



Certificate of Arrangement

Canada Business Corporations Act

Certificat d'arrangement

Loi canadienne sur les sociétés par actions

**CLEARWATER SEAFOODS
INCORPORATED**

791149-1

Corporate name(s) of CBCA applicants / Dénomination(s)
sociale(s) de la ou des sociétés LCSA requérantes

Corporation number(s) / Numéro(s) de la ou
des sociétés

I HEREBY CERTIFY that the arrangement set out in the attached articles of arrangement has been effected under section 192 of the *Canada Business Corporations Act*.

JE CERTIFIE que l'arrangement mentionné dans les clauses d'arrangement annexées a pris effet en vertu de l'article 192 de la *Loi canadienne sur les sociétés par actions*.

Raymond Edwards

Director / Directeur

2021-01-25

Date of Arrangement (YYYY-MM-DD)
Date de l'arrangement (AAAA-MM-JJ)



**Canada Business Corporations Act (CBCA)
FORM 14.1
ARTICLES OF ARRANGEMENT
(Section 192)**

1- Name of the applicant corporation(s) CLEARWATER SEAFOODS INCORPORATED	Corporation number 791149-1
2 - Name of the corporation(s) the articles of which are amended, if applicable	Corporation number
3 - Name of the corporation(s) created by amalgamation, if applicable	Corporation number
4 - Name of the dissolved corporation(s), if applicable	Corporation number
5 - Name of the other bodies corporate involved, if applicable 12385104 CANADA INC.	Corporation number or jurisdiction 1238510-4

6 - In accordance with the order approving the arrangement, the plan of arrangement attached hereto, involving the above named body(ies) corporate, is hereby effected.

In accordance with the plan of arrangement,

a. the articles of the corporation(s) indicated in item 2, are amended.
If the amendment includes a name change, indicate the change below:

b. the following bodies corporate and/or corporations are amalgamated (for CBCA corporations include the corporation number):

c. the corporation(s) indicated in item 4 is(are) liquidated and dissolved:

7 - I hereby certify that I am a director or an authorized officer of one of the applicant corporations.

Signature: 

Print name: **Ian Smith, Chief Executive Officer**

Note: Misrepresentation constitutes an offence and, on summary conviction, a person is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding six months or to both (subsection 250(1) of the CBCA).

PLAN OF ARRANGEMENT

PLAN OF ARRANGEMENT UNDER SECTION 192 OF THE CANADA BUSINESS CORPORATIONS ACT

ARTICLE 1 - INTERPRETATION

1.1 Definitions

Unless indicated otherwise, where used in this Plan of Arrangement, capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Arrangement Agreement and the following terms shall have the following meanings (and grammatical variations of such terms shall have corresponding meanings):

"Arrangement" means an arrangement under section 192 of the CBCA in accordance with the terms and subject to the conditions set out in this Plan of Arrangement, subject to any amendments or variations to this Plan of Arrangement made in accordance with the terms of the Arrangement Agreement or made at the direction of the Court in the Final Order with the prior written consent of the Purchaser and the Corporation, each acting reasonably.

"Arrangement Agreement" means the arrangement agreement between the Purchaser and the Corporation dated November 9, 2020, including the schedules thereto, as amended, supplemented or otherwise modified from time to time in accordance with its terms.

"Arrangement Resolution" means the special resolution of the Shareholders approving the Plan of Arrangement to be considered at the Meeting, substantially in the form of Schedule B attached to the Arrangement Agreement.

"Articles of Arrangement" means the articles of arrangement of the Corporation in respect of the Arrangement required by the CBCA to be sent to the Director after the Final Order has been granted, giving effect to the Arrangement, which shall include this Plan of Arrangement and otherwise be in a form and content satisfactory to the Corporation and the Purchaser, each acting reasonably.

"Business Day" means a day other than (a) a Saturday, Sunday, or a statutory holiday in Halifax, Nova Scotia or Vancouver, British Columbia; or (b) a day on which banking institutions in Halifax, Nova Scotia or Vancouver, British Columbia are permitted or obligated by Law to be closed.

"CBCA" means the Canada Business Corporations Act, R.S.C. 1985, c. C-44.

"Certificate of Arrangement" means the certificate of arrangement giving effect to the Arrangement to be issued by the Director pursuant to section 192(7) of the CBCA in respect of the Articles of Arrangement.

"Circular" means the notice of the Meeting and accompanying management information circular, including all schedules, appendices and exhibits thereto, to be sent or otherwise made available to the Shareholders in connection with the Meeting, as amended, supplemented or otherwise modified from time to time in accordance with the terms of the Arrangement Agreement and the Interim Order (once issued).

"**Common Shares**" means the common shares in the capital of the Corporation.

"**Consideration**" means:

- (a) where the Effective Date is on or before January 29, 2021, \$8.25 in cash per Common Share and \$8.25 in cash per vested and outstanding DPSU, DSU, PSU and RSU then held by the DPSU Holders, DSU Holders, PSU Holders and RSU Holders as contemplated by Section 2.10 of the Arrangement Agreement;
- (b) where the Effective Date is after January 29, 2021 but on or before April 30, 2021, \$8.30 in cash per Common Share and \$8.30 in cash per vested and outstanding DPSU, DSU, PSU and RSU then held by the DPSU Holders, DSU Holders, PSU Holders and RSU Holders as contemplated by Section 2.10 of the Arrangement Agreement; or
- (c) where the Effective Date is after April 30, 2021 but on or before the Outside Date, \$8.35 in cash per Common Share and \$8.35 in cash per vested and outstanding DPSU, DSU, PSU and RSU then held by the DPSU Holders, DSU Holders, PSU Holders and RSU Holders as contemplated by Section 2.10 of the Arrangement Agreement.

"**Corporation**" means Clearwater Seafoods Incorporated, a corporation existing under the CBCA.

"**Corporation Notes**" means the 6.875% USD Senior Notes due 2025 issued pursuant to the Indenture.

"**Court**" means the Supreme Court of Nova Scotia.

"**Depository**" means Computershare Trust Company of Canada, in its capacity as depository for the Arrangement, or such other Person as the Corporation and the Purchaser agree to engage as depository for the Arrangement.

"**Director**" means the Director appointed pursuant to section 260 of the CBCA.

"**Dissent Rights**" has the meaning specified in Section 3.1 of this Plan of Arrangement.

"**Dissenting Holder**" means a registered holder of Common Shares who has properly exercised its Dissent Rights in accordance with Section 3.1 of this Plan of Arrangement and has not withdrawn or been deemed to have withdrawn such exercise of Dissent Rights and who is ultimately determined to be entitled to be paid the fair value of its Common Shares but only in respect of Common Shares in respect of which Dissent Rights are validly exercised by such registered holder.

"**DPSU**" means a performance share unit issued under the DPSU Plan.

"**DPSU Holders**" has the meaning ascribed thereto in the Arrangement Agreement.

"**DPSU Plan**" means the directors' performance PSU plan of the Corporation effective May 8, 2012, as amended May 12, 2015, and July 2, 2020 and as further amended from time to time in accordance with its terms.

"**DRIP**" means the dividend reinvestment plan of the Corporation dated February 23, 2018, as amended from time to time.

"**DSU**" means a deferred stock unit issued under the DSU Plan.

"**DSU Holders**" has the meaning ascribed thereto in the Arrangement Agreement.

"**DSU Plan**" means the deferred stock unit plan of the Corporation effective as of May 8, 2012, as amended May 12, 2015 and as further amended from time to time.

"**Effective Date**" means the date shown on the Certificate of Arrangement giving effect to the Arrangement.

"**Effective Time**" means 12:01 a.m. (Halifax time) on the Effective Date, or such other time as the Parties agree to in writing before the Effective Date.

"**Escrow Agent**" means Stewart McKelvey, in its capacity as escrow agent for the Consideration payable in respect of the DPSUs, DSUs, PSUs and RSUs arranged under the Plan of Arrangement, or such other Person as the Corporation and the Purchaser agree to engage as escrow agent for such purposes.

"**Escrow Agreement**" means the agreement to be entered into between the Escrow Agent, the Purchaser and the Corporation not less than ten (10) Business Days prior to the Effective Date on terms and conditions satisfactory to the Purchaser and the Corporation, each acting reasonably.

"**Final Order**" means the final order of the Court approving the Arrangement under section 192 of the CBCA in a form acceptable to the Corporation and the Purchaser, each acting reasonably, as such order may be amended, supplemented or varied by the Court (with the consent of both the Corporation and the Purchaser, each acting reasonably) at any time prior to the Effective Date or, if appealed, then, unless such appeal is withdrawn or denied, as affirmed or as amended (provided that any such amendment is acceptable to both the Corporation and the Purchaser, each acting reasonably).

"**Indenture**" means the indenture dated as of April 26, 2017 by and among the Corporation and each of the guarantors party thereto and Wilmington Trust, National Association, as trustee, for the 6.875% USD Senior Notes of the Corporation due May 1, 2025.

"**Interim Order**" means the interim order of the Court contemplated by Section 2.3 of the Arrangement Agreement, in a form acceptable to both the Corporation and the Purchaser, each acting reasonably, providing for, among other things, the calling and holding of the Meeting, as such order may be amended, supplemented or varied by the Court with the prior consent of both the Corporation and the Purchaser, each acting reasonably.

"**Law**" means any applicable laws, including federal, national, multinational, provincial, state, municipal, regional and local laws (statutory, common or otherwise), constitutions, treaties, conventions, by-laws, statutes, rules, regulations, principles of law and equity, orders, rulings, certificates, ordinances, judgments, injunctions, determinations, awards, decrees, legally binding codes or other requirements, whether domestic or foreign, and the terms and conditions of any applicable grant of approval, permission, authority or license or other similar requirement of any Regulatory Authority.

"**Letter of Transmittal**" means the letter of transmittal to be sent by the Corporation to Shareholders in connection with the Arrangement.

"**Lien**" means any mortgage, charge, pledge, hypothec, security interest, prior claim, encroachment, option, right of first refusal or first offer, occupancy right, covenant, assignment, lien (statutory or otherwise), defect of title, or restriction or adverse right or claim, or other third party interest or encumbrance of any kind, in each case, whether contingent or absolute.

"**LTIP**" means the executive long-term incentive plan of the Corporation effective May 8, 2012, as amended May 12, 2015, March 8, 2019 and July 2, 2020 and as further amended from time to time.

"**Meeting**" means the special meeting of the Shareholders to be held in person, virtually or a combination thereof, including any adjournment or postponement of such special meeting in accordance with the terms of the Arrangement Agreement, to be called and held in accordance with the Interim Order for the purpose of considering and, if thought fit, approving (i) the Arrangement Resolution, (ii) all other matters requiring approval pursuant to the terms and conditions of the Arrangement Agreement or the Interim Order, and (iii) any other matter set out in the Circular and agreed to in writing by the Purchaser in accordance with the Arrangement Agreement.

"**Parties**" means the Corporation and the Purchaser.

"**Payroll Service Administrators**" means the third party payroll service administrators engaged by the Corporation to process and administer employee compensation in Canada, the United States, the United Kingdom and Europe.

"**Person**" means an individual, general partnership, limited partnership, association, body corporate, organization, trust, estate, trustee, executor, administrator or other legal representative, government (including a Regulatory Authority), or other entity, whether or not having legal status.

"**Plan of Arrangement**" means this Plan of Arrangement proposed under section 192 of the CBCA, and any amendments or variations made in accordance with Section 8.1 of the Arrangement Agreement or Section 5.1 of this Plan of Arrangement or made at the direction of the Court in the Final Order with the prior written consent of both the Corporation and the Purchaser, each acting reasonably.

"**PSU**" means a performance share unit issued under the LTIP.

"**PSU Holder**" has the meaning ascribed thereto in the Arrangement Agreement.

"**Purchaser**" means 12385104 Canada Inc.

"**Regulatory Authority**" means any (i) international, multinational, federal, national, provincial, state, regional, municipal, local or other government, governmental or public department, ministry, central bank, court, tribunal, arbitral body, office, Crown corporation, commission, board, bureau or agency, domestic or foreign, (ii) subdivision, agent or authority of any of the foregoing, or (iii) quasi-governmental or private body, including any tribunal, commission, stock exchange (including the Toronto Stock Exchange), regulatory agency or self-regulatory organization.

"RSU" means a restricted share unit issued under the LTIP.

"RSU Holders" has the meaning ascribed thereto in the Arrangement Agreement.

"Shareholders" means the registered or beneficial holders of Common Shares, as the context requires.

"Tax Act" means the Income Tax Act (Canada), R.S.C., 1985, c. 1 (5th Supp.) and the regulations made thereunder, as now in effect and as they may be promulgated or amended from time to time.

1.2 Certain Rules of Interpretation

In this Plan of Arrangement, unless otherwise specified:

- (a) **Headings, etc.** The division of this Plan of Arrangement into Articles and Sections and the insertion of headings are for convenient reference only and do not affect the construction or interpretation of this Plan of Arrangement.
- (b) **Currency.** All references to dollars or to \$ are references to Canadian dollars.
- (c) **Gender and Number.** Any reference to gender includes all genders. Words importing the singular number only include the plural and vice versa.
- (d) **Certain Phrases, etc.** Wherever the word "including," "includes" or "include" is used in this Plan of Arrangement, it shall be deemed to be followed by the words "without limitation." The word "or" shall be disjunctive but not exclusive. The phrase "the aggregate of," "the total of," "the sum of" or a phrase of similar meaning means "the aggregate (or total or sum), without duplication, of." References herein to a Person in a particular capacity or capacities shall exclude such Person in any other capacity.
- (e) **Statutes.** Any reference to a statute refers to such statute and all rules 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.
- (f) **Computation of Time.** A period of time is to be computed as beginning on the day following the event that began the period and ending at 4:30 p.m. on the last day of the period, if the last day of the period is a Business Day, or at 4:30 p.m. on the next Business Day if the last day of the period is not a Business Day. If the date on which any action is required or permitted to be taken under this Plan of Arrangement by a Person is not a Business Day, such action shall be required or permitted to be taken on the next succeeding day which is a Business Day.
- (g) **Time References.** References to time are to local time, Halifax, Nova Scotia.

ARTICLE 2 - THE ARRANGEMENT

2.1 Arrangement Agreement

This Plan of Arrangement is made pursuant to and subject to the provisions of the Arrangement Agreement.

2.2 Binding Effect

This Plan of Arrangement and the Arrangement will become effective at, and be binding at and after, the times referred to in Section 2.3 of this Plan of Arrangement on: (a) the Corporation, (b) the Purchaser, (c) all Shareholders (including Dissenting Holders), (d) all DSU Holders and participants in the DSU Plan, (e) all DPSU Holders and participants in the DPSU Plan, (f) all PSU Holders and participants in the LTIP, (g) all RSU Holders and participants in the LTIP, (h) all participants in the DRIP, (i) the Depository, (j) the Payroll Service Administrators, (k) the Escrow Agent and (l) all other Persons, in each case without any further act or formality required on the part of any Person.

2.3 Arrangement

Commencing at the Effective Time each of the following events shall occur and shall be deemed to occur sequentially as set out below without any further authorization, act or formality, in each case, unless stated otherwise, effective as at five minute intervals starting at the Effective Time:

- (a) each of the Common Shares held by Dissenting Holders in respect of which Dissent Rights have been validly exercised shall be deemed to have been transferred without any further act or formality, by or on behalf of the Dissenting Holders, to the Purchaser in consideration for a claim against the Purchaser for the amount determined under Article 3 of this Plan of Arrangement, and:
 - (i) such Dissenting Holders 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 Purchaser for such Common Shares as set out in Section 3.1 of this Plan of Arrangement;
 - (ii) such Dissenting Holders' names shall be removed as the holders of such Common Shares from the register of Common Shares maintained by or on behalf of the Corporation; and
 - (iii) the Purchaser 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 Corporation;
- (b) each Common Share outstanding immediately prior to the Effective Time, other than Common Shares held by a Dissenting Holder in respect of which Dissent Rights have been validly exercised and Common Shares held by the Purchaser shall be deemed to have been transferred without any further act or formality, by or on behalf of the Shareholder, to the Purchaser in consideration for the Consideration, and:

- (i) the holders of such Common Shares 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 the Consideration by 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 Corporation; and
 - (iii) the Purchaser 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 Corporation;
- (c) the number of DSUs vested and outstanding immediately prior to the Effective Time shall be as contemplated by Section 2.10 of the Arrangement Agreement and each such DSU, notwithstanding the terms of the DSU Plan, shall, without any further action by or on behalf of a DSU Holder, be deemed to be assigned and transferred by such holder to the Corporation in exchange for a cash payment from the Corporation equal to the Consideration, subject to Section 4.3 of this Plan of Arrangement, and each such DSU shall immediately be cancelled and (i) the DSU Holders shall cease to be the holders thereof, and to have any rights as DSU Holders other than the right to receive the consideration to which they are entitled under this Section 2.3(c) of this Plan of Arrangement and (ii) such holders' names shall be removed from the register of the DSUs maintained by or on behalf of the Corporation;
- (d) notwithstanding the terms of the DSU Plan and any agreements relating to the DSUs, the DSU Plan shall be terminated and shall be of no further force and effect and the Corporation shall have no liabilities or obligations under the DSU Plan or any agreement relating to the DSU Plan, including with respect to DSUs granted under the DSU Plan which did not vest prior to the Effective Time;
- (e) the number of DPSUs vested and outstanding immediately prior to the Effective Time shall be as contemplated by Section 2.10 of the Arrangement Agreement and each such DPSU, notwithstanding the terms of the DPSU Plan, shall, without any further action by or on behalf of a DPSU Holder, be deemed to be assigned and transferred by such holder to the Corporation in exchange for a cash payment from the Corporation equal to the Consideration, subject to Section 4.3 of this Plan of Arrangement, and each such DPSU shall immediately be cancelled and (i) the DPSU Holders shall cease to be the holders thereof, and to have any rights as DPSU Holders other than the right to receive the consideration to which they are entitled under this Section 2.3(d) of this Plan of Arrangement and (ii) such holders' names shall be removed from the register of the DPSUs maintained by or on behalf of the Corporation;
- (f) notwithstanding the terms of the DPSU Plan and any agreements relating to the DPSUs, the DPSU Plan shall be terminated and shall be of no further force and effect and the Corporation shall have no liabilities or obligations under the DPSU Plan or any agreement relating to the DPSU Plan, including with respect to DPSUs granted under the DPSU Plan which did not vest prior to the Effective Time;

- (g) the number of PSUs vested and outstanding immediately prior to the Effective Time shall be as contemplated by Section 2.10 of the Arrangement Agreement and each such PSU, notwithstanding the terms of the LTIP, shall, without any further action by or on behalf of a PSU Holder, be deemed to be assigned and transferred by such holder to the Corporation in exchange for a cash payment from the Corporation equal to the Consideration, subject to Section 4.3 of this Plan of Arrangement, and each such PSU shall immediately be cancelled and (i) the PSU Holders shall cease to be the holders thereof, and to have any rights as PSU Holders other than the right to receive the consideration to which they are entitled under this Section 2.3(g) of this Plan of Arrangement (ii) such holders' names shall be removed from the register of the PSUs maintained by or on behalf of the Corporation;
- (h) the number of RSUs vested and outstanding immediately prior to the Effective Time shall be as contemplated by Section 2.10 of the Arrangement Agreement and each such RSU, notwithstanding the terms of the LTIP, shall, without any further action by or on behalf of a RSU Holder, be deemed to be assigned and transferred by such holder to the Corporation in exchange for a cash payment from the Corporation equal to the Consideration, subject to Section 4.3 of this Plan of Arrangement, and each such RSU shall immediately be cancelled and (i) the RSU Holders shall cease to be the holders thereof, and to have any rights as RSU Holders other than the right to receive the consideration to which they are entitled under this Section 2.3(h) of this Plan of Arrangement and (ii) such holders' names shall be removed from the register of the RSUs maintained by or on behalf of the Corporation;
- (i) notwithstanding the terms of the LTIP and any agreements relating to the PSUs and the RSUs, the LTIP shall be terminated and shall be of no further force and effect and the Corporation shall have no liabilities or obligations under the LTIP or any agreement relating to the LTIP, including with respect to PSUs and RSUs granted under the LTIP which did not vest prior to the Effective Time; and
- (j) notwithstanding the terms of the DRIP and any agreements relating to the DRIP, the DRIP shall be terminated and shall be of no further force and effect and the Corporation shall have no liabilities or obligations under the DRIP or any agreement relating to the DRIP.

ARTICLE 3 - RIGHTS OF DISSENT

3.1 Rights of Dissent

A registered holder of Common Shares may exercise rights of dissent ("**Dissent Rights**") in accordance with the procedures set out in section 190 of the CBCA, as modified by this Article 3 and the Final Order, with respect to such Common Shares in connection with the Arrangement, provided that notwithstanding (i) section 190(5) of the CBCA, the written objection to the Arrangement Resolution contemplated by section 190(5) of the CBCA must be received by the Corporation at or before the Meeting. Each Dissenting Holder who is:

- (a) ultimately entitled to be paid fair value for such Common Shares, such fair value, notwithstanding anything to the contrary contained in Part XV of the CBCA, shall be determined as of the close of business on the day before the Arrangement

Resolution was adopted at the Meeting, shall be deemed to have transferred such holder's Common Shares to the Purchaser as of the Effective Time as set out in Section 2.3 of this Plan of Arrangement, and will not be entitled to any other payment or consideration, including any payment that would be payable under the Arrangement had such Dissenting Holder not exercised Dissent Rights in respect of such Common Shares; or

- (b) ultimately not entitled, for any reason, to be paid such fair value for such Common Shares, shall be deemed to have participated in the Arrangement with respect to such Common Shares, as of the Effective Time, on the same basis as a non-Dissenting Holder to which Section 2.3 of this Plan of Arrangement applies.

3.2 **Recognition of Dissenting Holders**

- (a) In no circumstances shall the Purchaser, the Corporation or any other Person be required to recognize a Dissenting Holder as the holder of any Common Share in respect of which Dissent Rights have been validly exercised at and after the Effective Time, and the names of such Dissenting Holders shall be removed from the registers of Common Shares maintained by or on behalf of the Corporation as provided in Section 2.3(a)(ii) of this Plan of Arrangement.
- (b) For greater certainty, in no case shall the Purchaser, the Corporation or any other Person be required to recognize Dissenting Holders as holders of Common Shares, as the case may be, in respect of which Dissent Rights have been validly exercised after the completion of the transfer under Section 2.3(a) of this Plan of Arrangement, and the names of such Dissenting Holders shall be removed from the applicable register of holders of Common Shares in respect of which Dissent Rights have been validly exercised at the same time as the event described in Section 2.3(a)(ii) of this Plan of Arrangement occurs.
- (c) In addition to any other restrictions under section 190 of the CBCA, none of the following shall be entitled to exercise Dissent Rights: (i) DSU Holders, (ii) DPSU Holders, (iii) PSU Holders, (iv) RSU Holders and (v) holders of Common Shares who vote or have instructed a proxyholder to vote such Common Shares in favour of the Arrangement Resolution.

ARTICLE 4 - CERTIFICATES AND PAYMENTS

4.1 **Payment and Delivery of Consideration**

- (a) Prior to the sending by the Corporation of the Articles of Arrangement to the Director the Purchaser shall deposit, or arrange to be deposited, in accordance with the terms and conditions of the Arrangement Agreement for the benefit of the Shareholders, the DSU Holders, the DPSU Holders, the PSU Holders and the RSU Holders, cash as follows:
 - (i) with the Depository, the aggregate amount equal to the payments in respect of Common Shares required by Section 2.3 of this Plan of Arrangement; and

- (ii) with the Escrow Agent, the aggregate amount equal to the payments in respect of the DPSUs, the PSUs, the RSUs and the DSUs required by Section 2.3 of this Plan of Arrangement to be held pursuant to the terms and conditions of the Escrow Agreement.
- (b) As soon as practicable following the Effective Time, the Escrow Agent shall transfer the aggregate amount equal to the payments in respect of the DPSUs, the PSUs, the RSUs and the DSUs required by Section 2.3 of this Plan of Arrangement to the Payroll Service Administrators in accordance with the terms and conditions of the Escrow Agreement.
- (c) Following the deposit with the Depository and the Escrow Agent of the amounts specified in Section 4.1(a)(i) and Section 4.1(a)(ii), the Purchaser will be fully and completely discharged from its obligation to pay the Consideration to the Shareholders, the DSU Holders, the DPSU Holders, the PSU Holders and the RSU Holders (other than in respect of the right of Dissenting Holders to be paid fair value as herein provided for the Common Shares in respect of which Dissent Rights have been validly exercised), and the rights of such holders will be limited to receiving, from the Depository and the Payroll Service Administrators, as applicable, the Consideration to which they are entitled in accordance with this Plan of Arrangement.
- (d) Upon surrender to the Depository for cancellation of a certificate which immediately prior to the Effective Time represented outstanding Common Shares that were transferred pursuant to Section 2.3(b), together with a duly completed and executed Letter of Transmittal and such additional documents and instruments as the Depository may reasonably require, the Shareholder(s) represented by such surrendered certificate shall be entitled to receive in exchange therefor, and the Depository shall deliver to such holder, the cash which such holder has the right to receive under this Plan of Arrangement for such Common Shares, less any amounts withheld pursuant to Section 4.3 of this Plan of Arrangement, and any certificate representing Common Shares so surrendered shall forthwith be cancelled.
- (e) On or as soon as practicable after the Effective Date, the Payroll Service Administrators shall deliver to each DSU Holder, DPSU Holder, PSU Holder and RSU Holder, or to such other Person as such holder may direct, the cash payment, if any, which such DSU Holder, DPSU Holder, PSU Holder and RSU Holder has the right to receive under this Plan of Arrangement for such DSUs, DPSUs, PSUs and RSUs less any amount withheld pursuant to Section 4.3 of this Plan of Arrangement, either (i) pursuant to the normal payroll practices and procedures of the Corporation or (ii) by cheque.
- (f) Until surrendered as contemplated by this Section 4.1, each certificate that immediately prior to the Effective Time represented Common Shares (other than Common Shares in respect of which Dissent Rights have been validly exercised and not withdrawn), shall be deemed after the Effective Time to represent only the right to receive upon such surrender a cash payment in lieu of such certificate as contemplated in this Section 4.1, less any amounts withheld pursuant to Section 4.3 of this Plan of Arrangement. 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 Shareholder of any kind or nature against or in the Corporation or the Purchaser. On such date, all cash to which such former holder of Common Shares was entitled shall be deemed to have been surrendered to the Corporation and shall be paid over by the Depositary to the Corporation or as directed by the Corporation.

- (g) Any payment made by way of cheque by the Depositary or the Corporation, as applicable, pursuant to this Plan of Arrangement that has not been deposited or has been returned to the Depositary or that otherwise remains unclaimed, in each case, on or before the sixth anniversary of the Effective Time, and any right or claim to payment hereunder that remains outstanding on the sixth anniversary of the Effective Time shall cease to represent a right or claim of any kind or nature and the right of the holder to receive the applicable Consideration pursuant to this Plan of Arrangement shall terminate and be deemed to be surrendered and forfeited to the Corporation for no consideration.
- (h) No holder of Common Shares, DSUs, DPSUs, PSUs or RSUs shall be entitled to receive any consideration with respect to such Common Shares, DSUs, DPSUs, PSUs or RSUs other than any cash payment to which such holder is entitled to receive in accordance with this Section 4.1 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 with a record date prior to or on the Effective Date.

4.2 **Lost Certificates**

In the event any certificate which immediately prior to the Effective Time represented one or more outstanding Common Shares that were transferred pursuant to Section 2.3(b) of this Plan of Arrangement shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such certificate to be lost, stolen or destroyed, the Depositary will issue in exchange for such lost, stolen or destroyed certificate, the Consideration that such Shareholder has the right to receive in accordance with Section 2.3 of this Plan of Arrangement and such Shareholder's Letter of Transmittal. When authorizing such exchange for any lost, stolen or destroyed certificate, the Person to whom such Consideration is to be delivered shall, as a condition precedent to the delivery of such Consideration, give a bond satisfactory to the Purchaser and the Depositary (each acting reasonably) in such sum as the Purchaser may direct (acting reasonably), or otherwise indemnify the Purchaser and the Corporation in a manner satisfactory to the Purchaser (acting reasonably) against any claim that may be made against the Purchaser and the Corporation with respect to the certificate alleged to have been lost, stolen or destroyed.

4.3 **Withholding Rights**

Each of the Purchaser, the Corporation, the Depositary, the Payroll Service Administrators and any other Person that makes a payment shall be entitled to deduct and withhold, or direct any other Person to deduct and withhold on their behalf, from the amount payable to any Person under this Plan of Arrangement (including, without limitation, any amounts payable pursuant to Section 3.1 of this Plan of Arrangement and any amounts payable to DSU Holders, DPSU Holders, PSU Holders or RSU Holders), such amount as the Purchaser, the Corporation, the Depositary or the Payroll Service Administrator deems, each acting reasonably, is required to be deducted or withheld pursuant to the Tax Act or any provision of any Law and remit such deducted and

withheld amount to the appropriate Regulatory Authority. To the extent that the amount is so properly deducted, withheld and remitted, such amount shall be treated for all purposes of this Plan of Arrangement as having been paid to the relevant recipient, provided that such amounts are actually remitted to the appropriate Regulatory Authority. To the extent that such amounts are so deducted, withheld and remitted to the relevant Regulatory Authority, such amounts shall be treated for all purposes under this Plan of Arrangement as having been paid to the Person to whom such amounts would otherwise have been paid. To the extent that the amount so required to be deducted or withheld from any amounts payable, issuable or otherwise deliverable to a Person under this Plan of Arrangement exceeds the amount of cash otherwise payable to such Person, the Purchaser, the Corporation, the Depositary and the Payroll Service Administrators are hereby authorized to sell or otherwise dispose, or direct any other Person to sell or otherwise dispose, of such portion of the non-cash amounts payable, issuable or otherwise deliverable under this Plan of Arrangement to such Person as is necessary to provide sufficient funds to the Purchaser, the Corporation, the Depositary and the Payroll Service Administrators, as the case may be, to enable it to comply with such deduction or withholding requirement and the Purchaser, the Corporation, the Depositary and the Payroll Service Administrators, as applicable, shall notify the relevant Person of such sale or other disposition and remit to such Person any unapplied balance of the net proceeds of such sale or other disposition (after deduction for (a) the amounts required to satisfy the required withholding under this Plan of Arrangement in respect of such Person, (b) reasonable commissions payable to a broker, and (c) other reasonable costs and expenses).

4.4 **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.

4.5 **Paramountcy**

From and after the Effective Time (a) this Plan of Arrangement shall take precedence and priority over any and all of the securities of the Corporation issued or outstanding prior to the Effective Time excluding the Corporation Notes, (b) the rights and obligations of such securityholders, excluding the holders of the Corporation Notes, the Corporation, the Purchaser, the Depositary, the Escrow Agent, the Payroll Service Administrators, 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 securities of the Corporation excluding the Corporation Notes are deemed to have been settled, compromised, released and determined without liability except as set forth herein.

ARTICLE 5 - AMENDMENTS

5.1 **Amendments to Plan of Arrangement**

- (a) The Corporation and the Purchaser may amend, modify and/or supplement this Plan of Arrangement at any time and from time to time prior to the Effective Time, provided that each such amendment, modification and/or supplement must be (i) set out in writing, (ii) approved by the Purchaser and the Corporation (subject to the Arrangement Agreement), each acting reasonably, (iii) filed with the Court and, if made following the Meeting, approved by the Court, and (iv) communicated to the Shareholders if and as required by the Court.

- (b) Any amendment, modification or supplement to this Plan of Arrangement may be proposed by the Corporation or the Purchaser at any time prior to the Meeting (provided that the Purchaser or the Corporation (subject to the Arrangement Agreement), 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 Meeting (other than as may be required under the Interim Order), shall become part of this Plan of Arrangement for all purposes.
- (c) Any amendment, modification or supplement to this Plan of Arrangement that is approved or directed by the Court following the Meeting shall be effective only if (i) it is consented to in writing by each of the Corporation and the Purchaser (each, 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.
- (d) Any amendment, modification or supplement to this Plan of Arrangement may be made following the granting of the Final Order without filing such amendment, modification or supplement with the Court or seeking Court approval, provided that (i) it concerns a matter which, in the reasonable opinion of the Parties, is of an administrative nature required to better give effect to the implementation of this Plan of Arrangement and is not adverse to the interest of any Shareholder, DSU Holder, DPSU Holder, PSU Holder or RSU Holder, or (ii) is an amendment contemplated in Section 5.1 of this Plan of Arrangement.
- (e) Any amendment, modification or supplement to this Plan of Arrangement may be made following the Effective Date unilaterally by the Purchaser, provided that 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 adverse to the economic interest of any former Shareholder, DSU Holder, DPSU Holder, PSU Holder or RSU Holder.

ARTICLE 6 - FURTHER ASSURANCES

6.1 Further Assurances

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