

LYDIAN INTERNATIONAL LIMITED  
LYDIAN CANADA VENTURES CORPORATION  
LYDIAN U.K. CORPORATION LIMITED

PLAN OF ARRANGEMENT

PURSUANT TO THE

*COMPANIES' CREDITORS ARRANGEMENT ACT (CANADA)*  
*BUSINESS CORPORATIONS ACT (BRITISH COLUMBIA)*

JUNE 30, 2020

## PLAN OF ARRANGEMENT

This is the Plan of Arrangement of Lydian Canada Ventures Corporation, Lydian International Limited and Lydian U.K. Corporation Limited pursuant to the *Companies' Creditors Arrangement Act* (Canada) and *Business Corporations Act* (British Columbia).

### ARTICLE 1 INTERPRETATION

#### Section 1.1 Definitions

In this Plan, unless otherwise stated or the context otherwise requires:

**"Affected Claims"** means, collectively, the obligations of each of the Released Guarantors under the Guarantees.

**"Affected Creditor"** means a Creditor with an Affected Claim.

**"Agent"** means Orion, in its capacity as administrative agent under the Credit Agreement.

**"Ameriabank"** means Ameriabank CJSC.

**"Applicants"** means Lydian Jersey, Lydian Canada and Lydian UK.

**"Armenia-Jersey Interco Debt"** means the indebtedness in the amount of approximately USD\$182,257,000 owed by Lydian Armenia to Lydian Jersey.

**"Armenia-US Interco Debt"** means the indebtedness in the amount of approximately USD\$3,373,000 owed by Lydian Armenia to Lydian US.

**"Assessments"** means Claims of any taxation authority in any Canadian or foreign jurisdiction, including, without limitation, amounts which may arise or have arisen under any notice of assessment, notice of reassessment, notice of appeal, audit, investigation, demand or similar request from any taxation authority.

**"BCBCA"** means the *Business Corporations Act* (British Columbia).

**"Business Day"** means a day other than a Saturday or Sunday on which banks are generally open for business in Toronto, Ontario.

**"CAT"** means Caterpillar Financial Services (UK) Limited.

**"CCAA"** means the *Companies' Creditors Arrangement Act* (Canada).

**"CCAA Charges"** means the charges created by the Initial Order and defined as the **"Administration Charge"**, the **"Directors' Charge"**, the **"Transaction Charge"** and the **"DIP Charge"** therein.

**"CCAA Proceedings"** means the proceedings of the Applicants under the CCAA.

**"CCAA Termination Date"** means the date on which the Monitor files a certificate with the Court as set out in Section 6.4 hereto.

**“Claim”** means any right of any Person against the Applicants or Non-Applicant Stay Parties in connection with any indebtedness, liability or obligation of any kind of the Applicants or Non-Applicant Stay Parties, including those that are secured against the assets or shares of the Applicants in existence immediately prior to the Effective Time.

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

**“Credit Agreement”** means the credit agreement dated as of November 30, 2015 among, *inter alia*, Lydian Jersey, as a guarantor, Lydian Armenia, as borrower, Orion, RCF and each of the other lenders from time to time party thereto, as lenders, and the Agent.

**“Creditor”** means a Person having a Claim and includes the transferee or assignee of a Claim that is recognized as a Creditor by the Applicants or Non-Applicant Stay Parties, or a trustee, liquidator, receiver or other Person acting on behalf of such Person.

**“DIP Exit Credit Facilities”** means the USD\$1,866,000 of additional commitment under the Term Facility B (as defined in the Credit Agreement) in respect of the Post-Implementation Date Expenses to be made available to Lydian Armenia pursuant to the Eighteenth Amending Agreement, on terms to be negotiated.

**“DIP Loans”** has the meaning given to such term in the Credit Agreement.

**“Director”** means, as at the time immediately prior to the Effective Time any former or then present director or officer of any member of the Existing Lydian Group or any other Person who by applicable legislation is deemed to be or is treated similar to a director or officer of such member or that managed the business and affairs of such member.

**“Director Claim”** means any right or claim of any Person against one or more of the Directors howsoever arising, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessment and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, including any right of contribution or indemnity, for which any Director is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director.

**“Effective Time”** means the first moment on the Plan Implementation Date.

**“Eighteenth Amending Agreement”** means the eighteenth amending agreement to the Credit Agreement dated as of the Plan Implementation Date, but effective immediately prior to the Effective Time, among Lydian Armenia, as borrower, the guarantors party thereto, the Seniors Lenders, in their capacity as lenders, and the Agent.

**“Encumbrance”** means any mortgage, charge, pledge, lien, hypothec, security interest, encumbrance, statutory or possessory lien or lease of personal property that creates a security interest in respect of any assets that an Applicant owns or to which an Applicant is entitled.

**“Equipment Lenders”** means, collectively, Ameriabank, CAT, ING and SEK.

**“Equity Claim”** means a Claim that meets the definition of “equity claim” in section 2(1) of the CCAA.

**“Equity Claimants”** means any Person with an Equity Claim, but only in such capacity.

**“Existing Lydian Group”** means, collectively, Lydian Jersey, Lydian Canada, Lydian UK, Lydian International Holdings Limited, Lydian Resources Armenia Limited, Lydian Armenia, Lydian DirectorCo, Lydian Resources Kosovo Limited, Lydian Georgia, Lydian GRC, Lydian Zoloto and Lydian US and each of their direct or indirect wholly-owned subsidiaries immediately prior to the Effective Time.

**“GRC-Jersey Interco Debt”** means the indebtedness in the amount of approximately USD\$2,800,000 owed by Lydian GRC to Lydian Jersey.

**“Guarantees”** means, collectively, (i) the guarantee dated as of December 3, 2015 made by, *inter alia*, Lydian Jersey and the other Released Guarantors in favour of the Agent in respect of the Loan Obligations, and (ii) the guarantee dated as of December 3, 2015 made by, *inter alia*, Lydian Jersey and the other Released Guarantors in favour of the Purchaser’s Agent in respect of the Stream Obligations.

**“ING”** means ING Bank N.V.

**“Initial Order”** means the initial order made on December 23, 2019, as amended and restated on January 23, 2020 pursuant to which the Applicants were provided protection under the CCAA, as further amended from time to time.

**“Jersey-US Interco Debt”** means the indebtedness in the amount of approximately USD\$9,304,000 owed by Lydian Jersey to Lydian US.

**“Loan Obligations”** means all obligations, liabilities and indebtedness of the Existing Lydian Group under the Credit Agreement and the other Loan Documents (as defined in the Credit Agreement).

**“Lydian Armenia”** means Lydian Armenia CJSC, a closed joint stock company governed by the laws of Armenia.

**“Lydian Canada”** means Lydian Canada Ventures Corporation, a corporation incorporated under the BCBCA.

**“Lydian DirectorCo”** means 11910728 Canada Inc., a corporation incorporated under the *Canada Business Corporations Act*.

**“Lydian Georgia”** means Lydian Resources Georgia Limited, a company governed by the laws of Jersey.

**“Lydian Georgia Purchaser”** means Vahe Kevorkov.

**“Lydian Georgia Shares”** means the common shares in the capital of Lydian Georgia held by Lydian Jersey.

**“Lydian GRC”** means Georgian Resource Company LLC, a company governed by the laws of Georgia.

**“Lydian Jersey”** means Lydian International Limited, a company governed by the laws of Jersey.

**“Lydian Jersey Ordinary Shares”** means the ordinary shares in the capital of Lydian Jersey.

**“Lydian Jersey Shareholder”** means any Person who holds, is entitled to or has any rights or interests in or to or in respect of the Lydian Jersey Ordinary Shares immediately prior to the Effective Time, but only in such capacity.

**“Lydian Subsidiaries”** means, collectively, Lydian Canada, Lydian UK, Lydian International Holdings Limited, Lydian Resources Armenia Limited, Lydian Armenia, Lydian DirectorCo, Lydian Resources Kosovo Limited, Lydian Georgia, Lydian GRC, Lydian Zoloto and Lydian US.

**“Lydian UK”** means Lydian U.K. Corporation Limited, a corporation governed by the laws of the United Kingdom.

**“Lydian US”** means Lydian U.S. Corporation, a corporation governed by the laws of Colorado.

**“Lydian Zoloto”** means Kavkaz Zoloto CJSC, a closed joint stock company governed by the laws of Armenia.

**“Majority Senior Lenders”** means a majority in number of Affected Creditors representing at least two thirds in value of the Affected Creditors.

**“Meeting”** means the meeting of the Affected Creditors to be held on the Meeting Date for the purpose of considering and voting on the Plan pursuant to the CCAA in accordance with the Meeting Order and includes any adjournment, postponement or other rescheduling of such meeting in accordance with the Meeting Order.

**“Meeting Date”** means the date on which the Meeting is held in accordance with the Meeting Order.

**“Meeting Order”** means the order of the Court dated June 18, 2020 under the CCAA that, among other things, sets the date for the Meeting, as same may be amended, restated or varied from time to time.

**“Monitor”** means Alvarez & Marsal Canada Inc., solely in its capacity as the monitor appointed by the Court pursuant to the Initial Order, and not in its personal or corporate capacity.

**“New Directors”** means the individuals to be appointed to the board of directors of Lydian Jersey and Restructured Lydian (and its direct and indirect subsidiaries) as of the Plan Implementation Date.

**“Non-Applicant Stay Parties”** has the meaning set out in the Initial Order and includes Lydian Armenia, Lydian Resources Armenia Limited, and Lydian US.

**“Orion”** means Orion Co IV (ED) Limited.

**“Osisko”** means Osisko Bermuda Limited.

**“Person”** means any individual, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, government or any agency, officer or instrumentality thereof or any other entity.

**“Plan”** means this plan of arrangement under the CCAA and the BCBCA, including the Schedules hereto, as further amended, supplemented or replaced from time to time.

**“Plan Implementation Date”** means the date upon which the Monitor files with the Court the certificate contemplated by Section 6.2, which shall occur on or before June 30, 2020.

**“Post-Implementation Date Expenses”** means: (a) all potential costs and expenses (including fees of Lydian Jersey’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 Jersey 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; and (c) the costs and expenses estimated to be incurred in connection with or related to the dissolution or winding-up of Lydian Jersey, Lydian US and Lydian Zoloto pursuant to Section 6.4, in each case, as set forth on, and, in all cases, subject to the maximums set forth on, Schedule “A”, and such other amounts as the Senior Lenders may agree in writing.

**“Post-Implementation Date Expenses Reserve”** means the reserve to be established by the Applicants on the Plan Implementation Date and held by the Monitor solely for the benefit of the Applicants, which shall be comprised of an amount of USD\$1,866,000 to pay the Remaining Post-Implementation Date Expenses.

**“Purchaser’s Agent”** means Osisko, in its capacity as agent for the purchasers under the Stream Agreement.

**“RCF”** means Resource Capital Fund VI L.P.

**“Released Claims”** has the meaning ascribed thereto in Section 6.6 hereof.

**“Released Director Claim”** means any Director Claim that is released pursuant to Section 6.6 hereof.

**“Released Guarantors”** means, collectively, Lydian Jersey, Lydian US, Lydian Zoloto, Lydian Georgia and Lydian GRC.

**“Released Party”** and **“Released Parties”** have the meaning ascribed thereto in Section 6.6 hereof.

**“Remaining Post-Implementation Date Expenses”** means the Post-Implementation Date Expenses not paid or satisfied as of the Plan Implementation Date.

**“Required Majority”** means a majority in number of Affected Creditors representing at least two thirds in value of the Affected Creditors, in each case who are entitled to vote at the Meeting in accordance with the Meeting Order and who are present and voting in person or by proxy on the resolution approving the Plan at the Meeting.

**“Restructured Lydian”** means, collectively, the entity formed upon the amalgamation by arrangement of SL Newco and Lydian Canada.

**“Restructured Lydian Common Shares”** means the common shares of Restructured Lydian to be held by the Senior Lenders.

**“Restructured Lydian Group”** means, collectively, Restructured Lydian and each of its direct or indirect wholly-owned subsidiaries immediately after the Effective Time.

**“Restructured Lydian Preferred Share”** means the preferred share of Restructured Lydian to be held by Lydian Jersey.

**“Restructuring Documents”** means, collectively, the articles of Restructured Lydian and all related agreements, security and other documents.

**“Sanction and Implementation Order”** means the order to be sought under the CCAA sanctioning this Plan, if approved by the Required Majority, and providing for its implementation in form and content satisfactory to the Applicants and the Monitor.

**“SEK”** means AB Svensk Exportkredit (publ).

**“Senior Lenders”** means, collectively, Orion, RCF and Osisko.

**“SL Newco”** means a newly incorporated single purpose entity controlled by Orion and governed by the BCBCA.

**“Stream Agreement”** means the amended and restated purchase and sale agreement (gold and silver) dated as of January 15, 2019 among Lydian Jersey, as a guarantor, Lydian Armenia, as seller, Osisko (as successor to Orion Co IV (SO) Limited), RCF and each of the other purchasers from time to time party thereto, as purchasers, and the Purchaser’s Agent.

**“Stream Obligations”** means all obligations, liabilities and indebtedness of the Existing Lydian Group under the Stream Agreement and the other Stream Documents (as defined in the Stream Agreement).

**“Subsidiary Shares”** means all shares in the capital of each of the Lydian Subsidiaries that are issued and outstanding immediately prior to the Effective Time.

**“Unaffected Claim”** means any Claim of a Creditor against the Applicants or the Non-Applicant Stay Parties, other than the Affected Claims, and, for greater certainty, Unaffected Claim includes (i) all Claims resulting from the Loan Obligations and Stream Obligations, in each case, other than those representing the Affected Claims; (ii) all Claims of the Equipment Lenders against the Applicants or any other non-Applicant member of the Existing Lydian Group; (iii) all unsecured Claims against the Applicants or the Non-Applicant Stay Parties; and (iv) all Claims of any other Creditor against Lydian Armenia and any other non-Applicant member of the Existing Lydian Group.

**“Unaffected Creditor”** means both a Creditor with an Unaffected Claim and a holder of an Equity Claim in Lydian Jersey.

**“US-Jersey Interco Debt”** means the indebtedness in the amount of approximately USD\$12,694,000 owed by Lydian US to Lydian Jersey.

**“USD”** means United States dollars.

## **Section 1.2 Construction**

In this Plan, unless otherwise stated or the context otherwise requires:

- (a) the division of the Plan into Articles and Sections and the use of headings are for convenience of reference only and do not affect the construction or interpretation of the Plan;
- (b) the words “hereunder”, “hereof” and similar expressions refer to this Plan and not to any particular Article, Section or Schedule and references to “Articles”, “Sections”, and “Schedules” are to Articles and Sections of and Schedules to this Plan;
- (c) words importing the singular include the plural and vice versa and words importing any gender include all genders;

- (d) the word “including” means “including without limiting the generality of the foregoing”;
- (e) a reference to any statute is to that statute as now enacted or as the statute may from time to time be amended, re-enacted or replaced and includes any regulation made thereunder;
- (f) a reference to any agreement, indenture or other document is to that document as amended, supplemented, restated or replaced from time to time up to the day before the Plan Implementation Date;
- (g) references to dollar amounts are to Canadian dollars, unless otherwise stated; and
- (h) references to times are to local time in Toronto, Ontario.

### **Section 1.3 Conversion**

All Affected Claims denominated in USD are to be converted to CAD using Bank of Canada’s Daily Exchange Rate in effect the Business Day prior to the Plan Implementation Date.

### **Section 1.4 Deeming Provisions**

In this Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

### **Section 1.5 Date for any Action**

If any date on which any action required to be taken hereunder by a Person is not a Business Day, such action must be taken or will be deemed to be taken on the next succeeding day which is a Business Day.

### **Section 1.6 Schedules**

The following are the Schedules to this Plan:

- Schedule A - Post-Implementation Date Expenses
- Schedule B - Post-Implementation Capitalization
- Schedule C - Articles of Restructured Lydian

## **ARTICLE 2 PURPOSE AND EFFECT OF THE PLAN**

### **Section 2.1 Purpose**

The purpose of the Plan is to:

- (a) implement a corporate and financial restructuring of the Applicants;
- (b) provide for the assignment or settlement of all intercompany debts owing to the Applicants prior to the Effective Time to, among other things, minimize adverse tax consequences to Lydian Armenia and its stakeholders;
- (c) provide for the equivalent of an assignment of substantially all of the assets of Lydian Jersey (including the shares in Lydian Canada) to SL Newco by amalgamating Lydian Canada with SL Newco;

- (d) provide for a corresponding orderly wind up, and financing of such wind up, of Lydian Jersey and an orderly disposition or winding up, and financing thereof, of the affairs of the other Released Guarantors which would include the release of all obligations and guarantees of such Released Guarantors to the Senior Lenders (in their capacities as lenders and purchasers), if any;
- (e) permit Restructured Lydian and its shareholders/stakeholders to determine the manner and timing of pursuing any strategy post the Plan Implementation Date;
- (f) permit Lydian Canada and Lydian UK to exit CCAA Proceedings on the Plan Implementation Date; and
- (g) permit Lydian Jersey to exit CCAA Proceedings upon the earlier of (A) completion of (a) to (d) above, or (B) an Order of the Court terminating the CCAA Proceedings.

### **Section 2.2 Persons Affected**

The Plan provides for a full and final release and discharge of the Affected Claims and Released Claims, and a restructuring of the Applicants. The Plan will become effective at the Effective Time in accordance with its terms and in the sequence set forth in Section 6.3(3) hereof and shall be binding on and enure to the benefit of the Applicants, the Affected Creditors and the Released Parties.

### **Section 2.3 Rights and Defences Maintained**

Except as otherwise specified herein, nothing in the Plan shall affect the Applicants' rights and defences, both legal and equitable, with respect to any Unaffected Claims including all rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Unaffected Claims.

## **ARTICLE 3 CLASSIFICATION AND TREATMENT OF CREDITORS AND RELATED MATTERS**

### **Section 3.1 Classification of Creditors**

For the purposes of considering and voting on the Plan, the Affected Creditors will vote as a single class.

### **Section 3.2 Meeting**

The Meeting shall be held in accordance with the CCAA, the Meeting Order and the Plan. The Monitor will act as chair of the Meeting. The only Persons entitled to attend the Meeting are: the Monitor and its legal counsel and advisors; the Affected Creditors and their legal counsel and advisors; and the Existing Lydian Group, their respective directors and officers and their respective legal counsel and advisors. Any other Person may be admitted on invitation of the chair of the Meeting.

### **Section 3.3 Voting by Affected Creditors**

Each Affected Creditor shall be entitled to one vote as a member of the class, which vote shall have a value equal to the dollar value of its Affected Claims.

### **Section 3.4 Unaffected Claims**

This Plan does not affect Unaffected Claims or Equity Claims subject to the express provisions hereof providing for the treatment of Released Claims. Unaffected Creditors will not be entitled to vote or receive any distributions under this Plan. Unaffected Claims shall not be compromised, released, discharged, cancelled or barred by the Plan subject to the express provisions hereof providing for the treatment of Released Claims.

### **Section 3.5 Equity Claims**

Equity Claimants shall not receive any distributions or other consideration under the Plan or otherwise recover anything in respect of their Equity Claims and shall not be entitled to attend or vote on the Plan, and subject to the provisos (i) and (ii) below, all Equity Claims shall be forever compromised, released, discharged, cancelled and barred, provided, however, that after the Effective Time: (i) the Lydian Jersey Shareholders and other Equity Claimants with an Equity Claim against Lydian Jersey shall retain their Lydian Jersey Ordinary Shares and Equity Claims against Lydian Jersey, as applicable (which Lydian Jersey will seek to extinguish as part of the wind-up of Lydian Jersey) until the wind-up of Lydian Jersey as set forth below; and (ii) the Subsidiary Shares shall remain outstanding and shall continue to be held by the existing holders of such Subsidiary Shares, except as otherwise provided in this Plan in the case of Lydian Canada.

### **Section 3.6 Treatment of Affected Claims**

At the Effective Time, pursuant to and in accordance with the other provisions of this Plan, each of the Senior Lenders will receive, in respect of its Affected Claim:

- (a) the number of Restructured Lydian Common Shares set forth beside each Senior Lender's name on Schedule "B"; and
- (b) as required, replacement guarantees, assumptions or acknowledgements from the Restructured Lydian Group in respect 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,

and all Affected Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred.

### **Section 3.7 Equipment Lender Claims**

Any Claims of the Equipment Lenders other than Released Claims shall be considered Unaffected Claims and the Equipment Lenders shall not receive any distributions or other consideration under the Plan and shall not be entitled to attend or vote on the Plan. Any Claim of the Equipment Lenders will not be compromised, released, discharged, cancelled and barred under the Plan and will remain outstanding after the Effective Time.

### **Section 3.8 Director Claims**

All Released Director Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date. Any Director Claim that is not a Released Director Claim will not be compromised, released, discharged, cancelled and barred.

### **Section 3.9 Approval by Creditors**

In order to be approved, the Plan must receive an affirmative vote by the Required Majority at the Meeting.

## **ARTICLE 4 FINANCING AND RESTRUCTURING ACTIVITIES**

### **Section 4.1 DIP Exit Funding**

Prior to the Plan Implementation Date, an aggregate principal amount of USD\$1,866,000 will be advanced by the Senior Lenders (in their capacity as lenders) to Lydian Armenia as additional DIP Loans under the DIP Exit Credit Facilities for purposes of funding the Post Implementation Date Expenses Reserve. All outstanding guarantees given by the Restructured Lydian Group of the Loan Obligations will continue to guarantee the obligations owing by Lydian Armenia under the DIP Exit Credit Facilities and all security given by the Restructured Lydian Group as security for the Loan Obligations will continue in full force and effect to secure the obligations owing by Lydian Armenia under the DIP Exit Credit Facilities in accordance with the terms of the Credit Agreement. The funds advanced under the DIP Exit Credit Facilities will be utilized to implement the Plan. A portion of the DIP Exit Credit Facilities will be reserved by Lydian Armenia to be used to redeem the Restructured Lydian Preferred Share and the balance of the DIP Exit Credit Facilities constituting the Post-Implementation Date Expenses Reserve, plus the balance of any other cash held on hand by Lydian Armenia required to pay expenses of Lydian Jersey, shall be transferred by way of intercompany loan by Lydian Armenia to Lydian Jersey prior to the Post-Implementation Date (and Lydian Jersey shall immediately transfer such amount to the Monitor). The Monitor shall hold such funds solely for the benefit of Lydian Jersey in accordance with the provisions of this Plan to pay the Post-Implementation Date Expenses. The Monitor shall pay the Post-Implementation Date Expenses from the Post-Implementation Date Expenses Reserve upon, and in accordance with, receipt by Lydian Jersey of an invoice for payment and written direction from Lydian Jersey to the Monitor or by further order of the Court.

### **Section 4.2 Other Restructuring Activities**

Subject to the terms and conditions of this Plan, the Applicants, in consultation with the Monitor, may undertake such other steps or enter into such other transactions as they deem necessary or desirable in order to better effect the terms of this Plan or to fulfil the conditions to the implementation of this Plan set out in Section 6.1.

**ARTICLE 5**  
**SANCTION AND IMPLEMENTATION ORDER**

**Section 5.1 Application for Sanction and Implementation Order**

If this Plan is approved by the Required Majority, the Applicants will apply to the Court for the Sanction and Implementation Order.

**Section 5.2 Effect of Sanction and Implementation Order**

The Applicants will seek a Sanction and Implementation Order that in substance will, without limitation to any other terms that it may contain:

- (a) declare that (i) the Plan has been approved by the Required Majority; (ii) the Applicants have complied with the provisions of the CCAA and the orders of the Court made in these proceedings in all respects; (iii) the Court is satisfied that the Applicants have not done nor purported to do anything that is contrary to the CCAA; and (iv) the Plan and the transactions contemplated by it are fair and reasonable, and in the best interests of the Applicants and the Affected Creditors;
- (b) order that the Plan (including the compromises, arrangements, amalgamation and other corporate transactions and releases set out in or contemplated by the Plan, including the appointment of the New Directors) is sanctioned and approved pursuant to section 6 of the CCAA and, at the Effective Time, will be effective and will enure to the benefit of and be binding upon the Applicants and the Affected Creditors and all other Persons stipulated in the Plan or in the Sanction and Implementation Order to receive the benefit of the releases, if any;
- (c) provide that the Applicants, the Affected Creditors, the Senior Lenders, and all other Persons stipulated in the Plan are authorized and directed to fulfill their respective obligations under the Plan;
- (d) declare that the stay of proceedings under the Initial Order, and all other provisions of the Initial Order except as explicitly amended pursuant to the Sanction Order, continues until the CCAA Proceedings are terminated in their entirety and the Monitor is discharged;
- (e) confirm the releases contemplated in the Plan and provide for the relief necessary or incidental thereto;
- (f) authorize the Monitor to perform its functions and fulfil its obligations under the Plan to facilitate the implementation of the Plan, payment of the Post-Implementation Date Expenses following implementation of the Plan, and to assist with the completion and termination of the CCAA Proceedings;
- (g) provide that the Monitor and its legal counsel shall not be required to pass their accounts from and after the Plan Implementation Date;
- (h) enjoin the commencement or prosecution, whether directly, derivatively or otherwise, of any demands, claims, actions, counterclaims, suits, judgments or remedy in respect of any indebtedness, liability, obligation or cause of action released, discharged or terminated pursuant to the Plan including the Affected Claims and the Released Claims; and

- (i) (A) declare that each of the CCAA Charges, other than the Administration Charge and the DIP Charge, shall be terminated, discharged and released upon the filing of the Monitor of a certificate on the Plan Implementation Date, and (B) in the case of the DIP Charge and the Administration Charge, subject to the last sentence of Section 6.9(2), declare that each of the CCAA Charges shall be terminated, discharged and released upon the filing of the Monitor of a certificate on the CCAA Termination Date.

## **ARTICLE 6 PLAN IMPLEMENTATION AND EFFECT OF THE PLAN**

### **Section 6.1 Conditions to Plan Implementation**

- (1) The implementation of this Plan is conditional on the satisfaction of the following conditions:
  - (a) this Plan has been approved pursuant to the CCAA by the Required Majority;
  - (b) the amalgamation of Lydian Canada and SL Newco pursuant to Section 6.3(3)(f) 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; and
  - (e) The Senior Lenders shall fund the DIP Exit Credit Facility to Lydian Armenia and the transfers described in Section 4.1 shall have taken place;
  - (f) the Plan Implementation Date shall occur on or prior to June 30, 2020.
- (2) Each of the conditions set out in 6.1(1)(c) and (f) may be waived by the Applicants acting reasonably, but only with the prior written consent of the Majority Senior Lenders.

### **Section 6.2 Monitor's Certificate**

As soon as practicable upon receipt of written notice from the Applicants of the satisfaction or waiver of the conditions set out in Section 6.1 hereof, the Monitor shall forthwith deliver to the Applicants a certificate, upon which the Plan Implementation Date shall occur and the Plan shall be effective in accordance with its terms and the terms of the Sanction and Implementation Order. As soon as practicable thereafter, the Monitor shall file a copy of such certificate with the Court.

### **Section 6.3 Implementation**

- (1) All the agreements and other instruments that have to be entered into or executed and all other actions that have to be taken in order for the transactions and agreements to be

completed and occur or be effective at the Effective Time will be entered into, executed, taken and completed in escrow prior to the Effective Time.

- (2) As soon as practicable after satisfaction (or waiver, if applicable) of each of the conditions to the implementation of the Plan set out in Section 6.1(1), the Applicants will deliver to the Monitor a certificate stating that each of the conditions set out in Section 6.1(1) has been satisfied or waived.
- (3) The Plan will become effective at the Effective Time. At the Effective Time (unless otherwise noted below), the assignments, transfers, releases and other transactions set out below will be completed and be deemed to occur or be effective in the order set out below:
  - (a) On the day immediately prior to the Plan Implementation Date but after the Sanction and Implementation Order has been issued by the Court:
    - (i) Lydian US will assign to Lydian Jersey the Armenia-US Interco Debt such that Lydian Armenia will owe such indebtedness to Lydian Jersey in exchange for the satisfaction of approximately USD\$3,373,000 owing by Lydian US to Lydian Jersey under the US-Jersey Interco Debt;
    - (ii) Lydian US will repay approximately USD\$9,304,000 of the US-Jersey Interco Debt and Lydian Jersey will repay the entirety of the Jersey-US Interco Debt by way of set-off;
    - (iii) the approximately USD\$17,000 of the remaining US-Jersey Interco Debt shall be transferred and assigned by Lydian Jersey to Lydian US as a capital contribution to Lydian US by Lydian Jersey without the issuance of shares of common stock of Lydian US;
    - (iv) the US-Jersey Interco Debt and the Jersey-US Interco Debt shall be fully, finally, irrevocably and forever compromised, released, discharged cancelled and barred without any liability, payment or other compensation in respect thereof;
  - (b) The amount loaned by Lydian Armenia to Lydian Jersey pursuant to Section 4.1 will be repaid by Lydian Jersey by (i) setting off against the Armenia-Jersey Interco Debt the amount of Post-Implementation Date Expenses actually paid by the Monitor to the beneficiaries thereof, and such amount shall be fully, finally, irrevocably and forever compromised, released, discharged cancelled and barred without any liability, payment or other compensation in respect thereof, and (ii) the Monitor returning any unused fund to Lydian Armenia as contemplated in Section 6.9(2);
  - (c) Lydian Jersey will assign to Lydian Canada the Armenia-Jersey Interco Debt (less the amount loaned by Lydian Armenia to Lydian Jersey pursuant to Section 4.1) and the Armenia-US Interco Debt assigned to Lydian Jersey pursuant to Section 6.3(3)(a) in exchange for Lydian Canada issuing a number of common shares of Lydian Canada to Lydian Jersey having a fair market value equal to Armenia-Jersey Interco Debt (less the amount loaned by Lydian Armenia to Lydian Jersey pursuant to Section 4.1) and the Armenia-US Interco Debt;
  - (d) Lydian Jersey will transfer and assign the Lydian Georgia Shares and the GRC-Jersey Interco Debt to the Lydian Georgia Purchaser and, as consideration therefor, the Lydian Georgia Purchaser shall, and shall cause Lydian Georgia and Lydian

GRC to, release Lydian Jersey and all of the current and former directors and officers of Lydian Jersey, Lydian Georgia and Lydian GRC from any and all demands, claims, actions, counterclaims, suits, judgments or remedy in respect of any indebtedness, liability, obligation or cause of action in like manner to the Released Claims;

- (e) Lydian Jersey will transfer and assign all claims of Lydian Jersey against Lydian Canada and any of Lydian Canada's subsidiaries (pursuant to the Guarantees or otherwise) to Lydian Canada;
- (f) Lydian Canada and SL Newco will amalgamate by arrangement pursuant to the BCBCA to form Restructured Lydian and continue as one corporation on the terms contained in this Plan:
  - (i) the name of Restructured Lydian will be Lydian Canada Ventures Corporation;
  - (ii) Restructured Lydian will be authorized to issue the following number and classes of shares:
    - (A) an unlimited number of Restructured Lydian Common Shares; and
    - (B) one (1) Restructured Lydian Preferred Share;
  - (iii) the articles of Restructured Lydian will be as set out in the attached Schedule "C";
  - (iv) the common shares of Lydian Canada held by Lydian Jersey will be exchanged for one (1) Restructured Lydian Preferred Share;
  - (v) the common share of SL Newco held by Orion will be exchanged for one (1) Restructured Lydian Common Share;
  - (vi) except as contemplated herein, all obligations of each of SL Newco and Lydian Canada immediately prior to the amalgamation shall attach to Restructured Lydian and Restructured Lydian shall continue to be liable for them;
- (g) a number of common shares of Restructured Lydian will be issued to the Senior Lenders in the amounts and proportions set forth on Schedule "B";
- (h) the New Directors of Restructured Lydian shall be appointed by the Senior Lenders effective as of the Plan Implementation Date;
- (i) the New Directors of Lydian Jersey will be appointed by the existing directors of Lydian Jersey effective as of the Effective Time;
- (j) the Restructured Lydian Preferred Share shall be redeemed by Lydian Jersey in accordance with its terms; and

- (k) all Affected Claims and Released Claims shall be fully, finally, irrevocably and forever compromised, released, discharged cancelled and barred without any liability, payment or other compensation in respect thereof; and
- (l) Restructured Lydian shall not be an Applicant in the CCAA Proceedings and the style of cause in the CCAA Proceedings shall be amended to remove Lydian Canada and Lydian UK as Applicants.

#### **Section 6.4 Treatment of Other Lydian Entities**

After the Effective Time and in accordance with the budget and timetable set forth on Schedule "A", the remaining Applicant in the CCAA Proceedings will, on a best efforts' basis, undertake the following:

- (a) Lydian Jersey will apply to the Royal Court of Jersey seeking, in full deference to the discretion and jurisdiction of the Royal Court of Jersey, an orderly wind up through a Just and Equitable Winding Up Process pursuant to laws of Jersey;
- (b) Lydian US will be wound-up and dissolved pursuant to the laws of Colorado; and
- (c) Lydian Zoloto will be wound up and dissolved pursuant to laws of Armenia.

Once the steps set out in Section 6.3 and Section 6.4 hereof have been completed, and 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. 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 Section 6.3 and Section 6.4 above are not completed in the event that there are insufficient funds in the Post-Implementation Date Expenses Reserve to pay the Post-Implementation Date Expenses.

#### **Section 6.5 Effect of Plan Generally**

- (1) At the Effective Time, the treatment of Affected Claims will be final and binding on the Applicants and the Affected Creditors (and their respective successors and assigns), and this Plan, will constitute:
  - (a) full, final and absolute settlement of all rights of the Affected Creditors against Lydian Jersey; and
  - (b) an absolute release and discharge of all of the Released Guarantors from all indebtedness, liabilities and obligations owing to the Affected Creditors, and from all security, Encumbrances and other documents in respect thereof.
- (2) All Equity Claims shall be forever compromised, released, discharged, cancelled and barred, provided, however, that after the Effective Time: (i) the Lydian Jersey Shareholders and other Equity Claimants with Equity Claims against Lydian Jersey shall retain their Lydian Jersey Ordinary Shares and Equity Claims against Lydian Jersey, as applicable (which Lydian Jersey will seek to extinguish as part of the wind-up of Lydian Jersey) until the wind-up of Lydian Jersey pursuant to the Just and Equitable Winding Up Process; and (ii) the Subsidiary Shares shall remain outstanding and shall continue to be held by the existing holders of such Subsidiary Shares, except as otherwise provided in this Plan.

- (3) 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 demands, claims, actions, counterclaims, suits, judgments or remedy in respect of any indebtedness, liability, obligation or cause of action which any Released Guarantor or their respective employees, contractors, agents and Directors may be entitled to assert.

## **Section 6.6 Releases**

On the Plan Implementation Date, in accordance with the terms and in the sequence set forth in Section 6.3 hereof, (i) the Applicants, the Applicants' employees, contractors, agents and advisors (including legal counsel) and the Directors, (ii) the Monitor and the Monitor's counsel, and (iii) 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 of the Persons named in (i), (ii) or (iii) of this Section 6.6, in their capacity as such, being herein referred to individually as a "**Released Party**" and all referred to collectively as "**Released Parties**") shall be released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature, including claims for contribution or indemnity, or rights of subrogation, which any Person may be entitled to assert, whether or not reduced to judgment, liquidated or unliquidated, fixed, contingent, known or unknown, matured or unmatured, direct, indirect or derivative, foreseen or unforeseen, existing or hereafter arising, by guarantee, surety or otherwise, and whether or not executory or anticipatory in nature, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the Plan Implementation Date, or following the Plan Implementation Date up to the termination of the CCAA Proceedings that relate to matters relating to implementing the Plan, on or following the Plan Implementation Date, or that constitute or are in any way relating to, arising out of or in connection with any Affected Claims, any Director Claims and any indemnification obligations with respect thereto, the business and affairs of the Applicants whenever or however conducted, the administration and/or management of the Applicants, the Plan, the CCAA Proceedings, the windup or dissolution of Lydian Jersey, Lydian US and Lydian Zoloto, or any document, instrument, matter or transaction involving any of the Applicants taking place in connection with the Plan (referred to collectively as the "**Released Claims**"), and all Released Claims shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties, all to the fullest extent permitted by applicable law; provided that the following shall not constitute Released Claims and nothing herein will waive, discharge, release, cancel or bar: (A) Lydian Canada's, Lydian UK's or the Senior Lenders' obligations under the Plan or incorporated into the Plan; (B) obligations of any member of the Existing Lydian Group other than the Released Guarantors under the Credit Agreement, the other Loan Documents (as defined in the Credit Agreement), the Stream Agreement, the Stream Documents (as defined in the Stream Agreement) and any other agreements entered into in relation 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) an Applicant or the subsidiaries of Restructured Lydian from or in respect of any Unaffected Claim other than as set out in Section 6.5 above.

## **Section 6.7 Guarantees and Similar Covenants**

No Person who has a Claim under any guarantee, surety, indemnity or similar covenant in respect of any Affected Claim or who has a Released Claim that is compromised or released under

this Plan, or who has any right to claim over in respect of, or to be subrogated to, the rights of any Person in respect of any Affected Claim or a Released Claim that is compromised or released under the Plan will be entitled to any additional rights beyond the rights of the Person whose Affected Claim or Released Claim was compromised or released under this Plan.

### **Section 6.8 Consents, Waivers and Agreements**

At the Effective Time, each Affected Creditor will be deemed to have consented and agreed to all of the provisions of this Plan, as an entirety. Without limitation to the foregoing, each Affected Creditor will be deemed:

- (a) to have executed and delivered to the Applicants, the Released Parties, the Released Guarantors and Restructured Lydian all consents, assignments, releases and waivers, statutory or otherwise, required to implement and carry out this Plan as an entirety; and
- (b) to have agreed that, if there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Affected Creditor and an Applicant, with respect to an Affected Claim as at the Plan Implementation Date and the provisions of this Plan, then the provisions of this Plan take precedence and priority and the provisions of such agreement or other arrangement are amended accordingly.

### **Section 6.9 Post-Implementation Date Expenses and Reserve**

- (1) On the Plan Implementation Date, an amount equal to the Remaining Post-Implementation Date Expenses shall be paid by Lydian Jersey to the Monitor and held by the Monitor in the Post-Implementation Date Expenses Reserve for the benefit of Lydian Jersey and the parties with Remaining Post-Implementation Date Expenses strictly in accordance with Schedule "A" hereto.
- (2) Upon receipt by Lydian Jersey of an invoice for payment and written direction from Lydian Jersey, the Monitor shall promptly disburse Remaining Post-Implementation Date Expenses to the parties with Remaining Post-Implementation Date Expenses in accordance with, and up to the maximum stated in, Schedule "A" and the direction provided for in the Sanction and Implementation Order forthwith. Following payment of all of the Remaining Post-Implementation Date Expenses, immediately prior to the CCAA Termination Date, the Monitor shall transfer any remaining funds in the Post-Implementation Date Expenses Reserve to Lydian Armenia.
- (3) The Monitor shall have no liability as to the sufficiency of funds in the Post-Implementation Date Expenses Reserve and shall be under no obligation to take any action or make any payments for which there are insufficient funds.

## **ARTICLE 7 GENERAL**

### **Section 7.1 Amendments**

The Applicants may not amend this Plan, except by written instrument with prior written notice to the Affected Creditors. Further, any amendment of the Plan made after the Meeting may only be made if the Applicants, the Monitor and the Majority Senior Lenders determine that such amendment would not be materially prejudicial to the interests of the Affected Creditors under the

Plan or is necessary to give effect to the full intent of this Plan or the Sanction and Implementation Order. The Applicants will provide a copy of any amendment to the Affected Creditors and will file a copy with the Court.

### **Section 7.2 Binding Effect**

At the Effective Time, the Plan and all Restructuring Documents will become effective (to the extent not already effective) and be binding on and enure to the benefit of the Applicants, the Affected Creditors and all other Persons named or referred to in, or subject to, this Plan and the Restructuring Documents and their respective heirs, executors, administrators and other legal representatives, successors and assigns.

### **Section 7.3 Different Capacities**

Persons who are affected by this Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, a Person will be entitled to participate hereunder in each such capacity. Any action taken by or any effect of the Plan on a Person in one capacity will only affect such Person in that capacity and not affect such Person in any other capacity.

### **Section 7.4 Further Assurances**

At the request of the Applicants or the Majority Senior Lenders, each of the Persons named or referred to in, or subject to, this Plan (other than the Monitor) will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of this Plan and to give effect to the transactions contemplated herein, notwithstanding any provision of this Plan that deems any transaction or event to occur without further formality.

### **Section 7.5 Governing Law**

This Plan will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**SCHEDULE A**  
**POST-IMPLEMENTATION DATE EXPENSES**

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

## Estimated Exit and Post-Exit Costs

As at June 28, 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>	
<i>BMO Capital fee</i>	500,000
<i>Black Swan fee</i>	400,000
<i>Potential employee related costs</i>	63,000
<i>Contingency</i>	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>	
<i>Salaries, benefits and taxes</i>	-
<i>Office, IT, bank, and misc.</i>	(8,000)
<i>Professional fees</i>	(485,000)
<i>Contingency</i>	(24,000)
	<b>(517,000)</b>

**SCHEDULE B**

**POST-IMPLEMENTATION CAPITALIZATION**

<b>Senior Lender</b>	<b>Restructured Lydian Common Shares</b>
Orion	169,649,245
RCF	68,830,280
Osisko	73,030,688
<b>Total</b>	<b>311,510,213</b>

**SCHEDULE C**  
**ARTICLES OF RESTRUCTURED LYDIAN**

Incorporation Number BC

**ARTICLES  
OF  
1254957 B.C. LTD.**

**PROVINCE OF BRITISH COLUMBIA  
*BUSINESS CORPORATIONS ACT***

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ARTICLES

1254957 B.C. LTD.

(the "Company")

ARTICLE 1  
INTERPRETATION

**Section 1.1 Definitions**

In these Articles, unless the context otherwise requires:

- (1) "**appropriate person**" has the meaning assigned in the *Securities Transfer Act*;
- (2) "**board of directors**" and "**board**" mean the board of directors or sole director of the Company for the time being;
- (3) "**BCA**" means the *Business Corporations Act* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act;
- (4) "**director**" means a person who is a director of the Company for the time being;
- (5) "**directors' resolution**" means a resolution of the board of directors passed at a meeting of the board or consented to by the directors in accordance with Section 140 of the BCA and Section 18.12;
- (6) "**Interpretation Act**" means the *Interpretation Act* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act;
- (7) "**legal personal representative**" means the personal or other legal representative of a shareholder or other person, as the context requires;
- (8) "**protected purchaser**" has the meaning assigned in the *Securities Transfer Act*;
- (9) "**registered address**" of a shareholder means the shareholder's address as recorded in the central securities register;
- (10) "**seal**" means the seal of the Company, if any;
- (11) "**Securities Act**" means the *Securities Act* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act;
- (12) "**securities legislation**" means statutes concerning the regulation of securities markets and trading in securities and the regulations, rules, forms and schedules under those statutes, all as amended from time to time, and the blanket rulings and orders, as amended from time to time, issued by the securities commissions or similar regulatory authorities appointed under or pursuant to those statutes; "**Canadian securities legislation**" means the securities legislation in any province or territory of Canada and includes the *Securities Act*; and "**U.S. securities**

**legislation**" means the securities legislation in the federal jurisdiction of the United States and in any state of the United States and includes the *Securities Act* of 1933 and the *Securities Exchange Act* of 1934;

(13) "**Securities Transfer Act**" means the *Securities Transfer Act* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act; and

(14) "**special business**" has the meaning set out in Section 11.1.

### **Section 1.2 BCA and Interpretation Act Definitions Applicable**

The definitions in the BCA and the definitions and rules of construction in the *Interpretation Act*, with the necessary changes, so far as applicable, and unless the context requires otherwise, apply to these Articles as if they were an enactment.

### **Section 1.3 Conflicts or Inconsistencies**

If there is a conflict between a definition in the BCA and a definition or rule in the *Interpretation Act* relating to a term used in these Articles, the definition in the BCA will prevail in relation to the use of the term in these Articles. If there is a conflict or inconsistency between these Articles and the BCA, the BCA will prevail.

## **ARTICLE 2 SHARES AND SHARE CERTIFICATES**

### **Section 2.1 Authorized Share Structure**

The authorized share structure of the Company consists of shares of the class or classes and series, if any, described in the Notice of Articles of the Company.

### **Section 2.2 Form of Share Certificate**

Each share certificate issued by the Company must comply with, and be signed as required by, the BCA.

### **Section 2.3 Shareholder Entitled to Certificate or Acknowledgement**

Unless the shares of which the shareholder is the registered owner are uncertificated shares within the meaning of the BCA, each shareholder is entitled, without charge, to (a) one share certificate representing the shares of each class or series of shares registered in the shareholder's name or (b) a non-transferable written acknowledgement of the shareholder's right to obtain such a share certificate, provided that in respect of a share held jointly by several persons, the Company is not bound to issue more than one share certificate or acknowledgement and delivery of a share certificate or an acknowledgement to one of several joint shareholders or to a duly authorized agent of one of the joint shareholders will be sufficient delivery to all.

### **Section 2.4 Delivery by Mail**

Any share certificate or non-transferable written acknowledgement of a shareholder's right to obtain a share certificate may be sent to the shareholder by mail at the shareholder's registered address and neither the Company nor any director, officer or agent of the Company is liable for any loss to the shareholder because the share certificate or acknowledgement is lost in the mail or stolen.

### **Section 2.5 Replacement of Worn Out or Defaced Certificate or Acknowledgement**

If the Company is satisfied that a share certificate or a non-transferable written acknowledgement of the shareholder's right to obtain a share certificate is worn out or defaced, it must, on production to it of

the share certificate or acknowledgement, as the case may be, and on such other terms, if any, as it thinks fit:

- (1) order the share certificate or acknowledgement, as the case may be, to be cancelled; and
- (2) issue a replacement share certificate or acknowledgement, as the case may be.

### **Section 2.6 Replacement of Lost, Destroyed or Wrongfully Taken Certificate**

If a person entitled to a share certificate claims that the share certificate has been lost, destroyed or wrongfully taken, the Company must issue a new share certificate, if that person:

- (1) so requests before the Company has notice that the share certificate has been acquired by a protected purchaser;
- (2) provides the Company with an indemnity bond sufficient in the Company's judgement to protect the Company from any loss that the Company may suffer by issuing a new certificate; and
- (3) satisfies any other reasonable requirements imposed by the Company.

A person entitled to a share certificate may not assert against the Company a claim for a new share certificate where a share certificate has been lost, apparently destroyed or wrongfully taken if that person fails to notify the Company of that fact within a reasonable time after that person has notice of it and the Company registers a transfer of the shares represented by the certificate before receiving a notice of the loss, apparent destruction or wrongful taking of the share certificate.

### **Section 2.7 Recovery of New Share Certificate**

If, after the issue of a new share certificate, a protected purchaser of the original share certificate presents the original share certificate for the registration of transfer, then in addition to any rights under any indemnity bond, the Company may recover the new share certificate from a person to whom it was issued or any person taking under that person other than a protected purchaser.

### **Section 2.8 Splitting Share Certificates**

If a shareholder surrenders a share certificate to the Company with a written request that the Company issue in the shareholder's name two or more share certificates, each representing a specified number of shares and in the aggregate representing the same number of shares as represented by the share certificate so surrendered, the Company must cancel the surrendered share certificate and issue replacement share certificates in accordance with that request.

### **Section 2.9 Certificate Fee**

There must be paid to the Company, in relation to the issue of any share certificate under Section 2.5, Section 2.6, or Section 2.8, the amount, if any and which must not exceed the amount prescribed under the BCA, determined by the board.

### **Section 2.10 Recognition of Trusts**

Except as required by law or statute or these Articles, no person will be recognized by the Company as holding any share upon any trust, and the Company is not bound by or compelled in any way to recognize (even when having notice thereof) any equitable, contingent, future or partial interest in any share or fraction of a share or (except as required by law or statute or these Articles or as ordered by a court of competent jurisdiction) any other rights in respect of any share except an absolute right to the entirety thereof in the shareholder.

## **ARTICLE 3 ISSUE OF SHARES**

### **Section 3.1 Board Authorized**

Subject to the BCA and the rights, if any, of the holders of issued shares of the Company, the Company may issue, allot, sell or otherwise dispose of the unissued shares, and issued shares held by the Company, at the times, to the persons, including directors, in the manner, on the terms and conditions and for the issue prices (including any premium at which shares with par value may be issued) that the board may determine. The issue price for a share with par value must be equal to or greater than the par value of the share.

### **Section 3.2 Commissions and Discounts**

The Company may at any time pay a reasonable commission or allow a reasonable discount to any person in consideration of that person purchasing or agreeing to purchase shares of the Company from the Company or any other person or procuring or agreeing to procure purchasers for shares of the Company.

### **Section 3.3 Brokerage**

The Company may pay such brokerage fee or other consideration as may be lawful for or in connection with the sale or placement of its securities.

### **Section 3.4 Conditions of Issue**

Except as provided for by the BCA, no share may be issued until it is fully paid. A share is fully paid when:

- (1) consideration is provided to the Company for the issue of the share by one or more of the following:
  - (a) past services performed for the Company;
  - (b) property;
  - (c) money; and
- (2) the value of the consideration received by the Company equals or exceeds the issue price set for the share under Section 3.1.

### **Section 3.5 Share Purchase Warrants and Rights**

Subject to the BCA, the Company may issue share purchase warrants, options and rights upon such terms and conditions as the board determines, which share purchase warrants, options and rights may be issued alone or in conjunction with debentures, debenture stock, bonds, shares or any other securities issued or created by the Company from time to time.

## **ARTICLE 4 SHARE REGISTERS**

### **Section 4.1 Central Securities Register**

As required by and subject to the BCA, the Company must maintain a central securities register, which may be kept in electronic form. The board may, subject to the BCA, appoint an agent to maintain the central securities register. The board may also appoint one or more agents, including the agent which keeps the central securities register, as transfer agent for its shares or any class or series of its shares, as the case may be, and the same or another agent as registrar for its shares or such class or series

of its shares, as the case may be. The board may terminate such appointment of any agent at any time and may appoint another agent in its place.

#### **Section 4.2 Closing Register**

The Company must not at any time close its central securities register.

### **ARTICLE 5 SHARE TRANSFERS**

#### **Section 5.1 Registering Transfers**

Subject to Article 26, the BCA and the *Securities Transfer Act*, the Company must register a transfer of a share of the Company if either:

- (1) the Company or the transfer agent or registrar for the class or series of shares to be transferred has received:
  - (a) in the case where the Company has issued a share certificate in respect of the share to be transferred, that share certificate and a written instrument of transfer (which may be on a separate document or endorsed on the share certificate) made by the shareholder or other appropriate person or by an agent who has actual authority to act on behalf of that person;
  - (b) in the case of a share that is not represented by a share certificate (including an uncertificated share within the meaning of the BCA and including the case where the Company has issued a non-transferable written acknowledgement of the shareholder's right to obtain a share certificate in respect of the share to be transferred), a written instrument of transfer, made by the shareholder or other appropriate person or by an agent who has actual authority to act on behalf of that person; and
  - (c) such other evidence, if any, as the Company or the transfer agent or registrar for the class or series of shares to be transferred may require to prove the title of the transferor or the transferor's right to transfer the share, that the written instrument of transfer is genuine and authorized and that the transfer is rightful or to a protected purchaser; or
- (2) all the preconditions for a transfer of a share under the *Securities Transfer Act* have been met and the Company is required under the *Securities Transfer Act* to register the transfer.

#### **Section 5.2 Waivers of Requirements for Transfer**

The Company may waive any of the requirements set out in Section 5.1(1) and any of the preconditions referred to in Section 5.1(2).

#### **Section 5.3 Form of Instrument of Transfer**

The instrument of transfer in respect of any share of the Company must be either in the form, if any, on the back of the Company's share certificates or in any other form satisfactory to the Company or the transfer agent for the class or series of shares to be transferred.

#### **Section 5.4 Transferor Remains Shareholder**

Except to the extent that the BCA otherwise provides, the transferor of shares is deemed to remain the holder of the shares until the name of the transferee is entered in a securities register of the Company in respect of the transfer.

### **Section 5.5 Signing of Instrument of Transfer**

If a shareholder or other appropriate person or an agent who has actual authority to act on behalf of that person, signs an instrument of transfer in respect of shares registered in the name of the shareholder, the signed instrument of transfer constitutes a complete and sufficient authority to the Company and its directors, officers and agents to register the number of shares specified in the instrument of transfer or specified in any other manner, or, if no number is specified but share certificates are deposited with the instrument of transfer, all the shares represented by such share certificates:

- (1) in the name of the person named as transferee in that instrument of transfer; or
- (2) if no person is named as transferee in that instrument of transfer, in the name of the person on whose behalf the instrument is deposited for the purpose of having the transfer registered.

### **Section 5.6 Enquiry as to Title Not Required**

Neither the Company nor any director, officer or agent of the Company is bound to inquire into the title of the person named in the instrument of transfer as transferee or, if no person is named as transferee in the instrument of transfer, of the person on whose behalf the instrument is deposited for the purpose of having the transfer registered or is liable for any claim related to registering the transfer by the shareholder or by any intermediate owner or holder of the shares, of any interest in the shares, of any share certificate representing such shares or of any written acknowledgement of a right to obtain a share certificate for such shares.

### **Section 5.7 Transfer Fee**

Subject to the applicable rules of any stock exchange on which the shares of the Company may be listed, there must be paid to the Company, in relation to the registration of any transfer, the amount, if any, determined by the board.

## **ARTICLE 6 TRANSMISSION OF SHARES**

### **Section 6.1 Legal Personal Representative Recognized on Death**

In the case of the death of a shareholder, the legal personal representative of the shareholder, or in the case of shares registered in the shareholder's name and the name of another person in joint tenancy, the surviving joint holder, will be the only person recognized by the Company as having any title to the shareholder's interest in the shares. Before recognizing a person as a legal personal representative of a shareholder, the board may require the original grant of probate or letters of administration or a court certified copy of them or the original or a court certified or authenticated copy of the grant of representation, will, order or other instrument or other evidence of the death under which title to the shares or securities is claimed to vest.

### **Section 6.2 Rights of Legal Personal Representative**

The legal personal representative of a shareholder has the rights, privileges and obligations that attach to the shares held by the shareholder, including the right to transfer the shares in accordance with these Articles and applicable securities legislation, if appropriate evidence of appointment or incumbency within the meaning of the *Securities Transfer Act* has been deposited with the Company. This Section 6.2 does not apply in the case of the death of a shareholder with respect to shares registered in the shareholder's name and the name of another person in joint tenancy.

**ARTICLE 7  
ACQUISITION OF COMPANY'S SHARES**

**Section 7.1 Company Authorized to Purchase or Otherwise Acquire Shares**

Subject to Section 7.2, the special rights or restrictions attached to the shares of any class or series of shares, the BCA and applicable securities legislation, the Company may, if authorized by the board, purchase or otherwise acquire any of its shares at the price and upon the terms determined by the board.

**Section 7.2 No Purchase, Redemption or Other Acquisition When Insolvent**

The Company must not make a payment or provide any other consideration to purchase, redeem or otherwise acquire any of its shares if there are reasonable grounds for believing that:

- (1) the Company is insolvent; or
- (2) making the payment or providing the consideration would render the Company insolvent.

**Section 7.3 Sale and Voting of Purchased, Redeemed or Otherwise Acquired Shares**

If the Company retains a share redeemed, purchased or otherwise acquired by it, the Company may sell, gift or otherwise dispose of the share, but, while such share is held by the Company, it:

- (1) is not entitled to vote the share at a meeting of its shareholders;
- (2) must not pay a dividend in respect of the share; and
- (3) must not make any other distribution in respect of the share.

**ARTICLE 8  
BORROWING POWERS**

**Section 8.1 Borrowing Powers**

The Company, if authorized by the board, may:

- (1) borrow money in the manner and amount, on the security, from the sources and on the terms and conditions that the board considers appropriate;
- (2) issue bonds, debentures and other debt obligations either outright or as security for any liability or obligation of the Company or any other person and at such discounts or premiums and on such other terms as the board considers appropriate;
- (3) guarantee the repayment of money by any other person or the performance of any obligation of any other person; and
- (4) mortgage, charge, whether by way of specific or floating charge, grant a security interest in, or give other security on, the whole or any part of the present and future assets and undertaking of the Company.

**ARTICLE 9  
ALTERATIONS**

**Section 9.1 Alteration of Authorized Share Structure**

Subject to Section 9.2, the special rights or restrictions attached to the shares of any class or series of shares and the BCA, the Company may:

- (1) by special resolution;
  - (a) create one or more classes or series of shares or, if none of the shares of a class or series of shares are allotted or issued, eliminate that class or series of shares;
  - (b) increase, reduce or eliminate the maximum number of shares that the Company is authorized to issue out of any class or series of shares or establish a maximum number of shares that the Company is authorized to issue out of any class or series of shares for which no maximum is established;
  - (c) subdivide or consolidate all or any of its unissued, or fully paid issued, shares;
  - (d) if the Company is authorized to issue shares of a class of shares with par value:
    - (i) decrease the par value of those shares; or
    - (ii) if none of the shares of that class of shares are allotted or issued, increase the par value of those shares;
  - (e) change all or any of its unissued, or fully paid issued, shares with par value into shares without par value or any of its unissued shares without par value into shares with par value;
  - (f) alter the identifying name of any of its shares; or
  - (g) otherwise alter its shares or authorized share structure when required or permitted to do so by the BCA;

and, if applicable, alter its Notice of Articles and, if applicable, its Articles, accordingly; or

- (2) by directors' resolution, subdivide or consolidate all or any of its unissued, or fully paid issued, shares and if applicable, alter its Notice of Articles and, if applicable, its Articles accordingly.

### **Section 9.2 Special Rights or Restrictions**

Subject to the special rights or restrictions attached to the shares of any class or series of shares and the BCA, the Company may by special resolution:

- (1) create special rights or restrictions for, and attach those special rights or restrictions to, the shares of any class or series of shares, whether or not any or all of those shares have been issued; or
- (2) vary or delete any special rights or restrictions attached to the shares of any class or series of shares, whether or not any or all of those shares have been issued;

and alter its Articles and Notice of Articles accordingly.

### **Section 9.3 No Interference with Class or Series Rights without Consent**

A right or special right attached to issued shares must not be prejudiced or interfered with under the BCA, the Notice of Articles or these Articles unless the holders of shares of the class or series of shares to which the right or special right is attached consent by a special separate resolution of the holders of such class or series of shares.

#### **Section 9.4 Change of Name**

The Company may by directors' resolution or ordinary resolution authorize an alteration to its Notice of Articles in order to change its name.

#### **Section 9.5 Other Alterations**

If the BCA does not specify the type of resolution and these Articles do not specify another type of resolution, the Company may by ordinary resolution alter these Articles.

### **ARTICLE 10 MEETINGS OF SHAREHOLDERS**

#### **Section 10.1 Annual General Meetings**

Unless an annual general meeting is deferred or waived in accordance with the BCA, the Company must hold its first annual general meeting within 18 months after the date on which it was incorporated or otherwise recognized, and after that must hold an annual general meeting at least once in each calendar year and not more than 15 months after the last annual reference date at such time and place, either in or outside British Columbia, as may be determined by the board.

#### **Section 10.2 Resolution Instead of Annual General Meeting**

If all the shareholders who are entitled to vote at an annual general meeting consent by a unanimous resolution to all of the business that is required to be transacted at that annual general meeting, the annual general meeting is deemed to have been held on the date of the unanimous resolution. The shareholders must, in any unanimous resolution passed under this Section 10.2, select as the Company's annual reference date a date that would be appropriate for the holding of the applicable annual general meeting.

#### **Section 10.3 Calling of Meetings of Shareholders**

The board may, at any time, call a meeting of shareholders, to be held at such time and at such place, either in or outside British Columbia, as may be determined by the board.

#### **Section 10.4 Electronic Meetings**

The board may determine that a meeting of shareholders shall be held entirely by means of telephone, electronic or other communications facilities that permit all participants to communicate with each other during the meeting. A meeting of shareholders may also be held at which some, but not necessarily all, persons entitled to attend may participate by means of such communications facilities, if the board determines to make them available. A person participating in a meeting by such means is deemed to be present at the meeting.

#### **Section 10.5 Notice for Meetings of Shareholders**

The Company must send notice of the date, time and location of any meeting of shareholders (including, without limitation, any notice specifying the intention to propose a resolution as an exceptional resolution, a special resolution or a special separate resolution, and any notice to consider approving an amalgamation into a foreign jurisdiction, an arrangement or the adoption of an amalgamation agreement, and any notice of a general meeting, class meeting or series meeting), in the manner provided in these Articles, or in such other manner, if any, as may be prescribed by ordinary resolution (whether previous notice of the resolution has been given or not), to each shareholder entitled to attend the meeting, to each director and to the auditor of the Company, unless these Articles otherwise provide, at least the following number of days before the meeting:

- (1) if and for so long as the Company is a public company, 21 days;
- (2) otherwise, 10 days.

### **Section 10.6 Record Date for Notice**

The board may set a date as the record date for the purpose of determining shareholders entitled to notice of any meeting of shareholders. The record date must not precede the date on which the meeting is to be held by more than two months or, in the case of a general meeting requisitioned by shareholders under the BCA, by more than four months. The record date must not precede the date on which the meeting is held by fewer than:

- (1) if and for so long as the Company is a public company, 21 days;
- (2) otherwise, 10 days.

If no record date is set, the record date is 5 p.m. on the day immediately preceding the first date on which the notice is sent or, if no notice is sent, the beginning of the meeting.

### **Section 10.7 Record Date for Voting**

The board may set a date as the record date for the purpose of determining shareholders entitled to vote at any meeting of shareholders. The record date must not precede the date on which the meeting is to be held by more than two months or, in the case of a general meeting requisitioned by shareholders under the BCA, by more than four months. If no record date is set, the record date is 5 p.m. on the day immediately preceding the first date on which the notice is sent or, if no notice is sent, the beginning of the meeting.

### **Section 10.8 Failure to Give Notice and Waiver of Notice**

The accidental omission to send notice of any meeting of shareholders to, or the non-receipt of any notice by, any of the persons entitled to notice does not invalidate any proceedings at that meeting. Any person entitled to notice of a meeting of shareholders may, in writing or otherwise, waive that entitlement or agree to reduce the period of that notice. Attendance of a person at a meeting of shareholders is a waiver of entitlement to notice of the meeting unless that person attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

### **Section 10.9 Notice of Special Business at Meetings of Shareholders**

If a meeting of shareholders is to consider special business within the meaning of Section 11.1, the notice of meeting must:

- (1) state the general nature of the special business; and
- (2) if the special business includes considering, approving, ratifying, adopting or authorizing any document or the signing of or giving of effect to any document, have attached to it a copy of the document or state that a copy of the document will be available for inspection by shareholders:
  - (a) at the Company's records office, or at such other reasonably accessible location in British Columbia as is specified in the notice; and
  - (b) during statutory business hours on any one or more specified days before the day set for the holding of the meeting.

### **Section 10.10 Class Meetings and Series Meetings of Shareholders**

Unless otherwise specified in these Articles, the provisions of these Articles relating to a meeting of shareholders will apply with the necessary changes and so far as they are applicable, to a class meeting or series meeting of shareholders holding a particular class or series of shares.

### **Section 10.11 Notice of Dissent Rights**

The Company must send to each of its shareholders, whether or not their shares carry the right to vote, a notice of any meeting of shareholders at which a resolution entitling shareholders to dissent is to be considered specifying the date of the meeting and containing a statement advising of the right to send a notice of dissent together with a copy of the proposed resolution at least the following number of days before the meeting:

- (1) if and for so long as the Company is a public company, 21 days;
- (2) otherwise, 10 days.

## **ARTICLE 11 PROCEEDINGS AT MEETINGS OF SHAREHOLDERS**

### **Section 11.1 Special Business**

At a meeting of shareholders, the following business is special business:

- (1) at a meeting of shareholders that is not an annual general meeting, all business is special business except business relating to the conduct of or voting at the meeting;
- (2) at an annual general meeting, all business is special business except for the following:
  - (a) business relating to the conduct of or voting at the meeting;
  - (b) consideration of any financial statements of the Company presented to the meeting;
  - (c) consideration of any reports of the board or auditor;
  - (d) the setting or changing of the number of directors;
  - (e) the election or appointment of directors;
  - (f) the appointment of an auditor;
  - (g) the setting of the remuneration of an auditor;
  - (h) business arising out of a report of the board not requiring the passing of a special resolution or an exceptional resolution;
  - (i) any non-binding advisory vote; and
  - (j) any other business which, under these Articles or the BCA, may be transacted at a meeting of shareholders without prior notice of the business being given to the shareholders.

### **Section 11.2 Special Majority**

The majority of votes required for the Company to pass a special resolution at a general meeting of shareholders is two-thirds of the votes cast on the resolution.

### **Section 11.3 Quorum**

Subject to the special rights or restrictions attached to the shares of any class or series of shares, a quorum for the transaction of business at a meeting of shareholders is present if shareholders who, in the aggregate, hold at least 5% of the issued shares entitled to be voted at the meeting are present in person or represented by proxy, irrespective of the number of persons actually present at the meeting.

### **Section 11.4 Persons Entitled to Attend Meeting**

In addition to those persons who are entitled to vote at a meeting of shareholders, the only other persons entitled to be present at the meeting are the directors, the officers, any lawyer for the Company, the auditor of the Company, any persons invited to be present at the meeting by the board or by the chair of the meeting and any other persons who, although not entitled to vote, are entitled or required under the BCA or these Articles to be present at the meeting; but if any of those persons does attend the meeting, that person is not to be counted in the quorum and is not entitled to vote at the meeting unless that person is a shareholder or proxy holder entitled to vote at the meeting.

### **Section 11.5 Requirement of Quorum**

No business, other than the election of a chair of the meeting and the adjournment of the meeting, may be transacted at any meeting of shareholders unless a quorum of shareholders entitled to vote is present at the commencement of the meeting, but such quorum need not be present throughout the meeting.

### **Section 11.6 Lack of Quorum**

If, within one-half hour from the time set for holding a meeting of shareholders, a quorum is not present:

- (1) in the case of a general meeting requisitioned by shareholders, the meeting is dissolved, and
- (2) in the case of any other meeting of shareholders, the meeting stands adjourned to the same day in the next week at the same time and place.

### **Section 11.7 Lack of Quorum at Succeeding Meeting**

If, at the meeting to which the meeting referred to in Section 11.6(2) was adjourned, a quorum is not present within one-half hour from the time set for holding the meeting, the person or persons present and being, or representing by proxy, one or more shareholders entitled to attend and vote at the meeting constitute a quorum.

### **Section 11.8 Chair**

The following individual is entitled to preside as chair at a meeting of shareholders:

- (1) the chair of the board, if any; or
- (2) if the chair of the board is absent or unwilling to act as chair of the meeting, the president, if any.

### **Section 11.9 Selection of Alternate Chair**

If, at any meeting of shareholders, there is no chair of the board or president present within 15 minutes after the time set for holding the meeting, or if the chair of the board and the president are unwilling to act as chair of the meeting, or if the chair of the board and the president have advised the secretary, if any, or any director present at the meeting, that they will not be present at the meeting, the directors present must choose one of their number to be chair of the meeting. If all of the directors present decline to take the chair or fail to so choose or if no director is present, the shareholders entitled to vote at the meeting who are present in person or by proxy may choose any person present at the meeting to chair the meeting.

### **Section 11.10 Adjournments**

The chair of a meeting of shareholders may, and if so directed by the meeting must, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

### **Section 11.11 Notice of Adjourned Meeting**

It is not necessary to give any notice of an adjourned meeting of shareholders or of the business to be transacted at an adjourned meeting of shareholders except that, when a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of the original meeting.

### **Section 11.12 Electronic Voting**

Any vote at a meeting of shareholders may be held entirely or partially by means of telephonic, electronic or other communications facilities if the directors determine to make them available whether or not persons entitled to attend participate in the meeting by means of telephonic, electronic or other communications facilities.

### **Section 11.13 Decisions by Show of Hands or Poll**

Subject to the BCA, every motion put to a vote at a meeting of shareholders will be decided on a show of hands or the functional equivalent of a show of hands by means of telephonic, electronic or other communications facilities, unless a poll, before or on the declaration of the result of the vote by show of hands (or its functional equivalent), is directed by the chair or demanded by any shareholder entitled to vote who is present in person or by proxy.

### **Section 11.14 Declaration of Result**

The chair of a meeting of shareholders must declare to the meeting the decision on every question in accordance with the result of the show of hands (or its functional equivalent) or the poll, as the case may be, and that decision must be entered in the minutes of the meeting. A declaration of the chair that a resolution is carried by the necessary majority or is defeated is, unless a poll is directed by the chair or demanded under Section 11.13, conclusive evidence without proof of the number or proportion of the votes recorded in favour of or against the resolution.

### **Section 11.15 Motion Need Not be Seconded**

No motion proposed at a meeting of shareholders need be seconded unless the chair of the meeting rules otherwise, and the chair of any meeting of shareholders is entitled to propose or second a motion.

### **Section 11.16 Casting Vote**

In the case of an equality of votes, the chair of a meeting of shareholders does not, either on a show of hands or on a poll, have a second or casting vote in addition to the vote or votes to which the chair may be entitled as a shareholder.

### **Section 11.17 Manner of Taking Poll**

Subject to Section 11.18, if a poll is duly demanded at a meeting of shareholders:

- (1) the poll must be taken:
  - (a) at the meeting, or within seven days after the date of the meeting, as the chair of the meeting directs; and
  - (b) in the manner, at the time and at the place that the chair of the meeting directs;

- (2) the result of the poll is deemed to be the decision of the meeting at which the poll is demanded;  
and
- (3) the demand for the poll may be withdrawn by the person who demanded it.

#### **Section 11.18 Demand for Poll on Adjournment**

A poll demanded at a meeting of shareholders on a question of adjournment must be taken immediately at the meeting.

#### **Section 11.19 Chair Must Resolve Dispute**

In the case of any dispute as to the admission or rejection of a vote given on a poll, the chair of the meeting must determine the dispute, and his or her determination made in good faith is final and conclusive.

#### **Section 11.20 Casting of Votes**

On a poll, a shareholder entitled to more than one vote need not cast all the votes in the same way.

#### **Section 11.21 No Demand for Poll on Election of Chair**

No poll may be demanded in respect of the vote by which a chair of a meeting of shareholders is elected.

#### **Section 11.22 Demand for Poll Not to Prevent Continuance of Meeting**

The demand for a poll at a meeting of shareholders does not, unless the chair of the meeting so rules, prevent the continuation of the meeting for the transaction of any business other than the question on which a poll has been demanded.

#### **Section 11.23 Retention of Ballots and Proxies**

The Company must, for at least three months after a meeting of shareholders, keep each ballot cast on a poll and each proxy voted at the meeting, and, during that period, make them available for inspection during normal business hours by any shareholder or proxyholder entitled to vote at the meeting. At the end of such three month period, the Company may destroy such ballots and proxies.

## **ARTICLE 12 VOTES OF SHAREHOLDERS**

#### **Section 12.1 Number of Votes by Shareholder or by Shares**

Subject to any special rights or restrictions attached to any shares and to the restrictions imposed on joint shareholders under Section 12.3:

- (1) on a vote by show of hands (or its functional equivalent), every person present who is a shareholder or proxy holder and entitled to vote on the matter has one vote; and
- (2) on a poll, every shareholder entitled to vote on the matter has one vote in respect of each share entitled to be voted on the matter and held by that shareholder and may exercise that vote either in person or by proxy.

#### **Section 12.2 Votes of Persons in Representative Capacity**

A person who is not a shareholder may vote at a meeting of shareholders, whether on a show of hands or on a poll, and may appoint a proxy holder to act at the meeting, if, before doing so, the person satisfies the chair of the meeting, or the board, that the person is a legal personal representative or a trustee in bankruptcy for a shareholder who is entitled to vote at the meeting.

### **Section 12.3 Votes by Joint Holders**

If there are joint shareholders registered in respect of any share:

- (1) any one of the joint shareholders may vote at any meeting of shareholders, personally or by proxy, in respect of the share as if that joint shareholder were solely entitled to it; or
- (2) if more than one of the joint shareholders is present at any meeting of shareholders, personally or by proxy, and more than one of them votes in respect of that share, then only the vote of the joint shareholder present whose name stands first on the central securities register in respect of the share will be counted.

### **Section 12.4 Legal Personal Representatives as Joint Shareholders**

Two or more legal personal representatives of a shareholder in whose sole name any share is registered are, for the purposes of Section 12.3, deemed to be joint shareholders registered in respect of that share.

### **Section 12.5 Representative of a Corporate Shareholder**

If a corporation that is not a subsidiary of the Company is a shareholder, that corporation may appoint a person to act as its representative at any meeting of shareholders of the Company, and:

- (1) for that purpose, the instrument appointing a representative must be received:
  - (a) at the registered office of the Company or at any other place specified, in the notice calling the meeting, for the receipt of proxies, at least the number of business days specified in the notice for the receipt of proxies, or if no number of days is specified, two business days before the day set for the holding of the meeting or any adjourned meeting; or
  - (b) at the meeting or any adjourned meeting, by the chair of the meeting or adjourned meeting or by a person designated by the chair of the meeting or adjourned meeting;
- (2) if a representative is appointed under this Section 12.5:
  - (a) the representative is entitled to exercise in respect of and at that meeting the same rights on behalf of the corporation that the representative represents as that corporation could exercise if it were a shareholder who is an individual, including, without limitation, the right to appoint a proxy holder; and
  - (b) the representative, if present at the meeting, is to be counted for the purpose of forming a quorum and is deemed to be a shareholder present in person at the meeting.

Evidence of the appointment of any such representative may be sent to the Company by written instrument, fax or any other method of transmitting legibly recorded messages.

### **Section 12.6 When Proxy Holder Need Not Be Shareholder**

A person must not be appointed as a proxy holder unless the person is a shareholder, although a person who is not a shareholder may be appointed as a proxy holder if:

- (1) the person appointing the proxy holder is a corporation or a representative of a corporation appointed under Section 12.5;
- (2) the Company has at the time of the meeting for which the proxy holder is to be appointed only one shareholder entitled to vote at the meeting;

- (3) the shareholders present in person or by proxy at and entitled to vote at the meeting for which the proxy holder is to be appointed, by a resolution on which the proxy holder is not entitled to vote but in respect of which the proxy holder is to be counted in the quorum, permit the proxy holder to attend and vote at the meeting; or
- (4) the Company is a public company.

### **Section 12.7 When Proxy Provisions Do Not Apply to the Company**

If and for so long as the Company is a public company, Section 12.8 to Section 12.16 apply only insofar as they are not inconsistent with any Canadian securities legislation applicable to the Company, any U.S. securities legislation applicable to the Company or any rules of an exchange on which securities of the Company are listed.

### **Section 12.8 Appointment of Proxy Holders**

Every shareholder of the Company, including a corporation that is a shareholder but not a subsidiary of the Company, entitled to vote at a meeting of shareholders may, by proxy, appoint one or more proxy holders to attend and act at the meeting in the manner, to the extent and with the powers conferred by the proxy. The instructing of proxy holders may be carried out by means of telephonic, electronic or other communications facility in addition to or in substitution for instructing proxy holders by mail.

### **Section 12.9 Alternate Proxy Holders**

A shareholder may appoint one or more alternate proxy holders to act in the place of an absent proxy holder.

### **Section 12.10 Deposit of Proxy**

Subject to Section 12.13 and Section 12.15, a proxy for a meeting of shareholders must:

- (1) be received at the registered office of the Company or at any other place specified, in the notice calling the meeting, for the receipt of proxies, at least the number of business days specified in the notice, or if no number of days is specified, two business days before the day set for the holding of the meeting or any adjourned meeting; or
- (2) unless the notice provides otherwise, be received, at the meeting or any adjourned meeting, by the chair of the meeting or adjourned meeting or by a person designated by the chair of the meeting or adjourned meeting.

A proxy may be sent to the Company by written instrument, fax or any other method of transmitting legibly recorded messages or by using such available telephone or internet voting services as may be approved by the board.

### **Section 12.11 Validity of Proxy Vote**

A vote given in accordance with the terms of a proxy is valid notwithstanding the death or incapacity of the shareholder giving the proxy and despite the revocation of the proxy or the revocation of the authority under which the proxy is given, unless notice in writing of that death, incapacity or revocation is received:

- (1) at the registered office of the Company, at any time up to and including the last business day before the day set for the holding of the meeting or any adjourned meeting at which the proxy is to be used; or
- (2) at the meeting or any adjourned meeting, by the chair of the meeting or adjourned meeting, before any vote in respect of which the proxy has been given has been taken.

**Section 12.12 Form of Proxy**

A proxy, whether for a specified meeting or otherwise, must be either in the following form or in any other form approved by the board or the chair of the meeting:

[name of company]

(the "Company")

The undersigned, being a shareholder of the Company, hereby appoints [name] or, failing that person, [name], as proxy holder for the undersigned to attend, act and vote for and on behalf of the undersigned at the meeting of shareholders of the Company to be held on [month, day, year] and at any adjournment of that meeting.

Number of shares in respect of which this proxy is given (if no number is specified, then this proxy is given in respect of all shares registered in the name of the undersigned):

\_\_\_\_\_

\_\_\_\_\_  
Signed [month, day, year]

\_\_\_\_\_  
[Signature of shareholder]

\_\_\_\_\_  
[Name of shareholder - printed]

**Section 12.13 Revocation of Proxy**

Subject to Section 12.14 and Section 12.15, every proxy may be revoked by an instrument in writing that is received:

- (1) at the registered office of the Company at any time up to and including the last business day before the day set for the holding of the meeting or any adjourned meeting at which the proxy is to be used; or
- (2) at the meeting or any adjourned meeting, by the chair of the meeting or adjourned meeting, before any vote in respect of which the proxy has been given has been taken.

**Section 12.14 Revocation of Proxy Must Be Signed**

An instrument referred to in Section 12.13 must be signed as follows:

- (1) if the shareholder for whom the proxy holder is appointed is an individual, the instrument must be signed by the shareholder or his or her legal personal representative or trustee in bankruptcy; or
- (2) if the shareholder for whom the proxy holder is appointed is a corporation, the instrument must be signed by the corporation or by a representative appointed for the corporation under Section 12.5.

### **Section 12.15 Chair May Determine Validity of Proxy.**

The chair of any meeting of shareholders may, at his or her sole discretion, determine whether or not a proxy deposited for use at the meeting, which may not strictly comply with the requirements of this Article 12 as to form, execution, accompanying documentation, time of filing or otherwise, shall be valid for use at the meeting, and any such determination made in good faith shall be final, conclusive and binding upon the meeting.

### **Section 12.16 Production of Evidence of Authority to Vote**

The board or the chair of any meeting of shareholders may, but need not, at any time (including before, at or subsequent to the meeting), inquire into the authority of any person to vote at the meeting and may, but need not, demand from that person production of evidence for the purposes of determining a person's share ownership as at the relevant record date and the authority to vote.

## **ARTICLE 13 DIRECTORS**

### **Section 13.1 Number of Directors**

- (1) The number of directors is the number determined from time to time by directors' resolution.
- (2) If the number of directors has not been determined as provided in paragraph (1), the number of directors is equal to the number of directors designated as directors in the Notice of Articles that applied when the Company was recognized under the BCA or the number of directors holding office immediately following the most recent election or appointment of directors, whether at an annual or special general meeting of the shareholders, by a consent resolution of shareholders, or by the directors pursuant to Section 14.4, Section 14.5 or Section 14.8.
- (3) Notwithstanding paragraph (2), the minimum number of directors is one or, if the company is a public company, three.

### **Section 13.2 Change in Number of Directors**

If the number of directors is set under Section 13.1(1):

- (1) the shareholders may elect or appoint the directors needed to fill any vacancies in the board of directors up to that number; and
- (2) if the shareholders do not elect or appoint the directors needed to fill any vacancies in the board of directors up to that number at the first meeting of shareholders following the setting of that number, then the board, subject to Section 14.8, may appoint, or the shareholders may elect or appoint, directors to fill those vacancies.

No decrease in the number of directors will shorten the term of an incumbent director.

### **Section 13.3 Board's Acts Valid Despite Vacancy**

An act or proceeding of the board is not invalid merely because fewer than the number of directors set or otherwise required under these Articles is in office.

### **Section 13.4 Qualifications of Directors**

A director is not required to hold a share of the Company as qualification for his or her office but must be qualified as required by the BCA to become, act or continue to act as a director.

### **Section 13.5 Remuneration of Directors**

The directors are entitled to the remuneration for acting as directors, if any, as the board may from time to time determine. If the board so decides, the remuneration of the directors, if any, will be determined by the shareholders. That remuneration may be in addition to any salary or other remuneration paid to any officer or employee of the Company as such, who is also a director.

### **Section 13.6 Reimbursement of Expenses of Directors**

The Company must reimburse each director for the reasonable expenses that he or she may incur in and about the business of the Company.

### **Section 13.7 Special Remuneration for Directors**

If any director performs any professional or other services for the Company that in the opinion of the board are outside the ordinary duties of a director, or if any director is otherwise specially occupied in or about the Company's business, he or she may be paid remuneration fixed by the board, or, at the option of that director, fixed by ordinary resolution, and such remuneration may be either in addition to, or in substitution for, any other remuneration that he or she may be entitled to receive.

### **Section 13.8 Gratuity, Pension or Allowance on Retirement of Director**

Unless otherwise determined by ordinary resolution, the board on behalf of the Company may pay a gratuity or pension or allowance on retirement to any director who has held any salaried office or place of profit with the Company or to his or her spouse or dependants and may make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance.

## **ARTICLE 14 ELECTION AND REMOVAL OF DIRECTORS**

### **Section 14.1 Election at Annual General Meeting**

At every annual general meeting and in every unanimous resolution contemplated by Section 10.2:

- (1) the shareholders entitled to vote at the annual general meeting for the election of directors must elect, or in the unanimous resolution appoint, a board of directors consisting of the number of directors for the time being set under these Articles; and
- (2) all the directors cease to hold office immediately before the election or appointment of directors under paragraph (1) but are eligible for re-election or re-appointment.

### **Section 14.2 Consent to be a Director**

No election, appointment or designation of an individual as a director is valid unless:

- (1) that individual consents to be a director in the manner provided for in the BCA;
- (2) that individual is elected or appointed at a meeting at which the individual is present and the individual does not refuse, at the meeting, to be a director; or
- (3) with respect to first directors, the designation is otherwise valid under the BCA.

### **Section 14.3 Failure to Elect or Appoint Directors**

If:

- (1) the Company fails to hold an annual general meeting, and all the shareholders who are entitled to vote at an annual general meeting fail to pass the unanimous resolution contemplated by

Section 10.2, on or before the date by which the annual general meeting is required to be held under the BCA; or

- (2) the shareholders fail, at the annual general meeting or in the unanimous resolution contemplated by Section 10.2, to elect or appoint any directors;

then each director then in office continues to hold office until the earlier of:

- (3) when his or her successor is elected or appointed; and
- (4) when he or she otherwise ceases to hold office under the BCA or these Articles.

#### **Section 14.4 Places of Retiring Directors Not Filled**

If, at any meeting of shareholders at which there should be an election of directors, the places of any of the retiring directors are not filled by that election, those retiring directors who are not re-elected and who are asked by the newly elected directors to continue in office will, if willing to do so, continue in office to complete the number of directors for the time being set pursuant to these Articles until further new directors are elected at a meeting of shareholders convened for that purpose.

#### **Section 14.5 Board May Fill Casual Vacancies**

Any casual vacancy occurring in the board of directors may be filled by the remaining directors. For greater certainty, the appointment of a director to fill a casual vacancy as contemplated by this section is not the appointment of an additional director for the purposes of Section 14.8.

#### **Section 14.6 Remaining Directors' Power to Act**

The board may act notwithstanding any vacancy in the board of directors, but if the Company has fewer directors in office than the number set pursuant to these Articles as the quorum of directors, the board may only act for the purpose of:

- (1) appointing directors up to that number; or
- (2) calling a meeting of shareholders for the purpose of filling any vacancies on the board of directors or, subject to the BCA, for any other purpose.

#### **Section 14.7 Shareholders May Fill Vacancies**

If the Company has no directors or fewer directors in office than the number set pursuant to these Articles as the quorum of directors, the shareholders may elect or appoint directors to fill any vacancies on the board of directors.

#### **Section 14.8 Additional Directors**

Notwithstanding Section 13.1 and Section 13.2, between annual general meetings or unanimous resolutions contemplated by Section 10.2, the board may appoint one or more additional directors, but the number of additional directors appointed under this Section 14.8 must not at any time exceed:

- (1) one-third of the number of first directors, if, at the time of the appointments, one or more of the first directors have not yet completed their first term of office; or
- (2) in any other case, one-third of the number of the current directors who were elected or appointed as directors other than under this Section 14.8.

Any director so appointed ceases to hold office immediately before the next election or appointment of directors under Section 14.1(1), but is eligible for re-election or re-appointment.

### **Section 14.9 Ceasing to be a Director**

A director ceases to be a director when:

- (1) the term of office of the director expires;
- (2) the director dies;
- (3) the director resigns as a director by notice in writing provided to the Company or a lawyer for the Company; or
- (4) the director is removed from office pursuant to Section 14.10 or Section 14.11.

### **Section 14.10 Removal of Director by Shareholders**

The Company may remove any director before the expiration of his or her term of office by special resolution. In that event, the shareholders may elect, or appoint by ordinary resolution, a director to fill the resulting vacancy. If the shareholders do not elect or appoint a director to fill the resulting vacancy contemporaneously with the removal, then the board may appoint or the shareholders may elect, or appoint by ordinary resolution, a director to fill that vacancy.

### **Section 14.11 Removal of Director by Directors**

The board may remove any director before the expiration of his or her term of office if the director is convicted of an indictable offence, or if the director ceases to be qualified to act as a director of a company in accordance with the BCA and does not promptly resign, and the board may appoint a director to fill the resulting vacancy.

## **ARTICLE 15 ALTERNATE DIRECTORS**

### **Section 15.1 Application**

The provisions of this Article 15 do not apply to the Company and its directors if and for so long as it is a public company.

### **Section 15.2 Appointment of Alternate Director**

Any director (an "**appointor**") may by notice in writing received by the Company appoint any person (an "**appointee**") who is qualified to act as a director to be his or her alternate to act in his or her place at meetings of the board or committees of the board at which the appointor is not present unless (in the case of an appointee who is not a director) the board has reasonably disapproved the appointment of such person as an alternate director and has given notice to that effect to his or her appointor within a reasonable time after the notice of appointment is received by the Company.

### **Section 15.3 Notice of Meetings**

Every alternate director so appointed is entitled to notice of meetings of the board and of committees of the board of which his or her appointor is a member and to attend and vote as a director at any such meetings at which his or her appointor is not present.

### **Section 15.4 Alternate for More Than One Director Attending Meetings**

A person may be appointed as an alternate director by more than one director, and an alternate director:

- (1) will be counted in determining the quorum for a meeting of the board once for each of his or her appointors and, in the case of an appointee who is also a director, once more in that capacity;

- (2) has a separate vote at a meeting of the board for each of his or her appointors and, in the case of an appointee who is also a director, an additional vote in that capacity;
- (3) will be counted in determining the quorum for a meeting of a committee of the board once for each of his or her appointors who is a member of that committee and, in the case of an appointee who is also a member of that committee as a director, once more in that capacity; and
- (4) has a separate vote at a meeting of a committee of the board for each of his or her appointors who is a member of that committee and, in the case of an appointee who is also a member of that committee as a director, an additional vote in that capacity.

#### **Section 15.5 Consent Resolutions**

Every alternate director, if authorized by the notice appointing him or her, may sign in place of his or her appointor any resolutions to be consented to in writing.

#### **Section 15.6 Alternate Director Not an Agent**

Every alternate director is deemed not to be the agent of his or her appointor.

#### **Section 15.7 Revocation of Appointment of Alternate Director**

An appointor may at any time, by notice in writing received by the Company, revoke the appointment of an alternate director appointed by him or her.

#### **Section 15.8 Ceasing to be an Alternate Director**

The appointment of an alternate director ceases when:

- (1) his or her appointor ceases to be a director and is not promptly re-elected or re-appointed;
- (2) the alternate director dies;
- (3) the alternate director resigns as an alternate director by notice in writing provided to the Company or a lawyer for the Company;
- (4) the alternate director ceases to be qualified to act as a director; or
- (5) his or her appointor revokes the appointment of the alternate director.

#### **Section 15.9 Remuneration and Expenses of Alternate Director**

The Company may reimburse an alternate director for the reasonable expenses that would be properly reimbursed if he or she were a director, and the alternate director is entitled to receive from the Company such proportion, if any, of the remuneration otherwise payable to the appointor as the appointor may from time to time direct.

### **ARTICLE 16 POWERS AND DUTIES OF THE BOARD**

#### **Section 16.1 Powers of Management**

The board must, subject to the BCA and these Articles, manage or supervise the management of the business and affairs of the Company and has the authority to exercise all such powers of the Company as are not, by the BCA or by these Articles, required to be exercised by the shareholders of the Company.

## **Section 16.2 Appointment of Attorney of Company**

The board may from time to time, by power of attorney or other instrument, under seal if so required by law, appoint any person to be the attorney of the Company for such purposes, and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under these Articles and excepting the power to fill vacancies in the board of directors, to remove a director, to change the membership of, or fill vacancies in, any committee of the board, to appoint or remove officers appointed by the board and to declare dividends) and for such period, and with such remuneration and subject to such conditions as the board may think fit. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorney as the board thinks fit. Any such attorney may be authorized by the board to sub-delegate all or any of the powers, authorities and discretions for the time being vested in him or her.

## **ARTICLE 17 INTERESTS OF DIRECTORS AND OFFICERS**

### **Section 17.1 Obligation to Account for Profits**

A director or senior officer who holds a disclosable interest (as that term is used in the BCA) in a contract or transaction into which the Company has entered or proposes to enter is liable to account to the Company for any profit that accrues to the director or senior officer under or as a result of the contract or transaction only if and to the extent provided in the BCA.

### **Section 17.2 Restrictions on Voting by Reason of Interest**

A director who holds a disclosable interest in a contract or transaction into which the Company has entered or proposes to enter is not entitled to vote on any directors' resolution to approve that contract or transaction, unless all the directors have a disclosable interest in that contract or transaction, in which case any or all of those directors may vote on such resolution.

### **Section 17.3 Interested Director Counted in Quorum**

A director who holds a disclosable interest in a contract or transaction into which the Company has entered or proposes to enter and who is present at the meeting of the board at which the contract or transaction is considered for approval may be counted in the quorum at the meeting whether or not the director votes on any or all of the resolutions considered at the meeting.

### **Section 17.4 Disclosure of Conflict of Interest or Property**

A director or senior officer who holds any office or possesses any property, right or interest that could result, directly or indirectly, in the creation of a duty or interest that materially conflicts with that individual's duty or interest as a director or senior officer, must disclose the nature and extent of the conflict as required by the BCA.

### **Section 17.5 Director Holding Other Office in the Company**

A director may hold any office or place of profit with the Company, other than the office of auditor of the Company, in addition to his or her office of director for the period and on the terms (as to remuneration or otherwise) that the board may determine.

### **Section 17.6 No Disqualification**

No director or intended director is disqualified by his or her office from contracting with the Company either with regard to the holding of any office or place of profit the director holds with the Company or as vendor, purchaser or otherwise, and no contract or transaction entered into by or on behalf of the Company in which a director is in any way interested is liable to be voided for that reason.

### **Section 17.7 Professional Services by Director or Officer**

Subject to the BCA, a director or officer, or any person in which a director or officer has an interest, may act in a professional capacity for the Company, except as auditor of the Company, and the director or officer or such person is entitled to remuneration for professional services as if that director or officer were not a director or officer.

### **Section 17.8 Director or Officer in Other Corporations**

A director or officer may be or become a director, officer or employee of, or otherwise interested in, any person in which the Company may be interested as a shareholder or otherwise, and, subject to the BCA, the director or officer is not accountable to the Company for any remuneration or other benefits received by him or her as director, officer or employee of, or from his or her interest in, such other person.

## **ARTICLE 18 PROCEEDINGS OF THE BOARD**

### **Section 18.1 Meetings of the Board**

The board may meet for the conduct of business, adjourn and otherwise regulate its meetings as the board thinks fit, and meetings of the board held at regular intervals may be held at the place, at the time and on the notice, if any, as the board may from time to time determine.

### **Section 18.2 Voting at Meetings**

Questions arising at any meeting of the board are to be decided by a majority of votes and, in the case of an equality of votes, the chair of the meeting does not have a second or casting vote.

### **Section 18.3 Chair of Meetings**

The following individual is entitled to preside as chair at a meeting of the board:

- (1) the chair of the board, if any;
- (2) in the absence of the chair of the board, the president, if any, if the president is a director; or
- (3) any other director chosen by the directors present if:
  - (a) neither the chair of the board nor the president, if a director, is present at the meeting within 15 minutes after the time set for holding the meeting;
  - (b) neither the chair of the board nor the president, if a director, is willing to chair the meeting; or
  - (c) the chair of the board and the president, if a director, have advised the secretary, if any, or any other director, that they will not be present at the meeting.

### **Section 18.4 Meetings by Telephone or Other Communications Medium**

A director may participate in a meeting of the board or of any committee of the board:

- (1) in person;
- (2) by telephone; or
- (3) with the consent of all directors who wish to participate in the meeting, by other communications medium;

if all directors participating in the meeting, whether in person, or by telephone or other communications medium, are able to communicate with each other. A director who participates in a meeting in a manner contemplated by this Section 18.4 is deemed for all purposes of the BCA and these Articles to be present at the meeting and to have agreed to participate in that manner.

#### **Section 18.5 Calling of Meetings**

A director may, and the secretary or an assistant secretary of the Company, if any, on the request of a director must, call a meeting of the board at any time.

#### **Section 18.6 Notice of Meetings**

Other than for meetings held at regular intervals as determined by the board pursuant to Section 18.1 or as provided in Section 18.7, reasonable notice of each meeting of the board, specifying the place, day and time of that meeting must be given to each of the directors and the alternate directors by any method set out in Section 24.1 or orally or by telephone conversation with that director.

#### **Section 18.7 When Notice Not Required**

It is not necessary to give notice of a meeting of the board to a director or an alternate director if:

- (1) the meeting is to be held immediately following a meeting of shareholders at which that director was elected or appointed, or is the meeting of the board at which that director is appointed; or
- (2) the director or alternate director, as the case may be, has waived notice of the meeting.

#### **Section 18.8 Meeting Valid Despite Failure to Give Notice**

The accidental omission to give notice of any meeting of the board to, or the non-receipt of any notice by, any director or alternate director, does not invalidate any proceedings at that meeting.

#### **Section 18.9 Waiver of Notice of Meetings**

Any director or alternate director may send to the Company a document signed by him or her waiving notice of any past, present or future meeting or meetings of the board and may at any time withdraw that waiver with respect to meetings held after that withdrawal. After sending a waiver with respect to all future meetings and until that waiver is withdrawn, no notice of any meeting of the board need be given to that director or, unless the director otherwise requires by notice in writing to the Company, to his or her alternate director, and all meetings of the board so held are deemed not to be improperly called or constituted by reason of notice not having been given to such director or alternate director.

Attendance of a director or alternate director at a meeting of the board is a waiver of notice of the meeting, unless that director or alternate director attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

#### **Section 18.10 Quorum**

The quorum necessary for the transaction of the business at a meeting of the board may be set by the board and, if not so set, is deemed to be set at a majority of the number of directors then in office. If the number of directors is set at one, the quorum is deemed to be set at one director, and that director may constitute a meeting.

#### **Section 18.11 Validity of Acts Where Appointment Defective**

Subject to the BCA, an act of a director or officer is not invalid merely because of an irregularity in the election or appointment or a defect in the qualification of that director or officer.

### **Section 18.12 Consent Resolutions in Writing**

A resolution of the board or of any committee of the board may be passed without a meeting:

- (1) in all cases, if each of the directors entitled to vote on the resolution consents to it in writing; or
- (2) in the case of a resolution to approve a contract or transaction in respect of which a director has disclosed that he or she has or may have a disclosable interest, if each of the other directors who have not made such a disclosure consents in writing to the resolution.

A consent in writing under this Section 18.12 may be by any written instrument, fax, e-mail or any other method of transmitting legibly recorded messages in which the consent of the director is evidenced, whether or not the signature of the director is included in the record. A consent in writing may be in two or more counterparts which together are deemed to constitute one consent in writing. A resolution of the board or of any committee of the board passed in accordance with this Section 18.12 is effective on the date stated in the consent in writing or on the latest date stated on any counterpart and is deemed to be a proceeding at a meeting of the board or of the committee of the board and to be as valid and effective as if it had been passed at a meeting of the board or of the committee of the board that satisfies all the requirements of the BCA and all the requirements of these Articles relating to meetings of the board or of a committee of the board.

## **ARTICLE 19 EXECUTIVE AND OTHER COMMITTEES**

### **Section 19.1 Appointment and Powers of Executive Committee**

The board may, by resolution, appoint an executive committee consisting of the director or directors that they consider appropriate, and during the intervals between meetings of the board all of the board's powers are delegated to the executive committee, except:

- (1) the power to fill vacancies in the board of directors;
- (2) the power to remove a director;
- (3) the power to change the membership of, or fill vacancies in, any committee of the board; and
- (4) such other powers, if any, as may be set out in the resolution or any subsequent directors' resolution.

### **Section 19.2 Appointment and Powers of Other Committees**

The board may, by resolution:

- (1) appoint one or more committees (other than the executive committee) consisting of the director or directors that they consider appropriate;
- (2) delegate to a committee appointed under paragraph (1) any of the board's powers, except:
  - (a) the power to fill vacancies in the board of directors;
  - (b) the power to remove a director;
  - (c) the power to change the membership of, or fill vacancies in, any committee of the board; and
  - (d) the power to appoint or remove officers appointed by the board; and

- (3) make any delegation referred to in paragraph (2) subject to the conditions set out in the resolution or any subsequent directors' resolution.

### **Section 19.3 Obligations of Committees**

Any committee appointed under Section 19.1 or Section 19.2, in the exercise of the powers delegated to it, must:

- (1) conform to any rules that may from time to time be imposed on it by the board; and
- (2) report every act or thing done in exercise of those powers at such times as the board may require.

### **Section 19.4 Powers of Board**

The board may, at any time, with respect to a committee appointed under Section 19.1 or Section 19.2:

- (1) revoke or alter the authority given to the committee, or override a decision made by the committee, except as to acts done before such revocation, alteration or overriding;
- (2) terminate the appointment of, or change the membership of, the committee; and
- (3) fill vacancies in the committee.

### **Section 19.5 Committee Meetings**

Subject to Section 19.3(1) and unless the board otherwise provides in the resolution appointing the committee or in any subsequent resolution, with respect to a committee appointed under Section 19.1 or Section 19.2:

- (1) the committee may meet and adjourn as it thinks proper;
- (2) the committee may elect a chair of its meetings but, if no chair of a meeting is elected, or if at a meeting the chair of the meeting is not present within 15 minutes after the time set for holding the meeting, the directors present who are members of the committee may choose one of their number to chair the meeting;
- (3) a majority of the members of the committee constitutes a quorum of the committee; and
- (4) questions arising at any meeting of the committee are determined by a majority of votes of the members present, and in the case of an equality of votes, the chair of the meeting does not have a second or casting vote.

## **ARTICLE 20 OFFICERS**

### **Section 20.1 Board May Appoint Officers**

The board may, from time to time, appoint such officers, if any, as the board determines and the board may, at any time, terminate any such appointment.

### **Section 20.2 Functions, Duties and Powers of Officers**

The board may, for each officer:

- (1) determine the functions and duties of the officer;

- (2) delegate to the officer any of the powers exercisable by the board on such terms and conditions and with such restrictions as the board thinks fit; and
- (3) revoke, withdraw, alter or vary all or any of the functions, duties and powers of the officer.

### **Section 20.3 Qualifications**

No officer may be appointed unless that officer is qualified in accordance with the BCA. One person may hold more than one position as an officer of the Company. Any person appointed as the chair of the board must be a director. Any other officer need not be a director.

### **Section 20.4 Remuneration and Terms of Appointment**

All appointments of officers are to be made on the terms and conditions and at the remuneration (whether by way of salary, fee, commission, participation in profits or otherwise) that the board thinks fit and are subject to termination at the pleasure of the board, and an officer may in addition to such remuneration be entitled to receive, after he or she ceases to hold such office or leaves the employment of the Company, a pension or gratuity.

## **ARTICLE 21 INDEMNIFICATION**

### **Section 21.1 Definitions**

In this Article 21:

- (1) "**eligible penalty**" means a judgment, penalty or fine awarded or imposed in, or an amount paid in settlement of, an eligible proceeding;
- (2) "**eligible proceeding**" means a legal proceeding or investigative action, whether current, threatened, pending or completed, in which a director, former director, alternate director, officer or former officer of the Company (each, an "**eligible party**") or any of the heirs and legal personal representatives of the eligible party, by reason of the eligible party being or having been a director or alternate director or officer of the Company:
  - (a) is or may be joined as a party; or
  - (b) is or may be liable for or in respect of a judgment, penalty or fine in, or expenses related to, the proceeding;
- (3) "**expenses**" has the meaning set out in the BCA; and
- (4) "**officer**" means a person appointed by the board as an officer of the Company.

### **Section 21.2 Mandatory Indemnification of Eligible Parties**

Subject to the BCA, the Company must indemnify an eligible party and his or her heirs and legal personal representatives against all eligible penalties to which such person is or may be liable, and the Company must, after the final disposition of an eligible proceeding, pay the expenses actually and reasonably incurred by such person in respect of that proceeding. Each director, alternate director and officer is deemed to have contracted with the Company on the terms of the indemnity contained in this Section 21.2.

### **Section 21.3 Permitted Indemnification**

Notwithstanding Section 21.2 and subject to any restrictions in the BCA, the Company may indemnify any person including directors, officers, employees, agents and representatives of the Company.

#### **Section 21.4 Non-Compliance with BCA**

The failure of a director, alternate director or officer of the Company to comply with the BCA or these Articles or, if applicable, any former Articles, does not invalidate any indemnity to which he or she is entitled under this Article 21.

#### **Section 21.5 Company May Purchase Insurance**

The Company may purchase and maintain insurance for the benefit of any person (or his or her heirs or legal personal representatives) who:

- (1) is or was a director, alternate director, officer, employee or agent of the Company;
- (2) is or was a director, alternate director, officer, employee or agent of a corporation at a time when the corporation is or was an affiliate of the Company;
- (3) at the request of the Company, is or was a director, alternate director, officer, employee or agent of a corporation or of a partnership, trust, joint venture or other unincorporated entity;
- (4) at the request of the Company, holds or held a position equivalent to that of a director, alternate director or officer of a partnership, trust, joint venture or other unincorporated entity;

against any liability incurred by him or her as such director, alternate director, officer, employee or agent or person who holds or held such equivalent position.

### **ARTICLE 22 DIVIDENDS**

#### **Section 22.1 Payment of Dividends Subject to Special Rights**

The provisions of this Article 22 are subject to the rights, if any, of shareholders holding shares with special rights as to dividends.

#### **Section 22.2 Declaration of Dividends**

Subject to the BCA, the board may from time to time declare and authorize payment of such dividends as it may consider appropriate.

#### **Section 22.3 No Notice Required**

The board need not give notice to any shareholder of any declaration under Section 22.2.

#### **Section 22.4 Record Date**

The board may set a date as the record date for the purpose of determining shareholders entitled to receive payment of a dividend. The record date must not precede the date on which the dividend is to be paid by more than two months. If no record date is set, the record date is 5 p.m. on the date on which the board passes the resolution declaring the dividend.

#### **Section 22.5 Manner of Paying Dividend**

A resolution declaring a dividend may direct payment of the dividend wholly or partly in money or by the distribution of specific assets or of fully paid shares or of bonds, debentures or other securities of the Company or any other corporation, or in any one or more of those ways.

#### **Section 22.6 Settlement of Difficulties**

If any difficulty arises in regard to a distribution under Section 22.5, the board may settle the difficulty as it deems advisable, and, in particular, may:

- (1) set the value for distribution of specific assets;
- (2) determine that money in substitution for all or any part of the specific assets to which any shareholders are entitled may be paid to any shareholders on the basis of the value so fixed in order to adjust the rights of all parties; and
- (3) vest any such specific assets in trustees for the persons entitled to the dividend.

#### **Section 22.7 When Dividend Payable**

Any dividend may be made payable on such date as is fixed by the board.

#### **Section 22.8 Dividends to be Paid in Accordance with Number of Shares**

All dividends on shares of any class or series of shares must be declared and paid according to the number of such shares held.

#### **Section 22.9 Receipt by Joint Shareholders**

If several persons are joint shareholders of any share, any one of them may give an effective receipt for any dividend, bonus or other money payable in respect of the share.

#### **Section 22.10 Dividend Bears No Interest**

No dividend bears interest against the Company.

#### **Section 22.11 Fractional Dividends**

If a dividend to which a shareholder is entitled includes a fraction of the smallest monetary unit of the currency of the dividend, that fraction may be disregarded in making payment of the dividend and that payment represents full payment of the dividend.

#### **Section 22.12 Payment of Dividends**

Any dividend or other distribution payable in respect of shares will be paid by cheque or by electronic means or by such other method as the directors may determine. The payment will be made to or to the order of each registered holder of shares in respect of which the payment is to be made. Cheques will be sent to the registered address of the shareholder, unless the shareholder otherwise directs. In the case of joint holders, the payment will be made to the order of all such joint holders and, if applicable, sent to them at the registered address of the joint shareholder who is first named on the central securities register, unless such joint holders otherwise direct. The sending of the cheque or the sending of the payment by electronic means or the sending of the payment by a method determined by the directors in an amount equal to the dividend or other distribution to be paid less any tax that the Company is required to withhold will satisfy and discharge the liability for the payment, unless payment is not made upon presentation, if applicable, or the amount of tax so deducted is not paid to the appropriate taxing authority.

#### **Section 22.13 Capitalization of Retained Earnings or Surplus**

Notwithstanding anything contained in these Articles, the board may from time to time capitalize any retained earnings or surplus of the Company and may from time to time issue, as fully paid, shares or any bonds, debentures or other securities of the Company as a dividend representing the retained earnings or surplus so capitalized or any part thereof.

**ARTICLE 23  
ACCOUNTING RECORDS AND AUDITOR**

**Section 23.1 Recording of Financial Affairs**

The board must cause adequate accounting records to be kept to record properly the financial affairs and condition of the Company and to comply with the BCA.

**Section 23.2 Inspection of Accounting Records**

Unless the board determines otherwise, or unless otherwise determined by ordinary resolution, no shareholder of the Company is entitled to inspect or obtain a copy of any accounting records of the Company.

**Section 23.3 Remuneration of Auditor**

The board may set the remuneration of the auditor of the Company.

**ARTICLE 24  
NOTICES**

**Section 24.1 Method of Giving Notice**

Unless the BCA or these Articles provide otherwise, a notice, statement, report or other record required or permitted by the BCA or these Articles to be sent by or to a person may be sent by any one of the following methods:

- (1) mail addressed to the person at the applicable address for that person as follows:
  - (a) for a record mailed to a shareholder, the shareholder's registered address;
  - (b) for a record mailed to a director or officer, the prescribed address for mailing shown for the director or officer in the records kept by the Company or the mailing address provided by the recipient for the sending of that record or records of that class;
  - (c) in any other case, the mailing address of the intended recipient;
- (2) delivery at the applicable address for that person as follows, addressed to the person:
  - (a) for a record delivered to a shareholder, the shareholder's registered address;
  - (b) for a record delivered to a director or officer, the prescribed address for delivery shown for the director or officer in the records kept by the Company or the delivery address provided by the recipient for the sending of that record or records of that class;
  - (c) in any other case, the delivery address of the intended recipient;
- (3) unless the intended recipient is the auditor of the Company, sending the record by fax to the fax number provided by the intended recipient for the sending of that record or records of that class;
- (4) unless the intended recipient is the auditor of the Company, sending the record by e-mail to the e-mail address provided by the intended recipient for the sending of that record or records of that class;
- (5) physical delivery to the intended recipient; or

- (6) as otherwise permitted by applicable securities legislation.

#### **Section 24.2 Deemed Receipt**

A notice, statement, report or other record that is:

- (1) mailed to a person by ordinary mail to the applicable address for that person referred to in Section 24.1 is deemed to be received by the person to whom it was mailed on the day, Saturdays, Sundays and holidays excepted, following the date of mailing;
- (2) faxed to a person to the fax number provided by that person referred to in Section 24.1 is deemed to be received by the person to whom it was faxed on the day it was faxed; and
- (3) e-mailed to a person to the e-mail address provided by that person referred to in Section 24.1 is deemed to be received by the person to whom it was e-mailed on the day it was e-mailed.

#### **Section 24.3 Certificate of Sending**

A certificate signed by the secretary, if any, or other officer of the Company or of any other corporation acting in that capacity on behalf of the Company stating that a notice, statement, report or other record was sent in accordance with Section 24.1 is conclusive evidence of that fact.

#### **Section 24.4 Notice to Joint Shareholders**

A notice, statement, report or other record may be provided by the Company to the joint shareholders of a share by providing such record to the joint shareholder first named in the central securities register in respect of the share.

#### **Section 24.5 Notice to Legal Personal Representatives and Trustees**

A notice, statement, report or other record may be provided by the Company to the persons entitled to a share in consequence of the death, bankruptcy or incapacity of a shareholder by:

- (1) mailing the record, addressed to them:
  - (a) by name, by the title of the legal personal representative of the deceased or incapacitated shareholder, by the title of trustee of the bankrupt shareholder or by any similar description; and
  - (b) at the address, if any, supplied to the Company for that purpose by the persons claiming to be so entitled; or
- (2) if an address referred to in paragraph (1)(b) has not been supplied to the Company, by giving the notice in a manner in which it might have been given if the death, bankruptcy or incapacity had not occurred.

#### **Section 24.6 Undelivered Notices**

If, on two consecutive occasions, a notice, statement, report or other record is sent to a shareholder pursuant to Section 24.1 and on each of those occasions any such record is returned because the shareholder cannot be located, the Company shall not be required to send any further records to the shareholder until the shareholder informs the Company in writing of his or her new address.

## **ARTICLE 25 SEAL**

### **Section 25.1 Who May Attest Seal**

Except as provided in Section 25.2 and Section 25.3, the Company's seal, if any, must not be impressed on any record except when that impression is attested by the signatures of:

- (1) any two directors;
- (2) any officer, together with any director;
- (3) if the Company only has one director, that director; or
- (4) any one or more directors or officers or persons as may be determined by the board.

### **Section 25.2 Sealing Copies**

For the purpose of certifying under seal a certificate of incumbency of the directors or officers of the Company or a true copy of any resolution or other document, despite Section 25.1, the impression of the seal may be attested by the signature of any director or officer or the signature of any other person as may be determined by the board.

### **Section 25.3 Mechanical Reproduction of Seal**

The board may authorize the seal to be impressed by third parties on share certificates or bonds, debentures or other securities of the Company as the board may determine appropriate from time to time. To enable the seal to be impressed on any share certificates or bonds, debentures or other securities of the Company, whether in definitive or interim form, on which facsimiles of any of the signatures of the directors or officers of the Company are, in accordance with the BCA or these Articles, printed or otherwise mechanically reproduced, there may be delivered to the person employed to engrave, lithograph or print such definitive or interim share certificates or bonds, debentures or other securities one or more unmounted dies reproducing the seal and such persons as are authorized under Section 25.1 to attest the Company's seal may in writing authorize such person to cause the seal to be impressed on such definitive or interim share certificates or bonds, debentures or other securities by the use of such dies. Share certificates or bonds, debentures or other securities to which the seal has been so impressed are for all purposes deemed to be under and to bear the seal impressed on them.

## **ARTICLE 26 PROHIBITIONS**

### **Section 26.1 Definitions**

In this Article 26:

- (1) "**security**" has the meaning assigned in the *Securities Act*;
- (2) "**transfer restricted security**" means
  - (a) a share of the Company;
  - (b) a security of the Company convertible into shares of the Company; or

- (c) any other security of the Company which must be subject to restrictions on transfer in order for the Company to satisfy the requirement for restrictions on transfer under the "private issuer" exemption of Canadian securities legislation or under any other exemption from prospectus or registration requirements of Canadian securities legislation similar in scope and purpose to the "private issuer" exemption.

### **Section 26.2 Application**

Section 26.3 does not apply to the Company if and for so long as it is a public company.

### **Section 26.3 Consent Required for Transfer of Shares or Transfer Restricted Securities**

No share or other transfer restricted security may be sold, transferred or otherwise disposed of without the consent of the board and the board is not required to give any reason for refusing to consent to any such sale, transfer or other disposition.

## **ARTICLE 27 SPECIAL RIGHTS OR RESTRICTIONS**

The Company is authorized to issue an unlimited number of Common Shares and one Preferred Share.

### **Section 27.1 Common Shares**

The special rights or restrictions attaching to the Common Shares shall be as follows:

#### **(1) Voting**

The holders of the Common Shares shall be entitled to receive notice of and to attend and vote at all meetings of the shareholders of the Company (except where the holders of a specified class of shares are entitled to vote separately as a class as provided in the *Business Corporations Act*) and each Common Share shall confer the right to one vote in person or by proxy at all meetings of shareholders of the Company.

#### **(2) Dividends**

The holders of the Common Shares shall be entitled to receive and the Company shall pay thereon, as and when declared by the board of directors of the Company, such dividends as the board of directors of the Company may from time to time declare, in their absolute discretion.

#### **(3) Liquidation, Dissolution or Winding-Up**

Subject to the preferences accorded to the holders of the Preferred Share, in the event of the liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary, or any return of capital or other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs, the holders of the Common Shares shall be entitled to share equally, share for share, in the remaining property of the Company.

### **Section 27.2 Preferred Share**

The special rights or restrictions attaching to the Preferred Shares shall be as follows:

#### **(1) Voting**

Except as otherwise expressly provided in these Articles or as required by applicable law, the holder of the Preferred Share is not entitled to receive notice of, attend or vote at meetings of

shareholders of Common Shares of the Company and the Preferred Share carries no voting rights.

**(2) Dividends**

The holder of the Preferred Share shall not be entitled to any dividends.

**(3) Redemption by Company**

The Company shall have no right to redeem the Preferred Share.

**(4) Redemption at the Option of the Holder**

(a) The holder of the Preferred Share shall be entitled to require the Company to redeem, at any time, the Preferred Share registered in the name of such holder on the books of the Company by tendering to the Company at its registered office a share certificate(s) representing the Preferred Share which the holder desires to have the Company redeem together with a request in writing (in this section referred to as a "**Redemption Demand**") (unless such request is waived by the Company), specifying:

(i) that the holder desires to have the Preferred Shares represented by such certificate(s) redeemed by the Company;

(ii) the business day (in this section referred to as the "**Redemption Date**") on which the holder desires to have the Company redeem such Preferred Shares.

The Redemption Date shall be the date that is 1 business day after the date on which the Redemption Demand is tendered to the Company or such other date as the holder and all of the shareholders of the Company may agree;

The Company shall, on such Redemption Date redeem the Preferred Share required to be redeemed by paying to such holder an amount equal to US\$1.00 (the "**Redemption Price**") on presentation and surrender of the certificate for the Preferred Share to be so redeemed at the registered office of the Company. The certificate for such Preferred Share shall thereupon be cancelled and the Preferred Share represented thereby shall thereupon be redeemed. Payment of the Redemption Price for the Preferred Share to be redeemed shall be made by wire transfer of immediately available funds to the holder of the Preferred Share. From and after the Redemption Date, the holder thereof shall not be entitled to exercise any of the rights of holders of Preferred Share in respect thereof unless payment of the Redemption Price is not made on the Redemption Date, in which case the rights of the holder of the Preferred Share shall remain unaffected until payment in full of the Redemption Price.

(b) The Preferred Share redeemed shall be cancelled and not restored to the status of authorized but unissued shares.

**(5) Liquidation Preference**

In the event of the liquidation, dissolution or winding-up of the Company, or any return of capital or other distribution of assets of the Company among its shareholders for the purpose of winding up its affairs, the holder of the Preferred Share shall be entitled to receive, before any distribution of any part of the assets of the Company among the holders of any other shares, an amount equal to the Redemption Price.

Dated \_\_\_\_\_, 2020.

**FULL NAME AND SIGNATURE OF INCORPORATOR**

ORION CO IV (ED) LIMITED

Per: \_\_\_\_\_  
Authorized Signatory