

TO: Nova Resources B.V. ("**Bidco**")  
and  
KAZ Minerals PLC ("**KAZ Minerals**")

28 October 2020

Dear Sir/Madam

## **Proposed acquisition of KAZ Minerals**

### **1. OFFER**

In this undertaking (the "**Undertaking**"), the "**Acquisition**" means the proposed acquisition by Bidco (a company formed and controlled by a consortium of investors consisting of Oleg Novachuk and Vladimir Kim (the "**Consortium**")) of all the issued and to be issued ordinary share capital of KAZ Minerals not already owned or controlled by the Consortium, to be implemented by way of a court sanctioned scheme of arrangement under Part 26 of the Companies Act 2006 (the "**Scheme**") between KAZ Minerals and the holders of its ordinary shares, and substantially on the terms set out in the press announcement proposed to be made under Rule 2.7 of the Takeover Code (subject to the inclusion of any alternative or additional terms and conditions as may be required to comply with the requirements of the Panel on Takeovers and Mergers (the "**Panel**"), any applicable law or regulation, or as agreed between Bidco and KAZ Minerals) (the "**2.7 Announcement**").

### **2. CONDITION OF UNDERTAKING**

The terms of this Undertaking are conditional on the 2.7 Announcement being released not later than 5.00 p.m. on the date of this undertaking or such later date as I and Bidco may agree.

### **3. OWNERSHIP OF SHARES**

I hereby irrevocably and unconditionally undertake, represent and warrant to Bidco and KAZ Minerals, subject to paragraph 2 above, that:

- 3.1 I am the holder of beneficial interests in the number of ordinary shares of 20p each in the capital of KAZ Minerals ("**KAZ Minerals Shares**") specified in Schedule 1 (the "**Existing KAZ Minerals Shares**");
- 3.2 save as set out in Schedule 1, I am not interested in any other securities of KAZ Minerals and I do not have any rights to subscribe, purchase or otherwise acquire any securities of KAZ Minerals; and
- 3.3 I have full power and authority and the right (free from any legal or other restrictions), and will at all times continue to have all relevant power and authority and the right, to enter into this Undertaking, to perform the obligations in this Undertaking in accordance with its terms, to exercise (or procure the exercise of) all voting rights

attaching to the Existing KAZ Minerals Shares and otherwise to take all necessary actions (or procure that they are taken) to approve the Scheme in respect of, and to transfer, the Existing KAZ Minerals Shares.

#### 4. **DEALINGS AND UNDERTAKINGS**

I irrevocably and unconditionally undertake to Bidco and KAZ Minerals, subject to paragraph 2 above, that (other than in connection with the Acquisition) before this Undertaking terminates and lapses in accordance with paragraph 10.1 below, I shall not (and shall procure that the registered holder shall not):

- 4.1 sell, transfer, charge, encumber, create or grant any option or lien over or otherwise dispose of (or permit any such action to occur in respect of) any interest in the Existing KAZ Minerals Shares or any other shares in KAZ Minerals issued or unconditionally allotted to, or otherwise acquired by, me or any shares in the capital of KAZ Minerals in respect of which I become the registered holder or beneficial owner, before then ("**Further KAZ Minerals Shares**"), or any other shares or interests in shares attributable to or deriving from such shares, except any KAZ Minerals Shares held beneficially by me under the terms of the KAZ Minerals Share Incentive Plan (together, the "**Shares**"); or
- 4.2 accept, or give any undertaking (whether conditional or unconditional) to accept, or otherwise agree to, in respect of the Shares, any offer, or approve any offer made or proposed to be implemented by way of a contractual offer, scheme of arrangement or otherwise in respect of securities in KAZ Minerals by any person other than Bidco; or
- 4.3 except with the prior written consent of Bidco (not to be unreasonably withheld), acquire or otherwise deal or undertake any dealing in any relevant securities of KAZ Minerals (or any interest therein) unless the Panel determines and confirms to you in writing that in respect of such acquisition or dealing, I am not acting in concert with you pursuant to Note 9 to the definition of "Acting in concert" set out in the Takeover Code; or
- 4.4 enter into any agreement or arrangement, incur any obligation or give any indication of intent (or permit such circumstances to occur):
  - 4.4.1 to do all or any of the acts referred to in paragraphs 4.1, 4.2 and 4.3 above; or
  - 4.4.2 in relation to, or operating by reference to, the Shares, which would or might restrict or impede giving effect to the Scheme by any person or my ability to comply with this Undertaking,

and for the avoidance of doubt, references in this paragraph 4.4 to any agreement, arrangement or obligation shall include any such agreement, arrangement or obligation whether or not legally binding or subject to any condition, or which is to take effect upon or following the Scheme lapsing or being withdrawn, or upon or following this Undertaking ceasing to be binding, or upon or following any other event.

#### 5. **UNDERTAKING TO VOTE IN FAVOUR OF THE SCHEME**

- 5.1 I hereby irrevocably undertake on the terms of this paragraph 5 in respect of the Shares.

5.2 I hereby irrevocably undertake to Bidco and KAZ Minerals:

5.2.1 to exercise, or procure the exercise of, all voting rights attaching to my Shares to vote in favour of all resolutions to approve the Scheme, and any related matters, proposed at any general or class meeting ("**GM**") and Court-convened meeting ("**Court Meeting**") of KAZ Minerals to be convened and held in connection with the Scheme, or at any adjournment of any such meeting; and

5.2.2 to (i) execute (or procure the execution of) all relevant forms of proxy in respect of all of my Shares validly appointing any person nominated by Bidco to attend and vote at any GM or Court Meeting (or any adjournment thereof) in respect of the resolutions to approve the Scheme and any related matters; and (ii) lodge (or procure the lodgement of) such executed forms of proxy by 1.00 p.m. on the fifth business day after KAZ Minerals publishes the scheme document setting out the terms and conditions of the Scheme (the "**Scheme Document**") to KAZ Minerals shareholders (or by 1.00 p.m. on the date which is the third business day after acquiring an interest in such Shares, if later).

5.3 In the event that the Scheme is modified or amended pursuant to the requirements of, or with the approval of, the Court and in accordance with the terms of the Scheme, I confirm and agree that (except where such modification or amendment would materially adversely affect my rights or interests as a KAZ Minerals shareholder) this Undertaking shall continue to be binding *mutatis mutandis* in respect of the Shares.

## 6. **POWER OF ATTORNEY**

6.1 In order to secure the performance of my obligations under this Undertaking, I irrevocably appoint any director of Bidco jointly and severally to be my attorney in my name and on my behalf to sign or execute forms of proxy and/or such other deeds or documents and to do such other acts and things as may be necessary or desirable for the purpose of giving effect to our obligations under this Undertaking in respect of the Shares. However the appointment shall not take effect until three business days after the despatch of the Scheme Document and only then if I have failed to comply with any of my obligations in this Undertaking.

6.2 I acknowledge that this power of attorney is given by way of security and is irrevocable until this Undertaking lapses in accordance with paragraph 10.1.

## 7. **VOTING RIGHTS AND PREJUDICIAL ACTION**

I hereby irrevocably undertake that:

7.1 I shall not exercise (or procure the exercise of) any of the voting rights attached to the Shares at the Court Meeting or the GM other than in accordance with this Undertaking;

7.2 I shall otherwise exercise (or procure the exercise of) the voting rights attached to the Shares on any resolution which would assist implementation of the Acquisition if it were passed or rejected at a general, class or other meeting of KAZ Minerals shareholders (a "**Resolution**") only in accordance with Bidco's directions;

7.3 I shall exercise or, where applicable procure the exercise of, all rights attaching to the Shares to requisition or join in the requisition of any general or class meeting of KAZ

Minerals shareholders for the purpose of considering any such Resolution and require KAZ Minerals to give notice of such Resolution only in accordance with Bidco's directions;

- 7.4 I shall exercise (or procure the exercise of) the voting rights attached to the Shares against any resolution which (i) might prevent or delay implementation of the Acquisition; or (ii) purports to approve or give effect to (and I will not agree to be bound by) a proposal by a person other than Bidco, to acquire (or have issued to it) any KAZ Minerals Shares (whether by way of scheme of arrangement or otherwise) or any assets of KAZ Minerals; and
- 7.5 for the purposes of this paragraph 7, I shall execute (or procure the execution of) any form of proxy required by Bidco appointing any person nominated by Bidco to attend and vote at the relevant meeting (or any adjournment thereof).

## 8. **CONSENTS**

I agree to:

- 8.1 promptly inform you of all information in relation to the Shares you may reasonably require in order to comply with the requirements of the Takeover Code, the Panel, the Court or of other applicable law or regulation and immediately notify you in writing of any material change in the accuracy or import of any such information and consent to the public disclosure of such information;
- 8.2 the issue of the 2.7 Announcement with the references to me and the registered holder of any of the Shares in which I have (or will have as the case may be) a beneficial interest and to particulars of this Undertaking;
- 8.3 particulars of this Undertaking being set out in any other announcement or document issued in connection with the Acquisition and in the Scheme Document; and
- 8.4 this Undertaking being available for inspection until the end of the offer (and any related competition reference period) in accordance with Rule 26.2 of the Takeover Code and as required by applicable laws and regulation.

## 9. **ANNOUNCING AND PROCEEDING WITH THE ACQUISITION**

I acknowledge that the release of the 2.7 Announcement is at Bidco's absolute discretion and, in particular, Bidco reserves the right not to release the 2.7 Announcement unless the independent committee of the board of directors of KAZ Minerals formed for the purposes of considering the Acquisition agrees to include a statement in the 2.7 Announcement that it intends to recommend the Scheme. For the avoidance of doubt, nothing in this Undertaking shall oblige Bidco to announce or proceed with the Acquisition.

## 10. **TERMINATION AND LAPSE OF UNDERTAKING**

- 10.1 All of my obligations pursuant to this Undertaking will terminate, lapse and cease to have any force or effect on the earlier of the following occurrences:

- 10.1.1 a third party announces through a Regulatory Information Service, prior to the date of the Court Meeting and/or the GM, a firm intention to make a general offer in accordance with the Takeover Code (which is not subject to any pre-conditions) to acquire (howsoever to be implemented) the entire issued and to be issued share capital of KAZ Minerals (a "**Third Party Offer**") and such Third Party Offer is declared wholly unconditional or, if implemented by way of a scheme of arrangement, becomes effective; or
  - 10.1.2 Bidco announces, with the consent of the Panel, and before the Scheme Document is published, that it does not intend to proceed with the Acquisition and no new, revised or replacement Scheme (or Offer (as defined below)) is announced by Bidco in accordance with Rule 2.7 of the Takeover Code;
  - 10.1.3 the Scheme lapses or is withdrawn in accordance with its terms and Bidco publicly confirms that it does not intend to proceed with the Acquisition or to implement the Acquisition by way of a takeover offer (as such term is defined in section 974 of the Companies Act 2006) (an "**Offer**") or otherwise; or
  - 10.1.4 the Scheme or Offer (if applicable) has not become effective by 11.59 p.m. on the Long Stop Date.
- 10.2 If my obligations in this Undertaking lapse, I shall have no claim against Bidco or KAZ Minerals and neither Bidco nor KAZ Minerals shall have any claim against us, other than in respect of any prior breach of any of the terms of this Undertaking.

## 11. **SCHEME OF ARRANGEMENT OR OFFER**

I note that Bidco reserves the right to implement the Acquisition by way of an Offer. In the event that it is so implemented, I confirm and agree that this Undertaking shall continue to be binding *mutatis mutandis* in respect of the Shares and all references to the Scheme shall, where the context permits, be read as references to the Offer (or to both the Scheme and the Offer, as appropriate). Notwithstanding the generality of the foregoing, references in this Undertaking:

- 11.1 to voting in favour of the Scheme and voting in favour of the resolutions to be proposed at the Court Meeting and/or the GM shall be read and construed as references to accepting the Offer, which acceptances in such circumstances shall be tendered within 10 days of publication of the formal document containing the Offer (the "**Offer Document**") to KAZ Minerals shareholders and even if the terms of the Offer give accepting shareholders the right to withdraw acceptances, I shall not withdraw (nor shall I procure the withdrawal of) our acceptances in respect of the Shares. I further undertake, if so required by Bidco, to execute (or procure the execution of) all such other documents or do (or procure the doing of) such other acts as may be necessary or desirable for the purpose of giving Bidco the full benefit of our undertakings:
  - 11.1.1 to the Scheme becoming effective shall be read as references to the Offer becoming unconditional in all respects; and references to the Scheme lapsing or being withdrawn shall be read as references to the closing or lapsing of the Offer;
  - 11.1.2 to the Scheme Document shall be read as references to the Offer Document; and

11.1.3 to an Offer shall include any new, increased, renewed or revised offer.

## 12. OTHER

- 12.1 Any time, date or period referred to in this Undertaking may be extended by mutual agreement but as regards any time, date and period originally fixed or as extended, time shall be of the essence.
- 12.2 I have been given a realistic opportunity to consider whether or not I should give this Undertaking and I have received independent advice about the nature of this Undertaking.
- 12.3 I agree that damages would not be an adequate remedy for breach of this Undertaking and, accordingly, Bidco shall be entitled to the remedies of specific performance, injunction or other equitable remedies.
- 12.4 This Undertaking shall bind the trustees for the time being/my estate and personal representatives.
- 12.5 The ejusdem generis principle of construction shall not apply to this Undertaking. Any phrase introduced by the terms "other", "including", "include" and "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words following or preceding those terms.
- 12.6 In this Undertaking, references to:
- 12.6.1 "**Acquisition**" shall include any new, increased, renewed or revised acquisition proposals made by or on behalf of Bidco howsoever implemented;
  - 12.6.2 "**business day**", "**dealing**" and "**offer period**" shall be interpreted in accordance with the Takeover Code as from time to time amended and interpreted by the Panel;
  - 12.6.3 being "**interested in**" or having "**interests in**" shares or securities shall be construed in accordance with the Takeover Code as from time to time amended and interpreted by the Panel and Part 22 of the Companies Act 2006;
  - 12.6.4 "**relevant securities**" shall be construed in accordance with the Takeover Code as from time to time amended and interpreted by the Panel; and
  - 12.6.5 "**Takeover Code**" means the City Code on Takeovers and Mergers as amended from time to time;
- 12.7 In this Undertaking, capitalised terms not otherwise defined shall have the meanings given to them in the 2.7 Announcement.

## 13. GOVERNING LAW AND JURISDICTION

This Undertaking and all non-contractual obligations arising from or in connection with this Undertaking are governed by and construed in accordance with English law. I submit to the exclusive jurisdiction of the English courts to settle any dispute arising from or connected with this Undertaking (a "**Dispute**") (including a dispute regarding

the existence, validity or termination of this Undertaking or relating to any non-contractual or other obligation arising out of or in connection with this Undertaking or its formation). I agree that the English courts are the most appropriate and convenient courts to settle any Dispute and accordingly, will not argue to the contrary. I agree that the documents which start any proceedings relating to a Dispute ("**Proceedings**") and any other documents required to be served in relation to those Proceedings may be served on KAZ Minerals, at 6<sup>th</sup> Floor Cardinal Place, 100 Victoria Street, London, SW1E 5JL, on my behalf. These documents may be served in any manner allowed by law.

## SCHEDULE 1

### Existing KAZ Minerals Shares

<b>1</b>	<b>2</b>
<b>No. of ordinary shares of 20p in KAZ Minerals</b>	<b>Beneficial owner#</b>
<b>5,000</b>	<b>John MacKenzie</b>

# Where more than one, indicate number of shares attributable to each.



I understand and confirm that:

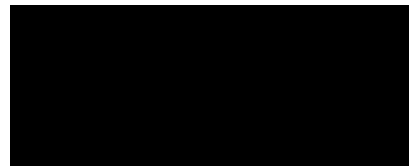
- (i) this Undertaking is legally binding;
- (ii) subject to the terms of this Undertaking, I will not be able to withdraw from the commitment in this Undertaking, nor will I be able to deal in any of the Shares, or accept any other offer for the Shares; and
- (iii) until the 2.7 Announcement is released, the fact that the Acquisition is under consideration and the terms and conditions of the Acquisition constitute inside information and I shall keep such information secret. Disclosure of such information or any dealing in securities of Bidco or KAZ Minerals, could constitute a criminal offence under the insider dealing provisions of the Criminal Justice Act 1993 and/or behaviour amounting to market abuse under the Market Abuse Regulation (2014/596/EU) liable to sanction by the Financial Conduct Authority, for example, the imposition of financial penalties. The obligations in this paragraph shall survive termination of this Undertaking.

Dated: 28 October 2020

Signed as a deed by )

John MacKenzie )

in the presence of: )



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Signature of witness

Name of witness

Address of witness

Occupation of witness