

**TALISKER RESOURCES LTD.**

and

**NEW CAROLIN GOLD CORP.**

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**ARRANGEMENT AGREEMENT**

July 25, 2021

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# ARRANGEMENT AGREEMENT

THIS ARRANGEMENT AGREEMENT is made as of July 25, 2021

BETWEEN

**TALISKER RESOURCES LTD.**, a corporation continued under the laws of the Province of Ontario (the "**Purchaser**")

- and -

**NEW CAROLIN GOLD CORP.**, a corporation incorporated under the laws of the Province of British Columbia (the "**Company**")

**WHEREAS** the Parties are proposing an arrangement involving, among other things, the acquisition by the Purchaser of all of the outstanding Common Shares of the Company pursuant to the Arrangement, as provided in this Agreement;

**AND WHEREAS** the Board of the Company has determined that the Arrangement is fair to the Shareholders and that the Arrangement is in the best interests of the Company and has resolved, subject to the terms of this Agreement, to recommend that the Shareholders vote in favour of the Arrangement Resolution;

**NOW THEREFORE** in consideration of the premises and the covenants and agreements herein contained, the Parties agree as follows:

## ARTICLE 1 INTERPRETATION

### Section 1.1 Definitions

In this Agreement, unless otherwise defined or expressly stated herein or something in the subject matter or the context is inconsistent therewith:

**"Acceptable Confidentiality Agreement"** means a confidentiality agreement between the Company and a third party other than the Purchaser: (i) that is entered into in accordance with Section 5.3 hereof; (ii) that contains confidentiality restrictions that are no less favourable to the Company than those set out in the Confidentiality Agreement; (iii) that does not permit the third party to acquire any securities of the Company; and (iv) that contains customary standstill provisions that only permits the third party to, either alone or jointly with others, to make an Acquisition Proposal to the Board that is not publicly announced;

**"Acquisition Proposal"** means any (a) offer, proposal or inquiry (written or oral) from any person or group of persons after the date of this Agreement relating to: (i) any direct or indirect acquisition, take-over bid, exchange offer, treasury issuance of securities, sale of securities or other transaction by any person or group of persons of voting, equity or other securities of the Company (or securities convertible into or exchangeable or exercisable for voting, equity or other securities) that, if consummated, would result in such person or group of persons owning 20% or more

of the voting, equity or other securities of the Company (assuming, if applicable, the conversion, exchange or exercise of such securities convertible into or exchangeable or exercisable for voting, equity or other securities); (ii) any plan of arrangement, amalgamation, merger, share exchange, consolidation, reorganization, recapitalization, winding up, liquidation, dissolution or other business combination in respect of the Company; (iii) any direct or indirect acquisition (or any lease, license, royalty, joint venture, long-term supply agreement or other arrangement having a similar economic effect), whether in a single transaction or a series of related transactions, by any person or group of persons of any assets of the Company that individually or in the aggregate constitute 20% or more of the consolidated book value of the assets of the Company or 20% or more of the consolidated revenue of the Company, in each case based on the financial statements of the Company most recently filed prior to such time as part of the Public Disclosure Record; or (iv) any other similar transaction or series of transactions involving the Company, (b) public announcement of or of an intention to do any of the foregoing, or (c) modification or proposed modification of any such proposal, inquiry or offer, in each case whether by plan of arrangement, amalgamation, merger, consolidation, reorganization, recapitalization, winding up, liquidation, dissolution or other business combination, sale of assets, sale of securities, treasury issuance of securities, joint venture, take-over bid, tender offer, share exchange, exchange offer or otherwise, including any single or multi-step transaction or series of transactions, directly or indirectly involving the Company, and in each case excluding the Arrangement and the other transactions contemplated by this Agreement;

“**affiliate**” and “**associate**” have the meanings respectively ascribed thereto under the Securities Act;

“**Agreement**” means this arrangement agreement (including the Schedules attached hereto) as the same may be amended, supplemented, restated or otherwise modified from time to time in accordance with the terms hereof;

“**Alternative Transaction**” has the meaning ascribed thereto in Section 4.3(2);

“**Annual Financial Statements**” means the audited consolidated financial statements of the Company as at, and for the years ended, October 31, 2020 and October 31, 2019 including the notes thereto;

“**Arrangement**” means an arrangement under the provisions of Section 288 of the BCBCA, on the terms and conditions set forth 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 or made at the direction of the Court in the Final Order with the prior written consent of the Company and the Purchaser, each acting reasonably;

“**Arrangement Resolution**” means the special resolution approving the Plan of Arrangement to be considered at the Company Meeting substantially in the form set out in Schedule “B” hereto;

“**Articles of Arrangement**” has the meaning ascribed thereto in Section 1.1 of the Plan of Arrangement;

“**BCBCA**” means the *Business Corporations Act* (British Columbia);

“**Board**” means the board of directors of the Company;

“**Board Recommendation**” has the meaning ascribed thereto in Section 2.4(2);

“**Business Day**” means a day other than a Saturday, a Sunday or any day on which major banks are closed for business in Vancouver, British Columbia or Toronto, Ontario;

“**Collective Agreements**” means collective agreements or similar agreements relating to employment matters (including expired collective agreements which have not been renewed) and related documents including benefit agreements, letters of understanding, letters of intent and other written communications (including arbitration awards) by which the Company is bound or which impose any obligations upon the Company or set out the understanding of the parties or an interpretation with respect to the meaning of any provisions of such collective agreements;

“**Common Shares**” means the common shares in the capital of the Company;

“**Company Circular**” means the notice of meeting and accompanying management information circular (including all schedules, appendices and exhibits thereto, and information incorporated by reference) to be sent to the Securityholders in connection with the Company Meeting, including any amendments or supplements thereto in accordance with the terms of this Agreement;

“**Company Disclosure Letter**” means the disclosure letter dated the date hereof regarding this Agreement that has been executed by the Company and delivered to the Purchaser with this Agreement;

“**Company Employees**” means the officers and employees of the Company whether actively working or not actively working at the Effective Time;

“**Company Meeting**” means the special meeting of the Securityholders, including any adjournment or postponement thereof in accordance with the terms of this Agreement, to be called and held in accordance with the Interim Order for the purpose of considering and, if thought advisable, approving the Arrangement Resolution;

“**Company Management**” means Kenneth Holmes and Judi Dalling;

“**Company Securityholder Approval**” has the meaning ascribed thereto in Section 2.2(b);

“**Confidentiality Agreement**” means the amended and restated confidentiality agreement dated as of June 29, 2021 between the Company and the Purchaser;

“**Consideration**” means the consideration to be received pursuant to the Plan of Arrangement in respect of each Common Share that is issued and outstanding immediately prior to the Effective Time, consisting of 0.3196 of a Purchaser Share (subject to adjustment in the event there is a dilutive event in respect of the Purchaser

Shares between the date of this Agreement and the Effective Time, such as a stock split or dividend);

**“Consideration Shares”** means the Purchaser Shares to be issued in exchange for Common Shares pursuant to the Arrangement;

**“Contract”** means any contract, agreement, license, franchise, lease, arrangement, commitment, understanding, joint venture, partnership, note, instrument, or other right or obligation (whether written or oral) to which a Party or any of its Subsidiaries is a party or by which the Party or any of its Subsidiaries is bound or affected or to which any of their respective properties or assets is subject;

**“Court”** means the Supreme Court of British Columbia;

**“Covid-19”** means the novel coronavirus, which was declared a pandemic by the World Health Organization on March 12, 2020;

**“D&O Indemnified Parties”** has the meaning ascribed thereto in Section 4.7;

**“Depositary”** means TSX Trust Company, or any other depositary or trust company, bank or financial institution as the Purchaser may appoint to act as depositary with the approval of the Company, acting reasonably;

**“Debt Settlement Agreements”** means the agreements between the Company and certain of its creditors listed in the Company Disclosure Letter;

**“Dissent Rights”** has the meaning ascribed thereto in Section 1.1 of the Plan of Arrangement;

**“Effective Date”** has the meaning ascribed thereto in Section 1.1 of the Plan of Arrangement;

**“Effective Time”** has the meaning ascribed thereto in Section 1.1 of the Plan of Arrangement;

**“Employee Plans”** means all benefit, bonus, incentive, profit sharing, termination, change of control, pension, retirement, savings, stock option, stock purchase, stock appreciation, phantom stock, health, welfare, medical, dental, disability, life insurance and similar plans, programmes, arrangements or practices relating to the current or former employees, officers or directors of the Company, sponsored or funded by the Company, under which the Company has any liability, contingent or otherwise, other than benefit plans established pursuant to statute;

**“Employment Agreements”** means the employment agreements, consulting agreements and other agreements listed in the Company Disclosure Letter;

**“Environment”** means the natural environment (including soil, land surface or subsurface strata, surface water, groundwater, sediment, ambient air (including all layers of the atmosphere), organic and inorganic matter and living organisms, including public health) and all sewer systems;

**“Environmental Approvals”** means all Permits, issued or required to be issued pursuant to any Environmental Law;

**“Environmental Laws”** means Laws aimed at or relating to reclamation or restoration of properties; abatement of pollution; protection of the Environment; protection of wildlife, including endangered species; processing, distribution, use, handling, transport, management, treatment, storage, disposal or control of, or exposure to, Hazardous Substances; Releases or threatened Releases of Hazardous Substances and all Environmental Approvals;

**“Exclusivity Agreement”** means the exclusivity agreement dated June 28, 2021 between the Company and the Purchaser;

**“Fairness Opinion”** means the opinion of the Financial Advisor that, as of the date of such opinion and based upon and subject to the assumptions, limitations and qualifications set forth therein, the consideration to be received by the Shareholders under the Arrangement is fair, from a financial point of view, to the Shareholders;

**“Final Order”** means the final order of the Court approving the Arrangement, in form and substance acceptable to the Company and the Purchaser, each acting reasonably, after a hearing upon the procedural and substantive fairness of the terms and conditions of the Arrangement, as such order may be affirmed, amended, modified, supplemented or varied by the Court (with the consent of both the Company and the Purchaser, each acting reasonably) at any time prior to the Effective Date or, if appealed, as affirmed or amended (provided that any such amendment is acceptable to both the Company and the Purchaser, each acting reasonably) on appeal unless such appeal is withdrawn, abandoned or denied;

**“Financial Advisor”** means Evans & Evans, Inc.;

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

**“Finder’s Fee”** means the finder’s fee set out in Section 3.1(mm) of the Company Disclosure Letter, which is owed by the Company, which the Purchaser has agreed shall be satisfied by the issuance of Common Shares and a cash payment pursuant to Section 7.3(i);

**“Governmental Authority”** means any international, multinational, national, federal, provincial, territorial, state, regional, municipal, local or other government or governmental body and any division, agent, official, agency, commission, board or authority of any government, governmental body, quasi-governmental or private body (including the TSX, the TSXV or any other stock exchange) exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing and any domestic, foreign or international judicial, quasi-judicial or administrative court, tribunal, commission, board, panel or arbitrator acting under the authority of any of the foregoing;

**“Hazardous Substances”** means any substance, material or waste that is regulated, prohibited, listed, defined, designated or classified as hazardous, dangerous, 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;

“**IFRS**” means International Financial Reporting Standards as incorporated in the Handbook of the Canadian Institute of Chartered Accountants, at the relevant time applied on a consistent basis;

“**Interim Financial Statements**” means the unaudited financial statements of the Company as at, and for the six month period ended April 30, 2021 and April 30, 2020 including the notes thereto;

“**Interim Order**” means the interim order of the Court to be issued following the application therefor submitted to the Court as contemplated by Section 2.2, 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 Consideration Shares issued pursuant to the Arrangement, in form and substance acceptable to the Company and the Purchaser, each acting reasonably, providing for, among other things, the calling and holding of the Company Meeting, as such order may be affirmed, amended, modified, supplemented or varied by the Court with the consent of both the Company and the Purchaser, each acting reasonably;

“**Joint Venture**” means a joint venture, partnership or other similar arrangement, whether in corporate, partnership, contractual or other legal form, in which a Party or any of its Subsidiaries directly or indirectly holds voting shares, equity interests or other rights of participation but which is not a subsidiary of such Party, and any subsidiary of any such entity;

“**Laws**” means all laws, statutes, treaties, conventions, codes, ordinances (including zoning), decrees, rules, regulations, by-laws, notices, judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, injunctions, orders, decisions, settlements, writs, assessments, arbitration awards, rulings, determinations or awards, decrees or policies, guidelines, protocols or other requirements of any Governmental Authority having the force of law and any legal requirements arising under the common law or principles of law or equity, and the term “applicable” with respect to such Laws and, in the context that refers to any person, means such Laws as are applicable at the relevant time or times to such person or its business, undertaking, property or securities and emanate from a Governmental Authority having jurisdiction over such person or its business, undertaking, property or securities;

“**Liens**” means any mortgage, hypothec, prior claim, lease, sublease, easement, encroachment, servitude, lien, pledge, assignment for security, security interest, option, right of first offer or first refusal or other charge or encumbrance of any kind;

“**Litigation**” has the meaning ascribed thereto in Section 4.1(m);

“**Ladner Gold Project**” means the Company’s 100% interest in the gold project and land package located in southwestern British Columbia;

“**Matching Period**” has the meaning ascribed thereto in Section 5.4(1)(e);

**“Material Adverse Effect”** means any fact, state of facts, change, effect, event, circumstance, occurrence or development that individually or in the aggregate with other such facts, state of facts, changes, effects, events, circumstances, occurrences or developments:

- (a) is or could reasonably be expected to be material and adverse to the business, operations, results of operations, capitalization, assets, properties, liabilities (including any contingent liabilities), obligations (whether absolute, accrued, conditional or otherwise), or condition (financial or otherwise) of the Company, except any such fact, state of facts, change, effect, event, circumstance, occurrence or development resulting from:
  - (i) any change, development or condition in or relating to general international or Canadian, political, economic or financial or capital market conditions;
  - (ii) any change in Law or IFRS;
  - (iii) any change affecting the global mining industry as a whole;
  - (iv) any epidemic, pandemic, disease outbreak (including Covid-19), other health crisis or public health event including any worsening or re-occurrence thereof;
  - (v) a change in the market price or trading volume of the Common Shares as a result of the announcement of the execution of this Agreement or of the transactions contemplated hereby;

provided, however, that each of clauses (i) through (iv) above shall not apply to the extent that any of the changes, developments, conditions or occurrences referred to therein relate primarily to (or have the effect of relating primarily to) the Company, or disproportionately adversely affect the in comparison to other comparable persons who operate in the industry in which the Company operates and provided further, however, that references in certain sections of 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; or

- (b) materially impairs or delays, or could reasonably be expected to materially impair or delay, the performance by the Company of its obligations under this Agreement or impairs or delays, or could reasonably be expected to impair or delay, the Company’s ability to consummate the Arrangement by the Outside Date;

**“Material Contract”** means any Contract of the Company: (i) that if terminated or modified or if it ceased to be in effect, could reasonably be expected to have a Material Adverse Effect; (ii) relating directly or indirectly to the guarantee of any liabilities or obligations or to indebtedness for borrowed money; (iii) under which indebtedness of the Company for borrowed money is outstanding or may be incurred or pursuant to which any property or asset of the Company is mortgaged, pledged or otherwise subject to a Lien securing indebtedness; (iv) restricting the incurrence of indebtedness

by the Company (including by requiring the granting of an equal and rateable Lien) or the incurrence of any Liens on any properties or assets of the Company, or restricting the payment of dividends by the Company; (v) under which the Company is obligated to make or expects to receive payments in excess of \$25,000 over the remaining term; (vi) providing for the establishment, investment in, organization or formation of any Joint Venture, strategic relationship, limited liability company or partnership; (vii) other than the Support Agreements, any shareholders or stockholders agreements, registration rights agreements, voting trusts, proxies or similar agreements, arrangements or commitments with respect to any shares or other equity interests of the Company or any other Contract relating to disposition, voting or dividends with respect to any shares or other equity securities of the Company; (viii) that creates an exclusive dealing arrangement or right of first offer or refusal or similar rights or terms to any person; (ix) with a Governmental Entity; (x) providing for employment, severance or change in control payments; (xi) providing for the purchase, sale or exchange of, or option to purchase, sell or exchange, any property or asset where the purchase or sale price or agreed value or fair market value of such property or asset exceeds \$25,000; (xii) that limits or restricts (A) the ability of the Company to engage in any line of business or carry on business in any geographic area, or (B) the scope of persons to whom the Company may sell or acquire assets, products or deliver or obtain services; (xiii) any Contract providing for a royalty, streaming or similar arrangement or economically equivalent arrangement in respect of the Ladner Gold Project; (xiv) any standstill or similar Contract currently restricting the ability of the Company to offer to purchase or purchase the assets or equity securities of another person; (xv) that provides for indemnification by the Company or the assumption of any Tax, environmental, or other liability of any person; (xvi) that is made out of the ordinary course of business; (xvii) (A) which is a mining concession, lease or claim in respect of the Ladner Gold Project, or an earn-in, back-in, right of first offer or refusal in respect of the Ladner Gold Project or (B) that is material to the Company and related to the operation of, or the exploitation, extraction, development or production of gold from, the Ladner Gold Project; or (xvii) that is otherwise material to the Company; and, for greater certainty, includes the Material Contracts listed in the Company Disclosure Letter;

“**material fact**” has the meaning attributed to such term under the *Securities Act*;

“**MD&A**” means the management discussion and analysis filed in conjunction with the Financial Statements and included in the Public Disclosure Record;

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

“**Misrepresentation**” has the meaning attributed to such term under the Securities Act;

“**Money Laundering Laws**” has the meaning ascribed thereto in Section 3.1(n)(iii);

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

“**OHSA**” shall have the meaning ascribed thereto in Section 3.1(x);

**“Optionholder”** means a holder of Options;

**“Options”** means the outstanding options to purchase Common Shares issued pursuant to the Stock Option Plan, as listed in the Company Disclosure Letter;

**“ordinary course of business”**, or any similar reference, means, with respect to an action taken or to be taken by any person, that such action 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 September 30, 2021 or such later date as may be agreed to in writing by the Parties;

**“Parties”** means the parties to this Agreement and **“Party”** means any one of them;

**“Permit”** means any lease, license, permit, certificate, consent, decree, order, direction, grant, approval, classification, registration, waiver, exemption, agreement or other authorization of or from any Governmental Authority;

**“person”** includes an individual, sole proprietorship, corporation, body corporate, incorporated or unincorporated association, syndicate or organization, partnership, limited partnership, limited liability company, unlimited liability company, joint venture, joint stock company, trust, natural person in his or her capacity as trustee, executor, administrator or other legal representative, a government or Governmental Authority or other entity, whether or not having legal status;

**“Plan of Arrangement”** means the plan of arrangement substantially in the form and content set out in Schedule “A” hereto, as amended, modified or supplemented from time to time in accordance with Article 6 of the Plan of Arrangement or at the direction of the Court in the Final Order, with the consent of the Company and the Purchaser, each acting reasonably;

**“Primarius”** means Primarius Capital Corp.;

**“Primarius Debt”** means the debt owed to Primarius, which has been accrued by the Company to the date hereof, and all other payment obligations to Primarius and the President and Chief Executive Officer of the Company in any capacity, the amount of which the Purchaser, acting reasonably, shall have agreed, which the Purchaser has agreed shall be satisfied by the issuance of Common Shares and a cash payment pursuant to Section 7.3(h);

**“Proceedings”** has the meaning ascribed thereto in Section 3.1(p);

**“Properties”** means the properties comprising the Ladner Gold Project, which are listed in the Company Disclosure Letter;

**“Public Disclosure Record”** means all documents filed by or on behalf of the Company on the System for Electronic Document Analysis Retrieval (**“SEDAR”**) since

January 1, 2020 and prior to the date hereof that are publicly available on the date hereof;

**“Purchaser Annual Financial Statements”** means the audited consolidated financial statements of the Purchaser for the financial years ended December 31, 2020 and 2019 including the notes thereto;

**“Purchaser Disclosure Record”** means all documents filed by or on behalf of the Purchaser on SEDAR since January 1, 2020 and prior to the date hereof that are publicly available on the date hereof;

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

**“Purchaser Interim Financial Statements”** means the unaudited consolidated financial statements of the Company as at, and for the three months ended March 31, 2021 and March 31, 2020 including the notes thereto;

**“Purchaser Material Adverse Effect”** means any fact, state of facts, change, effect, event, circumstance, occurrence or development that individually or in the aggregate with other such facts, state of facts, changes, effects, events, circumstances, occurrences or developments:

- (a) is or could reasonably be expected to be material and adverse to the business, operations, results of operations, capitalization, assets, properties, liabilities (including any contingent liabilities), obligations (whether absolute, accrued, conditional or otherwise), or condition (financial or otherwise) of the Purchaser and its Subsidiaries, on a consolidated basis, except any such fact, state of facts, change, effect, event, circumstance, occurrence or development resulting from:
  - (i) any change, development or condition in or relating to general international or Canadian, political, economic or financial or capital market conditions;
  - (ii) any change in Law or IFRS;
  - (iii) any change affecting the global mining industry as a whole;
  - (iv) any epidemic, pandemic, disease outbreak (including Covid-19), other health crisis or public health event including any worsening or re-occurrence thereof;
  - (v) a change in the market price or trading volume of the Purchaser Shares as a result of the announcement of the execution of this Agreement or of the transactions contemplated hereby;

provided, however, that each of clauses (i) through (iv) above shall not apply to the extent that any of the changes, developments, conditions or occurrences referred to therein relate primarily to (or have the effect of relating primarily to) the Purchaser and its Subsidiaries, on a consolidated basis, or

disproportionately adversely affect, the Purchaser and its Subsidiaries in comparison to other comparable persons who operate in the industry in which the Company and its Subsidiaries operate and provided further, however, that references in certain sections of 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 Purchaser Material Adverse Effect has occurred; or

- (b) materially impairs or delays, or could reasonably be expected to materially impair or delay, the performance by the Purchaser of its obligations under this Agreement or impairs or delays, or could reasonably be expected to impair or delay, the Purchaser's ability to consummate the Arrangement by the Outside Date;

**"Purchaser Note"** means the secured promissory note dated June 28, 2021 issued by the Company in favour of the Purchaser in the principal amount of \$400,000;

**"Purchaser Option Plan"** means the stock option plan of the Purchaser, as approved by its shareholders on March 29, 2019, as amended;

**"Purchaser RSU Plan"** means the restricted share unit plan of the Purchaser, as approved by its shareholders on March 29, 2019, as amended;

**"Purchaser Shares"** means common shares in the capital of the Purchaser;

**"Release"** means any sudden, intermittent or gradual release, spill, leak, pumping, addition, pouring, emission, emptying, discharge, 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, impact study, risk analysis, monitoring, testing, sampling, removal (including removal of underground storage tanks), restoration, clean-up, remediation, closure, site restoration, remedial response, compensation measure or remedial work, in each case in relation to environmental matters;

**"Representatives"** means, in respect of a Party, any officer, director, employee, consultant, representative (including financial, legal or other advisor) or agent of the Party or any of its Subsidiaries;

**"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;

**"Securities Act"** means the *Securities Act* (British Columbia) and the rules, regulations and published policies made thereunder;

**“Securities Authority”** means the British Columbia Securities Commission and any other applicable securities commissions or securities regulatory authority of a province or territory of Canada;

**“Securities Laws”** means the Securities Act and all other applicable Canadian provincial and territorial securities Laws;

**“Securityholder”** means, collectively, the Shareholders, the Optionholders and the Warrantholders;

**“Shareholder”** means a holder of one or more Common Shares;

**“Stock Option Plan”** means the amended stock option plan of the Company, as re-approved by Shareholders on January 22, 2021;

**“Subsidiary”** means, with respect to a specified entity, any:

- (a) corporation of which issued and outstanding voting securities of such corporation to which are attached more than 50% of the votes that may be cast to elect directors of the corporation (whether or not shares of any other class or classes will or might be entitled to vote upon the happening of any event or contingency) are owned by such specified entity and the votes attached to those voting securities are sufficient, if exercised, to elect a majority of the directors of such corporation;
- (b) partnership, unlimited liability company, joint venture or other similar entity in which such specified entity has more than 50% of the equity interests and the power to direct the policies, management and affairs thereof; and
- (c) a subsidiary (as defined in clauses (a) and (b) above) of any subsidiary (as so defined) of such specified entity;

**“Superior Proposal”** means any unsolicited *bona fide* written Acquisition Proposal from a person who is an arm’s length third party of the Company (other than the Purchaser), made after the date of this Agreement, to acquire not less than all of the outstanding Common Shares or all or substantially all of the assets of the Company on a consolidated basis that:

- (a) complies with Securities Laws and did not result from or involve a breach of this Agreement, the Exclusivity Agreement or any other agreement between the person making the Acquisition Proposal and the Company;
- (b) the Board has determined in good faith, after consultation with its financial advisor and outside legal counsel, that such Acquisition Proposal would, taking into account all of the terms and conditions of such Acquisition Proposal, including all legal, financial, regulatory and other aspects of such Acquisition Proposal and the person making such Acquisition Proposal, if consummated in accordance with its terms (but not assuming away any risk of non-completion), result in a transaction which is (i) in the best interests of the Company and its stakeholders; and (ii) is more favourable to the Shareholders from a financial point of view than the Arrangement (taking into account any

amendments to this Agreement and the Arrangement proposed by the Purchaser pursuant to Section 5.4);

- (c) is made available to all of the Shareholders on the same terms and conditions;
- (d) is not subject to any financing contingency and in respect of which adequate arrangements have been made to ensure that the required funds will be available to effect payment in full for all of the Common Shares or assets, as the case may be;
- (e) is not subject to any due diligence and/or access condition;
- (f) the Board has determined in good faith, after consultation with its financial advisor and outside legal counsel, 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 Acquisition Proposal and the person making such Acquisition Proposal; and
- (g) in the event that the Company does not have the financial resources to pay the Termination Fee, the terms of such Acquisition Proposal provide that the person making such Superior Proposal shall advance or otherwise provide the Company the cash required for the Company to pay the Termination Fee and such amount shall be advanced or provided on or before the date such Termination Fee becomes payable;

**“Superior Proposal Notice”** has the meaning ascribed thereto in Section 5.4(1)(c);

**“Support Agreements”** means the agreements to vote in favour of the Arrangement from each of the Company’s directors and officers;

**“Supporting Shareholders”** means the persons who are party to the Support Agreements, other than the Purchaser;

**“Tax”** or **“Taxes”** means (a) any and all taxes, dues, duties, rates, imposts, fees, levies, other assessments, tariffs, charges or obligations of the same or similar nature, however denominated, imposed, assessed or collected by any Governmental Authority, including all income taxes, including any tax on or based on net income, gross income, income as specifically defined, earnings, gross receipts, capital gains, profits, business royalty or selected items of income, earnings or profits, and specifically including any federal, provincial, state, territorial, county, municipal, local or foreign taxes, state profit share taxes, windfall or excess profit taxes, capital taxes, royalty taxes, production taxes, payroll taxes, health taxes, employment taxes, withholding taxes, sales taxes, use taxes, goods and services taxes, custom duties, value added taxes, ad valorem taxes, excise taxes, alternative or add-on minimum taxes, franchise taxes, gross receipts taxes, licence taxes, occupation taxes, real and personal property taxes, stamp taxes, anti-dumping taxes, countervailing taxes, occupation taxes, environment taxes, transfer taxes, and employment or unemployment insurance premiums, social insurance premiums and worker’s compensation premiums and pension (including Canada Pension Plan) payments, and other taxes, fees, imposts, assessments or charges of any kind whatsoever; (b) any interest, penalties, additional taxes, fines and other charges and additions that

may become payable on or in respect of amounts of the type described in clause (a) above or this clause (b); (c) any liability for the payment of any amounts of the type described in clauses (a) or (b) as a result of being a member of an affiliated, consolidated, combined or unitary group for any period; and (d) any liability for the payment of any amounts of the type described in clauses (a) or (b) as a result of any express or implied obligation to indemnify any other person or as a result of being a transferee or successor in interest to any party;

“**Tax Act**” means the *Income Tax Act* (Canada) and the regulations promulgated thereunder, as amended;

“**Termination Fee**” has the meaning ascribed thereto in Section 5.6(2);

“**Termination Fee Event**” has the meaning ascribed thereto in Section 5.6(2);

“**TSX**” means the Toronto Stock Exchange;

“**TSXV**” means the TSX Venture Exchange;

“**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;

“**Warrantholder**” means a holder of one or more Warrants;

“**Warrants**” means the common share purchase warrants of the Company described in the Company Disclosure Letter; and

“**wilful breach**” means a material breach of this Agreement that is a consequence of an act undertaken or an omission by the breaching Party with the actual knowledge that the taking of such act or such omission would, or would be reasonably expected to, cause a breach of this Agreement.

## **Section 1.2 Currency**

Except where otherwise specified, all references to currency herein are to lawful money of Canada and “\$” refers to Canadian dollars.

## **Section 1.3 Interpretation Not Affected by Headings**

The division of this Agreement into Articles and Sections and the insertion of a table of contents and headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “this Agreement”, “hereof”, “herein”, “hereunder” and similar expressions refer to this Agreement, including the Schedules hereto, and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to an Article, Section or Schedule by number or letter or both are to that Article, Section or Schedule in or to this Agreement.

#### **Section 1.4 Knowledge**

Any reference in this Agreement to the “knowledge” of the Company, means to the knowledge and information of the Company Management after making due and diligent inquiry regarding the relevant matter. Any reference in this Agreement to the “knowledge” of the Purchaser, means to the knowledge and information of Terry Harbort, Andres Tinajero and Charlotte May after making due and diligent inquiry regarding the relevant matter.

#### **Section 1.5 Extended Meanings, Etc.**

Unless the context otherwise requires, words importing the singular number only include the plural and *vice versa*; words importing any gender include all genders. The terms “including” or “includes” and similar terms of inclusion, unless expressly modified by the words “only” or “solely”, mean “including without limiting the generality of the foregoing” and “includes without limiting the generality of the foregoing”. Any Contract, instrument or Law defined or referred to herein means such Contract, instrument or Law as from time to time amended, modified, supplemented or consolidated, including, in the case of Contracts or instruments, by waiver or consent and, in the case of Laws, by succession of comparable successor Laws, and all attachments thereto and instruments incorporated therein and, in the case of statutory Laws, all rules and regulations made thereunder.

#### **Section 1.6 Date of any Action**

In the event that any date on which any action is required to be taken hereunder by any of the Parties is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

#### **Section 1.7 Schedules**

The following are the Schedules to this Agreement:

Schedule “A” - Form of Plan of Arrangement

Schedule “B” - Arrangement Resolution

### **ARTICLE 2 THE ARRANGEMENT**

#### **Section 2.1 The Arrangement**

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

#### **Section 2.2 Interim Order**

As soon as reasonably practicable after the date of this Agreement, but in any event on or before August 11, 2021, the Company shall apply in a manner reasonably acceptable to the Purchaser pursuant to Section 288 of the BCBCA and, in cooperation with the Purchaser, prepare, file and diligently pursue an application for the Interim Order, which must provide, among other things:

- (a) for the class of persons to whom notice is to be provided in respect of the Arrangement and the Company Meeting and for the manner in which such notice is to be provided;
- (b) that the required level of approval for the Arrangement Resolution shall be: (i) two-thirds of the votes cast on the Arrangement Resolution by Shareholders present in person or represented by proxy and entitled to vote at the Company Meeting; and (ii) two-thirds of the votes cast on the Arrangement Resolution by Securityholders present in person or represented by proxy and entitled to vote at the Company Meeting voting together as a single class (the “**Company Securityholder Approval**”);
- (c) Optionholders shall receive one vote for each Common Share underlying their Options voting with the Shareholders and the Warrantholders as a single class;
- (d) Warrantholders shall receive one vote for each Common Share underlying their Warrants voting with the Shareholders and the Optionholders as a single class;
- (e) that, subject to the foregoing and in all other respects, the terms, restrictions and conditions of the Company’s constating documents, including quorum requirements and all other matters, shall apply in respect of the Company Meeting;
- (f) that the Parties intend to rely upon the exemption from registration provided by Section 3(a)(10) of the U.S. Securities Act, subject to and conditioned on the Court’s determination that the Arrangement is substantially and procedurally fair and reasonable to Securityholders;
- (g) for the grant of the Dissent Rights to those Shareholders who are registered Shareholders as contemplated in the Plan of Arrangement;
- (h) for the notice requirements with respect to the presentation of the application to the Court for the Final Order;
- (i) that the Company Meeting may be adjourned or postponed from time to time by the Company with the prior written consent of the Purchaser, acting reasonably, in accordance with the terms of this Agreement without the need for additional approval of the Court;
- (j) confirmation of the record date for the purposes of determining the Securityholders entitled to notice of and to vote at the Company Meeting in accordance with the Interim Order;
- (k) that the record date for the Securityholders entitled to notice of and to vote at the Company Meeting will not change in respect of any adjournment(s) or postponements of the Company Meeting, unless required by Law; and
- (l) for such other matters as the Purchaser or the Company (with the prior consent of the other, such consent not to be unreasonably withheld or delayed) may reasonably require.

### **Section 2.3 The Company Meeting**

(1) The Company shall:

- (a) convene and conduct the Company Meeting in accordance with the Interim Order, the Company's constating documents and Law as soon as reasonably possible, but in any event on or before September 9, 2021, for the purpose of considering the Arrangement Resolution, and not adjourn, postpone or cancel (or propose the adjournment, postponement or cancellation of) the Company Meeting without the prior written consent of the Purchaser, which shall not be unreasonably withheld or delayed, except as required or permitted under Section 2.3(1)(j) or Section 5.4(5), or as required for quorum purposes (in which case, the Company Meeting, shall be adjourned and not cancelled) or as required by applicable Law or by a Governmental Authority;
- (b) solicit proxies in favour of the approval of the Arrangement Resolution and against any resolution submitted by any person that is inconsistent with the Arrangement Resolution and the completion of any of the transactions contemplated by this Agreement, including at the Company's discretion or if so requested by the Purchaser and the expense of the Purchaser, acting reasonably, using dealer and proxy solicitation services firms and cooperating with any persons engaged by the Purchaser to solicit proxies in favour of the approval of the Arrangement Resolution;
- (c) provide the Purchaser with copies of or access to information regarding the Company Meeting generated by any transfer agent, dealer or proxy solicitation services firm, as requested from time to time by the Purchaser;
- (d) permit the Purchaser at its expense to, on behalf of the management of the Company, directly or through a soliciting dealer, actively solicit proxies in favour of the Arrangement Resolution on behalf of management of the Company in compliance with Law and disclose in the Company Circular that the Purchaser may make such solicitations;
- (e) consult with the Purchaser in fixing the date of the Company Meeting and the record date of the Company Meeting, give notice to the Purchaser of the Company Meeting and allow the Purchaser's representatives and legal counsel to attend the Company Meeting;
- (f) promptly advise the Purchaser, at such times as the Purchaser 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 Company Meeting, as to the aggregate tally of the proxies received by the Company in respect of the Arrangement Resolution, including the manner in which the applicable securities have been voted;
- (g) promptly advise the Purchaser of any communication (written or oral) from or claims brought by (or threatened to be brought by) any person in opposition to the Arrangement, written notice of dissent and/or purported exercise or withdrawal of Dissent Rights, and provide the Purchaser with an opportunity to review and comment upon any written communications sent by or on behalf of the Company to any such person and to participate in any discussions,

negotiations or proceedings involving such person. The Company shall not make any payment, settle or compromise, or agree to make any payment, settle or compromise, any such claims or Dissent Rights without the prior written consent of the Purchaser;

- (h) not change the record date for the Securityholders entitled to vote at the Company Meeting in connection with any adjournment or postponement of the Company Meeting unless required by Law;
- (i) at the reasonable request of the Purchaser from time to time, provide the Purchaser with a list (in both written and electronic form) of (i) the registered Shareholders, together with their addresses and respective holdings of Common Shares, (ii) the names, addresses and holdings of all persons having rights issued by the Company to acquire Common Shares (including Optionholders), and (iii) participants and book-based nominee registrants such as CDS & Co., CEDE & Co. and DTC, and non-objecting beneficial owners of Common Shares, together with their addresses and respective holdings of Common Shares. The Company shall from time to time require that its registrar and transfer agent furnish the Purchaser with such additional information, including updated or additional lists of Shareholders, and lists of securities positions and other assistance as the Purchaser may reasonably request; and
- (j) if the Company Meeting is to be held during a Matching Period, at the request of the Purchaser, adjourn or postpone the Company Meeting to a date specified by the Purchaser that is not later than ten (10) Business Days after the date on which the Company Meeting was originally scheduled and in any event to a date that is not later than five (5) Business Days prior to the Outside Date.

#### **Section 2.4 Company Circular**

- (1) The Company shall, as promptly as reasonably practicable, prepare and complete, in consultation with the Purchaser and its legal counsel, the Company Circular together with any other documents required by applicable Law in connection with the Company Meeting and the Arrangement, and the Company shall, as promptly as reasonably practicable after obtaining the Interim Order, cause the Company Circular and such other documents to be filed and sent to each Shareholder and other person as required by the Interim Order and applicable Law, in each case so as to permit the Company Meeting to be held by the date specified in Section 2.3(1), provided that the Purchaser shall have complied with Section 2.4(4).
- (2) The Company shall ensure that the Company Circular complies in all material respects with applicable Law, does not contain any Misrepresentation (other than, in each case, with respect to any written information provided by the Purchaser and its representatives for inclusion in the Company Circular) and provides the Securityholders with sufficient information to permit them to form a reasoned judgement concerning the matters to be placed before the Company Meeting. Without limiting the generality of the foregoing, the Company Circular must include: (i) a copy of the Fairness Opinion, (ii) a statement that the Board has received the Fairness Opinion, and has unanimously, after receiving legal and financial advice, determined that the Arrangement Resolution is in the best interests of the Company and

unanimously recommends that the Shareholders vote in favour of the Arrangement Resolution (the “**Board Recommendation**”); and (iii) a statement that each Supporting Shareholder intends to vote all of such Shareholder’s Common Shares, Options and Warrants in favour of the Arrangement Resolution.

- (3) The Company shall give the Purchaser and its legal counsel a reasonable opportunity to review and comment on drafts of the Company Circular and other related documents, and shall give reasonable consideration to any comments made by the Purchaser and its legal counsel, and agrees that all information relating solely to the Purchaser and its Subsidiaries included in the Company Circular and any information describing the terms of the Arrangement and/or the Plan of Arrangement must be in a form and content satisfactory to the Purchaser, acting reasonably.
- (4) The Purchaser shall provide to the Company all necessary information concerning the Purchaser that is required by Law, or reasonably required by the Company in the preparation of the Company Circular, to be included by the Company in the Company Circular or other related documents to the Company in writing, and shall ensure that such information (including with respect to any information incorporated by reference) does not contain any Misrepresentation.
- (5) Each Party shall promptly notify the other Party if, at any time before the Effective Date, it becomes aware (in the case of the Company, only in respect of information relating to the Company and in the case of the Purchaser, only in respect of information relating to the Purchaser and its Subsidiaries) that the Company Circular or other related documents contain a Misrepresentation, or otherwise requires an amendment or supplement. The Parties shall cooperate, in a manner consistent with this Section 2.4 above, in the preparation of any such amendment or supplement as required or appropriate, and the Company shall promptly mail, file or otherwise publicly disseminate any such amendment or supplement to the Shareholders and, if required by the Court or by Law, file the same with the Securities Authorities or any other Governmental Authority as required.

## **Section 2.5 Final Order**

If the Interim Order is obtained and the Arrangement Resolution is passed at the Company Meeting as provided for in the Interim Order, the Company shall take all steps necessary or desirable to submit the Arrangement to the Court and diligently pursue an application for the Final Order pursuant to Section 288 of the BCBCA, as soon as reasonably practicable, but in any event not later than three (3) Business Days after the Arrangement Resolution is passed at the Company Meeting.

## **Section 2.6 Court Proceedings**

Subject to the terms of this Agreement, the Purchaser shall cooperate with, assist and consent to the Company seeking the Interim Order and the Final Order, including by providing the Company on a timely basis any information reasonably required to be supplied by the Purchaser in connection therewith. In connection with all Court proceedings relating to obtaining the Interim Order and the Final Order, the Company shall:

- (1) diligently pursue, and cooperate with the Purchaser in diligently pursuing, the Interim Order and the Final Order;

- (2) provide the Purchaser 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 Arrangement, and give reasonable and due consideration to all comments of the Purchaser and its legal counsel;
- (3) provide legal counsel to the Purchaser on a timely basis with copies of any notice of appearance, evidence or other documents served on the Company or its legal counsel in respect of the application for the Interim Order or the Final Order or any appeal therefrom, and any notice, written or oral, indicating the intention of any person to appeal, or oppose the granting of, the Interim Order or the Final Order;
- (4) ensure that all material filed with the Court in connection with the Arrangement is consistent in all material respects with the terms of this Agreement and the Plan of Arrangement;
- (5) not file any material with the Court in connection with the Arrangement or serve any such material, or agree to modify or amend any material so filed or served, except as contemplated by this Agreement or with the Purchaser's prior written consent, which consent shall not be unreasonably withheld, provided that nothing herein shall require the Purchaser to agree or consent to any increase in, or variation of the form of, the Consideration or other modification or amendment to such filed or served materials that expands or increases the Purchaser's obligations, or diminishes or limits the Purchaser's rights, set forth in any such filed or served materials or under this Agreement;
- (6) oppose any proposal from any person 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 Time, the Company is required by the terms of the Final Order or by Law to return to Court with respect to the Final Order, do so only after notice to, and in consultation and cooperation with, the Purchaser; and
- (7) not object to legal counsel to the Purchaser making such submissions on the application for the Interim Order and the application for the Final Order as such counsel considers appropriate, acting reasonably; provided, however, that the Company is advised of the nature of any submissions prior to such hearing and such submissions are consistent with this Agreement and the Plan of Arrangement.

## **Section 2.7 Options**

The Purchaser acknowledges that, pursuant to the provisions of the Stock Option Plan, the Company may facilitate as necessary the deemed acceleration of vesting of any unvested Options as may be necessary or desirable to allow the Optionholders to exercise their Options for the purpose of participating in the Arrangement as Shareholders.

## **Section 2.8 Effective Date**

- (1) On the third (3<sup>rd</sup>) Business Day after the satisfaction or, where not prohibited, the waiver by the applicable Party or Parties in whose favour the condition is, of the conditions set out in Article 7 (excluding conditions that, by their terms, cannot be satisfied until the Effective Date, but subject to the satisfaction or, where not prohibited, the waiver by the applicable Party or Parties in whose favour the condition is, of those

conditions as of the Effective Date), unless another time or date is agreed to in writing by the Parties, the Arrangement shall become effective at the Effective Time on the Effective Date.

- (2) From and after the Effective Time on the Effective Date, the Plan of Arrangement shall have all of the effects provided by applicable Law, including the BCBCA. Unless otherwise mutually agreed to in writing by the Parties, the closing of the Arrangement will take place electronically via an electronic closing room.

## **Section 2.9 Payment of Consideration**

Following receipt by the Company of the Final Order and in any event not later than the Effective Time on the Effective Date, the Purchaser will deposit in escrow with the Depository sufficient Purchaser Shares to satisfy the aggregate Consideration payable by the Purchaser pursuant to the Plan of Arrangement (other than payments to Shareholders exercising Dissent Rights and who have not withdrawn their notice of objection).

## **Section 2.10 U.S. Securities Law Matters**

The Parties agree that the Arrangement will be carried out with the intention that all Consideration Shares and replacement options to be issued pursuant to the Arrangement, excluding any Purchaser Shares issuable upon exercise of replacement options or Warrants, will be issued by the Purchaser 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 approve the Interim Order;
- (c) the Court will be required to satisfy itself as to the procedural and substantive fairness of the Arrangement to the Securityholders, subject to the Arrangement;
- (d) the Company will ensure that each person entitled to receive the Consideration Shares, replacement options or Purchaser Shares on completion of the Arrangement will be given adequate notice advising them of their right to attend the hearing of the Court to give approval of the Arrangement and providing them with the sufficient information necessary for them to exercise that right;
- (e) each person entitled to receive Consideration Shares or replacement options will be advised that the Consideration Shares and the replacement options issued pursuant to the Arrangement have not been registered under the U.S. Securities Act and will be issued by the Purchaser in reliance on the exemption under Section 3(a)(10) of the U.S. Securities Act and such exemption does not exempt the issuance of the underlying securities upon the exercise of such replacement options; therefore, the Purchaser Shares issuable upon exercise of the replacement options and the Warrants cannot be issued in the United

States or to a Person in the United States in reliance on the exemption under Section 3(a)(10) and may only be exercised pursuant to a then-available exemption from the registration requirements of the U.S. Securities Act and applicable state securities laws;

- (f) 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 substantively and procedurally fair to the Securityholders;
- (g) the Interim Order approving the Company Meeting will specify that each Securityholder will have the right to appear before the Court at the hearing of the Court to give approval of the Arrangement so long as they enter an appearance within a reasonable time and in accordance with the requirements of Section 3(a)(10) under the U.S. Securities Act; and
- (h) 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 distribution of securities of the Purchaser, pursuant to the Plan of Arrangement.”

## **Section 2.11 Withholding Taxes**

The Company, the Purchaser and the Depositary shall be entitled to deduct or withhold from any consideration or amount otherwise payable or deliverable to any Shareholder, Optionholder or Warrantholder under the Plan of Arrangement (including, without limitation, any amounts payable pursuant to Article 4 thereof), such amounts as the Company, the Purchaser or the Depositary, as the case may be, may reasonably determine is required to be deducted and withheld with respect to such payment under any provision of Laws in respect of Taxes. To the extent that amounts are so deducted or withheld, such deducted or withheld amounts shall be treated for all purposes hereof as having been paid to the Shareholder, Optionholder or Warrantholder, as applicable, in respect of which such deduction or withholding was made, provided that such deducted or withheld amounts are actually remitted to the appropriate Governmental Authority. To the extent that the amount so required to be deducted or withheld from any payment to a former Shareholder exceeds the cash component, if any, of the consideration otherwise payable to such person, the Purchaser and the Depositary are hereby authorized to sell or otherwise dispose of such portion of the Purchaser Shares issuable to the holder as is necessary to provide sufficient funds to the Company, the Purchaser or the Depositary, as the case may be, to enable it to comply with such deduction or withholding requirement, and the Purchaser or the Depositary shall notify the holder thereof and remit the applicable portion of the net proceeds of such sale (after deduction of all fees, commissions or costs in respect of such sale) to the appropriate Governmental Authority and shall remit to such holder any unapplied balance of the net proceeds of such sale. Any sale will be made at prevailing market prices and none of the Company, the Purchaser or the Depositary shall be under any obligation to obtain or indemnify any Securityholder in respect of a particular price for the Purchaser Shares so sold.

## **Section 2.12 Income Tax Matters**

The Parties intend that the exchange of Common Shares for Consideration Shares pursuant to the Plan of Arrangement shall be structured as a tax-deferred share-for-share exchange pursuant to subsection 85.1(1) of the Tax Act, subject to a Shareholder's option to choose to recognize its capital gain (or capital loss) in the manner provided in subsection 85.1(1) of the Tax Act.

## **ARTICLE 3 REPRESENTATIONS AND WARRANTIES**

### **Section 3.1 Representations and Warranties of the Company**

Except as specifically disclosed in the Company Disclosure Letter (which shall make reference to the applicable section in respect of which such qualification is being made), the Company represents and warrants to and in favour of the Purchaser as follows and acknowledges that the Purchaser is relying upon such representations and warranties in entering into this Agreement:

- (a) **Organization and Corporate Capacity.** The Company is a corporation duly incorporated, validly existing and is in good standing under the laws of the jurisdiction of its incorporation, and has all requisite corporate and legal power and capacity to own, lease and operate its assets and properties as now owned and to carry on its business as it is now being carried on. The Company is duly qualified, licensed or registered to carry on business and is in good standing in each jurisdiction in which the nature or character of its properties and assets, owned, leased or operated by it, or the nature of its business or activities, makes such qualification, licensing or registration necessary. The Company has provided the Purchaser with complete and correct copies of the constating documents of the Company, as may have been amended prior to the date of this Agreement.
  
- (b) **Authority Relative to this Agreement.** The Company has the requisite corporate power, authority and capacity to enter into this Agreement and (subject to obtaining the Interim Order, the Final Order and Company Securityholder Approval) to perform its obligations hereunder and to complete the transactions contemplated by this Agreement. The execution and delivery of this Agreement and the performance by the Company of its obligations under this Agreement have been duly authorized by the Board and no other corporate proceedings on the part of the Company are necessary to authorize the execution and delivery by it of this Agreement or, subject to obtaining Company Securityholder Approval, the Interim Order and the Final Order, the completion by the Company of the transactions contemplated hereby. This Agreement has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, subject to bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium and other Laws relating to or affecting the availability of equitable remedies and the enforcement of creditors' rights generally and general principles of equity and public policy and to the qualification that equitable remedies such as specific performance and

injunction may be granted only in the discretion of a court of competent jurisdiction.

- (c) **Required Approvals.** No authorization, licence, permit, certificate, registration, consent or approval of, or filing with, or notification to, any Governmental Authority is required to be obtained or made by or with respect to the Company for the execution and delivery of this Agreement or, the performance by the Company of its obligations hereunder, the completion by the Company of the Arrangement or the ability of the Purchaser to conduct operations at the Properties in the same manner as being currently conducted by the Company as of the date hereof, other than:
- (i) the Interim Order and any filings required in order to obtain, and approvals required under, the Interim Order;
  - (ii) the Final Order, and any filings required in order to obtain the Final Order; and
  - (iii) such filings and other approvals required under applicable Securities Laws and the rules and policies of the TSXV as are contemplated by this Agreement.
- (d) **No Violation.** The execution and delivery by the Company of this Agreement, the performance by the Company of its obligations hereunder and the completion of the Arrangement do not and will not (nor will they with the giving of notice or the lapse of time or both):
- (i) result in a contravention, breach, violation or default under any Law applicable to the Company or any of the Company's Properties or assets;
  - (ii) result in a contravention, conflict, violation, breach or default under the Company's constating documents;
  - (iii) result in a contravention, breach or default under or termination of, or acceleration or permit the acceleration of the performance required by, or other change in any right or obligation, or loss of any benefit under, or require any approval under, any Material Contract or material Permit to which the Company is a party or by which the Company is bound or to which the Company's Properties or any material assets is subject or give to any person any interest, benefit or right, including any right of purchase, termination, payment, modification, reimbursement, cancellation or acceleration, under any such contracts or permits; or
  - (iv) result in the suspension or material alteration in the terms of any material Permit held by the Company or in the creation of any Lien upon any of the Company's Properties or material assets.

(e) **Capitalization.**

- (i) The authorized capital of the Company consists of an unlimited number of Common Shares. As at July 23, 2021, there were (i) 56,122,064 Common Shares issued and outstanding all of which have been duly authorized and validly issued and are fully paid and non-assessable, (ii) Options outstanding under the Stock Option Plan providing for the issuance of 3,880,000 Common Shares upon the exercise thereof, and (iii) Warrants outstanding providing for the issuance of 22,267,039 Common Shares upon the exercise thereof. All Common Shares issuable upon the exercise of Options and Warrants have been duly authorized and, upon issuance in accordance with their respective terms, will be validly issued as fully paid and non-assessable and are not and will not be subject to or issued in violation of, any pre-emptive rights. No Common Shares have been issued, and no Options have been granted, in violation of any Law or any pre-emptive or similar rights applicable to them.
- (ii) There is no outstanding contractual obligation of the Company to repurchase, redeem or otherwise acquire any such Common Shares, Options or Warrants or to qualify any securities of the Company for public distribution in Canada or elsewhere. There are no notes, bonds, debentures or other evidences of indebtedness or any other agreements, arrangements, instruments or commitments of any kind that give any person, directly or indirectly, the right to vote with the holders of Common Shares on any matter.
- (iii) Except for the Options, the Warrants and the Purchaser Note, the Company has no other outstanding agreement, subscription, warrant, option, right or commitment (nor has it granted any right or privilege capable of becoming an agreement, subscription, warrant, option, right or commitment) obligating it to issue or sell any Common Shares or other securities, including any security or obligation of any kind convertible into or exchangeable or exercisable for any Common Shares or other security. Except for the Options, the Company does not have any share or stock appreciation right, phantom equity, restricted share unit, deferred share unit or similar right, agreement, arrangement or commitment based on the book value, Common Share price, income or any other attribute of or related to the Company.
- (iv) The Common Shares are listed and posted for trading on the TSXV (under the symbol "LAD"), and no securities of the Company are listed or quoted for trading on any other stock or securities exchange or market or registered under any securities Laws.
- (v) Section 3.1(e)(v) of the Company Disclosure Letter sets out a complete and correct list of all outstanding Options, the number of Common Shares subject to such Options, the grant date, exercise price, vesting schedule and terms, expiration date and other material terms, as applicable, of each such Option and the names of the holders of such

Options and whether each such holder is a current director of the Company or current officer, consultant or employee of the Company.

- (vi) Section 3.1(e)(vi) of the Company Disclosure Letter sets out a complete and correct list of all outstanding Warrants, the number of Common Shares subject to such Warrants, the expiration date and other material terms, as applicable, of each such Warrant and the names of the holders of such Warrants.
- (f) **Subsidiaries.** The Company does not and, to the knowledge of the Company, has not had any Subsidiaries.
- (g) **Shareholder and Similar Agreements.** The Company is not party to any shareholder, pooling, voting trust or other similar agreement relating to the issued and outstanding securities in the capital of the Company.
- (h) **Reporting Issuer Status and Securities Laws Matters.** The Company is a “reporting issuer” within the meaning of applicable Securities Laws in the provinces of British Columbia and Alberta, and is not on the list of reporting issuers in default under applicable Securities Laws, and no securities commission or similar regulatory authority has issued any order preventing or suspending trading of any securities of the Company, and the Company is not in default of any material provision of applicable Securities Laws. Trading in the Common Shares on the TSXV is not currently halted or suspended. No delisting, suspension of trading or cease trading order with respect to any securities of the Company is pending or, to the knowledge of the Company, threatened. To the knowledge of the Company, no inquiry, review or investigation (formal or informal) of the Company by any securities commission or similar regulatory authority under applicable Securities Laws or the TSXV is in effect or ongoing or expected to be implemented or undertaken. Except as set out above, the Company is not subject to continuous disclosure or other public reporting requirements under any Securities Laws or, to the knowledge of the Company, any securities Laws, including, without limitation, the securities laws of the United States. The Company has filed all documents required to be filed by it in accordance with applicable Securities Laws and the rules and policies of the TSXV, except where the failure to file would not result in a Material Adverse Effect on the Company. The documents and information comprising the Public Disclosure Record, as at the respective dates they were filed, were in compliance in all material respects with applicable Securities Laws and, where applicable, the rules and policies of the TSXV and did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The Company has not filed any confidential material change report that at the date hereof remains confidential or any other confidential filings (including redacted filings) filed to or furnished with, as applicable, any securities commissions or similar regulatory authority. There are no outstanding or unresolved comments in comment letters from any securities commission or other similar regulatory authority with respect to any of the documents and information comprising the Public Disclosure Record and neither the Company nor any such documents or information is subject of ongoing audit, review or comment by any securities

commission or other similar regulatory authority or the TSXV. The Company does not, nor is it required to have, any class of securities registered under the U.S. Exchange Act, nor is the Company subject to any reporting obligation (whether active or suspended) pursuant to Section 15(d) of the U.S. Exchange Act. The Company is not registered or required to be registered as an "investment company" pursuant to the United States Investment Company Act of 1940. The Company is a "foreign private issuer" (as such term is defined in Rule 3b-4 under the U.S. Exchange Act).

(i) **Financial Statements.**

(i) The Financial Statements have been prepared in accordance with IFRS applied on a basis consistent with those of previous periods and in accordance with applicable Laws except (i) as otherwise stated in the notes to such statements or, in the case of the Annual Financial Statements, in the auditor's report thereon and (ii) except that the Interim Financial Statements are subject to normal period-end adjustments and may omit notes which are not required by applicable Securities Laws or IFRS. The Financial Statements, together with the related management's discussion and analysis, present fairly, in all material respects, the assets, liabilities and financial condition of the Company as at the respective dates thereof and the losses, comprehensive losses, results of operations, changes in shareholders' equity and cash flows of the Company for the periods covered thereby (subject, in the case of the Interim Financial Statements, to normal period end adjustments). The Company does not intend to correct or restate, nor, to the knowledge of the Company is there any basis for any correction or restatement of, any aspect of any of the Financial Statements.

(ii) The Company is not a party to, or has any commitment to become a party to, any joint venture, off-balance sheet partnership or any similar Contract where the result, purpose or effect of such contract is to avoid disclosure of any material transaction involving, or material liabilities of, the Company in the published financial statements of the Company or the Public Disclosure Record.

(iii) There are no outstanding loans made by the Company to any director or officer of the Company.

(j) **Undisclosed Liabilities.** Except for: (i) liabilities, obligations, commitments and contingencies that are specifically presented in the Annual Financial Statements as of October 31, 2020, including in the notes thereto, or the Interim Financial Statements and MD&A; and (ii) liabilities and obligations incurred in the ordinary course of business consistent with past practice since April 30, 2021; and (iii) the liabilities described in Section 3.1(j) of the Company Disclosure Letter, the Company has not incurred any liabilities or obligations of any nature, whether or not accrued, contingent or otherwise and are not party to or bound by any suretyship, guarantee, indemnification or assumption agreement, or endorsement of, or any other similar contract with respect to the obligations, liabilities or indebtedness of any person.

- (k) **Auditors.** The Company's current auditors are independent with respect to the Company within the meaning of the rules of professional conduct applicable to auditors in Canada and there has not been a reportable event (within the meaning of Section 4.11 of National Instrument 51-102 – *Continuous Disclosure Obligations*) with the Company's auditors.
- (l) **Absence of Certain Changes.** Except as disclosed in the Public Disclosure Record, the Interim Financial Statements and MD&A, since October 31, 2020:
- (i) the Company has conducted its business only in the ordinary course of business;
  - (ii) there has not been any event, occurrence, development or state of circumstances or facts that has had or would be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect;
  - (iii) there has not been any material write-down by the Company of any of the assets of the Company;
  - (iv) there has not been any expenditure or commitment to expend by the Company with respect to capital expenses;
  - (v) there has not been any acquisition or sale, lease, license or other disposition or encumbrance by the Company of any interest in the Properties or any other material assets except as disclosed in Section 3.1(l)(v) of the Company Disclosure Letter;
  - (vi) there has not been any incurrence, assumption or guarantee by the Company of any material debt for borrowed money, any creation or assumption by the Company of any Lien, or any making by the Company of any loan, advance or capital contribution to or material investment in any other person;
  - (vii) there has not been any satisfaction or settlement of any material claim, liability or obligation of the Company;
  - (viii) the Company has not effected any material change in its accounting policies, principles, methods, practices or procedures;
  - (ix) the Company has not suffered any material casualty, damage, destruction or loss to any of its properties or assets;
  - (x) the Company has not declared, set aside or paid any dividends or made any distribution or payment or return of capital in respect of the Common Shares;
  - (xi) the Company has not effected or passed any resolution to approve a split, division, consolidation, combination or reclassification of the Common Shares or any other securities;

- (xii) there has not been any material increase in or modification of the compensation payable to or to become payable by the Company to any director of the Company, Company Employee or Company Consultant, except as may be required by written Contract or any grant to any such any director, Company Employee or Company Consultant of any increase in severance or termination pay or any increase or modification of any bonus, pension, insurance or benefit arrangement to, for or with any of such director, Company Employee or Company Consultant;
  - (xiii) except as disclosed in Section 3.1(l)(xiii) of the Company Disclosure Letter, there has not been any entering into, or amendment of, any Material Contract other than in the ordinary course of business;
  - (xiv) the Company has not entered into, adopted, or materially amended, any collective bargaining agreement, bonus, pension, profit sharing, change of control, stock purchase, stock option, Employee Plan or other benefit plan or agreement (including the Stock Option Plan); and
  - (xv) the Company has not agreed, announced, resolved or committed to do any of the foregoing.
- (m) **Long Term and Derivative Transactions.** The Company does not have any material obligations or liabilities, direct or indirect, vested or contingent in respect of any streaming transactions, rate swap transactions, basis swaps, forward rate transactions, commodity swap, commodity options, equity or equity index swaps, equity or equity index options, bond options, interest rate options, foreign exchange transactions, cross—currency rate swap transactions or currency options or other similar transactions (including any option with respect to any such transactions) or any combination of such transactions.
- (n) **Compliance with Laws.**
- (i) Except (A) as disclosed in Section 3.1(n)(i) of the Company Disclosure Letter and (B) in respect of Environmental Laws, in respect of which the sole representations and warranties of the Company are contained in Section 3.1(ii), the business of the Company has been and is currently being conducted in compliance in all material respects with all applicable Laws. Without limiting the generality of the foregoing, all issued and outstanding Common Shares have been issued in compliance, in all material respects, with all applicable Securities Laws.
  - (ii) Neither the Company, nor any of the Company's directors, officers, supervisors, managers, employees, or agents has: (A) violated any applicable anti-corruption, anti-bribery, export control, and economic sanctions Laws, including the *Corruption of Foreign Public Officials Act* (Canada) and the *United States Foreign Corrupt Practices Act*, (B) made or authorized any direct or indirect contribution, payment or gift of funds, property or anything else of value to any official, employee or agent of any Governmental Authority, authority or instrumentality in

Canada or any other jurisdiction other than in accordance with applicable Laws, (C) used any corporate funds, or made any direct or indirect unlawful payment from corporate funds, to any foreign or domestic government official or employee or for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; or (D) violated or is in violation of any provision of the *Criminal Code* (Canada) relating to foreign corrupt practices, including making any contribution to any candidate for public office, in either case, where either the payment or gift or the purpose of such contribution payment or gift was or is prohibited under the foregoing or any other applicable Law of any locality.

- (iii) The operations of the Company are and have been conducted at all times in compliance with applicable financial record-keeping and reporting requirements of the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Authority (collectively, the “**Money Laundering Laws**”) and no action, suit or proceeding by or before any court or Governmental Authority or any arbitrator non-Governmental Authority involving the Company with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.
- (o) **Permits.** The Company has identified, obtained, acquired or entered into in its respective name, and are in compliance in all material respects with all Permits (including any interest in, or right to earn an interest in, any mineral property) required by applicable Laws to conduct their current businesses as they are now being conducted or proposed to be conducted (as described in the Public Disclosure Record). All such material Permits are valid and subsisting, in full force and effect, enforceable in accordance with terms thereof, except for any non-material deficiencies. All Permits are in good standing and there has been no material default under any Permit, are renewable by their terms or in the ordinary course of business, and all fees and other amounts required to be paid with respect to such Permits to the date hereof have been paid. There are no actions, proceedings or investigations, pending, or to the knowledge of the Company, threatened, against the Company that could reasonably be expected to result in the suspension, loss or revocation of any such Permits.
- (p) **Litigation.** Except as disclosed in Section 3.1(p) of the Company Disclosure Letter, there are no 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 Authority, or any claim, action, suit, demand, arbitration, charge, indictment, hearing or other similar civil, quasi-criminal or criminal, administrative or investigative matter or proceeding (collectively, “**Proceedings**”) against or involving the Company (whether in progress or, to the knowledge of the Company, threatened), and, to the knowledge of the Company, no event has occurred which might reasonably be expected to give rise to any such Proceeding. To the knowledge of the Company, there is no judgment, writ, decree, injunction, rule, award or order of any Governmental Authority outstanding against the Company.

- (q) **Restrictions on Conduct of Business.** The Company is not a party to or bound by any non-competition agreement, any non-solicitation agreement or any other agreement, obligation, judgment, decree or order which purports to: (i) limit in any material respect the manner or the localities in which all or a portion of the business of the Company is conducted; (ii) limit any business practice of the Company in any material respect; or (iii) restrict any acquisition or disposition of any property by the Company in any material respect. Neither the Company nor any of its properties or assets is subject to any outstanding judgment, order, writ, injunction or decree that would have or would be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect with respect to the Company or that would be reasonably expected to prevent or delay the consummation of the Arrangement or the transactions contemplated hereby.
- (r) **Insolvency.** No act or proceeding has been taken by or against the Company in connection with the dissolution, liquidation, winding up, bankruptcy or reorganization of the Company or for the appointment of a trustee, receiver, manager or other administrator of the Company or any of their properties or assets nor, to the knowledge of the Company, is any such act or proceeding threatened. The Company has not sought protection under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or similar legislation. Neither the Company nor any of its respective properties or assets are 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 the Company 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.
- (s) **Operational Matters.** All rentals, royalties, overriding royalty interests, production payments, net profits, interest burdens, payments and obligations due and payable, or performable, 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 the Company, have been: (A) duly paid; (B) duly performed; or (C) provided for prior to the date hereof, except to the extent that such non-payment, non-performance or non-provision would not, individually or in the aggregate, have a Material Adverse Effect on the Company.
- (t) **Interest in Properties.**
- (i) The Company possesses or has obtained in its name, and is in compliance with, all material licences, permits, certificates, orders, grants and other authorizations necessary to conduct its respective business and businesses as currently contemplated relating to the Properties and each Property complies in all material respects with all applicable Laws. Other than the Properties, the Company does not own or have any interest in any real property. The Company has good, valid and sufficient right, title and interest, free and clear of any title defect or Lien, other than any title defect or Lien which would not materially interfere with the use of, or materially detract from the value of, the

Properties, to: (i) their prospecting licenses, mining claims, mining leases, mining concessions, and all other rights relating in any manner whatsoever to the interest in, or exploration for minerals on the Properties, all of which have been accurately and completely set out in Section 3.1(t)(i) of the Company Disclosure Letter and, in each case, as are necessary to perform the operation of their business as presently owned and conducted and as currently contemplated to be conducted; (ii) their ownership of immovable property, their mining claims, mining leases, mining concessions, servitudes, rights of superficies and other immovable real rights, as well as their prospecting licenses, leases, licenses and rights of way (in each case from landowners and authorities permitting the use of land by the Company) in respect of the Properties, all of which have been accurately and completely set out in Section 3.1(t)(i) of the Company Disclosure Letter, and, in each case, as are necessary to perform the operation of their business as presently owned and conducted and currently contemplated to be conducted; and (iii) each of the Properties and their assets of any nature whatsoever and to all benefits derived therefrom and mineral or mining rights including all the properties and assets reflected in the balance sheet forming part of the Public Disclosure Record relating to the Properties, except as indicated in the notes thereto or Section 3.1(t)(i) of the Company Disclosure Letter, together with all additions thereto, and such properties and assets are not subject to any Lien or material defect in title of any kind except: (a) as is specifically identified in the balance sheets forming part of the Financial Statements and in the notes thereto; (b) as is set out in Section 3.1(t)(i) of the Company Disclosure Letter; and (c) any title defect or Lien which would not materially interfere with the use of, or materially detract from the value of, any Property.

- (ii) All prospecting licenses, mining claims, mining leases and mining concessions in respect of the Properties in which the Company has an interest or right have been validly obtained and, if an immovable real right, registered in accordance with all Laws and are valid and subsisting. The Company has all necessary surface rights, access rights and other rights and interests relating to the Properties, as may be necessary or desirable to grant the Company the right and ability to explore for minerals, ore and metals for development purposes, with only such exceptions as do not materially interfere with the use made by the Company 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 the name of the Company free and clear of all material encumbrances.
- (iii) Except as disclosed in Section 3.1(t)(iii) of the Company Disclosure Letter: (i) the Company has the exclusive right to deal with each Property; (ii) no person or entity of any nature whatsoever other than the Company has any interest in any Property or any right to acquire or otherwise obtain any such interest; (iii) there are no earn-in rights, back-in rights, rights of first refusal, royalty rights, streaming rights, or other

rights of any nature whatsoever which would affect the Company's interests in the Properties; (iv) the Company has not received any notice, whether written or oral, from any Governmental Authority or any other person of any revocation or intention to revoke, diminish or challenge its interest in the any Property; and (v) in all material respects, each Property is in good standing under and complies with all Laws and all work required to be performed has been performed and all taxes, fees, expenditures and all other payments in respect thereof have been paid or incurred and all filings in respect thereof have been made.

- (iv) There are no adverse claims, actions, suits or proceedings that have been commenced or are pending or, to the knowledge of the Company, that are threatened, affecting or which could affect the Company's right, title or interest in any Property or the ability of the Company to explore or develop any Property, including the title to or ownership by the Company of the foregoing, or which might involve the possibility of any judgement or liability affecting any Property.
  - (v) None of the directors or officers of the Company holds any right, title or interest in, nor has taken any action to obtain, directly or indirectly, any right, title and interest in the Properties or in any permit, concession, mining claim, lease, licence or other right to explore for, exploit, develop, mine or produce minerals, ore or metals from or in any manner in relation to the Properties and any other properties located within 20 kilometres of any Property.
  - (vi) The Company has provided the Purchaser with access to all material exploration information and data within its possession or control including, without limitation, all geological, geophysical and geochemical information and data (including all drill, sample and assay results and all maps) and all technical reports, feasibility studies and other similar reports and studies concerning the Properties and the Company has the sole right, title and ownership of all such information, data, reports and studies.
- (u) **Technical Report.**
- (i) The Ladner Gold Project is the only material property of the Company for the purposes of NI 43-101;
  - (ii) The NI 43-101 technical report prepared by Clifford A. Pearson, P. Geo that has an effective date of May 29, 2015 in respect of the Ladner Gold Project (the "**Technical Report**") complied in all material respects with the requirements of NI 43-101, including Form 43-101F1, at the time of filing thereof and reasonably presented the quantity of mineral resources attributable to the properties evaluated therein as at the date stated therein based upon information available at the time the report was prepared. The Company does not have knowledge of a material adverse change in any production, cost, price, mineral reserves,

mineral resources or other relevant information provided since the date such information was provided;

- (iii) The Company made available to the author of the Technical Report, prior to the issuance thereof, for the purpose of preparing such report, all information requested by him, and none of such information contained any Misrepresentation at the time such information was so provided;
  - (iv) All of the material assumptions underlying the mineral resource estimates in the Technical Report is reasonable and appropriate;
  - (v) The estimates of mineral resources as described in the Public Disclosure Record comply in all material respects with NI 43-101;
  - (vi) The information set forth in the Public Disclosure Record relating to mineral resources required to be disclosed therein pursuant to NI 43-101 has been prepared by the Company 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; and
  - (vii) The Company 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 the Company is or should be aware that would disaffirm, misrepresent or change any material aspect of the Technical Report or that would require the filing of a new technical report under NI 43-101.
- (v) **Taxes.**
- (i) The Company has timely filed all Returns required to be filed by it with any Governmental Authority and each such Return was complete and correct in all material respects at the time of filing. The Company has paid or caused to be paid to the appropriate Governmental Authority on a timely basis all Taxes which are due and payable, all assessments and reassessments and all other Taxes as are due and payable by of the Company, other than those which are being or have been contested in good faith pursuant to applicable Laws, and in respect of which, in the reasonable opinion of the Company, adequate reserves or accruals in accordance with IFRS have been provided in the Interim Financial Statements, except where the failure to pay or provide accruals for Taxes would not, individually or in the aggregate, have a Material Adverse Effect on the Company. Except as disclosed in Section 3.1(v)(i) of the Company Disclosure Letter, to the knowledge of the Company, no audit, action, investigation, deficiencies, litigation, proposed adjustments have been asserted or, to the knowledge of the Company, threatened with respect to Taxes of the Company and the Company is not a party to any action or proceeding for assessment or collection of Taxes and no such event has been asserted or, to the knowledge of the Company, threatened. Except as disclosed in Section 3.1(v)(i) of the Company Disclosure Letter , to the knowledge of the

Company, no Return of the Company is under investigation, review, audit or examination by any taxing authority with respect to any Taxes, and no written notice of any investigation, review, audit or examination by any taxing authority has been received by the Company with respect to any Taxes. No Lien for Taxes has been filed or exists with respect to any assets or properties of the Company other than for Taxes not yet due and payable or Liens for Taxes that are being contested in good faith by appropriate proceedings. There are no currently effective elections, agreements or waivers extending the statutory period or providing for an extension of time with respect to the assessment or reassessment of any Taxes, the filing of any Return or any payment of Taxes by the Company. The Company has not made, prepared and/or filed any elections, designations or similar filings relating to Taxes or entered into any agreement or other arrangement in respect of Taxes or Returns that could, in and of itself, require a material amount to be included in the income of the Company for any period ending after the Effective Date.

- (ii) All Taxes that the Company has been required to withhold have been duly withheld and have been duly and timely paid to the proper Governmental Authority. The Company has remitted all Canada Pension Plan contributions, provincial pension plan contributions, employment insurance premiums, employer health taxes, payroll taxes and other Taxes payable by it in respect of its employees, agents and consultants, as applicable, and has remitted such amounts to the appropriate Governmental Authority within the time required under applicable Laws. The Company has, to the extent required under applicable Laws, duly charged, collected and remitted on a timely basis all Taxes on any sale, supply or delivery whatsoever, made by it.
- (iii) There are no rulings or closing agreements relating to the Company which may affect the Company's liability for Taxes for any taxable period commencing after the Effective Date.
- (iv) For all transactions between the Company and any person who is not resident in Canada for purposes of the Tax Act with whom the Company was not dealing at arm's length for purposes of the Tax Act, the Company has made or obtained records or documents that meet the requirements of paragraphs 247(4)(a) to (c) of the Tax Act (or comparable provisions of any other applicable legislation).
- (v) No circumstances exist or may reasonably be expected to arise as a result of matters existing before the Effective Date that may result in the Company being subject to Section 160 of the Tax Act (or comparable provisions of any other applicable legislation).
- (vi) None of Sections 78 or 80 to 80.04 of the Tax Act (or comparable provisions of any other applicable legislation) have applied to the Company and there are no circumstances existing which could reasonably be expected to result in the application of Sections 78 or 80

to 80.04 of the Tax Act (or comparable provisions of any other applicable legislation) to the Company.

- (vii) There are no circumstances which exist and would result in, or which have existed and resulted in, Section 17 of the Tax Act applying to the Company.
  - (viii) The Company is a “taxable Canadian corporation”, as that term is defined in subsection 89(1) of the Tax Act.
  - (ix) The Company will not be required to include in any taxable period ending after the Effective Date any taxable income attributable to income that accrued (or cash that was received), but was not recognized, in any taxable period ending on or before the Effective Date as a result of a reserve, deduction, election, prepaid amount, an agreement with a Governmental Authority, any subsidy or deemed overpayment of Tax related to COVID-19, or for any other reason. Any amounts claimed by the Company under the Canada Emergency Wage Subsidy or the Canada Emergency Rent Subsidy under section 125.7 of the Tax Act and any other amounts claimed by the Company under a subsidy or deferral in respect of COVID-19 in respect of any period (or portion thereof) ending on or before the Effective Date were claimed by the Company in accordance with the Tax Act and all other applicable laws.
- (w) **Contracts.**
- (i) All Material Contracts to which the Company is a party are in full force and effect, and the Company is entitled to all rights and benefits thereunder in accordance with the terms thereof. The Company has made available to the Purchaser for inspection true and complete copies of all Material Contracts and no such Material Contract has been modified, rescinded, or terminated. All of the Material Contracts are valid and binding obligations of the Company and the other parties thereto enforceable in accordance with their respective terms, except as may be limited by bankruptcy, insolvency and other Laws affecting the enforcement of creditors’ rights generally and subject to the qualification that equitable remedies may only be granted in the discretion of a court of competent jurisdiction.
  - (ii) The Company is not, nor, to the knowledge of the Company, any of the other parties thereto, is in material breach or violation of or in default under (in each case, with or without notice or lapse of time or both) any Material Contract and the Company has not received or given any notice of default under any Material Contract which remains uncured, and, to the knowledge of the Company, there exists no state of facts which after notice or lapse of time or both would constitute a default under or material breach of any Material Contract or the inability of a party to any Material Contract to perform its obligations thereunder.

- (iii) The Company has not received any notice (whether written or oral), that any party to a Material Contract intends to cancel, terminate or otherwise modify or not renew its relationship with the Company, and to the knowledge of the Company, no such action has been threatened.
  - (iv) Neither the entering into of this Agreement, nor the consummation of the Arrangement or any of the other transactions contemplated by this Agreement will trigger any change of control or similar provisions in any of the Material Contracts.
  - (v) Section 3.1(w)(v) of the Company Disclosure Letter sets out a complete and accurate list of all Material Contracts of the Company and all of the Debt Settlement Agreements.
- (x) **Employment Matters.** The Company is not a party to or bound or governed by, or subject to:
- (i) any employment, consulting, retention, termination, or change of control agreement with, or any written or oral agreement, arrangement or understanding providing for retention, change of control, length of termination notice, or severance or termination payments to any director, Company Employee or Company Contractor (other than, in respect of a Company Employee, such as results by Law from the employment of an employee without an agreement as to notice or termination or severance);
  - (ii) any Collective Agreement or similar agreements;
  - (iii) to the knowledge of the Company, any threatened or pending union organizing activities involving any Company Employee and no such activities have been undertaken within the last three (3) years.
  - (iv) any trade union, council of trade unions, employee bargaining agency, affiliated bargaining agent, employee association or similar entity that holds bargaining rights with respect to any of the Company Employees by way of certification, interim certification, voluntary recognition, or succession rights, and no such person has applied, or to the knowledge of the Company, threatened to apply to be certified as the bargaining agent of any Company Employee in any jurisdiction in which the Company carries on business;
  - (v) any unfair labour practice complaint, grievance or arbitration proceeding, or any labour dispute, strike or lock-out relating to or involving any employees of the Company and no such event has occurred within the last five (5) years;
  - (vi) any claim for wrongful dismissal, constructive dismissal or any other claim, complaint or litigation relating to employment, discrimination or termination of employment of any of the Company Employees or former employees or relating to any failure to hire a candidate for employment;  
or

- (vii) any allegations of sexual or other unlawful harassment or discrimination have been made against (i) any director or officer of the Company, or (ii) any present or former Company Employee.
- (y) **Employees and Consultants.** Section 3.1(y) of the Company Disclosure Letter sets forth a complete and accurate list of the Company Employees and Company Contractors, together with their position or function, date of hire or engagement, annual base salary or fees, as applicable, any incentive or bonus arrangement, benefit enrollments, any banked time or vacation pay entitlement, whether any employee is on a layoff or leave of absence and, for any leave of absence, the type of leave and expected date of return to work, if known. True, complete and correct copies of the agreements, arrangements and understandings with the Company Employees and Company Contractors referred to in this Section 3.1(y), if any, have been provided to the Purchaser.
- (z) **Immigration.** No Company Employees or former employees of the Company is or has been, during employment with the Company, an illegal or undocumented worker. All Company Employees and former employees, and Company Contractors have and had all work permits, visas, authorizations or status, as the case may be, required to perform work or provide services in Canada or in the jurisdiction in which services are performed.
- (aa) **Health and Safety.** There are no outstanding assessments, penalties, fines, liens, charges, surcharges, or other amounts due or owing pursuant to any workers' compensation legislation in respect of the Company and the Company has not been reassessed in any material respect under such legislation during the past three years and no audit of the Company is currently being performed pursuant to any applicable workers' compensation legislation. There are no claims or, to the knowledge of the Company, potential claims which may materially adversely affect the Company's accident cost experience. All orders and inspection reports, if any, under applicable occupational health and safety legislation ("**OHSA**") relating to the Company have been provided to Purchaser. There are no charges pending under OHSA in respect of the Company. The Company has complied in all material respects with any orders issued under OHSA and there are no appeals of any orders under OHSA currently outstanding.
- (bb) **COVID-19.** The Company has investigated, and is investigating, all reported occupational health and safety issues related to the Covid-19 pandemic. With respect to each such issue, the Company has taken, and is taking, all required and other reasonable corrective action in accordance with all Governmental Authority and public health recommendations to reduce the spread of Covid-19 within the applicable workplace.
- (cc) **Employment Laws.** The Company has operated in all material respects in compliance with all terms and conditions of employment applicable to employees and all applicable Laws with respect to employment and labour, including employment and labour standards, vacation and paid time off, discrimination, harassment, retaliation, wages, classification, hours of work, overtime, immigration, occupational 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 the Company, threatened claims, complaints, investigations or orders under any such Laws and, to the knowledge of the Company, no basis for any such claims.

- (dd) **Employment Accruals.** All amounts due or accrued for all salary, wages, bonuses, commissions, vacation with pay, sick days and benefits, including under any Employee Plans and other similar accruals have either been paid or are accurately reflected in the books and/or records of the Company.
- (ee) **Acceleration of Benefits.** No person will, as a result of any of the transactions contemplated herein or in the Plan of Arrangement, including a change of control of the Company become entitled to (i) any retirement, severance, termination, retention, bonus or other similar payment from the Company, (ii) the acceleration of the vesting or the time to exercise of any outstanding stock option or employee or director awards of the Company, (iii) the forgiveness or postponement of payment of any indebtedness owing by such person to the Company, or (iv) receive any additional payments or compensation under or in respect of any employee or director benefits or incentive or other compensation plans or arrangements from the Company.
- (ff) **Pension and Employee Benefits.** Other than the Stock Option Plan, the Company does not have any Employee Plans.
- (gg) **Independent Contractors.** Each Company Contractor has been properly classified by the Company as an independent contractor and the Company has not received any notification from any Governmental Authority challenging the classification of such Company Contractor.
- (hh) **Intellectual Property.** The Company does not own or possess any intellectual property rights including any patents, copyrights, trade secrets, trademarks, service marks or trade names.
- (ii) **Environment.**
  - (i) The Company is carrying on and, to the knowledge of the Company, has for the last five (5) years carried on its operations in material compliance with all applicable Environmental Laws and the Properties and assets comply in all material respects with all applicable Environmental Laws.
  - (ii) To the knowledge of the Company, the Company is not subject to any material, actual, liability or potential or contingent liability relating to (a) any Remedial Action, or (b) non-compliance with Environmental Laws.
  - (iii) To the knowledge of the Company, the Properties have not been used to generate, manufacture, refine, treat, recycle, transport, store, handle, dispose of, transfer, produce or process Hazardous Substances, except in compliance in all material respects with all Environmental Laws. To the knowledge of the Company, there are no Hazardous Substances at, in, on, under or migrating to or from any Property in excess of applicable limits pursuant to Environmental Laws or which

could reasonably be expected to result in material liability of the Company.

- (iv) To the knowledge of the Company, the Company has not treated or disposed of, or arranged for the treatment or disposal of, any Hazardous Substances at any location or in a manner that could reasonably be expected to result in material liability of the Company.
  - (v) To the knowledge of the Company, the Properties are not listed on any list of sites requiring Remedial Action issued by any Governmental Authority nor proposed for listing on any such list.
  - (vi) To the knowledge of the Company, the Company has not received nor has it been advised that it will receive from any person or Governmental Authority any notice, formal or informal, of any proceeding, action or other claim, liability or responsibility arising under any Environmental Law that is pending as of the date of this Agreement. To the knowledge of the Company, no Properties are subject to enforcement actions by any Governmental Authority that creates the reasonable potential for any proceeding, action, or other claim against the Company.
  - (vii) The Company has not assumed or retained any material liability or obligation pertaining to environmental matters as a result of the acquisition or disposition of any assets or real property.
  - (viii) All reports and material documents relating to environmental matters affecting the Company, its business or the Properties which are in the possession or under the control of the Company have been provided to the Purchaser and are listed in Section 3.1(ii)(viii) of the Company Disclosure Letter.
- (jj) **Insurance.** All insurance policies of the Company are disclosed in Section 3.1(jj) of the Company Disclosure Letter and are in full force and effect. All premiums due and payable under all such policies have been paid and the Company are otherwise in compliance in all material respects with the terms of such policies. The Company has not received any notice of cancellation or termination with respect to any such policy. There has been no denial of material claims nor material claims disputed by the Company.
- (kk) **Books and Records.** The corporate records and minute books of the Company has been maintained in accordance with all applicable Laws in all material respects, and such corporate records and minute books are complete and accurate in all material respects. The financial books and records and accounts of the Company in all material respects have been maintained in accordance with good business practices and in accordance with IFRS on a basis consistent with prior years.
- (ll) **Non-Arm's Length Transactions.** Except as set out in Section 3.1(ll) of the Company Disclosure Letter, there are no current contracts, commitments, agreements, arrangements or other transactions between the Company, on the one hand, and any (a) officer or director of the Company, (b) any holder of

record or, to the knowledge of the Company, beneficial owner or 5% or more of the outstanding Common Shares, or (c) any affiliate or associate or any such officer, director or Shareholder, on the other hand.

- (mm) **Financial Advisors or Brokers.** Except as disclosed in Section 3.1(mm) of the Company Disclosure Letter, the Company has not incurred any obligation or liability, contingent or otherwise, or agreed to pay or reimburse any broker, finder, financial adviser or investment banker, for any brokerage, finder's, advisory or other fee or commission, or for the reimbursement of expenses, in connection with this Agreement, the transactions contemplated hereby or any alternative transaction in relation to the Company, other than with respect to the Financial Advisor. The Company has provided to the Purchaser a correct and complete copy of the agreement under which the Financial Advisor has agreed to provide services to the Company. Section 3.1(mm) of the Company Disclosure Letter sets out the aggregate dollar amount determined to be payable to and as agreed upon with the Financial Advisor.
- (nn) **Fairness Opinion.** The Board has received the Fairness Opinion in oral form, and such opinion has not been modified, amended, qualified or withdrawn. True and complete copies of the Fairness Opinion will be provided by the Company to the Purchaser promptly following delivery by the Financial Advisor.
- (oo) **Board Approval.** The Board, at a meeting duly called and held, upon consultation with legal and financial advisors, has unanimously determined that the Arrangement is fair to the Shareholders and is in the best interests of the Company, has unanimously approved the execution and delivery of this Agreement and the transactions contemplated by this Agreement and has unanimously resolved to recommend that the Shareholders vote in favour of the Arrangement Resolution. Each director and executive officer of the Company intends to vote all Common Shares held by him or her in favour of the Arrangement Resolution and has agreed that the news release announcing the execution of this Agreement may so state and that references to such intention may be made in the Company Circular and other documents relating to the Arrangement.
- (pp) **Due Diligence Information.** All information provided to the Purchaser in relation to the Purchaser's due diligence requests: (i) that was prepared by the Company is true and correct in all material respects; (ii) that was not prepared by the Company, is, to the best of the Company's knowledge and subject to the qualifications and limitations expressed in such information (as applicable), true and correct in all material respects; and (iii) to the best of the Company's knowledge, does not contain any material omissions as at its respective date as stated therein and has not been amended except as provided to the Purchaser.
- (qq) **Competition Act.** The Company aggregate value of assets in Canada and gross revenues from sales in or from Canada generated from the Company's assets in Canada are both less than \$93 million as determined as of the time and in the manner prescribed by the Competition Act, R.S.C., 1985, c. C-34, as amended.

- (rr) **Collateral Benefits.** To the knowledge of Company Management, no related party of the Company (within the meaning of MI 61-101) together with its associated entities, beneficially owns or exercises control or direction over 1% or more of the outstanding Common Shares, except for related parties who will not receive a “collateral benefit” (within the meaning of such instrument) as a consequence of the transactions contemplated by this Agreement.

### **Section 3.2 Representations and Warranties of the Purchaser**

The Purchaser represents and warrants to and in favour of the Company as follows and acknowledges that the Company is relying upon such representations and warranties in entering into this Agreement:

- (a) **Organization and Corporate Capacity.** The Purchaser has been duly organized and is validly existing and in good standing under the Laws governing its formation and has the requisite corporate and legal power and capacity to own its assets as now owned and to carry on its business as it is now being carried on. The Purchaser and each of its Subsidiaries are duly qualified to carry on business in each jurisdiction in which the nature or character of its properties and assets, owned, leased or operated by it, or the nature of its business or activities, makes such qualification necessary.
- (b) **Authority Relative to this Agreement.** The Purchaser has the requisite corporate power, authority and capacity to enter into and perform its obligations under this Agreement and to complete the transactions contemplated hereby. The execution and delivery of this Agreement and the completion by the Purchaser of the transactions contemplated by this Agreement have been duly authorized by the directors of the Purchaser and no other corporate proceedings on the part of the Purchaser are necessary to authorize the execution and delivery by it of this Agreement or the completion by the Purchaser of the transactions contemplated hereby. This Agreement has been duly executed and delivered by the Purchaser and constitutes legal, valid and binding obligations of the Purchaser enforceable against the Purchaser in accordance with its terms, subject to bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium and other Laws relating to or affecting the availability of equitable remedies and the enforcement of creditors’ rights generally and general principles of equity and public policy and to the qualification that equitable remedies such as specific performance and injunction may be granted only in the discretion of a court of competent jurisdiction.
- (c) **Required Approvals.** No authorization, licence, permit, certificate, registration, consent or approval of, or filing with, or notification to, any Governmental Authority is necessary for the execution and delivery by the Purchaser of this Agreement, the performance by the Purchaser of its obligations hereunder and the completion by the Purchaser of the Arrangement, other than:
- (i) the Interim Order and any filings required in order to obtain, and approvals required under, the Interim Order;

- (ii) the Final Order, and any filings required in order to obtain the Final Order; and
  - (iii) such filings and approvals required for the issuance of the Consideration Shares as a result of the Arrangement required under applicable Securities Laws and the rules and policies of the TSX.
- (d) **No Violation.** Subject to obtaining the authorizations, consents and approvals and making the filings referred to in Section 3.2(c), the execution and delivery by the Purchaser of this Agreement, the performance by the Purchaser of its obligations hereunder and the completion of the Arrangement do not and will not (nor will they with the giving of notice or the lapse of time or both):
- (i) result in a contravention, breach, violation or default under any Law applicable to it or any of the Purchaser Properties or assets;
  - (ii) result in a contravention, conflict, violation, breach or default under its constating documents;
  - (iii) result in a contravention, breach or default under or termination of, or acceleration or permit the acceleration of the performance required by, or loss of any benefit under, or require any approval under, any Material Contract to which it is a party or by which it is bound or to which the Purchaser Properties or any of its material assets is subject or give to any person any interest, benefit or right, including any right of purchase, termination, payment, modification, reimbursement, cancellation or acceleration, under any such contracts or permits; or
  - (iv) result in the creation of any Lien upon any of the Purchaser Properties or material assets.
- (e) **Capitalization.** The authorized capital of the Purchaser consists of an unlimited number of Purchaser Shares. As at July 23, 2021, there were (i) 256,116,455 Purchaser Shares issued and outstanding all of which have been duly authorized and validly issued and are fully paid and non-assessable, (ii) outstanding options under the Purchaser Option Plan providing for the issuance of up to 15,755,000 Purchaser Shares upon the exercise thereof, (iii) outstanding restricted stock units providing for the issuance of up to 780,000 Purchaser Shares upon the settlement thereof, and (iv) outstanding share purchase warrants providing for the issuance of up to 22,690,470 Purchaser Shares upon the exercise thereof. There is no outstanding contractual obligation of the Purchaser to repurchase, redeem or otherwise acquire any Purchaser Shares or any convertible securities issued by the Purchaser. All Consideration Shares will, when issued in accordance with the terms of this Agreement and the Plan of Arrangement be duly authorized, validly issued, fully-paid and non-assessable Purchaser Shares. Except as disclosed in the preceding sentences of this paragraph, the Purchaser has no other outstanding agreement, subscription, warrant, option, right or commitment (nor has it granted any right or privilege capable of becoming an agreement, subscription, warrant, option, right or commitment) obligating the Purchaser or any of its Subsidiaries to issue or sell any Purchaser Shares or other securities,

including any security or obligation of any kind convertible into or exchangeable or exercisable for any Purchaser Shares, other securities of the Purchaser or securities of any of the Purchaser's Subsidiaries. The Purchaser Shares are listed on the TSX and, except for such listing, no securities of the Purchaser are listed or quoted for trading on any other stock or securities exchange or market or registered under any securities Laws.

- (f) **Reporting Issuer Status and Securities Laws Matters.** The Purchaser is a "reporting issuer" within the meaning of applicable Securities Laws in the provinces of British Columbia, Alberta and Ontario, and not on the list of reporting issuers in default under applicable Securities Laws, and no securities commission or similar regulatory authority has issued any order preventing or suspending trading of any securities of the Purchaser, and the Purchaser is not in default of any material provision of applicable Securities Laws. Trading in the Purchaser Shares on the TSX is not currently halted or suspended. No delisting, suspension of trading or cease trading order with respect to any securities of the Purchaser is pending or, to the knowledge of the Purchaser, threatened. To the knowledge of the Purchaser, no inquiry, review or investigation (formal or informal) of the Purchaser by any securities commission or similar regulatory authority under applicable Securities Laws or the TSX is in effect or ongoing or expected to be implemented or undertaken. None of the Purchaser's Subsidiaries are subject to any continuous or periodic, or other disclosure requirements under any securities laws in any jurisdiction. The Purchaser is not subject to continuous disclosure or other public reporting requirements under any Securities Laws or, to the knowledge of the Purchaser, any securities Laws, including, without limitation, the securities laws of the United States. The Purchaser has filed all documents required to be filed by it in accordance with applicable Securities Laws and the rules and policies of the TSX. The documents and information comprising the Purchaser Disclosure Record, as at the respective dates they were filed, were in compliance in all material respects with applicable Securities Laws and, where applicable, the rules and policies of the TSX and did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The Purchaser has not filed any confidential material change report that at the date hereof remains confidential.
- (g) **Financial Statements.** The Purchaser Financial Statements have been prepared in accordance with IFRS applied on a basis consistent with those of previous periods and in accordance with applicable Laws except (i) as otherwise stated in the notes to such statements or, in the case of the Purchaser Annual Financial Statements, in the auditor's report thereon and (ii) except that the Purchaser Interim Financial Statements are subject to normal period-end adjustments and may omit notes which are not required by applicable Securities Laws or IFRS. The Purchaser Financial Statements, together with the related management's discussion and analysis, present fairly, in all material respects, the assets, liabilities and financial condition of the Purchaser and its Subsidiary as at the respective dates thereof and the losses, comprehensive losses, results of operations, changes in shareholders' equity and cash flows of the Purchaser and its Subsidiary for the periods covered thereby (subject, in the case of the Purchaser Interim Financial Statements, to

normal period end adjustments). There are no outstanding loans made by the Purchaser to any director or officer of the Purchaser. The Purchaser does not intend to correct or restate, nor, to the knowledge of the Purchaser is there any basis for any correction or restatement of, any aspect of any of the Purchaser Financial Statements.

- (h) **Compliance with Laws.** The business of the Purchaser and its Subsidiary have been and are currently being conducted in compliance in all material respects with all applicable Laws. Without limiting the generality of the foregoing, all issued and outstanding Purchaser Shares and shares of the Purchaser's Subsidiary have been issued in compliance, in all material respects, with all applicable Securities Laws.
- (i) **Litigation.** There is no material Proceeding against or involving the Purchaser (whether in progress or, to the knowledge of the Purchaser, threatened) and, to the knowledge of the Purchaser, no event has occurred which might reasonably be expected to give rise to any such Proceeding. To the knowledge of the Purchaser, there is no material judgment, writ, decree, injunction, rule, award or order of any Governmental Authority outstanding against the Purchaser.
- (j) **Board Approval.** The board of directors of the Purchaser, at a meeting duly called and held, has approved the execution and delivery of this Agreement and the transactions contemplated by this Agreement.
- (k) **Residency.** The Purchaser is a "Canadian corporation" as defined in the Tax Act.

### **Section 3.3 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 the Parties contained in this Agreement will not survive the completion of the Arrangement and will 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. This Section 3.3 will not limit any covenant or agreement of any of the Parties, which, by its terms, contemplates performance after the Effective Time or the date on which this Agreement is terminated, as the case may be.

## **ARTICLE 4 COVENANTS**

### **Section 4.1 Covenants of the Company Regarding the Conduct of Business**

The Company covenants and agrees that, until the earlier of the Effective Time and the time that this Agreement is terminated in accordance with its terms, unless the Purchaser otherwise consents in writing, or expressly permitted or specifically contemplated by this Agreement or as is otherwise required by applicable Law:

- (a) the Company will (i) conduct its business only in the ordinary course of business, (ii), comply with the terms of all Material Contracts and (iii) use

commercially reasonable efforts to maintain and preserve intact its business organizations, assets, properties, rights, goodwill and business relationships consistent with past practice and keep available the services of the Company Employees and Company Consultants;

- (b) the Company will not directly or indirectly:
- (i) alter or amend the articles, charter, by-laws or other constating documents of the Company;
  - (ii) declare, set aside or pay any dividend on or make any distribution or payment or return of capital in respect of any equity securities of the Company;
  - (iii) reduce the stated capital or split, divide, consolidate, combine, reclassify, or undertake any capital reorganization of the Common Shares or any other securities of the Company;
  - (iv) issue, grant, sell or pledge or authorize or agree to issue, grant, sell or pledge any Common Shares, Options, Warrants or other securities of the Company, or other securities convertible into or exchangeable or exercisable for, or otherwise evidencing a right to acquire, Common Shares or other securities of the Company, other than the issuance of Common Shares issuable pursuant to: (A) the terms of Options and Warrants outstanding on the date hereof; or (B) the terms of existing Material Contracts;
  - (v) sell, pledge, lease, dispose of, mortgage, licence or encumber or agree to sell, pledge, lease dispose of, mortgage, licence or encumber or otherwise transfer any of the Properties;
  - (vi) redeem, purchase or otherwise acquire or subject to any Lien, any of its outstanding Common Shares or other securities of the Company or securities convertible into or exchangeable or exercisable for Common Shares or any such other securities;
  - (vii) amend the terms of any securities of the Company;
  - (viii) adopt a plan of liquidation or resolution providing for the liquidation or dissolution of the Company;
  - (ix) reorganize, amalgamate or merge with any other person;
  - (x) create any subsidiary or enter into any Contracts or other arrangements regarding the control or management of the operations of the Company, or the appointment of governing bodies or enter into any Joint Ventures;
  - (xi) enter into any interest rate, currency, equity or commodity swaps, hedges, derivatives, forward sales contracts, off-take, royalty or similar financial instruments including any streaming transactions;

- (xii) make any material changes to any of its accounting policies, principles, methods, practices or procedures (including by adopting any material new accounting policies, principles, methods, practices or procedures), except as disclosed in the Public Disclosure Record, as required by applicable Laws or under IFRS;
  - (xiii) take, or fail to take, any action that is intended to, or would reasonably be expected to, individually or in the aggregate, prevent, materially delay or impede the ability of the Company to consummate the Arrangement; or
  - (xiv) enter into, modify or terminate any Contract with respect to any of the foregoing;
- (c) the Company will immediately notify the Purchaser orally and then promptly notify the Purchaser in writing of (i) any “material change” (as defined in the Securities Act) in relation to the Company, (ii) any event, circumstance or development that, to the knowledge of the Company, has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (iii) any breach of this Agreement by the Company, (iv) any event occurring after the date of this Agreement that would render a representation or warranty, if made on that date or the Effective Date, inaccurate such that any of the conditions in Section 7.3(b) would not be satisfied, or (v) result in the Company’s failure in any material respect to comply with or satisfy any covenant, condition or agreement (without giving effect to, applying or taking into consideration any qualification already contained in such covenant, condition or agreement) to be complied with or satisfied prior to the Effective Time;
- (d) the Company will not, directly or indirectly, except in connection with this Agreement:
- (i) sell, pledge, lease, licence, dispose of or encumber any assets or properties of the Company or interests in any assets or properties of the Company;
  - (ii) acquire or agree to acquire (by merger, amalgamation, consolidation, arrangement or acquisition of shares or other equity securities or interests or assets or otherwise) any corporation, partnership, association or other business organization or division thereof or any property or asset, or make any investment by the purchase of securities, contribution of capital, property transfer, or purchase of any property or assets of any other person;
  - (iii) incur any expenses or incur, create or assume or otherwise become liable for any indebtedness (including the making of any payments in respect thereof, including any premiums or penalties thereon or fees in respect thereof) or issue any debt securities, or assume, guarantee, endorse or otherwise as an accommodation become responsible for the obligations of any other person, or make any loans or advances;

- (iv) pay, discharge, waive, compromise, assign, release or satisfy any claim, liability or obligation prior to the same being due, other than the payment, discharge or satisfaction, in the ordinary course of business, of liabilities reflected or reserved against in the Interim Financial Statements, or voluntarily waive, release, assign, settle or compromise any Proceeding;
  - (v) engage in any new business, enterprise or other activity that is inconsistent with the existing business of the Company in the manner such existing business generally has been carried on or (as disclosed in the Public Disclosure Record) planned or proposed to be carried on prior to the date of this Agreement;
  - (vi) in respect of any property and assets reflected in the balance sheet forming part of the Public Disclosure Record, expend or commit to expend any amounts with respect to expenses for such property and assets; or
  - (vii) authorize any of the foregoing, or enter into or modify any Contract to do any of the foregoing;
- (e) the Company will not, directly or indirectly, except in the ordinary course of business:
- (i) terminate, fail to renew, cancel, waive, release, grant or transfer any rights of material value;
  - (ii) incur any business expenses other than as provided for in Section 4.1(e) of the Company Disclosure Letter;
  - (iii) except in connection with matters otherwise permitted under this Section 4.1, enter into any Contract which would be a Material Contract if in existence on the date hereof, or terminate, cancel, extend, renew or amend, modify or change any Material Contract;
  - (iv) enter into any lease or sublease of real property (whether as a lessor, sublessor, lessee or sublessee), or modify, amend, terminate or exercise any right to renew any lease or sublease of real property or acquire any interest in real property;
  - (v) waive, release, grant, transfer, exercise, or modify or amend in any material respect, any existing contractual rights in respect of any of the Properties; or
  - (vi) enter into any Contract containing any provision restricting or triggered by the transactions contemplated herein;
- (f) the Company will not, except in the ordinary course of business or pursuant to any existing written Contracts in effect on the date hereof, correct and complete copies of which have been provided to the Purchaser, and except as is necessary to comply with applicable Laws:

- (i) amend the compensation in any form of any director of the Company, Company Employee or Company Consultant;
  - (ii) grant any general salary increase or fee, or pay any bonus profit sharing distribution or similar payment of any kind to any director of the Company, Company Employee or Company Consultant other than the payment of salaries, fees and benefits in the ordinary course of business as disclosed in Section 4.1(f)(ii) of the Company Disclosure Letter;
  - (iii) take any action with respect to the grant or increase of any severance, change of control, retirement, retention or termination pay to (or amend any existing arrangement with) any director of the Company, Company Employee or Company Consultant;
  - (iv) enter into or modify any employment or consulting agreement with any director of the Company, Company Employee or Company Consultant;
  - (v) terminate the employment or consulting arrangement of any senior management employees (including the Company Management) (as determined under applicable Law);
  - (vi) amend any benefits payable under the Company current severance or termination pay policies;
  - (vii) adopt or amend or make any contribution to or any award under the Stock Option Plan, or other bonus, profit sharing, option, pension, retirement, deferred compensation, insurance, incentive compensation, compensation, Employee Plan or other similar plan, agreement, trust, fund or arrangement; or
  - (viii) take any action to accelerate the time of payment of any compensation or benefits, amend or waive any performance or vesting criteria or accelerate vesting under the Stock Option Plan, except in accordance with its terms as contemplated herein;
- (g) the Company will not make any loan to any director of the Company, Company Employee or Company Consultant;
- (h) the Company will use its commercially reasonable efforts to cause the current insurance (or re-insurance) policies maintained by the Company, including directors' and officers' insurance, not to be cancelled or terminated and to prevent any of the coverage thereunder from lapsing, unless at the time of such termination, cancellation or lapse, replacement policies underwritten by insurance or re-insurance companies of nationally recognized standing having comparable deductions and providing coverage comparable to or greater than the coverage under the cancelled, terminated or lapsed policies for substantially similar premiums are in full force and effect, provided, however, that, except as contemplated by Section 4.7(2), the Company will not obtain or renew any insurance (or re-insurance) policy for a term exceeding 12 months;

- (i) the Company will use commercially reasonable efforts to retain the services of its existing Company Employees (including the Company Management) and Company Consultants until the Effective Time, and will promptly provide written notice to the Purchaser of the resignation or termination of any such Company Employees or Company Consultants;
- (j) the Company will not make an application to amend, terminate, allow to expire or lapse or otherwise modify any of its Permits or 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 Authority to institute proceedings for the suspension, revocation or limitation of rights under, any material Permit necessary to conduct its businesses as now being conducted;
- (k) the Company will (i) duly and timely file all Returns required to be filed by the Company on or after the date hereof and all such Returns will be true, complete and correct in all material respects and (ii) timely withhold, collect, remit and pay all Taxes which are to be withheld, collected, remitted or paid by the Company to the extent due and payable except for any Taxes contested in good faith pursuant to applicable Laws, and the Company will not (A) change its tax accounting methods, principles or practices, except insofar as may have been required by a change in IFRS or applicable Law, (B) settle, compromise or agree to the entry of judgment with respect to any action, claim or other Proceeding relating to Taxes, (other than the payment, discharge or satisfaction of liabilities reflected or reserved against in the Financial Statements) (C) enter into any tax sharing, tax allocation or tax indemnification agreement, (D) make a request for a tax ruling to any Governmental Authority, (E) agree to any extension or waiver of the limitation period relating to any material Tax claim or assessment or reassessment or (F) make or rescind any material Tax election or designation, amend, in any manner adverse to the Company, any Tax Return, or take any action with respect to the computation of Taxes or the preparation of Tax Returns that is in any material respect inconsistent with past practice;
- (l) the Company will not knowingly undertake or participate in any transaction or series of transactions (other than the implementation and fulfillment of the transactions contemplated in this Agreement and the Plan of Arrangement), and shall, to the extent known by it, promptly advise the Purchaser in advance and in writing of any proposed transaction or event or series of transactions or events, that would or could reasonably be expected to have the effect of materially reducing or eliminating the amount of the tax cost “bump” pursuant to paragraphs 88(1)(c) and (d) of the Tax Act otherwise available to the Purchaser or its successors or assigns in respect of non-depreciable capital property owned by the Company on the Effective Date;
- (m) the Company will not settle or compromise any action, claim or other Proceeding (“**Litigation**”) (i) brought against it for damages or providing for the grant of injunctive relief or other non-monetary remedy or (ii) brought by any present, former or purported holder of its securities in connection with the transactions contemplated by this Agreement or the Arrangement;

- (n) the Company will not commence any Litigation (other than litigation in connection with the collection of accounts receivable, to enforce the terms of this Agreement or the Confidentiality Agreement, to enforce other obligations of the Purchaser);
- (o) the Company will not enter into or renew any Contract (i) containing (A) any limitation or restriction on the ability of the Company or, following completion of the transactions contemplated hereby, the ability of the Purchaser or any of its affiliates, to engage in any type of activity or business, (B) any limitation or restriction on the manner in which, or the localities in which, all or any portion of the business of the Company following consummation of the transactions contemplated hereby, all or any portion of the business of the Purchaser or any of its affiliates, is or would be conducted or (C) any limit or restriction on the ability of the Company, following completion of the transactions contemplated hereby, the ability of the Purchaser or any of its affiliates, to solicit customers or employees, or (ii) that would reasonably be expected to prevent or significantly impede or materially delay the completion of the Arrangement;
- (p) the Company will not take any action which would render, or which reasonably may be expected to render, any representation or warranty made by the Company in this Agreement untrue or inaccurate in any material respect (disregarding for this purpose all materiality or Material Adverse Effect qualifications contained therein) at any time prior to the Effective Date if then made;
- (q) the Company shall not initiate any discussions, negotiations or filings with any Governmental Authority regarding any matter (including with respect to the Arrangement or the transactions contemplated by this Agreement or regarding the status of any of the Properties), without the prior consent of the Purchaser, such consent not to be unreasonably withheld, and further agrees to provide the Purchaser with immediate notice of any material communication (whether written or oral) from a Governmental Authority, including a copy of any written communication; and
- (r) as is applicable, the Company will not agree, announce, resolve, authorize or commit to do any of the foregoing.

#### **Section 4.2 Access to Information**

Subject to compliance with applicable Laws and the terms of any existing Contracts, each Party will afford to the other Party and its Representatives until the earlier of the Effective Time or the termination of this Agreement in accordance with its terms, reasonable access during normal business hours and upon reasonable notice, to such Party's businesses, properties, books and records and such other data and information as the other Party may reasonably request, as well as to its management personnel, subject however to such access not interfering with the ordinary conduct of the business of such Party. Subject to compliance with applicable Laws and such requests not materially interfering with the ordinary conduct of the business of the Company, the Company will also make available to the Purchaser and its Representatives information reasonably requested by the Purchaser for the purposes of preparing, considering and implementing integration and strategic plans for the combined businesses of the Company and the Purchaser and its affiliates following completion of the

Arrangement. Without limiting the generality of the provisions of the Confidentiality Agreement, each of the Parties acknowledges that all information provided to it under this Section 4.2, or otherwise pursuant to this Agreement or in connection with the transactions contemplated hereby, is subject to the Confidentiality Agreement, which will remain in full force and effect in accordance with its terms notwithstanding any other provision of this Agreement or any termination of this Agreement. If any provision of this Agreement otherwise conflicts or is inconsistent with any provision of the Confidentiality Agreement, the provisions of this Agreement will supersede those of the Confidentiality Agreement but only to the extent of the conflict or inconsistency and all other provisions of the Confidentiality Agreement will remain in full force and effect.

### **Section 4.3 Covenants of the Company Regarding the Arrangement**

- (1) Subject to the terms and conditions of this Agreement, the Company will perform all obligations required to be performed by the Company under this Agreement, cooperate with the Purchaser in connection therewith, and use commercially reasonable efforts to do such other acts and things as may be necessary or desirable in order to complete the Arrangement and the other transactions contemplated hereby, including (without limiting the obligations of the Company in Article 2):
  - (a) using its commercially reasonable efforts to obtain all necessary waivers, consents and approvals required to be obtained by the Company from other parties to any Material Contracts in order to complete the Arrangement;
  - (b) using its commercially reasonable best efforts to 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
  - (c) defending all lawsuits or other legal, regulatory or other Proceedings against the Company challenging or affecting this Agreement or the completion of the Arrangement.
- (2) In the event that the Purchaser concludes that it is necessary or desirable to proceed with another form of transaction (such as a formal take-over bid or amalgamation) whereby the Purchaser or its Affiliates would effectively acquire all of the Common Shares within approximately the same time periods and on economic terms and other terms and conditions (including tax treatment) and having consequences to the Company and its Shareholders which are equivalent to or better than those contemplated by this Agreement (an "**Alternative Transaction**"), the Company agrees to support the completion of such Alternative Transaction in the same manner as the Arrangement and shall otherwise fulfill its covenants contained in this Agreement in respect of such Alternative Transaction. In the event of any proposed Alternative Transaction, any reference in this Agreement to the Arrangement shall refer to the Alternative Transaction to the extent applicable, all terms, covenants, representations and warranties of this Agreement shall be and shall be deemed to have been made in the context of the Alternative Transaction and all references to time periods regarding the Arrangement, including the Effective Time, herein shall refer to the date of closing of the transactions contemplated by the Alternative Transaction (as such date may be extended from time to time).

#### **Section 4.4 Covenants of the Purchaser Regarding the Performance of Obligations**

Subject to the terms and conditions of this Agreement, the Purchaser will perform all obligations required to be performed by it under this Agreement, cooperate with the Company in connection therewith, and use commercially reasonable efforts to do such other acts and things as may be necessary or desirable in order to complete the Arrangement and other transactions contemplated hereby, including:

- (a) cooperating with the Company in connection with, and using its commercially reasonable efforts to assist the Company in obtaining the waivers, consents and approvals referred to in Section 4.3(1)(a), provided, however, that, notwithstanding anything to the contrary in this Agreement, in connection with obtaining any waiver, consent or approval from any person (other than a Governmental Authority) with respect to any transaction contemplated by this Agreement, the Purchaser will not be required to pay or commit to pay to such person whose waiver, consent or approval is being solicited any cash or other consideration, make any commitment or incur any liability or other obligation;
- (b) using its commercially reasonable efforts to effect all necessary registrations, filings and submissions of information required by Governmental Authorities from the Purchaser relating to the Arrangement required to be completed prior to the Effective Time;
- (c) using its commercially reasonable efforts to defend all lawsuits or other legal, regulatory or other Proceedings against or relating to the Purchaser challenging or affecting this Agreement or the completion of the Arrangement;
- (d) forthwith carrying out the terms of the Interim Order and Final Order to the extent applicable to it and taking all necessary actions to give effect to the transactions contemplated herein and the Plan of Arrangement; and
- (e) apply for and use commercially reasonable efforts to obtain conditional approval or equivalent of the listing and posting for trading on the TSX of the Consideration Shares, subject only to the satisfaction by the Purchaser of customary listing conditions of the TSX.

#### **Section 4.5 Mutual Covenants**

Each of the Parties covenants and agrees that, subject to the terms and conditions of this Agreement, until the earlier of the Effective Time and the time that this Agreement is terminated in accordance with its terms:

- (a) it will use commercially reasonable efforts to satisfy (or cause the satisfaction of) the conditions precedent to its obligations hereunder as set forth in Article 7 hereof to the extent the same is within its control and to take, or cause to be taken, all other action and to do, or cause to be done, all other things necessary and commercially reasonable to permit the completion of the Arrangement in accordance with its obligations under this Agreement, the Plan of Arrangement, Interim Order and applicable Laws and cooperate with the other Parties in connection therewith, including using its commercially reasonable efforts to (i) obtain all authorizations, consents and approvals required to be

obtained by it, (ii) effect or cause to be effected all necessary registrations, filings and submissions of information requested by Governmental Authorities required to be effected by it in connection with the Arrangement, (iii) oppose, lift or rescind any injunction or restraining order against it or other order or action against it seeking to stop, or otherwise adversely affecting its ability to make and complete, the Arrangement and (iv) cooperate with the other Parties in connection with the performance by it of its obligations hereunder;

- (b) it will use commercially reasonable efforts not to take or cause to be taken any action which is inconsistent with this Agreement or which would reasonably be expected to prevent or significantly impede or materially delay the completion of the Arrangement; and
- (c) it will use commercially reasonable efforts to execute and do all acts, further deeds, things and assurances as may be required in the reasonable opinion of the other Parties' legal counsel to permit the completion of the Arrangement.

#### **Section 4.6 Resignations**

The Company shall assist in effecting the resignations and releases of each director and officer of the Company to the extent requested by the Purchaser and as at the Effective Time and causing any such persons to be replaced by persons identified by the Purchaser as of the Effective Time.

#### **Section 4.7 Indemnification and Insurance**

- (1) The Parties agree that all rights to indemnification existing in favour of the present and former directors and officers of the Company (each such present or former director or officer of the Company being herein referred to as a "**D&O Indemnified Party**" and such persons collectively being referred to as the "**D&O Indemnified Parties**") as provided by contracts or agreements to which the Company is a party and in effect as of the date hereof, which are listed in the Company Disclosure Letter and copies of which have been provided to the Purchaser, and, as of the Effective Time, will survive and will continue in full force and effect and without modification, and the Company and any successor to the Company shall continue to honour such rights of indemnification and indemnify the D&O Indemnified Parties pursuant thereto, with respect to actions or omissions of the D&O Indemnified Parties occurring prior to the Effective Time, for six years following the Effective Date.
- (2) Prior to the Effective Time, notwithstanding any other provision hereof, the Company may purchase prepaid non-cancellable run-off directors' and officers' liability insurance, at a cost not exceeding 400% of the Company's current annual aggregate premium for directors' and officers' liability policies currently maintained by the Company, providing coverage for a period of six years from the Effective Date with respect to claims arising from or related to facts or events which occur on or prior to the Effective Date.

#### **Section 4.8 Public Communications**

The Parties shall cooperate in the preparation of presentations, if any, to the Shareholders regarding the Arrangement. A Party must not issue any press release or make

any other public statement or disclosure with respect to this Agreement or the Arrangement without the consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed), and the Company must not make any filing with any Governmental Authority (subject in each case to the Company's overriding obligations to make any disclosure or filing required by Laws) with respect to this Agreement or the Arrangement without the consent of the Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed); provided that any Party that, in the opinion of its outside legal counsel, is required to make disclosure by Law shall use its best efforts to give the other Party prior oral or written notice and a reasonable opportunity to review or comment on the disclosure or filing (other than with respect to confidential information contained in such disclosure or filing). The Party making such disclosure shall give reasonable consideration to any comments made by the other Party and their counsel, and if such prior notice is not possible, shall give such notice immediately following the making of such disclosure or filing. For greater certainty, the foregoing shall not prevent either Party from making internal announcements to employees and having discussions with Shareholders and financial analysts and other stakeholders so long as such statements and announcements are consistent with the most recent press releases, public disclosures or public statements made by the Parties.

## **ARTICLE 5 ADDITIONAL AGREEMENTS**

### **Section 5.1 Non-Solicitation**

- (1) Except as expressly provided in this Article 5, the Company shall not, directly or indirectly, through any of its Representatives or otherwise, and shall not permit any such person to:
  - (a) solicit, assist, initiate, encourage or otherwise knowingly facilitate (including by way of furnishing or providing copies of, access to, or disclosure of, any confidential information, properties, facilities, books or records of the Company or entering into any form of agreement, arrangement or understanding) any inquiry, proposal or offer that constitutes or may reasonably be expected to constitute or lead to, an Acquisition Proposal;
  - (b) enter into or otherwise engage or participate in any discussions or negotiations with any person regarding any inquiry, proposal or offer that constitutes or may reasonably be expected to constitute or lead to, an Acquisition Proposal;
  - (c) withdraw, amend, modify or qualify, or publicly propose or state an intention to withdraw, amend, modify or qualify, the Board Recommendation;
  - (d) accept, approve, endorse or recommend, or publicly propose to accept, approve, endorse or recommend, or take no position or remain neutral with respect to, any Acquisition Proposal (it being understood that publicly taking no position or a neutral position with respect to a publicly announced, or otherwise publicly disclosed, Acquisition Proposal for a period of no more than five (5) Business Days following such public announcement or public disclosure will not be considered to be in violation of this Section 5.1 (or in the event that the Company Meeting is scheduled to occur within such five (5)

Business Day period, prior to the third (3<sup>rd</sup>) Business Day prior to the date of the Company Meeting)); or

- (e) accept or enter into (other than an Acceptable Confidentiality Agreement permitted by and in accordance with Section 5.3) or publicly propose to accept or enter into any agreement, understanding or arrangement in respect of an Acquisition Proposal.
- (2) The Company shall, and shall cause its Representatives to, immediately cease and terminate any solicitation, encouragement, discussion, negotiation, or other activities commenced prior to the date of this Agreement with any person (other than the Purchaser) with respect to any inquiry, proposal or offer that constitutes, or may reasonably be expected to constitute or lead to, an Acquisition Proposal, and in connection therewith, the Company will:
- (a) immediately discontinue access to and disclosure of all information regarding the Company, including any data room and any confidential information, properties, facilities, books and records of the Company; and
  - (b) to the extent that such information has not previously been returned, within three (3) Business Days from the date hereof request, and exercise all rights it has to require, (i) the return or destruction of all copies of any confidential information regarding the Company and (ii) the destruction of all material including or incorporating or otherwise reflecting such confidential information regarding the Company, in each case, using its commercially reasonable efforts to ensure that such requests are fully complied with in accordance with the terms of such rights or entitlements.
- (3) The Company represents and warrants that neither the Company nor any of its Representatives has waived any confidentiality, standstill or similar agreement or restriction in effect as of the date of this Agreement to which the Company is a Party, and further covenants and agrees (i) that the Company shall take all necessary action to enforce each confidentiality, standstill, non-disclosure, non-solicitation, use, business purpose or similar agreement or covenant to which the Company is a party, and (ii) not release any person from, or waive, amend, suspend or otherwise modify such person's obligations respecting the Company under any confidentiality, standstill, non-disclosure, non-solicitation, use, business purpose or similar agreement or covenant to which the Company is a party, without the prior written consent of the Purchaser (which may be withheld or delayed in the Purchaser's sole and absolute discretion) (it being acknowledged by the Purchaser that the automatic termination or release of any standstill restrictions of any such agreements as a result of entering into and announcing this Agreement shall not be a violation of this Section 5.1(3)).

## **Section 5.2 Notification of Acquisition Proposals**

If the Company or any of its Representatives receives or otherwise becomes aware of any inquiry, proposal or offer that constitutes or may reasonably be expected to constitute or lead to an Acquisition Proposal, or any request for copies of, access to, or disclosure of, confidential information relating to the Company in connection with an Acquisition Proposal, including but not limited to information, access, or disclosure relating to the properties, facilities, books or records of the Company, the Company shall promptly notify the Purchaser,

at first orally, and then as soon as practicable and in any event within twenty-four (24) hours in writing, of such Acquisition Proposal, inquiry, proposal, offer or request, including a description of its material terms and conditions, the identity of all persons making the Acquisition Proposal, inquiry, proposal, offer or request, and shall provide the Purchaser with copies of all documents, material or correspondence or other material received in respect of, from or on behalf of any such persons and such other details of such Acquisition Proposal, inquiry, proposal, offer or request as the Purchaser may reasonably request. The Company shall keep the Purchaser fully informed on a current basis of the status of developments and, to the extent permitted by Section 5.3, negotiations with respect to such Acquisition Proposal, inquiry, proposal, offer or request, including any changes, modifications or other amendments to any such Acquisition Proposal, inquiry, proposal, offer or request and shall provide to the Purchaser copies of all material or correspondence if in writing or electronic form, and if not in writing or electronic form, a description of the terms of such correspondence communicated to the Company by or on behalf of any person making any such Acquisition Proposal, inquiry, proposal, offer or request.

### **Section 5.3 Responding to an Acquisition Proposal**

- (1) Notwithstanding Section 5.1, if at any time prior to obtaining the Company Securityholder Approval, the Company receives an unsolicited written Acquisition Proposal, the Company may (i) contact the person making such Acquisition Proposal and its Representatives solely for the purpose of clarifying the terms and conditions of such Acquisition Proposal, and (ii) engage in or participate in discussions or negotiations with such person regarding such Acquisition Proposal, and may provide copies of, access to or disclosure of information, properties, facilities, books or records of the Company if and only if, in the case of this clause (ii):
  - (a) the Board first determines in good faith, after consultation with its financial advisors and its outside legal counsel, that such Acquisition Proposal constitutes or would reasonably be expected to constitute or lead to a Superior Proposal, and, after consultation with its outside counsel, that the failure to engage in such discussions or negotiations would be inconsistent with its fiduciary duties;
  - (b) such person was not restricted from making such Acquisition Proposal pursuant to an existing confidentiality, standstill, non-disclosure, use, business purpose or similar restriction with the Company;
  - (c) the Company has been, and continues to be, in compliance with its obligations under this Article 5;
  - (d) prior to providing any such copies, access, or disclosure, the Company enters into an Acceptable Confidentiality Agreement with such person, and any such copies, access or disclosure provided to such person shall have already been (or simultaneously be) provided to the Purchaser; and
  - (e) the Company promptly provides the Purchaser with:
    - (i) two (2) Business Days prior written notice stating the Company's intention to participate in such discussions or negotiations and to provide such copies, access or disclosure and that the Board has

determined, after consultation with its outside legal counsel, that failure to take such action would be inconsistent with its fiduciary duties;

- (ii) prior to providing any such copies, access or disclosure, the Company provides the Purchaser with a true, complete and final executed copy of the Acceptable Confidentiality Agreement referred to in Section 5.3(1)(d); and
- (iii) any non-public information concerning the Company provided to such other person which was not previously provided to the Purchaser.

#### **Section 5.4 Right to Match**

- (1) If the Company receives an Acquisition Proposal that constitutes a Superior Proposal prior to the approval of the Arrangement Resolution by the Securityholders, the Board may, subject to compliance with Article 6 and Section 5.6, enter into a definitive agreement with respect to such Superior Proposal, if and only if:
  - (a) the person making the Superior Proposal was not restricted from making such Superior Proposal pursuant to an existing confidentiality, standstill, non-disclosure, use, business purpose or similar restriction with the Company;
  - (b) the Company has been, and continues to be, in compliance with its obligations under this Article 5;
  - (c) the Company has delivered to the Purchaser a written notice of the determination of the Board that such Acquisition Proposal constitutes a Superior Proposal and of the intention of the Board to enter into such definitive agreement with respect to such Superior Proposal, together with a written notice from the Board regarding the value and financial terms that the Board, in consultation with its financial advisors, has determined should be ascribed to any non-cash consideration offered under such Superior Proposal (the “**Superior Proposal Notice**”);
  - (d) the Company has provided the Purchaser a copy of the proposed definitive agreement for the Superior Proposal and all supporting materials, including any financing documents supplied to the Company in connection therewith;
  - (e) at least five (5) Business Days (the “**Matching Period**”) have elapsed from the date that is the later of the date on which the Purchaser received the Superior Proposal Notice and the date on which the Purchaser received all of the materials set forth in Section 5.4(1)(d);
  - (f) during any Matching Period, the Purchaser has had the opportunity (but not the obligation), in accordance with Section 5.4(2), to offer to amend this Agreement and the Arrangement in order for such Acquisition Proposal to cease to be a Superior Proposal;
  - (g) after the Matching Period, the Board (i) has determined in good faith, after consultation with its outside legal counsel and financial advisors, that such Acquisition Proposal continues to constitute a Superior Proposal (if applicable,

compared to the terms of the Arrangement as proposed to be amended by the Purchaser under Section 5.4(2)) and (ii) has determined in good faith, after consultation with its outside legal counsel, that the failure by the Board to recommend that the Company enter into a definitive agreement with respect to such Superior Proposal would be inconsistent with its fiduciary duties; and

- (h) prior to or concurrently with entering into such definitive agreement the Company terminates this Agreement pursuant to Section 6.2(1)(c)(ii) and pays the Termination Fee pursuant to Section 5.6.
- (2) During the Matching Period, or such longer period as the Company may approve in writing for such purpose: (a) the Board shall review any offer made by the Purchaser under Section 5.4(1)(f) above to amend the terms of this Agreement and the Arrangement in good faith in order to determine whether such proposal would, upon acceptance, result in the Acquisition Proposal previously constituting a Superior Proposal ceasing to be a Superior Proposal; and (b) the Company shall, and shall cause its Representatives to, negotiate in good faith with the Purchaser to make such amendments to the terms of this Agreement and the Arrangement as would enable the Purchaser to proceed with the transactions contemplated by this Agreement on such amended terms. If the Board determines that such Acquisition Proposal would cease to be a Superior Proposal, the Company shall promptly so advise the Purchaser and the Company, and the Purchaser shall amend this Agreement to reflect such offer made by the Purchaser and shall take and cause to be taken all such actions as are necessary to give effect to the foregoing.
- (3) Each successive amendment or modification to any Acquisition Proposal that results in an increase in, or modification of, the consideration (or value of such consideration) to be received by the Shareholders or other material terms or conditions thereof shall constitute a new Acquisition Proposal for the purposes of this Section 5.4, and the Purchaser shall be afforded a new five (5) Business Day Matching Period from the later of the date on which the Purchaser received the Superior Proposal Notice and the date on which the Purchaser received all of the materials set forth in Section 5.4(1)(d) with respect to the new Superior Proposal from the Company.
- (4) The Board shall promptly reaffirm the Board Recommendation by press release after any Acquisition Proposal which the Board has determined not to be a Superior Proposal is publicly announced or publicly disclosed or the Board determines that a proposed amendment to the terms of this Agreement as contemplated under Section 5.4(2) would result in an Acquisition Proposal no longer being a Superior Proposal. The Company shall provide the Purchaser and its outside legal counsel with a reasonable opportunity to review the form and content of any such press release and shall make all reasonable amendments to such press release as requested by the Purchaser and its counsel.
- (5) If the Company provides a Superior Proposal Notice to the Purchaser on a date that is less than ten (10) Business Days before the Company Meeting, the Company shall either proceed with or postpone the Company Meeting, as directed by the Purchaser acting reasonably, to a date that is not more than ten (10) Business Days after the scheduled date of the Company Meeting, but in any event to a date that is not less than five (5) Business Days prior to the Outside Date.

- (6) Nothing contained in this Agreement shall prevent the Board from complying with Section 2.17 of Multilateral Instrument 62-104 – *Takeover Bids and Issuer Bids* and similar provisions under Securities Laws relating to the provision of a directors' circular in respect of an Acquisition Proposal that it determines is not a Superior Proposal, provided that the Purchaser and its legal counsel shall be provided 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 Purchaser and its counsel.

### **Section 5.5 Breach by Representatives**

Without limiting the generality of the foregoing, the Company shall advise its Representatives of the prohibitions set out in this Article 5 and any violation of the restrictions set forth in this Article 5 by the Company or its Representatives is deemed to be a breach of this Article 5 by the Company.

### **Section 5.6 Termination Fees**

- (1) Despite any other provision in this Agreement relating to the payment of fees and expenses, including the payment of brokerage fees, if a Termination Fee Event occurs, the Company shall pay the Purchaser the Termination Fee in accordance with Section 5.6(3) in consideration for the disposition by the Purchaser of its rights under this Agreement.
- (2) For the purposes of this Agreement, "**Termination Fee**" means \$100,000, and "**Termination Fee Event**" means the termination of this Agreement:
- (a) by the Purchaser, pursuant to Section 6.2(1)(d)(ii);
  - (b) by the Company, pursuant to Section 6.2(1)(c)(ii);
  - (c) pursuant to any Subsection of Section 6.2(1) if at such time the Purchaser is entitled to terminate this Agreement pursuant to Section 6.2(1)(d)(ii); or
  - (d) by the Company or the Purchaser pursuant to Section 6.2(1)(b)(i) or Section 6.2(1)(b)(iii), or by the Purchaser pursuant to Section 6.2(1)(d)(i) (due to a willful breach or fraud), if:
    - (i) prior to such termination, an Acquisition Proposal is made or publicly announced or otherwise publicly disclosed by any person (other than the Purchaser) or any person (other than the Purchaser) shall have publicly announced an intention to make an Acquisition Proposal; and
    - (ii) within 12 months following the date of such termination (A) an Acquisition Proposal (whether or not such Acquisition Proposal is the same Acquisition Proposal referred to in clause (i) above) is consummated or effected, or (B) the Company, directly or indirectly, in one or more transactions, enters into a contract, other than an Acceptable Confidentiality Agreement permitted by and in accordance with Section 5.3, in respect of an Acquisition Proposal (whether or not such Acquisition Proposal is the same Acquisition Proposal referred to in clause (i) above) and such Acquisition Proposal is later

consummated or effected (whether or not such Acquisition Proposal is later consummated or effected within 12 months after such termination).

For purposes of the foregoing, the term “**Acquisition Proposal**” shall have the meaning assigned to such term in Section 1.1, except that references to “20% or more” shall be deemed to be references to “50% or more”.

- (3) If a Termination Fee Event occurs due to a termination of this Agreement by the Company pursuant to Section 6.2(1)(c)(ii), the Termination Fee shall be paid prior to or simultaneously with the occurrence of such Termination Fee Event. If a Termination Fee Event occurs in the circumstances set out in Section 5.6(2)(a) or Section 5.6(2)(c), the Termination Fee shall be paid within two Business Days following such Termination Fee Event. If a Termination Fee Event occurs in the circumstances set out in Section 5.6(2)(d), the Termination Fee shall be paid on or prior to the consummation/closing of the Acquisition Proposal referred to therein. Any Termination Fee shall be paid by the Company to the Purchaser, by wire transfer in immediately available funds to an account designated by the Purchaser.
- (4) The Company acknowledges that the agreements contained in Section 5.6 are an integral part of the transactions contemplated by this Agreement, and that without these agreements the Purchaser would not enter into this Agreement, and that the amounts set out in this Section 5.6 represent liquidated damages which are a genuine pre-estimate of the damages, including opportunity costs, reputational damage, and out-of-pocket expenditures, which the Purchaser will suffer or incur as a result of the event giving rise to such damages and resultant termination of this Agreement, and are not penalties. The Company irrevocably waives any right it may have to raise as a defence that any such liquidated damages are excessive or punitive. For greater certainty, the Parties agree that the payment of the Termination Fee in full to the Purchaser pursuant to this Section 5.6 in the manner provided herein is the sole and exclusive remedy of the Purchaser in respect of the event giving rise to such payment, provided, however, that nothing contained in this Section 5.6, and no payment of any such amount, shall relieve or have the effect of relieving the Company in any way from liability for damages incurred or suffered by the Purchaser as a result of an intentional or wilful breach of this Agreement, including the intentional or wilful making of a Misrepresentation in this Agreement and nothing contained in this Section 5.6 shall preclude the Purchaser from seeking injunctive relief in accordance with Section 8.13 to restrain the breach or threatened breach of the covenants or agreements set forth in this Agreement or otherwise to obtain specific performance of any of such acts, covenants or agreements, without the necessity of posting a bond or security in connection therewith.

### **Section 5.7 Expenses and Expense Reimbursement**

- (1) Except as expressly otherwise provided in this Agreement including Section 5.7(2) all out-of-pocket third party transaction expenses incurred in connection with this Agreement and the Plan of Arrangement and the transactions contemplated hereunder and thereunder, including all costs, expenses and fees of the Company incurred prior to or after the Effective Time in connection with, or incidental to, the Plan of Arrangement, shall be paid by the Party incurring such expenses, whether or not the Arrangement is consummated.

- (2) In addition to the rights of the Purchaser under Section 5.6, if this Agreement is terminated by the Purchaser pursuant to Section 6.2(1)(d)(i) or either the Purchaser or the Company pursuant to Section 6.2(1)(b)(i), then the Company shall within two (2) Business Days of such termination, pay or cause to be paid to the Purchaser by wire transfer of immediately available funds to an account designated by the Purchaser, the amount that the Purchaser has advised the Company in writing, not later than the Business Day after the date of such termination, will reimburse the Purchaser for all expenses in connection with the Arrangement. In no event shall the Company be required to pay under Section 5.6, on the one hand, and this Section 5.7(2), on the other hand, in the aggregate, an amount in excess of the Termination Fee.
- (3) The Company confirms that other than the fees disclosed in the Company Disclosure Letter, no broker, finder or investment banker is or will be entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement.

## **ARTICLE 6 TERM AND TERMINATION**

### **Section 6.1 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.

### **Section 6.2 Termination**

- (1) This Agreement may be terminated prior to the Effective Time by;
  - (a) the mutual written agreement of the Parties; or
  - (b) either the Company or the Purchaser if:
    - (i) the Arrangement Resolution is not approved by the Securityholders at the Company Meeting in accordance with the Interim Order provided that a Party may not terminate this Agreement pursuant to this Section 6.2(1)(b)(i) if the failure to obtain the approval of the Securityholders has been caused by, or is a result of, a breach by such Party of any of its representations or warranties or the failure of such Party to perform any of its covenants or agreements under this Agreement;
    - (ii) after the date of this Agreement, any Law is enacted, made, enforced or amended, as applicable, that makes the consummation of the Arrangement illegal or otherwise permanently prohibits or enjoins the Company or the Purchaser from consummating the Arrangement, and such Law has, if applicable, become final and non-appealable, provided the Party seeking to terminate this Agreement pursuant to this Section 6.2(1)(b)(ii) has used its commercially reasonable efforts to, as applicable, appeal or overturn such Law or otherwise have it lifted or rendered non-applicable in respect of the Arrangement; or

- (iii) the Effective Time does not occur on or prior to the Outside Date, provided that a Party may not terminate this Agreement pursuant to this Section 6.2(1)(b)(iii) if the failure of the Effective Time to so occur has been caused by, or is a result of, a breach by such Party of any of its representations or warranties or the failure of such Party to perform any of its covenants or agreements under this Agreement.
- (c) the Company if:
  - (i) a breach of any representation or warranty or failure to perform any covenant or agreement on the part of the Purchaser under this Agreement occurs that would cause any condition in Section 7.1 or Section 7.2 not to be satisfied, and such breach or failure is incapable of being cured on or prior to the Outside Date or is not cured in accordance with the terms of Section 6.4; provided that any wilful breach shall be deemed to be incurable and the Company is not then in breach of this Agreement so as to cause any condition in Section 7.1 or Section 7.3 not to be satisfied;
  - (ii) prior to the approval by the Securityholders of the Arrangement Resolution, the Board authorizes the Company to enter into a written agreement (other than an Acceptable Confidentiality Agreement permitted by and in accordance with Section 5.3) with respect to a Superior Proposal in accordance with Section 5.4, provided the Company is then in compliance with Article 5 and that prior to or concurrent with such termination the Company pays the Termination Fee in accordance with Section 5.6; or
  - (iii) there has occurred a Purchaser Material Adverse Effect which is incapable of being cured on or prior to the Outside Date;
- (d) the Purchaser if:
  - (i) a breach of any representation or warranty or failure to perform any covenant or agreement on the part of the Company under this Agreement occurs that would cause any condition in Section 7.2 or Section 7.3 not to be satisfied, and such breach or failure is incapable of being cured on or prior to the Outside Date or is not cured in accordance with the terms of Section 6.4; provided that any wilful breach shall be deemed to be incurable and the Purchaser is not then in breach of this Agreement so as to cause any condition in Section 7.1 or Section 7.2 not to be satisfied;
  - (ii) (A) the Board or any committee of the Board fails to unanimously recommend or withdraws, amends, modifies or qualifies, or publicly proposes or states an intention to withdraw, amend, modify or qualify, the Board Recommendation, (B) the Board or any committee of the Board accepts, approves, endorses or recommends, or publicly proposes to accept, approve, endorse or recommend an Acquisition Proposal or takes no position or remains neutral with respect to a publicly announced, or otherwise publicly disclosed, Acquisition

Proposal for more than five (5) Business Days (or beyond the third Business Day prior to the date of the Company Meeting, if sooner)), (C) the Board or any committee of the Board accepts or enters into (other than an Acceptable Confidentiality Agreement permitted by and in accordance with Section 5.3) or publicly proposes to accept or enter into any agreement, understanding or arrangement in respect of an Acquisition Proposal, (D) the Board or any committee of the Board fails to publicly recommend or reaffirm the Board Recommendation within five (5) Business Days after having been requested in writing by the Purchaser to do so (or in the event that the Company Meeting is scheduled to occur within such five (5) Business Day period, prior to the Business Day prior to the date of the Company Meeting), or (E) the Company breaches Article 5 in any material respect; or

- (iii) there has occurred a Material Adverse Effect which is incapable of being cured on or prior to the Outside Date.
- (2) The Party desiring to terminate this Agreement pursuant to this Section 6.2 (other than pursuant to Section 6.2(1)(a)) 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.

### **Section 6.3 Effect of Termination/Survival**

If this Agreement is terminated pursuant to Section 6.1 or Section 6.2, this Agreement shall become void and 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 to this Agreement, except that: (a) in the event of termination under Section 6.1 as a result of the Effective Time occurring Section 4.7 shall survive for a period of six (6) years following such termination and this Section 6.3 shall survive, and (b) in the event of termination under Section 6.2, this Section 6.3, Section 5.6, Section 5.7 above and Article 8 (other than Section 8.7) shall survive, and provided further that no Party shall be relieved of any liability for any willful breach by it of this Agreement.

### **Section 6.4 Notice and Cure Provisions**

If any Party determines at any time prior to the Effective Time that it intends to refuse to complete the transactions contemplated hereby because of any unfilled or unperformed condition contained in this Agreement, such Party will so notify the other Party forthwith upon making such determination in order that the other Party will have the right and opportunity to take such steps, at its own expense, as may be necessary for the purpose of fulfilling or performing such condition within a reasonable period of time, but in no event later than the Outside Date. Neither the Company nor the Purchaser may elect not to complete the transactions contemplated hereby pursuant to the conditions precedent contained in Article 7 hereof or exercise any termination right arising therefrom and no payments will be payable as a result of such election pursuant to Article 7 unless forthwith and in any event prior to the Outside Date the Party intending to rely thereon has given a written notice to the other Party specifying in reasonable detail all breaches of covenants, representations and warranties or other matters which the Party giving such notice is asserting as the basis for the non-fulfillment of the applicable condition precedent or the exercise of the termination right, as the case may be. If any such notice is given, provided that the other Party is proceeding diligently to cure

such matter, if such matter is susceptible to being cured, the Party giving such notice may not terminate this Agreement as a result thereof until the earlier of the Outside Date and the expiration of a period of fifteen (15) Business Days from such notice. If such notice has been given prior to the date of the Company Meeting, such meeting, unless the Parties otherwise agree, will be postponed or adjourned until the expiry of such period (without causing any breach of any other provision contained herein).

## **ARTICLE 7 CONDITIONS PRECEDENT**

### **Section 7.1 Mutual Conditions Precedent**

The respective obligations of the Parties to complete the Arrangement are subject to the satisfaction, or mutual waiver by the Parties, on or before the Effective Date, of each of the following conditions, each of which are for the mutual benefit of the Parties and which may be waived, in whole or in part, by the Purchaser and the Company at any time:

- (a) the Arrangement Resolution will have been approved by the Shareholders at the Company Meeting in accordance with the Interim Order and applicable Laws;
- (b) each of the Interim Order and Final Order will have been obtained in form and substance satisfactory to each of the Company and the Purchaser, each acting reasonably, and will not have been set aside or modified in any manner unacceptable to either the Company or the Purchaser, each acting reasonably, on appeal or otherwise;
- (c) the necessary conditional approvals of the TSX and the TSXV, as applicable, will have been obtained;
- (d) no Law will have been enacted, issued, promulgated, enforced, made, entered, issued or applied and no Proceeding will otherwise have been taken under any Laws or by any Governmental Authority (whether temporary, preliminary or permanent) that makes the Arrangement illegal or otherwise directly or indirectly cease trades, enjoins, restrains or otherwise prohibits completion of the Arrangement;
- (e) the Consideration Shares and other securities to be 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, provided, however, that the Company shall be not entitled to the benefit of the conditions in this Section 7.1(e) and shall be deemed to have waived such condition in the event that the Company fails to advise the Court prior to hearing in respect of the Interim Order that the Purchaser intends to rely on the exemption from registration afforded by Section 3(a)(10) of the U.S. Securities Act based on the Court's approval of the Arrangement and comply with the requirements set forth in Section 2.10 and the Final Order shall reflect such reliance; and
- (f) this Agreement shall not have been terminated in accordance with its terms.

## **Section 7.2 Additional Conditions Precedent to the Obligations of the Company**

The obligation of the Company to complete the Arrangement will be subject to the satisfaction, or waiver by the Company, on or before the Effective Date, of each of the following conditions, each of which is for the exclusive benefit of the Company and which may be waived by the Company at any time, in whole or in part, in its sole discretion and without prejudice to any other rights that the Company may have:

- (a) the Purchaser will have complied in all material respects with its obligations, covenants and agreements in this Agreement to be performed and complied with on or before the Effective Date;
- (b) the representations and warranties of the Purchaser in Section 3.2 will be true and correct (disregarding for this purpose all materiality or Purchaser Material Adverse Effect qualifications contained therein) as of the Effective Date as if made on and as of such date (except for such representations and warranties which refer to or are made as of another specified date, in which case such representations and warranties will have been true and correct as of that date) except for breaches of representations and warranties which have not had and would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect or prevent or significantly impede or materially delay the completion of the Arrangement;
- (c) there shall not have occurred a Purchaser Material Adverse Effect;
- (d) the Purchaser will have complied with its obligations under Section 2.9 and the Depositary shall have confirmed receipt of the Consideration Shares; and
- (e) the Company will have received a certificate of the Purchaser signed by a senior officer of the Purchaser and dated the Effective Date certifying that the conditions set out in Section 7.2(a), Section 7.2(b) and Section 7.2(c) have been satisfied, which certificate will cease to have any force and effect after the Effective Time.

## **Section 7.3 Additional Conditions Precedent to the Obligations of the Purchaser**

The obligation of the Purchaser to complete the Arrangement will be subject to the satisfaction, or waiver by the Purchaser, on or before the Effective Date, of each of the following conditions, each of which is for the exclusive benefit of the Purchaser and which may be waived by the Purchaser at any time, in whole or in part, in its sole discretion and without prejudice to any other rights that the Purchaser may have:

- (a) the Company will have complied in all material respects with its obligations, covenants and agreements in this Agreement to be performed and complied with on or before the Effective Date;
- (b) the representations and warranties of the Company in Section 3.1 will be true and correct (disregarding for this purpose all materiality or Material Adverse Effect qualifications contained therein) at and as of the date hereof and the Effective Date as if made on and as of such date (except for such representations and warranties which refer to or are made as of another

specified date, in which case such representations and warranties will have been true and correct as of that date) except for breaches of representations and warranties (other than those contained in Section 3.1(a), Section 3.1(b), Section 3.1(e) and Section 3.1(f)) which have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or prevent or significantly impede or materially delay the completion of the Arrangement, it being understood that it is a separate condition precedent to the obligations of the Purchaser hereunder that the representations and warranties made by the Company in Section 3.1(a), Section 3.1(b), Section 3.1(e) and Section 3.1(f)) must be accurate in all respects when made and as of the Effective Date;

- (c) there shall not have occurred a Material Adverse Effect;
- (d) the Purchaser will have received a certificate of the Company signed by a senior officer of the Company and dated the Effective Date certifying that the conditions set out in Section 7.3(a), Section 7.3(b), Section 7.3(c) and Section 7.3(e) have been satisfied, which certificate will cease to have any force and effect after the Effective Time;
- (e) Shareholders will not have exercised Dissent Rights, or have instituted proceedings to exercise Dissent Rights, in connection with the Arrangement (other than Shareholders representing not more than 5% of the Common Shares then outstanding);
- (f) there shall not be pending or threatened in writing any Proceeding by any Governmental Authority or any other person that is reasonably likely to result in any:
  - (i) prohibition or restriction on the acquisition by the Purchaser or any of its Subsidiaries of any Common Shares or the completion of the Arrangement or any person obtaining from any of the Parties any material damages directly in connection with the Arrangement;
  - (ii) prohibition or material limit on the ownership by the Purchaser (or any of its Subsidiaries) of the Company, any of its Subsidiaries or any material portion of its or their respective assets or businesses; or
  - (iii) imposition of limitations on the ability of the Purchaser or any of its Subsidiaries to acquire or hold, or exercise full rights of ownership of, any Common Shares, including the right to vote such Common Shares;
- (g) the Purchaser shall have received a favourable title opinion dated as of the Closing Date in respect of the Properties;
- (h) the Purchaser shall have: (A) issued that number of Common Shares equal to fifty percent (50%) of the Primarius Debt divided by \$0.095; and (B) made a cash payment equal to fifty percent (50%) of the Primarius Debt, in full satisfaction of the Primarius Debt; and

- (i) the Purchaser shall have: (A) issued that number of Common Shares equal to fifty percent (50%) of the Finder's Fee divided by \$0.095; and (B) made a cash payment equal to fifty percent (50%) the Finder's Fee, in full satisfaction of the Finder's Fee.

## **ARTICLE 8 GENERAL**

### **Section 8.1 Notices**

Any demand, notice or other communication to be given in connection with this Agreement must be given in writing and will be given by electronic mail addressed to the recipient as follows:

- (a) if to the Purchaser as follows:

Talisker Resources Ltd.  
350 Bay Street, Suite 400  
Toronto, ON M5H 2S6

Attention: Terry Harbort, President and Chief Executive Officer  
Email: terry.harbort@taliskerresources.com

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

Cassels Brock & Blackwell LLP  
Suite 2100, Scotia Plaza  
40 King Street West  
Toronto, Ontario M5H 3C2

Attention: Jay Goldman and Lindsay Clements  
Email: jgoldman@cassels.com and lclements@cassels.com

- (b) if to the Company:

New Carolin Gold Corp.  
250 Howe Street, 20<sup>th</sup> Floor  
Vancouver, BC  
V6C 3R8

Attention: Kenneth Holmes, President and Chief Executive Officer  
Email: ceo@newcarolingold.com

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

Dentons  
250 Howe Street, 20<sup>th</sup> Floor  
Vancouver, BC  
V6C 3R8

Attention: Eric Lung  
Email: eric.lung@dentons.com

or to such other street address, individual or electronic communication number or address as may be designated by notice given by either Party to the other. Any demand, notice or other communication given by electronic mail will be conclusively deemed to have been given on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day.

## **Section 8.2 Assignment**

Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by any Party without the prior written consent of the other Party, provided that the Purchaser may assign all or part of its rights under this Agreement to, and its obligations under this Agreement may be assumed by, any of its affiliates, provided that if such assignment and/or assumption takes place, the Purchaser shall continue to be liable joint and severally with such affiliates, as the case may be, for all of its obligations hereunder.

## **Section 8.3 Benefit of Agreement**

This Agreement will enure to the benefit of and be binding upon the respective successors (including any successor by reason of amalgamation or statutory arrangement) and permitted assigns of the Parties.

## **Section 8.4 Time of Essence**

Time is of the essence of this Agreement.

## **Section 8.5 Governing Law; Attornment; Service of Process**

This Agreement shall be governed, including as to validity, interpretation and effect, by the laws of the Province of British Columbia and the laws of Canada applicable therein. Each of the Parties hereby irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of British Columbia in respect of all matters arising under and in relation to this Agreement or the Arrangement and waives, to the fullest extent possible, the defence of an inconvenient forum or any similar defence to the maintenance of proceedings in such courts.

## **Section 8.6 Entire Agreement**

This Agreement constitutes, together with the Confidentiality Agreement, the entire agreement between the Parties with respect to the subject matter thereof. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties with respect thereto except as expressly set forth in this Agreement and the Confidentiality Agreement. The Parties also acknowledge and agree that the Exclusivity Agreement was terminated upon the execution and delivery of this Agreement and is no longer of any force and effect.

## **Section 8.7 Amendment**

- (1) This Agreement may, at any time and from time to time before or after the holding of the Company Meeting, be amended by written agreement of the Parties without, subject to applicable Laws, further notice to or authorization on the part of the Securityholders, 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, term or provision contained herein or in any document delivered pursuant hereto; or
- (c) waive compliance with or modify any of the conditions precedent referred to in Article 7 or any of the covenants herein contained or waive or modify performance of any of the obligations of the Parties,

provided, however, that no such amendment may reduce or materially affect the consideration to be received by the Securityholders under the Arrangement without their approval at the Company Meeting or, following the Company Meeting, without their approval given in the same manner as required by applicable Laws for the approval of the Arrangement as may be required by the Court.

- (2) Notwithstanding the foregoing, the Plan of Arrangement may only be supplemented or amended in accordance with the provisions of this Agreement and the Plan of Arrangement.

### **Section 8.8 Waiver and Modifications**

Any Party may (a) waive, in whole or in part, any inaccuracy of, or consent to the modification of, any representation or warranty made to it hereunder or in any document to be delivered pursuant hereto, (b) extend the time for the performance of any of the obligations or acts of the other Parties (c) waive or consent to the modification of any of the covenants herein contained for its benefit or waive or consent to the modification of any of the obligations of the other Parties hereto or (d) waive the fulfillment of any condition to its own obligations contained herein. No waiver or consent to the modifications of any of the provisions of this Agreement will be effective or binding unless made in writing and signed by the Party or Parties purporting to give the same and, unless otherwise provided, will be limited to the specific breach or condition waived. The rights and remedies of the Parties hereunder are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by a Party of any right or remedy precludes or otherwise affects any further exercise of such right or remedy or the exercise of any other right or remedy to which that Party may be entitled. No waiver or partial waiver of any nature, in any one or more instances, will be deemed or construed a continued waiver of any condition or breach of any other term, representation or warranty in this Agreement.

### **Section 8.9 Third Party Beneficiaries**

- (1) Except as provided in Section 4.7 which, without limiting their terms, are intended as stipulations for the benefit of the third persons mentioned in such provisions (such third persons referred to in this Section 8.9 as the “**Covered Persons**”) and except for the rights of the Shareholders to receive the Consideration following the Effective Time pursuant to the Arrangement, the Parties intend that this Agreement will not benefit or create any right or cause of action in favour of any person, other than the Parties and that no person, other than the Parties, shall be entitled to rely on the provisions of this Agreement in any action, suit, proceeding, hearing or other forum.
- (2) Despite the foregoing, the Purchaser acknowledges to each of the Covered Persons their direct rights against it under Section 4.7 of this Agreement, which are intended

for the benefit of, and shall be enforceable by, each Covered Person, his or her heirs and his or her legal representatives, and for such purpose, the Company confirms that it is acting as trustee on their behalf, and agrees to enforce such provisions on their behalf.

#### **Section 8.10 Severability**

If any provision of this Agreement is determined by any court of competent jurisdiction to be illegal or unenforceable, that provision will be severed from this Agreement and the remaining provisions will continue in full force and effect so long as the economic or legal substance of the transactions contemplated herein is not affected in any material manner or would prevent or significantly impede or materially delay the completion of the Arrangement.

#### **Section 8.11 Mutual Interest**

Notwithstanding the fact that any part of this Agreement has been drafted or prepared by or on behalf of one of the Parties, all Parties confirm that they and their respective counsel have reviewed and negotiated this Agreement and that the Parties have adopted this Agreement as the joint agreement and understanding of the Parties, and the language used in this Agreement will be deemed to be the language chosen by the Parties to express their mutual intent, and the Parties waive the application of any Laws or rule or construction providing that ambiguities in any agreement or other document will be construed against the Party drafting such agreement or other document and agree that no rule of construction providing that a provision is to be interpreted in favour of the person who contracted the obligation and against the person who stipulated it will be applied against any Party.

#### **Section 8.12 Further Assurances**

Subject to the provisions of this Agreement, the Parties will, from time to time, do all acts and things and execute and deliver all such further documents and instruments, as the other Parties may, either before or after the Effective Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement and, in the event the Arrangement becomes effective, to document or evidence any of the transactions or events set out in the Plan of Arrangement.

#### **Section 8.13 Injunctive Relief**

The Parties 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. It is accordingly agreed that the Parties shall be entitled to injunctive and other equitable relief to prevent breaches or threatened breaches of this Agreement, and to enforce compliance with the terms of this Agreement without any requirement for the securing or posting of any bond in connection with the obtaining of any such injunctive or other equitable relief, this, subject to Section 5.6(4), being in addition to any other remedy to which the Parties may be entitled at law or in equity.

**Section 8.14 No Personal Liability**

- (1) No director, officer or employee of the Purchaser will have any personal liability to the Company under this Agreement or any other document delivered in connection with this Agreement or the Arrangement on behalf of the Purchaser.
- (2) No director, officer or employee of the Company will have any personal liability to the Purchaser under this Agreement or any other document delivered in connection with this Agreement or the Arrangement on behalf of the Company.

**Section 8.15 Counterparts**

This Agreement may be executed and delivered in any number of counterparts (including by facsimile or electronic transmission), each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument.

***[Remainder of page has been left intentionally blank]***

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

**TALISKER RESOURCES LTD.**

By: (Signed) "Terry Harbort"  
Terry Harbort  
President and Chief Executive Officer

**NEW CAROLIN GOLD CORP.**

By: (Signed) "Kenneth Holmes"  
Kenneth Holmes  
President and Chief Executive Officer

**Schedule "A"**  
**FORM OF PLAN OF ARRANGEMENT**

**PLAN OF ARRANGEMENT**  
**UNDER THE *BUSINESS CORPORATIONS ACT* (BRITISH COLUMBIA)**

**ARTICLE 1**  
**INTERPRETATION**

**Section 1.1 Definitions**

In this Plan of Arrangement, unless there is something in the subject matter or context inconsistent therewith, the following terms shall have the respective meanings set out below and grammatical variations of those terms shall have corresponding meanings:

**"Arrangement"** means the arrangement under the provisions of Section 288 of the BCBCA, on the terms and conditions set out in this Plan of Arrangement, subject to any amendments or variations thereto made in accordance with Section 8.7 of the Arrangement Agreement or Article 5 of this Plan of Arrangement or made at the direction of the Court in the Final Order with the prior written consent of the Company and the Purchaser, each acting reasonably;

**"Arrangement Agreement"** means the arrangement agreement made as of July 25, 2021 between the Company and the Purchaser, including the schedules thereto, as the same may be, amended, supplemented, restated or otherwise modified from time to time in accordance with its terms;

**"Arrangement Resolution"** means the special resolution approving this Plan of Arrangement to be considered at the Company Meeting;

**"BCBCA"** means the *Business Corporations Act* (British Columbia);

**"Business Day"** means a day other than a Saturday, a Sunday or any other day on which major banks are closed for business in Vancouver, British Columbia or Toronto, Ontario;

**"Common Shares"** means the common shares in the capital of the Company and includes, for greater certainty, any Common Shares issued upon the valid exercise of Options or Warrants;

**"Company"** means New Carolin Gold Corp., a corporation incorporated under the laws of the Province of British Columbia;

**"Company Meeting"** means the special meeting of the Securityholders, including any adjournment or postponement thereof in accordance with the terms of the Arrangement Agreement, to be called and held in accordance with the Interim Order for the purpose of, among other things, considering and, if thought advisable, approving the Arrangement Resolution;

**"Consideration"** means the consideration to be received pursuant to the Plan of Arrangement in respect of each Common Share that is issued and outstanding

immediately prior to the time at which Section 3.1(d) hereof occurs, consisting of 0.3196 of a Purchaser Share;

**“Court”** means the Supreme Court of British Columbia;

**“Depository”** means TSX Trust Company, or any other depository or trust company, bank or financial institution as the Purchaser may appoint to act as depository with the approval of the Company, acting reasonably;

**“Dissent Rights”** has the meaning ascribed thereto in Section 4.1;

**“Dissenting Shares”** means the Common Shares held by Dissenting Shareholders in respect of which such Dissenting Shareholders have given Notice of Dissent;

**“Dissenting Shareholder”** means a registered Shareholder who has duly and validly exercised the Dissent Rights in respect of the Arrangement Resolution in strict compliance with the Dissent Rights and who has not withdrawn or been deemed to have withdrawn such exercise of Dissent Rights, but only in respect of the Common Shares in respect of which Dissent Rights are validly exercised by such registered Shareholder;

**“Effective Date”** means the date designated by the Company and the Purchaser by notice in writing as the effective date of the Arrangement, after all of the conditions of the Arrangement Agreement and the Final Order have been satisfied or waived;

**“Effective Time”** means 12:01 a.m. (Vancouver time) or such other time as the Company and the Purchaser may agree upon in writing;

**“Exchange Ratio”** means 0.3196 of a Purchaser Share for each Common Share;

**“Final Order”** means the final order of the Court approving the Arrangement under Section 291 of the BCBCA, in form and substance acceptable to the Company and Purchaser, each acting reasonably, after a hearing upon the procedural and substantive fairness of the terms and conditions of the Arrangement, as such order may be affirmed, amended, modified, supplemented or varied by the Court (with the consent of the Company and the Purchaser, each acting reasonably) at any time prior to the Effective Date or, if appealed, as affirmed or amended (provided that any such amendment is acceptable to the Company and the Purchaser, each acting reasonably) on appeal unless such appeal is withdrawn, abandoned or denied;

**“Former Shareholders”** means the holders of Common Shares immediately prior to the time at which Section 3.1(d) hereof occurs;

**“Governmental Authority”** means any multinational, federal, provincial, territorial, state, regional, municipal, local or other government or governmental body and any division, agent, official, agency, commission, board or authority of any government, governmental body, quasi-governmental or private body (including the TSX, the TSXV or any stock exchange) exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing and any domestic, foreign or international judicial, quasi-judicial or administrative court, tribunal, commission, board, panel or arbitrator acting under the authority of any of the foregoing;

**“holder”**, when used with reference to any securities of the Company, means the holder of such securities shown from time to time in the central securities register maintained by or on behalf of the Company in respect of such securities;

**“Interim Order”** means the interim order of the Court to be issued following the application therefor contemplated by Section 2.2 of the Arrangement Agreement, 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 Purchaser Shares issued pursuant to the Arrangement, in form and substance acceptable to the Company and the Purchaser, each acting reasonably, providing for, among other things, the calling and holding of the Company Meeting, as such order may be affirmed, amended, modified, supplemented or varied by the Court with the consent of both the Company and the Purchaser, each acting reasonably;

**“Letter of Transmittal”** means the letter of transmittal to be sent to the Shareholders for use in connection with the Arrangement;

**“Liens”** means any mortgage, hypothec, prior claim, lease, sublease, easement, servitude, lien, pledge, assignment for security, security interest, option, right of first offer or first refusal or other charge or encumbrance of any kind;

**“Notice of Dissent”** means a notice of dissent duly and validly given by a registered Shareholder exercising Dissent Rights as contemplated in the Interim Order and as described in Article 4;

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

**“Options”** means the outstanding options to purchase Common Shares issued pursuant to the Stock Option Plan;

**“Optionholder”** means a holder of Options;

**“Plan of Arrangement”** means this plan of arrangement as amended, modified or supplemented from time to time in accordance with Article 6 or at the direction of the Court in the Final Order, with the consent of the Company and the Purchaser, each acting reasonably;

**“Purchaser”** means Talisker Resources Ltd.;

**“Purchaser Shares”** means common shares in the capital of the Purchaser;

**“Replacement Option”** has the meaning ascribed thereto in Section 3.1(c);

**“Replacement Option In-The-Money Amount”** in respect of a Replacement Option means the amount, if any, by which the total fair market value (determined immediately after the Effective Time) of the Purchaser Shares that a holder is entitled to acquire on

exercise of the Replacement Option at and from the Effective Time exceeds the aggregate exercise price to acquire such Purchaser Shares;

“**Shareholder**” means a holder of one or more Common Shares, (including, for greater certainty, the Common Shares issued pursuant to Section 3.1);

“**Stock Option Plan**” means the means the amended stock option plan of the Company, as re-approved by Shareholders on January 22, 2021;

“**Tax Act**” means the *Income Tax Act* (Canada) and the regulations promulgated thereunder, as amended;

“**TSX**” means the Toronto Stock Exchange;

“**TSXV**” means the TSX Venture Exchange;

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

“**Warrantholder**” means a holder of one or more Warrants; and

“**Warrants**” means the outstanding common share purchase warrants of the Company.

Any capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Arrangement Agreement. In addition, words and phrases used herein and defined in the BCBCA and not otherwise defined herein or in the Arrangement Agreement shall have the same meaning herein as in the BCBCA unless the context otherwise requires.

## **Section 1.2 Interpretation Not Affected by Headings, etc.**

The division of this Plan of Arrangement into Articles, Sections, paragraphs and other portions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof. Unless otherwise indicated, all references to an “Article”, “Section” or “paragraph” followed by a number and/or a letter refer to the specified Article, Section or paragraph of this Plan of Arrangement.

## **Section 1.3 Number**

In this Plan of Arrangement, unless the context otherwise requires, words used herein importing the singular include the plural and *vice versa*.

## **Section 1.4 Date of Any Action**

In the event that any date on which any action is required to be taken hereunder by any of the Parties is not a Business Day, such action shall be required to be taken on the next succeeding day which is a Business Day.

### **Section 1.5 Time**

Time shall be of the essence in every matter or action contemplated hereunder. All times expressed herein or in any letter of transmittal contemplated herein are local time (Vancouver, British Columbia) unless otherwise stipulated herein or therein.

### **Section 1.6 Currency**

Unless otherwise stated, all references in this Plan of Arrangement to sums of money are expressed in lawful money of Canada.

### **Section 1.7 Statutes.**

Any reference\* to a statute refers to such statute and all rules, resolutions and regulations made under it, as it or they may have been or may from time to time be amended or re-enacted, unless stated otherwise.

## **ARTICLE 2 EFFECT OF THE ARRANGEMENT**

### **Section 2.1 Arrangement Agreement**

This Plan of Arrangement is made pursuant to, is subject to the provisions of, and forms a part 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.

### **Section 2.2 Binding Effect**

This Plan of Arrangement and the Arrangement will become effective, and be binding upon the Purchaser, the Company, the Shareholders (including Dissenting Shareholders), the Optionholders, the Warrantholders, the register and transfer agent of the Company, the Depositary and all other Persons, at and after, the Effective Time on the Effective Date without any further act or formality required on the part of any Person.

## **ARTICLE 3 ARRANGEMENT**

### **Section 3.1 The Arrangement**

Commencing at the Effective Time on the Effective Date, each of the events set out below shall occur and be deemed to occur in the following sequence, in each case, unless stated otherwise, effective as at one minute intervals starting at the Effective Time, without any further authorization, act or formality of or by the Company, the Purchaser or any other person:

- (a) each of the Common Shares held by Dissenting Shareholders in respect of which Dissent Rights have been validly exercised shall be deemed to have been transferred without any further act or formality to the Company in consideration for a debt claim against the Company for the amount determined under Article 4, and:

- (i) such Dissenting Shareholders shall cease to be the holders of such Common Shares and to have any rights as holders of such Common Shares other than the right to be paid fair value by the Company (to the extent available with Company funds not directly or indirectly provided by Purchaser and its affiliates) for such Common Shares as set out in Section 4.1;
  - (ii) such Dissenting Shareholders' names shall be removed as the holders of such Common Shares from the register of Common Shares maintained by or on behalf of the Company; and
  - (iii) the Company shall be deemed to be the transferee of such Common Shares free and clear of all Liens, and shall be entered in the register of Common Shares maintained by or on behalf of the Company;
- (b) each outstanding Common Share (other than Common Shares held by any Dissenting Shareholders and the Purchaser) will, without further act or formality by or on behalf of a holder of Common Shares, be irrevocably assigned and transferred by the holder thereof to the Purchaser (free and clear of all Liens) in exchange for the Consideration, and
  - (i) the holders of such Common Shares shall cease to be the holders thereof and to have any rights as holders of such Common Shares other than the right to receive the Consideration from the Purchaser in accordance with this Plan of Arrangement;
  - (ii) such holders' names shall be removed from the register of the Common Shares maintained by or on behalf of the Company; and
  - (iii) the Purchaser shall be deemed to be the transferee and the legal and beneficial holder of such Common Shares (free and clear of all Liens) and shall be entered as the registered holder of such Common Shares in the register of the Common Shares maintained by or on behalf of the Company;
- (c) each Option outstanding immediately prior to the Effective Time, whether vested or unvested, shall be deemed to be vested to the fullest extent, and shall be exchanged for an option (a "**Replacement Option**") to purchase from the Purchaser the number of Purchaser Shares (rounded down to the nearest whole number) equal to: (A) the Exchange Ratio, multiplied by (B) the number of Common Shares subject to such Option immediately prior to the Effective Time, at an exercise price per Purchaser Share (rounded up to the nearest whole cent) equal to (M) the exercise price per Common Share otherwise subject to such Option immediately prior to the Effective Time, divided by (N) the Exchange Ratio, except that each Replacement Option held by any persons who are not continuing as officers, directors, employees or consultants of the Company or its affiliates shall continue to be outstanding until the date that is 30 days following the Effective Date. Except as set out above, all other terms and conditions of such Replacement Option, including the conditions to and manner of exercising, will be the same as the Option so exchanged, and shall be governed by the terms of the Stock Option Plan, and any document

evidencing an Option shall thereafter evidence and be deemed to evidence such Replacement Option. It is intended that the provisions of subsection 7(1.4) of the Tax Act apply to the exchange of an Option for a Replacement Option. Therefore, in the event that the Replacement Option In-The-Money Amount in respect of a Replacement Option exceeds the Option In-The-Money Amount in respect of the Option for which it is exchanged, the number of Purchaser Shares which may be acquired on exercise of the Replacement Option at and after the Effective Time will be adjusted accordingly with effect at and from the Effective Time to ensure that the Replacement Option In-The-Money Amount in respect of the Replacement Option does not exceed the Option In-The-Money Amount in respect of the Option

### **Section 3.2 Warrants**

In accordance with the terms of each of the Warrants, each Warrantholder shall be entitled to receive (and such holder shall accept) upon the exercise of such holder's Warrants, in lieu of Common Shares to which such holder was theretofore entitled upon such exercise, and for the same aggregate consideration payable therefor, the number of Purchaser Shares which the holder would have been entitled to receive as a result of the transactions contemplated by this Arrangement if, immediately prior to the Effective Date, such holder had been the registered holder of the number of Common Shares to which such holder would have been entitled if such holder had exercised such holder's Warrants immediately prior to the Effective Time on the Effective Date. Each Warrant shall continue to be governed by and be subject to the terms of the applicable warrant certificate, subject to any supplemental exercise documents issued by the Purchaser to holders of Warrants to facilitate the exercise of the Warrants and the payment of the corresponding portion of the exercise price with each them.

### **Section 3.3 Post Effective Time Procedures**

- (1) Following the receipt of the Final Order and prior to the Effective Date, the Purchaser shall deliver or arrange to be delivered to the Depositary certificates representing the Purchaser Shares required to be issued to Former Shareholders, in accordance with the provisions of Section 3.1(b) hereof, which certificates shall be held by the Depositary as agent and nominee for such Former Shareholders for distribution to such Former Shareholders (or, for greater certainty, to give effect to any withholding or remittance obligations in respect of taxes pursuant to Section 5.3 hereof) in accordance with the provisions of Article 5 hereof.
- (2) Subject to the provisions of Article 5 hereof, and upon return of a properly completed Letter of Transmittal by a registered Former Shareholder together with certificates representing Common Shares and such other documents as the Depositary may require, Former Shareholders shall be entitled to receive delivery of the certificates representing the Purchaser Shares to which they are entitled pursuant to Section 3.1 hereof.

### **Section 3.4 No Fractional Shares**

In no event shall any holder of Common Shares or Warrants be entitled to a fractional Purchaser Share. Where the aggregate number of Purchaser Shares to be issued to a person as consideration under or as a result of this Arrangement would result in a fraction of a Purchaser Share being issuable, the number of Purchaser Shares to be received by such

securityholder shall be rounded down to the nearest whole Purchaser Share and no person will be entitled to any compensation in respect of a fractional Purchaser Share.

### **Section 3.5 U.S. Securities Act Exemption**

Notwithstanding any provision herein to the contrary, the Purchaser and the Company agree that this Plan of Arrangement will be carried out with the intention that all Purchaser Shares issued to Former Shareholders and all Replacement Options issued to Optionholders on completion of this Plan of Arrangement will be issued by the Purchaser in reliance on the exemption from the registration requirements of the U.S. Securities Act as provided by Section 3(a)(10) thereof.

## **ARTICLE 4 DISSENT RIGHTS**

### **Section 4.1 Rights of Dissent**

Registered Shareholders may exercise dissent rights with respect to the Common Shares held by such holders (“**Dissent Rights**”) in connection with the Arrangement pursuant to and in the manner set forth in Section 291 of the BCBCA, as modified by the Interim Order and this Section 4.1, provided that the written notice setting forth the objection of such registered Shareholder to the Arrangement Resolution and exercise of Dissent Rights must be received by the Company no later than 5:00 p.m. (Vancouver time) on the Business Day that is two (2) Business Days before the Company Meeting (as it may be adjourned or postponed from time to time). Dissenting Shareholders who duly exercise their Dissent Rights shall be deemed to have transferred the Common Shares held by them and in respect of which Dissent Rights have been validly exercised to the Company free and clear of all Liens, as provided in Section 3.1(a) and if they:

- (a) ultimately are entitled to be paid fair value for such Common Shares: (i) shall be deemed not to have participated in the transactions in Article 3 (other than Section 3.1(a)); (ii) will be entitled to be paid the fair value of such Common Shares by the Company (to the extent available with Company funds not directly or indirectly provided by Purchaser and its affiliates), which fair value, notwithstanding anything to the contrary contained in the BCBCA, shall be determined as of the close of business on the day before the Arrangement Resolution was adopted; and (iii) 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 Common Shares; or
- (b) ultimately are not entitled, for any reason, to be paid fair value for such Common Shares, shall be deemed to have participated in the Arrangement on the same basis as a non-dissenting holder of Common Shares.

### **Section 4.2 Recognition of Dissenting Shareholders**

- (c) In no circumstances shall the Purchaser or the Company or any other Person be required to recognize a Person exercising Dissent Rights unless such Person is the registered holder of those Common Shares in respect of which such rights are sought to be exercised.

- (d) For greater certainty, in no case shall the Purchaser or the Company or any other Person be required to recognize Dissenting Shareholders as holders of Common Shares in respect of which Dissent Rights have been validly exercised after the completion of the transfer under Section 3.1(a), and the names of such Dissenting Shareholders shall be removed from the registers of holders of the Common Shares in respect of which Dissent Rights have been validly exercised at the same time as the event described in Section 3.1(a) occurs.

## **ARTICLE 5 CERTIFICATES AND PAYMENTS**

### **Section 5.1 Payment of Consideration**

- (1) As soon as practicable following the later of the Effective Date and the surrender to the Depository for cancellation of a certificate that immediately prior to the Effective Time represented outstanding Common Shares (other than Common Shares in respect of which Dissent Rights have been validly exercised and not withdrawn), together with a duly completed and executed Letter of Transmittal and such additional documents and instruments as the Depository may reasonably require, the Former Shareholders represented by such surrendered certificate shall be entitled to receive in exchange therefor, and the Depository shall deliver to such holder following the Effective Time on the Effective Date, or make available for pick up at its offices during normal business hours, a certificate representing the Purchaser Shares that such holder is entitled to receive in accordance with Section 3.1 hereof, less any amounts withheld, if any, pursuant to Section 5.3, and any certificate so surrendered shall forthwith be cancelled.
- (2) Until surrendered as contemplated by this Section 5.1, each certificate which immediately prior to the Effective Time on the Effective Date represented Common Shares (other than Common Shares in respect of which Dissent Rights have been validly exercised and not withdrawn) will be deemed after the Effective Time on the Effective Date to represent only the right to receive from the Depository upon such surrender a certificate representing the Purchaser Shares that the holder of such certificate is entitled to receive in accordance with Section 3.1 hereof, less any amounts withheld, if any, pursuant to Section 5.3. Any such certificate formerly representing Common Shares not duly surrendered on or before the sixth anniversary of the Effective Date shall cease to represent a claim by or interest of any former holder of Common Shares of any kind or nature against or in the Company or the Purchaser. On such date, all certificates representing the Common Shares shall be deemed to have been surrendered to the Company and consideration to which such former holder was entitled, together with any entitlements to dividends, distributions and interest thereon, shall be deemed to have been surrendered to the Company or any successor thereof for no consideration.
- (3) Any payment made by way of cheque by the Depository pursuant to this Plan of Arrangement that has not been deposited or has been returned to the Depository or that otherwise remains unclaimed, in each case, on or before the sixth anniversary of the Effective Date, and any right or claim to payment of consideration hereunder that remains outstanding on the sixth anniversary of the Effective Date, shall cease to represent a right or claim of any kind or nature and the right of the holder to receive

the consideration for the Common Shares, Options or Warrants, as applicable, pursuant to this Plan of Arrangement shall terminate and be deemed to be surrendered and forfeited to the Company or any successor thereof for no consideration.

- (4) Following the Effective Time, no holder of Common Shares, Options or Warrants, shall be entitled to receive any consideration or entitlement with respect to such Common Shares, Options or Warrants, other than any consideration or entitlement to which such holder is entitled to receive in accordance with Section 3.1, Section 3.2, this Section 5.1 and the other terms of this Plan of Arrangement, in each case subject to Section 5.3 hereof, and, for greater certainty, no such holder will be entitled to receive any interest, dividends, premium or other payment in connection therewith, other than any declared but unpaid dividends.

## **Section 5.2 Loss of Certificates**

In the event any certificate which immediately prior to the Effective Time represented any outstanding Common Shares which were exchanged or transferred in accordance with Section 3.1 has been lost, stolen or destroyed, upon the making of an affidavit of that fact by the former holder of such Common Shares, the Depositary will deliver to such person or make available for pick up at its offices in exchange for such lost, stolen or destroyed certificate, a certificate representing the Purchaser Shares which the former holder of such Common Shares is entitled to receive pursuant to Section 3.1 hereof in accordance with such holder's Letter of Transmittal. When authorizing such payment in relation to any lost, stolen or destroyed certificate, the former holder of such Common Shares will, as a condition precedent to the delivery of such Consideration, give a bond satisfactory to the Company, the Purchaser and the Depositary (each acting reasonably) in such sum as the Purchaser and the Depositary may direct or otherwise indemnify the Company and the Purchaser in a manner satisfactory to the Company and the Purchaser against any claim that may be made against the Company or the Purchaser with respect to the certificate alleged to have been lost, stolen or destroyed.

## **Section 5.3 Withholding Rights**

The Company, the Purchaser and the Depositary shall be entitled to deduct or withhold from any consideration or amount otherwise payable or deliverable to any Shareholder, Optionholder or Warrantholder under this Plan of Arrangement (including, without limitation, any amounts payable pursuant to Article 4 hereof), such amounts as the Company, the Purchaser or the Depositary, as the case may be, may reasonably determine is required to be deducted and withheld with respect to such payment under any provision of Laws in respect of Taxes. To the extent that amounts are so deducted or withheld, such deducted or withheld amounts shall be treated for all purposes hereof as having been paid to the Shareholder, Optionholder or Warrantholder, as applicable, in respect of which such deduction or withholding was made, provided that such deducted or withheld amounts are actually remitted to the appropriate Governmental Authority. To the extent that the amount so required to be deducted or withheld from any payment to a former Shareholder exceeds the cash component, if any, of the consideration otherwise payable to such Person, the Purchaser and the Depositary are hereby authorized to sell or otherwise dispose of such portion of the Purchaser Shares issuable to the holder as is necessary to provide sufficient funds to the Company, the Purchaser or the Depositary, as the case may be, to enable it to comply with such deduction or withholding requirement, and the Purchaser or the Depositary shall notify the holder thereof and remit the applicable portion of the net proceeds of such sale (after deduction of all fees, commissions or costs in respect of such sale) to the appropriate

Governmental Authority and shall remit to such holder any unapplied balance of the net proceeds of such sale. Any sale will be made at prevailing market prices and none of the Company, the Purchaser or the Depositary shall be under any obligation to obtain or indemnify any Securityholder in respect of a particular price for the Purchaser Shares so sold.

#### **Section 5.4 No Liens**

Any exchange or transfer of securities pursuant to this Plan of Arrangement shall be free and clear of any Liens or other claims of third parties of any kind.

#### **Section 5.5 Paramourncy**

From and after the Effective Time on the Effective Date: (a) this Plan of Arrangement shall take precedence and priority over any and all Common Shares, Options and Warrants issued or outstanding prior to the Effective Time on the Effective Date, (b) the rights and obligations of the Shareholders, the Optionholders and the Warranholders, the Company, the Purchaser, the Depositary and any transfer agent or other depositary therefor in relation thereto, shall be solely as provided for in this Plan of Arrangement, and (c) all actions, causes of action, claims or proceedings (actual or contingent and whether or not previously asserted) based on or in any way relating to any Common Shares, Options and Warrants shall be deemed to have been settled, compromised, released and determined without liability except as set forth in this Plan of Arrangement.

### **ARTICLE 6 AMENDMENTS**

#### **Section 6.1 Amendments to Plan of Arrangement**

- (1) The Parties 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 (i) be set out in writing, (ii) be approved by the Company and the Purchaser, each acting reasonably, (iii) filed with the Court and, if made following the Company Meeting, approved by the Court, and (iv) communicated to Shareholders, Optionholders and Warranholders if and as required by the Court.
- (2) Any amendment, modification or supplement to this Plan of Arrangement may be proposed by the Company or the Purchaser at any time prior to the Company Meeting (provided that the Company or the Purchaser, as applicable, shall have consented thereto) with or without any other prior notice or communication, and if so proposed and accepted by the persons voting at the Company Meeting (other than as may be required under the Interim Order), shall become part of this Plan of Arrangement for all purposes.
- (3) Any amendment, modification or supplement to this Plan of Arrangement that is approved or directed by the Court following the Company Meeting shall be effective only if (i) it is consented to in writing by each of the Company and the Purchaser (in each case, acting reasonably), and (ii) if required by the Court, it is consented to by some or all of the Shareholders voting in the manner directed by the Court.

- (4) Any amendment, modification or supplement to this Plan of Arrangement may be made following the Effective Date unilaterally by the Purchaser, provided that (a) it concerns a matter which, in the reasonable opinion of the Purchaser, is of an administrative nature required to better give effect to the implementation of this Plan of Arrangement and is not materially adverse to the financial or economic interest of any Former Shareholder or any former Optionholder or Warrantholder.

## **ARTICLE 7 FURTHER ASSURANCES**

### **Section 7.1 Further Assurances**

Notwithstanding that the transactions and events set out herein will occur and be deemed to occur in the order set out in this Plan of Arrangement without any further act or formality, each of the Company and the Purchaser will make, do and execute, or cause to be made, done and executed, any such further acts, deeds, agreements, transfers, assurances, instruments or documents as may reasonably be required by any of them in order to further document or evidence any of the transactions or events set out herein.

**Schedule “B”  
ARRANGEMENT RESOLUTION**

**RESOLUTION OF THE SECURITYHOLDERS  
OF NEW CAROLIN GOLD CORP.  
(the “Company”)**

**BE IT RESOLVED THAT:**

- (1) The arrangement (as it may be modified or amended, the “**Arrangement**”) under Section 288 of the *Business Corporations Act* (British Columbia) involving the Company and its securityholders, all as more particularly described and set forth in the plan of arrangement (as it may be modified or amended, the “**Plan of Arrangement**”) attached as Appendix [●] to the Management Information Circular of the Company dated [●], 2021 (the “**Information Circular**”), is hereby authorized, approved and agreed to.
- (2) The Arrangement Agreement dated as of July 25, 2021 among the Company and Talisker Resources Ltd., as it may be amended from time to time (the “**Arrangement Agreement**”), the actions of the directors of the Company in approving the Arrangement and the Arrangement Agreement and the actions of the directors and officers of the Company in executing and delivering the Arrangement Agreement and causing the performance by the Company of its obligations thereunder are hereby confirmed, ratified, authorized and approved.
- (3) Notwithstanding that this resolution has been passed (and the Arrangement approved and agreed to) by securityholders of the Company or that the Arrangement has been approved by the Supreme Court of British Columbia, the directors of the Company are hereby authorized and empowered without further approval of any securityholders of the Company (i) to amend the Arrangement Agreement or the Plan of Arrangement to the extent permitted by the Arrangement Agreement or Plan of Arrangement and (ii) not to proceed with the Arrangement at any time prior to the Effective Time (as defined in the Arrangement Agreement).
- (4) Any one director or officer of the Company is hereby authorized, empowered and instructed, acting for, in the name and on behalf of the Company, to execute or cause to be executed, under the seal of the Company or otherwise, and to deliver or to cause to be delivered, all such other documents and to do or to cause to be done all such other acts and things as in such person’s opinion may be necessary or desirable in order to carry out the intent of the foregoing paragraphs of these resolutions and the matters authorized thereby, such determination to be conclusively evidenced by the execution and delivery of such document or the doing of such act or thing.