

# **SHARE EXCHANGE AGREEMENT**

dated April 21, 2011

**BETWEEN:**

**BLACK BIRCH CAPITAL ACQUISITION I CORP.**

a corporation existing under the laws of Ontario

("Black Birch")

-and-

**OREMEX RESOURCES INC.**

a corporation existing under the federal laws of Canada

("Oremex")

-and-

**7678576 CANADA INC.**

a corporation existing under the federal laws of Canada

("Oremex Sub")

**THIS SHARE EXCHANGE AGREEMENT made the 21<sup>st</sup> day of April, 2011**

**BETWEEN:**

**BLACK BIRCH CAPITAL ACQUISITION I CORP.**

a corporation existing under the laws of Ontario

("Black Birch")

-and-

**OREMEX RESOURCES INC.**

a corporation existing under the federal laws of Canada

("Oremex")

-and-

**7678576 CANADA INC.**

a corporation existing under the federal laws of Canada

("Oremex Sub")

**WHEREAS** Oremex Sub beneficially holds the issued and outstanding shares of Minera Tres Diamantes, S.A de C.V., a Mexican corporation, which holds certain assets comprised of gold properties which include the San Lucas, Santa Catarina, Maco and Navidad properties located in Mexico;

**AND WHEREAS** Oremex Sub is a wholly owned subsidiary of Oremex;

**AND WHEREAS** Black Birch is a CPC (as defined herein) whose common shares are listed on the TSXV (as defined herein);

**AND WHEREAS** pursuant to a letter of intent dated February 28, 2011 between Black Birch, Oremex Sub and Oremex, the parties intend to effect a transaction by way of a share exchange whereby Oremex Sub will become a wholly-owned subsidiary of Black Birch, such transaction being intended to constitute the Qualifying Transaction (as herein defined) of Black Birch within the meaning of the CPC Policy (as herein defined);

**AND WHEREAS** pursuant to the terms and conditions of an amalgamation agreement dated April 15, 2011, Black Birch, through a wholly owned subsidiary, 7834845 Canada Inc., will amalgamate with Oremex Sub;

**AND WHEREAS** Oremex holds 100 Oremex Sub Preference Shares, which shares it intends to transfer to Black Birch in accordance with the terms hereof immediately prior to the effectiveness of the Amalgamation;

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**ARTICLE 1  
DEFINITIONS**

**1.1 Definitions**

For all purposes of this Agreement the following capitalized terms shall have the meanings set forth in this Article 1:

"**Agreement**" means this share exchange agreement and includes all schedules hereto and all instruments supplemental hereto or in amendment or confirmation hereof.

"**Agent's Options**" means 234,250 options to acquire Black Birch Shares that were issued to Black Birch's agents in connection with the completion of its initial public offering.

"**Amalgamation**" means the proposed amalgamation of Oremex Sub and a wholly owned subsidiary of Black Birch pursuant to the terms and conditions of an amalgamation agreement dated April 15, 2011, pursuant to which Black Birch has agreed to issue one Black Birch Share for each Oremex Sub Share (among other things).

"**Amalco**" means the company resulting from the Amalgamation.

"**Applicable Securities Legislation**" means all applicable securities legislation in all jurisdictions relevant to the issuance of the Black Birch Shares to Oremex.

"**Arm's Length**" has the same meaning ascribed thereto in the Tax Act.

"**Black Birch's Financial Statements**" means the audited consolidated financial statements of Black Birch as at and for the period ended December 31, 2010 and, if applicable, the unaudited interim financial statements for the period ended March 31, 2011, consisting of the balance sheet and the statements of earnings, retained earnings and changes in financial position and all notes thereto.

"**Black Birch Options**" means the 334,252 incentive stock options issued by Black Birch to certain of its officers, directors, employees and consultants, as set out in Schedule "C" hereto;

"**Black Birch Securities**" means the Black Birch Shares and Black Birch Warrants.

"**Black Birch Shares**" means the common shares in the capital of Black Birch, as presently constituted.

"**Black Birch Warrant**" refers to a common share purchase warrant of Black Birch, each being exercisable into one Black Birch Share within 24 months following the Closing Date at an exercise price of \$0.50.

"**Business Day**" means a day, excluding Saturday and Sunday, on which chartered banking institutions are open for business in Toronto, Ontario.

"**Closing Date**" means May 31, 2011 or such other date as may be agreed upon in writing by Oremex and Black Birch but no later than June 30, 2011 and, in any event, shall be immediately prior to the effectiveness of the Amalgamation.

"**Closing Time**" means 10:00 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as may be agreed upon by Oremex Sub and Black Birch.

"**Closing**" means the closing of the exchange of Black Birch Shares for Oremex Sub Preference Shares and related transactions at the Closing Time pursuant to the terms of this Agreement.

"**Confidential Information**" has the meaning set out in Section 11.1.

"**control**" in respect of a Person (including the terms "**controlled by**" and "**under common control with**") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or by other arrangement.

"**CPC**" has the meaning set out in the CPC Policy.

"**CPC Filing Statement**" means the filing statement of the CPC prepared in accordance with the TSXV Form of Filing Statement (Form 3B2), which provides full, true and plain disclosure of all material facts relating to Black Birch, Oremex Sub and the Qualifying Transaction.

"**CPC Policy**" means Policy 2.4 – *Capital Pool Companies* of the TSXV.

"**Deemed Value**" and "**Purchase Price per Oremex Sub Preference Share**" have the respective meanings set out in Section 2.1

"**Dollars**" and "\$" means Canadian dollars, unless otherwise specified.

"**Environmental Laws**" means all applicable Laws relating to the protection of human health and safety, the environment or natural environment (as defined in all such Laws including air, surface water, ground water, land surface, soil, and subsurface strata), or hazardous or toxic substances or wastes, pollutants or contaminants.

"**Escrow Release Conditions**" means

- (i) the satisfaction of all conditions precedent to the Amalgamation to the satisfaction of Black Birch and Oremex;
- (ii) the receipt of all required shareholder and regulatory approvals (including, without limitation, the conditional approval of the TSXV for the Amalgamation; and
- (iii) the receipt of any third party consents necessary to consummate the Amalgamation.

"**Exchange Ratio**" has the meaning set out in Section 2.1.

"**Generally Accepted Accounting Principles**" means the generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute, applicable as at the date on which such calculation is made or required to be made in accordance with such principles

"**Income Tax Act**" means the *Income Tax Act* (Canada), as amended from time to time.

"**Laws**" mean all federal, provincial, state, municipal or local laws, rules, regulations, statutes, by-laws, ordinances, policies or orders of any federal, provincial, state, regional or local government or any subdivision thereof or any arbitrator, court, administrative or regulatory agency, commission, department, board or bureau or body or other government or authority or instrumentality or any entity or Person exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

"**lien**" means: (a) any encumbrance, mortgage, pledge, hypothec, prior claim, lien, charge or other security interest of any kind upon any property or assets of any character, or upon the income or profits therefrom; (b) any acquisition of or agreement to have an option to acquire any property or assets upon conditional sale or other title retention agreement, device or arrangement (including a capitalized lease); or (c) any sale, assignment, pledge or other transfer for security of any accounts, general intangibles or chattel paper, with or without recourse.

"**LOI**" means the letter of intent dated February 28, 2011 entered into between Black Birch, Oremex Sub and Oremex with respect to the proposed Qualifying Transaction.

"**Material Adverse Effect**" in respect of a Person means any change, effect, event, occurrence, condition or development that has or could reasonably be expected to have, individually or in the aggregate, a material and adverse impact on the business, operations, results of operations, assets, capitalization or financial condition of such Person, other than any change, effect, event, occurrence or state of facts relating to the global economy or securities markets in general.

"**Material Fact**" in relation to any party hereto includes, without limitation, any fact that significantly affects, or would reasonably be expected to have a significant effect on, the market price or value of the shares of such party.

"**NI 43-101**" means National Instrument 43-101 - *Standards of Disclosure for Mineral Projects*.

"**Offered Securities**" has the meaning attributed thereto in Section 2.5.

"**Oremex Financial Statements**" mean the audited consolidated financial statements of Oremex for the fiscal year ended November 30, 2010, consisting of the balance sheet and the statements of cash flows and all notes thereto.

"**Oremex Sub Assets**" means the assets of Oremex Sub, including the Oremex Sub Properties.

"**Oremex Sub Business**" means the exploration, and advancement of the Oremex Sub Properties.

"**Oremex Sub Financing**" means a potential private placement of Subscription Receipts which may be undertaken prior to or concurrent with Closing upon terms that shall be mutually agreed in writing by the parties hereto.

"**Oremex Sub Preference Shares**" means the preference shares in the capital of Oremex Sub, as presently constituted.

"**Oremex Sub Properties**" means the San Lucas, Santa Catarina, Maco and Navidad properties located in Mexico, as more particularly described at Schedule "A".

"**Oremex Sub Shares**" means the common shares in the capital of Oremex Sub., as presently constituted.

"**Person**" means an individual, partnership, corporation, association, trust, joint venture, unincorporated organization and any government, governmental department or agency or political subdivision thereof.

"**Private Placement**" means the offering of Subscription Receipts of Oremex Sub for minimum gross proceeds of \$3,000,000.00 at a price of \$0.25 per subscription receipt.

"**Qualified Person**" has the meaning set out in NI 43-101.

"**Qualifying Transaction**" means the acquisition by Black Birch of the issued and outstanding Oremex Sub Preference Shares in exchange for Black Birch Shares, Black Birch Warrants and cash and related transactions as

provided for herein, which, collectively, shall constitute the Qualifying Transaction of Black Birch within the meaning of the CPC Policy.

**"Subscription Receipts"** means the subscription receipts of Oremex Sub issuable pursuant to the Private Placement, each such Subscription Receipt being convertible to acquire one Oremex Sub Share upon satisfaction of the Escrow Release Conditions

**"Tax"** or **"Taxes"** means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, value added, capital, capital gains, alternative net worth, transfer, profits, withholding, payroll, employer health, employer safety, workers compensation, excise, immovable property and moveable property taxes, and any other taxes, customs duties, fees, assessments or similar charges in the nature of a tax including Canada Pension Plan, Social Security and provincial or state pension plan contributions and workers compensation premiums, together with any interest, fines and penalties imposed by any governmental authority (including federal, provincial, state, municipal and foreign governmental authorities), and whether disputed or not.

**"Tax Act"** means the *Income Tax Act* (Canada), as it may be amended from time to time, and any successor thereto. Any reference herein to a specific section or sections of the Tax Act, or regulations promulgated thereunder, shall be deemed to include a reference to all corresponding provision of future law.

**"Tax Laws"** shall mean the Tax Act and any applicable provincial, or foreign income taxation statute(s), as from time to time amended, and any successors thereto.

**"Technical Report"** means a technical report with respect to the Oremex Sub Properties prepared by an independent Qualified Person recommending a work program for further exploration on certain of the Oremex Sub Properties in accordance with NI 43-101 in form and substance satisfactory to meet the initial listing requirements of the TSXV.

**"Third Party"** means any Person other than the parties to this Agreement.

**"TSXV"** means the TSX Venture Exchange.

## **1.2 Hereof, Herein, etc.**

The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise specified herein, the term "or" has the inclusive meaning represented by the term "and/or" and the term "including" is not limiting. All references as to "Sections", "Subsections", "Articles", "Schedules" and "Exhibits" shall be to Sections, Subsections, Articles, Schedules and Exhibits, respectively, of this Agreement unless otherwise specifically provided.

## **1.3 Computation of Time Periods**

In the computation of periods of time from a specified date to a later specified date, unless otherwise specified herein, the words "commencing on" mean "commencing on and including", the word "from" means "from and including" and the words "to" and "until" each means "to and including".

## **1.4 Number and Gender**

All references to any party, whether a party to this Agreement or not, will be read with such changes in number and gender as the context or reference requires.

## **1.5 Knowledge**

The expression "to the knowledge of" or a similar phrase shall mean the knowledge of the Person based on the receipt of written notice addressed to the Person or the actual knowledge of any senior officer of the Person.

## **1.6 Schedules**

The following Schedules are attached hereto and form part of this Agreement:

Schedule "A"	Description of the Oremex Sub Properties
Schedule "B"	List of Obligations for the Oremex Sub Properties
Schedule "C":	Black Birch Options

**ARTICLE 2**  
**PURCHASE OF OREMEX SUB PREFERENCE SHARES, RELATED TRANSACTIONS**

**2.1 Deemed Value; Exchange Ratio**

The purchase price for the 100 Oremex Sub Preference Shares existing at the Closing Time shall be a deemed price of \$37,500 per share (the "**Deemed Value**" or "**Purchase Price per Oremex Sub Preference Share**") for an aggregate consideration of \$3,750,000 (the "**Purchase Price**") and shall be payable as follows:

- (a) \$3,500,000 shall be satisfied through the issuance of 140,000 Black Birch Shares and 20,000 Black Birch Warrants for each one (1) Oremex Sub Preference Share so exchanged (the "**Exchange Ratio**") being an aggregate of 14,000,000 Black Birch Shares and 2,000,000 Black Birch Warrants; and
- (b) \$250,000 shall be satisfied through the issuance of a promissory note in favour of Oremex which shall provide for the payment of \$125,000 on each of the one (1) and two (2) year anniversaries of the Closing Date.

**2.2 Purchase of Oremex Sub Preference Shares**

Subject to the terms and conditions herein, on the Closing Date, Black Birch agrees to purchase and Oremex agrees to sell, assign and transfer to Black Birch the Oremex Sub Preference Shares held by it for the Deemed Value payable in cash and Black Birch Securities on the basis of the Exchange Ratio.

**2.3 Purchase of Entire Interest**

It is the understanding of the parties hereto that this Agreement shall provide for the purchase of all of the Oremex Sub Preference Shares that are owned or controlled by Oremex at the Time of Closing, whether same are owned as at the date hereof or are issued after the date hereof but prior to the Time of Closing.

**2.4 Delivery of Purchased Shares; Escrow**

- (a) The Closing shall take place at the offices of Fogler, Rubinoff LLP, Toronto, Ontario at the Closing Time on the Closing Date, or as Oremex and Black Birch may otherwise agree in writing.
- (b) Subject to the satisfaction of the conditions to Closing set forth in Article 6:
  - (i) Oremex shall deliver to Black Birch at the Closing Time certificates representing the Oremex Sub Preference Shares held by it duly executed and endorsed in blank for transfer or accompanied by a duly executed power of attorney duly endorsed in blank for transfer, and if applicable, with all stock transfer and any other required documentary stamps affixed thereto; and
  - (ii) Oremex shall deliver to Black Birch at the Closing Time such reports, undertakings and other documents with respect to the Qualifying Transaction as may be required pursuant to Applicable Securities Legislation, policy or order of any securities commission, stock exchange or other regulatory authority, if any.
- (c) Subject to compliance by Oremex with the foregoing and subject to the satisfaction of the conditions to Closing set forth in Article 6, Black Birch shall deliver to Oremex at the Closing Time certificates representing the Black Birch Shares and Black Birch Warrants issuable to Oremex hereunder; provided, however that the certificates evidencing Black Birch Shares and Black Birch Warrants required to be escrowed by the TSXV may be delivered to Equity Transfer as escrow agent in accordance with the requirements of the TSXV.

**2.5 Purchase of Seed Shares**

The directors and officers of Black Birch shall make available for purchase, on the Closing Date, fifty percent (50%) of their shareholdings in the capital of Black Birch (the "**Offered Securities**") to Oremex and/or the directors and officers of Amalco. The purchase price for the Offered Securities shall be \$0.15 per share. The purchase and sale of the Offered Securities is subject to the approval of the TSXV.

**2.6 Tax Matters**

Black Birch agrees that it shall execute and file a joint election with Oremex, if so requested, pursuant to sub-section 85(1) of the Income Tax Act and any similar provision of provincial law as may be necessary as prepared by

Oremex in prescribed form and within the prescribed time. Such joint election shall designate that the proceeds of disposition to Oremex for the Oremex Sub Preference Shares held by it and the cost of acquisition to Black Birch for the Oremex Sub Preference Shares shall be Oremex's cost amount, as such term is defined under the Income Tax Act (or such other amount as Oremex may properly determine).

### ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF OREMEX SUB AND OREMEX

#### 3.1 Representations and Warranties of Oremex Sub

Oremex and Oremex Sub each hereby represents and warrants to and in favour of Black Birch as follows and acknowledges that Black Birch is relying upon such representations and warranties in connection with the matters contemplated by this Agreement:

- (a) Oremex Sub is a corporation incorporated and subsisting under the federal laws of Canada, having all requisite corporate power to own its properties and to conduct its business as it is presently being conducted and is registered or otherwise qualified to carry on business in all jurisdictions in which the nature of its assets or business makes such registration or qualification necessary or advisable;
- (b) Oremex Sub has the full legal capacity and corporate power to enter into this Agreement and to take, perform or execute all proceedings, acts and instruments necessary or advisable to consummate the other actions and transactions contemplated in this Agreement and to fulfill its obligations under this Agreement;
- (c) this Agreement has been duly executed and delivered by Oremex Sub and this Agreement constitutes a legal, valid and binding obligation of Oremex Sub enforceable against Oremex Sub in accordance with its terms, except as such terms may be limited by bankruptcy, insolvency, re-organization or other laws relating to the enforcement of creditors' rights generally;
- (d) neither the execution, nor delivery of this Agreement, nor the consummation of the transactions contemplated hereby, nor compliance with and fulfillment of the terms and provisions of this Agreement will:
  - (i) conflict with or result in a breach of the terms, conditions or provisions of, or constitute a default under:
    - (1) any of the constating documents or by-laws of Oremex Sub; or
    - (2) any instrument, agreement, mortgage, judgment, order, award, decree or other instrument or restriction to which Oremex is a party or by which Oremex Sub is bound; and
  - (ii) except as otherwise described herein, require any affirmative approval, consent, authorization or other order or action by any court, governmental authority or regulatory body or by any creditor of Oremex Sub or any party to any agreement to which Oremex Sub is a party or by which Oremex Sub is bound, except as shall have been obtained prior to Closing;
- (e) except for the securities issuable pursuant to the Oremex Sub Financing, no Person has any agreement or option or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement or option, including convertible securities, warrants or convertible obligations of any nature, for the purchase of any unissued shares in the securities of Oremex Sub;
- (f) the authorized capital of Oremex Sub consists of an unlimited number of Oremex Sub Shares and an unlimited number of Oremex Sub Preference Shares, of which one (1) Oremex Sub common share and one hundred (100) Oremex Sub Preference Shares are presently issued and outstanding. Each of the presently issued and outstanding Oremex Sub Preference Shares and Oremex Sub Shares has been validly allotted and issued and is outstanding as a fully-paid and non-assessable share. Oremex is the legal and beneficial owner of all of the issued and outstanding Oremex Sub Preference Shares;
- (g) the books and records of Oremex Sub fairly and correctly set out and disclose in all material respects, the financial position of Oremex Sub as at the dates thereof and all material financial transactions of Oremex Sub relating to Oremex Sub Business have been accurately recorded in such books and records;
- (h) Oremex Sub does not have any of its records, systems, controls, data or information recorded, stored, maintained, operated or otherwise wholly or partly dependent upon or held by any means (including any

- electronic, mechanical or photographic process, whether computerized or not) which (including all means of access thereto and therefrom) are not under the exclusive ownership and direct control of Oremex Sub;
- (i) the securities issuable pursuant to the Oremex Sub Financing and the issued and outstanding Oremex Sub Preference Shares and Oremex Sub Shares are held free and clear of all liens, mortgages, charges, pledges, security interests, demands, adverse claims, rights or any other encumbrances whatsoever and no Person has or at Closing will have any right, option, agreement or arrangement capable of becoming an agreement for the acquisition of any of the shares in the capital of Oremex Sub or any interest therein, issued or otherwise, from Oremex or from Oremex Sub;
  - (j) the corporate records and minute books of Oremex Sub as provided to Black Birch or its legal counsel contain complete and accurate minutes of all meetings of and corporate actions or written consents by the directors and shareholders of Oremex Sub, including all by-laws and resolutions passed by the board of directors and shareholders of Oremex Sub since the incorporation of Oremex Sub and all such meetings were duly called and held;
  - (k) Oremex Sub does not operate or engage in any business activities, operations or management of any nature or kind whatsoever and was incorporated to beneficially hold the Oremex Sub Properties through its Mexican subsidiary Minera Tres Diamantes, S.A de C.V.;
  - (l) except as expressly referred to in the CPC Filing Statement,
    - (i) Oremex Sub does not have outstanding any bonds, debentures, mortgages, notes or other similar indebtedness or liabilities whatsoever and Oremex Sub is not bound under any agreement to create, issue or incur any bonds, debentures, mortgages, notes or other similar indebtedness or liabilities whatsoever; and
    - (ii) Oremex Sub is not a party to or bound by any agreement of guarantee, indemnification, assumption or endorsement or any other like commitment of the obligations, liabilities (contingent or otherwise) or indebtedness of any other person;
  - (m) since incorporation, no payments have been made or authorized by Oremex Sub to its officers, directors, employees, shareholders or former directors, officers, employees or shareholders or to any Person not dealing at Arm's Length with any of the foregoing, except those expressly disclosed herein or the CPC Filing Statement or made in the ordinary course of business and at the regular rates payable to them of salary, pension, bonuses or other remuneration of any nature;
  - (n) Oremex Sub has filed all Tax returns required to be filed by it prior to the date hereof in all applicable jurisdictions and has paid, collected and remitted all Taxes due and payable, collectible or remittable by it at present. All such Tax returns properly reflect, and do not in any respect understate the income, taxable income or the liability for Taxes of Oremex Sub in the relevant period and the liability of Oremex Sub for the collection, payment and remittance of tax under applicable Tax Laws;
  - (o) Oremex Sub is conducting and has always conducted Oremex Sub Business in substantial compliance with all applicable laws, rules and regulations of each jurisdiction in which Oremex Sub Business is carried on, is not currently in breach of any such laws, rules or regulations and is duly licensed, registered or qualified, in each jurisdiction in which it owns or leases property or carries on Oremex Sub Business, to enable Oremex Sub Business to be carried on as now conducted and its property and assets to be owned, leased and operated, and all such licences, registrations and qualifications are valid and subsisting and in good standing and none of the same contains any burdensome term, provision, condition or limitation which has or may have an adverse effect on the operation of Oremex Sub Business;
  - (p) to the best of its knowledge and belief, all private placements of Oremex Shares and Oremex Preference Shares have been completed in accordance with all applicable securities regulations;
  - (q) no employee has made any claim or, to the best of Oremex's and Oremex Sub's knowledge, has any basis for any action or proceeding against Oremex Sub arising out of any statute, ordinance or regulation relating to discrimination in employment or employment practices, harassment, occupational health and safety standards or worker's compensation;

- (r) Oremex Sub has not made any agreements with any labour union or employee association nor made any commitments to or conducted any negotiations with any labour union or employee association with respect to any future agreements;
- (s) no trade union, council of trade unions, employee bargaining agency or affiliated bargaining agent holds bargaining rights with respect to any of the employees of Oremex Sub by way of certification, interim certification, voluntary recognition, designation or successor rights;
- (t) there is no material (either alone in the aggregate) action, lawsuit, claim, proceeding, or investigation pending or, to the best knowledge of Oremex or Oremex Sub, threatened against, relating to or affecting Oremex Sub before any court, government agency, or any arbitrator of any kind. Neither Oremex or Oremex Sub is aware of any existing ground on which any such proceeding might be commenced with any reasonable likelihood of success and there is not presently outstanding against Oremex Sub any judgment, decree, injunction, rule or order of any court, governmental agency, or arbitrator relating to or affecting Oremex Sub, Oremex Sub Assets or Oremex Sub Business. No waivers have been filed by Oremex Sub with any Taxing authority;
- (u) there is not now outstanding any arrangement (contractual or otherwise) between Oremex Sub and any Person which will or may be, terminated or, to the best knowledge of Oremex, prejudicially affected as a result of the amalgamation contemplated herein;
- (v) Oremex Sub is, or will be on Closing, the absolute and beneficial owner of an 100% undivided interest in and to the Oremex Sub Properties subject to a 1.5% royalty in favour of Oremex;
- (w) Oremex Sub Properties have been duly staked, tagged and recorded in accordance with the laws and regulations of the federal laws of Mexico;
- (y) all Taxes or other payments relating to Oremex Sub Properties and required to be made to any federal, provincial or municipal governmental instrumentality have been made;
- (z) Oremex Sub Properties are in good standing are in good standing until the dates specified in Schedule "A", in accordance with the laws and regulations of Mexico and conditions on and relating to Oremex Sub Properties respecting all past and current operations thereon carried on by or on behalf of Oremex or Oremex Sub are in compliance with all applicable federal, provincial and municipal laws including all laws, orders, rules and regulations of whatever authority, as they may apply to and affect environmental matter, waste disposal and storage, and pollution control standards;
- (aa) Oremex Sub Properties (including all ores, concentrates, minerals, metals or products in, on or under the Mineral Claims or which may be removed or extracted therefrom) and Oremex Sub's 100% indirect interest therein are, or will be, free and clear of any and all liens, charges, claims, encumbrances, mortgages, hypothecs, agreements, adverse claims (including, without limitation, any order or judgment relating to Oremex Sub Properties or any or any legal proceedings in process, pending or threatened which might result in any such order or judgment), royalties (save and except for the 1.5 % royalty in favour of Oremex) or other payments in the nature of a rent or royalty, or other interests of whatsoever nature or kind, recorded or unrecorded;
- (bb) Oremex Sub has not received from any governmental instrumentality any notice of, or communication relating to, any actual or alleged breach of any Environmental Laws, regulations and there are no outstanding work orders or actions required to be taken relating to environmental matters respecting the Oremex Sub Properties or any operations carried out thereon;
- (cc) to the best of Oremex Sub's knowledge, the Oremex Sub Properties are free and clear of all unprotected open mine shafts, mine openings or workings, open pits, rock stockpiles, mine tailings or waste materials;
- (dd) except as disclosed in Schedule "B", the Oremex Sub Properties are not subject to any outstanding obligations or liabilities whatsoever or any agreement with any Third Party;
- (ee) there is no adverse claim against or any challenge to the ownership of or title to any part of the Oremex Sub Properties nor, to the best of its knowledge, is there any basis therefor;
- (ff) Oremex Sub owns and holds, or will hold and own, whether directly or indirectly, absolute title to the mining rights pertaining to the Oremex Sub Properties comprised solely of mining rights; and

- (gg) no representation or warranty made by Oremex or Oremex Sub in this Agreement and no statement made in any schedule, exhibit, certificate or other document furnished pursuant to this Agreement, contains, or will contain, any untrue statement of a Material Fact or omits, or will omit, to state any Material Fact necessary to make such representation or warranty or any such statement not misleading. Neither Oremex nor Oremex Sub knows of any fact which, if known to the other parties hereto would deter them from consummating the transactions contemplated herein.

No investigations made by or on behalf of Black Birch at any time shall have the effect of waiving, diminishing the scope of or otherwise affecting any representation, warranty or covenant made by Oremex Sub herein or pursuant hereto and no waiver by Black Birch of any condition, in whole or in part, shall operate as a waiver of any other condition.

### **3.2 Representations and Warranties of Oremex.**

Oremex hereby represents and warrants to and in favour of Black Birch as follows and acknowledges that Black Birch is relying upon such representations and warranties in connection with the matters contemplated by this Agreement:

- (a) Oremex is a validly subsisting corporation incorporated under the federal laws of Canada, and has all legal capacity and requisite corporate power to own its properties and to conduct business as it is presently being conducted, and is duly registered or otherwise qualified to carry on business in all jurisdictions in which the nature of its assets or business makes such registration or qualification necessary or advisable;
- (b) Oremex has the full legal capacity and corporate power to enter into this Agreement and to take, perform or execute all proceedings, acts and instruments necessary or advisable to consummate the other actions and transactions contemplated in this Agreement and to fulfill its obligations under this Agreement;
- (c) this Agreement has been duly executed and delivered by Oremex and this Agreement constitutes a legal, valid and binding obligation of Oremex enforceable against Oremex in accordance with its terms, except as such terms may be limited by bankruptcy, insolvency, re-organization or other laws relating to the enforcement of creditors' rights generally;
- (d) neither the execution, nor delivery of this Agreement, nor the consummation of the transactions contemplated hereby, nor compliance with and fulfillment of the terms and provisions of this Agreement will:
  - (i) conflict with or result in a breach of the terms, conditions or provisions of, or constitute a default under:
    - (1) any of the constating documents or by-laws of Oremex; or
    - (2) any instrument, agreement, mortgage, judgment, order, award, decree or other instrument or restriction to which Oremex is a party or by which Oremex is bound; and
  - (ii) except as otherwise described herein, require any affirmative approval, consent, authorization or other order or action by any court, governmental authority or regulatory body or by any creditor of Oremex or any party to any agreement to which Oremex is a party or by which Oremex is bound, except as shall have been obtained prior to Closing;
- (e) save and except for matters which are disclosed in the Oremex Financial Statements or otherwise expressly set out in this Agreement or the CPC Filing Statement, Oremex has not (nor has it agreed to), with respect to the Oremex Sub Properties:
  - (i) incurred any debts, obligations or liabilities (absolute, accrued, contingent or otherwise and whether due or to become due), except debts, obligations and liabilities incurred in the ordinary course of business;
  - (ii) discharged or satisfied any liens or paid any obligation or liability other than liabilities shown on Oremex's Financial Statements, other than in the ordinary course of business;
  - (iii) mortgaged, pledged or subjected to lien or other security interest any of its assets, tangible or intangible other than the usual security granted to secure a bank line of credit or other than in the ordinary course of business;

- (iv) sold, assigned, leased, transferred or otherwise disposed of any of its assets having either a book value or fair market value in excess of \$5,000, whether or not in the ordinary course of business;
  - (v) cancelled, waived, released or compromised any debt, claim or right resulting in a Material Adverse Effect on Oremex;
  - (vi) significantly altered or revised any of its accounting principles, procedures, methods or practices except as required under Generally Accepted Accounting Principles or other regulatory guidelines;
  - (vii) changed its credit policy as to provision of services, sales of inventories or collection or accounts receivable except as dictated by competitive conditions;
  - (viii) suffered any material damage, destruction or loss (whether or not covered by insurance) materially and adversely affecting the properties, business or prospects of Oremex;
  - (ix) entered into any transaction, contract or commitment other than in the ordinary course of business except for the transactions set forth in this Agreement or the CPC Filing Statement;
  - (x) made or authorized any capital expenditures in excess of \$5,000 in the aggregate; or
  - (xi) suffered or experienced any material adverse change in, or event or circumstance affecting, the condition (financial or otherwise) of the Oremex Sub Properties and Oremex has no knowledge, information or belief of any fact, event or circumstances which might reasonably be expected to affect materially and adversely the condition (financial or otherwise) of its properties, assets, liabilities, earnings, business operations or prospects and it has not changed any shares of its capital stock, whether by way of reclassification, stock split or otherwise;
- (f) the Oremex Financial Statements fairly present the financial position of Oremex as at the date thereof and fairly present the results of operations for the periods ended on such dates, all in accordance with Generally Accepted Accounting Principles consistently applied throughout the period covered thereby, save and except as stated therein. Oremex's books of account reflect items of income and expense and all assets and liabilities and accruals required to be reflected therein;
- (g) except as expressly referred to in Oremex's Financial Statements or the CPC Filing Statement, with respect to the Oremex Sub Properties,
- (i) Oremex does not have outstanding any bonds, debentures, mortgages, notes or other similar indebtedness or liabilities whatsoever nor is Oremex bound under any agreement to create, issue or incur any bonds, debentures, mortgages, notes or other similar indebtedness or liabilities whatsoever; and
  - (ii) Oremex is not a party to or bound by any agreement of guarantee, indemnification, assumption or endorsement or any other like commitment of the obligations, liabilities (contingent or otherwise) or indebtedness of any other Person.
- (h) Oremex has filed all Tax returns required to be filed by it prior to the date hereof in all applicable jurisdictions and have paid, collected and remitted all Taxes due and payable, collectible or remittable by it at present. All such Tax returns properly reflect, and do not in any respect understate the income, taxable income or the liability for Taxes of Oremex in the relevant period and the liability of Oremex for the collection, payment and remittance of Tax under applicable Tax Laws;
- (i) Oremex has withheld and remitted all amounts required to be withheld and remitted by it in respect of any Taxes in respect of any taxable year or portion thereof;
- (j) there is no material (either alone in the aggregate) action, lawsuit, claim, proceeding, or investigation pending or, to the best knowledge of Oremex, threatened against, relating to or affecting Oremex, before any court, government agency, or any arbitrator of any kind. Oremex is not aware of any existing ground on which any such proceeding might be commenced with any reasonable likelihood of success and there is not presently outstanding against Oremex, any judgment, decree, injunction, rule or order of any court, governmental agency, or arbitrator relating to or affecting Oremex or its assets;

- (k) Oremex is the registered and beneficial owner of all of the issued and outstanding Oremex Sub Preference Shares, free and clear of all liens, charges, pledges, security interests, demands, adverse claims, rights or any other encumbrances whatsoever and no Person has any right, option, agreement or arrangement capable of becoming an agreement for the acquisition of any of the Oremex Sub Preference Shares or any interest therein from Oremex; and
- (l) no representation or warranty made by Oremex in this Agreement and no statement made in any schedule, exhibit, certificate or other document furnished pursuant to this Agreement, contains, or will contain, any untrue statement of a Material Fact or omits, or will omit, to state any Material Fact necessary to make such representation or warranty or any such statement not misleading. Oremex does not know of any fact which, if known to the other parties hereto would deter them from consummating the transactions contemplated herein.

No investigations made by or on behalf of Black Birch at any time shall have the effect of waiving, diminishing the scope of or otherwise affecting any representation, warranty or covenant made by Oremex herein or pursuant hereto and no waiver by Black Birch of any condition, in whole or in part, shall operate as a waiver of any other condition.

#### **ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF BLACK BIRCH**

##### **4.1 Representations and Warranties of Black Birch**

Black Birch hereby represents and warrants to and in favour of Oremex and Oremex Sub as follows and acknowledges that Oremex and Oremex Sub are relying upon such representations and warranties in connection with this Agreement.

- (a) Black Birch is a corporation incorporated and subsisting under the laws of the Province of Ontario, having all requisite corporate power to own its properties and to conduct its business as it is presently being conducted and is registered or otherwise qualified to carry on business in all jurisdictions in which the nature of its assets or business makes such registration or qualification necessary or advisable;
- (b) Black Birch is a CPC that completed its initial public offering on August 31, 2009. The transaction contemplated herein will constitute Black Birch's Qualifying Transaction;
- (c) subject to obtaining any required regulatory approvals, as applicable, Black Birch has full legal capacity and corporate power to enter into this Agreement and to take, perform or execute all proceedings, acts and instruments necessary or advisable to consummate the actions and transactions contemplated in this Agreement; all necessary corporate action has been taken, or will be taken prior to the Closing Date, by or on the part of Black Birch to authorize the execution and delivery of this Agreement and the taking, performing or executing of such proceedings, acts and instruments as are necessary or advisable for consummating the actions and transactions contemplated in this Agreement and for fulfilling its respective obligations hereunder;
- (d) this Agreement has been duly executed and delivered on behalf of Black Birch and constitutes a legal, valid and binding obligation of Black Birch, enforceable against Black Birch in accordance with its terms, except as such terms may be limited by bankruptcy, insolvency, reorganization or other laws relating to the enforcement of creditors' rights generally;
- (e) neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, nor compliance with and fulfillment of the terms and provisions of this Agreement will:
  - (i) conflict with or result in a breach of the terms, conditions or provisions of, or constitute a default under:
    - (1) any of the constating documents or by-laws of Black Birch; or
    - (2) any instrument, agreement, mortgage, judgment, order, award, decree or other instrument or restriction to which Black Birch is a party of or by which Black Birch is bound; or

- (ii) except as otherwise described herein, require any affirmative approval, consent, authorization or other order or action by any court, governmental authority or regulatory body or by any creditor of Black Birch or any party to any agreement to which Black Birch is a party or by which Black Birch is bound, except as shall have been obtained prior to Closing;
- (f) the authorized capital of Black Birch consists of an unlimited number of Black Birch Shares, of which 3,342,520 are presently issued and outstanding. Each of the presently issued and outstanding Black Birch Shares has been validly allotted and issued and is outstanding as a fully-paid and non-assessable share;
- (g) as of the date hereof, aside from the Agent's Options and the Black Birch Options, there are no options, warrants, or other securities of Black Birch convertible into or exchangeable for, or other rights to acquire, common shares of Black Birch outstanding and no person has any agreement, right or privilege capable of becoming such for the purchase, subscription, allotment or issue of any of the unissued securities of Black Birch;
- (h) except as otherwise described herein or pursuant to the amalgamation, no Person has any agreement or option or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement or option, including convertible securities, warrants or convertible obligations of any nature, for the purchase from Black Birch of any Black Birch Shares or for the subscription, allotment or issuance of any unissued shares in the capital of Black Birch;
- (i) the books and records of Black Birch fairly and correctly set out and disclose in all material respects, the financial position of Black Birch as at the dates thereof and all material financial transactions of Black Birch relating to Black Birch Business have been accurately recorded in such books and records;
- (j) save and except for Mr. Paul Haber, to the best of Black Birch's knowledge, none of the non-Arm's Length parties to Black Birch (as defined for the purposes of the policies of the TSXV) have any direct or indirect interest in Oremex Sub Assets or Oremex Sub or other relationship which would result in the transaction requiring approval of Black Birch's shareholders under the policies of the TSXV;
- (k) Black Birch is current in the filing of all public disclosure documents required to be filed by Black Birch under applicable securities laws and TSXV policies, there are no filings that have been made on a confidential basis and all of such filings comply with the requirements of all applicable securities laws and the rules, policies and instruments of all regulatory or administrative bodies having jurisdiction over Black Birch, including the TSXV;
- (l) the common shares of Black Birch are traded on the TSXV under the trading symbol "BBC.P";
- (m) Black Birch is not subject to any cease trade or other order of any applicable stock exchange, including the TSXV, or securities regulatory authority and, to the knowledge of Black Birch, no investigation or other proceedings involving Black Birch which may operate to prevent or restrict trading of any securities of Black Birch are currently in progress or pending before any applicable stock exchange or securities regulatory authority, other than any trading halt imposed as a result of the pendency or announcement of the Qualifying Transaction.
- (n) Black Birch does not have any of its records, systems, controls, data or information recorded, stored, maintained, operated or otherwise wholly or partly dependent upon or held by any means (including any electronic, mechanical or photographic process, whether computerized or not) which (including all means of access thereto and therefrom) are not under the exclusive ownership and direct control of Black Birch and, at Closing, Black Birch will have originals or copies of all such records, systems, controls, data or information in its possession or control;
- (o) Black Birch's Financial Statements fairly present the financial position of Black Birch as at the dates indicated therein and fairly present the results of operations for the periods ended on such dates, all in accordance with Generally Accepted Accounting Principles consistently applied throughout the period covered thereby, save and except as stated therein. Black Birch's books of account reflect all items of income and expense and all assets and liabilities and accruals required to be reflected therein;
- (p) as of the date hereof, the board of directors of Black Birch, after considering this Agreement and the transactions contemplated herein, has determined unanimously that this Agreement and the transactions contemplated herein are fair to Black Birch's security holders and are in the best interests of Black Birch;

- (q) save and except for matters which are disclosed in Black Birch's Financial Statements or otherwise expressly set out in this Agreement, Black Birch has not (nor has it agreed to):
- (i) incurred any debts, obligations or liabilities (absolute, accrued, contingent or otherwise and whether due or to become due), except debts, obligations and liabilities incurred in the ordinary course of business;
  - (ii) discharged or satisfied any liens or paid any obligation or liability other than liabilities shown on Black Birch's Financial Statements, other than in the ordinary course of business;
  - (iii) declared or made any payment, distribution or dividend based on its shares or purchased, redeemed or otherwise acquired any of the shares in its capital or other securities or obligated itself to do so;
  - (iv) mortgaged, pledged or subjected to lien or other security interest any of its assets, tangible or intangible other than the usual security granted to secure a bank line of credit;
  - (v) sold, assigned, leased, transferred or otherwise disposed of any of its assets (excluding inventory) whether or not in the ordinary course of business;
  - (vi) increased materially the compensation payable or to become payable to any of its officers, directors or employees, or in any bonus payment to or arrangement made with any officer, director or employee, or made any material changes in its personnel policies or employee benefits;
  - (vii) cancelled, waived, released or compromised any debt, claim or right resulting in a Material Adverse Effect on Black Birch;
  - (viii) significantly altered or revised any of its accounting principles, procedures, methods or practices except as required under Generally Accepted Accounting Principles;
  - (ix) changed its credit policy as to provision of services, sales of inventories or collection of accounts receivable except as dictated by competitive conditions;
  - (x) suffered any material damage, destruction or loss (whether or not covered by insurance) materially and adversely affecting the properties, business or prospects of Black Birch;
  - (xi) entered into any transaction, contract or commitment other than in the ordinary course of business except for the transactions set forth in this Agreement;
  - (xii) made or authorized any capital expenditures in excess of \$5,000.00 in the aggregate;
  - (xiii) issued or sold any shares in its capital stock or other securities, or granted any options with respect thereto except as otherwise referred to herein; or
  - (xiv) suffered or experienced any material adverse change in, or event or circumstance affecting, the condition (financial or otherwise) of its properties, assets, liabilities, earnings, business, operations or prospects, and Black Birch has no knowledge, information or belief of any fact, event or circumstances which might reasonably be expected to affect materially and adversely the condition (financial or otherwise) of its properties, assets, liabilities, earnings, business operations or prospects, and has not changed any shares of its capital stock, whether by way of reclassification, stock split or otherwise;
- (r) the corporate records and minute books of Black Birch as provided to Oremex or its legal counsel contain complete and accurate minutes of all meetings of and corporate actions or written consents by the directors and shareholders of Black Birch, including all by-laws and resolutions passed by the board of directors and shareholders of Black Birch since the incorporation of Black Birch and all such meetings were duly called and held. The shareholders' list maintained by Black Birch's registrar and transfer agent provided to Oremex is, to the best of Black Birch's knowledge, complete and accurate in all respects;
- (s) other than Black Birch Sub, Black Birch does not hold or own, beneficially or otherwise, any securities of any other corporate entity;

- (t) Black Birch does not operate or engage in any business activities, operations or management of any nature or kind whatsoever other than Black Birch's Business;
- (u) except as expressly referred to in Black Birch's Financial Statements,
  - (i) Black Birch does not have outstanding any bonds, debentures, mortgages, notes or other similar indebtedness or liabilities whatsoever and Black Birch is not bound under any agreement to create, issue or incur any bonds, debentures, mortgages, notes or other similar indebtedness or liabilities whatsoever, and
  - (ii) Black Birch is not a party to or bound by any agreement of guarantee, indemnification, assumption or endorsement or any other like commitment of the obligations, liabilities (contingent or otherwise) or indebtedness of any other person.
- (v) since incorporation, no payments have been made or authorized by Black Birch to its officers, directors, employees, shareholders or former directors, officers, employees or shareholders or to any Person not dealing at Arm's Length with any of the foregoing, except those expressly disclosed herein, reflected in Black Birch's Financial Statements or made in the ordinary course of business and at the regular rates payable to them of salary, pension, bonuses or other remuneration of any nature;
- (w) Black Birch has filed all Tax returns required to be filed by it prior to the date hereof in all applicable jurisdictions and has paid, collected and remitted all Taxes due and payable, collectible or remittable by it at present. All such Tax returns properly reflect, and do not in any respect understate the income, taxable income or the liability for Taxes of Black Birch in the relevant period and the liability of Black Birch for the collection, payment and remittance of Tax under applicable Tax Laws;
- (x) adequate provision has been made in Black Birch's Financial Statements for all Taxes payable by Black Birch for all periods up to the date of the balance sheets comprising part of Black Birch's Financial Statements;
- (y) Black Birch has withheld and remitted all amounts required to be withheld and remitted by it in respect of any taxes, governmental charges or assessments in respect of any taxable year or portion thereof up to and including March 31, 2011;
- (z) there are no actions, suits or other proceedings, investigations or claims in progress or pending and, to the best of Black Birch's belief and knowledge, there are no actions, suits or other proceedings or investigations or claims threatened, against Black Birch in respect of any Taxes and no waivers have been filed by Black Birch with any Taxing authority;
- (aa) Black Birch is conducting and has always conducted Black Birch's business in substantial compliance with all applicable laws, rules and regulations of each jurisdiction in which Black Birch's business is carried on, is not currently in breach of any such laws, rules or regulations and is duly licensed, registered or qualified in each jurisdiction in which Black Birch owns or leases property or carries on Black Birch's business, to enable Black Birch's business to be carried on as now conducted;
- (bb) other than the filing of articles of amalgamation and any required regulatory approvals, no consent, licence, approval, order or authorization of, or registration, filing or declaration with any governmental authority that has not been obtained or made by Black Birch and no consent of any Third Party is required to be obtained by Black Birch in connection with the execution, delivery and performance by Black Birch of this Agreement or the consummation of the transactions contemplated hereby;
- (cc) there is no action, lawsuit, claim, proceeding, or investigation pending or, to the best knowledge of Black Birch, threatened against, relating to or affecting Black Birch before any court, government agency, or any arbitrator of any kind, and Black Birch is not aware of any existing ground on which any such proceeding might be commenced with any reasonable likelihood of success and there is not presently outstanding against Black Birch any judgment, decree, injunction, rule or order of any court, governmental agency, or arbitrator relating to or affecting Black Birch in connection with Black Birch's business;
- (dd) there is no bankruptcy, liquidation, winding-up or other similar proceeding pending or in progress or, to the knowledge of Black Birch, threatened against Black Birch before any court, regulatory or administrative agency or tribunal;

- (ee) there is not now outstanding any arrangement (contractual or otherwise) between Black Birch and any Person which will or may be, terminated or, to the best of the knowledge of Black Birch, prejudicially affected as a result of the transactions contemplated herein;
- (ff) no employee has made any claim or, to the best of Black Birch 's knowledge, has any basis for any action or proceeding against Black Birch, arising out of any statute, ordinance or regulation relating to discrimination in employment or employment practices, harassment, occupational health and safety standards or worker's compensation;
- (gg) Black Birch has not made any agreements with any labour union or employee association nor made any commitments to or conducted any negotiations with any labour union or employee association with respect to any future agreements;
- (hh) no trade union, council of trade unions, employee bargaining agency or affiliated bargaining agent holds bargaining rights with respect to any of Black Birch's employees by way of certification, interim certification, voluntary recognition, designation or successor rights;
- (ii) Black Birch is not a party to any lease or agreement in the nature of a lease, whether as lessor or lessee;
- (jj) Black Birch does not currently own any material insurable assets and does not currently maintain any policies of insurance;
- (kk) there are no outstanding written or oral employment contracts, sales, services, management or consulting agreements, employee benefit or profit-sharing plans, or any bonus arrangements with any employee of Black Birch, nor are there any outstanding oral contracts of employment which are not terminable on the giving of reasonable notice in accordance with applicable law. There are no pension or retirement plans established by or for Black Birch for the employees of Black Birch's Business;
- (ll) Black Birch is a reporting issuer under the Applicable Securities Legislation of each of Ontario, Alberta and British Columbia and is not in default of any requirement of any such Applicable Securities Legislation; and
- (mm) no representation or warranty made by Black Birch in this Agreement and no statement made in any schedule, exhibit, certificate or other document furnished pursuant to this Agreement, contains, or will contain, any untrue statement of a Material Fact or omits, or will omit, to state any Material Fact necessary to make such representation or warranty or any such statement not misleading. Black Birch does not know of any fact which, if known to Oremex or Oremex Sub, would deter them from consummating the transactions contemplated herein.

No investigations made by or on behalf of Oremex or Oremex Sub at any time shall have the effect of waiving, diminishing the scope of or otherwise affecting any representation, warranty or covenant made by Black Birch herein or pursuant hereto and no waiver by Oremex or Oremex Sub of any condition, in whole or in part, shall operate as a waiver of any other conditions.

## **ARTICLE 5 COVENANTS**

### **5.1 Filings**

- (a) As soon as practicable following the signing of this Agreement, Oremex Sub shall deliver (or cause to be delivered) to Black Birch the Technical Report.
- (b) Black Birch and Oremex Sub shall prepare and file any filings required under any applicable Laws or rules and policies of the TSXV or other regulatory bodies relating to the Qualifying Transaction.
- (c) Black Birch covenants and agrees to take, in a timely manner, all commercially reasonable actions and steps necessary in order that, effective as at the Closing Date, the Black Birch Shares issuable pursuant to the terms and conditions of the Agreement and the Qualifying Transaction will be conditionally approved by the TSXV and, when received, Black Birch shall provide Oremex with copies of the conditional and final approval of the TSXV respecting this Agreement and the Qualifying Transaction.

- (d) Each of Oremex, Oremex Sub and Black Birch shall cooperate to prepare and file with the TSXV for its review and approval, as soon as possible following the entering of this Agreement, the CPC Filing Statement and each of Oremex, Oremex Sub and Black Birch will provide in connection with the preparation of the CPC Filing Statement, on a timely basis, all relevant information concerning its business, property, operations and the Oremex Sub Assets (including applicable financial statements). Each of Oremex Sub and Black Birch shall execute a certificate to be attached to the CPC Filing Statement certifying that all information contained in the CPC Filing Statement does not contain an untrue statement of a material fact with respect to Oremex Sub and Black Birch, respectively.
- (e) Oremex Sub shall promptly notify Black Birch if at any time before the Closing Time it becomes aware that the CPC Filing Statement (with respect to information provided by or in relation to Oremex Sub or the Oremex Sub Shareholders) contains any misrepresentation or any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements contained therein not misleading in light of the circumstances in which they are made, or that otherwise requires an amendment or supplement to the CPC Filing Statement; and in any such event, Oremex Sub shall cooperate in the preparation of a supplement or amendment to the CPC Filing Statement.
- (f) Black Birch shall promptly notify Oremex Sub if at any time before the Closing Time it becomes aware that the CPC Filing Statement (with respect to information provided by or in relation to Black Birch) contains any misrepresentation or any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements contained therein not misleading in light of the circumstances in which they are made, or that otherwise requires an amendment or supplement to the CPC Filing Statement; and in any such event, Black Birch shall cooperate in the preparation of a supplement or amendment to the CPC Filing Statement.

## ARTICLE 6 CONDITIONS TO OBLIGATION TO CLOSE

### 6.1 Black Birch's Closing Conditions

Black Birch's obligation to complete the transactions described herein is subject to compliance by Oremex Sub and Oremex with their agreements and covenants contained herein and to the satisfaction, on or prior to the Closing Date, of the following conditions. The Closing will be deemed to constitute a waiver of all conditions to Closing. These conditions precedent are for the sole benefit of Black Birch and may be waived by Black Birch in its sole discretion.

- (a) **Sponsor Report.** Black Birch shall either have (i) engaged a sponsor and the TSXV shall have accepted the sponsor's report in respect of the Qualifying Transaction, or (ii) received written confirmation from the TSXV that it has waived the sponsorship requirement in respect of the Qualifying Transaction.
- (b) **Technical Report.** Oremex Sub shall have delivered (or caused to be delivered) to Black Birch the Technical Report.
- (c) **Corporate Approvals.** Oremex Sub shall have obtained all necessary board and shareholder approvals for this Agreement.
- (d) **Private Placement.** Oremex Sub shall have completed the Private Placement.
- (e) **Representations and Warranties.** The representations and warranties of Oremex and Oremex Sub contained herein shall be true and correct in all material respects on and as of the Closing Date with the same force and effect as if such representations and warranties were made at such time, and Black Birch shall have received on the Closing Date certificates to this effect, signed by one authorized officer of each of Oremex and Oremex Sub, and if applicable, Oremex Sub shall include with such certificate a description of each material contract entered into by Oremex Sub between the date of this Agreement and the Closing Date and a representation that each such material contract entered into between the date of this Agreement and the Closing Date shall not breach, be in conflict with or otherwise contravene any provisions herein.

- (f) **Covenants.** All of the terms, covenants and conditions of this Agreement to be complied with or performed by Oremex and Oremex Sub at or before the Closing Date shall have been complied with or performed and Black Birch shall have received on the Closing Date certificates to this effect signed by one authorized officer of Oremex and Oremex Sub.
- (g) **Transfer of Properties.** The Oremex Sub Properties shall have been transferred to its wholly owned subsidiary, Minera Tres Diamantes, S.A de C.V., for the issuance of a 1.5% net smelter return.
- (h) **Regulatory and Other Consents.** All required approvals, consents, authorizations and waivers relating to the consummation of the transactions contemplated by this Agreement shall have been obtained from Third Parties, including the TSXV and all other relevant governmental and regulatory authorities.
- (i) **No Material Adverse Change.** No change shall have occurred with respect to the Oremex Sub Assets which would have a Material Adverse Effect.
- (j) **Mexican Legal Opinion.** Black Birch shall have received a favourable legal opinion from local Mexican counsel to Oremex Sub of recognized standing with respect to (i) the existence and validity of the corporate structure of Oremex Sub and (ii) title to the Oremex Sub Properties, in form and substance satisfactory to Black Birch and its counsel, acting reasonably.
- (k) **Due Diligence.** Reasonably satisfactory due diligence shall have been completed by Black Birch in respect of Oremex Sub's business, operations, assets, prospects, financial condition and affairs.
- (l) **General.** All instruments and corporate proceedings in connection with the transactions contemplated by this Agreement shall be satisfactory in form and substance to Black Birch and its counsel, acting reasonably, and Black Birch shall have received copies of all documents, including, without limitation, all documentation required to be delivered to Black Birch at or before the Closing Time in accordance with this Agreement, records of corporate or other proceedings and consents which Black Birch may have reasonably requested in connection therewith.

The agreements, certificates, documents, other evidence of compliance and opinions described in this Section 6.1 shall be in form and substance satisfactory to Black Birch, acting reasonably, and shall, except as otherwise provided, be delivered to Black Birch at the Closing.

## 6.2 Oremex Sub Closing Conditions

The obligations of Oremex and Oremex Sub to complete the transactions described herein are subject to compliance by Black Birch with its agreements and covenants herein contained and to the satisfaction, on or before the Closing Date, of the following conditions. The Closing will be deemed to constitute a waiver of all conditions to Closing. These conditions precedent are for the sole benefit of Oremex and Oremex Sub and may be waived by each of Oremex and Oremex Sub in its discretion.

- (a) **Sponsor Report.** Black Birch shall either have (i) engaged a sponsor and the TSXV shall have accepted the sponsor's report in respect of the Qualifying Transaction, or (ii) received written confirmation from the TSXV that it has waived the sponsorship requirement in respect of the Qualifying Transaction.
- (b) **Corporate Approvals.** Black Birch shall have obtained all necessary board and shareholder approvals for this Agreement and the Qualifying Transaction.
- (c) **Changes in Directors and Officers.** At the Closing Time, each of the directors and officers of Black Birch (other than Paul Haber and Henry Tse) shall deliver to Black Birch duly executed resignations and mutual releases in form and substance satisfactory to Black Birch and Oremex Sub, each acting reasonably, and certain of the existing directors and officers of Oremex Sub shall be appointed as directors and officers (as applicable) of Black Birch, such that upon Closing, the directors and officers of Black Birch shall consist of the following individuals:

<u>Name</u>	<u>Office</u>
John Carlesso	Director and Executive Chairman
Michael R. Smith	Director, President and Chief Executive Officer
Chris Marcus	Director
Henry Tse	Director
Paul Haber	Chief Financial Officer

- (d) **Representations and Warranties.** The representations and warranties of Black Birch contained herein shall be true and correct in all material respects on and as of the Closing Date with the same force and effect as if such representations and warranties were made at such time, and Oremex and Oremex Sub shall have received on the Closing Date certificates to this effect signed by one authorized officer of Black Birch and if applicable, Black Birch shall include with such certificate a description of each material contract entered into by Black Birch between the date of this Agreement and the Closing Date and a representation that each such material contract entered into between the date of this Agreement and the Closing Date shall not breach, be in conflict with or otherwise contravene any provisions herein.
- (e) **Covenants.** All of the terms, covenants and conditions of this Agreement to be complied with or performed by Black Birch at or before the Closing Date shall have been complied with or performed and Oremex Sub shall have received on the Closing Date certificates to this effect signed by one authorized officer of Black Birch.
- (f) **Private Placement.** Oremex Sub shall have completed the Private Placement.
- (g) **Regulatory and other Consents.** All required approvals, consents, authorizations and waivers relating to the consummation of the transactions contemplated by this Agreement shall have been obtained from third parties, including the TSXV and all other relevant governmental and regulatory authorities.
- (h) **No Material Adverse Change.** No change shall have occurred in the business, affairs, financial condition or operations of Black Birch between the date of this Agreement and the Closing Date which would have a Material Adverse Effect.
- (i) **TSXV Approval.** The TSXV shall have conditionally approved the transactions contemplated herein and agreed to list the Black Birch Shares issued in connection with this Agreement and the Qualifying Transaction.
- (j) **TSXV Issuer.** Following the Closing of the Qualifying Transaction, Black Birch shall satisfy the initial listing requirements of the TSXV for a Tier 2 Issuer, as evidenced before Closing by a conditional listing letter issued by the TSXV.
- (k) **Due Diligence.** Reasonably satisfactory due diligence shall have been completed by Oremex and Oremex Sub in respect of Black Birch's business, operations, assets, prospects, financial condition and affairs.
- (l) **General.** All instruments and corporate proceedings in connection with the transactions contemplated by this Agreement shall be satisfactory in form and substance to Oremex and Oremex Sub and their counsel, acting reasonably, and Oremex and Oremex Sub shall have received copies of all documents, including, without limitation, all documentation required to be delivered to Oremex and Oremex Sub at or before the Closing Time in accordance with this Agreement, records of corporate or other proceedings and consents which Oremex and Oremex Sub may have reasonably requested in connection therewith.

## ARTICLE 7 TERMINATION

### 7.1 Termination

This Agreement may be terminated by written notice given by the terminating party to the other parties hereto, at any time prior to the Closing:

- (a) by mutual written consent of each of Oremex and Oremex Sub and Black Birch;
- (b) by Oremex, Oremex Sub or Black Birch, if there has been a misrepresentation, breach or non-performance by a party (other than the party seeking to terminate this Agreement pursuant to this Section 7.1(b)) of any representation, warranty, covenant or obligation contained in this Agreement, provided the breaching party has been given notice of and twenty (20) days to cure any such misrepresentation, breach or non-performance;
- (c) by any of Oremex, Oremex Sub or Black Birch, if a condition for the terminating party's benefit has not been satisfied or waived pursuant to Articles 5 and 6, as applicable; or
- (d) by either Oremex Sub or Black Birch, if the Closing has not occurred on or before ►, 2011 or such later date as may be agreed to by Oremex Sub and Black Birch (provided, that the right to terminate this

Agreement under this Section 7.1(d) shall not be available to any party whose failure to fulfill any of its obligations under this Agreement has been the cause of or resulted in the failure to consummate the transactions contemplated hereby by such date).

## **7.2 Effect of Termination**

In the event of the termination of this Agreement as provided in Section 7.1, this Agreement shall forthwith have no further force or effect and there shall be no obligation on the part of the parties hereunder except with respect to (i) Section 8.1, Article 10 and Article 11, which will survive such termination, and (ii) a breach arising from the fraud or wilful misconduct of any party.

## **7.3 Waivers and Extensions**

At any time prior to the Closing Time, each of the parties hereto may (a) extend the time for the performance of any of the obligations or other acts of another party hereto, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto or (c) waive compliance with any of the agreements or conditions contained herein. Any such extension or waiver shall be valid if set forth in an instrument in writing signed by the party to be bound thereby.

## **ARTICLE 8 COSTS**

### **8.1 Costs**

In the event of the termination of this Agreement pursuant to Section 7.1 hereof, all costs incurred by Oremex Sub, Oremex and Black Birch, as the case may be, in connection with this Agreement, including legal fees, financial advisor fees and all disbursements by such parties and their advisors shall be borne and paid by the party incurring the costs.

## **ARTICLE 9 NOTICES**

### **9.1 Notices**

All notices or other communications required to be given in connection with this Agreement shall be given in writing and shall be given by personal delivery, by registered mail or by transmittal by telecopier or other form of recorded communication addressed to the recipient as follows:

**To: Black Birch Capital Acquisition I Corp.:**

10 Pauline Avenue  
Brooklin, Ontario L1M 2H5

Attention: President  
Telecopier No.: 416.941.8852

with a copy to:

Fogler Rubinoff LLP  
Barristers & Solicitors  
95 Wellington Street West  
Suite 1200, Toronto-Dominion Centre  
Toronto, Ontario M5J 2Z9

Attention: Jay Vieira  
Telecopier No.: 416.941.8852

**To: Oremex Resources Inc. and 7678576 Canada Inc.:**

8 King Street East  
Suite 107  
Toronto, Ontario M5C 1B5]

Attention: President  
 Telecopier No.: 416.364.3346

**with a copy to:**

Wildeboer Dellelce LLP  
 Suite 800, Wildeboer Dellelce Place  
 365 Bay Street  
 Toronto, Ontario M5H 2V1

Attention: Al Wiens  
 Telecopier No.: 416.361.1790

or to such other address, telecopier number or individual as may be designated by notice given by any party to the other parties. Any such communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the fifth Business Day following the deposit thereof in the mail and, if given by telecopier or other form of recorded communication, shall be deemed given and received on the date of such transmission if received during the normal business hours of the recipient and on the next Business Day if it is received after the end of such normal business hours on the date of its transmission. If the party giving any such communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such communication shall not be mailed but shall be given by personal delivery or by telecopier transmittal.

**ARTICLE 10  
 INDEMNIFICATION**

**10.1 Survival of Covenants, Agreements, Etc.**

All covenants, agreements, indemnities, representations and warranties made herein by one party to another party or in any other document referred to herein or delivered to such party or pursuant hereto shall be deemed to have been relied on by such party, notwithstanding any investigation made by the party, and shall survive the execution and delivery of this Agreement and the deliveries described in Article 6; provided that any claim for a breach or inaccuracy of the representations and warranties made by the party is made before the expiration of one year from the Closing Date or, if applicable, the date this Agreement is terminated pursuant to Section 7.1(c).

**ARTICLE 11  
 CONFIDENTIALITY**

**11.1 Confidential Information**

All information of Oremex Sub as to its respective business, properties, title, assets and affairs, including information delivered in oral, electronic or written format, which (1) has not become generally available to the public, (2) was not available to Black Birch or its representatives on a non-confidential basis before the date of the LOI or (3) does not become available to Black Birch or its representatives on a non-confidential basis from a Person who is not otherwise bound by confidentiality obligations to Oremex Sub with respect to such information and not otherwise prohibited from transmitting such information, shall be kept strictly confidential by Black Birch and its representatives (the "**Confidential Information**"). No Confidential Information may be released to Third Parties without the consent of Oremex Sub, except that Oremex Sub hereto agrees that it will not unreasonably withhold or unduly delay such consent to the extent that such Confidential Information is compelled to be released by legal process or is required to be released to regulatory bodies and/or included in public documents to satisfy the disclosure requirements in order to consummate the transactions contemplated herein or otherwise.

**ARTICLE 12  
 MISCELLANEOUS**

**12.1 Amendments and Waivers**

Except as otherwise expressly provided herein, any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or

prospectively) if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each of Oremex Sub and Black Birch, or in the case of a waiver, by the party against whom the waiver is to be effective. Any amendment or waiver effected in accordance with this Section 12.1 shall be binding upon Oremex Sub and Black Birch pursuant to this Agreement.

No consent or waiver, express or implied, by any party hereto in respect of any breach or default by any of the other parties in the performance by such other party of its obligations under this Agreement will be deemed or construed to be consent to or waiver of any other breach or default.

## **12.2 Consent to Jurisdiction**

Each of Oremex Sub and Black Birch hereby agrees to submit to the non-exclusive jurisdiction of the courts in and of the Province of Ontario and to the courts to which an appeal of the decisions of such courts may be taken, and consents that service of process with respect to all courts in and of the Province of Ontario may be made by registered mail to it at the address set forth in Article 9.

## **12.3 Governing Law**

This Agreement shall be exclusively governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein without giving effect to any choice or conflict of law provision or rule that would cause the application of the domestic substantive laws of any other jurisdiction.

## **12.4 Further Assurances**

Each party, upon the request of the other party hereto, whether before or after the Closing, shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such further acts, deeds, documents, assignments, transfers, conveyances, powers of attorney and assurances as may be reasonably necessary or desirable to effect complete consummation of the transaction contemplated hereunder.

## **12.5 Time**

Time is of the essence of this Agreement.

## **12.6 Assignment**

This Agreement may not be assigned by any of the parties hereto.

## **12.7 Public Announcement; Disclosure**

Oremex Sub shall not make any public announcement concerning this Agreement or the matters contemplated herein, their discussions or any other memoranda, letters or agreements between the parties relating to the matters contemplated herein without the prior consent of Black Birch, which consent shall not be unreasonably withheld or unduly delayed, and Black Birch shall not make any public announcement concerning this Agreement or the matters contemplated herein, its discussions or any other memoranda, letters or agreements between the parties relating to the matters contemplated herein without the prior consent of Oremex Sub, which consent shall not be unreasonably withheld or unduly delayed, provided that no party shall be prevented from making any disclosure which is required to be made by law, the Canadian securities regulatory authorities, or any rules of a stock exchange or similar organization to which it is bound.

## **12.8 Entire Agreement, Counterparts, Section Headings**

This Agreement, and the Schedules hereto, sets forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby and supersedes any prior written or oral understandings with respect thereto, including, without limitation, the LOI. This Agreement may be executed by facsimile and in one or more counterparts thereof, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The headings in this Agreement are for convenience of reference only and shall not alter or otherwise affect the meaning hereof.

## **12.9 Regulatory Approval**

This Agreement is subject to regulatory approval, including, without limitation, that of the TSXV.

**12.10 Force Majeure**

The obligations of the parties hereto and the time frames established in this Agreement shall be suspended to the extent and for the period that performance is prevented by any cause beyond either party's reasonable control, whether foreseeable or unforeseeable, including, without limitation, labour disputes, acts of God, laws, regulations, orders, proclamations or requests of any governmental authority, inability to obtain on reasonable terms required permits, licenses, or other authorizations, or any other matter similar to the above.

**12.11 Severability**

If any provision of this Agreement is or will become illegal, unenforceable or invalid for any reason whatsoever, such illegal, unenforceable or invalid provisions will be severable from the remainder of this Agreement and will not affect the legality, enforceability or validity of the remaining provisions of this Agreement.


**12.12 Enurement**

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns, as applicable.


**[Remainder of page intentionally left blank.]**

**IN WITNESS WHEREOF** the Parties hereto have executed this Agreement as of the date first written above.


**OREMEX RESOURCES INC.**

Per:   
Name: John Carlesso  
Title: Chairman  
*I have authority to bind the corporation*

**7678576 CANADA INC.**

Per:   
Name: John Carlesso  
Title: Chairman  
*I have authority to bind the corporation*

**BLACK BIRCH CAPITAL ACQUISITION I CORP.**

Per:   
Name: Paul Haber  
Title: President  
*I have authority to bind the corporation*

**Schedule "A"**  
**Oremex Sub Properties**

<b>Lot</b>	<b>Title No.</b>	<b>Municipality</b>	<b>Validity</b>
El Capiro	214063	Concordia, Sinaloa	August 9, 2051
El Alazan	229478	Concordia, Sinaloa	April 25, 2057
Liliana	204932	San Juan del Río, Durango	May 29, 2047
El Eden	213801	San Juan del Río, Durango	June 14, 2051
Lucas	216033	San Juan del Río, Durango	April 1, 2052
Montana	215045	San Juan del Río, Durango	February 6, 2052
Montana 2	230572	San Juan del Río, Durango	September 20, 2057
Navidad	226457	Cucurpe, Sonora	January 17, 2056
Maco	226531	El Fuerte, Sinaloa	January 24, 2056
El Eden 4 Fraccion 1	213613	San Juan del Río, Durango	June 5, 2051
Paco	213981	San Juan del Río, Durango	July 12, 2051

**Schedule "B"**  
**Obligations Pertaining to Oremex Sub Properties**

Save and except the 1.5% net smelter royalty payable to Oremex, there are no obligations pertaining to the Oremex Sub Properties

**Schedule "C"**  
**Black Birch Options**

	<u>Number of Option</u>	<u>Exercise Price</u>	<u>Expiry Date</u>
Paul Haber	167,126	\$0.20	August 31, 2014
Robert Hawkes	83,563	\$0.20	August 31, 2014
Henry Tse	66,850	\$0.20	August 31, 2014
Patricia Virc	16,713	\$0.20	August 31, 2014
<b>Total</b>	<b>334,252</b>		