

ANGLOGOLD ASHANTI LTD

Form 6-K

March 20, 2019

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**WASHINGTON, DC 20549**

**FORM 6-K**

**REPORT OF FOREIGN PRIVATE ISSUER**

**PURSUANT TO RULE 13a-16 OR 15d-16 OF**

**THE SECURITIES EXCHANGE ACT OF 1934**

Report on Form 6-K dated March 19, 2019

Commission File Number 1-14846

AngloGold Ashanti Limited

(Name of registrant)

76 Rahima Moosa Street

Newtown, 2001

(P.O. Box 62117, Marshalltown, 2107)

South Africa

(Address of principal executive offices)

Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F.

**Form 20-F X**            Form 40-F

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1):

Yes            **No X**

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7):

Yes            **No X**

Indicate by check mark whether the registrant by furnishing the information contained in this Form is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.

Yes            **No X**

Enclosure: Press release:

**GEITA GOLD MINING LIMITED RCF - AMENDMENT AND  
RESTATEMENT AGREEMENT**

**EXECUTION VERSION**

**AMENDMENT AND RESTATEMENT AGREEMENT**

**29 January 2019**

**for**

**GEITA GOLD MINING LIMITED**

**with**

**NEDBANK LIMITED, ACTING THROUGH ITS NEDBANK CORPORATE AND INVESTMENT  
BANKING DIVISION**

**as Agent**

**relating to a U.S.\$ 115,000,000 revolving credit Facilities Agreement dated 6  
April 2018, as amended on 16 July 2018 and on 14 September 2018**

**Allen & Overy LLP**

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**THIS AGREEMENT** is made

**BETWEEN:**

(1)

**GEITA GOLD MINING LIMITED**, a private company limited by shares incorporated in the United Republic of Tanzania, with registration number 19982, (the **Borrower**); and

(2) **NEDBANK LIMITED, ACTING THROUGH ITS NEDBANK CORPORATE AND INVESTMENT BANKING DIVISION**, as Agent (in this capacity, the **Agent**).

#### **BACKGROUND**

(A) This Agreement is supplemental to and amends the U.S.\$115,000,000 revolving credit facilities agreement dated 6 April 2018 (as amended on 16 July 2018 and on 14 September 2018) between, amongst others, the Parties (the **Facilities Agreement**).

(B)

The Parties (as defined in the Facilities Agreement) have agreed to amend and restate the Facilities Agreement in accordance with the terms of this Agreement.

(C) All the Lenders (as defined in the Facilities Agreement) have consented to the amendments to the Facilities Agreement contemplated by this Agreement. Accordingly, the Agent is authorised to execute this Agreement on behalf of the Finance Parties.

**IT IS AGREED** as follows:

**1.**

#### **INTERPRETATION**

**1.1**

##### **Definitions**

In this Agreement:

**Agreement** means this Amendment and Restatement Agreement and its Schedules.

**Amended Facilities Agreement** means the Facilities Agreement as amended by this Agreement.

**Amendment Date** means the date on which the Agent confirms to the Borrower that it has received each of the documents listed in Schedule 1 (Conditions Precedent Documents) in a form and substance satisfactory to the Agent or such other date as the Borrower and the Agent (acting on the instructions of all the Lenders) may agree.

**Fee Letter** means the letter entered into by reference to this Agreement on or about the date of this Agreement between the Original Bank and the Borrower.

**1.2**

##### **Construction**

(a) Capitalised terms defined in the Amended Facilities Agreement have, unless expressly defined in this Agreement, the same meaning in this Agreement.

(b) The provisions of clauses 1.2 (Construction), 21 (Expenses), 32 (Counterparts) and 33 (Notices) of the Amended Facilities Agreement apply to this Agreement as though they were set out in full in this Agreement except that references to the Amended Facilities Agreement are to be construed as references to this Agreement

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2.

**AMENDMENTS**

With effect from the Amendment Date the Facilities Agreement will be amended and restated in the manner set out in Schedule 2 (Amended and Restated Facilities Agreement).

3.

**REPRESENTATIONS**

On the Amendment Date the Borrower makes to the Agent (for and on behalf of the Finance Parties) all of the representations and warranties in clause 15 (Representations and Warranties) of the Amended Facilities Agreement by reference to the facts and circumstances then existing.

4.

**FEES**

In relation to the increase of Facility A as contemplated in the Amended Facilities Agreement, the Borrower shall pay to the Agent (on behalf of the Underwriter) an arrangement fee in the amount and at the times agreed in the Fee Letter.

5.

**MISCELLANEOUS**

- (a) Each of this Agreement, the Fee Letter and the Amended Facilities Agreement is designated a Finance Document.
- (b) Subject to the terms of this Agreement, the Facilities Agreement will remain in full force and effect and, from the Amendment Date, the Facilities Agreement and this Agreement will be read and construed as one document.

6.

**GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

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## **SCHEDULE 1**

### **CONDITIONS PRECEDENT DOCUMENTS**

#### **1.**

##### **The Borrower**

1.1 A copy of the constitutional documents of the Borrower or a certificate from the Borrower confirming that its constitutional documents delivered to the Agent in respect of the Facilities Agreement remain in full force and effect and have not been amended since the Financial Close Date (as defined in the Amended Facilities Agreement).

1.2

A copy of a resolution of the board of directors of the Borrower:

(a)

approving the terms of, and the transactions contemplated by, this Agreement and resolving to execute this Agreement;

(b)

authorising a specified person or persons to execute this Agreement on its behalf;

(c)

disclosing and approving any conflicts of interests of the directors of the Borrower in relation to the Finance Documents and the transactions contemplated hereby.

1.3 A specimen of the signature of each person authorised by the resolutions referred to in paragraph 1.2 (b) above.

1.4 Evidence that this Agreement has been registered with the Bank of Tanzania and issued with a debt record number or amended debt record number as the case may be.

1.5

A certificate of two authorised signatories of the Borrower:

(a)

confirming that borrowing the Total Commitments would not cause any borrowing limit binding on it to be exceeded;

(b)

certifying that each copy document delivered under this Schedule 1 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement;

(c)

having made due enquiry:

(i)

no Default is continuing;

(ii)

no Insolvency Event has occurred or is continuing in relation to the Borrower; and

(iii)

to the best of the knowledge of the Borrower, there are no material and undisclosed outstanding disputes.

#### **2.**

##### **Finance Documents**

A copy of this Agreement and the Fee Letter, duly executed by each party thereto.

#### **3.**

##### **Financial Intelligence Centre Act, 2001**

All information and documentation required by the Agent in relation to the Borrower to enable it to comply with its obligations under, and the requirements of, the Financial Intelligence Centre Act, 2001 and its own "know your customer" procedures.

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**4.**

**Legal Opinions**

(a) A legal opinion of Allen & Overy LLP, legal advisors to the Agent as to matters of English law.

(b) A legal opinion of ARS Law & Advisories, legal advisors of the Agent as to matters of Tanzanian law dealing with inter alia the capacity and authority of the Borrower and enforceability of this Agreement in Tanzania, substantially in the form distributed to the Agent prior to signing this Agreement.

**5.**

**Other documents and evidence**

(a) Each Lender shall have obtained approval from its internal committees for this Agreement and such approvals shall have become unconditional.

(b) A copy of any authorisation or consent (to include any relevant corporate, regulatory and shareholder consent or approval) which the Agent reasonably considers to be necessary or desirable in connection with the entry into and performance of the transactions contemplated by this Agreement or for the validity and enforceability of this Agreement.

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**SCHEDULE 2**

**AMENDED AND RESTATED FACILITIES AGREEMENT**



**SCHEDULE 2**

**AMENDED AND RESTATED REVOLVING  
CREDIT FACILITIES AGREEMENT**

**AMENDED AND RESTATED REVOLVING  
CREDIT FACILITIES AGREEMENT**

**DATED 6 APRIL 2018**

**REVOLVING CREDIT FACILITIES**

**for**

**GEITA GOLD MINING LIMITED**

**with**

**NEDBANK LIMITED, ACTING THROUGH THE LONDON BRANCH OF ITS NEDBANK  
CORPORATE AND INVESTMENT BANKING DIVISION**

**as Underwriter**

**and**

**NEDBANK LIMITED, ACTING THROUGH ITS NEDBANK CORPORATE AND INVESTMENT  
BANKING DIVISION**

**as Agent**

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**THIS AGREEMENT** is dated 6 April 2018 and made

**BETWEEN:**

- (1) **GEITA GOLD MINING LIMITED**, a private company limited by shares incorporated in the United Republic of Tanzania, with registration number 19982, (the **Borrower**);
- (2) **NEDBANK LIMITED, ACTING THROUGH THE LONDON BRANCH OF ITS NEDBANK CORPORATE AND INVESTMENT BANKING DIVISION**, as the underwriter (in this capacity, the **Underwriter**);
- (3) **THE FINANCIAL INSTITUTIONS** listed in Schedule 1 (Banks and Commitments) as original Bank (in this capacity, the **Original USD Banks**);
- (4) **NEDBANK LIMITED, ACTING THROUGH ITS NEDBANK CORPORATE AND INVESTMENT BANKING DIVISION**, as Agent (in this capacity, the **Agent**).

**IT IS AGREED** as follows:

**INTERPRETATION**

**1.**

**DEFINITIONS AND INTERPRETATION**

1.1

**Definitions**

In this Agreement:

**Accession Deed** means a document substantially in the form of Schedule 7 (Form of Accession Deed) or in such other form as the Agent and the Borrower may agree in writing.

**Affiliate** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

**Amendment and Restatement Agreement** means the amendment and restatement agreement relating to this Agreement entered into between the Parties, dated 29 January 2019.

**Amendment Date** has the meaning given to it in the Amendment and Restatement Agreement.

**Authorisation** means an authorisation, consent, approval, resolution, permit, licence, exemption, filing, notarisation or registration.

**Bank** means:

- (a) the Original USD Banks; or
- (b) any bank, financial institution or other entity which becomes a Party as a USD Bank or TZS Bank in accordance with Clause 2.2 (Facility B Increase / Facility A Decrease) or Clause 26 (Changes to the Parties), which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

**Base Currency Amount** means, on any date:

- (a) in relation to any amount in USD, that amount:

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(b)

in relation to any amount in respect of Facility B, that amount converted into USD at the Spot Rate of Exchange at or about 11:00 am on the Tanzanian Increase Effective Date to which that amount relates,

as confirmed by the Agent in accordance with the terms of this Agreement.

**Business Day** means a day (other than a Saturday or Sunday) on which banks are open for general business in London, New York, Johannesburg and Dar es Salaam.

**Code** means the United States Internal Revenue Code of 1986, as amended and any rule or regulation issued thereunder from time to time in effect.

**Commitment** means a Facility A Commitment or a Facility B Commitment.

**Commitment Period** means the period from and including the Financial Close Date up to and including the date falling one month before the Final Maturity Date.

**Default** means an Event of Default or an event which, with the giving of notice, lapse of time, determination of materiality or fulfilment of any other applicable condition (or any combination of the foregoing) as specified in Clause 17 (Default), would constitute an Event of Default.

**Defaulting Bank** means any Bank:

(a)

which has failed to make its participation in a Loan available or has notified the Agent or the Borrower or has indicated publicly that it will not make its participation in a Loan available by the Drawdown Date of that Loan in accordance with Clause 5.4 (Advance of a Loan)

(b)

which has otherwise rescinded or repudiated a Finance Document; or

(c)

with respect to which an Insolvency Event has occurred and is continuing, unless, in the case of paragraph (a) above:

(i) payment is made within five Business Days of its due date; or

(ii) the Bank is disputing in good faith whether it is contractually obliged to make the payment in question.

**Drawdown Date** means the date of the advance of a Loan.

**Environment** means:

(a)

land including any natural or man-made structures;

(b)

water including ground and surface water; and

(c)

air, including air within buildings and other natural or man-made structures above or below ground.

**Environmental Claim** means, in relation to any member of the Group, any claim by any person as a result of or in connection with any violation of Environmental Law which could give rise to any remedy or penalty (whether interim or final) or liability for that member of the Group or the Group, as appropriate.

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**Environmental Laws** means, in relation to any member of the Group or the Group, as appropriate, all and any applicable and legally binding laws, including common law, statute and subordinate legislation, European regulations and directives, codes of practice, circulars, guidance notices, judgments and judicial or administrative decisions and other similar provisions issued, entered into or promulgated by any government entity, whether of the U.S.A. or states or territories of the U.S., the Republic of South Africa, Tanzania (including, without limitation, the National Environment Management Council (NEMC), Occupational Safety and Health Authority (OSHA), Ministry of Energy of Tanzania and Ministry of Minerals of Tanzania), the European Community or elsewhere, compliance with which is mandatory for that member of the Group or the Group, as appropriate, with regard to:

(a)

the pollution, protection, investigation, reclamation or restoration of the Environment or natural resources;

(b)

harm to the health of humans, animals or plants including without limitation laws relating to public and workers' health and safety;

(c)

emissions, discharges or releases into, or the presence in, the Environment of hazardous, toxic, harmful or dangerous chemicals or any other pollutants or contaminants, or industrial, radioactive or other dangerous substances or wastes (including vibration, noise and genetically modified organisms); or

(d)

the manufacture, processing, use, treatment, storage, distribution, disposal, transport or handling of the substances or wastes described in paragraph (c) above.

**Environmental Permits** means all or any permits, licences, consents, approvals, certificates, qualifications, specifications, registrations and other authorisations including any conditions which attach to any of the above, and the filing of all notifications, reports and assessments required under Environmental Laws for the operation of any of the businesses of any member of the Group or the occupation or use of any of their respective properties.

**Event of Default** means an event specified as such in Clause 17 (Default).

**Existing RCF Agreement** means the U.S.\$ 35,000,000 revolving credit facility agreement dated 23 August 2016 between the Borrower (as borrower) and Nedbank Limited (as underwriter, agent and original bank).

**Facility** means Facility A or Facility B.

**Facility A** means the USD revolving loan facility made available to the Borrower by the Banks under this Agreement.

**Facility A Commitment** means:

(a)

in relation to an Original USD Bank, the amount in U.S.\$ set opposite its name in Schedule 1 (Banks and Commitments) and the amount of any other Bank's Commitment under Facility A acquired by it under Clause 26 (Changes to the Parties); and

(b)

in relation to a Bank which becomes a Bank after the date of this Agreement, the amount of any other Bank's Commitment under Facility A acquired by it under Clause 26 (Changes to the Parties),

to the extent not cancelled, reduced or transferred under this Agreement.

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**Facility A Loan** means a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

**Facility B** means the TZS revolving loan facility made available to the Borrower by the Banks under this Agreement.

**Facility B Commitment** means:

(a)

in relation to each TZS Bank as at the Amendment Date, any original Commitment acquired by it before the Amendment Date under Facility B pursuant to Clause 2.2 (Facility B Increase), and as set out set opposite its name in Schedule 1 (Banks and Commitments), and the amount of any other Bank's Commitment under Facility B acquired by it under Clause 26 (Changes to the Parties); and

(b)

the amount of any other TZS Bank's Commitment under Facility B acquired by it under Clause 26 (Changes to the Parties), to the extent not cancelled, reduced or transferred under this Agreement.

**Facility B Increase Amount** has the meaning given to it in Clause 2.2(a).

**Facility B Loan** means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

**Facility B Reference Rate** means, in relation to any Facility B Loan:

(a)

the applicable Screen Rate: at or about 11:00 on the Rate Fixing Day of TZS for a period comparable to the relevant Interest Period; or

(b)

as otherwise determined pursuant to Clause 11.2 (Unavailability of Screen Rate for Facility B),

and if, in either case, that rate is less than zero, the Facility B Reference Rate shall be deemed to be zero.

**Facility Office** means the office(s) notified by a Bank to the Agent:

(a)

on or before the date it becomes a Bank; or,

(b)

by not less than five Business Days' written notice, as the office(s) through which it will perform all or any of its obligations under this Agreement.

**Fallback Interest Period** means one week or such other period as the Agent and the Borrower may agree.

**FATCA** means:

(a)

sections 1471 to 1474 of the Code or any associated regulations;

(b)

any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the U.S. and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or

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(c)

any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraph (a) or (b) above with the U.S. Internal Revenue Service, the U.S. government or any governmental or taxation authority in any other jurisdiction.

**FATCA Application Date** means:

(a)

in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;

(b)

in relation to a "withholdable payment" described in section 1473(1)(A)(ii) of the Code (which relates to "gross proceeds" from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or

(c)

in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraph (a) or (b) above, 1 January 2019,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

**FATCA Deduction** means a deduction or withholding from a payment under a Finance Document required by FATCA.

**FATCA Exempt Party** means a Party that is entitled to receive payments free from any FATCA Deduction.

**Fee Letter** means any letter entered into by reference to this Agreement between one or more Finance Parties and the Borrower setting out the amount of any fees referred to in this Agreement.

**Final Maturity Date** means the 3rd (third) anniversary of the Financial Close Date or, if that is not a Business Day, the immediately preceding Business Day.

**Financial Close Date** means the date on which the Agent delivers a written notice to the Borrower contemplated in Clause 4.1 (Documentary conditions precedent).

**Finance Document** means this Agreement, any Fee Letter, any Accession Deed, a Novation Certificate or any other document designated as such by the Agent and the Borrower.

**Finance Party** means a Bank, the Underwriter or the Agent.

**Financial Indebtedness** means any indebtedness for or in respect of:

(a)

moneys borrowed and debit balances at banks;

(b)

any debenture, bond, note, loan stock or other security;

(c)

any acceptance credit;

(d)

receivables sold or discounted (otherwise than on a non-recourse basis);

(e)

the acquisition cost of any asset to the extent payable before or after the time of acquisition or possession by the party liable where the advance or deferred payment is arranged primarily as a method of raising finance or financing the acquisition of that asset;



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(f) any lease entered into primarily as a method of raising finance or financing the acquisition of the asset leased;

(g) for the purposes of Clause 17.6 (Cross-default) any currency or commodity swap or interest swap, cap or collar arrangements or any other derivative instrument;

(h) any amount raised under any other transaction having the commercial effect of a borrowing or raising of money; or

(i) any guarantee, indemnity or similar assurance against financial loss of any person, provided that any counter indemnity given in support of a letter of credit issued to environmental authorities in respect of potential environmental liabilities shall not be taken into account for the purposes of this definition until such time as a call is made under any such letter of credit.

**Force Majeure Event** has the meaning given to it in Clause 7.6(a).

**Funding Rate** means any rate notified to the Agent by a Bank pursuant to subparagraph (a)(ii) of Clause 11.5 (Replacement of Screen Rate and alternative basis of interest or funding).

**Geita Remediation** means all development in relation to the Mine which arise in connection with the implementation of the Tanzanian Legislation including, without limitation, any negotiation between any member of the Group and the Government relating to:

(a) the Tanzanian Legislation;

(b) any arbitration or other proceedings relating to the Tanzanian Legislation; or

(c) any reduction or cessation of business of the Mine.

**Government** has the meaning given to it in Clause 7.7(a)(i).

**Group** means the Parent and its Subsidiaries.

**Historic Screen Rate** means, in relation to any Loan, the most recent applicable Screen Rate for US Dollars and for a period equal in length to the Interest Period of that Loan and which is as of a day which is no greater than three Business Days before the Rate Fixing Day.

**Holding Company** means, in relation to a person, an entity of which that person is a Subsidiary.

**IAS** means the International Financial Reporting Standards adopted by the International Accounting Standards Board, as may be amended from time to time (except as provided in Clause 16.16 (Financial covenant)).

**Impaired Agent** means the Agent at any time when:

(a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;

(b) the Agent otherwise rescinds or repudiates a Finance Document;

(c) (if the Agent is also a Bank) it is a Defaulting Bank under paragraph (a) or (b) of the definition of "Defaulting Bank"; or

(d) an Insolvency Event has occurred and is continuing with respect to the Agent,

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unless, in the case of paragraph (a) above:

- (i) payment is made within five Business Days of its due date; or
- (ii) the Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

**Insolvency Event** in relation to any Party means that the Party:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;
- (e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (d) above and:
  - (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
  - (ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
- (f) has a resolution passed for its winding-up, business rescue, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (g) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian, business rescue practitioner or other similar official for it or for all or substantially all its assets;
- (h) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;
- (i) causes or is subject to any event with respect to it which, under the applicable laws of any

jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (h) above, or

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(j) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

**Interest Period** means each period determined in accordance with Clause 8 (Interest Periods).

**Interpolated Historic Screen Rate** means, in relation to any Facility A Loan, the rate (rounded to the same number of decimal places as the two relevant Historic Screen Rates) which results from interpolating on a linear basis between:

(a) the most recent applicable Screen Rate for US Dollars and for the longest period (for which that Historic Screen Rate is available) which is less than the Interest Period of that Loan; and

(b) the most recent applicable Screen Rate for US Dollars and the shortest period (for which that Historic Screen Rate is available) which exceeds the Interest Period of that Loan, each for US Dollars and each of which is as of a day which is no more than three Business Days before the Rate Fixing Day.

**Interpolated Screen Rate** means, in relation to LIBOR for any Facility A Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

(a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and

(b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan, at or about 11.00am on the Rate Fixing Day for the currency of that Loan.

**LIBOR** means in relation to any Facility A Loan:

(a) the applicable Screen Rate at or about 11.00am on the Rate Fixing Day for US Dollars for a period comparable to the relevant Interest Period; or

(b) as otherwise determined pursuant to Clause 11.1 (Unavailability of Screen Rate for Facility A); and if that rate is less than zero, LIBOR shall be deemed to be zero.

**Loan** means a Facility A Loan or a Facility B Loan.

**Majority Banks** means, subject to Clause 25.4 (Disenfranchisement of Defaulting Banks) at any time, Banks:

(a) whose participations in the Loans then outstanding aggregate 60 per cent. or more of all Loans then outstanding;

(b) if there are no Loans then outstanding, whose Commitments then aggregate 60 per cent. or more of the Total Commitments; or

(c) if there are no Loans then outstanding and the Total Commitments have been reduced to nil, whose Commitments aggregated 60 per cent. or more of the Total Commitments immediately before the reduction,

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calculated, in the case of any Facility B Loans and Facility B Commitments, by reference to the Base Currency Amount as that rate was determined by the Agent on the relevant Tanzanian Increase Effective Date.

**Margin** means:

(a)

in relation to any Facility A Loan, the rate that is 6.7% (six comma seven per cent) per annum; and

(b)

in relation to any Facility B Loan, the rate as confirmed in the Accession Deed.

**Maturity Date** means, in relation to a Loan, the last day of its Interest Period.

**Member State** means any member state of the European Union.

**Mine** means the mine which is majority owned by the Borrower situated on the licence area of the mineral rights licence granted by the Ministry of Energy and Minerals of Tanzania known as Special Mining Licence number SML 45/99 located in the Geita Hill and Kukuluma area of the Geita District within the Geita Region of Tanzania.

**Non-Consenting Bank** has the meaning given to that term in Clause 25.6(d)(iii) (Replacement of a Bank).

**Novation Certificate** has the meaning given to it in Clause 26.3 (Procedure for novations).

**Parent** means AngloGold Ashanti Limited, a public company incorporated under the laws of the Republic of South Africa with registration number 1944/017354/06.

**Party** means a party to this Agreement.

**Permitted Assignee** means:

(a)

a Bank; or

(b)

any Affiliate of a Bank; or

(c)

any person listed in the list of permitted assignees contained in Schedule 6 (Permitted Assignee).

**Rate Fixing Day** means the second Business Day before the first day of an Interest Period for a Loan unless market practice differs in the Relevant Market for a currency, in which case the Rate Fixing Day will be determined by the Agent in accordance with market practice in the Relevant Market (and if quotations would normally be given on more than one day, the Rate Fixing Day will be the last of those days).

**Reference Bank Quotation** means any quotation supplied to the Agent by a Reference Bank.

**Reference Bank Rate** means, in relation to Facility A, the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks as at the rate at which the relevant Reference Bank could borrow funds in the London interbank market in US Dollars and for the relevant period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in US Dollars and for that period.

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**Reference Banks** means the principal London offices of the Original USD Banks, Standard Bank Plc, Standard Chartered Bank and the Hong Kong and Shanghai Banking Corporation Limited or such other banks as may be appointed by the Agent in consultation with the Company.

**Relevant Market** means in relation to USD, the London interbank market, and, in relation to TZS, the Tanzania interbank market.

**Repeating Representations** means the representations and warranties set out in Clauses 15.2 (Status), 15.3 (Powers and authority), 15.4 (Legal validity), 15.5 (Authorisations), 15.6 (Pari passu ranking) 15.9(b) (Immunity), 15.10 (Jurisdiction/governing law), 15.11 (Non-conflict), 15.12 (No Default), 15.13 (Litigation), 15.14 (Environmental issues), 15.15 (Environmental policy) and 15.16 (Economic Sanctions and Anti-Money Laundering) (inclusive).

**Representative** means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

**Request** means a request made by the Borrower for a Loan, substantially in the form of Schedule 3 (Form of Request).

**Reservations** means the general principles of law in relation to matters of law only as at the date of this Agreement limiting the Borrower's obligation which are specifically referred to in any legal opinion delivered under paragraph 10 of Part A of Schedule 2 (Conditions Precedent Documents).

**Restricted Party** means a person that is:

(a)

listed on, or owned or controlled by a person listed on, or, to the knowledge of the Borrower, acting on behalf of a person listed on, any Sanctions List; or

(b)

located, organised or resident in a country or territory which is the subject of Sanctions (which countries and territories as of the date of this Agreement are Burma/Myanmar, Cuba, Iran, North Korea, Sudan and Syria).

**Rollover Loan** means one or more Loans made or to be made:

(a)

on the same date that a maturing Loan is due to be repaid;

(b)

the aggregate amount of which is equal to or less than the maturing Loan;

(c)

in the same currency as the maturing Loan; and

(d)

made or to be made to the same Borrower for the purpose of refinancing a maturing Loan.

**Sanctions** means the sanctions administered or enforced by:

(a)

the United States government;

(b)

the United Nations;

(c)

the European Union or its Member States, including, without limitation, the United Kingdom; or

(d)

the respective governmental institutions and agencies of any of the foregoing, including, without limitation, the Office of Foreign Assets Control of the US Department of Treasury (**OFAC**), the United States Department of State, and Her Majesty's Treasury (**HMT**),

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(together the **Sanctions Authorities**).

**Sanctions List** means the "Specially Designated Nationals and Blocked Persons" list maintained by OFAC, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by HMT, or any similar public list maintained by, or public announcement of Sanctions designation made by, any of the Sanctions Authorities.

**Screen Rate** means:

(a)

in relation to Facility A, the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for USD for the relevant period displayed on pages LIBOR01 or LIBOR02 of the Reuters screen (or any replacement Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Reuters. If such page or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Borrower;

(b)

in relation to Facility B, the rate, as confirmed by the Agent, of the most recent 91 or 181 days treasury bills, as applicable to the relevant Interest Period, issued by the Bank of Tanzania (or any other person which takes over the administration of that rate) on behalf of the Government of Tanzania and displayed on the appropriate page of the Bank of Tanzania website [www.bot.go.tz](http://www.bot.go.tz) (or any replacement website which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of the Bank of Tanzania.

**Security Interest** means any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security.

**Selection Notice** means a notice substantially in the form set out in Part II of Schedule 3 (Form of Request) given in accordance with Clause 8 (Interest Periods) in relation to Facility B.

**Separate Loan** has the meaning given to that term in Clause 6 (Repayment).

**Spot Rate of Exchange** means, on any day, the spot rate of exchange for the purchase of TZS with USD as quoted by the Bank of Tanzania at or about 11:00 am on that particular day.

**Subsidiary** means any company or corporation:

(a)

which is controlled, directly or indirectly, by another company or corporation; or

(b)

more than half the issued share capital of which is beneficially owned, directly or indirectly, by another company or corporation; or

(c)

which is a subsidiary of another subsidiary of another company or corporation, and, for these purposes, a company or corporation shall be treated as being controlled by another if that other company or corporation has the right to control the composition of a majority of its board of directors or equivalent body.

**Tanzania** means the United Republic of Tanzania.

**Tanzanian Increase Effective Date** has the meaning given to it in Clause 2.2(f).

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**Tanzanian Increase Request** has the meaning given to it in Clause 2.2(a).

**Tanzanian Legislation** means:

(a)

the Mining (Minimum Shareholding & Public Offering) Regulation 2016;

(b)

the Mining (Minimum Shareholding & Public Offering) (Amendment) Regulation 2017;

(c)

the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act 2017;

(d)

the Natural Wealth and Resources (Permanent Sovereignty) Act, 2017;

(e)

the Written Laws (Misc. Amendments) Act, 2017,

or any future law or regulation introduced by the Government in relation to the abovementioned legislation.

**Total Commitments** means the aggregate of the Total Facility A Commitments and the Total Facility B Commitments.

**Total Facility A Commitments** means the aggregate for the time being of the Facility A Commitments, being USD 105,000,000 (One Hundred and Five Million USD) at the date of this Agreement.

**Total Facility B Commitments** means the aggregate for time being for the Facility B Commitments, being TZS 102,680,000,000 (One Hundred and Two Billion Six Hundred and Eight y Million TZS) at the Amendment Date.

**TZS** or **Shillings** means the lawful currency for the time being of Tanzania.

**U.S.** means the United States of America.

**U.S. Dollars, USD** or **U.S.\$** means the lawful currency for the time being of the United States of America.

**VAT** means the value added tax as provided for in Council Directive 2006/112/EC and any other tax of a similar nature.

1.2

### **Construction**

(a)

In this Agreement, unless the contrary intention appears, a reference to:

(i)

an **amendment** includes a supplement, novation or re-enactment and **amended** is to be construed accordingly;

(ii)

**assets** includes present and future properties, revenues and rights of every description;

(iii)

an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, **filing**, registration or notarisation;

(iv)

**control means** the power to direct the management and policies of an entity, whether through the ownership of voting capital, by contract or otherwise;



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(v)

**know your customer requirements** means the identification checks that a Finance Party requests in order to meet its obligations under any applicable law or regulation to identify a person who is (or is to become) its customer;

(vi)

a **material adverse effect** means a material adverse effect on:

(A)

the condition (financial or otherwise) of the business, operations, properties, revenues, costs, assets, liabilities or prospects of the Borrower;

(B)

the ability of the Borrower to perform its payment or other material obligations under any Finance Document to which it is a party or its obligations under Clause 16.16 (Financial covenant);

(C)

the validity, enforceability or the effectiveness of any Finance Document; or

(D)

any right or remedy of a Finance Party in respect of a Finance Document;

(vii)

a **month** is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

(A)

if there is no numerically corresponding day in the month in which that period ends, that period shall end on the last Business Day in that calendar month; or

(B)

if an Interest Period commences on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which it is to end;

(viii)

a **person** includes any person, company, partnership, association, government, state, agency or other entity;

(ix)

a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not, being of a type with which banks are accustomed to comply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

(x)

**tax** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);

(xi)

a provision of law is a reference to that provision as amended or re-enacted;

(xii)

a Clause, Subclause or a Schedule is a reference to a clause or subclause of or a schedule to this Agreement;

(xiii)

a person includes its successors and assigns;

(xiv)

a Finance Document or another document is a reference to that Finance Document or other document as amended; and

(xv)

a time of day is a reference to London time.

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(b)

A Default (other than an Event of Default) is **continuing** if it has not been remedied or waived and an Event of Default is **continuing** if it has not been remedied or waived.

(c)

Unless the contrary intention appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

(d)

The index to and the headings in this Agreement are for convenience only and are to be ignored in construing this Agreement.

(e)

a reference to a U.S. Dollar, USD, U.S.\$ amount or “its equivalent” at any time is a reference to:

(i)

the Base Currency Amount for any TZS at 11am on the relevant date; and

(ii)

the USD equivalent in any other currency determined by reference to the spot rate of exchange of the Agent for the purchase of U.S. Dollars with that other currency at 11am on the relevant date.

(f)

Unless expressly provided to the contrary in a Finance Document, a person who is not a party to a Finance Document may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

(g)

Notwithstanding any term of any Finance Document, the consent of any third party is not required for any variation (including any release or compromise of any liability) or termination of that Finance Document.

**2.**

## **FACILITY**

2.1

### **Facility**

(a)

Subject to the terms of this Agreement, the Banks agree to make available to the Borrower:

(i)

a U.S. Dollar revolving loan, during the Commitment Period, in an aggregate amount equal to the Total Facility A Commitments; and

(ii)

a TZS revolving loan, during the Commitment Period, in an aggregate amount equal to the Total Facility B Commitments,

(b)

The aggregate amount of all outstanding Loans shall not at any time exceed the Total Commitments as at the Amendment Date.

(c)

The aggregate amount of a Bank's participation in the Loans under any Facility shall not at any time exceed its Commitment under that Facility at that time.

2.2

### **Facility B Increase / Facility A Decrease**

(a)

At any time prior to the date falling 6 months before the Final Maturity Date (or such other date as agreed to between the Agent and the Borrower), the Borrower may by sending a request (a **Tanzanian Increase Request**) to the Agent request that the Total Facility B Commitments be increased by an aggregate amount agreed between the Borrower and the Agent (a **Facility B Increase Amount**) which amount will, subject to the terms of this

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Clause 2.2 and the Tanzanian Increase Effective Date (as defined below) occurring, then become part of the Facility B Commitment.

(b)

Each Facility B Increase Amount shall not exceed the balance of the undrawn Commitments under Facility A by reference to the relevant Base Currency Amount on the relevant Tanzanian Increase Effective Date.

(c)

The Borrower may serve no more than fifteen Tanzanian Increase Requests unless otherwise approved by the Agent acting on the instructions of the Majority Banks.

(d)

Each Tanzanian Increase Request shall be irrevocable and will not be regarded as having been duly completed unless it indicates (i) the TZS amount to which the Total Facility B Commitments are to be increased, (ii) the portion of the Facility B Commitments to be participated in by each TZS Bank, (iii) the agreed Margin for Facility B (which must be the same Margin for all Tanzanian Increase Requests), (v) the proposed date of the increase of Facility B and equivalent decrease of Facility A (the **Proposed Increase Date**).

(e)

The Agent shall promptly notify the Banks of each Tanzanian Increase Request.

(f)

The Total Facility B Commitments will be increased by each Facility B Increase Amount, and such additional Commitments will be allocated to the TZS Banks as set out in each Tanzanian Increase Request on the Proposed Increase Date or (if later) the date the Agent confirms that the conditions set out in Part B of Schedule 2 (Conditions Precedent Documents) and in the Accession Deed have been satisfied in form and substance satisfactory to it, acting reasonably (the **Tanzanian Increase Effective Date**).

(g)

If the proposed Facility B Increase Amount referred to in any Tanzanian Increase Request exceeds:

(i)

the balance of the undrawn Commitments under Facility A (as determined by the Agent by reference to the relevant Base Currency Amount on the Tanzanian Increase Effective Date); or

(ii)

would result in the breach of any Finance Document, the Facility B Increase Amount shall be reduced by the Agent, *pro rata* among the relevant TZS Banks, by an amount which is sufficient to ensure that the requirements of paragraphs (b) and (c) above are met.

(h)

The Agent shall promptly notify the Borrower and the Banks upon the occurrence of the Tanzanian Increase Effective Date.

(i)

Immediately upon the occurrence of a Tanzanian Increase Effective Date an amount equal to the equivalent of the Facility B increase Amount in USD as determined by the Agent on the Tanzanian Increase Effective Date of the Facility A Commitment shall be cancelled and the TZS Banks will assume rights and obligations towards each other Party y under this Agreement as if it were an original Party.

(j)

Each TZS Bank, by executing the Accession Deed, confirms (for the avoidance of doubt)

that the Agent has authority to execute on its behalf any accession deed or amendment or waiver that has been approved by or on behalf of the requisite Banks in accordance with this Agreement on or prior to the Tanzanian Increase Effective Date.

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(k)

Clauses 26.2(f), 26.2(g) and 26.2(h) (Transfers by Banks) shall apply mutatis mutandis in this Clause 2.2 (Facility B Increase) in relation to a Bank and TZS Bank as if references in those clauses to:

(i)

an "Existing Bank" were references to all the Banks immediately prior to the relevant increase;

(ii)

the "New Bank" were references to each TZS Bank; and

(iii)

a "re-transfer" and "re-assignment" were references to respectively a reversal of any increase or decrease of any Commitment made under this Clause 2.2.

(l)

Following an increase in the amount of the Total Facility B Commitment, the Agent shall update Schedule 1 (Banks and Commitments) accordingly in consultation with the Borrower and make available the updated Schedule to all Parties to reflect the then current Facility A Commitments and Facility B Commitments of each Bank.

2.3