

MONETA GOLD INC.
and
NIGHTHAWK GOLD CORP.

ARRANGEMENT AGREEMENT

November 28, 2023

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ARRANGEMENT AGREEMENT

Arrangement Agreement dated November 28, 2023

BETWEEN:

Moneta Gold Inc., a corporation existing under the laws of the Province of Ontario ("**Moneta**")

- and -

Nighthawk Gold Corp., a corporation existing under the laws of the Province of Ontario ("**Nighthawk**")

WHEREAS:

A. The board of directors of each of Moneta and Nighthawk, after receiving financial and legal advice, have agreed to enter into a business combination;

B. It is intended that Moneta will acquire all of the outstanding common shares of Nighthawk pursuant to a statutory plan of arrangement under the OBCA (as hereinafter defined);

C. Nighthawk has entered into Moneta Voting Agreements (as hereinafter defined) with the Moneta Supporting Shareholders (as hereinafter defined), pursuant to which, among other things, such Moneta Supporting Shareholders agree, subject to the terms and conditions thereof, to vote the Moneta Shares (as hereinafter defined) held by them in favour of the Moneta Resolutions (as hereinafter defined);

D. Moneta has entered into Nighthawk Voting Agreements (as hereinafter defined) with the Nighthawk Supporting Shareholders (as hereinafter defined), pursuant to which, among other things, such Nighthawk Supporting Shareholders agree, subject to the terms and conditions thereof, to vote the Nighthawk Shares (as hereinafter defined) and, if applicable, any securities convertible, exercisable or exchangeable into Nighthawk Shares held by them in favour of the Nighthawk Arrangement Resolution (as hereinafter defined); and

E. The Parties have entered into this Agreement to provide for the matters referred to in the foregoing recitals and for other matters related to the transactions herein provided for.

NOW THEREFORE in consideration of the covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties hereto covenant and agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires:

"Acquisition Proposal" means, with respect to a Party, other than the transactions contemplated by this Agreement and other than any transaction involving (or agreed by) the Parties, any offer, proposal, expression of interest or inquiry from any Person or group of Persons acting jointly or in concert, whether or not in writing and whether or not delivered to the shareholders of a Party, after the date hereof relating to: (a) any acquisition or sale, direct or indirect, through one or more transactions, of: (i) the assets of that Party and/or one or more of its subsidiaries that, individually or in the aggregate, constitute 20% or more of the fair market value of the consolidated assets of that Party and its subsidiaries, taken as a whole, based on the most recent publicly filed consolidated financial statements of that Party, or (ii) 20% or more of the

issued and outstanding voting or equity securities or any securities exchangeable for or convertible into voting or equity securities of that Party or any one or more of its subsidiaries that, individually or in the aggregate, constitute 20% or more of the fair market value consolidated assets of that Party and its subsidiaries, taken as a whole based on the most recent publicly filed consolidated financial statements of that Party; (b) any take-over bid, tender offer, exchange offer or other transaction that, if consummated, would result in such Person or group of Persons beneficially owning 20% or more of the issued and outstanding voting or equity securities of any class of voting or equity securities of that Party; (c) any plan of arrangement, merger, amalgamation, consolidation, share exchange, business combination, reorganization, recapitalization, joint venture, partnership, liquidation, dissolution or other similar transaction involving that Party or any of its subsidiaries whose assets, individually or in the aggregate, constitute 20% or more of the consolidated assets, of that Party and its subsidiaries, taken as a whole based on the most recent publicly filed consolidated financial statements of that Party; (d) any other similar transaction or series of transactions similar to those referred to in paragraphs (a) through (c) above, involving a Party or any of its subsidiaries; or (e) any transaction or agreement which could reasonably be expected to materially impede, prevent or delay the completion of the Arrangement. For the purposes of the definition of "Superior Proposal", reference in this definition of Acquisition Proposal to "20%" shall be deemed to be replaced by "100%";

"affiliate" has the meaning ascribed thereto in National Instrument 45-106 – *Prospectus Exemptions*;

"Agreement" means this arrangement agreement, including all schedules annexed hereto, together with the Moneta Disclosure Letter and the Nighthawk Disclosure Letter, as the same may be amended, supplemented or otherwise modified from time to time in accordance with the terms hereof;

"Arrangement" means an arrangement under Section 182 of the OBCA on the terms and subject to the conditions set out in the Plan of Arrangement, subject to any amendments or variations to the Plan of Arrangement made in accordance with the terms of this Agreement and the Plan of Arrangement or made at the direction of the Court in the Final Order with the prior written consent of Moneta and Nighthawk, each acting reasonably;

"Articles of Arrangement" means the articles of arrangement of Nighthawk in respect of the Arrangement required by the OBCA to be sent to the Director after the Final Order is made, giving effect to the Arrangement, which shall include the Plan of Arrangement and otherwise be in a form and content satisfactory to Moneta and Nighthawk, each acting reasonably;

"Authorization" means any authorization, order, permit, approval, grant, licence, registration, consent, right, notification, condition, franchise, privilege, certificate, judgment, writ, injunction, award, determination, direction, decision, decree, bylaw, rule or regulation, of, from or required by any Governmental Entity;

"Board" means in respect of any Party, its board of directors;

"Business Day" means any day of the year, other than a Saturday, Sunday or any statutory or civic holiday in Toronto, Ontario;

"Certificate of Arrangement" means the certificate of arrangement to be issued by the Director pursuant to subsection 183(2) of the OBCA in respect of the Articles of Arrangement;

"Change in Recommendation" means where, prior to Moneta having obtained the Moneta Shareholder Approval or Nighthawk having obtained the Nighthawk Shareholder Approval, as applicable, the Board of the applicable Party (a) fails to unanimously recommend or withdraws, amends, modifies, qualifies, or changes in a manner adverse to the other Party, or publicly proposes to or publicly states that it intends to withdraw, amend, modify, qualify or change in a manner adverse to the other Party, its approval or recommendation of the Arrangement (including, for certainty recommendation that Moneta Shareholders vote in favour of the Moneta Resolutions or that Nighthawk Shareholders vote in favour of the Nighthawk Arrangement Resolution, as applicable) or the transactions contemplated hereby; (b) fails to approve or

recommend or reaffirm its approval or recommendation of the Arrangement (including, for certainty recommendation that Moneta Shareholders vote in favour of the Moneta Resolutions or that Nighthawk Shareholders vote in favour of the Nighthawk Arrangement Resolution, as applicable) within three (3) Business Days (and in any case prior to the Moneta Meeting and the Nighthawk Meeting) after having been requested in writing by such other Party to do so; or (c) in the event of a publicly announced Acquisition Proposal, Moneta or Nighthawk, as applicable, fails to approve or recommend or reaffirm its approval or recommendation of the Arrangement (including, for certainty recommendation that Moneta Shareholders vote in favour of the Moneta Resolutions or that Nighthawk Shareholders vote in favour of the Nighthawk Arrangement Resolution, as applicable) within five (5) Business Days after any such announcement of an Acquisition Proposal (it being understood that the taking of a neutral position or no position with respect to an Acquisition Proposal beyond a period of five (5) Business Days after any such announcement of an Acquisition Proposal (or beyond the date which is one (1) day prior to the Moneta Meeting or Nighthawk Meeting, as applicable, if sooner) shall be considered an adverse modification);

“Claim” means (a) any suit, action, proceeding, dispute, investigation, claim, arbitration, order, summons, citation, directive, charge, demand or prosecution, whether legal or administrative; or (b) any appeal or application for review; at law or in equity or by any Governmental Entity;

“Concurrent Financing” means the brokered private placement of subscription receipts to be conducted substantially in accordance with the terms of the bought deal engagement letter with SCP Resource Finance LP dated November 28, 2023;

“Confidentiality Agreement” means the non-disclosure agreement between the Parties dated as of October 17, 2023, pursuant to which each Party has been provided with access to confidential information of the other Party;

“Consideration” means the consideration to be received pursuant to the Plan of Arrangement by Nighthawk Shareholders from Moneta pursuant to the Plan of Arrangement in respect of each Nighthawk Share that is issued and outstanding immediately prior to the Effective Time, comprising 0.42 Moneta Shares (on a pre-Moneta Consolidation basis) for each Nighthawk Share;

“Contract” means any written contract, agreement, license, franchise, lease, arrangement, commitment, understanding, joint venture, partnership or other right or obligation to which a Party or any of its subsidiaries is a party or by which it or any of its subsidiaries is bound or to which any of their respective properties or assets is subject;

“Court” means the Ontario Superior Court of Justice (*Commercial List*);

“Depository” has the meaning ascribed thereto in the Plan of Arrangement;

“Dissent Rights” means the rights of dissent exercisable by the registered Nighthawk Shareholders in respect of the Arrangement described in the Plan of Arrangement;

“Dissenting Holder” has the meaning ascribed thereto in the Plan of Arrangement;

“Effective Date” means the date shown on the Certificate of Arrangement giving effect to the Arrangement;

“Effective Time” means 12:01 a.m. on the Effective Date, or such other time as the Parties agree to in writing before the Effective Date;

“Employee Plans” means, with respect to either Party, all benefit, bonus, incentive, pension, retirement, savings, stock purchase, profit sharing, stock option, restricted share, stock appreciation, phantom stock, life insurance, medical, health, welfare, hospital, dental, vision care, drug, sick leave, disability, and similar plans, programmes, arrangements or practices relating to any current or former director, officer or employee of that Party other than benefit plans established pursuant to statute;

“Encumbrance” means any Claim, encumbrance, Lien, charge, hypothec, pledge, mortgage, title retention agreement, security interest of any nature, adverse claim, exception, reservation, easement, right of occupation, option, right of pre-emption, privilege or any matter capable of registration against title or any Contract to create any of the foregoing;

“Environment” means the natural environment (including soil, land surface or subsurface strata, surface water, groundwater, sediment, ambient air (including all layers of the atmosphere), and any other environmental medium or natural resource);

“Environmental Laws” means Laws aimed at or relating to, or imposing liability or standards of conduct for or relating to, development, operation, reclamation or restoration of properties; abatement of pollution; protection of the Environment; protection of wildlife, including endangered species; management, treatment, storage, disposal, transportation, use or control of, or exposure to, Hazardous Substances; releases or threatened releases of Hazardous Substances; and all other Laws relating to the manufacturing, processing, distribution, use, treatment, storage, disposal, handling or transport of Hazardous Substances;

“Expense Reimbursement” has the meaning ascribed thereto in Subsection 8.3(f);

“Final Order” means the final order of the Court pursuant to Section 182 of the OBCA in a form acceptable to Moneta and Nighthawk, each acting reasonably, after being informed of the intention to rely upon the exemption from registration under Section 3(a)(10) of the U.S. Securities Act with respect to the issuance and exchange of the Moneta Shares pursuant to the Arrangement, after a hearing upon the procedural and substantive fairness of the terms and conditions of the Arrangement, approving the Arrangement, as such order may be amended by the Court (with the consent of both Moneta and Nighthawk, each acting reasonably) at any time prior to the Effective Date or, if appealed, then, unless such appeal is withdrawn or denied, as affirmed or as amended (provided that any such amendment is acceptable to both Moneta and Nighthawk, each acting reasonably) on appeal;

“Governmental Entity” means (i) any multinational or supranational body or organization, nation, government, state, province, country, territory, municipality, quasi-government, administrative, judicial or regulatory authority, agency, board, body, bureau, commission, instrumentality, court or tribunal or any political subdivision thereof, or any central bank (or similar monetary or regulatory authority) thereof, any taxing authority, any ministry or department or agency including any taxing authority under the authority of any of the foregoing, (ii) any self-regulatory organization or stock exchange, including the TSX, (iii) any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government; and (iv) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing;

“Government Official” means any person qualifying as a public official or public employee under the laws of any jurisdiction in which Moneta or Nighthawk, as applicable, or any of Moneta’s or Nighthawk’s subsidiaries conduct or intend to conduct business, including, but not limited to, (a) a person holding an official position, such as an employee, officer or director, with any Governmental Entity or state-owned or controlled enterprise; (b) any individual “acting in an official capacity”, such as a delegation of authority from a Governmental Entity to carry out official responsibilities; and (c) an official of a Public International Organization such as the United Nations, the World Bank, the International Monetary Fund, or regional development banks;

“Hazardous Substance” means any waste or other substance that is prohibited, listed, defined, designated or classified as hazardous, radioactive, corrosive, explosive, infectious, carcinogenic, or toxic or a pollutant or a contaminant under or pursuant to, or that could result in liability under, any applicable Environmental Laws including petroleum and all derivatives thereof or synthetic substitutes therefor, hydrogen sulphide, arsenic, cadmium, lead, mercury, polychlorinated biphenyls (“PCBs”), mould, asbestos, asbestos-containing material, urea-formaldehyde, urea-formaldehyde-containing material and any other material substance, pollutant or contaminant regulated or defined pursuant to, or that could result in liability under, any Environmental Laws;

“IFRS” means International Financial Reporting Standards issued by the International Accounting Standards Board, as incorporated in the CPA Canada Handbook at the relevant time applied on a consistent basis;

“including” means including without limitation, and **“include”** and **“includes”** have a corresponding meaning;

“Intellectual Property” means (a) all trademarks, service marks, Internet domain names and trade names, registrations and applications for registration of the foregoing, and the goodwill associated therewith and symbolized thereby, (b) patents and patent applications, (c) confidential and proprietary information, including trade secrets and know-how, and (d) copyrights and registrations and applications for registration of the foregoing;

“Interim Order” means the interim order of the Court, after being informed of the intention to rely upon the exemption from registration under Section 3(a)(10) of the U.S. Securities Act with respect to the issuance and exchange of the Moneta Shares pursuant to the Arrangement, in form and substance acceptable to Moneta and Nighthawk, each acting reasonably, providing for, among other things, the calling and holding of the Nighthawk Meeting, as such order may be amended by the Court with the consent of Moneta and Nighthawk, each acting reasonably, as the same may be amended;

“Joint Circular” means the notice of the Moneta Meeting and the notice of the Nighthawk Meeting to be sent to Moneta Shareholders and Nighthawk Shareholders, respectively, and the management information circular to be prepared in connection with the Moneta Meeting and the Nighthawk Meeting together with any amendments thereto or supplements thereof, and any other information circular or proxy statement which may be prepared in connection with the Moneta Meeting and/or the Nighthawk Meeting;

“Key Regulatory Approvals” means those sanctions, rulings, consents, orders, exemptions, permits and other approvals of Governmental Entities, necessary or deemed advisable by Moneta, acting reasonably, to proceed with the transactions contemplated by this Agreement and the Plan of Arrangement, including but not limited to (i) in relation to Moneta, the approval of the TSX for the issuance and listing of the Consideration (and the Moneta Shares underlying the Replacement Moneta Options and Nighthawk Warrants), subject only to the satisfaction of standard and customary post-closing conditions of the TSX, and (ii) in relation to Nighthawk, the approval of the TSX in respect of the Arrangement, subject only to the satisfaction of standard and customary post-closing conditions of the TSX, and the grant of the Interim Order and the Final Order, as set out in Schedule F hereto for each of Moneta and Nighthawk, respectively;

“Key Third Party Consents” means those consents, approvals and notices required from any third party under any Contracts or required to proceed with the transactions contemplated by this Agreement and the Plan of Arrangement, as set out in Schedule F hereto for each of Moneta and Nighthawk, respectively;

“LBS” means Laurentian Bank Securities Inc.;

“Law” means, with respect to any Person, any and all applicable law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling or other similar requirement, whether domestic or foreign, enacted, adopted, promulgated or applied by a Governmental Entity that is binding upon or applicable to such Person or its business, undertaking, property or securities, and to the extent that they have the force of law, policies, guidelines, notices and protocols of any Governmental Entity, as amended;

“Lien” means any mortgage, charge, pledge, hypothec, security interest, prior claim, encroachments, option, right of first refusal or first offer, occupancy right, covenant, assignment, lien (statutory or otherwise) or other third party interest or encumbrance of any kind, in each case, whether contingent or absolute;

“Material Adverse Effect” means, in respect of any Person, any fact or state of facts, change, effect, event or circumstance that is, or could reasonably be expected to be, either individually or in the aggregate,

material and adverse to the business, condition (financial or otherwise), properties, assets (tangible or intangible), liabilities (whether absolute, accrued, contingent, conditional or otherwise), capitalization, operations or results of operations of such Person and its subsidiaries, taken as a whole, other than any change, effect, event or circumstance relating to or affecting, as applicable (i) the Canadian economy, political conditions (including any acts of terrorism or the outbreak of war or escalation or worsening thereof), acts of God, natural disasters or securities markets in Canada or the United States in general; (ii) any change or developments affecting the global mining industry in general; (iii) any change in applicable Laws (other than orders, judgments or decrees against such Person or any of its subsidiaries) or IFRS; (iv) a change in the market trading price or volume of that Person; or (v) any change resulting from the announcement of the Agreement provided, however, that the effect referred to in clause (i), (ii), (iii) or (v) above does not disproportionately relate to (or have the effect of disproportionately relating to) such Person and its subsidiaries, taken as a whole, or disproportionately adversely affect such Person and its subsidiaries, taken as a whole, compared to other gold companies of similar size operating in Canada. References in this Agreement to dollar amounts are not intended to be and shall not be deemed to be illustrative or interpretive for purposes of determining whether a Material Adverse Effect has occurred;

“**material change**”, “**material fact**” and “**misrepresentation**” have the meanings ascribed thereto in the Securities Act;

“**MI 61-101**” means Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions*;

“**Moneta Annual Financial Statements**” means the audited consolidated financial statements of Moneta as at, and for the year ended December 31, 2022 including the notes thereto;

“**Moneta Board**” means the board of directors of Moneta as the same is constituted from time to time;

“**Moneta Consolidation Resolution**” means the special resolution of Moneta Shareholders approving a consolidation of the Moneta Shares following the Arrangement on the basis of 0.5 post-consolidation Moneta Shares for every one existing Moneta Share at the Moneta Meeting, which resolution will be approved at the Moneta Meeting substantially in the form and content set out in Schedule B;

“**Moneta Disclosure Documents**” means all documents filed by or on behalf of Moneta on SEDAR+ or its predecessor, SEDAR, since January 1, 2021 that are publicly available on SEDAR+ on the date hereof;

“**Moneta Disclosure Letter**” means the disclosure letter executed by Moneta and delivered to Nighthawk prior to or concurrently with the execution of this Agreement;

“**Moneta Financial Advisors**” means Maxit Capital LP and Evans & Evans, Inc.;

“**Moneta Financial Statements**” means, collectively, the Moneta Annual Financial Statements and the Moneta Interim Financial Statements;

“**Moneta Interim Financial Statements**” means the unaudited interim condensed consolidated financial statements of Moneta as at, and for the nine-month period ended September 30, 2023 including the notes thereto;

“**Moneta Meeting**” means the special meeting of Moneta Shareholders, including any adjournment or postponement thereof, to be called for the purpose of considering the Moneta Resolutions;

“**Moneta Material Contracts**” means any Contract that: (a) if terminated, breached or not renewed would or would reasonably be expected to have a Material Adverse Effect on Moneta; (b) is a Contract that contains any non-competition, non-solicitation or similar obligation (other than ordinary course confidentiality agreements) that restricts in any way the business of Moneta or its subsidiaries; (c) relates to the disposition or acquisition by Moneta after the date of this Agreement of material assets or an

ownership interest in a material business or pursuant to which Moneta has any material ownership or participation interest in any other Person or other business enterprise; (d) provides for obligations or entitlements or termination payments of Moneta, or which has an economic value to Moneta, whether or not on a contingent basis, in excess of either \$1,000,000 per annum or \$1,500,000 in total; (e) Moneta has filed with the Securities Authorities as a material contract in accordance with applicable Securities Laws (other than ordinary course underwriting or agency agreements); or (f) is a joint venture agreement, material royalty agreement, power supply agreement, water supply agreement, agreement with a Governmental Entity, or any other material agreement that requires the consent of a third party in order to effect the transactions contemplated by the Arrangement. Set out in Section 1.1 of the Moneta Disclosure Letter is a list of each Moneta Material Contract;

“Moneta Name Change Resolution” means the special resolution of Moneta Shareholders approving a name change of Moneta to such name as is determined by the Moneta Board and Nighthawk Board, subject to regulatory approval, which resolution will be approved at the Moneta Meeting substantially in the form and content set out in Schedule B;

“Moneta Properties” has the meaning ascribed thereto in Schedule D;

“Moneta Resolutions” means the Moneta Consolidation Resolution, the Moneta Name Change Resolution and the Moneta Share Issuance Resolution;

“Moneta Share Issuance Resolution” means the ordinary resolution of Moneta Shareholders approving the issuance of the Moneta Shares (including any Moneta Shares issuable upon the exercise of the Replacement Moneta Options and the Nighthawk Warrants), at the Moneta Meeting substantially in the form and content set out in Schedule B;

“Moneta Shareholder Approval” means the approval by the Moneta Shareholders of the Moneta Share Issuance Resolution at the Moneta Meeting;

“Moneta Shareholders” means the holders of Moneta Shares;

“Moneta Shares” means the common shares in the authorized share capital of Moneta;

“Moneta Share Incentive Plan” means the omnibus share incentive plan of Moneta, as last approved by Moneta Shareholders on June 2, 2022, as amended from time to time;

“Moneta Supporting Shareholders” means, collectively, all of the senior officers and directors of Moneta who own Moneta Shares or securities convertible or exercisable into Moneta Shares and O3 Mining Inc. and K2 Principal Fund L.P.;

“Moneta Technical Report” means the technical report prepared for Moneta by Tommaso Roberto Raponi, Scott Elfen, Scott Weston, Davood Hasanloo, Michael B. Dufresne, James Lill and Neda Farmer, titled “Amended & Restated NI 43-101 Report & Preliminary Economic Assessment of the Tower Gold Project” dated November 29, 2022;

“Moneta Termination Payment” means \$4,500,000;

“Moneta Termination Payment Event” has the meaning ascribed thereto in Subsection 8.3(d);

“Moneta Voting Agreements” means the voting agreements (including all amendments thereto) between Moneta and the Moneta Supporting Shareholders setting forth the terms and conditions upon which they have agreed, among other things, to vote their Moneta Shares in favour of the Moneta Resolutions;

“NI 43-101” means National Instrument 43-101 – *Standards of Disclosure for Mineral Projects*;

"NI 51-102" means National Instrument 51-102 – *Continuous Disclosure Obligations*;

"NI 62-104" means National Instrument 62-104 – *Take-Over Bids and Issuer Bids*;

"Nighthawk Annual Financial Statements" means the audited consolidated financial statements of Nighthawk as at, and for the year ended December 31, 2022 including the notes thereto;

"Nighthawk Arrangement Resolution" means the special resolution of the Nighthawk Shareholders approving the Plan of Arrangement, which is to be considered at the Nighthawk Meeting substantially in the form of Schedule C hereto;

"Nighthawk Board" means the board of directors of Nighthawk as the same is constituted from time to time;

"Nighthawk Convertible Securityholders" means the holders of Nighthawk Options and Nighthawk RSUs;

"Nighthawk Disclosure Documents" means all documents filed by or on behalf of Nighthawk on SEDAR+ or its predecessor, SEDAR, since January 1, 2021 that are publicly available on SEDAR+ on the date hereof;

"Nighthawk Disclosure Letter" means the disclosure letter executed by Nighthawk and delivered to Moneta concurrently with the execution of this Agreement;

"Nighthawk Financial Advisors" means, collectively SCP and LBS;

"Nighthawk Financial Statements" means, collectively, the Nighthawk Annual Financial Statements and the Nighthawk Interim Financial Statements;

"Nighthawk Incentive Stock Option Plan" means the incentive stock option plan of Nighthawk, as last approved by Nighthawk Shareholders on June 25, 2021, as amended from time to time;

"Nighthawk Interim Financial Statements" means the unaudited interim consolidated interim financial statements of Nighthawk as at, and for the three and nine months ended September 30, 2023 including the notes thereto;

"Nighthawk Material Contracts" means any Contract that: (a) if terminated, breached or not renewed would or would reasonably be expected to have a Material Adverse Effect on Nighthawk; (b) is a Contract that contains any non-competition, non-solicitation or similar obligation (other than ordinary course confidentiality agreements) that restricts in any way the business of Nighthawk or its subsidiary; (c) relates to the disposition or acquisition by Nighthawk after the date of this Agreement of material assets or an ownership interest in a material business or pursuant to which Nighthawk has any material ownership or participation interest in any other Person or other business enterprise; (d) provides for obligations or entitlements or termination payments of Nighthawk, or which has an economic value to Nighthawk, whether or not on a contingent basis, in excess of either \$1,000,000 per annum or \$1,500,000 in total; (e) Nighthawk has filed with the Securities Authorities as a material contract in accordance with applicable Securities Laws (other than ordinary course underwriting or agency agreements); or (f) is a joint venture agreement, material royalty agreement, power supply agreement, water supply agreement, agreement with a Governmental Entity, or any other material agreement that requires the consent of a third party in order to effect the transactions contemplated by the Arrangement; Set out in Section 1.1 of the Nighthawk Disclosure Letter is a list of each Nighthawk Material Contract;

"Nighthawk Meeting" means the special meeting of Nighthawk Shareholders, including any adjournment or postponement thereof, to be called and held in accordance with the Interim Order to consider the

Nighthawk Arrangement Resolution; “**Nighthawk Optionholders**” means the holders of Nighthawk Options;

“**Nighthawk Options**” means, at any time, stock options to acquire Nighthawk Shares granted under the Nighthawk Incentive Stock Option Plan which are, at such time, outstanding and unexercised, whether or not vested;

“**Nighthawk Properties**” has the meaning ascribed thereto in Schedule E;

“**Nighthawk RSU-holders**” means the holders of Nighthawk RSUs;

“**Nighthawk RSUs**” means, at any time, restricted share units to acquire Nighthawk Shares granted under the Nighthawk Share Unit Plan which are, at such time, outstanding;

“**Nighthawk Shareholder Approval**” means the approval of the Nighthawk Arrangement Resolution by at least two-thirds of the votes cast by the Nighthawk Shareholders present in person or by proxy at the Nighthawk Meeting;

“**Nighthawk Share Unit Plan**” means the share unit plan of Nighthawk, as last approved by Nighthawk Shareholders on June 25, 2021, as amended from time to time;

“**Nighthawk Shareholders**” means the holders of Nighthawk Shares;

“**Nighthawk Shares**” means common shares in the authorized share capital of Nighthawk;

“**Nighthawk Supporting Shareholders**” means, collectively, all of the senior officers and directors of Nighthawk who own Nighthawk Shares, Nighthawk Options, Nighthawk RSUs or Nighthawk Warrants or securities convertible or exercisable into Nighthawk Shares and Northfield Capital Corporation;

“**Nighthawk Technical Report**” means the technical report prepared for Nighthawk by Tommaso R. Raponi, Aleksandar Spasojevic, Jonathan Cooper, James Millard, Marc Schulte, Marina Iund, Simon Boudreau and Carl Pelletier, titled “NI 43-101 Technical Report and Preliminary Economic Assessment for the Colomac Gold Project, Northwest Territories, Canada” dated April 26, 2023;

“**Nighthawk Termination Payment**” means \$4,500,000;

“**Nighthawk Termination Payment Event**” has the meaning ascribed thereto in Subsection 8.3(b);

“**Nighthawk Voting Agreements**” means the voting agreements (including all amendments thereto) between Moneta and the Nighthawk Supporting Shareholders setting forth the terms and conditions upon which they have agreed, among other things, to vote their Nighthawk Shares in favour of the Nighthawk Arrangement Resolution;

“**Nighthawk Warrantholders**” means the holders of Nighthawk Warrants;

“**Nighthawk Warrants**” means the 22,313,786 common share purchase warrants currently issued and outstanding to acquire Nighthawk Shares;

“**OBCA**” means the *Business Corporations Act* (Ontario);

“**ordinary course of business**”, “**ordinary course of business consistent with past practice**”, or any similar reference, means, with respect to an action taken or to be taken by any Person, that such action (i) is required to be taken to comply with applicable Laws and/or (ii) is consistent with the past practices of such Person and is taken in the ordinary course of the normal day-to-day business and operations of such

Person and, in any case, is not unreasonable or unusual in the circumstances of such case in the context of the provisions of this Agreement;

"Outside Date" means February 29, 2024 or such later date as may be agreed to in writing by the Parties;

"Parties" means, collectively, Moneta and Nighthawk and **"Party"** means any one of them;

"Payment Receiving Party" has the meaning ascribed thereto in Subsection 8.3(f);

"Paying Party" has the meaning ascribed thereto in Subsection 8.3(f);

"Person" includes any individual, firm, partnership, limited partnership, limited liability partnership, joint venture, venture capital fund, limited liability company, unlimited liability company, association, trust, trustee, executor, administrator, legal personal representative, estate, body corporate, corporation, company, unincorporated association or organization, Governmental Entity, syndicate or other entity, whether or not having legal status;

"Person of Concern" means: (a) a Government Official; (b) a political party, an official of a political party (including any member of an advisory council or executive council or a political party), or a candidate for political office; (c) an immediate family member, such as a parent, spouse or sibling, or child of a person in category (a) or (b); or (d) an agent or intermediary of any person in the forgoing categories;

"Plan of Arrangement" means the plan of arrangement of Nighthawk, substantially in the form of Schedule A hereto, and any amendments or variations thereto made from time to time in accordance with this Arrangement Agreement, the Plan of Arrangement or upon the direction of the Court in the Interim Order or the Final Order with the consent of the Parties, each acting reasonably;

"Proceeding" means any court, administrative, regulatory or similar proceeding (whether civil, quasi-criminal or criminal), arbitration or other dispute settlement procedure, investigation or inquiry before or by any Governmental Entity, or any claim, action, suit, demand, arbitration, charge, indictment, hearing, demand letter or other similar civil, quasi-criminal or criminal, administrative or investigative matter or proceeding;

"Proposed Agreement" has the meaning ascribed thereto in Section 7.3(a);

"Release" means any sudden, intermittent or gradual release, spill, leak, pumping, addition, pouring, emission, emptying, discharge, migration, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage, placement or introduction of a Hazardous Substance, whether accidental or intentional, into the Environment;

"Remedial Action" shall mean any investigation, feasibility study, monitoring, testing, sampling, removal (including removal of underground storage tanks), restoration, clean-up, remediation, closure, site restoration, remedial response or remedial work, in each case in relation to environmental matters;

"Replacement Moneta Options" has the meaning ascribed thereto in the Plan of Arrangement; **"Representative"** means, collectively, in respect of a Person, its subsidiaries and its affiliates and its and their officers, directors, employees, consultants, advisors, agents or other representatives (including financial, legal or other advisors);

"SCP" means SCP Resource Finance LP;

"SEC" means the United States Securities and Exchange Commission;

"Securities Act" means the *Securities Act* (Ontario) and the rules, regulations and published policies made thereunder, as now in effect and as they may be promulgated or amended from time to time;

“Securities Authorities” means all applicable securities regulatory authorities, including the applicable securities commission or similar regulatory authorities in each of the provinces and territories of Canada, and the TSX;

“Securities Laws” means the Securities Act, the U.S. Securities Laws, together with all other applicable state, federal and provincial securities Laws, and the rules and regulations and published policies of the securities authorities thereunder, as now in effect and as they may be promulgated or amended from time to time, and includes the rules and policies of the TSX;

“SEDAR” means the System for Electronic Document Analysis Retrieval that was previously maintained by or on behalf of the Canadian Securities Administrators;

“SEDAR+” means the System for Electronic Document Analysis Retrieval + maintained by or on behalf of the Canadian Securities Administrators;

“subsidiary” has the meaning ascribed thereto in the Securities Act;

“Superior Proposal” means any *bona fide* Acquisition Proposal made in writing by a third party or third parties acting “jointly or in concert” (within the meaning of NI 62-104) with one another, who deal at arm’s length to Moneta or Nighthawk, as the case may be, after the date hereof that, in the good faith determination of the Moneta Board or the Nighthawk Board, as applicable, after receipt of advice from its outside financial advisors and legal counsel: (i) is reasonably capable of being completed in accordance with its terms without undue delay, taking into account all legal, financial, regulatory and other aspects of such proposal and the party making such proposal; (ii) in respect of which any required financing to complete such Acquisition Proposal has been demonstrated to be available; (iii) is not subject to a due diligence or access condition; (iv) did not result from a material breach of Article 7 by the receiving Party or its Representatives; (v) in the case of a transaction that involves the acquisition of common shares of a Party, is made available to all Moneta Shareholders or Nighthawk Shareholders, as the case may be, on the same terms and conditions; (vi) in the event that the receiving Party does not have the financial resources to pay the Moneta Termination Payment or the Nighthawk Termination Payment, as applicable, and Expense Reimbursement the terms of such Acquisition Proposal provide that the person making such Superior Proposal shall advance or otherwise provide such Party the cash required for such Party to pay the Moneta Termination Payment or the Nighthawk Termination Payment, as applicable, and Expense Reimbursement and such amount shall be advanced or provided on or before such Moneta Termination Payment or Nighthawk Termination Payment, as applicable, and Expense Reimbursement becomes payable; (vii) failure to recommend such Acquisition Proposal to the Moneta Shareholders or the Nighthawk Shareholders, as the case may be, would be inconsistent with the fiduciary duties of the Moneta Board or the Nighthawk Board, as applicable; and (viii) taking into account all of the terms and conditions of such Acquisition Proposal, if consummated in accordance with its terms (but not assuming away any risk of non-completion), would result in a transaction more favourable to its shareholders, taken as a whole, from a financial point of view, than the Arrangement (after taking into account any adjustment to the terms and conditions of the Arrangement proposed by the other Party pursuant to Section 7.3);

“Superior Proposal Notice” has the meaning ascribed thereto in Subsection 7.3(a)(ii);

“Superior Proposal Notice Period” has the meaning ascribed thereto in Subsection 7.3(a)(iii);

“Tax Act” means the *Income Tax Act* (Canada) and the regulations made thereunder, as now in effect and as they may be promulgated or amended from time to time;

“Tax Returns” means all returns, reports, declarations, elections, notices, filings, forms, statements and other documents (whether in tangible, electronic or other form) and including any amendments, schedules, attachments, supplements, appendices and exhibits thereto, made, prepared, filed or required to be made, prepared or filed by Law in respect of Taxes;

"Taxes" means any and all domestic and foreign federal, state, provincial, territorial, municipal and local taxes, assessments and other charges, duties and impositions imposed by any Governmental Entity, including without limitation pension plan contributions, tax instalment payments, employment insurance contributions, workers' compensation and deductions at source, including taxes based on or measured by gross receipts, income, profits, sales, capital, use, and occupation, and including goods and services, value added, ad valorem, sales, capital, transfer, franchise, non-resident withholding, customs, payroll, recapture, employment, excise and property duties and taxes, together with all interest, penalties, fines and additions imposed with respect to such amounts;

"Terminating Party" has the meaning ascribed thereto in Section 7.3(a);

"Transaction Personal Information" has the meaning ascribed thereto in Section 9.1;

"TSX" means the Toronto Stock Exchange;

"United States" or **"U.S."** means the United States of America, its territories and possessions, any State of the United States and the District of Columbia;

"U.S. Exchange Act" means the United States Securities Exchange Act of 1934, as amended and the rules and regulations promulgated thereunder;

"U.S. Securities Act" means the United States Securities Act of 1933, as amended and the rules and regulations promulgated thereunder;

"U.S. Securities Laws" means the U.S. Securities Act, the U.S. Exchange Act, and any applicable U.S. state securities laws; and

"U.S. Tax Code" has the meaning ascribed thereto in Section 2.14.

1.2 Interpretation

For the purposes of this Agreement, except as otherwise expressly provided:

- (a) **"this Agreement"** means this Arrangement Agreement, including the recitals and Schedules hereto, and not any particular Article, Section, Subsection or other subdivision, recital or Schedule hereof, and includes any agreement, document or instrument entered into, made or delivered pursuant to the terms hereof, as the same may, from time to time, be supplemented or amended and in effect;
- (b) the words **"hereof"**, **"herein"**, **"hereto"** and **"hereunder"** and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection, or other subdivision, recital or Appendix hereof;
- (c) all references in this Agreement to a designated **"Article"**, **"Section"**, **"Subsection"** or other subdivision, recital or **"Schedule"** hereof are references to the designated Article, Section, Subsections or other subdivision, recital or Schedule to, this Agreement;
- (d) the division of this Agreement into Articles, Sections, Subsections and other subdivisions, recitals or Schedules, the inclusion of a table of contents and the insertion of headings and captions are for convenience of reference only and are not intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof;
- (e) a reference to a statute in this Agreement includes all regulations, rules, policies or instruments made thereunder, all amendments to the statute, regulations, rules, policies or instruments in force

from time to time, and any statutes, regulations, rules, policies or instruments that supplement or supersede such statute, regulations, rules, policies or instruments;

- (f) the word “including” is not limiting, whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto; and
- (g) all references in this Agreement to Moneta Shares, the Exchange Ratio or the Consideration are on a non-consolidated basis.

1.3 Number, Gender and Persons

In this Agreement, unless the context otherwise requires, words importing the singular shall include the plural and vice versa, words importing the use of any gender shall include all genders and the word person and words importing persons shall include a natural person, firm, trust, partnership, association, corporation, joint venture or government (including any governmental agency, political subdivision or instrumentality thereof) and any other entity or group of persons of any kind or nature whatsoever.

1.4 Date for Any Action

If the date on which any action is required to be taken hereunder by a Party is not a Business Day, such action shall be required to be taken on the next succeeding day which is a Business Day.

1.5 Currency

Unless otherwise stated, all references in this Agreement to sums of money are expressed in lawful money of Canada and “\$” refers to Canadian dollars.

1.6 Accounting Matters

Unless otherwise stated, all accounting terms used in this Agreement in respect of Moneta or Nighthawk shall have the meanings attributable thereto under IFRS and all determinations of an accounting nature in respect of Moneta or Nighthawk required to be made shall be made in a manner consistent with IFRS consistently applied.

1.7 Knowledge

Where any representation or warranty is expressly qualified by reference to the knowledge of Moneta or Nighthawk, as the case may be, it shall be deemed to refer to the actual knowledge, after making reasonable inquiries regarding the relevant matter, of:

- (a) in respect of Nighthawk, (i) Keyvan Salehi, Chief Executive Officer, (ii) Salvatore Curcio, Chief Financial Officer, (iii) John McBride, Vice President of Exploration and (iv) Allan Candelario, Vice President, Investor Relations and Corporate Development; and
- (b) in respect of Moneta, (i) Josef Vejvoda, Interim Chief Executive Officer and Chairman of the Board, (ii) Jason MacIntosh, Chief Financial Officer and Corporate Secretary, (iii) Jason Dankowski, Vice President of Technical Services, and (iv) Dennis Wilson, Vice President of Sustainability,

in each case without personal liability.

1.8 Schedules

The following Schedules are annexed to this Agreement and are incorporated by reference into this Agreement and form a part hereof:

Schedule A	–	Plan of Arrangement
Schedule B	–	Moneta Resolutions
Schedule C	–	Nighthawk Arrangement Resolution
Schedule D	–	Representations and Warranties of Moneta
Schedule E	–	Representations and Warranties of Nighthawk
Schedule F	–	Key Regulatory Approvals and Key Third Party Consents

ARTICLE 2 THE ARRANGEMENT

2.1 Arrangement

The Parties agree that the Arrangement will be implemented in accordance with and subject to the terms and conditions contained in this Agreement and the Plan of Arrangement.

2.2 Interim Order

As soon as reasonably practicable, but in any event prior to December 22, 2023, Nighthawk shall apply to the Court in a manner acceptable to Moneta, acting reasonably, pursuant to the OBCA and in cooperation with Moneta, prepare, file and diligently pursue an application for the Interim Order, which shall provide, among other things:

- (a) for the class of Persons to whom notice is to be provided in respect of the Arrangement and the Nighthawk Meeting and for the manner in which such notice is to be provided;
- (b) fix the record date for the purposes of determining the Nighthawk Shareholders entitled to receive notice of and vote at the Nighthawk Meeting;
- (c) that the requisite approval for the Nighthawk Arrangement Resolution shall be at least two-thirds of the votes cast by the Nighthawk Shareholders present in person or by proxy at the Nighthawk Meeting;
- (d) that, in all other respects, the terms, conditions and restrictions of the Nighthawk constating documents, including quorum requirements and other matters, shall apply in respect of the Nighthawk Meeting;
- (e) for the grant of Dissent Rights in respect of the Nighthawk Arrangement Resolution only to the Nighthawk Shareholders who are registered Nighthawk Shareholders;
- (f) for the notice requirements to the Nighthawk Shareholders with respect to the presentation of the application to the Court for the Final Order;
- (g) that the Nighthawk Meeting may be adjourned or postponed from time to time by Nighthawk subject to the terms of this Agreement without the need for additional approval of the Court;
- (h) that the Parties intend to rely upon the exemption from registration provided by Section 3(a)(10) of the U.S. Securities Act, with respect to the issuance and exchange of the Moneta Shares to be issued pursuant to the Arrangement based on the Court's approval of the Arrangement and determination that the Arrangement is fair to such Nighthawk Shareholders; and

- (i) for such other matters as Moneta and/or Nighthawk may reasonably require, subject to obtaining the prior consent of Nighthawk and/or Moneta, respectively, such consent not to be unreasonably withheld or delayed.

2.3 Obligations of Nighthawk

Subject to the terms of this Agreement:

- (a) Nighthawk agrees to convene and conduct the Nighthawk Meeting for the purpose of obtaining approval of the Nighthawk Arrangement Resolution in accordance with the Interim Order, Nighthawk's articles, by-laws and applicable Law as soon as reasonably practicable and in any event, on or before February 12, 2024 and will use commercially reasonable efforts to schedule the Nighthawk Meeting on the same day as the Moneta Meeting, and in any event no later than the date of the Moneta Meeting. To the extent the Moneta Meeting is adjourned or delayed for any reason, the Nighthawk Meeting may also be adjourned to such later date such that the Nighthawk Meeting and the Moneta Meeting may occur on the same day.
- (b) Nighthawk shall not, except as required for quorum purposes, as required by Law, or otherwise as permitted under this Agreement, adjourn, postpone or cancel (or propose or permit the adjournment, postponement or cancellation of) the Nighthawk Meeting without Moneta's prior written consent, such consent not to be unreasonably withheld or delayed, provided, however, that, if Nighthawk provides Moneta with a Superior Proposal Notice on a date that is less than ten (10) days prior to the Nighthawk Meeting, Nighthawk may, and shall upon the request of Moneta, adjourn the Nighthawk Meeting to a date that is not later than ten (10) days after the scheduled date of the Nighthawk Meeting.
- (c) As promptly as reasonably practicable following execution of this Agreement, but subject to Subsection 2.3(a), Nighthawk shall (i) together with Moneta, prepare the Joint Circular, (subject to Moneta's right to prepare a notice of the Moneta Meeting and accompanying management information circular of Moneta in lieu of any such Joint Circular), together with any other documents required by applicable Laws in connection with the Nighthawk Arrangement Resolution, which Joint Circular shall contain notice to the Nighthawk Shareholders of their right to participate at the hearing of the Court with respect to the application and issuance of the Final Order, and (ii) cause the Joint Circular to be sent to Nighthawk Shareholders and filed in all jurisdictions where the same is required to be filed in accordance with all applicable Laws and by the Interim Order. Nighthawk shall have the right, in its sole discretion, to elect to prepare a separate "Letter to Shareholders" and "Background" section for inclusion in the Joint Circular, and in such circumstances, Nighthawk will provide Moneta and its legal counsel with a reasonable opportunity to review and comment on such disclosure and will give reasonable consideration to such comments. Nighthawk shall ensure that the Joint Circular complies in all material respects with all applicable Laws and without limiting the generality of the foregoing, that the Joint Circular contains sufficient notice and detail to permit the Nighthawk Shareholders to form a reasoned judgement concerning the matters to be placed before them at the Nighthawk Meeting. Notwithstanding the foregoing, Nighthawk shall retain the right to prepare a notice of the Nighthawk Meeting and accompanying management information circular of Nighthawk in lieu of the Joint Circular.
- (d) Nighthawk shall promptly provide to Moneta all information regarding Nighthawk, its subsidiary, and the Nighthawk Shares, the Nighthawk Options, the Nighthawk RSUs, and the Nighthawk Warrants, including any pro forma financial statements prepared in accordance with IFRS and applicable Laws, as required by the Interim Order and applicable Laws for inclusion (or, if permitted, for incorporation by reference) in the Joint Circular or in any amendments or supplements to such Joint Circular. If required by Law, Nighthawk shall also use commercially reasonable efforts to obtain any necessary consents from any of its auditors, technical consultants and any other advisors to the use of any financial, technical or other expert information required to be included or incorporated by reference in the Joint Circular and to the identification in the Joint Circular of each such advisor. Nighthawk shall take all reasonable steps to ensure that the Joint Circular does not

contain any misrepresentation concerning Nighthawk (Nighthawk shall not be responsible to Moneta for any information relating to Moneta and its subsidiary, including in relation to the Moneta Shares, which information shall be the responsibility of Moneta).

- (e) Nighthawk shall give Moneta and its legal counsel and financial advisors a reasonable opportunity to review and comment on the Joint Circular and all such other documents and the Joint Circular and all such other documents shall be satisfactory to Moneta, acting reasonably, before they are printed, or distributed to Nighthawk Shareholders or filed with any Governmental Entity, subject to any disclosure obligations imposed on Nighthawk by any Securities Authorities.
- (f) Nighthawk shall promptly notify Moneta if, at any time before the Effective Date, Nighthawk becomes aware that the Joint Circular contains a misrepresentation, or otherwise requires an amendment or supplement, and the Parties shall co-operate in the preparation of any amendment or supplement to the Joint Circular as required or appropriate, and Nighthawk shall promptly mail or otherwise publicly disseminate any amendment or supplement to the Joint Circular to Nighthawk Shareholders and, if required by applicable Laws, file the same with any Governmental Entity and as otherwise required.
- (g) Nighthawk shall disclose in the Joint Circular:
 - (i) that the Nighthawk Board has received a fairness opinion from LBS that the Arrangement is fair from a financial point of view to the Nighthawk Shareholders;
 - (ii) a summary of the general terms of the fairness opinion received from LBS and such fairness opinion shall be included in the Joint Circular;
 - (iii) that the Nighthawk Board has unanimously determined, after receiving financial and legal advice, that the consideration to be received by Nighthawk Shareholders pursuant to the Arrangement, is fair from a financial point of view and that the Arrangement is in the best interests of Nighthawk and the Nighthawk Board recommends that the Nighthawk Shareholders vote in favour of the Nighthawk Arrangement Resolution; and
 - (iv) that each Nighthawk Supporting Shareholder that has executed a Nighthawk Voting Agreement intends to vote all of such Person's Nighthawk Shares (including any Nighthawk Shares issued upon the exercise of any securities convertible, exercisable or exchangeable into Nighthawk Shares) in favour of the Nighthawk Arrangement Resolution, subject to the other terms of this Agreement and the Nighthawk Voting Agreements.
- (h) Subject to Article 7, Nighthawk shall solicit proxies from Nighthawk Shareholders in favour of the Nighthawk Arrangement Resolution and against any resolution submitted by any person that is inconsistent with, or which seeks (without Moneta's consent) to hinder or delay the Arrangement and the completion of the transactions contemplated hereby, including, (i) if agreed to by the Parties, use the services of dealers and proxy solicitation services, on terms and conditions satisfactory to each of the Parties, acting reasonably, and at a cost to be borne equally by the Parties, and (ii) permit Moneta to otherwise assist Nighthawk in such solicitation, and take all other actions that are reasonably necessary or desirable to seek the approval of the Nighthawk Arrangement Resolution.
- (i) Nighthawk will advise Moneta from time to time as Moneta may reasonably request, and at least on a daily basis on each of the last ten (10) Business Days prior to the date of the Nighthawk Meeting, as to the aggregate tally of the proxies received by Nighthawk in respect of the Nighthawk Arrangement Resolution.
- (j) Nighthawk will promptly advise Moneta of any written notice of dissent or purported exercise by any Nighthawk Shareholder of Dissent Rights received by Nighthawk and any withdrawal of Dissent

Rights received by Nighthawk and any written communications sent by or on behalf of Nighthawk to any Nighthawk Shareholder exercising or purporting to exercise Dissent Rights.

- (k) Nighthawk shall keep Moneta informed of any material requests or comments made by any Securities Authorities to Nighthawk in connection with the Joint Circular and promptly provide Moneta with copies of any correspondence received by Nighthawk from, or sent by Nighthawk to, any Securities Authorities in connection with the Joint Circular.
- (l) Nighthawk shall provide notice to Moneta of the Nighthawk Meeting and allow Representatives of Moneta to attend the Nighthawk Meeting.
- (m) If the Parties elect to prepare their own management information circulars in lieu of a Joint Circular, the provisions of this Section 2.3 shall apply to the stand-alone management information circular mutatis mutandis.

2.4 Obligations of Moneta

Subject to the terms of this Agreement:

- (a) Moneta agrees to convene and conduct the Moneta Meeting for the purpose of obtaining approval of the Moneta Resolutions in accordance with Moneta's articles, by-laws and applicable Law as soon as reasonably practicable and in any event, on or before February 12, 2024 and will use commercially reasonable efforts to schedule the Moneta Meeting on the same day as the Nighthawk Meeting, and in any event no later than the date of the Nighthawk Meeting. To the extent the Nighthawk Meeting is adjourned or delayed for any reason, the Moneta Meeting may also be adjourned to a later date such that the Nighthawk Meeting and the Moneta Meeting may occur on the same day.
- (b) Moneta shall not, except as required for quorum purposes, as required by Law, or otherwise as permitted under this Agreement, adjourn, postpone or cancel (or propose or permit the adjournment, postponement or cancellation of) the Moneta Meeting without Nighthawk's prior written consent, such consent not to be unreasonably withheld or delayed, provided, however, that, if Nighthawk provides Moneta with a Superior Proposal Notice on a date that is less than ten (10) days prior to the Nighthawk Meeting, Moneta may, and shall upon the request of Nighthawk, adjourn the Moneta Meeting to a date that is not later than ten (10) days after the scheduled date of the Moneta Meeting.
- (c) As promptly as reasonably practicable following execution of this Agreement but subject to Subsection 2.4(a), Moneta shall (i) together with Nighthawk, prepare the Joint Circular (subject to Nighthawk's right to prepare a notice of the Nighthawk Meeting and accompanying management information circular of Nighthawk in lieu of any such Joint Circular), together with any other documents required by applicable Laws in connection with the Moneta Resolutions and (ii) cause the Joint Circular to be sent to Moneta Shareholders and filed in all jurisdictions where the same is required to be filed in accordance with all applicable Laws. Moneta shall have the right, in its sole discretion, to elect to prepare a separate "Letter to Shareholders" and "Background" section for inclusion in the Joint Circular, and in such circumstances, Moneta will provide Nighthawk and its legal counsel with a reasonable opportunity to review and comment on such disclosure and will give reasonable consideration to such comments. Moneta shall ensure that the Joint Circular complies in all material respects with all applicable Laws and without limiting the generality of the foregoing, that the Joint Circular contains sufficient detail to permit the Moneta Shareholders to form a reasoned judgement concerning the matters to be placed before them at the Moneta Meeting. Notwithstanding the foregoing, Moneta shall retain the right to prepare a notice of the Moneta Meeting and accompanying management information circular of Moneta in lieu of the Joint Circular.

- (d) Moneta shall promptly provide to Nighthawk all information regarding Moneta, its subsidiaries and the Moneta Shares, including any pro forma financial statements prepared in accordance with IFRS and applicable Laws, as required by applicable Laws for inclusion (or, if permitted, for incorporation by reference) in the Joint Circular or in any amendments or supplements to such Joint Circular. If required by Law, Moneta shall also use commercially reasonable efforts to obtain any necessary consents from any of its auditors, technical consultants and any other advisors to the use of any financial, technical or other expert information required to be included or incorporated by reference in the Joint Circular and to the identification in the Joint Circular of each such advisor. Moneta shall take all reasonable steps to ensure that the Joint Circular does not contain any misrepresentation concerning Moneta (Moneta shall not be responsible to Nighthawk for any information relating to Nighthawk and its subsidiaries, including in relation to the Nighthawk Shares, which information shall be the responsibility of Nighthawk).
- (e) Moneta shall give Nighthawk and its legal counsel and financial advisors a reasonable opportunity to review and comment on the Joint Circular and all such other documents and the Joint Circular and all such other documents shall be satisfactory to Nighthawk, acting reasonably, before they are printed, or distributed to Moneta Shareholders or filed with any Governmental Entity, subject to any disclosure obligations imposed on Moneta by any Securities Authorities.
- (f) Moneta shall promptly notify Nighthawk if at any time before the Effective Date Moneta becomes aware that the Joint Circular contains a misrepresentation, or otherwise requires an amendment or supplement, and the Parties shall co-operate in the preparation of any amendment or supplement to the Joint Circular as required or appropriate, and Moneta shall promptly mail or otherwise publicly disseminate any amendment or supplement to the Joint Circular to Moneta Shareholders and, if required by applicable Laws, file the same with any Governmental Entity and as otherwise required.
- (g) Moneta shall disclose in the Joint Circular:
 - (i) that the Moneta Board has received a fairness opinion from the Moneta Financial Advisors that the Arrangement is fair, from a financial point of view, to Moneta;
 - (ii) a summary of the general terms of the fairness opinions received from the Moneta Financial Advisors and such fairness opinion shall be included in the Joint Circular;
 - (iii) that the Moneta Board has unanimously determined, after receiving financial and legal advice, that entering into this Agreement and, subject to the terms and conditions contained herein, completing the transactions contemplated by this Agreement is in the best interests of Moneta, and the Moneta Board recommends that the Moneta Shareholders vote in favour of the Moneta Resolutions; and
 - (iv) that each Moneta Supporting Shareholder that has executed a Moneta Voting Agreement intends to vote all of such Person's Moneta Shares (including any Moneta Shares issued upon the exercise of any securities convertible, exercisable or exchangeable into Moneta Shares) in favour of the Moneta Resolutions, subject to the other terms of this Agreement and the Moneta Voting Agreements.
- (h) Subject to Article 7, Moneta shall solicit proxies from Moneta Shareholders in favour of the Moneta Resolutions and against any resolution submitted by any person that is inconsistent with, or which seeks (without Nighthawk's consent) to hinder or delay the Arrangement and the completion of the transactions contemplated hereby, including, (i) if agreed to by the Parties, use the services of dealers and proxy solicitation services, on terms and conditions satisfactory to each of the Parties, acting reasonably, and at a cost to be borne equally by the Parties, and (ii) permit Nighthawk to otherwise assist Moneta in such solicitation, and take all other actions that are reasonably necessary or desirable to seek the approval of the Moneta Resolutions.

- (i) Moneta will advise Nighthawk from time to time as Nighthawk may reasonably request, and at least on a daily basis on each of the last ten (10) Business Days prior to the date of the Moneta Meeting, as to the aggregate tally of the proxies received by Moneta in respect of the Moneta Resolutions.
- (j) Moneta shall keep Nighthawk informed of any material requests or comments made by any Securities Authorities to Moneta in connection with the Joint Circular and promptly provide Nighthawk with copies of any correspondence received by Moneta from, or sent by Moneta to, any Securities Authorities in connection with the Joint Circular.
- (k) Moneta shall provide notice to Nighthawk of the Moneta Meeting and allow Representatives of Nighthawk to attend the Moneta Meeting.
- (l) If the Parties elect to prepare their own management information circulars in lieu of a Joint Circular, the provisions of this Section 2.4 shall apply to the stand-alone management information circular mutatis mutandis.

2.5 Final Order

If the Interim Order is obtained, the Nighthawk Arrangement Resolution is passed at the Nighthawk Meeting as required by applicable Law and the Moneta Resolutions are passed at the Moneta Meeting as required by applicable Law, then, subject to the terms of this Agreement, Nighthawk shall forthwith and in any event no later than five Business Days following receipt of approval of the Nighthawk Arrangement Resolution and the Moneta Resolutions, apply to the Court for the Final Order pursuant to Section 182(5)(f) of the OBCA approving the Arrangement on terms satisfactory to each of Moneta and Nighthawk acting reasonably.

2.6 Court Proceedings

Nighthawk will provide Moneta and its legal counsel with a reasonable opportunity to review and comment upon drafts of all material to be filed with the Court in connection with the Interim Order and the Final Order, and will make all such reasonable comments consistent with the terms of this Agreement and the Plan of Arrangement. Subject to applicable Law, Nighthawk will not file any material with the Court in connection with the Interim Order and the Final Order, or serve any such material, and will not agree to modify or amend materials so filed or served, except as contemplated by this Agreement, the Plan of Arrangement, or with Moneta's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed; provided, however, that nothing herein shall require Moneta to agree or consent to any increase in Consideration or other modification or amendment to such filed or served materials that expands or increases Moneta's obligations set forth in any such filed or served materials or under this Agreement or the Plan of Arrangement. Nighthawk shall also provide to Moneta and to Moneta's legal counsel on a timely basis copies of any response or other Court documents served on Nighthawk in respect of the application for the Interim Order or the Final Order or any appeal therefrom and of any notice, whether written or oral, received by Nighthawk indicating any intention to oppose the granting of the Interim Order or the Final Order or to appeal the Interim Order or the Final Order. Nighthawk will, subject to applicable Laws, ensure that all materials filed with the Court in connection with the Interim Order and the Final Order, are consistent in all material respects with the terms of this Agreement and the Plan of Arrangement. In addition, Nighthawk will not object to legal counsel to Moneta making such submissions on the hearing of the motion for the Interim Order and the application for the Final Order as such counsel considers appropriate, provided, however, that Nighthawk is advised of the nature of any submissions prior to the hearing and such submissions are consistent with this Agreement and the Plan of Arrangement. Nighthawk will also oppose any proposal from any party that the Final Order contain any provision inconsistent with this Agreement, and, if at any time after the issuance of the Final Order and prior to the Effective Date, Nighthawk is required by the terms of the Final Order or by Law to return to Court with respect to the Final Order, it shall do so after notice to, and in consultation and cooperation with, Moneta.

2.7 Articles of Arrangement and Effective Date

Nighthawk shall file the Articles of Arrangement with the Director within two (2) Business Days after the satisfaction or, where permitted, the waiver of the conditions (excluding wavier of conditions set forth in Sections 6.1(d), 6.1(f), 6.1(g) and 6.3(d) but subject to the satisfaction or, where not prohibited, the waiver of those conditions as of the Effective Date) set forth in Article 6, unless another time or date is agreed to in writing by the Parties. From and after the Effective Time, the Plan of Arrangement will have all of the effects provided by applicable Law, including the OBCA. Each of Moneta and Nighthawk agrees to amend the Plan of Arrangement at any time prior to the Effective Time in accordance with Section 8.4 of this Agreement to include such other terms determined to be necessary or desirable by Moneta or Nighthawk, as the case may be, provided, however, that the Plan of Arrangement shall not be amended in any manner which has the effect of changing the Consideration, or which is otherwise prejudicial to the Nighthawk Shareholders, other parties to be bound by the Plan of Arrangement or the Moneta Shareholders or is inconsistent with the provisions of this Agreement. The closing of the Arrangement will take place by electronic transmission of documents by 12:01 a.m. (Toronto time) on the Effective Date, or at such other time and place as may be agreed to by the Parties.

2.8 Payment of Consideration

Moneta will, following receipt by Nighthawk of the Final Order deposit in escrow with the Depositary sufficient Moneta Shares to satisfy the issuance of Moneta Shares to the Nighthawk Shareholders.

2.9 Announcements and Consultations

Moneta and Nighthawk shall consult with each other with respect to issuing any press release, preparing any presentations or otherwise making any public statement with respect to this Agreement or the Arrangement and in making any filing with any Governmental Entity with respect to this Agreement or the Arrangement, except as permitted by Article 7. Each of Moneta and Nighthawk shall use commercially reasonable efforts to enable the other Party to review and comment on all such press releases, presentations, public statements and filings prior to the release or filing, respectively, thereof, and neither Moneta nor Nighthawk shall release, make or file any press release, presentation, public statements or filing without the prior written consent of the other Party (which consent shall not be unreasonably withheld or delayed), provided, however, that the obligations herein shall not prevent a Party from making such disclosure as is required by applicable Laws or the rules and policies of any applicable stock exchange, and the Party making such disclosure shall use all commercially reasonable efforts to enable the other Party to review or comment on the disclosure or filing, and if such prior notice is not possible, to give such notice immediately following the making of such disclosure or filing. Reasonable consideration shall be given to any comments made by the other Party and its counsel.

2.10 Withholding Taxes

The Parties, the Depositary and any Person on their behalf shall be entitled to deduct and withhold from any consideration payable or otherwise deliverable to any Person hereunder and from all dividends, interest or other amounts payable to any Person (including, for greater certainty and as applicable, any Nighthawk Shareholder, and any Dissenting Holder) such amounts as any of the Parties or the Depositary or any Person on their behalf may be required or permitted to deduct and withhold therefrom under any provision of applicable Laws in respect of Taxes. To the extent that such amounts are so deducted and withheld, such amounts shall be treated for all purposes under this Agreement as having been paid to the Person to whom such amounts would otherwise have been paid; provided that such withheld amounts are actually remitted to the appropriate Governmental Entity. Each of the Parties or the Depositary, as applicable, is hereby authorized to sell or otherwise dispose of, on behalf of such person, such portion of any Moneta Share deliverable to such Person as is necessary to provide sufficient funds to Parties or the Depositary, as the case may be, to enable it to comply with such deduction or withholding requirement and the Parties or the Depositary, as applicable, shall notify such Person thereof and remit the applicable portion of the net proceeds of such sale to the appropriate Governmental Entity and any portion of such net proceeds that is not required to be so remitted shall be paid to such Person immediately.

2.11 Adjustment to Consideration

- (a) Notwithstanding anything in this Agreement to the contrary, if, between the date of this Agreement and the Effective Time:
 - (i) the issued and outstanding Moneta Shares shall have been changed into a different number of shares by reason of any split, consolidation, stock dividend, reclassification, recapitalization or exchange of shares, or any similar event related to the issued and outstanding Moneta Shares; or
 - (ii) the issued and outstanding Nighthawk Shares shall have been changed into a different number of shares by reason of any split, consolidation, stock dividend, reclassification, recapitalization or exchange of shares, or any similar event related to the issued and outstanding Nighthawk Shares,

then the Consideration to be paid per Nighthawk Share shall be appropriately adjusted to provide to the holders of Nighthawk Shares the same economic effect as contemplated by this Agreement and the Arrangement prior to such action and as so adjusted shall, from and after the date of such event, be the Moneta Share component of Consideration to be paid per Nighthawk Share, as applicable.

2.12 List of Shareholders

- (a) Subject to Section 9.1 and applicable Law, at the reasonable request of Moneta from time to time, Nighthawk shall provide Moneta with a list (in both written and/or electronic form) of (i) the registered Nighthawk Shareholders, together with their addresses and respective holdings of Nighthawk Shares and (ii) a list of non-objecting beneficial owners of Nighthawk Shares, together with their addresses and respective holdings of Nighthawk Shares. Nighthawk shall from time to time furnish Moneta with such additional information, including updated or additional lists of Nighthawk Shareholders and other assistance as Moneta may reasonably request.
- (b) Subject to Section 9.1 and applicable Law, at the reasonable request of Nighthawk from time to time, Moneta shall provide Nighthawk with a list (in both written and/or electronic form) of (i) the registered Moneta Shareholders together with their addresses and respective holdings of Moneta Shares; and (ii) a list of non-objecting beneficial owners of Moneta Shares, together with their addresses and respective holdings of Moneta Shares. Moneta shall from time to time furnish Nighthawk with such additional information, including updated or additional lists of Moneta Shareholders and other assistance as Moneta may reasonably request.

2.13 U.S. Securities Law Matters

The Parties agree that the Arrangement will be carried out with the intention that all Moneta Shares issued on completion of the Arrangement to Nighthawk Shareholders issued upon completion of the Arrangement to holders of Nighthawk Options will be issued and exchanged by Moneta in reliance on the exemption from the registration requirements of the U.S. Securities Act provided by Section 3(a)(10) thereunder. In order to ensure the availability of the exemption under Section 3(a)(10) of the U.S. Securities Act, the Parties agree that the Arrangement will be carried out on the following basis:

- (a) the Arrangement will be subject to the approval of the Court;
- (b) the Court will be advised as to the intention of the Parties to rely on the exemption under Section 3(a)(10) of the U.S. Securities Act prior to the hearing required to issue the Interim Order;
- (c) the Court will be required to satisfy itself as to the substantive and procedural fairness of the Arrangement to the Nighthawk Shareholders;

- (d) Nighthawk will ensure that each Nighthawk Shareholder entitled to receive Moneta Shares on completion of the Arrangement will be given adequate and timely notice advising them of their right to attend the hearing of the Court to give approval of the Arrangement and providing them with sufficient information necessary for them to exercise that right;
- (e) the Nighthawk Shareholders entitled to receive Moneta Shares will be advised that the Moneta Shares issued pursuant to the Arrangement have not been registered under the U.S. Securities Act and will be issued and exchanged by Moneta in reliance on the exemption from registration provided under Section 3(a)(10) of the U.S. Securities Act;
- (f) each Nighthawk Shareholder will be advised that with respect to securities issued to persons who are “affiliates” (as such term is defined under Rule 144 under the U.S. Securities Act) of Moneta or persons who have been “affiliates” of Moneta within 90 days prior to the Effective Date, such securities will be subject to restrictions on resale under U.S. Securities Laws, including Rule 144 under the U.S. Securities Act;
- (g) the Final Order approving the Arrangement that is obtained from the Court will expressly state that the Arrangement is approved by the Court as being fair to the Nighthawk Shareholder and each holder of Nighthawk Options;
- (h) the Interim Order approving the Nighthawk Meeting will specify that each Nighthawk Shareholder and each holder of Nighthawk Options will have the right to appear before the Court at the hearing of the Court, in accordance with the requirements of Section 3(a)(10) under the U.S. Securities Act, to give approval of the Arrangement so long as they enter an appearance within a reasonable time; and
- (i) the Final Order shall include a statement to substantially the following effect:

“This Order will serve as a basis of a claim to an exemption, pursuant to Section 3(a)(10) of the United States Securities Act of 1933, as amended, from the registration requirements otherwise imposed by that act, regarding the issuance and exchange of securities of Moneta pursuant to the Plan of Arrangement.”

2.14 United States Tax Matters

Assuming there are no Dissenting Holders to the Arrangement and all other requirements of the U.S. Tax Code and regulations thereunder are satisfied, the Arrangement is intended to qualify as a reorganization within the meaning of Section 368(a) of the United States Internal Revenue Code of 1986, as amended (the “**U.S. Tax Code**”) and this Agreement and the Plan of Arrangement are intended to be a “plan of reorganization” within the meaning of the United States Treasury Regulations promulgated under Section 368 of the U.S. Tax Code for purposes of Sections 354 and 361 of the U.S. Tax Code. Assuming there are no Dissenting Holders to the Arrangement and all other requirements of the U.S. Tax Code and regulations thereunder are satisfied, each of the Parties hereto shall treat the Arrangement as a reorganization within the meaning of Section 368(a) of the U.S. Tax Code for all United States federal income tax purposes, shall treat this Agreement and the Plan of Arrangement as a “plan of reorganization” within the meaning of the United States Treasury Regulations promulgated under Section 368 of the U.S. Tax Code, and shall not take any position on any Tax Return or otherwise take any Tax reporting position inconsistent with such treatment, unless otherwise required by applicable law. Subject to complying with this Agreement or the Plan of Arrangement and further subject to there being no Dissenting Holders to the Arrangement and all other requirements of the U.S. Tax Code and regulations thereunder having been satisfied, each party hereto shall act in a manner that is consistent with the Parties’ intention that the Arrangement be treated as a reorganization within the meaning of Section 368(a) of the U.S. Tax Code for all United States federal income tax purposes. Notwithstanding the foregoing, neither party hereto makes any representation, warranty or covenant to any other party or to any Moneta Shareholder, Nighthawk Shareholder or other holder of Moneta securities or Nighthawk securities (including, without limitation, stock options, warrants, debt instruments or other similar rights or instruments) regarding the United States tax treatment of the

Arrangement, including, but not limited to, whether the Arrangement will qualify as a reorganization within the meaning of Section 368(a) of the U.S. Tax Code or as a tax-deferred transaction for purposes of any United States state or local income tax law.

2.15 Board of Directors and Executive Officers of Moneta

- (a) Moneta shall take all necessary actions (including obtaining shareholder approval, where applicable) to ensure that upon the completion of the Arrangement:
 - (i) The Moneta Board will be reconstituted to consist of seven (7) directors, three (3) of whom will be nominated by Nighthawk and four (4) of whom will be existing directors of Moneta;
 - (ii) Members of the Moneta Board who are not Moneta's nominees pursuant to Section 2.15(a)(i) shall tender their resignation at the Effective Time; and
 - (iii) The following Persons will be appointed to the below-noted positions:
 - A. Josef Vejvoda as Non-Executive Chair; and
 - B. Keyvan Salehi as President & Chief Executive Officer.
- (b) Nighthawk shall take all necessary actions to ensure that upon the completion of the Arrangement:
 - (i) unless otherwise agreed to by the Parties in writing, all members of the Nighthawk Board tender their resignation at the Effective Time, with the exception of Keyvan Salehi; and
 - (ii) all Nighthawk officers and employees who, following the closing of the Arrangement, will become officers and/or employees of Moneta will sign a waiver and release waiving any right to a change of control payment in connection with the Arrangement. For the avoidance of doubt the waiver is to ensure that the Arrangement itself and the change of position from Nighthawk to Moneta does not in itself trigger a change of control payment for such individuals.

2.16 Treatment of Convertible Securities

- (a) Moneta and Nighthawk agree that the following arrangements, or such other arrangements that result in the same treatment of Nighthawk Convertible Securities, will be implemented in connection with the Arrangement:
 - (i) Each Nighthawk Warrant shall be adjusted in accordance with the adjustment provisions in the relevant warrant certificate or warrant indenture such that following the completion of the Arrangement, each holder of Nighthawk Warrants shall receive, upon exercise thereof, that number of Moneta Shares determined in accordance with the Exchange Ratio and the anti-dilution provisions of such Nighthawk Warrants, in lieu of each Nighthawk Share to which it was otherwise entitled to receive upon exercise, provided that if the foregoing would result in the issuance of a fraction of a Moneta Share on any particular exercise, then the number of Moneta Shares otherwise issuable shall be rounded down to the nearest whole number of Moneta Shares.
 - (ii) Each holder of Nighthawk Warrants shall be deemed to receive notice of such adjustment in accordance with the terms of the warrant certificate or warrant indenture governing such Nighthawk Warrants.

- (iii) Upon any valid exercise of a Nighthawk Warrant after the Effective Time, Moneta shall issue the number of Moneta Shares necessary to settle such exercise, provided that Moneta has received the applicable exercise price.
- (iv) Each Nighthawk Option outstanding immediately prior to the Effective Time, whether or not vested, shall be exchanged by the holder thereof, without any further act or formality and free and clear of all liens, claims and encumbrances, for a Replacement Moneta Option to acquire from Moneta, other than as provided in the Plan of Arrangement, the number of Moneta Shares equal to the product obtained when (A) the number of Nighthawk Shares subject to such Nighthawk Option immediately before the Effective Time, is multiplied by (B) the Exchange Ratio, provided that if the foregoing would result in the issuance of a fraction of a Moneta Share on any particular exercise of Replacement Moneta Options, then the number of Moneta Shares otherwise issuable shall be rounded down to the nearest whole number of Moneta Shares. The exercise price per Moneta Share subject to a Replacement Moneta Option shall be an amount equal to the quotient obtained when (A) the exercise price per Nighthawk Share subject to each such Nighthawk Option immediately prior to the Effective Time is divided by (B) the Exchange Ratio, provided that the aggregate exercise price payable on any particular exercise of Replacement Moneta Options shall be rounded up to the nearest whole cent.
- (v) Each Nighthawk RSU outstanding immediately prior to the Effective Time, whether vested or unvested, shall and shall be deemed to unconditionally and immediately vest in accordance with the terms of the Nighthawk Share Unit Plan and shall be settled by Nighthawk at the Effective Time in exchange for one Nighthawk Share, less applicable withholdings pursuant the Plan of Arrangement.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF MONETA

3.1 Representations and Warranties of Moneta

Except to the extent qualified by the Moneta Disclosure Letter, Moneta represents and warrants to Nighthawk as set forth in Schedule D and acknowledges and agrees that Nighthawk is relying upon such representations and warranties in connection with the entering into of this Agreement. Any investigation by Nighthawk or its Representatives shall not mitigate, diminish or affect the representations and warranties of Moneta pursuant to this Agreement.

3.2 Survival of Representations and Warranties

No investigation by or on behalf of any Party prior to the execution of this Agreement will mitigate, diminish or affect the representations and warranties made by the other Parties. The representations and warranties of Moneta contained in this Agreement shall not survive the completion of the Arrangement and shall expire and be terminated on the earlier of the Effective Time and the date on which this Agreement is terminated in accordance with its terms.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF NIGHTHAWK

4.1 Representations and Warranties of Nighthawk

Except to the extent qualified by the Nighthawk Disclosure Letter, Nighthawk represents and warrants to Moneta as set forth in Schedule E and acknowledges and agrees that Moneta is relying upon such representations and warranties in connection with the entering into of this Agreement. Any investigation by Moneta or its Representatives shall not mitigate, diminish or affect the representations and warranties of Nighthawk pursuant to this Agreement.

4.2 Survival of Representations and Warranties

No investigation by or on behalf of any Party prior to the execution of this Agreement will mitigate, diminish or affect the representations and warranties made by the other Parties. The representations and warranties of Nighthawk contained in this Agreement shall not survive the completion of the Arrangement and shall expire and be terminated on the earlier of the Effective Time and the date on which this Agreement is terminated in accordance with its terms.

ARTICLE 5 COVENANTS

5.1 Covenants of Moneta Relating to the Arrangement

Moneta shall use commercially reasonable efforts to perform all obligations required to be performed by Moneta under this Agreement, co-operate with Nighthawk in connection therewith, and do all such other acts and things as may be necessary or desirable in order to consummate and make effective, as soon as reasonably practicable, the transactions contemplated in this Agreement and, without limiting the generality of the foregoing, Moneta shall:

- (a) apply for and use its commercially reasonable efforts to obtain all Key Regulatory Approvals relating to Moneta that are required or deemed by Moneta or Nighthawk to be advisable and, in doing so, keep Nighthawk reasonably informed as to the status of the proceedings related to obtaining the Key Regulatory Approvals, including providing Nighthawk with copies of all related applications and notifications, in draft form (except where such material is confidential in which case it will be provided (subject to applicable Laws) to Nighthawk's outside counsel on an "external counsel" basis), in order for Nighthawk to provide its comments thereon, which shall be given due and reasonable consideration;
- (b) use its commercially reasonable efforts to provide such information to Nighthawk, as may be deemed necessary or desirable by Nighthawk, acting reasonably, in connection with any Key Regulatory Approvals to be obtained by Nighthawk;
- (c) use its commercially reasonable efforts to obtain as soon as practicable following execution of this Agreement all Key Third Party Consents to be obtained by Moneta;
- (d) use commercially reasonable efforts to defend all lawsuits or other legal, regulatory or other proceedings against Moneta challenging or affecting this Agreement or the consummation of the transactions contemplated hereby;
- (e) not take any action that is intended to, or would reasonably be expected to, individually or in the aggregate, prevent, materially delay or materially impede the ability of Moneta to consummate the Arrangement or the other transactions contemplated by this Agreement;
- (f) provide such assistance as may reasonably requested by Nighthawk for the purposes of completing the Nighthawk Meeting;
- (g) use commercially reasonable efforts to satisfy all conditions precedent in this Agreement;
- (h) subject to the terms and conditions of this Agreement and of the Plan of Arrangement and applicable Laws, issue the aggregate Consideration pursuant to the Arrangement;
- (i) carry out all actions necessary to ensure the availability of the exemption from registration under Section 3(a)(10) of the U.S. Securities Act;

- (j) until the earlier of the Effective Time and termination of this Agreement, subject to applicable Law, without causing undue disruption to the business of Moneta, make available and cause to be made available to Nighthawk and its Representatives, information reasonably requested by Nighthawk for the purposes of preparing, considering and implementing integration and strategic plans for the combined businesses of Moneta and Nighthawk following the Effective Date; and
- (k) use its commercially reasonable efforts to have (i) the Moneta Shares issued to Nighthawk Shareholders, listed and posted for trading on the TSX following the closing of the Arrangement and (ii) the Nighthawk Shares underlying the Replacement Moneta Options and the Nighthawk Warrants, reserved to be listed and posted for trading on the TSX following the exercise thereof in accordance with the applicable terms.

5.2 Covenants of Moneta Relating to the Conduct of Business

Moneta covenants and agrees that, until the earlier of the Effective Time and the time that this Agreement is terminated in accordance with its terms, except (i) if Nighthawk otherwise consents in writing, which consent will not be unreasonably withheld, conditioned or delayed, (ii) as expressly permitted or specifically contemplated by this Agreement, (iii) as set out in the Moneta Disclosure Letter (iv) as is otherwise required by applicable Law, it shall:

- (a) conduct its business and affairs and maintain its assets and not take any action except, in the usual, ordinary and regular course of business consistent with past practice and in compliance with applicable Laws;
- (b) use commercially reasonable efforts to preserve intact its present business organization, assets (including intellectual property) and goodwill, maintain its real property interests (including title to, and leasehold interests in respect of, any real property) in good standing, keep available the services of its directors, officers and senior employees and preserve the current material relationships with suppliers, senior employees, consultants, customers and others having business relationships with it, in each case except in accordance with the usual, ordinary course of business consistent with past practices;
- (c) duly and timely file all Tax Returns required to be filed by it or any subsidiaries on or after the date hereof and all such Tax Returns will be true, complete and correct in all respects;
- (d) timely withhold, collect, remit and pay all Taxes which are to be withheld, collected, remitted or paid by it or any subsidiaries to the extent due and payable;
- (e) not:
 - (i) issue, sell, pledge, lease, dispose of or encumber, or agree to issue, sell, pledge, lease, dispose of or encumber, any Moneta Shares or any securities convertible into Moneta Shares (other than in connection with the exercise, in accordance with their respective terms, of outstanding convertible securities) or except as provided for in this Agreement, amend, extend or terminate, or agree to amend, extend or terminate, any of the terms of, or agreements governing, any of the outstanding convertible securities;
 - (ii) except as contemplated by this Agreement, amend, vary or modify the Moneta Share Incentive Plan or any convertible securities of Moneta;
 - (iii) except as contemplated by this Agreement, amend or propose to amend its articles or by-laws or other constating documents; or, split, consolidate or reclassify, or propose to split, consolidate or reclassify, any of the Moneta Shares or undertake or propose to undertake any other capital reorganization or change in Moneta Shares, any other of its securities or its share capital;

- (iv) redeem, purchase or otherwise acquire, or offer to redeem, purchase or otherwise acquire, any outstanding securities of Moneta; adopt a plan of liquidation or resolution providing for the liquidation or dissolution of Moneta; or enter into any agreement with respect to the foregoing;
- (v) sell, pledge, lease, dispose of or encumber any assets, rights or properties, except in the ordinary course of business consistent with past practice;
- (vi) acquire or agree to acquire (by merger, amalgamation, acquisition of shares or assets or otherwise) any company, partnership or other business organization or division, or incorporate or form, or agree to incorporate or form, any company, partnership or other business organization or make or agree to make any investment either by purchase of shares or securities, contributions of capital, property transfer or purchase of, any property or assets of any other person, company, partnership or other business organization;
- (vii) except as contemplated by this Agreement, pursue any corporate acquisition, merger or make any other material change to its business or affairs;
- (viii) enter into or complete any transaction not in the ordinary course of business consistent with past practice;
- (ix) subject to applicable Law, fail to notify Nighthawk immediately orally and then promptly in writing of any material change (within the meaning of the *Securities Act* (Ontario)) in relation to Moneta and of any material governmental or third party complaints, investigations or hearings (or communications indicating that the same may be contemplated);
- (x) enter into or agree to the terms of any joint venture or similar agreement, arrangement or relationship;
- (xi) incur, create, assume or otherwise become liable for, any indebtedness for borrowed money or any other liability or obligation or issue any debt securities or assume, guarantee, endorse or otherwise as an accommodation become responsible for the obligation of any other Person or make any loans, capital contribution, investments or advances except in the ordinary course of business;
- (xii) pay, discharge or satisfy any material claims, liabilities or obligations other than the payment, discharge or satisfaction, in the ordinary course of business consistent with past practice, of liabilities reflected or reserved against in Moneta's Financial Statements, incurred in the ordinary course of business consistent with past practice or of fees, expenses and other charges of the Moneta Board, advisors and service providers which are or become payable in connection with the Arrangement;
- (xiii) engage in any transaction with any related parties other than in the ordinary course of business consistent with past practice;
- (xiv) waive, release, grant or transfer any rights of value or modify or change in any material respect any existing Moneta Material Contract, material Authorization or other material document, without first advising Nighthawk and obtaining Nighthawk's consent and direction, acting reasonably, as to any action to be taken in that regard, and forthwith taking any action directed by Nighthawk, acting reasonably, other than in the ordinary course of business;
- (xv) enter into or modify any employment, consulting, severance, or similar agreements or arrangements with, or grant any bonuses, salary or fee increases, severance or termination

pay to, any officers or directors or, in the case of employees or consultants who are not officers or directors, take any action with respect to the grant of any bonuses, salary or fee increases, severance or termination pay or with respect to any increase of benefits payable in effect on the date of this Agreement;

- (xvi) enter into or adopt any shareholder rights plan or similar agreement or arrangement that would impeded or limit, in any manner, the consummation of the Arrangement;
- (xvii) take any action or fail to take any action which action or failure to act would result in the material loss, expiration or surrender of, or the loss of any material benefit under, or reasonably be expected to cause any Governmental Entities to institute proceedings for the suspension, revocation or limitation of rights under, any material Authorizations; or fail to prosecute with commercially reasonable due diligence any pending applications to any Governmental Entities;
- (xviii) commence, settle or assign any rights relating to or any interest in any litigation, proceeding, claim, action, assessment or investigation that is material to Moneta and involving Moneta or its material assets without the prior written consent of Nighthawk;
- (xix) fail to duly and timely file all material forms, reports, schedules, statements and other documents required to be filed pursuant to any applicable Laws;
- (xx) make any changes to existing accounting policies or internal controls other than as required by applicable Law or by IFRS;
- (xxi) except as required by Law, change any method of reporting income, deductions or Tax accounting, make or change any material Tax election, file any materially amended Tax Returns, settle or compromise any material claim, action, suit, litigation, proceeding, arbitration, investigation, audit or controversy relating to Taxes, agree to an extension or waiver of the limitation period with respect to the assessment, reassessment, or determination of Taxes or surrender any right to claim a material Tax refund;
- (xxii) take any action that could reasonably be expected to interfere with or be inconsistent with the completion of the Arrangement or the transactions contemplated in this Agreement or which would render, or which may reasonably be expected to render, untrue or inaccurate (without giving effect to, applying or taking into consideration any materiality or Material Adverse Effect qualification already contained within such representation or warranty) in any material respect any of the representations and warranties of Moneta set forth in this Agreement;
- (xxiii) knowingly or to the knowledge of any director, officer, agent, employee, affiliate, consultant, or representative of Moneta (i) offer, promise, pay, authorize or take up any act in furtherance of any offer, promise, payment or authorization or payment of anything of value, directly or indirectly, to any Governmental Entity or Person of Concern for the purpose of securing discretionary action or inaction or a decision of a Governmental Entity, influence over discretionary action of a Governmental Entity, or any improper advantage; or (ii) take any action which is otherwise inconsistent with or prohibited by the substantive prohibitions or requirements of the *Corruption of Foreign Public Officials Act* (Canada), the United Kingdom *Bribery Act 2010*, the U.S. Foreign Corrupt Practices Act, or similar applications Laws of any other jurisdiction prohibiting corruption, bribery, money laundering, in connection with any of their business; or
- (xxiv) announce an intention, enter into any formal or informal agreement, or otherwise make a commitment to do any of the things prohibited by any of the foregoing subsections;

- (f) use commercially reasonable efforts to cause its current insurance (or re-insurance) policies not to be cancelled or terminated or any of the coverage thereunder to lapse, unless simultaneously with such termination, cancellation or lapse, replacement policies underwritten by insurance and re-insurance companies of nationally recognized standing providing coverage equal to or greater than the coverage under the cancelled, terminated or lapsed policies for substantially similar premiums are in full force and effect;
- (g) promptly notify Nighthawk in writing of any circumstances or development that, to the knowledge of Moneta, is or could reasonably be expected to constitute a Material Adverse Effect; and
- (h) not authorize or propose, or enter into or modify any Moneta Material Contract, or material agreement, commitment or arrangement, to do any of the matters prohibited by the other Subsections of this Section 5.2.

5.3 Covenants of Nighthawk Relating to the Arrangement

Nighthawk shall use commercially reasonable efforts to perform all obligations required to be performed by Nighthawk under this Agreement, co-operate with Moneta in connection therewith, and do all such other acts and things as may be necessary or desirable in order to consummate and make effective, as soon as reasonably practicable, the transactions contemplated in this Agreement and, without limiting the generality of the foregoing, Nighthawk shall:

- (a) apply for and use its commercially reasonable efforts to obtain all Key Regulatory Approvals relating to Nighthawk, that are required or deemed by Moneta or Nighthawk to be advisable and, in doing so, keep Moneta reasonably informed as to the status of the proceedings related to obtaining the Key Regulatory Approvals, including providing Moneta with copies of all related applications and notifications, in draft form (except where such material is confidential in which case it will be provided (subject to applicable Laws) to Moneta's outside counsel on an "external counsel" basis), in order for Moneta to provide its comments thereon, which shall be given due and reasonable consideration;
- (b) use its commercially reasonable efforts to provide such information to Moneta, as may be deemed necessary or desirable by Moneta, acting reasonably, in connection with any Key Regulatory Approvals to be obtained by Moneta;
- (c) use its commercially reasonable efforts to obtain as soon as practicable following execution of this Agreement all Key Third Party Consents to be obtained by Nighthawk;
- (d) use commercially reasonable efforts to defend all lawsuits or other legal, regulatory or other proceedings against Nighthawk challenging or affecting this Agreement or the consummation of the transactions contemplated hereby;
- (e) not take any action that is intended to, or would reasonably be expected to, individually or in the aggregate, prevent, materially delay or materially impede the ability of Nighthawk to consummate the Arrangement or the other transactions contemplated by this Agreement;
- (f) provide such assistance as may reasonably requested by Moneta for the purposes of completing the Moneta Meeting;
- (g) use commercially reasonable efforts to satisfy all conditions precedent in this Agreement, take all steps as set forth in the Interim Order, and carry out all actions necessary to ensure the availability of the exemption from registration under Section 3(a)(10) of the U.S. Securities Act; and
- (h) until the earlier of the Effective Time and termination of this Agreement, subject to applicable Law, without causing undue disruption to the business of Nighthawk, make available and cause to be

made available to Moneta and its Representatives, information reasonably requested by Moneta for the purposes of preparing, considering and implementing integration and strategic plans for the combined businesses of Moneta and Nighthawk following the Effective Date.

5.4 Covenants of Nighthawk Relating to the Conduct of Business

Nighthawk covenants and agrees that, until the earlier of the Effective Time and the time that this Agreement is terminated in accordance with its terms, except (i) if Moneta otherwise consents in writing, which consent will not be unreasonably withheld, conditioned or delayed, (ii) as expressly permitted or specifically contemplated by this Agreement, (iii) as set out in the Nighthawk Disclosure Letter or (iv) as is otherwise required by applicable Law, it shall:

- (a) conduct its business and affairs and maintain its assets and not take any action except, in the usual, ordinary and regular course of business consistent with past practice and in compliance with applicable Laws;
- (b) use commercially reasonable efforts to preserve intact its present business organization, assets (including intellectual property) and goodwill, maintain its real property interests (including title to, and leasehold interests in respect of, any real property) in good standing, keep available the services of its directors, officers and senior employees and preserve the current material relationships with suppliers, senior employees, consultants, customers and others having business relationships with it, in each case except in accordance with the usual, ordinary course of business consistent with past practices;
- (c) duly and timely file all Tax Returns required to be filed by it or any subsidiaries on or after the date hereof and all such Tax Returns will be true, complete and correct in all respects;
- (d) timely withhold, collect, remit and pay all Taxes which are to be withheld, collected, remitted or paid by it or any subsidiaries to the extent due and payable;
- (e) not:
 - (i) issue, sell, pledge, lease, dispose of or encumber, or agree to issue, sell, pledge, lease, dispose of or encumber, any Nighthawk Shares or any securities convertible into Nighthawk Shares (other than in connection with the exercise, in accordance with their respective terms, of outstanding convertible securities) or except as provided for in this Agreement, amend, extend or terminate, or agree to amend, extend or terminate, any of the terms of, or agreements governing, any of the outstanding convertible securities;
 - (ii) except as contemplated by this Agreement, amend, vary or modify the Nighthawk Incentive Stock Option Plan, the Nighthawk Share Unit Plan or any convertible securities of Nighthawk;
 - (iii) except as contemplated by this Agreement, amend or propose to amend its articles or by-laws or other constating documents; or, split, consolidate or reclassify, or propose to split, consolidate or reclassify, any of the Nighthawk Shares or undertake or propose to undertake any other capital reorganization or change in Nighthawk Shares, any other of its securities or its share capital;
 - (iv) redeem, purchase or otherwise acquire, or offer to redeem, purchase or otherwise acquire, any outstanding securities of Nighthawk; adopt a plan of liquidation or resolution providing for the liquidation or dissolution of Nighthawk; or enter into any agreement with respect to the foregoing;

- (v) sell, pledge, lease, dispose of or encumber any assets, rights or properties, except in the ordinary course of business consistent with past practice;
- (vi) acquire or agree to acquire (by merger, amalgamation, acquisition of shares or assets or otherwise) any company, partnership or other business organization or division, or incorporate or form, or agree to incorporate or form, any company, partnership or other business organization or make or agree to make any investment either by purchase of shares or securities, contributions of capital, property transfer or purchase of, any property or assets of any other person, company, partnership or other business organization;
- (vii) except as contemplated by this Agreement, pursue any corporate acquisition, merger or make any other material change to its business or affairs;
- (viii) enter into or complete any transaction not in the ordinary course of business consistent with past practice;
- (ix) subject to applicable Law, fail to notify Moneta immediately orally and then promptly in writing of any material change (within the meaning of the *Securities Act* (Ontario)) in relation to Nighthawk and of any material governmental or third party complaints, investigations or hearings (or communications indicating that the same may be contemplated);
- (x) enter into or agree to the terms of any joint venture or similar agreement, arrangement or relationship;
- (xi) incur, create, assume or otherwise become liable for, any indebtedness for borrowed money or any other liability or obligation or issue any debt securities or assume, guarantee, endorse or otherwise as an accommodation become responsible for the obligation of any other Person or make any loans, capital contribution, investments or advances except in the ordinary course of business;
- (xii) pay, discharge or satisfy any material claims, liabilities or obligations other than the payment, discharge or satisfaction, in the ordinary course of business consistent with past practice, of liabilities reflected or reserved against in Nighthawk's Financial Statements, incurred in the ordinary course of business consistent with past practice or of fees, expenses and other charges of the Nighthawk Board advisors and service providers which are or become payable in connection with the Arrangement;
- (xiii) engage in any transaction with any related parties other than in the ordinary course of business consistent with past practice;
- (xiv) waive, release, grant or transfer any rights of value or modify or change in any material respect any existing Nighthawk Material Contract, material Authorization or other material document, without first advising Moneta and obtaining Moneta's consent and direction, acting reasonably, as to any action to be taken in that regard, and forthwith taking any action directed by Moneta, acting reasonably, other than in the ordinary course of business;
- (xv) enter into or modify any employment, consulting, severance, or similar agreements or arrangements with, or grant any bonuses, salary or fee increases, severance or termination pay to, any officers or directors or, in the case of employees or consultants who are not officers or directors, take any action with respect to the grant of any bonuses, salary or fee increases, severance or termination pay or with respect to any increase of benefits payable in effect on the date of this Agreement;

- (xvi) enter into or adopt any shareholder rights plan or similar agreement or arrangement that would impeded or limit, in any manner, the consummation of the Arrangement;
 - (xvii) take any action or fail to take any action which action or failure to act would result in the material loss, expiration or surrender of, or the loss of any material benefit under, or reasonably be expected to cause any Governmental Entities to institute proceedings for the suspension, revocation or limitation of rights under, any material Authorizations; or fail to prosecute with commercially reasonable due diligence any pending applications to any Governmental Entities;
 - (xviii) commence, settle or assign any rights relating to or any interest in any litigation, proceeding, claim, action, assessment or investigation that is material to Nighthawk and involving Nighthawk or its material assets without the prior written consent of Moneta;
 - (xix) fail to duly and timely file all material forms, reports, schedules, statements and other documents required to be filed pursuant to any applicable Laws;
 - (xx) make any changes to existing accounting policies or internal controls other than as required by applicable Law or by IFRS;
 - (xxi) except as required by Law, change any method of reporting income, deductions or Tax accounting, make or change any material Tax election, file any materially amended Tax Returns, settle or compromise any material claim, action, suit, litigation, proceeding, arbitration, investigation, audit or controversy relating to Taxes, agree to an extension or waiver of the limitation period with respect to the assessment, reassessment, or determination of Taxes or surrender any right to claim a material Tax refund;
 - (xxii) take any action that could reasonably be expected to interfere with or be inconsistent with the completion of the Arrangement or the transactions contemplated in this Agreement or which would render, or which may reasonably be expected to render, untrue or inaccurate (without giving effect to, applying or taking into consideration any materiality or Material Adverse Effect qualification already contained within such representation or warranty) in any material respect any of the representations and warranties of Nighthawk set forth in this Agreement;
 - (xxiii) knowingly or to the knowledge of any director, officer, agent, employee, affiliate, consultant, or representative of Nighthawk (i) offer, promise, pay, authorize or take up any act in furtherance of any offer, promise, payment or authorization or payment of anything of value, directly or indirectly, to any Governmental Entity or Person of Concern for the purpose of securing discretionary action or inaction or a decision of a Governmental Entity, influence over discretionary action of a Governmental Entity, or any improper advantage; or (ii) take any action which is otherwise inconsistent with or prohibited by the substantive prohibitions or requirements of the *Corruption of Foreign Public Officials Act* (Canada), the United Kingdom *Bribery Act 2010*, the U.S. Foreign Corrupt Practices Act, or similar applications Laws of any other jurisdiction prohibiting corruption, bribery, money laundering, in connection with any of their business; or
 - (xxiv) announce an intention, enter into any formal or informal agreement, or otherwise make a commitment to do any of the things prohibited by any of the foregoing subsections;
- (f) use commercially reasonable efforts to cause its current insurance (or re-insurance) policies not to be cancelled or terminated or any of the coverage thereunder to lapse, unless simultaneously with such termination, cancellation or lapse, replacement policies underwritten by insurance and re-insurance companies of nationally recognized standing providing coverage equal to or greater than

the coverage under the cancelled, terminated or lapsed policies for substantially similar premiums are in full force and effect;

- (g) promptly notify Moneta in writing of any circumstances or development that, to the knowledge of Nighthawk, is or could reasonably be expected to constitute a Material Adverse Effect; and
- (h) not authorize or propose, or enter into or modify any Nighthawk Material Contract, or material agreement, commitment or arrangement, to do any of the matters prohibited by the other Subsections of this Section 5.4.

ARTICLE 6 CONDITIONS

6.1 Mutual Conditions Precedent

The obligations of the Parties to complete the Arrangement are subject to the fulfillment of each of the following conditions precedent on or before the Effective Time, each of which may only be waived with the mutual written consent of the Parties:

- (a) the Nighthawk Arrangement Resolution shall have been approved and adopted at the Nighthawk Meeting in accordance with the Interim Order;
- (b) the Moneta Share Issuance Resolution shall have been approved and adopted by the Moneta Shareholders at the Moneta Meeting;
- (c) each of the Interim Order and the Final Order shall have been obtained on terms consistent with this Agreement and satisfactory to each of Moneta and Nighthawk, acting reasonably, and shall not have been set aside or modified in a manner unacceptable to Moneta or Nighthawk, acting reasonably, on appeal or otherwise;
- (d) there shall have been no action taken under any applicable Law or by any Governmental Entity which make it illegal or otherwise directly or indirectly restrains, enjoins or prohibits the completion of the Arrangement;
- (e) the Key Regulatory Approvals shall have been obtained;
- (f) Nighthawk shall have completed the Concurrent Financing;
- (g) the Moneta Shares to be exchanged and issued pursuant to the Arrangement shall be exempt from the registration requirements of the U.S. Securities Act pursuant to Section 3(a)(10) thereof based on the Court's approval of the Arrangement and compliance with the requirements set forth in Section 2.13; provided however, that Nighthawk shall not be entitled to rely on the provisions of this Subsection 6.1(g) in failing to complete the transactions contemplated by this Agreement in the event that Nighthawk fails to advise the Court prior to the hearing in respect of the Interim Order, as required by the terms of the foregoing exemptions, that Moneta will rely on the foregoing exemption based on the Court's approval of the Arrangement; and
- (h) this Agreement shall not have been terminated in accordance with its terms.

6.2 Additional Conditions Precedent in Favour of Nighthawk

The obligation of Nighthawk to complete the Arrangement is subject to the fulfillment of each of the following additional conditions precedent on or before the Effective Time (each of which is for the exclusive benefit of Nighthawk and may be waived by Nighthawk):

- (a) all covenants of Moneta under this Agreement to be performed on or before the Effective Time which have not been waived by Nighthawk shall have been duly performed by Moneta in all material respects and Nighthawk shall have received a certificate of Moneta addressed to Nighthawk and dated the Effective Date, signed on behalf of Moneta by two of its senior executive officers or directors (on Moneta's behalf and without personal liability), confirming the same as of the Effective Date;
- (b) the representations and warranties of Moneta set forth in this Agreement shall be true and correct in all respects, without regard to any materiality or Material Adverse Effect qualifications contained in them as of the Effective Time, as though made on and as of the Effective Time (except for representations and warranties made as of a specified date, the accuracy of which shall be determined as of that specified date), except where the failure or failures of all such representations and warranties to be so true and correct in all respects would not reasonably be expected to have a Material Adverse Effect; and Nighthawk shall have received a certificate of Moneta addressed to Nighthawk and dated the Effective Date, signed on behalf of Moneta by two senior executive officers or directors of Moneta (on Moneta's behalf and without personal liability), confirming the same as at the Effective Time; and
- (c) there shall not have occurred a Material Adverse Effect that has not been publicly disclosed by Moneta prior to the date hereof or disclosed to Nighthawk in writing prior to the date hereof, and since the date of this Agreement there shall not have occurred a material Adverse Effect.

The foregoing conditions will be for the sole benefit of Nighthawk and may be waived by it in whole or in part at any time.

6.3 Additional Conditions Precedent in Favour of Moneta

The obligation of Moneta to complete the Arrangement is subject to the fulfillment of each of the following additional conditions precedent on or before the Effective Time (each of which is for the exclusive benefit of Moneta and may be waived by Moneta):

- (a) all covenants of Nighthawk under this Agreement to be performed on or before the Effective Time which have not been waived by Moneta shall have been duly performed by Nighthawk in all material respects and Moneta shall have received a certificate of Nighthawk addressed to Moneta and dated the Effective Date, signed on behalf of Nighthawk by two of its senior executive officers (on Nighthawk's behalf and without personal liability), confirming the same as of the Effective Date;
- (b) the representations and warranties of Nighthawk set forth in this Agreement shall be true and correct in all respects, without regard to any materiality or Material Adverse Effect qualifications contained in them as of the Effective Time, as though made on and as of the Effective Time (except for representations and warranties made as of a specified date, the accuracy of which shall be determined as of that specified date), except where the failure or failures of all such representations and warranties to be so true and correct in all respects would not reasonably be expected to have a Material Adverse Effect; and Moneta shall have received a certificate of Nighthawk addressed to Moneta and dated the Effective Date, signed on behalf of Nighthawk by two senior executive officers of Nighthawk (on Nighthawk's behalf and without personal liability), confirming the same as at the Effective Time;
- (c) there shall not have occurred a Material Adverse Effect that has not been publicly disclosed by Nighthawk prior to the date hereof or disclosed to Moneta in writing prior to the date hereof, and since the date of this Agreement there shall not have occurred a material Adverse Effect;
- (d) there shall be no suit, action or proceeding by any Governmental Entity or any other Person that has resulted in an imposition of material limitations on the ability of Moneta to acquire or hold, or exercise full rights of ownership of, any Nighthawk Shares; and

- (e) holders of no more than ten percent (10%) of the Nighthawk Shares shall have exercised Dissent Rights.

The foregoing conditions will be for the sole benefit of Moneta and may be waived by it in whole or in part at any time.

6.4 Satisfaction of Conditions

Other than as set forth in this Subsection, the conditions precedent set out in Section 6.1, Section 6.2 and Section 6.3 shall be conclusively deemed to have been satisfied, waived or released at the Effective Time following filing of the Articles of Arrangement with the consent of the Parties in accordance with the terms of this Agreement.

ARTICLE 7 ADDITIONAL COVENANTS

7.1 Covenant Regarding Non-Solicitation

Each Party shall, and shall direct and cause its respective Representatives, and its subsidiaries and their Representatives, to immediately cease and cause to be terminated any solicitation, encouragement, activity, discussion, negotiation or other activities whenever commenced with any parties with respect to any inquiry, proposal or offer that constitutes, or reasonably could be expected to lead to, an Acquisition Proposal whether or not initiated by such Party, and each Party shall discontinue access to any of its confidential information (and not establish or allow access to any of its confidential information or any data room, virtual or otherwise), and shall as soon as possible request the return of information regarding such Party and its respective subsidiaries previously provided to such parties including through any data room (virtual or otherwise) and shall request the destruction of all materials including or incorporating any confidential information regarding such Party and its respective subsidiaries. Each Party agrees not to release any third party from any confidentiality, non-disturbance, non-solicitation, standstill or similar agreement or terminate, modify, amend or waive the terms thereof (it being understood and agreed that the automatic termination of a standstill provision due to the announcement of the Arrangement or the entry into this Agreement shall not be a violation of this Section 7.1) and each Party undertakes to enforce all confidentiality, non-disturbance, non-solicitation, standstill or similar covenants that it, or any of its subsidiaries, have entered into prior to the date hereof except to allow a Person to confidentially propose an Acquisition Proposal to such Party.

7.2 Covenant Regarding Acquisition Proposal

- (a) Unless expressly permitted in this Article 7, each Party agrees that it shall not, and shall not authorize or permit any of its Representatives, directly or indirectly, to:
 - (i) make, solicit, initiate, encourage, or otherwise facilitate, (including by way of furnishing information, permitting any visit to its facilities or properties or entering into any form of agreement, arrangement or understanding) any inquiries or the making of any proposals regarding an Acquisition Proposal or that may be reasonably be expected to lead to an Acquisition Proposal;
 - (ii) participate in any discussions or negotiations with any Person regarding, an Acquisition Proposal, provided however that a Party may communicate and participate in discussions with a third party for the purpose of (A) clarifying the terms of any proposal in order to determine if it may reasonably be expected to result in a Superior Proposal; and (B) advising such third party that an Acquisition Proposal does not constitute a Superior Proposal and cannot reasonably be expected to result in a Superior Proposal;

- (iii) agree to, endorse, approve, recommend or remain neutral with respect to any, Acquisition Proposal or potential Acquisition Proposal, it being understood that publicly taking no position or a neutral position with respect to any Acquisition Proposal for a period of no more than five (5) Business Days after such Acquisition Proposal has been publicly announced shall not be deemed to be a violation of this section 7.2(a)(iii), provided that the Moneta Board or the Nighthawk Board, as applicable, has rejected such Acquisition Proposal and affirmed their recommendation of the Arrangement prior to the end of such five (5) Business Day period;
 - (iv) make a Change in Recommendation; or
 - (v) accept or enter into, or publicly propose to accept or enter into any arrangement, letter of intent, memorandum of understanding, agreement in principle or agreement related to any Acquisition Proposal.
- (b) Notwithstanding any other provision of this Agreement, if at any time following the date of this Agreement and prior to obtaining the approval of such Party's shareholders at the Moneta Meeting or the Nighthawk Meeting, as applicable, a Party that receives a request for material non-public information, or to enter into discussions, from a Person that proposes to such Party an unsolicited bona fide written Acquisition Proposal that did not result from a breach of this Article 7 and that its board of directors determines in good faith after consultation with its financial advisors and outside legal counsel that such Acquisition Proposal may reasonably be expected to lead to a Superior Proposal; then such Party may: (i) provide the Person making such Acquisition Proposal with access to material non-public information regarding such Party and its subsidiaries; and/or (ii) enter into, participate, facilitate and maintain discussions or negotiations with, and otherwise cooperate with or assist, the Person making such Acquisition Proposal, provided that such Person shall have (A) entered into a confidentiality and standstill agreement on substantially the same terms as the Confidentiality Agreement, including a standstill provision at least as stringent as contained in the Confidentiality Agreement, and such Party shall have provided a copy of such confidentiality and standstill agreement promptly upon execution to the other Party; and (B) provided to the other Party a list of and access to the information made or to be made available to such Person. Any such confidentiality and standstill agreement may not include any provision calling for an exclusive right to negotiate with such Party and may not restrict such Party or any of its subsidiaries from complying with Article 7.
- (c) Each Party shall promptly (and in any event within 24 hours) notify the other Party, at first orally and then in writing, of any proposals, offers or written inquiries relating to or constituting an Acquisition Proposal or any request for non-public information relating to such Party or any of its subsidiaries. Such notice shall include a description of the terms and conditions of any proposal, inquiry or offer, the identity of the Person making such proposal, inquiry or offer and provide such other details of the proposal, inquiry or offer as the other Party may reasonably request. Each Party shall keep the other Party fully informed on a prompt basis of the status, including any change to the material terms, of any such proposal, inquiry or offer.
- (d) Each Party shall ensure that its officers, directors and employees and any financial advisors or other advisors or Representatives retained by it are aware of the provisions of this Article 7, and it shall be responsible for any breach of this Article 7 by such officers, directors, financial advisors or other advisors or Representatives. Any violation of this Article 7 by a Party's Representatives is deemed to be a breach of such section by such Party.

7.3 Right to Accept a Superior Proposal

- (a) If a Party has complied with Section 7.2 of this Agreement with respect thereto, such Party (the "**Terminating Party**") may accept, approve or enter into any agreement, understanding or arrangement (a "**Proposed Agreement**") in respect of a Superior Proposal (other than a confidentiality agreement, the execution of which shall not be subject to the conditions of this

Section 7.3) received prior to the date of the approval of the Arrangement and the transactions contemplated by this Agreement by such Party's shareholders and terminate this Agreement if, and only if:

- (i) the board of directors of the Party in receipt of the Acquisition Proposal determines, in good faith, after consultation with its legal and financial advisors, that the Acquisition Proposal constitutes a Superior Proposal;
 - (ii) the Terminating Party has provided the other Party with notice ("**Superior Proposal Notice**") in writing, that there is a Superior Proposal, together with all documentation relating to and detailing the Superior Proposal, including a copy of any Proposed Agreement relating to such Superior Proposal, such documents to be provided to the other Party not less than five (5) Business Days prior to the proposed acceptance, approval or execution of the Proposed Agreement by such Party;
 - (iii) five (5) Business Days (the "**Superior Proposal Notice Period**") shall have elapsed from the date the other Party received written a Superior Proposal Notice and, if the other Party has proposed to amend the terms of the Arrangement in accordance with Section 7.3(c), the Moneta Board or the Nighthawk Board, as applicable, shall have determined, in good faith, after consultation with its financial advisors and outside legal counsel, that the Acquisition Proposal is a Superior Proposal compared to the proposed amendment to the terms of the Arrangement by the other Party;
 - (iv) such Party concurrently terminates this Agreement pursuant to Section 8.2(a)(iii)C or Section 8.2(a)(iv)C, as applicable; and
 - (v) such Party has previously paid, or concurrently pays to the other Party the Moneta Termination Payment or the Nighthawk Termination Payment, as applicable, and Expense Reimbursement.
- (b) Where at any time within ten (10) days before the Moneta Meeting or the Nighthawk Meeting, as applicable, the Terminating Party has provided the other Party with a Superior Proposal Notice, and the Superior Proposal Notice Period has not elapsed, then, subject to applicable Laws, the Terminating Party may, or at the other Party's request, will postpone or adjourn the Moneta Meeting or the Nighthawk Meeting, as applicable, to a date acceptable to the other Party, acting reasonably, which shall not be later than ten (10) Days after the scheduled date of the Moneta Meeting or the Nighthawk Meeting, as applicable, and shall, in the event that the Parties amend the terms of this Agreement pursuant to Section 7.3(c), ensure that the details of such amended Agreement are communicated to the Moneta Shareholders and Nighthawk Shareholders prior to the resumption of the adjourned or postponed meeting.
- (c) During the Superior Proposal Notice Period, the other Party will have the right, but not the obligation, to offer to amend this Agreement and the Plan of Arrangement. The board of directors of the Terminating Party shall review any such offer by the other Party to amend this Agreement and the Plan of Arrangement in good faith in order to determine whether the Acquisition Proposal to which the other Party is responding would continue to be a Superior Proposal when assessed against the Arrangement as it is proposed in writing by the other Party to be amended. If the board of directors of the Terminating Party determines that the Acquisition Proposal no longer constitutes a Superior Proposal, such board of directors will cause the Terminating Party to enter into an amendment to this Agreement with the other Party incorporating the amendments to the Agreement and Plan of Arrangement as set out in the written offer to amend, and will promptly reaffirm its recommendation of the Arrangement by the prompt issuance of a press release to that effect.
- (d) Each Party also acknowledges and agrees that each successive material modification of any Acquisition Proposal shall constitute a new Acquisition Proposal for purposes of the requirement under Section 7.3(a)(iii) and will initiate an additional five (5) Business Day notice period.

- (e) Nothing in this Agreement shall prohibit the board of directors of a Party from responding through a directors' circular or otherwise as required by Law to an Acquisition Proposal that it determines is not a Superior Proposal, provided that such Party shall provide the other Party and its outside legal counsel with a reasonable opportunity to review the form and content of such circular or other disclosure and shall make all reasonable amendments as requested by the other Party and its counsel. In addition, nothing in this Agreement shall prohibit the Moneta Board from making a Change in Recommendation as a result of Nighthawk having suffered a Material Adverse Effect, or the Nighthawk Board from making a Change in Recommendation as a result of Moneta having suffered a Material Adverse Effect.

7.4 Access to Information; Confidentiality; Transition

From the date hereof until the earlier of the Effective Time and the termination of this Agreement pursuant to its terms, subject to compliance with applicable Law and the terms of any existing Contracts: (a) each of Moneta and Nighthawk shall, and shall cause their subsidiaries and their respective Representatives, as the case may be, to afford to the other Party and to Representatives of the other Party full access during normal business hours upon reasonable notice, to all properties, information and records relating to the other Party, including but not limited to, all related facilities, buildings, equipment, assets, intellectual property, customers, maps and diagrams, books, contracts, financial statements, forecasts, financial projections, studies, records, operating Authorizations and any other documentation (whether in writing or stored in computerized, electronic, disk, tape, microfilm or any other form) or materials of any nature whatsoever, and Moneta and Nighthawk acknowledge and agree that information furnished pursuant to this Section 7.4 shall be subject to the terms and conditions of the Confidentiality Agreement; (b), each of Moneta and Nighthawk shall promptly notify the other Party of any significant developments or material changes relating to its business, operations, assets or prospects, promptly after becoming aware of any such development or change, and (c) each of Moneta and Nighthawk shall, and shall cause their subsidiaries and their respective Representatives, as the case may be, to work cooperatively and in good faith to ensure an orderly transition following the Effective Time, including with respect to transitional planning, transitional services, and the retention of personnel (and any related arrangements thereto).

7.5 Insurance and Indemnification

- (a) Prior to the Effective Date, Nighthawk shall purchase customary "tail" policies of directors' and officers' liability insurance protection no less favourable in the aggregate to the protection provided by the policies maintained by Nighthawk which are in effect immediately prior to the Effective Date and providing protection in respect of claims arising from facts or events which occurred on or prior to the Effective Date, in each case for a claims reporting or discovery period of up to six (6) years from and after the Effective Time with respect to any claim related to any period of time at or prior to the Effective Time and Moneta will cause Nighthawk to maintain such tail policies in effect without any reduction in scope or coverage. In addition, if deemed advisable or necessary by Moneta, Moneta shall, prior to the Effective Date, purchase customary "tail" policies of directors' and officers' liability insurance protection no less favourable in the aggregate to the protection provided by the policies maintained by Moneta which are in effect immediately prior to the Effective Date and providing protection in respect of claims arising from facts or events which occurred on or prior to the Effective Date, in each case for a claims reporting or discovery period of up to six (6) years from and after the Effective Time with respect to any claim related to any period of time at or prior to the Effective Time and Moneta will maintain such tail policies in effect without any reduction in scope or coverage.
- (b) Moneta agrees that it shall honour all rights to indemnification or exculpation now existing in favour of present and former officers and directors of Nighthawk and acknowledges that such rights shall survive the completion of the Plan of Arrangement.
- (c) The provisions of this Section 7.5 are intended for the benefit of, and shall be enforceable by, each insured or indemnified person, his or her heirs, executors, administrators and other legal representatives and, for such purpose, Moneta and/or Nighthawk, as applicable, (including any

surviving corporation or entity) hereby confirms that it is acting as agent and trustee on their behalf. Furthermore, this Section 7.5 shall survive the termination of this Agreement as a result of the occurrence of the Effective Time.

7.6 Notice and Cure Provisions

- (a) Each Party will give prompt notice to the other of the occurrence, or failure to occur, at any time from the date hereof until the earlier to occur of the termination of this Agreement and the Effective Time, of any event or state of facts which occurrence or failure would, or would be reasonably likely to:
 - (i) cause any of the representations or warranties of any Party contained herein to be untrue or inaccurate in any material respect on the date hereof or at the Effective Time (provided that this paragraph (a) shall not apply in the case of any event or state of facts resulting from actions or omissions of a Party which are expressly permitted or required by this Agreement); or
 - (ii) result in the failure to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by any Party hereunder prior to the Effective Time.
- (b) Moneta may not exercise its right to terminate this Agreement pursuant to Section 8.2(a)(iii)B and Nighthawk may not exercise its right to terminate this Agreement pursuant to Section 8.2(a)(iv)B unless the Party intending to rely thereon has delivered a written notice to the other Party specifying in reasonable detail all breaches of covenants, representations and warranties or other matters which the Party delivering such notice is asserting as the basis for the non-fulfilment or the applicable condition or termination right, as the case may be. If any such notice is delivered, provided that a Party is proceeding diligently to cure such matter and such matter is capable of being cured, no Party may terminate this Agreement until the expiration of a period of fifteen (15) Business Days from such notice, and then only if such matter has not been cured by such date. If such notice has been delivered prior to the making of the application for the Final Order, such application shall be postponed until the expiry of such period. For greater certainty, in the event that such matter is cured within the time period referred to herein without a Material Adverse Effect, this Agreement may not be terminated as a result of the cured breach.

ARTICLE 8 TERM, TERMINATION, AMENDMENT AND WAIVER

8.1 Term

This Agreement shall be effective from the date hereof until the earlier of the Effective Time and the termination of this Agreement in accordance with its terms.

8.2 Termination

- (a) This Agreement may be terminated and the Arrangement may be abandoned at any time prior to the Effective Time (notwithstanding the Moneta Shareholder Approval and Nighthawk Shareholder Approval having been obtained or the approval of the Arrangement by the Court):
 - (i) by mutual written agreement of Moneta and Nighthawk;
 - (ii) by either Moneta or Nighthawk, if:
 - A. the Effective Time shall not have occurred on or before the Outside Date, except that the right to terminate this Agreement under this Subsection 8.2(a)(ii)A shall not be available to any Party whose failure to fulfil any of its obligations or breach

any of its covenants, representations and warranties under this Agreement has been the cause of, or resulted in, the failure of the Effective Time to occur by the Outside Date;

- B. after the date hereof, any Governmental Entity shall have issued an order, decree or ruling or there shall be enacted or made any applicable Law that makes consummation of the Arrangement illegal or otherwise prohibited or otherwise restrains, enjoins or prohibits Moneta or Nighthawk from consummating the Arrangement (unless such order, decree, ruling or applicable Law has been withdrawn, reversed or otherwise made inapplicable) and such order, decree, ruling or applicable Law or injunction shall have become final and non-appealable;
- C. Nighthawk Shareholder Approval shall not have been obtained at the Nighthawk Meeting in accordance with applicable Laws and the Interim Order; or
- D. Moneta Shareholder Approval shall not have been obtained at the Moneta Meeting in accordance with applicable Laws.

(iii) by Moneta, if:

- A. prior to the Effective Time, (1) the Nighthawk Board shall have made a Change in Recommendation; or (2) Nighthawk shall have accepted or entered into or publicly proposes to accept or enter into (other than a confidentiality and standstill agreement permitted by Section 7.2) a legally binding written agreement, arrangement or understanding with respect to an Acquisition Proposal; or (3) Nighthawk breaches Sections 7.1, 7.2 or 7.3 in any material respect;
- B. prior to the Effective Time, subject to Section 7.6(b), including the cure period set forth therein, a representation or warranty of Nighthawk contained in this Agreement (without regard to any materiality or Material Adverse Effect qualifications contained in them) shall be inaccurate or shall have become inaccurate as of a date subsequent to the date of this Agreement (as if made on such subsequent date other than those representations and warranties given as of a specified date which shall be true as of such date), or a material failure to perform any covenant or agreement on the part of Nighthawk set forth in this Agreement (other than as set forth in Sections 7.1 and 7.2) shall have occurred, in each case that would cause one or more conditions set forth in Sections 6.1 or 6.2 not to be satisfied, in any material respect, and such conditions are incapable of being satisfied by the Outside Date; provided that Nighthawk is not then in breach of this Agreement so as to cause any of the conditions set forth in Sections 6.1 or 6.3 not to be satisfied; or
- C. at any time prior to receipt of the Moneta Shareholder Approval, it wishes to enter into a legally binding written agreement with respect to a Superior Proposal (other than a confidentiality and standstill agreement permitted by Section 7.2), subject to compliance with Section 7.3 and provided, however, that no termination under this Subsection 8.2(a)(iii)C shall be effective unless and until Nighthawk shall have paid or caused to be paid to Nighthawk the Nighthawk Termination Payment and Expense Reimbursement.

(iv) by Nighthawk, if

- A. prior to the Effective Time, (1) the Moneta Board shall have made a Change in Recommendation; or (2) Moneta shall have accepted or entered into or publicly

proposes to accept or enter into (other than a confidentiality and standstill agreement permitted by Section 7.2) a legally binding written agreement, arrangement or understanding with respect to an Acquisition Proposal; or (3) Moneta breaches Sections 7.1, 7.2 or 7.3 in any material respect;

- B. prior to the Effective Time, subject to Section 7.6(b), including the cure period set forth therein, a representation or warranty of Moneta contained in this Agreement (without regard to any materiality or Material Adverse Effect qualifications contained in them) shall be inaccurate or shall have become inaccurate as of a date subsequent to the date of this Agreement (as if made on such subsequent date other than those representations and warranties given as of a specified date which shall be true as of such date), or a material failure to perform any covenant or agreement on the part of Moneta set forth in this Agreement (other than as set forth in Sections 7.1 and 7.2) shall have occurred, in each case that would cause one or more conditions set forth in Sections 6.1 or 6.3 not to be satisfied, in any material respect, and such conditions are incapable of being satisfied by the Outside Date; provided that Nighthawk is not then in breach of this Agreement so as to cause any of the conditions set forth in Sections 6.1 or 6.2 not to be satisfied; or
- C. at any time prior to receipt of the Nighthawk Shareholder Approval, it wishes to enter into a legally binding written agreement with respect to a Superior Proposal (other than a confidentiality and standstill agreement permitted by Section 7.2), subject to compliance with Section 7.3 and provided, however, that no termination under this Subsection 8.2(a)(iv)C shall be effective unless and until Nighthawk shall have paid or caused to be paid to Moneta the Moneta Termination Payment and Expense Reimbursement.

- (b) The Party desiring to terminate this Agreement pursuant to this Section 8.2 (other than pursuant to Subsection 8.2(a)(i)) shall give notice of such termination to the other Party, specifying in reasonable detail the basis for such Party's exercise of its termination right.
- (c) If this Agreement is terminated pursuant to this Subsection 8.2, this Agreement shall become void and be of no further force or effect without liability of any Party (or any shareholder, director, officer, employee, agent, consultant or Representative of such Party) to any other Party hereto, except that the provisions of Section 7.4, this Section 8.2(c) and Sections 8.3, 9.1, 9.2, 9.3, 9.4, 9.6, 9.7 and 9.8 and all related definitions set forth in Section 1.1 and the provisions of the Confidentiality Agreement (including any standstill provisions contained therein) shall survive any termination hereof pursuant to Subsection 8.2(a) in accordance with their respective terms thereof and provided further that no Party shall be relieved of any liability for any wilful breach by it of this Agreement.

8.3 Termination Payments

- (a) Except as otherwise provided herein, the Parties agree that all costs and expenses of the Parties relating to the Arrangement and the transactions contemplated in this Agreement, including legal fees, accounting fees, financial advisory fees, strategic advisory fees, regulatory filing fees, stock exchange fees, all disbursements of advisors and printing and mailing costs, shall be paid by the Party incurring such expenses. Each Party represents to the other that with the exception of (a) the respective legal advisors, strategic advisors and financial advisors and their affiliates, the fees and expenses of which shall be the responsibility of the relevant Party and (b) the reasonable and customary fees payable to the Moneta Board and Nighthawk Board, respectively, for any meetings held by them in connection with the consideration of the Arrangement and the transactions contemplated herein or fees payable to the members of any independent committee of a board of a Party formed for the purpose of considering the Arrangement and the transactions contemplated herein no securityholder, director, officer, employee, consultant, broker, finder or investment banker

is entitled to any brokerage, finder's or other fee or commission, or to the reimbursement of any of its expenses, in connection with the Arrangement or the transactions contemplated herein except pursuant to existing consulting arrangements that were not entered into in contemplation of the Arrangements or the transactions contemplated herein.

- (b) The Nighthawk Termination Payment shall be payable by Moneta to Nighthawk in the event that the Agreement is terminated in the following circumstances (each being a **"Nighthawk Termination Payment Event"**):

- (i) (X) by Nighthawk pursuant to Subsection 8.2(a)(iv)A (but not including a termination by Nighthawk pursuant to Subsection 8.2(a)(iv)A in circumstances where the Change in Recommendation by Moneta resulted from the occurrence of a Material Adverse Effect in respect of Nighthawk) or (Y) by Moneta pursuant to Subsection 8.2(a)(iii)C;
- (ii) by either party pursuant to Subsection 8.2(a)(ii)D, but only if prior to the Moneta Meeting, a bona fide Acquisition Proposal, or the intention to make a bona fide Acquisition Proposal with respect to Moneta, has been publicly announced and not withdrawn and within 12 months of the date of such termination:
 - A. such Acquisition Proposal is consummated by Moneta; or
 - B. Moneta enters into a definitive agreement in respect of, or the Moneta Board approves or recommends such Acquisition Proposal and that transaction is consummated at any time thereafter;

provided that, for the purposes of this Section 8.3(b)(ii), all references to "20%" in the definition of "Acquisition Proposal" shall be deemed to be references to "50%".

- (c) If a Nighthawk Termination Payment Event occurs, Moneta shall pay the Nighthawk Termination Payment to Nighthawk as liquidated damages in consideration of Nighthawk's rights under this Agreement by wire transfer of immediately available funds as follows:

- (i) if the Nighthawk Termination Payment is payable pursuant to Subsection 8.3(b)(i)(X), the Nighthawk Termination Payment shall be payable within three (3) Business Days of such Nighthawk Termination Payment Event;
- (ii) if the Nighthawk Termination Payment is payable pursuant to Subsection 8.3(b)(i)(Y), the Nighthawk Termination Payment shall be payable prior to or simultaneously with such termination;
- (iii) if the Nighthawk Termination Payment is payable pursuant to Subsection 8.3(b)(ii), the Nighthawk Termination Payment shall be payable concurrently upon the earlier of the events referred to in that clause.

- (d) The Moneta Termination Payment shall be payable by Nighthawk to Moneta in the event that this Agreement is terminated in the following circumstances (each being a **"Moneta Termination Payment Event"**):

- (i) (X) by Moneta pursuant to Subsection 8.2(a)(iii)A (but not including a termination by Moneta pursuant to Subsection 8.2(a)(iii)A in circumstances where the Change in Recommendation by Nighthawk resulted from the occurrence of a Material Adverse Effect in respect of Moneta) or (Y) by Nighthawk pursuant to Subsection 8.2(a)(iv)C;
- (ii) by either party pursuant to Subsection 8.2(a)(ii)C but only if prior to the Moneta Meeting, a bona fide Acquisition Proposal, or the intention to make a bona fide Acquisition Proposal

with respect to Nighthawk, has been publicly announced and not withdrawn and within 12 months of the date of such termination:

- A. such Acquisition Proposal is consummated by Nighthawk; or
- B. Nighthawk enters into a definitive agreement in respect of, or the Nighthawk Board approves or recommends such Acquisition Proposal and that transaction is consummated at any time thereafter;

provided that, for the purposes of this Section 8.3(d)(i), all references to "20%" in the definition of "Acquisition Proposal" shall be deemed to be references to "50%".

- (e) If a Moneta Termination Payment Event occurs, Nighthawk shall pay the Moneta Termination Payment to Moneta as liquidated damages in consideration of Moneta's rights under this Agreement by wire transfer of immediately available funds as follows:
 - (i) if the Moneta Termination Payment is payable pursuant to Subsection 8.3(d)(i)(X), the Moneta Termination Payment shall be payable within three (3) Business Days of such Moneta Termination Payment Event;
 - (ii) if the Moneta Termination Payment is payable pursuant to Subsection 8.3(d)(i)(Y), the Moneta Termination Payment shall be payable prior to or simultaneously with such termination;
 - (iii) if the Moneta Termination Payment is payable pursuant to Subsection 8.3(d)(i), the Moneta Termination Payment shall be payable concurrently upon the earlier of the events referred to in that clause.
- (f) In the event that a payment is owed pursuant to either (i) 8.3(b), or (ii) 8.3(d) , then Nighthawk, in the event it is receiving the Nighthawk Termination Payment, or Moneta, in the event it is receiving the Moneta Termination Payment, (the "**Payment Receiving Party**") shall also be reimbursed by the other Party (the "**Paying Party**") in respect of the reasonable expenses it has actually incurred in respect of the Concurrent Financing, the Arrangement and this Agreement up to a maximum amount of \$1,600,000 (the "**Expense Reimbursement**"). Such Expense Reimbursement shall be made paid at the same time as the payment of the Nighthawk Termination Payment or Moneta Termination Payment, as applicable.
- (g) Each of the Parties hereby acknowledges that the Moneta Termination Payment or the Nighthawk Termination Payment, as applicable, along with the Expense Reimbursement to which such Party may become entitled as a non-terminating Party to is a payment of liquidated damages which is a genuine pre-estimate of the damages which such non-terminating Party will suffer or incur as a result of the event giving rise to such damages and the resultant non-completion of the Concurrent Financing, the Arrangement and the transactions contemplated by this Agreement (including, but not limited to, out-of-pocket expenditures, opportunity costs and reputational damage) and is not a penalty. Each Party hereby irrevocably waives any right it may have to raise as a defence that any such liquidated damages are excessive or punitive. Upon receipt by a non-terminating Party of the Moneta Termination Payment or the Nighthawk Termination Payment, as applicable, and the Expense Reimbursement, such non-terminating Party shall have no further claim against the other Party at Law or in equity or otherwise (including injunctive relief to restrain any breach or threatened breach by the other Party of any of its obligations hereunder or otherwise to obtain specific performance). For the avoidance of doubt, in no event shall either Party be obligated to pay a Moneta Termination Payment or a Nighthawk Termination Payment and Expense Reimbursement on more than on occasion.

8.4 Amendment

Subject to the provisions of the Interim Order and Final Order, the Plan of Arrangement and applicable Laws, this Agreement and the Plan of Arrangement may, at any time and from time to time prior to the Effective Time, be amended only by mutual written agreement of Moneta and Nighthawk, without further notice to or Authorization on the part of the Moneta Shareholders or Nighthawk Shareholders, and any such amendment may without limitation:

- (a) change the time for performance of any of the obligations or acts of the Parties;
- (b) waive any inaccuracies or modify any representation or warranty contained herein or in any document delivered pursuant hereto;
- (c) waive compliance with or modify any of the covenants herein contained and waive or modify performance of any of the obligations of the Parties; and
- (d) waive compliance with or modify any mutual conditions precedent herein contained.

8.5 Waiver

Any Party may (a) extend the time for the performance of any of the obligations or acts of the other Party, (b) waive compliance, except as provided herein, with any of the other Party's agreements or the fulfillment of any conditions to its own obligations contained herein, or (c) waive inaccuracies in any of the other Party's representations or warranties contained herein or in any document delivered by the other Party, in each case only to the extent such obligations, agreements and conditions are intended for its benefit. No extension or waiver shall be valid unless set forth in an instrument in writing signed on behalf of such Party and, unless otherwise provided in the written waiver, will be limited to the specific breach or condition waived and shall not extend to any other matter or occurrence. No failure or delay in exercising any right, power or privilege under this Agreement will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege under this Agreement.

ARTICLE 9 GENERAL PROVISIONS AND MISCELLANEOUS

9.1 Privacy

Each Party shall comply with applicable privacy Laws in the course of collecting, using and disclosing personal information about identifiable individuals in connection with the transactions contemplated hereby (the "**Transaction Personal Information**"). Neither Party shall disclose Transaction Personal Information originally collected by the other Party to any Person other than to its advisors who are evaluating and advising on the transactions contemplated by this Agreement. If Moneta completes the transactions contemplated by this Agreement, Moneta shall not, following the Effective Date, without the consent of the individuals to whom such Transaction Personal Information relates or as permitted or required by applicable Law, use or disclose Transaction Personal Information originally collected by Nighthawk:

- (a) for purposes other than those for which such Transaction Personal Information was collected by Nighthawk prior to the Effective Date; and
- (b) which does not relate directly to the carrying on of the business of Nighthawk or to the carrying out of the purposes for which the transactions contemplated by this Agreement were implemented.

The Parties shall protect and safeguard the Transaction Personal Information against unauthorized collection, use or disclosure. Moneta shall cause its advisors to observe the terms of this Section 9.1 and to protect and safeguard all Transaction Personal Information in their possession. If this Agreement shall

be terminated, each Party shall promptly deliver to the other Party all Transaction Personal Information originally collected by such other Party in its possession or in the possession of any of its advisors, including all copies, reproductions, summaries or extracts thereof, except, unless prohibited by applicable Law, for electronic backup copies made automatically in accordance with the usual backup procedures of the Party returning such Transaction Personal Information.

9.2 Notices

All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed to have been duly given and received on the day it is delivered, provided, however, that it is delivered on a Business Day prior to 4:30 p.m. Toronto time in the place of delivery or receipt. However, if notice is delivered after 4:30 p.m. Toronto time or if such day is not a Business Day then the notice shall be deemed to have been given and received on the next Business Day. Notice shall be sufficiently given if delivered (either in Person, by courier service or other personal method of delivery), or if transmitted by email to the Parties at the following addresses (or at such other addresses as shall be specified by any Party by notice to the other given in accordance with these provisions):

- (a) if to Nighthawk:

Nighthawk Gold Corp.
141 Adelaide St. W., Suite 301
Toronto, Ontario M5H 3L5

Attention: Keyvan Salehi
Email: **[Redacted]**

with a copy (which shall not constitute notice) to:

Cassels Brock & Blackwell LLP
Suite 3200, Bay Adelaide Centre – North Tower
40 Temperance St.
Toronto, ON M5H 0B4 Canada

Attention: Alex Pizale
Email: apizale@cassels.com

- (b) if to Moneta:

Moneta Gold Inc.
65 Third Avenue
Timmins, ON P4N 1C2

Attention: Josef Vejvoda

Email: **[Redacted]** with a copy (that shall not constitute notice) to:

McCarthy Tétrault LLP
Suite 5300
TD Bank Tower
Box 48, 66 Wellington Street West
Toronto ON M5K 1E6

Attention: Eva Bellissimo
Email: ebellissimo@mccarthy.ca

9.3 Governing Law

This Agreement shall be governed, including as to validity, interpretation and effect, by the Laws of the Province of Ontario and the Laws of Canada applicable therein, without giving effect to any principles of conflict of Laws thereof which would result in the application of the Laws of any other jurisdiction. Each of the Parties hereby irrevocably attorns to the exclusive jurisdiction of the courts of the Province of Ontario in respect of all matters arising under and in relation to this Agreement and the Arrangement.

9.4 Injunctive Relief

Subject to Section 8.3, the Parties acknowledge and agree that irreparable harm would occur for which money damages would not be an adequate remedy at Law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, the Parties agree that, in the event of any breach or threatened breach of this Agreement by a Party, the non-breaching Party will be entitled, without the requirement of posting a bond or other security, to equitable relief, including injunctive relief and specific performance, and the Parties shall not object to the granting of injunctive or other equitable relief on the basis that there exists an adequate remedy at Law. Subject to Section 8.3, such remedies will not be the exclusive remedies for any breach of this Agreement but will be in addition to all other remedies available at Law or equity to each of the Parties.

9.5 Time of Essence

Time shall be of the essence in this Agreement.

9.6 Entire Agreement, Binding Effect and Assignment

This Agreement (including the exhibits and schedules hereto and the Moneta Disclosure Letter and the Nighthawk Disclosure Letter) and the Confidentiality Agreement constitute the entire agreement, and supersede all other prior agreements and understandings, both written and oral, among the Parties, or any of them, with respect to the subject matter hereof and thereof and, except as expressly provided herein, this Agreement is not intended to and shall not confer upon any Person other than the Parties any rights or remedies hereunder. This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by any of the Parties without the prior written consent of the other Parties.

9.7 No Liability

No director or officer of Moneta shall have any personal liability whatsoever to Nighthawk under this Agreement, or any other document delivered in connection with the transactions contemplated hereby on behalf of Moneta. No director or officer of Nighthawk shall have any personal liability whatsoever to Moneta under this Agreement, or any other document delivered in connection with the transactions contemplated hereby on behalf of Nighthawk.

9.8 Severability

If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule or Law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

9.9 Counterparts, Execution

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The Parties shall be entitled to rely upon delivery of an executed facsimile or similar executed electronic copy of this Agreement, and such facsimile or similar executed electronic copy shall be legally effective to create a valid and binding agreement among the Parties.

[Remainder of page left intentionally blank. Signature page follows.]

IN WITNESS WHEREOF the Parties have executed this Arrangement Agreement as of the date first written above by their respective officers thereunto duly authorized.

NIGHTHAWK GOLD CORP.

(signed) “*Keyvan Salehi*”

Per: _____
Name: Keyvan Salehi
Title: President & Chief Executive Officer

MONETA GOLD INC.

(signed) “*Josef Vejvoda*”

Per: _____
Name: Josef Vejvoda
Title: Chief Executive Officer & Chairman

SCHEDULE A

PLAN OF ARRANGEMENT

PLAN OF ARRANGEMENT UNDER SECTION 182 OF THE *BUSINESS CORPORATIONS ACT* (ONTARIO)

ARTICLE 1 INTERPRETATION

- 1.1 In this Plan of Arrangement, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:

“Arrangement Agreement” means the arrangement agreement dated November 28, 2023 between Moneta and Nighthawk, including all schedules annexed thereto, with respect to the Arrangement together with the Moneta Disclosure Letter and the Nighthawk Disclosure Letter, as the same may be amended, supplemented or otherwise modified from time to time in accordance with the terms thereof;

“Arrangement” means the arrangement under Section 182 of the OBCA on the terms and subject to the conditions set out in this Plan of Arrangement, subject to any amendments or variations to the Plan of Arrangement made in accordance with the terms of Section 8.4 of the Arrangement Agreement and the Plan of Arrangement or made at the direction of the Court.

“Articles of Arrangement” means the articles of arrangement of Nighthawk in respect of the Arrangement required by the OBCA to be sent to the Director after the Final Order is made, giving effect to the Arrangement, which shall include the Plan of Arrangement and otherwise be in a form and content satisfactory to Moneta and Nighthawk, each acting reasonably;

“Business Day” means any day of the year, other than a Saturday, Sunday or any statutory or civic holiday in Toronto, Ontario;

“Certificate of Arrangement” means the certificate of arrangement to be issued by the Director pursuant to subsection 183(2) of the OBCA in respect of the Articles of Arrangement;

“Consideration” means the consideration to be received pursuant to the Plan of Arrangement by Nighthawk Shareholders from Moneta in respect of each Nighthawk Share that is issued and outstanding immediately prior to the Effective Time, comprising 0.42 Moneta Shares (on a pre-consolidation basis) for each Nighthawk Share;

“Court” means the Ontario Superior Court of Justice (*Commercial List*);

“Depositary” means any trust company, bank or financial institution agreed to between Moneta and Nighthawk for the purpose of, among other things, exchanging certificates representing Nighthawk Shares for the Consideration in connection with the Arrangement;

“Dissent Rights” has the meaning ascribed thereto in Section 5.1;

“Dissenting Holder” means a registered holder of Nighthawk Shares who has validly exercised Dissent Rights and has not withdrawn or been deemed to have withdrawn such exercise of Dissent Rights as of the Effective Time, but only in respect of the Nighthawk Shares in respect of which Dissent Rights are validly exercised by such holder;

“Effective Date” means the date shown in the Certificate of Arrangement which will be a date following satisfaction or waiver of all of the conditions to the completion of the Arrangement as set forth in the Arrangement Agreement and delivery of all documents agreed to be delivered to the satisfaction of Moneta and Nighthawk, acting reasonably;

“Effective Time” means 12:01 a.m. (Toronto time) on the Effective Date;

“Exchange Ratio” means 0.42;

“Final Order” means the final order of the Court pursuant to Section 182 of the OBCA in a form acceptable to Moneta and Nighthawk, each acting reasonably, after being informed of the intention to rely upon the exemption from registration under Section 3(a)(10) of the U.S. Securities Act with respect to the issuance and exchange of the Moneta Shares pursuant to the Arrangement and after a hearing upon the procedural and substantive fairness of the terms and conditions of the Arrangement, approving the Arrangement, as such order may be amended by the Court (with the consent of both Moneta and Nighthawk, each acting reasonably) at any time prior to the Effective Date or, if appealed, then, unless such appeal is withdrawn or denied, as affirmed or as amended (provided that any such amendment is acceptable to both Moneta and Nighthawk, each acting reasonably) on appeal;

“Former Nighthawk Shareholders” means the holders of Nighthawk Shares immediately prior to the Effective Time (including holders of Nighthawk Shares held by former holders of Nighthawk RSUs whose Nighthawk RSUs are settled for Nighthawk Shares in accordance with Section 3.1(a));

“Interim Order” means the interim order of the Court, after being informed of the intention to rely upon the exemption from registration under Section 3(a)(10) of the U.S. Securities Act with respect to the issuance and exchange of the Moneta Shares pursuant to the Arrangement, in form and substance acceptable to Moneta and Nighthawk, each acting reasonably, providing for, among other things, the calling and holding of the Nighthawk Meeting, as such order may be amended by the Court with the consent of Moneta and Nighthawk, each acting reasonably, as the same may be amended;

“Letter of Transmittal” means the Letter of Transmittal for use by Nighthawk Shareholders to be delivered in connection with the Arrangement;

“Moneta” means Moneta Gold Inc., a corporation existing under the laws of the Province of Ontario;

“Moneta Share Incentive Plan” means the omnibus share incentive plan of Moneta, as approved by Moneta Shareholders on June 2, 2022, as amended from time to time;

“Moneta Shareholders” means the holders of Moneta Shares;

“Moneta Shares” means common shares in the authorized share capital of Moneta;

“Nighthawk” means Nighthawk Gold Corp., a corporation existing under the laws of the Province of Ontario;

“Nighthawk Convertible Securityholders” means the holders of Nighthawk Options and Nighthawk RSUs;

“Nighthawk Incentive Stock Option Plan” means the incentive stock option plan of Nighthawk, as last approved by Nighthawk Shareholders on June 25, 2021, as amended from time to time;

“Nighthawk Meeting” means the special meeting of Nighthawk Shareholders, including any adjournment or postponement thereof, at which the Arrangement was approved by the Nighthawk Shareholders;

“Nighthawk Option In-The-Money Amount” in respect of a Nighthawk Option means the amount, if any, by which the total fair market value of the Nighthawk Shares that a holder is entitled to acquire on exercise of the Nighthawk Option immediately before the Effective Time exceeds the aggregate exercise price to acquire such Nighthawk Shares at that time;

“Nighthawk Options” means all stock options to acquire Nighthawk Shares granted under the Nighthawk Incentive Stock Option Plan which are outstanding immediately prior to the Effective Time;

“Nighthawk RSUs” means, at any time, restricted share units to acquire Nighthawk Shares granted under the Nighthawk Share Unit Plan which are, at such time, outstanding;

“Nighthawk Shareholders” means the holders of Nighthawk Shares;

“Nighthawk Shares” means the common shares in the authorized share capital of Nighthawk;

“Nighthawk Share Unit Plan” means the share unit plan of Nighthawk, as last approved by Nighthawk Shareholders on June 25, 2021, as amended from time to time;

“OBCA” means the *Business Corporations Act* (Ontario);

“Plan” or **“Plan of Arrangement”** means this plan of arrangement as amended or supplemented from time to time in accordance with the terms hereof and Section 8.4 of the Arrangement Agreement, this Plan of Arrangement or at the direction of the Court in the Interim Order or the Final Order with the consent of the Parties, each acting reasonably;

“Replacement Moneta Options” means the options to purchase Moneta Shares to be issued in exchange for Nighthawk Options pursuant to this Plan of Arrangement;

“Replacement Moneta Option In-The-Money Amount” in respect of a Replacement Moneta Option means the amount, if any, by which the total fair market value of the Moneta Shares that a holder is entitled to acquire on exercise of the Replacement Moneta Option at and from the Effective Time exceeds the aggregate exercise price to acquire such Moneta Shares at that time;

“Tax Act” means the *Income Tax Act* (Canada) and the regulations made thereunder, as now in effect and as they may be promulgated or amended from time to time;

“United States” or **“U.S.”** means the United States of America, its territories and possessions, any State of the United States and the District of Columbia;

“U.S. Exchange Act” means the United States Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder;

“U.S. Securities Act” means the United States Securities Act of 1933, as amended and the rules and regulations promulgated thereunder; and

“U.S. Securities Laws” means the U.S. Securities Act, the U.S. Exchange Act, and any applicable U.S. state securities laws.

- 1.2 The division of this Plan of Arrangement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Plan of Arrangement.
- 1.3 Unless reference is specifically made to some other document or instrument, all references herein to articles, sections, subsections and subparagraphs are to articles, sections, subsections and subparagraphs of this Plan of Arrangement, and use of the terms “herein”, “hereof” and “hereunder”

and similar expressions refer to this Plan of Arrangement and not to any particular article, section or other portion of this Plan of Arrangement.

- 1.4 Unless the context otherwise requires, words importing the singular number shall include the plural and vice versa; words importing any gender shall include all genders; and words importing persons shall include individuals, partnerships, associations, corporations, funds, unincorporated organizations, governments, regulatory authorities, and other entities.
- 1.5 In the event that the date on which any action is required to be taken hereunder by any of the parties hereto is not a business day in the place where the action is required to be taken, such action shall be required to be taken on the next succeeding day which is a business day in such place.
- 1.6 References in this Plan of Arrangement to any statute or sections thereof shall include such statute as amended or substituted and any regulations promulgated thereunder from time to time in effect.
- 1.7 In this Plan of Arrangement, unless otherwise stated, all references to sums of money are expressed in lawful money of Canada.
- 1.8 This Plan of Arrangement shall be governed, including as to validity, interpretation and effect, by the law of the Province of Ontario and the laws of Canada applicable therein.

ARTICLE 2 ARRANGEMENT AGREEMENT

- 2.1 This Plan of Arrangement is made pursuant to, and is subject to the provisions of, the Arrangement Agreement, except in respect of the sequence of the steps comprising the Arrangement, which shall occur in the order set forth herein.
- 2.2 This Plan of Arrangement and the Arrangement, upon the filing of the Articles of Arrangement and the issuance of the Certificate of Arrangement, will become effective on, and be binding on and after, the Effective Time on the Nighthawk Shareholders, Nighthawk, Moneta, the Depositary, the registrar and transfer agent of Nighthawk, Nighthawk Convertible Securityholders and the Dissenting Holders.

ARTICLE 3 ARRANGEMENT

- 3.1 Commencing at the Effective Time, each of the following events or transactions shall occur and shall be deemed to occur in the following sequence, five minutes apart, without any further act, authorization or formality:
 - (a) each Nighthawk RSU outstanding immediately prior to the Effective Time, whether vested or unvested, shall and shall be deemed to unconditionally and immediately vest in accordance with the terms of the Nighthawk Share Unit Plan and shall be settled by Nighthawk at the Effective Time in exchange for one Nighthawk Share, less applicable withholdings pursuant to Section 4.9, and each holder of Nighthawk RSUs shall be entered in the register of the Nighthawk Shareholders maintained by or on behalf of Nighthawk as the holder of such Nighthawk Shares and such Nighthawk Shares shall be deemed to be issued to such holder of Nighthawk RSUs as fully paid and non-assessable shares in the capital of Nighthawk, provided that no certificates or direct registration statement statements shall be issued with respect to such Nighthawk Shares, and each such Nighthawk RSU and any agreements related thereto shall be immediately cancelled and the holders of such Nighthawk RSUs shall cease to be holders thereof and to have any rights as holders of Nighthawk RSUs. Each holder of Nighthawk RSUs' name shall be removed from the register of Nighthawk RSUs maintained by or on behalf of Nighthawk

and all agreements relating to the Nighthawk RSUs shall be terminated and shall be of no further force and effect;

- (b) each Nighthawk Share held by a Dissenting Holder shall be deemed to be transferred by the holder thereof, without any further act or formality on its part, free and clear of all liens, claims and encumbrances, to Moneta, in consideration for a claim against Moneta in an amount determined and payable in accordance with Article 5, and the name of such holder will be removed from the central securities register as a holder of Nighthawk Shares and Moneta shall be registered as the holder of the Nighthawk Shares so transferred and shall be deemed to be the legal owner of such Nighthawk Shares;
- (c) each Nighthawk Share outstanding immediately prior to the Effective Time held by a Nighthawk Shareholder (including Nighthawk Shares held by former holders of Nighthawk RSUs whose Nighthawk RSUs are settled for Nighthawk Shares in accordance with Section 3.1(a), but excluding any Nighthawk Shares held by Moneta or any Dissenting Holder), shall be transferred by the holder thereof to Moneta in exchange for the Consideration and the name of such holder will be removed from the central securities register as a holder of Nighthawk Shares and Moneta shall be recorded as the registered holder of the Nighthawk Shares so transferred and shall be deemed to be the legal owner of such Nighthawk Shares; and
- (d) each Nighthawk Option outstanding immediately prior to the Effective Time, whether or not vested, shall be exchanged by the holder thereof, without any further act or formality and free and clear of all liens, claims and encumbrances, for a Replacement Moneta Option to acquire from Moneta, other than as provided herein, the number of Moneta Shares equal to the product obtained when (A) the number of Nighthawk Shares subject to such Nighthawk Option immediately before the Effective Time, is multiplied by (B) the Exchange Ratio, provided that if the foregoing would result in the issuance of a fraction of a Moneta Share on any particular exercise of Replacement Moneta Options, then the number of Moneta Shares otherwise issuable shall be rounded down to the nearest whole number of Moneta Shares. The exercise price per Moneta Share subject to a Replacement Moneta Option shall be an amount equal to the quotient obtained when (A) the exercise price per Nighthawk Share subject to each such Nighthawk Option immediately prior to the Effective Time is divided by (B) the Exchange Ratio, provided that the aggregate exercise price payable on any particular exercise of Replacement Moneta Options shall be rounded up to the nearest whole cent. It is intended that the provisions of subsection 7(1.4) of the Tax Act (and any corresponding provisions of any applicable provincial or territorial law) apply to the exchange of Nighthawk Options provided for in this Section 3.1(d). As a result, in the event that the Replacement Moneta Option In-The-Money Amount in respect of a Replacement Moneta Option exceeds the Nighthawk Option In-The-Money Amount in respect of a Nighthawk Option, the exercise price per Moneta Share of such Replacement Moneta Option will be increased accordingly with effect at and from the Effective Time by the minimum amount necessary to ensure that the Replacement Moneta Option In-The-Money Amount in respect of a Replacement Moneta Option does not exceed the Nighthawk Option In-The-Money Amount in respect of a Nighthawk Option. Except as set out above, term to expiry, conditions to and manner of exercise (provided any Replacement Moneta Option shall be exercisable by providing notice to Moneta) and other terms and conditions of each of the Replacement Moneta Options shall be the same as the terms and conditions of the Nighthawk Option for which it is exchanged and, for greater certainty, each Replacement Moneta Option shall continue to be governed by and be subject to the terms of the Nighthawk Share Unit Plan and the agreement evidencing the grant of such Nighthawk Option with respect to such terms and conditions. Any document previously evidencing a Nighthawk Option shall thereafter evidence and be deemed to evidence such Replacement Moneta Option and no certificates evidencing Replacement Moneta Options shall be issued.

- 3.2 The Consideration and the Exchange Ratio will be adjusted to reflect fully the effect of any stock split, reverse split, consolidation, reorganization or recapitalization with respect to Nighthawk Shares or Moneta Shares effected in accordance with the terms of the Arrangement Agreement occurring after the date of the Arrangement Agreement and prior to the Effective Time.

ARTICLE 4 OUTSTANDING CERTIFICATES AND FRACTIONAL SECURITIES

- 4.1 From and after the Effective Time, any certificates representing Nighthawk Shares held by Former Nighthawk Shareholders shall represent only the right to receive the Consideration to which the holders are entitled under the Arrangement, or as to those held by Dissenting Holders, to receive the fair value of the Nighthawk Shares represented by such certificates.
- 4.2 From and after the Effective Time, Moneta shall honour and shall cause Nighthawk to honour all rights and obligations under the Replacement Moneta Options and Nighthawk Warrants and such rights shall survive the completion of the Plan of Arrangement.
- 4.3 Moneta, as soon as practicable following the later of the Effective Date and the date of deposit by a Former Nighthawk Shareholder of a duly completed Letter of Transmittal and the certificates representing the Nighthawk Shares held by such Former Nighthawk Shareholder, will either:
- (a) forward or cause to be forwarded by first class mail (postage prepaid) to such Former Nighthawk Shareholder at the address specified in the Letter of Transmittal, or
 - (b) if requested by such Former Nighthawk Shareholder in the Letter of Transmittal, make available or cause to be made available at the Depositary for pickup by such Former Nighthawk Shareholder certificates,

representing the number of Moneta Shares issued to such holder under the Arrangement.

- 4.4 If any certificate which immediately prior to the Effective Time represented an interest in outstanding Nighthawk Shares that were transferred or cancelled pursuant to Section 3.1 has been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such certificate to have been lost, stolen or destroyed, the Depositary shall issue and deliver in exchange for such lost, stolen or destroyed certificate the Consideration to which the holder is entitled pursuant to the Arrangement (and any dividends or distributions with respect thereto). Unless otherwise agreed to by Moneta, the person who is entitled to receive such Consideration shall, as a condition precedent to the receipt thereof, give a bond to Moneta and the Depositary, which bond is in form and substance satisfactory to Moneta and the Depositary, or shall otherwise indemnify Moneta and its transfer agent against any claim that may be made against any of them with respect to the certificate alleged to have been lost, stolen or destroyed.
- 4.5 All dividends and distributions made after the Effective Time with respect to any Moneta Shares allotted and issued pursuant to this Arrangement but for which a certificate has not been issued shall be paid or delivered to the Depositary to be held by the Depositary in trust for the registered holder of such Moneta Shares. Subject to this Section 4.5, the Depositary shall pay and deliver to any such registered holder, as soon as reasonably practicable after application therefor is made by the registered holder to the Depositary in such form as the Depositary may reasonably require, such distributions and any interest thereon to which such holder is entitled, net of any applicable withholding and other taxes.
- 4.6 Any certificate which immediately prior to the Effective Time represented Moneta Shares that is not deposited with a duly completed Letter of Transmittal and all other documents as required by this Plan of Arrangement on or before the sixth anniversary of the Effective Date shall cease to represent a right or claim of any kind or nature and, for greater certainty, the right of the Former Nighthawk Shareholder of such Nighthawk Shares to receive the Consideration shall be deemed to be surrendered to Moneta together with all dividends, distributions or cash payments thereon

held for such holder. For greater certainty, on such date, any certificate formerly representing Nighthawk Shares shall cease to represent a claim or interest of any kind or nature against Moneta or Nighthawk and Consideration that such former Nighthawk Shareholder was entitled to receive shall be delivered to Moneta by the Depositary.

- 4.7 Any payment of Consideration made by way of cheque by the Depositary pursuant to this Plan of Arrangement that has not been deposited or has been returned to the Depositary or that otherwise remains unclaimed on or after the sixth anniversary of the Effective Date shall cease to represent a right or claim of any kind or nature and such payment shall be delivered to Moneta by the Depositary.
- 4.8 In no event shall any holder of Nighthawk Shares be entitled to a fractional Moneta Share. Where the aggregate number of Moneta Shares to be issued to a Nighthawk Shareholder as Consideration under the Arrangement would result in a fraction of a Moneta Share being issuable, the number of Moneta Shares to be received by such Nighthawk Shareholder shall be rounded down to the nearest whole Moneta Share. In calculating fractional interests, all Nighthawk Shares, as the case may be, registered in the name of or beneficially held by a Nighthawk Shareholder or its nominee shall be aggregated. All calculations and determinations made by Moneta, Nighthawk or the Depositary, as applicable, for the purposes of this Plan of Arrangement shall be conclusive, final, and binding.
- 4.9 Moneta, Nighthawk and the Depositary and any person acting on their behalf shall be entitled to deduct and withhold from any consideration payable or otherwise deliverable to any person pursuant to the Arrangement and from all dividends or other distributions otherwise payable to any former Nighthawk Shareholders such amounts as Moneta, Nighthawk or the Depositary may be required to deduct and withhold therefrom under any provision of applicable laws in respect of taxes including without limitation any amounts payable to Dissenting Holders or payable in respect of Nighthawk Options, Nighthawk RSUs or Nighthawk Warrants. To the extent that such amounts are so deducted, withheld and remitted, such amounts shall be treated for all purposes under this Plan of Arrangement as having been paid to the person to whom such amounts would otherwise have been paid; provided that such withheld amounts are actually remitted to the appropriate governmental entity.
- 4.10 Each of Moneta, Nighthawk and the Depositary and any person acting on their behalf is hereby authorized to sell or otherwise dispose of such portion of Moneta Shares payable as Consideration as is necessary to provide sufficient funds to Moneta, Nighthawk or the Depositary, as the case may be, to enable it to implement such deduction or withholding, and Moneta, Nighthawk or the Depositary will notify the holder thereof and remit to the holder any unapplied balance of the net proceeds of such sale.

ARTICLE 5 DISSENTING HOLDERS

- 5.1 Pursuant to the Interim Order, each registered holder of Nighthawk Shares shall have the right to dissent with respect to the Arrangement (the **"Dissent Rights"**) under the provisions of Section 185 of the OBCA as modified by the Interim Order and this Section 5.1.
- 5.2 A Dissenting Holder who:
 - (a) is ultimately entitled to be paid by Moneta the fair value of the holder's Nighthawk Shares shall (i) cease to have any rights as a holder of Nighthawk Shares; (ii) be deemed to have transferred the holder's Nighthawk Shares to Moneta free and clear of any Liens at the Effective Time in accordance with Section 3.1(b); (iii) will be entitled to be paid the fair value of the holder's Nighthawk Shares, which fair value, notwithstanding anything to the contrary contained in the OBCA, shall be determined as of the close of business on the last business day before the day on which the Arrangement is approved by the Nighthawk Shareholders at the Nighthawk Meeting and (iv) will not be entitled to any other payment or consideration,

including any payment that would be payable under the Arrangement had such holders not exercised their Dissent Rights in respect of such Nighthawk Shares;

- (b) is ultimately not entitled to be paid the fair value of the holder's Nighthawk Shares, shall be treated as if the holder had participated in the Arrangement on the same basis as a non-Dissenting Holder of Nighthawk Shares, notwithstanding the provisions of the OBCA.
- 5.3 In no event shall Nighthawk, Moneta or any other Person be required to recognize such Dissenting Holders as a registered or beneficial shareholder of Nighthawk at or after the Effective Time and the names of such holders shall be removed from the applicable Nighthawk register of securityholders as at the Effective Time.
- 5.4 For greater certainty, in addition to any other restrictions in the Interim Order, no person who has voted in favour of the Arrangement Resolution or instructed a proxyholder to vote in favour of the Arrangement Resolution shall be entitled to dissent with respect to the Arrangement.

ARTICLE 6 U.S. SECURITIES LAWS EXEMPTION

- 6.1 Notwithstanding any provision herein to the contrary, Moneta and Nighthawk agree that the Plan of Arrangement will be carried out with the intention that all Moneta Shares issued and exchanged on completion of the Plan of Arrangement to the Nighthawk Shareholders, as applicable, will be issued by Moneta in reliance on the exemption from the registration requirements of the U.S. Securities Act, as amended, as provided by Section 3(a)(10) thereof and applicable state securities laws, and pursuant to the terms, conditions and procedures set forth in the Arrangement Agreement.

ARTICLE 7 AMENDMENTS

- 7.1 Moneta and Nighthawk may amend, modify and/or supplement this Plan of Arrangement at any time and from time to time prior to the Effective Time, provided that each such amendment, modification and/or supplement must be: (a) set out in writing; (b) filed with the Court and, if made following the Nighthawk Meeting, approved by the Court; and (c) communicated to Nighthawk Shareholders if and as required by the Court.
- 7.2 Subject to the provisions of the Interim Order, any amendment, modification or supplement to this Plan of Arrangement may be proposed by Moneta and Nighthawk at any time prior to or at the Nighthawk Meeting with or without any other prior notice or communication, and if so proposed and accepted by the persons voting at the Nighthawk Meeting shall become part of this Plan of Arrangement for all purposes.
- 7.3 Any amendment, modification or supplement to this Plan of Arrangement that is approved by or directed by the Court following the Nighthawk Meeting shall be effective only if (a) it is consented to by each of Moneta and Nighthawk; and (b) if required by the Court or applicable law, it is consented to by some or all of the Nighthawk Shareholders voting in the manner directed by the Court.
- 7.4 Each of Moneta and Nighthawk shall, from time to time, and at all times hereafter, at the request of the other of them, but without further consideration, do, or cause to be done, all such other acts and execute, or cause to be made, done, executed and delivered, all such further acts, deeds, agreements, transfers, elections, assurances, instruments or documents as may reasonably be required by any of them in order to implement this Plan of Arrangement and to further document or evidence any of the transactions or events set out in this Plan of Arrangement.
- 7.5 Any amendment, modification or supplement to this Plan of Arrangement may be made by the Moneta and Nighthawk without the approval of or communication to the Court or Nighthawk

Shareholders, provided that it concerns a matter which, in the reasonable opinion of Nighthawk and Moneta is of an administrative or ministerial nature required to better give effect to the implementation of this Plan of Arrangement and is not materially adverse to the financial or economic interests of any of the Nighthawk Shareholders.

- 7.6 This Plan of Arrangement may be withdrawn prior to the Effective Time in accordance with the Arrangement Agreement.

SCHEDULE B

MONETA RESOLUTIONS

The text of the Moneta Resolutions which the Moneta Shareholders will be asked to pass at the Moneta Meeting is as follows:

MONETA SHARE ISSUANCE RESOLUTION

BE IT RESOLVED THAT:

- (1) Moneta Gold Inc. ("**Moneta**") is hereby authorized to issue such number of common shares in the capital of Moneta as is necessary to allow Moneta to acquire 100% ownership of Nighthawk Gold Corp. ("**Nighthawk**") pursuant to an arrangement transaction (the "**Arrangement**") pursuant to a plan of arrangement (as it may be modified, amended or supplemented) in accordance with an arrangement agreement among Moneta and Nighthawk (the "**Arrangement Agreement**"), as more particularly described in the joint management information circular dated ●, 2023 (the "**Circular**") of Moneta and Nighthawk, including, but not limited to, the issuance of common shares in the capital of Moneta upon the exercise of options of Nighthawk and the exercise of warrants of Nighthawk and the issuance of common shares in the capital of Moneta for any other matters contemplated by or related to the Arrangement (as the Arrangement may be, or may have been, modified or amended in accordance with its terms);
- (2) Notwithstanding that this resolution has been duly passed by the holders of the common shares of Moneta, the directors of Moneta are hereby authorized and empowered, if they decide not to proceed with the aforementioned resolution, to revoke this resolution at any time prior to the closing date of the Arrangement, without further notice to or approval of the shareholders of Moneta;
- (3) Any one or more directors or officers of Moneta is hereby authorized, for and on behalf and in the name of Moneta, to execute and deliver, whether under corporate seal of Moneta or otherwise, all such agreements, forms, waivers, notices, certificate, confirmations and other documents and instruments, and to do or cause to be done all such other acts and things, as in the opinion of such director or officer may be necessary, desirable or useful for the purpose of giving effect to the foregoing resolutions and the matters authorized thereby, such determination to be conclusively evidenced by the execution and delivery of such document, agreement or instrument or the doing of any such act or thing.

MONETA CONSOLIDATION RESOLUTION

BE IT RESOLVED AS A SPECIAL RESOLUTION THAT:

- (4) The articles of Moneta be amended to provide that:
 - a. The authorized share capital of Moneta is altered by consolidating all of the issued and outstanding common shares of Moneta on the basis of one post-consolidation common share for every two (2) pre-consolidation common shares; and
 - b. Any fractional common share arising on the consolidation of the common shares of Moneta be deemed to have been tendered by its registered owner to Moneta for cancellation and will be returned to the authorized but unissued share capital of Moneta;
- (5) Notwithstanding that this special resolution has been duly passed by the holders of the common shares of Moneta, the directors of Moneta are hereby authorized and empowered to revoke this special resolution at any time prior to the filing of such articles of amendment (the "**Articles of Amendment**") to effect the share consolidation without further notice to or approval of the shareholders of Moneta;

- (6) Upon the Articles of Amendment becoming effective in accordance with applicable law, the articles of Moneta shall be amended accordingly;
- (7) Any one or more directors or officers of Moneta is hereby authorized, for and on behalf and in the name of Moneta, to execute and deliver, whether under corporate seal of Moneta or otherwise, all such agreements, forms, waivers, notices, certificate, confirmations and other documents and instruments, and to do or cause to be done all such other acts and things, as in the opinion of such director or officer may be necessary, desirable or useful for the purpose of giving effect to the foregoing resolutions and the matters authorized thereby, such determination to be conclusively evidenced by the execution and delivery of such document, agreement or instrument or the doing of any such act or thing.

MONETA NAME CHANGE RESOLUTION

BE IT RESOLVED AS A SPECIAL RESOLUTION THAT:

- (8) The articles of Moneta be amended to provide that the name of the Company be changed to “●”, or such other name as is determined by the Board and the board of directors of Nighthawk, subject to regulatory approval;
- (9) Notwithstanding that this special resolution has been duly passed by the holders of the common shares of Moneta, the directors of Moneta are hereby authorized and empowered to revoke this special resolution at any time prior to the filing of such Articles of Amendment to effect the name change without further notice to or approval of the shareholders of Moneta;
- (10) Upon the Articles of Amendment becoming effective in accordance with applicable law, the articles of Moneta shall be amended accordingly;
- (11) Any one or more directors or officers of Moneta is hereby authorized, for and on behalf and in the name of Moneta, to execute and deliver, whether under corporate seal of Moneta or otherwise, all such agreements, forms, waivers, notices, certificate, confirmations and other documents and instruments, and to do or cause to be done all such other acts and things, as in the opinion of such director or officer may be necessary, desirable or useful for the purpose of giving effect to the foregoing resolutions and the matters authorized thereby, such determination to be conclusively evidenced by the execution and delivery of such document, agreement or instrument or the doing of any such act or thing.

SCHEDULE C

NIGHTHAWK ARRANGEMENT RESOLUTION

The text of the Nighthawk Arrangement Resolution which the Nighthawk Shareholders will be asked to pass at the Nighthawk Meeting is as follows:

BE IT RESOLVED AS A SPECIAL RESOLUTION THAT:

- (1) the arrangement (the “**Arrangement**”) under Section 182 of the *Business Corporations Act* (Ontario) (the “**OBCA**”) involving Nighthawk Gold Corp. (“**Nighthawk**”) and Moneta Gold Inc. (“**Moneta**”) and securityholders of Nighthawk, all as more particularly described and set forth in the joint management information circular (the “**Circular**”) of Moneta and Nighthawk dated ●, 2023 accompanying the notice of this meeting (as the Arrangement may be, or may have been, modified or amended in accordance with its terms), is hereby authorized, approved and adopted;
- (2) the arrangement agreement (the “**Arrangement Agreement**”) among Moneta and Nighthawk dated November 28, 2023 and all the transactions contemplated therein, the full text of which is attached as Schedule ● to the Circular, the actions of the directors of Nighthawk in approving the Arrangement and the actions of the directors and officers of Nighthawk in executing and delivering the Arrangement Agreement and any amendments thereto are hereby ratified and approved;
- (3) the plan of arrangement (the “**Plan of Arrangement**”) of Nighthawk implementing the Arrangement, the full text of which is set out in Schedule A to the Arrangement Agreement (as the Plan of Arrangement may be, or may have been, modified or amended in accordance with its terms), is hereby authorized, approved and adopted;
- (4) notwithstanding that this resolution has been passed (and the Arrangement approved) by the securityholders of Nighthawk or that the Arrangement has been approved by the Ontario Superior Court of Justice, the directors of Nighthawk are hereby authorized and empowered, without further notice to, or approval of, the securityholders of Nighthawk to:
 - a. amend the Arrangement Agreement or the Plan of Arrangement to the extent permitted by the Arrangement Agreement or the Plan of Arrangement; or
 - b. subject to the terms of the Arrangement Agreement, not proceed with the Arrangement;
- (5) any director or officer of Nighthawk is hereby authorized and directed for and on behalf of Nighthawk to execute, whether under corporate seal of Nighthawk or otherwise, and to deliver articles of arrangement and such other documents as are necessary or desirable, to the Director under the OBCA in accordance with the Arrangement Agreement; and
- (6) any one or more directors or officers of Nighthawk is hereby authorized, for and on behalf and in the name of Nighthawk, to execute and deliver, whether under corporate seal of Nighthawk or otherwise, all such agreements, forms, waivers, notices, certificate, confirmations and other documents and instruments, and to do or cause to be done all such other acts and things, as in the opinion of such director or officer may be necessary, desirable or useful for the purpose of giving effect to these resolutions, the Arrangement Agreement and the completion of the Plan of Arrangement in accordance with the terms of the Arrangement Agreement, including:
 - a. all actions required to be taken by or on behalf of Nighthawk, and all necessary filings and obtaining the necessary approvals, consents and acceptances of appropriate regulatory authorities; and

- b. the signing of the certificates, consents and other documents or declarations required under the Arrangement Agreement or otherwise to be entered into by Nighthawk;

such determination to be conclusively evidenced by the execution and delivery of such document, agreement or instrument or the doing of any such act or thing.

SCHEDULE D

REPRESENTATIONS AND WARRANTIES OF MONETA

Moneta hereby represents and warrants to Nighthawk as follows, and acknowledges and agrees that Nighthawk is relying upon such representations and warranties in connection with the entering into of this Agreement:

- (a) Organization and Corporate Capacity. Moneta has been duly incorporated and is validly existing and in good standing under the OBCA and has all requisite corporate power and capacity to carry on its business as now conducted and to own, lease and operate its properties and assets.
- (b) Subsidiaries.
 - (i) Moneta has two wholly-owned subsidiaries, Wounded Bull Resources Inc. ("**Wounded Bull**"), incorporated and existing under the laws of the State of Nevada, and 508825 Ontario Ltd. ("**508825**"), incorporated and existing under the laws of the Province of Ontario, both of which are inactive. Moneta also owns 50% of the common shares of 2025369 Ontario Inc. ("**2025369**" and, collectively with Wounded Bull and 508825, the "**Moneta Subsidiaries**"), incorporated and existing under the laws of the Province of Ontario, which is also inactive. Moneta has no other subsidiaries.
 - (ii) All outstanding shares and other securities of the Moneta Subsidiaries are validly issued and fully-paid, are free and clear of all Encumbrances and no person has any right for the purchase of any interest in such shares or other securities or for the issue or allotment of any unissued shares or other securities of the Moneta Subsidiaries. All outstanding shares and other securities of Wounded Bull and 508825 are held directly by Moneta and 50% of the outstanding shares and outstanding securities of 2025369 are owned by Moneta, with the remainder owned by Intercontinental Gold and Metals Ltd.
- (c) Qualification to Do Business. Moneta and each of the Moneta Subsidiaries are duly qualified to carry on business in all jurisdictions in which the character of its respective properties or assets owned, leased or operated by them, or the nature of its business activities, makes such qualification necessary.
- (d) Dissolution. No act or proceeding by or against Moneta or any of the Moneta Subsidiaries has been taken or made in connection with the dissolution, liquidation, winding up, bankruptcy or reorganization of Moneta or for the appointment of a trustee, receiver, manager or other administrator of Moneta or the Moneta Subsidiaries or any of its properties or assets and no such act or proceeding, to the knowledge of Moneta or the Moneta Subsidiaries, has been threatened. Moneta has not sought protection under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or similar legislation.
- (e) Authority Relative to this Agreement. Moneta has the requisite corporate power and authority to enter into this Agreement (and subject to obtaining the Moneta Shareholder Approval), to perform its obligations hereunder and to complete the Arrangement. The execution and delivery of this Agreement and the performance by Moneta of its obligations under this Agreement have been duly authorized by the Moneta Board and no other corporate proceedings on the part of Moneta are necessary to authorize the execution and delivery by it of this Agreement or, subject to obtaining Moneta Shareholder Approval, the completion by Moneta of the Arrangement and the transactions contemplated hereby. This Agreement has been duly executed and delivered by Moneta and constitutes a valid and binding obligation of Moneta, enforceable against Moneta in accordance with its terms, subject however, to limitations with respect to enforcement imposed by law in connection with bankruptcy, insolvency, reorganization or other laws affecting creditors' rights

generally and to the extent that equitable remedies such as specific performance and injunctions are only available in the discretion of the court from which they are sought.

- (f) No Violation. Subject to the receipt of the Key Regulatory Approvals applicable to Moneta, the execution and delivery by Moneta of this Agreement and the performance by it of its covenants hereunder and the completion of the Arrangement do not and will not:
- (i) violate, conflict with or result in a breach of:
 - (A) any provision of Moneta's or the Moneta Subsidiaries' articles, by-laws or comparable organizational documents;
 - (B) any Moneta Material Contract or material Authorization to which Moneta is a party or otherwise bound; or
 - (C) any Law to which Moneta or a Moneta Subsidiary is subject or otherwise bound;
 - (ii) give rise to any right of termination, or the acceleration of any indebtedness, under any Moneta Material Contract or material Authorization;
 - (iii) result in the creation or imposition of any Encumbrance upon any of the material properties or assets of Moneta or the Moneta Subsidiaries; or
 - (iv) other than as set out in the Moneta Disclosure Letter, give rise to any rights of first refusal or rights of first offer or trigger any change in control provisions or similar provisions or any restriction or limitation under any such Contract or Authorization.
- (g) Regulatory Approvals and Consents. Other than the Key Regulatory Approvals, such filings and other actions required under applicable Securities Laws and the approval of the TSX, no Authorization, license, permit, certificate, registration, consent or approval of, or filing with, any Governmental Entity is necessary on the part of Moneta in connection with the execution and delivery of this Agreement or the completion by it of the transactions contemplated by this Agreement.
- (h) Third Party Consents and Approvals. The Key Third Party Consents for Moneta disclosed in Schedule F hereto are the only material consents, approvals and notices required from any third party under any Moneta Material Contract in order for Moneta to proceed with the execution and delivery of this Agreement or the completion by it of the transactions contemplated by this Agreement.
- (i) Capitalization. The authorized share capital of Moneta consists of an unlimited number of Moneta Shares. As at the date of this Agreement there are: (i) 122,024,327 Moneta Shares validly issued and outstanding as fully-paid and non-assessable shares of Moneta; (ii) 3,123,104 outstanding Moneta options ("**Moneta Options**") issued pursuant to the Moneta Share Incentive Plan exercisable for 3,123,104 Moneta Shares; (iii) 1,280,993 outstanding Moneta restricted share units ("**Moneta RSUs**") issued pursuant to the Moneta Share Incentive Plan providing for the issuance of 1,280,993 Moneta Shares upon settlement thereof; (iv) 54,545 outstanding Moneta deferred share units ("**Moneta DSUs**") issued pursuant to the Moneta Share Incentive Plan providing for the issuance of 54,545 Moneta Shares upon the settlement thereof; and (v) 396,480 outstanding Moneta Share purchase warrants ("**Moneta Warrants**") exercisable for 396,480 Moneta Shares. Other than Moneta Options, Moneta RSUs, Moneta DSUs and Moneta Warrants, details of which are disclosed in the Moneta Disclosure Letter (including (A) the number of Moneta Shares issuable upon exercise; (B) the purchase price payable; (C) the date of grant; (D) the date of expiry; (E) the name of the registered holder and identifying whether such holder is an employee of Moneta; (F)

the extent to which the Moneta Options and Moneta RSUs are vested and are exercisable; and (G) whether vesting or exercise of the Moneta Options, Moneta DSUs, Moneta RSUs and Moneta Warrants may be accelerated as a result, either alone or together with another event or occurrence, of the Arrangement), there are no other securities convertible or exercisable for Moneta Shares. All outstanding Moneta Shares to be issued on the exercise of Moneta Options and Moneta Warrants and conversion of Moneta RSUs and Moneta DSUs have been duly authorized and will be, when duly issued and paid for, validly issued and outstanding as fully paid and non-assessable shares, and are not and will not be subject to, or issued in violation of, any pre-emptive rights. No holder of securities issued by Moneta has any right to compel Moneta to register or otherwise qualify securities for public sale in Canada, the United States or elsewhere.

- (j) Shareholders. Except as disclosed in the Moneta Disclosure Letter, to the knowledge of Moneta, no person beneficially owns, directly or indirectly, or exercises control or direction over, more than 10% of the votes attached to the Moneta Shares. Except as disclosed in the Moneta Disclosure Letter, Moneta is not party to any shareholder, pooling, voting, or other similar arrangement or agreement relating to the ownership or voting of any of the Moneta Shares or pursuant to which any Person may have any right or claim in connection with any existing or past equity interest in Moneta and Moneta is not a party to a shareholder rights plan or any other similar plan or agreement.
- (k) Securities Laws Matters.
 - (i) The Moneta Shares are listed and posted for trading on the TSX in Canada, the OTCQX in the United States and on the Frankfurt Stock Exchange and, except for such listing and trading, Moneta has not made arrangement for any securities of Moneta to be listed or quoted for trading on any other stock or securities exchange or market. No order, ruling or determination having the effect of ceasing or suspending trading in any securities of Moneta has been issued and no proceedings for such purpose are pending or threatened. Moneta has not taken any action which would be reasonably expected to result in the delisting or suspension of Moneta Shares on or from the TSX.
 - (ii) This Agreement and the transactions contemplated hereby do not violate any securities laws with respect to the Frankfurt Stock Exchange and the OTCQX and there are no regulatory approvals required in order to complete the Arrangement and the transactions contemplated by this Agreement as a result of the Moneta Shares being traded on either exchange.
 - (iii) Moneta is a "reporting issuer" in each of the Provinces of Ontario, Alberta and Québec (as that term is defined under applicable Canadian Securities Laws), is not included in a list of defaulting reporting issuers (or equivalent) maintained by the applicable Securities Authorities in such provinces and Moneta is not in default of any material provision of applicable Canadian Securities Laws.
 - (iv) The Moneta Disclosure Documents at the time filed or, if amended, as of the date of such amendment: (A) did not contain any misrepresentation; and (B) complied in all material respects with the requirements of applicable Securities Laws and the rules, policies and instruments of all Securities Authorities having jurisdiction over Moneta, except where such misrepresentation or non-compliance has not had and would not reasonably be expected to have a Material Adverse Effect on Moneta. Moneta has not filed any confidential material change or other report or other document with any Securities Authorities or other self-regulatory authority which at the date hereof remains confidential.
 - (v) Except as set forth above, Moneta is not subject to continuous disclosure or other public reporting requirements under any Securities Laws or any securities Laws, including, without limitation, the securities laws of the United States.

- (l) Absence of Cease Trade Orders. No order ceasing or suspending trading in the Moneta Shares (or any of them) or any other securities of Moneta is outstanding and no proceedings for this purpose have been instituted or, to the knowledge of Moneta, are pending, contemplated or threatened.
- (m) Corporate Records. The minute books and records of Moneta made available to Nighthawk in connection with its due diligence investigation of Moneta are true and correct in all material respects.
- (n) Financial Statements. The Moneta Financial Statements have been prepared in accordance with IFRS applied on a basis consistent with those of previous periods and materially in accordance with applicable Laws except (i) as otherwise stated in the notes to such statements or, in the case of the Moneta Annual Financial Statements, in the auditor's report therein; and (ii) that the Moneta Interim Financial Statements are subject to normal period-end adjustments and may omit notes which are not required by applicable Securities Laws or IFRS.
- (o) Auditors. There has not been a reportable disagreement (within the meaning of Section 4.11 of NI 51-102) with Moneta's auditors.
- (p) Absence of Certain Changes. Since December 31, 2022, except as disclosed in the Moneta Disclosure Documents or in accordance with the provisions of this Agreement: (i) there has been no material change in respect of Moneta and the Moneta Subsidiaries taken as a whole and the debt, business and material property of Moneta and the Moneta Subsidiaries conform in all material respects to the description thereof contained in the Moneta Disclosure Documents; (ii) Moneta has not effected or passed any resolution to approve a split, consolidation or reclassification of any of the outstanding Moneta Shares; (iii) neither Moneta nor any of the Moneta Subsidiaries have not materially increased the compensation paid or payable to its employees or changed any benefit to which their employees or former employees are entitled under any employee benefit plan or arrangement or created any new employee benefit plan or arrangement or modified, amended or terminated any employee benefit plan for any such employees; and (iv) there has been no dividend or distribution of any kind declared, paid or made by Moneta on any Moneta Shares.
- (q) Litigation. Except as disclosed in the Moneta Disclosure Letter, there are no Proceedings against or involving Moneta or affecting the Moneta Properties (whether in progress or, to the knowledge of Moneta, threatened). There is no judgment, writ, decree, injunction, rule, award or order of any Governmental Entity outstanding against Moneta in respect of its businesses, properties or assets.
- (r) Internal Controls. Moneta maintains a system of internal accounting controls sufficient to provide reasonable assurances regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with IFRS and includes those policies and procedures that: (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets; (ii) are designed to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with IFRS and that receipts and expenditures are being made only in accordance with authorizations of management and directors of Moneta; and (iii) are designed to provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the assets that could have a material effect on the annual or interim financial statements.
- (s) Undisclosed Liabilities. Except as disclosed in the Moneta Disclosure Letter, other than: (i) liabilities and obligations incurred in the ordinary course of business since September 30, 2023, and (ii) pursuant to or in connection with this Agreement and the transactions contemplated hereby, neither Moneta, nor any of the Moneta Subsidiaries, have material liabilities or are subject to any significant Encumbrances or any material Claim that has not been disclosed in the Moneta Financial Statements.

- (t) Off Balance Sheet Arrangements. Moneta is not party to or bound by any “off-balance sheet” transactions or arrangements.
- (u) Taxes.
- (i) All Taxes due and payable by Moneta and the Moneta Subsidiaries have been paid except for where the failure to pay such Taxes would not result in a Material Adverse Effect.
 - (ii) All Tax Returns required to be filed by Moneta have been filed on a timely basis with each appropriate Governmental Entity and all such Tax Returns are true, complete and correct except where the failure to file such Tax Returns or any inaccuracies in such Tax Returns where filed would not result in a Material Adverse Effect.
 - (iii) To the knowledge of Moneta, no examination, assessment, reassessment or other proceedings of any Tax Return of Moneta or the Moneta Subsidiaries is currently in progress and there are no issues or disputes outstanding with any Governmental Entity respecting any Taxes that have been paid, or may be payable, by Moneta or the Moneta Subsidiaries, other than those that would not result in a Material Adverse Effect.
 - (iv) There are no outstanding agreements extending or waiving the statutory period of limitations applicable to any Claim with respect to Taxes for, or the period for the collection or assessment or reassessment of, Taxes due from Moneta or the Moneta Subsidiaries for any taxable period and no request for any such waiver or extension is currently pending.
 - (v) Other than in connection with any past flow-through offerings, neither Moneta nor any of the Moneta Subsidiaries are a party to any indemnification, allocation or sharing agreement with respect to Taxes that could give rise to a payment or indemnification obligation.
 - (vi) No Claim with respect to Taxes has been made by any Governmental Entity in a jurisdiction where Moneta does not file Tax Returns that Moneta or the Moneta Subsidiaries are or may be subject to Tax by that jurisdiction.
 - (vii) Moneta has withheld or collected all amounts required to be withheld or collected by it on account of Taxes and has remitted all such amounts to the appropriate Governmental Entity when required by Law to do so, except where the failure to withhold, collect or remit such amounts would not have a Material Adverse Effect.
 - (viii) Moneta is not a non-resident of Canada within the meaning of the Tax Act and has, at all relevant times, been and is a “taxable Canadian corporation” within the meaning of the Tax Act.
 - (ix) neither Moneta nor any of the Moneta Subsidiaries have claimed any reserves in computing its income for purposes of the Tax Act if any amount could be included in the income of Moneta or the Moneta Subsidiaries after the Effective Time.
 - (x) To the knowledge of Moneta, no circumstances exist or could reasonably be expected to arise as a result of matters existing before the date hereof that may result in Moneta or the Moneta Subsidiaries being subject to the application of section 160 of the Tax Act.
 - (xi) Neither Moneta nor any of the Moneta Subsidiaries are “United States real property holding corporation” within the meaning of Section 897(c) of the U.S. Tax Code, and neither Moneta nor any of the Moneta Subsidiaries own any “United States real property interest” within the meaning of Section 897(c) of the U.S. Tax Code.

- (xii) Wounded Bull (a) has never been a member of an “Affiliated Group” (as defined below) filing a U.S. consolidated federal income Tax Return, and (b) has no liability for the Taxes of any Person under U.S. Treasury Regulation Section 1.1502-6 (or any similar or corresponding provision of state, local or non-U.S. Law), as a transferee or successor, by contract or otherwise. For purposes of this section, the term “Affiliated Group” means an affiliated group as defined in Section 1504 of the U.S. Tax Code (or any analogous combined, consolidated or unitary group defined under any state, local or non-U.S. Law).
- (xiii) Wounded Bull is not, and has never been, a party to any “reportable transaction” or “listed transaction” as defined in Treasury Regulation Section 1.6011-4(b)(1).
- (xiv) Wounded Bull will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending on or after the Effective Time as a result of any: (a) change in method of accounting for a taxable period (or portion thereof) ending prior to the Effective Time; (b) installment sale or open transaction disposition made prior to the Effective Time; (c) prepaid amount received prior to the Effective Time; or (iv) as a result of any election under Section 108(i) of the U.S. Tax Code (or any similar provision of state, local or non-U.S. Law) with respect to the discharge of any indebtedness prior to the Effective Time.
- (v) No Breach of Contracts. Other than as disclosed in the Moneta Disclosure Letter, Moneta and each of the Moneta Subsidiaries have performed all material obligations required to be performed by it to date under the Moneta Material Contracts. Other than as disclosed in the Moneta Disclosure Letter, neither Moneta nor any of the Moneta Subsidiaries are in material breach or default (nor does there exist any condition which, with the passage of time or the giving of notice or both, would result in such a material breach or default under) that has not been cured under any Moneta Material Contract to which it is a party or bound. Other than as disclosed in the Moneta Disclosure Letter, neither Moneta nor any of the Moneta Subsidiaries know of, and has not received written notice of, any material breach or default under any such Moneta Material Contract by any other party thereto. All Moneta Material Contracts: (i) are legal, valid, binding and in full force and effect and are enforceable by Moneta (or the Moneta Subsidiaries, as the case may be) in accordance with their respective terms (subject to bankruptcy, insolvency and other applicable Laws affecting creditors’ rights generally, and to general principles of equity), and (ii) do not, by their terms, require the consent of any parties thereto to permit the Arrangement or any of the transactions contemplated by this Agreement to proceed or be consummated.
- (w) Non-Arm’s Length Transactions. Other than as set out in the Moneta Disclosure Letter, there are no current Contracts, commitments, agreements, arrangements or other transactions (including relating to indebtedness by Moneta or the Moneta Subsidiaries) between (i) Moneta on the one hand, and any officer or director of Moneta or the Moneta Subsidiaries, (ii) any holder of record or beneficial owner of 10% or more of the Moneta Shares, or (iii) any affiliate or associate of any officer, director or beneficial owner mentioned in (i) or (ii), on the other hand.
- (x) Broker Fees. No brokerage, agency or other fiscal advisory or similar fee is payable in connection with the Arrangement except fees to the Moneta Financial Advisors.
- (y) Insurance. The assets of Moneta and the Moneta Subsidiaries and their business and operations are insured against loss or damage with responsible insurers on a basis consistent with insurance obtained by reasonably prudent participants in comparable businesses, and such coverage is in full force and effect in all material respects, and Moneta has not failed to promptly give any notice or present any material claim thereunder.
- (z) Authorizations. Moneta and each of the Moneta Subsidiaries have obtained all material Authorizations necessary as at the date hereof for the operation of the business carried on by Moneta and the Moneta Subsidiaries, and each Authorization is valid, subsisting, in full force and effect, enforceable in accordance with its terms in good standing and neither Moneta nor any of the

Moneta Subsidiaries are in material default or breach of any Authorization. There are no Claims pending, or to the knowledge of Moneta, threatened to revoke, or limit any Authorization.

(aa) Compliance with Laws.

- (i) Moneta and each of the Moneta Subsidiaries have conducted and are conducting their business in compliance in all material respects with all applicable Laws.
- (ii) Neither Moneta nor any of the Moneta Subsidiaries nor, to the knowledge of Moneta, any director, officer, agent, employee, affiliate or other person acting on behalf of Moneta or the Moneta Subsidiaries is aware of or has taken any action, directly or indirectly, that has resulted or would result in a violation by any such person of the Corruption of Foreign Public Officials Act (Canada) (the “**CFPOA**”), the United States Foreign Corrupt Practice Act (the “**FCPA**”), including any offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any “foreign official” (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA. To the knowledge of Moneta, Moneta and the Moneta Subsidiaries have conducted their business in compliance with the CFPOA and the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to ensure, continued compliance with the CFPOA and FCPA.
- (iii) The operations of Moneta and the Moneta Subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the *Canadian Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, as amended, the U.S. Currency and Foreign Transactions Reporting Act of 1970, as amended, and the money laundering statutes of all other applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Entity (collectively, “**Money Laundering Laws**”) and no Claim by or before any Governmental Entity involving Moneta or the Moneta Subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of Moneta, threatened.

(bb) Intellectual Property Rights. Moneta owns or has the right to use all material Intellectual Property required to carry on its business as currently conducted. To the knowledge of Moneta, there has been no claim of infringement by Moneta or breach by Moneta of any material Intellectual Property or industrial rights of any other person, and Moneta has not received any notice that the conduct of its business infringes on any material Intellectual Property rights or industrial rights of any other person.

(cc) Operational Matters.

- (i) All rentals, royalties, overriding royalty interests, production payments, net profits, interest burdens, payments and obligations due and payable, or required to be performed, as the case may be, on or prior to the date hereof under, with respect to, or on account of, any direct or indirect assets of Moneta and the Moneta Subsidiaries, have been, in all material respects: (A) duly paid; (B) duly performed; or (C) provided for prior to the date of this Agreement.
- (ii) Except as disclosed in the Moneta Disclosure Letter, all material costs, expenses, and liabilities required to be paid on or prior to the date of this Agreement under the terms of any Contracts and agreements to which Moneta or the Moneta Subsidiaries are directly or indirectly bound have been properly and timely paid in all material respects, except for such expenses that are being currently paid prior to delinquency in the ordinary course of business.

- (iii) Except as disclosed in the Moneta Disclosure Letter, to the knowledge of Moneta, all exploration, development and mining operations conducted by Moneta on the Moneta Properties, including all operations and activities relating to the Moneta Properties, have been conducted in all material respects in accordance with good exploration, development and engineering practices and all applicable workers' compensation and health and safety and workplace laws, regulations and policies have been complied with in all material respects. There are no material environmental audits, evaluations, assessments, studies or tests relating to Moneta or the Moneta Subsidiaries except for ongoing assessments conducted by or on behalf of Moneta in the ordinary course.
- (dd) Authorizations.
- (i) Any and all of the material Authorizations pursuant to which Moneta or the Moneta Subsidiaries holds an interest in the Moneta Properties are valid and subsisting permits, certificates, agreements, leases, licenses, documents or instruments in full force and effect, enforceable in accordance with the terms thereof.
 - (ii) All material Authorizations of Moneta and the Moneta Subsidiaries are in good standing and there has been no material default under any such Authorizations, and all fees and other amounts required to be paid with respect to such Authorizations to the date hereof have been paid. There are no actions, proceedings or investigations, pending or, to the knowledge of Moneta or the Moneta Subsidiaries, threatened, against Moneta that could reasonably be expected to result in the suspension, loss or revocation of any such material Authorization.
 - (iii) Moneta and each of the Moneta Subsidiaries are in compliance in all material respects with all material Authorizations relating to the Moneta Properties, and there are no other material Authorizations necessary to conduct its current business at the Moneta Properties as it is now being conducted (as described in the Moneta Disclosure Documents).
- (ee) Interest in Properties.
- (i) Except as disclosed in the Moneta Disclosure Letter, Moneta is the sole legal and beneficial owner, and has valid and sufficient right, title and interest, free and clear of any material Lien: (A) to its material concessions, claims, leases, licences, and all other rights relating in any manner whatsoever to the interest in, or exploration for minerals on the Moneta Properties and, in each case, as are necessary to perform the operation of its business as presently owned and conducted (the "**Moneta Mining Rights**"); (B) to its material real property interests including fee simple estate of and in real property, licences (from landowners and authorities permitting the use of land by Moneta), leases, rights of way, occupancy rights, surface rights, easements and all other real property interests and, in each case, as are necessary to perform the operation of its business as presently owned and conducted (the "**Moneta Real Property Rights**" and together with the Moneta Mining Rights, the "**Moneta Properties**"); and (C) to, or is entitled to the benefits of, all of its material properties and assets and to all benefits derived therefrom including all the properties and assets reflected in the balance sheet forming part of the Moneta Disclosure Documents except as would not have a Moneta Material Adverse Effect.
 - (ii) All mineral property claims in which Moneta has an interest or right, including the Moneta Properties, have been validly located and recorded in accordance with all Laws and are valid and subsisting. Moneta has all necessary surface rights, access rights and other rights and interests relating to its mineral properties, granting Moneta the right and ability to conduct its business as currently conducted as disclosed in the Moneta Disclosure Documents, with only such exceptions as do not materially interfere with the use made by Moneta of the rights or interests so held, and each of the property interests or rights and each of the documents, agreements, instruments and obligations relating thereto and

referred to above is currently in good standing in all material respects in the name of Moneta.

- (iii) Moneta has duly and timely satisfied all of the obligations required to be satisfied, performed and observed by it under, and there exists no default or event of default or event, occurrence, condition or act which, with the giving of notice, the lapse of time or the happening of any other event or condition, would become a default or event of default by Moneta under any material agreement pertaining to the Moneta Properties and each such material agreement is enforceable and in full force and effect.
- (iv) Except as disclosed in the Moneta Disclosure Letter, (A) Moneta has the exclusive right to deal with the Moneta Properties; (B) no person or entity of any nature whatsoever other than Moneta has any interest in the Moneta Properties or any right to acquire or otherwise obtain any such interest; (C) there are no back-in rights, earn-in rights, rights of first refusal, off-take rights or obligations, streaming rights, or other rights of any nature whatsoever which would affect Moneta's interests in the Moneta Properties, and no such rights are threatened; (D) Moneta has not received any written notice from any Governmental Entity or any other person of any revocation or intention to revoke, diminish or challenge its interest in the Moneta Properties in any material respect; and (E) the Moneta Properties are in good standing under and comply in all material respects with all Laws and all work required to be performed has been performed and all material taxes, fees, expenditures and all other payments in respect thereof have been paid or incurred and all filings in respect thereof have been made.
- (v) there are no adverse claims, demands, actions, suits or proceedings that have been commenced or are pending or, to the knowledge of Moneta, that are threatened, affecting and which could have a Material Adverse Effect on Moneta's right, title or interest in the Moneta Properties or the ability of Moneta to explore or develop the Moneta Properties, including the title to or ownership by Moneta of the foregoing.
- (vi) None of the directors or officers of Moneta holds any right, title or interest in, nor has taken any action to obtain, directly or indirectly, any right, title and interest in any of the Moneta Properties or in any permit, concession, claim, lease, licence or other right to explore for, exploit, develop, mine or produce minerals from or in any manner in relation to the Moneta Properties and any other properties located within 20 kilometres of any of the Moneta Properties.
- (vii) Moneta has provided Nighthawk with access to full and complete copies of all material exploration information and data within its possession or control including, without limitation, all material geological, geophysical and geochemical information and data (including all drill, sample and assay results and all maps) and all current technical reports, feasibility studies and other similar reports and studies concerning the Moneta Properties and Moneta has the sole right, title and ownership of all such information, data, reports and studies.
- (ff) Expropriation. None of the Moneta Properties has been taken or expropriated by any Governmental Entity nor has any notice or proceeding in respect thereof been given or commenced nor, to the knowledge of Moneta, is there any intent or proposal to give any such notice or to commence any such proceeding.
- (gg) Moneta Technical Report.
 - (i) The Moneta Technical Report complied in all material respects with the requirements of NI 43-101 at the time of filing thereof and reasonably presented the quantity of mineral resources and mineral reserves attributable to the properties evaluated therein as at the date stated therein based upon information available at the time the report was prepared.

Moneta does not have knowledge of any change to the facts and assumptions underlying the estimates in the Moneta Technical Report that would reasonably be expected to result a material adverse change in any production, cost, price, mineral reserves, mineral resources or other relevant information in the Moneta Technical Report since the date of such report.

- (ii) Moneta made available to the authors of the Moneta Technical Report, prior to the issuance thereof, for the purpose of preparing such reports, all information requested by them, and none of such information contained any misrepresentation at the time such information was so provided.
- (iii) At the time of filing of the Moneta Technical Report, as applicable, all of the material assumptions underlying the mineral resource and mineral reserve estimates in the Moneta Technical Report, as applicable, were reasonable and appropriate and were prepared in all material respects in accordance with sound mining, engineering, geoscience and other applicable industry standards and practices, and in all material respects in accordance with all applicable Laws, including the requirements of NI 43-101.
- (iv) The estimates of mineral resources and mineral reserves as described in the Moneta Disclosure Documents comply in all material respects with NI 43-101.
- (v) The information set forth in the Moneta Disclosure Documents relating to mineral resources and mineral reserves required to be disclosed therein pursuant to NI 43-101 has been prepared by Moneta and its' consultants in accordance with methods generally applied in the mining industry and conforms to the requirements of NI 43-101 and Securities Laws.
- (vi) Moneta is in compliance in all material respects with the provisions of NI 43-101, has filed all technical reports required thereby, and there has been no change of which Moneta is or should be aware that would disaffirm or change any aspect of the Moneta Technical Report or that would require the filing of a new technical report under NI 43-101, including but not limited to, in connection with the transactions contemplated in this Agreement.
- (hh) Description of the Moneta Properties. The description of the Moneta Properties as disclosed in the Moneta Disclosure Documents, constitutes an accurate description of the Moneta Properties, and no other property or assets are necessary for the conduct of the business of Moneta as currently conducted, and Moneta does not know of any claim or the basis for any claim, including a claim with respect to aboriginal or native rights, that might or could have a Material Adverse Effect on the right thereof to use, transfer or otherwise explore for mineral deposits on the Moneta Properties.
- (ii) Environmental Matters.
 - (i) Except as disclosed in the Moneta Disclosure Letter:
 - (A) Moneta and the Moneta Subsidiaries have carried on its operations in compliance with all applicable Environmental Laws and the Moneta Properties and assets comply with all applicable Environmental Laws, except to the extent that any failure to be in such compliance individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Moneta. Moneta has taken all requested or necessary steps and actions to comply with any notice, action, or proceeding with respect to any material non-compliance.
 - (B) Neither Moneta nor any of the Moneta Subsidiaries are subject to any contingent or other liability relating to (a) the restoration or rehabilitation of

land, water or any other part of the Environment, or (b) non-compliance with Environmental Laws.

- (C) The Moneta Properties have not been used to generate, manufacture, refine, treat, recycle, transport, store, handle, dispose of, transfer, produce or process Hazardous Substances, except to the extent that such non-compliance would not reasonably be expected to have a Material Adverse Effect on Moneta. Moneta has not caused or permitted the Release of any Hazardous Substances at, in, on, under or from any Moneta Property, except where the failure to be in such compliance would not be reasonably be expected to have a Material Adverse Effect on Moneta. All Hazardous Substances handled, recycled, disposed of, treated or stored on or off site of the Moneta Properties by Moneta have been handled, recycled, disposed of, treated and stored in material compliance with all Environmental Laws, except to the extent that a failure to be in such compliance would not be reasonably likely to have a Material Adverse Effect on Moneta. To the knowledge of Moneta, there are no Hazardous Substances at, in, on, under or migrating from any Moneta Property, except to the extent that such non-compliance would not reasonably be expected to have a Material Adverse Effect on Moneta.
- (D) To the knowledge of Moneta, neither Moneta nor any of the Moneta Subsidiaries have treated or disposed of, or arranged for the treatment or disposal of, any Hazardous Substances at any location: (A) listed on any list of hazardous sites or sites requiring Remedial Action issued by any Governmental Entity; (B) to the knowledge of Moneta, proposed for listing on any list issued by any Governmental Entity of hazardous sites or sites requiring Remedial Action, or any similar federal, state or provincial lists; or (C) which is the subject of enforcement actions by any Governmental Entity that creates the reasonable potential for any proceeding, action or other claim against Moneta or the Moneta Subsidiaries. To the knowledge of Moneta, no site or facility now or previously owned, operated or leased by Moneta is listed or, to the knowledge of Moneta, is proposed for listing on any list issued by any Governmental Entity of hazardous sites or sites requiring Remedial Action or is the subject of Remedial Action.
- (E) Neither Moneta nor any of the Moneta Subsidiaries have caused or permitted the Release of any Hazardous Substances on or to any Moneta Property in such a manner as: (A) would reasonably be expected to impose liability for cleanup, natural resource damages, loss of life, personal injury, nuisance or damage to other property, except to the extent that such liability would not reasonably be expected to have a Material Adverse Effect on Moneta or the Moneta Subsidiaries; or (B) would be reasonably expected to result in imposition of a material lien, charge or other encumbrance or the expropriation of any Moneta Property or any of the assets of Moneta or the Moneta Subsidiaries.
- (F) Neither Moneta nor any of the Moneta Subsidiaries have received from any Person or Governmental Entity any notice of any material proceeding, material action or other material claim, liability or potential liability arising under any Environmental Law that is pending as of the date of this Agreement.

- (jj) First Nations Claims. Other than as disclosed in the Moneta Disclosure Letter, there are no claims or any legal actions with respect to native, indigenous or other aboriginal rights currently or, to the knowledge of Moneta, after due inquiry, pending or threatened with respect to any of the Moneta

Properties, and no dispute between Moneta or the Moneta Subsidiaries and any native, indigenous or other aboriginal group exists or, to the knowledge of Moneta, is threatened or imminent with respect to any activities thereon.

- (kk) NGOs and Community Groups. No dispute between Moneta or the Moneta Subsidiaries and any non-governmental organization, community, or community group exists or, to the knowledge of Moneta, is threatened or imminent with respect to any of the Moneta Properties or operations.
- (ll) Restrictions on Business Activity. Neither Moneta nor any of the Moneta Subsidiaries nor any of its properties or assets is subject to any outstanding judgment, order, writ, injunction or decree that involves or may involve, or restricts or may restrict, the right or ability of Moneta or the Moneta Subsidiaries to conduct their business in all material respects as it has been carried on prior to the date hereof, or that has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or would reasonably be expected to prevent or significantly impede or materially delay the completion of the Arrangement.
- (mm) Employee Plans. Each Employee Plan of Moneta has been maintained in material compliance with its terms and in accordance with all applicable Laws and has been publicly disclosed (including any accrued or contingent liability in respect thereto) to the extent required by applicable Securities Laws. All required employer contributions under such Employee Plans have been made in accordance with the terms thereof. Each Moneta benefit plan that is required or intended to be qualified under applicable Law or registered or approved by a Governmental Entity has been so qualified, registered or approved by the appropriate governmental agency or authority, and nothing has occurred since the date of the last qualification, registration or approval to adversely affect, or cause, the appropriate Governmental Entity to revoke such qualification, registration or approval.
- (nn) Employment Matters.
 - (i) There are no outstanding or, to the knowledge of Moneta, threatened labour tribunal proceedings of any kind, including unfair labour practice proceedings or any proceedings which, to the knowledge of Moneta, could result in certification of a trade union as bargaining agent for any employees of Moneta.
 - (ii) All current assessments under applicable workers compensation legislation have been paid or accrued by Moneta and Moneta is not subject to any special or penalty assessment under such legislation which has not been paid.
 - (iii) There are no collective agreements that exist, either directly or by operation of law, between Moneta and any trade union or association which may qualify as a trade union and Moneta is not currently negotiating any such agreements. To the knowledge of Moneta, there are no threatened or apparent union organizing activities involving employees of Moneta.
 - (iv) Except for payments due pursuant to applicable Law, to the knowledge of Moneta, all other change of control, bonus payments, severance payments or termination payments, including the acceleration of the vesting or the time to exercise of any outstanding stock option, share unit, or employee, consultant or director awards of Moneta, that Moneta is, or may be, obligated to pay in connection with the completion of the Arrangement or the transactions contemplated by this Agreement, under or as a result of existing contracts to all persons including, without limitation, consultants, directors, officers, employees or agents, are as disclosed in the Moneta Disclosure Letter.
- (oo) Health and Safety. Moneta and the Moneta Subsidiaries have operated in all material respects in accordance with all applicable Laws with respect to employment and labour, including employment and labour standards, occupational health and safety, mine health and safety, employment equity,

pay equity, workers' compensation, human rights, labour relations and privacy, and there are no current, pending, or to the knowledge of Moneta, threatened proceedings before any Governmental Entity with respect to any such matters. There are no outstanding assessments, penalties, fines, liens, charges, surcharges, or other amounts due or owing pursuant to any workplace safety and insurance legislation and neither Moneta nor any of the Moneta Subsidiaries has been reassessed in any material respect under such legislation during the past three years and, to the knowledge of Moneta, no audit of Moneta or any of the Moneta Subsidiaries is currently being performed pursuant to any applicable mine health and safety, workplace safety and insurance legislation, other than in the ordinary course of business. There are no claims pending against Moneta or any of its subsidiaries (or naming Moneta or any of its subsidiaries as a potentially responsible party) based on material non-compliance with any applicable health and safety Laws at any of Moneta's operations.

- (pp) Employment Withholdings. To the knowledge of Moneta, Moneta has withheld from each payment made to any of its present or former employees, officers or directors, or to other persons, all material amounts required by Law or administrative practice to be withheld by it on account of income taxes, pension plan contributions, employment insurance premiums, employer health taxes and similar taxes and levies, and has remitted such withheld amounts within the required time to the appropriate Governmental Entity.

- (qq) Arrangement with Securityholders. Other than as disclosed in the Moneta Disclosure Letter, Moneta does not have any agreement, arrangement or understanding (whether written or oral) with respect to Moneta or any of its securities, business or operations, with any shareholder of Moneta, any interested party of Moneta or any related party of any interested party of Moneta, or any joint actor with any such persons (and for this purpose, the terms "interested party", "related party" and "joint actor" shall have the meaning ascribed to such terms in MI 61-101).

- (rr) United States Securities Laws. The Moneta Shares are not and are not required to be registered pursuant to Section 12 of the U.S. Exchange Act. Moneta is a "foreign private issuer" as that term is defined under Rule 3b-4 promulgated under the U.S. Exchange Act. Moneta is not registered or required to be registered as an "investment company" under the United States Investment Company Act of 1940, as amended.

- (ss) Fairness Opinion. The Moneta Board has received an oral opinion (to be confirmed in writing) from the Moneta Financial Advisors that the Arrangement is fair from a financial point of view to Moneta, which opinion has not been modified, amended, qualified or withdrawn. A true and complete copy of the written fairness opinion will be provided by Moneta to Nighthawk promptly following delivery by the Moneta Financial Advisors. Moneta has been authorized by the Moneta Financial Advisors to permit inclusion of such fairness opinion and references thereto in the Joint Circular.

- (tt) Moneta Board Approval. The Moneta Board, at a meeting duly called and held, upon consultation with legal and financial advisors has unanimously determined that the Arrangement is fair, from a financial point of view, to Moneta, have unanimously approved the execution and delivery of this Agreement and the transactions contemplated by this Agreement and have unanimously resolved to recommend that the Moneta Shareholders vote in favour of the Moneta Resolutions.

- (uu) Investment Canada Act. Moneta is not a non-Canadian within the meaning of the *Investment Canada Act*.

SCHEDULE E

REPRESENTATIONS AND WARRANTIES OF NIGHTHAWK

Nighthawk hereby represents and warrants to Moneta as follows, and acknowledges and agrees that Moneta is relying upon such representations and warranties in connection with the entering into of this Agreement:

- (a) Organization and Corporate Capacity. Nighthawk has been duly incorporated and is validly existing and in good standing under the OBCA and has all requisite corporate power and capacity to carry on its business as now conducted and to own, lease and operate its properties and assets.
- (b) Subsidiaries.
 - (i) Nighthawk's only subsidiary is 1000308714 Ontario Inc. ("**Nighthawk Subco**") incorporated and existing under the laws of the Province of Ontario. Nighthawk does not have any other subsidiaries.
 - (ii) All outstanding shares and other securities of Nighthawk Subco are validly issued and fully-paid, are free and clear of all Encumbrances and no person has any right for the purchase of any interest in such shares or other securities or for the issue or allotment of any unissued shares or other securities of Nighthawk Subco. All outstanding shares and other securities of Nighthawk Subco are held directly by Nighthawk.
 - (iii) Nighthawk Subco has been duly incorporated and is validly existing and in good standing under the Laws of the jurisdiction of its existence and has all requisite corporate power and capacity to carry on its business as now conducted and to own, lease and operate its properties and assets.
- (c) Qualification to Do Business. Nighthawk is duly qualified to carry on business in all jurisdictions in which the character of its respective properties or assets owned, leased or operated by it, or the nature of its business activities, makes such qualification necessary.
- (d) Dissolution. No act or proceeding by or against Nighthawk or Nighthawk Subco has been taken or made in connection with the dissolution, liquidation, winding up, bankruptcy or reorganization of Nighthawk or Nighthawk Subco or for the appointment of a trustee, receiver, manager or other administrator of Nighthawk or Nighthawk Subco or any of its properties or assets and no such act or proceeding, to the knowledge of Nighthawk, has been threatened. Neither Nighthawk nor the Nighthawk Subco has sought protection under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or similar legislation.
- (e) Authority Relative to this Agreement. Nighthawk has the requisite corporate power and authority to enter into this Agreement (and subject to obtaining Nighthawk Shareholder Approval), to perform its obligations hereunder and to complete the Arrangement. The execution and delivery of this Agreement and the performance by Nighthawk of its obligations under this Agreement have been duly authorized by the Nighthawk Board and no other corporate proceedings on the part of Nighthawk are necessary to authorize the execution and delivery by it of this Agreement or, subject to obtaining Nighthawk Shareholder Approval, the completion by Nighthawk of the Arrangement and the transactions contemplated hereby. This Agreement has been duly executed and delivered by Nighthawk and constitutes a valid and binding obligation of Nighthawk, enforceable against Nighthawk in accordance with its terms, subject however, to limitations with respect to enforcement imposed by law in connection with bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally and to the extent that equitable remedies such as specific performance and injunctions are only available in the discretion of the court from which they are sought.

- (f) No Violation. Subject to the receipt of the Key Regulatory Approvals applicable to Nighthawk, the execution and delivery by Nighthawk of this Agreement and the performance by it of its covenants hereunder and the completion of the Arrangement do not and will not:
- (i) violate, conflict with or result in a breach of:
 - (A) any provision of Nighthawk's or Nighthawk Subco's articles, by-laws or comparable organizational documents;
 - (B) any Nighthawk Material Contract or material Authorization to which Nighthawk is a party or otherwise bound; or
 - (C) any Law to which Nighthawk is subject or otherwise bound;
 - (ii) give rise to any right of termination, or the acceleration of any indebtedness, under any Nighthawk Material Contract or material Authorization;
 - (iii) result in the creation or imposition of any Encumbrance upon any of the material properties or assets of Nighthawk or Nighthawk Subco; or
 - (iv) give rise to any rights of first refusal or rights of first offer or trigger any change in control provisions or similar provisions or any restriction or limitation under any such Contract or Authorization.
- (g) Regulatory Approvals and Consents. Other than the Key Regulatory Approvals and the filing of the Articles of Arrangement, such filings and other actions required under applicable Securities Laws and the approval of the TSX, no Authorization, license, permit, certificate, registration, consent or approval of, or filing with, any Governmental Entity is necessary on the part of Nighthawk in connection with the execution and delivery of this Agreement or the completion by it of the transactions contemplated by this Agreement.
- (h) Third Party Consents and Approvals. The Key Third Party Consents for Nighthawk disclosed in Schedule F hereto are the only material consents, approvals and notices required from any third party under any Nighthawk Material Contract in order for Nighthawk to proceed with the execution and delivery of this Agreement or the completion by it of the transactions contemplated by this Agreement.
- (i) Capitalization. The authorized share capital of Nighthawk consists of an unlimited number of Nighthawk Shares. As at the date of this Agreement there are: (i) 149,869,384 Nighthawk Shares validly issued and outstanding as fully-paid and non-assessable shares of Nighthawk; (ii) 10,572,500 outstanding stock options issued pursuant to the Nighthawk Incentive Stock Option Plan exercisable for 10,572,500 Nighthawk Shares; (iii) 396,500 outstanding share units issued pursuant to the Nighthawk Share Unit Plan providing for the issuance of 396,500 Nighthawk Shares upon settlement thereof and (iv) 22,313,786 outstanding common share purchase warrants exercisable for 22,313,786 Nighthawk Shares. Other than the Nighthawk Options, Nighthawk RSUs, and Nighthawk Warrants, details of which are disclosed in the Nighthawk Disclosure Letter (including (A) the number of Nighthawk Shares issuable upon exercise; (B) the purchase price payable; (C) the date of grant; (D) the date of expiry; (E) the name of the registered holder and identifying whether such holder is an employee of Nighthawk; (F) the extent to which the Nighthawk Options and Nighthawk RSUs are vested and are exercisable; and (G) whether vesting or exercise of the Nighthawk Options, Nighthawk RSUs and Nighthawk Warrants may be accelerated as a result, either alone or together with another event or occurrence, of the Arrangement), there are no other securities convertible or exercisable for Nighthawk Shares. All outstanding Nighthawk Shares to be issued on the exercise of stock options and common share purchase warrants have been duly authorized and will be, when duly issued and paid for, validly issued and outstanding as fully

paid and non-assessable shares, and are not and will not be subject to, or issued in violation of, any pre-emptive rights. No holder of securities issued by Nighthawk has any right to compel Nighthawk to register or otherwise qualify securities for public sale in Canada, the United States, or elsewhere.

- (j) Shareholders. Other than Northfield Capital Corporation, to the knowledge of Nighthawk, no person beneficially owns, directly or indirectly, or exercises control or direction over, more than 10% of the votes attached to Nighthawk Shares. Nighthawk is not party to any shareholder, pooling, voting, or other similar arrangement or agreement relating to the ownership or voting of any of Nighthawk Shares or pursuant to which any Person may have any right or claim in connection with any existing or past equity interest in Nighthawk and Nighthawk is not a party to a shareholder rights plan or any other similar plan or agreement.
- (k) Securities Laws Matters.
 - (i) The Nighthawk Shares are listed and posted for trading on the TSX and except for such listing and trading, Nighthawk has not made arrangements for any securities of Nighthawk to be listed or quoted for trading on any other stock or securities exchange or market. No order, ruling or determination having the effect of ceasing or suspending trading in any securities of Nighthawk has been issued and no proceedings for such purpose are pending or threatened.
 - (ii) Nighthawk is a “reporting issuer” in each of the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador (as that term is defined under applicable Canadian Securities Laws), is not included in a list of defaulting reporting issuers (or equivalent) maintained by the applicable Securities Authorities in such provinces and Nighthawk is not in default of any material provision of applicable Canadian Securities Laws.
 - (iii) The Nighthawk Disclosure Documents at the time filed or, if amended, as of the date of such amendment: (A) did not contain any misrepresentation; and (B) complied in all material respects with the requirements of applicable Securities Laws and the rules, policies and instruments of all Securities Authorities having jurisdiction over Nighthawk, except where such misrepresentation or non-compliance has not had and would not reasonably be expected to have a Material Adverse Effect on Nighthawk. Nighthawk has not filed any confidential material change or other report or other document with any Securities Authorities or other self-regulatory authority which at the date hereof remains confidential.
 - (iv) Except as set forth above, Nighthawk is not subject to continuous disclosure or other public reporting requirements under any Securities Laws or any securities Laws, including, without limitation, the securities laws of the United States.
- (l) Absence of Cease Trade Orders. No order ceasing or suspending trading in the Nighthawk Shares (or any of them) or any other securities of Nighthawk is outstanding and no proceedings for this purpose have been instituted or, to the knowledge of Nighthawk, are pending, contemplated or threatened.
- (m) Corporate Records. The minute books and records of Nighthawk and Nighthawk Subco made available to Moneta in connection with its due diligence investigation of Nighthawk are true and correct in all material respects.
- (n) Financial Statements. The Nighthawk Financial Statements have been prepared in accordance with IFRS applied on a basis consistent with those of previous periods and materially in accordance with applicable Laws except (i) as otherwise stated in the notes to such statements or, in the case

of the Nighthawk Annual Financial Statements, in the auditor's report therein; and (ii) that the Nighthawk Interim Financial Statements are subject to normal period-end adjustments and may omit notes which are not required by applicable Securities Laws or IFRS.

- (o) Auditors. There has not been a reportable disagreement (within the meaning of Section 4.11 of NI 51-102) with Nighthawk's auditors.
- (p) Absence of Certain Changes. Since December 31, 2022, except as disclosed in the Nighthawk Disclosure Documents or in accordance with the provisions of this Agreement: (i) there has been no material change in respect of Nighthawk and Nighthawk Subco taken as a whole, and the debt, business and material property of Nighthawk and Nighthawk Subco conform in all material respects to the description thereof contained in the Nighthawk Disclosure Documents; (ii) Nighthawk has not effected or passed any resolution to approve a split, consolidation or reclassification of any of the outstanding Nighthawk Shares; (iii) neither Nighthawk nor Nighthawk Subco has materially increased the compensation paid or payable to its employees or changed any benefit to which its employees or former employees are entitled under any employee benefit plan or arrangement or created any new employee benefit plan or arrangement or modified, amended or terminated any employee benefit plan for any such employees; and (iv) there has been no dividend or distribution of any kind declared, paid or made by Nighthawk on any Nighthawk Shares.
- (q) Litigation. There are no Proceedings against or involving Nighthawk, or affecting the Nighthawk Properties (whether in progress or, to the knowledge of Nighthawk, threatened). There is no judgment, writ, decree, injunction, rule, award or order of any Governmental Entity outstanding against Nighthawk in respect of its businesses, properties or assets.
- (r) Internal Controls. Nighthawk maintains a system of internal accounting controls sufficient to provide reasonable assurances regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with IFRS and includes those policies and procedures that: (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets; (ii) are designed to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with IFRS and that receipts and expenditures are being made only in accordance with authorizations of management and directors of Nighthawk; and (iii) are designed to provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the assets that could have a material effect on the annual or interim financial statements.
- (s) Undisclosed Liabilities. Other than: (i) liabilities and obligations incurred in the ordinary course of business since September 30, 2023, and (ii) pursuant to or in connection with this Agreement and the transactions contemplated hereby, neither Nighthawk nor Nighthawk Subco has any material liabilities or is subject to any significant Encumbrances or any material Claim that has not been disclosed in the Nighthawk Financial Statements.
- (t) Off Balance Sheet Arrangements. Neither Nighthawk nor Nighthawk Subco is party to or bound by any "off-balance sheet" transactions or arrangements.
- (u) Taxes.
 - (i) All Taxes due and payable by Nighthawk and Nighthawk Subco have been paid except for where the failure to pay such Taxes would not result in a Material Adverse Effect.
 - (ii) All Tax Returns required to be filed by Nighthawk and Nighthawk Subco have been filed on a timely basis with each appropriate Governmental Entity and all such Tax Returns are true, complete and correct except where the failure to file such Tax Returns or any inaccuracies in such Tax Returns where filed would not result in a Material Adverse Effect.

- (iii) To the knowledge of Nighthawk, no examination, assessment, reassessment or other proceedings of any Tax Return of Nighthawk or Nighthawk Subco is currently in progress and there are no issues or disputes outstanding with any Governmental Entity respecting any Taxes that have been paid, or may be payable, by Nighthawk or Nighthawk Subco, other than those that would not result in a Material Adverse Effect.
 - (iv) There are no outstanding agreements extending or waiving the statutory period of limitations applicable to any Claim with respect to Taxes for, or the period for the collection or assessment or reassessment of, Taxes due from Nighthawk or Nighthawk Subco for any taxable period and no request for any such waiver or extension is currently pending.
 - (v) Other than in connection with any past flow-through offerings, neither Nighthawk nor Nighthawk Subco is a party to any indemnification, allocation or sharing agreement with respect to Taxes that could give rise to a payment or indemnification obligation.
 - (vi) No Claim with respect to Taxes has been made by any Governmental Entity in a jurisdiction where Nighthawk or Nighthawk Subco does not file Tax Returns that Nighthawk or Nighthawk Subco is or may be subject to Tax by that jurisdiction.
 - (vii) Nighthawk and Nighthawk Subco have withheld or collected all amounts required to be withheld or collected by it on account of Taxes and has remitted all such amounts to the appropriate Governmental Entity when required by Law to do so, except where the failure to withhold, collect or remit such amounts would not have a Material Adverse Effect.
 - (viii) Nighthawk is not a non-resident of Canada within the meaning of the Tax Act and has, at all relevant times, been and is a “taxable Canadian corporation” within the meaning of the Tax Act.
 - (ix) Neither Nighthawk nor Nighthawk Subco has claimed any reserves in computing its income for purposes of the Tax Act if any amount could be included in the income of Nighthawk or the Nighthawk Subco after the Effective Time.
 - (x) To the knowledge of Nighthawk, no circumstances exist or could reasonably be expected to arise as a result of matters existing before the date hereof that may result in Nighthawk or Nighthawk Subco being subject to the application of section 160 of the Tax Act.
 - (xi) Neither Nighthawk nor Nighthawk Subco is a “United States real property holding corporation” within the meaning of Section 897(c) of the U.S. Tax Code, and Nighthawk does not own any “United States real property interest” within the meaning of Section 897(c) of the U.S. Tax Code.
- (v) No Breach of Contracts. Nighthawk and Nighthawk Subco have performed all material obligations required to be performed by it to date under the Nighthawk Material Contracts. Neither Nighthawk nor Nighthawk Subco is in material breach or default (nor does there exist any condition which, with the passage of time or the giving of notice or both, would result in such a material breach or default under) that has not been cured under any Nighthawk Material Contract to which it is a party or bound. Neither Nighthawk nor Nighthawk Subco knows of, or has received written notice of, any material breach or default under any such Nighthawk Material Contract by any other party thereto. All Nighthawk Material Contracts: (i) are legal, valid, binding and in full force and effect and are enforceable by Nighthawk (or Nighthawk Subco, as the case may be) in accordance with their respective terms (subject to bankruptcy, insolvency and other applicable Laws affecting creditors’ rights generally, and to general principles of equity), and (ii) do not, by their terms, require the consent of any parties thereto to permit the Arrangement or any of the transactions contemplated by this Agreement to proceed or be consummated.

- (w) Non-Arm's Length Transactions. Except as contemplated in this Agreement or as disclosed in the Nighthawk Financial Statements, there are no current Contracts, commitments, agreements, arrangements or other transactions (including relating to indebtedness by Nighthawk or Nighthawk Subco) between Nighthawk or Nighthawk Subco on the one hand, and any (i) officer or director of Nighthawk or Nighthawk Subco, (ii) any holder of record or beneficial owner of 10% or more of the Nighthawk Shares, or (iii) any affiliate or associate of any officer, director or beneficial owner mentioned in (i) or (ii) on the other hand.
- (x) Broker Fees. No brokerage, agency or other fiscal advisory or similar fee is payable in connection with the Arrangement except fees to the Nighthawk Financial Advisors.
- (y) Insurance. The assets of Nighthawk and its business and operations are insured against loss or damage with responsible insurers on a basis consistent with insurance obtained by reasonably prudent participants in comparable businesses, and such coverage is in full force and effect in all material respects, and Nighthawk has not failed to promptly give any notice or present any material claim thereunder.
- (z) Authorizations. Each of Nighthawk and Nighthawk Subco has obtained all material Authorizations necessary as at the date hereof for the operation of the business carried on by Nighthawk and Nighthawk Subco, and each Authorization is valid, subsisting, in full force and effect, enforceable in accordance with its terms in good standing and neither Nighthawk nor Nighthawk Subco is in material default or breach of any Authorization. There are no Claims pending, or to the knowledge of Nighthawk, threatened to revoke, or limit any Authorization.
- (aa) Compliance with Laws.
 - (i) Each of Nighthawk and Nighthawk Subco has conducted and is conducting its business in compliance in all material respects with all applicable Laws.
 - (ii) Neither Nighthawk nor Nighthawk Subco nor, to the knowledge of Nighthawk, any director, officer, agent, employee, affiliate or other person acting on behalf of Nighthawk or Nighthawk Subco is aware of or has taken any action, directly or indirectly, that has resulted or would result in a violation by any such person of the CFPOA, the FCPA, including any offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA. To the knowledge of Nighthawk, Nighthawk and Nighthawk Subco have conducted its business in compliance with the CFPOA and the FCPA and has instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to ensure, continued compliance with the CFPOA and FCPA.
 - (iii) The operations of Nighthawk and Nighthawk Subco are and have been conducted at all times in compliance with applicable Money Laundering Laws and no Claim by or before any Governmental Entity involving Nighthawk or Nighthawk Subco with respect to the Money Laundering Laws is pending or, to the knowledge of Nighthawk, threatened.
- (bb) Intellectual Property Rights. Nighthawk owns or has the right to use all material Intellectual Property required to carry on its business as currently conducted. To the knowledge of Nighthawk, there has been no claim of infringement by Nighthawk or breach by Nighthawk of any material Intellectual Property or industrial rights of any other person, and Nighthawk has not received any notice that the conduct of its business infringes on any material Intellectual Property rights or industrial rights of any other person.

(cc) Operational Matters.

- (i) All rentals, royalties, overriding royalty interests, production payments, net profits, interest burdens, payments and obligations due and payable, or required to be performed, as the case may be, on or prior to the date hereof under, with respect to, or on account of, any direct or indirect assets of Nighthawk and Nighthawk Subco, have been, in all material respects: (A) duly paid; (B) duly performed; or (C) provided for prior to the date of this Agreement.
- (ii) All material costs, expenses, and liabilities required to be paid on or prior to the date of this Agreement under the terms of any Contracts and agreements to which Nighthawk or Nighthawk Subco is directly or indirectly bound have been properly and timely paid in all material respects, except for such expenses that are being currently paid prior to delinquency in the ordinary course of business.
- (iii) To the knowledge of Nighthawk, all exploration, development and mining operations conducted by Nighthawk on the Nighthawk Properties, including all operations and activities relating to the Nighthawk Properties, have been conducted in all material respects in accordance with good exploration, development and engineering practices and all applicable workers' compensation and health and safety and workplace laws, regulations and policies have been complied with in all material respects. There are no material environmental audits, evaluations, assessments, studies or tests relating to Nighthawk or Nighthawk Subco except for ongoing assessments conducted by or on behalf of Nighthawk in the ordinary course.

(dd) Authorizations.

- (i) Any and all of the material Authorizations pursuant to which Nighthawk holds an interest in the Nighthawk Properties are valid and subsisting permits, certificates, agreements, leases, licenses, documents or instruments in full force and effect, enforceable in accordance with the terms thereof.
- (ii) All material Authorizations of Nighthawk are in good standing and there has been no material default under any such Authorizations, and all fees and other amounts required to be paid with respect to such Authorizations to the date hereof have been paid. There are no actions, proceedings or investigations, pending or, to the knowledge of Nighthawk, threatened, against Nighthawk that could reasonably be expected to result in the suspension, loss or revocation of any such material Authorization.
- (iii) Nighthawk is in compliance in all material respects with all material Authorizations relating to the Nighthawk Properties, and there are no other material Authorizations necessary to conduct its current business at the Nighthawk Properties as it is now being conducted (as described in the Nighthawk Disclosure Documents).

(ee) Interest in Properties.

- (i) Except as disclosed in the Nighthawk Disclosure Letter, Nighthawk is the sole legal and beneficial owner, and has valid and sufficient right, title and interest, free and clear of any material Lien: (A) to its material concessions, claims, leases, licences, and all other rights relating in any manner whatsoever to the interest in, or exploration for minerals on the Nighthawk Properties and, in each case, as are necessary to perform the operation of its business as presently owned and conducted (the "**Nighthawk Mining Rights**"); (B) to its material real property interests including fee simple estate of and in real property, licences (from landowners and authorities permitting the use of land by Nighthawk), leases, rights of way, occupancy rights, surface rights, easements and all other real property interests

and, in each case, as are necessary to perform the operation of its business as presently owned and conducted (the “**Nighthawk Real Property Rights**” and together with the Nighthawk Mining Rights, the “**Nighthawk Properties**”); and (C) to, or is entitled to the benefits of, all of its material properties and assets and to all benefits derived therefrom including all the properties and assets reflected in the balance sheet forming part of the Nighthawk Disclosure Documents except as would not have a Nighthawk Material Adverse Effect .

- (ii) All mineral property claims in which Nighthawk has an interest or right, including the Nighthawk Properties, have been validly located and recorded in accordance with all Laws and are valid and subsisting. Nighthawk has all necessary surface rights, access rights and other rights and interests relating to its mineral properties, granting Nighthawk the right and ability to conduct its business as currently conducted as disclosed in the Nighthawk Disclosure Documents, with only such exceptions as do not materially interfere with the use made by Nighthawk of the rights or interests so held, and each of the property interests or rights and each of the documents, agreements, instruments and obligations relating thereto and referred to above is currently in good standing in all material respects in the name of Nighthawk.
- (iii) Nighthawk has duly and timely satisfied all of the obligations required to be satisfied, performed and observed by it under, and there exists no default or event of default or event, occurrence, condition or act which, with the giving of notice, the lapse of time or the happening of any other event or condition, would become a default or event of default by Nighthawk under any material agreement pertaining to their respective Nighthawk Properties and each such material agreement is enforceable and in full force and effect.
- (iv) Except as disclosed in the Nighthawk Disclosure Letter, (A) Nighthawk has the exclusive right to deal with the Nighthawk Properties; (B) no person or entity of any nature whatsoever other than Nighthawk has any interest in the Nighthawk Properties or any right to acquire or otherwise obtain any such interest; (C) there are no back-in rights, earn-in rights, rights of first refusal, off-take rights or obligations, streaming rights, or other rights of any nature whatsoever which would affect Nighthawk’s interests in the Nighthawk Properties in any material respect, and no such rights are threatened; (D) Nighthawk has not received any written notice from any Governmental Entity or any other person of any revocation or intention to revoke, diminish or challenge its interest in the Nighthawk Properties in any material respect; (E) the Nighthawk Properties are in good standing under and comply in all material respects with all Laws and all work required to be performed has been performed and all material taxes, fees, expenditures and all other payments in respect thereof have been paid or incurred and all filings in respect thereof have been made.
- (v) There are no adverse claims, demands, actions, suits or proceedings that have been commenced or are pending or, to the knowledge of Nighthawk, that are threatened, affecting and which could have a Material Adverse Effect on Nighthawk’s right, title or interest in the Nighthawk Properties or the ability of Nighthawk to explore or develop the Nighthawk Properties, including the title to or ownership by Nighthawk of the foregoing.
- (vi) None of the directors or officers of Nighthawk holds any right, title or interest in, nor has taken any action to obtain, directly or indirectly, any right, title and interest in any of the Nighthawk Properties or in any permit, concession, claim, lease, licence or other right to explore for, exploit, develop, mine or produce minerals from or in any manner in relation to the Nighthawk Properties and any other properties located within 20 kilometres of any of the Nighthawk Properties.
- (vii) Nighthawk has provided Moneta with access to full and complete copies of all material exploration information and data within its possession or control including, without

limitation, all material geological, geophysical and geochemical information and data (including all drill, sample and assay results and all maps) and all current technical reports, feasibility studies and other similar reports and studies concerning the Nighthawk Properties and Nighthawk have the sole right, title and ownership of all such information, data, reports and studies.

- (ff) Expropriation. None of the Nighthawk Properties has been taken or expropriated by any Governmental Entity nor has any notice or proceeding in respect thereof been given or commenced nor, to the knowledge of Nighthawk, is there any intent or proposal to give any such notice or to commence any such proceeding.
- (gg) Nighthawk Technical Report.
 - (i) The Nighthawk Technical Report complied in all material respects with the requirements of NI 43-101 at the time of filing thereof and reasonably presented the quantity of mineral resources and mineral reserves attributable to the properties evaluated therein as at the date stated therein based upon information available at the time the reports were prepared. Nighthawk does not have knowledge of any change to the facts and assumptions underlying the estimates in the Nighthawk Technical Report that would reasonably be expected to result a material adverse change in any production, cost, price, mineral reserves, mineral resources or other relevant information in the Nighthawk Technical Report since the date of such reports.
 - (ii) Nighthawk made available to the authors of the Nighthawk Technical Report, prior to the issuance thereof, for the purpose of preparing such report, all information requested by them, and none of such information contained any misrepresentation at the time such information was so provided.
 - (iii) At the time of filing of the Nighthawk Technical Report, all of the material assumptions underlying the mineral resource and mineral reserve estimates in the Nighthawk Technical Report were reasonable and appropriate and were prepared in all material respects in accordance with sound mining, engineering, geoscience and other applicable industry standards and practices, and in all material respects in accordance with all applicable Laws, including the requirements of NI 43-101.
 - (iv) The estimates of mineral resources and mineral reserves as described in the Nighthawk Disclosure Documents comply in all material respects with NI 43-101.
 - (v) The information set forth in the Nighthawk Disclosure Documents relating to mineral resources and mineral reserves required to be disclosed therein pursuant to NI 43-101 has been prepared by Nighthawk and its consultants in accordance with methods generally applied in the mining industry and conforms to the requirements of NI 43-101 and Securities Laws.
 - (vi) Nighthawk is in compliance in all material respects with the provisions of NI 43-101, has filed all technical reports required thereby, and there has been no change of which Nighthawk is or should be aware that would disaffirm or change any aspect of the Nighthawk Technical Report or that would require the filing of a new technical report under NI 43-101, including but not limited to, in connection with the transactions contemplated in this Agreement.
- (hh) Description of the Nighthawk Properties. The description of the Nighthawk Properties as disclosed in the Nighthawk Disclosure Documents, constitutes an accurate description of the Nighthawk Properties, and no other property or assets are necessary for the conduct of the business of Nighthawk as currently conducted, and Nighthawk does not know of any claim or the basis for any

claim, including a claim with respect to aboriginal or native rights, that might or could have a Material Adverse Effect on the right thereof to use, transfer or otherwise explore for mineral deposits on the Nighthawk Properties.

(ii) Environmental Matters.

- (i) Nighthawk has carried on its operations in compliance with all applicable Environmental Laws and the Nighthawk Properties and assets comply with all applicable Environmental Laws, except to the extent that a failure to be in such compliance, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Nighthawk. Nighthawk has taken all requested or necessary steps and actions to comply with any notice, action, or proceeding with respect to any material non-compliance.
- (ii) Except as disclosed in the Nighthawk Disclosure Letter, Nighthawk is not subject to any contingent or other liability relating to (a) the restoration or rehabilitation of land, water or any other part of the Environment, or (b) non-compliance with Environmental Laws.
- (iii) The Nighthawk Properties have not been used to generate, manufacture, refine, treat, recycle, transport, store, handle, dispose of, transfer, produce or process Hazardous Substances, except to the extent that such non-compliance would not reasonably be expected to have a Material Adverse Effect on Nighthawk. Nighthawk has not caused or permitted the Release of any Hazardous Substances at, in, on, under or from any Nighthawk Property, except where the failure to be in such compliance would not be reasonably be expected to have a Material Adverse Effect on Nighthawk. All Hazardous Substances handled, recycled, disposed of, treated or stored on or off site of the Nighthawk Properties by Nighthawk have been handled, recycled, disposed of, treated and stored in material compliance with all Environmental Laws, except to the extent that a failure to be in such compliance would not be reasonably likely to have a Material Adverse Effect on Nighthawk. To the knowledge of Nighthawk, there are no Hazardous Substances at, in, on, under or migrating from any Nighthawk Property, except to the extent that such non-compliance would not reasonably be expected to have a Material Adverse Effect on Nighthawk.
- (iv) To the knowledge of Nighthawk, except as disclosed in the Nighthawk Disclosure Letter, Nighthawk has not treated or disposed of, or arranged for the treatment or disposal of, any Hazardous Substances at any location: (A) listed on any list of hazardous sites or sites requiring Remedial Action issued by any Governmental Entity; (B) to the knowledge of Nighthawk, proposed for listing on any list issued by any Governmental Entity of hazardous sites or sites requiring Remedial Action, or any similar federal, state or provincial lists; or (C) which is the subject of enforcement actions by any Governmental Entity that creates the reasonable potential for any proceeding, action, or other claim against Nighthawk. To the knowledge of Nighthawk, no site or facility now or previously owned, operated or leased by Nighthawk is listed or, to the knowledge of Nighthawk, is proposed for listing on any list issued by any Governmental Entity of hazardous sites or sites requiring Remedial Action or is the subject of Remedial Action.
- (v) Nighthawk has not caused or permitted the Release of any Hazardous Substances on or to any Nighthawk Property in such a manner as: (A) would reasonably be expected to impose liability for cleanup, natural resource damages, loss of life, personal injury, nuisance or damage to other property, except to the extent that such liability would not reasonably be expected to have a Material Adverse Effect on Nighthawk; or (B) would be reasonably expected to result in imposition of a material lien, charge or other encumbrance or the expropriation of any Nighthawk Property or any of the assets of Nighthawk.
- (vi) Except as disclosed in the Nighthawk Disclosure Letter, Nighthawk has not received from any Person or Governmental Entity any notice of any material proceeding, material action

or other material claim, liability or potential liability arising under any Environmental Law that is pending as of the date of this Agreement.

- (jj) First Nations Claims. There are no claims or any legal actions with respect to native, indigenous or other aboriginal rights currently or, to the knowledge of Nighthawk, after due inquiry, pending or threatened with respect to any of the Nighthawk Properties, and no dispute between Nighthawk and any native, indigenous or other aboriginal group exists or, to the knowledge of Nighthawk, is threatened or imminent with respect to any activities thereon.
- (kk) NGOs and Community Groups. No dispute between Nighthawk or Nighthawk Subco and any non-governmental organization, community, or community group exists or, to the knowledge of Nighthawk, is threatened or imminent with respect to any of the Nighthawk Properties or operations.
- (ll) Restrictions on Business Activity. Neither Nighthawk nor Nighthawk Subco nor any of its properties or assets is subject to any outstanding judgment, order, writ, injunction or decree that involves or may involve, or restricts or may restrict, the right or ability of Nighthawk or Nighthawk Subco to conduct its business in all material respects as it has been carried on prior to the date hereof, or that has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or would reasonably be expected to prevent or significantly impede or materially delay the completion of the Arrangement.
- (mm) Employee Plans. Each Employee Plan of Nighthawk has been maintained in material compliance with its terms and in accordance with all applicable Laws and has been publicly disclosed (including any accrued or contingent liability in respect thereto) to the extent required by applicable Securities Laws. All required employer contributions under such Employee Plans have been made in accordance with the terms thereof. Each Nighthawk benefit plan that is required or intended to be qualified under applicable Law or registered or approved by a Governmental Entity has been so qualified, registered or approved by the appropriate governmental agency or authority, and nothing has occurred since the date of the last qualification, registration or approval to adversely affect, or cause, the appropriate Governmental Entity to revoke such qualification, registration or approval.
- (nn) Employment Matters.
 - (i) There are no outstanding or, to the knowledge of Nighthawk, threatened labour tribunal proceedings of any kind, including unfair labour practice proceedings or any proceedings which, to the knowledge of Nighthawk, could result in certification of a trade union as bargaining agent for any employees of Nighthawk.
 - (ii) All material current assessments under applicable workers compensation legislation have been paid or accrued by Nighthawk, as applicable, and Nighthawk is not subject to any material special or penalty assessment under such legislation which has not been paid.
 - (iii) There are no collective agreements that exist, either directly or by operation of law, between Nighthawk and any trade union or association which may qualify as a trade union and Nighthawk is not currently negotiating any such agreements. To the knowledge of Nighthawk, there are no threatened or apparent union organizing activities involving employees of Nighthawk.
 - (iv) Except for payments due pursuant to applicable Law, to the knowledge of Nighthawk, all other change of control, bonus payments, severance payments or termination payments, including the acceleration of the vesting or the time to exercise of any outstanding stock option, share unit, or employee, consultant or director awards of Nighthawk, that Nighthawk is, or may be, obligated to pay in connection with the completion of the Arrangement or the transactions contemplated by this Agreement, under or as a result of existing contracts to

all persons including, without limitation, consultants, directors, officers, employees or agents, are as disclosed in the Nighthawk Disclosure Letter.

- (oo) Health and Safety. Nighthawk and the Nighthawk Subsidiary have operated in all material respects in accordance with all applicable Laws with respect to employment and labour, including employment and labour standards, occupational health and safety, mine health and safety, employment equity, pay equity, workers' compensation, human rights, labour relations and privacy, and there are no current, pending, or to the knowledge of Nighthawk, threatened proceedings before any Governmental Entity with respect to any such matters. There are no outstanding assessments, penalties, fines, liens, charges, surcharges, or other amounts due or owing pursuant to any workplace safety and insurance legislation and neither Nighthawk nor the Nighthawk Subsidiary has been reassessed in any material respect under such legislation during the past three years and, to the knowledge of Nighthawk, no audit of Nighthawk or the Nighthawk Subsidiary is currently being performed pursuant to any applicable mine health and safety, workplace safety and insurance legislation, other than in the ordinary course of business. There are no claims pending against Nighthawk or any of its subsidiaries (or naming Nighthawk or any of its subsidiaries as a potentially responsible party) based on material non-compliance with any applicable health and safety Laws at any of Nighthawk's operations.

- (pp) Employment Withholdings. To the knowledge of Nighthawk, it has withheld from each payment made to any of its present or former employees, officers or directors, or to other persons, all material amounts required by Law or administrative practice to be withheld by it on account of income taxes, pension plan contributions, employment insurance premiums, employer health taxes and similar taxes and levies, and has remitted such withheld amounts within the required time to the appropriate Governmental Entity.

- (qq) Arrangement with Securityholders. Other than the Moneta Voting Agreements, this Agreement and the Confidentiality Agreement, Nighthawk does not have any agreement, arrangement or understanding (whether written or oral) with respect to Nighthawk or any of its securities, business or operations, with any shareholder of Nighthawk, any interested party of Nighthawk or any related party of any interested party of Nighthawk, or any joint actor with any such persons (and for this purpose, the terms "interested party", "related party" and "joint actor" shall have the meaning ascribed to such terms in MI 61-101).

- (rr) United States Securities Laws. The Nighthawk Shares are not and are not required to be registered pursuant to Section 12 of the U.S. Exchange Act. Nighthawk is a "foreign private issuer" as that term is defined under Rule 3b-4 promulgated under the U.S. Exchange Act. Nighthawk is not registered or required to be registered as an "investment company" under the United States Investment Company Act of 1940, as amended.

- (ss) Fairness Opinion. The Nighthawk Board has received an oral opinion (to be confirmed in writing) from LBS that the Arrangement is fair from a financial point of view to Nighthawk, which opinion has not been modified, amended, qualified or withdrawn. A true and complete copy of the written fairness opinion will be provided by Nighthawk to Moneta promptly following delivery by LBS. Nighthawk has been authorized by LBS to permit inclusion of such fairness opinion and references thereto in the Joint Circular.

- (tt) Nighthawk Board Approval. The Nighthawk Board, at a meeting duly called and held, upon consultation with legal and financial advisors, has unanimously determined that this Agreement and the Arrangement is fair to Nighthawk and are in the best interests of Nighthawk, have unanimously approved the execution and delivery of this Agreement and the transactions contemplated by this Agreement and have unanimously resolved to recommend that the Nighthawk Shareholders vote in favour of the Nighthawk Arrangement Resolution.

- (uu) Investment Canada Act. Nighthawk is not a non-Canadian within the meaning of the *Investment Canada Act*.

SCHEDULE F

KEY REGULATORY APPROVALS AND KEY THIRD PARTY CONSENTS

Set out below are the Key Regulatory Approvals.

Key Regulatory Approvals:

1. Interim Order
2. Final Order
3. TSX approval for the issuance of the Consideration (and the Moneta Shares underlying the Nighthawk Options, Nighthawk RSUs and Nighthawk Warrants), the consolidation of Moneta Shares as contemplated by the Moneta Consolidation Resolution and the change of name of Moneta as contemplated by the Moneta Name Change Resolution in connection with the Plan of Arrangement.
4. TSX approval of the Arrangement
5. Nighthawk Shareholder Approval
6. Moneta Shareholder Approval

Set out below are the Key Third Party Consents of each of Moneta and Nighthawk.

Moneta Key Third Party Consents:

None.

Nighthawk Key Third Party Consents:

None.