8. The SEC definitions for Mineral Reserves in S-K 1300 were used for Mineral Reserve classification which are consistent with Canadian Institute of Mining, Metallurgy and Petroleum (CIM) Definition Standards for Mineral Resources and Mineral Reserves (CIM (2014) definitions).
9. Mineral Reserves are those parts of Mineral Resources which, after the application of all mining factors, result in an estimated tonnage and grade which, in the opinion of the Qualified Person(s) making the estimates, is the basis of an economically viable project after taking account of all relevant Modifying Factors. Mineral Reserves are inclusive of diluting material that will be mined in conjunction with the Mineral Reserves and delivered to the treatment plant or equivalent facility.
10. Proven Reserves include a 15.4 kt stockpile at June 30, 2022. The in-situ Reserve is 6,052 kt. Rounding and significant figures may result in apparent summation differences between tonnes and grade.
11. The Mineral Reserve estimates were prepared by Mr. Paul Gauthier, P.Eng. an employee of WSP Canada Inc. who is the independent Qualified Person for these Mineral Reserve estimates.

The table below summarizes the mineral resource estimates at the CLG and the Esther deposits as of July 1, 2022.

*Los Gatos District Mineral Resource Estimates Exclusive of Mineral Reserves as of July 1, 2022*

CLG Mineral Resource Estimate

Resource Classification	Mt	Ag (g/t)	Zn (%)	Pb (%)	Au (g/t)	Ag (Moz)	Zn (Mlbs)	Pb (Mlbs)	Au (koz)
Measured	0.38	151	2.63	1.49	0.26	1.9	22.1	12.6	3.2
Indicated	1.55	82	3.11	1.57	0.17	4.1	106.4	53.8	8.6
Measured and Indicated	1.94	96	3.01	1.56	0.19	6.0	128.5	66.4	11.8
Inferred	2.09	113	4.30	2.45	0.20	7.6	198.4	113.1	13.3

1. Mineral Resources are reported on a 100% basis and are exclusive of Mineral Reserves.
2. Mineral Resources, which are not Mineral Reserves, do not have demonstrated economic viability. The estimate of Mineral Resources may be materially affected by environmental, permitting, legal, marketing, or other relevant issues.
3. The SEC definitions for Mineral Resources in S-K 1300 were used for Mineral Resource classification which are consistent with Canadian Institute of Mining, Metallurgy and Petroleum (CIM) Definition Standards for Mineral Resources and Mineral Reserves (CIM (2014) definitions).
4. The quantity and grade of reported Inferred Mineral Resources in this estimation are uncertain in nature and there has been insufficient exploration to define these Inferred Mineral Resources as an Indicated or Measured Mineral Resource. It is uncertain if further exploration will result in upgrading Inferred Mineral Resources to an Indicated or Measured Mineral Resource category.
5. Specific gravity has been assumed on a dry basis.
6. Tonnage and contained metal have been rounded to reflect the accuracy of the estimate and numbers may not sum exactly.
7. Mineral Resources exclude all Mineral Resource material mined prior to July 1, 2022.
8. Mineral Resources are reported within stope shapes using a \$42/tonne or \$52/tonne NSR cut-off basis depending on mining method with an Ag price of \$22/oz, Zn price of \$1.20/lb, Pb price of \$0.90/lb and Au price of \$1,700/oz. The metal prices used for the Mineral Resource are based on the three-year trailing prices from June 2019 to June 2020 and long-term analyst consensus estimates for the LOM.
9. No dilution was applied to the Mineral Resource.
10. Contained Metal (CM) is calculated as follows:
  - Zn and Pb, CM (Mlb) = Tonnage (Mt) \* Grade (%) / 100 \* 2204.6
  - Ag and Au, CM (Moz) = Tonnage (Mt) \* Grade (g/t) / 31.1035; multiply Au CM (Moz) by 1000 to obtain Au CM (koz)
11. The Mineral Resource estimates were prepared by Ronald Turner, MAusIMM(CP) an employee of Golder Associates S.A. who is the independent Qualified Person for these Mineral Resource estimates.

Esther Mineral Resource Estimate

Resource Classification	Mt	Ag (g/t)	Zn (%)	Pb (%)	Au (g/t)	Ag (Moz)	Zn (Mlbs)	Pb (Mlbs)	Au (koz)
Indicated	0.28	122	4.30	2.17	0.14	1.1	26.8	13.6	1.2
Inferred	1.20	133	3.69	1.53	0.09	5.1	98.0	40.6	3.3

1. Mineral Resources are reported on a 100% basis.
2. Mineral Resources, which are not Mineral Reserves, do not have demonstrated economic viability. The estimate of Mineral Resources may be materially affected by environmental, permitting, legal, marketing, or other relevant issues.
3. The SEC definitions for Mineral Resources in S-K 1300 were used for Mineral Resource classification which are consistent with Canadian Institute of Mining, Metallurgy and Petroleum (CIM) Definition Standards for Mineral Resources and Mineral Reserves (CIM (2014) definitions).
4. The quantity and grade of reported Inferred Mineral Resources in this estimation are uncertain in nature and there has been insufficient exploration to define these Inferred Mineral Resources as an Indicated or Measured Mineral Resource. It is uncertain if further exploration will result in upgrading Inferred Mineral Resources to an Indicated or Measured Mineral Resource category.
5. Specific gravity has been assumed on a dry basis.
6. Tonnage and contained metal have been rounded to reflect the accuracy of the estimate and numbers may not sum exactly.

7. Mineral Resources are reported within stope shapes using a \$52/tonne NSR cut-off basis assuming processing recoveries equivalent to CLG with an Ag price of \$22/oz, Zn price of \$1.20/lb, Pb price of \$0.90/lb and Au price of \$1,700/oz. The metal prices used for the Mineral Resource are based on the three-year trailing prices from June 2019 to June 2020 and long-term analyst consensus estimates for the LOM. There is a portion of the Esther deposit that is oxidized and metallurgical test work is required to define processing recoveries.
8. No dilution was applied to the Mineral Resource.
9. Contained Metal (CM) is calculated as follows:
  - o  $\text{Zn and Pb, CM (Mlb)} = \text{Tonnage (Mt)} * \text{Grade (\%)} / 100 * 2204.6$
  - o  $\text{Ag and Au, CM (Moz)} = \text{Tonnage (Mt)} * \text{Grade (g/t)} / 31.1035$  ; multiply Au CM (Moz) by 1000 to obtain Au CM (koz)
10. The Mineral Resource estimates were prepared by Ronald Turner, MAusIMM(CP) an employee of Golder Associates S.A. who is the independent Qualified Person for these Mineral Resource estimates.

#### **Internal Controls**

Exploration and development drilling programs are performed using industry-standard quality control methods for drilling, sampling, and analytical procedures. Standard operating procedure manuals for geology logging, sampling, and assaying are kept at the operations and updated as required. A secure sample chain-of-custody is established to promote the security of samples during transport from the projects to the analytical facilities. Sample preparation and analytical procedures are industry-standard methods for the metals of interest.

Sample batches sent for analysis are controlled by a system of reference samples of known grade inserted into the sample stream and other control samples. Coarse and fine 'blank,' sterile, sample materials are used to monitor contamination at the sample preparation and analytical stages; Standard Reference Materials ("SRM") of known grades are used to measure accuracy of the analytical results; and pulp duplicate samples and field duplicate samples are used to monitor precision of the analytical results. Blanks and SRM are inserted according to the analytical batch size and overall number of samples but normally result in a 1:10 to 1:20 insertion rate.

#### **Item 3. Legal Proceedings**

We are, from time to time, involved in legal proceedings of a nature considered normal to our business. We believe that other than as set out below in this Item none of the litigation in which we are currently involved, or have been involved since the beginning of our most recently completed financial year, individually or in the aggregate, is material to our consolidated financial condition, cash flows or results of operations. However, there can be no assurance as to the outcome of any such legal proceedings, and developments with respect to ongoing legal or regulatory proceedings or new litigation, investigations, regulatory proceedings or other matters may in the future adversely impact our financial condition, cash flows or results of operations.

On February 22, 2022, a purported Company stockholder filed a putative class action lawsuit in the United States District Court for the District of Colorado against the Company, certain of our former officers, and several directors (the "U.S. Class Action"). An amended complaint was filed on August 15, 2022. The amended complaint, allegedly brought on behalf of certain purchasers of the Company's common stock and certain traders of call and put options on the Company's common stock from December 9, 2020 through January 25, 2022, seeks, among other things, damages, costs, and expenses, and asserts claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 as well as Sections 11 and 15 of the Securities Act of 1933. The amended complaint alleges that certain individual defendants and the Company, pursuant to the control and authority of the individual defendants, made false and misleading statements and/or omitted certain material information regarding the mineral resources and reserves at the Cerro Los Gatos mine. The Company and all defendants filed a motion to dismiss this action on October 14, 2022. That motion was fully briefed as of December 23, 2022. On April 26, 2023, following a joint motion, the Court ordered that it would postpone a ruling on defendants' motion to dismiss until on or after June 16, 2023.

On June 13, 2023, we entered into an agreement in principle to settle the U.S. Class Action. Subject to certain conditions, including class certification by the District Court, the execution of a definitive stipulation of settlement and approval of the settlement by the District Court, the settling parties have agreed to resolve the U.S. Class Action for a payment by us and our insurers of \$21.0 million to a settlement fund. We are in the process of finalizing the amount of expenses incurred that are covered under the directors' and officers' insurance policy which will be deducted from the \$10.0 million retention held by the Company. We expect to fund no more than \$7.9 million of the settlement, with the balance of the settlement payment to be paid by insurance. We and the other defendants will not admit any liability as part of the settlement. Since the settlement of the U.S. Class Action is subject to conditions, there can be no assurance that the U.S. Class Action will be finally resolved pursuant to the agreement in principle that has been reached.

By Notice of Action issued February 9, 2022 and subsequent Statement of Claim dated March 11, 2022 Izabela Przybylska commenced a putative class action against the Company, certain of its former officers and directors, and others in the Ontario Superior Court of Justice on behalf of a purported class of all persons or entities, wherever they may reside or be domiciled, who acquired securities of the Company in both the primary and secondary markets during the period from October 28, 2020 until January 25, 2022. The action asserts claims under Canadian securities legislation and at common law and seeks unspecified monetary damages and other relief in respect of allegations the defendants made false and misleading statements and omitted material information regarding the mineral resources and reserves of the Company. The plaintiff filed motion materials for leave to proceed in respect of her statutory claims and for class certification on March 3, 2023, which materials were amended and filed on May 1, 2023. The court has tentatively set dates in late March of 2024 for the hearing of the plaintiff's motions.

There can be no assurance that any of the foregoing matters individually or in aggregate will not result in outcomes that are materially adverse for us.

#### **Item 4. Mine Safety Disclosures**

The provisions related to Item 4 are currently inapplicable to the Company as we have no operating properties in the United States.

## PART II

### Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

#### Market Information

The Company’s common stock is listed on the New York Stock Exchange and the Toronto Stock Exchange under the ticker symbol “GATO”.

#### Holders

On June 21, 2023, there were 69,162,223 outstanding shares of the Company’s common stock which were held by approximately 38 stockholders of record. The actual number of holders of the Company’s common stock is greater than the number of record holders, and includes stockholders who are beneficial owners, if any, the Company’s financial condition, and other factors as deemed relevant by the Company’s Board of Directors. In addition, our Credit Facility contains, and any of our future contractual arrangements may contain, restrictions on our ability to pay cash dividends on our capital stock.

#### Dividends

The Company has not declared any dividends since incorporation and does not anticipate that it will do so in the foreseeable future. The present policy of the Company is to retain earnings for use in its operations and expansion of its business. Payment of any dividends will depend upon the Company’s future earnings, if any, the Company’s financial condition, and other factors as deemed relevant by the Company’s Board of Directors. In addition, our Credit Facility contains, and any of our future contractual arrangements may contain, restrictions on our ability to pay cash dividends on our capital stock.

#### Securities Authorized for Issuance Under Equity Compensation Plans

The Company has an equity compensation plan under which options and shares of the Company’s common stock are authorized for grant or issuance as compensation to eligible employees, consultants, and members of the Board of Directors. The Company’s stockholders have approved these plans. The following table is a summary of the shares of common stock authorized for issuance under equity compensation plans as of December 31, 2022:

Plan Category	(a) Number of securities to be issued upon exercise of outstanding options, warrants and rights	(b) Weighted-average exercise price of outstanding options, warrants and rights	(c) Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans not approved by security holders:	—	—	—
Equity compensation plans approved by security holders:			
Equity Incentive Compensation Plan <sup>(1)</sup>			
Deferred stock units <sup>(2)</sup>	146,796	N/A	
Stock options <sup>(3)</sup>	1,733,923	\$ 12.57	
Performance share units <sup>(4)</sup>	42,893	N/A	
<b>Total for Equity Incentive Compensation Plan</b>	<b>1,923,612</b>	<b>\$ —</b>	<b>12,314,203</b>

(1) In October 2020, the Board of Directors approved the Amended and Restated Long-Term Incentive Plan (“LTIP”) to authorize the issuance of stock options, stock appreciation rights, stock awards, deferred stock units, cash awards and performance awards to NEOs, other employees, consultants and non-employee directors.

(2) DSUs do not have exercise prices associated with them, but rather a fair value that equaled the Company’s common stock fair value on grant date. The weighted-average per unit fair value for the outstanding DSUs is \$10.88.

(3) The Company’s stock options have a contractual term of 10 years and entitle the holder to purchase one share of the Company’s common stock.

## Unregistered Sales of Equity Securities

During the year ended December 31, 2022, the Company did not issue any shares of its common stock or other equity securities that were not registered under the Securities Act of 1933, as amended.

## Purchase of Equity Securities by the Issuer and Affiliated Purchasers

During the year ended December 31, 2022, there were no purchases made by or on behalf of the Company or any affiliated purchaser of the Company's common stock.

## Item 6. [Reserved]

Not applicable.

## Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our consolidated financial statements and related notes included in "Item 8. Financial Statements and Supplementary Data" and the other information included elsewhere in this Report.*

### Overview

We are a Canadian-headquartered, Delaware-incorporated precious metals exploration, development and production company with the objective of becoming a leading silver producer. Our primary efforts are focused on the operation of the LGJV in Chihuahua, Mexico. The LGJV was formed on January 1, 2015, when we entered into the Unanimous Omnibus Partner Agreement with Dowa to further explore, and potentially develop and operate mining properties within the LGD. The LGJV Entities own certain surface and mineral rights associated with the LGD. The LGJV ownership is currently 70% Gatos Silver and 30% Dowa. On September 1, 2019, the LGJV commenced commercial production at CLG, which produces a silver containing lead concentrate and zinc concentrate. We are currently focused on the production and continued development of the CLG and the further exploration and development of the LGD.

### 2022 Key Highlights

#### *Gatos Silver*

- Net income increased to \$14.5 million or \$0.21 per share (basic and diluted) for 2022, up from a net loss of \$65.9 million or (\$1.03) per share basis (basic and diluted) incurred in 2021;
- The LGJV paid dividends to its partners totaling \$55 million during 2022, of which the Company's share was \$29.2 million, net of withholding taxes and after the initial priority distribution payment to Dowa;
- On December 19, 2022, we entered into an amended and restated Credit Facility with BMO extending the maturity date and re-establishing a credit limit of \$50 million, with an accordion feature;
- During December 2022, we repaid \$4.0 million of the Credit Facility, reducing the outstanding balance to \$9.0 million with \$41.0 million available for drawdown in the future; and
- We relocated our corporate office to Vancouver, British Columbia, and strengthened the executive management team with the appointments of a new Chief Financial Officer, a General Counsel and a Senior Vice President, Corporate Development and Technical Services, all with extensive experience working for multi-mine companies.

#### *LGJV (100% basis)*

- Net income of \$72.2 million in 2022, down 8% from \$78.6 million in 2021, primarily due to higher income taxes;
- Cash flow from operations of \$157.4 million in 2022, up 31% from \$119.8 million in 2021;

- Revenues totaled \$311.7 million for 2022, a 25% increase over 2021, as a result of higher sales volumes driven by record production and partly offset by lower silver prices;
- Cost of sales totaled \$107.1 million for 2022, 10% increase over 2021, primarily due to increased production. Co-product cash cost per ounce of payable silver equivalent of \$9.41 and by-product cash cost per ounce of payable silver of \$2.17, decreased 24% and 56%, respectively, from 2021;
- Achieved record processing throughput of 971,595 tonnes, averaging 2,662 tpd and over 2,800 tpd in the fourth quarter of 2022, exceeding the 2,500 tpd design rate, despite a temporary blasting suspension in the mine for over two weeks starting in late April 2022;
- Recoveries achieved or exceeded design rates for payable metals with silver recovery averaging 89.8%, zinc recovery averaging 64.8% and lead recovery averaging 88.7%;
- Completed a robust re-estimation of the Company's mineral resource and mineral reserve with published Los Gatos Technical Report; and
- Discovered a large zone of mineralization known as South-East Deeps that extends 415m below the reported reserve.

## **Components of Results of Operations**

### ***Operating Expenses***

#### ***Exploration Expenses***

We conduct exploration activities under mining concessions in Mexico. Exploration expenses primarily consist of drilling costs, lease concession payments, assay costs and geological and support costs at our exploration properties.

#### ***General and Administrative Expenses***

Our general and administrative expenses consist of salaries and benefits, stock compensation, professional and consultant fees, and insurance, compliance and corporate governance, accounting and audit, stock exchange listing fees and other general administration costs.

### ***Equity Income in Affiliates***

Our equity income in affiliates relates to our proportional share of net income from the LGJV and the amortization of the basis difference between our investment in the LGJV and the net assets of the LGJV.

### ***Impairment of Investment in Affiliates***

A loss in value of an investment that is other than a temporary decline shall be recognized. On November 10, 2022, the Company issued an updated technical report for the LGJV, the Los Gatos Technical Report. The Los Gatos Technical Report indicated a significant decrease in the mineral reserves and mineral resources from the previously issued technical report in 2020. The Company considered this reduction in the mineral reserve and mineral resources as an indicator of a possible other-than-temporary decline in value and as a result compared the carrying value of the LGJV on December 31, 2021 to the fair value of the LGJV. The fair value of the LGJV was estimated based on the net present value of the expected cash flows to be generated by the LGJV on 70% basis. The discount rate used was 5.00%. The Company recorded an impairment of the investment in affiliate at December 31, 2021. There were no indicators of an other-than-temporary decline in value at December 31, 2022.

### ***LGJV Arrangement Fee***

Our LGJV arrangement fee consisted of arrangement fees related to the WCF and the Term Loan with Dowia prior to their extinguishment on March 11, 2021, and July 26, 2021, respectively. We did not incur LGJV arrangement fees beyond July 26, 2021.

## Income Taxes

As we have incurred substantial losses from our exploration and pre-development activities, we may receive future benefits in the form of deferred tax assets that can reduce our future income tax liabilities, if it is more likely than not that the benefit will be realized before expiration. As at December 31, 2022, a deferred tax liability of \$1.4 million was recognized at the LGJV in comparison to a deferred tax asset of \$17.4 million in 2021.

## Royalties

Exploration activities are conducted on the mining concessions in Mexico. Mineral and concession lease payments are required to be paid to various entities to secure the appropriate claims or surface rights. Certain of these agreements also have royalty payments that were triggered when the LGJV began producing and selling lead and zinc concentrates.

## Other Income

The Company incurs costs to assist with the management and administration of the LGJV, these costs are included in general and administrative expense. For these management services, the Company earns a management fee which is included in Other income.

## Results of Operations

### Results of operations Gatos Silver

The following table presents certain information relating to our operating results for the years ended December 31, 2022 and 2021. In accordance with generally accepted accounting principles in the United States ("U.S. GAAP"), these financial results represent the consolidated results of operations of our Company and its subsidiaries (in thousands).

	Years Ended December 31,	
	2022	2021
<b>Expenses</b>		
Exploration	\$ 110	\$ 1,657
General and administrative	25,468	21,447
Amortization	180	89
Total expenses	25,758	23,193
<b>Other income (expense)</b>		
Equity income in affiliates	45,230	42,804
Impairment of investment in affiliates	—	(80,348)
Legal settlement loss	(7,900)	
Arrangement fees	—	(195)
Interest expense	(433)	(185)
Other income (expense)	4,955	(4,738)
Total other income (expense)	41,852	(42,662)
<b>Income (loss) before taxes</b>	16,094	(65,855)
Income tax expense	1,565	—
<b>Net income (loss)</b>	\$ 14,529	\$ (65,855)

### Year Ended December 31, 2022, Compared to Year Ended December 31, 2021

#### Exploration

Exploration costs incurred during 2022 decreased by approximately \$1.5 million compared to 2021, mainly due to limited exploration drilling and sampling performed on the Company-owned Santa Valeria property as exploration was concentrated on the LGJV property.

#### General and administrative expenses

During 2022, we incurred general and administration expense of \$25.5 million compared to \$21.4 million in 2021. The \$4.1 million increase is primarily due to several items associated with the new mineral resource and reserve technical reports and change in

auditors, including higher consulting, legal and audit fees. The Company also incurs expenses related to providing management and administration services to the LGJV, for which it receives a management fee, included in Other Income (\$5.0 million for each of the years ended December 31, 2022 and 2021).

*Equity income in affiliates*

The improvement in equity income, for 2022 compared to 2021, resulted primarily from the improved performance of the LGJV. See “Results of Operations LGJV.”

*Impairment of investment in affiliates*

For the year ended December 31, 2022, there were no indicators of an other-than-temporary decline in value of the investment in affiliate; therefore, no impairment charge was recorded.

On November 10, 2022, we provided an updated technical report for the LGJV, the Los Gatos Technical Report. The Los Gatos Technical Report indicated a significant decrease in the mineral reserve and mineral resource from the previously issued technical report in 2020. We considered this reduction in the mineral reserve and mineral resources as an indicator of a possible other-than-temporary impairment and as a result compared the carrying value of the LGJV on December 31, 2021, to the fair value of the LGJV.

*Legal settlement loss*

We entered into an agreement in principle to settle the U.S. Class Action. Subject to certain conditions, including class certification by the District Court, the execution of a definitive stipulation of settlement and approval of the settlement by the District Court, the settling parties have agreed to resolve the U.S. Class Action for a payment by us and our insurers of \$21 million to a settlement fund. We are in the process of finalizing legal expenses that will be covered under the directors’ and officers’ insurance policy which will be deducted from the \$10 million retention payable by the Company. We expect to fund no more than \$7.9 million of the settlement, with the balance of the settlement payment to be paid by insurance. We and the other defendants will not admit any liability as part of the settlement. Since the settlement of the U.S. Class Action is subject to conditions, there can be no assurance that the U.S. Class Action will be finally resolved pursuant to the agreement in principle that has been reached.

*Other income (expense)*

The \$9.7 million change in other income (expense) for the year ended December 31, 2022, compared to the year ended December 31, 2021, was mainly due to a \$10.0 million fee paid to Dowa in conjunction with the Term Loan repayment in 2021.

*Net income (loss)*

For the year ended December 31, 2022, we recorded a net income of \$14.5 million compared to a net loss of \$65.9 million for the year ended December 31, 2021. The change in net loss in 2022 compared to 2021 was primarily due to the absence of impairment of investment in affiliates, a significant increase in equity income in affiliates, an increase in other income, and offset by a legal settlement loss of \$7.9 million arising from legal class action, and a slight increase in general and administrative expense.

### Results of operations LGJV

The following table presents operational information and select financial information of the LGJV for the years ended December 31, 2022 and 2021. The financial information is extracted from the Combined Statements of Income for the years ended December 31, 2022 and 2021. The financial and operational information of the LGJV and CLG is shown on a 100% basis. As of December 31, 2022, our ownership of the LGJV was 70.0%.

Financial Amounts in thousands	Year Ended December 31,	
	2022	2021
<b>Revenue</b>	\$ 311,724	\$ 249,194
Cost of sales	107,075	97,710
Royalties	3,069	4,781
Exploration	9,800	5,383
General and administrative	14,307	13,345
Depreciation, depletion and amortization	69,380	52,402
Total other income (expense)	1,429	(12,086)
Income tax (expense) recovery	(37,306)	15,097
<b>Net income</b>	\$ 72,216	\$ 78,584
Sustaining capital	76,526	72,979
<b>Operating Results</b>		
Tonnes milled (dmt)	971,595	909,586
Tonnes milled per day (dmt)	2,662	2,492
Average Grades		
Silver grade (g/t)	368	295
Gold grade (g/t)	0.33	0.32
Lead grade (%)	2.31	2.27
Zinc grade (%)	4.37	3.94
Contained Metal		
Silver ounces (millions)	10.3	7.6
Zinc pounds - in zinc conc. (millions)	60.7	49.6
Lead pounds - in lead conc. (millions)	43.9	39.8
Gold ounces - in lead conc. (thousands)	5.3	5.2
Recoveries <sup>1</sup>		
Silver - in both lead and zinc concentrates	89.8 %	88.3 %
Zinc - in zinc concentrate	64.8 %	62.9 %
Lead - in lead concentrate	88.7 %	87.6 %
Gold - in lead concentrate	52.0 %	56.3 %
Average realized price per silver ounce	\$ 20.72	\$ 24.38
Average realized price per gold ounce	\$ 1,678	\$ 1,761
Average realized price per lead pound	\$ 0.90	\$ 1.01
Average realized price per zinc pound	\$ 1.58	\$ 1.38
Co-product cash cost per ounce of payable silver equivalent	\$ 9.41	\$ 12.44
By-product cash cost per ounce of payable silver	\$ 2.17	\$ 4.98
Co-product AISC per ounce of payable silver equivalent <sup>2</sup>	\$ 14.33	\$ 19.05
By-product AISC per ounce of payable silver <sup>2</sup>	\$ 10.24	\$ 15.72

(1) Recoveries are reported for payable metals in the identified concentrate. Recoveries reported previously were based on total metal in both concentrates.

(2) See "Non-GAAP Financial Measures" below.

(3) Realized prices include the impact of final settlement adjustments from sales of previous periods.

**LGJV**

**Year Ended December 31, 2022, Compared to Year Ended December 31, 2021**

*Revenue*

Revenue increased by 25% in 2022 compared to 2021, as a result of higher production and concentrate sales, which was partly offset by lower realized silver prices. Production of silver, zinc, lead and gold were higher primarily due to higher mill throughput and higher ore grades. Lead and zinc concentrate production increased 10% and 22%, respectively, and silver, lead and zinc ore grades increased 25%, 2% and 11%, respectively.

*Cost of sales*

Cost of sales increased by 10% in 2022 compared to 2021, primarily as a result of increased mining and milling rates, production and the related increase in equipment maintenance costs, cost of materials and supplies and higher power costs. Co-product cash cost per ounce of payable silver equivalent and by-product cash cost per ounce of payable silver decreased by 24% and 56% respectively, to \$9.41 and \$2.17, respectively, for the year ended 2022.

*Royalties*

Royalty expense decreased by \$1.7 million in 2022 compared to 2021 due to the decrease in the royalty rate upon achieving a payment threshold per the royalty agreement.

*Exploration*

Exploration expenditure increased by \$4.4 million in 2022 as a result of increased surface drilling around CLG, Esther and Greenfields exploration targets. The dominant focus for drilling was at CLG aiming to convert Inferred Resources to Indicated and to expand the Inferred Resource base, particularly in the South-East Deeps area.

*General and administrative*

General and administrative expenses for 2022 were 7% higher than in 2021, primarily due to inflation.

*Depreciation, depletion and amortization*

Depreciation, depletion, and amortization expense increased by approximately 32% year over year primarily as a result of an increase in tonnes mined as well as the decrease in the mineral reserve and mine life based on the Los Gatos Technical Report, which reduced the basis for the depreciation.

*Other income (expense)*

Other income (expense) changed primarily due to the retirement of the WCF and the Term Loan in March and July 2021, respectively.

*Income tax (expense) recovery*

In 2022, the LGJV had income tax expense of \$37.3 million due to increased income and the absence of loss carryforwards. In 2021, the LGJV recognized an income tax benefit due to the release of the full valuation allowance on its deferred tax assets which was partly offset by the current income tax expense recorded in 2021.

*Net Income*

For the year ended December 31, 2022, the LGJV had net income of \$72.2 million compared to net income of \$78.6 million for the year ended December 31, 2021. The change in net income was primarily due to income tax expense of \$37.3 million in 2022, compared to income tax benefit of \$15.1 million in 2021, partly offset by increase in revenue driven by higher production and sales during 2022.

### *Sustaining capital*

During the year ended December 31, 2022, the sustaining capital expenditures primarily consisted of \$27.1 million of mine development, \$19.5 million on the construction of the paste-fill plant, \$8.2 million on the construction of the raise of the tailings storage facility, \$3.5 million for the purchase of mining equipment, \$2.9 million on underground power distribution infrastructure and \$2.6 million on the construction of a ventilation raise. During the year ended December 31, 2021, major sustaining capital expenditures included \$30.6 million of mine development, \$11.4 million on processing plant and tailings storage facility, \$3.6 million for the construction of a ventilation raise, \$3.3 million for the purchase of mining equipment, \$5.8 million on underground power distribution infrastructure and \$9.4 million on the construction of dewatering wells.

### **Cash Flows**

#### ***Gatos Silver***

The following table presents our cash flows for the years ended December 31, 2022 and 2021.

	<b>Years Ended December 31,</b>	
	<b>2022</b>	<b>2021</b>
	<b>(in thousands)</b>	
<b>Net cash generated from (used by)</b>		
Operating activities	\$ 14,554	\$ (21,485)
Investing activities	(60)	(261,439)
Financing activities	(4,106)	139,394
Total change in cash	\$ 10,388	\$ (143,530)

Cash flow from operating activities was \$14.6 million in the year ended December 31, 2022, compared to cash used by operating activities of \$21.5 million for the year ended December 31, 2021. The \$36.1 million increase in cash flow was primarily due to \$30.8 million in dividends received from affiliates.

Cash used by investing activities was \$0.1 million in 2022, compared to \$261.4 million in 2021. The \$261.3 million decrease in cash used by investing activities was primarily due to the \$186.8 million in capital contributions made to the LGJV and \$71.6 million acquisition of an additional 18.5% interest in the LGJV from Dowia in 2021. There were no contributions made to the LGJV in 2022.

Cash used by financing activities was \$4.1 million in 2022, compared to cash flow from financing activities of \$139.4 million in 2021. Cash used by financing activities in 2022 primarily consisted of a \$4.0 million partial repayment of the Credit Facility. Cash provided by financing activities in 2021, primarily reflected the \$121.0 million in net proceeds from the issuance of common stock in a follow-on public offering and the \$13.0 million in borrowings under the Credit Facility.

#### ***LGJV***

The following table presents summarized information relating to the LGJV's cash flows for years ended December 31, 2022 and 2021.

	<b>Years Ended December 31,</b>	
	<b>2022</b>	<b>2021</b>
<b>Net cash provided by (used by)</b>		
Operating activities	\$ 157,374	\$ 119,787
Investing activities	(82,279)	(79,045)
Financing activities	(60,439)	(22,138)
Total change in cash	\$ 14,656	\$ 18,604

Cash provided by operating activities was \$157.4 million and \$119.8 million for the years ended December 31, 2022 and 2021, respectively. The \$37.6 million increase in cash provided by operating activities was primarily due to the increase in revenue as a result of higher concentrate sales due to higher processed ore tonnes and higher ore grades for the year ended December 31, 2022, compared to the prior year, partly offset by lower silver prices.

Cash used by investing activities was \$82.3 million and \$79.0 million for the years ended December 31, 2022, and 2021, respectively. The \$3.3 million increase in cash used was primarily due to higher expenditures for property, plant and equipment.

Cash used by financing activities was \$60.4 million and \$22.1 million for the years ended December 31, 2022 and 2021, respectively. During 2022 the LGJV distributed \$55 million to the joint venture partners and made \$5.4 million in equipment loan payments. During 2021, the LGJV paid \$144.8 million to retire the Term Loan in July 2021, \$60.0 million for the extinguishment of the WCF in March 2021, a \$15.9 million Term Loan payment in June 2021, and \$7.0 million in equipment loan payments, partly offset by the \$207.2 million of capital contributions from the joint venture partners.

### **Liquidity and Capital Resources**

As of December 31, 2022 and 2021, the Company had cash and cash equivalents of \$17.0 million and \$6.6 million, respectively. The increase in cash and cash equivalents was primarily due to receipt of \$29.2 million in dividends net of withholding taxes from the LGJV, offset by higher general and administrative costs incurred in the year.

### **Sources and Uses of Capital Resources**

As at May 31, 2023, our cash and cash equivalents are \$10.5 million and we have \$41 million available to be drawn under the Credit Facility. The LGJV had cash and cash equivalents of \$78.9 million. We believe we have sufficient cash and access to borrowings and other resources to carry out our business plans for at least the next 12 months. We may decide to increase our current financial resources with external financings if our long-term business needs require us to do so however there can be no assurance that the financing will be available to us on acceptable terms, or at all. We manage liquidity risk through our credit facility and the management of our capital structure.

We may be required to provide funds to the LGJV to support operations at the CLG which, depending upon the circumstances, may be in the form of equity, various forms of debt, joint venture funding or some combination thereof. There can be no assurance that additional funds will be available to us on acceptable terms, or at all. If we raise additional funds by issuing equity or convertible debt securities, substantial dilution to existing stockholders may result. Additionally, if we raise additional funds by incurring new debt obligations, the terms of the debt may require significant cash payment obligations, as well as covenants and specific financial ratios that may restrict our ability to operate our business.

### **Indebtedness and Lines of Credit**

On December 19, 2022, we entered into an amended and restated Credit Facility with BMO, under which we have a credit limit of \$50.0 million, with an accordion feature providing up to an additional \$25.0 million, subject to certain conditions. Borrowings under the Credit Facility:

- mature on December 31, 2025, and
- bear interest at a rate equal to either a term SOFR rate plus a margin ranging from 3.00% to 4.00% or a U.S. base rate plus a margin ranging from 2.00% to 3.00%, at our option.

The Credit Facility contains affirmative and negative covenants that are customary for agreements of this nature. The affirmative covenants require the Company to comply, at all times, with, among other things, a Leverage Ratio not greater than 3.00 to 1.00, with earnings before interest, tax, depletion depreciation and amortization calculated upon a trailing four fiscal quarter period, a liquidity covenant not less than \$20.0 million and an interest coverage ratio not less than 4.00 to 1.00 calculated based on a trailing four fiscal quarter period. The negative covenants include, among other things, limitations on certain specified asset sales, mergers, acquisitions, indebtedness, liens, dividends and distributions, investments and transactions with affiliates. As of December 31, 2022, we had \$9.0 million of borrowings outstanding under the Credit Facility. On April 13, 2023, the Company extended its waiver agreement with BMO whereby the restated audited financial statements for fiscal year 2021, the audited financial statements for fiscal year 2022 and restated unaudited financial statements for the first three fiscal quarters in fiscal year 2022 are to be provided no later than April 30, 2023. The waiver was subsequently extended for the above mentioned financial statements to be provided no later than July 15, 2023.

## **Contractual Obligations**

We and the LGJV entered into commitments with federal and state agencies to lease surface and mineral rights in Mexico related to our exploration activities. These leases are renewable annually.

## **Critical Accounting Policies**

Listed below are the accounting policies that we believe are critical to our financial statements due to the degree of uncertainty regarding the estimates or assumptions involved and the magnitude of the asset, liability or expense that is being reported. For a discussion of recent accounting pronouncements, see Note 2 - Summary of Significant Accounting Policies in the notes to the consolidated financial statements.

### ***Equity Method Investment***

We account for our investment in affiliates using the equity method of accounting whereby, after valuing the initial investment, we recognize our proportional share of results of operations of the affiliate in its consolidated financial statements. The value of equity method investments are adjusted if it is determined that there is an other-than-temporary decline in value. The Company reviews equity method investments for an other-than-temporary decline in value when events or circumstances indicate that a decline in the fair value of the investment below its carrying value is other-than-temporary. Our investment in the LGJV is presented as investment in affiliates in the consolidated balance sheet. The difference between the carrying amount of the investment in affiliates and our equity in the LGJV's net assets is due to value of mineral resources at MPR. We have historically incurred certain costs on behalf of the LGJV, primarily related to a project development loan arrangement fee, and may incur such fees from time to time in the future. Our proportional share of such costs are reported as an investment in affiliate and the residual costs, related to Dow's proportional ownership, are reported in the statement of income (loss).

### ***Mineral Properties and Carrying Value of Long-Lived Assets (LGJV)***

Mineral property acquisition costs are recorded at cost and are deferred until the viability of the property is determined. Exploration, mineral property evaluation, option payments, related acquisition costs for mineral properties acquired under option agreements, general overhead, administrative and holding costs to maintain a property on a care and maintenance basis are expensed in the period they are incurred. When proven and probable mineral reserves are determined for a property, subsequent development costs on the property are capitalized. If a project were to be put into production, capitalized development costs would be depleted on the units of production basis determined by the proven and probable mineral reserves for that project.

Existing proven and probable mineral reserves and value beyond proven and probable mineral reserves, including mineralization other than proven and probable mineral reserves and other material that is not part of the measured, indicated or inferred resource base, are included when determining the fair value of mine site reporting units at acquisition and, subsequently, in determining whether the assets are impaired. The term "recoverable minerals" refers to the estimated amount of silver and other commodities that will be obtained after taking into account losses during mining, mineral resources processing and treatment and ultimate sale. Estimates of recoverable minerals from such exploration-stage mineral interests are risk-adjusted based on management's relative confidence in such materials. In estimating future cash flows, assets are grouped at the lowest levels for which there are identifiable cash flows that are largely independent of future cash flows from other asset groups. We review and evaluate our long-lived assets for impairment when events or changes in circumstances indicate that the related carrying amounts may not be recoverable. Asset impairment is considered to exist if the total estimated future cash flows on an undiscounted basis are less than the carrying amount of the asset. An impairment loss is measured and recorded based on discounted estimated future cash flows. Future cash flows are estimated based on estimated quantities of recoverable minerals, expected silver and other commodity prices (considering current and historical prices, trends and related factors), production levels, operating costs, capital requirements and reclamation costs, all based on LOM plans. No impairment tests have been required during the periods presented.

Various factors could impact our ability to achieve our forecasted production schedules from proven and probable mineral reserves. Additionally, production, capital and reclamation costs could differ from the assumptions used in the cash flow models used to assess impairment. The ability to achieve the estimated quantities of recoverable minerals from exploration-stage mineral interests involves further risks in addition to those factors applicable to mineral interests where proven and probable mineral reserves have been identified, due to the lower level of confidence that the identified mineral resources could ultimately be mined economically. Assets classified as exploration potential have the highest level of risk that the carrying value of the asset can be ultimately realized, due to the still lower level of geological confidence and economic modeling.

### ***Income and Mining Taxes***

We recognize the expected future tax benefit from deferred tax assets when the tax benefit is considered to be more likely than not of being realized. Assessing the recoverability of deferred tax assets requires management to make significant estimates related to expectations of future taxable income. Estimates of future taxable income are based on forecasted cash flows and the application of existing tax laws in the United States and Mexico. Refer to “Critical Accounting Policies-Mineral Properties and Carrying Value of Long-Lived Assets” above for a discussion of the factors that could cause future cash flows to differ from estimates. To the extent that future cash flows and taxable income differ significantly from estimates, our ability to realize deferred tax assets recorded at the balance sheet date could be impacted. Additionally, future changes in tax laws in the jurisdictions in which we operate could limit our ability to obtain the future tax benefits represented by our deferred tax assets recorded at the reporting date.

Our properties involve dealing with uncertainties and judgments in the application of complex tax regulations in multiple jurisdictions. The final taxes paid are dependent upon many factors, including negotiations with taxing authorities in various jurisdictions and resolution of disputes arising from federal, state and Mexico tax audits. We recognize potential liabilities and record tax liabilities for anticipated tax audit issues, if any, in the United States and other tax jurisdictions based on our estimate of whether, and the extent to which, additional taxes will be due. We adjust these reserves in light of changing facts and circumstances; however, due to the complexity of some of these uncertainties, the ultimate resolution may result in a payment that is materially different from our current estimate of the tax liabilities. If our estimate of tax liabilities proves to be less than the ultimate assessment, an additional charge to expense would result. If an estimate of tax liabilities proves to be greater than the ultimate assessment, a tax benefit would result. We recognize interest and penalties, if any, related to unrecognized tax benefits in income tax expense.

### ***Recently Issued and Adopted Accounting Pronouncements***

Refer to Note 2 of our consolidated financial statements included in “Item 8. Financial Statements and Supplementary Data” for recently adopted accounting pronouncements and recently issued accounting pronouncements not yet adopted as of the date of this Report.

### ***Jumpstart Our Business Startups Act of 2012***

The Jumpstart Our Business Startups Act of 2012 (the “JOBS Act”) permits us, as an “emerging growth company,” to, among other things, take advantage of an extended transition period to comply with new or revised accounting standards applicable to public companies. We have elected to “opt out” of this provision and, as a result, we will comply with new or revised accounting standards on the relevant dates on which adoption of such standards is required for public companies that are not emerging growth companies. The decision to opt out of the extended transition period under the JOBS Act is irrevocable.

### ***Non-GAAP Financial Measures***

We use certain measures that are not defined by GAAP to evaluate various aspects of our business. These non-GAAP financial measures are intended to provide additional information only and do not have any standardized meaning prescribed by GAAP and should not be considered in isolation or as a substitute for measures of performance prepared in accordance with GAAP. The measures are not necessarily indicative of operating profit or cash flow from operations as determined under GAAP.

### ***Cash Costs and All-In Sustaining Costs***

Cash costs and all-in sustaining costs (“AISC”) are non-GAAP measures. AISC was calculated based on guidance provided by the World Gold Council (“WGC”). WGC is not a regulatory industry organization and does not have the authority to develop accounting standards for disclosure requirements. Other mining companies may calculate AISC differently as a result of differences in underlying accounting principles and policies applied, as well as definitional differences of sustaining versus expansionary (i.e. non-sustaining) capital expenditures based upon each company’s internal policies. Current GAAP measures used in the mining industry, such as cost of sales, do not capture all of the expenditures incurred to discover, develop and sustain production. Therefore, we believe that cash costs and AISC are non-GAAP measures that provide additional information to management, investors and analysts that aid in the understanding of the economics of the Company’s operations and performance and provides investors visibility by better defining the total costs associated with production.

Cash costs include all direct and indirect operating cash costs related directly to the physical activities of producing metals, including mining, processing and other plant costs, treatment and refining costs, general and administrative costs, royalties and mining production taxes. AISC includes total production cash costs incurred at the LGJV's mining operations plus sustaining capital expenditures. The Company believes this measure represents the total sustainable costs of producing silver from current operations and provides additional information of the LGJV's operational performance and ability to generate cash flows. As the measure seeks to reflect the full cost of silver production from current operations, new project and expansionary capital at current operations are not included. Certain cash expenditures such as new project spending, tax payments, dividends, and financing costs are not included.

#### **Reconciliation of expenses (GAAP) to non-GAAP measures**

The table below presents a reconciliation between the most comparable GAAP measure of the LGJV's expenses to the non-GAAP measures of (i) cash costs, (ii) cash costs, net of by-product credits, (iii) co-product all-in sustaining costs and (iv) by-product all-in sustaining costs for our operations.

The calculations for determining co-product and by-product cash cost and co-product and by-product AISC per ounce were updated to include period end accruals for sales (both volume and value for payable metals). In addition, the calculation for determining silver equivalent ounces used for co-product cash cost per ounce and co-product AISC per ounce was updated to include final settlements in the calculation of the realized metal prices. The prior period comparatives were updated to reflect this change however the cash cost and AISC per ounce calculated on this basis is not materially different from the cash cost and AISC cost per ounce previously reported

<i>(in thousands, except unit costs)</i>	Years Ended December 31,	
	2022	2021
Cost of sales	\$ 107,075	\$ 97,710
Royalties	3,069	4,781
Exploration	9,800	5,383
General and administrative	14,307	13,345
Depreciation, depletion and amortization	69,380	52,402
Total expenses	\$ 203,631	\$ 173,621
Depreciation, depletion and amortization	(69,380)	(52,402)
Exploration <sup>1</sup>	(9,800)	(5,383)
Treatment and refining costs <sup>2</sup>	21,871	21,601
Cash costs (A)	\$ 146,322	\$ 137,437
Sustaining capital	76,526	72,979
All-in sustaining costs (B)	\$ 222,848	\$ 210,416
By-product credits <sup>3</sup>	(125,782)	(103,571)
All-in sustaining costs, net of by-product credits (C)	\$ 97,066	\$ 106,845
Cash costs, net of by-product credits (D)	\$ 20,540	\$ 33,866
Payable ounces of silver equivalent <sup>4</sup> (E)	15,552	11,045
Co-product cash cost per ounce of payable silver equivalent (A/E)	\$ 9.41	\$ 12.44
Co-product all-in sustaining cost per ounce of payable silver equivalent (B/E)	\$ 14.33	\$ 19.05
Payable ounces of silver (F)	9,482	6,797
By-product cash cost per ounce of payable silver (D/F)	\$ 2.17	\$ 4.98
By-product all-in sustaining cost per ounce of payable silver (C/F)	\$ 10.24	\$ 15.72

<sup>1</sup> Exploration costs are not related to current mining operations.

<sup>2</sup> Represent reductions on customer invoices and included in Revenue of the LGJV combined statement of income (loss).

<sup>3</sup> By-product credits reflect realized metal prices of zinc, lead and gold for the applicable period, which includes any final settlement adjustments from prior periods.

<sup>4</sup> Silver equivalents utilize the average realized prices during the year ended December 31, 2022, of \$20.72/oz silver, \$1.58/lb zinc, \$0.90/lb lead and \$1,678/oz gold and the average realized prices during the year ended December 31, 2021, of \$24.38/oz silver, \$1.38/lb zinc, \$1.01/lb lead and \$1,761/oz gold. The average realized prices are determined based on revenue inclusive of final settlements.

**Item 7A. Quantitative and Qualitative Disclosures about Market Risk**

We are a smaller reporting company and are not required to provide disclosure pursuant to this Item.

**Item 8. Financial Statements and Supplementary Data**

**INDEX TO FINANCIAL STATEMENTS**

**Gatos Silver, Inc. Consolidated Financial Statements**

<a href="#">Report of Independent Registered Public Accounting Firm - EY (PCAOB ID 1263)</a>	58
<a href="#">Consolidated Balance Sheets as of December 31, 2022 and 2021</a>	59
<a href="#">Consolidated Statements of Operations for the years ended December 31, 2022 and 2021</a>	60
<a href="#">Consolidated Statements of Shareholders' Equity (Deficit) for the years ended December 31, 2022 and 2021</a>	61
<a href="#">Consolidated Statements of Cash Flows for the years ended December 31, 2022 and 2021</a>	62
<a href="#">Notes to the Consolidated Financial Statements</a>	63

**Los Gatos Joint Venture Combined Financial Statements**

<a href="#">Independent Auditor's Report - EY</a>	79
<a href="#">Combined Balance Sheets as of December 31, 2022 and 2021</a>	81
<a href="#">Combined Statements of Income for the years ended December 31, 2022 and 2021</a>	82
<a href="#">Combined Statements of Owner's Capital for the years ended December 31, 2022 and 2021</a>	83
<a href="#">Combined Statements of Cash Flows for the years ended December 31, 2022 and 2021</a>	84
<a href="#">Notes to the Combined Financial Statements</a>	85

## **Report of Independent Registered Public Accounting Firm**

To the Shareholders and Board of Directors of Gatos Silver Inc.

### **Opinion on the Consolidated Financial Statements**

We have audited the accompanying consolidated balance sheets of Gatos Silver Inc. (the “Company”) as of December 31, 2022 and 2021, the related consolidated statements of income (loss), shareholders' equity, and cash flows for the years then ended, and the related notes (collectively referred to as “consolidated financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as at December 31, 2022 and 2021, and the results of its operations and its cash flows for the years then ended in accordance with U.S. generally accepted accounting principles.

### **Basis for Opinion**

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audit. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audit, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audit included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audit provides a reasonable basis for our opinion.

/s/ Ernst and Young LLP

Chartered Professional Accountants  
Licensed Public Accountants

We have served as the Company's auditor since 2022.

Toronto, Canada  
June 26, 2023

**GATOS SILVER, INC.**  
**CONSOLIDATED BALANCE SHEETS**  
**AS OF DECEMBER 31,**

(In thousands of United States dollars, except for share and per share amounts)

	Notes	2022	2021
<b>ASSETS</b>			
<b>Current Assets</b>			
Cash and cash equivalents		\$ 17,004	\$ 6,616
Related party receivables	6	1,773	1,592
Other current assets	3	16,871	3,558
Total current assets		35,648	11,766
<b>Non-Current Assets</b>			
Investment in affiliates	14	347,793	333,447
Other non-current assets		60	35
<b>Total Assets</b>		<b>\$ 383,501</b>	<b>\$ 345,248</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>			
<b>Current Liabilities</b>			
Accounts payable, accrued and other liabilities	5	\$ 26,358	\$ 1,406
<b>Non-Current Liabilities</b>			
Credit Facility, net of debt issuance costs	11	8,661	12,620
<b>Shareholders' Equity</b>			
Common Stock, \$0.001 par value; 700,000,000 shares authorized; 69,162,223 and 69,162,223 shares outstanding as of December 31, 2022 and December 31, 2021, respectively		117	117
Paid-in capital		547,114	544,383
Accumulated deficit		(198,749)	(213,278)
Total shareholders' equity		348,482	331,222
<b>Total Liabilities and Shareholders' Equity</b>		<b>\$ 383,501</b>	<b>\$ 345,248</b>

**GATOS SILVER, INC.**  
**CONSOLIDATED STATEMENTS OF INCOME (LOSS)**  
**FOR THE YEARS ENDED DECEMBER 31,**

(In thousands of United States dollars, except for share and per share amounts)

	Notes	2022	2021
<b>Expenses</b>			
Exploration		\$ 110	\$ 1,657
General and administrative		25,468	21,447
Amortization		180	89
Total expenses		25,758	23,193
<b>Other income (expense)</b>			
Equity income in affiliates	14	45,230	42,804
Impairment of investment in affiliates	14	—	(80,348)
Legal settlement loss	10	(7,900)	—
Arrangement fees		—	(195)
Interest expense		(433)	(185)
Other income (expense)	6	4,955	(4,738)
Total other income (expense)		41,852	(42,662)
<b>Income (loss) before taxes</b>		16,094	(65,855)
Income tax expense		1,565	—
<b>Net income (loss)</b>		\$ 14,529	\$ (65,855)
Net income (loss) per share:			
Basic		\$ 0.21	\$ (1.03)
Diluted		\$ 0.21	\$ (1.03)
Weighted average shares outstanding:			
Basic		69,162,223	63,994,693
Diluted		69,309,019	63,994,693

**GATOS SILVER, INC.**  
**CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY**

(In thousands of United States dollars, except for share and per share amounts)

	Number		Amount		Paid-in Capital	Accumulated Deficit	Total
	Common Stock	Treasury Stock	Common Stock	Treasury Stock			
Balance at December 31, 2020	59,183,076	144,589	\$ 108	\$ (1,027)	\$ 409,728	\$ (147,423)	\$ 261,386
Stock-based compensation	—	—	—	—	7,694	—	7,694
Issuance of common stock, net	9,830,426	(144,589)	9	1,027	126,071	—	127,107
DSU compensation	—	—	—	—	1,163	—	1,163
DSUs converted to common stock	148,721	—	—	—	—	—	—
Other	—	—	—	—	(273)	—	(273)
Net loss	—	—	—	—	—	(65,855)	(65,855)
Balance at December 31, 2021	69,162,223	—	\$ 117	\$ —	\$ 544,383	\$ (213,278)	\$ 331,222
Stock-based compensation	—	—	—	—	2,731	—	2,731
Net income	—	—	—	—	—	14,529	14,529
Balance at December 31, 2022	69,162,223	—	\$ 117	\$ —	\$ 547,114	\$ (198,749)	\$ 348,482

**GATOS SILVER, INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**FOR THE YEARS ENDED DECEMBER 31,**

(In thousands of United States dollars, except for share and per share amounts)

	Notes	2022	2021
<b>OPERATING ACTIVITIES</b>			
Net loss		\$ 14,529	\$ (65,855)
<b>Adjustments to reconcile net loss to net cash used by operating activities:</b>			
Amortization		180	89
Stock-based compensation expense	8	2,840	7,738
Equity income in affiliates	14	(45,230)	(42,804)
Impairment of investment in affiliates	14	—	80,348
Other		199	(260)
Dividends from affiliates	14	30,775	—
<b>Changes in operating assets and liabilities:</b>			
Receivables from related-parties		(180)	134
Accounts payable and other accrued liabilities		24,632	(1,196)
Other current assets		(13,191)	321
Net cash generated from (used by) operating activities		14,554	(21,485)
<b>INVESTING ACTIVITIES</b>			
Purchase of property, plant and equipment		(60)	—
Investment in affiliates	14	—	(261,439)
Net cash used by investing activities		(60)	(261,439)
<b>FINANCING ACTIVITIES</b>			
Credit Facility (repayment) receipt	11	(4,000)	13,000
Financing costs		(106)	(7,277)
Issuance of common stock	8	—	133,085
Issuance of treasury stock		—	1,027
Other		—	(441)
Net cash (used in) generated from financing activities		(4,106)	139,394
Net increase (decrease) in cash and cash equivalents		10,388	(143,530)
Cash and cash equivalents, beginning of period		6,616	150,146
Cash and cash equivalents, end of period		17,004	6,616
Interest paid		\$ 645	\$ 168
<b>Supplemental disclosure of noncash transactions:</b>			
Director fees in accrued liabilities converted to deferred share units		\$ —	\$ 306
Recognition of Right of Use Asset and Lease Liability		\$ 128	\$ —

See accompanying notes to the consolidated financial statements.

**GATOS SILVER, INC.**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**(In thousands of United States dollars, except share, per share, option, and stock unit amounts)**

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**1. Description of Business**

***Organization and Nature of Business***

Gatos Silver, Inc. (“Gatos Silver” or “the Company”) is a silver dominant exploration, development and production company that discovered a new silver, lead and zinc-rich mineral district in southern Chihuahua State, Mexico.

The Company’s primary efforts are focused on the operation of the Los Gatos Joint Venture (“LGJV”) in Chihuahua, Mexico. On January 1, 2015, the Company entered into the LGJV to develop the Los Gatos District (“LGD”) with Dowa Metals and Mining Co., Ltd. (“Dowa”). The LGJV Operating entities consisted of Minera Plata Real S. de R.L. de C.V. (“MPR”), Operaciones San Jose del Plata S. de R.L. de C.V. and Servicios San Jose del Plata S. de R.L. de C.V. (“Servicios”) (collectively, the “LGJV Entities”). Effective July 15, 2021, Servicios was merged into MPR.

Dowa acquired a 30% interest in the LGJV and the right to purchase future zinc-concentrate production at market rates by completing its \$50,000 funding requirement on April 1, 2016. The LGJV completed a feasibility study in January 2017 and a technical update to the feasibility study in July 2020. On January 25, 2022, the Company announced that the July 2020 technical report should not be relied upon. In May 2019, Dowa increased its ownership interest by 18.5% to 48.5% through the conversion of the Dowa MPR Loan to equity. On March 11, 2021, the Company repurchased the 18.5% interest from Dowa for a total consideration of \$71,550, including Dowa holding costs of this incremental interest, increasing the Company’s ownership in the LGJV Entities to 70.0%. These transactions resulted in a \$47,400 higher basis than the underlying net assets of the LGJV Entities. See Note 10 - Commitment, Contingencies and Guarantees for further discussion. The LGJV ownership is currently 70% Gatos Silver and 30% Dowa. Despite owning the majority interest in the LGJV, the Company does not exercise control over the LGJV due to certain provisions contained in the Unanimous Omnibus Partner Agreement that currently require unanimous partner approval of all major operating decisions.

On September 1, 2019, the LGJV commenced commercial production of its two concentrate products: a lead concentrate and a zinc concentrate. The LGJV’s lead and zinc concentrates are currently sold to third-party customers.

The Company’s other regional Mexico exploration efforts outside of the LGJV district are conducted through its wholly-owned subsidiary, Minera Luz del Sol S. de R.L. de C.V. (“MLS”). In 2021, MLS completed a 5,400-meter exploration program on its wholly-owned Santa Valeria project, located approximately 15 kilometers from the Cerro Los Gatos deposit.

In December 2021, Gatos Silver Canada Corporation (“GSC”) was formed to house certain corporate employees based in Canada.

**2. Summary of Significant Accounting Policies**

***Basis of Consolidation and Presentation***

The accompanying consolidated financial statements of the Company have been prepared in accordance with United States Generally Accepted Accounting Principles (“GAAP”) and include the accounts of Gatos Silver and its subsidiaries, GSC and MLS. All Company subsidiaries are consolidated. All significant intercompany balances and transactions have been eliminated.

### ***Equity method investment***

The Company accounts for its investment in affiliates using the equity method of accounting whereby, after valuing the initial investment, the Company recognizes its proportional share of results of operations of the affiliate in its consolidated financial statements. The value of equity method investments are adjusted if it is determined that there is an other-than-temporary decline in value. The Company's investment in the LGJV Entities is presented as Investment in affiliates in the consolidated balance sheet. The basis difference between the carrying amount of the investment in affiliates and the Company's equity in the LGJV Entities' net assets is due to value of the LGJV mineral resources. This basis difference is amortized on a units of production basis as the mineral resource is mined.

The Company incurred certain costs on behalf of the LGJV, primarily related to a project development loan arrangement fee. The Company's proportional share of such costs are reported as an investment in affiliate and the residual costs, related to Dow's proportional ownership, are reported in the statement of income (loss) as arrangement fees.

### ***Use of estimates***

The preparation of financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant items subject to such estimates are valuation of stock and stock options; valuation allowances for deferred tax assets; and the fair value of financial instruments and investment in affiliates. At the LGJV, significant items subject to such estimates and assumptions include mineral properties, life of mine revenue and cost assumptions, mineral resource conversion rates to mineral reserves; environmental reclamation and closure obligations and valuation allowances for deferred tax assets.

### ***Functional currency and translation of foreign currencies***

The U.S. dollar is the functional currency of the Company and its subsidiaries. Monetary assets and liabilities denominated in foreign currencies are translated to U.S. dollars at exchange rates in effect at the balance sheet date, with the resulting gains or losses reported in foreign exchange (gain) loss in the statement of income (loss). Non-monetary assets and liabilities are translated at historical exchange rates. Expenses and income items denominated in foreign currencies are translated into U.S. dollars at historical exchange rates.

### ***Cash and cash equivalents***

The Company considers all highly liquid short-term investments with a maturity of three months or less when purchased to be cash equivalents.

### ***Other than temporary impairment - investment***

A loss in value of an investment that is other than a temporary decline shall be recognized. Evidence of such losses might include, but are not limited to, absence of an ability to recover the carrying amount of the investment or inability of the investee to sustain an earnings capacity that would justify the carrying amount of the investment. A current fair value of an investment that is less than its carrying amount may indicate a loss in value of the investment. If circumstances require an investment is tested for an other than temporary decline in value, the Company will first estimate the fair value of the investment based on discounted cash flows then compare it to the carrying value of the investment. Fair value is determined through various valuation techniques including discounted cash flow models, quoted market values and third-party independent appraisals, as considered necessary. We recognized an impairment on our Investment in Affiliate in 2021. See Note 14 – Investment in Affiliates for further discussion.

### ***Stock-based compensation***

The Company recognizes all employee stock-based compensation as a cost in the consolidated financial statements. Equity-classified awards are measured at the grant date fair value of the award. Stock-based compensation expense is included as a component of general and administrative expense over the requisite service period of the award.

The fair value of stock options are estimated using the Black-Scholes option-pricing model. The fair value of performance share units (“PSUs”), which are subject to vesting based on the Company’s attainment of a pre-established market performance goals, are estimated using a Monte Carlo simulation valuation model. The Company’s estimates may be impacted by certain variables including, but not limited to, stock price volatility, estimates of forfeitures, the risk-free interest rate, expected dividend yields, and the Company’s performance. The Company estimates forfeitures of stock-based awards based on historical data and periodically adjusts the forfeiture rate.

#### ***Net income (loss) per share***

Basic and diluted earnings (loss) per share are presented for net income (loss) attributable to common shareholders. Basic net earnings (loss) per share is computed by dividing the net income (loss) available to common stockholders by the weighted-average number of common stock shares outstanding, including deferred stock units (“DSUs”), for the respective period presented. Diluted net earnings (loss) per share is computed similarly, except that weighted-average common shares is increased to reflect the potential dilution that would occur if stock options were exercised, or PSUs were converted into common stock. The effects of the Company’s dilutive securities are excluded from the calculation of diluted weighted-average common shares outstanding if their effect would be anti-dilutive based on the treasury stock method or due to a net loss.

#### ***Income taxes***

Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax basis and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. The Company recognizes the effect of income tax positions only if those positions are more likely than not of being sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs.

#### ***Recently issued and adopted accounting standards***

In March 2020, the FASB issued ASU No. 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting* (“ASU 2020-04”) followed by ASU No. 2021-01, *Reference Rate Reform (Topic 848): Scope* (“ASU 2021-01”), issued in January 2021, to provide clarifying guidance regarding the scope of Topic 848. ASU 2020-04 was issued to provide optional guidance for a limited period of time to ease the potential burden in accounting for (or recognizing the effects of) reference rate reform. Generally, the guidance is to be applied as of any date from the beginning of an interim period that includes or is subsequent to March 12, 2020, or prospectively from a date within an interim period that includes or is subsequent to March 12, 2020, up to the date that the financial statements are available to be issued. ASU 2020-04 and ASU 2021-01 are effective for all entities through December 31, 2022. The Company has not elected to use the optional guidance and continues to evaluate the options provided by ASU 2020-04 and ASU 2021-01. The Company does not consider the standards to have a material impact on its financial statements.

In September 2022, the FASB issued ASU 2022-04, *Liabilities — Supplier Finance Programs (Subtopic 405-50): Disclosures of Supplier Finance Program Obligations*. The ASU requires entities that use supplier finance programs (that are in the scope of the ASU) in connection with the purchase of goods and services to disclose sufficient information about the program to allow a user of financial statements to understand the program’s nature, activity during the period, changes from period to period and potential magnitude. The amendments are effective for all entities for fiscal years beginning after 15 December 2022, including interim periods within those fiscal years, except for the amendment on roll forward information, which is effective for fiscal years beginning after December 15, 2023. Early adoption is permitted. In the period of initial adoption, the amendments should be applied retrospectively to all periods in which a balance sheet is presented, except for the roll forward requirement, which should be applied prospectively. The Company is still assessing the impact of the standard but does not expect the standard to have a material impact on its financial statements.

As of December 31, 2022, there are no additional recently issued or adopted accounting standard that could have a material impact on our financial statements.

### 3. Other Current Assets

	December 31, 2022	December 31, 2021
Value added tax receivable	\$ 730	\$ 575
Prepaid expenses	2,890	2,976
Insurance proceeds receivable	13,100	—
Other assets	151	7
Total other current assets	<u>\$ 16,871</u>	<u>\$ 3,558</u>

Included in other current assets is a corporate head office lease of \$122 with the term until January 30, 2024. The corresponding current and non-current lease liabilities of \$112 and \$10, respectively, are included in accounts payable, accrued and other liabilities. The insurance proceeds receivable represents the insurance payable by the Company's insurers to claimants on behalf of the Company related to the settlement of the U.S. class action lawsuit. See footnote 10 – Commitments, Contingencies and Guarantees, for further discussion on the U.S. class action lawsuit and related settlement discussion.

### 4. Property, Plant and Equipment, net

#### Mineral Properties

##### Mining Concessions

In Mexico, mineral concessions from the Mexican government can only be held by Mexican nationals or Mexican-incorporated companies. The concessions are valid for 50 years and are extendable provided the concessions are kept in good standing. For concessions to remain in good standing a semi-annual fee must be paid to the Mexican government and an annual report describing the work accomplished on the property must be filed. These concessions may be cancelled without penalty with prior notice to the Mexican government. MLS is the concession holder of a series of claims titles granted by the Mexican government. The rights to certain concessions are held through exploration agreements with purchase options, as discussed below:

##### Santa Valeria Concession

The Company was required to make monthly payments through 2020 to continue exploration activities and obtain ownership of the Santa Valeria concessions. If production commences, the Company is required to make a production royalty payment of 1% of the net smelter returns. The Company may terminate the agreement upon prior notice.

The Company made and expensed mineral lease payments of \$nil and \$24 for the years ended December 31, 2022, and 2021, respectively.

### 5. Accounts Payable, Accrued and Other Liabilities

	December 31, 2022	December 31, 2021
Accounts payable	\$ 586	\$ 196
Accrued expenses	2,761	623
Accrued compensation	1,889	587
Legal settlement payable	21,000	—
Other liabilities	122	—
Total accounts payable, accrued and other liabilities	<u>\$ 26,358</u>	<u>\$ 1,406</u>

The legal settlement payable is the liability recorded for the settlement of the class action lawsuit. See footnote 10 – Commitments, Contingencies and Guarantees, for further discussion on the U.S. class action lawsuit and related settlement discussion.

## 6. Related-Party Transactions

### *LGJV*

Under the Unanimous Omnibus Partner Agreement, the Company provides certain management and administrative services to the LGJV. The Company earned \$5,000 and \$5,000 under this agreement for the years ended December 31, 2022 and 2021, respectively, which has been recorded on the statement of income (loss) under other income (expense). The Company received \$5,417 and \$5,367 in cash from the LGJV under this agreement for the years ended December 31, 2022 and 2021, respectively. The Company had receivables under this agreement of \$417 and \$833 as of December 31, 2022 and 2021, respectively. The Company also incurs certain LGJV costs that are subsequently reimbursed by the LGJV.

### *SSMRC*

The Company had a Management Services Agreement with Sunshine Silver Mining & Refining Corporation (“SSMRC”) (f.k.a. SOP), pursuant to which the Company provided certain limited executive and managerial advisory services to SSMRC until terminated by either party. SSMRC reimbursed the Company for costs of such services. The Company earned \$16 from SSMRC under this agreement during the year ended December 31, 2021, and this agreement was terminated effective December 31, 2021.

## 7. Stockholders’ Equity

The Company is authorized to issue 700,000,000 shares of \$0.001 par value common stock and 50,000,000 shares of \$0.001 par value preferred stock. As of December 31, 2022, 69,162,223 shares of common stock are outstanding, and no shares of preferred stock are outstanding.

### *Common Stock Transactions*

On July 19, 2021, the Company completed a follow-on public offering of 8,930,000 shares of common stock at a price of \$14.00 per share, resulting in net proceeds of \$118,894, after deducting underwriting discounts and commissions. On August 18, 2021, the Company issued an additional 286,962 shares of common stock at a price of \$14.00 per share, through the exercise of the over-allotment option, with net proceeds from the additional issuance of \$3,837, after deducting underwriting discounts and commissions. Additionally, the Company incurred an additional \$1,700 in other costs related to the offering.

### *Stock-Based Compensation*

#### *Equity Compensation Plan*

The Company has a Long-Term Incentive Plan under which options and shares of the Company’s common stock are authorized for grant or issuance as compensation to eligible employees, consultants, and members of the Board of Directors. Awards under the plan include stock options, stock appreciation rights, stock awards, deferred stock units, and performance awards. Stock options, performance awards and deferred stock units have been granted by the Company in different periods. As of December 31, 2022, approximately 12.3 million shares of common stock were available for grant under the plan. The Company recognized stock-based compensation expense as follows:

	Years ended December 31,			
	2022		2021	
Stock Options	\$	2,621	\$	7,716
PSUs		219		22
	\$	2,840	\$	7,738

### *Stock Option Transactions*

The Company’s stock options have a contractual term of 10 years and entitle the holder to purchase one share of the Company’s common stock. The options granted to the Company’s employees and LGJV personnel prior to 2020 have a requisite service period of four years and vest in equal annual installments. Starting in 2020, the options granted to the Company’s employees and LGJV personnel have a requisite service period of three years. The sign on options granted to the Company’s then President in June 2021 vest in three equal tranches, the first of which vested immediately, and the remainder on the first and second anniversaries of employment with the Company, subject to continued employment on such vesting dates. The options granted to non-employee

directors prior to 2020 have a requisite service period of one year and vest in equal monthly installments. The options granted to non-employee directors in June 2021 have a requisite service period of one year and vest in semi-annual installments. On December 31, 2022, there was \$2,885 of unrecognized stock-based compensation expense which is expected to be recognized over a weighted-average period of 1.5 years.

The following table summarizes the respective vesting start dates and number of options granted to employees and directors in 2022 and 2021:

Recipient	Options Granted	Vesting Start Date	Grant Date
Employees	100,000	March 31, 2021	May 14, 2021
Directors	7,253	May 14, 2021	May 14, 2021
Directors	32,466	June 1, 2021	June 22, 2021
Employees	283,333	June 1, 2021	June 22, 2021
Employees	66,667	June 22, 2021	June 22, 2021
Employees	589,500	December 27, 2021	December 27, 2021
Employees	100,000	January 18, 2022	January 18, 2022

The following assumptions were used to compute the fair value of the options granted using the Black-Scholes option valuation model:

	May 2021	Jun. 2021	Dec. 2021	Jan. 2022
Risk-free interest rate	1.06 %	1.05 %	1.34 %	1.74 %
Dividend yield	—	—	—	—
Estimated volatility	62.59 %	62.53 %	60.88 %	60.75 %
Expected option life	6 years	6 years	6 years	6 years

The weighted-average grant date fair value per share was \$5.83 and \$7.54 for the years ended December 31, 2022 and 2021, respectively.

The following assumptions were used to compute the fair value of the LGJV Personnel options using the Black-Scholes option valuation model as of December 31, 2022 and 2021:

	December 31,	
	2022	2021
Risk-free interest rate	4.11 %	1.35 %
Dividend yield	—	—
Estimated volatility	58.1 %	60.86 %
Expected option life	6 years	6 years

The Company's estimated volatility computation was based on the historical volatility of a group of peer companies' common stock over the expected option life and included both exploration stage and development stage companies. Prior to our IPO in October 2020, our common stock was not publicly traded. As a result, the expected volatility assumption was based on peer information due to insufficient market trading history required to calculate a meaningful volatility factor. The computation of the expected option life was determined based on a reasonable expectation of the option life prior to being exercised or forfeited. The risk-free interest rate assumption was based on the U.S. Treasury constant maturity yield at the date of the grant over the expected life of the option. No dividends were expected to be paid.

The following tables summarize the stock option activity for the year ended December 31, 2022:

<b>Employee &amp; Director Options</b>	<b>Options</b>	<b>Weighted-Average Exercise Price</b>	<b>Aggregate Intrinsic Value</b>	<b>Weighted-Average Remaining Life (Years)</b>
Outstanding at December 31, 2021	5,873,968	\$ 13.11		
Granted	100,000	\$ 10.28		
Forfeited	(4,272,438)	\$ 13.22		
Outstanding at December 31, 2022	1,701,530	\$ 12.67	\$ Nil	7.00
Vested at December 31, 2022	1,186,753	\$ 12.66	\$ Nil	6.33

<b>LGVJ Personnel Options</b>	<b>Options</b>	<b>Weighted-Average Exercise Price</b>	<b>Aggregate Intrinsic Value</b>	<b>Weighted-Average Remaining Life (Years)</b>
Outstanding at December 31, 2021	32,393	\$ 7.31		
Exercised	—	—		
Outstanding and vested at December 31, 2022	32,393	\$ 7.31	\$ Nil	3.02

The total fair value of stock options vested during the year ended December 31, 2022, was \$583.

#### *Performance Share Unit Transactions*

Performance share units granted are reported as equity awards at fair value using a Monte Carlo simulation valuation model. On December 17, 2021, 119,790 PSUs were granted to the Company's employees with a weighted average grant date fair value per share of \$14.22. The PSUs are based on the Company's total shareholder return ("TSR") relative to a peer group over a three-year performance period. The number of PSUs awarded can range from 0% to 200% of the initial award granted, depending on the TSR percentile rank of the Company relative to the peer group, and are payable in common stock or cash, at the Company's discretion, at the end of their performance period. There were no grants in the year ended December 31, 2022.

Compensation expense is recognized ratably from the grant date over the requisite three-year vesting period. On December 31, 2022, unrecognized compensation expense related to the PSUs was \$399 which is expected to be recognized over a weighted-average period of 2.0 years.

#### *Deferred Stock Unit Transactions*

Deferred stock units are awarded to directors at the discretion of the Board of Directors. The DSUs are fully vested on the grant date and each DSU entitles the holder to receive one share of the Company's common stock upon the director's cessation of continuous service. In addition, senior executives are eligible to elect to defer receipt of any portion of cash compensation or equity compensation awards other than from the exercise of stock options and take payment in the form of DSUs. Non-employee directors are eligible to elect to defer receipt of any portion of annual retainers or meeting awards and take payment in the form of DSUs. The DSU entitles the holder to receive one share of the Company's common stock at either a date specified in the deferral election or cessation of service, whichever comes first. The fair value of DSUs are equal to the fair value of the Company's common stock on the grant date. The Company recognized DSU expense of \$239 and \$879 for the years ended December 31, 2022 and 2021, respectively. As the Company was in blackout during the year ended December 31, 2022, the DSUs expensed are expected to be granted in 2023.

At December 31, 2022, 146,796 DSUs remain outstanding with a weighted-average grant date fair value of \$10.88 per unit.

#### **8. Net Income (Loss) per Share**

Basic net income (loss) per share is computed by dividing income available to common shareholders by the weighted average number of common shares outstanding during the period. Diluted net income (loss) per share is computed similarly, except that

weighted-average common shares is increased to reflect the potential dilution that would occur if stock options were exercised or PSUs were converted into common stock. The dilutive effects are calculated using the treasury stock method.

For the year ended December 31, 2022, all stock options outstanding have been excluded from the dilutive earnings per common share calculation as the exercise price of these stock options was greater than the average market value of our common stock for those periods, resulting in an anti-dilutive effect. Additionally, for the year ended December 31, 2022, all PSUs were excluded from the diluted earnings per common share calculation as the shares would be anti-dilutive. The Company experienced a net loss in the year ended December 31, 2021, thus all stock options, PSUs and DSUs have been excluded as they would be anti-dilutive.

A reconciliation of basic and diluted earnings per common share is presented below:

	<b>Year Ended December 31,</b>	
	<b>2022</b>	<b>2021</b>
Net income (loss)	\$ 14,529	\$ (65,855)
Weighted average shares:		
Basic	69,162,223	63,994,693
Effect of dilutive DSUs	146,796	—
Diluted	<u>69,309,019</u>	<u>63,994,693</u>
Net income (loss) per share:		
Basic	\$ 0.21	\$ (1.03)
Diluted	\$ 0.21	\$ (1.03)

## 9. Fair Value Measurements

The Company establishes a framework for measuring the fair value of assets and liabilities in the form of a fair value hierarchy that prioritizes the inputs into valuation techniques used to measure fair value into three broad levels. This hierarchy gives the highest priority to unadjusted quoted prices in active markets and the lowest priority to unobservable inputs. Further, financial assets and liabilities should be classified by level in their entirety based upon the lowest level of input that was significant to the fair value measurement. The three levels of the fair value hierarchy are as follows:

**Level 1:** Unadjusted quoted market prices in active markets for identical assets or liabilities that are accessible at the measurement date.

**Level 2:** Quoted prices in inactive markets for identical assets or liabilities, quoted prices for similar assets or liabilities in active markets, or other observable inputs either directly related to the asset or liability or derived principally from corroborated observable market data.

**Level 3:** Unobservable inputs due to the fact there is little or no market activity. This entails using assumptions in models which estimate what market participants would use in pricing the asset or liability.

### *Assets and Liabilities that are Measured at Fair Value on a Non-recurring Basis*

The Company discloses and recognizes its non-financial assets and liabilities at fair value on a non-recurring basis and makes adjustments to fair value, as needed (for example, when there is evidence of impairment).

The Company recorded its initial investment in affiliates at fair value within Level 3 of the fair value hierarchy, as the valuation was determined based on internally developed assumptions with few observable inputs and no market activity. For the year ended December 31, 2021, the Company recorded impairment charges associated with the investment in the LGJV, and reduced the carrying amount of such asset subject to the impairment to their estimated fair value. See Note 14 – Investment in Affiliates for additional information on the impairment.

## **10. Commitments, Contingencies and Guarantees**

In determining its accruals and disclosures with respect to loss contingencies, the Company will charge to income an estimated loss if information available prior to the issuance of the financial statements indicates that it is probable that a liability has been incurred at the date of the financial statements and the amount of the loss can be reasonably estimated. Legal expenses associated with the commitments and contingencies are expensed as incurred. If a loss contingency is not probable or reasonably estimable, disclosure of the loss contingency is made in the combined financial statements when it is at least reasonably possible that a material loss could be incurred.

### ***Environmental Contingencies***

The Company's mining and exploration activities are subject to various laws, regulations and permits governing the protection of the environment. These laws, regulations and permits are continually changing and are generally becoming more restrictive. The Company has made, and expects to make in the future, expenditures to comply with such laws, regulations and permits, but cannot predict the full amount of such future expenditures.

### ***Legal***

On February 22, 2022, a purported Gatos stockholder filed a putative class action lawsuit in the United States District Court for the District of Colorado against the Company, certain of our former officers, and several directors (the "U.S. Class Action"). An amended complaint was filed on August 15, 2022. The amended complaint, allegedly brought on behalf of certain purchasers of Gatos common stock and certain traders of call and put options on Gatos common stock from December 9, 2020 through January 25, 2022, seeks, among other things, damages, costs, and expenses, and asserts claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 as well as Sections 11 and 15 of the Securities Act of 1933. The amended complaint alleges that certain individual defendants and Gatos, pursuant to the control and authority of the individual defendants, made false and misleading statements and/or omitted certain material information regarding the mineral resources and reserves at the Cerro Los Gatos mine. Gatos and all defendants filed a motion to dismiss this action on October 14, 2022. That motion was fully briefed as of December 23, 2022. On April 26, 2023, following a joint motion, the Court ordered that it will postpone a ruling on defendants' motion to dismiss until on or after June 16, 2023.

On June 13, 2023, we entered into an agreement in principle to settle the U.S. Class Action. Subject to certain conditions, including class certification by the District Court, the execution of a definitive stipulation of settlement and approval of the settlement by the District Court, the settling parties have agreed to resolve the U.S. Class Action for a payment by us and our insurers of \$21,000 to a settlement fund. We are in the process of finalizing the amount of expenses incurred that are covered under the directors' and officers' insurance policy which will be deducted from the \$10,000 retention held by the Company. We expect to fund no more than \$7,900 of the settlement, with the balance of the settlement payment to be paid by insurance. We and the other defendants will not admit any liability as part of the settlement. Since the settlement of the U.S. Class Action is subject to conditions, there can be no assurance that the U.S. Class Action will be finally resolved pursuant to the agreement in principle that has been reached.

By Notice of Action issued February 9, 2022 and subsequent Statement of Claim dated March 11, 2022 Izabela Przybylska commenced a putative class action against Gatos Silver, Inc. ("Gatos"), certain of its former officers and directors, and others in the Ontario Superior Court of Justice on behalf of a purported class of all persons or entities, wherever they may reside or be domiciled, who acquired securities of Gatos in both the primary and secondary markets during the period from October 28, 2020 until January 25, 2022. The action asserts claims under Canadian securities legislation and at common law and seeks unspecified monetary damages and other relief in respect of allegations the defendants made false and misleading statements and omitted material information regarding the mineral resources and reserves of Gatos. The plaintiff filed motion materials for leave to proceed in respect of her statutory claims and for class certification on March 3, 2023, which materials were amended and filed on May 1, 2023. The court has tentatively set dates in late March of 2024 for the hearing of the plaintiff's motions.

There can be no assurance that any of the foregoing matters individually or in aggregate will not result in outcomes that are materially adverse for us.

### ***Dowa Debt Agreements***

In July 2017, the LGJV Entities entered into a loan agreement (the "Term Loan") with Dowa whereby the LGJV Entities could borrow up to \$210,000 for LGD development, with a maturity date of December 29, 2027. Interest on the Term Loan accrued

daily at LIBOR plus 2.35%, with the interest added to the amount borrowed until commencement of production. During 2018, the LGJV paid Dow a \$4,200 closing fee. Commencing June 30, 2021, 14 consecutive semi-annual equal payments of the aggregate principal and capitalized interest began. The Company was required to pay an arrangement fee on the borrowing, calculated as 2% per annum of 70% of the outstanding principal balance, payable in semi-annual installments, on that date, which was two business days prior to June 30 and December 31 each fiscal year until maturity, commencing after the initial drawdown, which occurred in July 2018. The Term Loan also required additional principal payments equal to 70% of excess cash flows (as defined).

On July 26, 2021, the Term Loan was repaid in full through capital contributions made to the LGJV by the Company and Dow in amounts equal to their pro-rata ownership in the LGJV of 70% and 30%, respectively. In conjunction with the repayment, the Company paid a fee to Dow of \$10,000.

On January 23, 2018, the LGJV entered into a loan agreement (the "Dow MPR Loan") with Dow whereby the LGJV could borrow up to \$65,700 to continue LGD development. Interest on this loan accrued daily at LIBOR plus 1.5% and was added to the amount borrowed. The amount borrowed plus accrued interest was due the earlier of June 30, 2019, or upon LGD's substantial completion. If the Dow MPR Loan was not repaid in full on or before the due date, Dow could elect to convert all or a portion of the principal amount into additional LGJV ownership at a favorable conversion rate.

In connection with entering into the WCF (as defined below), the Company contributed \$18,200 to the LGJV in May 2019 to provide funding for partial repayment of principal and interest related to the Dow MPR Loan. In late May 2019, the Dow MPR Loan was fully extinguished with a cash payment of \$18,200 and the conversion of the remaining \$50,737 of principal and interest. The conversion of the remaining principal and interest increased Dow's ownership in the LGJV entities by 18.5% to 48.5%. On March 11, 2021, the Company repurchased the 18.5% interest from Dow, for a total consideration of \$71,550, increasing the Company's ownership in the LGJV to 70.0%.

On May 30, 2019, the LGJV entered into a working capital facility agreement (the "WCF") with Dow whereby the LGJV could borrow up to \$60,000 to fund the working capital and sustaining capital requirements of the LGD. Interest on this loan accrued daily at LIBOR plus 3.0% and all outstanding principal and interest was to mature on June 28, 2021. The Company was required to pay an arrangement fee on the borrowing, calculated as 15.0% per annum of 70.0% of the average daily principal amount outstanding under the WCF during such fiscal quarter. On March 11, 2021, the \$60,000 outstanding under the WCF was extinguished using funds contributed to the LGJV. The Company's pro-rata capital contribution to the LGJV was \$42,000.

The Company guarantees the payment of all obligations, including accrued interest, under the LGJV equipment loan agreements. As of December 31, 2022 and 2021, the LGJV had \$480 and \$6,011 outstanding under the LGJV equipment loan agreements, respectively, with varying maturity dates through August 2023.

## **11. Debt**

On July 12, 2021, the Company entered into a Credit Facility. The Credit Facility provides for a revolving line of credit in a principal amount of \$50,000 and has an accordion feature which at the time allowed for an increase in the total line of credit up to \$100,000, subject to certain conditions. Loans under the Credit Facility bear interest at a rate equal to either the LIBOR rate plus a margin ranging from 3.00% to 4.00% or the U.S. Base Rate plus a margin ranging from 2.00% to 3.00%, as selected by the Company, in each case, with such margin determined in accordance with the Company's consolidated net leverage ratio as of the end of the applicable period. The Credit Facility contains affirmative and negative covenants that are customary for credit agreements of this nature. The affirmative covenants consist of a leverage ratio, a liquidity covenant and an interest coverage ratio. The negative covenants include, among other things, limitations on asset sales, mergers, acquisitions, indebtedness, liens, dividends and distributions, investments and transactions with affiliates. Obligations under the Credit Facility may be accelerated upon the occurrence of certain customary events of default.

On July 19, 2021, the Company borrowed \$13,000 under the Credit Facility at a rate of LIBOR plus 3%. Debt issuance costs of \$442 were to be amortized through July 31, 2024, prior to the amended and restated Credit Facility (see terms below).

On March 7, 2022, the Company amended the Credit Facility with the lender, Bank of Montreal ("BMO"), to address potential loan covenant deficiencies. The amendment included the following revisions:

- audited financial statements were to be provided prior to November 15, 2022;

- the credit limit was reduced to \$30,000, until the Company delivered a new LOM CLG financial model with updated mineral reserves;
- upon assessment of the new CLG financial model, BMO, in its sole discretion, could increase the credit limit up to the original \$50,000;
- requirement to provide updated financial projections for the CLG by September 30, 2022. The financial projections were provided by the required date and were used as the basis for the amendment entered into on December 19, 2022 discussed below; and
- waivers of certain defaults, events of default, representations and warranties and covenants arising out of the facts that led to the potential reduction in metal content of the Company's previously stated mineral reserve figures.

On December 19, 2022, the Company entered an amended and restated Credit Facility with BMO extending the maturity date and re-establishing a credit limit of \$50,000, with an accordion feature providing up to an additional \$25,000. Key terms of the amended Credit Facility include:

- audited financial statements for fiscal years 2021 are to be provided no later than April 15, 2023, and audited financial statements for fiscal year 2022 and unaudited financial statements for the first three fiscal quarters in fiscal year 2022 are to be provided no later than April 30, 2023;
- \$50,000 revolving line of credit with an accordion feature, which allows for an increase in the total line of credit up to \$75,000, subject to certain conditions;
- the maturity date is extended from July 31, 2024 to December 31, 2025;
- a change in the benchmark interest rate from LIBOR to the Secured Overnight Financing Rate ("SOFR"); and
- loans under the Credit Facility bear interest at a rate equal to either a term SOFR rate plus a margin ranging from 3.00% to 4.00% or a U.S. base rate plus a margin ranging from 2.00% to 3.00%, as selected by the Company.

On April 13, 2023, the Company extended its waiver agreement with BMO whereby the restated audited financial statements for fiscal year 2021, the audited financial statements for fiscal year 2022 and restated unaudited financial statements for the first three fiscal quarters in fiscal year 2022 are to be provided no later than April 30, 2023. A waiver was subsequently extended for the financial statements to be provided no later than July 15, 2023.

In December 2022, the Company made a \$4,000 principal repayment and as a result the outstanding balance of debt was \$9,000 at December 31, 2022.

The Company recognized interest expense of \$433 and \$147 for amortization of debt issuance cost and paid \$645 in interest, for the year ended December 31, 2022. The Company recognized interest expense of \$185 and \$62 for amortization of debt issuance cost and paid \$168 in interest, for the year ended December 31, 2021.

## 12. Income Taxes

The components of income (loss) from operations before income taxes were as follows for the years ended December 31:

	2022	2021
U.S.	\$ 19,111	\$ (61,976)
Mexico	(3,017)	(3,879)
Total	\$ 16,094	\$ (65,855)

The consolidated income tax expense consisted of \$1,565 and nil, for the years ended December 31, 2022 and 2021, respectively.

A reconciliation of the actual income tax benefit and the tax computed by applying the applicable U.S. federal rate of 21% to the loss before income taxes is as follows for the years ended December 31:

	2022	2021
Tax provision (benefit) from operations	\$ 3,380	\$ (13,830)
State tax benefit from operations	20	(136)
Nondeductible Expenses	—	—
Change in Valuation Allowance	(3,410)	6,000
Mexican withholding tax	1,565	—
Effect of Change in Tax Rates	927	9,223
US/Foreign Tax Rate Differential	(323)	(398)
Other	(594)	(859)
Total income tax expense	\$ 1,565	\$ —

The components of the deferred tax assets (liabilities) are summarized as follows for the year ended December 31:

	2022	2021
Deferred tax assets		
Accrued compensation	\$ 354	\$ 29
Contingent liabilities	1,661	—
Deferred share unit awards	461	427
LGJV equity investment	12,656	7,395
Other accrued liabilities	21	22
Mineral properties	2,009	2,057
U.S. operating loss carryforward	10,234	22,340
Stock Options	8,917	8,518
Mexico operating loss carryforward	4,129	3,049
Exploration and development	41	—
Other	24	22
Valuation allowances	(39,738)	(43,026)
Total deferred tax assets	\$ 769	\$ 833
Deferred tax liabilities		
Property, plant and equipment	(218)	(229)
Exploration and Development	—	(19)
Prepaid expenses	(551)	(585)
Total deferred tax liabilities	\$ (769)	\$ (833)
Deferred tax assets (liabilities)	\$ —	\$ —

Based upon the level of taxable income (loss) and projections of future taxable income (loss) over the periods in which the deferred tax assets are deductible, management believes it is more likely than not that the Company will not realize the benefits of these deductible differences, and thus has recorded a valuation allowance from continuing operations against the United States and Mexico deferred tax asset balances of \$39,738 and \$43,026, respectively, for the years ended December 31, 2022 and 2021. If the Company is profitable for a number of years, and the prospects for the realization of the deferred tax assets become more likely than not, the Company will then reverse all or a portion of the valuation allowance that could result in a reduction of future reported income tax expense.

At December 31, 2022, the Company had \$48,679 of net operating loss carryforwards from continuing operations in the United States. Of the total net operating loss from continuing operations, \$29,749 expire at various dates through 2037, and \$18,930 may be carried forward indefinitely. There are also \$20,432 of net operating loss carryforwards (net of inflation adjustments) in Mexico which expire at various dates through 2032. No assets have been recognized for net operating loss carryforwards where the Company believes it is more likely than not that the net operating losses will not be realized. The Company will monitor the valuation on an ongoing basis and will make the appropriate adjustments as necessary should circumstances change.

The Company has adopted the provisions of ASC 740-10, *Income Taxes*. The Company files income tax returns in the U.S., Mexico, Colorado, Montana and Utah. The Company's foreign assets and operations are owned by entities that have elected to be treated for U.S. tax purposes as corporations and, as a result, the taxable income or loss and other tax attributes of such entities are not included in the Company's U.S. federal consolidated income tax return. The statute of limitations for tax returns filed in the U.S. and Mexico is three years and five years, respectively, from the date of filing. The Company's 2022, 2021, 2020 and 2019 U.S. tax returns are subject to examinations by U.S. tax authorities until 2026, 2025, 2024 and 2023, respectively. The Company is no longer subject to examinations by Mexico tax authorities for years prior to 2018.

As of December 31, 2022, the Company has not recognized any increases or decreases in unrecognized tax benefits, as it is more likely than not that all tax positions will be upheld by the taxing authorities. The Company reports tax penalties in income tax expense. No such penalties were recognized during the periods presented.

### 13. Segment Information

The Company operates in a single industry as a corporation engaged in the acquisition, exploration and development of primarily silver mineral interests. The Company has mineral property interests in Mexico. The Company's reportable segments are based on the Company's mineral interests and management structure and include Mexico and Corporate segments. The Mexico segment engages in the exploration, development and operation of the Company's Mexican mineral interests and includes the Company's investment in its LGJV. Financial information relating to the Company's segments is as follows:

	Year Ended December 31, 2022			Year Ended December 31, 2021		
	Mexico	Corporate	Total	Mexico	Corporate	Total
Exploration	\$ 83	\$ 27	\$ 110	\$ 1,657	\$ —	\$ 1,657
General and administrative	1,124	24,344	25,468	1,424	20,023	21,447
Amortization	5	175	180	—	89	89
Legal settlement loss	—	7,900	7,900	—	—	—
Arrangement fees	—	—	—	—	195	195
Interest expense	—	433	433	—	185	185
Equity income in affiliates	(45,230)	—	(45,230)	(42,804)	—	(42,804)
Impairment of investment in affiliates	—	—	—	—	80,348	80,348
Income tax expense	1,565	—	1,565	—	—	—
Net other (income) loss	22	(4,977)	(4,955)	40	4,698	4,738
Total assets	109,081	274,420	383,501	84,277	260,971	345,248

### 14. Investment in Affiliates

During the years ended December 31, 2022 and 2021, the Company recognized income of \$45,230 and \$42,804, respectively, on its investment in the LGJV Entities, representing its ownership share of the LGJV Entities' results. The equity income in affiliate includes amortization of the carrying value of the investment in excess of the underlying net assets of the LGJV Entities. This basis difference is being amortized as the LGJV Entities' proven and probable reserves are processed.

On November 10, 2022, the Company provided an updated technical report, the Los Gatos Technical Report. The Los Gatos Technical Report indicated a significant decrease in the mineral reserve and mineral resource from the previously issued technical report in 2020. The Company considered this reduction in the mineral reserve and mineral resources as an indicator of a possible other-than-temporary impairment and as a result compared the carrying value of the LGJV on December 31, 2021, to the fair value of the LGJV.

The fair value of the LGJV was estimated based on the net present value of the expected cash flows to be generated by the LGJV on 70% basis. The discount rate used was 5.00%. The fair value of the investment in the LGJV was estimated to be \$333,447 and the carrying value at December 31, 2021, was \$413,795. At that time the carrying value exceeded the fair value and as a result, an impairment charge of \$80,348 was recorded during the fourth quarter of 2021. The impairment charge reduced the higher basis of the Company's Investment in LGJV at December 31, 2021, which was being amortized over the LGJV proven and probable reserves. See Note 9 – Fair Value Measurements for additional detail of the assumptions used in the determination of the fair value of the long-lived assets tested for impairment. There were no impairment indicators in the year ended December 31, 2022.

For the year ended December 31, 2021, the Company contributed \$260,039 to the LGJV to repurchase 18.5% of the ownership of the LGJV, to retire the WCF and the Term Loan and in support of exploration activities.

On March 17, 2022, we entered into a definitive agreement with Dowa to build and operate a leaching plant to reduce fluorine levels in zinc concentrates produced at CLG at an expected construction cost of \$6,050. As part of the agreement, the initial payment of the \$20,000 due to Dowa under the partner's priority distribution agreement was reduced to \$10,300. The reduced priority dividend amount reflects a portion of both the construction and future estimated operating costs of the leaching plant and is dependent on the successful construction and operation of the leaching plant. Should the leaching plant construction not be completed, or the leaching plant not operate according to certain parameters during the first five years, portions of the \$9,700 reduction could be reinstated.

In April 2022, the LGJV paid its first dividend of \$20,000 to its partners. The Company's share of the first dividend was \$14,000, before withholding taxes of \$700. A payment of \$7,365 was subsequently made to Dowa to cover the full amount of the reduced initial priority distribution due, for a net dividend received of \$5,935.

In July 2022 and November 2022, the LGJV paid additional dividends in the amount of \$15,000 and \$20,000, respectively, to its partners. The Company's share, after withholding taxes of \$525 and \$700, respectively, was \$9,975 and \$13,300, respectively, for the July 2022 and November 2022 dividend payments.

**LOS GATOS JOINT VENTURE  
COMBINED BALANCE SHEETS**  
(in thousands)

	December 31, 2022	December 31, 2021
<b>ASSETS</b>		
<b>Current Assets</b>		
Cash and cash equivalents	\$ 34,936	\$ 20,280
Receivables	26,655	11,263
Inventories	11,542	11,062
VAT receivable	21,531	46,242
Income tax receivable	27,039	—
Other current assets	4,138	4,515
Total current assets	125,841	93,362
<b>Non-Current Assets</b>		
Mine development, net	232,515	229,076
Property, plant and equipment, net	198,600	190,896
Deferred tax assets	—	17,407
Total non-current assets	431,115	437,379
<b>Total Assets</b>	<b>\$ 556,956</b>	<b>\$ 530,741</b>
<b>LIABILITIES AND OWNERS' CAPITAL</b>		
<b>Current Liabilities</b>		
Accounts payable and accrued liabilities	\$ 46,740	\$ 33,179
Related party payable	1,792	1,609
Accrued interest	11	51
Unearned revenue	—	1,714
Equipment loans	480	5,534
Total current liabilities	49,023	42,087
<b>Non-Current Liabilities</b>		
Equipment loans	—	478
Lease liability	268	—
Asset retirement obligation	15,809	14,706
Deferred tax liabilities	1,354	—
Total non-current liabilities	17,431	15,184
<b>Owners' Capital</b>		
Capital contributions	540,638	540,638
Paid-in capital	18,186	18,370
Accumulated deficit	(68,322)	(85,538)
Total owners' capital	490,502	473,470
<b>Total Liabilities and Owners' Capital</b>	<b>\$ 556,956</b>	<b>\$ 530,741</b>

**LOS GATOS JOINT VENTURE**  
**COMBINED STATEMENTS OF INCOME (LOSS)**  
*(in thousands)*

	<b>For the Years Ended December 31,</b>	
	<b>2022</b>	<b>2021</b>
<b>Revenue</b>	<b>\$ 311,724</b>	<b>\$ 249,194</b>
<b>Expenses</b>		
Cost of sales	107,075	97,710
Royalties	3,069	4,781
Exploration	9,800	5,383
General and administrative	14,307	13,345
Depreciation, depletion and amortization	69,380	52,402
Total expenses	203,631	173,621
<b>Other (income) expense</b>		
Interest expense	582	5,542
Loss on Term Loan extinguishment	—	4,359
Arrangement fee	—	2,090
Accretion expense	1,103	924
Other income	(766)	(222)
Foreign exchange (gain)	(2,348)	(607)
Total other (income) expense	(1,429)	12,086
<b>Income before taxes</b>	<b>109,522</b>	<b>63,487</b>
<b>Income tax (expense) benefit</b>	<b>(37,306)</b>	<b>15,097</b>
<b>Net Income</b>	<b>72,216</b>	<b>78,584</b>

**15. Subsequent Events**

On June 13, 2023, we entered into an agreement in principle to settle the U.S. Class Action. Subject to certain conditions, including class certification by the District Court, the execution of a definitive stipulation of settlement and approval of the settlement by the District Court, the settling parties have agreed to resolve the U.S. Class Action for a payment by us and our insurers of \$21,000 to a settlement fund. We are in the process of finalizing the amount of expenses incurred that are covered under the directors' and officers' insurance policy which will be deducted from the \$10,000 retention held by the Company. We expect to fund no more than \$7,900 of the settlement, with the balance of the settlement payment to be paid by insurance. We and the other defendants will not admit any liability as part of the settlement. Since the settlement of the U.S. Class Action is subject to conditions, there can be no assurance that the U.S. Class Action will be finally resolved pursuant to the agreement in principle that has been reached.

Except as disclosed above there are no events or transactions requiring recognition in these consolidated financial statements through June 26, 2023, the date which the financial statements were issued.

## **Report of Independent Auditors**

To Board of Managers of Los Gatos Joint Venture

### **Opinion**

We have audited the combined financial statements of Los Gatos Joint Venture, which comprise the combined balance sheets as of December 31, 2022 and 2021, the related combined statements of income, owners' capital, and cash flows for the years then ended, and the related notes (collectively referred to as the "combined financial statements"). In our opinion, the accompanying combined financial statements present fairly, in all material respects, the financial position of Los Gatos Joint Venture as at December 31, 2022 and 2021, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### **Basis for Opinion**

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Combined Financial Statements section of our report. We are required to be independent of Los Gatos Joint Venture and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Responsibilities of Management for the Combined Financial Statements**

Management is responsible for the preparation and fair presentation of the combined financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of combined financial statements that are free of material misstatement, whether due to fraud or error.

In preparing the combined financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Los Gatos Joint Venture's ability to continue as a going concern for one year after the date that the combined financial statements are available to be issued.

### **Auditor's Responsibilities for the Audit of the Combined Financial Statements**

Our objectives are to obtain reasonable assurance about whether the combined financial statements as a whole are free of material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the combined financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the combined financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the combined financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Los Gatos Joint Venture's internal control. Accordingly, no such opinion is expressed.

[Table of Contents](#)

- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the combined financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Los Gatos Joint Venture's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

/s/ Ernst and Young LLP

Chartered Professional Accountants  
Licensed Public Accountants

Toronto, Canada  
June 26, 2023

**LOS GATOS JOINT VENTURE  
COMBINED BALANCE SHEETS  
AS OF DECEMBER 31,**

**(In thousands of United States dollars)**

	Notes	December 31, 2022	December 31, 2021
<b>ASSETS</b>			
<b>Current Assets</b>			
Cash and cash equivalents		\$ 34,936	\$ 20,280
Receivables		26,655	11,263
Inventories	4	11,542	11,062
VAT receivable		21,531	46,242
Income tax receivable		27,039	—
Other current assets	5	4,138	4,515
Total current assets		125,841	93,362
<b>Non-Current Assets</b>			
Mine development, net		232,515	229,076
Property, plant and equipment, net	6	198,600	190,896
Deferred tax assets	15	—	17,407
Total non-current assets		431,115	437,379
<b>Total Assets</b>		<b>\$ 556,956</b>	<b>\$ 530,741</b>
<b>LIABILITIES AND OWNERS' CAPITAL</b>			
<b>Current Liabilities</b>			
Accounts payable and accrued liabilities	7	\$ 46,740	\$ 33,179
Related party payable		1,792	1,609
Accrued interest		11	51
Unearned revenue	3	—	1,714
Equipment loans	14	480	5,534
Total current liabilities		49,023	42,087
<b>Non-Current Liabilities</b>			
Equipment loans		—	478
Lease liability		268	—
Asset retirement obligation	11	15,809	14,706
Deferred tax liabilities		1,354	—
Total non-current liabilities		17,431	15,184
<b>Owners' Capital</b>			
Capital contributions		540,638	540,638
Paid-in capital		18,186	18,370
Accumulated deficit		(68,322)	(85,538)
Total owners' capital		490,502	473,470
<b>Total Liabilities and Owners' Capital</b>		<b>\$ 556,956</b>	<b>\$ 530,741</b>

See accompanying notes to the combined financial statements.

**LOS GATOS JOINT VENTURE  
COMBINED STATEMENTS OF INCOME  
FOR THE YEARS ENDED DECEMBER 31,**

**(In thousands of United States dollars)**

		<b>For the Years Ended December 31,</b>	
	<b>Notes</b>	<b>2022</b>	<b>2021</b>
<b>Revenue</b>	3	\$ 311,724	\$ 249,194
<b>Expenses</b>			
Cost of sales		107,075	97,710
Royalties		3,069	4,781
Exploration		9,800	5,383
General and administrative		14,307	13,345
Depreciation, depletion and amortization		69,380	52,402
Total expenses		203,631	173,621
<b>Other (income) expense</b>			
Interest expense		582	5,542
Loss on Term Loan extinguishment	9	—	4,359
Arrangement fee		—	2,090
Accretion expense	11	1,103	924
Other income		(766)	(222)
Foreign exchange (gain)		(2,348)	(607)
Total other (income) loss		(1,429)	12,086
<b>Income before taxes</b>		<b>109,522</b>	<b>63,487</b>
<b>Income tax (expense) recovery</b>		<b>(37,306)</b>	<b>15,097</b>
<b>Net Income</b>		<b>72,216</b>	<b>78,584</b>

See accompanying notes to the combined financial statements.

**LOS GATOS JOINT VENTURE  
COMBINED STATEMENTS OF OWNERS' CAPITAL****(In thousands of United States dollars)**

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	<b>Capital Contributions</b>	<b>Paid-in Capital</b>	<b>Accumulated Deficit</b>	<b>Total</b>
Balance at December 31, 2020	<u>\$ 271,368</u>	<u>\$ 16,366</u>	<u>\$ (164,122)</u>	<u>\$ 123,612</u>
Contributions	269,270	—	—	269,270
Costs paid by investor	—	2,004	—	2,004
Net income	—	—	78,584	78,584
Balance at December 31, 2021	<u>\$ 540,638</u>	<u>\$ 18,370</u>	<u>\$ (85,538)</u>	<u>\$ 473,470</u>
Dividends	—	—	(55,000)	(55,000)
Costs paid by investor	—	(184)	—	(184)
Net income	—	—	72,216	72,216
Balance at December 31, 2022	<u>\$ 540,638</u>	<u>\$ 18,186</u>	<u>\$ (68,322)</u>	<u>\$ 490,502</u>

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See accompanying notes to the combined financial statements.

**LOS GATOS JOINT VENTURE**  
**COMBINED STATEMENTS OF CASH FLOWS**  
**FOR THE YEARS ENDED DECEMBER 31,**  
**(In thousands of United States dollars)**

	Notes	Twelve Months Ended December 31,	
		2022	2021
<b>Cash flows from operating activities:</b>			
Net income		\$ 72,216	\$ 78,584
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation, depletion and amortization		69,368	51,969
Accretion		1,103	924
Asset retirement obligation		—	1,620
Arrangement fee		—	2,090
Deferred taxes		21,013	(16,051)
Unrealized (gain) loss on foreign currency rate change		(4,434)	1,519
Term Loan closing fee	9	—	1,585
Loss on Term Loan extinguishment	9	—	2,775
Other		(174)	347
Changes in operating assets and liabilities:			
VAT receivable		23,986	2,077
Receivables		(15,393)	(7,275)
Inventories		(353)	(2,055)
Unearned revenue		(1,714)	(1,562)
Other current assets		661	(1,918)
Income tax receivable		(27,039)	—
Accounts payable and other accrued liabilities		17,990	5,318
Payables to related parties		183	(109)
Other		(39)	(51)
Net cash provided by operating activities		157,374	119,787
<b>Cash flows from investing activities:</b>			
Mine development		(44,934)	(58,125)
Purchase of property, plant and equipment		(37,018)	(20,052)
Materials and supplies inventory		(327)	(868)
Net cash used by investing activities		(82,279)	(79,045)
<b>Cash flows from financing activities:</b>			
Capital contributions		—	207,209
Equipment loan payments		(5,439)	(7,040)
Working Capital Facility extinguishment	9	—	(60,000)
Term Loan closing fee	9	—	(1,585)
Term Loan payment	9	—	(15,913)
Term Loan retirement	9	—	(144,809)
Partner dividends		(55,000)	—
Net cash used by financing activities		(60,439)	(22,138)
Net increase in cash and cash equivalents			
		14,656	18,604
Cash and cash equivalents, beginning of period			
		20,280	1,676
Cash and cash equivalents, end of period			
		\$ 34,936	\$ 20,280
Interest paid			
		\$ 236	\$ 6,189
<b>Supplemental disclosure of noncash transactions:</b>			
Conversion of term loan to equity		\$ —	\$ 62,061
Materials and supplies included in accrued liabilities		\$ 202	\$ 2,177
Mine development costs included in accrued liabilities		\$ 3,427	\$ 6,191
Property, plant and equipment included in accrued liabilities		\$ 2,648	\$ 943
Recognition of Right of Use Asset and Lease Liability		\$ 328	\$ —

See accompanying notes to the combined financial statements.

**LOS GATOS JOINT VENTURE  
NOTES TO THE COMBINED FINANCIAL STATEMENTS**

**(In thousands of United States dollars)**

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**1. Description of Business and Basis of Preparation**

These combined financial statements represent the combined financial position and results of operations of the Los Gatos Joint Venture (“LGJV”). Unless the context otherwise requires, references to LGJV mean the Los Gatos Joint Venture. The combined financial statements have been prepared in accordance with United States Generally Accepted Accounting Principles (“GAAP”).

On January 1, 2015, the LGJV was established to develop the Cerro Los Gatos Mine (“CLG”) in northern Mexico. The LGJV consists of Minera Plata Real S. de R.L. de C.V. (“MPR”), Operaciones San Jose de Plata S. de R.L. de C.V. (“OSJ”), and Servicios San Jose de Plata S. de R.L. de C.V. (collectively the “LGJV Entities”), until Servicios was merged into MPR, effective July 15, 2021. Upon completion of their \$50,000 funding to the LGJV, Dowa Metals & Mining, Ltd. (“Dowa”) acquired a 30% interest in the LGJV Entities and the right to purchase future zinc-concentrate production at market rates. The remaining 70% interest in the LGJV entities was owned by Gatos Silver, Inc. (“Gatos Silver”) (Sunshine Silver Mining & Refining Corporation prior to October 30, 2020). Gatos Silver contributed \$18,200 to OSJ in May 2019 to provide funding for a partial repayment of principal and interest related to the Dowa MPR Loan. In late May 2019, the Dowa MPR Loan was fully extinguished with a cash payment of \$18,200 and the conversion of the remaining \$50,737 of principal and interest. The conversion of the remaining principal and interest increased Dowa’s ownership in the LGJV entities by 18.5% to 48.5%. On March 11, 2021, Gatos Silver repurchased the 18.5% interest from Dowa. The current ownership of the LGJV Entities is 70% Gatos Silver and 30% Dowa.

On September 1, 2019, the CLG commenced commercial production of its two concentrate products: a lead-silver concentrate and a zinc-silver concentrate. The Company’s concentrates are currently sold to third-party customers.

On January 25, 2022, we announced that during our mineral resource and mineral reserve update process for the LGJV, we concluded that there were errors in the technical report for the Cerro Los Gatos Mine (“CLG”) with an effective date of July 1, 2020, as well as indications that there may be an overestimation in the existing resource model. On November 10, 2022, a new technical report was filed updating the mineral reserve, mineral resource, and life of mine plan of the CLG.

**2. Summary of Significant Accounting Policies**

***Risks and uncertainties***

As a mining business, the LGJV’s revenue, profitability and future rate of growth are substantially dependent on prevailing prices for silver, zinc, lead and gold. Historically, the commodity markets have been quite volatile, and there can be no assurance that commodity prices will not be subject to wide fluctuations in the future. A substantial or extended decline in commodity prices could have a material adverse effect on the LGJV’s financial position, results of operations, cash flows, and the quantities of reserves the LGJV can economically produce. The carrying value of the LGJV’s property, plant and equipment, mine development, inventories and stockpiles are particularly sensitive to the outlook for commodity prices. A substantial or extended decline in the LGJV’s price outlook could result in material impairment charges related to these assets. Additionally, changes in other factors such as changes in mine plans, increases in costs, geotechnical failures, and changes in social, environmental or regulatory requirements can adversely affect the LGJV’s ability to recover its investment in certain assets and result in impairment charges.

Calculations of mineral reserves are only estimates and depend on geological interpretation and statistical inferences or assumptions drawn from drilling and sampling analysis, which might prove to be materially inaccurate. There is a degree of uncertainty attributable to the calculation of mineral reserves and mineral resources. Until mineral reserves and mineral resources are actually mined and processed, the quantity of metal and grades must be considered as estimates only and no assurance can be given that the indicated levels of metals will be produced. In making determinations about whether to advance any of our projects to development, we must rely upon estimated calculations for the mineral reserves and mineral resources and grades of mineralization on our properties.

The estimation of mineral reserves and mineral resources is a subjective process that is partially dependent upon the judgment of the persons preparing the estimates. The process relies on the quantity and quality of available data and is based on knowledge, mining experience, statistical analysis of drilling results and industry practices. Valid estimates made at a given time may significantly change when new information becomes available.

Estimated mineral reserves and mineral resources may have to be recalculated based on changes in metal prices, further exploration or development activity or actual production experience. This could materially and adversely affect estimates of the volume or grade of mineralization, estimated recovery rates or other important factors that influence mineral reserves and mineral resources estimates. The extent to which mineral resources may ultimately be reclassified as mineral reserves is dependent upon the demonstration of their profitable recovery. Any material changes in volume and grades of mineralization will affect the economic viability of placing a property into production and a property's return on capital. We cannot provide assurance that mineralization can be mined or processed profitably.

Mineral reserve and mineral resource estimates have been determined and valued based on assumed future metal prices, cutoff grades and operating costs that may prove to be inaccurate. Extended declines in the market price for silver, lead and zinc may render portions of our mineralization uneconomic and result in reduced reported volume and grades, which in turn could have a material adverse effect on our financial performance, financial position and results of operations.

The LGJV has considered and assessed the risk resulting from its concentrate sales arrangements with its customers. In the event that the LGJV's relationships with its customers are interrupted for any reason, the LGJV believes that it would be able to locate other customers to purchase its metals concentrates; however, any interruption could temporarily disrupt the LGJV's sale of its products and adversely affect operating results.

Our business could be adversely affected by the widespread outbreak of a health epidemic, communicable disease or any other public health crisis. For example, the outbreak of COVID-19 in the United States, Mexico and elsewhere has created significant business disruption and adversely affected our business and operations. We believe we have taken appropriate steps to minimize the risk to our employees and to maintain normal business operations. We may take further actions as may be required by government authorities or as we determine are in the best interests of our employees and business partners which may cause additional temporary suspension of some or all of our operations in the future.

#### ***Use of estimates***

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the combined financial statements and the reported amounts of revenues and expenses during the reporting period. The LGJV bases its estimates on historical experience and various other assumptions that are believed to be reasonable given the specific circumstances. Actual results could differ from those estimates. Significant items subject to such estimates and assumptions include receivables; inventories; mine development; reclamation and closure obligations; valuation allowances for deferred tax assets; depreciation, depletion and accretion and the fair value of financial instruments.

#### ***Functional currency and translation of foreign currencies***

The U.S. dollar is the LGJV's functional currency. Monetary assets and liabilities denominated in foreign currencies are translated to U.S. dollars at exchange rates in effect at the balance sheet date, with the resulting gains or losses reported in foreign exchange gain (loss) in the computation of net income (loss). Non-monetary assets and liabilities are translated into U.S. dollars at historical exchange rates. Expenses and other income and expense items in foreign currencies are translated into U.S. dollars at average or historical exchange rates.

#### ***Cash and cash equivalents***

The LGJV considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents.

### ***Receivables***

Trade receivables and other receivable balances are reported at outstanding principal amounts, net of an allowance for doubtful accounts, if deemed necessary. Management evaluates the collectability of receivable account balances to determine the allowance, if any. Management considers the other party's credit risk and financial condition, as well as current and projected economic and market conditions, in determining the amount of the allowance. If management determines a receivable balance is uncollectible, the uncollectable portion will be recognized as a loss.

### ***Metal and materials inventories***

The LGJV's inventories include ore, concentrate and operating materials and supplies. The classification of ore and concentrate inventories is determined by the production stage of the ore. All inventories are stated at the lower of cost or net realizable value. Cost is determined using the average cost method for all inventories and includes applicable taxes and freight. Ore inventory represents stockpiled ore that is available for processing. Concentrate inventory represents stockpiled lead or zinc concentrate that is available for shipment or in transit to customers. Ore and concentrate inventories include applicable operating and overhead costs.

### ***Mine development***

Mine development costs incurred subsequent to initial establishment of CLG's proven and probable mineral reserves in early January 2017 were capitalized as mine development assets until September 1, 2019 when the CLG achieved commercial production. Subsequent to September 1, 2019, costs incurred to further develop the mine including the building of access ways, ventilation shafts, lateral access, drifts, ramps and other infrastructure are capitalized to mine development assets. Upon the commencement of production, capitalized costs are charged to operations as depletion expense using the units-of-production method in the period the applicable mineral reserves are processed over the estimated proven and probable mineral reserve tonnes directly benefiting from the capital expenditures. The Los Gatos Technical Report dated November 10, 2022, provides an update to the estimated mineral reserves and mineral resources since the technical report issued in 2020, which was applied starting in the fourth quarter of 2021.

Upon abandonment or sale of a mineral property, any remaining capitalized mine development costs relating to such property will be removed from the balance sheet and a gain or loss recognized.

### ***Property, plant and equipment***

Property, plant and equipment are recorded at cost and depreciation is calculated on the straight-line method over the estimated useful lives of the assets. The estimated useful lives of plant and equipment and infrastructure range between three years and the end of the proven and probable reserves mine life. The Los Gatos Technical Report dated November 10, 2022 provides an update to the estimated mineral reserves and mineral resources since the technical report issued in 2020. The estimated useful lives of furniture, fixtures and computers range from three to ten years.

### ***Impairment of long-lived assets***

Long-lived assets, such as mine development, property, plant and equipment, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying value of an asset may not be recoverable. If circumstances require a long-lived asset or asset group to be tested for possible impairment, the LGJV first compares undiscounted cash flows expected to be generated by that asset or asset group to its carrying value. If the carrying value of the long-lived asset or asset group is not recoverable on an undiscounted cash flow basis, an impairment is recognized to the extent that the carrying value exceeds its fair value. Fair value is determined through various valuation techniques including discounted cash flow models, quoted market values and third-party independent appraisals, as considered necessary. At December 31, 2022, there was no indicator of impairment at the LGJV; therefore, an impairment test was not required.

### ***Value added tax receivable and payable***

Value added taxes ("VAT") are assessed on purchases of materials, services and sales of products. The LGJV is entitled to recover the taxes they have paid related to purchases of materials and services. The LGJV collects VAT when certain products are sold to customers. The LGJV records the VAT cash flows as operating activities in the combined statement of cash flows, given the short-term, refundable and operating characteristics of these cash flows.

**Reclamation and remediation costs (asset retirement obligations)**

The LGJV has asset retirement obligations (“ARO”) arising from regulatory requirements to perform certain property and asset reclamation activities at the end of the respective asset life. An ARO is recognized when incurred and is initially measured at fair value and subsequently adjusted for accretion expense and changes in the amount or timing of the estimated cash flows. The corresponding asset retirement costs are capitalized as part of the carrying amount of the related long-lived asset and amortized over the asset’s remaining useful life. The ARO is based on timing of expected spending for an existing environmental disturbance. The LGJV reviews its ARO every reporting period or when deemed necessary.

**Revenue recognition**

The LGJV generates revenue by selling silver-bearing lead and zinc concentrates. Concentrate sales are initially recorded based on the provisional sales prices, net of estimated treatment and refining charges, when it satisfies the performance obligation of transferring control of the concentrate to the customer. Concentrate revenue is initially recorded on a provisional basis based on historical prices and provisional assays. Final settlement is based on the final assays and an applicable price as determined by the quotational period at the time of sale, typically one to four months. Market changes in the prices of metals between the delivery and final settlement dates will result in provisional adjustments to revenues related to previously recorded sales of concentrate.

**Income taxes**

The LGJV’s income tax jurisdiction is Mexico. Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax basis and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. The LGJV recognizes the effect of income tax positions only if those positions are more likely than not of being sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs. The LGJV recognizes tax penalties in income tax expense.

**Recently issued accounting standards**

In February 2016, the Financial Accounting Standards Board issued Accounting Standards Update (“ASU”) 2016-02 which will require lessees to recognize assets and liabilities for the rights and obligations created by most leases on the balance sheet. These changes become effective for the LGJV’s fiscal year beginning January 1, 2022, and interim periods within the year ended December 31, 2022. The LGJV assessed the standard and recognized a right-in-use asset and a corresponding lease liability related to its office lease.

In December 2019, ASU No. 2019-12 was issued to simplify accounting for income taxes. This update is effective in fiscal years, beginning after December 15, 2021, and interim periods within fiscal years beginning after December 15, 2022, and early adoption is permitted. The LGJV concluded that the adoption of ASU 2019-12 did not have a material impact on our financial position and results of operations.

**3. Revenue**

The LGJV’s concentrate sales for the year ended December 31, are summarized below:

	2022	2021
Lead Concentrate	\$ 226,494	\$ 196,413
Zinc Concentrate	95,794	72,862
Treatment and refining charges and penalties	(21,871)	(21,619)
Subtotal	300,417	247,656
Provisional revenue adjustments	11,307	1,538
Revenue	<u>\$ 311,724</u>	<u>\$ 249,194</u>

Provisional revenue adjustments account for commodity price fluctuations in concentrate sales still subject to final settlement.

As silver, zinc and lead can be sold through numerous market traders worldwide, the LGJV is not economically dependent on a limited number of customers for the sale of its products. As of December 31, 2022, our total accounts receivable was concentrated with the following customers: Customer 1 (74%), Customer 2 (11%), and Customer 3 (11%). The LGJV enters into contracts with institutions management deems credit worthy. The Company does not anticipate non-performance by any of its counterparties.

#### 4. Inventories

The LGJV's inventories as of December 31, are summarized below:

	2022	2021
Ore stockpiles	\$ 843	\$ 777
Concentrate stockpiles	941	1,308
Material & supplies	9,758	8,977
	<u>\$ 11,542</u>	<u>\$ 11,062</u>

#### 5. Other Current Assets

The LGJV's other current assets as of December 31, are summarized below:

	2022	2021
Prepaid expenses	\$ 4,027	\$ 4,169
Deposits and other	111	346
Total other current assets	<u>\$ 4,138</u>	<u>\$ 4,515</u>

#### 6. Property, Plant and Equipment, net

The LGJV's property, plant and equipment as of December 31, are summarized below:

	2022	2021
Mineral properties	\$ 853	\$ 853
Plant & equipment	112,456	72,574
Land	14,422	14,422
Infrastructure & improvements	168,007	169,756
Furniture, fixtures & computers	779	609
Right of use asset	328	—
Property, plant & equipment at cost	<u>296,845</u>	<u>258,214</u>
Less accumulated amortization	<u>(98,245)</u>	<u>(67,318)</u>
Property, plant & equipment, net	<u>\$ 198,600</u>	<u>\$ 190,896</u>

Included in property plant and equipment is a Mexico head office lease of \$328 with the term until January 30, 2024.

#### Mineral Properties

The LGJV conducts exploration activities under mining concessions in Mexico.

The LGJV is required to make mineral and concession lease payments to various entities to secure its claims or surface rights. One of these agreements also requires royalty payments based on the production and sale of minerals.

### *Mining Concessions and Agreement*

In Mexico, mineral concessions from the Mexican government can only be held by Mexican nationals or Mexican-incorporated companies. The concessions are valid for 50 years and are extendable provided the concessions are kept in good standing. For concessions to remain in good standing, a semi-annual fee must be paid to the Mexican government and a report must be filed each year which covers the work accomplished on the property during the previous year. These concessions may be cancelled without penalty with prior notice to the Mexican government.

MPR is the concession holder of a series of mineral concessions granted by the Mexican government. The rights to certain concessions are held through exploration agreements with purchase options or a finder's fee agreement, as discussed below:

#### *La Cuesta Internacional S.A. de C.V. (La Cuesta)*

The LGJV is required to pay a production royalty of a) 2% net smelter return on production from the concession until all payments reach \$10,000 and b) 0.5% net smelter return on production from the concession after total payments have reached \$10,000 and c) 0.5% net smelter return on production from other property within a one-kilometer boundary of the Los Gatos concession. After total payments reach \$15,000, the Los Gatos concession ownership will be transferred to the LGJV. The agreement has no expiration date; however, the LGJV may terminate the agreement upon a 30-day notice. The agreement was revised in 2019 to allow a portion of production royalty payments to be deferred. Under the terms of the revised agreement, the LGJV was to pay \$500 quarterly through 2021, while incurring interest at 4.5% annually on the outstanding balance, with the balance of the production royalty due in the first quarter of 2022. The agreement was revised further in September 2021, which allowed for payment of the production royalty due and elimination of the interest on the unpaid portion of the production royalty. Following the payment of the balance due in September 2021, the LGJV made its first quarterly payment of the production royalty in October 2021. The LGJV paid \$4,040 and \$5,312 for this obligation in the years ended December 31, 2022 and 2021, respectively, resulting in \$10,487 paid through December 31, 2022.

As of December 31, 2022, the LGJV's minimum remaining production royalty obligation is summarized in the table below:

2023	100
2024	100
2025	100
2026	100
Thereafter	4,113
Total	<u>\$ 4,513</u>

### **7. Accounts Payable and Other Accrued Liabilities**

The LGJV's accounts payable and other accrued liabilities as of December 31, are summarized below:

	2022	2021
Accounts payable	\$ 18,042	\$ 18,641
Accrued expenses	20,628	11,253
Accrued payroll & taxes	8,070	3,285
Total accounts payable and other accrued liabilities	<u>\$ 46,740</u>	<u>\$ 33,179</u>

### **8. Related-Party Transactions**

Under the Unanimous Omnibus Partner Agreement, Gatos Silver provides certain management and administrative services to the LGJV. Certain expenses incurred by the owners on behalf of the LGJV are also reimbursed.

The LGJV incurred \$5,000 for each of the years ended December 31, 2022 and 2021, for these services, and paid \$5,417 and \$5,367 to Gatos Silver for the years ended December 31, 2022 and 2021, respectively. The LGJV had payables under this agreement of \$417 as of December 31, 2022.

## **9. Related Party Debt**

On July 11, 2017, the LGJV entered into a loan agreement (“Term Loan”) with Dow whereby the LGJV could borrow up to \$210,000 for CLG development, with a maturity date of December 29, 2027. Interest on this loan accrued daily at LIBOR plus 2.35%, with the interest added to the amount borrowed until commencement of concentrate production. A \$4,200 fee was paid to Dow during 2018 upon the loan closing. Commencing June 30, 2021, 14 consecutive semi-annual equal payments of the aggregate principal plus accrued interest on the payment date began. The Term Loan also required accelerated principal payments equal to 70% of excess cash flows (as defined) from the CLG. Subsequent to the commencement of production, interest was expensed. Interest expense for the years ended December 31, 2021 and 2020 was \$3,292 and \$8,007, respectively. On July 26, 2021, the Term Loan was repaid in full through capital contributions made to the LGJV by Gatos Silver and Dow in pro-rata amounts equal to their ownership in the LGJV of 70% and 30%, respectively. In conjunction with the repayment, the LGJV paid a closing fee to Dow of \$1,585. The closing fees paid to Dow, along with \$2,775 of remaining Term Loan deferred financing costs are presented as Loss on Term Loan extinguishment in the Combined Statements of Income.

On January 23, 2018, the LGJV entered into a loan agreement (“Dow MPR Loan”) whereby the LGJV could borrow up to \$65,000 for CLG development. Interest on this loan accrued daily at LIBOR plus 1.5% and was added to the amount borrowed. All interest was capitalized to Mine Development or Property, Plant and Equipment. The amount borrowed, including accrued and unpaid interest, was due the earlier of June 30, 2019, or upon substantial completion of the CLG development. If the Dow MPR Loan was not repaid by the maturity date, Dow could elect to convert all or a portion of Gatos Silver’s portion of the outstanding Dow MPR Loan, including accrued interest, to additional equity in the LGJV Entities at 170% of Gatos Silver’s portion of the outstanding balance (“Additional Equity”). If Gatos Silver’s ownership in the LGJV Entities was diluted, for two years from the maturity date, Gatos Silver could repurchase the Additional Equity for 170% of such value plus all costs and expenses incurred by Dow to acquire and hold the Additional Equity. In May 2019, Gatos Silver contributed \$18,200 to OSJ to provide funding for a partial repayment of principal and interest related to the Dow MPR Loan. In May 2019, the Dow MPR Loan was fully extinguished with a principal and interest payment of \$18,200 and the conversion of the remaining principal and interest of \$50,737 to additional Dow ownership in the LGJV entities. Subsequent to this transaction the ownership of the LGJV entities was 51.5% Gatos Silver and 48.5% Dow. On March 11, 2021, pursuant to the definitive agreement between Gatos Silver and Dow, Gatos Silver repurchased an additional 18.5% interest from Dow, increasing Gatos Silver’s interest in the LGJV to 70%.

On May 30, 2019, the LGJV entered into a working capital facility agreement (“WCF”) with Dow whereby the LGJV could borrow up to \$60,000 to fund the working capital and sustaining capital requirements of the CLG. Interest on the WCF accrued daily at LIBOR plus 3.0%. The maturity date of the WCF was June 28, 2021. The LGJV paid interest of \$369 and \$2,530 under this facility for the years ended December 31, 2021 and 2020, respectively. On March 11, 2021, the full \$60,000 amount outstanding under the WCF was extinguished through capital contributions made to the LGJV by Gatos Silver and Dow in pro-rata amounts equal to their ownership in the LGJV of 70% and 30%, respectively.

Gatos Silver incurred certain fees on behalf of the LGJV entities related to the Term Loan and WCF. Prior to production, these fees were capitalized. Subsequent to production, these fees were expensed. See Note 10—Commitments, Contingencies and Guarantees in the notes to the consolidated financial statements of Gatos Silver for additional information.

## **10. Owners’ Capital**

During 2021, Gatos Silver and Dow, contributed \$188,489 and \$80,781, respectively, as owners’ capital to the LGJV to retire the WCF and Term Loan and for exploration activities. There were no contributions during the year ended December 31, 2022.

## **11. Asset Retirement Obligations**

In 2015, the LGJV recognized an ARO related to the work performed at the CLG. The LGJV estimated the present value of the estimated future cash flows required to revegetate the disturbed areas and perform any required monitoring. The LGJV used a discount rate and inflation rate of 9% and 1%, respectively, to calculate the present value of this obligation, related to the disturbance of land around the mine portal, waste rock dump and road to the explosives storage area.

In 2018, the LGJV recognized an ARO related to the additional development work performed at the CLG. The LGJV estimated the present value of the estimated future cash flows required to reclaim the disturbed areas and perform any required monitoring. The LGJV used a discount rate and inflation rate of 7.5% and 3%, respectively, to calculate the present value. The Los Gatos Technical Report dated November 10, 2022, provides an update to the estimated mineral reserves and mineral resources since the technical report issued in 2020, which changed the expected timing of our asset retirement obligations. The revised estimate was applied starting in the fourth quarter of 2021.

The following table summarizes activity in the LGJV's ARO as of December 31:

	2022	2021
Balance, beginning of period	\$ 14,706	\$ 12,162
Additions	—	1,620
Accretion expense	1,103	924
Balance, end of period	<u>\$ 15,809</u>	<u>\$ 14,706</u>

## 12. Fair Value Measurements

The LGJV establishes a framework for measuring the fair value of financial assets and liabilities which are measured at fair value on a recurring (annual) basis in the form of a fair value hierarchy that prioritizes the inputs into valuation techniques used to measure fair value into three broad levels. This hierarchy gives the highest priority to unadjusted quoted prices in active markets and the lowest priority to unobservable inputs. Further, financial assets and liabilities should be classified by level in their entirety based upon the lowest level of input that was significant to the fair value measurement. The three levels of the fair value hierarchy are as follows:

**Level 1:** Unadjusted quoted market prices in active markets for identical assets or liabilities that are accessible at the measurement date.

**Level 2:** Quoted prices in inactive markets for identical assets or liabilities, quoted prices for similar assets or liabilities in active markets, or other observable inputs either directly related to the asset or liability or derived principally from corroborated observable market data.

**Level 3:** Unobservable inputs due to the fact there is little or no market activity. This entails using assumptions in models which estimate what market participants would use in pricing the asset or liability.

### *Financial Assets and Liabilities*

At December 31, 2022, the LGJV's financial instruments consist of cash and cash equivalents, receivables, other current assets, accounts payable and other current liabilities. The carrying amounts of these financial instruments approximate fair value due to their short maturities and are classified within Level 1 of the fair value hierarchy.

The LGJV's debt obligations as of December 31, 2022 and 2021, consist of equipment loans and are classified within Level 2 of the fair value hierarchy. The carrying value of the equipment loans approximate fair value as the liability is secured by the underlying equipment, guaranteed by Gatos Silver, and lacks significant credit concerns. The fair value as of December 31, 2022 and 2021, was \$480 and \$6,011, respectively.

## 13. Commitments and Contingencies

In determining accruals and disclosures with respect to loss contingencies, the LGJV will charge to income an estimated loss if information available prior to the issuance of the financial statements indicates that it is probable that a liability has been incurred at the date of the financial statements and the amount of the loss can be reasonably estimated. Legal expenses associated with the commitments and contingencies are expensed as incurred. If a loss contingency is not probable or reasonably estimable, disclosure of the loss contingency is made in the combined financial statements when it is at least reasonably possible that a material loss could be incurred.

The LGJV's mining, development and exploration activities are subject to various laws, regulations and permits governing the protection of the environment. These laws, regulations and permits are continually changing and are generally becoming more restrictive. The LGJV has made, and expects to make in the future, expenditures to comply with such laws, regulations and permits, but cannot predict the full amount of such future expenditures.

From time to time, the LGJV may be involved in legal proceedings related to its business. Management does not believe that adverse decisions in any pending or threatened proceeding or that amounts that may be required to be paid by reason thereof will have a material adverse effect of the LGJV's combined financial condition or results of operations.

#### 14. Equipment Loans

During 2021 and 2020, the LGJV Entities entered into equipment loan agreements, with repayment over four years at interest rates ranging from 5.76% to 8.67%, to finance a portion of mining equipment purchases. As of December 31, 2022, and 2021, the LGJV had outstanding loans of \$480 and \$6,025, respectively, net of unamortized debt discount of \$3 and \$14, respectively. For the years ended December 31, 2022, and 2021, the LGJV incurred \$480 and \$738 of interest on these loans, respectively. Gatos Silver has guaranteed the payment of all obligations, including accrued interest, under the equipment loan agreements.

#### 15. Income Taxes

The combined income before taxes in Mexico was \$109,522 and \$63,487 for the years ended December 31, 2022 and 2021, respectively. The combined current and deferred income tax for the years ended December 31, 2022 and 2021, were expense of \$37,306 and benefit of \$15,097, respectively. The current and deferred income tax expense (benefit) for the years ended December 31, 2022 and 2021 comprise deferred tax expense of \$19,586 and current tax expense of \$17,720, and deferred tax benefit of \$(16,051) and current tax expense of \$954, respectively.

A reconciliation of the actual income tax expense (benefit) and the tax computed by applying the Mexico federal rate (30%) to the loss before taxes for the year ended December 31, is as follows:

	2022	2021
Tax provision from continuing operations	\$ 32,856	\$ 19,046
Nondeductible Expenses	(2,267)	3,605
Change in Valuation Allowance	6,047	(36,367)
Deferred Mexico Mining Tax	(93)	(200)
Current Mexico Mining Tax	2,190	954
NOL inflation adjustment	(1,427)	(2,135)
Total income and mining tax expense (benefit)	\$ 37,306	\$ (15,097)

The net operating loss (NOL) inflation rate adjustment relates to historical net operating loss carryforwards in Mexico from 2012 to 2020. These historical carryforwards have been inflation-adjusted based upon an inflation factor published by the central bank of Mexico, as any inflationary adjustment will impact the LGJV's basis in the net operating losses during the carryforward period.

A summary of the components of the deferred tax assets (liabilities) for the year ended December 31, is as follows:

	2022	2021
Deferred tax assets		
Accrued expenses	\$ 4,777	\$ 3,798
Deferred Revenue	—	514
Fixed assets	10,591	8,399
Reclamation obligations	4,744	4,412
Operating loss carryforward	8,335	19,956
Deferred Mexico Mining Tax	293	200
Valuation allowances	(4,744)	(4,412)
	<u>\$ 23,996</u>	<u>\$ 32,867</u>
Deferred tax liabilities		
Asset Retirement Costs	\$ (2,686)	\$ (2,956)
Unbilled Revenue	(6,869)	(691)
Exploration and Development	(14,643)	(10,562)
Prepaid expenses	(1,152)	(1,251)
	<u>\$ (25,350)</u>	<u>\$ (15,460)</u>
Deferred income tax assets (liabilities)	<u>\$ (1,354)</u>	<u>\$ 17,407</u>

As of December 31, 2022, The Company's deferred tax assets primarily consist of net operating losses, and accrued expenses not currently deductible. Management considers new evidence, both positive and negative, that could affect its view of the future realization of deferred tax assets. Based upon the level of taxable income and projections of future taxable income over the periods which the deferred tax assets are deductible, management believes it is more likely than not that the Company will not realize the benefits of the asset retirement obligation deferred tax asset of \$4,744 and thus has recorded a full valuation allowance against this deferred tax asset.

The change in the deferred tax asset in the year of \$18,760 includes a deferred tax expense of \$19,586 and foreign currency translation of \$826.

At December 31, 2022 the LGJV had \$24,185 of net operating loss carryforwards in Mexico (net of inflation adjustments) which expire at various dates through 2031.

The owners of the Joint Venture file income tax returns in the U.S and Mexico. Effective January 1, 2017, the Company's foreign assets and operations are owned by entities that have elected to be treated for U.S. tax purposes as corporations and, as a result, the taxable income or loss and other tax attributes of such entities are not included in the owners of the Company's U.S. federal consolidated income tax return. The statute of limitations for tax returns filed in Mexico is five years from the date of filing. The tax returns of the Company are no longer subject to examinations by Mexican tax authorities for years prior to 2017.

As of December 31, 2022, the Company has not recognized any increases or decreases in unrecognized tax benefits, as it is more likely than not that all tax positions have a high probability of being upheld by the taxing authorities. The Company recognizes penalties and accrued interest related to unrecognized tax benefits in interest expense and penalties in operating expenses. No such interest or penalties were recognized during the periods presented.

#### 16. Subsequent Events

There are no events or transactions requiring recognition or disclosure in these combined financial statements through June 26, 2023 the date which the financial statements were issued.

## **Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure**

The information required by Item 9 was previously reported on our Annual Report on Form 10-K for the year ended December 31, 2021, filed with the SEC on March 20, 2023.

### **Item 9A. Controls and Procedures**

#### ***Evaluation of Disclosure Controls and Procedures***

We have established disclosure controls and procedures, as such term is defined in Rule 13a-15(e) under the Exchange Act, that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is accumulated and communicated to management, including our principal executive and principal financial officers as appropriate, to allow timely decisions regarding required disclosure.

Our management, with the participation of our principal executive officer and principal financial officer, evaluated the effectiveness of our disclosure controls and procedures as of December 31, 2022. Based on this evaluation, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were not effective as of December 31, 2022, due to the material weaknesses in our internal control over financial reporting described below.

#### ***Management's Annual Report on Internal Control Over Financial Reporting***

Management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act.

Internal control over financial reporting has inherent limitations. Internal control over financial reporting is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. Internal control over financial reporting also can be circumvented by collusion or improper management override. Because of such limitations, there is a risk that material misstatements will not be prevented or detected on a timely basis by internal control over financial reporting. However, these inherent limitations are known features of the financial reporting process. Therefore, it is possible to design into the process safeguards to reduce, though not eliminate, this risk.

Management, including our principal executive officer and principal financial officer, assessed the effectiveness of our internal control over financial reporting as of December 31, 2022. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in Internal Control - Integrated Framework (2013). Based on this assessment, management has concluded that we did not maintain effective internal control over financial reporting as of December 31, 2022, due to the identification of the material weaknesses discussed below.

A "material weakness" is defined under SEC rules as a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of a company's annual or interim financial statements will not be prevented or detected on a timely basis.

In connection with our review of the internal control structure related to the preparation of the financial statements for the fiscal year ended December 31, 2021, we identified the following material weaknesses in our internal controls over financial reporting, which remain unremedied as of December 31, 2022:

- We did not demonstrate the appropriate tone at the top including failing to design or maintain an effective control environment commensurate with the financial reporting requirements of a public company in the United States and Canada. In particular, we did not design control activities to adequately address identified risks or operate at a sufficient level of precision that would identify material misstatements to our financial statements and did not design and maintain sufficient formal documentation of accounting policies and procedures to support the operation of key control procedures.
- We failed to design and maintain effective controls relating to our risk assessment process as it pertained to the assessment of key assumptions, inputs and outputs contained in our July 2020 technical report.

In connection with our review of the internal control structure related to the preparation of the restated financial statements for the fiscal year ended December 31, 2021, we have identified the following additional material weaknesses in our internal controls over financial reporting:

- We failed to design and maintain effective controls over accounting for current and deferred taxes. This material weakness resulted in a material misstatement of our previously issued financial statements for the year ended December 31, 2021. Specifically, the financial statements of the LGJV at December 31, 2021 did not accurately reflect the current and deferred tax assets and liabilities at December 31, 2021 which resulted in an overstatement of the current income tax expense. Consequently, the impairment of investment in affiliates and the investment in affiliates and the equity income in affiliates were also not accurately presented in the Company's financial statements at December 31, 2021.
- We did not have adequate technical accounting expertise to ensure that complex accounting matters such as the impact of the priority distribution payment due to our joint venture partner and the impairment charge was recognized in accordance with GAAP. This material weakness resulted in a material misstatement of our previously issued financial statement for the year ended December 31, 2021. The financial statements did not accurately reflect the investment in affiliates and the equity income in affiliates. Additionally, this caused the impairment of the investment in affiliates to be misstated.

After giving full consideration to these material weaknesses, and the additional analyses and other procedures that we performed to ensure that our consolidated financial statements included in this Annual Report on Form 10-K were prepared in accordance with U.S. GAAP, our management has concluded that our consolidated financial statements present fairly, in all material respects, our financial position, results of operations and cash flows for the periods disclosed in conformity with U.S. GAAP.

#### ***Remediation Efforts***

We are in the process of implementing measures designed to improve our internal control over financial reporting and remediate the control deficiencies that led to the material weaknesses described above. To date, we have:

- engaged a third-party expert to assist management in documenting key processes related to our internal control environment, designing and implementing an effective risk assessment and monitoring program to identify risks of material misstatements and ensuring that the internal controls have been appropriately designed to address and effectively monitor identified risk;
- hired a new executive leadership team, including a new CEO, CFO and senior executive responsible for technical services, each of which has appropriate experience and has demonstrated a commitment to improving the Company's control environment;
- hired additional personnel with accounting and technical expertise, including hiring new accounting staff in connection with the relocation of the Company's headquarters to Vancouver;
- enhanced the procedures and functioning of our disclosure committee relating to the appropriate reporting of information and review and approval of the Company's public disclosures;
- engaged a new independent third-party subject matter specialist to perform a technical review of the 2022 mineral resource and mineral reserve estimates; and
- enhanced our procedures, including implementing appropriate controls, relating to management verification of the inputs and assumptions for our technical reports.

Management of the Company and the Board of Directors take the control and integrity of the Company's financial statements seriously and believe that the remediation steps described above are essential to maintaining a strong internal controls environment. We have identified and implemented, and continue to identify and implement, actions to improve the effectiveness of our internal control over financial reporting and to review such actions and progress with the Audit Committee. In addition, we have taken, and continue to take, the actions described above to remediate the identified material weaknesses. As we continue to evaluate and work to improve our internal controls over financial reporting, our senior management may determine to take additional measures to address control deficiencies or determine to modify the remediation efforts described in this section. Management, with the oversight of the Audit Committee of the Board of Directors, has made meaningful progress to enhance our internal control over financial reporting and to address these material weaknesses as further described above.

#### ***Changes in Internal Control over Financial Reporting***

Except as described above, there were no changes in our internal control over financial reporting that occurred during the year ended December 31, 2022, that materially affected, or that are reasonably likely to materially affect our internal control over financial reporting.

#### ***Limitations on Effectiveness of Controls***

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent all errors and fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance of achieving the desired control objectives. Further, the design of a control system must reflect resource constraints, which require management to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision making can be faulty, and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by management's override of the control.

The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate.

#### **Item 9B. Other Information**

In connection with Mr. van Niekerk's appointment as the Company's Chief Financial Officer, the Company issued an offer letter that was accepted by Mr. van Niekerk (the "Offer Letter"), the material terms of which were described in the Company's Current Report on Form 8-K filed on June 28, 2022, and incorporated by reference herein. As contemplated thereby, on May [ ], 2023, Mr. van Niekerk entered into a definitive Employment Agreement with Gatos Silver Canada Corp., a wholly-owned subsidiary of the Company, with material terms that are substantially consistent with those of the Offer Letter.

#### **Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections**

Not applicable.

## PART III

### Item 10. Directors, Executive Officers and Corporate Governance

#### *Board of Directors*

The board of directors of the Company (the “Board”) consists of eight directors. Information about each of our directors can be found below. Directors serve until their successor is duly elected and qualified, or until their earlier death, resignation or removal. Each director has served continuously since the date of his or her appointment.

**Janice Stairs**, 63, has served as a member of our Board since October 2019, including as Chair of the Board since October 2020 and as Lead Director of our Board from January 2020 to October 2020. In addition to our Board, Ms. Stairs also serves on the board of directors of Trilogy Metals Inc. and Marathon Gold Corporation. Ms. Stairs has more than 30 years of experience in the resources sector. From 2011 until 2019, Ms. Stairs served as general counsel and corporate secretary at Namibia Critical Metals Inc. Previously, Ms. Stairs served as general counsel at Endeavour Mining Corporation, as vice president and general counsel at Etruscan Resources Inc., and as partner at the law firm McInnes Cooper (formerly Patterson Palmer). In addition, Ms. Stairs has served on the board of directors of Gabriel Resources Ltd., Namibia Critical Metals Inc., AuRico Gold Inc. and AuRico Metals Inc. Ms. Stairs holds an LL.B. from Dalhousie University and an M.B.A. from Queen’s University. Ms. Stairs is a resident of Halifax, Nova Scotia. We believe that Ms. Stairs’ academic training in law and business and her extensive experience in the resources sector make her a valuable addition to our Board.

**Dale Andres**, 54, has served as our Chief Executive Officer and as a member of our Board since April 2022. In addition to our Board, Mr. Andres serves on the board of directors of Artemis Gold Inc. Mr. Andres joined the Company in June 2021 and previously served as President before being appointed to the CEO position. Mr. Andres has more than 30 years of executive and operations management experience in the resource industry. From June 2016 to March 2021, Mr. Andres served as Senior Vice President, Base Metals at Teck Resources Limited responsible for both the Copper and Zinc business units globally, and previously served at Teck as Senior Vice President, Copper; as Vice President, Copper Strategy and North American Operations; as Vice President, Gold and International Mining; and as General Manager, Underground Mines. Mr. Andres holds a Bachelor’s Degree in Mining Engineering from Queen’s University in Kingston, Ontario, and a Graduate Diploma in Business Administration from Simon Fraser University in Burnaby, British Columbia. We believe that Mr. Andres’ extensive experience in the resources sector make him a valuable addition to our Board.

**Ali Erfan**, 58, has served as a member of our Board since May 2019. In addition to our Board, Mr. Erfan serves on the board of directors of Electrum Ltd., Augustus Ltd., Gabriel Resources Ltd., Sunshine Silver Mining & Refining Corporation and Minera Adularia International Ltd. Mr. Erfan was a board member of Reebonz Holding Limited until July 2019. Mr. Erfan has more than 20 years of experience in senior roles in the venture capital and private equity industry. Since 2007, Mr. Erfan has served as a director of The Electrum Group, a privately held global natural resources investment management company, and since 2017, Mr. Erfan has served as vice chairman of The Electrum Group. Previously, Mr. Erfan served as a senior partner at 3i Group, Plc. Mr. Erfan founded the Cogito Scholarship Foundation, a U.K. charity. Mr. Erfan holds an M.B.A. from the London Business School and a B.A. and an M.A. in Politics, Philosophy and Economics from Oxford University. Mr. Erfan is a resident of Monaco. We believe that Mr. Erfan’s extensive experience in finance and our industry makes him a valuable addition to our Board.

**Igor Gonzales**, 68, has served as a member of our Board since June 2020. In addition to our Board, Mr. Gonzales serves on the board of directors of Hudbay Minerals Inc. and Harte Gold Corp. Mr. Gonzales has more than 30 years of experience in the mining industry. Since June 2020, Mr. Gonzales has served as the chief operating officer at Appian Capital Advisory, a leading investment advisor in the metals and mining industry. From June 2017 to May 2020, Mr. Gonzales served as the president and chief executive officer at Sierra Metals Inc. From November 2014 to April 2017, Mr. Gonzales served as the chief operating officer at Compañía de Minas Buenaventura. Previously, Mr. Gonzales served as the executive vice president and chief operating officer at Barrick Gold Corporation and in various roles with Southern Peru Copper Corporation. In addition, Mr. Gonzales has served on the board of directors of Compañía de Minas Buenaventura and Cia Minera El Brocal. Mr. Gonzales holds a B.S. in Chemical Engineering from the University of San Antonio Abad in Cusco, Peru, and an M.S. in Extractive Metallurgy from the New Mexico Institute of Mining and Technology, where he was a Fulbright Scholar. Mr. Gonzales is a resident of Lima, Peru. We believe that Mr. Gonzales’ extensive experience in our industry makes him a valuable addition to our Board.

**Karl Hanneman**, 64, has served as a member of our Board since October 2019. In addition to our Board, Mr. Hanneman also serves on the board of directors of International Tower Hill Mines, Ltd., Usibelli Coal Mine, Inc. and Northrim BanCorp, Inc. Mr. Hanneman has more than 35 years of mining industry management and technical experience as an executive, manager, mining engineer, mine operator and entrepreneur. Since February 2017, Mr. Hanneman has served as chief executive officer of International Tower Hill Mines, Ltd., where he leads a team advancing a 10-million-ounce gold resource in Alaska through project optimization. From March 2015 to February 2017, Mr. Hanneman served as chief operating officer of International Tower Hill Mines, Ltd. Previously, Mr. Hanneman served as general manager and project manager of International Tower Hill Mines, Ltd. and as director, corporate affairs, Alaska and as Alaska regional manager at Teck Resources Ltd., including being responsible for overseeing the \$350 million Pogo Gold project throughout the period of underground exploration, feasibility study, project design and permitting. Mr. Hanneman holds a B.S. in Mining Engineering, magna cum laude, from the University of Alaska. Mr. Hanneman is a resident of Fairbanks, Alaska. We believe that Mr. Hanneman's extensive experience in our industry makes him a valuable addition to our Board.

**Charles Hansard**, 74, has served as a member of our Board since October 2020. In addition to our Board, Mr. Hansard also serves on the board of directors of Baker Steel Resources Trust Limited, Electrum Limited and JJJ Moore Ltd. He previously served on the Board of Moore Global Investors Ltd. from 1996 until 2020. Mr. Hansard has more than 25 years of experience in corporate governance at the board of directors level. Mr. Hansard served as the chairman of African Platinum Plc, which he led through reorganization and feasibility prior to its acquisition by Impala Platinum Ltd. and has served on the board of directors of AIG Asset Management (Europe) Ltd., Apex Silver Mines Limited and Deutsche Global Liquidity PLC. Mr. Hansard holds a B.B.S. from Trinity College Dublin. Mr. Hansard is a resident of London, U.K. We believe that Mr. Hansard's extensive experience in corporate governance makes him a valuable addition to our Board.

**Daniel Muñiz Quintanilla**, 50, has served as a member of our Board since April 2021. In addition to our Board, Mr. Muñiz serves on the board of directors of Hudbay Minerals Inc. and Brookfield Infrastructure Partners. Mr. Muñiz is a highly accomplished mining executive whose previous experience includes a 12-year tenure with Grupo Mexico, SAB de CV and its subsidiaries, Americas Mining Corp. and Southern Copper Corp., where he served in a variety of leadership roles, including Managing Director (CEO) and Chief Financial Officer. Mr. Muñiz holds a Master's Degree in Financial Law from Georgetown University Law Center in Washington D.C., a Master's Degree in Business Administration from Instituto de Empresa in Madrid, Spain, and a Law Degree from the Universidad Iberoamericana in Mexico City, Mexico. Mr. Muñiz is a resident of Mexico City, Mexico. We believe that Mr. Muñiz's experience in the mining industry makes him a valuable addition to our Board.

**David Peat**, 70, has served as a member of our Board since September 2011. In addition to our Board, Mr. Peat also serves on the board of directors of Nickel Creek Platinum Corp. and Elevation Gold Mining Corporation. Mr. Peat has more than 35 years of experience in financial leadership in support of mining corporations. Mr. Peat previously served as vice president and chief financial officer at Frontera Copper Corporation, as vice president and global controller at Newmont Mining Corporation and as vice president of finance and chief financial officer at Homestake Mining Company. In addition, Mr. Peat has served on the board of directors of Gabriel Resources Ltd., Electrum Special Acquisition Corporation, AQM Copper Inc., Fortune Bay Corp. and Brigus Gold Corp. Mr. Peat is a member of the Institute of Chartered Professional Accountants of Ontario. Mr. Peat holds a B.Com., Honors in Business Administration from the University of Windsor and a B.A. in Economics from the University of Western Ontario. Mr. Peat is a resident of Fernandina Beach, Florida. We believe that Mr. Peat's academic training in business and economics and his extensive experience in corporate finance and accounting make him a valuable addition to our Board.

#### **Executive Officers**

The following biographies describe the business experience of each of the Company's executive officers, except for Dale Andres, our Chief Executive Officer, whose biography is provided under the heading "Board of Directors."

**André van Niekerk**, 46, has served as our Chief Financial Officer since July 2022. Mr. van Niekerk has more than 20 years of international experience in the mining industry. Previously, Mr. van Niekerk served as Chief Financial Officer at Nevada Copper Corp from July 2020 to May 2022; he spent 14 years at Golden Star Resources in various roles including Executive Vice President and Chief Financial Officer from April 2014 to March 2020; and in various advisory and audit roles at a Big Four audit firm prior to 2006. Mr. van Niekerk holds bachelor's degrees in accounting from both the University of South Africa and University of Pretoria. Mr. van Niekerk is a Certified Public Accountant.

**Anthony Scott**, 46, has served as our Senior Vice President, Corporate Development and Technical Services since November 2022. Previously Mr. Scott was our Vice President of Evaluations and Technical Services from January 2022. Mr. Scott has more than 20 years of experience in the resource industry. Prior to joining the Company, from August 2014 to January 2022, Mr. Scott worked for Macquarie Metals and Energy Capital (Canada) Ltd, a subsidiary of Macquarie Group Limited. From July 2016 to January 2022 at Macquarie he held the position of Managing Director within the Mining Finance group. His responsibility in this role was to perform technical due diligence on operating or development mining companies for the purpose of providing debt finance or derivatives to those organizations. Prior to joining Macquarie, Mr. Scott was employed as Director, Long Term Asset Planning and as Manager, Reserve Evaluations at Teck Resources Limited; and as a geologist in multiple positions at Teck Resources Limited, Placer Dome Gold, and Kalgoorlie Consolidated Gold Mines. Mr. Scott holds a Bachelor's Degree in Mining Geology Engineering from Curtin University, Western Australia School of Mines.

**Stephen Bodley**, 55, has served as our General Counsel and Chief Compliance Officer since October 2022. Mr. Bodley has more than 30 years of legal and business leadership experience in resources and other industries. Mr. Bodley served as the Chief Legal Officer of Aleafia Health Inc, from September 2021 to October 2022. From September 2017 to September 2021, Mr. Bodley was the President and CEO of Minmurph Inc. and Minmurph Consulting Limited., business and legal consulting firms focused primarily on the resource industry. Previously, Mr. Bodley was the Chief Legal Officer of Ma'aden and Sherritt International, large international mining companies, and held senior legal and business positions at the North American subsidiaries of Centrica plc, a large UK-based energy company, including as the Head of Mergers and Acquisitions. Mr. Bodley started his career at Blakes, a leading Canadian business law firm, and was partner of the firm before he moved to industry. Mr. Bodley holds a Juris Doctor/LLB degree from Osgoode Hall Law School and is licensed to practice law in the Province of Ontario, Canada.

**Luis Felipe Huerta**, 52, has served as our Vice President Mexico since October 2020 and previously served as our Project Director of the Cerro Los Gatos Mine from 2015 to 2020. Mr. Huerta has more than 25 years of project management experience in the mining industry. From 2012 to 2014, Mr. Huerta served as project manager at Continental Gold Inc. Previously, Mr. Huerta served as project manager at Fortuna Silver Mines Inc. and as project superintendent at Compañía Minera Milpo. Mr. Huerta holds a Bachelor's in Engineering Science and a Master's in Project Management from ESAN Graduate School of Business. Mr. Huerta is a resident of Chihuahua, Mexico.

**Nicolas Vachon**, 52, has served as our Vice President, Finance since May 2022. Mr. Vachon has more than 20 years of financial and corporate development experience in the mining industry. Previously, Mr. Vachon held several senior positions at Teck Resources Limited from 2006 to 2022 in the corporate finance, treasury and corporate development areas including serving as Director and Finance Business Partner for the Technology and Innovation group focused on business transformation. Prior to that, he held financial management and engineering positions with Placer Dome Inc. and Golder Associates. Mr. Vachon holds Bachelor of Applied Science (Geological Engineering) from Laval University and Master of Engineering degree and an MBA from the University of British Columbia.

**James Woeller**, 35, has served as our Vice President, Corporate Development and Business Improvement since July 2022. Mr. Woeller has more than 10 years of progressive experience in the mining industry. Previously, and from 2011, Mr. Woeller served as Director, Strategy and Business Analysis; as Business Development Manager; and in various strategic, commercial, financial planning and corporate development roles at Teck Resources Limited. Mr. Woeller holds a Bachelor of Applied Science (Mining) from Queen's University and a Master of Science in Mineral Economics from the Colorado School of Mines. Mr. Woeller holds a Chartered Financial Analyst designation.

#### **Relationships**

There are no family relationships between any director or executive officer.

#### **Section 16(a) Reports**

Our directors, executive officers, and owners of more than 10% of our common stock must file reports with the SEC under Section 16(a) of the Exchange Act regarding their ownership of and transactions in our common stock and securities related to our common stock. Based solely upon a review of these reports filed electronically with the SEC and certain written representations provided to us by such persons, we believe that all reports required to be filed by our directors, executive officers and holders of more than 10% of our common stock pursuant to Section 16(a) of the Exchange Act during 2022 were filed on a timely basis.

## Code of Business Conduct and Ethics

We have adopted a Code of Business Conduct and Ethics that applies to our directors, executive officers and all employees, including our Chief Executive Officer and Chief Financial Officer. Our Code of Business Conduct and Ethics is available on our website at <https://investor.gatosilver.com/governance/governance-documents/default.aspx>. We intend to satisfy the requirement under Item 5.05 of Form 8-K regarding disclosure of amendments to, or waivers from, provisions of our Code of Business Conduct and Ethics by posting such information on our website.

## Board Committees

Our Board has the following four committees: Audit Committee; Compensation and Nominating Committee; Executive Committee and Technical, Safety and Sustainability Committee. Our Board has adopted charters for each of these committees. Charters for our Audit Committee, our Compensation and Nominating Committee and our Technical, Safety and Sustainability Committee are available on our website at <https://investor.gatosilver.com/governance/governance-documents/default.aspx>.

Current committee memberships are as follows:

<b>Audit Committee</b>	<b>Compensation and Nominating Committee</b>	<b>Executive Committee</b>	<b>Technical, Safety and Sustainability Committee</b>
David Peat*	Karl Hanneman*	Janice Stairs*	Igor Gonzales*
Janice Stairs	Ali Erfan	Dale Andres	Daniel Muñoz Quintanilla
Charles Hansard	Igor Gonzales		Karl Hanneman
			Dale Andres

\* Committee Chair

### *Audit Committee*

Our Audit Committee met seven times during 2022. Our Audit Committee is responsible for, among other things: approving the engagement of our independent public auditor and the scope of the audit to be undertaken by such auditor; reviewing with management and the independent auditor the financial information to be included in our Annual Reports on Form 10-K; reviewing with management and the independent auditor the financial information to be included in our Quarterly Reports on Form 10-Q; and reviewing all proposed related party transactions for the purpose of recommending to the disinterested members of the Board that any such transaction should be ratified and approved.

The Board has determined that all members of our Audit Committee are independent directors under SEC and NYSE rules applicable to audit committee members. Additionally, the Board has determined that (i) Mr. Peat qualifies as an “audit committee financial expert” as defined under the rules of the SEC and (ii) each member of our Audit Committee is financially literate as specified in the rules of the NYSE.

### *Compensation and Nominating Committee*

Our Compensation and Nominating Committee met six times during 2022. Our Compensation and Nominating Committee is responsible for, among other things: recommending and advising the independent directors of the Board with respect to the compensation for our Chief Executive Officer; recommending and advising the Board with respect to the compensation of directors and other executive officers; making recommendations to the Board regarding the establishment and terms of our employee equity-based incentive plans and administering such plans; identifying and recommending director nominees for approval by the Board; developing and recommending to the Board corporate governance principles applicable to the Company; and overseeing the annual evaluation of the Board’s performance.

The Board has determined that all members of our Compensation and Nominating Committee are independent directors under SEC and NYSE rules applicable to compensation committee members. Additionally, the Board has determined that each member of our Compensation and Nominating Committee meets the non-employee director requirements of Rule 16b-3 under the Exchange Act.

Our Compensation and Nominating Committee has primary responsibility for determining our compensation programs for executive officers and directors. In evaluating the level of executive officer and director compensation, our Compensation and Nominating Committee takes into consideration advice from its consultant, which in 2022 was FW Cook, and recommendations from the Chief Executive Officer (other than with respect to the Chief Executive Officer's compensation). The Compensation and Nominating Committee has reviewed the engagement of FW Cook and has determined that its services to the Committee do not raise a conflict of interest. At the request of the Compensation and Nominating Committee, the Company has retained FW Cook, which reports directly to the Compensation and Nominating Committee without management influence.

Our Compensation and Nominating Committee may delegate any of its responsibilities to a subcommittee comprised of one or more members of the committee.

***Executive Committee***

Our Executive Committee met informally throughout 2022. Subject to certain limitations, our Executive Committee has the responsibility and authority (i) to take any action referred to the Committee by the Board, and (ii) to take action required to be taken by the Board in emergency situations where there is insufficient time or opportunity to convene the full Board.

***Technical, Safety and Sustainability Committee***

Our Technical, Safety and Sustainability Committee met nine times during 2022. Our Technical, Safety and Sustainability Committee is responsible for the review of our mineral resources and reserve reporting, technical performance, environmental, health and safety performance, security, and community and sustainability performance.

**Item 11. Executive Compensation**

Our named executive officers ("NEOs"), which consist of our current and former chief executive officers, the two other most highly compensated executive officers in 2022 who were serving as executive officers at the end of 2022 and one executive officer for whom disclosure is provided but who was not serving as an executive officer at the end of 2022, are:

- Dale Andres, Chief Executive Officer (current);
- Anthony Scott, Senior Vice President Corporate Development and Technical Services;
- Luis Felipe Huerta, Vice President, Mexico;
- Stephen Orr, former Chief Executive Officer<sup>(1)</sup> (until April 7, 2022); and
- Rodrigo Monroy, former General Counsel<sup>(2)</sup> (until November 30, 2022)

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(1) Mr. Orr was the Company's Chief Executive Officer through April 7, 2022. We appointed our then President, Dale Andres, as our Chief Executive Officer, effective April 7, 2022.

(2) Mr. Monroy was the Company's General Counsel through November 30, 2022. We appointed Stephen Bodley, as our General Counsel and Chief Compliance Officer, effective such date. Mr. Bodley's employment commenced October 16, 2022.

## Summary Compensation Table

The table below summarizes the total compensation earned by each NEO in fiscal years ended December 31, 2022 and 2021.

NEO	Year	Salary (\$)	Bonus (\$)	Stock Awards (\$) <sup>(1)(9)</sup>	Option Awards (\$) <sup>(2)(9)</sup>	Annual Incentive Plan Compensation (\$) <sup>(3)</sup>	All Other Compensation (\$) <sup>(4)</sup>	Total (\$)
Dale Andres <sup>(5)</sup>	2022	629,874	—	—	—	824,255	48,403	1,502,532
Chief Executive Officer	2021	335,417	—	338,578	4,286,450	402,500	29,841	5,392,786
Anthony Scott <sup>(6)</sup>	2022	322,390	650,000	—	582,533	258,459	35,156	1,848,538
SVP Corporate Development and Technical Services	2021	—	—	—	—	—	—	—
Luis Felipe Huerta	2022	260,000	—	—	—	192,000	75,471	547,109
Vice President, Mexico	2021	260,000	—	90,439	185,413	75,444	76,435	660,731
Stephen Orr <sup>(2)(7)</sup>	2022	191,450	—	—	—	—	—	191,450
Former Chief Executive Officer	2021	619,000	—	473,953	962,382	—	—	2,055,335
Rodrigo Monroy <sup>(8)</sup>	2022	275,000	—	—	—	165,000	359,649	799,649
Former General Counsel	2021	225,000	100,000	112,907	915,946	75,500	13,500	1,442,853

- (1) Represents the grant date fair value of performance share unit awards granted to the NEOs in 2021, assuming target performance at 100% payout based on the 55<sup>th</sup> percentile relative TSR versus the constituents of the GDXJ and determined in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) Topic 718. The grant date fair value of performance share unit awards assuming maximum performance was (i) for Mr. Orr, \$947,905 (which have now been forfeited), (ii) Mr. Andres, \$677,156, (iii) Mr. Huerta, \$180,878, and (iv) Mr. Monroy \$225,814 (comprised of 7,940 units, of which 5,417 units have now been forfeited). For additional information, see “—Performance Share Units” below. Additionally, see Note 8 in our consolidated financial statements included in the Annual Report on Form 10-K for the fiscal year ended December 31, 2021, for a discussion of assumptions used for computing the fair value of stock awards.
- (2) Represents the grant date fair value of stock options granted to the NEOs in 2021 and 2022, determined in accordance with FASB ASC Topic 718. For additional information, see “—Stock Option Grants” below. Additionally, see Note 7 in our consolidated financial statements included in the Annual Report on Form 10-K for the fiscal year ended December 31, 2022, for a discussion of assumptions used for computing the fair value of stock option award grants.
- (3) Represents performance-based cash bonuses under our Annual Incentive Plan with respect of service in 2021 and 2022. For additional information, see “—Annual Incentive Plan” below.
- (4) For each NEO, represents employer contributions to the NEO’s 401(k) and Registered Retirement Savings Plan (“RRSP”) accounts. In addition, for Mr. Andres, “All Other Compensation” includes \$19,691 in health benefits. For Mr. Huerta, “All Other Compensation” consists of housing and education costs. For Mr. Monroy, “All Other Compensation” includes the payments made to him following his termination of employment other than the payment of an annual bonus for 2022 which is included in “Non-Equity Incentive Plan Compensation.” For additional information regarding Mr. Monroy’s termination-related payments, see “—Executive Employment Agreements – Employment Agreement with Mr. Monroy.”
- (5) Mr. Andres joined the Company on June 1, 2021.
- (6) Mr. Scott joined the Company on January 10, 2022. For an explanation of the bonus payment to Mr. Scott see “Executive Employment Agreements – Employment Agreement with Mr. Scott.”
- (7) Mr. Orr retired on April 7, 2022.
- (8) Mr. Monroy’s employment with the Company was terminated without cause on November 30, 2022.

- (9) No stock awards or option awards have been granted since the announcement on January 25, 2022, of our conclusion that there were errors in the technical report for the Cerro Los Gatos Mine with an effective date of July 1, 2020, as well as indications that there may be an overestimation in the existing resource model. Pursuant to the Management Cease Trade Orders, and the related Undertaking, granted by the Ontario Securities Commission (the “MCTO”) we were prohibited from issuing to or acquiring securities from an insider or employee, except in accordance with pre-existing legally binding obligations to do so. To ensure appropriate compensation of our executives and our non-executive directors in respect of this period, we anticipate that equity awards will be granted if and when determined appropriate by our Board following the filing of our 2022 Annual Report on Form 10-K and the lifting of the MCTO.

## **Executive Employment Agreements**

### ***Employment Agreement with Mr. Andres***

We entered into an employment agreement with Mr. Andres, dated as of June 1, 2021, and he commenced employment as our President and Chief Executive Officer for the Company’s wholly owned Mexican subsidiary, Minera Luz del Sol S. de R.L. de C.V. (“MLS”), effective as of June 1, 2021. Effective April 7, 2022, Mr. Andres was named Chief Executive Officer of the Company. On August 1, 2022, Mr. Andres commenced employment with our wholly owned subsidiary Gatos Silver Canada Corp. (“GSCC”), and effective as of such date, Mr. Andres entered into a new Executive Employment Agreement.

*Base Salary.* Effective June 1, 2021, Mr. Andres received an annual base salary of \$575,000, and effective April 1, 2022, Mr. Andres received an annual base salary of \$650,000, which is subject to review on an annual basis and may be adjusted in accordance with the procedures set forth by our Compensation and Nominating Committee.

*Annual Bonus.* Mr. Andres is eligible to participate in an annual incentive plan pursuant to which his target bonus is 100% of his base salary upon achievement by him and the Company of certain targets determined by our Board based on the recommendation of our Compensation and Nominating Committee. The amount of bonus paid (if any) in any given year is determined by our Board based on the recommendation of our Compensation and Nominating Committee depending on the actual performance of the Company and Mr. Andres as determined by our Board based upon the recommendation of our Compensation and Nominating Committee. See “—Annual Incentive Plan.”

*Stock Options.* Mr. Andres is eligible to receive equity awards under our compensation programs. See “—Stock Option Grants.”

*Registered Retirement Savings Plan.* Mr. Andres is eligible to receive a Company match of RRSP contributions of up to 3% of base salary, plus an additional contribution by the Company of 6% of base salary.

*Benefits and Perquisites.* Mr. Andres is entitled to participate in the various employee benefits plans that are, from time to time, made generally available to our employees.

*Confidentiality, Non-Solicitation and Non-Compete.* Mr. Andres has agreed to maintain the confidentiality of our information and not to use or allow or help another to use or access such information at any time during or after his employment with us. During the term of his employment and for a period of 12 months after termination, Mr. Andres has also agreed not to solicit any of our employees, consultants or service providers. For a period of 12 months after termination (and for 24 months after termination in certain circumstances), Mr. Andres has also agreed and not to work or share Executive's knowledge, directly or indirectly, in whole or in part, as an employee, officer, owner, manager, advisor, consultant, agent, partner, director, significant shareholder, volunteer, intern for any other business entity engaged in silver mining and extraction in Mexico.

*Termination and Change in Control.* Payments and benefits to which Mr. Andres will be entitled upon termination of his employment, whether or not in connection with a change in control, are discussed below under “—Potential Payments Upon Termination or Change in Control.”

### ***Employment Agreement with Mr. Scott***

We entered into an employment agreement with Mr. Scott, dated November 8, 2021. He commenced his employment as Vice President Evaluations and Technical Services on January 10, 2022. He has been our Senior Vice President Corporate Development and Technical Services since October 16, 2022. Mr. Scott is employed by GSCC.

*Base Salary.* Until October 16, 2022 Mr. Scott received a base salary of \$325,000. From and after October 16, 2022, Mr. Scott receives an annual base salary of \$350,000, which is subject to review on an annual basis and may be adjusted in accordance with the procedures set forth by our Compensation and Nominating Committee.

*Annual Bonus.* Mr. Scott is eligible to participate in a bonus plan pursuant to which his current target bonus is 70% of his base salary upon achievement by him and the Company of certain targets determined by our Compensation and Nominating Committee. The amount of bonus paid (if any) in any given year is determined by our Board based on the recommendation of our Compensation and Nominating Committee depending on the actual performance of the Company and Mr. Scott as determined by our Board based upon the recommendation of our Compensation and Nominating Committee. See “—Annual Incentive Plan.”

*Sign-On Bonus.* As an inducement for Mr. Scott to join the Company, Mr. Scott received a one-time sign-on bonus of \$650,000 which was paid in three tranches in January, March and September, 2022.

*Stock Options.* Mr. Scott is eligible to receive equity awards under our compensation programs. See “—Stock Option Grants.”

*Registered Retirement Savings Plan.* Mr. Scott is eligible to receive a Company match of RRSP contributions of up to 3% of base salary, plus an additional contribution by the Company of 6% of base salary.

*Benefits and Perquisites.* Mr. Scott is entitled to participate in the various employee benefits plans that are available to our executive officers.

*Confidentiality, Non-Solicitation and Non-Compete.* Mr. Scott has agreed to maintain the confidentiality of our information and not to use or allow or help another to use or access such information at any time during or after his employment with us. During the term of his employment and for a period of 12 months after termination, Mr. Scott has also agreed not to solicit any of our employees, consultants or service providers. For a period of 12 months after termination, Mr. Scott has also agreed and not to work or share Executive's knowledge, directly or indirectly, in whole or in part, as an employee, officer, owner, manager, advisor, consultant, agent, partner, director, significant shareholder, volunteer, intern for any other business entity engaged in silver mining and extraction in Mexico.

*Termination and Change in Control.* Payments and benefits to which Mr. Scott will be entitled upon termination of his employment, whether or not in connection with a change in control, are discussed below under “—Potential Payments upon Termination or Change in Control.”

#### ***Employment Agreement with Mr. Huerta***

An employment agreement was entered into with Mr. Huerta, dated April 22, 2015, whereby Mr. Huerta was employed by the Company's wholly-owned Mexican subsidiary starting May 15, 2015. His initial position was as Project Director, Los Gatos Project. Mr. Huerta's employment agreement has been modified by mutual agreement over his tenure. Mr. Huerta is currently employed by the Company's wholly-owned subsidiary, MLS. His current title is Vice President, Mexico.

*Base Salary.* Mr. Huerta receives an annual base salary of \$260,000, which is subject to review on an annual basis and may be adjusted in accordance with the procedures set forth by our Compensation and Nominating Committee.

*Annual Bonus.* Mr. Huerta is eligible to participate in a bonus plan pursuant to which his current target bonus is 60% of his base salary upon achievement by him and the Company of certain targets determined by our Compensation and Nominating Committee. The amount of bonus paid (if any) in any given year is determined by our Board of Directors based on the recommendation of our Compensation and Nominating Committee depending on the actual performance of the Company and Mr. Huerta as determined by our Board of Directors based upon the recommendation of our Compensation and Nominating Committee. See “—Annual Incentive Plan.”

*Stock Options.* Mr. Huerta is eligible to receive equity awards under our compensation programs. See “—Stock Option Grants.”

*Benefits and Perquisites.* Mr. Huerta is entitled to participate in the various employee benefits plans that are available to our executive officers.

*Confidentiality.* Mr. Huerta has agreed to maintain the confidentiality of our information and not to use or allow or help another to use or access such information at any time during or after his employment with us for a period of three years.

*Termination and Change in Control.* Payments and benefits to which Mr. Huerta will be entitled upon termination of his employment, whether or not in connection with a change in control, are discussed below under “—Potential Payments Upon Termination or Change in Control.”

***Employment Agreement with Mr. Orr***

We entered into an employment agreement with Mr. Orr, dated as of May 3, 2011. He commenced employment as our Executive Chairman effective as of May 4, 2011, and was our Chief Executive Officer from June 2011 until his retirement as Chief Executive Officer and as a member of our Board effective April 7, 2022.

*Base Salary.* Effective January 1, 2020, Mr. Orr received an annual base salary of \$619,000, which was subject to review on an annual basis and subject to adjustment in accordance with the procedures set forth by our Compensation and Nominating Committee.

*Annual Bonus.* Mr. Orr was eligible to participate in a bonus plan pursuant to which his target bonus was 100% of his base salary upon achievement by him and the Company of certain targets determined by our Board based on the recommendation of the Compensation and Nominating Committee. The amount of bonus attainment in any given year was determined by our Board based on the recommendation of Compensation and Nominating Committee, and the amount of annual bonus actually paid (if any) depended on the actual performance of the Company and Mr. Orr as determined by our Compensation and Nominating Committee. See “—Annual Incentive Plan.”

*Stock Options.* Mr. Orr was eligible to receive equity awards under our compensation programs. See “—Stock Option Grants.”

*Benefits and Perquisites.* Mr. Orr was entitled to participate in the various employee benefits plans that were from time to time, made generally available to our employees.

*Confidentiality and Non-Solicitation.* Mr. Orr agreed to maintain the confidentiality of our information and not to use or allow or help another to use or access such information at any time during or after his employment with us. Mr. Orr also agreed not to solicit any of our employees, consultants or service providers during his employment and for one year after termination of his employment.

*Termination and Change in Control.* Mr. Orr retired from his position as Chief Executive Officer and member of our Board, effective April 7, 2022. Mr. Orr did not receive additional payments of benefits in connection with his retirement, as discussed in more detail below under “—Potential Payments Upon Termination or Change in Control.”

***Employment Agreement with Mr. Monroy***

The Company entered into an agreement with Mr. Monroy dated February 8, 2021. He commenced employment as our General Counsel effective as of April 1, 2021.

*Base Salary.* Effective April 1, 2021, Mr. Monroy received an annual base salary of \$300,000, which was subject to review on an annual basis and subject to adjustment in accordance with the procedures set forth by our Compensation and Nominating Committee.

*Annual Bonus.* Mr. Monroy was eligible to participate in a bonus plan pursuant to which his target bonus was 60% of his base salary with a maximum of up to 100% of his base salary, upon achievement by him and the Company of certain targets determined by our Board based on the recommendation of the Compensation and Nominating Committee. The amount of bonus attainment in any given year was determined by our Board based on the recommendation of Compensation and Nominating Committee, and the amount of annual bonus actually paid (if any) depended on the actual performance of the Company and Mr. Monroy as determined by our Compensation and Nominating Committee. See “—Annual Incentive Plan.”

*Stock Options.* Mr. Monroy was eligible to receive equity awards under our compensation programs. See “—Stock Option Grants.”

*Benefits and Perquisites.* Mr. Monroy was entitled to participate in the various employee benefits plans that were from time to time, made generally available to our employees.

*Confidentiality and Non-Solicitation.* Mr. Monroy agreed to maintain the confidentiality of our information and not to use or allow or help another to use or access such information at any time during or after his employment with us. Mr. Monroy also agreed not to solicit any of our employees, consultants or service providers during his employment and for one year after termination of his employment.

*Termination and Change in Control.* Mr. Monroy's employment was terminated without cause effective November 30, 2022. Mr. Monroy was paid accrued salary and other obligations as of that date, a prorated award of performance share units, a severance payment equal to twelve months of his base salary (\$300,000), \$43,149 in lieu of continued health coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, a prorated bonus for 2022 of \$165,000 and the opportunity to receive Company-paid outplacement assistance. Stock options previously granted to Mr. Monroy vested upon his termination and became immediately exercisable, in accordance with their terms.

#### Stock Option Grants

On May 14, 2021, we granted stock option awards to Mr. Monroy. The number of shares of our common stock underlying these options granted are detailed in the following table. These stock option awards vest ratably over a three-year period, beginning on the first anniversary of the grant. These stock option awards each have an exercise price of \$12.03 per share, which is equal to the fair market value of a share of common stock on the grant date.

NEO	Option Shares
Rodrigo Monroy	100,000

On June 22, 2021, we granted Mr. Andres stock option awards following commencement of employment and as a one-time sign on option. The number of shares of our common stock underlying these options granted is detailed in the following table. The sign on options vest in three equal tranches, the first of which vested immediately, and the remainder on the first and second anniversaries of employment with the Company. The other stock option awards vest ratably over a three-year period, beginning on the first anniversary of the grant. These stock option awards each have an exercise price of \$18.03 per share, which is equal to the fair market value of a share of common stock on the grant date.

NEO	Option Shares
Dale Andres	150,000
Dale Andres sign on	200,000

On December 27, 2021, we granted stock option awards to key employees, including our NEOs, in recognition of services performed in fiscal year 2021. The number of shares of our common stock underlying these options granted to our NEOs are detailed in the following table. These stock option awards vest ratably over a three-year period, beginning on the first anniversary of the grant. These stock option awards each have an exercise price of \$10.47 per share, which is equal to the fair market value of a share of common stock on the grant date.

NEO	Option Shares
Dale Andres	117,000
Luis Felipe Huerta	31,500
Stephen Orr	163,500
Rodrigo Monroy	39,000

Upon Mr. Orr's retirement, all unvested options terminated immediately and all vested options terminated 30 days following the date of his separation. Upon Mr. Monroy's departure from the Company, all unvested options vested immediately and will terminate 180 days following the date of his separation.

[Table of Contents](#)

On January 18, 2022, we granted Mr. Scott stock option awards following commencement of employment. The number of shares of our common stock underlying these options granted is detailed in the following table. The options vest ratably over a three-year period, beginning on the first anniversary of the grant. These stock option awards each have an exercise price of \$10.28 per share, which is equal to the fair market value of a share of common stock on the grant date.

NEO	Option Shares
Anthony Scott	100,000

#### Performance Share Units

On December 17, 2021, we granted performance share unit awards to key employees, including our NEOs, in recognition of services performed in fiscal year 2021. The number of shares of our common stock underlying these performance share units (“PSU”) granted to our NEOs are detailed in the following table, assuming target performance at 100%. The performance share units are based on the Company’s total shareholder return (“TSR”) relative to a peer group over a three-year performance period beginning on December 13, 2021 and ending on December 13, 2024. The number of performance share units awarded can range from 0% to 200% of the initial award granted, depending on the TSR percentile rank of the Company relative to the peer group, and are payable in common stock or cash, at the Company’s discretion, at the end of their performance period. These performance share units each have a grant date value of \$14.22 per share. Upon Mr. Orr’s retirement, his PSUs were automatically forfeited. Upon Mr. Monroy’s departure from the company, 2,523 pro-rata PSUs remain upon his termination and 5,417 PSUs were forfeited.

NEO	Performance Share Units
Dale Andres	23,810
Luis Felipe Huerta	6,360
Stephen Orr	33,330
Rodrigo Monroy	7,940

#### Long Term Incentive Plan

We have adopted the Amended and Restated Long Term Incentive Plan (“LTIP”), which allows us to grant a range of equity-based awards to our NEOs, other employees, consultants and non-employee directors. The purpose of the LTIP is to recognize the contributions made by our employees, consultants and directors, and to provide these individuals with an additional incentive to use maximum efforts for the future success of the Company. All stock options granted to Messrs. Andres, Scott, Huerta, Orr and Monroy as disclosed above, were granted under the LTIP.

#### Annual Incentive Plan

We have adopted the Annual Incentive Plan (“AIP”), under which our NEOs and other employees are eligible to receive annual cash bonuses. The purpose of the plan is to incentivize our executives and other employees to attain annual performance objectives, thereby furthering our best interests and those of our shareholders.

With respect to the fiscal year ended December 31, 2021, each of our then service NEOs was eligible for an annual cash bonus under the AIP; however, it was determined by our Compensation and Nominating Committee that Mr. Andres, Mr. Huerta and Mr. Monroy were the only NEOs who would receive a cash bonus. With respect to the fiscal year ended December 31, 2022, our Compensation and Nominating Committee approved milestones related to health and safety at the Cerro Los Gatos (“CLG”) mine, CLG sustainability, CLG operational performance, CLG financial performance, strategic performance for the Los Gatos Joint Venture, and corporate performance of the Company, which were weighted and used to determine the Company’s portion of bonus payouts to the NEOs. The level of achievement of the Company performance milestones, as well as an assessment of individual performance, were used by our Compensation and Nominating Committee to determine the actual recommended bonus payouts as a percentage of the target bonus. With respect to the fiscal year ended December 31, 2022, Mr. Monroy received a prorated annual bonus pursuant to the terms of his separation agreement, Mr. Orr retired from the Company effective April 7, 2022, and did not receive an annual bonus and our Compensation and Nominating Committee determined to provide cash bonuses to Mr. Andres, Mr. Scott and Mr. Huerta.

## 2022 Outstanding Equity Awards at Fiscal Year-End

The table below provides information on the equity awards held by the NEOs as of December 31, 2022. Mr. Orr did not hold any equity awards as of December 31, 2022 as, upon his retirement, all unvested options and performance share units were forfeited and terminated immediately and all vested options terminated 30 days following the date of his separation.

Name and Principal Position	Option Awards				Stock Awards			
	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Option Exercise Price (\$)	Option Expiration Date	Number of shares or units of stock that have not vested (#)	Market value of shares or units of stock that have not vested (\$)	Equity Incentive Plan Awards: Number of unearned shares, units or other rights that have not vested (#)	Equity Incentive Plan Awards: Market or payout value of unearned shares, units or other rights that have not vested (\$)
Dale Andres	133,334	66,667 <sup>(1)</sup>	18.03	6/22/2031	—	—	23,810 <sup>(4)</sup>	97,383 <sup>(5)</sup>
	50,000	100,000 <sup>(2)</sup>	18.03	6/22/2031				
	39,000	78,000 <sup>(3)</sup>	10.47	12/27/2031				
Anthony Scott	—	100,000 <sup>(6)</sup>	10.28	01/18/32	—	—	—	—
Luis Felipe Huerta	20,200	— <sup>(7)</sup>	9.00	12/05/2027	—	—	6,360 <sup>(4)</sup>	26,012 <sup>(5)</sup>
	33,000	— <sup>(8)</sup>	12.00	05/03/2029	—	—	—	—
	22,000	11,000 <sup>(9)</sup>	12.00	01/20/2030	—	—	—	—
	63,333	31,667 <sup>(10)</sup>	7.00	10/27/2030	—	—	—	—
	10,500	21,000 <sup>(11)</sup>	10.47	12/27/2031	—	—	—	—
Rodrigo Monroy	100,000 <sup>(12)</sup>	—	12.03	05/30/2023	—	—	2,523 <sup>(4)</sup>	10,319 <sup>(5)</sup>
	39,000 <sup>(12)</sup>	—	10.47	05/30/2023	—	—		

(1) The options listed here were granted on June 22, 2021, with one third vesting immediately and the remainder vesting ratably on each of the first two anniversaries following June 1, 2021.

(2) The options listed here were granted on June 22, 2021, and vest ratably on each of the first three anniversaries following June 1, 2021.

(3) The options listed here were granted on December 27, 2021, and vest ratably on each of the first three anniversaries following the grant date.

(4) The PSUs listed here were granted on December 17, 2021, and vest following a three-year performance period. PSUs are reported assuming target performance at 100% payout for the 55th percentile relative TSR versus constituents of the GDXJ.

(5) Valuations are based on \$4.09 per share, the closing price of our common stock on December 31, 2022.

(6) The options listed here were granted on January 18, 2022, and vest ratably on each of the first three anniversaries following the grant date.

(7) The options listed here were granted on December 6, 2017, and are fully vested.

(8) The options listed here were granted on May 3, 2019, and are fully vested.

(9) The options listed here were granted on January 20, 2020, and vest ratably on each of the first three anniversaries following the grant date.

(10) The options listed here were granted on January 20, 2020, and vest ratably on each of the first three anniversaries following the grant date.

(11) The options listed here were granted on December 27, 2021, and vest ratably on each of the first three anniversaries following the grant date.

(12) The options listed were granted on May 14 and December 27, 2021, and vested upon Mr. Monroy's termination on November 30, 2022.

#### **Potential Payments Upon Termination or Change in Control**

Below we describe the payments and benefits to which each NEO will be entitled to under his employment agreement if his employment is terminated (i) by us without "cause" by him for "good reason" or "disability" (without a "change in control"), (ii) by us without cause or by him for good reason within one year of a change in control or (iii) due to death or "disability" (in the case of Mr. Huerta) (such terms as defined in the applicable employment agreement).

##### **Mr. Andres**

*Termination without Cause, for Good Reason or for Disability.* If we terminate Mr. Andres' employment without cause, Mr. Andres voluntarily terminates his employment for good reason or he becomes disabled, he is entitled to: (i) accrued annual salary to the date of termination (ii) 24 months of base salary plus his target annual bonus for 24 months, payable in a lump sum, (iii) if he timely elects continuation coverage the Company would also pay, on his behalf, the portion of monthly premiums for his benefits that the Company paid immediately prior to the date of termination, during the 12 month period following the date of termination, subject to his continued eligibility for coverage provided that he would continue to be required to pay that portion of the premium for the coverage that he was required to pay as an active employee immediately prior to the date of termination and (iv) the 200,000 options granted at the commencement of his employment would, to the extent unvested, vest at the date of termination and be exercisable for a period of one year from the date of termination, and the 150,000 options granted at the date of the commencement of his employment would, to the extent unvested, immediately vest, and such 150,000 options, together with all other vested options would remain exercisable until the earlier of (x) the date 180 calendar days following termination of employment or (y) the expiration of the original option.

*Termination without Cause or for Good Reason in Connection with a Change in Control.* If there is a change in control and (a) within one year following the change in control Mr. Andres' employment is terminated without cause or Mr. Andres voluntarily terminates his employment for good reason or (b) within six months preceding the change in control Mr. Andres' employment is terminated without cause and such termination occurred in anticipation of such change in control, he is entitled to (i) accrued annual salary and target annual bonus to the date of termination (ii) 24 months of base salary plus his target annual bonus for 24 months (iii) if he timely elects continuation coverage the Company would also pay, on his behalf, the portion of monthly premiums for his benefits that the Company paid immediately prior to the date of termination, during the 12 month period following the date of termination, subject to his continued eligibility for coverage provided that he would continue to be required to pay that portion of the premium for the coverage that he was required to pay as an active employee immediately prior to the date of termination and (iv) the 200,000 options granted at the commencement of his employment would, to the extent unvested, vest at the date of termination and be exercisable for a period of one year from the date of termination, and the 150,000 options granted at the date of the commencement of his employment, to the extent unvested, would immediately vest, and such options, together with all other vested options would remain exercisable until the earlier of (x) the date 180 calendar days following termination of employment or (y) the expiration of the original option.

*Death.* If Mr. Andres' employment is terminated due to death, his estate shall be entitled to be paid his accrued salary and bonus.

**Mr. Scott**

*Termination without Cause, for Good Reason or for Disability.* If we terminate Mr. Scott's employment without cause, Mr. Scott voluntarily terminates his employment for good reason or he becomes disabled, he is entitled to: (i) accrued annual salary to the date of termination (ii) 12 months of base salary plus his target annual bonus for 12 months, payable in a lump sum, (iii) if he timely elected continuation coverage the Company would also pay, on his behalf, the portion of monthly premiums for his benefits that the Company paid immediately prior to the date of termination, during the 12 month period following the date of termination, subject to his continued eligibility for coverage provided that he would continue to be required to pay that portion of the premium for the coverage that he was required to pay as an active employee immediately prior to the date of termination.

*Termination without Cause or for Good Reason in Connection with a Change in Control.* If there is a change in control and (a) within one year following the change in control Mr. Scott's employment is terminated without cause or Mr. Scott voluntarily terminates his employment for good reason or (b) within six months preceding the change in control we terminate Mr. Scott's employment without cause and such termination occurred in anticipation of such change in control, he is entitled to (i) accrued annual salary and target annual bonus to the date of termination (ii) 24 months of base salary plus his target annual bonus for 24 months and (iii) if he timely elects continuation coverage the Company would also pay, on his behalf, the portion of monthly premiums for his benefits that the Company paid immediately prior to the date of termination, during the 12 month period following the date of termination, subject to his continued eligibility for coverage provided that he would continue to be required to pay that portion of the premium for the coverage that he was required to pay as an active employee immediately prior to the date of termination

*Death.* If Mr. Scott's employment is terminated due to death, his estate shall be entitled to be paid his accrued salary and bonus.

**Mr. Huerta**

*Termination without Cause or for Good Reason.* If we terminate Mr. Huerta's employment without cause (as defined under Mexican employment law), he is entitled to: (i) accrued annual salary and bonus to the date of termination and (ii) twelve months of base salary, payable in a lump sum, (iii) continuation of group, medical, dental and vision insurance benefits, subject to any restrictions or limitations imposed by the Company's insurers during the twelve (12) month period following the date of termination, and (iv) the reasonable costs of repatriating to Peru.

*Termination without Cause or for Good Reason in Connection with a Change in Control.* If there is a change of control, Mr. Huerta's entitlements described in the foregoing paragraph will apply.

*Death or Disability.* If Mr. Huerta's employment is terminated due to death or disability, his estate or he, as applicable, will be entitled to such benefits as are provided pursuant to Mexican employment law.

**Mr. Orr**

Mr. Orr retired from his position of Chief Executive Officer and member of our Board effective April 7, 2022. Mr. Orr did not receive any payments or benefits in connection with his retirement.

**Mr. Monroy**

Mr. Monroy's employment was terminated effective November 30, 2022 and he received the consideration described above. See - "Executive Employment Agreements – Employment Agreement with Mr. Monroy."

**Non-Qualified Deferred Compensation Plan for Senior Executives and Outside Directors**

Effective January 1, 2019, we adopted the Deferred Compensation Plan for Senior Executives and Outside Directors (the "Deferred Compensation Plan"), under which (i) our senior executives are eligible to elect to defer receipt of any portion of cash compensation or equity compensation awards other than from the exercise of stock options and (ii) our non-employee directors are eligible to elect to defer receipt of any portion of annual retainers or meeting awards.

Participants in the Deferred Compensation Plan are entitled to receive distribution of his or her deferred compensation account in either (i) a single lump sum distribution of cash or shares of our stock or (ii) annual installments of cash or shares of our stock over a period of not more than five (5) years after the date payment commences. All distributions under the Deferred Compensation Plan shall be made or shall commence, as the case may be, on the earlier of (i) the date designated in a participant's deferral election form and (ii) the date that is six months and one day after the occurrence of (x) the participant's termination of active service as a senior executive or non-employee director as applicable or (y) the date of the participant's death; provided, however, that if a participant is a "specified employee" within the meaning of Internal Revenue Code Section 409A ("409A"), payment of any benefits under the Deferred Compensation Plan shall not commence until six months following a participant's "separation from service" as such term is defined under Section 409A.

#### Stock Ownership Policy

Position	Stock Ownership Guideline
CEO	3x base salary
Other Executive Officers	1x base salary
Non-Employee Directors	3x base annual director cash retainer

Our Board believes that, in order to more closely align the interests of our executive officers and non-employee directors with the long-term interests of the Company's stockholders, all executive officers and non-employee directors should maintain a minimum level of equity interests in the Company's common stock. Accordingly, we have adopted minimum stock ownership guidelines for our executive officers and non-employee directors as shown in the table below. Executive officers and non-employee directors are subject to a five-year phase in period to meet the applicable ownership requirements, beginning from the later of (i) the date of the IPO; (ii) employment date or director appointment date; or (iii) promotion date. Shares, shares in trust, shares in 401k plans, shares owned directly by family members, DSUs (as defined above), and restricted stock units count toward satisfying the guideline, even if unvested. Stock options do not count toward satisfying the guideline until exercised. The majority of our non-executive directors currently comply with the stock ownership guidelines. Most of our executive officers have served with the Company for less than 2 years, and we have not issued additional equity-based compensation since January 25, 2022. There have also been restrictions in place under the MCTO. As a result, none of our executive officers currently hold the minimum stock ownership contemplated by guidelines. Once all applicable restrictions are lifted, all individuals subject to the guidelines will be expected to meet or to be tracking towards meeting the guideline minimums within the five-year period.

#### Director Compensation

Each of our non-employee directors is entitled to receive the following compensation pursuant to our current director compensation policy, as applicable:

- an annual retainer of \$55,000 for service on the Board;
- \$1,500 for each committee meeting attended (whether in person or by telephone), provided that non-employee directors who travel intercontinentally from outside of North America to attend a Board or committee meeting in person are entitled to receive an additional \$2,500;
- an annual retainer of \$10,000 for service as the chair of our Audit Committee or as the chair of our Compensation and Nominating Committee;
- an annual retainer of \$4,000 for service as the chair of any other standing committee of the Board; and
- an annual retainer of \$55,000 for service as our non-executive Chairperson of the Board.

All such compensation will be paid in cash quarterly in arrears. Each non-employee director may also elect to receive DSUs in lieu of the cash retainer. DSUs are vested upon grant and settle upon a director's cessation of continuous service.

Pursuant to our current director compensation policy, it is intended that at each annual meeting of shareholders, each non-employee director be granted an annual equity grant under the LTIP with a fair market value of \$90,000. The grant value is intended to be split evenly between stock options and DSUs. Accordingly, on June 14, 2021, our Compensation and Nominating Committee and our Board approved an annual equity grant for 2021 under the LTIP for the period July 1, 2021 to May 31, 2022, with a fair

[Table of Contents](#)

market value of \$82,500 (based on an 11-month period), consisting of 50% stock options and 50% DSUs. As noted above, we have not awarded any equity-incentive compensation since January 25, 2022 and, as a result, there were no DSU grants in 2022.

Directors are permitted to defer all or a portion of their compensation under the Deferred Compensation Plan, pursuant to which our directors will be able to defer their annual retainers and receive such deferred retainers in cash or in shares of our common stock. The director compensation policies described above do not apply to our employee directors, including Mr. Andres and Mr. Orr (whose compensation is set forth above under “—Summary Compensation Table”).

The table below sets forth information concerning compensation of our non-employee directors in 2022 and 2021:

		Fees Earned or Paid in Cash (\$)	Stock Awards (\$) <sup>(1)(3)</sup>	Option Awards (\$) <sup>(3)</sup>	Total (\$)
Janice Stairs	2022	61,500	—	Nil	61,500
	2021	58,000	213,807	41,247	313,054
Ali Erfan	2022	61,000	—	Nil	61,000
	2021	62,500	158,254	41,247	262,001
Igor Gonzales	2022	Nil	—	Nil	Nil
	2021	68,000	142,272	41,247	251,519
Karl Hanneman	2022	43,000	—	Nil	43,000
	2021	74,000	160,390	41,247	275,637
Charles Hansard	2022	65,500	—	Nil	65,500
	2021	61,000	90,953	83,289	235,242
Igor Levental <sup>(2)</sup>	2022	13,750	—	Nil	13,750
	2021	29,000	184,212	41,247	254,459
David Peat	2022	37,750	—	Nil	37,750
	2021	76,500	162,527	41,247	280,274
Daniel Muñoz Quintanilla	2022	72,000	—	Nil	72,000
	2021	47,250	52,500	52,740	152,490

(1) DSU awards for Board members electing to receive DSUs in lieu of the cash retainer for the period October 1, 2021 through December 31, 2022, are expected to be granted in 2023 when determined appropriate by our Board following the filing of our 2022 Annual Report on Form 10-K and the lifting of the MCTO. The values of the 2022 Stock Awards that are expected to be granted in 2023 are as follows: Ms. Stairs, \$61,500; Mr. Erfan, \$Nil; Mr. Gonzales, \$80,000; Mr. Hanneman, \$43,000; Mr. Hansard, \$Nil; Mr. Levental, \$13,750; Mr. Peat, \$37,750; Mr. Muñoz Quintanilla, \$Nil.

(2) Mr. Levental passed away in June 2022.

(3) At December 31, 2022, Ms. Stairs holds 27,263 stock options and 19,548 DSUs; Mr. Erfan holds 27,263 stock options and 16,219 DSUs; Mr. Gonzales holds 24,680 stock options and 12,420 DSUs; Mr. Hanneman holds 42,763 stock options and 18,016 DSUs; Mr. Hansard holds 10,138 stock options and 6,497 DSUs; Mr. Levental holds 27,263 stock options and 18,825 DSUs; Mr. Peat holds 112,033 stock options and 52,141 DSUs; Mr. Muñoz Quintanilla holds 5,505 stock options and 3,131 DSUs.

## Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The following table shows information regarding the beneficial ownership of our common stock as of June 21, 2023 by:

- each person or group who is known by us to own beneficially more than 5% of our common stock;
- each member of our Board and director nominee;

- each of our named executive officers; and
- all members of our Board and our executive officers as a group.

Beneficial ownership of shares is determined under the rules of the SEC and generally includes any shares over which a person exercises sole or shared voting or investment power. Shares of common stock of which a person has the right to acquire beneficial ownership at any time within 60 days of June 21, 2023 are deemed outstanding and beneficially owned by the person for the purpose of computing the number of shares and percentage beneficially owned by such person, but are not deemed outstanding for purposes of computing the percentage beneficially owned by any other person. To our knowledge, except as indicated in the footnotes to this table and pursuant to applicable community property laws, the persons named in the table have sole voting and investment power with respect to all shares of common stock shown as beneficially owned by them.

The percentage of common stock beneficially owned in the table is based on 69,162,223 shares of common stock outstanding as of June 21, 2023.

Unless otherwise indicated, the address for each holder listed below is c/o Gatos Silver, Inc., Suite 910 – 925 West Georgia Street, Vancouver, BC V6C 3L2.

Name	Shares of Common Stock Beneficially Owned	Percentage of Shares of Common Stock Beneficially Owned
<b>Greater than 5% stockholders</b>		
Electrum <sup>(1)</sup> :		
Electrum Silver US LLC	17,894,672	25.9 %
Electrum Silver US II LLC	4,109,704	5.9 %
Total	22,004,376	31.8 %
Municipal Employees' Retirement System of Michigan <sup>(2)</sup>	6,216,192	9.0 %
FMR LLC <sup>(3)</sup>	8,922,196	12.9 %
<b>Directors and current NEOs</b>		
Janice Stairs <sup>(5)(6)(8)</sup>	56,811	*
Ali Erfan <sup>(4)(5)(6)</sup>	125,744	*
Igor Gonzales <sup>(5)(6)</sup>	37,100	*
Karl Hanneman <sup>(5)(6)(9)</sup>	78,334	*
Charles Hansard <sup>(5)(6)</sup>	16,635	*
David Peat <sup>(5)(6)(10)</sup>	161,497	*
Daniel Muñoz Quintanilla <sup>(5)(6)</sup>	8,636	*
Dale Andres <sup>(5)</sup>	289,000	*
Anthony Scott	33,333	*
Luis Felipe Huerta	212,700	*
<b>Former NEOs</b>		
Stephen Orr <sup>(7)(11)</sup>	157,783	*
<b>Current directors and executive officers as a group (14 persons)</b>	<b>1,019,790</b>	<b>1.5 %</b>

\* Represents beneficial ownership of less than 1%.

- (1) The securities reported are based on a Schedule 13G/A filed on February 11, 2022 by Electrum Silver US LLC ("ESUS"), Electrum Strategic Management LLC ("ESM"), Electrum Global Holdings L.P. ("Global Holdco"), TEG Global GP Ltd. ("TEG Global"), The Electrum Group LLC ("TEG"), Electrum Silver US II LLC ("ESUS II"), Electrum Strategic Opportunities Fund II L.P. ("ESOF II"), Electrum Strategic Opportunities Fund II GP L.P. ("ESOF II GP L.P.") and ESOF II GP Ltd. ("ESOF II GP") (for the purposes of this section, collectively, "Electrum"). Mr. Erfan is Vice Chairman of TEG.

ESUS directly owns 17,894,672 shares of our common stock. ESM is the manager of ESUS. ESM is wholly owned by Global Holdco, and TEG Global is the general partner of Global Holdco. TEG acts as an investment advisor to Global Holdco. As a result, ESM, Global Holdco, TEG Global and TEG may be deemed to beneficially own shares of our common stock held by ESUS.

ESUS II directly owns 4,109,7104 shares of our common stock. ESOF II owns 99% of ESUS II, and ESM is the manager of ESUS II. ESM is wholly owned by Global Holdco, and TEG Global is the general partner of Global Holdco. The general partner of ESOF II is ESOF II GP L.P., and the general partner of ESOF II GP L.P. is ESOF II GP. ESOF II GP is wholly owned by Global Holdco. TEG acts as an investment advisor to ESOF II. As a result, ESOF II, ESM, Global Holdco, TEG Global, ESOF II GP L.P., TEG and ESOF II GP may be deemed to beneficially own shares of our common stock held by ESUS II.

The address of the Electrum entities is 535 Madison Avenue, 12th Floor, New York, New York 10022.

- (2) The securities reported are based on a Schedule 13G filed on February 16, 2021, by the Municipal Employees' Retirement System of Michigan and represents (i) 6,205,259 shares of our common stock held by MERS and (ii) 38,750 shares of our common stock issuable upon exercise of options that are vested or vest within 60 days of June 21, 2023. The address of MERS is 1134 Municipal Way, Lansing, Michigan 48917.
- (3) The securities reported are based on a Schedule 13G/A filed on February 9, 2023, by FMR LLC. FMR LLC has sole voting power with respect to 8,922,196 shares and sole investment power with respect to 8,922,196 shares. Abigail P. Johnson, a Director, the Chairman and the Chief Executive Officer of FMR LLC, has sole investment power with respect to 8,922,196 shares. Members of the Johnson family, including Abigail P. Johnson, are the predominant owners, directly or through trusts, of Series B voting common shares of FMR LLC, representing 49% of the voting power of FMR LLC. The Johnson family group and all other Series B shareholders have entered into a shareholders' voting agreement under which all Series B voting common shares will be voted in accordance with the majority vote of Series B voting common shares. Accordingly, through their ownership of voting common shares and the execution of the shareholders' voting agreement, members of the Johnson family may be deemed, under the Investment Company Act of 1940, to form a controlling group with respect to FMR LLC. Neither FMR LLC nor Abigail P. Johnson has the sole power to vote or direct the voting of the shares owned directly by the various investment companies registered under the Investment Company Act ("Fidelity Funds") advised by Fidelity Management & Research Company LLC ("FMR Co. LLC"), a wholly owned subsidiary of FMR LLC, which power resides with the Fidelity Funds' Boards of Trustees. FMR Co. LLC carries out the voting of the shares under written guidelines established by the Fidelity Funds' Boards of Trustees. The address of FMR LLC is 245 Summer Street, Boston, Massachusetts 02210.
- (4) Holdings include 82,262 shares of our common stock held by Ajami Associates Limited, which is owned and controlled by Mr. Erfan. The address of Ajami Associates Limited is c/o Sphere Management (Mauritius) Limited, 6th Floor, Suite 619, Port Louis, Mauritius. Mr. Erfan disclaims beneficial ownership of shares of our common stock held by Electrum. See footnote (1).
- (5) Holdings include the following shares which may be acquired upon the exercise of options outstanding under the LTIP and exercisable within 60 days as of June 21, 2023: Janice Stairs — 27,263 shares; Ali Erfan — 27,263 shares; Igor Gonzales — 24,680 shares; Karl Hanneman — 42,763 shares; Charles Hansard — 10,138 shares; David Peat — 104,881 shares; Daniel Muñoz Quintanilla — 5,505 shares; Dale Andres — 289,000 shares; Anthony Scott — 33,333; Luis Felipe Huerta — 212,700 shares; and all current directors and executive officers as a group — 777,526 shares.
- (6) Holdings include the following shares which may be acquired upon departure from the Company by settlement of the DSUs outstanding under the LTIP within 60 days of June 21, 2023: Janice Stairs — 19,548 shares; Ali Erfan — 16,219 shares; Igor Gonzales — 12,420 shares; Karl Hanneman — 18,016 shares; Charles Hansard — 6,497 shares; David Peat — 52,141 shares; Daniel Muñoz Quintanilla — 3,131 shares; Rodrigo Monroy — nil; Anthony Scott — nil; Luis Felipe Huerta — nil; and all current directors and executive officers as a group — 127,972 shares.
- (7) Holdings include (i) 91,235 shares of our common stock held by Cast Management 401k Trust, in which Mr. Orr is a beneficiary and (ii) 66,548 shares of our common stock held by Mr. Orr's spouse. The address of Cast Management 401k Trust is 30 N Gould St, Suite R, Sheridan, Wyoming 82801. Mr. Orr disclaims beneficial ownership of the shares held by his spouse.
- (8) Holdings include 10,000 shares of our common stock held directly by Ms. Stairs.
- (9) Holdings include 7,400 shares of our common stock held directly by Mr. Hanneman and 10,000 shares of our stock held by KNH Trust, which is controlled by Mr. Hanneman.
- (10) Holdings include 4,475 shares of our common stock held directly by Mr. Peat.
- (11) Mr. Orr departed from the Company effective April 7, 2022.

### **Item 13. Certain Relationships and Related Transactions, and Director Independence**

#### ***Certain Relationships and Related Party Transactions***

The following are summaries of transactions since January 1, 2022 to which we have been a participant, in which the amount involved in the transaction exceeds or will exceed the lesser of \$120,000 or one percent of the average of the Company's total assets at year-end for the last two completed fiscal years, and in which any of our directors, executive officers, beneficial owners of more than five percent of our voting securities or any other "related person" as defined in Item 404(a) of Regulation S-K had or will have a direct or indirect material interest.

#### ***Services Agreements***

Effective January 1, 2015, in connection with our Los Gatos Joint Venture ("LGJV"), we entered into a services agreement with the LGJV operating entities consisting of Minera Plata Real S. de R.L. de C.V. ("MPR"), Operaciones San Jose del Plata S. de R.L. de C.V. ("OSJ") and Servicios San Jose del Plata S. de R.L. de C.V. ("SSJ"). SSJ was subsequently merged with MPR. Pursuant to the agreement, OSJ agreed to provide to the LGJV certain consulting and administrative services, including services necessary to explore, develop, construct and operate the LGJV and for business development activities. The agreement included indemnification provisions by MPR, SSJ in favor of OSJ and its indemnitees against all losses, damages, costs, expenses and charges incurred by OSJ arising as a result of any act or omission with respect to the provision of services pursuant to the agreement, except for willful misconduct or gross negligence.

Under the Unanimous Omnibus Partner Agreement, we provide management and administrative services to the LGJV. The Company received \$5.4 million and \$1.25 million from the LGJV under this agreement for the year ended December 31, 2022 and the three months ended March 31, 2023, respectively. The Company had receivables under this agreement of \$0.4 million and \$0.4 million as of December 31, 2022 and March 31, 2023, respectively. The Company also incurred certain LGJV costs that are subsequently reimbursed by the LGJV.

#### ***Shareholders Agreement***

In connection with our IPO, we entered into a shareholders agreement with Electrum and MERS pursuant to which Electrum and MERS have the right to nominate members of our Board. Electrum has the right to nominate: (a) a number of members of our Board that is one fewer than a majority of the Board following all nominations pursuant to such nomination right so long as Electrum beneficially owns in the aggregate at least 35% of the then outstanding shares of our common stock and (b) one member of our Board so long as Electrum beneficially owns in the aggregate (x) less than 35% of the then outstanding shares of our common stock and (y) at least 5% of the then outstanding shares of our common stock. MERS has the right to nominate one member of our Board for as long as it owns at least 5% of the then outstanding shares of our common stock. The nominees of Electrum and MERS will need to be approved by the Board of Directors and elected at the annual meeting of shareholders.

The shareholders agreement also provides that for so long as Electrum owns at least 35% of the then outstanding shares of our common stock, certain actions by us will require the approval of Electrum in addition to any other vote by our Board or shareholders. The actions requiring Electrum approval include:

- change of control transactions,
- the acquisition or sale of any asset or any joint venture investment in excess of \$100 million,
- the incurrence of indebtedness in excess of \$100 million,
- making any loan, advance or capital contribution in excess of \$100 million,
- equity issuances in excess of \$100 million, and
- dissolution, liquidation, reorganization or bankruptcy proceedings involving us or our material subsidiaries.

In addition, we have agreed to indemnify Electrum and MERS from any losses arising directly or indirectly out of Electrum's and MERS's actual, alleged or deemed control or ability to influence us or the actual or alleged act or omission of Electrum's and MERS's director nominees, including any act or omission in connection with this offering. If, for any reason our agreement to

indemnify Electrum and MERS is unavailable or unenforceable, we will agree to make the maximum contribution to the payment and satisfaction of the indemnified liabilities permissible under applicable law.

#### **Registration Rights Agreement**

In connection with our IPO, we entered into a registration rights agreement with Electrum, MERS and substantially all our other existing shareholders prior to the IPO. Pursuant to the registration rights agreement, Electrum and MERS have the right to require us to file a registration statement under the Securities Act with respect to their shares. We will not be obligated to effect more than three demand registrations within a 12-month period. All shareholders under the registration rights agreement will be entitled to piggyback registration rights with respect to any registration initiated by us or another shareholder or shareholders after the consummation of our IPO and will continue to hold this right until they transfer their shares.

#### **Statement of Policy on Related Party Transactions**

The Board has adopted a written related party transaction policy designed to minimize potential conflicts of interest arising from any dealings we may have with our affiliates and to provide appropriate procedures for the disclosure, approval and resolution of any real or potential conflicts of interest that may exist from time to time. This policy provides, among other things, that all related persons transactions will be ratified and approved by disinterested members of our Board after receiving a recommendation from our Audit Committee that the transaction is fair, reasonable and within our policy. In making its recommendation, our Audit Committee will consider each related party transaction in light of all relevant factors, including without limitation the benefits of the transaction to us, the terms of the transaction and whether they are arm's length and in the ordinary course of our business, the direct or indirect nature of the related party's interest in the transaction, the size and expected term of the transaction, and other facts and circumstances that bear on the materiality of the related party transaction under applicable law and stock exchange standards. For purposes of the policy, a "related persons transactions" generally consists of a transaction, arrangement or relationship involving the Company and the Company's directors, director nominees or executive officers, any stockholder beneficially owning more than 5% of the Company's common stock, or immediate family members of any such persons.

#### **Director Independence**

Our Board has determined that each of Ms. Stairs and Messrs. Erfan, Gonzales, Hanneman, Hansard, Peat and Muñiz is an independent director within the meaning of the applicable rules of the NYSE.

#### **Item 14. Principal Accountant Fees and Services**

Effective September 28, 2022, KPMG resigned as the Company's independent registered public accounting firm. The Company's Audit Committee and Board engaged EY to serve as the Company's independent registered public accounting firm effective November 14, 2022.

The following table shows the fees billed by KPMG and EY for the years ended December 31, 2022 and December 31, 2021:

	2022	2021
Audit fees <sup>1</sup> - KPMG	\$ —	\$ 1,412,703
Audit fees <sup>1</sup> - EY	955,000	600,000
Audit-related fees	—	—
Tax fees <sup>2</sup>	—	89,385
All other fees	—	—
Total	\$ 955,000	\$ 2,102,088

- (1) Audit fees relate to professional services rendered in connection with the audit of the Company's annual financial statements, quarterly review of financial statements, and audit services provided in connection with other statutory and regulatory filings.
- (2) Tax fees relate to professional services rendered relating to tax compliance and planning. Such services included corporate income tax return preparation and consultation on foreign tax matters. Such fees were billed by KPMG.

### **Pre-Approval Policies and Procedures**

Our Audit Committee has adopted a policy and procedures for the pre-approval of all audit and non-audit services to be rendered by our independent registered public accounting firm. Under the policy, our Audit Committee generally pre-approves specified services in defined categories up to specified amounts and limits the types of non-audit services that may be provided by the independent accountant. Our Audit Committee may delegate authority to the Chair of the Audit Committee or another member of our Audit Committee to pre-approve any proposed engagement of an independent accountant. However, any engagement of an independent accountant pre-approved as such must be reported to our Audit Committee at its next regularly scheduled meeting. All audit and non-audit services performed by our independent registered public accounting firm during the years ended December 31, 2021 and 2022, were pre-approved by our Audit Committee.

## PART IV

### Item 15. Exhibits and Financial Statement Schedules

- (1) *Consolidated Financial Statements.* For a list of the financial statements included herein, see Index to the Consolidated Financial Statements in “Item 8. Financial Statements and Supplementary Data.”
- (2) *Consolidated Financial Statement Schedules.* Financial statement schedules have been omitted because they are either not required or not applicable or the information is included in the consolidated financial statements or the notes thereto.
- (3) *Exhibits.* The exhibits listed below are filed or incorporated by reference as part of this Annual Report on Form 10-K.
  - 3.1 [Amended and Restated Certificate of Incorporation of Gatos Silver, Inc. \(incorporated by reference to Exhibit 3.1 of the Company’s Current Report on Form 8-K filed October 30, 2020\)](#)
  - 3.2 [Amended and Restated By-Laws of Gatos Silver, Inc. \(incorporated by reference to Exhibit 3.2 of the Company’s Current Report on Form 8-K filed October 30, 2020\)](#)
  - 4.1 [Description of Securities Registered under Section 12 of the Exchange Act \(incorporated by reference to Exhibit 4.1 to the Company’s Annual Report on Form 10-K filed on March 29, 2021\)](#)
  - 4.2 [Shareholders Agreement dated October 30, 2020 among Gatos Silver Inc. and the stockholders that are signatories thereto \(incorporated by reference to Exhibit 10.2 of the Company’s Current Report on Form 8-K filed on October 30, 2020\)](#)
  - 4.3 [Registration Rights Agreement dated October 30, 2020 among Gatos Silver Inc. and the stockholders that are signatories thereto \(incorporated by reference to Exhibit 10.3 of the Company’s Current Report on Form 8-K filed on October 30, 2020\)](#)
  - 4.4\* [Specimen Share Certificate of Gatos Silver, Inc.](#)
  - 10.1.1 [Unanimous Omnibus Partner Agreement effective as of January 1, 2015 among Minera Plata Real, S. de R.L. de C.V., Operaciones San Jose de Plata, S. de R.L. de C.V., Servicios San Jose de Plata, S. de R.L. de C.V., Los Gatos Luxembourg S.a.r.l., Sunshine Silver Mining & Refining Corporation and Dowa Metals & Mining Co., Ltd. \(incorporated by reference to Exhibit 10.5.1 to the Company’s Registration Statement on Form S-1 filed on October 1, 2020\)](#)
  - 10.1.2 [Amendment No. 8 to Partner Agreement dated July 12, 2021, among Minera Plata Real, S. de R.L. de C.V., Operaciones San Jose de Plata, S. de R.L. de C.V., Servicios San Jose de Plata, S. de R.L. de C.V., Sunshine Silver Mining & Refining Corporation and Dowa Metals & Mining Co., Ltd.](#)
  - 10.2.1 [Amended and Restated Revolving Credit Agreement, dated December 20, 2022, among Gatos Silver, Inc., certain subsidiaries of Gatos Silver, Inc. from time to time, Bank of Montreal, Chicago Branch, as administrative agent, BMO Capital Markets, as bookrunner and mandated lead arranger, and Bank of Montreal, Chicago Branch and certain financial institutions from time to time, as lenders \(incorporated by reference to Exhibit 10.1 of the Company’s Current Report on Form 8-K filed December 22, 2022\).](#)
  - 10.3.1 [Exploration, Exploitation and Unilateral Promise to Sell Agreement dated May 4, 2006 between La Cuesta International, S.A. de C.V. and Minera Plata Real, S.A. de C.V. \(incorporated by reference to Exhibit 10.8.1 to the Company’s Registration Statement on Form S-1 filed on October 1, 2020\)](#)
  - 10.4.1# [Agreement dated July 15, 2019, between Ocean Partners USA, Inc. and Operaciones San Jose de Plata, S. de R.L. de C.V. \(incorporated by reference to Exhibit 10.9.1 to the Company’s Registration Statement on Form S-1 filed on October 1, 2020\)](#)
  - 10.4.2\* [Amendment No.1, dated July 14, 2022, to the Zinc Offtake Agreement between Dowa Metals and Mining, Operaciones, and Ocean Partners USA, Inc. dated July 15, 2019](#)

## Table of Contents

10.4.3#	<a href="#"><u>Assignment, Assumption and Consent Agreement (Amendment No.1) between Dowa Metals and Mining, Operaciones, and Ocean Partners USA, Inc. dated July 14, 2022</u></a>
10.5.1#	<a href="#"><u>Cerro Los Gatos Lead Concentrate Sales Agreement dated April 14, 2019 between Operaciones San Jose de Plata, S. de R.L. de C.V. and Metagri S.A. de C.V. (incorporated by reference to Exhibit 10.10.1 to the Company's Registration Statement on Form S-1 filed on October 1, 2020)</u></a>
10.6	<a href="#"><u>Leaching Plant Confirmation Agreement dated March 17, 2022, among Minera Plata Real, S.A. de C.V., Operaciones San Jose de Plata, S. de R.L. de C.V., Gatos Silver, Inc. and Dowa Metals &amp; Mining Co., Ltd.</u></a>
10.7.1†	<a href="#"><u>Amended and Restated Long Term Incentive Plan (incorporated by reference to Exhibit 99.1 to the Company's Registration Statement on Form S-8 filed on October 30, 2020)</u></a>
10.7.2†	<a href="#"><u>Form of Executive Nonqualified Stock Option Agreement (incorporated by reference to Exhibit 10.12.2 to the Company's Registration Statement on Form S-1/A filed on October 8, 2020)</u></a>
10.7.3†	<a href="#"><u>Form of Director Nonqualified Stock Option Agreement (incorporated by reference to Exhibit 10.12.3 to the Company's Registration Statement on Form S-1/A filed on October 8, 2020)</u></a>
10.7.4†	<a href="#"><u>Form of DiSU Award Agreement (incorporated by reference to Exhibit 10.12.4 to the Company's Registration Statement on Form S-1/A filed on October 8, 2020)</u></a>
10.7.5†	<a href="#"><u>Form of DSU Award Agreement (incorporated by reference to Exhibit 10.12.5 to the Company's Registration Statement on Form S-1/A filed on October 8, 2020)</u></a>
10.7.6†*	<a href="#"><u>Form of PSU Award Agreement</u></a>
10.8.1†	<a href="#"><u>Annual Incentive Plan (incorporated by reference to Exhibit 10.13.1 to the Company's Registration Statement on Form S-1/A filed on October 8, 2020)</u></a>
10.9.1†	<a href="#"><u>Non-Qualified Deferred Compensation Plan (incorporated by reference to Exhibit 10.14.1 to the Company's Registration Statement on Form S-1/A filed on October 8, 2020)</u></a>
10.10.1†	<a href="#"><u>Employment Agreement dated as of May 3, 2011 between Sunshine Silver Mining &amp; Refining Corporation and Stephen Orr (incorporated by reference to Exhibit 10.15.1 to the Company's Registration Statement on Form S-1 filed on October 1, 2020)</u></a>
10.10.2†*	<a href="#"><u>Employment Agreement effective as of August 1, 2022, between Gatos Silver Canada Corp., Gatos Silver, Inc., as guarantor, and Dale Andres</u></a>
10.10.3†*	<a href="#"><u>Employment Agreement effective as of October 16, 2022, between Gatos Silver Canada Corp., Gatos Silver, Inc., as guarantor, and Tony Scott</u></a>
10.10.4†*	<a href="#"><u>Employment Agreement effective as of July 1, 2022 between Gatos Silver Canada Corp., Gatos Silver, Inc., as guarantor, and Andre van Niekerk</u></a>
10.10.5†*	<a href="#"><u>Employment Agreement effective as of April 1, 2021, between Gatos Silver, Inc. and Rodrigo Monroy</u></a>
10.10.6†*	<a href="#"><u>Separation Agreement &amp; Full Waiver &amp; Release of all Claims effective as of November 30, 2022, between Gatos Silver, Inc. and Rodrigo Monroy</u></a>
10.10.7†*	<a href="#"><u>Employment Offer dated April 22, 2015 by Sunshine Silver Mining &amp; Refining Corporation, on behalf of its wholly-owned Mexican Subsidiary, and Luis Felipe Huerta</u></a>
10.11.1	<a href="#"><u>Form of Indemnification Agreement (incorporated by reference to Exhibit 10.18.1 to the Company's Registration Statement on Form S-1/A filed on October 8, 2020)</u></a>

## Table of Contents

10.12.1*	<a href="#"><u>Wavier No. 4 to the Revolving Credit Agreement, dated April 12, 2022, among Gatos Silver, Inc., certain subsidiaries of Gatos Silver, Inc. from time to time, Bank of Montreal, Chicago Branch and certain financial institutions from time to time, as lenders, Bank of Montreal, Chicago Branch, as bookrunner and mandated lead arranger, and Bank of Montreal, Chicago Branch, as administrative agent for and on behalf of the lenders (incorporated by reference to Exhibit 1.1 of the Company's Current Report on Form 8-K filed October 14, 2022).</u></a>
10.12.2*	<a href="#"><u>Wavier No. 5 to the Revolving Credit Agreement, dated April 12, 2022, among Gatos Silver, Inc., certain subsidiaries of Gatos Silver, Inc. from time to time, Bank of Montreal, Chicago Branch and certain financial institutions from time to time, as lenders, Bank of Montreal, Chicago Branch, as bookrunner and mandated lead arranger, and Bank of Montreal, Chicago Branch, as administrative agent for and on behalf of the lenders (incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K filed May 16, 2023).</u></a>
10.12.3*	<a href="#"><u>Wavier No. 6 to the Revolving Credit Agreement, dated April 12, 2022, among Gatos Silver, Inc., certain subsidiaries of Gatos Silver, Inc. from time to time, Bank of Montreal, Chicago Branch and certain financial institutions from time to time, as lenders, Bank of Montreal, Chicago Branch, as bookrunner and mandated lead arranger, and Bank of Montreal, Chicago Branch, as administrative agent for and on behalf of the lenders (incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K filed June 07, 2023).</u></a>
21.1*	<a href="#"><u>Subsidiaries of the Registrant</u></a>
23.1*	<a href="#"><u>Consent of Ernst &amp; Young LLP</u></a>
24.1*	<a href="#"><u>Power of Attorney (included on signature page)</u></a>
31.1*	<a href="#"><u>Section 302 Certification of Chief Executive Officer</u></a>
31.2*	<a href="#"><u>Section 302 Certification of Chief Financial Officer</u></a>
32.1**	<a href="#"><u>Section 1350 Certification</u></a>
96.1	<a href="#"><u>Cerro Los Gatos S-K 1300 Technical Report Summary, dated November 10, 2022 (incorporated by reference to Exhibit 96.1 of the Company's Current Report on Form 8-K filed on November 14, 2022)</u></a>
101.INS*	Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document
101.SCH*	Inline XBRL Taxonomy Extension Schema Document
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104*	Cover Page Interactive Data File (formatted as Inline XBRL with applicable taxonomy extension information contained in Exhibits 101)

\* Filed herewith

\*\* Furnished herewith

† Management contract or compensatory plan or agreement

# Portions of this exhibit have been omitted because they are both (i) not material and (ii) customarily and actually treated by the Company as private and confidential.

**Item 16. Form 10-K Summary**

None.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

June 26, 2023

GATOS SILVER, INC.

By: /s/ Dale Andres

Dale Andres

Chief Executive Officer

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Dale Andres and André van Niekerk and each of them, their true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for them and in their name, place and stead, in any and all capacities, to sign any and all amendments to this Annual Report on Form 10-K for the fiscal year ended December 31, 2022, and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto each said attorney-in-fact and agents full power and authority to do and perform each and every act in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or either of them or their or his or her substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ Dale Andres</u> Dale Andres	Chief Executive Officer and Director (principal executive officer)	June 26, 2023
<u>/s/ André van Niekerk</u> André van Niekerk	Chief Financial Officer (principal financial officer and principal accounting officer)	June 26, 2023
<u>/s/ Janice Stairs</u> Janice Stairs	Chair of the Board of Directors	June 26, 2023
<u>/s/ Ali Erfan</u> Ali Erfan	Director	June 26, 2023
<u>/s/ Igor Gonzales</u> Igor Gonzales	Director	June 26, 2023
<u>/s/ Karl Hanneman</u> Karl Hanneman	Director	June 26, 2023
<u>/s/ Charles Hansard</u> Charles Hansard	Director	June 26, 2023
<u>/s/ David Peat</u> David Peat	Director	June 26, 2023
<u>/s/ Daniel Muñoz Quintanilla</u> Daniel Muñoz Quintanilla	Director	June 26, 2023

NUMBER	GATOS SILVER	SHARES
	INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE	SEE REVERSE SIDE FOR CERTAIN DEFINITIONS CUSIP 368036 10 9
<p>THIS CERTIFIES THAT</p> <p>_____ is the owner of</p> <p>_____ FULLY PAID AND NON-ASSESSABLE COMMON SHARES, \$0.01 PAR VALUE, OF  <b>GATOS SILVER, INC.</b></p> <p>transferable on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this certificate properly endorsed. This certificate is not valid until countersigned and registered by the Transfer Agent and Registrar.</p> <p>IN WITNESS WHEREOF, the said Corporation has caused this certificate to be signed by facsimile signatures of its duly authorized officers.</p> <p>Dated: _____</p> <p>_____ CHIEF EXECUTIVE OFFICER</p> <p>_____ CHIEF FINANCIAL OFFICER</p>		
<p>BY _____  <small>COUNTERSIGNED AND REGISTERED:  EQUINITY TRUST COMPANY, LLC</small></p> <p>_____  <small>TRANSFER AGENT  AND REGISTRAR</small></p> <p>_____  <small>AUTHORIZED SIGNATURE</small></p>		

AMERICAN FINANCIAL PRINTING INCORPORATED - MINNEAPOLIS

THE BOARD OF THIS CORPORATION HAS THE AUTHORITY TO CREATE AND DETERMINE THE RELATIVE RIGHTS AND PREFERENCES OF CLASSES OR SERIES OF SHARES OF CAPITAL STOCK OTHER THAN COMMON STOCK. THIS CORPORATION WILL FURNISH TO ANY SHAREHOLDER UPON WRITTEN REQUEST SENT TO ITS PRINCIPAL EXECUTIVE OFFICES, AND WITHOUT CHARGE, A FULL STATEMENT OF THE BOARD'S AUTHORITY TO CREATE AND DETERMINE THE RELATIVE RIGHTS AND PREFERENCES OF CLASSES OR SERIES OF SHARES OF CAPITAL STOCK AS WELL AS THE DESIGNATIONS, PREFERENCES, LIMITATIONS AND RELATIVE RIGHTS OF THE SHARES OF EACH CLASS OR SERIES THEN OUTSTANDING OR AUTHORIZED TO BE ISSUED.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	- as tenants in common	UTMA	-	Custodian	(Minor)
TEN ENT	- as tenants by entitles			(Cust)	under Uniform Transfers to Minors
JT TEN	- as joint tenants with right of survivorship and not as tenants in common	Act		(State)	

Additional abbreviations may also be used though not in the above list.

For value received \_\_\_\_\_ hereby sell, assign, and transfer unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS INCLUDING ZIP CODE OF ASSIGNEE)

\_\_\_\_\_ Shares  
of the capital stock represented by the within Certificate,  
and do hereby irrevocably constitute and appoint \_\_\_\_\_

\_\_\_\_\_ Attorney  
to transfer the said stock on the books of the within-named  
Corporation with full power of substitution in the premises.

Dated \_\_\_\_\_ X

X

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR WITHOUT ALTERATION OR ABBREVIATION OF ANY CHARACTERS WHATSOEVER.

#### SIGNATURE GUARANTEED

ALL GUARANTEES MUST BE MADE BY A FINANCIAL INSTITUTION (BANK OR SAVINGS AND LOAN SOCIETY) WHICH IS A PARTICIPANT IN THE SECURITIES INVESTOR EDUCATION PROGRAM (SIEP). THE NEW YORK STOCK EXCHANGE, INC. (NYSE) SIGNATURE PROGRAM (SIEP) OR THE STOCK EXCHANGE NATIONAL PROGRAM (SENP) ARE NOT RELATED GUARANTEES BY A FINANCIAL INSTITUTION AND ARE NOT ACCEPTABLE.

OPUSA CONTRACT REFERENCE: OPUS.ZP.70634 - **Amendment 1**

This Amendment (“**Amendment No. 1**”) to the Zinc Offtake Agreement, is effective as of July 14, 2022, between:

OCEAN PARTNERS USA, INC.

43 Danbury Road  
Wilton, CT, USA, 06897  
(hereinafter called “Buyer”)

and

OPERACIONES SAN JOSE DE PLATA, S. DE R.L. DE C.V.

Av. Valle Escondido #5500 Int. 404  
Complejo Industrial “El Saucito”  
Chihuahua 31125, Chihuahua.  
(hereinafter called “Seller”)

**WHEREAS**, the parties entered into a Zinc Offtake Agreement on July 15, 2019 (the “**Agreement**”);

**WHEREAS**, the Parties agreed to the purchase and sale of [REDACTED] wmt of zinc concentrate under the Agreement;

**WHEREAS**, the Agreement had a term ending on June 30, 2022 (“**Term**”)

**WHEREAS**, during the Term, the Parties respectively only bought and sold [REDACTED] wmt of the agreed amount leaving a shortfall of [REDACTED] wmt. (“**Shortfall**”)

**NOW, THEREFORE**, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **INTERPRETATION**. Any capitalized terms not otherwise defined herein shall have the meaning set forth for such term in the Agreement.

## **2. AMENDMENT**

The Parties agree to amend the following Sections of the Agreement in its entirety to read as follows:

### **“4. DURATION / NEGOTIATION**

- (a) *This Agreement shall be effective from the date hereof and shall remain in full force and effect until the Shortfall is respectively sold and purchased by the Parties in accordance with this Agreement, which is expected to occur by March 30, 2023.*

- (b) *Commercial terms, as provided in Clauses 9, 10, 11 and 12, shall be annually negotiated in good faith and agreed between Dow and Seller (with copy to Buyer) taking into consideration the prevailing world markets, including 1) Bench Mark Terms as published by the Metal Bulletin of London and 2) the prevailing international terms and conditions governing delivery of zinc Concentrate to Japan, for zinc concentrates, for the period in which Concentrate shipments are scheduled, or such other time as may be agreed; provided, however, for 2019 commercial terms are set forth in Appendix A attached hereto, and provided that the intent of this paragraph (c) is to apply solely to renegotiation of commercial terms, and not legal terms under this Agreement, and neither party shall be liable to the other if they are unable to agree on any revisions to the commercial terms currently in effect.*
- (c) *Notwithstanding the foregoing, Dow and/or Seller (with copy to Buyer) may request additional commercial terms beyond those in Clauses 9, 10, 11 and 12 for negotiation, if such new additional commercial terms are justified as competitive International and/or Japanese market conditions for zinc concentrate with volumes, specifications and other terms and conditions similar to those in this Agreement. The Buyer and Seller must negotiate and agree such additional commercial terms.*

#### **7. TITLE AND RISK**

*Title deed to, and risk to the Concentrates shall pass from Seller to Buyer upon Seller's delivery in the warehouse set forth in Section 5 ("Shipment") of this Agreement. Delivery shall be final when the Concentrates are unloaded in the above referenced warehouse.*

**3.- NO OTHER CHANGE.** Except for the changes contemplated in this Amendment No. 1, the terms of the Agreement remain in full force and effect.

#### **4.- ARBITRATION.**

Any disputes, controversy or claim arising out of, or in connection with this Agreement or the breach, termination or validity thereof, which cannot be amicably resolved by the parties within 60 calendar days after receipt by one party of written notice from the other party, such a controversy or claim shall be settled by final and binding arbitration conducted in the English language in New York in accordance with the Rules of Arbitration and Arbitration of the International Chamber of Commerce by three arbitrators appointed one by Seller, one by Buyer and the third by the first two arbitrators.

If either or both Seller or Buyer fails to appoint an arbitrator within 60 calendar days after receiving notice of the commencement or arbitration proceedings, or if the two arbitrators within 14 calendar days after they have been chosen failed to appoint the third arbitrator,

the International Court of Arbitration of the International Chamber of Commerce shall, upon request of either or both of Buyer and Seller, appoint the arbitrator or arbitrators required to complete the arbitral tribunal.

The parties agree that the Arbitration Award of the arbitral tribunal shall be:

- (i) conclusive, final and binding upon the parties; and
- (ii) the sole and exclusive remedy between the parties regarding any and all claims and counterclaims presented to the arbitral tribunal.

All notices to be given in connection with the arbitration shall be as provided in Clause 23 of this Agreement.

The Arbitration Award shall be made and shall be payable in US\$ only. The Arbitration Award shall also include the fixing of the expense of the arbitration and the assessment of the same, as is appropriate in the parties hereto. Each party shall otherwise bear its cost of its respective legal fees, witnesses, depositions and other out-of-pocket expenses incurred in the course of arbitration.

In the event either party to this Agreement commences legal proceedings to enforce the Arbitration Award, the expense of such litigation (including reasonable attorney’s fees and costs of court) shall be borne by the party not prevailing therein.

IN WITNESS WHEREOF the parties have executed this Amendment as of the day and year first above written.

OPERACIONES SAN JOSE DE  
PLATA S. DE R.L. DE C.V.

MK METAL TRADING S.A.DE CV.

[Redacted Signature]

by:  
/s/ Authorized Signatory

[Redacted Signature]

by: /s/ Authorized Signatory

[Redacted Signature]

FRANCISCO ESPINOSA - TRADER  
/s/ Francisco Espinosa - Trader

## LEACHING PLANT CONFIRMATION AGREEMENT

This Leaching Plant Confirmation Agreement (this “**Agreement**”) is made and effective as of March 17, 2022 among MINERA PLATA REAL, S. DE R.L. DE C.V., a Mexico variable capital company (a “sociedad de responsabilidad limitada de capital variable” in Spanish) (“**MPR**”), OPERACIONES SAN JOSÉ DE PLATA S. DE R.L. DE C.V., a Mexico variable capital company (a “sociedad de responsabilidad limitada de capital variable” in Spanish) (“**Operaciones**”) (MPR and Operaciones, collectively, the “**LGJV**”), GATOS SILVER, INC., a corporation formed under the laws of the State of Delaware (“**GSI**”), and DOWA METALS & MINING CO., LTD., a corporation incorporated under the laws of Japan (“**Dowa**”).

### Background

A. Reference is made to (i) the Unanimous Omnibus Partner Agreement, dated January 1, 2015 (as amended, the “**Partner Agreement**”), entered into among Dowa, GSI and the LGJV, the (ii) Offtake Agreement, dated June 27, 2019 (as amended, the “**Offtake Agreement**”), entered into between Operaciones and Dowa and (iii) the Priority Distribution Agreement, dated May 30, 2019 (the “**Priority Distribution Agreement**”), entered into among Dowa, GSI, and the LGJV.

B. Operaciones produces zinc concentrates (“**Concentrates**”). Pursuant to the terms of the Partner Agreement and the Offtake Agreement, Dowa has the right and obligation to purchase all Concentrates produced by LGJV. The Concentrates were estimated to have fluorine (“**F**”) content of 537ppm or less (“**Target**”), failing which, Operaciones and Dowa are required to negotiate in good faith with full disclosure to overcome any financial hardship or technical difficulty which Dowa may suffer. The Parties have acknowledged that Fluorine levels contained in the Cerro Los Gatos deposit are higher than predicted in the feasibility study. It is difficult to reduce F content levels using Operaciones’ current processing technology and the actual F content of Concentrates produced by Operaciones to date exceeds the Target.

C. In an effort to produce Concentrates that meet the Target, the Parties have agreed to cause the LGJV to construct and operate a leaching plant (“**Plant**”) pursuant to the terms and conditions of this Agreement.

D. LGJV will finance the construction and subsequent operations of the Plant using its cashflow, subject to the Parties’ agreement to suspend certain payments under the Priority Distribution Agreement as set forth in this Agreement.

### Agreements

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Plant. Subject to the LGJV obtaining the necessary environmental permits and authorizations, the Parties hereby agree that LGJV will own and be responsible for operation and maintenance of the Plant. The Parties agree that it is their objective to produce Concentrates with F content of 537ppm or less. If such Target can be achieved by mixing leached Concentrates with Concentrates that have not been processed through the Plant, the LGJV will not be required to process 100% of Concentrates through the Plant. The Parties agree that the Plant will be constructed substantially in accordance with the Fluorine Leaching Project dated March 8, 2022 and the Leaching Project Schedule together with the Capex and Opex appendices, together attached hereto as Exhibit A (the “**Initial Plan**”). The Parties hereby authorize the LGJV to:
  - (a) proceed to immediately engage engineering advisors to prepare a detailed engineering plan and to immediately negotiate contracts for the procurement of equipment and materials

required for the construction of the Plant based on the Initial Plan as soon as reasonably practicable;

- (b) proceed to immediately prepare the corresponding environmental permit applications;
- (c) order long lead-time items described in the Initial Plan, such as, but not limited to, the Long Lead-Time Items set forth below (unless otherwise agreed between GSI and Dowa) as soon as practicable based on detailed engineering plan progress; and
- (d) To the extent practicable, ensure that the procurement contracts described in Section 1(c) above will be on terms and conditions that include the right to cancel such contracts upon the payment of a reasonable termination fee.

2. Cost. The Parties agree that LGJV will finance the construction and subsequent operations of the Plant using its cashflow, subject to Dowa's suspension and/or waiver of the Priority Distribution Amounts as set forth in Section 4 below. The Parties hereby agree to cause LGJV's 2022 and 2023, if required, Budgets to be revised/prepared to reflect the cost of construction of the Plant.

3. Timing. Subject to Force Majeure Events (as defined below), or as otherwise agreed to by the Parties in writing, the Parties hereby agree to use commercially reasonable efforts to achieve and to accelerate the following milestones in connection with constructing the Plant:

- (a) Environmental Milestones. The Parties hereby authorize LGJV to submit permit applications in March 2022, with regulatory approval estimated to occur in May 2022. The Parties hereby authorize LGJV to apply for an updated environmental license for operations, which the Parties anticipate LGJV receiving approval of the updated environmental license in October 2022.
  - (b) Detailed Engineering Milestones. The Parties hereby authorize LGJV to engage M3 Engineering in March 2022 for the completion of detailed engineering plans of the Plant, with the Parties estimating that M3 Engineering will be able to complete the detailed engineering plans in June 2022.
  - (c) Procurement Milestones. The Parties hereby authorize LGJV to purchase the following equipment (collectively, the "**Long Lead-Time Items**") on the following terms: (i) filter press to be ordered in March 2022, with expected arrival on site in January 2023; (ii) heat exchanger to be ordered in March 2022, with expected arrival on site in October 2022; and (iii) clarifier to be ordered in March 2022, with expected arrival on site in October 2022.
  - (d) Construction and Commissioning Milestones. The Parties hereby agree to the following milestones, which the Parties agree are preliminary and will be revised and optimized as detailed engineering is completed: (i) LGJV will commence construction of the Plant in June 2022, and (ii) LGJV will commission the Plant in March 2023. Notwithstanding anything contained herein to the contrary, the construction of the Plant shall at all times be subject to LGJV's receipt of all environmental and other necessary licenses and permits.
  - (e) Force Majeure Event. The term "Force Majeure Event" as used herein will mean failure or delay in fulfilling or performing any action relating to construction of the Plant or implementation of the transactions contemplated by this Agreement, when and to the extent such failure or delay is caused by or resulting from acts beyond the affected Party's reasonable control, including, without limitation, the following: (i) acts of God; (ii) flood, fire, earthquake, or explosion; (iii) war, invasion, hostilities (whether war is declared or
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not), terrorist threats or acts, riot, or other civil unrest; (iv) government order or law; (v) actions, embargoes, or blockades in effect on or after the date of this Agreement; (vi), the effects of a pandemic; (vii) action by any governmental authority; and (viii) indigenous or other community social activism.

4. Dowa Contributions.

- (a) Capital Expenses. To compensate GSI for a portion of the capital expenditures required to construct the Plant, Dowa hereby agrees to waive its right to receive \$4,200,000 of the Priority Distribution Payment (as defined in the Priority Distribution Agreement) ("**Capex PDP Reduction**"). Such waiver will be effective upon the earlier of: (a) LGJV incurring an equivalent amount of construction costs for the Plant, and (b) completion of construction of the Plant. For greater certainty, (i) there will be no Capex PDP Reduction if the LGJV does not proceed with construction of the Plant; and (ii) if construction of the Plant is interrupted without completion or is less than \$4,200,000, the amount of Capex PDP Reduction will be equal to the amount of capital expenditures actually incurred by the LGJV as of the date of suspension of construction.
- (b) Operating Expenses. To compensate GSI for a portion of the annual expenses required to operate the Plant, for the initial five years of operation of the Plant ("**Term**"), Dowa agrees to waive its right to receive a portion of the Priority Distribution Payments up to a maximum amount of \$5,500,000 and equal to the lesser of: (a) \$22/tonne of Concentrates processed by the Plant, or (b) actual Plant operating costs during the Term ("**Opex PDP Reductions**"), up to the maximum amount of \$5,500,000, effective upon the earlier of completion of the Term and the date on which the maximum Opex PDP Reductions are confirmed used. LGJV will provide Dowa with annual notice of the amount of Opex PDP Reductions generated within 120 days after the end of each fiscal year during the Term until the maximum amount of Opex PDP Reductions is reached.
- (c) Initial Outlay Expenses. If the LGJV decides not to proceed with construction of the Plant for any reason, including a Force Majeure Event (but excluding only by reason of GSI's withdrawal of its support and withdrawal of the support of its nominees to the LGJV Board of Managers unless there is a commercially reasonable basis for doing so), then Dowa will compensate GSI for the costs incurred by LGJV pursuant to Section 1(a) above, by waiving its right to receive a portion of the Priority Distribution Payment equal to the amount of such costs ("**IOE PDP Reduction**").

5. Priority Distribution Agreement. The Parties hereby agree to immediately suspend payment of

\$9,700,000 of Priority Distribution Payments (as defined in the Priority Distribution Agreement) ("**PDA Suspension**"). The PDA Suspension will be terminated immediately after determination and confirmation of completion of the Capex PDP Reduction and the IOE PDP Reduction, if any, if the construction of the Plant is terminated prior to completion. If construction of the Plant is completed as contemplated, then suspension of \$5,500,000 of Priority Distribution Payments (as defined in the Priority Distribution Agreement) will continue until final determination and confirmation of completion of the total Opex PDP Reduction after the end of the Term. If operation of the Plant is suspended during the Term due to a Force Majeure Event, the Term will be extended for an equivalent period of time. For greater certainty, PDA Suspension does not require the placement of funds in escrow and if, during the PDA Suspension, the LGJV has cash available for distribution to Dowa and GSI, after Dowa's receipt of \$10,300,000 of the Priority Distribution Payments in aggregate, any remaining balance will be paid to and may be retained by Dowa and GSI, respectively, in accordance with their ownership interests in the LGJV.

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6. Implementation. The Parties agree that it is their desire and intent for the Plant procurement, construction and operational planning and status to be discussed on a regular basis at the LGJV's Technical Committee, Operations Committee and Management Committee meetings, and LGJV personnel responsible for implementation of the Plant construction and operations will provide regular updates to the Parties in the normal course at the Technical Committee, Operations Committee and Management Committee meetings, as the case may be.
7. Conditions Precedent; Public Announcements.
- (a) Each of the parties hereto (other than Dowia) acknowledges and agrees that: (i) Dowia's obligations under and performance of this Agreement are expressly conditioned upon Dowia's receipt of (A) the approval from Dowia's board of directors of this Agreement and the transactions contemplated hereby and (B) the approval from the board of directors of Dowia's parent, Dowia Holdings, to this Agreement and the transactions contemplated hereby (such approvals, together the "**Dowia Board Approvals**") and (ii) each such board of directors shall make its determination of whether to approve this Agreement and the transactions contemplated hereby in its absolute and sole discretion.
  - (b) Each of the Parties hereto (other than GSI) acknowledges and agrees that: (i) GSI's obligations under and performance of this Agreement are expressly conditioned upon GSI's receipt of the approval from GSI's board of directors of this Agreement and the transactions contemplated hereby (the "**GSI Board Approval**") and (ii) the board of directors shall make its determination of whether to approve this Agreement and the transactions contemplated hereby in its absolute and sole discretion.
  - (c) Each of the Parties hereto acknowledges and agrees that each Party's obligations under and performance of this Agreement are expressly conditioned upon such Party's receipt of approval by each Party's Mexican local counsel and tax advisors of this Agreement (in each, case, the "**Advisor Approval**").
  - (d) In the event any Party hereto proposes to issue any press release or public announcement concerning any provisions of this Agreement or the transactions contemplated hereby, such Party shall so advise the other Parties hereto, and the parties shall thereafter use their reasonable best efforts to cause a mutually agreeable release or announcement to be issued. No Party will publicly disclose or divulge any provisions of this Agreement or the transactions contemplated hereby without the other Parties' prior written consent, except as may be required by applicable law. Notwithstanding the foregoing, in no event shall any such press release or public announcement be made prior to written confirmation that the Dowia Board Approvals and the GSI Board Approval have both been obtained.
  - (e) Either before or concurrently with the execution of this Agreement, GSI and Dowia agree to approve the LGJV 2022 Budget in accordance with the Partners Resolution attached hereto as **Exhibit "B"**.
8. Termination. This Agreement shall terminate: (i) immediately upon written notice from Dowia to the other parties hereto that Dowia has not received the Dowia Board Approvals or Dowia Advisor Approval, (ii) immediately upon written notice from GSI to the other parties hereto that GSI has not received the GSI Board Approval or GSI Advisor Approval, or (iii) immediately upon written notice from either Dowia or GSI to the other parties hereto if for any reason the Closing Date (as defined below) does not occur by March 31, 2022 (the "**Outside Date**"), unless the parties mutually agree in writing to extend the Outside Date. If this Agreement is terminated in accordance with the terms hereof, then the transactions contemplated hereby shall be automatically abandoned and the
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terms and provisions hereof shall be of no force or effect. For purposes of this Agreement, the "Closing Date" means the date on which the conditions to closing as contemplated by this Section 8 are completed and confirmed by the Parties in writing.

9. Further Assurances. Each party hereby agrees, at their own expense, to execute and deliver such additional documents and instruments and to perform such additional acts as may be necessary or appropriate to effectuate, carry out and perform all of the terms, provisions and conditions of this Agreement and the transactions contemplated hereby, including (a) participating in a partners' meeting to confirm and ratify approval by the LGJV of such transactions; and (b) cause the transactions described above to be recorded in the corporate records of the LGJV.
10. Representations and Warranties. Each Party hereby represents and warrants to each other Party that, as of the date hereof and the Closing Date:
- (a) Such Party has full power, authority and legal right to enter into this Agreement and the other documents contemplated hereby to which it is a party and to perform all its obligations hereunder and thereunder.
  - (b) This Agreement and the other documents contemplated hereby to which such Party is a party have been duly executed and delivered by such Party, and this Agreement and the other documents contemplated hereby to which it is a party constitute the legal, valid and binding obligation of such party enforceable in accordance with their terms, except as such enforceability may be limited by any applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and or similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity.
  - (c) The execution, delivery and performance of this Agreement and of the other documents contemplated hereby to which such party is a party (A) are within such Party's corporate or company powers, as applicable, have been duly authorized by all necessary corporate or company action, as applicable, are not in contravention of law or the terms of such party's organizational and governing documents, (B) will not conflict with or violate any law or regulation, or any judgment, order or decree of any governmental authority, (C) will not require the approval and/or consent of any governmental authority or any other person, and (D) will not conflict with, nor result in any breach in any of the provisions of or constitute a default under the provisions of any agreement, instrument, or other document to which such Party is a party or by which it or its property is a party or by which it may be bound.
11. Notices. All notices required or permitted hereunder will be in writing and will be deemed effectively given:
- (a) upon personal delivery to the party to be notified;
  - (b) five business days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or
  - (c) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt.

All communications will be sent as follows:

If to Dow and/or	Dow Metals & Mining Co., Ltd.
the LGJV, to:	14-1, Sotokanda 4-Chome

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Chiyoda-ku, Tokyo 101-0021 Japan  
Attn: Hideo Kudo  
Resource Development &  
Raw Materials Department  
kudoh@dowa.co.jp  
Telephone: +81 3-6847-1201

with a copy to (which will not constitute notice to Dowa):

Torys LLP  
1114 Avenue of the Americas  
23rd Floor  
New York, NY 10036  
Attn: Don Bell  
dbell@torys.com  
Telephone: +1 (212) 880-6118

If to GSI and/or  
the LGJV, to:

8400 E. Crescent Parkway, Suite 600  
Greenwood Village, CO 80111  
Attn: Roger Johnson  
Telephone: +1 (303) 784-5350  
E-mail: rjohnson@gatossilver.com

with a copy to (which will not constitute notice to GSI):

Snell & Wilmer L.L.P.  
1200 17th St #1900  
Denver, Colorado 80202  
Attn: Jason B. Brinkley  
Email: jbrinkley@swlaw.com  
Telephone: +1 (303) 634-2066

12. Severability. The determination that any provision of this Agreement is invalid or unenforceable will not affect the validity or enforceability of the remaining provisions or of that provision under other circumstances. Any invalid or unenforceable provision will be enforced to the maximum extent permitted by law.
  13. Counterparts. This Agreement may be executed in counterparts, each of which when executed will be an original, and all of which, when taken together, will constitute one agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission has the same legal effect as an original signed copy.
  14. Governing Law. This Agreement and the rights and obligations of the parties hereunder will be construed in accordance with and be governed by the internal laws of the state of New York without regard to its conflicts of laws principles.
  15. Amendments, Assignments. All amendments to this Agreement must be in writing and signed by the parties hereto. No party may assign its rights hereunder, in whole or in part, without the consent of the other parties.
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16. Currency. Unless otherwise stated, all references to currency, monetary values and dollars (including "\$") set forth herein shall mean United States (U.S.) dollars and all payments hereunder shall be made in United States dollars.
17. Dates. Unless otherwise stated, all dates set forth herein shall mean such date in the United States.
18. Dispute Resolution. Any dispute arising from the transactions contemplated by this Agreement shall be resolved in accordance with the dispute resolution procedures set forth in Article 21 of the Partner Agreement.
19. No Guarantee of Success. The Parties acknowledge and agree that the processing of the Concentrates through the Plant is not a guarantee that LGJV will achieve the Target, but the Parties agree to use commercially reasonable efforts to cause the LGJV to achieve the Target by processing the necessary Concentrates through the Plant.
20. Entire Agreement. This Agreement contains the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The amendments, modifications and waivers contained herein with respect to the agreements expressly referenced herein shall not be construed as an amendment or modification to, or waiver of any provision of, any other agreement or understanding among any of the parties hereto, including, without limitation, the Partner Agreement or the Priority Distribution Agreement, which remain in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have executed this Confirmation Agreement as of the date first set forth above.

**DOWA METALS & MINING CO., LTD.**

By: /s/ Toshiaki Suyama

Name: Toshiaki Suyama

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**GATOS SILVER, INC.**

By: /s/ Dale Andres

Name: Dale Andres

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**MINERA PLATA REAL, S. DE R.L.  
DE C.V.**

By:  /s/ Roger Johnson  
Name: Roger Johnson

**OPERACIONES SAN JOSE DE  
PLATA, S. DE R.L. DE C.V.**

By:  /s/ Roger Johnson  
Name: Roger Johnson

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**EXHIBIT A**

**Leaching Plant Project Memo and Leaching Plant Schedule**

See Attached

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Commercially sensitive information redacted from this agreement.

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**EXHIBIT B**

**Partners Resolution – 2022 Budget Approval**

See Attached

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**To:** Gatos Silver, Inc. and Dowa Metals and Mining Co., Ltd.

**From:** *Roger Johnson*

**CC:** Stephen Orr, *Adam Dubas, Phil Pyle, Luis Felipe Huerta, Koji Kuroki, Shinichiro Watanabe, Toshiaki Terao, Harunobu Arima, Jesus Segura, Rodrigo Monroy*

**Date:** March 15, 2022

**Subject:** **Requisite Partner Approval of the LGJV 2022 Budget**

Exhibit I to this Requisite Partner Approval contains the LGJV Budget for 2022. Capitalized terms not otherwise defined in this Requisite Partner Approval will have the meanings specified in the Unanimous Omnibus Partner Agreement dated as of January 1, 2015, as amended.

The proposed 2022 Budget includes reference to the payment of certain dividends in the course of fiscal year 2022 which are estimates and subject to the following:

- i) Concurrent with and subject to the execution of the Leaching Plant Confirmation Agreement (“LP Agreement”) dated March 17, 2022, \$9,700,000 of Dowa’s total \$20,000,000 Priority Distribution Amount (as defined in the LP Agreement) is suspended in accordance with the terms of the LP Agreement.
- ii) The Partners hereby approve the payment of a dividend in respect of 2021 profits of an aggregate amount equal to \$20,000,000 by OpCo, subject to the following:
  - i. Completion of LGJV financial statements for 2021 (which need not be audited) and written approval of such statements by the Partners, confirming positive earnings for 2021 in Opco of not less than \$20 million;
  - ii. The first \$10,300,000 of such dividend (net of any applicable costs described in Section 4 of the Priority Distribution Agreement (as defined in the LP Agreement) shall be applied to reduce Dowa’s Priority Distribution Amount (as defined in the LP Agreement) and shall be paid in accordance with the Priority Distribution Agreement (as defined in the LP Agreement) (for clarity, such payment will be made pro rata to the Parties in accordance with their Percentage Interests, with GSI’s portion paid into escrow and then subsequently immediately paid to Dowa); and
  - iii. Notwithstanding the terms of the Priority Distribution Agreement, the \$9,700,000 dividend balance shall be distributed and paid to the Partners pro rata in accordance with their respective Participating Interests.
- iii) It is the intention of the Parties to pay additional quarterly dividends in 2022 estimated to be \$75 million in aggregate subject to the following:

- i. Completion and approval by the Partners of interim quarterly financial statements (which need not be audited) showing profits sufficient to allow the payment of such dividends taking into account the previous month's cash balance, forecasts for the upcoming quarter, including any unusual budgeted expenditure items, the current CUFIN balance, if any, and any advance taxes required to be paid in connection with the proposed dividend, and remaining cash balance for the LGJV which amount will not be less than \$15 million after payment of the proposed dividend and any related taxes ("Minimum Cash Balance"); and
- ii. Approval by the Partners of the proposed dividend amount, which will not exceed the amount permitted to be paid under Mexican law, by Requisite Partner Approval.

The breakdown of such estimated dividend amounts is currently as follows:

- \$17,000,000 (Q2)
  - \$18,000,000 (Q3)
  - \$20,000,000 (Q4)
- iv) Forecasts of projected cash balances and future dividend payments for the current year will be reviewed and considered on a monthly basis at each Operating Committee meeting.
  - v) Any changes to the Minimum Cash Balance requirements after 2022 will require additional Requisite Partner Approval and such limits and dividend policies will be reviewed annually.

The undersigned hereby approve the 2022 Budget as attached, including the initial \$20 million dividend payment (subject to the conditions described above) to be paid as soon as reasonably practicable after such conditions are satisfied.

**Gatos Silver, Inc.**

By: /s/ Dale Andres  
Dale Andres

**Dowa Metals & Mining Co., Ltd.**

By: \_\_\_\_\_  
Toshiaki Suyama

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Page 2 of 3

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- i. Completion and approval by the Partners of interim quarterly financial statements (which need not be audited) showing profits sufficient to allow the payment of such dividends taking into account the previous month's cash balance, forecasts for the upcoming quarter, including any unusual budgeted expenditure items, the current CUFIN balance, if any, and any advance taxes required to be paid in connection with the proposed dividend, and remaining cash balance for the LGJV which amount will not be less than \$15 million after payment of the proposed dividend and any related taxes ("Minimum Cash Balance"); and
- ii. Approval by the Partners of the proposed dividend amount, which will not exceed the amount permitted to be paid under Mexican law, by Requisite Partner Approval.

The breakdown of such estimated dividend amounts is currently as follows:

- \$17,000,000 (Q2)
  - \$18,000,000 (Q3)
  - \$20,000,000 (Q4)
- iv) Forecasts of projected cash balances and future dividend payments for the current year will be reviewed and considered on a monthly basis at each Operating Committee meeting.
  - v) Any changes to the Minimum Cash Balance requirements after 2022 will require additional Requisite Partner Approval and such limits and dividend policies will be reviewed annually.

The undersigned hereby approve the 2022 Budget as attached, including the initial \$20 million dividend payment (subject to the conditions described above) to be paid as soon as reasonably practicable after such conditions are satisfied.

**Gatos Silver, Inc.**

By: \_\_\_\_\_  
Dale Andres

**Dowa Metals & Mining Co., Ltd.**

By: /s/ Toshiaki Suyama \_\_\_\_\_  
Toshiaki Suyama

Commercially sensitive information redacted from this agreement.

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### Performance Share Unit Master Frame Agreement

This Performance Share Unit Master Frame Agreement (this “**Master Frame Agreement**”) is made and entered into as of the date stated at the bottom of this document by and between Gatos Silver Inc, a Delaware corporation (the “**Company**”) and \_\_\_\_\_ (the “**Grantee**”).

**WHEREAS**, the Company has adopted the Gatos Silver Amended and Restated Long Term Incentive Plan as amended from time to time (the “**Plan**”) pursuant to which Performance Awards (“**PSUs**”) may be granted.

**NOW, THEREFORE**, the parties hereto, intending to be legally bound, agree as follows:

1. Capitalized terms that are used but not defined herein have the meanings ascribed to them in the Plan.
  2. Structure. This Master Frame Agreement together with a corresponding grant schedule substantially in the form of Exhibit 2 (“**Grant Schedule**”) duly executed by the Parties shall constitute an individual and independent agreement between the Parties relative to the particular Award of PSUs in such schedule (“**Award Agreement**”).
  3. Grant of PSUs. Pursuant to Section 7E of the Plan, the Company hereby grants to the Grantee an Award of the number of PSUs set forth in a Grant Schedule. The following terms shall apply to the PSUs granted under an Award Agreement:
    - 3.1 The Grant Date shall be the date set forth in the corresponding Grant Schedule
    - 3.2 The Vesting Date shall be the date set forth in the corresponding Grant Schedule, unless stated otherwise in Section 7 below (“**Vesting Date**”).
  4. Performance Period. For purposes of each Award Agreement, the term “Performance Period” shall be the period commencing on the Grant Date and ending on the Vesting Date.
  5. Performance Goals.
    - 5.1 The number of PSUs that shall vest on the Vesting Date shall be determined by the Committee based on the level of Performance Goals achievement in accordance with Exhibit 1. All determinations of whether Performance Goals have been achieved, the number of PSUs that shall vest, and all other matters related to this Section 5 shall be made by the Committee in its sole discretion.
    - 5.2 Promptly following completion of the Performance Period (and no later than thirty (30) days following the end of the Performance Period), the Committee will review and certify in writing (a) whether, and to what extent, the Performance Goals for the Performance Period have been achieved, and (b) the number of PSUs that shall vest, if any.. Such certification shall be final, conclusive and binding on the Grantee, and on all other persons, to the maximum extent permitted by law.
  6. Vesting of PSUs. The PSUs are subject to forfeiture until they vest. Except as otherwise provided herein and in the Plan, the PSUs determined to have vested by the Committee in accordance with Section 5.2 will become nonforfeitable as of the Vesting Date
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provided the Grantee has provided Continuous Service from the Grant Date through the last day of the Performance Period.

7. Termination of Continuous Service.

7.1 Except as otherwise expressly provided in this Master Frame Agreement, if the Grantee's Continuous Service terminates for any reason at any time before the Vesting Date, the Grantee's PSUs shall be automatically forfeited upon such termination of Continuous Service and neither the Company nor any Affiliate shall have any further obligations to the Grantee under any Award Agreement.

7.2 Notwithstanding Section 7.1, if the Grantee's Continuous Service terminates during the Performance Period as a result of:

(a) Grantee's termination by the Company without Cause (as defined in the Employment Agreement between the Company and the Grantee (the "Employment Agreement") or the Grantee terminates employment for Good Reason (as defined in the Employment Agreement), the outstanding PSUs will vest pro-rated for the period of actual employment during the Performance Period. Specifically, the Committee shall determine the number of PSUs vested in accordance with Section 5.2 as of the Vesting Date which number will be multiplied by a fraction, the numerator of which is the period from the Grant Date to the date of termination of Continuous Service and the denominator of which is the Performance Period.

(b) Grantee's death or Disability, it shall be considered that Grantee's Continuous Service lasted throughout the entire Performance Period and one hundred percent (100%) of all of Grantee's outstanding PSUs will vest in accordance with Section 5.2.

(c) If there is a Change of Control during the Performance Period, the Vesting Date for purposes of determining the Performance Period shall be deemed to be the date of the Change of Control and the Committee shall calculate the number of PSUs vesting as of that date using the price being paid for Common Stock on the Change of Control transaction compared to the Comparators (as defined in Exhibit 1).

8. Payment of PSUs. Payment in respect of the PSUs vested at the end of the Performance Period shall be made in the form of cash or Common Stock or a combination thereof as determined by the Committee within thirty (30) days following the Vesting Date. Since no shares of Common Stock can be issued in excess of the maximum Award payable pursuant to Exhibit 1 (i.e 200%), if any dividend equivalents are earned in excess of such maximum Award payable, they will be paid in cash.

9. Transferability. Subject to any exceptions set forth in this Section 9 ("Transferability") or the Plan, the PSUs or the rights relating thereto may not be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by the Grantee, except by will or the laws of descent and distribution or transfers to Grantee's family trusts, and upon any such transfer by will or the laws of descent and distribution or to a family trust, the transferee shall hold such PSUs subject to all the terms and conditions that were applicable to the Grantee immediately prior to such transfer. For purposes of this Section "family trust" shall mean a trust

where Grantee is the settlor and the exclusive beneficiaries are either of or a combination of Grantee's spouse or household partner, Grantee's direct descendants or Grantee's parents.

10. Rights as Shareholder; Dividend Equivalents.

10.1 Except as otherwise provided herein, the Grantee shall not have any rights of a shareholder with respect to any shares of Common Stock which may underly the PSUs, including, but not limited to, voting rights and dividends except that dividend equivalents on the underlying Common Stock are accrued during the Performance Period corresponding to the number of PSUs actually earned during the Performance Period including any dividends that would have been paid shall be deemed to compound in proportion to the value of the underlying Common Stock.

10.2 In the event of the issuance of Common Stock upon and following the vesting of the PSUs, the Grantee shall be the record owner of such shares of Common Stock unless and until such shares are sold or otherwise disposed of, and as record owner shall be entitled to all rights of a shareholder of the Company (including voting and dividend rights).

11. No Right to Continued Service. Neither the Plan, this Master Frame Agreement or any Award Agreement shall confer upon the Grantee any right to be retained in any position, as an employee, consultant or director of the Company. Further, nothing in the Plan, this Master Frame Agreement or Award Agreement shall be construed to limit the discretion of the Company to terminate the Grantee's Continuous Service at any time, with or without Cause.

12. Adjustments. If any change is made to the outstanding Common Stock or the capital structure of the Company, if required, the PSUs shall be adjusted or terminated in any manner as contemplated by Section 9 of the Plan.

13. Tax Liability and Withholding.

13.1 The Grantee shall be required to pay to the Company through withholdings or otherwise, and the Company shall have the right to deduct from any compensation paid to the Grantee pursuant to the Plan, the amount of any required withholding taxes in respect of the PSUs and to take all such other action as the Committee deems necessary to satisfy all obligations for the payment of such withholding taxes. The Committee may permit the Grantee to satisfy any federal, state or local tax withholding obligation by authorizing the Company to withhold shares of Common Stock from the shares of Common Stock otherwise issuable or deliverable to the Grantee as a result of the vesting of the PSUs; *provided, however*, that no shares of Common Stock shall be withheld with a value exceeding the maximum amount of tax required to be withheld by law.

13.2 Notwithstanding any action the Company takes with respect to any or all income tax, social security, payroll tax, or other tax-related withholding ("**Tax-Related Items**"), the ultimate liability for all Tax-Related Items is and remains the Grantee's responsibility and the Company (a) makes no representation or undertakings regarding the treatment of any Tax-Related Items in connection with the grant, vesting or settlement of the PSUs or the subsequent sale of any shares, and (b) does not commit to structure the PSUs to reduce or eliminate the Grantee's liability for Tax-Related Items.

14. Compliance with Law. The issuance and transfer of shares of Common Stock in connection with the PSUs shall be subject to compliance by the Company and the Grantee with all applicable requirements of federal and state securities laws and with all applicable requirements of any stock exchange on which the Company's shares of Common Stock may be listed. No shares of Common Stock shall be issued or transferred unless and until any then applicable requirements of state and federal laws and regulatory agencies have been fully complied with to the satisfaction of the Company and its counsel.

15. Notices. Any notice required to be delivered to the Company under this Master Frame Agreement shall be in writing and addressed to the General Counsel or Chief Financial Officer of the Company at the Company's principal corporate offices. Any notice required to be delivered to the Grantee under this Master Frame Agreement or any Award Agreement shall be in writing and addressed to the Grantee at the Grantee's address as shown in the records of the Company. Either party may designate another address in writing (or by such other method approved by the Company) from time to time.

16. Governing Law. This Master Frame Agreement and any Award Agreement will be construed and interpreted in accordance with the laws of the State of Delaware without regard to conflict of law principles.

17. Interpretation. Any dispute regarding the interpretation of this Master Frame Agreement or any Award Agreement shall be submitted by the Grantee or the Company to the Committee for review. The resolution of such dispute by the Committee shall be final and binding on the Grantee and the Company.

18. PSUs Subject to Plan. Any Award Agreement is subject to the Plan. The terms and provisions of the Plan as it may be amended from time to time are incorporated herein by reference. In the event of a conflict between any term or provision contained herein and a term or provision of the Plan, the applicable terms and provisions of the Plan will govern and prevail.

19. Successors and Assigns. The Company may assign any of its rights under this Master Frame Agreement and any Award Agreement. All Award Agreements will be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth herein, all Award Agreements will be binding upon the Grantee and the Grantee's beneficiaries, executors, administrators and the person(s) to whom the PSUs may be transferred by will or the laws of descent or distribution or corresponding family trusts.

20. Severability. The invalidity or unenforceability of any provision of the Plan or any Award Agreement shall not affect the validity or enforceability of any other provision of the Plan or any Award Agreement, and each provision of the Plan and any Award Agreement shall be severable and enforceable to the extent permitted by law.

21. Discretionary Nature of Plan. The Plan is discretionary and may be amended, cancelled or terminated by the Company at any time, in its discretion. The grant of the PSUs in any Award Agreement does not create any contractual right or other right to receive any PSUs or other Awards in the future. Future Awards, if any, will be at the sole discretion of the Company. Any amendment, modification, or termination of the Plan shall not constitute a change or impairment of the terms and conditions of the Grantee's employment with the Company.

22. Amendment. The Committee has the right to amend, alter, suspend, discontinue, or cancel the PSUs, prospectively or retroactively; *provided, that*, no such amendment shall adversely affect the Grantee’s material rights under an Award Agreement without the Grantee’s consent.

23. Section 409A. All Award Agreements are intended to comply with Section 409A of the Code or an exemption thereunder and shall be construed and interpreted in a manner that is consistent with the requirements for avoiding additional taxes or penalties under Section 409A of the Code. Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under any Award Agreement comply with Section 409A of the Code and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by the Grantee on account of non-compliance with Section 409A of the Code.

24. No Impact on Other Benefits. The value of the Grantee’s PSUs is not part of Grantee’s normal or expected compensation for purposes of calculating any severance, retirement, welfare, insurance or similar employee benefit.

25. Counterparts. This Master Frame Agreement and any Grant Schedule may be executed in counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Counterpart signature pages to this Master Frame Agreement or Grant Schedules transmitted by facsimile transmission, by electronic mail in portable document format (.pdf), or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original signature.

26. Acceptance. The Grantee hereby acknowledges receipt of a copy of the Plan and this Master Frame Agreement. The Grantee has read and understands the terms and provisions thereof, and accepts the PSUs subject to all of the terms and conditions of the Plan and this Master Frame Agreement. The Grantee acknowledges that there may be adverse tax consequences upon the vesting or settlement of the PSUs or disposition of the underlying shares and that the Grantee has been advised to consult a tax advisor prior to such vesting, settlement or disposition.

IN WITNESS WHEREOF, the parties hereto have executed this Master Frame Agreement as of \_\_\_\_\_, 20\_\_\_\_:

GATOS SILVER, INC.	
_____	<b>[GRANTEE]</b>
Name: _____	_____
Title: _____	

## EXHIBIT 1

### Performance Period

The Performance Period shall be three years commencing on the Grant Date.

### Performance Measures

The number of PSUs that shall vest on the Vesting Date shall be determined by reference to the Company's relative Total Shareholder Return ("TSR") compared to the constituents of the GDXJ mining index on the Grant Date ("Comparators"). A table with the Comparators shall be included in the corresponding Grant Schedule.

### TSR Calculation.

TSR is calculated assuming dividend reinvestment on any ex-dividend date and is measured point-to-point from the closing price on the Grant Date to the Vesting Date using a twenty (20) trading-day volume weighted average price as the price at the Vesting Date to neutralize the effect of daily price volatility on the ending outcome. This TSR averaging at the end of any Performance Period shall be used for both the Company and for Comparators.

### Determining PSUs Vested

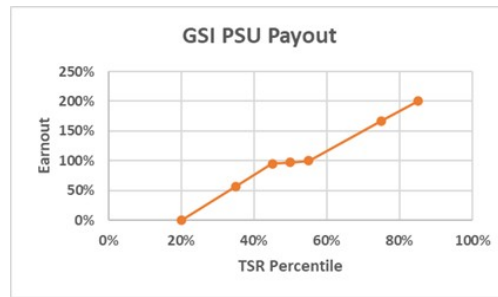
Except as otherwise provided in the Plan or the Award Agreement, the number of PSUs vested with respect to the Performance Period shall be determined by the Committee in accordance with Section 5 of this Master Frame Agreement as follows:

PSU's "cliff-vest" upon the Committee's determination and certification of the Performance Goals achieved during the Performance Period. (i.e. no additional vesting requirements)

PSU's vest at 100% of the grant amount for the 55<sup>th</sup> percentile relative TSR versus the constituents of the GDXJ over a three-year performance period. The actual number of PSU's that vest will range from 0% to 200% of the PSU's granted based on the schedule below (rounded up to the nearest full number.):

Percentile	Earnout
85%	200%
75%	167%
55%	100%
50%	97.5%
45%	95.0%
35%	57%
20%	0%

Payout to be proportional between the stated targets as shown graphically below:



No shares earned if three-year relative TSR is below the 20th percentile

Capped at target if relative TSR is above the 55P, but is also negative.

#### Performance Peer Set

- The Comparators are the GDXJ companies at the beginning of the Performance Period with changes required for the following events:
- Companies acquired during the Performance Period are eliminated from the peer set.
- Companies that go bankrupt during the Performance Period are treated with having a negative 100% TSR
- New companies added to the GDXJ during the Performance Period are ignored and not added to the peer set
- In the event there is a spinoff during the Performance Period, the parent and the spun off company will both be removed from the GDXJ for purpose of the TSR calculation.

**Exhibit 2 – Form of Grant Schedule**

This Grant Schedule is entered into by and between Gatos Silver Inc, a Delaware corporation (the “**Company**”) and \_\_\_\_\_ (the “**Grantee**”). This Grant Schedule together with the Performance Share Unit Master Frame Agreement executed by the Parties forms an independent agreement between the Parties in connection with the Award of PSUs in this Grant Schedule.

PSU Award Grant terms:

- 1.- The Company grants the Grantee \_\_\_\_\_ of PSUs
- 2.- The Grant Date shall be \_\_\_\_\_, **20**\_\_\_\_\_
- 3.- The Vesting Date shall be \_\_\_\_\_, **20**\_\_\_\_\_
- 4.- The Comparators table is attached to this Grant Schedule.

GATOS SILVER, INC.

**[GRANTEE]**

\_\_\_\_\_  
Name: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

(Comparator Table follows)

# EXECUTIVE EMPLOYMENT AGREEMENT

**THIS EXECUTIVE EMPLOYMENT AGREEMENT** (this “**Agreement**”), effective as of August 1, 2022, is between **Gatos Silver Canada Corp.**, a British Columbia corporation (the “**Company**”) wholly owned by Gatos Silver, Inc., a Delaware corporation (the “**Parent Company**”), (together the “**Companies**”) and Dale Andres (the “**Executive**” and together with the Company, the “**Parties**”).

## WITNESSETH:

## WHEREAS:

- A. The Executive entered into an employment agreement with Minera Luz del Sol, S de R.L. de C.V. (“**MLS**”), a Mexican corporation wholly owned by the Parent Company dated as of June 1, 2021 (the “**Start Date**”). The Executive served as the Chief Executive Officer of MLS and President of the Parent Company.
- B. On April 7, 2022, the Executive was promoted to Chief Executive Officer of the Parent Company.
- C. The Parent Company’s headquarters were moved to Vancouver, BC, and effective as of August 1, 2022 the Executive has been employed by the Company.
- D. The Company entered into an Intercompany Management and Administrative Services Agreement with the Parent Company effective as of October 1, 2022 pursuant to which the Company provides executive and management services to the Parent Company including, *inter alia*, strategic, financial, corporate advisory, transactional, and strategic operational services (the “**Services**”).
- E. The Executive and the Company wish to enter into the arrangements set forth herein with respect to the terms and conditions of the Executive's employment with the Company including the Executive's support for provision by the Company of the Services.
- F. The Executive is a current employee of the Company and agrees to enter this Executive Employment Agreement on the terms and conditions set out herein and in consideration of \$10.00, which has been provided to the Executive.

**NOW, THEREFORE**, in consideration of the promises and covenants contained herein, the Parties agree as follows:

## AGREEMENT

### 1. Employment and Term

The Company agrees to, and does hereby, employ the Executive, and the Executive agrees to, and does hereby accept, such employment, upon the terms and subject to the conditions set forth in this Agreement, and will continue until terminated as provided herein (the “**Term**”). The Company expressly recognizes that the Executive's Start Date will be recognized for all purposes, including vacation and severance.

2. Position and Duties

- a) The Company shall employ the Executive as Chief Executive Officer based in Vancouver, BC reporting to the Parent Company's Board of Directors. . The Executive shall perform the duties and have the responsibilities customarily associated with the Chief Executive Officer position and which shall include, without limitation, the following:
- Develop high quality business strategies and plans ensuring their alignment with short-term and long-term growth and revenue objectives of the Companies;
  - Lead and motivate the staff and all employees of the Companies, to advance employee engagement and develop a high performing managerial team;
  - Oversee all operations and business activities of the Companies to ensure they produce the desired results and are consistent with the overall strategy and mission of the Companies;
  - Make high-quality investing decisions to advance the business and increase profits of the Companies;
  - Enforce adherence to legal guidelines and in-house policies to maintain the Companies' legality and business ethics;
  - Review financial and non-financial reports to devise solutions or improvements;
  - Build trust relations with key partners and stakeholders and act as a point of contact for shareholders;
  - Analyze problematic situations and occurrences and provide guidance, strategy and solutions to advance Companies' overall interests and growth;
  - Maintain a deep knowledge of the markets and industry of the Companies;
  - Travel domestically or internationally as necessary to fulfill Executive's duties, including to the Cerro Los Gatos Mine and the offices in Chihuahua, Mexico; and
  - Act as an officer and director of the Parent Company and as an officer or director of the Companies' affiliates as necessary.
- b) The Executive shall devote his best efforts and his full business time and attention to the business and affairs of the Company and its affiliates.
- c) The Executive acknowledges and agrees that (i) the Executive owes the Company and the Parent Company a duty of loyalty as a fiduciary of the Company and the Parent Company, and (ii) the obligations described in this Agreement are in addition to, and not in lieu of, the obligations the Executive owes the Company and the Parent Company under the common or applicable law.

3. Base Salary, Bonus, Equity/Options, and Benefits

- a) Base Salary. The Executive's base salary shall be US\$650,000.00 per annum ("**Base Salary**") as adjusted on a periodic basis at the discretion of the Parent Company's Board of Directors based on the recommendation of its Compensation & Nominating Committee (the "**CNC**"). The Executive's Base Salary shall be converted into Canadian Dollars based on the average daily exchange rate posted by the Bank of Canada (the "**Exchange Rate**"). The Executive's Base Salary shall be paid in regular installments in accordance with the Company's general payroll practices using an estimated Exchange Rate reasonably determined by the Company, with such payments being true-up no less than semi-annually based on the actual Exchange Rate over the applicable period. Any difference, positive or negative shall be applied to the following payroll payment.

- b) Annual Bonus. During the Term, provided that the Executive is employed by the Company on December 31<sup>st</sup> of the applicable year, the Executive will be eligible to participate in a bonus plan pursuant to which he will be entitled to receive an annual target bonus in the amount of one hundred percent (100%) of his Base Salary for the applicable year, pro-rated for any partial year (the “**Target Bonus**”), upon achievement by the Executive and the Parent Company of certain targets as determined solely in the discretion of the Parent Company's Board of Directors (the “**Annual Bonus**”). The Annual Bonus, if any, will depend on the actual performance of the Parent Company and the Executive as determined by the Board. In all events the Annual Bonus, if earned, will be paid no later than March 15th following the applicable year for which it is earned. Any Annual Bonus shall be paid in Canadian Dollars at the Exchange Rate prevailing at the time of payment.
- c) Equity Awards. During the Term, provided that the Executive is employed by the Company on the date of the grant, the Executive will be eligible to participate in an annual equity award program, as may be determined solely in the discretion of the Board. The equity awards will be subject to the adjustment provisions set forth in the Parent Company's Long Term Incentive Plan, as it may be amended from time to time, and the corresponding Equity Award Agreement (together, the “**LTIP**”). The Executive may receive such equity awards in the future in the sole discretion of the Board and are expected to be granted in the form of stock options, Performance Share Units (“**PSUs**”), or Restricted Share Units (“**RSUs**”). In the event the Executive's employment with the Company ceases, or there is a Change in Control, then any options, PSUs and RSUs will be subject to customary exercise restrictions, vesting acceleration, and/or forfeiture as set out in the LTIP. In no event will the Executive have any right to damages for loss of equity awards after the Termination Date and no severance allowance or termination settlement of any kind in respect of the Executive will include or reflect any claim for such loss of right, and the Executive will not have any right to assert, claim, seek or obtain any judgement or award which includes or reflects any right or claim for such loss of right, except as may be required by applicable employment standards legislation.
- d) Staking Equity Awards. The Parent Company is currently in an extended blackout period and was not able to in 2022 and cannot currently issue any equity awards; however, upon lifting of the current blackout period, which is expected (but not guaranteed) to be lifted in Q2 2023, the Board will grant the Executive a “staking” equity incentive in the form of both stock options and RSUs as defined below which, for greater certainty, are in addition to equity awards previously granted to the Executive (the “**Staking Equity Incentive**”). The Board has approved a Staking Equity Incentive award of 700,000 total option-equivalent units (representing approximately 1.013% of the current issued and outstanding shares of the Parent Company). The award will be based on a ratio of 75% options/25% RSUs, subject to a potential adjustment based on the Parent Company's share price at the time of the grant, determined at the discretion of the Board. The conversion from stock options to RSUs will count one (1) RSU unit as equivalent to two (2) option units (e.g., 700,000 option-equivalent units granted as 75% options and 25% RSUs would be 525,000 options and 87,500 RSUs). The exercise price per share of the options will be the Fair Market Value (as defined under the LTIP) of the Common Stock of the Company on the date of grant, which date will be determined by the Board at the time the extended blackout period ends. The Executive's options will vest in three equal tranches, the first of which will vest on the first anniversary of the Executive's employment with the Company and annually thereafter, subject to the Executive's continued employment with the Company on each vesting date. RSUs will cliff vest on the third anniversary of the Executive's employment provided the Executive continues to be employed by the Company at such time. For clarity, the Staking Equity Incentive is inclusive of a grant under the annual equity award program for 2022, so the next award for which the Executive will be eligible would be in respect of the 2023 award program. If there is a Change-in-Control (defined below) prior to the blackout period ending, a lump sum cash payment will be made equal to the sum of (i) the greater of \$0 and 525,000 times the change-in-control price per share less 525,000 times \$3.26 and (ii) 87,500 times the change-in-control price.

- e) Employee Benefits. During the Term, the Executive shall be entitled to participate in the Company's various employee benefit plans that are, from time to time, made generally available to the Company's executives, as such plans are established and pursuant to the terms and conditions of such plans. These plans include group health, vision and dental plan; short-term and long-term disability plan; life insurance plans and a retirement allowance.
- f) Vacation. The Executive shall be entitled to five (5) weeks paid vacation per calendar year, pro-rated for any partial year of employment, in accordance with the Company's vacation time policy, in addition to national or provincial statutory holidays.
- g) Expense Reimbursement. The Executive shall receive reimbursement for direct and reasonable out-of-pocket expenses, incurred by the Executive in connection with the performance of the Executive's duties hereunder, according to the policies of the Company. All requests for reimbursement of business-related expenses shall be subject to the Company's travel policy and requirements with respect to reporting and documentation of expenses.

4. Compensation Upon Termination, Resignation, Disability or Death

- a) Termination without Cause. If the Executive's employment is terminated by the Company without Cause except in the case of a Change of Control as contemplated in Section 7, the Company shall (i) pay the Executive any accrued but unpaid Base Salary up to the Termination Date; (ii) contribute to the Executive's Company pension plan in accordance with existing arrangements, any accrued but uncontributed pension plan contributions up to the Termination Date (iii) pay to the Executive accrued but unused vacation in accordance with Company policy; and (iv) reimburse the Executive for all business expenses that were incurred and not reimbursed but eligible for reimbursement, all determined as of the Termination Date (as defined below) (collectively, the "**Accrued Obligations**"). In addition, subject to Section 18, the Company will pay the Executive (i) an amount equal to twenty-four (24) months of the Base Salary at the rate in effect on the Termination Date plus the minimum amount that would have been contributed by the Company pursuant to the Company's pension plans available to the Executive, paid within sixty (60) calendar days of Termination Date, and (ii) an amount equal to twenty-four (24) months of the Target Bonus, payable in a lump sum within sixty (60) calendar days of the Termination Date. Provided the Executive timely elects continuation of benefit coverage, the Company shall also pay, on the Executive's behalf, the portion of monthly premiums for the Executive's benefits that the Company paid prior to the Termination Date, during the twelve (12) month period following the Termination Date, subject to the Executive's continued eligibility for coverage; provided that the Executive will continue to be required to pay that portion of the premium for the Executive's coverage that the Executive was required to pay as an active employee immediately prior to the Termination Date; and notwithstanding the foregoing, if such benefit coverage is not available under the benefit plan, the parties agree to negotiate in good faith a mutually agreeable alternative arrangement (together, the "**Ongoing Benefits**") Should the Executive not provide the Release referred to in Section 19, the Executive will be paid only the Accrued Obligations and the Executive's statutory severance under the *BC Employment Standards Act*.

- b) Resignation for Good Reason. If the Executive resigns for Good Reason except in the case of a Change of Control as contemplated in Section 7, the Company shall pay the Executive the same sums and in the same manner to which the Executive would be entitled if he had been terminated by the Company without Cause, as set forth in subsection (a) above. The Executive shall provide 30 days' prior written notice to the Company of the Executive's decision to resign for Good Reason. Should the Executive not provide the Release referred to in Section 19, the Executive will be paid only the Accrued Obligations and the Executive's statutory severance under the BC *Employment Standards Act*.
- c) Termination for Cause. If the Executive's employment is terminated by the Company for Cause, the Company shall pay the Executive the Accrued Obligations within sixty (60) calendar days of Termination Date.
- d) Resignation without Good Reason. The Executive shall provide 60 days' prior written notice to the Company of the Executive's decision to resign without Good Reason. If the Executive resigns without Good Reason, the Company shall pay the Executive the Accrued Obligations within sixty (60) calendar days of Termination Date.
- e) Disability. Subject to any provincial, federal or other federal law or regulation governing employees with disabilities, the Company may terminate the Executive's employment upon the Disability of the Executive. In the event the Executive is terminated under this Section, the Company shall pay the Executive the same sums and in the same manner same amount to which the Executive would be entitled if the Executive had been terminated by the Company without Cause, as set forth in subsection (a) above, within sixty (60) calendar days of Termination Date.
- f) Death. If the Executive's employment is terminated due to the Executive's death, the Company shall pay the Executive's estate the Accrued Obligations and the Pro-Rated Annual Bonus within thirty (30) days of the Executive's death. The **"Pro-Rated Annual Bonus"** is an amount calculated based on the portion of the year the Executive was employed with the Company up to the Termination Date, multiplied by the Executive's Target Bonus.
- g) For purposes of this Agreement:
  - (i) **"Cause"** means any activity considered at common law to constitute just cause.
  - (ii) **"Good Reason"** means: (a) a material change (other than a change for promotion) in the Executive's positions, duties, responsibilities, titles or offices with the Company or Parent Company; (b) a material diminution in the Executive's Base Salary; or (c) a change in the geographic location of the Executive's principal business office to a location more than one hundred (100) kilometers from the 'the principal business office as of the Start Date where the Executive is required to report to such new location on a regular basis. The foregoing shall constitute Good Reason only if (i) the Executive provides written notice to the Company or Parent Company as the case may be of any event(s) alleged to constitute Good Reason within ninety (90) calendar days of the initial occurrence of the event, with such notice providing a detailed description of the circumstances constituting Good Reason (a **"Good Reason Notice"**), (ii) any such reduction, change, or breach is not remedied or cured within fifteen (15) calendar days after the Company's receipt of a written Good Reason Notice from the Executive (the **"Cure Period"**) and (iii) the Executive actually terminates employment within thirty (30) calendar days following the expiration of the Cure Period.

- (iii) **"Disability"** shall mean that the Executive is disabled within the meaning of the Company's group long-term disability insurance policy. If no long-term disability insurance is in place, then Disability shall mean that the Executive, due to illness, accident, or other physical or mental incapacity, has been substantially unable to perform the Executive's duties under the Agreement for a period of at least six (6) consecutive months during the Term as established by the written opinion of a licensed independent physician selected by the Company.
- (iv) **"Termination Date"** means the last date of active employment and does not include any period of statutory, contractual, or reasonable notice at common law or any period of deemed employment or salary continuation.
- h) **Deemed Resignation.** Unless otherwise agreed to in writing by the Company and the Executive prior to the termination of the Executive's employment, any termination of the Executive's employment shall constitute an automatic resignation of the Executive as an officer of the Companies and each affiliate of the Companies, and an automatic resignation of the Executive from the board of directors or similar governing body of the Company or any affiliate of the Company and from the board of directors or similar governing body of any corporation, limited liability company or other entity in which the Company or any affiliate holds an equity interest and with respect to which board or similar governing body the Executive serves as the Company's or such affiliate's designee or other representative.

5. Confidentiality, Non-Solicitation and Non-Compete Undertaking

- a) For purposes of this Agreement, **"Confidential Information"** means (i) communications, data, formulae and related concepts, business plans (both current and under development), profit and loss statements, spreadsheets, contact or distribution lists, non-public personnel lists, promotion and marketing programs, trade secrets, or any other confidential or proprietary business information relating to development programs, costs, revenues, marketing, trading, investments, sales activities, promotions, credit and financial data, financing methods, research, technical information, reserve and resource information, plans or the business and affairs of the Companies; (ii) any other information which is to be treated as confidential or non-public because of any duty of confidentiality owed by the Companies to a third party; and (iii) any other information which the Companies shall, in the ordinary course, use and not release externally, except subject to restrictions on use and disclosure. Notwithstanding the foregoing, Confidential Information does not include information that (A) is or becomes generally publicly available other than as a result, directly or indirectly, of the Executive's disclosure or (B) is or becomes available to the Executive on a nonconfidential basis from a source other than through the Companies or their representatives, provided that such source is not bound by a confidentiality agreement with the Companies or otherwise prohibited from transmitting the information to the Executive by a contractual or legal obligation.

- b) The Executive acknowledges the trade secret status of the Confidential Information and that the Confidential Information constitutes a protectable business interest of the Companies. The Executive agrees (i) not to use or allow or help another person to use or access (whether for compensation or not) any Confidential Information; and (ii) not to reproduce or take any Companies' material or reproductions (including but not limited to writings, correspondence, notes, drafts, records, invoices, technical and business policies, computer programs or disks) thereof even if created, written or drafted by the Executive from the Companies' offices at any time during or after the Executive's employment by the Company, except as required in the execution of the Executive's duties to the Company and then conditioned upon the prompt return of all originals and reproductions thereof (in whatever form).
- c) During the term of this Agreement and for a period of twelve (12) months after the Termination Date, the Executive shall not, directly or indirectly, on behalf of himself or any other person or entity, without the prior written consent of the Company solicit or induce any employee of or consultant or service provider to the Companies (each, a "**Service Provider**") to leave the employ of or cease performing services for the Company, or engage in any plan or coordinate with any Service Provider to leave the employ of or cease performing services for the Company, or hire, participate with or attempt to participate with in any venture for any purpose any Service Provider or any Service Provider who has left the employment of or ceased to perform services for the Companies within one year of the termination of such Service Provider's services for the Companies.
- d) For a period of twelve (12) months from the Termination Date from the Company or Parent Company as the case may be, not to work or share Executive's knowledge, directly or indirectly, in whole or in part, as an employee, officer, owner, manager, advisor, consultant, agent, partner, director, significant shareholder (i.e. a shareholder holding directly or indirectly more than 5% of outstanding equity in the company), volunteer, intern for any other business entity engaged in silver mining and extraction in Mexico, without the prior written consent of the Board of Directors of the Company or the Parent Company (the "**Non-Compete Undertaking**"). The Non-Compete Undertaking shall only apply geographically to any company involved in silver exploration, development or operations with assets in Mexico, regardless of the location of the company's offices or headquarters. If the Executive's employment is terminated pursuant to provisions of Section 7 (Change in Control) and if Executive is paid Change in Control related compensation and receives other benefits as provided in that Section, the Executive agrees for the Non-Competition Undertaking to be extended from twelve (12) to twenty-four (24) months.
- e) The Executive acknowledges that any breach of the Executive's obligations under this Section 5 cannot be adequately compensated by damages in an action at law and may cause the Company or Parent Company great and irreparable injury and damage. Accordingly, in the event that the Executive breaches or threatens to breach any provisions of this Section 5, then in addition to any other rights which the Company or Parent Company may have, the Company or Parent Company shall be entitled, without the necessity of (i) proving irreparable harm, (ii) establishing that monetary damages are inadequate or (iii) posting any bond or other security with respect thereto, to the remedies of injunction, specific performance and other equitable relief to redress any breach, and no proof of special damages shall be necessary for the enforcement of or for any action for breach of the Executive's obligations. In the event that a proceeding is brought in equity to enforce the provisions of this Section 5, the Executive shall not urge as a defense that there is an adequate remedy at law nor shall the Company be prevented from seeking any other remedies which may be available. Nothing contained in this Section 5 shall be construed as a waiver by the Company of any other rights, including, without limitation, rights to damages or profits.

- f) The Executive agrees that the period during which the covenants contained in this Section 5 shall be effective shall be computed by excluding from such computation any time during which the Executive is in violation of any provision of this Section 5.
- g) The Company and the Executive agree that it was their intent to enter into a valid and enforceable agreement. The Executive and the Company hereby acknowledge the reasonableness of the restrictions set forth in this Section 5, including the reasonableness of the duration as to time and the scope of activity restrained.
- h) If the Executive's employment with the Company or Parent Company is terminated for any reason, the Executive agrees to advise the Company or Parent Company if applicable of the name of the new employer of the Executive during the Non-Competition period. The Executive further agrees that the Company or Parent Company may notify any person or entity employing the Executive or evidencing an intention of employing the Executive of the existence and provisions of this Agreement during that period.

6. The Executive's Representations

The Executive represents to the Company that:

- a) the execution, delivery and performance of this Agreement by the Executive do not and shall not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which the Executive is a party or by which he is bound;
- b) upon the execution and delivery of this Agreement by the Company, this Agreement shall be the valid and binding obligation of the Executive, enforceable against him in accordance with its terms;
- c) except for agreements with third parties, restricting the use of such party's confidential information, as of the Start Date, the Executive is not and shall not be a party to any agreement with any person, restricting the Executive from providing future employment, consulting or other services to the Company or Parent Company;
- d) no prior or pending litigation, arbitration, investigation or other proceeding of any kind will prevent or hinder the Executive from performing the Executive's duties under this Agreement; and
- e) the Executive has had an opportunity to consult with independent legal counsel regarding the Executive's rights and obligations under this Agreement and that he fully understands the terms and conditions contained herein.

7. Change in Control

a) Definitions.

**“Change in Control”** means (i) any merger or consolidation of the Parent Company with or into any other corporation or other entity or person, or any other corporate reorganization, in which the stockholders of the Parent Company immediately prior to such consolidation, merger or reorganization, own less than a controlling interest in the surviving entity immediately after such consolidation, merger or reorganization; (ii) any transaction or series of related transactions in which control of the Parent Company is acquired by a person or group of persons acting together which would constitute a “group” for purposes of Section 13(d) of the Exchange Act or any successor provisions thereto; or (iii) a sale or other disposition of all or substantially all of the assets of the Parent Company; provided that in no event will a Change in Control include any of the following transactions: (A) any consolidation, merger or similar transaction effected exclusively to change the domicile of the Parent Company; (B) any transaction or series of transactions in which voting securities of the Parent Company are issued principally for bona fide financing purposes or any successor or indebtedness or equity securities of the Parent Company are cancelled or converted or a combination thereof, including, without limitation, an initial public offering or other offering of the Parent Company’s capital stock; or (C) any acquisition of such voting power by an individual or entity that, directly or indirectly, controls, is controlled by, or is under common control with, the Parent Company.

b) Change in Control Severance Benefits. If there is a Change in Control, and within one (1) year of such Change in Control, the Executive's employment is terminated without Cause or the Executive resigns for Good Reason, the Company shall (i) pay within sixty (60) calendar days of the Termination Date the Accrued Obligations as a lump sum and, subject to the provisions of Section 19, a lump sum equal to (x) the Pro-Rated Annual Bonus; (y) twenty-four (24) months of the Executive's Base Salary at the rate in effect on the Termination Date and (z) the Annual Bonus for twenty four (24) months based upon the Target Bonus and (ii) make provision for the Ongoing Benefits. If there is a Change in Control, and within one (1) year of such Change in Control, the Executive's employment is terminated under the circumstances described in Sections 4 (c) , 4(d), 4(e) or 4(f), the Executive shall be entitled to the compensation and benefits for which the Executive is eligible under such Sections.

c) Termination Preceding Change in Control. Notwithstanding the provisions of the above subsection 7(b), if the Executive's employment with the Company or the Parent Company is terminated by the Company or the Parent Company if applicable without Cause or for Good Reason within six (6) months preceding the occurrence of a Change in Control and such termination without Cause or for Good Reason occurred in anticipation of a Change in Control at the request of the acquirer, the Executive shall be entitled to the payments and benefits described in the first clause of Section 7(b).

8. Clawback

The Executive agrees and acknowledges that any and all compensation the Executive receives pursuant to this Agreement shall be subject to clawback by the Company in the event of a financial restatement by the Company or the Parent Company or in such other circumstances as may be required by applicable law or as may be provided in any clawback policy that is adopted by the Company or the Parent Company and is generally applicable to senior executives of the Company or Parent Company.

9. Taxes

The Company shall be entitled to withhold from any payment or benefit provided under this Agreement an amount sufficient to satisfy all federal, provincial and local income and employment tax withholding requirements as required by applicable law.

10. Notices

Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, sent by reputable overnight courier service or mailed by first class mail, return receipt requested, or by email, to the recipient at the address below indicated:

Notices to the Executive:

Notices to Company:

Gatos Silver Canada Corp.  
910 - 925 West Georgia Street Vancouver, BC V6C 3L2  
Attention: General Counsel  
Email: sbodley@gatossilver.com and legalnotices@gatossilver.com

or such other address or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party. Any notice under this Agreement shall be deemed to have been given when so delivered, sent or mailed.

11. Severability

Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any action in any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

12. Complete Agreement

This Agreement contains the entire agreement of the Parties hereto with respect to the terms and conditions of the Executive's employment with the Company and activities following termination. This Agreement supersedes any and all prior agreements and understandings, whether written or oral, between the Parties with respect to the terms and conditions of the Executive's employment with the Company and activities following termination. This Agreement may not be changed or modified except by an instrument in writing, signed by the Executive and a duly authorized officer of the Company.

13. Counterparts

This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

14. Successors and Assigns

This Agreement is intended to bind and inure to the benefit of and be enforceable by the Executive, the Company and their respective heirs, personal representatives, executors and administrators, successors and assigns, except that the Executive may not assign his rights or delegate his duties or obligations hereunder without the prior written consent of the Company.

15. Choice of Law

All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the law of British Columbia, Canada without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than the law of British Columbia.

16. Dispute Resolution

Subject to Section 5(e), the Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation. If the matter cannot be resolved within thirty (30) calendar days of a Party's request for negotiation, a Party may commence an action with the BC Supreme Court or such other court having jurisdiction over the matter.

17. Amendment and Waiver

The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and the Executive, and no course of conduct or course of dealing or failure or delay by any party hereto in enforcing or exercising any of the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement or be deemed to be an implied waiver of any provision of this Agreement.

18. Survival

In the event of the Executive's termination of, or resignation from, employment, Sections 4, 5, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19 and 20 shall survive and continue in full force to the extent necessary to enforce their terms.

19. Release

Any and all amounts payable and benefits or additional rights provided pursuant to Sections 3, 4 and 7, other than (i) compensation accrued but unpaid as of the effective date of the Executive's termination; (ii) accrued but unused vacation in accordance with Company policy; (iii) all business expenses that were incurred but not reimbursed; and (iv) statutory severance pay shall only be payable if the Executive executes and delivers to the Company, within 60 days after termination of employment, in the Company's standard form, a general release of all claims arising at common law of the Executive up to the date of such release.

20. Parent Company Guarantee

The Parent Company absolutely, unconditionally and irrevocably guarantees, as primary obligor and not merely as surety, the full and punctual payment and performance of all present and future obligations, liabilities, covenants and agreements required to be observed and performed or paid or reimbursed by the Parent Company, plus all costs, expenses and fees (including the reasonable fees and expenses of the Executive's counsel) in any way relating to the enforcement or protection of the Executive's rights hereunder (collectively, the **"Obligations"**). The Parent Company agrees that the Obligations are irrevocable, continuing, absolute and unconditional and shall not be discharged or impaired or otherwise affected by, and the Parent Company hereby irrevocably waives any defenses to enforcement it may have (now or in the future) by reason of any change, restructuring or termination of the corporate structure, ownership or existence of the Parent Company or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Company or its assets or any resulting restructuring, release or discharge of any Obligations or the failure of the Executive to assert any claim or demand or to exercise or enforce any right or remedy under the provisions of the Agreement or otherwise.

IN **WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first written above.

GATOS SILVER CANADA CORP.

GATOS SILVER, INC, as Guarantor

/s/ Andre Van Niekerk

/s/ Janice Stairs

Name: Andre Van Niekerk

Name: Janice Stairs

Title: Chief Financial Officer

Title: Board Chair

EXECUTIVE

/s/ Dale Andres

Name: Dale Andres

## EXECUTIVE EMPLOYMENT AGREEMENT

**THIS EXECUTIVE EMPLOYMENT AGREEMENT** (this “**Agreement**”), effective as of October 16, 2022, is between **Gatos Silver Canada Corp.**, a British Columbia corporation (the “**Company**”) wholly owned by Gatos Silver, Inc., a Delaware corporation (the “**Parent Company**”), (together the “**Companies**”) and Anthony Scott (the “**Executive**” and together with the Company, the “**Parties**”).

**WITNESSETH:****WHEREAS:**

- A. The Company has entered into an Intercompany Management and Administrative Services Agreement with the Parent Company effective as of October 1, 2022 pursuant to which the Company provides executive and management services to the Parent Company including, *inter alia*, strategic, financial, corporate advisory, transactional, and strategic operational services (the “**Services**”).
- B. The Executive and the Company executed an Offer Letter dated November 8, 2021 pursuant to which the Executive acted as VP Evaluations and Technical Services of the Parent Company and the Company (then, a company to be incorporated). The Executive started in such position on January 10, 2022 (the “**Start Date**”). The Executive was promoted to SVP Corporate Development and Technical Services on October 16, 2022. This Agreement reflects the terms and conditions of employment of such position.
- C. The Executive and the Company wish to enter into the arrangements set forth herein with respect to the terms and conditions of the Executive's employment with the Company including the Executive's support for provision by the Company of the Services.
- D. The Executive is a current employee of the Company and agrees to enter this Executive Employment Agreement on the terms and conditions set out herein and in consideration of \$10.00, which has been provided to the Executive.

**NOW, THEREFORE**, in consideration of the promises and covenants contained herein, the Parties agree as follows:

**AGREEMENT**1. Employment and Term

The Company agrees to, and does hereby, employ the Executive, and the Executive agrees to, and does hereby accept, such employment, upon the terms and subject to the conditions set forth in this Agreement. The terms and conditions hereof are effective as of October 16, 2022 and will continue until terminated as provided herein (the “**Term**”). The Company expressly recognizes that the Executive's Start Date will be recognized for all purposes, including vacation and severance.

## 2. Position and Duties

The Company shall employ the Executive as SVP Corporate Development and Technical Services based in Vancouver, BC reporting to the Chief Executive Officer. The Executive shall perform the duties and have the responsibilities customarily associated with the SVP Corporate Development and Technical Services position and will be an integral member of the executive leadership team, act as a key business partner and advisor, responsible for

- leading and directing technical matters including strategic planning, annual planning and reserve and resource reporting;
  - defining, advancing and helping to execute a strategic roadmap for future growth and value creation for the Parent Company. This includes guiding the exploration strategy, both at the LGJV and beyond the LGJV, and development project pipeline;
  - leading the tracking, evaluation and execution of potential mergers and acquisitions and other corporate development activities for the Parent Company;
  - working closely with the Cerro Los Gatos management team to provide corporate direction and support, with a focus on value creation, optimization and to ensure the highest standards are adopted and achieved;
  - traveling domestically or internationally as necessary to fulfill Executive's duties, including to the Cerro Los Gatos Mine and the offices in Chihuahua, Mexico; and
  - acting as an officer of the Parent Company and as an officer or director of the Parent Company's affiliates as necessary.
- b) The Executive shall devote his best efforts and his full business time and attention to the business and affairs of the Company and its affiliates.
- c) The Executive acknowledges and agrees that (i) the Executive owes the Company and the Parent Company a duty of loyalty as a fiduciary of the Company and the Parent Company, and (ii) the obligations described in this Agreement are in addition to, and not in lieu of, the obligations the Executive owes the Company and the Parent Company under the common or applicable law.

## 3. Base Salary, Bonus, Equity/Options, and Benefits

- a) Base Salary. The Executive's base salary shall be US\$350,000.00 per annum ("**Base Salary**") as adjusted on a periodic basis at the discretion of the Parent Company's Board of Directors based on the recommendation of its Compensation & Nominating Committee (the "**CNC**"). The Executive's Base Salary shall be converted into Canadian Dollars based on the average daily exchange rate posted by the Bank of Canada (the "**Exchange Rate**"). The Executive's Base Salary shall be paid in regular installments in accordance with the Company's general payroll practices using an estimated Exchange Rate reasonably determined by the Company, with such payments being true-up no less than semi-annually based on the actual Exchange Rate over the applicable period. Any difference, positive or negative shall be applied to the following payroll payment.
- b) Annual Bonus. During the Term, provided that the Executive is employed by the Company on December 31<sup>st</sup> of the applicable year, the Executive will be eligible to participate in a bonus plan pursuant to which he will be entitled to receive an annual target bonus in the amount of seventy percent (70%) of his Base Salary for the applicable year, pro-rated for any partial year (the "**Target Bonus**"), upon achievement by the Executive and the Parent Company of certain targets as determined solely in the discretion of the Parent Company's Board of Directors (the "**Annual Bonus**"). The Annual Bonus, if any, will depend on the actual performance of the Parent Company and the Executive as determined by the Board. In all events the Annual Bonus, if earned, will be paid no later than March 15th following the applicable year for which it is earned. Any Annual Bonus shall be paid in Canadian Dollars at the Exchange Rate prevailing at the time of payment.

- c) Equity Awards. During the Term, provided that the Executive is employed by the Company on the date of the grant, the Executive will be eligible to participate in an annual equity award program, as may be determined solely in the discretion of the Board. The equity awards will be subject to the adjustment provisions set forth in the Parent Company's Long Term Incentive Plan, as it may be amended from time to time, and the corresponding Equity Award Agreement (together, the "**LTIP**"). The Executive may receive such equity awards in the future in the sole discretion of the Board and are expected to be granted in the form of stock options, Performance Share Units ("**PSUs**"), or Restricted Share Units ("**RSUs**"). In the event the Executive's employment with the Company ceases, or there is a Change in Control, then any options, PSUs and RSUs will be subject to customary exercise restrictions, vesting acceleration, and/or forfeiture as set out in the LTIP. In no event will the Executive have any right to damages for loss of equity awards after the Termination Date and no severance allowance or termination settlement of any kind in respect of the Executive will include or reflect any claim for such loss of right, and the Executive will not have any right to assert, claim, seek or obtain any judgement or award which includes or reflects any right or claim for such loss of right, except as may be required by applicable employment standards legislation.
- d) Staking Equity Awards. The Parent Company is currently in an extended blackout period and was not able to in 2022 and cannot currently issue any equity awards; however, upon lifting of the current blackout period, which is expected (but not guaranteed) to be lifted in Q2 2023, the Board will grant the Executive a "staking" equity incentive in the form of both stock options and RSUs as defined below which, for greater certainty, are in addition to equity awards previously granted to the Executive (the "**Staking Equity Incentive**"). The Board has approved a Staking Equity Incentive award of 275,000 total option-equivalent units (representing approximately 0.398% of the current issued and outstanding shares of the Parent Company). The award will be based on a ratio of 75% options/25% RSUs, subject to a potential adjustment based on the Parent Company's share price at the time of the grant, determined at the discretion of the Board. The conversion from stock options to RSUs will count one (1) RSU unit as equivalent to two (2) option units (e.g., 275,000 option-equivalent units granted as 75% options and 25% RSUs would be 206,250 options and 34,375 RSUs). The exercise price per share of the options will be the Fair Market Value (as defined under the LTIP) of the Common Stock of the Company on the date of grant, which date will be determined by the Board at the time the extended blackout period ends. The Executive's options will vest in three equal tranches, the first of which will vest on the first anniversary of the Executive's employment with the Company and annually thereafter, subject to the Executive's continued employment with the Company on each vesting date. RSUs will cliff vest on the third anniversary of the Executive's employment provided the Executive continues to be employed by the Company at such time. For clarity, the Staking Equity Incentive is inclusive of a grant under the annual equity award program, so the next award for which the Executive will be eligible would be in respect of 2023. If there is a Change-in-Control (defined below) prior to the blackout period ending, a lump sum cash payment will be made equal to the sum of (i) the greater of \$0 and 206,250 times the change-in-control price per share less 206,250 times \$3.26 and (ii) 34,375 times the change-in-control price.

- e) Employee Benefits. During the Term, the Executive shall be entitled to participate in the Company's various employee benefit plans that are, from time to time, made generally available to the Company's executives, as such plans are established and pursuant to the terms and conditions of such plans. These plans include group health, vision and dental plan; short-term and long-term disability plan; life insurance plans and a retirement allowance.
- f) Vacation. The Executive shall be entitled to five (5) weeks paid vacation per calendar year, pro-rated for any partial year of employment, in accordance with the Company's vacation time policy, in addition to national or provincial statutory holidays.
- g) Expense Reimbursement. The Executive shall receive reimbursement for direct and reasonable out-of-pocket expenses, incurred by the Executive in connection with the performance of the Executive's duties hereunder, according to the policies of the Company. All requests for reimbursement of business-related expenses shall be subject to the Company's travel policy and requirements with respect to reporting and documentation of expenses.

4. Compensation Upon Termination, Resignation, Disability or Death

- a) Termination without Cause. If the Executive's employment is terminated by the Company without Cause except in the case of a Change of Control as contemplated in Section 7, the Company shall (i) pay the Executive any accrued but unpaid Base Salary up to the Termination Date; (ii) contribute to the Executive's Company pension plan in accordance with existing arrangements, any accrued but uncontributed pension plan contributions up to the Termination Date (iii) pay to the Executive accrued but unused vacation in accordance with Company policy; and (iv) reimburse the Executive for all business expenses that were incurred and not reimbursed but eligible for reimbursement, all determined as of the Termination Date (as defined below) (collectively, the "**Accrued Obligations**"). In addition, subject to Section 18, the Company will pay the Executive (i) an amount equal to twelve (12) months of the Base Salary at the rate in effect on the Termination Date plus the minimum amount that would have been contributed by the Company pursuant to the Company's pension plans available to the Executive, paid within sixty (60) calendar days of Termination Date, and (ii) an amount equal to twelve (12) months of the Target Bonus, payable in a lump sum within sixty (60) calendar days of the Termination Date. Provided the Executive timely elects continuation of benefit coverage, the Company shall also pay, on the Executive's behalf, the portion of monthly premiums for the Executive's benefits that the Company paid prior to the Termination Date, during the twelve (12) month period following the Termination Date, subject to the Executive's continued eligibility for coverage; provided that the Executive will continue to be required to pay that portion of the premium for the Executive's coverage that the Executive was required to pay as an active employee immediately prior to the Termination Date; and notwithstanding the foregoing, if such benefit coverage is not available under the benefit plan, the parties agree to negotiate in good faith a mutually agreeable alternative arrangement (together, the **Ongoing Benefits**) Should the Executive not provide the Release referred to in Section 19, the Executive will be paid only the Accrued Obligations and the Executive's statutory severance under the BC *Employment Standards Act*.
- b) Resignation for Good Reason. If the Executive resigns for Good Reason except in the case of a Change of Control as contemplated in Section 7, the Company shall pay the Executive the same sums and in the same manner to which the Executive would be entitled if he had been terminated by the Company without Cause, as set forth in subsection (a) above. The Executive shall provide 30 days' prior written notice to the Company of the Executive's decision to resign for Good Reason. Should the Executive not provide the Release referred to in Section 19, the Executive will be paid only the Accrued Obligations and the Executive's statutory severance under the BC *Employment Standards Act*.

- c) Termination for Cause. If the Executive's employment is terminated by the Company for Cause, the Company shall pay the Executive the Accrued Obligations within sixty (60) calendar days of Termination Date.
- d) Resignation without Good Reason. The Executive shall provide 60 days' prior written notice to the Company of the Executive's decision to resign without Good Reason. If the Executive resigns without Good Reason, the Company shall pay the Executive the Accrued Obligations within sixty (60) calendar days of Termination Date.
- e) Disability. Subject to any provincial, federal or other federal law or regulation governing employees with disabilities, the Company may terminate the Executive's employment upon the Disability of the Executive. In the event the Executive is terminated under this Section, the Company shall pay the Executive the same sums and in the same manner same amount to which the Executive would be entitled if the Executive had been terminated by the Company without Cause, as set forth in subsection (a) above, within sixty (60) calendar days of Termination Date.
- f) Death. If the Executive's employment is terminated due to the Executive's death, the Company shall pay the Executive's estate the Accrued Obligations and the Pro-Rated Annual Bonus within thirty (30) days of the Executive's death. The **"Pro-Rated Annual Bonus"** is an amount calculated based on the portion of the year the Executive was employed with the Company up to the Termination Date, multiplied by the Executive's Target Bonus.
- g) For purposes of this Agreement:
  - (i) **"Cause"** means any activity considered at common law to constitute just cause.
  - (ii) **"Good Reason"** means: (a) a material change (other than a change for promotion) in the Executive's positions, duties, responsibilities, titles or offices with the Company or Parent Company; (b) a material diminution in the Executive's Base Salary; or (c) a change in the geographic location of the Executive's principal business office to a location more than one hundred (100) kilometers from the 'the principal business office as of the Start Date where the Executive is required to report to such new location on a regular basis. The foregoing shall constitute Good Reason only if (i) the Executive provides written notice to the Company or Parent Company as the case may be of any event(s) alleged to constitute Good Reason within ninety (90) calendar days of the initial occurrence of the event, with such notice providing a detailed description of the circumstances constituting Good Reason (a **"Good Reason Notice"**), (ii) any such reduction, change, or breach is not remedied or cured within fifteen (15) calendar days after the Company's receipt of a written Good Reason Notice from the Executive (the **"Cure Period"**) and (iii) the Executive actually terminates employment within thirty (30) calendar days following the expiration of the Cure Period.

- (iii) **"Disability"** shall mean that the Executive is disabled within the meaning of the Company's group long-term disability insurance policy. If no long-term disability insurance is in place, then Disability shall mean that the Executive, due to illness, accident, or other physical or mental incapacity, has been substantially unable to perform the Executive's duties under the Agreement for a period of at least six (6) consecutive months during the Term as established by the written opinion of a licensed independent physician selected by the Company.
- (iv) **"Termination Date"** means the last date of active employment and does not include any period of statutory, contractual, or reasonable notice at common law or any period of deemed employment or salary continuation.
- h) **Deemed Resignation.** Unless otherwise agreed to in writing by the Company and the Executive prior to the termination of the Executive's employment, any termination of the Executive's employment shall constitute an automatic resignation of the Executive as an officer of the Companies and each affiliate of the Companies, and an automatic resignation of the Executive from the board of directors or similar governing body of the Company or any affiliate of the Company and from the board of directors or similar governing body of any corporation, limited liability company or other entity in which the Company or any affiliate holds an equity interest and with respect to which board or similar governing body the Executive serves as the Company's or such affiliate's designee or other representative.

5. Confidentiality, Non-Solicitation and Non-Compete Undertaking

- a) For purposes of this Agreement, **"Confidential Information"** means (i) communications, data, formulae and related concepts, business plans (both current and under development), profit and loss statements, spreadsheets, contact or distribution lists, non-public personnel lists, promotion and marketing programs, trade secrets, or any other confidential or proprietary business information relating to development programs, costs, revenues, marketing, trading, investments, sales activities, promotions, credit and financial data, financing methods, research, technical information, reserve and resource information, plans or the business and affairs of the Companies; (ii) any other information which is to be treated as confidential or non-public because of any duty of confidentiality owed by the Companies to a third party; and (iii) any other information which the Companies shall, in the ordinary course, use and not release externally, except subject to restrictions on use and disclosure. Notwithstanding the foregoing, Confidential Information does not include information that (A) is or becomes generally publicly available other than as a result, directly or indirectly, of the Executive's disclosure or (B) is or becomes available to the Executive on a nonconfidential basis from a source other than through the Companies or their representatives, provided that such source is not bound by a confidentiality agreement with the Companies or otherwise prohibited from transmitting the information to the Executive by a contractual or legal obligation.
- b) The Executive acknowledges the trade secret status of the Confidential Information and that the Confidential Information constitutes a protectable business interest of the Companies. The Executive agrees (i) not to use or allow or help another person to use or access (whether for compensation or not) any Confidential Information; and (ii) not to reproduce or take any Companies' material or reproductions (including but not limited to writings, correspondence, notes, drafts, records, invoices, technical and business policies, computer programs or disks) thereof even if created, written or drafted by the Executive from the Companies' offices at any time during or after the Executive's employment by the Company, except as required in the execution of the Executive's duties to the Company and then conditioned upon the prompt return of all originals and reproductions thereof (in whatever form).

- c) During the term of this Agreement and for a period of twelve (12) months after the Termination Date, the Executive shall not, directly or indirectly, on behalf of himself or any other person or entity, without the prior written consent of the Company solicit or induce any employee of or consultant or service provider to the Companies (each, a **"Service Provider"**) to leave the employ of or cease performing services for the Company, or engage in any plan or coordinate with any Service Provider to leave the employ of or cease performing services for the Company, or hire, participate with or attempt to participate with in any venture for any purpose any Service Provider or any Service Provider who has left the employment of or ceased to perform services for the Companies within one year of the termination of such Service Provider's services for the Companies.
- d) For a period of twelve (12) months from the Termination Date from the Company or Parent Company as the case may be, not to work or share Executive's knowledge, directly or indirectly, in whole or in part, as an employee, officer, owner, manager, advisor, consultant, agent, partner, director, significant shareholder (i.e. a shareholder holding directly or indirectly more than 5% of outstanding equity in the company), volunteer, intern for any other business entity engaged in silver mining and extraction in Mexico, without the prior written consent of the Board of Directors of the Company or the Parent Company (the **"Non-Compete Undertaking"**). The Non-Compete Undertaking shall only apply geographically to any company involved in silver exploration, development or operations with assets in Mexico, regardless of the location of the company's offices or headquarters.
- e) The Executive acknowledges that any breach of the Executive's obligations under this Section 5 cannot be adequately compensated by damages in an action at law and may cause the Company or Parent Company great and irreparable injury and damage. Accordingly, in the event that the Executive breaches or threatens to breach any provisions of this Section 5, then in addition to any other rights which the Company or Parent Company may have, the Company or Parent Company shall be entitled, without the necessity of (i) proving irreparable harm, (ii) establishing that monetary damages are inadequate or (iii) posting any bond or other security with respect thereto, to the remedies of injunction, specific performance and other equitable relief to redress any breach, and no proof of special damages shall be necessary for the enforcement of or for any action for breach of the Executive's obligations. In the event that a proceeding is brought in equity to enforce the provisions of this Section 5, the Executive shall not urge as a defense that there is an adequate remedy at law nor shall the Company be prevented from seeking any other remedies which may be available. Nothing contained in this Section 5 shall be construed as a waiver by the Company of any other rights, including, without limitation, rights to damages or profits.
- f) The Executive agrees that the period during which the covenants contained in this Section 5 shall be effective shall be computed by excluding from such computation any time during which the Executive is in violation of any provision of this Section 5.

- g) The Company and the Executive agree that it was their intent to enter into a valid and enforceable agreement. The Executive and the Company hereby acknowledge the reasonableness of the restrictions set forth in this Section 5, including the reasonableness of the duration as to time and the scope of activity restrained.
- h) If the Executive's employment with the Company or Parent Company is terminated for any reason, the Executive agrees to advise the Company or Parent Company if applicable of the name of the new employer of the Executive during the Non-Competition period. The Executive further agrees that the Company or Parent Company may notify any person or entity employing the Executive or evidencing an intention of employing the Executive of the existence and provisions of this Agreement during that period.

6. The Executive's Representations

The Executive represents to the Company that:

- a) the execution, delivery and performance of this Agreement by the Executive do not and shall not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which the Executive is a party or by which he is bound;
- b) upon the execution and delivery of this Agreement by the Company, this Agreement shall be the valid and binding obligation of the Executive, enforceable against him in accordance with its terms;
- c) except for agreements with third parties, restricting the use of such party's confidential information, as of the Start Date, the Executive is not and shall not be a party to any agreement with any person, restricting the Executive from providing future employment, consulting or other services to the Company or Parent Company;
- d) no prior or pending litigation, arbitration, investigation or other proceeding of any kind will prevent or hinder the Executive from performing the Executive's duties under this Agreement; and
- e) the Executive has had an opportunity to consult with independent legal counsel regarding the Executive's rights and obligations under this Agreement and that he fully understands the terms and conditions contained herein.

7. Change in Control

a) Definitions.

**"Change in Control"** means (i) any merger or consolidation of the Parent Company with or into any other corporation or other entity or person, or any other corporate reorganization, in which the stockholders of the Parent Company immediately prior to such consolidation, merger or reorganization, own less than a controlling interest in the surviving entity immediately after such consolidation, merger or reorganization; (ii) any transaction or series of related transactions in which control of the Parent Company is acquired by a person or group of persons acting together which would constitute a "group" for purposes of Section 13(d) of the Exchange Act or any successor provisions thereto; or (iii) a sale or other disposition of all or substantially all of the assets of the Parent Company; provided that in no event will a Change in Control include any of the following transactions: (A) any consolidation, merger or similar transaction effected exclusively to change the domicile of the Parent Company; (B) any transaction or series of transactions in which voting securities of the Parent Company are issued principally for bona fide financing purposes or any successor or indebtedness or equity securities of the Parent Company are cancelled or converted or a combination thereof, including, without limitation, an initial public offering or other offering of the Parent Company's capital stock; or (C) any acquisition of such voting power by an individual or entity that, directly or indirectly, controls, is controlled by, or is under common control with, the Parent Company.

- b) Change in Control Severance Benefits. If there is a Change in Control, and within one (1) year of such Change in Control, the Executive's employment is terminated without Cause or the Executive resigns for Good Reason, the Company shall (i) pay within sixty (60) calendar days of the Termination Date the Accrued Obligations as a lump sum and, subject to the provisions of Section 19, a lump sum equal to (x) the Pro-Rated Annual Bonus; (y) twenty-four (24) months of the Executive's Base Salary at the rate in effect on the Termination Date and (z) the Annual Bonus for twenty four (24) months based upon the Target Bonus and (ii) make provision for the Ongoing Benefits. If there is a Change in Control, and within one (1) year of such Change in Control, the Executive's employment is terminated under the circumstances described in Sections 4(c), 4(d), 4(e) or 4(f), the Executive shall be entitled to the compensation and benefits for which the Executive is eligible under such Sections.
- c) Termination Preceding Change in Control. Notwithstanding the provisions of the above subsection 7(b), if the Executive's employment with the Company or the Parent Company is terminated by the Company or the Parent Company if applicable without Cause or for Good Reason within six (6) months preceding the occurrence of a Change in Control and such termination without Cause or for Good Reason occurred in anticipation of a Change in Control at the request of the acquirer, the Executive shall be entitled to the payments and benefits described in the first clause of Section 7(b).

8. Clawback

The Executive agrees and acknowledges that any and all compensation the Executive receives pursuant to this Agreement shall be subject to clawback by the Company in the event of a financial restatement by the Company or the Parent Company or in such other circumstances as may be required by applicable law or as may be provided in any clawback policy that is adopted by the Company or the Parent Company and is generally applicable to senior executives of the Company or Parent Company.

9. Taxes

The Company shall be entitled to withhold from any payment or benefit provided under this Agreement an amount sufficient to satisfy all federal, provincial and local income and employment tax withholding requirements as required by applicable law.

10. Notices

Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, sent by reputable overnight courier service or mailed by first class mail, return receipt requested, or by email, to the recipient at the address below indicated:

Notices to the Executive:

Notices to Company:

Gatos Silver Canada Corp.  
910 - 925 West Georgia Street Vancouver, BC  
V6C 3L2  
Attention: General Counsel  
Email: sbodley@gatossilver.com and legalnotices@gatossilver.com

or such other address or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party. Any notice under this Agreement shall be deemed to have been given when so delivered, sent or mailed.

11. Severability

Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any action in any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

12. Complete Agreement

This Agreement contains the entire agreement of the Parties hereto with respect to the terms and conditions of the Executive's employment with the Company and activities following termination. This Agreement supersedes any and all prior agreements and understandings, whether written or oral, between the Parties with respect to the terms and conditions of the Executive's employment with the Company and activities following termination. This Agreement may not be changed or modified except by an instrument in writing, signed by the Executive and a duly authorized officer of the Company.

13. Counterparts

This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

14. Successors and Assigns

This Agreement is intended to bind and inure to the benefit of and be enforceable by the Executive, the Company and their respective heirs, personal representatives, executors and administrators, successors and assigns, except that the Executive may not assign his rights or delegate his duties or obligations hereunder without the prior written consent of the Company.

15. Choice of Law

All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the law of British Columbia, Canada without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than the law of British Columbia.

16. Dispute Resolution

Subject to Section 5(e), the Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation. If the matter cannot be resolved within thirty (30) calendar days of a Party's request for negotiation, a Party may commence an action with the BC Supreme Court or such other court having jurisdiction over the matter.

17. Amendment and Waiver

The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and the Executive, and no course of conduct or course of dealing or failure or delay by any party hereto in enforcing or exercising any of the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement or be deemed to be an implied waiver of any provision of this Agreement.

18. Survival

In the event of the Executive's termination of, or resignation from, employment, Sections 4, 5, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19 and 20 shall survive and continue in full force to the extent necessary to enforce their terms.

19. Release

Any and all amounts payable and benefits or additional rights provided pursuant to Sections 3, 4 and 7, other than (i) compensation accrued but unpaid as of the effective date of the Executive's termination; (ii) accrued but unused vacation in accordance with Company policy; (iii) all business expenses that were incurred but not reimbursed; and (iv) statutory severance pay shall only be payable if the Executive executes and delivers to the Company, within 60 days after termination of employment, in the Company's standard form, a general release of all claims arising at common law of the Executive up to the date of such release.

20. Parent Company Guarantee

The Parent Company absolutely, unconditionally and irrevocably guarantees, as primary obligor and not merely as surety, the full and punctual payment and performance of all present and future obligations, liabilities, covenants and agreements required to be observed and performed or paid or reimbursed by the Parent Company, plus all costs, expenses and fees (including the reasonable fees and expenses of the Executive's counsel) in any way relating to the enforcement or protection of the Executive's rights hereunder (collectively, the **"Obligations"**). The Parent Company agrees that the Obligations are irrevocable, continuing, absolute and unconditional and shall not be discharged or impaired or otherwise affected by, and the Parent Company hereby irrevocably waives any defenses to enforcement it may have (now or in the future) by reason of any change, restructuring or termination of the corporate structure, ownership or existence of the Parent Company or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Company or its assets or any resulting restructuring, release or discharge of any Obligations or the failure of the Executive to assert any claim or demand or to exercise or enforce any right or remedy under the provisions of the Agreement or otherwise.

IN **WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first written above.

GATOS SILVER CANADA CORP.

/s/ Dale Andres

Name: Dale Andres

Title: President

GATOS SILVER, INC, as Guarantor

/s/ Dale Andres

Name: Dale Andres

Title: CEO

/s/ Anthony Scott

Name: Anthony Scott

## EXECUTIVE EMPLOYMENT AGREEMENT

**THIS EXECUTIVE EMPLOYMENT AGREEMENT** (this "**Agreement**"), effective as of July 1, 2022, is between **Gatos Silver Canada Corp.**, a British Columbia corporation (the "**Company**") wholly owned by Gatos Silver, Inc., a Delaware corporation (the "**Parent Company**"), (together the "**Companies**") and Pieter A. van Niekerk (the "**Executive**" and together with the Company, the "**Parties**").

**WITNESSETH:****WHEREAS:**

- A. The Company has entered into an Intercompany Management and Administrative Services Agreement with the Parent Company effective as of October 1, 2022 pursuant to which the Company provides executive and management services to the Parent Company including, *inter alia*, strategic, financial, corporate advisory, transactional, and strategic operational services (the "Services").
- B. The Executive and the Company wish to enter into the arrangements set forth herein with respect to the terms and conditions of the Executive's employment with the Company including the Executive's support for provision by the Company of the Services.
- C. The Executive is a current employee of the Company and agrees to enter this Executive Employment Agreement on the terms and conditions set out herein and in consideration of \$10.00, which has been provided to the Executive.

**NOW, THEREFORE**, in consideration of the promises and covenants contained herein, the Parties agree as follows:

**AGREEMENT**1. Employment and Term

The Company agrees to, and does hereby, employ the Executive, and the Executive agrees to, and does hereby accept, such employment, upon the terms and subject to the conditions set forth in this Agreement. The Executive's employment commenced effective July 1, 2022 (the "**Start Date**") and will continue until terminated as provided herein (the "**Term**"). The Company expressly recognizes that the Executive's Start Date will be recognized for all purposes, including vacation and severance.

2. Position and Duties

- a) During the Term, the Company shall employ the Executive as Chief Financial Officer ("**CFO**") based in Vancouver, BC reporting to the Chief Executive Officer. The Executive is expected to relocate to Vancouver within a reasonable period of time from the start date of employment. The Executive shall perform the duties and have the responsibilities customarily associated with the Chief Financial Officer position and will be an integral member of the executive leadership team, act as a key business partner and advisor, responsible for the financial direction, guidance and compliance in support of the Services; with primary day-to-day responsibility for

planning, implementing, managing and controlling all financial related activities. The CFO will take on a highly visible and strategic role for the Companies as the financial leader and advisor to the CEO and Board; with the expectation to drive organizational change, a strong capital structure and ensure profitability and will be responsible, among other things to:

- Provide leadership in all areas of finance and accounting; be a true financial and strategic contributor to the Companies; develop and maintain strong working relationships with the Board, the CEO, executive management team, and its current or future joint-venture partners.
  - Provide leadership to the financial function, providing oversight, direction and development to its team members and participate as a member of the executive management team.
  - Play a key role in formulating the Companies' future direction and supporting tactical initiatives; monitor and direct the implementation of strategic business plans.
  - Play a central role in the growth and success of the Companies, endeavor to ensure the appropriate level of financing is in place to execute, and recommend appropriate financing tools to fund the Parent Company's growth.
  - Manage and direct all financial requirements associated with the Parent Company being a publicly traded company, including the preparation and release of timely, accurate financial statements and all regulatory financial reports. Ensure that internal and external accounting and reporting is in accordance with accepted principles, and that the Companies are in compliance with all regulatory reporting requirements – ensuring compliance with local, provincial, state and federal taxation, and oversee compliance with foreign taxation, securities regulation.
  - Travel domestically or internationally as necessary to fulfill Executive's duties, including to the Cerro Los Gatos Mine and the offices in Chihuahua, Mexico.
  - Act as an officer of the Parent Company and as an officer or director of the Companies' affiliates as necessary.
- b) The Executive shall devote his best efforts and his full business time and attention to the business and affairs of the Company and its affiliates.
- c) The Executive acknowledges and agrees that (i) the Executive owes the Company and the Parent Company a duty of loyalty as a fiduciary of the Company and the Parent Company, and (ii) the obligations described in this Agreement are in addition to, and not in lieu of, the obligations the Executive owes the Company and the Parent Company under the common or applicable law.

3. Base Salary, Bonus, Equity/Options, and Benefits

- a) Base Salary. The Executive's base salary shall be US\$375,000.00 per annum ("**Base Salary**") as adjusted on a periodic basis at the discretion of the Parent Company's Board of Directors based on the recommendation of its Compensation & Nominating Committee (the "**CNC**"). The Executive's Base Salary shall be converted into Canadian Dollars based on the average daily exchange rate posted by the Bank of Canada (the "**Exchange Rate**"). The Executive's Base Salary shall be paid in regular installments in accordance with the Company's general payroll practices using an estimated Exchange Rate reasonably determined by the Company with such payments being trueed-up no less than semi-annually based on the actual Exchange Rate over the applicable period. Any difference, positive or negative shall be applied to the following payroll payment.

- b) Annual Bonus. During the Term, provided that the Executive is employed by the Company on December 31<sup>st</sup> of the applicable year, the Executive will be eligible to participate in a bonus plan pursuant to which he will be entitled to receive an annual target bonus in the amount of eighty percent (80%) of his Base Salary for the applicable year, pro-rated for any partial year (the “**Target Bonus**”), upon achievement by the Executive and the Parent Company of certain targets as determined solely in the discretion of the Parent Company’s Board of Directors (the “**Annual Bonus**”). The Annual Bonus, if any, will depend on the actual performance of the Parent Company and the Executive as determined by the Board. In all events the Annual Bonus, if earned, will be paid no later than March 15th following the applicable year for which it is earned. Any Annual Bonus shall be paid in Canadian Dollars at the Exchange Rate prevailing at the time of payment.
- c) Equity Awards. During the Term, provided that the Executive is employed by the Company on the date of the grant, the Executive will be eligible to participate in an annual equity award program, as may be determined solely in the discretion of the Board. The equity awards will be subject to the adjustment provisions set forth in the Parent Company’s Long Term Incentive Plan, as it may be amended from time to time, and the corresponding Equity Award Agreement (together, the “**LTIP**”). The Executive may receive such equity awards in the future in the sole discretion of the Board and are expected to be granted in the form of stock options, Performance Share Units (“**PSUs**”), or Restricted Share Units (“**RSUs**”). In the event the Executive’s employment with the Company ceases, or there is a Change in Control, then any options, PSUs and RSUs will be subject to customary exercise restrictions, vesting acceleration, and/or forfeiture as set out in the LTIP. In no event will the Executive have any right to damages for loss of equity awards after the Termination Date and no severance allowance or termination settlement of any kind in respect of the Executive will include or reflect any claim for such loss of right, and the Executive will not have any right to assert, claim, seek or obtain any judgement or award which includes or reflects any right or claim for such loss of right, except as may be required by applicable employment standards legislation.
- d) Staking Equity Awards. The Parent Company is currently in an extended blackout period and was not able to in 2022 and cannot currently issue any equity awards; however, upon lifting of the current blackout period, which is expected (but not guaranteed) to be lifted in Q2 2023, the Board will grant the Executive a “staking” equity incentive in the form of both stock options and RSUs as defined below (the “**Staking Equity Incentive**”). The Board has approved a Staking Equity Incentive award of 332,500 total option-equivalent units (representing approximately 0.475% of the current issued and outstanding shares of the Parent Company). The award will be based on a ratio of 75% options/25% RSUs, subject to a potential adjustment based on the Parent Company’s share price at the time of the grant, determined at the discretion of the Board. The conversion from stock options to RSUs will count one (1) RSU unit as equivalent to two (2) option units (e.g., 332,500 option-equivalent units granted as 75% options and 25% RSUs would be 249,375 options and 41,562 RSUs). The exercise price per share of the options will be the Fair Market Value (as defined under the LTIP) of the Common Stock of the Company on the date of grant, which date will be determined by the Board at the time the extended blackout period ends. The Executive’s options will vest in three equal tranches, the first of which will vest on the first anniversary of the Executive’s employment with the Company and annually thereafter, subject to the Executive’s continued employment with the Company on each vesting date. RSUs will cliff vest on the third anniversary of the Executive’s employment provided the Executive continues to be employed by the Company at such time. For clarity, the Staking Equity Incentive is inclusive of a grant under the annual equity award program, so the next award for which the Executive will be eligible would be in respect of 2023. If there is a Change-in-Control (defined below) prior to the blackout period ending, a lump sum cash payment will be made equal to the sum of (i) the greater of \$0 and 249,375 times the change-in-control price per share less 249,375 times \$3.26 and (ii) 41,562 times the change-in-control price.

- e) Relocation Allowance. The Executive will be entitled to a relocation allowance upon the Executive's move to Vancouver, British Columbia from the Executive's current home in Toronto, Ontario in accordance with the Company's expense reimbursement policy up to a maximum of C\$80,000. Should the Executive require furnished short-term rental/lease accommodation in Vancouver to facilitate the Executive's move, up to C\$20,000 is eligible to be claimed as a moving expense above the total amount of C\$80,000.

Relocation assistance is provided with the understanding that the Executive will be employed by the Company for at least two full years. Should the Executive resign, or be terminated for Cause, before completing two full years of employment, the relocation assistance shall be repayable at the rate of one-twenty-fourth (1/24) for each whole month not worked. If within thirty (30) months of the Start Date the Executive's employment is terminated without Cause or the Executive resigns for Good Reason, the Company will provide reimbursement of reasonable costs of repatriation to Toronto, not to exceed C\$80,000.

- f) Employee Benefits. During the Term, the Executive shall be entitled to participate in the Company's various employee benefit plans that are, from time to time, made generally available to the Company's executives, as such plans are established and pursuant to the terms and conditions of such plans. These plans include group health, vision and dental plan; short-term and long-term disability plan; life insurance plans and a retirement allowance.
- g) Vacation. The Executive shall be entitled to five (5) weeks paid vacation per calendar year, pro-rated for any partial year of employment, in accordance with the Company's vacation time policy, in addition to national or provincial statutory holidays.
- h) Expense Reimbursement. The Executive shall receive reimbursement for direct and reasonable out-of-pocket expenses, incurred by the Executive in connection with the performance of the Executive's duties hereunder, according to the policies of the Company. All requests for reimbursement of business-related expenses shall be subject to the Company's travel policy and requirements with respect to reporting and documentation of expenses.

#### 4. Compensation Upon Termination, Resignation, Disability or Death

- a) Termination without Cause. If the Executive's employment is terminated by the Company without Cause except in the case of a Change of Control as contemplated in Section 7, the Company shall (i) pay the Executive any accrued but unpaid Base Salary up to the Termination Date; (ii) contribute to the Executive's Company pension plan in accordance with existing arrangements, any accrued but uncontributed pension plan contributions up to the Termination Date (iii) pay to the Executive accrued but unused vacation in accordance with Company policy; and (iv) reimburse the Executive for all business expenses that were incurred and not reimbursed but eligible for reimbursement, all determined as of the Termination Date (as defined below) (collectively, the "**Accrued Obligations**"). In addition, subject to Section 18, the Company will pay the Executive (i) an amount equal to twelve (12) months of the Base Salary at the rate in effect on the Termination Date plus the minimum amount that would have been contributed by the Company pursuant to the Company's pension plans available to the Executive, paid within sixty (60) calendar days of Termination Date, and (ii) an amount equal to twelve (12) months of the Target Bonus, payable in a lump sum within sixty (60) calendar days of the Termination Date. Provided the Executive timely elects continuation of benefit coverage, the Company shall also pay, on the Executive's behalf, the portion of monthly premiums for the Executive's benefits that the Company paid prior to the Termination Date, during the twelve (12) month period following the Termination Date, subject to the Executive's continued eligibility for coverage; provided that the Executive will continue to be required to pay that portion of the premium for the Executive's coverage that the Executive was required to pay as an active employee immediately prior to the Termination Date; and notwithstanding the foregoing, if such benefit coverage is not available under the benefit plan, the parties agree to negotiate in good faith a mutually agreeable alternative arrangement (together, the **Ongoing Benefits**) Should the Executive not provide the Release referred to in Section 19, the Executive will be paid only the Accrued Obligations and the Executive's statutory severance under the BC *Employment Standards Act*.

- b) Resignation for Good Reason. If the Executive resigns for Good Reason except in the case of a Change of Control as contemplated in Section 7, the Company shall pay the Executive the same sums and in the same manner to which the Executive would be entitled if he had been terminated by the Company without Cause, as set forth in subsection (a) above. The Executive shall provide 30 days' prior written notice to the Company of the Executive's decision to resign for Good Reason. Should the Executive not provide the Release referred to in Section 19, the Executive will be paid only the Accrued Obligations and the Executive's statutory severance under the BC *Employment Standards Act*.
- c) Termination for Cause. If the Executive's employment is terminated by the Company for Cause, the Company shall pay the Executive the Accrued Obligations within sixty (60) calendar days of Termination Date.
- d) Resignation without Good Reason. The Executive shall provide 60 days' prior written notice to the Company of the Executive's decision to resign without Good Reason. If the Executive resigns without Good Reason, the Company shall pay the Executive the Accrued Obligations within sixty (60) calendar days of Termination Date.
- e) Disability. Subject to any provincial, federal or other federal law or regulation governing employees with disabilities, the Company may terminate the Executive's employment upon the Disability of the Executive. In the event the Executive is terminated under this Section, the Company shall pay the Executive the same sums and in the same manner same amount to which the Executive would be entitled if the Executive had been terminated by the Company without Cause, as set forth in subsection (a) above, within sixty (60) calendar days of Termination Date.
- f) Death. If the Executive's employment is terminated due to the Executive's death, the Company shall pay the Executive's estate the Accrued Obligations and the Pro-Rated Annual Bonus within thirty (30) days of the Executive's death. The "**Pro-Rated Annual Bonus**" is an amount calculated based on the portion of the year the Executive was employed with the Company up to the Termination Date, multiplied by the Executive's Target Bonus.

g) For purposes of this Agreement:

- (i) **“Cause”** means any activity considered at common law to constitute just cause.
  - (ii) **“Good Reason”** means: (a) a material change (other than a change for promotion) in the Executive's positions, duties, responsibilities, titles or offices with the Company or Parent Company; (b) a material diminution in the Executive's Base Salary; or (c) a change in the geographic location of the Executive's principal business office to a location more than one hundred (100) kilometers from the 'the principal business office as of the Start Date where the Executive is required to report to such new location on a regular basis. The foregoing shall constitute Good Reason only if (i) the Executive provides written notice to the Company or Parent Company as the case may be of any event(s) alleged to constitute Good Reason within ninety (90) calendar days of the initial occurrence of the event, with such notice providing a detailed description of the circumstances constituting Good Reason (a **“Good Reason Notice”**), (ii) any such reduction, change, or breach is not remedied or cured within fifteen (15) calendar days after the Company's receipt of a written Good Reason Notice from the Executive (the **“Cure Period”**) and (iii) the Executive actually terminates employment within thirty (30) calendar days following the expiration of the Cure Period.
  - (iii) **“Disability”** shall mean that the Executive is disabled within the meaning of the Company's group long-term disability insurance policy. If no long-term disability insurance is in place, then Disability shall mean that the Executive, due to illness, accident, or other physical or mental incapacity, has been substantially unable to perform the Executive's duties under the Agreement for a period of at least six (6) consecutive months during the Term as established by the written opinion of a licensed independent physician selected by the Company.
  - (iv) **“Termination Date”** means the last date of active employment and does not include any period of statutory, contractual, or reasonable notice at common law or any period of deemed employment or salary continuation.
- h) Deemed Resignation. Unless otherwise agreed to in writing by the Company and the Executive prior to the termination of the Executive's employment, any termination of the Executive's employment shall constitute an automatic resignation of the Executive as an officer of the Companies and each affiliate of the Companies, and an automatic resignation of the Executive from the board of directors or similar governing body of the Company or any affiliate of the Company and from the board of directors or similar governing body of any corporation, limited liability company or other entity in which the Company or any affiliate holds an equity interest and with respect to which board or similar governing body the Executive serves as the Company's or such affiliate's designee or other representative.

5. Confidentiality, Non-Solicitation and Non-Compete Undertaking

- a) For purposes of this Agreement, **“Confidential Information”** means (i) communications, data, formulae and related concepts, business plans (both current and under development), profit and loss statements, spreadsheets, contact or distribution lists, non-public personnel lists, promotion and marketing programs, trade secrets, or any other confidential or proprietary business information relating to development programs, costs, revenues, marketing, trading, investments, sales activities, promotions, credit and financial data, financing methods, research, technical information, reserve and resource information, plans or the business and affairs of the Companies; (ii) any other information which is to be treated as confidential or non-public because of any duty of confidentiality owed by the Companies to a third party; and (iii) any other information which the Companies shall, in the ordinary course, use and not release externally, except subject to restrictions on use and disclosure. Notwithstanding the foregoing, Confidential Information does not include information that (A) is or becomes generally publicly available other than as a result, directly or indirectly, of the Executive's disclosure or (B) is or becomes available to the Executive on a non-confidential basis from a source other than through the Companies or their representatives, provided that such source is not bound by a confidentiality agreement with the Companies or otherwise prohibited from transmitting the information to the Executive by a contractual or legal obligation.

- b) The Executive acknowledges the trade secret status of the Confidential Information and that the Confidential Information constitutes a protectable business interest of the Companies. The Executive agrees (i) not to use or allow or help another person to use or access (whether for compensation or not) any Confidential Information; and (ii) not to reproduce or take any Companies' material or reproductions (including but not limited to writings, correspondence, notes, drafts, records, invoices, technical and business policies, computer programs or disks) thereof even if created, written or drafted by the Executive from the Companies' offices at any time during or after the Executive's employment by the Company, except as required in the execution of the Executive's duties to the Company and then conditioned upon the prompt return of all originals and reproductions thereof (in whatever form).
- c) During the term of this Agreement and for a period of twelve (12) months after the Termination Date, the Executive shall not, directly or indirectly, on behalf of himself or any other person or entity, without the prior written consent of the Company solicit or induce any employee of or consultant or service provider to the Companies (each, a **"Service Provider"**) to leave the employ of or cease performing services for the Company, or engage in any plan or coordinate with any Service Provider to leave the employ of or cease performing services for the Company, or hire, participate with or attempt to participate with in any venture for any purpose any Service Provider or any Service Provider who has left the employment of or ceased to perform services for the Companies within one year of the termination of such Service Provider's services for the Companies.
- d) For a period of twelve (12) months from the Termination Date from the Company or Parent Company as the case may be, not to work or share Executive's knowledge, directly or indirectly, in whole or in part, as an employee, officer, owner, manager, advisor, consultant, agent, partner, director, significant shareholder (i.e. a shareholder holding directly or indirectly more than 5% of outstanding equity in the company), volunteer, intern for any other business entity engaged in silver mining and extraction in Mexico, without the prior written consent of the Board of Directors of the Company or the Parent Company (the **"Non-Compete Undertaking"**). The Non-Compete Undertaking shall only apply geographically to any company involved in silver exploration, development or operations with assets in Mexico, regardless of the location of the company's offices or headquarters.

- e) The Executive acknowledges that any breach of the Executive's obligations under this Section 5 cannot be adequately compensated by damages in an action at law and may cause the Company or Parent Company great and irreparable injury and damage. Accordingly, in the event that the Executive breaches or threatens to breach any provisions of this Section 5, then in addition to any other rights which the Company or Parent Company may have, the Company or Parent Company shall be entitled, without the necessity of (i) proving irreparable harm, (ii) establishing that monetary damages are inadequate or (iii) posting any bond or other security with respect thereto, to the remedies of injunction, specific performance and other equitable relief to redress any breach, and no proof of special damages shall be necessary for the enforcement of or for any action for breach of the Executive's obligations. In the event that a proceeding is brought in equity to enforce the provisions of this Section 5, the Executive shall not urge as a defense that there is an adequate remedy at law nor shall the Company be prevented from seeking any other remedies which may be available. Nothing contained in this Section 5 shall be construed as a waiver by the Company of any other rights, including, without limitation, rights to damages or profits.
- f) The Executive agrees that the period during which the covenants contained in this Section 5 shall be effective shall be computed by excluding from such computation any time during which the Executive is in violation of any provision of this Section 5.
- g) The Company and the Executive agree that it was their intent to enter into a valid and enforceable agreement. The Executive and the Company hereby acknowledge the reasonableness of the restrictions set forth in this Section 5, including the reasonableness of the duration as to time and the scope of activity restrained.
- h) If the Executive's employment with the Company or Parent Company is terminated for any reason, the Executive agrees to advise the Company or Parent Company if applicable of the name of the new employer of the Executive during the Non-Competition period. The Executive further agrees that the Company or Parent Company may notify any person or entity employing the Executive or evidencing an intention of employing the Executive of the existence and provisions of this Agreement during that period.

6. The Executive's Representations

The Executive represents to the Company that:

- a) the execution, delivery and performance of this Agreement by the Executive do not and shall not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which the Executive is a party or by which he is bound;
- b) upon the execution and delivery of this Agreement by the Company, this Agreement shall be the valid and binding obligation of the Executive, enforceable against him in accordance with its terms;

- c) except for agreements with third parties, restricting the use of such party's confidential information, as of the Start Date, the Executive is not and shall not be a party to any agreement with any person, restricting the Executive from providing future employment, consulting or other services to the Company or Parent Company;
- d) no prior or pending litigation, arbitration, investigation or other proceeding of any kind will prevent or hinder the Executive from performing the Executive's duties under this Agreement; and
- e) the Executive has had an opportunity to consult with independent legal counsel regarding the Executive's rights and obligations under this Agreement and that he fully understands the terms and conditions contained herein.

7. Change in Control

a) Definitions.

**"Change in Control"** means (i) any merger or consolidation of the Parent Company with or into any other corporation or other entity or person, or any other corporate reorganization, in which the stockholders of the Parent Company immediately prior to such consolidation, merger or reorganization, own less than a controlling interest in the surviving entity immediately after such consolidation, merger or reorganization; (ii) any transaction or series of related transactions in which control of the Parent Company is acquired by a person or group of persons acting together which would constitute a "group" for purposes of Section 13(d) of the Exchange Act or any successor provisions thereto; or (iii) a sale or other disposition of all or substantially all of the assets of the Parent Company; provided that in no event will a Change in Control include any of the following transactions: (A) any consolidation, merger or similar transaction effected exclusively to change the domicile of the Parent Company; (B) any transaction or series of transactions in which voting securities of the Parent Company are issued principally for bona fide financing purposes or any successor or indebtedness or equity securities of the Parent Company are cancelled or converted or a combination thereof, including, without limitation, an initial public offering or other offering of the Parent Company's capital stock; or (C) any acquisition of such voting power by an individual or entity that, directly or indirectly, controls, is controlled by, or is under common control with, the Parent Company.

- b) Change in Control Severance Benefits. If there is a Change in Control, and within one (1) year of such Change in Control, the Executive's employment is terminated without Cause or the Executive resigns for Good Reason, the Company shall (i) pay within sixty (60) calendar days of the Termination Date the Accrued Obligations as a lump sum and, subject to the provisions of Section 19, a lump sum equal to (x) the Pro-Rated Annual Bonus; (y) twenty-four (24) months of the Executive's Base Salary at the rate in effect on the Termination Date and (z) the Annual Bonus for twenty four (24) months based upon the Target Bonus and (ii) make provision for the Ongoing Benefits. If there is a Change in Control, and within one (1) year of such Change in Control, the Executive's employment is terminated under the circumstances described in Sections 4(c), 4(d), 4(e) or 4(f), the Executive shall be entitled to the compensation and benefits for which the Executive is eligible under such Sections.

- c) Termination Preceding Change in Control. Notwithstanding the provisions of the above subsection 7(b), if the Executive's employment with the Company or the Parent Company is terminated by the Company or the Parent Company if applicable without Cause or for Good Reason within six (6) months preceding the occurrence of a Change in Control and such termination without Cause or for Good Reason occurred in anticipation of a Change in Control at the request of the acquirer, the Executive shall be entitled to the payments and benefits described in the first clause of Section 7(b).

8. Clawback

The Executive agrees and acknowledges that any and all compensation the Executive receives pursuant to this Agreement shall be subject to clawback by the Company in the event of a financial restatement by the Company or the Parent Company or in such other circumstances as may be required by applicable law or as may be provided in any clawback policy that is adopted by the Company or the Parent Company and is generally applicable to senior executives of the Company or Parent Company..

9. Taxes

The Company shall be entitled to withhold from any payment or benefit provided under this Agreement an amount sufficient to satisfy all federal, provincial and local income and employment tax withholding requirements as required by applicable law.

10. Notices

Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, sent by reputable overnight courier service or mailed by first class mail, return receipt requested, or by email, to the recipient at the address below indicated:

Notices to the Executive:

Notices to Company:

Gatos Silver Canada Corp.  
910 - 925 West Georgia Street Vancouver, BC  
V6C 3L2  
Attention: General Counsel  
Email: sbodley@gatossilver.com and legalnotices@gatossilver.com

or such other address or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party. Any notice under this Agreement shall be deemed to have been given when so delivered, sent or mailed.

11. Severability

Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any action in any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

12. Complete Agreement

This Agreement contains the entire agreement of the Parties hereto with respect to the terms and conditions of the Executive's employment with the Company and activities following termination. This Agreement supersedes any and all prior agreements and understandings, whether written or oral, between the Parties with respect to the terms and conditions of the Executive's employment with the Company and activities following termination. This Agreement may not be changed or modified except by an instrument in writing, signed by the Executive and a duly authorized officer of the Company.

13. Counterparts

This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

14. Successors and Assigns

This Agreement is intended to bind and inure to the benefit of and be enforceable by the Executive, the Company and their respective heirs, personal representatives, executors and administrators, successors and assigns, except that the Executive may not assign his rights or delegate his duties or obligations hereunder without the prior written consent of the Company.

15. Choice of Law

All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the law of British Columbia, Canada without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than the law of British Columbia.

16. Dispute Resolution

Subject to Section 5(e), the Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation. If the matter cannot be resolved within thirty (30) calendar days of a Party's request for negotiation, a Party may commence an action with the BC Supreme Court or such other court having jurisdiction over the matter.

17. Amendment and Waiver

The provisions of this Agreement may be amended or waived only with the prior written

consent of the Company and the Executive, and no course of conduct or course of dealing or failure or delay by any party hereto in enforcing or exercising any of the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement or be deemed to be an implied waiver of any provision of this Agreement.

18. Survival

In the event of the Executive's termination of, or resignation from, employment, Sections 4, 5, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19 and 20 shall survive and continue in full force to the extent necessary to enforce their terms.

19. Release

Any and all amounts payable and benefits or additional rights provided pursuant to Sections 3, 4 and 7, other than (i) compensation accrued but unpaid as of the effective date of the Executive's termination; (ii) accrued but unused vacation in accordance with Company policy; (iii) all business expenses that were incurred but not reimbursed; and (iv) statutory severance pay shall only be payable if the Executive executes and delivers to the Company, within 60 days after termination of employment, in the Company's standard form, a general release of all claims arising at common law of the Executive up to the date of such release.

20. Parent Company Guarantee

The Parent Company absolutely, unconditionally and irrevocably guarantees, as primary obligor and not merely as surety, the full and punctual payment and performance of all present and future obligations, liabilities, covenants and agreements required to be observed and performed or paid or reimbursed by the Parent Company, plus all costs, expenses and fees (including the reasonable fees and expenses of the Executive's counsel) in any way relating to the enforcement or protection of the Executive's rights hereunder (collectively, the "**Obligations**"). The Parent Company agrees that the Obligations are irrevocable, continuing, absolute and unconditional and shall not be discharged or impaired or otherwise affected by, and the Parent Company hereby irrevocably waives any defenses to enforcement it may have (now or in the future) by reason of any change, restructuring or termination of the corporate structure, ownership or existence of the Parent Company or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Company or its assets or any resulting restructuring, release or discharge of any Obligations or the failure of the Executive to assert any claim or demand or to exercise or enforce any right or remedy under the provisions of the Agreement or otherwise.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

(Signature Page follows)

GATOS SILVER CANADA CORP.

/s/ Dale Andres

Name: Dale Andres  
Title: President

GATOS SILVER, INC, as Guarantor

/s/ Dale Andres

Name: Dale Andres  
Title: CEO

/s/ André van Niekerk

Name: André van Niekerk

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this “**Agreement**”), dated as of February 8, 2021, is between **GATOS SILVER, INC.** (the “**Company**”) and **Rodrigo Monroy** (the “**General Counsel**”) and together with the Company, the “**Parties**”).

WITNESSETH

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the Parties agree as follows:

AGREEMENT

1. Employment and Term. The Company hereby employs the General Counsel, and the General Counsel hereby accepts such employment, upon the terms and subject to the conditions set forth in this Agreement. The General Counsel’s employment under this Agreement will be deemed for all purposes to commence on April 1, 2021 (the “**General Counsel Start Date**”) and continue at will, which means that the General Counsel or the Company may terminate the General Counsel’s employment at any time for any reason, or for no reason, with or without cause (the “**Term**”). If the Company terminates this Agreement and the General Counsel’s employment, the Company shall provide the General Counsel with notice and reason for the termination within ten (10) calendar days of the effective date of such termination.

2. Position and Duties.

(a) During the Term, the General Counsel shall perform the duties and have the responsibilities customarily associated with the position of General Counsel, which shall include, without limitation, responsibilities for the activities of the Company and the Company’s subsidiaries or joint ventures, affiliates, and sister-companies, including but not limited to:

- Acting as the secretary of the board
- Set internal governance policies and procedures and advice the impact of external factors may have on the Company
- Evaluate impacts of any decision or course of action from a legal perspective
- Advice the Company, its officers and directors on securities regulations and compliance
- Advice the Company, its officers and directors on various legal and regulatory aspects of the Company’s business and activities
- Anticipate issues that may have an impact on the Company and estimate those risks from a strategic perspective
- Oversee the ethics and compliance functions of the Company
- Identify proactive solutions that will help to eliminate or mitigate risks
- Direct the company, directors and officers and employees to act with ethics and integrity and in accordance with the law
- Create associations of trust and respect with key stakeholders
- Deal with external parties (regulators, external counsel, politicians, clients) as required

- Attract, develop, direct, motivate and drive performance of the team
- Draft and review legal opinions, agreements with the aim of minimizing risks and maximize legal rights for the Company
- Manage the litigation portfolio of the Company
- Liaise with outside counsel as needed
- Deal with complex, significant matters that cut across legal and related areas
- Keep abreast of legislative changes
- Other duties as assigned

(b) The General Counsel's work will be based in Denver, Colorado. However, the General Counsel may be required to work, as needed, at the various Company projects and offices.

(c) The General Counsel shall devote his best efforts and his full business time and attention to the business and affairs of the Company and affiliates.

(d) The General Counsel acknowledges and agrees that (i) the General Counsel owes the Company a duty of loyalty as a fiduciary of the Company, and (ii) the obligations described in this Agreement are in addition to, and not in lieu of, the obligations the General Counsel owes the Company under the common law.

### 3. Base Salary, Bonus, Equity/Options, and Benefits.

(a) Base Salary. During the Term, the General Counsel General Counsels base salary shall begin at \$300,000.00 per annum ("**Base Salary**"), which salary shall be payable in regular installments in accordance with the Company's general payroll practices. The Base Salary will be subject to review on an annual basis and may be adjusted based on changes in responsibilities, cost of living, or other market factors.

(b) Annual Bonus. During the Term, provided that the General Counsel is employed by the Company on December 31<sup>st</sup> of the applicable year, the General Counsel will be eligible to participate in a bonus plan pursuant to which at the end of each year of continuous service, he will be entitled to receive an annual target bonus in the amount of fifty percent (50%) of his Base Salary and up to one hundred percent (100%) of Base Salary, pro-rated for any partial year, upon achievement by the General Counsel and the Company of certain targets, as determined solely in the discretion of the Company's management (the "**Annual Bonus**"). The Annual Bonus will be subject to periodic review as determined by the Company. Annual bonuses will be paid in cash, restricted and/or unrestricted common stock or a combination thereof (not in options) at the discretion of the Board of Directors. The Annual Bonus actually paid, if any, will depend on the actual performance of the Company and the General Counsel as determined by management. In all events the Annual Bonus, if earned, will be paid no later than March 15th following the applicable year for which it is earned.

(c) Pursuant to the January 21, 2021 memorandum approved by the Compensation Committee, the Company shall pay the General Counsel a one-time exceptional short term bonus of \$100,000 upon the General Counsel's commencement of employment with the Company.

(d) Options. During the Term, provided that the General Counsel is employed by the Company on December 31<sup>st</sup> of the applicable year, the General Counsel will be eligible to participate in a stock option program, as may be determined solely in the discretion of the Company's Compensation & Nominating Committee. The Stock Options will be subject to the adjustment provisions set forth in the Company's Long-Term Incentive Plan and approved option agreements. The General Counsel may receive such stock options or other equity compensation grants in the future in the sole discretion of the Company's Compensation & Nominating Committee. Upon commencement of employment, the General Counsel will be awarded options to purchase 100,000 shares of the Company's common stock with an exercise price set at the Company's fair value at the time of issuance. These options have a ten-year term and will vest over three years at 33.33% of the total award per annum. Future equity awards are awarded at the discretion of the Company's board of directors and are expected to be granted in the form of stock options in the Company's common stock.

(e) Employee Benefits. During the Term, the General Counsel shall be entitled to participate in the Company's various employee benefit plans that are, from time to time, made generally available to the Company's employees, as such plans are established and pursuant to the terms and conditions of such plans. These plans include group health, vision and dental plan; short-term and long-term disability plan; life insurance plan; and 401(k) plan.

(f) Vacation. The General Counsel shall be entitled to four (4) weeks paid vacation time per calendar year, pro-rated for any partial year of employment, subject to the terms of the Company's vacation time policy.

(g) Expense Reimbursement. The General Counsel shall receive reimbursement for direct and reasonable out-of-pocket expenses incurred by him in connection with the performance of his duties hereunder, according to the policies of the Company. All requests for reimbursement of business-related expenses shall be subject to the Company's travel policy and requirements with respect to reporting and documentation of expenses.

#### 4. Compensation Upon Termination, Resignation, Disability or Death.

(a) Termination without Cause. If the General Counsel's employment is terminated by the Company without Cause, the Company shall pay the General Counsel any Base Salary and Annual Bonus from the preceding calendar year to the extent accrued but unpaid as of the effective date of the General Counsel's termination; accrued but unused vacation in accordance with Company policy; and all business expenses that were incurred and not reimbursed but eligible for reimbursement (collectively, the "**Accrued Obligations**"). In addition, the General Counsel will be entitled to a prorated amount of the current calendar year Annual Bonus, with payment of such prorated Annual Bonus to be made at the same time as annual bonuses are made to other employees of the Company in the ordinary course (but in no event later than March 15th of the calendar year following the calendar year in which the termination occurs (the "**Pro Rata Bonus**"). In addition, subject to Section 18, the Company will pay the General Counsel an amount equal to twelve (12) months of the General Counsel's Base Salary at the rate in effect on the date of termination, payable in a lump sum within sixty (60) calendar days of the date of termination. Provided the General Counsel timely elects continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("**COBRA**"), the Company shall also

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pay, on the General Counsel's behalf, the portion of monthly premiums for the General Counsel's group health insurance, including coverage for the General Counsel's dependents, that the Company paid immediately prior to the date of termination, during the twelve (12) month period following the date of termination, subject to the General Counsel's continued eligibility for COBRA coverage. The Company will pay for such COBRA coverage for eligible dependents only for those dependents who were enrolled immediately prior to the date of termination. The General Counsel will continue to be required to pay that portion of the premium for the General Counsel's health coverage, including coverage for the General Counsel's eligible dependents, that the General Counsel was required to pay as an active employee immediately prior to the date of termination. Notwithstanding the foregoing, in the event that under applicable guidance the reimbursement of COBRA premiums causes the Company's group health plan to violate any applicable nondiscrimination rule, the parties agree to negotiate in good faith a mutually agreeable alternative arrangement. Upon termination under this Section 4(a), (i) the Stock Options shall cease vesting and (ii) all vested Stock Options shall remain exercisable until the earlier of (x) the date one hundred eighty (180) calendar days following termination of employment or (y) the expiration of the original option term.

(b) Resignation for Good Reason. If the General Counsel resigns for Good Reason, the Company shall pay the General Counsel the same sums and in the same manner, and his rights to the Stock Options shall be the same, as to which the General Counsel would be entitled if he had been terminated by the Company without Cause, as set forth in subsection (a) above. The General Counsel shall provide 30 days' prior written notice to the Company of his decision to resign for Good Reason.

(c) Termination for Cause. If the General Counsel's employment is terminated by the Company for Cause, the Company shall pay the General Counsel the Accrued Obligations. Upon termination under this Section 4(c), any outstanding Stock Options shall cease to be exercisable and will be forfeited.

(d) Resignation without Good Reason. If the General Counsel resigns without Good Reason, the Company shall pay the General Counsel the Accrued Obligations. The General Counsel shall provide 60 days' prior written notice to the Company of his decision to resign without Good Reason. The Stock Options, to the extent exercisable at the General Counsel's termination of employment, shall remain exercisable until the earlier of (i) the date thirty (30) calendar days following termination of employment under this Section 4(d) or (ii) the expiration of the original option term.

(e) Disability. Subject to any state or federal law or regulation governing employees with disabilities, the Company may terminate the General Counsel's employment upon the Disability of the General Counsel. In the event the General Counsel is terminated under this Section 4(e), the Company shall pay the General Counsel the Accrued Obligations and the Pro Rata Bonus. In addition, in such event, the Company shall cause General Counsel to fully vest in the Stock Options, and the Stock Options shall remain exercisable until the earlier of (i) the date one (1) year following termination of employment under this Section 4(e) or (ii) the expiration of the original option term.

(f) Death. If the General Counsel's employment is terminated due to the General

Counsel's death, the Company shall pay the General Counsel's estate the Accrued Obligations and the Pro Rata Bonus. In addition, in such event, the Company shall cause General Counsel's estate to fully vest in all Stock Options referred to in Section 3(c) of this Agreement, and such Stock Options shall remain exercisable until the earlier of (i) the date one (1) year following termination of employment under this Section 4(f) or (ii) the expiration of the original option term.

(g) For purposes of this Agreement:

(i) **"Cause"** means the General Counsel's (a) conviction of, guilty plea to or confession of guilt of, or plea of nolo contendere to a felony, or an act involving moral turpitude which could have a material adverse effect on the Company; (b) willful dishonesty, fraud or conduct that constitutes a felony or an act involving moral turpitude or a breach of fiduciary duty or any material misrepresentation in connection with the General Counsel's employment; (c) action that exposes the Company to a material risk of legal liability or public disgrace or disrepute including, without limitation, violation of any law, rule or regulation that could expose the Company to a material legal or monetary fine or penalty; (d) neglect of his duties or substantial failure to perform duties as reasonably directed by the Board of Directors; (e) gross negligence or willful misconduct with respect to Company affairs or the General Counsel's obligations hereunder; or (f) any other material breach of this or any other agreement with the Company or any material Company policy, which breach is not cured within at least fifteen (15) calendar days after receipt by the General Counsel of written notice from the Company of such breach, but only if such breach is able to be cured during such fifteen (15) calendar day period.

(ii) **"Good Reason"** means: (a) a material diminution in the General Counsel's Base Salary, except where such reduction occurs as part of an across-the-board reduction in salary affecting all senior employees of the Company; or (b) any other action or inaction by the Company that constitutes a material breach of this Agreement. The foregoing shall constitute Good Reason only if (i) the General Counsel provides written notice to the Company of any event(s) alleged to constitute Good Reason within ninety (90) calendar days of the initial occurrence of the event, with such notice providing a detailed description of the circumstances constituting Good Reason (a **"Good Reason Notice"**), (ii) any such breach is not remedied or cured within fifteen (15) calendar days after the Company's receipt of a written Good Reason Notice from the General Counsel (the **"Cure Period"**) and (iii) the General Counsel actually terminates employment within thirty (30) calendar days following the expiration of the Cure Period.

(iii) **"Disability"** means that the General Counsel is disabled within the meaning of the Company's group long-term disability insurance policy. If no long-term disability insurance is in place, then Disability shall mean that the General Counsel, due to illness, accident, or other physical or mental incapacity, has been substantially unable to perform his duties under this Agreement for a period of at least six (6) consecutive months during the Term as established by the written opinion of a licensed independent physician selected by the Company.

(h) Deemed Resignation. Unless otherwise agreed to in writing by the Company and the General Counsel prior to the termination of the General Counsel's employment, any

termination of the General Counsel's employment shall constitute an automatic resignation of the General Counsel from the Company and each affiliate of the Company, and an automatic resignation of the General Counsel from any governing body of the Company or any affiliate of the Company and from any governing body of any corporation, limited liability company or other entity in which the Company or any affiliate holds an equity interest and with respect to which board or similar governing body the General Counsel serves as the Company's or such affiliate's designee or other representative.

(i) Clawback. The General Counsel agrees and acknowledges that any and all compensation the General Counsel receives pursuant to this Agreement shall be subject to clawback by the Company in the event of a financial restatement or in such other circumstances as may be required by applicable law or as may be provided in any clawback policy that is adopted by the Company and is generally applicable to senior employees of the Company.

5. Confidentiality and Non-Solicitation.

(a) For purposes of this Agreement, "**Confidential Information**" means (i) communications, data, formulae and related concepts, business plans (both current and under development), profit and loss statements, spreadsheets, contact or distribution lists, non-public personnel lists, promotion and marketing programs, trade secrets, or any other confidential or proprietary business information relating to development programs, costs, revenues, marketing, trading, investments, sales activities, promotions, credit and financial data, financing methods, research, plans or the business and affairs of the Company; (ii) any other information which is to be treated as confidential or non-public because of any duty of confidentiality owed by the Company to a third party; and (iii) any other information which the Company shall, in the ordinary course, use and not release externally, except subject to restrictions on use and disclosure. Notwithstanding the foregoing, Confidential Information does not include information that (A) is or becomes generally publicly available other than as a result, directly or indirectly, of the General Counsel's disclosure or (B) is or becomes available to the General Counsel on a non-confidential basis from a source other than through the Company or its representatives, provided that such source is not bound by a confidentiality agreement with the Company or otherwise prohibited from transmitting the information to the General Counsel by a contractual or legal obligation.

(b) The General Counsel acknowledges the trade secret status of the Confidential Information and that the Confidential Information constitutes a protectable business interest of the Company. The General Counsel agrees (i) not to use or allow or help another to use or access (whether for compensation or not) any Confidential Information for himself or others (other than the Company); and (ii) not to take any Company material or reproductions (including but not limited to writings, correspondence, notes, drafts, records, invoices, technical and business policies, computer programs or disks) thereof from the Company's offices at any time during or after the General Counsel's employment by the Company, except as required in the execution of the General Counsel's duties to the Company and then conditioned upon the prompt return of all originals and reproductions thereof (in whatever form).

(c) During the Term and for a period of one (1) year thereafter, the General Counsel shall not, directly or indirectly, on behalf of himself or any other person or entity, without the prior written consent of the Company solicit or induce any employee of or consultant or service provider

to the Company (each, a “**Service Provider**”) to leave the employ of or cease performing services for the Company, or engage in any plan or coordinate with any Service Provider to leave the employ of or cease performing services for the Company, or hire, participate with or attempt to participate with in any venture for any purpose any Service Provider or any Service Provider who has left the employment of or ceased to perform services for the Company within one year of the termination of such Service Provider’s services for the Company.

(d) The General Counsel acknowledges that any breach of his obligations under this Section 5 cannot be adequately compensated by damages in an action at law and may cause the Company great and irreparable injury and damage. Accordingly, in the event that the General Counsel breaches or threatens to breach any provisions of this Section 5, then in addition to any other rights which the Company may have, the Company shall be entitled, without the necessity of (i) proving irreparable harm, (ii) establishing that monetary damages are inadequate or (iii) posting any bond or other security with respect thereto, to the remedies of injunction, specific performance and other equitable relief to redress any breach, and no proof of special damages shall be necessary for the enforcement of or for any action for breach of the General Counsel’s obligations. In the event that a proceeding is brought in equity to enforce the provisions of this Section 5, the General Counsel shall not urge as a defense that there is an adequate remedy at law nor shall the Company be prevented from seeking any other remedies that may be available. Nothing contained in this Section 5(d) shall be construed as a waiver by the Company of any other rights, including, without limitation, rights to damages or profits.

(e) The General Counsel agrees that the period during which the covenants contained in this Section 5 shall be effective shall be computed by excluding from such computation any time during which the General Counsel is in violation of any provision of this Section 5.

(f) The Company and the General Counsel agree that it was their intent to enter into a valid and enforceable agreement. The General Counsel and the Company thereby acknowledge the reasonableness of the restrictions set forth in this Section 5, including the reasonableness of the duration as to time and the scope of activity restrained. The General Counsel agrees that if any covenant contained in Section 5 of this Agreement is found by a court of competent jurisdiction to contain limitations as to time or scope of activity that are not reasonable and impose a greater restraint than is necessary to protect the goodwill or other business interests of the Company, then the court shall reform the covenant to the extent necessary to cause the limitations contained in the covenant as to time and scope of activity to be restrained to be reasonable and to impose a restraint that is not greater than necessary to protect the goodwill and other business interests of the Company and to enforce the covenants as reformed.

(g) If the General Counsel’s employment with the Company is terminated for any reason, the General Counsel agrees to advise the Company of the name of the General Counsel’s new employer. The General Counsel further agrees that the Company may notify any person or entity employing the General Counsel or evidencing an intention of employing the General Counsel of the existence and provisions of this Agreement.

6. The General Counsel’s Representations. The General Counsel represents to the Company that:

(a) the execution, delivery and performance of this Agreement by the General Counsel do not and shall not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which the General Counsel is a party or by which he is bound;

(b) upon the execution and delivery of this Agreement by the Company, this Agreement shall be the valid and binding obligation of the General Counsel, enforceable against him in accordance with its terms;

(c) as of the Start Date, the General Counsel will not be a party to any agreement with any person, other than an agreement with the Company, restricting the General Counsel from providing future employment, consulting or other service;

(d) no prior or pending litigation, arbitration, investigation or other proceeding of any kind will prevent or hinder the General Counsel from performing his duties under this Agreement; and

(e) the General Counsel has consulted with independent legal counsel regarding his rights and obligations under this Agreement and that he fully understands the terms and conditions contained herein.

7. Taxes. The Company shall be entitled to withhold from any payment or benefit provided under this Agreement an amount sufficient to satisfy all federal, state and local income and employment tax withholding requirements.

8. Notices. Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, sent by reputable overnight courier service or mailed by first class mail, return receipt requested, to the recipient at the address below indicated:

to the General Counsel:

Rodrigo Monroy  
6650 S. Abilene Way  
Centennial, CO 80111

to the Company:

Gatos Silver, Inc.  
8400 E Crescent Pkwy, Suite 600  
Greenwood Village, CO 80111  
Attention: Roger Johnson

or such other address or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party. Any notice under this Agreement shall be deemed to have been given when so delivered, sent or mailed.

9. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this

Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any action in any other jurisdiction, but this Agreement shall be reformed construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

10. Complete Agreement. This Agreement, together with the agreements referred to herein in Section 3(c), contains the entire agreement of the Parties hereto with respect to the terms and conditions of the General Counsel's employment with the Company and activities following termination. This Agreement supersedes any and all prior agreements and understandings, whether written or oral, between the Parties with respect to the terms and conditions of the General Counsel's employment with the Company and activities following termination. This Agreement may not be changed or modified except by an instrument in writing, signed by the General Counsel and a duly authorized officer of the Company.

11. Counterparts. This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

12. Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by the General Counsel, the Company and their respective heirs, personal representatives, executors and administrators, successors and assigns, except that the General Counsel may not assign his rights or delegate his duties or obligations hereunder without the prior written consent of the Company.

13. Choice of Law. All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the laws of the State of New York and the federal laws of the United States of America, without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than the State of New York and the federal laws of the United States of America.

14. Dispute Resolution and Arbitration. Subject to Section 5(d), the Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation. If the matter has not been resolved within thirty (30) calendar days of a Party's request for negotiation, either Party may initiate proceedings or arbitration only as provided herein. Subject to Section 5(d), if any dispute arising out of or relating to this Agreement or the breach, termination or validity thereof has not been resolved by negotiation, such dispute shall be settled by binding arbitration in accordance with the then current rules of JAMS by a single independent and impartial arbitrator who is located in Denver, Colorado. The arbitrator selected must have an expertise in the matter(s) in dispute. Each party shall bear her/its own fees and costs; the fees, costs and all administrative expenses of arbitration shall be borne equally by the Company and the General Counsel. The Parties understand and agree that the arbitration is subject to the rules of JAMS; that the arbitrator's decision and award shall be final and binding as to all claims that were, or could have been, raised in arbitration; and that judgment upon the award rendered by the arbitrator may be entered in any court having competent jurisdiction. Any award rendered hereunder may include an award of attorneys' fees and costs but shall not include punitive damages. The statute of limitations of the state of New York applicable to the commencement of

a lawsuit shall apply to the commencement of arbitration.

15. Amendment and Waiver. The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and the General Counsel, and no course of conduct or course of dealing or failure or delay by any party hereto in enforcing or exercising any of the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement or be deemed to be an implied waiver of any provision of this Agreement.

16. Survival. In the event of the General Counsel's termination of, or resignation from, employment, Sections 4, 5, 7, 8, 9, 12, 13, 14 and 15 shall survive and continue in full force to the extent necessary to enforce their terms.

17. Section 409A Compliance.

(a) This Agreement is intended to provide payments that are exempt from or compliant with the provisions of Section 409A of the Internal Revenue Code of 1986, as amended (the "**Code**") and related regulations and Treasury pronouncements ("**Section 409A**"), and the Agreement shall be interpreted accordingly. Each payment under this Agreement is intended to be excepted from Section 409A, including, but not limited to, by compliance with the short-term deferral exception as specified in Treasury Regulation § 1.409A-1(b)(4), and the provisions of this Agreement will be administered, interpreted and construed accordingly (or disregarded to the extent such provision cannot be so administered, interpreted, or construed).

(b) All reimbursements or provision of in-kind benefits pursuant to this Agreement shall be made in accordance with Treasury Regulation § 1.409A-3(i)(1)(iv) such that the reimbursement or provision will be deemed payable at a specified time or on a fixed schedule relative to a permissible payment event. Specifically, the amount reimbursed or in-kind benefits provided under this Agreement during the General Counsel's taxable year may not affect the amounts reimbursed or provided in any other taxable year (except that total reimbursements may be limited by a lifetime maximum under a group health plan), the reimbursement of an eligible expense shall be made on or before the last day of the General Counsel's taxable year following the taxable year in which the expense was incurred, and the right to reimbursement or provision of in-kind benefit is not subject to liquidation or exchange for another benefit.

(c) For all purposes of this Agreement, the General Counsel shall be considered to have terminated employment with the Company when the General Counsel incurs a "separation from service" with the Company within the meaning of Code Section 409A(a)(2)(A)(i).

(d) Notwithstanding any provision of this Agreement to the contrary, the parties agree that any benefit or benefits under this Agreement that the Company determines are subject to the suspension period under Code Section 409A(a)(2)(B) shall not be paid or commence until the first business day next following the earlier of (i) the date that is six months and one day following the date of the General Counsel's termination of employment, (ii) the date of the General Counsel's death or (iii) such earlier date as complies with the requirements of Section 409A.

18. Release. Any and all amounts payable and benefits or additional rights provided pursuant to Section 4, other than (i) compensation accrued but unpaid as of the effective date of the General Counsel's termination; (ii) accrued but unused vacation in accordance with Company

policy; and (iii) all business expenses that were incurred but not reimbursed, shall only be payable if the General Counsel executes and delivers to the Company, within 60 days after termination of employment, in the Company's standard form, a general release of all claims of the General Counsel up to the date of such release.

[SIGNATURE PAGE TO FOLLOW]

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first written above.

By: /s/ Roger Johnson  
Name: Roger Johnson  
Title: Chief Financial Officer  
GATOS SILVER, INC.

By: /s/ Rodrigo Monroy  
Name: Rodrigo Monroy  
Title: General Counsel

**SEPARATION AGREEMENT & FULL WAIVER & RELEASE**

This Separation Agreement & Full Waiver and Release of all Claims (the “Agreement”) is made and entered into by and between Gatos Silver, Inc., (hereinafter “Company”) and Rodrigo Monroy (hereinafter “Employee”), jointly referred to as the “Parties”.

**RECITALS**

- A. Employee is General Counsel for the Company and is employed as an at-will employee.
- B. Employee signed an Employment Agreement with the Company on or about February 8, 2021 with a start date of April 1, 2021 (the “Employment Agreement”), which is attached as Exhibit A to this Agreement.
- C. Employee executed the Nonqualified Stock Option Agreements and the Performance Share Unit Master Frame Agreement detailed on Exhibit B on the dates stated therein, which are subject to the Company’s Amended and Restated Long-Term Incentive Plan (the “Equity Agreements”).
- D. The Company has informed Employee that it is exercising its right under Paragraph 4(a) of the Employment Agreement to terminate Employee without Cause. Employee acknowledges that the Company provided him with notice and reason for his termination at least ten (10) calendar days prior to the effective date of his termination all in compliance with Paragraph 1 of his Employment Agreement. Employee understands and acknowledges that his last day of employment will be November 30, 2022.
- E. Employee and the Company desire to document the separation of the Employee from the Company and to end their employment relationship in accordance with the terms of this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto covenant and agree as follows, effective as of the Effective Date (as defined in Section 5):

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1. Separation from the Company and end of the Employment Relationship.

- a. **Separation Date.** Employee's employment relationship with the Company will terminate on November 30, 2022 (the "Separation Date"). Employee agrees to fully perform all of his duties including assisting with the transition of his successor through Employee's last day of employment.
- b. **Separation Payments and Benefits.** Upon separation from the Company, Employee shall be entitled to the following payments and benefits:
  - i. The Company shall pay Employee any Base Salary for work performed in 2022 that has not been paid as of the Separation Date; any accrued but unused vacation in accordance with Company policy; and all business expenses that were incurred and not reimbursed but eligible for reimbursement (collectively, the "Accrued Obligations") less any withholdings and other deductions required by law. These accrued obligations will be paid to Employee in accordance with state law and are not contingent on Employee signing this Agreement.
  - ii. Employee shall be entitled to a pro-rata award of the outstanding PSUs granted pursuant to the Performance Share Unit Master Frame Agreement, calculated at the end of the performance period based on the actual performance during the performance period. The proration will be made based on the number of days of service completed by the Employee during the performance period over the total number of days in the performance period (1,096). The prorated PSUs, if any, will be delivered at the same time as PSUs are delivered to other participants. The PSUs, if any, will be delivered regardless of whether Employee signs this Agreement.
  - iii. Pursuant to the Nonqualified Stock Option Agreements set forth on Exhibit B, the outstanding stock options granted pursuant to the Nonqualified Stock Option Agreements shall immediately vest and become exercisable in

accordance with the terms and conditions of the Nonqualified Stock Option Agreements.

- iv. Subject to the Employee timely signing and returning an executed version of this Agreement to the Company within 60 calendar days of receipt of this Agreement and not revoking it within the 7 calendar day revocation period, the Company will pay the Employee the following additional benefits that he would not otherwise be entitled to:
  - a. an amount equal to twelve (12) months of the Employee's Base Salary (\$300,000.00), ("Severance Payment") in a lump sum less applicable withholdings and other deductions required by law within sixty (60) calendar days after expiration of the seven (7) day revocation period, assuming Employee has timely signed and returned this Agreement and not revoked his signature.
  - b. a lump sum payment equal to \$43,149.13 (the "Additional Lump Sum"), in lieu of the continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") provided pursuant to Section 4(a) of Employee's Employment Agreement. The Company does not intend to maintain medical coverage for twelve months and may not be required to provide COBRA coverage. The parties agree that this lump sum payment is intended to serve as an alternative arrangement in lieu of the COBRA benefits provided by the Employment Agreement. To the extent the Company is required to offer Employee with COBRA continuation coverage, Employee may elect such coverage and will be responsible for all applicable premiums. The Additional Lump Sum, less applicable withholdings and other deductions required by law, will be paid within sixty (60) calendar days after expiration of the seven (7) day revocation period, assuming Employee has timely

signed and returned this Agreement and not revoked his signature

- c. the Company shall also pay Employee a prorated amount of the 2022 calendar year Annual Bonus (as such term is defined in the Employment Agreement) (the “ProRata Bonus”) at the target level. The parties agree that the value of the ProRata Bonus is \$165,000. The ProRata Bonus, less applicable withholdings and other deductions required by law, will be paid in a single lump sum within sixty (60) calendar days after expiration of the seven (7) day revocation period, assuming Employee has timely signed and returned this Agreement and not revoked his signature. This amount is payable in full regardless of whether and to what extent the Company pays a 2022 Annual Bonus to other employees.
- d. the Company shall provide Employee with outplacement assistance for a period of up to six (6) months beginning within fifteen (15) calendar days after expiration of the seven (7) day revocation period, assuming Employee has timely signed and returned this Agreement and not revoked his signature. Such outplacement assistance shall be provided through an outside consultant selected by the Company, in its discretion.
- e. For the avoidance of doubt, all payments due pursuant to this Section 1(b)(iv) shall be paid prior to March 15, 2023.
- v. Employee shall resign from all positions with the Company, including any of its parent, subsidiary, or affiliate companies, effective as of the Separation Date.
- c. **Adequate Consideration.** The Parties agree that this Agreement is supported by adequate consideration based on the mutual covenants and promises set forth herein. Moreover, Employee acknowledges that the Severance Payment, the Additional Lump

Sum, the ProRata Bonus, and the outplacement assistance provided pursuant to this Agreement is provided solely as consideration for the mutual promises set forth in this Agreement.

- d. **No Other Payments.** Except as provided herein, Employee acknowledges that no other compensation, wages, payment, bonus, accelerator, reimbursement, equity awards, vesting or benefit of any nature whatsoever is due and owing by the Company to Employee. Employee represents that he has previously reported all hours worked for the Company in strict accordance with Company policy and that he is not owed any salary, reimbursement, or compensation for any hours worked. Employee further represents that, as of the Effective Date, he has previously been reimbursed for all expenses and costs for which the company is or may be responsible.
- e. **Reporting.** Employee acknowledges and agrees that as a public company, the Company, may have certain reporting or disclosure obligations relating to the parties, Employee's title or status, or the fulfillment of the parties' respective rights and obligations as provided for in this Agreement or pursuant to Employee's employment with the Company. Employee acknowledges and agrees that the Company shall make whatever report or disclosure it believes is required by law or is reasonably prudent. Employee further acknowledges and agrees that the Company makes no representation or warranty regarding the form, substance, or timing of any such report or disclosure, or the number of reports or disclosures it may decide to make.

2. Release of Claims by Employee.

- a. In exchange for the consideration provided in this Agreement, Employee, for himself and his heirs, executors, representatives, agents, and assigns, hereby irrevocably and unconditionally fully and forever waives, releases, and discharges the Company, including the Company's parents, subsidiaries, affiliates, predecessors, successors, and assigns, and each of its and their respective officers, directors, employees, shareholders, and partners, in their corporate and individual capacities (both individually and collectively, the "Released Parties"), from any and all claims, liabilities, charges, obligations, demands,

grievances, lawsuits, causes of action, attorney fees, costs, and liabilities of any kind or nature whatsoever, including without limitation claims for contribution, subrogation, or indemnification, whether known or unknown (collectively, "Claims"), which Employee may have or has ever had as of the Effective Date against the Released Parties in any way related to any way related to the Employee's hire, benefits, employment, termination, or separation from employment with the Company (the "Released Claims").

- b. The Released Claims include, but are not limited to any and all claims arising under federal, state, or local employment, civil rights, labor, wage and hour, wage payment, back pay or similar laws, including, without limitation, claims of wrongful discharge, breach of express or implied contract, fraud, misrepresentation, defamation, whistle-blowing or liability in tort, common law claims, claims of any kind that may be brought in any court or administrative agency, any claims arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 1981- 1988, the Civil Rights Act of 1991, the Equal Pay Act, the Age Discrimination in Employment Act, the Older Workers' Benefit Protection Act, the Americans with Disabilities Act, the Worker Adjustment and Retraining Notification Act, the Rehabilitation Act of 1973, the Fair Labor Standards Act, the Executive Retirement Income Security Act, the Family and Medical Leave Act, the Genetic Information Nondiscrimination Act, and all other federal, state or local statutes, ordinances, and regulations. **Employee understands that the Released Claims include a release of claims arising under the Age Discrimination in Employment Act.**
- c. Provided, however, notwithstanding anything to the contrary set forth herein, this Section 2 shall not (i) extend to any obligations of the Company under this Agreement or any claims that cannot be waived under applicable law; (ii) prohibit any claims by Employee for unemployment insurance benefits or worker's compensation benefits; (iii) prohibit Employee from filing charges with the Equal Employment Opportunity Commission or state anti-discrimination agencies for violation of state or federal employment laws within the jurisdiction of those agencies, except that Employee does specifically waive

Employee's right to personal monetary recovery in connection with such charges; (iv) eliminate any vested rights that Employee may have under any employee pension or welfare benefit plan in which he participated as an employee of the Company; and/or (v) prohibit Employee's participation in the Company's employee health benefit plan, as allowed by COBRA and the terms, conditions, and limitations of the plan. In addition, notwithstanding anything to the contrary contained herein, nothing in this Agreement prohibits Employee from reporting possible violations of federal law or regulation to any United States governmental agency or entity in accordance with the provisions of and rules promulgated under Section 21 F of the Securities Exchange Act of 1934 or Section 806 of the Sarbanes- Oxley Act of 2002, or any other whistleblower protection provisions of state or federal law or regulation (including the right to receive an award for information provided to any such government agencies).

3. Release of Claims by Company. In consideration of the promises made by Employee in this Agreement, the Company agrees to fully and forever release and discharge Employee from any and all debts, claims, demands, damages, actions, administrative complaints or charges, and causes of action of any kind whatsoever, whether known or unknown or unforeseen occurring at any time prior to or contemporaneous with the execution of this Agreement, including without limitation those arising out of, or in any way related to, Employee's employment by Company and the separation of that employment.

4. Consideration Period. The Company provided this Agreement to Employee on October 18, 2022. Employee has sixty (60) calendar days to consider whether to sign this Agreement and return the signed agreement to Dale Andres at the following address 8400 E Crescent Pkwy, Suite 600, Greenwood Village, CO 80111 or via PDF to dandres@gatossilver.com. Employee may not sign this Agreement prior to his last day of employment. Changes to this Agreement, whether material or immaterial, do not restart the running of this consideration period. If Employee fails to execute this Agreement within the sixty (60) day period, this Agreement becomes null and void.

5. Seven Day Revocation Period. Following execution of this Agreement, Employee shall have seven (7) calendar days to revoke this Agreement. To be effective, the revocation must be in writing, signed by Employee, and delivered to 8400 Crescent Parkway, Suite 600, Greenwood Village, CO 80111 or emailed to

dandres@gatossilver.com on or before 5 p.m. MDT of the 7th day. This Agreement shall become effective on the eighth (8th) day following execution of this Agreement (the "Effective Date"). If Employee revokes this Agreement, Employee shall not be eligible to receive any compensation or benefits that are consideration for this Agreement and the Company shall have no obligations hereunder.

6. Employee Representations. Employee warrants and represents that he has not filed any claims, complaints, or actions of any kind against the Company with any court or local, state or federal government agency; that he has been properly paid for all hours worked for the Company; that he has received all salary, wages, commissions, bonuses, and other compensation due to the Employee; and that he has not engaged in any unlawful conduct relating to the business of the Company. Employee also confirms that he has made no sexual harassment allegations against the Company.

Nothing in this Agreement prohibits or restricts Employee from filing a charge or complaint with the Securities and Exchange Commission, the Financial Industry Regulatory Authority, the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, or any other federal or state regulatory authority (collectively, "Agencies"). Employee further understands that this Agreement does not limit his ability to communicate with any of the Agencies or otherwise participate in any investigation or proceeding that may be conducted by any of the Agencies in connection with reporting a possible securities law violation without notice to the Employer. This Agreement does not limit the Employee's right to receive an award for information provided to any securities regulatory agency or authority.

7. Confidentiality and Non-Solicitation. In accordance with Employee's obligations under Sections 5 of the Employment Agreement, Employee covenants and represents that he has returned to the Company all Confidential Information as that term is defined in his Employment Agreement. Employee also understands that his confidentiality and non-solicitation obligations pursuant to Section 5 of the Employment Agreement expressly survive the termination of Employee's employment with the Company.

8. Confidential Agreement. Employee promises and covenants not to disclose, publicize, or cause to be publicized any of the terms and conditions of this Agreement except to (i) his spouse or partner, legal counsel, and financial or tax advisor, upon condition that each such person be advised by him of his confidentiality obligations hereunder and that any disclosure by such person will be deemed a disclosure by Employee; (ii) as required by validly issued subpoena, court

order, or federal or state law or regulation; or (iii) in legal proceedings for breach of or to enforce the terms of this Agreement.

9. Non-disparagement. Employee agrees that he shall not do or say anything that a reasonable person would expect at the time would have the effect of diminishing or constraining the goodwill, good reputation, and/or business opportunities of the Released Parties or their business, products, services, or personal lives. This obligation shall include, but shall not be limited to, refraining from making negative statements about the Released Parties or their methods of doing business, the effectiveness of their business policies, or the quality of any of their products, services or personnel. This section also expressly includes the making or publication of such statements on any social media platform, regardless of whether the statements are accessible to the general public or limited to “friends” or others to whom Employee has expressly granted access. This is a continuing obligation that shall survive this Agreement.

Nothing in this Section 9 shall restrict Employee’s right to file any charge with or cooperate in any investigation conducted by the Agencies, as set forth more fully in Section 6 above, or is intended to preclude or dissuade Employee from engaging in legally protected activities protected by state and federal law, including the National Labor Relations Act or federal securities laws, including the Dodd-Frank Act, to the extent such rights cannot be waived by agreement.

10. Breach. Employee acknowledges and understands that (a) the provisions of Sections 8 and 9; (b) the provisions of Section 5 of the Employment Agreement are each material terms of this Agreement and that the Company would not be willing to enter into this Agreement, or the Employment Agreement without such provisions. Therefore, if Employee breaches the terms of Sections 8 or 9 of this Agreement; or Section 5 of the Employment Agreement, then Employee acknowledges and agrees that the Company, in its sole discretion, may exercise any remedies available to Company under the law or otherwise. In addition, Employee acknowledges that he will remain liable for any actual damages suffered by any of the Released Parties arising from or relating to his breach of the aforementioned sections.

11. Remedies. In the event of a breach or threatened breach by either Party of any of the provisions of this Agreement, the Parties hereby consent and agree that the other Party shall be entitled to seek, in addition to other available remedies, a temporary or permanent injunction or other equitable relief against such breach or threatened breach from any court of competent jurisdiction, without the necessity of showing any actual damages or that money damages would not afford

an adequate remedy, and without the necessity of posting any bond or other security. Any equitable relief shall be in addition to, not instead of, legal remedies, monetary damages, or other available relief.

12. Confirmation of Prior Agreements. Notwithstanding anything in this Agreement to the contrary, Employee understands and agrees that nothing in this Agreement shall alter, limit, or void the respective rights and obligations of the parties under the Equity Agreements; the sections that survive termination of the Employment Agreement or any other agreement entered into between Employee and the Company prior to the date hereof. Any covenants in those prior agreements that were designed to restrict Employee's actions during employment or that were intended to survive separation of employment shall continue in full force and effect, including without limitation the non-solicitation, and confidentiality provisions of any of those prior agreements.

13. Not an Admission. This Agreement is not an admission by any party hereto that either has violated any contract, law, or regulation. Rather, the Parties have entered into this Agreement with the intention to avoid disputes and any attendant inconvenience and expense.

14. Entire Document. With the exception of the Equity Agreements and those provisions of Employee's Employment Agreement that survive Employee's separation, this Agreement is the entire, integrated agreement between the parties regarding the subject matter of this Agreement. No other promises or agreements regarding the subject matter of this Agreement have been made to either Employee or the Company.. In electing to sign this Agreement, neither the Employee nor the Company has relied on any representation or promise, whether oral or written, not specifically set forth in this Agreement.

15. No Assignment of Claims. Employee represents that he has not made, and will not make, any assignment of Claim(s) released by this Agreement and that no other person or entity had or has any interest in any Claim(s) released by Employee under this Agreement. Employee agrees to indemnify and hold harmless the Company from any and all claims, demands, expenses, costs, attorneys' fees, and causes of action asserted by any person or entity due to a violation of this non- assignment provision.

16. Miscellaneous. This Agreement shall be governed by the laws of the State of Colorado. Notwithstanding any Colorado statutory or case law to the contrary, this Agreement may not be modified except by a document signed by a duly authorized representative of the Company and the Employee, whether or not

such claimed modification is supported by separate consideration. Any waiver by any party hereto of any breach of any kind or character whatsoever by any other party, whether such waiver be direct or implied, shall not be construed as a continuing waiver of, or consent to, any subsequent breach of this Agreement on the part of the other party. In addition, no course of dealing between the parties, nor any delay in exercising any rights or remedies hereunder or otherwise, shall operate as a waiver of any of the rights or remedies of the parties. This Agreement shall inure to and bind the heirs, devisees, executors, administrators, personal representatives, successors, and assigns, as applicable, of the respective parties hereto.

Subject to Section 11, the Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation. If the matter has not been resolved within fifteen (15) calendar days of a Party's request for negotiation, either Party may initiate proceedings or arbitration only as provided herein. If any dispute arising out of or relating to this Agreement or the breach, termination or validity thereof has not been resolved by negotiation, such dispute shall be settled by binding arbitration in accordance with the then current rules of JAMS by a single independent and impartial arbitrator who is located in Denver, Colorado. The arbitrator selected must have an expertise in the matter(s) in dispute. Each party shall bear her/its own fees and costs; the fees, costs and all administrative expenses of arbitration shall be borne equally by the Company and the Employee. The Parties understand and agree that the arbitration is subject to the rules of JAMS; that the arbitrator's decision and award shall be final and binding as to all claims that were, or could have been, raised in arbitration; and that judgment upon the award rendered by the arbitrator may be entered in any court having competent jurisdiction. Any award rendered hereunder shall include an award of attorneys' fees and costs, including the arbitrator's fee, but shall not include punitive damages. The statute of limitations of the State of Colorado are applicable to the commencement of a lawsuit shall apply to the commencement of an arbitration.

17. Severability. The provisions of the Agreement are severable. If any part of this Agreement is found to be unenforceable by a court of competent jurisdiction, the other provisions shall remain fully valid and enforceable. Such a finding shall not affect the validity of the remainder of this Agreement, which shall remain in full force and effect and continue to be binding on the Parties.

18. Knowing and Voluntary Execution. Employee acknowledges that Company has specifically recommended that he seek the advice of legal counsel of his choosing to review the terms and conditions of this Agreement and Employee specifically represents that he has carefully read and fully understands all of the


provisions of this Agreement and to the extent that he has deemed appropriate, he has sought the advice of legal counsel, and that he is voluntarily and knowingly entering into it.

19. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument. Facsimile or other electronically delivered copies of signature pages to this Agreement shall be treated between the parties as original signatures for all purposes.

This Agreement was provided to Employee on October 18, 2022. WARNING: This Agreement may not be signed by Employee prior to

Employee’s last day of employment with the Company.


IN WITNESS WHEREOF, the undersigned hereby execute this Agreement knowingly and voluntarily intending to be legally bound by its terms.

Gatos Silver Inc  


Rodrigo Monroy, Employee

By: Dale Andres

Title: Chief Executive Officer

Signature: 

Date: Oct 18, 2022  
\_\_\_\_\_

Date: December 16, 2022  
\_\_\_\_\_

Exhibit A – Employment Agreement

Exhibit B – Equity Agreements

**Private and Confidential**

April 22, 2015  
Mr. Luis Felipe Huerta  
Calle El Encierro D-1 1 Urbanización La Ensenada  
La Molina, Lima 12  
Perú

Dear Luis Felipe:

I am pleased to extend the following offer of employment with Minera Luz del Sol, S. de R.L. de C.V. (the Company), a wholly owned subsidiary of Sunshine Silver Mining & Refining Corporation (SSMRC). Although legally employed by SSMRC's Mexican subsidiary, you will be considered an integral part of the SSMRC senior management team. Your position will be Project Director, Los Gatos Project, seconded to the Los Gatos joint venture company Minera Plata Real and based in Chihuahua, Mexico commencing on May 15 2015. Your primary responsibilities will be to manage and oversee exploration, development and operations activities at the Los Gatos Project, a joint venture between SSMRC and Dow Metals & Mining Co., Ltd., near the municipality of San Jose del Sitio, Mexico.

The following are the major terms of your employment:

Salary:	US\$200,000 per annum, inclusive of the 30 days statutory holiday pay (Aguinaldo), less statutory deductions. As you will be a Mexico employee, you will be eligible to receive the 30 days statutory holiday pay (Aguinaldo) paid to employees in Mexico. Accordingly, your monthly salary will be \$15,384.62, before taxes. You will also be eligible for benefits similar to the benefits provided to U.S. employees.
Title:	Project Director, Los Gatos
Reporting to:	Vice President, Mexico and Corporate Exploration
Principal Place of Work:	Chihuahua, Mexico and San Jose del Sitio, Mexico

Work Visa:	<p>The Company and SSMRC will pay the costs for you and your family to obtain the necessary visas for you to work in Mexico, and will work with you and the authorities to obtain the required work visa.</p> <p>You are entitled to four (4) weeks of paid annual vacation, accrued on a monthly basis, to be taken in accordance with the Company's and SSMRC's policies.</p>
Vacation:	
Group Benefits:	<p>You are eligible for participation in the medical, dental, vision and life insurance employee benefits plans or programs of the Company comparable to those provided by SSMRC. You will be entitled to receive an additional 6% annually, up to the maximum matching limits granted to SSMRC employees, of your salary as compensation in lieu of a 401K plan as the Company does not have a defined contribution plan.</p>
Other Benefits:	<p>You shall be eligible for an incentive bonus each calendar year targeted at 40% of base salary (prorated for service during partial years and before taxes), contingent on your personal performance and on the achievement of goals approved by the SSMRC Board of Directors. Annual bonuses will be paid in cash, restricted or unrestricted common stock at the discretion of the SSMRC Board of Directors.</p> <p>You shall be eligible to participate in the equity award program (initial and ongoing) of SSMRC under its Long Term Incentive Plan (LTIP), as approved by the SSMRC Board of Directors. An initial award of options to purchase 40,000 shares of the SSMRC's common stock with an exercise price set at the Company's current valuation will be awarded to you subject to Board of Director approval and your agreement to the SSMRC Stock Option Agreement to be provided to you. These options have a ten-year term and will vest over four years at 25% of the total award per annum. Future equity awards are awarded at the discretion of the SSMRC board of directors, and are expected to be granted in the form of stock options in SSMRC's common stock.</p>
Education and Other Benefits:	<p>The Company will reimburse you up to \$1,800 per month (reviewed annually) for the cost of schooling for your three children.</p> <p>You will be provided with a Company vehicle for your use.</p> <p>You, your spouse, and children will be entitled to two roundtrip economy class flights to your home base of Lima, Peru annually beginning July 1, 2015.</p>

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Severance Arrangements:	<p>If your employment is terminated by the Company without Cause (as defined under Mexican employment law), you shall be entitled to:</p> <ul style="list-style-type: none"> <li>• Any unpaid portion of your current year salary earned to your final employment date,</li> <li>• Twelve (12) months base salary,</li> <li>• Incentive bonus, if any, awarded and unpaid from a prior year,</li> <li>• Pro-rated incentive bonus, if any, for the year of termination,</li> <li>• Continuation of group medical, dental and vision insurance benefits, subject to any restrictions or limitations imposed by the Company's insurers, for a period of up to one year, and</li> <li>• The reasonable cost of moving your household goods, but not the furniture purchased by the Company for your housing in Mexico, and economy class flights for you and your family to Lima, Peru.</li> </ul> <p>If your employment is terminated with Cause, or if you terminate your employment with the Company, you shall be entitled to your current year salary earned to your final employment date.</p> <p>You agree to give the Company at least 30 days' notice of your resignation.</p>
Non-Disclosure:	<p>In the course of your employment you will become familiar with information about our businesses, properties, financial condition and exploration and other business opportunities that is not public ("Confidential Information"). You agree that you will keep this information confidential and not disclose this Confidential Information to third parties during your employment and for a period of three years following termination of your employment.</p>
Relocation:	<p>The Company will provide you and your wife one visit to Chihuahua (economy class flights) to select housing for the duration of your assignment.</p> <p>The Company will provide up to \$2,400 per month (to be reviewed annually) toward housing in Chihuahua for the duration of your employment in Mexico. In addition, the Company will provide up to \$15,000 toward furniture to be used exclusively in the housing you select. Such furniture will be the property of the Company.</p> <p>The Company will provide you with a forgivable loan to pay the reasonable costs of: 1) up to \$15,000 of furniture to be</p>

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used exclusively in the housing you select, and 2) relocation (economy class flights) for you, your family and household goods from Medellin, Columbia to Chihuahua, Mexico.

Based upon three cost estimates you obtain for relocation of your household goods, you and the Company will select the service provider for such household goods relocation.

Such furniture and relocation costs will be repaid by you to the Company should you resign without Cause or be terminated with Cause before six months of your initial employment date. After your initial six months of employment, your furniture and relocation loan will be forgiven in equal increments over the subsequent eighteen months.

Any representations or terms of employment contrary or in addition to those contained in this letter, which may have been made to you, are superseded by this offer.

If you have any questions regarding this conditional offer of employment, please do not hesitate to contact me, If it is acceptable, please sign below signifying your acceptance and return it to me no later than April 24, 2015. If you accept this offer, the terms described in this letter constitute the terms of your employment with the Company.

We welcome you to the SSMRC team.

Very truly yours,



For Stephen Orr

Stephen Orr  
Chief Executive Officer & Executive Chairman  
Sunshine Silver Mining & Refining Corporation

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I accept this offer of employment with the understanding that it is not an employment contract, either express or implied. I understand that either I or the Company may terminate my employment at any time, for any reason, with or without reason and with or without notice.

/s/ Luis Felipe Huerta  
Luis Felipe Huerta

MEDELLIN APRIL 23, 2015  
Date

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**THIS WAIVER NO. 4 TO THE REVOLVING CREDIT FACILITY** (this “**Waiver**”) is dated April 13, 2023 (the “**Effective Date**”) and made between:

- (1) **GATOS SILVER, INC.**, a corporation existing under the Laws of Delaware, and its successors and permitted assigns (the “**Borrower**”);
- (2) **CERTAIN SUBSIDIARIES OF THE BORROWER** from time to time, (collectively, the “**Guarantors**”);
- (3) **BANK OF MONTREAL, CHICAGO BRANCH** and **CERTAIN FINANCIAL INSTITUTIONS** from time to time, as lenders (the “**Lenders**”);
- (4) **BANK OF MONTREAL, CHICAGO BRANCH** as bookrunner and mandated lead arranger (the “**Arranger**”); and
- (5) **BANK OF MONTREAL, CHICAGO BRANCH**, in its capacity as administrative agent for and on behalf of the Lenders (the “**Administrative Agent**”).

**RECITALS:**

- (A) Certain credit facilities were made available to the Borrower pursuant to the amended and restated revolving credit facility dated as of December 20, 2022 (the “**Facility Agreement**”) among, *inter alia*, the Borrower, as borrower, the Guarantors, as guarantors (the Borrower and the Guarantors, collectively, the “**Obligors**”), the Administrative Agent, as administrative agent, the Arranger, as Bookrunner and mandated lead arranger, and the Lenders, as lenders.
- (B) Pursuant to Section 11.1(b)(vi) the Borrower was to provide no later than April 15, 2023, audited consolidated financial statements of the Borrower and audited combined financial statements of the LGJV, together with the auditors’ report on such audited financial statements in form satisfactory to the Majority Lenders, acting reasonably, for the 2021 Fiscal Year.
- (C) Pursuant to Section 11.1(b)(vii) the Borrower was to provide no later than April 30, 2023, audited consolidated financial statements of the Borrower and audited combined financial statements of the LGJV, together with the auditors’ report on such audited financial statements in form satisfactory to the Majority Lenders, acting reasonably, for the 2022 Fiscal Year; and unaudited consolidated financial statements of the Borrower and unaudited combined financial statements of the LGJV in form satisfactory to the Majority Lenders, acting reasonably, for the first three Fiscal Quarters of the 2022 Fiscal Year;
- (D) The Borrower has requested a further waiver of its obligations under Sections 11.1(b)(vi) and 11.1(b)(vii) from April 15, 2023 and April 30, 2023, respectively, to May 15, 2023.
- (E) The Administrative Agent and each of the Lenders are willing to agree, subject to the terms and conditions set forth in this Waiver, to provide certain waivers to the Facility Agreement as set forth in this Agreement.

**NOW THEREFORE**, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

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**1 Interpretation**

- 1.1 Capitalized terms used in this Waiver and not otherwise defined have the meanings given to them in the Facility Agreement.
- 1.2 This Waiver constitutes a Credit Document under the Facility Agreement and the other Finance Documents.
- 1.3 The recitals and statements set out above are true and correct and are hereby incorporated into this Waiver.

**2 Waiver**

In reliance by the Lenders and the Administrative Agent on the representations and warranties made by the Borrower in Section 3, and notwithstanding anything to the contrary in the Facility Agreement or any Finance Document, the Administrative Agent and the Lenders hereby waive the Borrower's obligations to deliver financial statements under Sections 11.1(b)(vi) and 11.1(b)(vii); provided, however, that the Borrower shall furnish the financial statements required to be furnished under Sections 11.1(b)(vi) and 11.1(b)(vii) as soon as practicable and, in any event, no later than May 15, 2023.

**3 Representations and Warranties**

- 3.1 Each Obligor represents and warrants to the Administrative Agent and the Lenders as follows:
  - (a) the recitals to this Waiver are true and complete;
  - (b) the representations and warranties of the Obligors contained in the Finance Documents are true and complete and are not misleading as of the Effective Date, other than to the extent such representations and warranties of the Obligors are not true and complete as a result solely of the Mineral Reserve Estimate Defaults, including, without limitation, any action, suit, inquiry, claim or other proceeding arising out of the Mineral Reserve Estimate Defaults for which no judgment or award has been granted against any Obligor, and which is being diligently contested in good faith by appropriate proceedings by the Borrower;
  - (c) each Obligor is in full compliance with all of its covenants in the Finance Documents, other than as waived by the Facility Agreement and herein; and
  - (d) no Default or Event of Default, other than as waived by the Facility Agreement and herein, has occurred or is continuing or would result from the execution and delivery of this Waiver.

**4 Continuing Obligations**

- 4.1 The matters granted in this Waiver are strictly limited to the matters and upon the conditions set out herein and shall not be construed as the granting of or a right to any waiver of any other provision.
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4.2 Except as expressly provided in Section 2 above, nothing in this Waiver shall constitute an amendment, waiver, consent or release of any provision of, or any right or remedy of any party to the Facility Agreement, nor otherwise prejudice any right or remedy of any Finance Party under the Facility Agreement or any Finance Document.

4.3 Save to the extent varied or amended by this Waiver, the Facility Agreement remains in full force and effect in accordance with its terms and shall be read and construed with this Waiver as one instrument.

## **5 References to and Effect on Other Finance Documents**

5.1 On and after the effectiveness of this Waiver, each reference in the Facility Agreement to “this Agreement”, “the Revolving Credit Facility”, “hereunder”, “hereof” or words of like import referring to the Facility Agreement, and each reference in the other Finance Documents to “Facility Agreement”, “Credit Agreement”, “thereunder”, “thereof” or words of like import referring to the Facility Agreement, shall mean and be a reference to the Facility Agreement, as modified by this Waiver.

5.2 The Facility Agreement, as specifically modified by this Waiver, is and shall continue to be in full force and effect and is hereby in all respects ratified and confirmed. Without limiting the generality of the foregoing, the Security Documents shall continue to secure the payment of all obligations of the Obligors and Gatos Canada under the Finance Documents, as modified by this Waiver.

5.3 The execution, delivery and effectiveness of this Waiver shall not, except as expressly provided herein: (i) operate as a waiver of any right, power or remedy of any of the Finance Parties under any of the Finance Documents, nor constitute a waiver of any provision of any of the Finance Documents, (ii) prejudice any other right, power or remedy which the Finance Parties now have or may have in the future under or in connection with the Facility Agreement or the other Finance Documents, (iii) operate as a forbearance with respect to any of its rights or remedies concerning any Events of Default which may have occurred or are continuing as of the date hereof or which may occur after the date hereof, or (iv) be a novation of the obligations of the Obligors or Gatos Canada under any of the Finance Documents.

## **6 Incorporation by Reference**

Sections 1.5 (*Currency*), 1.6 (*Applicable Law*), 1.7 (*Time of the Essence*), 16.15 (*Waivers and Amendments*), 18.2 (*Severability*), 18.3 (*Counterparts*), 18.8 (*Waiver of Jury Trial*), and 18.10 (*No Third-Party Beneficiaries*) of the Facility Agreement are hereby incorporated by reference herein, *mutatis mutandis*.

[The remainder of this page intentionally left blank.]

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IN WITNESS WHEREOF, the parties to this Waiver have executed and delivered this Waiver on the date first written above.

GATOS SILVER, INC., as Borrower

Per: \_\_\_\_\_  
Name: Andre Van Niekerk  
Title: CFO

Per: \_\_\_\_\_  
Name: Nicolas Vachon  
Title: VP Finance

*(Signature page to Waiver No. 3 to the Revolving Credit Facility)*

\_\_\_\_\_

**BANK OF MONTREAL, CHICAGO BRANCH,**  
as Lender

Per: \_\_\_\_\_  
Name:  
Title:

**BANK OF MONTREAL, CHICAGO BRANCH,**  
as Administrative Agent

Per: \_\_\_\_\_  
Name:  
Title:

*(Signature page to Waiver No. 3 to the Revolving Credit Facility)*

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THIS WAIVER NO. 5 TO THE REVOLVING CREDIT FACILITY (this "**Waiver**") is dated May 15, 2023 (the "**Effective Date**") and made between:

- (1) **GATOS SILVER, INC.**, a corporation existing under the Laws of Delaware, and its successors and permitted assigns (the "**Borrower**");
- (2) **CERTAIN SUBSIDIARIES OF THE BORROWER** from time to time, (collectively, the "**Guarantors**");
- (3) **BANK OF MONTREAL, CHICAGO BRANCH** and **CERTAIN FINANCIAL INSTITUTIONS** from time to time, as lenders (the "**Lenders**");
- (4) **BANK OF MONTREAL, CHICAGO BRANCH** as bookrunner and mandated lead arranger (the "**Arranger**"); and
- (5) **BANK OF MONTREAL, CHICAGO BRANCH**, in its capacity as administrative agent for and on behalf of the Lenders (the "**Administrative Agent**").

**RECITALS:**

- (A) Certain credit facilities were made available to the Borrower pursuant to the amended and restated revolving credit facility dated as of December 20, 2022 (the "**Facility Agreement**") among, *inter alia*, the Borrower, as borrower, the Guarantors, as guarantors (the Borrower and the Guarantors, collectively, the "**Obligors**"), the Administrative Agent, as administrative agent, the Arranger, as Bookrunner and mandated lead arranger, and the Lenders, as lenders.
  - (B) Pursuant to Section 11.1(b)(ii), the Borrower was to provide no later than May 15, 2023, audited consolidated financial statements of the Borrower and unaudited combined financial statements of the LGJV in form satisfactory to the Majority Lenders, acting reasonably, for the first Fiscal Quarter of the 2023 Fiscal Year.
  - (C) Pursuant to Section 11.1(b)(iii) the Borrower was to provide, concurrently with the deliveries of financial statements pursuant to Sections 11.1(b)(ii), 11.1(b)(vi) and 11.1(b)(vii), a duly executed and completed compliance certificate, in the form attached as Schedule C and signed by a senior financial officer of the Borrower and written notification of any material change in the information certified in the Disclosure Certificate.
  - (D) Pursuant to Section 11.1(b)(vi) the Borrower was to provide no later than April 15, 2023, audited consolidated financial statements of the Borrower and audited combined financial statements of the LGJV, together with the auditors' report on such audited financial statements in form satisfactory to the Majority Lenders, acting reasonably, for the 2021 Fiscal Year.
  - (E) Pursuant to Section 11.1(b)(vii) the Borrower was to provide no later than April 30, 2023, audited consolidated financial statements of the Borrower and audited combined financial statements of the LGJV, together with the auditors' report on such audited financial statements in form satisfactory to the Majority Lenders, acting reasonably, for the 2022 Fiscal Year; and unaudited consolidated financial statements of the Borrower and unaudited combined financial statements of the LGJV in form satisfactory to the Majority Lenders, acting reasonably, for the first three Fiscal Quarters of the 2022 Fiscal Year.
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- (F) Pursuant to a request by the Borrower, on April 13, 2023, the Borrower was granted a waiver of its obligations under Sections 11.1(b)(vi) and 11.1(b)(vii) from April 15, 2023 and April 30, 2023, respectively, to May 15, 2023.
- (G) The Borrower has requested a waiver of its obligations under Sections 11.1(b)(ii), and a further waiver of its obligations under Sections 11.1(b)(vi) and 11.1(b)(vii), each from May 15, 2023, to May 31, 2023.
- (H) The Borrower has requested a waiver of its obligations under Sections 11.1(b)(iii) to provide certain compliance certificates in connection with certain deliveries under Sections 11.1(b)(ii), 11.1(b)(vi) and 11.1(b)(vii).
- (I) The Administrative Agent and each of the Lenders are willing to agree, subject to the terms and conditions set forth in this Waiver, to provide certain waivers to the Facility Agreement as set forth in this Agreement.

**NOW THEREFORE**, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

**1 Interpretation**

- 1.1 Capitalized terms used in this Waiver and not otherwise defined have the meanings given to them in the Facility Agreement.
- 1.2 This Waiver constitutes a Credit Document under the Facility Agreement and the other Finance Documents.
- 1.3 The recitals and statements set out above are true and correct and are hereby incorporated into this Waiver.

**2 Waiver re Financial Statements**

In reliance by the Lenders and the Administrative Agent on the representations and warranties made by the Borrower in Section 4, and notwithstanding anything to the contrary in the Facility Agreement or any Finance Document, the Administrative Agent and the Lenders hereby waive the Borrower's obligations to deliver financial statements under Sections 11.1(b)(ii), 11.1(b)(vi) and 11.1(b)(vii); provided, however, that:

- (a) the Borrower shall furnish the financial statements required to be furnished under Sections 11.1(b)(ii), 11.1(b)(vi) and 11.1(b)(vii) as soon as practicable and, in any event, no later than May 31, 2023; and
  - (b) the Borrower shall furnish duly executed and completed compliance certificates, in the form attached as Schedule C to Facility Agreement and signed by a senior financial officer of the Borrower and written notifications of any material change in the information certified in the Disclosure Certificate, for the 2022 Fiscal Year and for the first Fiscal Quarter of the 2023 Fiscal Year as soon as practicable and, in any event, no later than May 31, 2023.
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### **3 Waiver re Compliance Certificates**

In reliance by the Lenders and the Administrative Agent on the representations and warranties made by the Borrower in Section 4, and notwithstanding anything to the contrary in the Facility Agreement or any Finance Document, the Administrative Agent and the Lenders hereby waive the Borrower's obligations to furnish duly executed and completed compliance certificates and written notifications of any material change in the information certified in the Disclosure Certificate under Sections 11.1(b)(iii) concurrently with the deliveries under Section 11.1(b)(vi) and Section 11.1(b)(vii)(B).

### **4 Representations and Warranties**

4.1 Each Obligor represents and warrants to the Administrative Agent and the Lenders as follows:

- (a) the recitals to this Waiver are true and complete;
- (b) the representations and warranties of the Obligors contained in the Finance Documents are true and complete and are not misleading as of the Effective Date, other than to the extent such representations and warranties of the Obligors are not true and complete as a result solely of the Mineral Reserve Estimate Defaults, including, without limitation, any action, suit, inquiry, claim or other proceeding arising out of the Mineral Reserve Estimate Defaults for which no judgment or award has been granted against any Obligor, and which is being diligently contested in good faith by appropriate proceedings by the Borrower;
- (c) each Obligor is in full compliance with all of its covenants in the Finance Documents, other than as waived by the Facility Agreement and herein; and
- (d) no Default or Event of Default, other than as waived by the Facility Agreement and herein, has occurred or is continuing or would result from the execution and delivery of this Waiver.

### **5 Continuing Obligations**

- 5.1 The matters granted in this Waiver are strictly limited to the matters and upon the conditions set out herein and shall not be construed as the granting of or a right to any waiver of any other provision.
  - 5.2 Except as expressly provided in Section 2 above, nothing in this Waiver shall constitute an amendment, waiver, consent or release of any provision of, or any right or remedy of any party to the Facility Agreement, nor otherwise prejudice any right or remedy of any Finance Party under the Facility Agreement or any Finance Document.
  - 5.3 Save to the extent varied or amended by this Waiver, the Facility Agreement remains in full force and effect in accordance with its terms and shall be read and construed with this Waiver as one instrument.
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**6 References to and Effect on Other Finance Documents**

- 6.1 On and after the effectiveness of this Waiver, each reference in the Facility Agreement to "this Agreement", "the Revolving Credit Facility", "hereunder", "hereof" or words of like import referring to the Facility Agreement, and each reference in the other Finance Documents to "Facility Agreement", "Credit Agreement", "thereunder", "thereof" or words of like import referring to the Facility Agreement, shall mean and be a reference to the Facility Agreement, as modified by this Waiver.
- 6.2 The Facility Agreement, as specifically modified by this Waiver, is and shall continue to be in full force and effect and is hereby in all respects ratified and confirmed. Without limiting the generality of the foregoing, the Security Documents shall continue to secure the payment of all obligations of the Obligors and Gatos Canada under the Finance Documents, as modified by this Waiver.
- 6.3 The execution, delivery and effectiveness of this Waiver shall not, except as expressly provided herein: (i) operate as a waiver of any right, power or remedy of any of the Finance Parties under any of the Finance Documents, nor constitute a waiver of any provision of any of the Finance Documents, (ii) prejudice any other right, power or remedy which the Finance Parties now have or may have in the future under or in connection with the Facility Agreement or the other Finance Documents, (iii) operate as a forbearance with respect to any of its rights or remedies concerning any Events of Default which may have occurred or are continuing as of the date hereof or which may occur after the date hereof, or (iv) be a novation of the obligations of the Obligors or Gatos Canada under any of the Finance Documents.

**7 Incorporation by Reference**

Sections 1.5 (*Currency*), 1.6 (*Applicable Law*), 1.7 (*Time of the Essence*), 16.15 (*Waivers and Amendments*), 18.2 (*Severability*), 18.3 (*Counterparts*), 18.8 (*Waiver of Jury Trial*), and 18.10 (*No Third-Party Beneficiaries*) of the Facility Agreement are hereby incorporated by reference herein, *mutatis mutandis*.

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IN WITNESS WHEREOF, the parties to this Waiver have executed and delivered this Waiver on the date first written above.

IN WITNESS WHEREOF, the parties to this Waiver have executed and delivered this Waiver on the date first written above.

GATOS SILVER, INC., as Borrower

Per: /s/ "André van Niekerk"  
Name: André van Niekerk  
Title: Chief Financial Officer

Per: /s/ "Nicolas Vachon"  
Name: Nicolas Vachon  
Title: Vice President, Finance

*(Signature page to Waiver No. 5 to the Revolving Credit Facility)*

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**BANK OF MONTREAL, CHICAGO BRANCH,**  
as Lender

Per: /s/ "Grace Chan"

Name: Grace Chan

Title: Vice President, Corporate Banking

**BANK OF MONTREAL, CHICAGO BRANCH,**  
as Administrative Agent

Per: /s/ "Grace Chan"

Name: Grace Chan

Title: Vice President, Corporate Banking

*(Signature page to Waiver No. 5 to the Revolving Credit Facility)*

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**THIS WAIVER NO. 6 TO THE REVOLVING CREDIT FACILITY** (this "**Waiver**") is dated May 31, 2023 (the "**Effective Date**") and made between:

- (1) **GATOS SILVER, INC.**, a corporation existing under the Laws of Delaware, and its successors and permitted assigns (the "**Borrower**");
- (2) **CERTAIN SUBSIDIARIES OF THE BORROWER** from time to time, (collectively, the "**Guarantors**");
- (3) **BANK OF MONTREAL, CHICAGO BRANCH** and **CERTAIN FINANCIAL INSTITUTIONS** from time to time, as lenders (the "**Lenders**");
- (4) **BANK OF MONTREAL, CHICAGO BRANCH** as bookrunner and mandated lead arranger (the "**Arranger**"); and
- (5) **BANK OF MONTREAL, CHICAGO BRANCH**, in its capacity as administrative agent for and on behalf of the Lenders (the "**Administrative Agent**").

**RECITALS:**

- (A) Certain credit facilities were made available to the Borrower pursuant to the amended and restated revolving credit facility dated as of December 20, 2022 (the "**Facility Agreement**") among, *inter alia*, the Borrower, as borrower, the Guarantors, as guarantors (the Borrower and the Guarantors, collectively, the "**Obligors**"), the Administrative Agent, as administrative agent, the Arranger, as Bookrunner and mandated lead arranger, and the Lenders, as lenders.
  - (B) Pursuant to Section 11.1(b)(ii), the Borrower was to provide no later than May 15, 2023, audited consolidated financial statements of the Borrower and unaudited combined financial statements of the LGJV in form satisfactory to the Majority Lenders, acting reasonably, for the first Fiscal Quarter of the 2023 Fiscal Year.
  - (C) Pursuant to Section 11.1(b)(iii) the Borrower was to provide, concurrently with the deliveries of financial statements pursuant to Sections 11.1(b)(ii), 11.1(b)(vi) and 11.1(b)(vii), a duly executed and completed compliance certificate, in the form attached as Schedule C and signed by a senior financial officer of the Borrower and written notification of any material change in the information certified in the Disclosure Certificate.
  - (D) Pursuant to Section 11.1(b)(vi) the Borrower was to provide no later than April 15, 2023, audited consolidated financial statements of the Borrower and audited combined financial statements of the LGJV, together with the auditors' report on such audited financial statements in form satisfactory to the Majority Lenders, acting reasonably, for the 2021 Fiscal Year.
  - (E) Pursuant to Section 11.1(b)(vii) the Borrower was to provide no later than April 30, 2023, audited consolidated financial statements of the Borrower and audited combined financial statements of the LGJV, together with the auditors' report on such audited financial statements in form satisfactory to the Majority Lenders, acting reasonably, for the 2022 Fiscal Year; and unaudited consolidated financial statements of the Borrower and unaudited combined financial statements of the LGJV in form satisfactory to the Majority Lenders, acting reasonably, for the first three Fiscal Quarters of the 2022 Fiscal Year.
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- (F) Pursuant to a request by the Borrower, on April 13, 2023, the Borrower was granted a waiver of its obligations under Sections 11.1(b)(vi) and 11.1(b)(vii) from April 15, 2023 and April 30, 2023, respectively, to May 15, 2023.
- (G) On May 15, 2023, pursuant to a request by the Borrower, the Borrower was granted a waiver of its obligations under Sections 11.1(b)(ii) for the first time and a further waiver of its obligations under Sections 11.1(b)(vi) and 11.1(b)(vii), all from May 15, 2023 to May 31, 2023.
- (H) The Borrower has requested a further waiver of its obligations under Sections 11.1(b)(ii), 11.1(b)(vi) and 11.1(b)(vii), all from May 31, 2023 to July 15, 2023.
- (I) The Borrower has also requested a further waiver of its obligations under Section 11.1(b)(iii) to provide certain compliance certificates in connection with certain deliveries under Sections 11.1(b)(ii), 11.1(b)(vi) and 11.1(b)(vii).
- (J) The Administrative Agent and each of the Lenders are willing to agree, subject to the terms and conditions set forth in this Waiver, to provide certain waivers to the Facility Agreement as set forth in this Agreement.

**NOW THEREFORE**, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

**1 Interpretation**

- 1.1 Capitalized terms used in this Waiver and not otherwise defined have the meanings given to them in the Facility Agreement.
- 1.2 This Waiver constitutes a Credit Document under the Facility Agreement and the other Finance Documents.
- 1.3 The recitals and statements set out above are true and correct and are hereby incorporated into this Waiver.

**2 Waiver re Financial Statements**

In reliance by the Lenders and the Administrative Agent on the representations and warranties made by the Borrower in Section 4, and notwithstanding anything to the contrary in the Facility Agreement or any Finance Document, the Administrative Agent and the Lenders hereby waive the Borrower's obligations to deliver financial statements under Sections 11.1(b)(ii), 11.1(b)(vi) and 11.1(b)(vii); provided, however, that:

- (a) the Borrower shall furnish the financial statements required to be furnished under Sections 11.1(b)(ii), 11.1(b)(vi) and 11.1(b)(vii) as soon as practicable and, in any event, no later than July 15, 2023; and
  - (b) the Borrower shall furnish duly executed and completed compliance certificates, in the form attached as Schedule C to Facility Agreement and signed by a senior financial officer of the Borrower and written notifications of any material change in the information certified in the Disclosure Certificate, for the 2022 Fiscal Year and
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for the first Fiscal Quarter of the 2023 Fiscal Year as soon as practicable and, in any event, no later than July 15, 2023.

**3 Waiver re Compliance Certificates**

In reliance by the Lenders and the Administrative Agent on the representations and warranties made by the Borrower in Section 4, and notwithstanding anything to the contrary in the Facility Agreement or any Finance Document, the Administrative Agent and the Lenders hereby waive the Borrower's obligations to furnish duly executed and completed compliance certificates and written notifications of any material change in the information certified in the Disclosure Certificate under Sections 11.1(b)(iii) concurrently with the deliveries under Section 11.1(b)(vi) and Section 11.1(b)(vii)(B).

**4 Representations and Warranties**

4.1 Each Obligor represents and warrants to the Administrative Agent and the Lenders as follows:

- (a) the recitals to this Waiver are true and complete;
- (b) the representations and warranties of the Obligors contained in the Finance Documents are true and complete and are not misleading as of the Effective Date, other than to the extent such representations and warranties of the Obligors are not true and complete as a result solely of the Mineral Reserve Estimate Defaults, including, without limitation, any action, suit, inquiry, claim or other proceeding arising out of the Mineral Reserve Estimate Defaults for which no judgment or award has been granted against any Obligor, and which is being diligently contested in good faith by appropriate proceedings by the Borrower;
- (c) each Obligor is in full compliance with all of its covenants in the Finance Documents, other than as waived by the Facility Agreement and herein; and
- (d) no Default or Event of Default, other than as waived by the Facility Agreement and herein, has occurred or is continuing or would result from the execution and delivery of this Waiver.

**5 Continuing Obligations**

- 5.1 The matters granted in this Waiver are strictly limited to the matters and upon the conditions set out herein and shall not be construed as the granting of or a right to any waiver of any other provision.
  - 5.2 Except as expressly provided in Section 2 above, nothing in this Waiver shall constitute an amendment, waiver, consent or release of any provision of, or any right or remedy of any party to the Facility Agreement, nor otherwise prejudice any right or remedy of any Finance Party under the Facility Agreement or any Finance Document.
  - 5.3 Save to the extent varied or amended by this Waiver, the Facility Agreement remains in full force and effect in accordance with its terms and shall be read and construed with this Waiver as one instrument.
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**6 References to and Effect on Other Finance Documents**

- 6.1 On and after the effectiveness of this Waiver, each reference in the Facility Agreement to "this Agreement", "the Revolving Credit Facility", "hereunder", "hereof" or words of like import referring to the Facility Agreement, and each reference in the other Finance Documents to "Facility Agreement", "Credit Agreement", "thereunder", "thereof" or words of like import referring to the Facility Agreement, shall mean and be a reference to the Facility Agreement, as modified by this Waiver.
- 6.2 The Facility Agreement, as specifically modified by this Waiver, is and shall continue to be in full force and effect and is hereby in all respects ratified and confirmed. Without limiting the generality of the foregoing, the Security Documents shall continue to secure the payment of all obligations of the Obligor and Gatos Canada under the Finance Documents, as modified by this Waiver.
- 6.3 The execution, delivery and effectiveness of this Waiver shall not, except as expressly provided herein: (i) operate as a waiver of any right, power or remedy of any of the Finance Parties under any of the Finance Documents, nor constitute a waiver of any provision of any of the Finance Documents, (ii) prejudice any other right, power or remedy which the Finance Parties now have or may have in the future under or in connection with the Facility Agreement or the other Finance Documents, (iii) operate as a forbearance with respect to any of its rights or remedies concerning any Events of Default which may have occurred or are continuing as of the date hereof or which may occur after the date hereof, or (iv) be a novation of the obligations of the Obligor or Gatos Canada under any of the Finance Documents.

**7 Incorporation by Reference**

Sections 1.5 (*Currency*), 1.6 (*Applicable Law*), 1.7 (*Time of the Essence*), 16.15 (*Waivers and Amendments*), 18.2 (*Severability*), 18.3 (*Counterparts*), 18.8 (*Waiver of Jury Trial*), and 18.10 (*No Third-Party Beneficiaries*) of the Facility Agreement are hereby incorporated by reference herein, *mutatis mutandis*.

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IN WITNESS WHEREOF, the parties to this Waiver have executed and delivered this Waiver on the date first written above.

GATOS SILVER, INC., as Borrower

Per: /s/ "André van Niekerk"  
Name: André van Niekerk  
Title: Chief Financial Officer

Per: /s/ "Nicolas Vachon"  
Name: Nicolas Vachon  
Title: Vice President, Finance

(Signature page to Waiver No. 6 to the Revolving Credit Facility)

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**BANK OF MONTREAL, CHICAGO BRANCH,**  
as Lender

Per: /s/ "Grace Chan"  
Name: Grace Chan  
Title: Vice President, Corporate Banking

**BANK OF MONTREAL, CHICAGO BRANCH,**  
as Administrative Agent

Per: /s/ "Grace Chan"  
Name: Grace Chan  
Title: Vice President, Corporate Banking

*(Signature page to Waiver No. 6 to the Revolving Credit Facility)*

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## List of Subsidiaries

Subsidiary	Jurisdiction of Incorporation
Minera Luz del Sol, S. de R.L. de C.V.	Mexico
Gatos Silver Canada Corporation	Canada

**Consent of Independent Registered Public Accounting Firm**

We consent to the incorporation by reference in the following Registration Statements:

1. Registration Statement on Form S-3 (No. 333-261081) of Gatos Silver, Inc., and
2. Registration Statements on Form S-8 (Nos. 333-249781 and 333-249782) of Gatos Silver, Inc.

of our report dated June 26, 2023, 2023 with respect to the consolidated financial statements of Gatos Silver, Inc. included in this Annual Report on (Form 10-K) for the year ended December 31, 2022.

/s/ Ernst and Young LLP

Chartered Professional Accountants, Licensed Public Accountants Toronto, Canada  
June 26, 2023

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**CERTIFICATION PURSUANT TO  
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Dale Andres, certify that:

1. I have reviewed this Annual Report on Form 10-K of Gatos Silver, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15(d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: June 26, 2023

By: /s/ Dale Andres  
Dale Andres  
Chief Executive Officer

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1. I have reviewed this Annual Report on Form 10-K of Gatos Silver, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

By: /s/ André van Niekerk  
 André van Niekerk  
 Chief Financial Officer

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of Gatos Silver, Inc. (the “Company”) on Form 10-K for the fiscal year ended December 31, 2022, as filed with the Securities and Exchange Commission on the date hereof (the “Report”), Dale Andres, as Chief Executive Officer of the Company, and André van Niekerk, as Chief Financial Officer of the Company, each hereby certifies, pursuant to and solely for the purpose of 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Dale Andres

Dale Andres  
Chief Executive Officer  
June 26, 2023

/s/ André van Niekerk

André van Niekerk  
Chief Financial Officer  
June 26, 2023

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