

audited nor otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“CASs”) pursuant to the *Chartered Professional Accountants Canada Handbook* and accordingly, the Monitor expresses no opinion or other form of assurance contemplated under CASs in respect of the Information; and

b) any examination or review of such financial forecasts and projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.

2.3 Future oriented financial information referred to in this Fifth Report was prepared based on management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections. Even if the assumptions materialize, the variations could be significant.

2.4 This Fifth Report should be read in conjunction with the affidavit of Edward A. Sellers sworn June 15, 2020 (the “**June Sellers Affidavit**”) in support of the Applicants’ motion returnable on June 18, 2020 for the relief described above and the affidavit of Mark Caiger sworn June 11, 2020 (the “**BMO Affidavit**”), which have been posted to the Monitor’s Website.

2.5 Unless otherwise stated, all monetary amounts contained in this Fifth Report are expressed in U.S. dollars.

### 3.0 CORPORATE GOVERNANCE

#### **Public Company Reporting and Cease Trade Order**

- 3.1 Lydian International is a public company whose shares were delisted from the Toronto Stock Exchange in February 2020. As mentioned in the Fourth Report, Lydian International advised the Ontario Securities Commission (the “**OSC**”) that, due to its financial constraints, it would not be able to provide public company disclosure going forward. On June 9, 2020, the OSC issued a cease trade order against Lydian International for its failure to make the required interim filings for the first quarter of 2020. A copy of the Cease Trade Order is attached as Exhibit Q to the June Sellers Affidavit.
- 3.2 On June 15, 2020, the Applicants issued a press release (the “**Press Release**”) advising the public that they will seek an order of the Court accepting the filing of the Plan, authorizing and directing the Applicants to call, hold and conduct a meeting of the Senior Lenders to vote on the Plan, approving the procedures to be followed at the Meeting, including voting procedures, and setting a date for the hearing of the Applicants’ motion for an order of the Court approving the Plan. The Press Release further indicates, among other things, that following implementation of the Plan, Lydian International will have no assets and will be wound up under Jersey law, which will include the cancellation and extinguishment of all ordinary shares in the capital of Lydian International. A copy of the Press Release is attached hereto as **Appendix “C”**.

## **Governance**

3.3 The Fourth Report described governance changes that have been implemented by the Applicants, in consultation with each of Resource Capital Fund VI L.P. (“**RCF**”), Orion Co IV (ED) Limited, a division of Orion Capital Management (“**Orion**”), and Osisko Bermuda Limited (collectively, the “**Senior Lenders**”) including:

- a) the resignation of the directors of Lydian International, other than Victor Flores and Edward Sellers, the latter of whom also continues to be engaged as interim CEO of Lydian International;
- b) the resignation of the directors and officers of Lydian Canada and Lydian U.K., other than Edward Sellers; and
- c) the appointment of Edward Sellers and Victor Flores as a director of 11910728 Canada Inc. (“**DirectorCo**”), a new company that was incorporated since the commencement of these CCAA Proceedings as a subsidiary of Lydian Canada for the sole purpose of being appointed as the sole director of Lydian International Holdings Limited and Lydian Resources Armenia Limited.

No additional directors have been appointed to any of the boards of the Applicants or DirectorCo.

## **Director and Officer Insurance**

3.4 Following the date of the Fourth Report, the Applicants were able to secure an extension of insurance coverage for their directors and officers until June 30, 2020. However, the

Monitor understands that the Applicants' insurance broker has advised that no further extension of the existing D&O insurance coverage is available beyond June 30, 2020.

- 3.5 The Monitor further understands that replacement D&O insurance coverage is both impractical to obtain and that such coverage, if available at all, would be prohibitively expensive. In addition, prior extensions to the D&O insurance have been conditional upon the Applicants being able to demonstrate that there is sufficient funding available to them to cover expenses incurred during the period for which coverage is requested. As discussed below, that condition could not be satisfied in any event based on the lack of continuing support of the Senior Lenders.
- 3.6 In light of the foregoing, the Monitor understands that Edward Sellers is not prepared to continue in his current roles beyond the expiry of the current D&O insurance on July 1, 2020.
- 3.7 The Monitor has advised that, in the current circumstances, it is not prepared to assume a "super-Monitor" role if a request was made by the Applicants for an expansion of its existing mandate pursuant to orders issued in this proceeding, if a corporate vacuum existed. As of June 30, 2020, the Monitor understands that the Applicants will not have a sufficient number of directors required by the applicable corporate statutes. The effect of implementing the proposed Plan with the Senior Lenders holding the shares of Restructured Lydian, will allow that corporate governance issue to be addressed by the Senior Lenders.

#### **4.0 SISP UPDATE**

- 4.1 As reported in the Monitor’s previous reports to the Court, the Applicants and BMO had commenced and engaged in a sale and investment solicitation process (the “**SISP**”). The Monitor had participated in weekly update calls with BMO and the Applicants in order to keep apprised of all aspects of the SISP. The efforts taken to date in the SISP are described in the June Sellers Affidavit and BMO Affidavit. While the SISP did result in continued discussions with two potential purchasers, in late April 2020, one of the potential purchasers informed BMO that it would no longer be participating in negotiations and, in early May 2020, the Senior Lenders determined that a transaction with the other potential purchaser would not be possible. As mentioned in the June Sellers Affidavit and the BMO Affidavit, the SISP has not resulted in a transaction capable of completion.

#### **5.0 MONITOR’S ACTIVITIES SINCE THE FOURTH REPORT**

- 5.1 In addition to the activities described elsewhere in this Fifth Report, the activities of the Monitor since the date of the Fourth Report have included:
- a) assisting the Applicants with communications to employees and other parties;
  - b) engaging in discussions with the Applicants, their legal counsel and other advisors, and the Non-Applicant Stay Parties and their advisors regarding the CCAA Proceedings, financing in respect of same, the SISP, the DIP Agreement and the DIP Amendment, and the proposed Plan and related matters;

- c) facilitating and participating in discussions among the Applicants and their Senior Lenders with respect to the Plan, funding for various activities and governance structure post-Plan implementation and various work streams being considered and undertaken;
- d) responding to enquiries from stakeholders and participating in discussions with certain stakeholders;
- e) monitoring receipts, disbursements and commitments of the Applicants, assisting the Applicants to review receipts, disbursements and commitments of Lydian U.S. and Lydian Armenia, which is the source of funding to the Applicants, and assisting the Applicants in reporting in respect of same to the Senior Lenders in accordance with the DIP Agreement;
- f) assisting management of the Applicants to quantify potential funding requirements of Lydian International and remaining related entities for post-Plan implementation activities;
- g) engaging in discussions with BMO and management and advisors of the Applicants in respect of the SISP;
- h) consulting with management in respect of the potential extension of insurance coverage for the Applicants' directors and officers beyond June 30, 2020;
- i) posting non-confidential materials filed with this Court to the Monitor's Website;
- j) attending the motion returnable on April 30, 2020;

- k) reviewing and considering communications from shareholders (as further described below);
- l) assisting the Applicants with the preparation of the Plan, as further described herein; and
- m) preparing this Fifth Report.

5.2 The Monitor has also continued to assist the Applicants and the Non-Applicant Stay Parties with their diligent efforts to maintain flexibility and optionality for the benefit of their stakeholders with respect to the mine site, including the ability to re-start operations should current circumstances change. This has included, among other things, continued discussions between the Applicants and their lenders and other stakeholders.

5.3 Since the date of the Fourth Report, the Monitor has received inquiries from certain shareholders of Lydian International, and has responded to same in a timely manner. Certain communications are as follows:

- a) on April 28, 2020, the Monitor received a letter from Yerem Sargsyan, an attorney at law practicing in the Republic of Armenia (the “**Sargsyan Letter**”). The Sargsyan Letter advised the Monitor that Mr. Sargsyan is counsel to certain equity stakeholders of Lydian International and that his clients have been prejudiced by Lydian’s failure to advance the treaty arbitration. The Sargsyan Letter also states that his clients “have reasonable doubts that Lydian has acted in good faith and with due care and diligence in its so-called “listed business”.” The Monitor was also asked to provide a copy of this letter to all creditors of Lydian. The Sargsyan

Letter further requests the Court to thoroughly consider the information provided in the letter. By letter dated May 19, 2020, the Monitor responded to Mr. Sargsyan to advise that, if he wishes to make any submissions in the CCAA Proceedings, including with respect to whether Lydian has been acting in good faith during the CCAA Proceedings, he must prepare, serve and file a Notice of Appearance with the Court. The Sargsyan Letter was provided to the Monitor as a series of photographs, which were difficult to read. Therefore, a transcribed copy of the Sargsyan Letter, along with the Monitor's responding letter, are attached hereto as **Appendix "D"**;

- b) On May 7, 2020, the Monitor received a voice message from Andrew Clarke indicating his concern "that there have been no updates from April 30<sup>th</sup>" and that "if this goes any longer, it is going to force [him] and other shareholders that [he] represents to launch an action in Court against the Court-appointed Monitor". The Monitor was surprised by the accusations set out in the voice message (as it had recently filed the Fourth Report prior to this date) and had a phone call with Mr. Clarke on May 15, 2020 to discuss Mr. Clarke's concern. It became clear to the Monitor that Mr. Clarke had not accessed the Monitor's Website, where all information in relation to the CCAA Proceedings (including all Monitor's reports) was posted. The Monitor sent a follow up letter that same day to Mr. Clarke directing him to access the Monitor's Website, and reminding Mr. Clarke that he is stayed from commencing any proceeding against Lydian or the Monitor without first obtaining leave of the Court to do so. A copy of the Monitor's letter to Mr.



Clarke (which also attaches a transcribed version of his voice message) is attached hereto as **Appendix “E”**; and

- c) On May 4, 2020, the Monitor received an email from Israfil Baykal, claiming to be a shareholder in Lydian International, inquiring about news articles in the Armenian media stating that shareholders will not receive any distribution in the case of a sale of Lydian. The Monitor responded by email dated May 19, 2020 to advise that “Lydian is currently in discussions with its senior secured lenders on a plan to exit the CCAA proceedings” and that “any distribution made in the CCAA proceedings will be done pursuant to the scheme of distribution set forth in Canada’s insolvency legislation”. Following the issuance of the Press Release, Israfil Baykal sent a further email to the Monitor on June 16, 2020 inquiring as to why shareholders will not be entitled to vote on the Plan and asking for information on this subject. The Monitor responded that day via email to direct the individual to the Monitor’s website, where information in respect of the Plan is posted. A copy of the email correspondence between the Monitor and Israfil Baykal is attached hereto as **Appendix “F”**.

- 5.4 The Monitor also understands that the Applicants and its Armenian management have also received some communication from shareholders of Lydian International since the posting of the Press Release.

## **6.0 PLAN OF ARRANGEMENT**

- 6.1 Pursuant to the DIP Amendment, the Applicants were required to deliver a term sheet to the Senior Lenders which included the terms, steps and timelines for the Applicants’

completion of the CCAA Proceedings, as the Senior Lenders were no longer prepared to support a continuation of the CCAA Proceedings. The Senior Lenders would otherwise be in a position to take steps to seek an Order lifting the stay of proceedings in order to enforce their security, which the Monitor understands includes a pledge of shares of Lydian Canada that is held by Lydian International.

6.2 In order to comply with this requirement of the DIP Amendment the Applicants have prepared the Plan, in consultation with the Senior Lenders, which is intended to place the Senior Lenders in the position they would otherwise be in if they enforced the Credit Agreement, Guarantees and security held from the Applicants and Non-Applicant Stay Parties. The Plan effectively transfers the shares of Lydian Canada for the benefit of the Senior Lenders through a corporate and financial restructuring of the Applicants. The Monitor has been involved in assisting the Applicants and in facilitating discussions amongst the Senior Lenders and the Applicants, on the terms of the Plan that was ultimately put forward.

6.3 A copy of the Plan is attached as Exhibit R to the June Sellers Affidavit, which is discussed in detail in the June Sellers Affidavit. Any capitalized terms used in this section but not otherwise defined have the meanings set out in the Plan.

### **Summary of Plan**

6.4 The Plan, among other things, provides for the following:

- a) the assignment or settlement of all intercompany debts owing to the Applicants prior to the Effective Time (which the Monitor understands is intended to

minimize adverse tax consequences), as described in section 6.3 of the Plan and in the June Sellers Affidavit;

- b) the equivalent of an assignment of substantially all of the assets of Lydian Jersey (including the shares it holds in Lydian Canada) to SL Newco by amalgamating Lydian Canada with SL Newco (to form Restructured Lydian);
- c) the release of the guarantees of the obligations of the Existing Lydian Group owing to the Senior Lenders under the Credit Agreement, the Loan Documents (as defined in the Credit Agreement), the Stream Agreement and the Stream Documents (as defined in the Stream Agreement) that was granted by each of Lydian International, Lydian U.S., Georgian Resource Company LLC, Lydian Resources Georgia Limited and Kavkaz Zoloto CJSC (collectively, the “**Released Guarantors**”);
- d) a termination of the CCAA Proceedings in respect of Restructured Lydian and an amendment of the style of cause in the CCAA Proceedings to remove Lydian Canada and Lydian UK as Applicants;
- e) the appointment by the Senior Lenders of the New Directors of Restructured Lydian;
- f) the appointment of New Directors of Lydian International by its existing board of directors;
- g) the orderly wind-down of Lydian International (which will be the only remaining Applicant) and its remaining subsidiaries, including Lydian U.S.;

- h) a mechanism for the funding of same by the Senior Lenders;
- i) a termination of the CCAA Proceedings in respect of Lydian International as the final Applicant, and a discharge of the Monitor, upon the earlier of: (A) completion of the post-implementation steps contemplated by the Plan, including the orderly wind-up of Lydian International in the Jersey Court as evidenced by the Monitor's filing of a Certificate in this proceeding; and (B) an Order of the Court terminating the CCAA Proceedings and discharging the Monitor; and
- j) a full release of the Released Claims.

6.5 Under the Plan, the only Creditors with Affected Claims are the Senior Lenders (the “**Affected Creditors**”). The Affected Claims are comprised of the obligations of the Released Guarantors owing to the Senior Lenders in respect of their guarantees of the obligations of the Existing Lydian Group owing to the Senior Lenders under the Credit Agreement, the Loan Documents (as defined in the Credit Agreement), the Stream Agreement and the Stream Documents (as defined in the Stream Agreement). All other Claims are unaffected.

6.6 At the Effective Time, in accordance with the provisions of the Plan, each of the Senior Lenders will receive, in respect of its Affected Claim, (i) the number of Restructured Lydian Common Shares as set forth in Schedule “C” to the Plan; and (ii) as required, replacement guarantees, assumptions or acknowledgements from the Restructured Lydian Group of all of Lydian Armenia's obligations to the Senior Lenders secured by general security interests and specific pledges of shares of the Restructured Lydian Group.

- 6.7 Any claims of the Equipment Lenders against the Applicants will not be compromised under the Plan and will remain outstanding after the Effective Date and are considered Unaffected Claims under the Plan. The Equipment Lenders shall not receive any distributions or other consideration and shall not be able to vote on the Plan. As described below, and as is typical in many plans of arrangement under the CCAA, there are releases provided for under the Plan in favour of Released Parties which would apply to the Equipment Lenders.
- 6.8 Holders of ordinary shares of Lydian International (the “**Lydian International Ordinary Shares**”) will not receive any distribution or other consideration under the Plan and are not entitled to attend or vote on the Plan. While not affected under the Plan itself, it is anticipated that all Lydian International Ordinary Shares will be extinguished as part of the wind-up of Lydian International, which is to be effected by way of a just and equitable wind-up under the supervision of the Jersey Court through the appointment of a liquidator.
- 6.9 Attached as **Appendix “G”** is (i) a corporate chart demonstrating the structure of the Existing Lydian Group after the Plan Implementation Date if all conditions are met, consisting of Lydian International and its remaining subsidiaries (being Lydian U.S. and Kavkaz Zoloto CJSC)<sup>1</sup>, which Lydian International will seek to wind-up after the Plan Implementation Date; and (ii) a corporate chart demonstrating the structure of the Restructured Lydian Group after the Plan Implementation Date.

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<sup>1</sup> The shares of Lydian Resources Georgia Limited and its subsidiary, Georgian Resource Company LLC, will be sold to the Lydian Georgia Purchaser under the Plan and will not continue to form part of the Existing Lydian Group.

- 6.10 The Plan provides that the Plan Implementation Date will take place on or prior to June 30, 2020, and will take effect once the Monitor delivers a certificate to the Applicants (as soon as practicable upon receipt of a written notice from the Applicants of the satisfaction or waiver of the conditions precedent to the Plan) indicating that the Plan Implementation Date has occurred. Further, upon the filing of such certificate confirming that the Plan Implementation Date has occurred, each of the CCAA Charges, other than the Administration Charge and the DIP Charge, shall be terminated, discharged and released.

### **Released Claims**

- 6.11 The Plan provides for broad releases of all claims by any Person against the Applicants, the Applicants' employees, contractors, agents and advisors (including legal counsel) and the Directors, the Monitor, the Monitor's counsel, the Senior Lenders, and each and every present and former affiliate, affiliated funds, subsidiary, director, officer, member, partner, employee, auditor, financial advisor, legal counsel and agent of any of the foregoing Persons (each, a "**Released Party**") existing or taking place: (i) on or prior to the Plan Implementation Date or (ii) following the Plan Implementation Date up to the termination of the CCAA Proceedings.
- 6.12 The Plan does not release: (a) Lydian Canada's, Lydian UK's or the Senior Lenders' obligations under the Plan or incorporated into the Plan; (b) obligations of any Existing Lydian Group member other than Lydian International under the Credit Agreement and Stream Agreement, and any agreements entered into relating to the foregoing, from and after the Plan Implementation Date; (c) any claims arising from the willful misconduct or gross negligence of any applicable Released Party; (d) any Director from any Director

Claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA; and (e) any Applicant and the subsidiaries of Restructured Lydian from or in respect of any Unaffected Claim (other than as set out in section 6.5 of the Plan, which provides (i) Lydian Jersey will seek to extinguish the Lydian Jersey Ordinary Shares and Equity Claims as part of the wind-up of Lydian Jersey and (ii) any members of the Existing Lydian Group that are also members of the Restructured Lydian Group and their respective employees, contractors, agents and Directors shall be released and discharged from any and all Claims by any Released Guarantor or their respective employees, contractors, agents and Directors).

#### **Post-Implementation Date Expenses**

- 6.13 The Applicants have no available cash to effect an orderly wind-down of the remaining entities that are not part of Restructured Lydian, including Lydian International and its remaining subsidiaries. As part of the negotiations among the Applicants and the Senior Lenders on the terms of the Plan, the Applicants requested that funds be made available to permit a wrap-up of these entities in a manner that would provide finality and clarity for their directors, any parties dealing with those entities and the Court.
- 6.14 It is a term of the Plan that, immediately prior to the Effective Time on the Plan Implementation Date, the Senior Lenders will advance additional funds to Lydian Armenia, which will be immediately transferred by way of an intercompany loan by Lydian Armenia to Lydian International. These funds will be then immediately transferred by Lydian International to the Monitor to be held in the Post-Implementation Date Expenses Reserve and used to pay the Post-Implementation Date Expenses in

accordance with Schedule “B” to the Plan. Disbursement of these funds will be upon written direction to the Monitor from Lydian International, the sole remaining Applicant at that time. The Monitor is advised by the Applicants that Schedule “B” to the Plan was inadvertently left out of the motion materials filed by the Applicants. Attached as **Appendix “H”** is a copy of Schedule “B” to the Plan, comprising the estimated Post-Implementation Date Expenses.

6.15 The Plan currently contemplates that the funding of the Post-Implementation Date Expenses shall be provided for through a further amendment to the DIP Agreement. The Monitor notes that Applicants and Senior Lenders are still in discussions in respect of the terms of any further DIP Agreement, and RCF has advised that it has not committed to fund any portion of the exit financing.

6.16 The Post-Implementation Date Expenses are comprised of the following:

- a) all potential costs and expenses (including fees of Lydian International’s counsel and the Monitor and its counsel) estimated to be incurred and accrued in respect of any further stay extensions or motions at any time prior to the CCAA Termination Date;
- b) all estimated costs and expenses of Lydian International and the other Released Guarantors, including all reasonable and documented fees of their advisors, the Monitor and its counsel, and director and officer insurance premiums incurred and accrued up to the CCAA Termination Date but not yet paid; and



- c) the costs and expenses estimated to be incurred in connection with or related to the dissolution or winding-up of Lydian International, Lydian U.S. and Kavkaz Zoloto CJSC, in each case, as set forth on, and, in all cases, subject to the maximums set forth on Schedule “B” to the Plan, and such further amounts as the Senior Lenders may agree in writing.

### **Termination of the CCAA Proceedings**

- 6.17 Under the Plan and as mentioned above, upon the amalgamation of Lydian Canada and SL Newco to form Restructured Lydian, the CCAA Proceedings in respect of Lydian Canada and Lydian UK will be terminated and the style of cause in the CCAA Proceedings will be amended to remove them as Applicants.
- 6.18 The Applicants will seek to commence a just and equitable winding up process for Lydian International as set out in the Plan in order to wind up Lydian International and its remaining subsidiaries. The Monitor understands that those proceedings are anticipated to be commenced at or around the time of the implementation of the Plan and continue for a few months thereafter.
- 6.19 Upon the completion of the just and equitable winding up process for Lydian International as set out in the Plan, and once same has been confirmed to the Monitor in writing, the Monitor will file a certificate with the Court terminating the CCAA Proceedings and discharging the Monitor. This mechanism is proposed in order to reduce and minimize costs and expenses incurred by the Applicants and the Monitor for which funding is required, in preparing for and attending a further motion to seek a discharge of the CCAA Proceedings once the steps set out in the Plan have been completed.

- 6.20 The Plan also provides that the Applicants or the Monitor, as applicable, shall be entitled to seek an Order of the Court terminating the CCAA Proceedings (even if the steps set out in the Plan are not completed) in the event that there are insufficient funds in the Post-Implementation Date Expenses Reserve to pay the Remaining Post-Implementation Date Expenses or the process for a just and equitable wind-up becomes unduly delayed or beyond what is otherwise reasonably contemplated to occur. The Monitor wishes to ensure that, as an officer of the Court, it is not expected to remain involved in a proceeding where there are no funds to cover its costs or no mechanism to immediately bring it to conclusion.
- 6.21 Upon the filing of such certificate with the Court, which will have the effect of terminating the CCAA Proceedings and discharging the Monitor, the Administration Charge and DIP Charge shall also be terminated, released and discharged. Following payment of all of the Remaining Post-Implementation Date Expenses, immediately prior to the CCAA Termination Date, the Monitor will transfer any remaining funds in the Post-Implementation Date Expenses Reserve to Restructured Lydian. The source of such funds to cover the Post-Implementation Date Expenses Reserve will have been originally provided by some or all the Senior Lenders, who will then be the shareholders of Restructured Lydian, and it would be appropriate in the Monitor's view to return any unused funds to that same party.

### **Meeting**

- 6.22 The Meeting to vote on the Plan is scheduled to take place on June 19, 2020 at 10:00 a.m. The Monitor will act as chair of the Meeting. The Affected Creditors will vote as a single

class of creditors at the Meeting. Each of the Affected Creditors are entitled to one vote equal to the aggregate dollar value of their Affected Claim, the quantum of which has now been finalized and is set out in **Appendix “I”** attached hereto. No other persons are entitled to vote on the Plan.

6.23 The only persons entitled to attend the Meeting are the Monitor, its legal counsel, the Applicants and their affiliates and subsidiaries and their legal counsel, advisors and directors and officers, and the Affected Creditors and their legal counsel and advisors.

6.24 If the Plan is approved by the Required Majority of the Affected Creditors (being an affirmative vote from a majority in number of Affected Creditors representing at least two-thirds in value of the Affected Creditors present and voting), the Applicants have advised the Monitor that they will seek an order from the Court sanctioning and approving the Plan at the Sanction Hearing. Based on information that the Monitor has received from counsel for the Affected Creditors and the Applicants, it appears that, barring some unforeseen event occurring between now and the Meeting, and provided the Meeting Order sought by the Applicants is granted by the Court, the Plan will be approved by the Required Majority at the Meeting. As noted below, the Applicants and the Monitor have been advised by RCF that it intends to vote against the Plan, for the reasons described below.

6.25 The Meeting Order sought by the Applicants requests that the Sanction Hearing be heard by the Court on June 29, 2020.

6.26 The Meeting Order provides that service by email of the Meeting Order, if issued, to counsel to the Affected Creditors constitutes good and sufficient service of the Meeting.

Given that the Affected Creditors (being the Senior Lenders) were consulted in the preparation of the Plan and have been made aware of its terms and conditions, the Monitor is satisfied that this constitutes sufficient notice of the Meeting to the Affected Creditors.

#### **Letter from RCF**

- 6.27 On June 16, 2020, counsel to the Applicants, with a copy to the Monitor, received a letter from counsel to RCF (the “**RCF Letter**”), one of the Senior Lenders, setting forth RCF’s position on the Plan. The RCF Letter states that a condition of RCF’s support of any plan of arrangement would be that it: (i) not prejudice or release Lydian’s rights in any arbitration claim against the Government of Armenia, and (ii) not adversely affect RCF’s interest in the proceeds of such arbitration. RCF requires that the Plan set out a clear and committed path forward for the commencement and pursuit of such arbitration.
- 6.28 The RCF Letter further states that RCF will vote against the Plan at the Meeting and will not consent to the granting of the Sanction and Implementation Order that will be sought by the Applicants at the Sanction Hearing if the Plan is approved by the Required Majority at the Meeting. RCF acknowledges its minority position and that it does not intend to propose or fund an alternative to the Plan and understands that the Court is likely to grant the Sanction and Implementation Order if the Plan is approved at the Meeting by the Required Majority.
- 6.29 The Monitor has participated on telephone calls with counsel for the Applicants and the Senior Lenders including RCF where the issue of the arbitration claim has been discussed, in connection with the Plan. The Monitor has heard from counsel for the

Applicants and the other Senior Lenders that, in their view, there is nothing in the Plan itself that is intended to extinguish any rights that may otherwise exist to pursue any arbitration against the Government of Armenia, if that path was to be pursued by Restructured Lydian. A purpose of the Plan is to permit Restructured Lydian and its shareholder/stakeholders to determine the manner and timing of pursuing any strategy after the Plan Implementation Date.

6.30 A copy of the RCF Letter is attached hereto as **Appendix “J”**.

## **7.0 CASH FLOW RESULTS RELATIVE TO FORECAST**

7.1 Actual receipts and disbursements for the period from April 18 to May 29, 2020 (the “**Reporting Period**”), as compared to the Updated Cash Flow Forecast (as defined in and discussed in the Supplemental Fourth Report) are summarized in the following table:

<b>Lydian International Limited., et. al.</b> <b>Schedule of Actual Receipts and Disbursements Compared to the Updated Cash Flow Forecast</b> <b>For the Six-Week Period Ended May 29, 2020</b> <b>(\$ USD)</b>			
	<b>Actual</b>	<b>Forecast</b>	<b>Variance</b>
<b>Cash Receipts</b>			
Miscellaneous receipts	11,268	-	11,268
<b>Total Cash Receipts</b>	<b>11,268</b>	<b>-</b>	<b>11,268</b>
<b>Cash Disbursements</b>			
Salaires, benefits and taxes	(230,927)	(151,000)	(79,927)
Insurance	(96,878)	(82,000)	(14,878)
Board of Directors	(60,000)	(60,000)	-
Office, IT and bank fees	(18,941)	(20,720)	1,779
Travel	-	(15,000)	15,000
Miscellaneous	(2,590)	(3,000)	410
Professional fees	(830,087)	(773,769)	(56,318)
Contingency	-	(50,000)	50,000
<b>Total Cash Disbursements</b>	<b>(1,239,423)</b>	<b>(1,155,489)</b>	<b>(83,934)</b>
<b>Net Cash Flow, Before Debt Service</b>	<b>(1,228,155)</b>	<b>(1,155,489)</b>	<b>(72,666)</b>
<b>Beginning Cash Balance</b>	<b>569</b>	<b>497</b>	<b>72</b>
Net operating cash flow	(1,228,155)	(1,155,489)	(72,666)
Intercompany transfers	1,250,000	1,165,000	85,000
<b>Ending Cash Balance</b>	<b>22,414</b>	<b>10,008</b>	<b>12,406</b>

7.2 During the Reporting Period:

- a) Salaries, benefits and tax payments were approximately \$80,000 greater than forecast due to a timing difference in the payment of certain expat tax obligations;
- b) Insurance related disbursements were approximately \$15,000 greater than forecast largely due to the payment of political risk insurance invoiced in respect of a three-month period that was not otherwise included in the Updated Cash Flow Forecast;

- c) Travel related expenses were approximately \$15,000 lower than forecast due to the moratorium on international travel implemented by governments as a result of the COVID-19 pandemic preventing any travel to Armenia or elsewhere; and
- d) Professional fees were approximately \$56,000 greater than forecast due to the timing of invoicing and represent the reversal of timing variances from the prior reporting period.

7.3 As provided in the Amended and Restated Initial Order, the Applicants and Non-Applicant Stay Parties continue to utilize the existing Cash Management System which provides for intercompany transfers to the Applicants by Lydian Armenia and Lydian U.S. The advances made under the DIP Agreement, as amended, are made to the borrower Lydian Armenia on the same basis as the pre-filing Credit Agreement, with all Applicants being guarantors thereunder.

## **8.0 MONITOR'S RECOMMENDATION**

8.1 The Applicants have prepared the Plan, in consultation with the Senior Lenders, in an effort to exit the CCAA proceedings and conclude its restructuring. The Senior Lenders have advised the Applicants that they are not prepared to continue to support the CCAA Proceedings or provide further funding for a continuation of the CCAA Proceedings. Without such committed funding, the Applicants will not have sufficient cash beyond the expiration of the Stay Period to continue these CCAA Proceedings. The Plan provides for the payment in full of all expenses, fees and costs to implement the Plan and the wind down of Lydian International and the other Released Guarantors.

- 8.2 While the outcome is not what the Applicants or the Senior Lenders would have preferred, and reflects the effective enforcement of security by the Senior Lenders through a Plan brought forward by the Applicants, it appears to be the only path forward that is available to the Applicants at this time. In the absence of the Plan, the “hard stop” scenario of certain members of the Lydian Group being subject to enforcement proceedings and others that may be left “stranded”, is not desirable. In the circumstances, it is the Monitor’s view that the Plan represents a better path forward than any other alternative that is available to the Applicants.
- 8.3 For the reasons set out in this Fifth Report, the Monitor is of the view that the relief requested by the Applicants in the Meeting Order is appropriate, and respectfully recommends that this Court grant the relief sought by the Applicants. The Monitor will file a further report to the Court following the Meeting to report on the results of same, in advance of the Sanction Hearing.

\*\*\*\*\*



All of which is respectfully submitted to this Court this 16<sup>th</sup> day of June 2020.

**Alvarez & Marsal Canada Inc., in its capacity  
as Monitor of Lydian International Limited,  
Lydian Canada Ventures Corporation and  
Lydian U.K. Corporation Limited  
and in no other capacity**

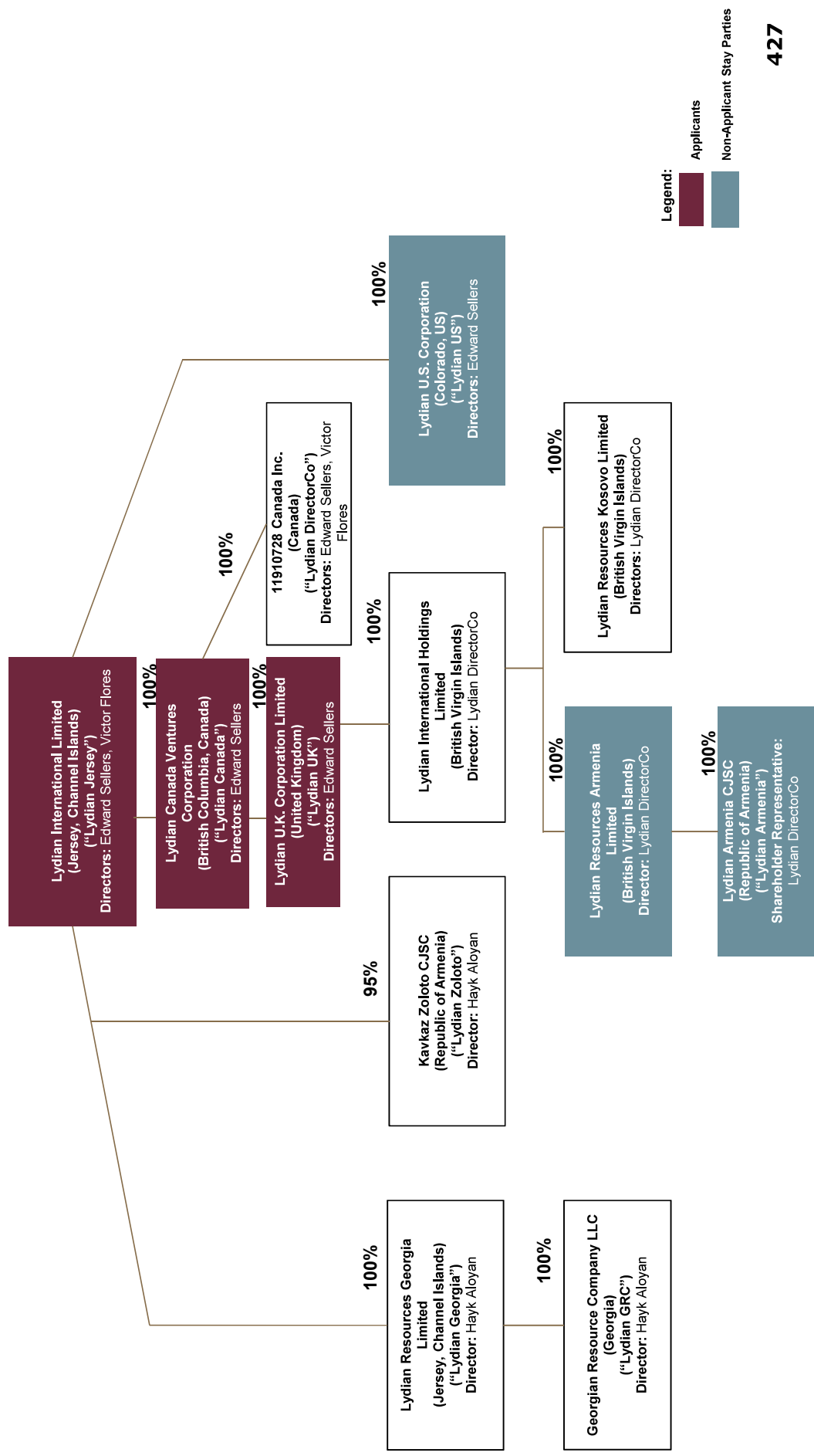


Per: Alan J. Hutchens  
Senior Vice President

# **APPENDIX A**

## Current Lydian Group Corporate Chart

# Existing Lydian Group Corporate Organization Chart



## **APPENDIX B**

Letter from Ameriabank CJSC to Lydian Armenia CJSC  
and Lydian International Limited dated June 15, 2020

O.AB.100.11RBD.CC.INB.6484.20  
JUNE 15, 2020

EQUIPMENT FINANCIER DEFAULT NOTICE  
ISSUED BY AMERIABANK CJSC  
2 Vazgen Sargsyan Street,  
Yerevan 0010, Armenia

TO: LYDIAN ARMENIA CJSC  
Address: 26/1 V. Sargsyan, Yerevan, Armenia, 0010  
Director: Hayk Aloyan  
Email: [hayk.aloyan@lydianinternational.co.uk](mailto:hayk.aloyan@lydianinternational.co.uk)

CC: LYDIAN INTERNATIONAL LIMITED  
Address: Suite 3, 5/6 Esplanade, St. Helier, Jersey JE2 3QA, Channel Islands

Attention: Douglas Tobler, Chief Financial Officer  
Facsimile: (303) 374-2623  
Email: [douglas.tobler@lydianinternational.co.uk](mailto:douglas.tobler@lydianinternational.co.uk)

Attention: Edward Sellers, President & Managing Director, Black Swan Advisors Inc.  
Email: [esellers@blackswanadvisors.ca](mailto:esellers@blackswanadvisors.ca)

CC: Orion Co IV (ED) Limited (COLLATERAL AGENT)  
c/o Appleby (Bermuda) Limited  
Address: Canon's Court, 22 Victoria Street, Hamilton HM 12, Bermuda  
Attention: Michell James, Appleby Services (Bermuda) Ltd  
Facsimile: (441) 298-3467  
Email: Istvan Zollei- [izollei@orionrp.com](mailto:izollei@orionrp.com)  
Zsombor Vincze- [zvincze@orionrp.com](mailto:zvincze@orionrp.com)  
Dov Lader- [dlader@orionrp.com](mailto:dlader@orionrp.com)

CC: Orion Resource Partners (USA) LP  
Address: 1211 Avenue of the Americas, Suite 3000, New York, NY 10036  
Attention: General Counsel  
Facsimile: (212) 596-3489  
Email: [notices@orionresourcepartners.com](mailto:notices@orionresourcepartners.com)

AMERIABANK CJSC  
2 V. Sargsyan Str., Yerevan  
0010, Republic of Armenia  
T: (374 10) 56 11 11  
F: (374 10) 51 31 33  
[www.ameriabank.am](http://www.ameriabank.am)  
info  [ameriabank.am](http://ameriabank.am)

### EQUIPMENT FINANCIER DEFAULT NOTICE

This Equipment Financier Default Notice (hereinafter referred to as Default Notice) is issued by the Equipment Financier based on and pursuant to the Intercreditor Agreement (hereinafter referred to as Intercreditor Agreement) executed by and between Ameriabank cjsc, Lydian Armenia cjsc, Orion Co IV (ED) Limited and Lydian International Limited on November 17, 2016.

All definitions and capitalized terms used herein shall have the meaning prescribed to it or referred to under the Intercreditor Agreement.

This Default Notice is issued by the Equipment Financier following the letter dated May 20, 2020 to the Collateral Agent informing on Lydian Armenia being in default under the requirements of the Equipment Finance Agreement and Equipment Finance Documents.

This Default Notice is issued by the Equipment Financier pursuant to Section 2.7 of the Intercreditor Agreement in relation to Event of Default of Lydian Armenia under the Equipment Finance Agreement resulting in overdue payments under the stated Equipment Finance Agreement comprising USD 3,275,001.85 as of June 15, 2020.

The Equipment Financier hereby demands from Lydian Armenia the repayment of the Overdue loan, Overdue interest, Interest on overdue amount of the Loan, and Overdue interest penalty as defined under the Equipment Finance Documents and comprising USD 3,275,001.85 in full within 7 (seven) business days following the receipt of this Default Notice. In case of failure to meet the requirements stated herein and subject to regulations under the Sections 2.7(a) and 2.7(b) of the Intercreditor Agreement the Equipment Financier will proceed with Enforcement Action pursuant to the Enforcement Notice to Lydian Armenia and requiring Lydian Armenia to repay the entire Loan by duly performing all Equipment Financier Obligations, and/or initiating foreclosure processes (seizure) on the Equipment Financier Collateral and/or undertaking legal procedures pursuant to the provisions of the Equipment Finance Documents.

The detailed figures regarding the current Event of Default are presented below.





## **APPENDIX C**

Press Release issued by Lydian International Limited on June 15, 2020





**Source:** *Lydian International Ltd.*

*June 15, 2020 23:08 ET*

## Lydian Announces Proposed Plan of Arrangement With Secured Creditors and Cease Trade Order

TORONTO, June 15, 2020 (GLOBE NEWSWIRE) -- Lydian International Limited ("**Lydian**" or the "**Company**") announced today that the Company, together with Lydian Canada Ventures Corporation ("**Lydian Canada**") and Lydian U.K. Corporation Limited ("**Lydian UK**" and together, the "**Applicants**"), have scheduled a motion (the "**Motion**") before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") to be heard on June 18, 2020 in the Applicants' *Companies' Creditors Arrangement Act* ("**CCAA**") proceedings, pursuant to which the Applicants will seek an order of the Court accepting the filing of a plan of arrangement (the "**Plan**"), authorizing and directing the Applicants to call, hold and conduct a meeting of the Senior Lenders (as defined below) to vote on the Plan (the "**Meeting**"), approving the procedures to be followed at the Meeting, including voting procedures, and setting a date for the hearing of the Applicants' motion for an order of the Court approving the Plan. If approved, the Plan will result in Lydian Canada and Lydian UK exiting the CCAA proceedings through a corporate restructuring and a mechanism for the winding up of the Company.

The Plan will implement a restructuring which will result in the Company's existing senior secured lenders, Orion CO IV (ED) Limited, Resource Capital Fund VI L.P. and Osisko Bermuda Limited (the "**Senior Lenders**"), owning and controlling a restructured Lydian Canada and its direct and indirect subsidiaries including Lydian UK and Lydian Armenia CJSC. The Plan provides for a full and final release of all claims against the Company and its directors and officers, which includes all claims of the Company's Senior Lenders. Claims against Lydian Canada, Lydian U.K. and the other subsidiaries of the Company, including Lydian Armenia CJSC, will not be released and will remain outstanding after implementation of the Plan. As a result, only the Senior Lenders will be entitled to vote on the Plan, while other parties, including unsecured creditors whose claims are

unaffected, and equityholders, will not be entitled to vote nor receive any distributions under the Plan. Following implementation of the Plan, the Company will have no assets and the Company will commence proceedings to be wound up under Jersey law, which will include the cancellation and extinguishing of all ordinary shares in the capital of the Company. Access to the Plan and all corresponding materials relating to the Motion will be available on the court-appointed Monitor's website, provided below.

In addition, as a result of the Company's previous announcement that it has not complied, nor is it planning on complying in the future, with its required continuous disclosure documents, the Ontario Securities Commission has informed the Company that a cease trade order has been issued against the Company.

All inquiries regarding the CCAA proceedings, including the proposed Plan, should be directed to the court-appointed Monitor, Alvarez & Marsal Canada Inc. (email: [lydian@alvarezandmarsal.com](mailto:lydian@alvarezandmarsal.com) or telephone: +1 416-847-5158). Information about the Company's CCAA proceedings, including all court orders made and the Monitor's reports, are available on the Monitor's website, at: <http://www.alvarezandmarsal.com/Lydian>. A copy of the Plan will be available on the Monitor's website shortly.

For further information regarding the Company, please contact: [moreinfo@Lydianinternational.co.uk](mailto:moreinfo@Lydianinternational.co.uk).

### **Caution regarding forward-looking information**

Certain information contained in this news release is "forward looking". All statements in this news release, other than statements of historical fact, that address events, results, outcomes or developments that the Company expects to occur are "forward-looking statements". Forward-looking statements are statements that are not historical facts and are generally, but not always, identified by the use of forward-looking terminology such as "plans", "expects", "is expected", "intends", "anticipates" or variations of such words and phrases or statements that certain actions, events or results "may", "could", "will", "would", "should", or "occur" or the negative or other variations of such terms. Forward-looking statements in this news release include, among others, statements with respect to: the CCAA proceedings and creditor protection and the restructuring process, including the proposed outcome of the Plan and its implementation; whether the Applicants will seek the Motion; certain terms of the Plan and the effects of the implementation thereof on the various stakeholders; and the proposed winding up of the Company under Jersey law.

Forward-looking statements are necessarily based on estimates and assumptions that are inherently subject to known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements to be materially different from those expressed or implied by such forward-looking statements. Such risks, uncertainties and factors include, without limitation: risks associated with in the Company's ongoing CCAA proceeding; risks associated with implementing the Plan, including whether it will receive the necessary approvals from the court and senior secured lenders entitled to vote on the Plan; whether the Plan will be approved based on the terms described herein; the effects that the implementation of the Plan, on the terms described herein or otherwise, will have on the various stakeholders; the availability and effect of the proposed winding up of the Company under Jersey law, as well as "Risk Factors" included in the disclosure documents filed on and available at [www.sedar.com](http://www.sedar.com). Forward-looking statements are not guarantees of future performance, and actual results and future events could materially differ from those anticipated in such statements. Accordingly, readers should not place undue reliance on forward-looking statements. All of the forward-looking statements contained in this news release are qualified by these cautionary statements. The Company expressly disclaims any intention or obligation to update or revise any forward-looking statements whether as a result of new information, events or otherwise, except in accordance with applicable securities laws.

## **APPENDIX D**

Transcribed letter to the Monitor from Yerem Sargsyan dated April 28, 2020 and  
the Monitor's responding letter to Yerem Sargsyan dated May 19, 2020

To: Alvarez & Marsal Canada Inc.  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
P.O. Box 22  
Toronto, ON M5J 2J1  
Canada (The Monitor)

Email: [Lydian@alvarezandmarsal.com](mailto:Lydian@alvarezandmarsal.com)

Attn: Alan J. Hutchens  
Senior Vice President

From: Yerem Sargsyan,  
Attorney at Law, Practicing Lawyer in the Republic of Armenia,  
Attorney License No

IN THE MATTER OF:

A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT OF LYDIAN INTERNATIONAL LIMITED, LYDIAN CANADA VENTURES CORPORATION, AND LYDIAN U.K. CORPORATION LIMITED (COLLECTIVELY, LYDIAN)

cc: Ontario Supreme Court of Justice

THE ROYAL COURT OF JERSEY

Date: April 28, 2020

Dr. Mr. Hutchens,

As a matter of introduction, I, Yerem Sargsyan, practicing lawyer in Armenia, have been asked by equity stakeholders of Lydian International Limited (my clients) to represent their interest related to possible restructuring, insolvency or alienating of business of Lydian in the courts of the Republic of Armenia or to assist them to represent their interests in third jurisdictions.

We are aware of publicly available sources that upon court order Lydian is granted extensions of stay and is authorized to continue negotiations with stakeholders to pursue restructuring options, including refinancing the Business or Property. The Monitor expressed the view that the relief requested by the Applicants was reasonable and respectfully recommended that the Court grant the relief sought by the Applicants.

It is our understanding, that the Monitor supported extending the Stay Period to April 30, 2020, and the ancillary relief sought in the Stay Extension Order in order the Applicants to have an opportunity to attempt to continue discussions with the Government of Armenia or to find a purchaser of the project or to develop and implement further corporate governance changes to simplify the corporate structure energy to minimize on-going costs of the Lydian Group, that is to say, to give the Applicants the flexibility required to have the best possible chance to implement a

successful restructuring, and/or to consider further steps to preserve and advance the Treaty Arbitration.

When doing so the Monitor ensures that no creditor of Lydian (the Applicant) would be materially prejudiced by the extension of the Stay Period and the ancillary relief sought by the Applicants.

However, the equity shareholders, who are not considered to be creditors of the project by applicable laws, reasonably presume that they have been defrauded.

The matter is that since the outset Lydian and the Government of Armenia commit continuous, unexplained and unreasonable non-action, and such behaviour of each of the parties causes several questions.

Lydian didn't take any action to advance Treaty Arbitration or even a global lawsuit (except several insignificant lawsuits for water permits, de-blocking the roads, non-action committed by Police, etc) against the government when it was still listed. In turn, when declaring the environmental impact assessment act inaccurate and illegal, the government didn't take any action to revoke the mining right.

Judging from the events of the last two years, my clients have reasonable doubts that either there might have been sort of mutual understanding between the sides to stretch the time as long as would be required to delist Lydian International Limited, to restructure its business, to transfer the control of the business to third party, and thus get rid of the equity shareholders and after that only to permit its operation, or, if there was no such understanding between the sides (which is more likely), Lydian has perfectly manipulated the circumstances carelessly and recklessly created by the government as a perfect alibi explaining their "innocence". Whatever was the case, as of the date my clients are more inclined and are considering filing a damage claim against Lydian for losses incurred as a result of Lydian's misconduct (whether through non-action or deliberately misleading the shareholders and the creditors in terms of accuracy of the environmental impact assessment act).

Except strongly questionable non-action related to not advancing the Treaty Arbitration, the other options of Lydian are:

- i) to find a purchaser of the project, or
- ii) to develop and implement further corporate governance changes to simplify the corporate structure allegedly to minimize on-going costs of the Lydian Group, i.e. eventually either to liquidate Lydian International Limited or to somehow take it out of the corporate structure, or
- iii) to find a purchaser of the assets or the shares and transfer the control of the business to third party
- iv) liquidating the company through insolvency/bankruptcy proceeding.

Big question marks follow the above options.

How can the business be sold, when it can't be operated due to major environmental problems involved? How can the changes of corporate governance i.e. selling the shares owned by Lydian International Limited to one of the corporate units in the chain or out of it solve the

existing environmental problems with the government and get their consent to start the operation?

Whether the receiver in bankruptcy will file a case in the Armenian court of general jurisdiction versus Lydian Armenia for the repayment of its debt to Lydian International (the claim exceeding \$150 million)?

Thus, to summarize the aforementioned, we would like to state, that we have reasonable doubts that Lydian has acted in good faith and with due care and diligence in its so-called “listed business”.

I would appreciate should you provide this letter to all the creditors of Lydian, as we believe they (specially non-secured creditors) might have been deceived by the same manner.

Hereby we cordially ask Honorable Judges of ONTARIO SUPREME COURT OF JUSTICE and THE ROYAL COURT OF JERSEY to consider making a subject of a thorough examination of the above information, the possible fraud involved.

At the request of my clients, I called on the remaining shareholders to join the coming lawsuit.

Sincerely yours,

Yerem Sargsyan

P.S.

Today, many lawyers in America, European, Asian countries, and Australia are preparing to file a lawsuit against one of the states and are going to fairly demand compensation for economic and moral damage caused by COVID 19. They justify their claim by the fact that this state knew but deliberately covered the true information from them and because of this many turned out to be in this difficult situation and suffered tremendous losses. **That is, we are talking about the fact that the truth was hidden intentionally and for that reason, the perpetrator must answer.**

**We believe that the situation here is similar since the information that the Environmental Impact Assessment Act was problematic or it was not quite correct was intentionally distorted or hidden, and should the shareholders and creditors knew the truth, they would not have made this investment in the company.**





May 19, 2020

**VIA EMAIL**

Yerem Sargsyan  
Attorney at Law, Practicing Lawyer in the Republic of Armenia

Dear Sir/Madam:

**Re: In the Matter of Lydian International Limited et. al. (“Lydian”)  
Court File No.: CV-19-00633392-00CL**

We act as counsel to Alvarez & Marsal Canada Inc. in its capacity as court-appointed Monitor (the “**Monitor**”) of Lydian International Limited and certain of its subsidiaries pursuant to the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA Proceedings**”) pending before the Ontario Superior Court of Justice (the “**Court**”). We are in receipt of your letter to the Monitor dated April 28, 2020 (the “**April Letter**”).

Parties are not permitted to communicate directly with the Court. If you wish to raise any issues, make submissions or take any position in respect of Lydian’s actions, on behalf of yourself and/or other stakeholders of Lydian, including with respect to whether Lydian has been acting in good faith during the CCAA Proceedings, you must prepare, serve and file a Notice of Appearance with the Court. In order to do that, you may want to retain counsel in Canada to assist you.

Here is a link to the form of Notice of Appearance that is to be prepared, pursuant to the *Rules of Civil Procedure*: <http://ontariocourtforms.on.ca/static/media/uploads/courtforms/civil/38a/rcp-38a-e.pdf>.

Any future correspondence that you wish to send to the Court and any Notice of Appearance you prepare must be sent to the entire Service List of interested parties in the CCAA Proceedings and filed with the Court. That is the hallmark of the open and transparent forum adopted by the Court in CCAA proceedings. The Service List of parties that you will need to serve with any materials, including your Notice of Appearance, can be found on the Monitor’s website, which is accessible here: <https://www.alvarezandmarsal.com/content/lydian-service-list>.



Yours truly,

**Thornton Grout Finnigan LLP**

*"D. J. Miller"*  
[electronic signature]

D.J. Miller

## **APPENDIX E**

Letter from the Monitor to Andrew Clarke dated May 15, 2020

May 15, 2020

**VIA EMAIL**

Andrew Clarke  
Clarke Financial Planning  
110 Regent Avenue West  
Winnipeg, Manitoba R2C 1P9

Dear Sir:

**Re: In the Matter of Lydian International Limited et. al. (“Lydian”)  
Court File No.: CV-19-00633392-00CL**

We act as counsel to Alvarez & Marsal Canada Inc. in its capacity as court-appointed Monitor (the “**Monitor**”) of Lydian International Limited and certain of its subsidiaries pursuant to the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA Proceedings**”) pending before the Ontario Superior Court of Justice (the “**Court**”). We refer to your voice message received by the Monitor on May 7, 2020 (the “**Voice Message**”) and the call we had this morning to discuss same. A transcribed copy of your Voice Message is attached here.

The Voice Message expressed your concern that there had been no updates from Lydian “from April 30<sup>th</sup>.” As discussed on our call, pursuant to an Order of the Court dated April 30, 2020, the stay of proceedings granted in the CCAA Proceedings was extended to June 30, 2020. This order, along with both the Monitor’s Fourth Report to the Court dated April 27, 2020, and Lydian’s motion materials in connection with such relief, have been posted to the Monitor’s website accessible at: <https://www.alvarezandmarsal.com/Lydian>. We understand from our call this morning that you did not previously access this website, which led to the concerns raised in your Voice Message. We trust that you now have access to all court documents filed in the CCAA Proceedings and will continue to monitor the website for additional information.

Also, if you wish to raise any issues, make submissions or take any position in respect of Lydian or the Monitor’s actions, on behalf of yourself and/or other shareholders of Lydian, you must prepare, serve and file a Notice of Appearance with the Court.

As mentioned on the call, you are also prohibited by court Order from commencing any proceeding against Lydian or the Monitor without first obtaining leave of the Court to do so.

The Monitor intends to provide the Court with a copy of this letter, including the transcribed Voice Message attached hereto, in the Monitor's next report to the Court.

Please do not hesitate to contact the undersigned should you have any further questions.

Yours truly,

**Thornton Grout Finnigan LLP**



Rachel Bengino

Encls.

*cc: Melanie Mackenzie, Alvarez & Marsal Canada Inc.*

**Transcribed Voicemail Message Received by Melanie MacKenzie of A&M on May 7, 2020 at 10:26 a.m**

“Yes, hi Melanie. My name is Andrew Clarke. I understand that you are looking after Lydian International. I assume that you are the Court-appointed Monitor. There have been no updates from April 30<sup>th</sup>. I am very concerned about this. If this goes any longer, it is going to force me and other shareholders that I represent to launch an action in Court against the Court-appointed Monitor, your company. So I need to know what is happening, it’s way past the deadline for news announcements, so if you need to get a hold of me it’s 204-791-7813. Thank you.”

/mm

## **APPENDIX F**

Email correspondence between Israfil Baykal and the Monitor

## Maria Magni

---

**From:** Rachel Bengino  
**Sent:** June 16, 2020 1:44 PM  
**To:** 'israfil baykal'; MacKenzie, Melanie  
**Cc:** D. J. Miller; Hutchens, Al  
**Subject:** RE: About Sales of Amulsar gold project and Small Shareholders

Israfil,

We are counsel to the Monitor. The Monitor will be filing a Fifth Report to the Court later today, which will provide additional information in respect of the plan of arrangement being sought by the Applicants. This report will be posted to the Monitor's website, at <https://www.alvarezandmarsal.com/Lydian>, which we suggest that you access to obtain further information.

Regards,  
Rachel

---

**From:** israfil baykal [mailto:israfilbaykal@hotmail.com]  
**Sent:** Tuesday, June 16, 2020 2:31 AM  
**To:** MacKenzie, Melanie <mmackenzie@alvarezandmarsal.com>  
**Cc:** D. J. Miller <DJMiller@tgf.ca>; Rachel Bengino <RBengino@tgf.ca>; Hutchens, Al <ahutchens@alvarezandmarsal.com>  
**Subject:** Ynt: About Sales of Amulsar gold project and Small Shareholders

Hello,

Based on the latest announcements I read, why we small investors will not get a vote, why do not we vote in the meeting to be held on 18 June 2020. Why, You want to cancel our stocks. I would like you to give information on this subject.

ORONTO, June 15, 2020 (GLOBE NEWSWIRE) -- Lydian International Limited ("**Lydian**" or the "**Company**") announced today that the Company, together with Lydian Canada Ventures Corporation ("**Lydian Canada**") and Lydian U.K. Corporation Limited ("**Lydian UK**" and together, the "**Applicants**"), have scheduled a motion (the "**Motion**") before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") to be heard on June 18, 2020 in the Applicants' *Companies' Creditors Arrangement Act* ("**CCAA**") proceedings, pursuant to which the Applicants will seek an order of the Court accepting the filing of a plan of arrangement (the "**Plan**"), authorizing and directing the Applicants to call, hold and conduct a meeting of the Senior Lenders (as defined below) to vote on the Plan (the "**Meeting**"), approving the procedures to be followed at the Meeting, including voting procedures, and setting a date for the hearing of the Applicants' motion for an order of the Court approving the Plan. If approved, the Plan will result in Lydian Canada and Lydian UK exiting the CCAA proceedings through a corporate restructuring and a mechanism for the winding up of the Company.

The Plan will implement a restructuring which will result in the Company's existing senior secured lenders, Orion CO IV (ED) Limited, Resource Capital Fund VI L.P. and Osisko Bermuda Limited (the "**Senior Lenders**"), owning and controlling a restructured Lydian Canada and its direct and indirect subsidiaries including Lydian UK and Lydian Armenia CJSC. The Plan provides for a full and final release of all claims against the Company and its directors and officers, which includes all claims of the Company's Senior Lenders. Claims against Lydian Canada, Lydian U.K. and the other subsidiaries of the Company, including Lydian Armenia CJSC, will not be released and will remain outstanding after implementation of the Plan. As a result, only the Senior Lenders will be entitled to vote on the Plan, while other parties, including unsecured creditors whose claims are unaffected, and equityholders, will not be entitled to vote nor receive any distributions under the Plan. Following implementation of the Plan, the Company will have no assets and the Company will commence proceedings to be wound up under Jersey law, which will include the cancellation and extinguishing of all ordinary shares in the capital of the Company. Access to the Plan and all corresponding materials relating to the Motion will be available on the court-appointed Monitor's website, provided below.

In addition, as a result of the Company's previous announcement that it has not complied, nor is it planning on complying in the future, with its required continuous disclosure documents, the Ontario Securities Commission has informed the Company that a cease trade order has been issued against the Company.

All inquiries regarding the CCAA proceedings, including the proposed Plan, should be directed to the court-appointed Monitor, Alvarez & Marsal Canada Inc. (email: [lydian@alvarezandmarsal.com](mailto:lydian@alvarezandmarsal.com) or telephone: +1 416-847-5158). Information about the Company's CCAA proceedings, including all court orders made and the Monitor's reports, are available on the Monitor's website, at: <http://www.alvarezandmarsal.com/Lydian>. A copy of the Plan will be available on the Monitor's website shortly.

For further information regarding the Company, please contact: [moreinfo@Lydianinternational.co.uk](mailto:moreinfo@Lydianinternational.co.uk).

#### **Caution regarding forward-looking information**

Certain information contained in this news release is "forward looking". All statements in this news release, other than statements of historical fact, that address events, results, outcomes or developments that the Company expects to occur are "forward-looking statements". Forward-looking statements are statements that are not historical facts and are generally, but not always, identified by the use of forward-looking terminology such as "plans", "expects", "is expected", "intends", "anticipates" or variations of such words and phrases or statements that certain actions, events or results "may", "could", "will", "would", "should", or "occur" or the negative or other variations of such terms. Forward-looking statements in this news release include, among others, statements with respect to: the CCAA proceedings and creditor protection and the restructuring process, including the proposed outcome of the Plan and its implementation; whether the Applicants will seek the Motion; certain terms of the Plan and the effects of the implementation thereof on the various stakeholders; and the proposed winding up of the Company under Jersey law.

Forward-looking statements are necessarily based on estimates and assumptions that are inherently subject to known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements to be materially different from those expressed or implied by such forward-looking statements. Such risks, uncertainties and factors include, without limitation: risks associated with in the Company's ongoing CCAA proceeding; risks associated with implementing the Plan, including whether it will receive the necessary approvals from the court and senior secured lenders entitled to vote on the Plan; whether the Plan will be approved based on the terms described herein; the effects that the implementation of the Plan, on the terms described herein or otherwise, will have on the various stakeholders; the availability and effect of the proposed winding up of the Company under Jersey law, as well as "Risk Factors" included in the disclosure documents filed on and available at [www.sedar.com](http://www.sedar.com). Forward-looking statements are not guarantees of future performance, and actual results and future events could materially differ from those anticipated in



such statements. Accordingly, readers should not place undue reliance on forward-looking statements. All of the forward-looking statements contained in this news release are qualified by these cautionary statements. The Company expressly disclaims any intention or obligation to update or revise any forward-looking statements whether as a result of new information, events or otherwise, except in accordance with applicable securities laws.

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## Related Articles

More articles issued by **Lydian International Ltd.**

More articles related to:

**Restructuring / Recapitalization**  
**Stock Market News**

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**Gönderen:** MacKenzie, Melanie <mmackenzie@alvarezandmarsal.com>

**Gönderildi:** 19 Mayıs 2020 Salı 19:15

**Kime:** israfil baykal <israfilbaykal@hotmail.com>

**Bilgi:** D. J. Miller (DJMiller@tgf.ca) <DJMiller@tgf.ca>; Rachel Bengino <RBengino@tgf.ca>; Hutchens, Al <ahutchens@alvarezandmarsal.com>

**Konu:** RE: About Sales of Amulsar gold project and Small Shareholders

Israfil,

Thank you for your email. Lydian International Limited and certain of its subsidiaries sought creditor protection pursuant to the CCAA in Canada as a result of their insolvency. As you know, Lydian has run a sale and investment solicitation process but there has been no public announcements yet made with respect to the status of such process. Lydian is currently in discussions with its senior secured lenders on a plan to exit the CCAA proceedings. Any distribution made in the CCAA proceedings will be done pursuant to the scheme of distribution set forth in Canada's insolvency legislation.

We have had no involvement or input in respect of any articles that may be in the news however, should you wish to obtain information in respect of the proceedings, all of the court materials filed in the CCAA proceedings are available on the Monitor's website located at: <https://www.alvarezandmarsal.com/Lydian>.

Best Regards,  
Melanie

---

**Melanie MacKenzie, CPA, CA**  
Sr. Director

Alvarez & Marsal Canada Inc.  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
Toronto ON M5J 2J1

Phone: 416 847 5158  
Mobile: 416 930 9726

---

**From:** israfil baykal <israfilbaykal@hotmail.com>

**Sent:** Monday, May 04, 2020 6:50 PM

**To:** moreinfo@Lydianinternational.co.uk; Lydian <Lydian@alvarezandmarsal.com>; MacKenzie, Melanie <mmackenzie@alvarezandmarsal.com>; Hutchens, Al <ahutchens@alvarezandmarsal.com>

**Subject:** About Sales of Amulsar gold project and Small Shareholders

**[EXTERNAL EMAIL]**

Hello there,

My name is israfil baykal, I am a small investor of Lidya international company. Based on the articles I have recently read in the Armenian media, Lidya declares that the international company will disqualify small investors and that they will not get anything in case of any sale. In 2018 and 2019, I bought the shares of Lidya International through İş Menkul Değerler Anonim Şirketi . It is published in many newspapers and internet news that will be sold to Caharat Gold company. I want to ask this. The small investor purchased the shares of Lidya international company and financed the Amulsar Gold project of Lidya international company. Why don't you go to arbitration and take no action to protect the interests of the small investor. You see money from big investors as real money, but isn't money for small investors real money? If the interests of the small investor are protected, there is no explanation made by the Lidya international company , stating that the news in the Armenian media are false.

We, the small investors, rely on the reports declared by the Lidya international company and the Toronto stock exchange and bought stock. We know that we participate in profit and loss partnership in the stock market. Why some statements state that big investors will get their money in case of sales and that small investors will not be paid. Also; We want this investment to continue and not to be sold. I would like to ask Lydia from the international managers and the supreme court to consider this issue and take into account the rights of small investors.

Best regards,

Best regards

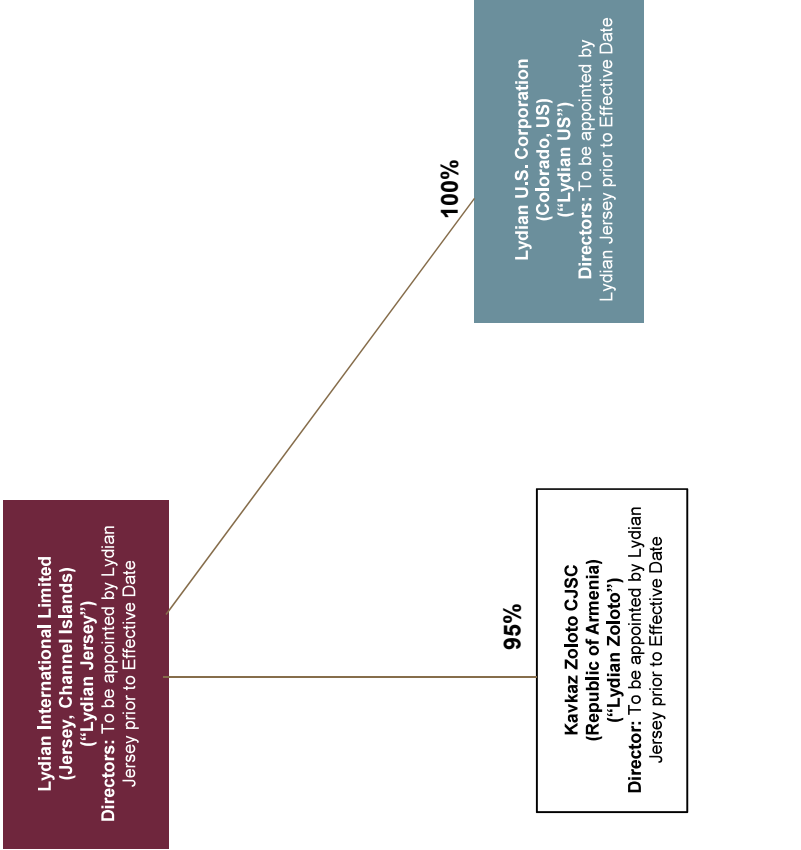
İsrafil Baykal

Mobile:+905336600888

# **APPENDIX G**

Post-Plan Implementation Date Organizational Charts

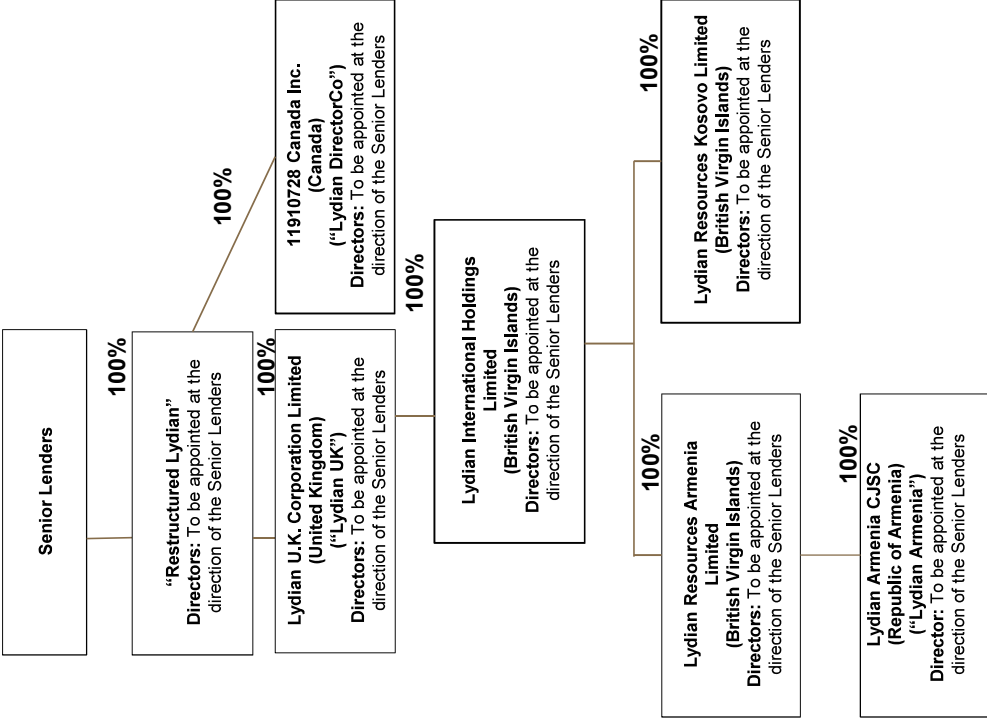
# Post-Plan Implementation Date Existing Lydian Group Corporate Organization Chart



**452** shares of Lydian Resources Georgia Limited and its subsidiary, Georgian Resource Company LLC, will be sold to the Lydian Georgia Purchaser under the Plan and will not continue to form part of the Existing Lydian Group.

# Post-Plan Implementation Date Restructured Lydian Group

## Corporate Organization Chart



## **APPENDIX H**

Post-Plan Implementation Date Expenses  
(Schedule “B” to the Plan of Arrangement dated June 15, 2020)

# Lydian International Ltd., Kavkaz Zoloto CJSC and Lydian U.S. Corporation

## Estimated Exit and Post-Exit Costs

As at June 13, 2020

Amounts in USD

Description	Amount (US\$)
<b>Costs to be Funded by Exit DIP Facility</b>	
<b><u>Lydian International Limited (Jersey)</u></b>	
<i>Just and Equitable Wind Up Process</i>	156,000
<i>Jersey Liquidator</i>	52,000
<i>Directors for hire</i>	90,000
<i>Tax advise/final tax returns</i>	9,000
<b><u>Lydian U.S. Corporation (US)</u></b>	
<i>Tax return preparation and filing</i>	5,000
<i>Corporate dissolution</i>	3,000
<b><u>Kavkaz Zoloto CJSC (Armenia)</u></b>	
<i>Tax return preparation and filing</i>	5,000
<i>Corporate dissolution</i>	1,000
<b><i>Restructuring Professional Fees</i></b>	500,000
<b><u>Other</u></b>	
BMO Capital fee	500,000
Black Swan fee	400,000
Potential employee related costs	63,000
Tax obligations crystallized by implementation of Plan, if any	TBD
Contingency	82,000
<b>TOTAL EXIT AND POST-EXIT FEE RESERVE</b>	<b>1,866,000</b>
<b>Costs Included in DIP Forecast Estimated to be Payable/Outstanding at Implementation</b>	
Salaries, benefits and taxes	84,000
Office, IT, bank, and misc.	4,000
Professional fees	690,000
Contingency	57,000
	<b>835,000</b>

## **APPENDIX I**

Quantum of Affected Claims held by the Affected Creditors under the Plan of Arrangement  
dated June 15, 2020



**Affected Claims of Senior Lenders against Lydian International Limited**  
**% of Equity in Restructured Lydian**  
**As of 05/31/2020**

Stakeholder	Claim Amount	% of Equity in Restructured Lydian	Stakeholder Summary		
(name)	(US\$ mm)	(% to Total)	Orion	RCF	Osisko
<b><u>DIP Loan</u></b>					
Orion	\$2.2	0.7%	0.7%		
RCF	0.8	0.3%		0.3%	
Osisko	1.6	0.5%			0.5%
DIP Loan Total	\$4.6	1.5%			
<b><u>Term Facility B</u></b>					
Orion	\$9.4	3.1%	3.1%		
RCF	\$2.6	0.8%		0.8%	
Osisko	\$3.8	1.3%			1.3%
Term Facility B Total	\$15.8	5.2%			
Total DIP & Term B					
<b><u>ORCF Term Loan</u></b>					
Orion	\$154.1	50.6%	50.6%		
RCF	\$25.0	8.2%		8.2%	
ORCF Term Loan Total	\$179.2	58.9%			
<b><u>Stream (1)</u></b>					
Osisko	\$65.5	21.5%			21.5%
RCF	\$39.3	12.9%		12.9%	
Total Stream	\$104.8	34.4%			
Total All Secured Claims			54.5%	22.2%	23.3%
					100.0%

**NOTES**

(1) The value of the Stream was determined using the Early Termination calculation specified in the Stream Agreement.

## **APPENDIX J**

Letter from Resource Capital Fund VI L.P. to the Applicants dated June 16, 2020



Blake, Cassels & Graydon LLP  
Barristers & Solicitors  
Patent & Trademark Agents  
199 Bay Street  
Suite 4000, Commerce Court West  
Toronto ON M5L 1A9 Canada  
Tel: 416-863-2400 Fax: 416-863-2653

**Pamela Huff**

Partner

Dir: 416-863-2958

pamela.huff@blakes.com

June 16, 2020

**VIA E-MAIL**

Reference: 99325/12

Liz Pillon  
Stikeman Elliott  
5300 Commerce Court West  
199 Bay Street  
Toronto, ON M5L1B9

Ms. Pillon,

**Re: Plan of Compromise of Lydian International, et. al**

Over the past month, counsel and advisors to the Lydian group of companies (collectively, "**Lydian**"), Alvarez & Marsal Canada Inc. (the "**Monitor**"), Resource Capital Fund VI L.P. ("**RCF**"), Orion Co IV( ED) Limited ("**Orion**") and Osisko Bermuda Limited ("**Osisko**", together with RCF and Orion, the "**Senior Lenders**") have been in discussions regarding the terms and implementation of a plan of arrangement of Lydian International Limited, Lydian Canada Ventures Corporation and Lydian U.K. Corporation Limited (the "**Proposed Plan**"). Yesterday evening, a draft of the Proposed Plan was served on the Lydian service list in their *Companies' Creditors Arrangement Act* proceedings (such Proposed Plan, as served, the "**Plan**"). Capitalized terms used in the letter and not otherwise defined have the meanings given to them in the Plan.

RCF has been explicit with Lydian, the Monitor and in particular the other Senior Lenders that a condition of its support of any Proposed Plan would be that it (a) not prejudice or release Lydian's rights in any arbitration claim against the Government of Armenia (the "**Lydian Arbitration**"), and (b) not adversely affect RCF's interest in the proceeds of the Lydian Arbitration. These requirements were set out in writing by RCF on May 20. RCF's rights risk being prejudiced by the failure of the other Senior Lenders to agree to the pursuit of the Lydian Arbitration once the Applicants cease to be subject to Court supervision.

RCF has stated repeatedly that it requires a clear, committed path forward for the commencement and pursuit of the Lydian Arbitration by Restructured Lydian post-Plan implementation. To the contrary, the stated purpose of the Plan in Section 2.1(e) is to "permit Restructured Lydian and its shareholders/stakeholders to determine the manner and timing of pursuing any strategy post the Plan Implementation Date." That stated purpose is the root of RCF's explicit concern. Given its minority position in Restructured Lydian, and outside of a Court-supervised process, RCF would have no means by which to ensure that the Lydian Arbitration is pursued, and no meaningful commitment to fund, or provide for external funding of, the Lydian Arbitration has been proffered by the other Senior Lenders.

23922896.1

Accordingly, this letter is to advise that RCF will vote against the Plan at the Meeting, and will not consent to the granting of the Sanction and Implementation Order. We are aware that if the other Senior Lenders vote in favour of the Plan, it will receive the Required Majority approval, and it will pass. Moreover, RCF does not intend at this time to propose or fund an alternative to the Plan, and in the absence of such an alternative we expect that the Court will have no choice but to issue the Sanction and Implementation Order.

We have no instructions to object to the scheduling of the Meeting or the sanction hearing, and at this time we have no instructions to file materials. RCF's position at the sanction hearing will be communicated to the Court by way of brief oral submissions. Should this change, we will file any responding materials as expeditiously as possible in advance of the sanction hearing.

We regret that an acceptable Plan could not be achieved. RCF believes that the Senior Lenders are not prioritizing the most valuable asset of Lydian, and it cannot support this misguided endeavour.

Best regards,



Pamela L. J. Huff

Cc: DJ Miller, *TFG*  
David Bish, Michael Pickersgill, *Torys*  
Virginie Gauthier, Robert Mason, *Norton Rose Fulbright*

**IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF LYDIAN  
INTERNATIONAL LIMITED, LYDIAN CANADA VENTURES CORPORATION, AND LYDIAN U.K.  
CORPORATION LIMITED**

Court File No.:  
CV-19-00633392-00CL

***ONTARIO***

**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**MONITOR'S FIFTH REPORT**

**THORNTON GROUT FINNIGAN LLP**

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Tel: 416.304.1153

Fax: 416.304.1313

Lawyers for the Monitor

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT OF  
LYDIAN INTERNATIONAL LIMITED, LYDIAN CANADA VENTURES  
CORPORATION, AND LYDIAN U.K. CORPORATION LIMITED**

Applicants

**SIXTH REPORT OF THE MONITOR  
ALVAREZ & MARSAL CANADA INC.**

**JUNE 22, 2020**

## 1.0 INTRODUCTION

- 1.1 On December 23, 2019, Lydian International Limited, Lydian Canada Ventures Corporation and Lydian U.K. Corporation Limited (collectively, the “**Applicants**”) applied for and were granted protection by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). Pursuant to an order of the Court dated December 23, 2019 (as amended and restated, the “**Initial Order**”), Alvarez & Marsal Canada Inc. was appointed Monitor (in such capacity, the “**Monitor**”) of the Applicants in the CCAA proceedings.
- 1.2 As described in the Monitor’s Fifth Report to the Court dated June 16, 2020 (the “**Fifth Report**”), the Applicants have filed a plan of compromise and arrangement of the Applicants (the “**Plan**”) under the CCAA and the *Business Corporations Act* (British Columbia) dated June 15, 2020. Any capitalized terms not otherwise defined herein have the meanings attributed to them in the Plan or the Meeting Order (as defined below), as applicable.
- 1.3 On June 18, 2020, the Court granted an order (the “**Meeting Order**”) which, among other things, authorized the Applicants to call and conduct a meeting on June 19, 2020 (the “**Meeting**”) of the Affected Creditors holding Affected Claims to vote on the Plan.
- 1.4 Pursuant to paragraph 20 of the Meeting Order, the Monitor is required to file a report with the Court by no later than June 22, 2020 with respect to the results of the vote, including (i) whether the Plan was approved by the Required Majority and (ii) the separate tabulation for Disputed Claims required by paragraph 18 of the Meeting Order.

## 2.0 RESULTS OF THE MEETING

2.1 The Meeting took place by way of Zoom videoconference on June 19, 2020 at 10:00 a.m. EST and each of the Affected Creditors, being Resource Capital Fund VI L.P. (“**RCF**”), Orion Co IV (ED) Limited, a division of Orion Capital Management (“**Orion**”), and Osisko Bermuda Limited (“**Osisko**”), along with their respective counsel, were present in person via video conference at the Meeting. Accordingly, the required quorum to hold the meeting was satisfied. The Monitor acted as Chair of the Meeting.

2.2 None of the Affected Creditors disputed the quantum of their respective Affected Claims for voting purposes as set out in the Meeting Order, which are as follows:

Affected Creditor	Affected Claim
Orion	\$165.73 million
Osisko	\$70.91 million
RCF	\$67.70 million
<b>Total</b>	<b>\$304.34 million</b>

2.3 The Plan that was put to a vote of Affected Creditors was in the form annexed as Schedule “A” to the Meeting Order, which contained some placeholders in respect of certain information. The Applicants have advised the Monitor that they will file a revised version of the Plan with the Court, along with a blackline to the version annexed to the Meeting Order, once the remaining terms of the Plan have been finalized.

2.4 Each of Orion and Osisko voted in the affirmative in respect of the Plan, while RCF voted against the Plan.

2.5 Accordingly, the Plan has been approved by the Required Majority of the Affected Creditors, as it received an affirmative vote from a majority in number of Affected




Creditors (two of the three Affected Creditors voted in favour of the Plan, being Orion and Osisko) representing at least two-thirds in value of the Affected Creditors present and voting (the value of the claims of Orion and Osisko comprise 77.8% of the total value of the Affected Creditors present and voting).

- 2.6 An executed copy of the Plan Resolution (the form of which was attached as Schedule “B” to the Meeting Order) is attached hereto as Appendix “A”.
- 2.7 Since the Plan has been approved by the Required Majority, the Applicants have advised the Monitor that they will proceed with a motion to seek the Sanction and Implementation Order on June 29, 2020, or such later date as the Applicants may advise the service list in these proceedings.

\*\*\*\*\*

All of which is respectfully submitted to this Court this 22<sup>nd</sup> day of June 2020.

**Alvarez & Marsal Canada Inc., in its capacity  
as Monitor of Lydian International Limited,  
Lydian Canada Ventures Corporation and  
Lydian U.K. Corporation Limited  
and in no other capacity**

  
Per: Alan J. Hutchens  
Senior Vice President

# **APPENDIX “A”**

## **Director’s Certificate - Plan Resolution**

**LYDIAN INTERNATIONAL LIMITED**  
**LYDIAN CANADA VENTURES CORPORATION**  
**LYDIAN U.K. CORPORATION LIMITED**  
**CERTIFICATE OF DIRECTOR**

---

I, Edward Sellers, am a director of Lydian International Limited, Lydian Canada Ventures Corporation and Lydian U.K. Corporation Limited (collectively, the “**Corporations**”). As a director, I certify for and on behalf of the Corporations and without personal liability, that, to my knowledge:

1. Attached as Exhibit “A” are true and complete copies of certain resolutions of the director or directors (as applicable) of each of the Corporations authorizing the entering into of a plan of arrangement, pursuant to the *Companies’ Creditors Arrangement Act* (Canada) and *Business Corporations Act* (British Columbia) dated June 15, 2020 (the “**Plan**”).

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

**DATED** this \_\_\_\_\_ day of June 2020.

A handwritten signature in cursive script, appearing to read "E. Sellers", written in black ink.

---

Edward Sellers

**EXHIBIT “A”**  
**AUTHORIZING RESOLUTIONS**  
**FORM OF PLAN RESOLUTION**

**BE IT RESOLVED THAT:**

1. The Plan of Arrangement of Lydian International Limited, Lydian Canada Ventures Corporation, and Lydian U.K. Corporation Limited (the “**Applicants**”) pursuant to the *Companies’ Creditors Arrangement Act* (Canada) and *Business Corporations Act* (British Columbia) dated June 15, 2020 (the “**Plan**”), which Plan has been presented to this meeting (as such Plan may be amended, restated, supplemented and/or modified as provided for in the Plan), be and it is hereby accepted, approved, agreed to and authorized; and
2. Any one director or officer of each of the Applicants be and is hereby authorized and directed, subject to Court approval of the Plan, for and on behalf of the Applicants (whether under its respective corporate seal or otherwise), to execute and deliver, or cause to be executed and delivered, any and all documents and instruments and to take or cause to be taken such other actions as he or she may deem necessary or desirable to implement this resolution and the matters authorized hereby, including the transactions required by the Plan, such determination to be conclusively evidenced by the execution and delivery of such documents or other instruments or the taking of any such actions.

**IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF LYDIAN  
INTERNATIONAL LIMITED, LYDIAN CANADA VENTURES CORPORATION, AND LYDIAN U.K.  
CORPORATION LIMITED**

Court File No.:  
CV-19-00633392-00CL

***ONTARIO***

**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**MONITOR'S SIXTH REPORT**

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Lawyers for the Monitor

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT OF  
LYDIAN INTERNATIONAL LIMITED, LYDIAN CANADA VENTURES  
CORPORATION, AND LYDIAN U.K. CORPORATION LIMITED**

Applicants

**SEVENTH REPORT OF THE MONITOR  
ALVAREZ & MARSAL CANADA INC.**

**JUNE 25, 2020**



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<b>Appendix A</b>	Monitor's Sixth Report to the Court dated June 22, 2020 (without appendices)
<b>Appendix B</b>	Monitor's letter to certain shareholders dated June 23, 2020 and chart listing each shareholder of Lydian International Limited that the Court or Monitor received direct communication from
<b>Appendix C</b>	Monitor's Fifth Report to the Court dated June 16, 2020 (without appendices)
<b>Appendix D</b>	Form of Acknowledgment and Undertaking of the Monitor
<b>Appendix E</b>	Fee Affidavit of Alan J. Hutchens, sworn June 25, 2020
<b>Appendix F</b>	Fee Affidavit of D.J. Miller, sworn June 25, 2020

## 1.0 INTRODUCTION AND STATUS OF CCAA PROCEEDINGS

1.1 On December 23, 2019, Lydian International Limited (“**Lydian International**”), Lydian Canada Ventures Corporation (“**Lydian Canada**”) and Lydian U.K. Corporation Limited (“**Lydian U.K.**”) (collectively, the “**Applicants**”) applied for and were granted protection by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). Pursuant to an order of the Court dated December 23, 2019 (the “**Initial Order**”), Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed Monitor (in such capacity, the “**Monitor**”) of the Applicants in the CCAA proceedings (the “**CCAA Proceedings**”).

1.2 Any capitalized terms not otherwise defined herein have the meanings attributed to them in the Amended and Restated Initial Order or the Plan (as each term is defined below).

1.3 The Initial Order, among other things:

- a) granted a stay of proceedings until January 2, 2020 (the “**Stay Period**”) as against the Applicants;
- b) provided that during the Stay Period, no proceedings could be commenced or continued against or in respect of Lydian Armenia CJSC (“**Lydian Armenia**”), Lydian International Holdings Limited, Lydian Resources Armenia Limited and Lydian U.S. Corporation (“**Lydian U.S.**”) (collectively, the “**Non-Applicant Stay Parties**”);

- c) granted a first ranking charge (the “**Administration Charge**”) for the benefit of the Monitor, its counsel, and the Applicants’ counsel in the amount of CAD\$460,740 (being US\$350,000 as per the Bank of Canada’s published exchange rate on December 20, 2019) as security for their professional fees and disbursements; and
  - d) granted a second ranking charge (the “**Directors Charge**”) for the benefit of the Applicants’ directors and officers in an amount not to exceed CAD\$263,280 (being US\$200,000 as per the Bank of Canada’s published exchange rate on December 20, 2019) as security for the indemnity of the Applicants in favour of the directors and officers for any obligations or liabilities incurred after the commencement of the CCAA Proceedings, subject to the exceptions set out in the Initial Order.
- 1.4 On January 23, 2020, the Court issued an order (the “**Amended and Restated Initial Order**”) amending the Initial Order to expand the Applicants’ restructuring capabilities within the CCAA Proceedings and to expand the Monitor’s authority within the CCAA Proceedings, including its interactions with the Non-Applicant Stay Parties in specified circumstances.
- 1.5 On March 11, 2020, the Court issued an Order which, among other things:
- a) increased the Administration Charge to CAD\$658,200 (being US\$500,000 as per the Bank of Canada’s published exchange rate on December 20, 2019) as security for the professional fees and disbursements of the Applicants’ counsel, the Monitor and its counsel, and BMO Capital Markets (“**BMO**”), the Applicants’

financial advisor, in respect of the monthly fee provided for in its engagement letter with the Applicants and Lydian Armenian dated February 21, 2020 (the “**BMO Engagement Letter**”);

- b) adding a Transaction Charge in favour of BMO to secure the Recapitalization Fee provided for in the BMO Engagement Letter; and
- c) approving the Applicants’ ability to enter into the Sixteenth Amending Agreement (the “**DIP Agreement**”) between the Senior Lenders (as defined below), Lydian Armenia, as Borrower, and the Applicants, remaining Non-Applicant Stay Parties and remaining members of the Lydian group as guarantors, dated March 10, 2020, to fund certain obligations of the Applicants and the Non-Applicant Stay parties through the extension of the Stay Period and secured by a super-priority charge (the “**DIP Charge**”).

1.6 On April 30, 2020, the Court granted an order, which, among other things:

- a) extended the Stay Period in respect of the Applicants and the Non-Applicant Stay Parties (which had been extended from time to time pursuant to various Court orders) to June 30, 2020; and
- b) approved the Applicants’ ability to enter into the Seventeenth Amending Agreement, being an amendment to the DIP Agreement, between the Senior Lenders, Lydian Armenia, as Borrower, and the Applicants, remaining Non-Applicant Stay Parties and remaining members of the Lydian group as guarantors,

to fund certain obligations of the Applicants and the Non-Applicant Stay Parties through the extension of the Stay Period and to be secured by the DIP Charge.

- 1.7 As described in the Monitor's Fifth Report to the Court dated June 16, 2020 (the "**Fifth Report**"), the Applicants have filed a plan of compromise and arrangement of the Applicants (the "**Plan**") under the CCAA and the *Business Corporations Act* (British Columbia) ("**BCBCA**") dated June 15, 2020.
- 1.8 On June 18, 2020, the Court granted an order (the "**Meeting Order**") which, among other things, authorized the Applicants to call and conduct a meeting on June 19, 2020 (the "**Meeting**") of the Affected Creditors holding Affected Claims to vote on the Plan.
- 1.9 A summary of the Meeting and the results of the Meeting are provided in the Monitor's Sixth Report to the Court dated June 22, 2020 (the "**Sixth Report**"), a copy of which (without appendices) is attached as **Appendix "A"**.
- 1.10 Further information regarding these CCAA Proceedings, including motion materials, orders issued by the Court, affidavits, reports of the Monitor, and all other Court-filed documents and notices in these CCAA Proceedings are available on the Monitor's website at <http://www.alvarezandmarsal.com/lydian> (the "**Monitor's Website**").
- 1.11 The purpose of this report (the "**Seventh Report**") is to:
  - a) provide the Court with information in respect of the status of the CCAA Proceedings since the date of the Fifth Report, being the last full report to the Court;

- b) discuss the Applicants' motion returnable on June 29, 2020 (the "**Sanction Motion**") for an order (the "**Sanction and Implementation Order**"), among other things:
- i. sanctioning and implementing the Plan;
  - ii. authorizing the Applicants and the Monitor to take whatever steps as may be necessary or advisable to implement the Plan;
  - iii. authorizing the Applicants to enter into the Eighteenth Amending Agreement, being a further amendment to the DIP Agreement, to fund certain obligations of the Applicants and Non-Applicant Stay Parties through to the termination of the CCAA proceedings (the "**DIP Exit Credit Facilities**");
  - iv. authorizing the Monitor to maintain and administer the Post-Implementation Date Expenses Reserve as contemplated by the Plan and to make such payments from the Post-Implementation Date Expenses Reserve for the purposes outline in Schedule "B" to the Plan, upon written direction from Lydian International, provided there are sufficient funds remaining in the Post-Implementation Date Expenses Reserve to make such payments;
  - v. approving: (i) the Monitor's activities as set out in the Fifth Report, Sixth Report and this Seventh Report, (ii) the fees of the Monitor for the period April 16 to June 23, 2020, and those of its counsel for the period April 14 to June 23, 2020 and dispensing with the requirement for the Monitor and its

counsel to pass their accounts for services rendered from and after June 24, 2020;

- vi. extending the Stay Period with respect to (A) Lydian International until and including the earlier of (i) the date that the Monitor files the CCAA Termination Certificate (as defined below); and (ii) December 21, 2020; and (B) Lydian Canada and Lydian U.K. and the Non-Applicant Stay Parties until and including the date of the filing of the Monitor's Plan Implementation Certificate (as defined below) by the Monitor;
- vii. authorizing the Monitor to file a certificate (the "**Monitor's Plan Implementation Certificate**") specifying that the Plan Implementation Date has occurred, upon which time: (i) the Plan will be effective, (ii) the Director's Charge and Transaction Charge shall be terminated, discharged and released, (iii) the Administration Charge will no longer apply to BMO's monthly fee; (iv) Lydian Canada and Lydian U.K. will be removed as Applicants from these CCAA Proceedings; and (vi) the Stay of Proceedings will no longer apply to the Non-Applicant Stay Parties;
- viii. authorizing the Monitor to file a certificate (the "**CCAA Termination Certificate**") upon the completion of the post-implementation steps and activities set out in the Plan (or on such earlier date if there are insufficient funds remaining in the Post-Implementation Date Expenses Reserve), upon which time: (i) the Administration Charge and DIP Charge shall be



terminated, discharged and released, (ii) the CCAA Proceedings will be terminated, and (iii) the Monitor will be discharged; and

- c) provide the Court with the Monitor's recommendations in respect of the foregoing, as applicable.

## **2.0 TERMS OF REFERENCE AND DISCLAIMER**

2.1 In preparing this Seventh Report, the Monitor has been provided with and has relied upon, unaudited financial information; books, records and financial information prepared by certain senior management of the Applicants and Lydian Armenia ("**Senior Management**"); and discussions with Senior Management (collectively, the "**Information**").

2.2 With respect to any of the Applicants' cash flow forecasts and projections:

- a) the Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has neither audited nor otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CASs**") pursuant to the *Chartered Professional Accountants Canada Handbook* and accordingly, the Monitor expresses no opinion or other form of assurance contemplated under CASs in respect of the Information; and
- b) any examination or review of such financial forecasts and projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.

- 2.3 Future oriented financial information referred to in this Seventh Report was prepared based on management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections. Even if the assumptions materialize, the variations could be significant.
- 2.4 This Seventh Report should be read in conjunction with the affidavit of Edward A. Sellers sworn June 24, 2020 (the “**Sellers Sanction Affidavit**”) in support of the Sanction Motion for the relief described above, which has been posted to the Monitor’s Website.
- 2.5 Unless otherwise stated, all monetary amounts contained in this Seventh Report are expressed in U.S. dollars.

### **3.0 MONITOR’S ACTIVITIES SINCE THE FIFTH REPORT**

- 3.1 In addition to the activities described elsewhere in this Seventh Report, the activities of the Monitor since the date of the Fifth Report have included:
- a) attending and chairing the Meeting and preparing the Sixth Report summarizing the results of the Meeting;
  - b) engaging in discussions with the Applicants, their legal counsel and other advisors, and the Non-Applicant Stay Parties and their advisors regarding the CCAA Proceedings, the Plan and any amendments thereto, the DIP Exit Credit Facilities and financing in respect of same, and related matters and work streams;
  - c) responding to enquiries and correspondence from stakeholders, as further described below;

- d) monitoring receipts, disbursements and commitments of the Applicants, assisting the Applicants to review receipts, disbursements and commitments of Lydian U.S. and Lydian Armenia, which is the source of funding to the Applicants, and assisting the Applicants in reporting in respect of same to the Senior Lenders in accordance with the DIP Agreement;
- e) assisting management of the Applicants to quantify estimated potential funding requirements of Lydian International and remaining related entities for post-Plan implementation activities;
- f) posting non-confidential materials filed with this Court to the Monitor's Website;
- g) attending the motion returnable on June 18, 2020; and
- h) preparing this Seventh Report.

### **Shareholder Communications**

- 3.2 During the Applicants' motion returnable on June 18, 2020, the Court advised the Applicants and the Monitor that it has received several emails from various shareholders of Lydian International and directed the Monitor to respond to such communications. Following that date, the Court forwarded a copy of each email to the Monitor where the Monitor was not directly copied. By letter dated June 23, 2020 (the "**Monitor's Letter**"), the Monitor responded to such emails advising such shareholders that: (i) they are not permitted to communicate directly with the Court, (ii) if they wish to make submissions in the CCAA Proceedings, they must prepare and file a Notice of

Appearance with the Court and serve it on the entire Service List, and (iii) going forward, any communication must be sent to the entire Service List.

- 3.3 Since the date of the Monitor's Letter, the Monitor has received several Notices of Appearance from certain of those shareholders and understands that they wish to attend and/or participate in the Sanction Motion. The Monitor has added those parties to the Service List and such parties will be served with this Seventh Report.
- 3.4 The Monitor has prepared a chart that sets out each communication received from the various shareholders, the nature of such communication, and outlines those parties that have served a Notice of Appearance. This chart, along with the Monitor's Letter, are attached hereto as **Appendix "B"**.

#### **Shareholder Action**

- 3.5 The Monitor understands that, on May 7, 2020, eleven local shareholders of Lydian International in Armenia commenced a class action proceeding against the Government of Armenia and the Armenian Police. The Monitor understands that the claim relates to the continuing blockades at the Amulsar site and the corresponding financial losses resulting from the cessation of construction activity at the Amulsar site.
- 3.6 The Monitor understands that, on June 17, 2020, the Armenian Administrative Court accepted the claim and that Lydian Armenia has been involved as a third party in the proceedings to ensure that it is notified throughout the proceedings.

## 4.0 PLAN OF ARRANGEMENT AND MEETING

### Overview

- 4.1 As mentioned in the Fifth Report, the Senior Lenders advised the Applicants that they are no longer prepared to support a continuation of the CCAA Proceedings. The Senior Lenders are in a position to take steps to seek an Order lifting the stay of proceedings in order to enforce their security, which includes a pledge of the shares of Lydian Canada held by Lydian International.
- 4.2 The Applicants, in discussions with the Senior Lenders, have prepared the Plan which is intended to place the Senior Lenders in the position they would otherwise be in if they enforced the Credit Agreement and security held from the Applicants and Non-Applicant Stay Parties and their affiliates. The Plan effectively transfers the shares of Lydian Canada for the benefit of the Senior Lenders through a corporate and financial restructuring of the Applicants. The Monitor has been involved in assisting the Applicants and in facilitating discussions amongst the Senior Lenders and the Applicants, on the terms of the Plan that was ultimately put forward.
- 4.3 The Plan was described in detail in both the Affidavit of Edward A. Sellers sworn June 15, 2020 (the “**Sellers Meeting Affidavit**”) and the Fifth Report, which included a discussion in respect of, among other items, the purpose and steps of the Plan, Unaffected Claims, treatment of equity interests and scope of releases. A copy of the Fifth Report, without appendices, is attached here as **Appendix “C”**.
- 4.4 As mentioned in the Sixth Report, the version of the Plan that was voted on by the Affected Creditors was in the form annexed as Schedule “A” to the Meeting Order. The

Applicants have advised the Monitor that there may be certain additional minor changes to the Plan. If so, the Applicants will provide a copy of the revised Plan to the Court and the Service List prior to the Sanction Motion.

- 4.5 As discussed in the Fifth Report and the Sellers Meeting Affidavit, the Plan provides for the settlement of certain intercompany debts to minimize any potential adverse tax consequences. The Monitor has considered this structure of the Plan and notes that the resultant net effect of such settlement as compared to the structure in the absence of the Plan is indifferent as any intercompany receivable balances are not collectible at this time and therefore would not be available for realization.

### **Meeting**

- 4.6 As described in the Sixth Report, the Meeting took place by way of Zoom videoconference on June 19, 2020 at 10:00 a.m. ET and each of the Affected Creditors, being Resource Capital Fund VI L.P. (“**RCF**”), Orion Co IV (ED) Limited, a division of Orion Capital Management (“**Orion**”), and Osisko Bermuda Limited (“**Osisko**”), along with their respective counsel, were present in person via video conference at the Meeting. The Plan was approved by the Required Majority of the Affected Creditors.

### **Implementation of the Plan**

- 4.7 The conditions precedent to the implementation of the Plan are as follows:
- a) the Plan has been approved pursuant to the CCAA by the Required Majority (which has been completed);

- b) the amalgamation of Lydian Canada and SL Newco has been approved by the shareholders of each of Lydian Canada and SL Newco in accordance with the articles of Lydian Canada and SL Newco, as applicable, and the BCBCA;
- c) the Sanction and Implementation Order has been issued by the Court and has not been stayed, amended or varied and is not subject to any appeal;
- d) those Post-Implementation Date Expenses incurred and accrued as of the Plan Implementation Date shall have been paid (unless otherwise agreed by the Applicants and the Monitor), and the Applicants, in consultation with the Monitor, shall be satisfied that adequate provision has been made in the Post-Implementation Date Expenses Reserve for any Post-Implementation Date Expenses due or accruing due from and after the Plan Implementation Date;
- e) the majority of Senior Lenders (being Orion and Osisko) shall fund the DIP Exit Credit Facilities to Lydian Armenia in the amount of \$1.866 million, which shall be transferred immediately to Lydian International as an intercompany loan and then immediately transferred to the Monitor to hold in the Post-Implementation Date Expenses Reserve, pursuant to the Cash Management System approved by the Court in the Amended and Restated Initial Order. The Monitor understands that RCF will not be participating in funding the DIP Exit Credit Facilities; and
- f) the Plan Implementation Date shall occur on or prior to June 30, 2020.

4.8 The Plan provides that the Plan Implementation Date will take effect once the Monitor files the Monitor's Plan Implementation Certificate (as soon as practicable upon receipt

of a written notice from the Applicants of the satisfaction or waiver of the conditions precedent to the Plan) indicating that the Plan Implementation Date has occurred.

- 4.9 Further, upon the filing of the Monitor's Plan Implementation Certificate confirming that the Plan Implementation Date has occurred: (i) each of the CCAA Charges, other than the Administration Charge and the DIP Charge, shall be terminated, discharged and released, (ii) BMO's monthly fee will no longer be secured by the Administration Charge, (iii) Lydian Canada and Lydian U.K. will be removed as Applicants in these CCAA Proceedings, (iii) the Stay of Proceedings will no longer apply to Lydian Canada, Lydian U.K. and the Non-Applicant Stay Parties, and (iv) the title of proceedings in the CCAA Proceedings shall be amended to refer to only Lydian International as an Applicant.

#### **DIP Exit Funding and Post-Implementation Date Expenses**

- 4.10 As discussed in the Fifth Report, as part of the negotiations among the Applicants and the Senior Lenders in respect of the terms of the Plan, the Applicants requested that funds be made available to permit the wrap-up of Lydian International, Kavkaz Zoloto CJSC ("**Lydian Zoloto**"), and Lydian U.S. in a manner that would provide finality and clarity for their directors, any parties dealing with those entities, and the Court.
- 4.11 Immediately prior to the Effective Time on the Plan Implementation Date, each of Osisko and Orion will advance funding provided for in the DIP Exit Credit Facilities (the "**DIP Exit Funds**") to Lydian Armenia. The DIP Exit Funds will be used to fund the implementation of the Plan, along with other expenses as described below. The Applicants' are seeking an increase to the DIP Charge to include the increased funding being provided to the Applicants pursuant to the DIP Exit Credit Facilities.



4.12 As mentioned above, the Plan provides that, upon receipt by Lydian Armenia of the DIP Exit Funds, it will immediately transfer such funds to Lydian International by way of an intercompany loan. The DIP Exit Funds shall then immediately be transferred by Lydian International to the Monitor to be held in the Post-Implementation Date Expenses Reserve and used to pay the Post-Implementation Date Expenses in accordance with Schedule “B” to the Plan. In the interest of expediency given the short timeline between the date of the Sanction Motion and proposed Plan Implementation Date, it is contemplated that Lydian Armenia and Lydian International will each issue a Direction to Pay to Orion and Osisko on or before June 26, 2020, instructing and directing that the DIP Exit Funds be transferred directly to the Monitor on that date, since those transfers are being initiated from out of country. This will ensure that the Monitor is holding the DIP Exit Funds in the Post-Implementation Date Expenses Reserve prior to June 30, 2020 (the date in which the Plan Implementation Date must take place should the Court grant the Sanction and Implementation Order). The Monitor will provide an Acknowledgment and Undertaking to each of Osisko and Orion confirming that, in the event that either (i) the Sanction and Implementation Order is not granted by the Court, or (ii) the Plan Implementation Date does not occur on June 30, 2020, the Monitor shall return the DIP Exit Funds to Orion and Osisko without deduction. A copy of the form of such Acknowledgment and Undertaking from the Monitor to Orion and Osisko is attached hereto as **Appendix “D”**.

4.13 The Plan and proposed Sanction and Implementation Order authorize and direct the Monitor to disburse funds from the Post-Implementation Date Expenses Reserve to pay the Post-Implementation Date Expenses provided for in Schedule “B” to the Plan upon

written direction from Lydian International, the sole remaining Applicant at that time, together with invoices in respect of such amounts. The proposed Sanction and Implementation Order provides that the direction and instructions from Lydian International to the Monitor as set out in the Plan and the Sanction and Implementation Order may be provided by either the director of Lydian International or a liquidator appointed in the J&E Process, as applicable.

4.14 As mentioned in the Fifth Report, the Post-Implementation Date Expenses are comprised of the following:

- a) all potential costs and expenses (including fees of Lydian International's counsel and the Monitor and its counsel) estimated to be incurred and accrued in respect of any further stay extensions or motions at any time prior to the CCAA Termination Date;
- b) all estimated costs and expenses of Lydian International and the other Released Guarantors, including all reasonable and documented fees of their advisors, the Monitor and its counsel, and director and officer insurance premiums incurred and accrued up to the CCAA Termination Date but not yet paid; and
- c) the costs and expenses estimated to be incurred in connection with or related to the dissolution or winding-up of Lydian International, Lydian U.S. and Lydian Zoloto, in each case, as set forth on, and, in all cases, subject to the maximums set forth on Schedule "B" to the Plan, and such further amounts as the Senior Lenders may agree in writing.

### **Timing and Termination of the CCAA Proceedings**

- 4.15 Upon the completion of the just and equitable winding up process (“**J&E Process**”) for Lydian International as set out in the Plan, and once same has been confirmed to the Monitor in writing (by either a director of Lydian International or a liquidator appointed over Lydian International in the J&E Process), the Monitor will file the CCAA Termination Certificate with the Court terminating the CCAA Proceedings and discharging the Monitor.
- 4.16 The Plan also provides that the Applicants or the Monitor, as applicable, shall be entitled to seek an Order of the Court terminating the CCAA Proceedings (even if the steps set out in the Plan are not completed) in the event that there are insufficient funds in the Post-Implementation Date Expenses Reserve to pay the Remaining Post-Implementation Date Expenses. The Monitor wishes to ensure that, as an officer of the Court, it is not expected to remain involved in a proceeding where there are no funds to cover its costs or no mechanism to immediately bring it to conclusion.
- 4.17 Following payment of all of the Remaining Post-Implementation Date Expenses, immediately prior to the CCAA Termination Date, the Monitor will transfer any remaining funds in the Post-Implementation Date Expenses Reserve to Restructured Lydian. Such funds will have been advanced by the DIP Lenders, who will then be shareholders of Restructured Lydian, and it would be appropriate in the Monitor’s view to return any unused funds to that same party.
- 4.18 Upon the filing of the CCAA Termination Certificate with the Court, the following shall take place: (i) the Administration Charge and DIP Charge shall be terminated, released

and discharged, (ii) the CCAA Proceedings in respect of Lydian International shall be terminated and the Stay of Proceedings shall no longer apply to Lydian International, and (iii) the Monitor shall be discharged with a release in respect of all activities undertaken to that date.

#### **Reasonableness and Fairness of the Plan**

- 4.19 Pursuant to section 23(i) of the CCAA, the Monitor is required to advise the Court on the reasonableness and fairness of the Plan.
- 4.20 The Monitor has considered whether the Plan presents the best option to the Applicants and their stakeholders. The Applicants have prepared the Plan, in consultation with the Senior Lenders, in an effort to exit the CCAA proceedings and conclude their restructuring. The Senior Lenders have advised the Applicants that they are not prepared to continue to support the CCAA Proceedings or provide further funding for a continuation of the CCAA Proceedings. Without such committed funding, the Applicants will not have sufficient cash beyond the expiration of the Stay Period to continue these CCAA Proceedings. The Plan provides for the payment in full of all expenses, fees and costs to implement the Plan and the wind down of Lydian International and the other Released Guarantors.
- 4.21 Further, the Applicants have made significant efforts to sell their assets and operations or seek funding to commence the treaty arbitration. The Applicants' efforts were unsuccessful and there is currently no alternative available to the Applicants that would see the obligations owing to the Senior Lenders satisfied. Further, as discussed in the

Fifth Report, the Applicants' equipment lenders have already taken steps to enforce their security and seize their assets located at or near the Amulsar site.

- 4.22 While the outcome is not what the Applicants or the Senior Lenders would have preferred, and essentially reflects a liquidation through the effective enforcement of security by the Senior Lenders through a Plan brought forward by the Applicants, it appears to be the only path forward that is available to the Applicants at this time. In the absence of the Plan and the DIP Exit Credit Facilities being made available, the "hard stop" scenario of certain members of the Lydian Group being subject to enforcement proceedings and others that may be left "stranded", is not desirable.
- 4.23 The Monitor wishes to note that, while certain Unaffected Creditors and Equity Claimants may have an interest in Lydian International, that entity is intended to be wound up pursuant to the J&E Process in Jersey. While certain shareholders have expressed their disappointment that Lydian International will seek to cancel and extinguish the Equity Interests as part of the J&E Process, the Applicants do not have sufficient liquidity to pay the obligations owing by the Applicants and their affiliated entities to the Senior Lenders.
- 4.24 Accordingly, in the circumstances, it is the Monitor's view that the Plan represents a better path forward than any other alternative that is available to the Applicants and is fair and reasonable. Given that the Plan, in essence, is a liquidation of the Applicants' assets pursuant to the Senior Lenders' security, the Monitor has not conducted a liquidation analysis of the Applicants' assets.

- 4.25 As discussed in the Sellers Sanction Affidavit, ING Bank NV (“**ING**”) (one of Lydian Armenia’s equipment lessors), raised concerns with the Plan in the Applicants’ motion for the Meeting Order. Specifically, ING was concerned that the potential wind up of Lydian International would affect ING’s rights to any proceeds of a successful arbitration claim. The Monitor understands that since such date, the Applicants and Senior Lenders have engaged in discussions with ING in an attempt to provide ING the comfort it requires that any claim it may have to proceeds of a successfully-asserted arbitration claim, if any, held by Lydian Armenia will not be extinguished pursuant to the Plan. The Monitor understands that those discussions have progressed well and the parties are at or near a resolution. Any unresolved concerns may be address at the Sanction Motion.
- 4.26 As discussed in the Fifth Report, the Plan provides for releases in favour of certain entities of the Lydian Group, directors and officers, Senior Lenders and the Monitor. A chart summarizing the scope of releases is attached as Exhibit “D” to the Sellers Sanction Affidavit. The Monitor is of the view that the Released Parties have made meaningful contributions to the Applicants’ restructuring efforts, have provided significant funding to allow the Applicants to attempt to realize value for stakeholders generally and to permit the restructuring under the Plan to be effected for the benefit of the Restructured Lydian Group, including Lydian Armenia, and all of its stakeholders, and the scope of releases is therefore appropriate in these circumstances. The Monitor notes that any claims against Lydian Canada and the members of the Restructured Lydian Group are not released under the Plan.

## **5.0 EXTENSION OF THE STAY OF PROCEEDINGS**

5.1 The Stay Period will expire on June 30, 2020. The Applicants are seeking an extension of the Stay Period with respect to (A) Lydian International until and including the earlier of (i) the date that the Monitor files the CCAA Termination Certificate; and (ii) December 21, 2020; and (B) Lydian Canada and Lydian U.K. and the Non-Applicant Stay Parties until and including the date of the filing of the Monitor's Plan Implementation Certificate.

5.2 Subject to the Senior Lenders funding the DIP Exit Credit Facilities and the Court granting the Sanction and Implementation Order, the Monitor supports extending the Stay Period to December 21, 2020 as well as the ancillary relief sought in the Sanction and Implementation Order for the following reasons:

- a) the proposed extension of the Stay Period will enable Lydian International and the Monitor to take the steps necessary to implement the Plan, commence and complete the J&E Process, wind up the other entities and terminate the CCAA Proceedings;
- b) subject to receipt of the DIP Exit Funds, sufficient funds are forecast to be available to enable the Monitor to disburse the Remaining Post-Implementation Date Expenses in accordance with the Plan and to transfer any unused funds in the Post-Implementation Date Expenses Reserve to Restructured Lydian;

- c) the Monitor is of the view that the proposed extension of the Stay Period is necessary to give the Applicants the flexibility required in order to have the best possible chance to implement the proposed Plan;
- d) no creditor of the Applicants would be materially prejudiced by the extension of the Stay Period and the ancillary relief sought by the Applicants; and
- e) the Applicants have acted in good faith and with due diligence in these CCAA Proceedings since the date of the Initial Order.

## **6.0 APPROVAL OF FEES AND DISBURSEMENTS OF MONITOR AND MONITOR'S LEGAL COUNSEL**

- 6.1 The Amended and Restated Initial Order requires the Monitor and its legal counsel to pass their accounts from time to time and refer their accounts to a judge of the Court.
- 6.2 Attached hereto as **Appendix "E"** is the Affidavit of Alan J. Hutchens sworn June 25, 2020 (the "**Hutchens Affidavit**"), attesting to the fees and disbursements of the Monitor for the period April 16 to June 23, 2020 in the aggregate amount of \$210,036.96.
- 6.3 Attached hereto as **Appendix "F"** is the Affidavit of D.J. Miller, a partner with Thornton Grout Finnigan LLP ("**TGF**"), counsel to the Monitor, sworn June 25, 2020 (the "**Miller Affidavit**"), attesting to the fees and disbursements of TGF, for the period from April 14 to June 23, 2020 in the amount of \$243,835.66, including disbursements and HST. The Monitor confirms that the fees and disbursements set out in TGF's invoices relate to advice sought by the Monitor and assistance provided to the Applicants and the



stakeholders by the Monitor's counsel, and that, in the Monitor's view, TGF's fees and disbursements are reasonable.

6.4 The proposed Sanction and Implementation Order requests the Court to dispense with the requirement for the Monitor and its counsel to pass their accounts for services rendered on and after June 24, 2020. Given that the proposed Sanction and Implementation Order authorizes the Monitor to file the CCAA Termination Certificate, thereby terminating the CCAA Proceedings, without the requirement for a further order from the Court, it would cause the Applicants and the Monitor to incur additional unnecessary expenses for the Monitor and its counsel to bring a separate motion at the conclusion of the CCAA Proceedings seeking approval of their fees. The activities that the Monitor will perform in connection with the implementation of the Plan and J&E Process have been set out clearly in this Seventh Report and will be paid from the Post-Implementation Date Expenses Reserve.

6.5 It is the Monitor's view that its fees and disbursements described in the Hutchens Affidavit, as well as those of TGF described in the Miller Affidavit, are fair and reasonable in the circumstances. The Monitor therefore requests that this Court approve its fees and disbursements and the fees and disbursements of its legal counsel.


## **7.0 MONITOR'S RECOMMENDATION**

7.1 For the reasons set out in this Seventh Report, the Monitor is of the view that the relief requested by the Applicants in the Sanction and Implementation Order is appropriate, and respectfully recommends that this Court grant the relief sought by the Applicants.

\*\*\*\*\*

All of which is respectfully submitted to this Court this 25th day of June 2020.

**Alvarez & Marsal Canada Inc., in its capacity  
as Monitor of Lydian International Limited,  
Lydian Canada Ventures Corporation and  
Lydian U.K. Corporation Limited  
and in no other capacity**

  
\_\_\_\_\_  
Per: Alan J. Hutchens  
Senior Vice President

## **Appendix A**

Monitor's Sixth Report to the Court dated June 22, 2020 (without  
appendices)

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT OF  
LYDIAN INTERNATIONAL LIMITED, LYDIAN CANADA VENTURES  
CORPORATION, AND LYDIAN U.K. CORPORATION LIMITED**

Applicants

**SIXTH REPORT OF THE MONITOR  
ALVAREZ & MARSAL CANADA INC.**

**JUNE 22, 2020**