

NEXT HYDROGEN CORPORATION

- and -

BIOHEP TECHNOLOGIES LTD.

- and -

2819845 ONTARIO INC.

- and -

NATIONAL BANK FINANCIAL INC.

- and -

TD SECURITIES INC.

- and -

TSX TRUST COMPANY

SUBSCRIPTION RECEIPT AGREEMENT

**Providing for the Issuance of
Subscription Receipts at a Price of \$10.00 per Subscription Receipt**

Dated as of April 28, 2021

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SUBSCRIPTION RECEIPT AGREEMENT

THIS AGREEMENT made as of April 28, 2021.

AMONG:

NEXT HYDROGEN CORPORATION, a company incorporated under the laws of the Province of Ontario (“**Next Hydrogen**”);

AND

BIOHEP TECHNOLOGIES LTD., a company incorporated under the laws of the Province of British Columbia (“**BioHep**”);

AND

2819845 ONTARIO INC., a company incorporated under the laws of the Province of Ontario (the “**Company**”);

AND:

NATIONAL BANK FINANCIAL INC. and TD SECURITIES INC. (collectively, the “**Active Bookrunners**”);

AND:

TSX TRUST COMPANY, a trust company continued under the laws of Canada (the “**Subscription Receipt Agent**”).

WHEREAS:

- (1) The Company proposes to issue and sell up to 5,704,500 Subscription Receipts (as defined herein) at the Issue Price (as defined herein) to subscribers in connection with the Brokered Offering and the Non-Brokered Offering (as defined herein).
- (2) The Company is duly authorized to create, issue and sell the Subscription Receipts as provided herein.
- (3) Each Subscription Receipt represents the right to receive one Common Share (as defined herein) upon satisfaction of the Escrow Release Conditions (as defined herein).
- (4) The Company has approved and agreed to the issuance of Common Shares upon satisfaction of the Escrow Release Conditions.
- (5) The Company, BioHep, Next Hydrogen and the Active Bookrunners, for and on behalf of the Agents (as defined herein), as applicable, have agreed that:
 - (a) pending the release in accordance with the terms and conditions of this Agreement, the Proceeds (as defined herein) are to be delivered to and held by the Subscription Receipt Agent as escrow agent hereunder and invested for and on behalf of the Company, the Agents or the Receiptholders (as defined herein), as the case may be, in the manner set out herein;
 - (b) if the Escrow Release Conditions have been satisfied and the Notice and Direction (as defined herein) is delivered to the Subscription Receipt Agent on or before the Escrow Release

Deadline (as defined herein): (i) each Receiptholder shall be and shall be deemed to be issued automatically, without payment of additional consideration or the undertaking of any further action by the Receiptholder, one Common Share for each one Subscription Receipt held, and each Common Share shall be subsequently cancelled in connection with the Amalgamation (as defined herein) and each holder of such Common Shares shall receive one Resulting Issuer Share (as defined herein) for each Common Share so cancelled; (ii) the Balance of the Agents' Expenses and 50% of the Agents' Fee, together with any Earned Interest thereon, shall be released from the Escrowed Funds (as defined herein) and paid to the Active Bookrunners, for and on behalf of the Agents (or as the Active Bookrunners may direct in writing); and (iii) the balance of the Escrowed Funds shall be released to the Company as the Company may direct in writing, on behalf of the Company, all in accordance with the Notice and Direction;

- (c) if on or before the Escrow Release Deadline: (i) the Notice and Direction has not been delivered to the Subscription Receipt Agent; (ii) the Company, BioHep and/or Next Hydrogen has advised the Active Bookrunners, for and on behalf of the Agents, that the Escrow Release Conditions will not be satisfied, or announced to the public that it does not intend to satisfy the Escrow Release Conditions; or (iii) the Amalgamation Agreement (as defined herein) is terminated in accordance with its terms, then the Receiptholders shall be and shall be deemed to be paid, an amount per Subscription Receipt equal to the aggregate Issue Price of the Subscription Receipts held by them, to be paid by the Subscription Receipt Agent no later than the fifth (5th) Business Day (as defined herein) following the Termination Date (as defined herein) and the Subscription Receipts will be cancelled; and for greater certainty, Next Hydrogen shall be responsible and liable to the Receiptholders for any shortfall between the aforesaid amounts and the funds available to satisfy those amounts from the Escrowed Funds or Earned Interest, respectively.
- (6) The Subscription Receipt Agent has agreed to act as registrar and transfer agent for the Subscription Receipts, and as escrow agent to receive the Proceeds, in accordance with the terms and conditions set out herein.
- (7) These recitals and any statement of fact in this Agreement are and shall be deemed to be made by the Company, BioHep, Next Hydrogen and the Active Bookrunners, for and on behalf of the Agents, and not the Subscription Receipt Agent.

NOW THEREFORE, THIS AGREEMENT WITNESSES that for good and valuable consideration mutually given and received, the receipt and sufficiency of which is hereby mutually acknowledged, it is hereby agreed and declared as follows:

ARTICLE 1 INTERPRETATION

Section 1.1 Definitions

In this Agreement and the recitals hereto, unless there is something in the subject matter or context inconsistent therewith or unless otherwise expressly provided, the following terms shall have the meanings ascribed thereto:

“Active Bookrunners” means National Bank Financial Inc. and TD Securities Inc.;

“Agency Agreement” means the agency agreement dated the date hereof between the Company, BioHep, Next Hydrogen and the Agents providing for the issue and sale of the Subscription Receipts;

“Agents” means, collectively, the Active Bookrunners, Echelon Wealth Partners Inc., Raymond James Ltd., Roth Canada ULC, Beacon Securities Ltd. and Fort Capital Partners;

“**Agents’ Fee**” has the meaning set forth in the Agency Agreement;

“**Agents’ Expenses**” means the costs and expenses of or incurred by the Agents payable pursuant to Section 18.1(ii) of the Agency Agreement.

“**Agreement**”, “**herein**”, “**hereto**”, “**hereunder**”, “**hereof**”, “**hereby**” and similar expressions mean or refer to this Subscription Receipt Agreement, as amended from time to time, and not to any particular Article, Section, subsection, paragraph, clause, subdivision or portion hereof and include any agreement or instrument supplemental or ancillary hereto;

“**Amalgamation**” means the three-cornered amalgamation to be completed pursuant to the terms of the Amalgamation Agreement in connection with the RTO Transaction;

“**Amalgamation Agreement**” means the agreement dated March 3, 2021 between the Company, BioHep, a subsidiary of BioHep and Next Hydrogen providing for the Amalgamation;

“**Applicable Legislation**” means the provisions of any statute of Canada or the Qualifying Jurisdictions and the regulations and rules under any such named or other statute, relating to subscription receipt agreements or to the rights, duties and obligations of subscription receipt agents and corporations under subscription receipt agreements as are from time to time in force and applicable to this Agreement;

“**Authenticated**” means (a) with respect to the issuance of a Subscription Receipt Certificate, one which has been duly signed by the Company and authenticated by the manual signature of an authorized officer of the Subscription Receipt Agent, (b) with respect to the issuance of an Uncertificated Subscription Receipt, one in respect of which the Subscription Receipt Agent has completed all Internal Procedures such that the particulars of such Uncertificated Subscription Receipt as required by Section 2.7(2) are entered in the register of holders of Subscription Receipts; “**Authenticate**” and “**Authentication**” have the appropriate correlative meanings;

“**Balance of the Agents’ Expenses**” means the balance of the Agents’ Expenses accrued from the date of Closing to the Notice Date, payable on the Notice Date in accordance with the Agency Agreement;

“**Beneficial Owner**” means a person that has a beneficial interest in the Subscription Receipt that is represented by a Subscription Receipt Certificate or Uncertificated Subscription Receipt registered in the name of CDS or its nominee, for the purposes of being held by or on behalf of CDS as custodian for Participants;

“**BioHep**” means BioHep Technologies Ltd.;

“**BioHep Counsel**” means Buttonwood Law Corporation;

“**Brokered Offering**” means a best efforts private placement offering without underwriter liability of Subscription Receipts to be issued and sold by the Company pursuant to the Agency Agreement for aggregate gross proceeds of up to \$28.545 million.

“**Business Day**” means any day which is not a Saturday, Sunday or a statutory holiday in the City of Toronto and a day on which the Subscription Receipt Agent is normally open for business;

“**CDS**” means CDS Clearing and Depository Services Inc. and its successors in interest;

“**Closing**” means the completion of the offer, sale and issuance of the Subscription Receipts pursuant to the Brokered Offering and the Non-Brokered Offering;

“**Closing Date**” means April 28, 2021;

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

“**Company**” means 2819845 Ontario Inc. and its lawful successors from time to time;

“**Company Shareholder**” means a person who is a holder of record of one or more Common Shares;

“**Counsel**” means a barrister or solicitor or a firm of barristers or solicitors (who may be Next Hydrogen Counsel) acceptable to the Subscription Receipt Agent, acting reasonably;

“**Designated Office**” means the principal office of the Subscription Receipt Agent from time to time in the City of Toronto as may be designated in writing by the Company, and agreed to by the Subscription Receipt Agent, from time to time;

“**Earned Interest**” means the interest earned on the Escrowed Funds from the date hereof up to and excluding the earlier to occur of the Notice Date and the Termination Date;

“**Escrow Release Conditions**” means collectively, that:

- (a) written confirmation from each of the Company, BioHep and Next Hydrogen that all conditions to the completion of the RTO Transaction in accordance with the terms of the Amalgamation Agreement, without any material amendment (except such amendments agreed upon by the Active Bookrunners, acting reasonably), shall have been satisfied, other than the release of the Escrowed Funds and except for those conditions that have been waived by the Active Bookrunners in their sole discretion;
- (b) the receipt of all regulatory, shareholder and third-party approvals, if any, required in connection with the RTO Transaction and the listing of the Resulting Issuer Shares on the TSXV including, without limitation, the conditional approval of the TSXV;
- (c) the Company, BioHep and Next Hydrogen, as applicable, shall not be in breach or default of any of its covenants or obligations under this Agreement or the Agency Agreement, except (in the case of the Agency Agreement only) for those breaches or defaults that have been waived by the Active Bookrunners and all conditions set out in this Agreement shall have been fulfilled, which shall all be confirmed to be true in a certificate of a senior officer of Next Hydrogen; and
- (d) the delivery of the Notice and Direction to the Subscription Receipt Agent in accordance with the terms hereof;

“**Escrow Release Deadline**” means 5:00 p.m. (Toronto time) on the date that is ninety (90) days following Closing, or such later date as may be agreed to by an Extraordinary Resolution, but in any event no later than one hundred and twenty (120) days following Closing;

“**Escrowed Funds**” means the Proceeds plus all Earned Interest and income, if any, earned thereon;

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

“**Extraordinary Resolution**” has the meaning given to such term in Section 7.12;

“**Internal Procedures**” means in respect of the making of any one or more entries to, changes in or deletions of any one or more entries in the register at any time, the minimum number of the Subscription

Receipt Agent's internal process customary at such time for the entry, change or deletion made to be completed under the operating procedures followed at the time by the Subscription Receipt Agent;

"Issuance Right" means the right of a Receiptholder to be issued, without payment of additional consideration or the undertaking of any further action by the Receiptholder, Common Shares on the basis of one (1) Common Share for each Subscription Receipt held, in the circumstances contemplated in this Agreement;

"Issue Price" means \$10.00 per Subscription Receipt;

"Next Hydrogen" means Next Hydrogen Corporation;

"Next Hydrogen Counsel" means Borden Ladner Gervais LLP;

"Non-Brokered Offering" means the concurrent non-brokered private placement of Subscription Receipts to be issued and sold by the Company for aggregate gross proceeds of up to \$28.5 million;

"Notice and Direction" means a notice and direction substantially in the form attached hereto as Schedule "B", executed by the Company, BioHep, Next Hydrogen and the Active Bookrunners, for and on behalf of the Agents: (i) advising the Subscription Receipt Agent that the Escrow Release Conditions have been satisfied; (ii) authorizing and directing the Subscription Receipt Agent to release the Released Amount to the Company; (iii) authorizing and directing the Subscription Receipt Agent to pay 50% of the Agents' Fee and the Balance of the Agents' Expenses together with any Earned Interest thereon to the Active Bookrunners, for and on behalf of the Agents, or as the Active Bookrunners may direct in writing;

"Notice Date" means the date upon which the Notice and Direction is executed and delivered to the Subscription Receipt Agent, which for greater certainty, shall be a Business Day;

"Officers' Certificate" means a certificate of Next Hydrogen, the Company or BioHep, as applicable, signed by any two authorized officers of Next Hydrogen or BioHep, as the case may be, or in the case of the Company, the sole officer of the Company, in their capacities as officers and not in their personal capacities;

"Participant" means a person recognized by CDS as a participant in the non-certificated inventory system administered by CDS;

"Proceeds" means the aggregate gross proceeds of: (i) the Non-Brokered Offering, less 50% of any finder's fee payable by the Company; and (ii) the Brokered Offering, net of: (A) 50% of the Agents' Fee; and (B) the Agents' Expenses accrued up to and including the Closing Date;

"Qualifying Jurisdictions" means each of the provinces and territories of Canada (except Quebec), and such other jurisdictions as the Active Bookrunners, for and on behalf of the Agents, BioHep and the Company may agree, to the extent Receiptholders are resident in such jurisdictions;

"Receiptholders" or **"holders"** means the persons who are registered holders of Subscription Receipts;

"Receiptholders' Request" means an instrument, signed in one or more counterparts by Receiptholders holding an aggregate of not less than 25% of all of the Subscription Receipts then outstanding, requesting the Subscription Receipt Agent to take some action or proceeding specified therein;

“Refund Date” means the date following deemed exercise of the Refund Right on which the payment in respect of the Refund Right is mailed to the Receiptholders, which shall be not more than five (5) Business Days following the Termination Date;

“Refund Right” means, with respect to each unexercised Subscription Receipt, the right of a Receiptholder to receive a refund of the Issue Price therefor;

“Released Amount” has the meaning given to such term in Section 3.4(1)(a);

“Resulting Issuer Shares” means common shares that are issued and outstanding after BioHep consolidates its issued and outstanding common shares on the basis of one post-consolidation common share for every 13.3 pre-consolidation common shares;

“RTO Transaction” means the proposed reverse takeover transaction between Next Hydrogen and BioHep, to be completed pursuant to the Amalgamation Agreement and effected pursuant to the Amalgamation;

“Subscription Receipt Certificate” means a certificate representing Subscription Receipts, substantially in the form attached hereto as Schedule “A”;

“Subscription Receipts” means the subscription receipts issued and countersigned hereunder and from time to time outstanding, including Uncertificated Subscription Receipts, each such Subscription Receipt evidencing the Issuance Right, the Refund Right and the other rights hereunder;

“Subsidiary of the Company” or **“Subsidiary”** means any corporation of which more than 50% of the outstanding Voting Shares are owned, directly or indirectly, by or for the Company, provided that the ownership of such shares confers the right to elect at least a majority of the board of directors of such corporation and includes any corporation in like relation to a Subsidiary;

“Subscription Receipt Agent” means TSX Trust Company and its successors and permitted assigns from time to time under this Agreement, in the capacity of registrar and transfer agent in respect of the Subscription Receipts and escrow agent in respect of the Escrowed Funds;

“Termination Date” means the date on which the Termination Time occurs;

“Termination Time” has the meaning given to such term in Section 2.2(1)(b);

“TSXV” means the TSX Venture Exchange;

“Uncertificated Subscription Receipts” means, collectively, all Subscription Receipts which are not issued as part of a Subscription Receipt Certificate;

“United States” means the United States of America, its territories and possessions, any state of the United States and the District of Columbia;

“U.S. Person” means a “U.S. person” as that term is defined in Rule 902(k) of Regulation S under the U.S. Securities Act;

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

“Voting Shares” means shares in the capital of any class of any corporation carrying voting rights under all circumstances, provided that, for this purpose, shares which only carry the right to vote conditionally

on the occurrence of an event shall not be considered Voting Shares, whether or not such event shall have occurred, and no shares shall be deemed to cease to be Voting Shares solely by reason of a right to vote accruing to shares of another class or classes by reason of the occurrence of any such event;

“**written request of the Company**” and “**certificate of the Company**” means, respectively, a written request and certificate signed in the name of the Company by any one of its officers and/or directors and may consist of one or more instruments so executed.

Section 1.2 Headings

The headings, the table of contents and the division of this Agreement into Articles and Sections are for convenience of reference only and shall not affect the interpretation of this Agreement.

Section 1.3 References

Unless otherwise specified in this Agreement references to Articles, Sections and Schedules are to Articles and Sections of and Schedules to this Agreement.

Section 1.4 Certain Rules of Interpretation

Unless otherwise specified in this Agreement:

- (1) the singular includes the plural and vice versa;
- (2) gender references shall be read with such changes as may be required by the context;
- (3) a derivative of any defined word or phrase has the meaning appropriate to the derivation of the word or phrase;
- (4) “person” includes any individual, firm, partnership, company, corporation, trustee, government, governmental body, agency, instrumentality, unincorporated body of persons or association;
- (5) “in writing” or “written” includes printing, typewriting or any electronic means of communication capable of being visibly reproduced at the point of reception, including telecopy;
- (6) “including” and “in particular” are used for illustration or emphasis only and not to limit the generality of any preceding words, whether or not non-limiting language (such as “without limitation”, “but not limited to” and similar expressions) is used with reference thereto; and
- (7) a reference to any statute, regulation or bylaw includes amendments, consolidations, re-enactments and replacements thereof and instruments and legislation thereunder.

Section 1.5 Day Not A Business Day

In the event that any day on or before which any action is required to be taken hereunder is not a Business Day, then such action shall be required to be taken at or before the requisite time on the next succeeding day that is a Business Day.

Section 1.6 Governing Law

This Agreement and the Subscription Receipt Certificates shall be construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and shall be treated in all respects as Ontario contracts.

Section 1.7 Conflict

In the event of a conflict or inconsistency between a provision in this Agreement and the Subscription Receipt Certificates issued hereunder, the relevant provision in this Agreement shall prevail to the extent of the inconsistency.

Section 1.8 Currency

All dollar amounts referred to herein, unless otherwise specifically indicated, are expressed in Canadian currency.

ARTICLE 2 SUBSCRIPTION RECEIPTS

Section 2.1 Creation and Issuance of Subscription Receipts

- (1) Up to 5,704,500 Subscription Receipts are hereby created and authorized to be issued at the Issue Price on the Closing Date.
- (2) Upon receipt of the Proceeds, and at the written request of the Company, the Subscription Receipt Agent shall countersign or Authenticate and deliver the Subscription Receipts (represented by one or more Subscription Receipt Certificates or Uncertificated Subscription Receipts) to or to the order of the Active Bookrunners, registered as directed by the Company.
- (3) The Subscription Receipt Agent is hereby appointed escrow agent in respect of the Escrowed Funds and registrar and transfer agent in respect of the Subscription Receipts.

Section 2.2 Form and Terms of Subscription Receipts

- (1) Each Subscription Receipt shall evidence the right of each holder, without payment of additional consideration or further action on part of the holder:
 - (a) if the Notice and Direction is delivered on or before the Escrow Release Deadline, to the Issuance Right; or
 - (b) if on or before the Escrow Release Deadline:
 - (i) the Notice and Direction has not been delivered to the Subscription Receipt Agent;
 - (ii) the Amalgamation Agreement has been terminated in accordance with its terms; or
 - (iii) the Company and/or BioHep has advised the Subscription Receipt Agent and the Active Bookrunners, for and on behalf of the Agents, that the Escrow Release Conditions will not be satisfied, or announced to the public that it does not intend to proceed with the Amalgamation,

(the time of occurrence of any such event being the “**Termination Time**”), to the Refund Right.
 - (c) The Subscription Receipt Certificates (including all replacements issued in accordance with this Agreement) shall be certificates substantially in the form set out in Schedule “A” attached hereto, shall be dated the date hereof (regardless of the actual date of issue), shall bear such legends and distinguishing letters and numbers as the Company may, with the approval of the

Subscription Receipt Agent, prescribe and shall be issuable in any denomination, provided that no fractional Subscription Receipts shall be issued or otherwise provided thereunder.

- (d) Each Subscription Receipt authorized to be issued hereunder shall confer upon the holder thereof an Issuance Right, a Refund Right and the other rights conferred on Receiptholders hereunder.
- (e) The Subscription Receipts are non-transferrable and the underlying Common Shares may only be transferred or assigned in compliance with the constating documents of the Corporation and Applicable Legislation.
- (f) The Subscription Receipts (and the underlying Common Shares) shall have attached to them, whether through the electronic deposit system of CDS, an ownership statement issued under a direct registration system or other electronic book-based system, or on certificates that may be issued, as applicable, any legends as may be prescribed by CDS in addition to a legend setting out resale restrictions under applicable securities laws substantially in the following form (and with the necessary information inserted):

“UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) [INSERT CLOSING DATE], AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY.”

Section 2.3 Receiptholder not a Shareholder

Nothing in this Agreement or in the holding of a Subscription Receipt (as evidenced by a Subscription Receipt Certificate, Uncertificated Subscription Receipt or otherwise), shall confer or be construed as conferring upon such Receiptholder any right or interest whatsoever as a Company Shareholder or a shareholder of BioHep, or other holder of an equity interest in the Company or BioHep, including but not limited to, the right to receive notice of, attend or vote at meetings of either Company Shareholders or shareholder of BioHep, or any other proceedings of the Company or BioHep, until such former Receiptholder is noted on the register of holders of Common Shares that are issued on deemed exercise of the Issuance Right upon which such former Receiptholder will have the rights of a holder of Common Shares.

Section 2.4 Subscription Receipts to Rank Pari Passu

All Subscription Receipts shall rank *pari passu*, whatever their actual date of issue.

Section 2.5 Non-Certificated Deposit

- (1) Subject to the provisions hereof, at the Active Bookrunners’s option, Subscription Receipts shall be issued and registered in the name of CDS or its nominee as an Uncertificated Subscription Receipt, the deposit of which shall be confirmed electronically by the Subscription Receipt Agent to CDS unless otherwise requested in writing by CDS or the Company.
- (2) If the Company issues Uncertificated Subscription Receipts, Beneficial Owners of such Subscription Receipts registered and deposited with CDS shall not receive Subscription Receipts Certificates in definitive form and shall not be considered owners or holders thereof under this Agreement or any supplemental agreement. Beneficial interests in Subscription Receipts registered and deposited with CDS shall be represented only through the non-certificated inventory system administered by CDS. Transfers of Subscription Receipts registered and deposited with CDS between Participants shall occur in accordance with the rules and procedures of CDS. Neither the Company, the Agents nor the

Subscription Receipt Agent shall have any responsibility or liability for any aspects of the records relating to or payments made by CDS or its nominee, on account of the beneficial interests in Subscription Receipts registered and deposited with CDS. Nothing herein shall prevent the Beneficial Owners of Subscription Receipts registered and deposited with CDS from voting such Subscription Receipts using duly executed proxies.

- (3) All references herein to actions by, notices given or payments made to Subscription Receipts shall, where Subscription Receipts are held through CDS, refer to actions taken by, or notices given or payments made to, CDS upon instruction from the Participants in accordance with its rules and procedures. For the purposes of any provision hereof requiring or permitting actions with the consent of or at the direction of Receipholders evidencing a specified percentage of the aggregate Subscription Receipts outstanding, such direction or consent may be given by Beneficial Owners acting through CDS and the Participants owning Subscription Receipts evidencing the requisite percentage of the Subscription Receipts. The rights of a Beneficial Owner whose Subscription Receipts are held through CDS shall be exercised only through CDS and the Participants and shall be limited to those established by law and agreements between such holders and CDS and the Participants upon instructions from the Participants. Each of the Subscription Receipt Agent and the Company may deal with CDS for all purposes (including the making of payments) as the authorized representative of the respective Subscription Receipts and such dealing with CDS shall constitute satisfaction or performance, as applicable, of their respective obligations hereunder.
- (4) For so long as Subscription Receipts are held through CDS, if any notice or other communication is required to be given to Receipholders, the Subscription Receipt Agent shall give such notices and communications to CDS in respect of such Subscription Receipts.
- (5) Notwithstanding any other provision in this Agreement, no Subscription Receipts held through CDS may be exchanged in whole or in part for Subscription Receipts registered, and no transfer of a Subscription Receipts held through CDS in whole or in part may be registered, in the name of any person other than the CDS for such Subscription Receipts held through CDS or a nominee thereof unless:
 - (a) CDS notifies the Company that it is unwilling or unable to continue to act as depository in connection with the Subscription Receipts and the Company is unable to locate a qualified successor;
 - (b) the Company determines that CDS is no longer willing, able or qualified to discharge properly its responsibilities as holder of the Subscription Receipts and the Company is unable to locate a qualified successor;
 - (c) CDS ceases to be a clearing agency or otherwise ceases to be eligible to be a depository and the Company is unable to locate a qualified successor;
 - (d) the Company determines that the Subscription Receipts shall no longer be held in a non-certificated format through CDS;
 - (e) such right is required by applicable law, as determined by the Company and the Company's Counsel; or
 - (f) the Company so instructs the Subscription Receipt Agent in writing,

following which Subscription Receipts for those holders requesting such shall be issued to the beneficial owners of such Subscription Receipts or their nominees as directed by the holder. The Company shall provide an Officers' Certificate giving notice to the Subscription Receipt Agent of the occurrence of any event outlined in this Section 2.5(5), except in the case of Section 2.5(5)(f).

- (6) The rights of Beneficial Owners who hold securities entitlements in respect of the Subscription Receipts through the non-certificated inventory system administered by CDS shall be limited to those established by applicable law and agreements between CDS and the Participants and between such Participants and the Beneficial Owners who hold securities entitlements in respect of the Subscription Receipts through the non-certificated inventory system administered by CDS, and such rights must be exercised through a Participant in accordance with the rules and procedures of CDS.
- (7) Notwithstanding anything herein to the contrary, none of the Company, the Agents nor the Subscription Receipt Agent nor any agent thereof shall have any responsibility or liability for:
- (a) the electronic records maintained by CDS or any Participant relating to any ownership interests or any other interests in the Subscription Receipts or the depository system maintained by CDS, or payments made on account of any ownership interest or any other interest of any person in any Subscription Receipt represented by an electronic position in the non-certificated inventory system administered by CDS;
 - (b) for maintaining, supervising or reviewing any records of CDS or any Participant relating to any such interest; or
 - (c) any advice or representation made or given by CDS or those contained herein that relate to the rules and regulations of CDS or any action to be taken by CDS on its own direction or at the direction of any Participant.
- (8) The Company may terminate the application of this Section 2.5 in its sole discretion in which case all Subscription Receipts shall be evidenced by Subscription Receipts Certificates registered in the name of a person other than CDS.
- (9) Notwithstanding the foregoing, upon request of the Beneficial Owner, through CDS, the Subscription Receipt Agent shall issue a Subscription Receipt Certificate in respect of the interest of such Beneficial Owner, in which case the Uncertificated Subscription Receipts representing such Subscription Receipts shall be reduced accordingly and such Subscription Receipts shall be duly registered as directed by CDS.

Section 2.6 Signing of Subscription Receipt Certificates

The Subscription Receipt Certificates shall be signed by any director or officer of the Company duly authorized to sign the Subscription Receipt Certificate. The signature of such director or officer may be mechanically reproduced in facsimile and Subscription Receipt Certificates bearing such facsimile signatures shall be binding upon the Company as if they had been manually signed by such director or officer. Notwithstanding that any of the persons whose manual or facsimile signature appears on any Subscription Receipt Certificate as director or officer may no longer hold office at the date of such Subscription Receipt Certificate or at the date of certification or delivery thereof, any Subscription Receipt Certificate so signed shall, subject to Section 2.7 hereof, be valid and binding upon the Company and the holder thereof shall be entitled to the benefits of this Agreement.

Section 2.7 Countersignature by the Subscription Receipt Agent

- (1) No Subscription Receipt Certificate shall be issued or, if issued, shall be valid for any purpose or entitle the holder to the benefits hereof and thereof until it has been countersigned by signature by or on behalf of the Subscription Receipt Agent and such countersignature by the Subscription Receipt Agent upon any Subscription Receipt Certificate shall be conclusive evidence as against the Company that the Subscription Receipt Certificate so countersigned has been duly issued hereunder and that the holder is entitled to the benefits hereof and thereof.

- (2) The Subscription Receipt Agent shall Authenticate Uncertificated Subscription Receipts (whether upon original issuance, exchange or registration, partial payment, or otherwise) by completing its Internal Procedures and the Company shall, and hereby acknowledges that it shall, thereupon be deemed to have duly and validly issued such Uncertificated Subscription Receipt under this Agreement. Such Authentication shall be conclusive evidence that such Uncertificated Subscription Receipt have been duly issued hereunder and that the holder or holders are entitled to the benefits of this Agreement. The register of Receiptholders shall be final and conclusive evidence as to all matters relating to Uncertificated Subscription Receipts with respect to which this Agreement requires the Subscription Receipt Agent to maintain records or accounts. In case of differences between the register at any time and any other time, the register at the later time shall be controlling, absent manifest error, and any Uncertificated Subscription Receipts recorded therein shall be binding on the Company.
- (3) The countersignature or Authentication of the Subscription Receipt Agent on Subscription Receipt Certificates or Uncertificated Subscription Receipts issued hereunder shall not be construed as a representation or warranty by the Subscription Receipt Agent as to the validity of this Agreement or the Subscription Receipts (except the due countersignature or Authentication thereof) or as to the performance by the Company of its obligations under this Agreement and the Subscription Receipt Agent shall not be liable or answerable for the use made of the Subscription Receipts or any of them or of the consideration therefor except as otherwise specified herein. The countersignature or Authentication by or on behalf of the Subscription Receipt Agent on the Subscription Receipt Certificates or Uncertificated Subscription Receipts shall constitute a representation and warranty by the Subscription Receipt Agent that the Subscription Receipts have been duly certified by or on behalf of the Subscription Receipt Agent pursuant to the provisions of this Agreement.

Section 2.8 Issue in Substitution for Subscription Receipt Certificates Lost

- (1) In case any Subscription Receipt Certificate shall become mutilated or be lost, destroyed or stolen, the Company, subject to applicable law and Section 2.8(2) below, shall issue and thereupon the Subscription Receipt Agent shall countersign and deliver, a new Subscription Receipt Certificate of like tenor as the one mutilated, lost, destroyed or stolen in exchange for and in place and upon cancellation of such mutilated Subscription Receipt Certificate or in lieu of and in substitution for such lost, destroyed or stolen Subscription Receipt Certificate, and the substituted Subscription Receipt Certificate shall be in a form approved by the Subscription Receipt Agent and shall entitle the holder to the benefits hereof and shall rank equally in accordance with its terms with all other Subscription Receipt Certificates issued or to be issued hereunder. When a new Subscription Receipt Certificate has been issued in substitution for a Subscription Receipt Certificate that has been lost, stolen or destroyed, only the Subscription Receipts represented by one of such certificates shall be counted for the purpose of determining the number of Subscription Receipts outstanding.
- (2) The applicant for the issue of a new Subscription Receipt Certificate pursuant to this Section 2.8 shall bear the cost of the issue thereof and in case of loss, destruction or theft shall, as a condition precedent to the issue thereof, furnish to the Company and to the Subscription Receipt Agent such evidence of ownership and of the loss, destruction or theft of the Subscription Receipt Certificate so lost, destroyed or stolen as shall be satisfactory to the Company and the Subscription Receipt Agent, acting reasonably, in their sole discretion. Such applicant shall also be required to furnish an indemnity and surety bond in amount and form satisfactory to the Company and the Subscription Receipt Agent in their discretion and shall pay the reasonable charges of the Company and the Subscription Receipt Agent in connection therewith.

Section 2.9 Exchange of Subscription Receipt Certificates

- (1) Subscription Receipt Certificates representing Subscription Receipts may, upon compliance by the holder thereof with the reasonable requirements of the Subscription Receipt Agent, be exchanged for

another Subscription Receipt Certificate or other Subscription Receipt Certificates representing, in the aggregate, the same number of Subscription Receipts and legends, if any, as represented by the Subscription Receipt Certificates so exchanged.

- (2) Subscription Receipt Certificates may be surrendered for exchange only at the Designated Office.

Section 2.10 Charges for Exchange

Except as otherwise provided herein, the Subscription Receipt Agent may charge to the Receiptholder requesting an exchange of Subscription Receipt Certificates a reasonable sum for each new Subscription Receipt Certificate issued in exchange for a Subscription Receipt Certificate or Subscription Receipt Certificates. Payment of such charges and reimbursement of the Subscription Receipt Agent or the Company for any and all stamp taxes or governmental or other charges required to be paid shall be made by such holder as a condition precedent to such exchange.

Section 2.11 Transfer and Ownership of Subscription Receipts

- (1) The Subscription Receipts are non-transferable.
- (2) The Company and the Subscription Receipt Agent shall deem and treat the registered owner of any Subscription Receipt as the Beneficial Owner thereof for all purposes and neither the Company nor the Subscription Receipt Agent shall be affected by any notice to the contrary.

Section 2.12 Proceeds to be Placed in Escrow

- (1) Upon the receipt and acceptance by the Company of duly completed subscriptions for Subscription Receipts, and upon the issuance of the Subscription Receipts, the Active Bookrunners, for and on behalf of the Agents, shall deliver or cause to be delivered the Proceeds to the Subscription Receipt Agent, as directed by the Company, such payment to be made by bank draft or certified cheque payable to the Subscription Receipt Agent or wire transfer to the account designated by the Subscription Receipt Agent. The Subscription Receipt Agent shall immediately place such funds in escrow to be held pursuant to the terms hereof.
- (2) The Subscription Receipt Agent hereby agrees to hold the Escrowed Funds as agent for and on behalf of the Company and the Receiptholders and to release and deal with the Escrowed Funds as provided herein only.
- (3) Each party to this Agreement (in this Section 2.12 referred to as a “**representing party**”) hereby represents to the Subscription Receipt Agent that any account to be opened by, or interest to be held by, the Subscription Receipt Agent in connection with this Agreement, for or to the credit of such representing party, either (i) is not intended to be used by or on behalf of any third party; or (ii) is intended to be used by or on behalf of a third party, in which case such representing party hereby agrees to complete, execute and deliver forthwith to the Subscription Receipt Agent a declaration of third party interest in the Subscription Receipt Agent’s prescribed form in accordance with the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the regulations thereto, or in such other form as may be satisfactory to it, as to the particulars of such third party.

Section 2.13 Liquidation and Bankruptcy of the Company

- (1) Each Receiptholder has in respect of the Issuance Right, a claim against the Company to be issued Common Shares, on the basis of one (1) Common Share for each one (1) Subscription Receipt held by such holder.

- (2) Each Receiptholder has in respect of the Refund Right, a claim against BioHep to be reimbursed an amount equal to the aggregate Issue Price of the Subscription Receipts held by the Receiptholder.
- (3) A Receiptholder shall not be entitled to assert a claim against the Company or BioHep pursuant to Section 2.13(1) or Section 2.13(2) hereof prior to, in the case of Section 2.13(1), the Notice Date, and in the case of Section 2.13(2), the Termination Date, unless the Company or BioHep makes a general assignment for the benefit of creditors or any proceeding is instituted by the Company or BioHep seeking relief on its behalf as a debtor, or by any person seeking to adjudicate it a bankrupt or insolvent or seeking liquidation, winding-up, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or seeking appointment of a receiver, receiver and manager, director, custodian or similar official for it or any substantial part of its property and assets or the Company takes any action to authorize any of the actions set forth above, in which event the Termination Time shall have been deemed to have occurred and each holder of Subscription Receipts shall be entitled to immediately exercise the Refund Right in respect of each unexercised Subscription Receipt.

Section 2.14 Reliance by the Subscription Receipt Agent

The Subscription Receipt Agent shall have no obligation to ensure or verify compliance with any Applicable Legislation, applicable securities laws or regulatory requirements on the issue or deemed exercise of any Subscription Receipts (or the Issuance Right comprising part thereof) or any Common Shares issuable upon the deemed exercise thereof, provided such issue or deemed exercise, as the case may be, is effected in accordance with the terms of this Agreement. The Subscription Receipt Agent shall be entitled to process all deemed exercises of Subscription Receipts upon the presumption that such deemed exercises are permissible pursuant to all applicable laws and regulatory requirements. The Subscription Receipt Agent may assume for the purposes of this Agreement that any address on the register of the Receiptholders is the holder's actual address and is also determinative as to residency. The Subscription Receipt Agent shall have no obligation to ensure that legend appearing on the Subscription Receipt Certificates or the Common Shares issued in exchange for the Subscription Receipts, comply with regulatory requirements or securities laws of any applicable Qualifying Jurisdiction.

ARTICLE 3 SATISFACTION OF ISSUANCE RIGHT AND REFUND RIGHT

Section 3.1 Notice of Satisfaction of Escrow Release Conditions

- (1) If the Escrow Release Conditions have been satisfied on or prior to the Escrow Release Deadline, the Company, BioHep, Next Hydrogen and the Active Bookrunners, for and on behalf of the Agents, shall forthwith jointly deliver the Notice and Direction to the Subscription Receipt Agent.
- (2) As soon as practicable upon receipt of the executed Notice and Direction pursuant to Section 3.1(1), the Subscription Receipt Agent shall forthwith: (i) issue and deliver the Common Shares issuable pursuant to the Subscription Receipts in accordance with Section 3.2; and (ii) make the payments as provided for in Section 3.4, as directed in the Notice and Direction.

Section 3.2 Issuance Right by Deemed Exercise

- (1) A Receiptholder shall be deemed, at the time of delivery of the Notice and Direction on the Notice Date, to have exercised the Issuance Right with respect to all Subscription Receipts held by the Receiptholder, without the payment of any further consideration or the undertaking of any further action (including the surrender of any Subscription Receipt Certificates, if applicable) by such Receiptholder, and shall be entitled to be issued the Common Shares issuable in respect of the Subscription Receipts.

- (2) As soon as practicable after the delivery of the Notice and Direction as contemplated in Section 3.2(1) hereof, the Company shall cause to be entered on the register of the Company, effective as of the Notice Date, the names of each Receiptholder as the holder of record of such number of Common Shares to which each Receiptholder is entitled.
- (3) The parties hereby irrevocably authorize and direct the Subscription Receipt Agent to issue the Common Shares on the deemed exercise of the Subscription Receipts pursuant to Section 3.2(1) hereof upon receipt of the Notice and Direction.
- (4) Immediately upon receipt of the Notice and Direction by the Subscription Receipt Agent and the deemed exercise of the Issuance Right in accordance with Section 3.2(1) hereof, the Common Shares shall be deemed to have been issued, and the person or persons to whom such Common Shares are to be issued shall be deemed to have become the holder or holders of record of such Common Shares on the Notice Date without any action on the part of the holder thereof.
- (5) The Common Shares issuable upon deemed exercise of the Subscription Receipts shall bear any restrictive legend as may be required by the TSXV and the legends required under Section 2.2(1)(e).

Section 3.3 Satisfaction of Issuance Right

- (1) Effective upon the deemed exercise of the Issuance Right in accordance with Section 3.2(1) hereof and the issuance of Common Shares relating thereto as contemplated herein, the Issuance Right shall have been satisfied and the Subscription Receipts relating thereto shall be void and of no value or effect.
- (2) If, in the opinion of Next Hydrogen Counsel or BioHep Counsel, any instrument is required to be filed with, or any permission, order or ruling is required to be obtained from, any securities administrator, regulatory agency or Governmental Authority in Canada or any other step is required under Applicable Legislation before the Common Shares issuable upon exercise of the Subscription Receipts may be issued to a Receiptholder, the Company covenants that it shall as soon as practicable file such instrument, obtain such permission, order or ruling or take all such other actions, at its expense, as is required or appropriate in the circumstances.

Section 3.4 Release of Escrowed Funds to the Company

- (1) If the Escrow Release Conditions are satisfied at or before the Escrow Release Deadline, and upon receipt of the executed Notice and Direction by the Subscription Receipt Agent, the Subscription Receipt Agent shall:
 - (a) release to the Company the full amount of the Escrowed Funds remaining in escrow by way of certified cheque or wire transfer, less 50% of the Agents' Fee and the Balance of the Agents' Expenses together with Earned Interest thereon and any amounts payable to the Subscription Receipt Agent (the "**Released Amount**"), all in accordance with the Notice and Direction;
 - (b) pay or cause to be paid to the Active Bookrunners, for and on behalf of the Agents, 50% of the Agents' Fee and the Balance of the Agents' Expenses together with Earned Interest thereon as soon as practicable upon delivery by the Company, BioHep and the Active Bookrunners, for and on behalf of the Agents, to the Subscription Receipt Agent, of the Notice and Direction, which shall specify the amount of the Agents' Fee and the Balance of the Agents' Expenses payable to the Agents; and
 - (c) pay or cause to be paid to the Subscription Receipt Agent any fees and expenses outstanding but yet unpaid as soon as practicable upon delivery by the Company, BioHep and the Active

Bookrunners, for and on behalf of the Agents, to the Subscription Receipt Agent, of the Notice and Direction, which shall specify the amount payable to the Subscription Receipt Agent.

- (2) The executed Notice and Direction shall be received by the Subscription Receipt Agent no later than 12:00 noon (Toronto time) on the day on which the Escrowed Funds are to be released in accordance with Section 3.4(1) above. Any such Notice and Direction received by the Subscription Receipt Agent after 12:00 noon (Toronto time) or received on a non-Business Day shall be deemed to have been given prior to 12:00 noon (Toronto time) on the next Business Day.

Section 3.5 Reimbursement Pursuant to Refund Right

- (1) If the Termination Time occurs:
- (a) the Company and the Active Bookrunners, for and on behalf of the Agents, shall as soon as practicable notify the Subscription Receipt Agent thereof in writing;
 - (b) each Receiptholder as of the Termination Time shall be deemed to have elected, as at the Termination Time, to exercise the Refund Right in respect of each unexercised Subscription Receipt held by such Receiptholder; and
 - (c) each Receiptholder shall be entitled from and after the Termination Time, to payment in the aggregate amount of the aggregate Issue Price in respect of such holders' Subscription Receipts.
- (2) The amount paid to each Receiptholder under Section 3.5(1)(c) shall be satisfied from the Proceeds and the Earned Interest, and the obligation to make such payments shall be paid on the Refund Date and satisfied by mailing within three (3) Business Days, payment by cheque or cheques payable to the Receiptholder to the address specified for such Receiptholder in the register kept at the Designated Office, accompanied by the notice provided to the Subscription Receipt Agent under Section 3.5(1)(a) hereto.
- (3) Upon the mailing or delivery of the cheque or cheques representing payment in full of the Refund Right (and provided such cheque or cheques have been honoured for payment, if presented for payment within six months of the date thereof), the Refund Right evidenced by the unexercised Subscription Receipts registered in the name of such holder shall be satisfied and such Subscription Receipts shall be void and of no value or effect.
- (4) For greater certainty, Next Hydrogen shall be responsible and liable to the Receiptholders for, and shall pay from available funds of Next Hydrogen any shortfall between those amounts to be paid under Section 3.5(1)(c) and the funds available to satisfy those amounts from the Escrowed Funds.

Section 3.6 Cancellation of Surrendered Subscription Receipt Certificates

All Subscription Receipt Certificates dealt with pursuant to Section 2.8, Section 2.9, Section 2.11, Section 3.2 and **Error! Reference source not found.** hereof shall, subject to the express provisions of this Agreement, be deemed to be cancelled and, if required by the Company, the Subscription Receipt Agent shall provide to the Company a cancellation certificate identifying the Subscription Receipt Certificates so cancelled and the number of Subscription Receipts represented thereby.

Section 3.7 Segregation of Escrowed Funds

The Escrowed Funds received by the Subscription Receipt Agent, together with Earned Interest thereon, earned in accordance with Article 4 hereof, shall be received as agent for, and shall be segregated and kept apart by the

Subscription Receipt Agent as agent for, the Company and Receiptholders, in accordance with Article 4 hereof and subject to the conditions set out herein.

ARTICLE 4 INVESTMENT OF ESCROWED FUNDS

Section 4.1 Investment of Escrowed Funds

- (1) Until released in accordance with this Agreement, the Escrowed Funds shall be kept segregated in the records of the Subscription Receipt Agent and shall be deposited in one or more interest-bearing trust accounts to be maintained by the Subscription Receipt Agent in the name of the Subscription Receipt Agent at one or more Canadian chartered bank listed in Schedule 1 of the *Bank Act* (Canada) (each such bank, an “**Approved Bank**”). If deposited into an Approved Bank, the Escrowed Funds shall bear interest at a rate then current on similar deposits. Such payment obligation shall be calculated daily and paid to the account(s) within three Business Days of each month-end.
- (2) All amounts held by the Subscription Receipt Agent pursuant to this Agreement shall be held by the Subscription Receipt Agent for the benefit of the Receiptholders and the delivery of the Escrowed Funds to the Subscription Receipt Agent shall not give rise to a debtor-creditor or other similar relationship between the Subscription Receipt Agent and the Receiptholders. The amounts held by the Subscription Receipt Agent pursuant to this Agreement are the sole risk of the Receiptholders and, without limiting the generality of the foregoing, the Subscription Receipt Agent shall have no responsibility or liability for any diminution of the Escrowed Funds which may result from any deposit made with an Approved Bank pursuant to this Section 4.1, including any losses resulting from a default by the Approved Bank or other credit losses (whether or not resulting from such a default) and any credit or other losses on any deposit liquidated or sold prior to maturity. The Company acknowledges and agrees that the Subscription Receipt Agent acts prudently in depositing the Proceeds at any Approved Bank, and that the Subscription Receipt Agent is not required to make any further inquiries in respect of any such bank.
- (3) At any time and from time to time, the Company shall be entitled to direct the Subscription Receipt Agent by written notice (a) not to deposit any new amounts in any Approved Bank specified in the notice and/or (b) to withdraw all or any of the Escrowed Funds that may then be deposited with any Approved Bank specified in the notice and re-deposit such amount with one or more of such other Approved Banks as specified in the notice. With respect to any withdrawal notice, the Subscription Receipt Agent will endeavor to withdraw such amount specified in the notice as soon as reasonably practicable and the Company acknowledges and agrees that such specified amount remains at the sole risk of the Receiptholders prior to and after such withdrawal.
- (4) For tax reporting purposes, all interest or other taxable income earned from the investment of the Escrowed Funds in any tax year shall (i) to the extent such interest is distributed by the Subscription Receipt Agent to any person or entity pursuant to the terms of this Agreement during such tax year, be allocated to such person or entity, and (ii) otherwise be allocated to the Company in the taxation year that it was earned, notwithstanding that no such amount has been distributed. The Receiptholders and Company agree to provide the Subscription Receipt Agent with their certified tax identification numbers and others forms, documents and information that the Subscription Receipt Agent may request in order to fulfill any tax reporting function.

Section 4.2 Interest on Escrowed Funds

Interest accruing on any Escrowed Funds shall accrue to the benefit of, and shall be released by the Subscription Receipt Agent in accordance with the provisions of this Agreement to, the Company, the Active Bookrunners, for and on behalf of the Agents, or the Receiptholders, as the case may be.

ARTICLE 5
RIGHTS AND COVENANTS OF THE COMPANY

Section 5.1 General Covenants

- (1) The Company covenants with and to BioHep, Next Hydrogen, the Subscription Receipt Agent and the Active Bookrunners, for and on behalf of the Agents (and for the benefit of Receiptholders), that so long as any Subscription Receipts remain outstanding in respect of which an Issuance Right exists:
- (a) it shall reserve and conditionally allot and keep available a sufficient number Common Shares to enable it to satisfy its obligations to issue Common Shares in respect of Subscription Receipts;
 - (b) it shall cause the Common Shares issuable in respect of the deemed exercise of the Subscription Receipts to be duly issued in accordance with this Agreement and the certificates (if any) representing such Common Shares to be issued and delivered in accordance with the provisions of this Agreement;
 - (c) all Common Shares which shall be issued in respect of the deemed exercise of the Subscription Receipts shall be fully paid and non-assessable Common Shares;
 - (d) it shall not take any action or omit to take any action which would have the effect of preventing the deemed exercise of any of the Subscription Receipts or the Receiptholders from receiving any Common Shares issuable upon such deemed exercise;
 - (e) it shall at all times maintain its corporate existence and shall carry on and conduct its business in a prudent manner in accordance with industry standards and good business practice and shall keep or cause to be kept proper books of account in accordance with applicable law;
 - (f) it shall make all requisite filings under applicable laws and regulations, including, without limitation, applicable Canadian securities laws;
 - (g) it shall use its reasonable commercial efforts to complete the Amalgamation on or before the Termination Date;
 - (h) it shall cause the Subscription Receipt Agent to keep open the registers of holders and registers of transfers referred to herein and shall not take any action or omit to take any action which would have the effect of preventing the deemed exercise of any of the Subscription Receipts or the Receiptholders from receiving any Common Shares issuable upon such deemed exercise;
 - (i) the Company shall, no later than one (1) Business Day prior to the date on which the Amalgamation is to be completed, send to the Subscription Receipt Agent the Notice and Direction executed by the Company;
 - (j) if the Escrow Release Conditions are not satisfied on or prior to the Escrow Release Deadline, the Company shall forthwith notify the Subscription Receipt Agent and the Receiptholders in writing;
 - (k) with respect to any notices to be given or other acts to be performed or which may be given or performed by the Active Bookrunners, for and on behalf of the Agents, or the Subscription Receipt Agent under or pursuant to this Agreement (including the Notice and Direction contemplated by Section 3.1 hereof) the Company shall provide to the Active Bookrunners, for and on behalf of the Agents, or the Subscription Receipt Agent, in a timely manner all such

information and documents as any of the Active Bookrunners, for and on behalf of the Agents, or the Subscription Receipt Agent may reasonably request and are within the knowledge or control of the Company in order to verify the factual circumstances relating to such notices or acts and, if requested, such information and documents shall be certified as correct by an officer of the Company;

- (l) it will give notice to the Subscription Receipt Agent and Receiptholders of a default under the terms of this Agreement;
- (m) from the date hereof to the earlier of the Notice Date or the Termination Date, it shall not, other than as contemplated by the Amalgamation, do any of the following:
 - (i) (1) subdivide or redivide the outstanding Common Shares into a greater number of Common Shares; (2) consolidate, reduce or combine the outstanding Common Shares into a lesser number of Common Shares; or (3) reclassify the outstanding Common Shares, change the Common Shares into other shares or otherwise reorganize the shares of the Company;
 - (ii) issue or distribute to all or substantially all of the holders of Common Shares: (1) shares of any class, rights, options or warrants to acquire Common Shares or securities convertible into or exchangeable for Common Shares; (2) evidence of the Company's indebtedness; or (3) any property or other assets;
 - (iii) undertake: (1) any reorganization of the Company or any consolidation, amalgamation, arrangement, merger or other form of business combination of the Company with or into any other person or other entity other than a direct or indirect wholly-owned Subsidiary of the Company; or (2) any sale, lease, exchange or transfer of the undertaking or assets of the Company as an entirety or substantially as an entirety to any other person or entity other than a direct or indirect wholly-owned Subsidiary of the Company or a liquidation, dissolution or winding-up of the Company, provided, however, that nothing shall prevent the Company from undertaking the Amalgamation nor any intra-group reorganization of its corporate structure, business, operations or assets which may include, without limitation, the transfer of assets to, and the assumption of liabilities by, a Subsidiary of the Company or a partnership of which the Company holds the majority of partnership interests, corporate continuance of any Subsidiary of the Company, corporate amalgamations of the Company and any Subsidiary of the Company, dissolution of a Subsidiary of the Company or a partnership of which the Company holds the majority of partnership interests, redemption of shares by a Subsidiary of the Company, capitalization of a Subsidiary of the Company either by way of a loan or equity, and such other intra-group transactions as the Company or any Subsidiary of the Company may consider to be necessary or in its best interests; or
 - (iv) undertake any transaction similar to, or having the effect of, any of the foregoing transactions;
 - (v) generally, it shall well and truly perform and carry out all of the acts or things to be done by it as provided in this Agreement.
- (2) The Company represents to BioHep, Next Hydrogen, the Subscription Receipt Agent and the Active Bookrunners, for and on behalf of the Agents, that it is duly authorized to create, issue and sell the

Subscription Receipts and the Subscription Receipts, when issued and countersigned as herein provided, shall be valid and enforceable obligations of the Company.

- (3) The Active Bookrunners, for and on behalf of the Agents, covenants with BioHep, the Subscription Receipt Agent and the Company that so long as any Subscription Receipts remain outstanding in respect of which an Issuance Right exists:
 - (a) the Active Bookrunners, for and on behalf of the Agents, shall, no later than one (1) Business Day prior to the date on which the Amalgamation is to be completed, send to the Subscription Receipt Agent the Notice and Direction executed by the Active Bookrunners, for and on behalf of the Agents; and
 - (b) if the Escrow Release Conditions are not satisfied on or prior to the Escrow Release Deadline, the Active Bookrunners, for and on behalf of the Agents, shall forthwith notify the Subscription Receipt Agent in writing.
- (4) The Company confirms that as at the date hereof it does not have a class of securities registered pursuant to Section 12 of the Exchange Act or a reporting obligation pursuant to Section 15(d) of the Exchange Act. The Company covenants that in the event that (i) any class of its securities shall become registered pursuant to Section 12 of the Exchange Act, (ii) the Company shall incur a reporting obligation pursuant to Section 15(d) of the Exchange Act, or (iii) any such registration or reporting obligation shall be terminated by the Company in accordance with the Exchange Act, the Company shall promptly deliver to the Subscription Receipt Agent an Officers' Certificate (in a form provided by the Subscription Receipt Agent) notifying the Subscription Receipt Agent of such registration or termination and such other information as the Subscription Receipt Agent may reasonably require at the time. The Company acknowledges that the Subscription Receipt Agent is relying upon the foregoing representation and covenants in order to meet certain obligations of the Subscription Receipt Agent with respect to those clients of the Subscription Receipt Agent that are required to file reports with the SEC under the Exchange Act.

Section 5.2 Subscription Receipt Agent's Remuneration, Expenses and Indemnity

- (1) Next Hydrogen covenants that it shall pay to the Subscription Receipt Agent from time to time agreed remuneration for its services hereunder and shall pay or reimburse the Subscription Receipt Agent upon its request for all reasonable expenses, disbursements and advances incurred or made by the Subscription Receipt Agent in the administration or execution of this Agreement (including the reasonable compensation and the disbursements of its Counsel and all other advisors and assistants not regularly in its employ) both before any default hereunder and thereafter until all duties of the Subscription Receipt Agent hereunder shall be finally and fully performed, except any such expense, disbursement or advance as may arise out of or result from the Subscription Receipt Agent's gross negligence, wilful misconduct or bad faith. Any amount owing hereunder and remaining unpaid after 30 days from the invoice date shall bear interest at the then current rate charged by the Subscription Receipt Agent against unpaid invoices and shall be payable upon demand. This Section shall survive the resignation of the Subscription Receipt Agent and/or the termination of this Agreement.
- (2) In addition to and without limiting any protection of the Subscription Receipt Agent hereunder or otherwise by law, each of BioHep, the Company and Next Hydrogen shall, severally and not jointly and severally, at all times indemnify the Subscription Receipt Agent and its affiliates, their successors and assigns, and each of their directors, officers, employees and agents (the "**Indemnified Parties**") and save them harmless from and against all claims, demands, losses, actions, causes of action, suits, proceedings, liabilities, damages, costs, charges, assessments, judgments and expenses (including expert consultant and legal fees and disbursements on a solicitor and client basis) whatsoever arising in connection with this Agreement including, without limitation, those arising out of or related to actions

taken or omitted to be taken by the Indemnified Parties and expenses incurred in connection with the enforcement of this indemnity, which the Indemnified Parties, or any of them, may suffer or incur, whether at law or in equity, in any way caused by or arising, directly or indirectly, in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of the Subscription Receipt Agent's duties, and including any services that the Subscription Receipt Agent may provide in connection with or in any way relating to this Agreement (unless arising from Subscription Receipt Agent's gross negligence, wilful misconduct or bad faith) and including any action or liability brought against or incurred by the Indemnified Parties in relation to or arising out of any breach by BioHep, the Company and/or Next Hydrogen. Notwithstanding any other provision hereof, Each of Biohep, the Company and Next Hydrogen agrees that its liability hereunder shall be absolute and unconditional regardless of the correctness of any representations of any third parties and regardless of any liability of third parties to the Indemnified Parties, and shall accrue and become enforceable without prior demand or any other precedent action or proceeding. Notwithstanding any other provision hereof, this indemnity shall survive the resignation or removal of the Subscription Receipt Agent and the termination or discharge of this Agreement.

- (3) The Subscription Receipt Agent shall not be liable for any error in judgment or for any act done or step taken or omitted by it in good faith or for any mistake, in fact or law, or for anything which it may do or refrain from doing in connection herewith except arising out of its own gross negligence, bad faith or willful misconduct.

Section 5.3 Performance of Covenants by Subscription Receipt Agent

If any of the Company, Next Hydrogen or BioHep fails to perform any of its covenants contained in this Agreement, the Subscription Receipt Agent may notify the Receiptholders and the Active Bookrunners, for and on behalf of the Agents, of such failure on the part of the Company, Next Hydrogen or BioHep, as applicable, or may itself perform any of such covenants capable of being performed by it but shall be under no obligation to perform such covenants or to notify the Receiptholders and the Active Bookrunners, for and on behalf of the Agents, of such performance by it. All sums expended or advanced by the Subscription Receipt Agent in so doing shall be repayable as provided in Section 5.2 hereof. No such performance, expenditure or advance by the Subscription Receipt Agent shall relieve the Company, Next Hydrogen or BioHep of any default hereunder or of its continuing obligations under the covenants herein contained.

ARTICLE 6 ENFORCEMENT

Section 6.1 Suits by Receiptholders

Subject to Section 7.11 hereof, all or any of the rights conferred upon any Receiptholder by any of the terms of the Subscription Receipt Certificates or this Agreement, or both, may be enforced by the Receiptholder by appropriate proceedings but without prejudice to the right which is hereby conferred upon the Subscription Receipt Agent to proceed in its own name to enforce each and all of the provisions herein contained for the benefit of the Receiptholders.

Section 6.2 Immunity of Shareholders

- (1) Subject to any rights or remedies available to Receiptholders under laws and regulations, including without limitation, applicable securities laws, the Subscription Receipt Agent and, by the acceptance of the Subscription Receipts and as part of the consideration for the issue of the Subscription Receipts, the Receiptholders, in their capacity as such, hereby waive and release any right, cause of action or remedy now or hereafter existing in any jurisdiction against any past, present or future shareholder, director, officer, employee or agent of the Company or any successor person for the issue of the Common Shares

pursuant to any Subscription Receipt or on any covenant, agreement, representation or warranty by the Company herein or in the Subscription Receipt Certificates.

- (2) The obligations hereunder are not personally binding upon, nor shall resort hereunder be had to, the private property of any of the past, present or future shareholders, directors, officers, employees or agent of the Company or any successor person, but only the property of the Company or any successor person shall be bound in respect hereof.

ARTICLE 7 MEETINGS OF RECEIPHOLDERS

Section 7.1 Right to Convene Meeting

The Subscription Receipt Agent or the Company may at any time and from time to time, and the Subscription Receipt Agent shall, on receipt of a written request of the Company or a Receiptholders' Request and upon being funded and indemnified to its reasonable satisfaction by the Company or by the Receiptholders signing such Receiptholders' Request against the costs which may be incurred in connection with the calling and holding of such meeting, convene a meeting of the Receiptholders. In the event that the Subscription Receipt Agent fails within 10 days after receipt of any such request and such funding and indemnity to give notice convening a meeting, the Company or such Receiptholders, as the case may be, may convene such meeting. Every such meeting shall be held in Toronto, Ontario or at such other place as may be approved or determined by the Subscription Receipt Agent and the Company.

Section 7.2 Notice of Meeting

At least 10 days' notice of any meeting of Receiptholders shall be given to the Receiptholders in the manner provided in Section 10.2 hereof and a copy of such notice shall be sent by mail to the Subscription Receipt Agent, unless the meeting has been called by it. Such notice shall state the date (which shall be a Business Day) and time when and the place where the meeting is to be held, shall state briefly the general nature of the business to be transacted thereat and shall contain such information as is reasonably necessary to enable the Receiptholders to make an informed decision on the matter, but it shall not be necessary for any such notice to set out the terms of any resolution to be proposed or any of the provisions of this Article 7. The accidental omission to give notice of a meeting to any Receiptholder shall not invalidate any resolution passed at any such meeting. A Receiptholder may waive notice of a meeting either before or after the meeting.

Section 7.3 Chairman

An individual, who need not be a Receiptholder, designated in writing by the Subscription Receipt Agent shall be chairman of the meeting and if no individual is so designated, or if the person so designated is not present within 15 minutes after the time fixed for the holding of the meeting, the Receiptholders present in person or by proxy shall choose some individual present to be chairman.

Section 7.4 Quorum

Subject to the provisions of Section 7.12 hereof, at any meeting of the Receiptholders a quorum shall consist of two or more Receiptholders present in person or by proxy and representing at least 25% of the outstanding Subscription Receipts. If a quorum of the Receiptholders is not present within 30 minutes after the time fixed for the holding of any meeting, the meeting, if summoned by the Receiptholders or pursuant to a Receiptholders' Request, shall be dissolved. In any other case, the meeting shall be adjourned to the same day in the next week (unless such day is not a Business Day, in which case it shall be adjourned to the next following Business Day thereafter) at the same time and place, if practicable, and no notice shall be required to be given in respect of such adjourned meeting. At the adjourned meeting, the Receiptholders present in person or by proxy shall form

a quorum and may transact the business for which the meeting was originally convened, notwithstanding that they may not represent 25% of the outstanding Subscription Receipts. Any business may be brought before or dealt with at an adjourned meeting that might have been brought before or dealt with at the original meeting in accordance with the notice calling such original meeting. No business shall be transacted at any meeting unless the required quorum is present at the commencement of business.

Section 7.5 Power to Adjourn

The chairman of any meeting at which a quorum of the Receiptholders is present may, with the consent of the holders of a majority of the Subscription Receipts represented thereat, adjourn any such meeting and no notice of such adjournment need be given except such notice, if any, as the meeting may prescribe.

Section 7.6 Show of Hands

Every question submitted to a meeting shall, subject to Section 7.7 hereof, be decided in the first place by a majority of the votes given on a show of hands. At any such meeting, unless a poll is duly demanded as herein provided, a declaration by the chairman that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of such fact. The chairman of any meeting shall be entitled, both on a show of hands and on a poll, to vote in respect of the Subscription Receipts, if any, held by him.

Section 7.7 Poll

On every Extraordinary Resolution (as defined in Section 7.12 hereof), and on any other question submitted to a meeting, when demanded by the chairman or by one or more Receiptholders or proxies for Receiptholders, a poll shall be taken in such manner and either at once or after an adjournment, as the chairman shall direct. Questions other than Extraordinary Resolutions shall, if a poll is taken, be decided by the votes of the holders of a majority of the Subscription Receipts represented at the meeting and voted on the poll.

Section 7.8 Voting

On a show of hands every person who is present and entitled to vote, whether as a Receiptholder or as proxy for one or more Receiptholders or both, shall have one vote. On a poll each Receiptholder present in person or represented by a proxy duly appointed by an instrument in writing shall be entitled to one vote in respect of each Subscription Receipt of which he is then the holder. A proxy need not be a Receiptholder. In the case of joint holders of a Subscription Receipt, any one of them present in person or by proxy at the meeting may vote in the absence of the other or others but in case more than one of them is present in person or by proxy, they shall vote together in respect of the Subscription Receipts of which they are joint holders. The chairman of any meeting shall be entitled, both on a show of hands and on a poll, to vote in respect of the Subscription Receipts, if any, held or represented by him.

Section 7.9 Regulations

The Subscription Receipt Agent, or the Company with the approval of the Subscription Receipt Agent and the Active Bookrunners, for and on behalf of the Agents, may from time to time make and vary or revoke such regulations as it shall consider appropriate providing for and governing:

- (1) the form of the instrument appointing a proxy, which shall be in writing, and the manner in which such instrument shall be executed and the production of the authority of any person executing any such instrument on behalf of a Receiptholder;
- (2) the deposit of instruments appointing proxies at such place as the Subscription Receipt Agent, the Company or the Receiptholder convening the meeting, as the case may be, may, in the notice convening

the meeting, direct and the time, if any, before the holding of the meeting or any adjournment thereof by which such instruments must be deposited;

- (3) the deposit of instruments appointing proxies at some approved place or places other than the place at which the meeting is to be held and enabling particulars of such instruments appointing proxies to be mailed or faxed before the meeting to the Company or the Subscription Receipt Agent at the place where the meeting is to be held and for the voting of proxies so deposited as though the instruments were produced at the meeting; and
- (4) generally for the calling of meetings of Receiptholders and the conduct of business thereat.

Any regulations so made shall be binding and effective and the votes given in accordance therewith shall be valid and shall be counted. Except as such regulations may provide, the only persons who shall be recognized at any meeting as the holders of any Subscription Receipts, or as entitled to vote or be present at the meeting in respect thereof, shall be Receiptholders and persons whom Receiptholders have by instrument in writing duly appointed as their proxies.

Section 7.10 Persons Entitled to Attend Meetings

The Company, BioHep, the Active Bookrunners, for and on behalf of the Agents, and the Subscription Receipt Agent, by their respective employees, officers and directors, and the legal advisors of the Company, BioHep, the Active Bookrunners, for and on behalf of the Agents, the Subscription Receipt Agent or any Receiptholder, may attend any meeting of the Receiptholders, but shall have no vote as such.

Section 7.11 Powers Exercisable by Extraordinary Resolution

In addition to the powers conferred upon them by any other provisions of this Agreement or by law, the Receiptholders shall have the following powers exercisable from time to time by Extraordinary Resolution, provided that in no event shall Receiptholders have the power to vary the terms and provisions of Article 3 hereof:

- (1) to agree to any modification, abrogation, alteration, compromise or arrangement of the rights of Receiptholders or (subject to the prior consent of the Subscription Receipt Agent, such consent not to be unreasonably withheld) the Subscription Receipt Agent in its capacity as subscription receipt agent and as escrow agent hereunder or on behalf of the Receiptholders against the Company or against its property or assets or any part thereof, whether such rights arise under this Agreement, the Subscription Receipt Certificates or otherwise;
- (2) to amend, alter or repeal any Extraordinary Resolution previously passed or sanctioned by the Receiptholders;
- (3) to direct or authorize the Subscription Receipt Agent to enforce any of the covenants of the Company contained in this Agreement or the Subscription Receipt Certificates and any of the rights of the Receiptholders in any manner specified in such Extraordinary Resolution or to refrain from enforcing any such covenant or right;
- (4) to waive, and to direct the Subscription Receipt Agent to waive, any default on the part of the Company in complying with any provisions of this Agreement or the Subscription Receipt Certificates either unconditionally or upon any conditions specified in such Extraordinary Resolution;
- (5) to restrain any Receiptholder from taking or instituting any suit, action or proceeding against the Company for the enforcement of any of the covenants of the Company in this Agreement or the Subscription Receipt Certificates or to enforce any of the rights of the Receiptholders;

- (6) to direct any Receiptholder who, as such, has brought any suit, action or proceeding to stay or to discontinue or otherwise to deal with such suit, action or proceeding upon payment of the costs, charges and expenses reasonably and properly incurred by such Receiptholder in connection therewith;
- (7) to assent to any change in or omission from the provisions contained in the Subscription Receipt Certificates and this Agreement or any ancillary or supplemental instrument which may be agreed to by the Company and to authorize the Subscription Receipt Agent to concur in and execute any ancillary or supplemental agreement embodying such change or omission;
- (8) with the consent of the Company (such consent not to be unreasonably withheld), to remove the Subscription Receipt Agent or its successor in office and to appoint a new subscription receipt agent and escrow agent to take the place of the Subscription Receipt Agent so removed; and
- (9) to assent to any compromise or arrangement with any creditor or creditors or any class or classes of creditors, whether secured or otherwise, and with holders of any shares or other securities of the Company;

in any such case subject to compliance with any applicable laws and to any necessary regulatory approvals.

Section 7.12 Meaning of “Extraordinary Resolution”

- (1) The expression “Extraordinary Resolution” when used in this Agreement means, subject as hereinafter in this Article provided, a resolution proposed to be passed as an Extraordinary Resolution at a meeting of Receiptholders (including an adjourned meeting) duly convened for such purpose and held in accordance with the provisions of this Article at which the holders of not less than 25% of the Subscription Receipts then outstanding are present in person or by proxy and passed by the affirmative votes of the holders of not less than 66 $\frac{2}{3}$ % the Subscription Receipts represented at the meeting and voted on a poll upon such resolution.
- (2) If, at any such meeting, the holders of not less than 25% of the Subscription Receipts outstanding are not present in person or by proxy within 30 minutes after the time appointed for the meeting, then the meeting, if convened by or on the requisition of Receiptholders, shall be dissolved. In any other case, the meeting shall be adjourned to such date, being not less than seven (7) and not more than 14 days later, and to such place and time as may be appointed by the chairman. Not less than five (5) days’ notice shall be given of the time and place of such adjourned meeting in the manner provided in Section 10.2 hereof. Such notice shall state that at the adjourned meeting the Receiptholders present in person or by proxy shall form a quorum. At the adjourned meeting, the Receiptholders present in person or by proxy shall form a quorum and may transact the business for which the meeting was originally convened and a resolution proposed at such adjourned meeting and passed by the requisite vote as provided in Section 7.12(1) hereof shall be an Extraordinary Resolution within the meaning of this Agreement, notwithstanding that the holders of not less than 25% of the Subscription Receipts then outstanding are not present in person or by proxy at such adjourned meeting.
- (3) Votes on an Extraordinary Resolution shall always be given on a poll and no demand for a poll on an Extraordinary Resolution shall be necessary.

Section 7.13 Powers Cumulative

Any one or more of the powers in this Agreement stated to be exercisable by the Receiptholders by Extraordinary Resolution or otherwise may be exercised from time to time and the exercise of any one or more of such powers from time to time shall not be deemed to exhaust the rights of the Receiptholders to exercise the same or any other such power or powers thereafter from time to time.

Section 7.14 Minutes

Minutes of all resolutions and proceedings at every meeting of Receiptholders shall be made and duly entered in books to be from time to time provided for that purpose by the Subscription Receipt Agent at the expense of the Company, and any such minutes, if signed by the chairman of the meeting at which such resolutions were passed or proceedings had or by the chairman of the next succeeding meeting of the Receiptholders, shall be prima facie evidence of the matters therein stated and, until the contrary is proved, every such meeting, in respect of the proceedings of which minutes shall have been made, shall be deemed to have been duly held and convened and all resolutions passed thereat or proceedings taken thereat shall be deemed to have been duly passed and taken.

Section 7.15 Instruments in Writing

All actions which may be taken and all powers that may be exercised by the Receiptholders at a meeting held as hereinbefore in this Article provided may also be taken and exercised by the holders of a majority or 66⅔%, as the case may be, of the outstanding Subscription Receipts, by an instrument in writing signed in one or more counterparts, by such Receiptholders in person or by attorney duly appointed in writing, and the term “resolution” or the expression “Extraordinary Resolution”, as the case may be, when used in this Agreement shall include an instrument so signed.

Section 7.16 Binding Effect of Resolutions

Every resolution and every Extraordinary Resolution passed in accordance with the provisions of this Article at a meeting of Receiptholders shall be binding upon all the Receiptholders, whether present at or absent from such meeting and every instrument in writing signed by Receiptholders in accordance with Section 7.15 hereof shall be binding upon all the Receiptholders, whether signatories thereto or not, and each and every Receiptholder and the Subscription Receipt Agent (subject to the provisions for its indemnity herein contained) shall be bound to give effect accordingly to every such resolution, Extraordinary Resolution and instrument in writing.

Section 7.17 Evidence of Rights of Receiptholders

Any request, direction, notice, consent or other instrument which this Agreement may require or permit to be signed or executed by the Receiptholders, including a Receiptholders’ Request, may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Receiptholders in person or by attorney duly appointed in writing. Proof of the execution of any such request or other instrument or of a writing appointing any such attorney or (subject to the provisions of this Article with regard to voting at meetings of Receiptholders) of the holding by any person of Subscription Receipts shall be sufficient for any purpose of this Agreement if the fact and date of execution by any person of such request or other instrument or writing is proved by a certificate of any notary public, or other officer authorized to take acknowledgements of deeds to be recorded at the place where such certificate is made, to the effect that the person signing such request or other instrument in writing acknowledged to him the execution thereof or by an affidavit of a witness of such execution or in any other manner which the Subscription Receipt Agent may consider adequate, acting reasonably.

The Subscription Receipt Agent may, nevertheless, in its discretion, acting reasonably, require further proof in cases where it deems further proof desirable or may accept such other proof as it shall consider proper.

Section 7.18 Holdings by Company Disregarded

In determining whether Receiptholders holding the required number of Subscription Receipts are present at a meeting of Receiptholders for the purpose of determining a quorum or have concurred in any consent, waiver, resolution, Extraordinary Resolution, Receiptholders’ Request or other action under this Agreement, Subscription Receipts owned legally or beneficially by the Company or any Subsidiary of the Company shall be disregarded in accordance with the provisions of Section 10.8 hereof.

ARTICLE 8
SUPPLEMENTAL AGREEMENTS

Section 8.1 Provision for Supplemental Agreements for Certain Purposes

From time to time, the Company, BioHep, Next Hydrogen, the Active Bookrunners, for and on behalf of the Agents, and the Subscription Receipt Agent may jointly, subject to the provisions hereof and they shall, when so directed in accordance with the provisions hereof, execute and deliver by their proper officers agreements supplemental hereto, which thereafter shall form part hereof, for any one or more or all of the following purposes:

- (1) increasing the number of Subscription Receipts authorized for issue hereunder and the corresponding number of Common Shares to which Receiptholders are entitled;
- (2) evidencing the succession, or successive successions, of any other person to the Company and the assumption by such successor of the covenants of, and obligations of, the Company under this Agreement;
- (3) adding to the provisions hereof such additional covenants and enforcement provisions as, in the opinion of Next Hydrogen Counsel, BioHep Counsel or the Agents, are necessary or advisable, provided that the same are not, in the opinion of the Subscription Receipt Agent based upon the advice of Counsel, prejudicial in any respect to the interests of the Receiptholders;
- (4) giving effect to any Extraordinary Resolution passed as provided in Article 7 only insofar as it is agreed upon by the Company and not prejudicial to the Company;
- (5) making such provisions not inconsistent with this Agreement as may be necessary or desirable with respect to matters or questions arising hereunder, provided that such provisions are not, in the opinion of the Subscription Receipt Agent based upon the advice of Counsel, prejudicial to the interests of the Receiptholders;
- (6) adding to or altering the provisions hereof in respect of the transfer of Subscription Receipts, making provision for the exchange of Subscription Receipt Certificates and making any modification in the form of the Subscription Receipt Certificates which does not affect the substance thereof;
- (7) modifying any of the provisions of this Agreement, including relieving the Company from any of the obligations, conditions or restrictions herein contained, provided that such modification or relief shall be or become operative or effective only if, in the opinion of the Subscription Receipt Agent based upon the advice of Counsel, such modification or relief in no way prejudices any of the rights of the Receiptholders or of the Subscription Receipt Agent, and provided further that the Subscription Receipt Agent may in its sole discretion decline to enter into any such supplemental agreement which in its opinion may not afford adequate protection to the Subscription Receipt Agent or the Receiptholders, when it becomes operative; and
- (8) for any other purpose not inconsistent with the terms of this Agreement, including correcting or rectifying any ambiguities, defective or inconsistent provisions, errors, mistakes or omissions herein, provided that in the opinion of the Subscription Receipt Agent based upon the advice of Counsel, the rights of the Subscription Receipt Agent and of the Receiptholders are in no way prejudiced thereby.

Section 8.2 Successor Corporations

In the case of the amalgamation, arrangement, merger, business combination or transfer of the undertaking or assets of the Company, as an entirety or substantially as an entity, to another entity, (a “**successor corporation**”), the successor corporation resulting from such amalgamation, merger or transfer (if not the Company) shall

expressly assume, by supplemental agreement satisfactory in form to the Subscription Receipt Agent and executed and delivered to the Subscription Receipt Agent, the due and punctual performance and observance of each and every covenant and condition of this Agreement to be performed and observed by the Company, as applicable.

ARTICLE 9 CONCERNING THE SUBSCRIPTION RECEIPT AGENT

Section 9.1 Applicable Legislation

- (1) In regard to the Subscription Receipt Agent, if and to the extent that any provision of this Agreement limits, qualifies or conflicts with a mandatory requirement of Applicable Legislation, such mandatory requirement shall prevail.
- (2) The Company, BioHep, Next Hydrogen, the Active Bookrunners and the Subscription Receipt Agent agree that each shall, at all times in relation to this Agreement and any action to be taken hereunder, observe and comply with and be entitled to the benefits of Applicable Legislation.

Section 9.2 Accounting

The Subscription Receipt Agent shall maintain accurate books, records and accounts of the transactions effected or controlled by the Subscription Receipt Agent hereunder and the receipt, investment and release of the Escrowed Funds, together with interest Earned Interest thereon, and shall provide to the Company, BioHep, Next Hydrogen and the Active Bookrunners, for and on behalf of the Agents, records and statements thereof periodically upon request.

Section 9.3 Payments by Subscription Receipt Agent

In the event that any funds to be released by the Subscription Receipt Agent in accordance herewith are received by the Subscription Receipt Agent in the form of an uncertified cheque or cheques, the Subscription Receipt Agent shall be entitled to delay the time for the release of such funds hereunder until such uncertified cheque or cheques have cleared in the ordinary course of the financial institution upon which the same are drawn. The Subscription Receipt Agent shall disburse funds according to this Agreement only to the extent that funds have been deposited with it. The Subscription Receipt Agent shall not under any circumstances be required to disburse funds in excess of amounts on deposit with the Subscription Receipt Agent at the time of such disbursement.

Section 9.4 Rights and Duties of Subscription Receipt Agent

- (1) The Subscription Receipt Agent shall act as the agent, custodian and nominee of and for the benefit of the Company, BioHep, Next Hydrogen, the Active Bookrunners, for and on behalf of the Agents, and the holders of Subscription Receipts with respect to all monies held by the Subscription Receipt Agent pursuant hereto, as their interests may appear from time to time.
- (2) In the exercise of the rights and duties prescribed or conferred by the terms of this Agreement, the Subscription Receipt Agent shall exercise the degree of care, diligence and skill that a reasonably prudent escrow agent would exercise in comparable circumstances. No provision of this Agreement shall be construed to relieve the Subscription Receipt Agent from liability for its own grossly negligent action, grossly negligent failure to act, willful misconduct or bad faith.
- (3) The obligation of the Subscription Receipt Agent to commence or continue any act, action or proceeding for the purpose of enforcing any rights of the Subscription Receipt Agent or the Receiptholders hereunder shall be conditional upon the Receiptholders providing to the Subscription Receipt Agent, when required by notice from the Subscription Receipt Agent, sufficient funds to commence or to

continue such act, action or proceeding and an indemnity reasonably satisfactory to the Subscription Receipt Agent and to protect and hold harmless the Subscription Receipt Agent against the costs, charges and expenses and liabilities to be incurred thereby and any loss and damage it may suffer by reason thereof. None of the provisions contained in this Agreement shall require the Subscription Receipt Agent to expend or to risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless so indemnified.

- (4) The Subscription Receipt Agent may, before commencing or at any time during the continuance of any such act, action or proceeding, require the Receiptholders at whose instance it is acting to deposit with the Subscription Receipt Agent the Subscription Receipts held by them, for which Subscription Receipts the Subscription Receipt Agent shall issue receipts.
- (5) Every provision of this Agreement that by its terms relieves the Subscription Receipt Agent of liability or entitles it to rely upon any evidence submitted to it is subject to the provisions of Applicable Legislation and this Section 9.4. The Subscription Receipt Agent shall not be liable to account to anyone for the profit it may earn, if any, while holding the Escrowed Funds.
- (6) The Subscription Receipt Agent shall not be bound to do or give any notice or take any act, action, proceeding for the enforcement of any of the obligations of the Company or BioHep under this Agreement unless and until it shall have received a Receiptholders' Request specifying the act, action or proceeding which the Subscription Receipt Agent is requested to take, nor shall the Subscription Receipt Agent be required to take notice of any default hereunder, unless and until notified in writing of such default, which notice shall distinctly specify the default desired to be brought to the attention of the Subscription Receipt Agent and, in the absence of any such notice, the Subscription Receipt Agent may for all purposes of this Agreement conclusively assume that no default has been made in the observance or performance of any of the representations, warranties, covenants, agreements, or conditions contained herein.

Section 9.5 Evidence, Experts and Advisors

- (1) In addition to the reports, certificates, opinions and other evidence required by this Agreement, the Company shall provide to the Subscription Receipt Agent such additional evidence of compliance with any provision hereof, and in such form, as may be prescribed by Applicable Legislation or as the Subscription Receipt Agent may reasonably require by written notice to the Company.
- (2) In the exercise of its rights and duties hereunder, the Subscription Receipt Agent may, if it is acting in good faith, rely as to the truth of the statements and the accuracy of the opinions expressed in statutory declarations, opinions, reports, written requests, consents, or orders of the Company, certificates of the Company, other evidence furnished to the Subscription Receipt Agent pursuant to any provision of this Agreement or Applicable Legislation, or pursuant to a request of the Subscription Receipt Agent, provided that such evidence complies with Applicable Legislation and that the Subscription Receipt Agent complies with Applicable Legislation and that the Subscription Receipt Agent examines such evidence and determines that it complies with the applicable requirements of this Agreement.
- (3) Whenever it is provided in this Agreement or under Applicable Legislation that the Company shall deposit with the Subscription Receipt Agent resolutions, certificates, reports, opinions, requests, orders or other documents, it is intended that the truth, accuracy and good faith thereof on the effective date thereof and the facts and opinions stated in all such documents so deposited shall, in each and every such case, be conditions precedent to the right of the Company to have the Subscription Receipt Agent take the action to be based thereon.
- (4) The Subscription Receipt Agent may employ or retain such Counsel, accountants, appraisers or other experts or advisors as it may reasonably require for the purpose of determining and discharging its duties

hereunder and may pay reasonable remuneration for all services so performed by any of them, without taxation of costs of any Counsel, and shall not be responsible for any misconduct or negligence on the part of any such experts or advisors who have been appointed with due care by the Subscription Receipt Agent. Fees or expenses incurred under this Section 9.5 hereof shall be repayable in accordance with Section 5.2 hereof.

- (5) Whenever Applicable Legislation requires that evidence referred to in Section 9.5(1) hereof be in the form of a statutory declaration, the Subscription Receipt Agent may accept such statutory declaration in lieu of a certificate of the Company required by any provision hereof. Any such statutory declaration may be made by one or more of the directors and officers of the Company.

Section 9.6 Documents and Monies Held by Subscription Receipt Agent

Subject to Section 4.1 hereof, any securities, documents of title or other instruments that may at any time be held by the Subscription Receipt Agent pursuant to this Agreement may be placed in the deposit vaults of the Subscription Receipt Agent or of any Canadian chartered bank or deposited for safekeeping with any such bank.

Section 9.7 Actions by Subscription Receipt Agent to Protect Interest

The Subscription Receipt Agent shall have power to institute and to maintain such actions and proceedings as it may consider necessary or expedient to preserve, protect or enforce its interests and the interests of the Receiptholders.

Section 9.8 Subscription Receipt Agent Not Required to Give Security

The Subscription Receipt Agent shall not be required to give any bond or security in respect of the execution of this Agreement or otherwise in respect of the provisions hereof.

Section 9.9 Protection of Subscription Receipt Agent

By way of supplement to the provisions of any law for the time being relating to escrow agents, it is expressly declared and agreed as follows:

- (1) the Subscription Receipt Agent shall not be liable for or by reason of any statements or recitals in this Agreement or in the Subscription Receipt Certificates (except the representation contained in Section 9.11 hereof or the countersignature by the Subscription Receipt Agent of Subscription Receipt Certificates) or be required to verify any such statements or recitals, but all such statements or recitals are and shall be deemed to be made by the Company;
- (2) nothing contained herein shall impose any obligation on the Subscription Receipt Agent to tend to or require evidence of the registration or filing (or renewal thereof) of this Agreement or any instrument ancillary or supplemental hereto;
- (3) the Subscription Receipt Agent shall not be bound to give notice to any person or persons of the execution hereof;
- (4) the Subscription Receipt Agent shall not incur any liability or responsibility whatever or be in any way responsible for the consequence of any breach by the Company or the Agents of any of the respective covenants herein contained or of any acts of any directors, officers, employees or agent of the Company or the Agents, as applicable;
- (5) the Subscription Receipt Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any Subscription Receipts or Common Shares, or any other securities or property which

may at any time be issued or transferred, as applicable, and delivered upon the deemed exercise of any Issuance Right;

- (6) the Subscription Receipt Agent shall not be liable for any error in judgment or for any act done or step taken or omitted by it in good faith or for any mistake, in fact or law, or for anything which it may do or refrain from doing in connection herewith except arising out of its own gross negligence, wilful misconduct or fraud;
- (7) the Subscription Receipt Agent shall not be responsible for any failure of the Company to make any payment or of the Company to issue, transfer or deliver the Common Shares upon the deemed exercise of the Issuance Right or any exercise of the Refund Right;
- (8) the Subscription Receipt Agent shall incur no liability whatsoever with respect to the delivery or non-delivery of any certificate whether delivered by hand, mail or any other means;
- (9) if the Subscription Receipt Agent delivers any cheque as required under this Agreement, the Subscription Receipt Agent shall have no further obligation or liability for the amount represented thereby, unless any such cheque is not honoured on presentation, and in the event of the non-receipt of such cheque by the payee, or the loss or destruction thereof, the Subscription Receipt Agent, upon being furnished with reasonable evidence of such non-receipt, loss or destruction and an indemnity reasonably satisfactory to it, shall issue to such payee a replacement cheque for the amount of such cheque;
- (10) the Subscription Receipt Agent shall be entitled to rely absolutely on the Notice and Direction and shall be entitled to release the Escrowed Funds upon the receipt of the Notice and Direction as provided for in this Agreement;
- (11) the Subscription Receipt Agent shall disburse funds according to this Agreement only to the extent that funds have been deposited with it;
- (12) notwithstanding any other provision of this Agreement, any liability of the Subscription Receipt Agent shall be limited, in the aggregate, to the amount of annual retainer fees paid by the Company to the Subscription Receipt Agent under this Agreement in the twelve (12) months immediately prior to the Subscription Receipt Agent receiving the first notice of the claim. Notwithstanding any other provision of this Agreement, and whether such losses or damages are foreseeable or unforeseeable, the Subscription Receipt Agent shall not be liable under any circumstances whatsoever for any (i) breach by any other party of securities law or other rule of any securities regulatory authority, (ii) lost profits or (iii) special, indirect, incidental, consequential, exemplary, aggravated or punitive losses or damages;
- (13) proof of the execution of an instrument in writing, including a Receiptholders' Request, by any Receiptholder may be made by the certificate of a notary, solicitor or commissioner for oaths, or other officer with similar powers, that the person signing such instrument acknowledged to him the execution thereof, or by an affidavit of a witness to such execution or in any other manner which the Subscription Receipt Agent may consider adequate and in respect of a corporate Receiptholder, shall include a certificate of incumbency of such Receiptholder together with a certified resolution authorizing the person who signs such instrument to sign such instrument; and
- (14) the Subscription Receipt Agent shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Subscription Receipt Agent, in its sole judgment, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation or economic sanctions legislation, regulation or guideline. Further, should the Subscription Receipt Agent, in its sole judgment, determine at any time that its acting under this Agreement has resulted in its being in non-compliance with any applicable anti-money laundering, anti-terrorist legislation or economic sanctions legislation, regulation or

guideline, then it shall have the right to resign on 10 days' written notice to the Company provided: (i) that the Subscription Receipt Agent's written notice shall describe the circumstances of such non-compliance; and (ii) that if such circumstances are rectified to the Subscription Receipt Agent's satisfaction within such 10-day period, then such resignation shall not be effective.

Section 9.10 Replacement of Subscription Receipt Agent; Successor by Amalgamation

- (1) The Subscription Receipt Agent may resign its appointment and be discharged from all other duties and liabilities hereunder, subject to this Section 9.10 by giving to the Company not less than 60 days' prior notice in writing or such shorter prior notice as the Company may accept as sufficient.
- (2) The Receiptholders by Extraordinary Resolution shall have the power at any time to remove the existing Subscription Receipt Agent and to appoint a new Subscription Receipt Agent, as provided in Section 7.11(8) hereof. In the event of the Subscription Receipt Agent so resigning or being removed or being dissolved, becoming bankrupt, going into liquidation or otherwise becoming incapable of acting hereunder, the Company, BioHep and the Active Bookrunners, for and on behalf of the Agents, shall jointly forthwith appoint a new Subscription Receipt Agent unless a new Subscription Receipt Agent has already been appointed by the Receiptholders. In the event that the Company, BioHep and the Active Bookrunners, for and on behalf of the Agents, fail to make such appointment, the retiring Subscription Receipt Agent or any Receiptholder, at the Company's expense, may apply to a court of competent jurisdiction in the Province of Ontario, on such notice as such court may direct, for the appointment of a new Subscription Receipt Agent, provided that any new Subscription Receipt Agent so appointed by the Active Bookrunners, for and on behalf of the Agents, or the court shall be subject to removal by the Receiptholders as hereinbefore provided. Any new Subscription Receipt Agent appointed under any provision of this Section 9.10 shall be a corporation authorized to carry on the business of a trust company in the Province of Ontario and, if required, by the Applicable Legislation for any other provinces, in such other provinces. On any such appointment, the new Subscription Receipt Agent shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as Subscription Receipt Agent hereunder, provided that there be executed, at the expense of the Company, all such conveyances or other instruments as may, in the opinion of counsel, be necessary or advisable for the purpose of assigning such powers, rights, duties, and responsibilities to the new Subscription Receipt Agent, including, without limitation, an appropriate instrument executed by the new Subscription Receipt Agent accepting such appointment and, at the request of the Company, the predecessor Subscription Receipt Agent shall, upon payment of its outstanding remuneration and expenses, execute and deliver to the new Subscription Receipt Agent an appropriate instrument transferring to such new Subscription Receipt Agent all rights and powers of the Subscription Receipt Agent hereunder.
- (3) Upon the appointment of a successor subscription receipt agent, the Company shall promptly notify the Receiptholders thereof in the manner provided for in Section 10.2 hereof.
- (4) Any corporation into or with which the Subscription Receipt Agent may be merged or consolidated or amalgamated, or to which all or substantially all of its corporate trust business is sold or otherwise transferred, or any corporation resulting therefrom to which the Subscription Receipt Agent shall be a party or any corporation succeeding to the corporate trust business of the Subscription Receipt Agent shall be the successor to the Subscription Receipt Agent hereunder without any further act on its part or any of the parties hereto, provided that such corporation would be eligible for appointment as a successor subscription receipt agent under Section 9.10(1) hereof.
- (5) Any Subscription Receipt Certificates certified but not delivered by a predecessor Subscription Receipt Agent may be certified by the successor subscription receipt agent in the name of the predecessor or successor subscription receipt agent.

Section 9.11 Conflict of Interest

- (1) The Subscription Receipt Agent represents to the Company, BioHep and the Active Bookrunners, for and on behalf of the Agents, that at the time of execution and delivery hereof no material conflict of interest exists between its role as the agent hereunder and its role in any other capacity and agrees that in the event of a material conflict of interest arising hereafter it shall, within 30 days after ascertaining that it has such material conflict of interest, either eliminate such conflict of interest or assign its appointment as Subscription Receipt Agent hereunder to a successor subscription receipt agent approved by the Company and meeting the requirements set out in Section 9.10(1) hereof. Notwithstanding the foregoing provisions of this Section 9.11(1), if any such material conflict of interest exists or hereafter shall exist, the validity and enforceability of this Agreement and the Subscription Receipt Certificates shall not be affected in any manner whatsoever by reason thereof.
- (2) Subject to Section 9.11(1) hereof, the Subscription Receipt Agent, in its personal or any other capacity, may buy, lend upon and deal in securities of the Company and generally may contract and enter into financial transactions with the Company or any Subsidiary of the Company without being liable to account for any profit made thereby.

Section 9.12 Acceptance of Appointment

The Subscription Receipt Agent hereby accepts the appointment as escrow agent in respect of the Escrowed Funds and as registrar and transfer agent in respect of the Subscription Receipts under this Agreement and agrees to perform its duties hereunder upon the terms and conditions herein set out.

Section 9.13 Subscription Receipt Agent Not to be Appointed Receiver

The Subscription Receipt Agent and any person related to the Subscription Receipt Agent shall not be appointed a receiver, a receiver and manager or a liquidator of all or any part of the assets or undertaking of the Company.

**ARTICLE 10
GENERAL**

Section 10.1 Notice to the Company and the Subscription Receipt Agent

- (1) Unless herein otherwise expressly provided, any notice to be given hereunder to the Company, the Active Bookrunners, for and on behalf of the Agents, or the Subscription Receipt Agent shall be deemed to be validly given if delivered by courier or transmitted by electronic mail or other electronic means (if provided) as follows:

- (a) if to the Company:

c/o BioHep Technologies Ltd.
440-890 West Pender Street
Vancouver, B.C. V6C 1J9

Attention: Donald Gordon
Email: dagcorp123@gmail.com

with a copy, which shall not constitute notice to:

Borden Ladner Gervais LLP
Suite 1900, 520 3rd Ave. SW
Calgary, AB T2P 0R3

Attention: Louise Lee
Email: lolee@blg.com

(b) if to BioHep:

BioHep Technologies Ltd.
440-890 West Pender Street
Vancouver, B.C. V6C 1J9

Attention: Donald Gordon
Email: dagcorp123@gmail.com

with a copy, which shall not constitute notice to:

Buttonwood Law Corporation
Suite 1510-789 West Pender Street
Vancouver, B.C. V6C 1H2

Attention: Mouane Sengsavang
Email: mouane@buttonwoodlaw.com

(c) if to Next Hydrogen:

Next Hydrogen Corporation
102-2680 Matheson Blvd. E,
Mississauga, ON L4W 0A5

Attention: Raveel Afzaal
Email: rafzaal@nexthydrogen.com

with a copy, which shall not constitute notice to:

Borden Ladner Gervais LLP
Suite 1900, 520 3rd Ave. SW
Calgary, AB T2P 0R3

Attention: Louise Lee
Email: lolee@blg.com

(d) if to the Active Bookrunners:

National Bank Financial Inc.
130 King Street West, 4th Floor Podium
Toronto, Ontario M5X 1J9

Attention: Saad Rawra
E-mail: saad.rawra@nbc.ca

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

Goodmans LLP
333 Bay Street, Suite 3400
Toronto, Ontario M5H 2S7

Attention: David Coll-Black
E-mail: dcollblack@goodmans.ca

- (e) if to the Subscription Receipt Agent:

TSX Trust Company
301 – 100 Adelaide Street West
Toronto, Ontario M5H 4H1

Attention: Vice President, Corporate Trust
Email: tmxestaff-corporatetrust@tmx.com

and any such notice provided in accordance with the foregoing shall be deemed to have been received on the date of delivery or, if sent by electronic mail or other electronic means, on the day of transmission (or, if such day is not a Business Day or if transmission was made after 5:00 p.m. (Toronto time) on a Business Day, on the first (1st) Business Day following the day of transmission).

- (2) The Company, the Active Bookrunners, for and on behalf of the Agents, or the Subscription Receipt Agent, as the case may be, may from time to time notify the others in the manner provided in Section 10.1(1) hereof of a change of address which, from the effective date of such notice and until changed by like notice, shall be the address of the Company, the Active Bookrunners, for and on behalf of the Agents, or the Subscription Receipt Agent, as the case may be, for all purposes of this Agreement.

Section 10.2 Notice to Receiptholders

- (1) Except as otherwise provided herein, any notice to the Receiptholders under the provisions of this Agreement shall be valid and effective if delivered or sent by ordinary mail addressed to such holders at their addresses appearing on the register of Subscription Receipts maintained by the Subscription Receipt Agent and shall be deemed to have been effectively given on the date of delivery or, if mailed, five (5) Business Days following actual posting of the notice in the mail. Accidental error or omission in giving notice or accidental failure to mail notice to any Receiptholder shall not invalidate any action or proceeding founded thereon.
- (2) If, by reason of a strike, lockout or other work stoppage, actual or threatened, involving postal employees, any notice to be given to the Receiptholders hereunder could reasonably be considered unlikely to reach its destination, such notice shall be valid and effective only if it is delivered personally to such Receiptholders or if delivered to the address for such Receiptholders contained in the register of Subscription Receipts maintained by the Subscription Receipt Agent.

Section 10.3 Counterparts

This Agreement may be executed and delivered in counterparts, each of which when so executed and delivered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and, notwithstanding their date of execution, shall be deemed to be dated as of the date hereof.

Section 10.4 Satisfaction and Discharge of Agreement

This Agreement shall cease to be of further effect when all obligations of the parties hereunder with respect to the Issuance Right or the Refund Right, as the case may be, have been satisfied. In such circumstances, the Subscription Receipt Agent, on demand of and at the cost and expense of the Company and upon delivery to the Subscription Receipt Agent of a certificate of the Company stating that all conditions precedent to the satisfaction and discharge of this Agreement have been complied with, shall execute all instruments necessary or desirable to acknowledge satisfaction of and discharge this Agreement. Notwithstanding the foregoing, the indemnities provided to the Subscription Receipt Agent, the Receiptholders and the Active Bookrunners, for and on behalf of the Agents, by the Company hereunder shall remain in full force and effect and survive the termination of this Agreement.

Section 10.5 Force Majeure

No party to this Agreement shall be liable to the other, or held in breach of this Agreement, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, riots, terrorism, acts of war, epidemics, governmental action or judicial order, earthquakes, or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures) and any additional restrictions or regulations imposed as a result of the above events. Performance times under this Agreement shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section 10.5.

Section 10.6 Privacy Consent

The parties to this Agreement acknowledge that the Subscription Receipt Agent may, in the course of providing services hereunder, collect or receive financial and other personal information about such parties and/or their representatives, as individuals, or about other individuals related to the subject matter hereof, and use such information for the following purposes:

- (1) to provide the services required under this Agreement and other services that may be requested from time to time;
- (2) to help the Subscription Receipt Agent manage its servicing relationships with such individuals;
- (3) to meet the Subscription Receipt Agent's legal and regulatory requirements; and
- (4) if Social Insurance Numbers are collected by the Subscription Receipt Agent, to perform tax reporting and to assist in verification of an individual's identity for security purposes.

Each party acknowledges and agrees that the Subscription Receipt Agent may receive, collect, use and disclose personal information provided to it or acquired by it in the course of this Agreement for the purposes described above and, generally, in the manner and on the terms described in its Privacy Code, which the Subscription Receipt Agent shall make available on its website, www.tsxtrust.com, or upon request, including revisions thereto. The Subscription Receipt Agent may transfer personal information to other companies in or outside of Canada that provide data processing and storage or other support in order to facilitate the services it provides in compliance with its Privacy Code.

Further, each party agrees that it shall not provide or cause to be provided to the Subscription Receipt Agent any personal information relating to an individual who is not a party to this Agreement unless that party has assured itself that such individual understands and has consented to the aforementioned uses and disclosures.

Section 10.7 Sole Benefit of Parties and Receiptholders

Nothing in this Agreement or in the Subscription Receipt Certificates, expressed or implied, shall give or be construed to give to any person other than the parties hereto, and the Receiptholders, as the case may be, any legal or equitable right, remedy or claim under this Agreement or the Subscription Receipt Certificates, or under any covenant or provision herein or therein contained, all such covenants and provisions being for the sole benefit of the parties hereto and the Receiptholders.

Section 10.8 Subscription Receipts Owned by the Company or its Subsidiaries

For the purpose of disregarding any Subscription Receipts owned legally or beneficially by the Company or any Subsidiary of the Company pursuant to Section 7.18 hereof, the Company shall provide to the Subscription Receipt Agent, from time to time, at the request of the Subscription Receipt Agent, a certificate of the Company setting out as at the date of such certificate the number of Subscription Receipts owned legally or beneficially by the Company or any Subsidiary of the Company, and the names (other than the name of the Company) of the registered holders of the Subscription Receipts, which, to the knowledge of the Company, are owned by or held for the account of the Company or any Subsidiary of the Company and the Subscription Receipt Agent, in making the computations pursuant to Section 7.18 hereof shall be entitled to rely on such certificate without requiring further evidence thereof.

Section 10.9 Language

The parties hereto have requested that this Agreement be drafted in the English language. Les parties ont demandé que le présent accord soit rédigé en langue anglaise.

Section 10.10 Time of Essence

Time is and shall remain of the essence of this Agreement.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF the parties hereto have executed this Subscription Receipt Agreement on the date first written above.

TSX TRUST COMPANY

By: _____
Name: Bolanle Oyelade
Title: Corporate Trust Officer

By: _____
Name: Chris McGregor, Senior Manager
Title:

NEXT HYDROGEN CORPORATION

By: _____
Name:
Title:

BIOHEP TECHNOLOGIES LTD.

By: _____
Name:
Title:

2819845 ONTARIO INC.

By: _____
Name:

NATIONAL BANK FINANCIAL INC.

By: _____
Name:
Title:

IN WITNESS WHEREOF the parties hereto have executed this Subscription Receipt Agreement on the date first written above.

TSX TRUST COMPANY

By: _____
Name:
Title:

By: _____
Name:
Title:

NEXT HYDROGEN CORPORATION

By: _____
Name: Raveel Afzaal
Title: CEO

BIOHEP TECHNOLOGIES LTD.

By: _____
Name: Don Gordon
Title: Director, President

2819845 ONTARIO INC.

By: _____
Name: Don Gordon
Director, President

NATIONAL BANK FINANCIAL INC.

By: _____
Name:
Title:

IN WITNESS WHEREOF the parties hereto have executed this Subscription Receipt Agreement on the date first written above.

TSX TRUST COMPANY

By: _____
Name:
Title:

By: _____
Name:
Title:

NEXT HYDROGEN CORPORATION

By: _____
Name:
Title:

BIOHEP TECHNOLOGIES LTD.

By: _____
Name:
Title:

2819845 ONTARIO INC.

By: _____
Name:

NATIONAL BANK FINANCIAL INC.

By: _____
Name: Saad Rawra
Title: Managing Director

TD SECURITIES INC.

By: _____
Name: Abe Adham

**SCHEDULE “A”
FORM OF SUBSCRIPTION RECEIPT CERTIFICATE**

SUBSCRIPTION RECEIPT CERTIFICATE

Certificate No.: _____ SUBSCRIPTION RECEIPTS

2819845 ONTARIO INC.

(A company incorporated under the laws of the Province of Ontario)

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) [INSERT CLOSING DATE], AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY.

THIS IS TO CERTIFY THAT:

[insert registration particulars] (the “holder”) is the registered holder of the Subscription Receipts represented hereby.

The Subscription Receipts represented by this Subscription Receipt certificate (the “Certificate”) are issued pursuant to a Subscription Receipt Agreement (the “Agreement”) dated April 28, 2021, among 2819845 Ontario Inc. (the “Company”), BioHep Technologies Ltd. (“BioHep”), Next Hydrogen Corporation and National Bank Financial Inc. and TD Securities Inc. (the “Active Bookrunners”), for and on behalf of Echelon Wealth Partners Inc., Raymond James Ltd., Roth Canada ULC, Beacon Securities Ltd. and Fort Capital Partners (together with the Active Bookrunners, the “Agents”), and TSX Trust Company, as escrow agent and registrar and transfer agent in respect of the Subscription Receipts (the “Subscription Receipt Agent”). Capitalized terms used but not defined herein have the meaning ascribed to them in the Agreement.

If the Escrow Release Conditions are satisfied at or before the Escrow Release Deadline, the Company, BioHep, Next Hydrogen and the Active Bookrunners, for and on behalf of the Agents, shall, as soon as practicable upon satisfaction of the Escrow Release Conditions, cause the Notice and Direction to be delivered to the Subscription Receipt Agent. In such circumstances, the holder shall be deemed to have exercised the Issuance Right and shall be entitled to be issued, without payment of additional consideration or the undertaking of any further action by the holder, one (1) Common Share for each Subscription Receipt held.

If the Termination Time occurs, the holder as at the Termination Time shall be deemed to have exercised their Refund Right in respect of all of their Subscription Receipts then held, and the holder shall receive an amount equal to the sum of the Issue Price paid therefor, and the Subscription Receipt evidenced hereby shall be null and void, all in the manner and on the terms and conditions set out in the Agreement.

The Subscription Receipts represented hereby are issued under and pursuant to the Agreement. Reference is hereby made to the Agreement and any and all other instruments supplemental or ancillary thereto for a full description of the rights of the holders of the Subscription Receipts and the terms and conditions upon which such Subscription Receipts are, or are to be, issued and held, all to the same effect as if the provisions of the Agreement and all instruments supplemental or ancillary thereto were herein set forth, and to all of which provisions the holder of these Subscription Receipts by acceptance hereof assents. In the event of a conflict or inconsistency between the terms of the Agreement and this Certificate, the terms of the Agreement shall prevail. Holders of Subscription Receipts may obtain a copy of the Agreement from the Subscription Receipt Agent at the Designated Office.

The Agreement contains provisions making binding upon all holders of Subscription Receipts outstanding thereunder resolutions passed at meetings of such holders held in accordance with such provisions and instruments in writing signed by the holders of either a majority of, or 66 $\frac{2}{3}$ % of, the outstanding Subscription Receipts, as the case may be.

The Subscription Receipts evidenced by this Certificate may be transferred on the register kept at the offices of the Subscription Receipt Agent by the registered holder hereof or his legal representatives or his attorney duly appointed by an instrument in writing in form and execution satisfactory to the Subscription Receipt Agent only upon surrender of this Certificate together with the duly executed form of transfer satisfactory to the Subscription Receipt Agent and upon compliance with such reasonable requirements as the Subscription Receipt Agent may prescribe. The Agreement sets forth the time when the transfer register shall be closed.

This Subscription Receipt Certificate is governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

This Certificate shall not be valid for any purpose unless and until it has been countersigned by or on behalf of the Subscription Receipt Agent.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF the Company has caused this Certificate to be signed by its duly authorized officer as of _____, 2021.

2819845 ONTARIO INC.

By: _____
Authorized Signing Officer

Countersigned by:

TSX TRUST COMPANY, as registrar and transfer agent of the Subscription Receipts

By: _____
Authorized Signing Officer

**APPENDIX “A”
FORM OF NOTICE AND DIRECTION TO SUBSCRIPTION RECEIPT AGENT**

TO: TSX Trust Company (the “Subscription Receipt Agent”)

This Notice and Direction is being provided by 2819845 Ontario Inc. (the “**Company**”), BioHep Technologies Ltd. (“**BioHep**”), Next Hydrogen Corporation (“**Next Hydrogen**”) and National Bank Financial Inc. and TD Securities Inc. (the “**Active Bookrunners**”), for and on behalf of Echelon Wealth Partners Inc., Raymond James Ltd., Roth Canada ULC, Beacon Securities Ltd. and Fort Capital Partners (together with the Active Bookrunners, the “**Agents**”), pursuant to the subscription receipt agreement (the “**Agreement**”) dated April 28, 2021 among the Subscription Receipt Agent, the Company, BioHep, Next Hydrogen and the Active Bookrunners, for and on behalf of the Agents, and pursuant to the agency agreement dated April 28, 2021 among the Company, BioHep, Next Hydrogen and the Agents. Capitalized terms not defined herein have the meaning ascribed to them in the Agreement.

In accordance with the provisions of the Agreement, we are writing to advise you that the Escrow Release Conditions have been satisfied. The Subscription Receipt Agent is hereby directed to release the Escrowed Funds as follows:

- (a) \$ _____, representing 50% of the Agents’ Fee and the Balance of the Agents’ Expenses, together with any Earned Interest thereon, by wire transfer or certified cheque to National Bank Financial Inc.;
- (b) retain \$ _____, as payment of reasonable fees and expenses of the Subscription Receipt Agent; and
- (c) \$ _____, representing the Released Amount, to Next Hydrogen by wire transfer or certified cheque.

The foregoing direction is irrevocable and shall constitute your good and sufficient authority for making such payments as directed above.

DATED the _____ day of _____, _____.

2819845 ONTARIO INC.

BIOHEP TECHNOLOGIES LTD.

By: _____
Authorized Signing Officer

By: _____
Authorized Signing Officer

NEXT HYDROGEN CORPORATION

NATIONAL BANK FINANCIAL INC.

By: _____
Authorized Signing Officer

By: _____
Authorized Signing Officer

TD SECURITIES INC.

By: _____
Authorized Signing Officer