

## SECOND AMENDING AGREEMENT

**THIS SECOND AMENDING AGREEMENT** (this “**Second Amending Agreement**”) is made as of December 4, 2025.

**BETWEEN:**

**PROBE GOLD INC.**, a corporation existing under the laws of the Province of Ontario

(the “**Company**”)

- and -

**FRESNILLO QUEBEC ACQUISITION INC.**, a corporation existing under the laws of the Province of Ontario

(the “**Purchaser**”)

- and -

**PRESTADORA DE SERVICIOS JARILLAS, S.A. DE C.V.**, a corporation existing under the laws of Mexico

(“**Purchaser Holdco**”)

- and -

**FRESNILLO PLC**, a public limited company existing under the laws of the United Kingdom

(the “**Parent**”)

**WHEREAS** the Purchaser, Purchaser Holdco, the Parent and the Corporation (collectively, the “**Parties**”) are parties to an arrangement agreement dated as of October 30, 2025, as amended by a first amending agreement dated as of November 27, 2025, pursuant to which, among other things, the Parent has agreed to acquire, through the Purchaser and as of the Effective Date, all of the issued and outstanding common shares of the Company pursuant to an arrangement of the Company under Section 182 of the *Business Corporations Act* (Ontario) (the “**Arrangement Agreement**”);

**AND WHEREAS** the Plan of Arrangement is set forth as Schedule A to the Arrangement Agreement; and

**AND WHEREAS** the Parties hereby wish to amend the Plan of Arrangement in accordance with Section 6.01 of the Plan of Arrangement and Section 8.1 of the Arrangement Agreement, as provided in this Second Amending Agreement, to better give effect to the implementation of the Plan of Arrangement.

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. All capitalized terms used but not otherwise defined in this Second Amending Agreement shall have the respective meanings ascribed to them in the Arrangement Agreement.
2. The Plan of Arrangement as set forth as Schedule A to the Arrangement Agreement is hereby deleted and replaced in its entirety with the amended and restated Plan of Arrangement attached hereto as Schedule A.
3. Except for the foregoing amendments, the Parties acknowledge and confirm that the Arrangement Agreement shall remain in full force and effect, unamended, and, upon the execution of this Second Amending Agreement, the Arrangement Agreement (as amended) and this Second Amending Agreement shall be deemed to constitute the entire Arrangement Agreement.
4. This Second Amending Agreement shall be binding upon and enure to the benefit of the Parties and their respective legal representatives, successors and permitted assigns. This Second Amending Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.
5. This Second Amending Agreement may be executed in any number of counterparts (including counterparts by facsimile or any other form of electronic communication) and all such counterparts taken together shall be deemed to constitute one and the same instrument. The Parties shall be entitled to rely upon delivery of an executed facsimile or similar executed electronic copy of this Second Amending Agreement, and such facsimile or similar executed electronic copy shall be legally effective to create a valid and binding agreement between the Parties.

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

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

**PROBE GOLD INC.**

By: (Signed) "David Palmer"  
Name: David Palmer  
Title: Chief Executive Officer

**FRESNILLO QUEBEC ACQUISITION  
INC.**

By: (Signed) "Jose Mario Arreguín Frade"  
Name: Jose Mario Arreguín Frade  
Title: Director

**PRESTADORA DE SERVICIOS  
JARILLAS, S.A. DE C.V.**

By: (Signed) "Octavio Alvidrez"  
Name: Octavio Alvidrez  
Title: Chief Executive Officer

**FRESNILLO PLC**

By: (Signed) "Octavio Alvidrez"  
Name: Octavio Alvidrez  
Title: Chief Executive Officer

**SCHEDULE "A"**

**PLAN OF ARRANGEMENT**

**(see attached)**

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

**ARTICLE I**  
**INTERPRETATION**

**Section 1.01 Definitions.** Unless indicated otherwise, where used in this Plan of Arrangement, capitalized terms used but not defined shall have the meanings specified in the Arrangement Agreement and the following terms shall have the meanings set out below. In addition, words and phrases used herein and defined in the OBCA and not otherwise defined herein or in the Arrangement Agreement shall have the same meaning herein as in the OBCA unless the context otherwise requires.

“**affiliate**” has the meaning ascribed thereto in National Instrument 45-106 – *Prospectus Exemptions*.

“**Amalco**” has the meaning set forth in Section 3.01(k).

“**Amalgamation**” has the meaning set forth in Section 3.01(k).

“**Arrangement**” means the arrangement of the Company under Section 182 of the OBCA on the terms and subject to the conditions set out in this Plan of Arrangement, subject to any amendments or variations made in accordance with the terms of the Arrangement Agreement and Section 6.01 of this Plan of Arrangement or made at the direction of the Court in the Final Order with the prior written consent of the Company and the Purchaser, each acting reasonably.

“**Arrangement Agreement**” means the arrangement agreement dated October 30, 2025 between the Company, the Purchaser, Purchaser Holdco and the Parent, including all schedules annexed thereto, together with the Company Disclosure Letter.

“**Arrangement Resolution**” means the special resolution approving this Plan of Arrangement to be considered at the Company Meeting by the Common Shareholders entitled to vote thereon pursuant to the Interim Order.

“**Articles of Arrangement**” means the articles of arrangement of the Company in respect of the Arrangement required by the OBCA to be sent to the Director after the Final Order is made, which shall include this Plan of Arrangement and otherwise be in a form and content satisfactory to the Company and the Purchaser, each acting reasonably.

“**Business Day**” means any day of the year, other than a Saturday, a Sunday or a day on which major banks are closed for business in Toronto, Ontario or London, United Kingdom.

“**Certificate of Arrangement**” means the certificate of arrangement to be issued by the Director pursuant to subsection 182(2) of the OBCA in respect of the Articles of Arrangement and this Plan of Arrangement.

“**Common Shareholders**” means the registered and/or beneficial holders of the Common Shares, as the context requires.

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

“**Company**” means Probe Gold Inc., a corporation existing under the laws of the Province of Ontario.

“**Company Circular**” means the notice of the Company Meeting and accompanying management information circular of the Company, including all schedules, appendices and exhibits to, and information incorporated by reference in, such management information circular, to be sent to each Common Shareholder and other Person as required by the Interim Order and Law in connection with the Company Meeting, as may be amended, supplemented or otherwise modified from time to time in accordance with this Agreement.

“**Company Disclosure Letter**” means the disclosure letter dated the date of the Arrangement Agreement and all schedules, exhibits and appendices thereto, executed and delivered by the Company to the Purchaser with the Arrangement Agreement.

“**Company Meeting**” means the special meeting of Common Shareholders, including any adjournment or postponement of such special meeting in accordance with the terms of the Arrangement Agreement, to be called and held in accordance with the Interim Order to consider the Arrangement Resolution, and for any other proper purpose as may be set out in the Company Circular.

“**Consideration**” means \$3.65 in cash per Common Share.

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

“**CRA**” means the Canada Revenue Agency.

“**Depository**” means TSX Trust Company, or such other Person as the Company may appoint to act as depository for the Common Shares in relation to the Arrangement, with the approval of the Purchaser, acting reasonably.

“**Director**” means the Director appointed under Section 278 of the OBCA.

“**Dissent Rights**” has the meaning set forth in Section 4.01.

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

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

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

“**Final Order**” means the final order of the Court under section 182 of the OBCA in a form acceptable to the Company and the Purchaser, each acting reasonably, approving the Arrangement, as such order may be amended, modified, supplemented or varied by the Court (with the prior written consent of both the Company and the Purchaser, each acting reasonably) at any time prior to the Effective Time or, if appealed, then, unless such appeal is withdrawn, abandoned or denied, as affirmed or as amended (provided that any such amendment is acceptable to the Company and the Purchaser, each acting reasonably) on appeal.

“**Governmental Entity**” means: (a) any international, multinational, national, federal, provincial, territorial, state, regional, municipal, local or other government, governmental or public body, authority or

department, central bank, court, tribunal, arbitral body, commission, board, bureau, commissioner, minister, ministry, governor-in-council, cabinet, agency or instrumentality, domestic or foreign; (b) any subdivision or authority of any of the above; (c) any quasi-governmental, administrative or private body, including any tribunal, commission, committee, regulatory agency or self-regulatory organization, exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing; or (d) any stock exchange (including the TSX).

“**Incentive Securities**” means, collectively, the Options, RSUs and PSUs.

“**Interim Order**” means the interim order of the Court under section 182 of the OBCA in a form acceptable to the Company and the Purchaser, each acting reasonably, providing for, among other things, the calling and holding of the Company Meeting, as such order may be amended, modified, supplemented or varied by the Court with the prior written consent of the Company and the Purchaser, each acting reasonably.

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

“**Lien**” means any mortgage, deed of trust, trust or deemed trust (whether contractual, statutory or otherwise arising), charge, pledge, hypothec, security interest, license prior claim, assignment, lien (statutory or otherwise), charge, conditional sale or other title retention agreement, restrictive covenant, transfer restriction, option, pledge, preference right, royalty, registered or unregistered or similar agreement, servitude, encroachment, dismemberments of the right of ownership, adverse right or claim or other encumbrance of any nature, or any other arrangement or condition which, in substance, among others things, secures payment or performance of an obligation.

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

“**Options**” means the issued and outstanding option to purchase Common Shares granted under the Stock Option Plan.

“**Order**” means all judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, injunctions, orders, decisions, rulings, determinations, awards, decrees, stipulations or similar actions taken or entered by or with, or applied by, any Governmental Entity (in each case, whether temporary, preliminary or permanent).

“**Parent**” means Fresnillo plc, a public limited company existing under the laws of the United Kingdom.

“**Parties**” means, collectively, the Company, the Purchaser, Purchaser Holdco and the Parent.

“**Person**” means any individual, sole proprietorship, partnership, limited partnership, association, body corporate, organization, joint venture, trust, estate, trustee, executor, administrator, firm, entity, legal representative, corporation, limited liability company, unlimited liability company, government (including Governmental Entity), joint stock company, syndicate, or other entity, whether or not having legal status. Where the context requires, “**Person**” also includes any of the foregoing when it is acting as trustee, executor, administrator or other legal representative of another Person.

“**Plan of Arrangement**” means this plan of arrangement, subject to any amendments or variations to such plan made in accordance with the Arrangement Agreement or Section 6.01 of this Plan of Arrangement or made at the direction of the Court in the Final Order with the prior written consent of both the Company and the Purchaser, each acting reasonably.

“**PSUs**” means the outstanding performance share units of the Company granted to eligible participants under the Restricted and Performance Unit Plan.

“**Purchaser**” means Fresnillo Quebec Acquisition Inc., a corporation existing under the laws of the Province of Ontario and a wholly-owned subsidiary of Purchaser Holdco.

“**Purchaser Holdco**” means Prestadora de Servicios Jarillas, S.A. de C.V., a wholly-owned Mexican-resident subsidiary of Parent.

“**Purchaser Loan**” has the meaning set forth in Section 3.01(c).

“**Restricted and Performance Unit Plan**” means the Restricted Stock Unit Incentive Plan of the Company dated as of March 7, 2018, as amended.

“**RSUs**” means the outstanding restricted share units of the Company granted to eligible participants under the Restricted and Performance Unit Plan.

“**Stock Option Plan**” means the Incentive Stock Option Plan of the Company effective as of April 25, 2022, as amended.

“**Subsidiary**” has the meaning ascribed thereto in National Instrument 45-106 – *Prospectus Exemptions*.

“**Tax Act**” means the *Income Tax Act* (Canada) including all regulations thereunder.

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

**Section 1.02 Certain Rules of Interpretation.** In this Plan of Arrangement, unless otherwise specified:

- (a) **Headings, etc.** The division of this Plan of Arrangement into Articles and Sections and the insertion of headings are for convenient reference only and do not affect the construction or interpretation of this Plan of Arrangement.
- (b) **Currency.** All references to dollars or to “\$” are references to Canadian dollars, unless specified otherwise. In the event that any amounts are required to be converted from a foreign currency to Canadian dollars, such amounts shall be converted using the most recent closing exchange rate of The Bank of Canada available before the relevant calculation date.
- (c) **Gender and Number.** Any reference to gender includes all genders. Words importing the singular number only include the plural and vice versa.
- (d) **Certain Phrases and References, etc.** The words (i) “including”, “includes” and “include” mean “including (or includes or include) without limitation”; (ii) “or” is not exclusive; (iii) “day” means “calendar day”; (iv) “hereof”, “herein”,

“hereunder” and words of similar import, shall refer to this Plan of Arrangement as a whole and not to any particular provision of this Plan of Arrangement; (v) “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”; (vi) “extent” in the phrase “to the extent” means the degree to which a subject or other thing extends and such phrase shall not mean simply “if”; and (vii) unless stated otherwise, “Article” or “Section” followed by a number or letter mean and refer to the specified Article or Section of this Plan of Arrangement. The term “Plan of Arrangement” and any reference in this Plan of Arrangement to this Plan of Arrangement or any other agreement, document or other instrument includes, and is a reference to, this Plan of Arrangement or such other agreement, document or other instrument as it may have been, or may from time to time be, amended, restated, replaced, modified, supplemented or novated and includes all schedules, exhibits, appendixes or attachments thereto or incorporated by reference therein. Any reference to a Person includes its heirs, administrators, executors, legal representatives, successors and permitted assigns, as applicable.

- (e) **Statutes.** Any reference to a statute or other Law refers to such statute and all rules, resolutions and regulations made under it, as it or they may have been or may from time to time be amended or re-enacted, unless stated otherwise.
- (f) **Business Days.** If the date on which any action is required or permitted to be taken under this Plan of Arrangement by a Person is not a Business Day, such action shall be required or permitted to be taken on the next succeeding day which is a Business Day.
- (g) **Time.** Time shall be of the essence in every matter or action contemplated under this Plan of Arrangement. All references to time are to local time Toronto, Ontario unless otherwise specified. When computing any time period in this Plan of Arrangement, the following rules shall apply:
  - (i) the day marking the commencement of the time period shall be excluded but the day of the deadline or expiry of the time period shall be included; and
  - (ii) any day that is not a Business Day shall be included in the calculation of the time period.

## ARTICLE II ARRANGEMENT AGREEMENT

**Section 2.01 Arrangement Agreement.** This Plan of Arrangement constitutes an arrangement under section 182 of the OBCA and is made pursuant and subject to the provisions of the Arrangement Agreement.

**Section 2.02 Binding Effect.** This Plan of Arrangement and the Arrangement, upon the filing of the Articles of Arrangement and the issuance of the Certificate of Arrangement, will become effective and be binding on the Purchaser, Purchaser Holdco, the Parent, the Company, all

Common Shareholders (including Dissenting Shareholders), all registered and beneficial owners of Incentive Securities, the Depository, the registrar and transfer agent of the Company and all other Persons, in each case, at and after the Effective Time, without any further act or formality required on the part of any Person.

### **ARTICLE III ARRANGEMENT**

**Section 3.01 Arrangement.** Commencing at the Effective Time, each of the following events shall occur and shall be deemed to occur sequentially as set out below without any further authorization, act or formality, in each case, unless stated otherwise, effective at five-minute intervals starting at the Effective Time, notwithstanding the time at which such event or transaction occurs or is deemed to occur under any Law or any certificate, instrument or other document issued pursuant thereto, without any further act or formality required on the part of any Person, except as may be expressly provided herein:

- (a) Purchaser Holdco shall contribute to the capital of the Purchaser the total of all amounts required to be paid by the Company and the Purchaser as described in Section 3.01(d), (e) and (f) (including, for greater certainty, any employer-side payroll Taxes required under Law to be withheld and remitted in respect thereof), as the case may be, below;
- (b) Pursuant to section 24 of the OBCA, an amount equal to the total amount described in Section 3.01(a) shall be added to the stated capital account maintained in respect of the common shares of the Purchaser;
- (c) the Purchaser shall make a non-interest-bearing demand loan to the Company in an amount equal to the total of all amounts required to be paid by the Company as described in Section 3.01(d), below (the “**Purchaser Loan**”);
- (d) simultaneously, and subject to Section 5.03:
  - (i) each Option (and all agreements relating thereto) outstanding immediately prior to the Effective Time (whether vested or unvested) shall be deemed to be vested and exercisable and, without any further action by or on behalf of any Person, shall be deemed to be assigned and surrendered by the holder thereof to the Company in exchange for a cash payment from the Company equal to the amount (if any) by which the Consideration exceeds the exercise price of such Option multiplied by the number of Common Shares subject to such Option (for greater certainty, where such amount is nil, no consideration shall be payable in respect thereof and neither the Company nor the Purchaser shall be obligated to pay to the holder of such Option any amount in respect of such Option) and each Option shall immediately be terminated;
  - (ii) each RSU (and all agreements relating thereto) outstanding immediately prior to the Effective Time (whether vested or unvested) shall, without any further action by any Person, be terminated in exchange for a cash payment

from the Company equal to the amount of the Consideration multiplied by the number of Common Shares underlying such RSU;

- (iii) each PSU (and all agreements relating thereto) outstanding immediately prior to the Effective Time (whether vested or unvested) shall, without any further action by or on behalf of any Person, be terminated in exchange for a cash payment from the Company equal to the Consideration multiplied by the number of Common Shares underlying such PSU, without giving effect to any performance multiplier or other adjustment that could result in more or less than one Common Share being issued in respect of any PSU notwithstanding the terms of the Restricted and Performance Unit Plan or any applicable grant agreement in relation thereto; and
- (iv) with respect to each Option, RSU and PSU that is terminated pursuant to this Section 3.01(d), as of the effective time of such termination: (A) the holder thereof shall cease to be the holder of such Incentive Security; (B) the holder thereof shall cease to have any rights as a holder under the Stock Option Plan, in respect of each Option, and the Restricted and Performance Unit Plan, in respect of each RSU and PSU, other than the right to receive the consideration to which such holder is entitled pursuant to this Section 3.01(d), less applicable withholdings; (C) such holder's name shall be removed from the applicable register; and (D) all agreements, grants and similar instruments relating thereto shall be terminated;
- (e) each outstanding Common Share held by a Dissenting Shareholder shall be deemed to have been transferred by the holder thereof to the Purchaser free and clear of all Liens and each Dissenting Shareholder shall cease to be a Common Shareholder and shall not have any rights as a Common Shareholder other than a debt claim against the Purchaser representing the right to be paid the fair value of their Common Shares by the Purchaser in accordance with Article IV and the name of such Dissenting Shareholder shall be removed from the register of Common Shareholders and the Purchaser shall be recorded as the registered holder of the Common Shares so transferred and shall be deemed to be the legal and beneficial owner thereof, free and clear of any Liens;
- (f) concurrently with the actions contemplated by Section 3.01(e), each Common Share outstanding immediately prior to the Effective Time (other than Common Shares held by Dissenting Shareholders) shall, without any further action by or on behalf of a Common Shareholder be deemed to be transferred by the holder thereof to the Purchaser free and clear of all Liens in exchange for the Consideration paid by the Purchaser and the name of such holder shall be removed from the register of holders of Common Shares and the Purchaser shall be recorded as the registered holder of the Common Shares so exchanged and shall be deemed to be the legal and beneficial owner thereof, free and clear of any Liens.
- (g) the Purchaser Loan shall be capitalized and thereupon settled and extinguished;

- (h) Pursuant to section 24 of the OBCA, an amount equal to the amount of the Purchaser Loan shall be added to the stated capital account maintained in respect of the Common Shares;
- (i) the stated capital in respect of the Common Shares shall be reduced to \$1.00 without any repayment of capital in respect thereof;
- (j) the Company shall file an election with the CRA to cease to be a public corporation for the purposes of the Tax Act;
- (k) the Company and the Purchaser shall amalgamate to form one corporate entity (“**Amalco**”) with the same effect as if they had amalgamated under section 174 of the OBCA, except that the legal existence of the Company shall not cease and the Company shall survive such Amalgamation (the “**Amalgamation**”);
- (l) without limiting the generality of Section 3.01(k), the separate legal existence of the Purchaser shall cease without the Purchaser being liquidated or wound up and the Company and the Purchaser shall continue as one company and the property of the Purchaser shall become the property of the Company;
- (m) from and after the Effective Date, at the time of the step contemplated in Section 3.01(k):
  - (i) *Name*: the name of Amalco shall be Probe Gold Inc.;
  - (ii) *Registered Office*: the registered office of Amalco shall be 3400-333 Bay Street, Toronto Ontario M5H 2S7;
  - (iii) *Articles of Amalgamation and By-laws*: the articles of amalgamation and by-laws Amalco shall be the same as the articles of incorporation and by-laws of the Company;
  - (iv) *Authorized Capital*: Amalco shall be authorized to issue an unlimited number of common shares without par value;
  - (v) *Number of Directors*: the number of directors of Amalco shall consist of a minimum number of one (1) director and a maximum number of ten (10) directors. Until changed by the shareholders of Amalco, or by directors of Amalco if authorized to do so, the number of directors of Amalco shall be two (2);
  - (vi) *Directors*: the initial directors of Amalco shall be Jose Mario Arreguín Frade and Gerardo Carreto Chávez and such Persons shall hold office until the next annual meeting of shareholders of Amalco or until their successors are appointed or elected;
  - (vii) *Conversion or Cancellation of Securities*: Purchaser Holdco shall receive on the Amalgamation one Amalco common share in exchange for each

Purchaser common share previously held and all of the issued and outstanding Common Shares will be cancelled without any repayment of capital in respect thereof;

- (viii) *Stated Capital*: the stated capital of the common shares of Amalco will be an amount equal to the paid-up capital, as that term is defined in the Tax Act, attributable to the common shares of the Purchaser immediately prior to the Amalgamation;
- (ix) *Shareholder Meeting*: the first annual general meeting of Amalco will be held within 18 months from the Effective Date;
- (x) *Effect of Amalgamation*:
  - (A) all of the property, rights and interests of the Purchaser and the Company (except any amounts receivable by the Purchaser from the Company or receivable by the Company from the Purchaser and the Common Shares held by the Purchaser) shall become property, rights and interests of Amalco and Amalco will own and hold all such property, rights and interests;
  - (B) Amalco will continue to be liable for all of the liabilities and obligations of the Company and the Purchaser (except any amounts payable by the Company to the Purchaser or by the Purchaser to the Company);
  - (C) all property, rights, contracts, permits and interests of Company and the Purchaser will continue as property, rights, contracts, permits and interests of Amalco as if Company and the Purchaser continued and, for greater certainty, the Amalgamation will not constitute a transfer or assignment of the rights or obligations of either of Company and the Purchaser under any such rights, contracts, permits and interests;
  - (D) any existing cause of action, claim or liability to prosecution will be unaffected;
  - (E) a civil, criminal or administrative action or proceeding pending by or against either Company or the Purchaser may be continued by or against Amalco; and
  - (F) a conviction against, or a ruling, order or judgment in favour of or against either the Company or the Purchaser may be enforced by or against Amalco.
- (ii) the exchanges and cancellations provided for in this Section 3.01 will be deemed to occur on the Effective Date, notwithstanding that certain of the procedures related thereto may not be completed until after the Effective Date.

**ARTICLE IV  
DISSENT RIGHTS**

**Section 4.01 Dissent Rights.**

- (a) Registered holders of Common Shares may exercise rights of dissent with respect to their Common Shares pursuant to and in the manner set forth in section 185 of the OBCA as modified by the Interim Order and this Article IV (the “**Dissent Rights**”); provided that notwithstanding subsection 185(6) of the OBCA, the written objection to the Arrangement Resolution referred to in subsection 185(6) of the OBCA must be received by the Company at its registered office no later than 5:00 p.m. (Toronto Time) two Business Days immediately preceding the date of the Company Meeting (as it may be adjourned or postponed from time to time).
- (b) Dissenting Shareholders who duly exercise their Dissent Rights shall be deemed to have transferred the Common Shares held by them to the Purchaser as provided in Section 3.01(e), and if they:
  - (i) are ultimately entitled to be paid fair value for such Common Shares, shall (A) be deemed not to have participated in the transactions in Article III (other than Section 3.01(e)), (B) be entitled to be paid, subject to Section 5.03, the fair value of such holders’ Common Shares by the Purchaser, which fair value, notwithstanding anything to the contrary in Part XIV of the OBCA, shall be determined as of the close of business on the day before the Arrangement Resolution was adopted, and (C) not be entitled to any other payment or consideration, including any payment that would be payable under the Arrangement had such holders not exercised their Dissent Rights in respect of such Common Shares; or
  - (ii) are ultimately not entitled, for any reason, to be paid the fair value for such Common Shares, shall be deemed to have participated in the Arrangement on the same basis as Common Shareholders who have not exercised Dissent Rights in respect of such Common Shares and shall be entitled to receive the Consideration to which Common Shareholders who have not exercised Dissent Rights are entitled under Section 3.01(f).

**Section 4.02 Recognition of Dissenting Shareholders.**

- (a) In no circumstances shall the Purchaser, the Company or any other Person be required to recognize a Person exercising Dissent Rights unless such Person is the registered holder of those Common Shares in respect of which such Dissent Rights are sought to be exercised.
- (b) For greater certainty, in no case shall the Purchaser, the Company, the Depositary, the registrar and transfer agent in respect of the Common Shares or any other Person be required to recognize Dissenting Shareholders as holders of the Common Shares in respect of which Dissent Rights have been validly exercised after the completion of the transfers under Section 3.01(e) and the names of such Dissenting

Shareholders shall be removed from the registers of holders of the Common Shares in respect of which Dissent Rights have been validly exercised at the same time as the event in Section 3.01(e) occurs.

- (c) In addition to any other restrictions under section 185 of the OBCA, none of the following shall be entitled to exercise Dissent Rights: (i) Common Shareholders who vote or have instructed a proxyholder to vote such Common Shares in favour of the Arrangement Resolution (but only in respect of such Common Shares); (ii) holders of Incentive Securities (in their capacity as holders of Incentive Securities); and (iii) the Purchaser, or its affiliates.

## **ARTICLE V CERTIFICATES AND PAYMENT**

### **Section 5.01 Payment of Consideration.**

- (a) In accordance with the Arrangement Agreement, the Purchaser shall deposit or cause to be deposited with the Depositary sufficient funds to be held in escrow (the terms and conditions of such escrow to be satisfactory to the Company and the Purchaser, each acting reasonably) to satisfy: (i) the aggregate Consideration to be paid to the Common Shareholders (other than any Common Shareholders exercising Dissent Rights), in the aggregate amount that such Common Shareholders are entitled to receive pursuant to Section 3.01(f); and (ii) the aggregate after-Tax amount payable to the holders of Incentive Securities, pursuant to Section 3.01(d), as a non-interest-bearing demand loan from the Purchaser to the Company. Further, in accordance with the Arrangement Agreement, the Purchaser shall deposit or cause to be deposited with the Company, as a non-interest-bearing demand loan from the Purchaser to the Company, sufficient funds to enable the Company to satisfy the aggregate Taxes required under applicable Law to be withheld and remitted in respect of the Incentive Securities, which shall reduce the amounts to be paid to holders of Incentive Securities.
- (b) After the Effective Time, each certificate which immediately prior to the Effective Time represented outstanding Common Shares shall be deemed at all times to represent only the right to receive upon surrender a cash payment in lieu of such certificate. Any such certificate formerly representing outstanding Common Shares not duly surrendered on or before the sixth anniversary of the Effective Date shall cease to represent a claim by or interest of any former Common Shareholder of any kind or nature whatsoever against or in the Company or the Purchaser and, on such date, all cash payments to which such former holder was entitled shall be deemed to have been surrendered to the Purchaser and shall be paid over by the Depositary to the Purchaser or as directed by the Purchaser and the certificate shall be deemed to have been surrendered to the Purchaser and will be cancelled.
- (c) Any payment made by way of cheque by the Depositary or by the Company pursuant to this Plan of Arrangement that has not been deposited or has been returned to the Depositary or the Company or that otherwise remains unclaimed, in

each case, on or before the sixth anniversary of the Effective Date and any right or claim to payment under this Plan of Arrangement that remains outstanding on the sixth anniversary of the Effective Date shall cease to represent a right or claim of any kind or nature and the right of any affected security holder to receive the consideration for any affected securities pursuant to this Plan of Arrangement shall terminate and be deemed to be surrendered and forfeited to the Purchaser (or the Company, as applicable) for no consideration.

- (d) No dividend, interest or other distribution declared or made after the Effective Time with respect to the Common Shares with a record or payment date after the Effective Time, shall be paid to the holders of any unsurrendered certificate which, immediately prior to the Effective Time, represented outstanding Common Shares.
- (e) Promptly after the Effective Time, the Purchaser shall cause the Depository, on behalf of the Company, to pay the amount (less any amounts withheld pursuant to Section 5.03) to be paid to holders of Incentive Securities pursuant to this Plan of Arrangement.

**Section 5.02 Lost Certificates.** In the event any certificate which immediately prior to the Effective Time represented one or more outstanding Common Shares that were exchanged pursuant to Section 3.01(f) shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such certificate to be lost, stolen or destroyed, the Depository will issue in exchange for such lost, stolen or destroyed certificate, a cheque (or other form of immediately available funds) representing the aggregate consideration in respect thereof that such Person is entitled to receive pursuant to Section 3.01(f), net of amounts required to be withheld pursuant to Section 5.03. When authorizing the delivery of such consideration in exchange for any lost, stolen or destroyed certificate, the Person to whom the consideration is being delivered shall, as a condition precedent to the delivery of such consideration, give a bond satisfactory to the Purchaser and the Depository in such sum as the Purchaser may direct or otherwise indemnify the Purchaser and the Depository in a manner satisfactory to the Purchaser and the Depository against any claim that may be made against the Purchaser or the Depository with respect to the certificate alleged to have been lost, stolen or destroyed.

**Section 5.03 Withholding Rights.** The Purchaser, the Company, the Depository and any other Person that makes a payment under this Plan of Arrangement shall be entitled to deduct and withhold (or cause to be deducted or withheld) from any amount payable or otherwise deliverable to any Person under this Plan of Arrangement (including any Common Shareholders exercising Dissent Rights), and from all dividends, other distributions or other amounts otherwise payable to any Common Shareholder or holder of Incentive Securities, such Taxes or other amounts as the Purchaser, the Company, the Depository or other Person, as applicable, is required, entitled or expressly permitted by Law, or reasonably believes to be required, entitled or expressly permitted by Law to deduct and withhold from such payment under any provision of any Law in respect of Taxes. Any such amounts will be deducted, withheld and timely remitted to the appropriate Governmental Entity from the amount payable pursuant to this Plan of Arrangement in accordance with Law and, to the extent that such deducted and withheld amounts are actually remitted to the appropriate Governmental Entity, shall be treated for all purposes as having been paid to the recipient in respect of which such deduction, withholding and remittance was made.

**Section 5.04 No Liens.** Any exchange or transfer of securities pursuant to this Plan of Arrangement shall be free and clear of any Liens or other claims of third parties of any kind.

**Section 5.05 Paramountcy.** From and after the Effective Time:

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

## **ARTICLE VI AMENDMENTS**

**Section 6.01 Amendments to Plan of Arrangement.**

- (a) The Purchaser and the Company may amend, modify and/or supplement this Plan of Arrangement at any time and from time to time prior to the Effective Time; provided that each such amendment, modification and/or supplement must be: (i) set out in writing; (ii) approved by both of the Purchaser and the Company, each acting reasonably; (iii) filed with the Court and, if made following the Company Meeting, approved by the Court; and (iv) communicated to Common Shareholders and such other Persons if and as required by the Court.
- (b) Any amendment, modification or supplement to this Plan of Arrangement may be proposed by the Company or the Purchaser at any time prior to the Company Meeting (provided that the Company or the Purchaser, as applicable, shall have consented thereto in writing) with or without any other prior written notice or communication and, if so proposed and accepted by the Persons voting at the Company Meeting (other than as may be required under the Interim Order), shall become part of this Plan of Arrangement for all purposes.
- (c) Any amendment, modification or supplement to this Plan of Arrangement that is approved or directed by the Court following the Company Meeting shall be effective only if: (i) it is consented to in writing by both of the Purchaser and the Company, each acting reasonably; and (ii) if required by the Court, it is consented to by some or all of the Common Shareholders voting in the manner directed by the Court.

- (d) Any amendment, modification or supplement to this Plan of Arrangement may be made following the granting of the Final Order without filing such amendment, modification or supplement with the Court or seeking Court approval; provided that (i) it concerns a matter which, in the reasonable opinion of the Purchaser and the Company, is of an administrative nature required to give effect to the implementation of this Plan of Arrangement and is not adverse to the interest of any Common Shareholder or any holder of Incentive Securities; or (ii) is an amendment contemplated in Section 6.01(e).
- (e) Any amendment, modification or supplement to this Plan of Arrangement may be made following the Effective Date unilaterally by the Purchaser; provided that it concerns a matter which, in the reasonable opinion of the Purchaser, is of an administrative nature required to better give effect to the implementation of this Plan of Arrangement and is not adverse to the economic interest of any former holder of Common Shares or Incentive Securities.
- (f) If, prior to the Effective Date, any term or provision of this Plan of Arrangement is held by the Court to be invalid, void or unenforceable, the Court, at the request of any Party, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan of Arrangement shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

## **ARTICLE VII FURTHER ASSURANCES**

**Section 7.01 Further Assurances.** Notwithstanding that the transactions and events set out in this Plan of Arrangement shall occur and shall be deemed to occur in the order set out in this Plan of Arrangement without any further act or formality, each of the Parties shall make, do and execute, or cause to be made, done and executed, all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may reasonably be required or advisable by either of them in order to further document or evidence any of the transactions or events set out in this Plan of Arrangement.