



Court File No. CV-22-00676682-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE
JUSTICE E. M. MORGAN

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WEDNESDAY, THE 10TH
DAY OF APRIL, 2024

B E T W E E N:

IZABELA PRZYBYLSKA

Plaintiff

- and -

**GATOS SILVER, INC., STEPHEN ORR, ROGER JOHNSON, PHILIP PYLE,
TETRA TECH, INC., GUILLERMO DANTE RAMÍREZ-RODRÍGUEZ, KIRA LYN
JOHNSON, THE ELECTRUM GROUP LLC, ELECTRUM SILVER US LLC, and
ELECTRUM SILVER US II LLC.**

Defendants

Proceeding under the *Class Proceedings Act*, 1992

ORDER

THIS MOTION, made by the Plaintiff for an order, among other things, approving the settlement of the action as against Tetra Tech, Inc., Guillermo Dante Ramirez-Rodriguez and Kira Lyn Johnson ("**Tetra Tech Defendants**") was heard virtually on Wednesday, April 10, 2024.

ON READING the materials filed, including the Settlement Agreement dated December 19, 2023 attached hereto as **Schedule "1"** ("**Settlement Agreement**") and on hearing the submissions of Counsel for the Plaintiff and Counsel for the Tetra Tech Defendants.

AND ON BEING ADVISED that the deadline for objection to the Settlement Agreement has passed and there have been no objections.

AND ON BEING ADVISED that the Tetra Tech Defendants consent to this Order.

AND ON BEING ADVISED that the remaining Defendants Gatos Silver, Inc., Stephen Orr, Roger Johnson, Philip Pyle, The Electrum Group LLC, Electrum Silver US LLC, and Electrum Silver US II LLC take no position with respect to this Order.

1. **THIS COURT DECLARES** that except as otherwise stated, this Order incorporates and adopts the definitions set out in the Settlement Agreement.

2. **THIS COURT DECLARES** that the Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class.

3. **THIS COURT ORDERS** that the Settlement Agreement is approved pursuant to section 27.1 of the *Class Proceedings Act*, 1992, SO 1992, c 6 (“CPA”).

4. **THIS COURT DECLARES** that the Settlement Agreement, in its entirety (including the Recitals), forms part of this Order and is binding upon the Tetra Tech Defendants, the Plaintiff, and all Settlement Class Members who did not opt out, including those persons that are minors or mentally incapable, and that the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure*, RRO 1990, Reg 194 are hereby dispensed with.

5. **THIS COURT ORDERS** that the class definition set out in paragraph 7 of the Certification Order dated January 4, 2024, is amended, for settlement purposes, to the following:

All persons and entities (other than Excluded Persons), wherever they may reside or be domiciled, who:

- purchased Gatos Silver securities under the Impugned Prospectuses and in the distributions to which they related; or
- acquired Gatos Silver securities during the Class Period on any Canadian exchange (including, without limitation, the Toronto Stock Exchange) or any Canadian alternative trading system.

For the purposes of this definition of the Settlement Class:

- "Class Period" means the period from October 28, 2020, until January 25, 2022 at 6:52 p.m. Eastern Standard Time.
- "Electrum Defendants" means The Electrum Group LLC, Electrum Silver US LLC, and Electrum Silver US II LLC.
- "Excluded Persons" means Gatos Silver, Stephen Orr, Roger Johnson, Philip Pyle, the Tetra Tech Defendants, the Electrum Defendants and the Underwriters; the respective past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns of Gatos Silver, Tetra Tech, the Electrum Defendants, and the Underwriters; and the immediate family members of Stephen Orr, Roger Johnson, Philip Pyle, Guillermo Dante Ramirez-Rodriguez and Kira Lyn Johnson, provided, however, that any "Investment Vehicle" shall not be excluded from the class. "Investment Vehicles" means any investment company, pooled investment fund, or separately managed account (including, but not limited to, mutual fund families, exchange traded funds, funds of funds, private equity funds, real estate funds, hedge funds, and employee benefit plans) in which the Underwriter Defendants, or any of them, have, has, or may have a direct or indirect interest, or as to which its affiliates may serve as a fiduciary or act as an investment advisor, general partner, managing member, or in any other similar capacity, but in which any of the Underwriter Defendants alone or together, with its, his, or her respective affiliates, is not a majority owner or does not hold a majority beneficial interest.

6. **THIS COURT ORDERS** that the Settlement Agreement shall be implemented in accordance with its terms.

7. **THIS COURT ORDERS** that the Plaintiff and the Tetra Tech Defendants may, on notice to the Court but without the need for a further order of the Court, agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

8. **THIS COURT ORDERS AND DECLARES** that, other than as provided in section 2.4 of the Settlement Agreement, the Tetra Tech Defendants have no responsibility for and no liability whatsoever with respect to the ongoing administration of the Settlement Amount.

9. **THIS COURT ORDERS AND DECLARES** that the Releasors shall release and discharge, and shall be conclusively deemed to have fully, finally and forever released and discharged the Releasees from the Released Claims.

10. **THIS COURT DECLARES** that all claims against the Releasees for contribution, indemnity or other claims, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, in any way arising from or relating to the allegations in this Action, which were made or which could have been or could be made by any Non-Settling Defendant or any other person or party against the Tetra Tech Defendants, or by the Tetra Tech Defendants against any Non-Settling Defendant, are barred, prohibited and enjoined.

11. **THIS COURT ORDERS AND DECLARES** that if there is a right of contribution and indemnity or other claim, whether in equity or in law, by statute or otherwise between any or all of the Defendants:

- (a) the Plaintiff and the Settlement Class Members shall not be entitled to claim or recover from any Non-Settling Defendant that portion of any damages, interest and costs that corresponds to the proportionate liability of the Releasees proven at trial or otherwise;
- (b) the Plaintiff and Settlement Class Members shall limit their claims against the Non-Settling Defendants, and shall only seek to recover from the Non-Settling Defendants those claims for damages, interest and costs attributable to the aggregate of the several liability of the Non-Settling Defendants and, for greater certainty, the Plaintiff and the Settlement Class Members shall be entitled to claim and seek to recover on a joint and several basis as between the Non-Settling Defendants if permitted by law; and

- (c) the Court has full authority to determine the proportionate liability of the Releasees at the trial or other disposition of this action, whether or not the Releasees appear at the trial or other disposition, and the proportionate liability of the Releasees shall be determined as if the Releasees are parties to this action and any determination by the Court in respect of the proportionate liability shall only apply and shall not be binding on the Releasees in any other proceedings.

12. **THIS COURT ORDERS** that a Non-Settling Defendant may, on motion to this Court brought as if the Settling Defendants remained parties to this action, on at least ten (10) days' notice to Counsel for the Settling Defendants, seek orders for the following:

- (a) documentary discovery and affidavit(s) of documents from the Settling Defendants in accordance with the Ontario Rules of Civil Procedure;
- (b) oral discovery of representative(s) of the Settling Defendants, the transcript(s) of which may be read in at trial;
- (c) leave to serve request(s) to admit on the Settling Defendants in respect of factual matters; and/or
- (d) the production of representative(s) of the Settling Defendants to testify at trial, with such witness(es) to be subject to cross-examination by counsel for the Non-Settling Defendants.

13. **THIS COURT ORDERS** that the Settling Defendants retain all rights to oppose such motion(s) brought under paragraph 12, including on the basis that, as a matter of fact and law, the Non-Settling Defendants ought not to be entitled to discovery rights as set out in paragraph 12

as if the Settling Defendants continued to be parties to this action. Moreover, nothing herein restricts the Settling Defendants from seeking a protective order to maintain confidentiality and protection of proprietary information in respect of Documents to be produced and/or for information obtained from discovery in accordance with paragraph 12. Notwithstanding any provision in this order, on any motion brought pursuant to paragraph 12, this Court may make such orders as to costs and other terms as it considers appropriate.

14. **THIS COURT ORDERS** that a Non-Settling Defendant may serve the motion(s) referred to in paragraph 12 above on the Settling Defendants by service on Counsel for the Settling Defendants in this Action.

15. **THIS COURT ORDERS** that nothing in this Order is intended to or shall limit, restrict or affect any arguments which the Non-Settling Defendants may make regarding the reduction of any assessment of damages or judgment against them in favour of the Plaintiff or the Settlement Class Members or the rights of the Plaintiff or the Settlement Class Members to oppose or resist any such arguments, except as provided for in this Order.

16. **THIS COURT ORDERS** that this Order, including but not limited to the approval of the Settlement Agreement and any reasons given by the Court in relation thereto, except as to paragraphs 11 and 12 above, is without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing proceeding and, without restricting the generality of the foregoing, may not be relied on by any person to establish the criteria for certification (including class definition) or the existence or elements of the causes of action asserted in this action as against the Non-Settling Defendants.

17. **THIS COURT ORDERS** that the within action be and is dismissed as against the Tetra Tech Defendants with prejudice and without costs.

18. **THIS COURT ORDERS** that as soon as practicable following the entry of this Order, Class Counsel shall post this Order on <https://www.cfmlawyers.ca/active-litigation/gatos-silver-inc-tsx-gato/> and <https://www.siskinds.com/class-action/gatos-silver/>.



MORGAN J.

SCHEDULE

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SETTLEMENT AGREEMENT

Made as of the 19th day of December, 2023

Between

Izabela Przybylska

Proposed representative plaintiff in the proposed class action in the Ontario Superior Court of
Justice, Court File No. CV-22-00676682-00CP

In her personal and proposed representative capacities
(**"Plaintiff"**)

- and -

Tetra Tech, Inc. (**"Tetra Tech"**), Guillermo Dante Ramirez-Rodriguez, and Kira Lyn Johnson
(collectively, **"Tetra Tech Defendants"**)

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RECITALS

- A. **WHEREAS** the Plaintiff commenced an action on behalf of putative class members for, *inter alia*, damages for misrepresentation under ss 130 and 138.3(1) of the *Securities Act*, RSO 1990, c S.5, as amended ("**OSA**") in Court File No. CV-22-00676682-00CP ("**Action**");
- B. **AND WHEREAS** the Tetra Tech Defendants deny any such misrepresentation and resulting damages;
- C. **AND WHEREAS** Gatos Silver, Inc. ("**Gatos Silver**"), Stephen Orr, Roger Johnson, Philip Pyle, The Electrum Group LLC, Electrum Silver US LLC, Electrum Silver US II LLC, BMO Nesbitt Burns Inc., Goldman Sachs Canada Inc., RBC Dominion Securities Inc., Canaccord Genuity Corp. and CIBC World Markets Inc. (collectively, "**Non-Settling Defendants**") are also parties to the Action;
- D. **AND WHEREAS** counsel for each of the Plaintiff and the Tetra Tech Defendants (together, "**Parties**") have engaged in arm's length settlement discussions and negotiations, including with the assistance of a mediator, resulting in this settlement agreement ("**Settlement**" or "**Agreement**");
- E. **AND WHEREAS** no documentary discovery has occurred in the Action, and examinations for discovery remain to be scheduled;
- F. **AND WHEREAS** the Action continues as against the Non-Settling Defendants, and whereas the Plaintiff, on behalf of the Settlement Class (defined below), reserves all rights against the Non-Settling Defendants, other than as may be provided for in the bar order described at SECTION 8 herein;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Action be settled and dismissed on the merits with prejudice and without costs, subject to the approval of the Court, on the following terms and conditions.

SECTION 1- SETTLEMENT BENEFITS

Payment of Settlement Amount

- 1.1 Within fifteen (15) calendar days of the execution of this Agreement, Tetra Tech shall pay into the Escrow Account (as defined in section 2.1 below) pending Court approval of this settlement, the all-inclusive sum of one million Canadian dollars (C\$1,000,000.00) ("**Settlement Amount**") in full and final settlement of the claims against the Tetra Tech Defendants in the Action.

Access to Evidence

- 1.2 If the Action is certified against one or more Non-Settling Defendants, and the Action proceeds to discovery, Tetra Tech shall not oppose a motion by the Plaintiff for discovery from and of Tetra Tech as a non-party under rules 30.10 and 31.10 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.
- 1.3 If the Action proceeds to trial against one or more Non-Settling Defendants, Tetra Tech shall make a representative of Tetra Tech available for testimony at trial in the Action, as would be reasonably necessary for the sole purpose of supporting the admission into evidence of any documents or evidence of Tetra Tech obtained under section 1.2. The identity of the Tetra Tech representative will be determined by Tetra Tech.
- 1.4 Tetra Tech further agrees that:
 - (a) its obligations under sections 1.2 and 1.3 are not affected by the release provisions contained in SECTION 10 of this Agreement; and
 - (b) nothing in those sections shall prevent the Plaintiff or the Non-Settling Defendants from requesting that the Court determine the validity of any privilege claim Tetra Tech may make over documents and/or information.
- 1.5 The reasonable costs incurred by, and the reasonable expenses of, the present and former affiliated entities, partners, associates, employees, servants, agents, contractors, directors

or officers in relation to Tetra Tech's obligations in sections 1.2 and 1.3 shall be the responsibility of Tetra Tech.

- 1.6 Nothing in this Agreement shall prevent the Plaintiff from exercising any of her rights to compel the attendance of a person at trial, or to commence proceedings in the United States pursuant to Title 28 of the United States Code §1782 with respect to a person who, despite Tetra Tech's reasonable efforts, continues to refuse to cooperate under this SECTION 1.

SECTION 2- SETTLEMENT AMOUNT TO BE HELD IN TRUST

- 2.1 Siskinds LLP (together with Eighty-One West Law Professional Corporation and Camp Fiorante Matthews Mogerman LLP, "**Class Counsel**") shall maintain an escrow account to hold the Settlement Amount in trust for the benefit of the Settlement Class ("**Escrow Account**").

Taxes on Interest

- 2.2 Except as expressly provided herein, all interest earned on the Settlement Amount shall accrue to the benefit of the Settlement Class and shall become and remain part of the Settlement Amount in the Escrow Account ("**Escrow Settlement Amount**").
- 2.3 Subject to section 2.4, all taxes payable on any interest which accrues on or otherwise in relation to the Escrow Settlement Amount shall be the responsibility of the Plaintiff and the Settlement Class. Class Counsel or a claims administrator, as may later be appropriate, shall be solely responsible to fulfil all tax reporting and payment requirements arising from the Escrow Settlement Amount, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Escrow Account.
- 2.4 Other than as expressly set out herein, the Tetra Tech Defendants shall have no responsibility in any way related to the Escrow Account other than as expressly set out herein, including, but not limited to, making any filings relating to the Escrow Account, paying tax on any income earned by the Settlement Amount, or paying any taxes on the monies in the Escrow Account, unless this Agreement is terminated, in which case any

interest earned on the Settlement Amount shall be paid to Tetra Tech which, in such case, shall be responsible for the payment of any taxes on such interest not previously paid by Class Counsel or a claims administrator.

No Reversion

- 2.5 Unless this Agreement is terminated as provided herein, the Tetra Tech Defendants shall not be entitled to the repayment of any portion of the Settlement Amount and then only to the extent of and in accordance with the terms provided herein.

SECTION 3- EFFECT OF SETTLEMENT

No Admissions or Concessions

- 3.1 This Agreement, whether or not it is terminated, and anything contained in it, and any and all negotiations, discussions, and communications associated with this Agreement, shall not be deemed, construed or interpreted to be:
- (a) an admission or concession by the Tetra Tech Defendants of any fact, fault, omission, wrongdoing or liability, or of the truth of any of the claims or allegations made against it in the Action; or
 - (b) an admission or concession by the Plaintiff, Class Counsel or the Settlement Class of any weakness in the claims of the Plaintiff and the Settlement Class, including those against the Non-Settling Defendants, or that the consideration to be given hereunder represents the amount that could or would have been recovered from the Tetra Tech Defendants after trial of the Action.

Agreement Not Evidence nor Presumption

- 3.2 This Agreement, whether or not it is terminated, and anything contained in it, and any and all negotiations, documents, discussions and proceedings associated with this Agreement, and any action taken to implement this Agreement, shall not be offered or received in the

continuing Action, or any pending or future civil, criminal, quasi-criminal, administrative action or disciplinary investigation or proceeding:

- (a) against the Tetra Tech Defendants, as evidence, or a presumption, of a concession or admission of any fact, fault, omission, wrongdoing or liability, or of the truth of any of the claims or allegations made against them in the Action; or
- (b) against the Plaintiff, Class Counsel or the Settlement Class, as evidence, or a presumption, of a concession or admission:
 - (i) of any weakness in the claims of the Plaintiff and the Settlement Class, including those against the Non-Settling Defendants; or
 - (ii) that the consideration to be given hereunder represents the amount that could or would have been recovered from the Tetra Tech Defendants after trial of the Action.

- 3.3 Notwithstanding section 3.2, this Agreement may be referred to or offered as evidence to obtain the orders or directions from the Court contemplated by this Agreement, in a proceeding to approve or enforce this Agreement, to defend against the assertion of released claims, or as otherwise required by law.

SECTION 4- REQUIRED STEPS

Reasonable Efforts

- 4.1 The Parties shall take all reasonable steps to effectuate the Settlement and to secure the prompt, complete and final dismissal with prejudice of the Action on a without costs basis as against the Tetra Tech Defendants, including cooperating in the Plaintiff's efforts to obtain the approval and orders required from the Court regarding the approval or implementation of the Settlement.

Action in Abeyance

- 4.2 Until the Parties have obtained a final settlement approval order or this Agreement is terminated in accordance with its terms, whichever occurs first, the Plaintiff agrees to hold in abeyance all other steps in the Action as they relate to the Tetra Tech Defendants, other than the motions contemplated by this Agreement and such other matters required to implement the terms of this Agreement.

Pleading Amendment

- 4.3 As soon as practicable after Court approval of this Agreement, the Plaintiff shall amend the Fresh as Amended Statement of Claim to:
- (a) remove the Tetra Tech Defendants as parties to the Action; and
 - (b) limit the scope of the Plaintiff's claims in the Action against the Non-Settling Defendants to their proportionate liability.

SECTION 5 – FIRST MOTION

Motion Seeking Approval of Notice and Certification

- 5.1 As soon as practicable after this Agreement is executed, the Plaintiff shall bring a motion for an order, substantially in the form attached hereto as **Appendix A** or in such other form as agreed upon by the Parties in writing ("**First Order**"), which, among other things, approves the notices described in SECTION 6 and certifies the Action as a class proceeding under the *Class Proceedings Act, 1992*, SO 1992, c 6 as against Tetra Tech (for settlement purposes only) on behalf of the following class ("**Settlement Class**" or "**Settlement Class Members**"):

All persons and entities (other than Excluded Persons), wherever they may reside or be domiciled, who:

- (i) purchased Gatos Silver securities under the Impugned Prospectuses and in the distributions to which they related; and

(ii) acquired Gatos Silver securities during the Class Period on any Canadian exchange (including, without limitation, the Toronto Stock Exchange) or any Canadian alternative trading system.

For the purposes of the above class definition:

“Class Period” means the period from October 28, 2020 until January 25, 2022 at 6:52 p.m. Eastern Standard Time.

“Electrum Defendants” means The Electrum Group LLC, Electrum Silver US LLC, and Electrum Silver US II LLC.

“Excluded Persons” means Gatos Silver, Stephen Orr, Roger Johnson, Philip Pyle, the Tetra Tech Defendants, the Electrum Defendants and the Underwriter Defendants; the respective past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns of Gatos Silver, Tetra Tech, the Electrum Defendants, and the Underwriter Defendants; and the immediate family members of Stephen Orr, Roger Johnson, Philip Pyle, Guillermo Dante Ramirez-Rodriguez and Kira Lyn Johnson.

“Impugned Prospectuses” means Gatos Silver’s Base Prep Prospectus dated October 27, 2020 and Supplemented Prep Prospectus dated October 27, 2020, and Gatos Silver’s Short Form Base Shelf Prospectus dated July 12, 2021 and Prospectus Supplement dated July 15, 2021.

“Underwriter Defendants” means BMO Nesbitt Burns Inc., Goldman Sachs Canada Inc., RBC Dominion Securities Inc., Canaccord Genuity Corp., and CIBC World Markets Inc.

- 5.2 The Parties agree that the only common issue that the Plaintiff will seek to define (for settlement purposes only) is:

Did the Impugned Documents contain misrepresentations within the meaning of the *OSA*?

- 5.3 Tetra Tech will consent to certification of the Action as a class proceeding, pursuant to sections 2, 5 and 6 of the *Class Proceedings Act, 1992*, SO 1992, c 6 only for the purpose of the approval of the Settlement.
- 5.4 The Tetra Tech Defendants will consent to the First Order.
- 5.5 The Parties agree that the certification of the Action as a class proceeding against Tetra Tech is for the sole purpose of effecting the Settlement. In the event that this Agreement is

terminated as provided herein, any certification order binding the Tetra Tech Defendants shall be vacated or set aside as set out herein and shall be without prejudice to any position that either of the Parties may later take on any issue in the Action including in a subsequent certification motion. In particular, the fact of Tetra Tech's consent to certification for settlement purposes shall not be deemed to be an admission that the Plaintiff has met any of the requisite criteria for certification of the Action as a class proceeding, or the requirements for leave to proceed under s. 138.8(1) of the *Securities Act*, RSO 1990, c. S.5.

SECTION 6- NOTICES AND OPT-OUTS

Notices

- 6.1 As soon as practicable following entry of the First Order, Class Counsel shall cause the notices to be published and distributed in accordance with the Notice Plan and the direction of the Court. The Notice Plan is attached hereto to at **Appendix B**. The notices shall be substantially in the form attached as **Appendix C ("Short-Form Notice")** and **Appendix D ("Long-Form Notice")** (together, "Notices").
- 6.2 The costs of publishing and distributing the Notices shall be paid from the Escrow Settlement Amount as and when incurred.

Report to the Court as to Notice

- 6.3 After publication and dissemination of the Notices, Class Counsel shall file with the Court an affidavit confirming publication and dissemination of the Notices.

Opt-outs and Objections

- 6.4 The Plaintiff represents and warrants that she is not aware of any Settlement Class Member who has expressed an intention to opt out of the Settlement or the Settlement Class and that she will not encourage any Settlement Class Member to do so.
- 6.5 Settlement Class Members who wish to file with the Court an objection to or comment on this Agreement, shall deliver to Class Counsel a written statement in accordance with the terms of, and by the deadline set out in, the First Order and the Notices.

SECTION 7- SECOND MOTION

Motion Seeking Approval of this Agreement

- 7.1 Class Counsel shall bring a motion for an order, substantially in the form attached hereto as **Appendix E** or in such other form as agreed upon by the Parties in writing (“**Second Order**”), which, among other things, approves this Agreement and dismisses the Action as against the Tetra Tech Defendants as soon as practicable after:
- (a) the First Order referred to in section 5.1 has been granted; and
 - (b) the notices described in section 6.1 have been published.
- 7.2 The Tetra Tech Defendants will consent to the Second Order.
- 7.3 For greater certainty, the bar order contemplated in SECTION 8 shall be considered a material term of this Agreement and the failure of the Court to approve the bar order contemplated shall give rise to the termination of this Agreement pursuant to SECTION 9.

Motion for Approval of Class Counsel Fees

- 7.4 Immediately following the motion for the Second Order under section 7.1, Class Counsel may seek the approval of fees, disbursements, costs, interest thereon in accordance with the *Class Proceedings Act, 1992*, SO 1992, c 6, s 33(7)(c) plus HST and other applicable taxes or charges of Class Counsel (“**Class Counsel Fees**”), to be paid as a first charge on the Settlement Amount. Class Counsel are not precluded from making additional motions to the Court for expenses incurred as a result of implementing the terms of the Agreement.
- 7.5 The Tetra Tech Defendants acknowledge that they are not parties to the motion concerning the approval of Class Counsel Fees, they will have no involvement in the approval process to determine the amount of Class Counsel Fees and they will not take any position or make any submissions to the Court concerning Class Counsel Fees, except as requested and required by a Court.

- 7.6 The procedure for and the allowance or disallowance by the Court of any requests for Class Counsel Fees to be paid out of the Settlement Amount are not part of the Settlement provided for herein, and are to be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement provided for herein.
- 7.7 Any order or proceeding relating to Class Counsel Fees, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Agreement or affect or delay the finality of the Second Order and the Settlement of this Action provided herein.

SECTION 8- BAR ORDER

- 8.1 The Parties agree that the Second Order will include a bar order providing for the following:
- (a) all claims for contribution, indemnity or other claims, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, in any way arising from or relating to the allegations in the Action, or which were made, which could have been made or which could be made by any Non-Settling Defendant or any other person or party against the Tetra Tech Defendants, or by the Tetra Tech Defendants against any Non-Settling Defendant, will be barred, prohibited and enjoined;
 - (b) if, in the absence of (a) hereof, the Non-Settling Defendants would have the right to make claims for contribution and indemnity or other claims, whether in equity or in law, by statute or otherwise, from or against the Tetra Tech Defendants:
 - (i) the Plaintiff and the Settlement Class shall not claim or be entitled to recover from the Non-Settling Defendants that portion of any damages, costs or interest awarded in respect of any claim(s) on which judgment is entered that corresponds to the proportionate liability of the Tetra Tech Defendants proven at trial or otherwise;

- (ii) for greater certainty, the Plaintiff and the Settlement Class shall limit their claims against the Non-Settling Defendants to, and shall be entitled to recover from the Non-Settling Defendants, only those claims for damages, costs and interest attributable to the Non-Settling Defendants' liability to the Plaintiff and the Settlement Class, if any;
- (iii) the Court shall have full authority to determine the proportionate liability of the Tetra Tech Defendants at the trial or other disposition of this Action, whether or not the Tetra Tech Defendants appear at the trial or other disposition, and the proportionate liability shall be determined as if the Tetra Tech Defendants are parties to this Action for that purpose and any such finding by this Court in respect of the proportionate liability shall only apply in this Action and shall not be binding upon the Tetra Tech Defendants in any other proceedings; and
- (c) if, in the absence of (a) hereof, the Non-Settling Defendants would not have the right to make claims for contribution and indemnity or other claims, whether in equity or in law, by statute or otherwise, from or against the Tetra Tech Defendants, then nothing in the order is intended to or shall limit, restrict or affect any arguments which the Non-Settling Defendants may make regarding the reduction of any judgment against them in the Action.

SECTION 9- TERMINATION

Automatic Termination

9.1 This Agreement shall, without notice, be automatically terminated if:

- (a) the First Order is not granted by the Court;
- (b) the First Order is reversed on appeal and the reversal becomes a final order;
- (c) the Second Order is not granted by the Court; or
- (d) the Second Order is reversed on appeal and the reversal becomes a final order.

Opt Out Threshold

9.2 For the purposes of sections 9.2 to 9.6 hereof:

- (a) **“Eligible Securities”** means Gatos Silver securities, the acquisition of which makes a person a Settlement Class Member or, in the case of an Opt Out Party, Gatos Silver securities, the acquisition of which would have made the person a Settlement Class Member if he, she or it had not excluded himself, herself or itself from the Settlement Class in accordance with the terms of the First Order and the Notices;
- (b) **“Opt Out Party”** means a person who would otherwise be a Settlement Class Member but who opts out of the Action pursuant to the Court-approved opt out process; and
- (c) **“Opt Out Threshold”** means the number of Eligible Securities held by Opt Out Parties confidentially agreed upon by the Parties in the Collateral Agreement entered into by the Parties dated December 19, 2023 (**“Collateral Agreement”**) as giving rise to the Defendants’ right to terminate the Agreement pursuant to section 9.4.

9.3 No later than fifteen (15) days after the deadline established by the Court for the delivery by any Settlement Class Member of any written request to exclude him, her or itself from the Action, Class Counsel shall notify the Tetra Tech Defendants of the number of Eligible Securities of Opt Out Parties and such particulars provided by such Opt Out Parties in support of their request to exclude themselves from the Settlement Class in accordance with the terms of the First Order and the Notices.

9.4 The Tetra Tech Defendants shall have the right to terminate this Agreement within fifteen (15) days, or on a later date on the consent of the Parties, of being notified by Class Counsel that the number of Eligible Securities of Opt Out Parties exceeds the Opt Out Threshold.

9.5 The right to terminate this Agreement contemplated by section 9.4 may be exercised by any one or more of the Tetra Tech Defendants notifying Class Counsel in writing of his,

her or its intention to terminate the Agreement, which notification shall have the effect of terminating this Agreement for all Tetra Tech Defendants.

- 9.6 The Opt Out Threshold shall be stated in the Collateral Agreement executed contemporaneously with the execution of this Agreement. The Opt Out Threshold shall be redacted in the Collateral Agreement that is filed with the Court or otherwise made available to the public. The Collateral Agreement, without redaction of the Opt Out Threshold, shall not be published and shall be kept confidential by the parties unless the Court orders its publication or disclosure.

Effect of Termination

- 9.7 In the event this Agreement is terminated in accordance with its terms:

- (a) the Parties will be restored to their respective positions prior to the execution of this Agreement;
- (b) the Plaintiff and the Tetra Tech Defendants will consent to an order vacating or setting aside any order certifying this Action as a class proceeding for the purposes of implementing this Agreement and such order shall include a declaration that the prior consent certification of this Action for settlement purposes shall not be deemed to be an admission by the Tetra Tech Defendants that the Action met any of the criteria for certification as a class action, and that no party to this Action and no other person may rely upon the fact of the prior consent certification order for any purpose whatsoever;
- (c) the Escrow Settlement Amount will be returned to Tetra Tech in accordance with section 9.9(c) hereof;
- (d) this Agreement will have no further force or effect and no effect on the rights of the Parties except as specifically provided for herein;
- (e) all statutes of limitation applicable to the claims asserted in the Action shall be deemed to have been tolled during the period beginning with the execution of this

Agreement and ending with the day on which the order contemplated by section 9.9(b) is entered;

- (f) any costs reasonably incurred by Class Counsel and paid out of the Escrow Account for the publication and dissemination of the Notices are non-recoverable from the Plaintiff, the Settlement Class Members and Class Counsel; and
- (g) this Agreement and the consent certification order will not be introduced into evidence or otherwise referred to in any litigation against the Tetra Tech Defendants.

9.8 Notwithstanding the provisions of section 9.7(d), if this Agreement is terminated, the provisions of this SECTION 9 and sections 2.4, 3.1, 3.2, 6.2 and the provisions of SECTION 11 shall survive termination and shall continue in full force and effect.

Steps Required on Termination

9.9 If this Agreement is terminated pursuant to SECTION 9, the Tetra Tech Defendants shall, within thirty (30) days after termination, apply to the Court, on notice to the Plaintiff and the Non-Settling Defendants, for an order:

- (a) declaring this Agreement null and void and of no force or effect except for the provisions of those sections listed in section 9.8;
- (b) setting aside, *nunc pro tunc*, all prior orders or judgments entered by the Court in accordance with the terms of this Agreement, including any order certifying the Action as a class proceeding for the purposes of implementing this Agreement; and
- (c) authorizing the payment of the Escrow Settlement Amount, including accrued interest, to Tetra Tech.

9.10 Subject to section 9.12, the Plaintiff shall consent to the order sought in any motion made by the Tetra Tech Defendants under section 9.9.

Notice of Termination

- 9.11 If this Agreement is terminated, a notice of the termination will be given to the Settlement Class. Class Counsel will cause the notice of termination, in a form approved by the Court, to be published and disseminated as the Court directs.

Disputes Relating to Termination

- 9.12 If there is a dispute about the termination of this Agreement, the Parties agree that the Court shall determine the dispute on a motion made by a Party on notice to the other Party.

SECTION 10- RELEASES

- 10.1 Upon the receipt of the Second Order approving this Agreement, and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Agreement, the Releasors forever and absolutely release the Releasees from the Released Claims (all as defined below).
- 10.2 **Releasees** mean, jointly and severally, individually and collectively, Tetra Tech and all of its present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past and present officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing; and Guillermo Dante Ramirez-Rodriguez and Kira Lyn Johnson and their successors and assigns, excluding always the Non-Settling Defendants.
- 10.3 **Releasors** mean, jointly and severally, individually and collectively, the Plaintiff and the Settlement Class Members (who do not opt out of the Action) on behalf of themselves and any person claiming by or through them as a parent, subsidiary, affiliate, predecessor, successor, shareholder, partner, director, owner of any kind, agent, employee, contractor, attorney, heir, executor, administrator, insurer, devisee, assignee or representative of any kind.

- 10.4 ***Released Claims*** mean any and all manner of claims, demands, actions, suits, causes of action, whether class, individual, representative or otherwise in nature, whether personal or subrogated, whenever incurred, including compensatory, punitive or other damages, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties, and lawyers' fees, known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity that Releasers, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, arising out of or relating in any way to the acquisition, purchase, sale, retention, pricing, marketing or distribution of Gatos securities during the Class Period and any claims which were raised or could have been raised in the Action, including, without limitation, any such claims which have been asserted, would have been asserted, or could have been asserted, directly or indirectly, whether in Canada or elsewhere, as a result of or in connection with alleged misrepresentations in breach of sections 130 and 138.3 of the *OSA*, and/or in connection with the technical reported entitled "Los Gatos Project, Chihuahua, Mexico" with an effective date of July 1, 2020.

SECTION 11- MISCELLANEOUS

Motions for Directions

- 11.1 Either of the Parties may apply to the Court for directions in respect of any matter in relation to this Agreement.
- 11.2 All motions contemplated by this Agreement shall be on notice to the Parties.

Headings, etc.

- 11.3 In this Agreement:
- (a) the division into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation;

- (b) the terms “the Agreement”, “this Agreement”, “herein”, “hereto” and similar expressions refer to this Agreement and not to any particular section or other portion of the Agreement; and
- (c) “person” means any legal entity including, but not limited to, individuals, corporations, sole proprietorships, general or limited partnerships, limited liability partnerships or limited liability companies.

Computation of Time

11.4 In the computation of time in this Agreement, except where a contrary intention appears:

- (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

Governing Law

11.5 The Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.

11.6 The Parties agree that the Court shall retain exclusive and continuing jurisdiction to interpret and enforce the terms, conditions and obligations under this Agreement, the First Order and the Second Order.

Severability

11.7 Any provision hereof that is held to be inoperative, unenforceable or invalid in any jurisdiction shall be severable from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

Entire Agreement

11.8 This Agreement and the Collateral Agreement constitute the entire agreement among the Parties and supersede all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. Neither of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Agreement, unless expressly incorporated herein. This Agreement may not be modified or amended except in writing and on consent of both Parties and any such modification or amendment after settlement approval must be approved by the Court.

Binding Effect

11.9 If the settlement is approved by the Court and becomes final, this Agreement shall be binding upon, and enure to the benefit of, the Plaintiff, the Settlement Class Members, the Tetra Tech Defendants, Class Counsel, the Releasees and the Releasors or, any of them, and all of their respective heirs, executors, predecessors, successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiff shall be binding upon all Releasors and each and every covenant and agreement made herein by the Tetra Tech Defendants shall be binding upon all of the Releasees.

11.10 For greater certainty, no Opt Out Party shall be bound by this Agreement.

Survival

11.11 The representations and warranties contained in this Agreement shall survive its execution and implementation.

Negotiated Agreement

11.12 This Agreement and the underlying settlement have been the subject of arm's-length negotiations and discussions among the undersigned and counsel. Each of the Parties has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed

against the drafters of this Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of the Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Agreement.

Recitals

11.13 The recitals to this Agreement are true, constitute material and integral parts hereof and are fully incorporated into, and form part of, this Agreement.

Acknowledgements

11.14 Each Party hereby affirms and acknowledges that:

- (a) its signatory has the authority to bind the Party for which it is signing with respect to the matters set forth herein and has reviewed this Agreement; and
- (b) the terms of this Agreement and the effects thereof have been fully explained to her or it by her or its counsel;
- (c) she or its representative fully understands each term of this Agreement and its effect.

Counterparts

11.15 This Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and an emailed pdf. signature shall be deemed an original signature for purposes of executing this Agreement.

Notice

- 11.16 Any notice, instruction, motion for Court approval or motion for directions or Court orders sought in connection with this Agreement or any other report or document to be given by any party to any other party shall be in writing and delivered by email to:

For the Plaintiff:

Anthony O'Brien
Siskinds LLP
#1155—65 Queen St W
Toronto, ON M5H 2M5
Email: anthony.obrien@siskinds.com

For the Tetra Tech Defendants:

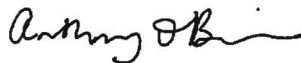
Cheryl Woodin
Bennett Jones LLP
3400 One First Canadian Place
Toronto ON M5X 1A4
Email: woodinc@bennettjones.com

Date of Execution

11.17 This Agreement is effective as of the date on the cover page.

December 19, 2023

Date



Siskinds LLP on behalf of Izabela Przybylska

Date



Eighty-One West Law PC on behalf of Izabela Przybylska

Date

For Camp Fiorante Matthews Mogerman LLP on behalf of Izabela Przybylska



Date

Bennett Jones LLP on behalf of the Tetra Tech Defendants

APPENDIX A - FIRST ORDER

Court File No. CV-22-00676682-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) _____, THE _____
JUSTICE E.M. MORGAN) DAY OF _____, _____

B E T W E E N :

IZABELA PRZYBYLSKA

Plaintiff

- and -

GATOS SILVER, INC., STEPHEN ORR, ROGER JOHNSON, PHILIP PYLE, TETRA TECH,
INC., GUILLERMO DANTE RAMÍREZ-RODRÍGUEZ, KIRA LYN JOHNSON, THE
ELECTRUM GROUP LLC, ELECTRUM SILVER US LLC, ELECTRUM SILVER US II LLC,
BMO NESBITT BURNS INC., GOLDMAN SACHS CANADA INC., RBC DOMINION
SECURITIES INC., CANACCORD GENUITY CORP. and CIBC WORLD MARKETS INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff for an order, among other things, that this action be certified as a class proceeding, for settlement purposes only, as against the Defendant, Tetra Tech, Inc. (“**Tetra Tech**”), fixing the date of the settlement approval hearing, and approving the form, content and method of dissemination of a notice of certification and of a pending settlement approval hearing, and approving an opt out procedure, was heard this day by Zoom in Toronto, Ontario.

ON READING the materials filed, including the Settlement Agreement dated December 19, 2023 attached hereto as **Schedule “1”** (“**Settlement Agreement**”) and on hearing the submissions of Counsel for the Plaintiff and Counsel for Tetra Tech, Guillermo Dante Ramirez-Rodriguez and Kira Lyn Johnson (“**Tetra Tech Defendants**”).

AND ON BEING ADVISED that the Tetra Tech Defendants consent to this Order.

AND ON BEING ADVISED that the remaining Defendants Gatos Silver, Inc. (“**Gatos Silver**”), Stephen Orr, Roger Johnson, Philip Pyle, The Electrum Group LLC, Electrum Silver US LLC, Electrum Silver US II LLC, BMO Nesbitt Burns Inc., Goldman Sachs Canada Inc., RBC Dominion Securities Inc., Canaccord Genuity Corp. and CIBC World Markets Inc. take no position with respect to this Order.

1. **THIS COURT ORDERS** that, except to the extent they are modified by this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. **THIS COURT ORDERS** that if the Settlement Agreement is not approved, is terminated in accordance with its terms, or otherwise fails to take effect for any reason, the orders herein shall be null and void and of no force or effect.
4. **THIS COURT ORDERS** that the Plaintiff is granted leave to proceed under section 138.8(1) of the *Securities Act*, RSO 1990, c S.5, as amended (“**OSA**”) (and, if necessary, the equivalent provisions of the Other Securities Legislation) as against Tetra Tech to commence an action under section 138.3 of the *OSA* (and, if necessary, the equivalent provisions of the Other Securities Legislation).
5. **THIS COURT ORDERS** that the Plaintiff is granted leave to discontinue the claims for common law negligence and common law negligent misrepresentation against Tetra Tech, on a without costs basis.

6. **THIS COURT ORDERS** that this action is certified as a class proceeding as against Tetra Tech, for the purpose of settlement only, pursuant to the *Class Proceedings Act, 1992*, SO 1992, c 6 (“*CPA*”), ss 2 and 5, but subject to the terms of the Settlement Agreement.
7. **THIS COURT ORDERS** that the class certified for the purpose of settlement is defined as (“**Settlement Class**” or “**Settlement Class Members**”):

All persons and entities (other than Excluded Persons), wherever they may reside or be domiciled, who:

- (i) purchased Gatos Silver securities under the Impugned Prospectuses and in the distributions to which they related; and
- (ii) acquired Gatos Silver securities during the Class Period on any Canadian exchange (including, without limitation, the Toronto Stock Exchange) or any Canadian alternative trading system.

For the purposes of this class definition:

“**Class Period**” means the period from October 28, 2020 until January 25, 2022 at 6:52 p.m. Eastern Standard Time.

“**Electrum Defendants**” means The Electrum Group LLC, Electrum Silver US LLC, and Electrum Silver US II LLC.

“**Excluded Persons**” means Gatos Silver, Stephen Orr, Roger Johnson, Philip Pyle, the Tetra Tech Defendants, the Electrum Defendants and the Underwriter Defendants; the respective past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns of Gatos Silver, Tetra Tech, the Electrum Defendants, and the Underwriter Defendants; and the immediate family members of Stephen Orr, Roger Johnson, Philip Pyle, Guillermo Dante Ramirez-Rodriguez and Kira Lyn Johnson.

“**Impugned Prospectuses**” means Gatos Silver’s Base Prep Prospectus dated October 27, 2020 and Supplemented Prep Prospectus dated October 27, 2020, and Gatos Silver’s Short Form Base Shelf Prospectus dated July 12, 2021 and Prospectus Supplement dated July 15, 2021.

“**Underwriter Defendants**” means BMO Nesbitt Burns Inc., Goldman Sachs Canada Inc., RBC Dominion Securities Inc., Canaccord Genuity Corp., and CIBC World Markets Inc.

8. **THIS COURT ORDERS** that the following issue is common to the Settlement Class:

Did the Impugned Documents contain misrepresentations within the meaning of the *OSA*?

9. **THIS COURT ORDERS** that Izabela Przybylska is appointed as the representative plaintiff for the Settlement Class.
10. **THIS COURT ORDERS** that Siskinds LLP, Eighty-One West Law Professional Corporation, and Camp Fiorante Matthews Mogerman LLP are appointed as Class Counsel.
11. **THIS COURT ORDERS** that this Order, including but not limited to the certification of this action against Tetra Tech for settlement purposes and the definitions of the Settlement Class, Class Period and the common issue, and any reasons given by the Court in connection with this Order, is without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing proceeding and, without restricting the generality of the foregoing, may not be relied on by any person to establish the criteria for certification (including class definition) or the existence or elements of the causes of action asserted in this action as against the Non-Settling Defendants.
12. **THIS COURT ORDERS** that the form and content of the Short-Form Notice, substantially in the form attached as **Schedule “2”**, is approved.
13. **THIS COURT ORDERS** that the form and content of the Long-Form Notice, substantially in the form attached as **Schedule “3”**, is approved.
14. **THIS COURT ORDERS** that the Notice Plan, substantially in the form attached as **Schedule “4”**, is approved for the purpose of the publication and dissemination of the Short-Form Notice and Long-Form Notice (together, “**Notices**”).

15. **THIS COURT ORDERS** that Settlement Class Members may opt out of this class proceeding by following the opt-out process set out in the Long-Form Notice, by no later than 5:00pm EST on the date that is 60 calendar days after the date on which the Notices are first published.
16. **THIS COURT ORDERS** that any person who opts out of this action in accordance with the provisions for doing so in the Notices and paragraph 15 of this Order shall be excluded from the Settlement Class.
17. **THIS COURT ORDERS** that within fifteen (15) days of the opt-out deadline in paragraph 15 of this Order, Class Counsel shall notify the Tetra Tech Defendants of the number of Eligible Securities of Opt Out Parties and such particulars provided by such Opt Out Parties in support of their request to exclude themselves from the Settlement Class in accordance with the terms of this Order and the Notices.
18. **THIS COURT ORDERS** that the Plaintiff's motion for orders, among others, approving the Settlement Agreement and approving Class Counsel's fees and disbursements will be heard on ●, beginning at ●am at the courthouse located at 330 University Avenue, Toronto, Ontario or virtually.
19. **THIS COURT ORDERS** that Settlement Class Members who wish to file with the Court an objection or comment on the Settlement or the request for approval of Class Counsel fees and disbursements shall deliver a written statement to Class Counsel, at the address indicated in

the Notices, no later than 21 calendar days prior to the hearing date set out in paragraph 18 of this Order.

THE HONOURABLE JUSTICE E.M. MORGAN

PRZYBYLSKA v GATOS SILVER, INC., et al.

Court File No: CV-22-00676682-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

ORDER

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West
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2M5

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Tyler Planeta
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Jamie Thornback
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Fax: 604-689-7554

Lawyers for the Plaintiff

APPENDIX B - NOTICE PLAN

Following First Order

As soon as practicable following entry of the First Order, the Short-Form Notice and the Long-Form Notice shall be distributed in the following manner:

Short-Form Notice:

1. A national press release approved by the Tetra Tech Defendants will be issued in English and French through Canada Newswire.

Long-Form Notice:

1. Electronic publication of the Long-Form Notice will occur, in English and French, on the websites of Class Counsel at <https://www.cfmlawyers.ca/active-litigation/gatos-silver-inc-tsx-gato/> and <https://www.siskinds.com/class-action/gatos-silver/> ("**Class Counsel Websites**").
2. The Long-Form Notice will be mailed, electronically or physically, as may be required, to those persons and entities who have previously contacted Class Counsel for the purposes of receiving notice of developments in the action.
3. The Long-Form Notice will be sent to the Canadian brokerage firms in the proprietary databases of RicePoint Administration Inc. ("**RicePoint**") requesting that the brokerage firms either send a copy of the Long-Form Notice to all individuals and entities identified by the brokerage firms as being Settlement Class Members, or to send the names and contact details of all known Settlement Class Members to RicePoint (who shall subsequently send the Long-Form Notice to the individuals and entities so identified). To the maximum extent possible, the Long-Form Notice shall be sent electronically to the recipients under this paragraph.

As soon as practicable following entry of the First Order, Class Counsel will post the Settlement Agreement, the First Order, the Short-Form Notice and the Long-Form Notice on the Class Counsel Websites.

Following Second Order

As soon as practicable following entry of the Second Order, Class Counsel will post the Second Order on the Class Counsel Websites.

APPENDIX C - SHORT-FORM NOTICE

**Plaintiff Reaches Settlement with Tetra Tech, Inc.
in Canadian Gatos Silver Securities Class Action**

TORONTO, ON, ● – The Court-appointed representative of a class of shareholders of Gatos Silver, Inc. (“Gatos Silver”) has reached a settlement with Tetra Tech, Inc. (“Tetra Tech”) in a securities class action in Canada.

The settlement class is defined as all persons and entities (other than certain “excluded persons”), wherever they may reside or be domiciled, who:

- (i) purchased Gatos Silver securities under Gatos Silver’s Canadian prospectuses filed in October 2020 and July 2021 and in the distributions to which they related; and
- (ii) acquired Gatos Silver securities during the period from October 28, 2020 until January 25, 2022 at 6:52 p.m. Eastern Standard Time (“Class Period”) on any Canadian exchange (including, without limitation, the Toronto Stock Exchange) or any Canadian alternative trading system.

The class action was commenced following Gatos’s disclosure in late January 2022 that the mineral reserve statement for its Cerro Los Gatos mine in Mexico was affected by error and materially overstated. The Plaintiff alleges that, among other things, the materially overstated mineral reserve statement was incorporated in Gatos’s offering and continuous disclosure documents released throughout the Class Period. Tetra Tech is alleged to have prepared the overstated mineral reserve statement but disputes its alleged involvement in any such overstatement.

Tetra Tech has agreed to pay CAD\$1,000,000 to settle the claims made against it in the class action. In connection with the settlement, the action will be dismissed against two employees of Tetra Tech who were also named as Defendants. The settlement and dismissal of the action against the Tetra Tech defendants is subject to the approval of the Ontario Superior Court of Justice. If approved by the Court, the settlement will settle, extinguish, and bar all claims relating in any way to or arising out of the proceeding against the Tetra Tech defendants. The settlement is a compromise of disputed claims and Tetra Tech does not admit any wrongdoing or liability.

The settlement is a partial settlement of the claims asserted in the action, and the Plaintiff will continue the litigation against the other Defendants, including Gatos Silver. The remaining Defendants deny all of the allegations against them.

The class is represented by the law firms of Siskinds LLP, Eighty-One West Law PC, and Camp Fiorante Matthews Mogerman LLP (together, “Class Counsel”). Class Counsel is seeking the approval of legal fees not to exceed ●% of the Settlement Amount (i.e. \$●), plus disbursements and applicable taxes.

A hearing to approve the settlement will be held on ●, during which the Court will consider whether the proposed settlement and Class Counsel’s fees and disbursements are fair and reasonable and should be approved. Class Members who want to opt out of the settlement must do so by no later than ●. Class Members who wish to object to or

comment on the settlement or Class Counsel's fee and disbursement request should do so by no later than ●. If the settlement is approved, all Class Members (who have not opted out) will be bound by it.

For complete details regarding the proposed settlement, including how to opt out or object/comment, please consult the long-form notice available, in English and French, on Class Counsel's websites at <https://www.cfmlawyers.ca/active-litigation/gatos-silver-inc-tsx-gato/> and <https://www.siskinds.com/class-action/gatos-silver/>.

The manner of distribution of the settlement proceeds will be determined by further Court order. A further notice will be issued to Class Members when the settlement proceeds are available for distribution.

Inquiries:

Tyler Planeta
Siskinds LLP
(416) 594-4588
tyler.planeta@siskinds.com

Jamie Thornback
Camp Fiorante Matthews
Mogerman LLP
(604) 689-7555
jthornback@cfmlawyers.ca

Nicholas Baker
Eighty-One West Law PC
(519) 630-8435
nick@eightyonewest.com

APPENDIX D - LONG-FORM NOTICE

CANADIAN GATOS SILVER SECURITIES CLASS ACTION

NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING

To: All persons and entities (other than certain “excluded persons”), wherever they may reside or be domiciled, who: (i) purchased Gatos Silver securities under Gatos Silver’s Canadian prospectuses filed in October 2020 and July 2021 and in the distributions to which they related; and (ii) acquired Gatos Silver securities during the period from October 28, 2020 until January 25, 2022 at 6:52 p.m. Eastern Standard Time on any Canadian exchange (including, without limitation, the Toronto Stock Exchange) or any Canadian alternative trading system.

A Settlement May Affect Your Rights. Please Read this Notice Carefully.

This notice is about a putative securities class action against Gatos Silver, Inc. (“**Gatos Silver**”), Stephen Orr, Roger Johnson, Philip Pyle, Tetra Tech, Inc. (“**Tetra Tech**”), Guillermo Dante Ramirez-Rodriguez, Kira Lyn Johnson, The Electrum Group LLC, Electrum Silver US LLC, Electrum Silver US II LLC, BMO Nesbitt Burns Inc., Goldman Sachs Canada Inc., RBC Dominion Securities Inc., Canaccord Genuity Corp. and CIBC World Markets Inc. (collectively, “**Defendants**”).

The class action was commenced following Gatos’s disclosure in late January 2022 that the mineral reserve statement for its Cerro Los Gatos mine in Mexico was affected by error and materially overstated. The Plaintiff alleges that, among other things, the materially overstated mineral reserve statement was incorporated in Gatos’s offering and continuous disclosure documents released throughout the Class Period. Tetra Tech is alleged to have prepared the overstated mineral reserve statement but disputes its alleged involvement in any such overstatement.

On December 19, 2023, the representative plaintiff Izabela Przybylska entered into a settlement agreement (“**Settlement Agreement**”) with Tetra Tech. In connection with the settlement, the plaintiff has agreed to the dismissal of the action against two employees of Tetra Tech who were also named as Defendants, Guillermo Dante Ramirez-Rodriguez and Kira Lyn Johnson (together with Tetra Tech, the “**Tetra Tech Defendants**”).

ARE YOU INCLUDED IN THE SETTLEMENT CLASS?

The settlement is on behalf of all persons and entities (other than Excluded Persons), wherever they may reside or be domiciled, who:

- (i) purchased Gatos Silver securities under the Impugned Prospectuses and in the distributions to which they related; and
- (ii) acquired Gatos Silver securities during the Class Period on any Canadian exchange (including, without limitation, the Toronto Stock Exchange) or any Canadian alternative trading system.

(“**Settlement Class**” or “**Settlement Class Members**”)

For the purposes of this class definition:

"Class Period" means the period from October 28, 2020 until January 25, 2022 at 6:52 p.m. Eastern Standard Time.

"Electrum Defendants" means The Electrum Group LLC, Electrum Silver US LLC, and Electrum Silver US II LLC.

"Excluded Persons" means Gatos Silver, Stephen Orr, Roger Johnson, Philip Pyle, the Tetra Tech Defendants, the Electrum Defendants and the Underwriter Defendants; the respective past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns of Gatos Silver, Tetra Tech, the Electrum Defendants, and the Underwriter Defendants; and the immediate family members of Stephen Orr, Roger Johnson, Philip Pyle, Guillermo Dante Ramirez-Rodriguez and Kira Lyn Johnson.

"Impugned Prospectuses" means Gatos Silver's Base Prep Prospectus dated October 27, 2020 and Supplemented Prep Prospectus dated October 27, 2020, and Gatos Silver's Short Form Base Shelf Prospectus dated July 12, 2021 and Prospectus Supplement dated July 15, 2021.

"Underwriter Defendants" means BMO Nesbitt Burns Inc., Goldman Sachs Canada Inc., RBC Dominion Securities Inc., Canaccord Genuity Corp., and CIBC World Markets Inc.

WHAT ARE THE SETTLEMENT BENEFITS?

Tetra Tech has agreed to pay CAD \$1,000,000 ("**Settlement Amount**") to settle the class action. The settlement is a compromise of disputed claims and the Tetra Tech Defendants do not admit any wrongdoing or liability. The Settlement Agreement, if approved, will settle, extinguish, and bar all claims relating in any way to or arising out of the proceeding against the Tetra Tech Defendants.

At this time, the Settlement Amount will not be distributed to the Settlement Class. Rather, the Settlement Amount, less Class Counsel's fees and disbursements to date, will be paid into an interest-bearing account for the benefit of the Settlement Class. The Settlement Amount may be used in part to fund future disbursements and any adverse costs awards made in the case. You can register to receive further information regarding the case at <https://www.siskinds.com/class-action/gatos-silver/>.

ONGOING LITIGATION AGAINST OTHER DEFENDANTS

On ●, the Ontario Superior Court of Justice granted permission to the Plaintiff to discontinue the action as against the Underwriter Defendants, without costs.

The proposed settlement with Tetra Tech, and the related dismissal of claims against Guillermo Dante Ramirez-Rodriguez and Kira Lyn Johnson, does not impact the litigation as against the other Defendants. The litigation continues as against Gatos Silver, Stephen Orr, Roger Johnson, Philip Pyle and the Electrum Defendants, all of whom deny all of the allegations against them.

WHO ARE THE LAWYERS WHO REPRESENT THE CLASS?

The law firms of Siskinds LLP, Eighty-One West Law PC, and Camp Fiorante Matthews

Mogerman LLP (together, "**Class Counsel**") represent the plaintiff and the Settlement Class. Class Counsel will be paid on the basis of a court-approved contingency fee.

HEARING TO APPROVE SETTLEMENT AGREEMENT AND CLASS COUNSEL FEES

On ● at ●, there will be a hearing before the Ontario Superior Court of Justice ("**Approval Motion**") at which Class Counsel will seek the Court's approval of the Settlement Agreement. At the Approval Motion, the Court will determine whether the Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class.

In addition to seeking the Court's approval of the Settlement Agreement, Class Counsel will seek the Court's approval of legal fees not to exceed ●% of the Settlement Amount (i.e. \$●), plus disbursements not to exceed C\$● and applicable taxes on the fees and disbursements ("**Class Counsel Fees**").

All members of the proposed Settlement Class may attend the hearing of the Approval Motion and ask to make submissions regarding the proposed settlement.

WHAT ARE YOUR OPTIONS?

Stay in the Class Action and Do Nothing: You do not have to do anything to stay in the class action. If any benefits, including any settlement funds, become available for distribution to the Settlement Class, you will be notified about the process for filing a claim. You will be legally bound by all orders and judgments of the Court, and you will not be able to sue the Defendants about the legal claims in this case.

Stay in the Class Action and Comment On, or Object to, the Settlement Agreement or Class Counsel Fees: Settlement Class Members who wish to comment on, or make an objection to, the approval of the Settlement Agreement or the Class Counsel Fees should deliver (by email or mail) a written submission to Class Counsel, at the email address or mailing address provided below, postmarked or received by **no later than ●**. Any objections delivered by that date will be filed with the Court.

Remove Yourself from the Class Action (this is called Opting Out): If you want to keep your right to sue the Defendants on your own over the claims in this case, you need to opt out or remove yourself from this class action. If you remove yourself, you cannot get any money or other benefits from this class action, and you cannot object to the approval of the Settlement Agreement. If you want to be removed, you must notify Class Counsel in writing (by email or mail), at the email address or mailing address provided below, postmarked or received by **no later than ●**. In order for your opt-out to be valid, it must: (a) contain a statement of intention to opt out of the action by you or a person authorized to bind you; (b) state the number of Gatos Silver securities that you acquired that fall within the Settlement Class definition above; (c) be supported by documents to evidence such eligible acquisitions, in the form of trade confirmations, brokerage statements or other transaction records to verify the eligible acquisitions; (d) contain your name, address, telephone number and email address.

These objections or opt-out requests must be directed to:

Tyler Planeta
Siskinds LLP
65 Queen Street West, Suite 1155, Toronto, ON, M5H 2M5

tyler.planeta@siskinds.com

Please note that after ● no further right to opt out of this action will be provided. However, if there are further settlements in this action, you will be given an opportunity to oppose such settlements or the payment of Class Counsel's fees and disbursements at that time if you wish to do so.

MORE INFORMATION?

Go to <https://www.cfmlawyers.ca/active-litigation/gatos-silver-inc-tsx-gato/> or <https://www.siskinds.com/class-action/gatos-silver/> or contact Class Counsel at:

Tyler Planeta
Siskinds LLP
(416) 594-4588
tyler.planeta@siskinds.com

Jamie Thornback
Camp Fiorante Matthews
Mogerman LLP
(604) 689-7555
jthornback@cfmlawyers.ca

Nicholas Baker
Eighty-One West Law PC
(519) 630-8435
nick@eightyonewest.com

INTERPRETATION

If there is a conflict between the provisions of this notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

**DISTRIBUTION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO SUPERIOR COURT
OF JUSTICE**

APPENDIX E - SECOND ORDER

Court File No. CV-22-00676682-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) _____, THE _____
JUSTICE E.M. MORGAN) DAY OF _____, _____

B E T W E E N :

IZABELA PRZYBYLSKA

Plaintiff

- and -

GATOS SILVER, INC., STEPHEN ORR, ROGER JOHNSON, PHILIP PYLE, TETRA TECH, INC., GUILLERMO DANTE RAMÍREZ-RODRÍGUEZ, KIRA LYN JOHNSON, THE ELECTRUM GROUP LLC, ELECTRUM SILVER US LLC, ELECTRUM SILVER US II LLC, BMO NESBITT BURNS INC., GOLDMAN SACHS CANADA INC., RBC DOMINION SECURITIES INC., CANACCORD GENUITY CORP. and CIBC WORLD MARKETS INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff for an order, among other things, approving the settlement of the action as against Tetra Tech, Inc., Guillermo Dante Ramirez-Rodriguez and Kira Lyn Johnson ("**Tetra Tech Defendants**") was heard at the Courthouse located at 330 University Avenue, Toronto, Ontario or virtually on ●.

ON READING the materials filed, including the Settlement Agreement dated December 19, 2023 attached hereto as **Schedule "1"** ("**Settlement Agreement**") and on hearing the submissions of Counsel for the Plaintiff and Counsel for the Tetra Tech Defendants.

AND ON BEING ADVISED that the deadline for objection to the Settlement Agreement has passed and there have been ● objections.

AND ON BEING ADVISED that the Tetra Tech Defendants consent to this Order.

AND ON BEING ADVISED that the remaining Defendants Gatos Silver, Inc., Stephen Orr, Roger Johnson, Philip Pyle, The Electrum Group LLC, Electrum Silver US LLC, Electrum Silver US II LLC, BMO Nesbitt Burns Inc., Goldman Sachs Canada Inc., RBC Dominion Securities Inc., Canaccord Genuity Corp. and CIBC World Markets Inc. take no position with respect to this Order.

1. **THIS COURT DECLARES** that except as otherwise stated, this Order incorporates and adopts the definitions set out in the Settlement Agreement.
2. **THIS COURT DECLARES** that the Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class.
3. **THIS COURT ORDERS** that the Settlement Agreement is approved pursuant to section 27.1 of the *Class Proceedings Act, 1992*, SO 1992, c 6 ("**CPA**").
4. **THIS COURT DECLARES** that the Settlement Agreement, in its entirety (including the Recitals), forms part of this Order and is binding upon the Tetra Tech Defendants, the Plaintiff, and all Settlement Class Members who did not opt out, including those persons that are minors or mentally incapable, and that the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure*, RRO 1990, Reg 194 are hereby dispensed with.
5. **THIS COURT ORDERS** that the Settlement Agreement shall be implemented in accordance with its terms.
6. **THIS COURT ORDERS** that the Plaintiff and the Tetra Tech Defendants may, on notice to the Court but without the need for a further order of the Court, agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

7. **THIS COURT ORDERS AND DECLARES** that, other than as provided in section 2.4 of the Settlement Agreement, the Tetra Tech Defendants have no responsibility for and no liability whatsoever with respect to the ongoing administration of the Settlement Amount.
8. **THIS COURT ORDERS AND DECLARES** that the Releasors shall release and discharge, and shall be conclusively deemed to have fully, finally and forever released and discharged the Releasees from the Released Claims.
9. **THIS COURT DECLARES** that all claims against the Releasees for contribution, indemnity or other claims, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, in any way arising from or relating to the allegations in this Action, which were made or which could have been or could be made by any Non-Settling Defendant or any other person or party against the Tetra Tech Defendants, or by the Tetra Tech Defendants against any Non-Settling Defendant, are barred, prohibited and enjoined.
10. **THIS COURT ORDERS AND DECLARES** that if there is a right of contribution and indemnity or other claim, whether in equity or in law, by statute or otherwise between any or all of the Defendants:
 - (a) the Plaintiff and the Settlement Class Members shall not be entitled to claim or recover from any Non-Settling Defendant that portion of any damages, interest and costs that corresponds to the proportionate liability of the Releasees proven at trial or otherwise;
 - (b) the Plaintiff and Settlement Class Members shall limit their claims against the Non-Settling Defendants, and shall only seek to recover from the Non-Settling Defendants those claims for damages, interest and costs attributable to the aggregate of the several liability of the Non-Settling Defendants and, for greater certainty, the Plaintiff and the

Settlement Class Members shall be entitled to claim and seek to recover on a joint and several basis as between the Non-Settling Defendants if permitted by law; and

- (c) the Court has full authority to determine the proportionate liability of the Releasees at the trial or other disposition of this action, whether or not the Releasees appear at the trial or other disposition, and the proportionate liability of the Releasees shall be determined as if the Releasees are parties to this action and any determination by the Court in respect of the proportionate liability shall only apply and shall not be binding on the Releasees in any other proceedings.

- 11. **THIS COURT ORDERS** that nothing in this Order is intended to or shall limit, restrict or affect any arguments which the Non-Settling Defendants may make regarding the reduction of any assessment of damages or judgment against them in favour of the Plaintiff or the Settlement Class Members or the rights of the Plaintiff or the Settlement Class Members to oppose or resist any such arguments, except as provided for in this Order.
- 12. **THIS COURT ORDERS** that this Order, including but not limited to the approval of the Settlement Agreement and any reasons given by the Court in relation thereto, except as to paragraphs 10 and 11 above, is without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing proceeding and, without restricting the generality of the foregoing, may not be relied on by any person to establish the criteria for certification (including class definition) or the existence or elements of the causes of action asserted in this action as against the Non-Settling Defendants.
- 13. **THIS COURT ORDERS** that the within action be and is dismissed as against the Tetra Tech Defendants with prejudice and without costs.

14. **THIS COURT ORDERS** that as soon as practicable following the entry of this Order, Class Counsel shall post this Order on <https://www.cfmlawyers.ca/active-litigation/gatos-silver-inc-tsx-gato/> and <https://www.siskinds.com/class-action/gatos-silver/>.

THE HONOURABLE JUSTICE E.M. MORGAN

PRZYBYLSKA v GATOS SILVER, INC., et al.

Court File No: CV-22-00676682-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

ORDER

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PRZYBYLSKA

-and- GATOS SILVER INC., et al
Plaintiff

Defendant

Court File No. CV-22-00676682-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

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ORDER

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