ECORA RESOURCES PLC

COMPETITION LAW COMPLIANCE POLICY

1. WHO DOES THIS POLICY APPLY TO?

1.1 This Policy applies to Ecora Resources PLC ("**the Company**") and all of its subsidiaries (together "**the Group**") and captures activities in all countries in which the Group operates.

1.2 It is therefore everyone's responsibility to be alert to risks of infringing competition law. You should read this Policy carefully, and familiarise yourself with the examples of unlawful conduct. All directors, employees, temporary agency/contract basis personnel, consultants, intermediaries and agents acting on behalf of the Company (together "**Workers**") must comply with this Policy.

1.3 Each Worker whose (new) job role means that they are at risk of engaging in anti-competitive behaviour shall receive competition law compliance training.

2. WHY IS COMPLIANCE WITH COMPETITION LAW IMPORTANT?

2.1 The Company operates a zero tolerance approach to infringing competition law. This Policy sets out the general rules and principles to which the Company adheres and with which all Workers must comply at all times.

Consequences of infringing competition law

2.2 Infringements of competition law can have serious consequences for both companies and individuals:

COMPANIES	INDIVIDUALS
Fines of up to 10% of the Group's worldwide annual turnover (the highest fine the European Commission has imposed to date is **€4.34 billion**) **Private damages** actions by consumers or competitors following infringements of competition law – these are increasingly common **Time consuming and costly investigations** by competition authorities on both a domestic (e.g. the Competition and Markets Authority ("**CMA**")) and on an international level (e.g. EU Commission and other national competition authorities)	Criminal sanctions incl. **imprisonment of up to 5 years**, unlimited fines, and confiscation of proceeds for cartel activity **Disqualification of directors** **Damage to reputation**

Unenforceability of agreements that are anti-competitive **Disqualification** from public tenders **Damage to reputation**	

3. TYPES OF UNLAWFUL ANTI-COMPETITIVE BEHAVIOUR

3.1 Under competition law, a distinction is made between horizontal agreements (agreements with competitors) and vertical agreements (agreements with non-competitors such as operators or suppliers). This Policy outlines the types of conduct on a horizontal (see sections 3.2 to 3.25) and vertical level (see sections 3.26 to 3.27) which may give rise to competition law infringements.

Horizonal Agreements

3.2 Horizontal agreements are agreements between competitors. In the case of the Group, this principally relates to agreements with other providers of royalty finance to mining companies.

3.3 Horizontal agreements are very likely to infringe competition law if they involve the types of conduct described in 3.5 a) (cartels) and 3.5 b) (sharing competitively sensitive information) below.

3.4 Other types of horizontal agreement may also infringe competition law. However, this is considerably less likely. For example, collaborations between competitors to provide a service which they could not provide independently is unlikely to restrict competition (provided the parties do not agree to restrict competition between them with respect to unrelated activities). For similar reasons, agreements between royalty funders to jointly fund projects will generally not be problematic, subject to care being taken not to share unnecessary competitively sensitive information, as discussed further below.

3.5 Note these examples are not exhaustive.

(a) **Cartels**

These are the most serious types of infringement including both formal and informal agreements (including understandings or "gentlemen's agreements") between competitors relating to:

(i) price fixing (agreeing minimum or fixed royalty rates or any other pricing element)

(ii) sharing/dividing up markets (whether geographically or by product/market)

(iii) sharing/dividing out mining companies

(iv) bid rigging (e.g. A will refrain from bidding on Project X if B refrains from bidding on Project Y, or "cover pricing", whereby A agrees to submit a false bid, which they know will be too high to win the tender, in order to make the bid submitted by B (A's competitor) look more attractive) **–** however, joint bidding with another royalty funder on an open basis will generally be permissible

(v) agreeing to boycott a mining company.[1]

Cartels are assumed to have anti-competitive effects, regardless of the parties' size, market shares or intentions, as they directly restrict or distort the process of competitive rivalry. Heavy fines and damages actions from third parties are also likely to follow.

(b) **Sharing competitively sensitive information** ("**CSI**")

3.6 Competition law in many jurisdictions (including most in Europe) prohibits certain kinds of information sharing between competitors. This is because it may distort the competitive process by removing or reducing uncertainty as to how competitors will act, which can reduce the extent of competitive pressure. For example, it may result in prices being higher than they otherwise would have been.

3.7 However, only the provision of CSI is likely to have such effects and therefore it is only the sharing of CSI which may be prohibited.

3.8 **What is CSI?**

CSI is any confidential information the disclosure of which may influence market conduct or strategic behaviour of competitors. The key categories of CSI relevant to the Company[2] are those set out below (in so far as the information is **NOT** in the public domain):
information relating to royalty payments to the Company, particularly proposed/future royalty payments, including rates, percentages, values and how they are calculated other information about funding provided by the Company including terms of financing of mining projects (such as liability caps and interest rates) marketing plans/business or pricing strategy margins and profitability detailed cost information

3.9 The **most dangerous information to share** with competitors is **future pricing information**. In Europe, sharing information relating to future/intended prices will generally be viewed as analogous to a cartel and will also be assumed to have anti-competitive effects, regardless of the parties' size or market shares, actual effects of the conduct or the parties' intentions. However, note the comments with respect to Jointly Funded Projects (see section 3.15) below.

Direct and indirect sharing of CSI

3.10 Even where there is no agreement to act on the market in a particular way, companies may be liable for sharing CSI either directly or indirectly (through operators, suppliers or other third parties).

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1 This is to be distinguished from situations where the Company independently decides not to engage with a mining company.

2 These categories of CSI have been extrapolated from case law and the guidance of the EU Commission and are tailored to the Company.

3.11 The question to be asked is if any sharing of CSI may enable a business to better understand the strategy of its competitor or lead to a coordination of future behaviour.

3.12 However, if an operator, on its own initiative, provides information about the Group's competitors (for example in the context of a price negotiation), that information may be accepted by the Company provided (i) the Company does not contact the competitor to verify the information, (ii) receipt of such information is an isolated event (and not part of the Company's ordinary course of dealings), and (iii) the incident does not give rise to any expectation that the operator will provide such information about the Company's competitors in the future.

3.13 In addition to direct or indirect sharing of the Group's CSI with competitors, you must also ensure that you do not act as an intermediary for the exchange of CSI between mining companies.

One-off and one-way exchanges

3.14 It is important to appreciate that an "exchange" of information is not necessary to constitute an infringement. This is the case even if there is no intention to use the information received in an anti-competitive way. Purely one-way provision or receipt of CSI may constitute an infringement. In addition, even a single occurrence of information sharing may be unlawful. Competition authorities in Europe have adopted a very stringent approach to sharing and receipt of CSI – the recipient of CSI is expected to "publicly distance" itself from such CSI (see sections 3.20 to 3.25 below).

Jointly Funded Projects

3.15 As noted above, agreements between royalty funders to jointly fund projects will generally not be problematic, provided care is taken not to share unnecessary CSI. The only CSI that should be shared is that which is strictly required in order to negotiate the funding of the project – i.e.: specific information in relation to a previous project, the way in which it was funded or the Company's general approach to matters should not be shared. In this respect, joint funding by a number of royalty funders is similar to syndicated lending by banks, which has been a recent focus for competition regulators, including the European Commission and the Financial Conduct Authority in the UK.

3.16 A key practical step to minimise concerns is to ensure that, before any steps are taken to put together a joint funding group, or participate in discussions about possible joint funding, express consent from the relevant mining company has been obtained to engage in such discussions, including as to the terms on which funding may be provided for the particular project, and with which possible funders (which sometimes may be all possible funders). If possible, the consent should be obtained in writing. If consent is provided orally, make your own record of the consent, and share it with the mining company.

3.17 Discussions with other potential funders should not go beyond the scope of the consent provided by the mining company. For example, they should not relate to other potential projects for which consent has not been obtained, or ancillary services not covered by the consent. Nor should they relate to pricing strategy/approach generally.

3.18 If a mining company is running a competition or tender process for funding and you are looking to put together a funding group, care is required not to discuss any pricing information with potential joint funders until you have clarified that the funder is not

competing with the Group to be the lead funder. That is one reason why it is helpful to clarify with the mining company which potential joint funders you may speak to.

3.19 A further safeguard that the Group may adopt includes ensuring that NDAs are in place with all participants in discussions relating to possible joint funding to ensure that CSI is not shared with other parties.

Steps to take if you receive CSI: Public distancing

3.20 If during a **meeting/call** you receive directly from a competitor CSI in relation to that competitor of a type you consider you should not be receiving (as noted above, some sharing of CSI is permitted in the context of jointly funded projects) and you are certain you have not previously received, you should **immediately object** to the provision of the CSI.

3.21 If discussions of CSI do not terminate, or you are unsure if this type of CSI has been shared previously, **leave the meeting** straightaway, ensuring that any minutes of the meeting adequately reflect your departure at the relevant time and immediately contact your General Counsel.

3.22 Always **keep an internal note** setting out what happened, including your objection/departure.

3.23 If CSI is received from a competitor via **written communications**, similar actions are likely to be appropriate, but you must contact the General Counsel immediately, who will advise you how to proceed.

3.24 Ensure that agendas are circulated in advance of meetings with competitors and keep records of attendance.

3.25 For a complete discussion of meetings as part of industry forums and trade associations, please refer to our separate "Policy on Attending Industry Forums and Trade Association Meetings".

List of Do's and Don'ts

DO NOT	YOU MAY
enter into agreements or discussions with competitors which may have the effect of fixing prices, royalty rates or allocating operators, commodities or geographic territories	accept CSI of competitors volunteered by mining companies provided this is done in the context of ongoing negotiations to win or retain business
agree, discuss, or share any CSI with competitors, other than as permitted in the context of Jointly Funded Projects, as discussed above	decide not to supply certain markets or geographic areas provided this is not a result of an agreement or discussion with a competitor
forget that anti-competitive exchanges of CSI often occur in the context of informal meetings, social gatherings or trade association or industry meetings	adjust your pricing strategy provided this is done independently of any competitor

Vertical Agreements

3.26 Agreements between companies which are not competitors, such as agreements with operators or suppliers, are known as vertical agreements. These may be prohibited where they have the effect of preventing, restricting or distorting competition.

3.27 Vertical agreements are considerably less likely than horizontal agreements to restrict competition. However, agreements under which operators are restricted in their ability to obtain finance from others, or under which the Group is restricted from providing finance to others (for example, exclusive dealing arrangements), may infringe competition law. Always contact your General Counsel if you are aware of any such provisions or intend to apply them.

Abuse of dominant position

3.28 The points below are relevant if the Group may have market power (is "**dominant**") or when dealing with counter-parties who may be in such a position.

3.29 Dominance is usually assessed primarily by reference to market shares - a **40%** market share is an indicator of dominance, but is not conclusive. A stable market share above 50% is presumed to give rise to dominance in Europe. But the assessment is also subject to other factors such as barriers to entry and the bargaining strength of operators. The Group is not currently considered to be dominant, but this will be kept under review.

3.30 Holding a dominant market position is not prohibited in and of itself. However, if a dominant company engages in any of the following types of conduct, it may infringe competition law:

(a) Exclusivity provisions (particularly where these are longer term)

(b) "Tying" (making the purchase of one service conditional on purchasing another service)

(c) Pricing below costs ("predation")

(d) Refusal to supply without any objective justification

(e) Discrimination between operators (e.g. providing different funding arrangements or imposing other unfair conditions) without any objective justification

(f) Incentives (e.g. rebates/discounts) that would lead an operator to place all or most of its requirements with the dominant company

(g) "Excessive pricing" (i.e. prices not bearing a reasonable relation to the economic value or cost of the service/product).

Many of these types of anti-competitive behaviour can lead to competitors being shut out ("foreclosed") from the market. Companies that are dominant have a "special responsibility" to ensure they do not distort competition.

4. POWERS OF COMPETITION AUTHORITIES IN CARRYING OUT INVESTIGATIONS

4.1 Competition authorities have a wide range of powers which they can use to investigate and prosecute potential infringements of competition law. For example, they may:

- conduct so-called "dawn raids", i.e. on the spot investigations (with or without a warrant or notice) by entering premises owned or leased by the relevant business to search for relevant evidence;
- examine a company's documentation (including e.g. correspondence, memoranda, records of internal and/or external meetings, financial documents) relating to the business activities of the undertaking, irrespective of how information is stored (including email accounts, workstations, servers, local drives and mobile devices);
- take hard and/or electronic copies of the documentation that directly or indirectly relates to the subject-matter and the scope of the inspection;
- seal any business premises and books or records during a dawn raid (normally for no more than 72 hours);
- ask employees oral questions about facts and documents and carry out employee interviews; and
- send out written requests for information requiring production of information including business reports, copies of emails and other internal data. It is normally mandatory to respond to such requests.

4.2 In addition, competition authorities, such as the European Commission and the CMA, operate **leniency programmes** under which entities that have infringed competition law can admit their guilt in return for immunity from (or reduction in) fines. Many competition law investigations commence as a result of leniency applications.

4.3 Finally, note that **parallel investigations** by more than one competition authority are possible.

5. WHO TO CONTACT

5.1 Contact the Company's General Counsel by phone or in person if you:

- suspect any activity, transaction or course of dealing would infringe competition law
- receive CSI relating to a competitor whether orally or in writing and whether directly from your competitor or otherwise
- are considering entering into any form of cooperation agreement with a competitor.

5.2 Never assume that a justification exists. Always seek legal advice if you have any concerns.