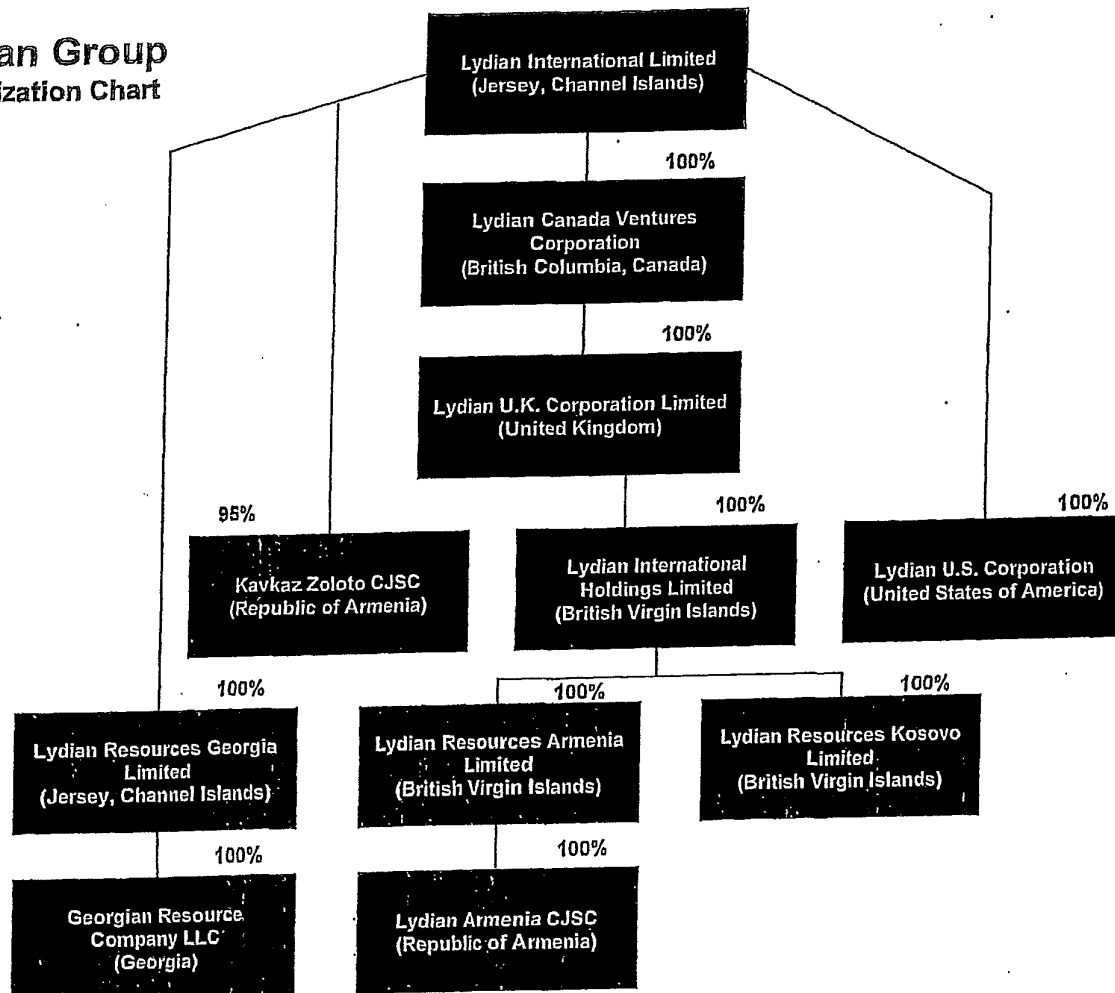
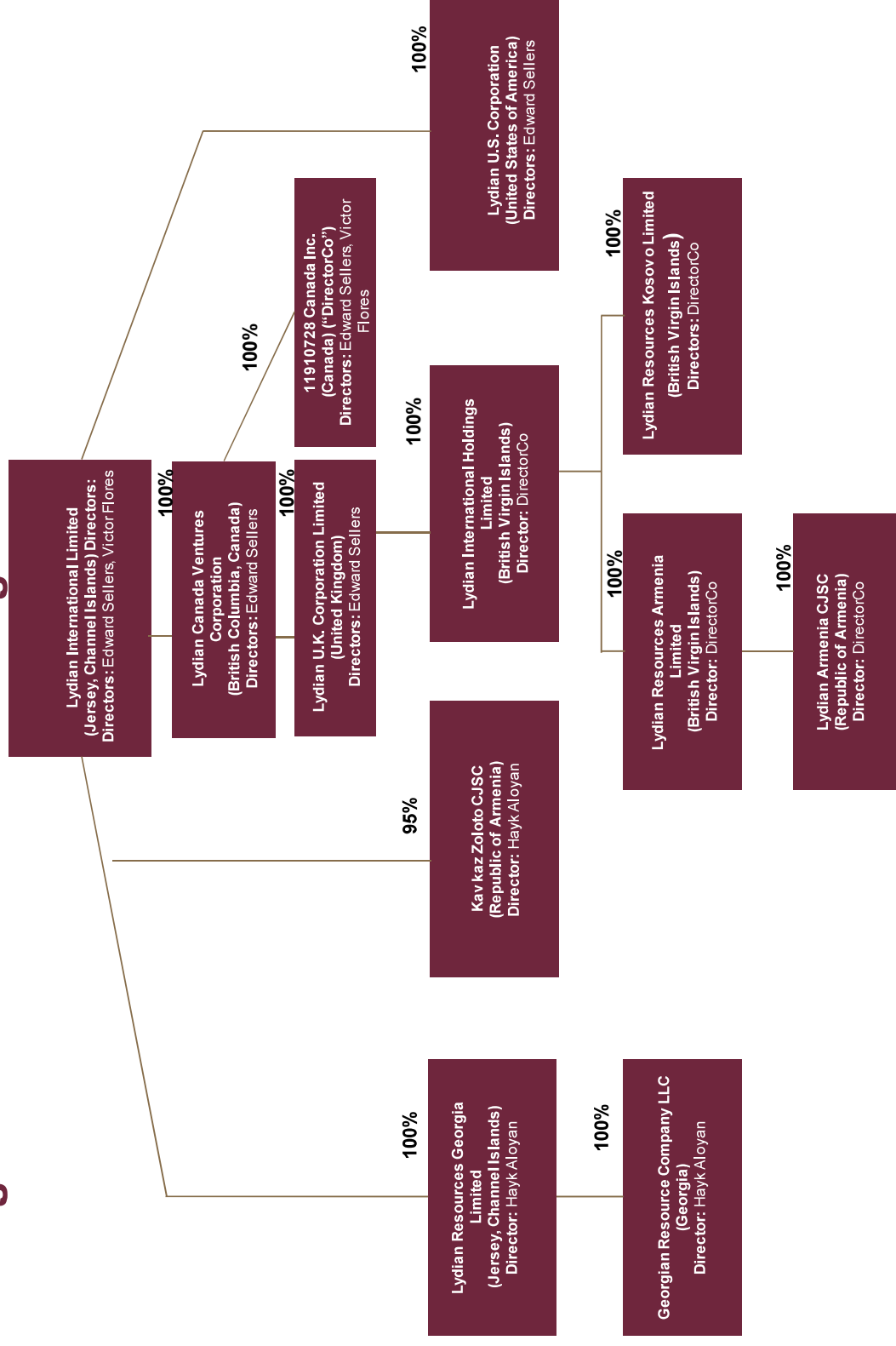


Lydian Group **Organization Chart**



Lydian Organization Chart - Post-Reorganization



IN THE ROYAL COURT OF JERSEY
(SAMEDI DIVISION)

IN THE MATTER OF THE REPRESENTATION OF LYDIAN INTERNATIONAL LIMITED

AND IN THE MATTER OF THE LETTER OF REQUEST FROM THE ONTARIO SUPERIOR
COURT OF JUSTICE

AFFIDAVIT OF ALAN J. HUTCHENS

I, Alan J. Hutchens, of A&M (as defined below) located at Royal Bank Plaza, South Tower 200, Bay Street, Suite 2900, P.O Box 22, Toronto, Ontario, M5J 2J1 hereby make oath and say as follows:-

1. I am a Senior Vice-President of Alvarez & Marsal Canada Inc. (**A&M**) in Toronto. I have more than 20 years of turnaround and restructuring experience. I am a Chartered Professional Accountant, Chartered Insolvency and Restructuring Professional, and a Licensed Insolvency Trustee. I am a member of the Insolvency Institute of Canada, Canadian Association of Insolvency and Restructuring Professionals, and the Turnaround Management Association. I am duly authorized on behalf of A&M, in its capacity as the court-appointed Monitor, as defined below, of Lydian International Limited (**Lydian International**), to swear this affidavit seeking foreign recognition of the CCAA Order in these proceedings.
2. The contents of this affidavit are true to the best of my knowledge, information and belief and are, unless otherwise stated, within my personal knowledge. There is now produced and shown to me and marked "**AH1**" a paginated bundle of true copy documents (or extracts from true copy documents) to which I refer.
3. In this Affidavit I adopt, for convenience, the terms which are defined in Mr Sellers' Affidavit dated January 30, 2020 (**Mr Sellers' Affidavit**), a copy of which is exhibited at Exhibit AH1. Capitalised words in this Affidavit derive their meaning from Mr Sellers' Affidavit, unless otherwise stated.

4. As stated in Mr Sellers' Affidavit, pursuant to paragraph 21 of the CCAA Order, A&M was appointed by the Ontario Superior Court of Justice (Commercial List) as the Monitor. The Monitor is appointed as an officer of the Ontario Court, to monitor the business and financial affairs of the Debtors pursuant to the CCAA and the CCAA Order, and to report to the Ontario Court. I have now read the Affidavit of Edward Sellers dated January 30, 2020 (**Mr Sellers' January Affidavit**) and the Representation of Lydian International dated January 30, 2020 filed herein. Mr. Sellers' January Affidavit is consistent with the contents of Mr. Sellers' Affidavit which was accepted by the Ontario Court in granting the CCAA Order.

Overview of the CCAA

5. The following provides a brief overview of the process available to insolvent companies under Canada's main restructuring statute. It is not an exhaustive description, but an overview provided for context.
6. The CCAA is a Canadian federal statute allowing insolvent corporations that owe their creditors in excess of CDN\$5 million to restructure their business and financial affairs. The CCAA has a broad remedial purpose, allowing a company to continue in business while it seeks to develop and obtain the approval of compromises or arrangements with its creditors or sale(s) of its assets. Canadian courts have held that the main purpose of the CCAA is to avoid, where possible, the social and economic consequences of bankruptcy, and to allow a company to carry on business. CCAA proceedings are carried out under supervision of the Court.
7. The process begins when a company makes an initial application to the Court for protection under the CCAA. As part of an Order issued by the Court commencing the CCAA proceeding, the Court appoints a monitor to oversee the proceeding and report to the Court. The monitor is a licensed trustee under Canada's federal statutes and acts "as the eyes and ears of the Court". If the application is granted, the Court issues an order (an **initial order**) that, among other things, appoints the monitor and prohibits creditors and stakeholders from taking any enforcement steps against the company for an initial period of 10 days (the **stay of proceedings**). The stay of proceedings typically prohibits any steps being taken against the company to enforce security, require payment of existing debts or terminate contracts.

8. The company is prohibited from making most payments to creditors in respect of amounts owing as at the date the CCAA proceeding was commenced, subject to court approval in certain instances. While the stay of proceedings is in place, the company can continue to operate, pay its employees and service its customers in the ordinary course under Court supervision, with the goal of emerging from CCAA protection as a viable going concern business. The stay of proceedings can be extended by the Court so long as the debtor company continues to act in good faith and with due diligence and so long as such extension is supported by the monitor and the Court is satisfied that there is sufficient cash available to the company to continue to meet its obligations during the period of the requested extension.
9. As an officer of the Court, the monitor's role is to monitor the company's business and financial affairs to ensure compliance with the law, initial order and any other orders granted by the Court and the terms of any Plan of Compromise or Arrangement (a **Plan**). The Monitor reports to the Court, provides information to creditors regarding the proceedings, the claims process and creditors' meetings (if any), posts all relevant documents to a website maintained by the monitor, reviews and reports on the company's cash flow forecasts, assists the debtor company in its discussions with stakeholders and with preparation of any Plan to be put to its creditors, and oversees voting at a meeting of creditors. The monitor does not take possession or control of the company's assets, and the company remains in possession and control of its assets.
10. During the CCAA proceeding the company may terminate or assign unwanted contracts, terminate employees, sell assets (usually up to a maximum monetary threshold), negotiate new credit terms, change its corporate structure and take other steps to allow it to restructure its affairs. These actions typically require the support of the monitor, an Order of the Court, or both.
11. The debtor company may ultimately put forward to its creditors a Plan outlining how it intends to deal with the issues facing the company. Once a proposed Plan has been negotiated by the parties, the debtor company will request the Court to order a meeting of creditors to formally vote on the Plan. Creditors may be separated into various classes based on a commonality of interest for the purpose of voting on the Plan. For a Plan to be accepted, it must be approved by a majority of creditors, representing at least 2/3 in value, in each class that are present and voting. In addition, creditors voting to accept the Plan must represent at least two thirds of the total value of the creditors' claims in that class. If the Plan is accepted

and approved by the Court, creditors will be paid or treated in accordance with the terms of the Plan, under the oversight of the monitor.

12. Rather than proposing a Plan, the debtor company may choose to pursue a sale process in respect of some or all of its assets under the supervision of the monitor and the Court, with the proceeds of sale to be distributed to its creditors in accordance with their respective priorities, all being subject to court Order. That is commonly referred to as a "liquidating CCAA".

First Report and 23 January Order

13. In support of the proceedings the Monitor submitted a First Report, dated 21 January 2020, to the Ontario Court (exhibited hereto at **Tab 8**) (the "**First Report of the Monitor**"). The purpose of the report was to provide the Ontario Court with information regarding, *inter alia*, the Monitor's qualifications to act as Monitor; cash flow information and background information in respect of the Lydian Group and other parties to the proceedings. By a further Order of the Ontario Court on 23 January to extend the stay of proceedings to 2 March 2020 (exhibited hereto at **Tab 7**) (the "**23 January CCAA Order**"), the Monitor's First Report was approved.

Support of the Monitor

14. For the reasons set out above, the Monitor, in its capacity as court-appointed officer of the Ontario Court, on behalf of Lydian International, supports the orders and declarations set out at the prayer for relief in the Representation.

SIGNED and **SWORN** by the said

ALAN J. HUTCHENS

At TORONTO, ONTARIO

This 31ST day of JANUARY 2020

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Al Hutchens

BEFORE ME

Rachel Bengio

Rachel Bengio

Commissioner for Oaths/Practising Solicitor

Associate, Thornton Grant Finnigan LLP
100 Wellington St. W. Suite 3200
Toronto, Ontario M5V 3N5

1. Representor
2. Alan J. Hutchens
3. First Affidavit
4. Sworn on

COURT FILE NO.[]

**IN THE ROYAL COURT OF JERSEY
(SAMEDI DIVISION)**

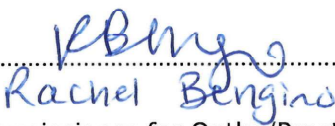
IN THE MATTER OF THE REPRESENTATION OF LYDIAN INTERNATIONAL

**AND IN THE MATTER OF THE LETTER OF REQUEST FROM THE ONTARIO SUPERIOR
COURT OF JUSTICE**

EXHIBIT "AH1"

This is the exhibit marked "AH1" referred to in the First Affidavit of Alan J. Hutchens.

BEFORE ME

.....

Rachel Bengino
Commissioner for Oaths/Practising Solicitor

IN THE ROYAL COURT OF JERSEY
(SAMEDI DIVISION)

IN THE MATTER OF THE REPRESENTATION OF LYDIAN INTERNATIONAL LIMITED

AND IN THE MATTER OF THE LETTER OF REQUEST FROM THE ONTARIO SUPERIOR
COURT OF JUSTICE

AFFIDAVIT OF EDWARD A. SELLERS

I, Edward A. Sellers, of the Town of Rosseau, in the Province of Ontario, Canada hereby make oath and say as follows:-

Introduction

1. I am the Interim President and Chief Executive Officer of the Representor, Lydian International Limited ("**Lydian International**"). I have been the President and Chief Executive Officer of Lydian International since June 12, 2019. I have been on the Board of Directors of Lydian International since November 1, 2018, and was appointed to the Board of Directors of the other Debtors (as defined below) after June 12, 2019.
2. The contents of this affidavit are true to the best of my knowledge, information and belief and are, unless otherwise stated, within my personal knowledge. There is now produced and shown to me and marked "**ES1**" a paginated bundle of true copy documents (or extracts from true copy documents) to which I refer.
3. The purpose of this affidavit is to set out the factual matters relied upon by Lydian International in support of the orders sought in the Representation.

My background

4. I have extensive experience serving as a director, advisor and lawyer to large public and private enterprises, having done so for over 30 years. I currently serve as President and Managing Director of Black Swan Advisors Inc. ("**Black Swan**")

Advisors"), providing independent interim governance support and leadership to enterprises in transition, decline or distress. Prior to establishing Black Swan Advisors in 2016, I served as a partner and Chair of the national restructuring practice at a leading Canadian law firm.

5. I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have also reviewed the records, press releases, and public filings of Lydian International and have spoken with certain of the directors, officers and/or employees of the Debtors, as necessary. Where I have relied upon information from others, I believe the information to be true and I have stated the source of that information.

The Canadian proceedings

6. On 23 December 2019 Lydian International, Lydian Canadian Ventures Corporation ("**Lydian Canada**"), and Lydian U.K Corporation Limited ("**Lydian UK**") (collectively, the "**Debtors**") applied for protection from their creditors in Canada under the federal insolvency and restructuring statute *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (Canada) ("**CCAA**") on the grounds that they were unable to pay their debts (the "**CCAA Application**"). Certain other non-applicant entities were also granted a stay of proceedings¹ (together with the Debtors, the non-applicant entities are the "**Lydian Group**").
7. Exhibited hereto are certain of the documents filed by the Debtors with the Ontario Court in support of the CCAA Application:-
 - (a) Notice of Application at **Tab 1**; and
 - (b) Affidavit of Edward A. Sellers sworn on 22 December 2019 along with its exhibits (the "**22 December Affidavit**") at **Tab 2**.
8. By an order dated the 23 December 2019 ("**CCAA Order**") of the Ontario Superior Court of Justice ("**Ontario Court**"), the Ontario Court granted the orders in substantially the form sought by the Debtors. A copy of the CCAA Order is exhibited hereto at **Tab 3**.

¹ Lydian Armenia CJSC, Lydian Resources Armenia Limited, Lydian International Holdings Limited and Lydian U.S. Corporation (together known as the "**Non-Applicant Stay Parties**").

9. The CCAA Order granted a stay of proceedings (the "**Stay Period**") in favour of the Debtors until 2 January 2020, whereby the Debtors including Lydian International were granted protection from their creditors.
10. On 26 December 2019 the Debtors applied for an extension of the Stay Period by an Amended Notice of Motion (exhibited hereto at **Tab 4**). By a further order dated 2 January 2020 (exhibited hereto at **Tab 5**) (the "**2 January CCAA Order**"), the Ontario Court extended the Stay Period until 23 January 2020, subject to further order of the Ontario Court.
11. On 23 January 2020 the Debtors applied for a further extension of the Stay Period by a Notice of Motion (exhibited hereto at **Tab 6**). Filed in support of the Notice of Motion was the Affidavit of Edward Sellers dated 22 January 2020 (exhibited hereto at **Tab 7**). Two further orders were made by the Ontario Court at the return hearing on 23 January 2020: (a) an order extending the stay of proceedings until 2 March 2020 (exhibited hereto at **Tab 8**) (together the "**23 January CCAA Order**"); and (b) an order amending and restating the terms of the CCAA Order (exhibited hereto at **Tab 9**).

Background

12. The facts and matters which have caused the Debtors to seek the assistance of the Ontario Court, and by this Representation the Royal Court of Jersey, are as set out in my 22 December Affidavit which, as previously mentioned, is exhibited at **Tab 2**. I summarise below certain key facts and matters from my 22 December Affidavit.
13. Capitalised terms used herein but not otherwise defined have the meanings ascribed to them in my 22 December Affidavit. The references in square brackets below are to the paragraphs of my 22 December 2019, where further details of the matters described below may be found.

The Lydian Group

14. The following is a brief overview of the Applicants and their corporate structure. A diagram of this structure is exhibited at **Tab 10**.

Lydian International

15. Lydian International is a corporation continued under the laws of the Jersey, from the Province of Alberta pursuant to the *Companies (Jersey) Law 1991*. Lydian International was originally incorporated under the *Business Corporations Act (Alberta)* on February 14, 2006 as "Dawson Creek Capital Corp.", which became Lydian International on December 12, 2007.
16. Lydian International's registered office is located at Bourne House 1st Floor, Francis Street, St. Helier, Jersey. On June 12, 2019, Lydian International's shareholders approved its continuance under the Canada Business Corporations Act, but the continuance back to Canada has not yet been implemented.
17. Lydian International has had two types of securities listed on the Toronto Stock Exchange ("TSX"): (i) ordinary shares trading under the symbol LYD, which are currently suspended from trading and subject to de-listing procedures by the TSX; and (ii) warrants that were, until their expiry in 2017, traded under the symbol LTD.WT.
18. Lydian International has no material assets or unsatisfied creditors situated in Jersey. It is a holding company and carries out no substantive business activities. The Lydian Group's loan agreements are governed primarily by the laws of the Province of Ontario. The nominal assets that it may own in Jersey are office effects and files at its offices. Mourant Ozannes is a creditor in Jersey, albeit its fees are being paid from time to time. Link Asset Services provides Lydian International with registered office services in Jersey and its fees are also being paid from time to time.

Lydian Canada

19. Lydian Canada is a direct, wholly owned subsidiary of Lydian International. Lydian Canada is incorporated under the Business Corporations Act (British Columbia) and has a registered head office at 5300 Commerce Court West, 199 Bay Street, Toronto, Ontario. Its registered and records office is located at Park Place, 666 Burrard Street, Suite 1700, Vancouver, British Columbia.

Lydian UK

20. Lydian UK is a corporation incorporated in the United Kingdom under the laws of England and Wales. Lydian UK is a direct, wholly owned subsidiary of Lydian Canada, with its head office located at 11-12 St. James's Square, 3rd Floor, Suite 1, London, United Kingdom. Lydian UK has no material trading assets, commercial contracts or trade creditors in the UK.

The Lydian Group

21. The Debtors are part of the Lydian Group with a number of other subsidiaries ultimately owned by Lydian International. In addition to the Debtors, the Lydian Group includes the following entities:
- (a) Lydian U.S. Corporation ("**Lydian US**"): a corporation incorporated under the laws of the State of Colorado, United States, which is a direct, wholly owned subsidiary of Lydian International;
 - (b) Lydian International Holdings Limited ("**Lydian Holdings**"): a corporation incorporated under the laws of the British Virgin Islands, which is a direct, wholly owned subsidiary of Lydian UK;
 - (c) Lydian Resources Armenia Limited ("**Lydian Resources**"): a corporation incorporated under the laws of the British Virgin Islands, which is a direct, wholly owned subsidiary of Lydian Holdings; and
 - (d) Lydian Armenia CJSC ("**Lydian Armenia**"): a corporation incorporated under the laws of the Republic of Armenia, which is a direct, wholly owned subsidiary of Lydian Resources. Lydian Armenia owns and operates the Amulsar Project (defined below).

Integrated Nature of the Lydian Group

22. The Lydian Group is highly integrated, and its business and affairs are directed primarily out of Canada. Substantially all the strategic business affairs of the Lydian Group, including key decision making, are conducted through personnel who are located in Toronto and Vancouver.
23. Three of the six members of the Board of Directors of Lydian International are resident Canadians, two of whom are located in Toronto. Only resident Canadians

serve on the Special Committee assembled recently by the Board of Lydian International to direct the Lydian Group's restructuring efforts, two of whom are again located in Toronto.

24. All material entities within the Lydian Group are borrowers or guarantors of the Lydian Group's key secured indebtedness. The Lydian Group's loan agreements are governed primarily by the laws of the Province of Ontario. All of the Lydian Group's material professional advisory relationships (including its legal and audit firm engagement partners) are with professionals based in Toronto. The Lydian Group's primary insurance brokerage relationships are located in Toronto and Calgary.
25. Lydian International's shares are currently listed on the TSX and it is governed by the regulatory regime imposed on public companies by the Province of Ontario and enforced by the Ontario Securities Commission.
26. The Lydian Group's forbearance and restructuring efforts have been directed out of Toronto.

The Amulsar Gold Mine

27. The Lydian Group is focused on constructing its wholly owned development-stage gold mine in Armenia (the "**Amulsar Project**"). The Amulsar Project was funded by a combination of equity and debt capital, and financing arrangements particular to the mining industry known as "stream financing". The debt and stream financing arrangements are secured over substantially all the assets of Lydian Armenia and Lydian International and the shares of various entities of the Lydian Group.
28. Construction of the Amulsar Project began in October 2016 and was over 75% complete by June 2018. However, since June 2018 and continuing to the present time Lydian Armenia has been unable to access and complete construction at the Amulsar Project due to blockades and arbitrary actions by the Government of Armenia ("**GOA**"), as described in detail in my 22 December Affidavit starting at paragraph 43, and including:
 - (a) unlawful blockades at the Amulsar Project;
 - (b) improper, unsupported and retroactive challenges by GOA officials to previously granted mining rights, mining agreements and water permits held by Lydian Armenia; and

- (c) failure by the police and GOA to act in removing unlawful protestors and granting Lydian Armenia access to the Amulsar Project.
29. As a result of this hardship, the Lydian Group has taken various steps to maintain stability over its financial position and seek financial alternatives. These steps have included:
- (a) multiple attempts to resolve issues with the GOA and Armenian police, including taking action in the Armenian courts to seek re-entry to the Amulsar Project;
 - (b) negotiating several forbearance agreements with its lenders, the most recent of which expired on 20 December 2019;
 - (c) cost reduction efforts, including a reduction in the Lydian Group's workforce by over 90% (as of 20 December 2019, the Lydian Group employed a total of 63 full time and contract employees);
 - (d) considering numerous re-start options, including the development of a revised National Instrument 43-101 Technical Report to assess the impact of the blockade on construction, and the assessment of sale or refinancing options (National Instrument 43-101 is a national instrument for the Standards of Disclosure for Mineral Projects within Canada. The Instrument is a codified set of rules and guidelines for reporting and displaying information related to mineral properties owned by, or explored by, companies which report these results on stock exchanges within Canada);
 - (e) canvassing the market for refinancing or sale options;
 - (f) retaining various experts;
 - (g) preparing for the Treaty Arbitration (as described below) against the GOA; and
 - (h) commencing a solicitation process for parties interested in financing the Treaty Arbitration.

30. In total, the challenges at the Amulsar Project have generated dislocation costs of approximately \$101 million. Further dislocation expenses are expected to be incurred.
31. The Lydian Group is considering commencing international investment arbitration proceedings against the GOA pursuant to bilateral investment treaties, on the basis that the GOA's actions and inactions have seriously undermined the value of the Lydian Group's investment in the Amulsar Project (the "**Treaty Arbitration**").

Creditor Interests

32. The Debtors brought the CCAA Application to obtain the breathing room necessary to maximise value for all stakeholders and creditors. The CCAA Application was made to allow the Debtors to:-
- (a) continue discussions with the GOA to ensure an end to the actions which have resulted in Lydian Armenia's inability to access the Amulsar Project;
 - (b) continue negotiations with existing lenders on a consensual path forward;
 - (c) complete negotiations on a potential sale and/or refinancing of Lydian Armenia;
 - (d) consider the appropriate corporate vehicle structure to implement a refinancing and/or sale; and
 - (e) finalise financing discussions and potential commencement of the Treaty Arbitration.

2 January CCAA Order and 23 January CCAA Order

33. Pursuant to paragraph 2 and 3 of the CCAA Order, the Debtors including Lydian International are companies to which the CCAA applies, shall enjoy certain of the benefits and the protections provided for in the CCAA Order, and shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**") and the business undertaken by the Debtors (the "**Business**").

34. Pursuant to paragraphs 10 to 14 of the CCAA Order, the Debtors including Lydian International are afforded wide ranging protection from their creditors, such that no proceedings can be continued or commenced against them or the Monitor, or affecting the Business or Property, until 2 January 2020 (extended to 2 March 2020 by the 2 January CCAA Order as set out below), all being subject to further orders that may be made by the Ontario Court.
35. Pursuant to paragraph 21 of the CCAA Order, Alvarez & Marsal Canada Inc. was appointed by the Ontario Court as the monitor (the "**Monitor**"), an officer of the Ontario Court, to monitor the Business and financial affairs of the Debtors pursuant to the CCAA and the CCAA Order, and to report to the Ontario Court.
36. Pursuant to the CCAA and the CCAA Order, the Monitor has broad powers including the authorization to have full and complete access to the Property (as defined in the CCAA Order), including the premises, books, records, data (including in electronic form) and other financial documents of the Debtors, to assess the Debtors' Business and financial affairs and to perform its duties arising under the CCAA Order (see e.g. paragraph 22(d) of the CCAA Order).
37. Pursuant to paragraphs 10 to 17 of the CCAA Order, the Ontario Court made wide-ranging orders preventing proceedings being brought against the Debtors or specified members of the Lydian Group and related orders.
38. Pursuant to paragraph 42 of the CCAA Order, the Debtors and Monitor were authorized "to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of [the CCAA Order] and for assistance in carrying out the terms of [the CCAA Order]". The same paragraph further provides that "the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada."
39. Pursuant to paragraph 1 of the 2 January CCAA Order, the Stay Period was extended until 23 January 2020. By the 23 January CCAA Order, the Stay Period was extended until 2 March 2020.

Issuance of Letter of Request by Ontario Court

40. The Lydian Group determined to include Lydian International as an applicant in the CCAA proceedings to ensure that a holistic and flexible restructuring regime was

available to preserve optionality and potential value for all stakeholders and creditors, particularly if a restructuring outcome or the Treaty Arbitration yields value to the Lydian Group's public shareholders.

41. I and the Lydian Group's Canadian legal counsel have been advised by Jersey counsel that the Jersey courts have jurisdiction to recognise and enforce foreign insolvency processes, even when such processes have no equivalent under Jersey domestic law.
42. By the CCAA Order, the Honourable Geoffrey B. Morawetz, Chief Justice of the Ontario Court issued a letter of request asking the Royal Court of Jersey to assist the Ontario Court. By the 23 January CCAA Order the Ontario Court, of its own volition, revised the letter of request by making certain minor amendments to it and issued a replacement version (the **Letter of Request**). A copy of the Letter of Request is exhibited hereto at **Tab 11**. The Letter of Request asks for the Royal Court to make orders in the following terms:-
 - a. By recognising the appointment of the Monitor;
 - b. By recognising the rights and powers of the Debtors and Monitor in respect of the Property and business of Lydian International;
 - c. By declaring that no action shall be taken or proceeded with against Lydian International except by leave of the Ontario Court on notice to all affected parties, the Debtors and the Monitor, and subject to such terms as the Ontario Court may impose; and
 - d. By granting such further or other relief as it thinks fit and in aid of the Debtors and the Monitor of Lydian International.
43. Pursuant to paragraph 7 of the Letter of Request, the Ontario Court has confirmed that, as a matter of international comity, the courts of Canada may give effect to orders made by the Royal Court of Jersey relating to the bankruptcy of an individual or company (save for the purpose of enforcing the fiscal laws of Jersey).

Orders sought in the Representation

44. The orders sought to be recognised by the Representation are slightly narrower in scope than the terms of the Letter of Request, to reflect the specific needs of Lydian at this juncture, with liberty to apply to the Royal Court for further assistance in

due course. The specific orders sought afford Lydian international protection from its creditors, recognise the appointment of the Monitor in Jersey, and specifically provide that its business and assets are to remain in its own possession (consistent with the wider CCAA reorganisation taking place in Canada).

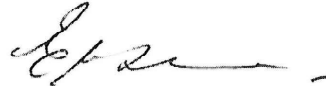
45. For the reasons set out above, Lydian International seeks the orders and declarations set out at the prayer for relief in the Representation.

SIGNED and **SWORN** by the said

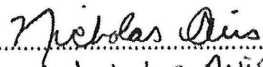
EDWARD A. SELLERS

At *Toronto, Ontario*

This *30th* day of *January* 2020

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BEFORE ME


.....
Nicholas Aulis

Commissioner for Oaths/Practising Solicitor
Associate, *Stikeman Elliott LLP*
Barristers & Solicitors
199 Bay St, 5300 Comm. Crt. W
Toronto, Ontario
Canada

1. Representor
2. Edward Sellers
3. First Affidavit
4. Sworn on

COURT FILE NO.[]

**IN THE ROYAL COURT OF JERSEY
(SAMEDI DIVISION)**

IN THE MATTER OF THE REPRESENTATION OF LYDIAN INTERNATIONAL

**AND IN THE MATTER OF THE LETTER OF REQUEST FROM THE ONTARIO SUPERIOR
COURT OF JUSTICE**

EXHIBIT "ES1"

This is the exhibit marked "ES1" referred to in the First Affidavit of Edward A. Sellers.

BEFORE ME

.....*Nicholas Avis*.....
Nicholas Avis
Commissioner for Oaths/Practising Solicitor

Court File No.: _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

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

Applicants

**APPLICATION RECORD OF THE APPLICANTS
(Returnable December 23, 2019)**

December 22, 2019

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Lawyers for the Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

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

Applicants

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicants. The claim made by the Applicants appears on the following page.

THIS APPLICATION will come on for a hearing on December 23, 2019, at 8:30 a.m., at 130 Queen Street West, Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicants' lawyer or, where the applicants do not have a lawyer, serve it on the applicants, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicants' lawyer or, where the applicants do not have a lawyer, serve it on the applicants, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date December 23, 2019

Issued by _____
Local registrar

Address of 330 University Avenue, Toronto,
court office Ontario M5G 1R7

APPLICATION

THE APPLICANTS MAKE THIS APPLICATION FOR:

1. An initial order (the “**Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) substantially in the form attached at Tab 3 of the Applicants’ Application Record, for, *inter alia*:

- (a) abridging the time for service of this Notice of Application and the materials filed in support of the Application and dispensing with further service thereof;
- (b) declaring that the Applicants are parties to which the CCAA applies;
- (c) appointing Alvarez & Marsal Canada Inc. (“**A&M**”) as an officer of this Court to monitor the assets, businesses and affairs of the Applicants (in such capacity, the “**Monitor**”);
- (d) staying all proceedings taken or that might be taken in respect of the Applicants, their directors and officers, and the Monitor until January 2, 2020, subject to further Order of the Court (the “**Stay of Proceedings**”);
- (e) granting the following charges over the Applicants’ property:
 - (i) an administrative charge in favour of the Monitor, counsel to the Monitor, counsel to the Applicants and other professionals (the “**Administration Charge**”);
 - (ii) a charge in favour of the directors and officers of the Applicants (the “**D&O Charge**”);

2. Such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THIS APPLICATION ARE:

General

- (a) The Applicants, Lydian International Limited ("**Lydian International**"), Lydian Canada Ventures Corporation ("**Lydian Canada**") and Lydian U.K. Corporation Limited ("**Lydian UK**"), are insolvent;
- (b) The Applicants are companies to which the CCAA applies;
- (c) The claims against the Applicants exceed \$5 million;
- (d) The Applicants are part of a corporate group (the "**Lydian Group**") with a number of subsidiaries ultimately owned by Lydian International. In addition to the Applicants, the Lydian Group includes:
 - (i) Lydian U.S. Corporation ("**Lydian US**");
 - (ii) Lydian International Holdings Limited ("**Lydian Holdings**")
 - (iii) Lydian Resources Armenia Limited ("**Lydian Resources**"); and
 - (iv) Lydian Armenia CJSC ("**Lydian Armenia**");

(together, Lydian US, Lydian Holdings, Lydian Resources and Lydian Armenia are the "**Non-Applicant Stay Parties**")
- (e) The Lydian Group is in the business of developing a gold mine in south-central Armenia (the "**Amulsar Project**");
- (f) Lydian Armenia, as the principal operating subsidiary in the Lydian Group, spearheaded construction of the Amulsar Project beginning in October 2016;
- (g) Beginning in June 2018 and continuing to date, Lydian Armenia has been unable to access and complete the construction of the Amulsar Project due to a variety of external factors including ongoing illegal blockades at the site and

certain arbitrary and prejudicial actions and inactions of the Government of Armenia;

- (h) As a result of these external factors, the Lydian Group has dismissed more than 90% of its workforce and terminated substantially all of its supply relationships;
- (i) As a further result of these external factors, the Lydian Group has defaulted on substantially all of its obligations to its lenders;
- (j) Since October 2018, the Applicants have entered multiple forbearance agreements with their lenders, the most recent of which expired on December 20, 2019;
- (k) During this period, the Lydian Group continued to engage in discussions with its lenders to address the situation in Armenia, while at the same time evaluating a range of financing and strategic alternatives;
- (l) While the Applicants continue their discussions with their lenders, they require immediate protection from this Court to stabilize their business and, amongst other things,
 - (i) resolve the issues that have resulted in Lydian Armenia being unable to access the Amulsar Project; and
 - (ii) pursue financing and/or sale options for the Applicants and the Lydian Group as a whole;
- (m) A&M has consented to act as the Monitor;

Stay of Proceedings

- (n) The Applicants require a Stay of Proceedings and the other relief sought to permit them to continue operating as a going concern as they pursue restructuring options in order to maximize enterprise value;

- (o) It is necessary and in the best interests of the Applicants and their stakeholders that the Applicants be afforded the “breathing space” provided by the CCAA as they attempt to restructure their business;
- (p) In light of the highly integrated nature of the Lydian Group, it is necessary and in the best interests of the Applicants and their stakeholders that the Stay of Proceedings be extended to the Non-Applicant Stay Parties;

Court Ordered Charges

- (q) The Administration Charge and D&O Charge are required to secure the professional services required to complete these CCAA proceedings and ensure the continued cooperation of the Applicants’ directors and officers.

Other Grounds

- (r) the provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;
- (s) Rules 2.03, 3.02, 14.05(2) and 16 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended;
- (t) Section 106 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended; and
- (u) Such future and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of this Application:

- (a) the Affidavit of Edward A. Sellers to be sworn December 23, 2019, and the exhibits attached thereto;
- (b) the consent of A&M; and

- (c) such further and other evidence as counsel may advise and this Court may permit.

December 22, 2019

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Lawyers for the Applicants

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF LYDIAN INTERNATIONAL LIMITED, LYDIAN CANADA VENTURES CORPORATION AND LYDIAN U.K. CORPORATION LIMITED

Court File No.: _____

ONTARIO

**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**NOTICE OF APPLICATION
(RETURNABLE DECEMBER 23, 2019)**

STIKEMAN ELLIOTT LLP

Barristers & Solicitors

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Lawyers for the Applicants

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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

Applicants

**AFFIDAVIT OF EDWARD A. SELLERS
(Sworn December 22, 2019)**

I, Edward A. Sellers, of the Town of Rosseau, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Interim President and Chief Executive Officer of the Applicant Lydian International Limited ("Lydian International"). I have been the President and Chief Executive Officer of Lydian International since June 12, 2019. I am also a director of the other Applicants in this proceeding. I have been on the Board of Directors of the Applicant Lydian International since November 1, 2018, and went on the Board of Directors of the other Applicants in this proceeding after June 12, 2019.
2. I have extensive experience serving as a director, advisor and lawyer to large public and private enterprises, having done so for over 30 years. I currently serve as President and Managing Director of Black Swan Advisors Inc. ("Black Swan Advisors"), providing independent interim governance support and leadership to enterprises in transition, decline or distress. Prior to establishing Black Swan Advisors in 2016, I served as a partner and Chair of the national restructuring practice at a leading Canadian law firm.
3. Due to my involvement with the Applicants, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have also reviewed the records, press releases, and public filings of Lydian International and have spoken with certain of the directors, officers and/or employees of the Applicants, as necessary. Where I have relied upon information from others, I believe the information to be true.

4. All references to currency in this affidavit are references to United States dollars, unless otherwise indicated.

PART 1 - INTRODUCTION & OVERVIEW

5. This affidavit is sworn to support an application by the Applicants for protection from their creditors pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA").

6. The Applicants' business consists of the exploration and development of a gold mine located in south-central Armenia (the "Amulsar Project" or "Amulsar"). Since obtaining an exploration license in 2006, the Lydian Group (as defined below) has invested more than \$400 million in the Amulsar Project, including more than \$20 million contributed to local communities through social responsibility and environmental projects.

7. Lydian Armenia CJSC ("Lydian Armenia") is the principal operating subsidiary in the Lydian Group. It commenced construction activities at Amulsar in October 2016, after carrying out and obtaining approval of all environmental assessments required by the Government of the Republic of Armenia (the "GOA"), which are described below. Development work at the site progressed to the point that by May 2018 construction of the mine was over 75% complete.

8. Following country-wide protests in April 2018, Armenia's Prime Minister at the time voluntarily resigned and Mr. Nikol Pashinyan became Prime Minister on May 8, 2018. After this change in government, demonstrations and road blockades occurred sporadically throughout Armenia, including at the Amulsar Project.

9. Beginning in June 2018 and continuing to date, Lydian Armenia has been unable to access and complete construction at Amulsar, principally because of the following factors:

- a) ongoing illegal blockades at Amulsar have prevented the Applicants from accessing the site. The GOA has repeatedly acknowledged publicly that the blockaders have no legal basis to prevent access to the Amulsar Project site and have been financially supported by rival mining companies;
- b) police forces in Armenia have not acted on orders made by Armenian courts requiring the removal of blockaders and the commencement of criminal

proceedings against them, and the GOA has failed to cause the police to enforce court orders, further extending the illegal blockades;

- c) duplicative and unnecessary environmental audits and investigations with respect to the Amulsar Project have been conducted or requisitioned by the GOA, which have effectively and retroactively altered the requirements by which permits and licenses had previously been issued to Lydian Armenia and forced the cessation of all operations at the Amulsar Project site;
- d) despite multiple recent public statements from the Prime Minister and other senior members of the GOA, including announcing the intention to take steps to remove the blockaders and restore access, the GOA continues to fail to act on the positive results of the additional environmental audits and investigations imposed by them, which have found Lydian Armenia to be in compliance with all relevant environmental requirements; and
- e) actions have been taken by the GOA to unilaterally and without prior notice or discussion terminate a material water supply previously available to Lydian Armenia, leaving the company without access to its primary operating water source and preventing the commencement of operations at the site; the GOA further denied Lydian Armenia access to an alternative water supply in October 2019.

10. As a result of the above-noted actions by the GOA, and the ongoing blockades, Lydian Armenia and its employees, contractors and suppliers have been prevented from carrying out any development and construction work.

11. In addition to causing extensive delays in the Amulsar Project's development schedule, the Applicants' inability to access the site has forced Lydian Armenia to dismiss in excess of 90% of its workforce and terminate substantially all its supply relationships. The situation has also caused the Lydian Group to default on substantially all of its obligations to its lenders.

12. As discussed in further detail below, since October 2018, the Applicants have entered into several forbearance agreements with their lenders, the most recent of which expired on December 20, 2019. During this period, the Lydian Group continued to engage in discussions with its lenders to address the situation in Armenia, while at the same time evaluating a range of financing and

strategic alternatives. These efforts were ongoing while the Lydian Group continued to press the GOA to address the illegal blockades and restore access to the Amulsar Project.

13. The Applicants' discussions with their lenders remain ongoing. However, given the expiration of the forbearance arrangements in place, the Applicants require immediate protection from this Court to provide the Applicants with breathing room they need to pursue various steps on a time sensitive basis. The lapsing of the Applicants' directors and officers insurance as of December 31, 2019 if no forbearance is achieved has also influenced the timing of this application.

14. Anticipated next steps for the Applicants include continuing discussions with their lenders and other stakeholders, including the GOA, to ensure: a) an end to the actions which have resulted in Lydian Armenia's inability to access the Amulsar Project; and b) the ability to pursue financing and/or sale options for the Applicants and Lydian Armenia, all with a view to achieving a viable path forward without the imminent threat of enforcement steps being taken that could result in an immediate loss of value.

15. Additional steps which are being considered include the commencement of international investment arbitration proceedings against the GOA pursuant to bilateral investment treaties, on the basis that the GOA's actions and inactions have seriously undermined the value of the Lydian Group's investment in the Amulsar Project (the "Treaty Arbitration"). The Lydian Group has also commenced a solicitation process regarding the financing of the Treaty Arbitration, which has to date generated non-binding expressions of interest.

16. The Applicants are seeking CCAA protection in order to permit them to stabilize their situation and explore and pursue the best avenues to maximize recoveries for the Lydian Group's stakeholders.

17. Each of the Boards of Directors of the Applicants have authorized this application.

PART 2 - THE APPLICANTS

Lydian International

18. Lydian International is a corporation continued under the laws of Jersey, Channel Islands from Alberta pursuant to the *Companies (Jersey) Law 1991*. Lydian International was originally incorporated under the *Business Corporations Act (Alberta)* on February 14, 2006 as "Dawson Creek Capital Corp." By articles of amendment dated December 12, 2007, the then outstanding

shares of the corporation were consolidated, and the corporation changed its name from "Dawson Creek Capital Corp." to Lydian International.

19. Lydian International's registered office is located at Bourne House 1st Floor, Francis Street, St. Helier, Jersey, Channel Islands. On June 12, 2019, Lydian International's shareholders approved its continuance under the *Canada Business Corporations Act*. The continuance back to Canada has not yet been implemented but is contemplated as part of a sale or recapitalization transaction.

20. Lydian International has had two types of securities listed on the Toronto Stock Exchange ("TSX"). Its ordinary shares began trading under the symbol LYD on January 10, 2008 and continue trading to date. Certain warrants began trading under the symbol LYD.WT on May 26, 2016 and ceased trading following their expiration on November 27, 2017.

21. Lydian International's authorized share capital consists of one class of fully paid ordinary shares without par value. As of November 11, 2019, 760,017,021 common shares were issued and outstanding. As of December 20, 2019, Lydian International's largest individual shareholders are two of its senior lenders, Resource Capital Fund VI L.P. ("RCF") and Orion Co IV (ED) Limited, a division of Orion Capital Management ("Orion"), who hold 32% and 11.7%, respectively, of Lydian International's shareholdings. As of December 20, 2019, the ordinary shares were trading in very limited volumes at approximately CDN\$ 0.075 per share. There has been a consistent decline in the value of Lydian International's shares since the blockades began- in June 2018, Lydian International's ordinary shares were trading at approximately CDN\$0.35 per share.

Lydian Canada

22. Lydian Canada is a direct, wholly-owned subsidiary of Lydian International. Lydian Canada was incorporated under the *Business Corporations Act* (British Columbia). Lydian Canada's registered head office is located at 5300 Commerce Court West, 199 Bay Street, Toronto, Ontario and its registered and records office is located at Park Place, 666 Burrard Street, Suite 1700, Vancouver, British Columbia.

Lydian UK

23. Lydian U.K. Corporation Limited ("Lydian UK"), a corporation incorporated in the United Kingdom under the laws of England and Wales. Lydian UK is a direct, wholly-owned

subsidiary of Lydian Canada. Lydian UK has its registered office at 11-12 St. James's Square, 3rd Floor, Suite 1, London, United Kingdom, SW1Y 4LB, a corporate service provided to it by Vistra Trust Company Limited, and company secretary services provided to it in the UK by Vistra Cossec Limited.

24. Lydian UK has no material trading assets, commercial contracts or trade creditors in the UK. I am a director of Lydian UK, and I conduct restructuring negotiations as well as strategic, management and operational matters for Lydian UK out of Canada. As none of Lydian UK's directors are based in the UK, Lydian UK's board meetings are also conducted outside the UK. Lydian UK's only material creditors are the senior lenders of the Lydian Group, as further described below. Lydian UK's principal professional advisors are based out of Canada, and some of its loan documentation is governed by Canadian law. Lydian UK's only bank accounts are in Canada.

25. The Applicants are considering whether to commence foreign recognition proceedings in the UK, if the Applicants' request for CCAA protection is granted, and will report further to this Court in that regard.

The Lydian Group

26. The Applicants are part of a corporate group (the "**Lydian Group**") with a number of other subsidiaries ultimately owned by Lydian International. A copy of the Lydian Group's corporate chart illustrating the full corporate structure is attached hereto as **Exhibit "A"**.

27. In addition to the Applicants, the Lydian Group includes the following entities:

- a) Lydian U.S. Corporation ("**Lydian US**"), a corporation incorporated under the laws of the State of Colorado, United States, which is a direct, wholly-owned subsidiary of Lydian International, with a registered office located at 5655 S, Yosemite Street, Suite 400, Greenwood Village, Colorado, 80111, USA. Lydian US has three full time and two contract employees who perform accounting and reporting functions for the Lydian Group;
- b) Lydian International Holdings Limited ("**Lydian Holdings**"), a corporation incorporated under the laws of the British Virgin Islands, with a registered office located at Harbour House, P.O. Box 4428, Road Town, Tortola, British Virgin

Islands. Lydian Holdings is a direct, wholly-owned subsidiary of Lydian UK, and is a holding company used by Lydian International as part of the corporate structure;

- c) Lydian Resources Armenia Limited ("**Lydian Resources**"), a corporation incorporated under the British Virgin Islands, with a registered office located at Harbour House, P.O. Box 4428, Road Town, Tortola, British Virgin Islands. Lydian Resources is a direct, wholly-owned subsidiary of Lydian Holdings;
- d) Lydian Armenia is a corporation incorporated under the laws of the Republic of Armenia, with a registered office located at V. Sargsyan 26/1, Yerevan, Armenia. Lydian Armenia is a direct, wholly-owned subsidiary of Lydian Resources, and owns and operates the Amulsar Project.

28. Due to the complete integration of the business and operations of the Lydian Group, the Applicants are seeking an extension of the stay of proceedings over the members of the Lydian Group described above.

29. The Lydian Group is highly integrated, and its business and affairs are directed out of Canada. Substantially all the strategic business affairs of the Lydian Group, including key decision making, are conducted through personnel who are located in Toronto and Vancouver. As President and Managing Director of Black Swan Advisors, I conduct business in Rosseau and Toronto Ontario. As Interim President and CEO of the Lydian Group I also conduct business in Rosseau and Toronto, in addition to the other locations where members of the Lydian Group have offices.

30. The Board of Directors of Lydian International is currently composed of six members, three of whom are resident Canadians and two of whom are located in Toronto. No other director of Lydian International has a common resident nationality. The Special Committee ("**Special Committee**") struck recently by the Board of Lydian International to direct the Lydian Group's restructuring efforts is composed exclusively of resident Canadians, two of whom are located in Toronto. Further, as the Interim President and CEO of Lydian International, I serve as a resident Canadian director on the Board of Directors of each member of the Lydian Group. No directors of any member of the Lydian Group other than Lydian International have a common resident nationality.

31. Each of the Applicants has assets located in Ontario. The Lydian Group's loan agreements are governed by the laws of the Province of Ontario. All of the Lydian Group's material professional advisory relationships (including its legal and audit firm engagement partners) are with professionals based in Toronto. The Lydian Group's primary insurance brokerage relationships are also located in Toronto and Calgary.

32. As previously noted, Lydian International's shares trade on the TSX and it is governed by the regulatory regime imposed on public companies by the Province of Ontario and enforced by the Ontario Securities Commission ("OSC").

33. I and the Lydian Group's Canadian counsel have been advised by Jersey counsel that the Jersey insolvency regime is focused on wind-up and liquidation proceedings and provides limited restructuring options. As a result, the Lydian Group has determined to include Lydian International as an Applicant in these proceedings to ensure that a flexible restructuring regime is available to preserve optionality and potential value for all stakeholders, particularly if a restructuring outcome or the Treaty Arbitration yield value to the Lydian Group's public shareholders.

34. I and the Lydian Group's Canadian legal counsel have been advised by Jersey counsel that the Jersey courts have jurisdiction to recognize and enforce foreign insolvency processes, even when such processes have no equivalent under Jersey domestic law. In order to do so, a court seeking to make an initial order over a Jersey entity would be asked to provide a Letter of Request to the Jersey court, in the form attached as Exhibit "B". Accordingly, together with their request for CCAA protection, the Applicants are seeking the issuance of a Letter of Request by this Court seeking the recognition of the initial order in Jersey.

PART 3 - THE AMULSAR PROJECT

35. The Lydian Group is a gold mining enterprise focusing on construction at its 100%-owned Amulsar mine, a development-stage project located in south-central Armenia.

36. Lydian Armenia first obtained an exploration licence for the Amulsar Project in March 2006, and identified a gold deposit in the area later that year.

37. The Lydian Group financed the development of the Amulsar Project from a combination of equity and debt capital and a streaming arrangement. These debt and stream financing

arrangements are secured over substantially all the assets of Lydian Armenia and Lydian International and the shares of various entities of the Lydian Group, as further described herein.

38. As stated, Lydian Armenia commenced construction activities at Amulsar in October 2016, after carrying out and obtaining approval of all environmental assessments required by the GOA, which are more fully described below. Lydian Armenia was planning to complete construction and targeted gold production to commence in the fourth quarter of 2018, having obtained its financing and environmental licenses on that basis.

39. As of June 2018, Lydian Armenia had made good progress on major construction and operational readiness activities at Amulsar, and construction was over 75% complete. However, this progress was hampered by the commencement of ongoing blockades and by a number of arbitrary measures taken by the GOA that followed thereafter, and which continue to date, as described in detail below.

PART 4 - FINANCIAL AND OPERATIONAL CHALLENGES

40. The Lydian Group's current debt position is outlined in greater detail below, and consists primarily of secured obligations owing to term lenders, lenders pursuant to a stream agreement, and equipment financiers (collectively the "Lenders"). A summary of the Lydian Group's total indebtedness and its major shareholders as of November 30, 2019 is provided below:

Entity	Shareholdings	Term Loan	Stream Agreement	Equipment Finance
Orion Mine Finance	88,836,000 shares (11.7%)	US\$154M		
Resource Capital Funds	243,183,333 shares (32%)	US\$26M	US\$33.5M	
Osisko Gold Royalties Ltd.		US\$3.5M	US\$55.8M	
Caterpillar Financial Services Limited (UK)				US\$25.8M

AB Svensk Exportkredit (publ)				US\$52.5M
Ameriabank CJSC				US\$11M
Total	332,019,333	US\$183.5M	US\$89.3M	US\$89.3M

41. As the Lydian Group dealt with a number of financial and operational challenges resulting from the illegal blockades and the acts and omissions of the GOA, which are more fully outlined below, it entered into a series of forbearance agreements with the Lenders commencing in October 2018 through to December 20, 2019. The Fourth A&R Forbearance Agreement (as defined below) expired on December 20, 2019.

42. The Applicants' discussions with their Lenders remain ongoing, however given the expiration of the forbearance agreements in place, the fact that the Lydian Group has no availability remaining under Term Facility B (as defined below) and no ability to draw on any additional liquidity sources, the Applicants require immediate protection from this Court in order to enable them to continue discussions with the Lenders and other stakeholders, with a view to achieving a viable path forward, without the imminent threat of multiple and uncoordinated enforcement steps being taken that could jeopardize, *inter alia*, the Amulsar Project and the Treaty Arbitration, and result in an immediate loss of value.

A. ONGOING FAILURE TO REMOVE THE UNLAWFUL BLOCKADES AT THE AMULSAR PROJECT

43. Commencing in June 2018 and continuing to the present time, Lydian Armenia has been subjected to numerous unlawful and discriminatory actions. The actions have increased in number and worsened over time. They have harmed the company, prohibited its access to the Amulsar site, effectively stripped it of its previously acquired rights to develop the Amulsar Project, and stopped all construction and operations at the site. Lydian Armenia has been required to fight to i) maintain its current mineral permits and licenses, which were provided in accordance with Armenian standards; and ii) defend the company's environmental standards and actions and its reputation in Armenia and internationally.

44. Construction has been disrupted due to numerous arbitrary measures taken or omitted by the GOA, one of which is the failure to take any action to remove the ongoing illegal blockades that have blocked access to Amulsar. Lydian Armenia and its employees, contractors and suppliers have been prevented from accessing the site, and from carrying out any development and construction work. The blockaders have erected makeshift structures on Lydian Armenia's property, allowing them to maintain a constant presence at Amulsar, and have prevented Lydian Armenia's employees, contractors and suppliers from entering the site through physical force and threats of violence.

45. Since the commencement of the blockades, the police and GOA have repeatedly failed to remove the blockaders and restore Lydian Armenia's access to its property, despite months of engagement between representatives of the Lydian Group and GOA authorities, and a court order in April 2019 requiring the police to remove the blockaders.

46. The failure to remove the blockades has resulted in massive delays to the development schedule, on which the Lydian Group obtained financing for the Amulsar Project. As stated, the delays and inability to access the site have also forced Lydian Armenia to reduce over 90% of its workforce.

47. Retained employees represent the core competencies necessary to effectively support a project restart. As at December 20, 2019, the Lydian Group employed a total of 63 full time and contract employees. Approximately 58 people are employed in Armenia. Of this number, 36 are full-time salaried employees, and 22 are contract employees. The Lydian Group expects to have to further reduce its work force as a result of its financial distress but intends to do so while maintaining the minimum complement necessary to permit a possible transactional outcome for the Lydian Group and its stakeholders.

48. As a result of the blockades, there has been a ripple effect in the neighbouring communities. Approximately 1,400 full time and contract jobs have been lost, resulting in many workers and their families having to relocate from the area. As well, the Lydian Group has been unable to continue to provide ongoing financial assistance to neighbouring communities, originally in the form of improvements to roads and social infrastructure, including upgrading schools, a library and community centres.

49. There are significant costs associated with the GOA's failure to end the ongoing illegal blockades and its other arbitrary actions. To date, Lydian International has recognized dislocation costs of approximately \$101 million in its financial results, and further dislocation expenses are expected to be incurred.

B. ENVIRONMENTAL AUDITS AND INVESTIGATIONS

(a) Environmental Approvals Obtained by Lydian Armenia to Commence Construction at Amulsar

50. Development at Amulsar was conducted on the basis of (i) mineral mining rights which were first granted to Lydian Armenia in 2009 for a period of 25 years by the Ministry of Energy, Infrastructure and Natural Resources of the GOA (the "Mining Rights"), and (ii) a September 26, 2012 mining agreement between Lydian Armenia and the GOA (the "Mining Agreement"). The Mining Rights and Mining Agreement authorize Lydian Armenia to construct a mine, and extract and process minerals at the Amulsar Project.

51. In order to obtain the Mining Rights, Lydian Armenia satisfied all necessary environmental approvals from the GOA for various aspects of the Amulsar Project, including approval of an Environmental Impact Assessment ("EIA").

52. Lydian Armenia prides itself in maintaining responsible environmental stewardship through environmental practices which meet or exceed international standards. Those standards and practices were fully evaluated and confirmed as part of the comprehensive assessment under which Lydian Armenia received its Mining Rights, and which formed the basis of the Mining Agreement.

(b) Audit by the Armenian Environmental and Mining Inspection Body

53. In July 2018, Lydian Armenia began to become subject to various attempts to challenge Lydian Armenia's environmental standards, and retroactively revisit and alter the standards to which Lydian Armenia was being held.

54. In July 2018, the Armenian Environmental and Mining Inspection Body (the "EMIB") announced that an inspection would be carried out regarding Lydian Armenia's compliance with environmental and mining laws and regulations. The inspection was ordered by the head of the EMIB, an outspoken opponent to the Amulsar Project.

55. The EMIB inspection identified no significant environmental concerns. Nevertheless, in August 2018, shortly after the conclusion of the inspection, the then head of the EMIB issued Resolution No 30-A, directing Lydian Armenia to refrain from any mining-related activities at the Amulsar Project until the Ministry of Nature Protection, another arm of the GOA, conducted a study in connection with alleged sightings of newly found endangered plants and animal species identified at the Amulsar Project. The Ministry of Nature Protection is now known as the Ministry of Environment.

56. In October 2018, a task force commissioned by the Ministry of Nature Protection confirmed the non-existence of the endangered plant and animal species and concluded that the Amulsar site did not include the necessary habitat to support the animal species in question. Nevertheless, despite the GOA's own acknowledgment that findings in Resolution No 30-A were unsubstantiated, the order restraining any mining related activities was not revoked.

57. Lydian Armenia appealed Resolution No 30-A in September 2018. I am advised by counsel to Lydian Armenia that this resulted in an automatic suspension pending the outcome of the appeal under Armenian law. On October 15, 2019, Lydian's appeal was granted, and the appellate court confirmed that the then head of the EMIB had been in a conflict position when Resolution No 30-A was made. The GOA took no steps to appeal this decision within the applicable appeal period, which has since expired. Despite the GOA not appealing the ruling, and its subsequent revocation, the GOA has failed to ensure that Lydian is otherwise able to regain access to the site to restart construction activities.

(c) ELARD Audit

58. As a further attempt to revisit previous environmental approvals, in July 2018, the Prime Minister announced that an investigation would be required into the potential impact that the Amulsar Project may have on local water resources. The Prime Minister stated at the time that if the investigation determined that no material impact would flow from the Amulsar Project on the source waters of the Town of Jermuk or Lake Sevan, the Amulsar Project would be permitted to proceed.

59. In September 2018, following the release of the EMIB inspection report referred to above, the GOA formally announced its intention to proceed with the requirement that Lydian Armenia undergo an investigation to assess the impact of the Amulsar Project on local water resources.

The Lydian Group considered this audit to be unnecessary and discriminatory in nature – no other mining company in Armenia had been subjected to these requirements. Further, over time the scope of this purported water audit was expanded to retroactively revisit all environmental approvals Lydian Armenia had already obtained.

60. After months of delay, in January 2019, the GOA informed Lydian Armenia that Earth Link and Advanced Resources Development (“ELARD”), an environmental consultancy based in Lebanon, had been appointed to review all matters covered by Lydian’s EIA. However, ELARD was not actually engaged until March 2019 and took months to conduct its investigation. Throughout this audit, Lydian Armenia co-operated fully with ELARD, while maintaining its position that there was no legal basis for conducting yet another investigation into environmental matters relating to the Amulsar Project.

61. ELARD completed the audit and released its report to the GOA on August 7, 2019, concluding that the Amulsar Project does not present a danger to the local water systems, and proposing some minor technical recommendations. In its report, ELARD did not challenge the validity of Lydian Armenia’s EIA. The GOA finally made the ELARD Report public on August 14, 2019. It was expected that once the ELARD report and positive conclusions were announced, the GOA would move swiftly to restore Lydian Armenia’s access to the Amulsar site.

62. Unfortunately, since the release of the ELARD report, the GOA has taken inconsistent positions regarding whether Lydian Armenia would be allowed to regain access to the Amulsar site and continue construction.

63. Notably, following the release of the ELARD report, the Prime Minister publicly stated on August 19, 2019 that the ELARD report confirmed that the Amulsar Project presented no environmental risk to source waters of Jermuk or Lake Sevan, such that all the conditions required for Lydian Armenia to resume work had been met. The Prime Minister also publicly stated then that: i) there was no basis on which to prevent the Amulsar Project from operating; ii) there was nobody better at environmental stewardship in Armenia’s mining sector; iii) rival mining companies intent on preventing Lydian Armenia from operating had funded and encouraged some of the anti-Amulsar blockaders; iv) the entire mining industry in Armenia would be required to come up to Lydian Armenia’s level of environmental stewardship, and pay the price to do so; and v) it was in the National interest that Lydian Armenia be permitted to operate.

64. However, only two days later, the Prime Minister referred the question of whether any further EIA would be required to the Ministry of Environment, suggesting that depending on the result Lydian Armenia could be required to prepare another EIA.

65. On September 6, 2019, senior management of Lydian Armenia and I participated in meetings with the Prime Minister and senior members of the GOA during which confirmations were stated by me regarding Lydian Armenia's intentions to: i) conduct site remediation once access was regained; and ii) recommence construction in the Spring of 2020. I also confirmed that Lydian Armenia would comply with the environmental performance standards inherent in the existing EIA throughout its operation of the Amulsar Project. The next day, those confirmations were affirmed during a taped meeting with the Prime Minister and a much larger group of members of the GOA.

66. On September 9, 2019, the Prime Minister publicly released an edited version of the taped meeting from two day before. The Prime Minister also stated publicly then:

- a) The blockaders should open the gates and go home;
- b) There was no basis on which the GOA could legally require Lydian Armenia to conduct another EIA;
- c) There was no basis on which the GOA could legally stop the Amulsar Project from advancing in accordance with its permits based on the existing EIA;
- d) The Lydian Group had publicly affirmed expressly that Lydian Armenia would comply with its existing EIA performance standards;
- e) Stopping the Amulsar Project would clearly illustrate a discriminatory approach to Lydian Armenia and not enhance Armenia's ability to attract investment;
- f) There would be shared access to Lydian Armenia's monitoring apparatus and results going forward under arrangements agreed with the Lydian Group, and the GOA would establish its own monitoring capabilities before construction recommenced; and

- g) The GOA intended to conduct another inspection to ensure that Lydian Armenia was in compliance with its permits/EIA, including that it has not made any design changes to the Amulsar Project unless permitted under the existing EIA.

67. To date, and despite repeated requests by the Lydian Group, the GOA has not confirmed one way or another whether a further EIA will in fact be required or when the intended inspection by the EMIB will commence.

(d) Water Permit Refusal

68. Operations at the Amulsar Project depend on access to an adequate water supply. When Lydian Armenia obtained its EIA, it entered into a contract with the Yeghegnadzor Water Users Association (the "WUA") to draw water from the Arpa River.

69. Without warning, in November 2018, Lydian Armenia received notice of cancellation of the contract by the WUA. Following the cancellation of the contract, Lydian Armenia applied to the Ministry of Environment to use water from the same source and the same pipe. Despite support from the WUA, and guidance on how best to file the application from officials within the Ministry of Environment, the company's application was rejected in June 2019, on the basis of alleged concerns regarding the impact of the use of the water on the Kechut reservoir and on the Lake Sevan water system. These concerns are unfounded, as the source and pipeline are located downstream from the Kechut Reservoir, and outside the Lake Sevan watershed area. Lydian Armenia appealed this decision, but its appeal was dismissed by the Ministry of Environment in September 2019. Lydian Armenia has brought a further appeal against the Ministry of Environment's orders of June and September 2019 before the Armenian Administrative Court.

70. On July 4, 2019, following the Ministry of Environment's rejection of Lydian Armenia's application, the company applied to the Ministry of Environment to draw water from the Darb River. On October 31, 2019, Lydian Armenia received a written rejection of its water use application signed by the Minister of Environment on October 25, 2019. The company has appealed this decision before the Armenian Administrative Court and has sought the Court's assistance to ensure water access remains.

(e) Criminal Investigation Against Lydian Armenia

71. In August 2018, in a further attack on Lydian Armenia's environmental standards, the Prosecutor General's Office of the GOA initiated a criminal investigation against Lydian Armenia, on the basis that Lydian Armenia breached the terms of the Mining Agreement by illegally extracting minerals, causing approximately \$38,000 in damage to the environment, subsurface and minerals. I understand from Armenian counsel that the Prosecutor General's Office put forward no evidence of any extraction having taken place. Nevertheless, the investigation remains ongoing.

72. The cumulative effect of the foregoing and other actions and inactions by the GOA led to the complete cessation of construction activity at Amulsar. Today, rather than being a revenue-producing, operational mine employing hundreds of people in Armenia, Lydian Armenia is facing a liquidity crisis and needs immediate further funding in order to carry out a restructuring or recommence its operations. The GOA has even failed to secure Lydian Armenia's access to the site for winterization and protective measures in respect of the Amulsar Project despite repeated requests over many weeks.

C. ARMENIAN LITIGATION EFFORTS

73. The Lydian Group have been working with Armenian counsel to pursue all available options to resolve the blockades, address the consequences of the environmental audits, and regain access to water resources as well as to the site.

74. Through its local counsel, Lydian Armenia has commenced several local proceedings, reviews and appeals to address the action and inaction of the GOA, police and blockaders. Lydian Armenia's efforts in appealing Resolution 30-A and pursuing legal proceedings to regain access to a source of water and remove the blockaders are outlined above. In addition, Lydian Armenia has commenced proceedings, amongst other things, against the police for failure to act, and actions against protesters for damages in respect of the blockades.

75. In July 2018, Lydian Armenia requested that the police prosecute the blockaders for the crimes of disorderly conduct and "arrogation", which I understand from Armenian counsel is a crime pertaining to the infringement of Lydian Armenia's legal rights through the blockaders' conduct. In August 2018, the police decided not to prosecute. Lydian Armenia appealed this decision, and January 18, 2019, the Armenian court ruled in Lydian Armenia's favour and

instructed the police to prosecute. The Armenian courts subsequently dismissed two appeals brought by the local prosecutor to overturn this decision. It was not until August 14, 2019, that the local prosecutor initiated criminal proceedings against the blockaders, which are ongoing.

76. On September 20, 2018, Lydian Armenia commenced a legal proceeding in Armenia seeking a court ruling that would require the police to remove the blockaders who had been trespassing on Lydian Armenia's property (the "Trespass Case").

77. On April 10, 2019, Armenia's Administrative Court issued its ruling in the Trespass Case in favour of Lydian Armenia, concluding that the blockaders had trespassed on Lydian Armenia's property, and issuing an order directing the police to remove the trespassers and their property from Lydian Armenia's land (the "Removal Order"), an English translation of which is attached hereto as Exhibit "C". The ruling took effect one month after it was issued, and the police were required to implement the Removal Order by June 13, 2019.

78. Although the police did not appeal the Removal Order, to date nothing material has been done to remove the blockaders from the Amulsar Project site, nor to ensure Lydian Armenia's access to its own property. The police and the Compulsory Enforcement Service, which is the agency responsible for the enforcement of court rulings in Armenia, have taken the position that nothing further needs to be done to comply with the Removal Order, other than moving the protesters' trailers by a few meters, as the remaining blockaders are not located within the geographical co-ordinates for removal specified in the Removal Order. The police and Compulsory Enforcement Service maintain this position despite multiple public statements by the Prime Minister acknowledging that there is no legal basis to deny the Lydian Group access to the Amulsar Project site.

PART 5 - RESPONSES TO FINANCIAL AND OPERATIONAL CHALLENGES

79. While continuing with efforts to restore access to the Amulsar site and maintain Lydian Armenia's Mining Rights and the other rights necessary to operate the Amulsar Project, the Lydian Group has also taken various steps to maintain stability over its financial position and seek financial alternatives. Those steps have included: a) negotiating several forbearance arrangements with its Lenders, b) drastic and ongoing cost reduction efforts; c) undertaking a strategic process in 2018 and 2019 to canvas potential refinancing or sales options; d) retaining experts to assist with updating mining information in the form of a 43-101 Technical Report in

order to have available information to re-enter the capital markets for additional financing options; e) preparation for the Treaty Arbitration; and f) commencing a solicitation process for parties interested in financing the Treaty Arbitration.

A. FORBEARANCE ARRANGEMENTS

80. As noted, the numerous actions and inactions of the GOA against Lydian Armenia have substantially restricted access to capital and caused conditions to occur that are deemed events of default by the Lenders.

81. On October 31, 2018, Lydian Armenia and Lydian entered into a Forbearance Agreement with the Lenders, which was amended and restated on December 21, 2018, July 1, 2019, October 1, 2019 and October 14, 2019 (the “Fourth A&R Forbearance Agreement”).

82. Pursuant to the Fourth A&R Forbearance Agreement, the Lenders agreed to, among other things, forbear from declaring or acting upon their rights with respect to certain events of default that had occurred until the earlier of (i) December 20, 2019, (ii) the occurrence of an additional event of default under such Lender’s financing agreement, (iii) any breach by the Lydian Group of the Fourth A&R Forbearance Agreement, or (iv) the date on which any Lender notifies Lydian International that it wishes to terminate the Fourth A&R Forbearance Agreement (only with respect to such Lender), following three days’ notice to certain funding Lenders, after the unrestricted cash of the Lydian Group has decreased below \$3,000,000 (the “Forbearance Period”). A copy of the Fourth A&R Forbearance Agreement is attached hereto as Exhibit “D”.

83. In January 2019, certain of the Lenders committed to make available an additional amount of up to \$18.56 million to fund Lydian Armenia during the Forbearance Period (“Term Facility B”). To date, only approximately \$12 million has been drawn under Term Facility B.

84. The Fourth A&R Forbearance Agreement provided for an expiry date of December 20, 2019. Despite extensive negotiations, the Lenders did not agree to an extension of the Forbearance Agreement. As such, without creditor protection, the Lenders are in a position to commence enforcement steps with respect to the various security held by them. The Lydian Group has no ability to make any further draws under Term Facility B.

B. COST REDUCTION EFFORTS

85. To mitigate costs during the ongoing conduct of the GOA, Lydian Armenia has reduced substantially all of its personnel, terminated substantially all construction-related contracts, and placed other contractors on standby. As noted, staged employee terminations occurred through the Forbearance Period, representing a total reduction in Lydian Armenia's workforce in excess of 90%. Retained employees represent Lydian's core competencies necessary to effectively support the completion of potential refinancing, sale and Treaty Arbitration processes.

C. SALE/REFINANCING EFFORTS TO DATE

(a) BMO SISP

86. The Lydian Group, with the assistance of BMO Nesbitt Burns Inc. ("BMO"), an investment bank with recognized expertise in the mining and metals sector, carried out a strategic process beginning in 2018 to canvas potential refinancing or sale options with respect to Lydian Armenia (the "SISP"). This process carried forward through to early 2019 and generated potential interest from several parties; however, the continuing illegal blockades and the conduct of the GOA prevented any meaningful offers that could be executed upon.

87. In October of 2019, BMO was again engaged to undertake a SISP process based on the GOA's statements that they supported the conclusions of the ELARD audit, among other things, and would support the reopening of the Amulsar Project. Through this process, BMO approached a broad range of potential parties to solicit interest in the Amulsar Project and a potential sale or refinancing. Despite a broad canvass by BMO, limited interest surfaced in a transaction and any interest that did surface was significantly impacted given the ongoing blockades and situation in Armenia. Discussions are ongoing with a potential purchaser and the Lydian Group will continue these discussions during the course of the CCAA proceedings to determine if a transaction can be implemented.

(b) Treaty Arbitration Financing Process

88. Commencing in October 2019, the Lydian Group, with assistance from BMO, conducted a process to solicit interest in financing the Treaty Arbitration, which is further described below. BMO contacted numerous potentially interested parties in the litigation financing sector, and established a virtual data room ("VDR") containing information regarding the Lydian Group and

the Treaty Arbitration. Numerous interested parties were permitted to access the VDR following execution of a non-disclosure agreement. The solicitation process for the financing of the Treaty Arbitration is ongoing and has generated non-binding expressions of interest.

D. 2019 TECHNICAL REPORT

89. Since the commencement of the illegal blockades and the GOA's conduct, the Lydian Group has considered numerous restart options, both internally and with the assistance of JDS Energy and Mining Inc. This included the development of a revised National Instrument 43-101 Technical Report in September 2019 (the "2019 Technical Report"), which was commissioned to address, in part, the full impact of the blockade on construction, and the resulting delay in the ramp up to full production. The 2019 Technical Report is based on projected changes in pre-production capital, construction and ramp up schedules. It was filed with the OSC in October 2019 and is publicly available.

90. The economic model inherent in the 2019 Technical Report shows a substantial increase of recoverable gold from the Amulsar Project. It also illustrates that approximately \$150 million in capital will be required to complete construction and a further approximately \$25 million in working capital is required bring the Amulsar Project into operation. The 2019 Technical Report provides updated and extensive data regarding Lydian Armenia, which the company believes will assist in developing sale or refinancing options.

E. PREPARATION FOR TREATY ARBITRATION

91. The GOA's refusal to end the illegal blockades, failure to enforce court orders favourable to Lydian Armenia, the audits and investigations described above, and the refusal to grant water permits have caused the Lydian Group to incur significant losses. As a result, in March 2019, Lydian UK and Lydian Canada delivered letters to the GOA triggering their ability to commence arbitration pursuant to the Agreement between the Government of the United Kingdom and the GOA for the Promotion and Protection of Investments (the "UK Treaty") and the Agreement between the Government of Canada and the GOA for the Promotion and Protection of Investments (the "Canada Treaty"), respectively, on the basis that the GOA's actions and inactions in relation to the Amulsar Project have seriously undermined the value of the Lydian Group's investment in Lydian Armenia. Copies of these letters are attached hereto as Exhibit "E". Lydian UK and Lydian Canada can formally commence arbitration against the GOA at any time.

92. Through the arbitration, Lydian UK and Lydian Canada would be seeking compensation from the GOA in respect of losses incurred by the Lydian Group and its investors. The quantum of the damages to be sought will be the subject matter of the Treaty Arbitration.

93. While the quantum of damages to be sought and ultimately awarded, if any, remains to be determined, the Board of Directors of Lydian International has considered the potential value of the Treaty Arbitration to the Lydian Group and its investors. In particular, the Board of Directors of each of the Applicants, based on consultation with various professionals retained by the Lydian Group, believes that there could be value in the Treaty Arbitration and the Amulsar Project beyond the indebtedness currently owed to the Lenders.

F. PURPOSE OF THE CCAA PROCEEDINGS

94. The Applicants have commenced these proceedings in order to seek the breathing room necessary to pursue various steps to seek to maximize value for all stakeholders, as follows:

- a) continue discussions with the GOA to ensure an end to the actions which have resulted in Lydian Armenia's inability to access the Amulsar Project;
- b) attempt to complete negotiations with the existing Lenders on a consensual path forward;
- c) complete negotiations on a potential sale and/or refinancing of Lydian Armenia;
- d) consider the appropriate corporate vehicle structure to implement a refinancing and/or sale; and
- e) finalize financing discussions and the potential commencement of the Treaty Arbitration.

95. The Applicants recognize that time is of the essence, partially given the cashflow position of Applicants. As the current Forbearance Agreement has expired, the Lydian Group has no availability remaining under Term Facility B, and no ability to draw on any additional liquidity sources.

96. The Applicants intend to use their remaining liquidity and the stability to be gained in the CCAA process to finalize discussions with their Lenders and other stakeholders and potential financing sources.

97. The Applicants intend to return to this Court at the comeback hearing to report to the Court on the results of the Applicant's efforts in that regard.

98. Leading up to the comeback motion, the Lydian Group will seek various sources of interim financing, including alternatives to interim debtor-in-possession ("DIP") financing. Depending on the outcome of these efforts, the Lydian Group may seek approval of interim financing at the comeback motion.

PART 6 - FINANCIAL STATUS

A. ASSETS

99. The Applicants report their financial position along with the other entities in the Lydian Group on a consolidated basis. The Lydian Group's fiscal year for reporting purposes ends on December 31. The latest audited financial statements for the Lydian Group are the statements of financial position for the 2018 fiscal year, which are attached hereto as **Exhibit "F"**. The Lydian Group's interim statements of financial position for the third quarter of fiscal year 2019 as ended September 30, 2019 are also attached hereto as **Exhibit "G"**.

100. As at September 30, 2019, the Applicants' combined assets consisted of the following:

Assets (in thousands of US Dollars)	
Current assets	
Cash and cash equivalents	\$4,089
Restricted Cash	\$1,154
Other current assets	\$16,096
Total current assets	\$21,339
Non-current assets	
Mineral property, plant and equipment, net	\$320,106
Other non-current assets	\$8,134
Total non-current assets	\$328,240
Total assets	\$349,579

B. LIABILITIES

101. As reflected in the chart below, as at September 30, 2019 the Applicants had liabilities totaling approximately \$395 million. The majority of these obligations relate to the term loans and stream obligations, which are described in more detail below.

Liabilities (in thousands of US Dollars)	
Current liabilities	
Accounts payable and other current liabilities	\$1,334
Stream Liability and Debt	\$342,486
Derivative liabilities	\$28,234
Total current liabilities	\$383,911
Non-current liabilities	
Provisions	\$6,361
Deferred VAT payable	\$3,857
Non-current portion of lease liabilities	\$88
Total liabilities	\$395,340

(a) Term Facilities

102. Pursuant to a November 30, 2015 credit agreement between Lydian Armenia as borrower, Lydian International and Orion, RCF and Osisko Bermuda Limited (as of the thirteenth amending agreement) ("Osisko") in their capacity as lenders (the "Term Lenders"), as amended (the "Credit Agreement"), the Term Lenders agreed to extend a \$160 million term loan to Lydian Armenia on a senior secured basis for the purposes of construction at Amulsar (the "Term Facility"). The Credit Agreement is governed by the laws of the Province of Ontario.

103. The Credit Agreement was amended multiple times, including pursuant to a January 15, 2019 amendment whereby, among other things, Osisko was added as a lender, and the Term Facility B was made available to Lydian Armenia. The Term Facility B was for a total amount of \$18.56 million and initially available to be drawn through the earlier of (i) June 30, 2019, (ii) the date on which the first A&R Forbearance Agreement terminates, and (iii) the date of change of control of Lydian Armenia or Lydian International (the "Term Facility B Maturity Date"). The

Term Facility B Maturity Date was extended on July 1, 2019 and further extended on October 1, 2019 through the earlier of (i) December 20, 2019, (ii) the date on which the Fourth A&R Forbearance Agreement terminates, and (iii) the date of a change of control of Lydian Armenia or Lydian International.

104. As of November 30, 2019, Term Facility and Term Facility B draws totaling \$152 million had been received. Pursuant to the Credit Agreement, the amounts owing to Orion, RCF and Osisko as of November 30, 2019, with interest, were \$154 million, \$26 million and \$3.5 million, respectively. These amounts are reflected in the chart summarizing the Lydian Group's total indebtedness to its Lenders, which was previously set out above.

105. To secure its obligations under the Credit Agreement, Lydian International granted, among others, the following security to the Term Lenders:

- a) a security interest in all of its present and future intangible movable property pursuant to a general security agreement;
- b) a guarantee of Lydian Armenia's obligations under the Credit Agreement;
- c) pledges of Lydian International's shares in Lydian Canada, Lydian US and Kavkaz Zoloto CJSC pursuant to various pledge agreements; and
- d) bank account security agreements granting security interest in certain bank accounts of Lydian International.

106. Lydian Armenia granted, among others, the following security to the Term Lenders to secure its obligations under the Credit Agreement:

- a) certain mortgages over the Amulsar site;
- b) pledges of Lydian Armenia's moveable assets, vehicles, mining rights, and turnover property; and
- c) a security interest in certain of Lydian Armenia's bank accounts.

107. The other Applicants guaranteed the obligations under the Credit Agreement and granted the following additional security:

- a) Lydian Canada granted a pledge of its shares in its wholly-owned subsidiary Lydian UK;
- b) Lydian Canada granted a security interest in all of its present and future assets, property (both real and personal) and undertaking of Lydian Canada pursuant to a general security agreement;
- c) Lydian UK granted a pledge of its shares in its direct subsidiary Lydian Holdings;
- d) Lydian UK granted a security interest over the present and future assets of Lydian UK, including a first fixed charge over the Treaty Arbitration claims;
- e) Lydian Holdings granted a pledge of its shares in its wholly-owned subsidiaries Lydian Resources and Lydian Resources Kosovo Limited; and
- f) Lydian Resources granted a pledge of its shares in its wholly-owned subsidiary Lydian Armenia.

(b) Stream Agreement

108. On November 30, 2015, Lydian Armenia, as seller, and Lydian International entered into a Purchase and Sale Agreement, as amended on March 11, 2016, August 30, 2016, June 30, 2017 and September 28, 2018 and amended and restated on January 15, 2019 (the "Stream Agreement") to sell gold and silver mined from Amulsar to Osisko (following assignment of the Stream Agreement by Orion to Osisko on or about July 2017) and RCF (the "Streamers", together with the Term Lenders, the "Senior Creditors"). A copy of the Stream Agreement is attached hereto as Exhibit "H". The Stream Agreement is governed by the laws of the Province of Ontario.

109. Pursuant to the Stream Agreement, Lydian Armenia is obligated to deliver 6.75% of gold production, limited to aggregate deliveries of 142,454 refined ounces and 100% of silver production, limited to aggregate deliveries of 694,549 refined ounces. Upon delivery, Lydian Armenia will be paid the lower of prevailing market price, or \$400/oz. for gold and \$4/oz. for silver, each subject to escalation provisions. Expiration of the agreement is the earlier of the date the aggregate gold and silver deliveries have been made or 40 years.

110. Certain terms of the Stream Agreement will be deemed to be amended upon the occurrence of a further deposit of \$8 million within 10 days of the Term Facility B Maturity Date (which amount may be paid by applying any amounts owing to Osisko and RCF under the Term

Facility B towards the payment of the deposit), including removal of the cap on aggregate gold and silver deliveries and removal of the 40 year term.

111. As of November 30, 2019, Lydian Armenia owed \$33.5 million to RCF and \$55.8 million to Osisko, inclusive of interest, pursuant to the Stream Agreement. This is summarized in the chart set out above, which shows the total indebtedness of the Lydian Group to its Lenders.

112. As summarized below, the security provided by the Lydian Group to the Streamers to secure the obligations under the Stream Agreement parallels the security granted by the Lydian Group to the Term Lenders to secure the obligations under the Credit Agreement.

113. To secure its obligations under the Stream Agreement, Lydian International granted, among others, the following security to the Streamers:

- a) a security interest in all of its present and future intangible movable property, pursuant to a general security agreement;
- b) a guarantee of Lydian Armenia's obligations under the Stream Agreement;
- c) pledges of Lydian International's shares in Lydian Canada, Lydian US and Kavkaz Zoloto CJSC pursuant to various pledge agreements; and
- d) bank account security agreements granting security interest in certain bank accounts of Lydian International.

114. Lydian Armenia granted, amongst others, the following security to the Streamers to secure its obligations under the Stream Agreement:

- a) certain mortgages over the Amulsar site;
- b) pledges of Lydian Armenia's moveable assets, vehicles, mining rights, and turnover property; and
- c) a security interest in certain of Lydian Armenia's bank accounts.

115. The other Applicants guaranteed the obligations under the Stream Agreement and granted the following security:

- a) Lydian Canada granted a pledge of its shares in its wholly-owned subsidiary Lydian UK;

- b) Lydian Canada granted a security interest in all of its present and future assets, property (both real and personal) and undertaking of Lydian Canada pursuant to a general security agreement;
- c) Lydian UK granted a pledge of its shares in its direct subsidiary Lydian Holdings;
- d) Lydian UK granted a security interest over the present and future assets of Lydian UK, including a first fixed charge over the Treaty Arbitration claims;
- e) Lydian Holdings granted a pledge of its shares in its wholly-owned subsidiaries Lydian Resources and Lydian Resources Kosovo Limited; and
- f) Lydian Resources granted a pledge of its shares in its wholly-owned subsidiary Lydian Armenia.

(c) **Equipment Financing**

116. Lydian Armenia entered into separate secured credit facilities (collectively, the "Equipment Facilities") with the Ameriabank Closed Joint Stock Company ("Ameriabank"), Caterpillar Financial Services (UK) Limited ("CAT") and ING Bank N.V, which was subsequently transferred to AB Svensk Exportkredit (publ) ("ING" and together with Ameriabank and CAT, the "Equipment Financiers") for the purpose of purchasing equipment associated with the Amulsar Project. Lydian International guaranteed Lydian Armenia's obligations to the Equipment Financiers. A summary of each term facility is below:

- a) Ameriabank: this term facility has a maximum principal amount of \$24 million and is secured by certain equipment. As of November 30, 2019, \$9.2 million was drawn on this facility, and the availability of further amounts is subject to certain conditions;
- b) CAT: this term facility (the "CAT Term Facility") has a maximum principal amount of \$42 million and is secured by certain mobile mining equipment. As of November 30, 2019, \$28.4 million was drawn on the CAT Term Facility. During the Forbearance Period, an aggregate of \$4.8 million principal payment on the CAT Term Facility has been made pursuant to the terms of the various A&R Forbearance Agreements in effect during the Forbearance Period. No additional amounts can be drawn under the CAT Term Facility. As of November 30, 2019,

the aggregate amount of \$25.8 million is outstanding under the CAT Term Facility, as outlined in the chart above; and

- c) ING: This term facility has a maximum principal amount of \$50 million and is secured by material handling and electrical equipment. As of November 30, 2019, \$48 million was drawn on this facility, and no additional amount can be drawn on it.

117. Lydian Armenia is in default of its obligations under the Equipment Facilities due to, among other things, its failure to pay principal and interest payments under each facility as they came due. The Equipment Financiers agreed to forbear from enforcing their rights under the Equipment Facilities during the Forbearance Period.

(d) Intercreditor Agreements

118. On December 3, 2015, Lydian Armenia, Lydian International and certain other members of the Lydian Group who provided guarantees of the obligations under the Credit Agreement and the Stream Agreement, entered into an Intercreditor Agreement with the Senior Creditors (as amended and amended and restated, the "**Senior Intercreditor Agreement**") to set out certain agreements amongst the Senior Creditors regarding the security interests held by them. A copy of the Senior Intercreditor Agreement, as amended, is attached hereto as **Exhibit "I"**.

119. Pursuant to the Senior Intercreditor Agreement, the parties agreed that the obligations under the Credit Agreement and the Stream Agreement would be secured on a *pari passu* basis, other than with respect to certain advances made by the Term Lenders pursuant to the Term Facility B, which will rank in priority to the other obligations under the Credit Agreement and the Stream Agreement.

120. On December 22, 2016, Orion, as collateral agent for the Senior Creditors (the "**Collateral Agent**"), CAT, Lydian Armenia and Lydian International entered into an intercreditor agreement (as amended, the "**CAT Intercreditor Agreement**") to set out the relative priority of the security granted by Lydian Armenia to CAT and the Senior Creditors. A copy of the CAT Intercreditor Agreement, as amended, is attached hereto as **Exhibit "J"**.

121. Pursuant to the CAT Intercreditor Agreement, the parties agreed that between CAT and the Senior Creditors, CAT will have a first ranking and senior lien in, amongst others, the mobile

mining equipment financed by CAT and the Collateral Agent will have a first ranking and senior lien in all other assets of the Lydian Group and a second ranking lien in, amongst others, the mobile mining equipment financed by CAT.

122. On April 21, 2017, the Collateral Agent, ING, Lydian Armenia and Lydian International entered into an intercreditor agreement (as amended, the **"ING Intercreditor Agreement"**) to set out the relative priority of the security granted by Lydian Armenia to ING and the Senior Creditors. A copy of the ING Intercreditor Agreement, as amended, is attached hereto as **Exhibit "K"**.

123. Pursuant to the ING Intercreditor Agreement, the parties agreed that between ING and the Senior Creditors, ING will have a first ranking and senior lien in, amongst others, the equipment financed by ING and the Collateral Agent will have a first ranking and senior lien in all other assets of the Lydian Group and a second ranking lien in, amongst others, the equipment financed by ING.

124. On November 17, 2016, the Collateral Agent, Ameriabank, Lydian Armenia and Lydian International entered into an intercreditor agreement (as amended, the **"Ameriabank Intercreditor Agreement"**) to set out the relative priority of the security granted by Lydian Armenia to Ameriabank and the Senior Creditors. A copy of the Ameriabank Intercreditor Agreement, as amended, is attached hereto as **Exhibit "L"**.

125. Pursuant to the Ameriabank Intercreditor Agreement, the parties agreed that between Ameriabank and the Senior Creditors, Ameriabank will have a first ranking and senior lien in, amongst others, the equipment financed by Ameriabank and the Collateral Agent will have a first ranking and senior lien in all other assets of the Lydian Group and a second ranking lien in, amongst others, the equipment financed by Ameriabank.

C. CASH MANAGEMENT SYSTEM

126. The Applicants (Lydian International, Lydian Canada and Lydian UK) use a centralized cash management system (the **"Cash Management System"**) to, among other things, collect funds and pay expenses associated with their operations and the operations of the entire Lydian Group. Cash is managed for the Lydian Group by personnel located at Lydian US's office in Denver, Colorado, and by Lydian Armenia personnel located in Armenia, ultimately at my direction as Interim President and CEO.

127. Lydian International maintains three cash operating bank accounts at the Bank of Nova Scotia in Toronto.

128. Lydian Canada and Lydian UK each have a bank account at the Bank of Nova Scotia in Toronto, which was opened in anticipation of the CCAA filing.

129. Lydian Armenia maintains 13 cash operating accounts, a credit card and a mortgage deposit account. Four of these accounts are held by the Bank of Nova Scotia in Toronto. The remainder are located in Armenia, and held by HSBC and Ameriabank. The accounts are in Armenian, Canadian, US, English, Euro and Rubel currency.

130. Historically, Lydian International transferred funds to Lydian Armenia to assist with costs associated with the Amulsar Project. This was recorded as an intercompany loan from Lydian International to Lydian Armenia.

131. Pursuant to the 11th amendment to the Credit Agreement, Lydian Armenia was permitted to transfer funds up to Lydian International to cover certain employee compensation obligations and for other corporate purposes, which transfers were recorded as a corresponding reduction in the intercompany amount owing by Lydian Armenia to Lydian International. The usual practice was for the transfers from Lydian Armenia to Lydian International to take place every few months, in increments of approximately \$1 million. I understand that the last transfer was done approximately one week ago. The Applicants intend to continue this practice within the CCAA proceedings.

D. THE APPLICANTS ARE INSOLVENT

132. The Fourth A&R Forbearance Agreement expired on December 20, 2019. At that time, without additional financing, the Applicants are unable to honour their obligations under the Credit Agreement, Stream Agreement and Equipment Facilities, and are in default of their obligations under these financing arrangements.

133. The Lydian Group has limited financial resources - diminishing cash amounts and no additional liquidity sources available to it. The Lenders under the Term Facility B have expressed concerns regarding the use to which additional advances might be put given the state of developments with the GOA. No assurances regarding any further availability under Term Facility B or additional funding have been provided to the Lydian Group.

E. FUNDING THE CCAA PROCEEDING AND OPERATIONS

134. The Applicants intend to use the time following the commencement of the CCAA proceedings through to the comeback motion to progress discussions with their Lenders and other stakeholders to determine immediate next steps regarding sale or refinancing options, the financing or commencement of the Treaty Arbitration, and/or the process and timeline required for stakeholders to consider these options. The Company will report back to this Court on the status of these discussions.

(a) Cash Flows

135. The Applicants, with the assistance of Alvarez & Marsal Canada Inc. ("A&M"), the proposed Monitor, have prepared a cash flow forecast for the period December 23, 2019 to March 20, 2020 forecasting the Applicants' receipts and disbursements. A copy of the cash flow forecast is attached hereto as Exhibit "M". The Cash Flows show that the Applicants have sufficient funds to carry on their current operations through January 2020.

PART 7 - THE PROPOSED INITIAL ORDER

A. EXTENSION OF STAY OF PROCEEDINGS

136. The Lydian Group is highly integrated, and substantially all the strategic business affairs of the Lydian Group, including key decision making, are conducted through personnel and supported by professional advisors who are located in Canada. Due to the integration of the business and operations of the Lydian Group, the Applicants are seeking an extension of the stay of proceedings to Lydian US, Lydian Holdings, Lydian Resources and Lydian Armenia. The Applicants believe that the extension of the stay to these entities will prevent uncoordinated realization and enforcement attempts from being made in different jurisdictions, and thereby prevent immediate losses of value for the Lydian Group's stakeholders.

137. As noted, the Lydian Group determined that it was necessary to include Lydian International and Lydian UK as Applicants in the within proceedings because of the complete integration of all of their business activities and affairs, and to preserve optionality and potential value for all stakeholders. This was also determined to be necessary in light of the flexible and remedial nature of the CCAA, the potential for the value of the Amulsar Project and Treaty

Arbitration exceeding the amounts owing to the Lenders, and the limited restructuring options available under the Jersey and UK insolvency regimes.

138. As noted, with respect to Lydian International, the Applicants are seeking this Court's assistance in issuing a Letter of Request to the Jersey court to permit the recognition of the CCAA proceedings in Jersey.

B. THE MONITOR

139. A&M has consented to act as the Court-appointed Monitor (the "Monitor") of the Applicants, subject to Court approval. A&M has retained Thornton Grout Finnigan LLP ("TGF") as its counsel, in contemplation of the order that may be made appointing it as Monitor.

140. A&M is a trustee within the meaning of section 2 of the BIA, and is not subject to any of the restrictions on who may be appointed as monitor set out in section 11.7(2) of the CCAA.

141. I am advised by Alan Hutchens of A&M that the proposed Monitor is supportive of the relief being sought in favour of the Applicants and the existence and amounts of the Court-ordered charges described below.

C. ADMINISTRATION CHARGE

142. The Applicants seek a charge (the "Administration Charge") on their assets, property and undertakings (the "Property") in the maximum amount of \$350,000 to secure the fees and disbursements incurred in connection with services rendered to the Applicants, both before and after the commencement of the CCAA proceedings by:

- (a) The Monitor and its counsel TGF;
- (b) Stikeman Elliott LLP, the Applicants' Canadian counsel;
- (c) Freshfields Bruckhaus Deringer LLP, the Applicants' UK counsel and their counsel in connection with the recognition proceedings; and
- (d) Maurant Ozannes, the Applicants' counsel in Jersey and the British Virgin Islands in respect of restructuring proceedings.

143. The Applicants have worked with A&M to estimate the proposed quantum of the Administration Charge and believe it to be reasonable and appropriate in view of the

complexities of its anticipated CCAA proceedings and the services to be provided by the beneficiaries of the Administration Charge.

144. Subject to section 11.52 of the CCAA, the Administration Charge is proposed to rank in priority to all other security interests, claims of secured creditors, trusts, liens, charges and encumbrances, statutory or otherwise in favour of any person, other than a person who has not received notice of the Application (the "Encumbrances").

D. D&O CHARGE

145. To ensure the ongoing stability of the Applicants' business during the CCAA proceedings, the Applicants require the continued participation of their directors, officers and employees. However, the Applicants' directors and officers (the "D&Os") have indicated that, due to the potential personal exposure associated with the Applicants' aforementioned liabilities, they cannot continue their service with the Applicants unless the initial order grants them certain protections commonly granted to directors and officers of companies involved in proceedings under the CCAA.

146. The Applicants are seeking typical provisions staying all proceedings against the D&Os and granting the D&Os an indemnity with respect to all post-filing claims that may arise against the D&Os in their capacity as the Applicants' directors or officers.

147. The Applicants maintain directors' and officers' liability insurance (the "D&O Insurance") for the D&Os. The current D&O Insurance policies provide a total of \$10 million in coverage. Lydian International has also granted contractual indemnities in favour of the D&Os, but do not have sufficient funds to satisfy those indemnities should the D&Os be found responsible for the full amount of the potential liabilities they may be exposed to. In addition, under the D&O Insurance, there are retentions for certain claims and the presence of a large number of exclusions creates a degree of uncertainty. The current D&O Insurance will lapse as of December 31, 2019 as a result of no forbearance extension being achieved.

148. Accordingly, the Applicants are seeking a charge on the Property in the amount of \$200,000 (the "D&O Charge") to secure payment under the indemnity granted by the Initial Order in favour of the D&Os. The D&O Charge is proposed to rank immediately after the Administration Charge, but subject to section 11.51 of the CCAA, ahead of all other

Encumbrances. It is intended, and the proposed initial order is drafted, that the charge will only apply in circumstances where the D&O Insurance is insufficient or ineffective.

149. The Applicants worked with A&M to quantify the potential liability that could accrue to the D&Os and to size the charge. I am informed by Alan Hutchens of A&M that they consider the Applicants' request for a grant of the D&O Charge and the proposed size of the D&O Charge to be reasonable in the circumstances.

E. PROPOSED RANKING OF THE COURT-ORDERED CHARGES

150. The proposed ranking of the requested Court-ordered charges is as follows:

- (a) First, the Administration Charge, to a maximum amount of \$350,000; and
- (b) Second, the D&O Charge, to a maximum amount of \$200,000.

151. In accordance with the CCAA, the proposed initial order provides that the Court-ordered charges will rank ahead of all other existing security interests of any persons, except for any person who is a "secured creditor", as defined in the CCAA, as of the date of the initial order and who has not received notice of this Application. The Applicants intend to seek an order granting priority over all Encumbrances on notice to such secured creditors.

PART 8 - COMEBACK MOTION

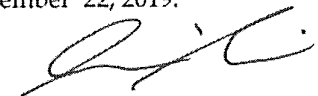
152. Should this Court grant the Lydian Group's application for CCAA protection, the Applicants intend to use the stability provided through the CCAA process to progress discussions with their stakeholders.

153. The Applicants intend to return to this Court at the comeback hearing in January to report to the Court on the Applicants' discussions with the Lenders, Equipment Financiers and key stakeholders to:

- a) develop a consensual path forward;
- b) complete negotiations on a potential sale and/or refinancing of Lydian Armenia;
- c) finalize financing discussions and potentially commence the Treaty Arbitration;
- d) address the potential need for and approval of DIP financing;

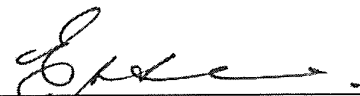
- e) grant super-priority to the court-ordered charges over any secured creditors who were not served with the Applicants' Application Record; and
- f) extend the stay of proceedings granted in the initial order.

SWORN BEFORE ME at the City of
Toronto, Province of Ontario, on
December 22, 2019.



Commissioner for Taking Affidavits

Sanja Sopic



Edward A. Sellers

EXHIBIT “A”

***THIS IS EXHIBIT "A", referred to in the
Affidavit of EDWARD A. SELLERS,
sworn on December 22, 2019.***



Commissioner for Taking Affidavits

Lydian Group Organization Chart

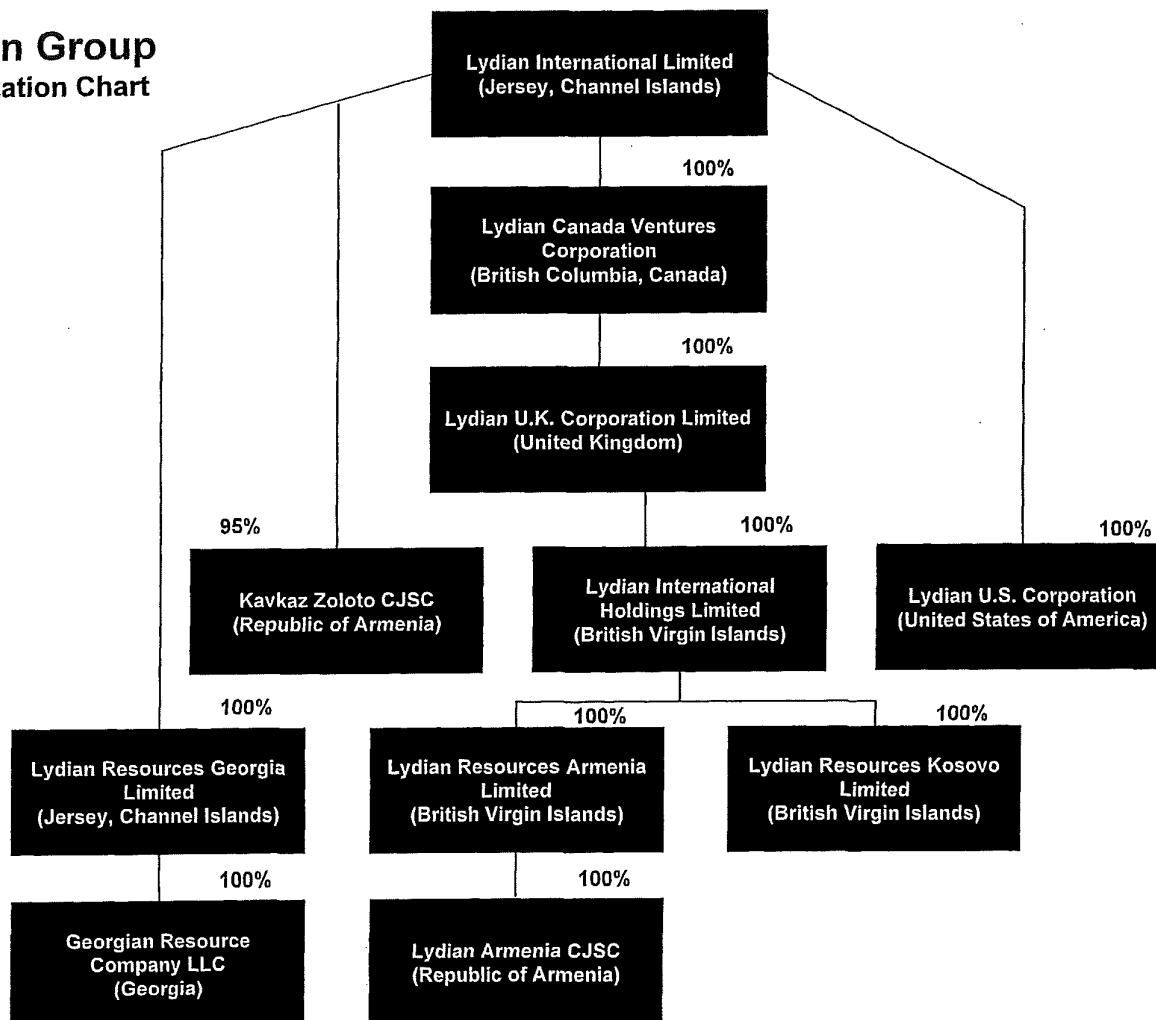
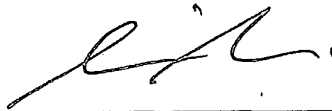


EXHIBIT “B”

***THIS IS EXHIBIT "B", referred to in the
Affidavit of EDWARD A. SELLERS,
sworn on December 22, 2019.***



Commissioner for Taking Affidavits

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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

**LETTER OF REQUEST
(COMITY APPLICATION)**

To: The Bailiff of the Royal Court of Jersey
Royal Court Building, Royal Square
St Helier, Jersey
JE1 1JG

The Superior Court of Justice (Province of Ontario, Canada) ("Ontario Court"), respectfully requests the assistance of the Royal Court of Jersey to provide assistance to the Ontario Court as set out below and assures the Royal Court of Jersey reciprocal assistance in appropriate circumstances.

WHEREAS:

1. By an order dated the 23 December 2019 of the Canadian Court ("CCAA Order"), Lydian International Limited ("Lydian International"), Lydian Canada Ventures Corporation and Lydian U.K. Corporation Limited (collectively, the "Debtors") were granted protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (Canada) ("CCAA") on the grounds that they were unable to pay their debts. Certain other non-applicant entities were also granted a stay of proceedings¹ (the non-applicant entities together

¹ Georgian Resource Company LLC, Kavkaz Zoloto CJSC, Lydian Armenia CJSC, Lydian Resources Georgia Limited, Lydian Resources Armenia Limited, and Lydian Resources Kosovo Limited.

with the Debtors are the "Lydian Group"). A copy of the CCAA Order is attached hereto as Schedule "A".

2. The Lydian Group is connected to Jersey by means of Lydian International, a corporation continued under the laws of Jersey from the Province of Alberta pursuant to the *Companies (Jersey) Law 1991* (Lydian International was originally incorporated under the *Business Corporations Act* (Alberta)). Lydian International's registered office is located at Bourne House 1st Floor, Francis Street, St Helier, Jersey.

3. Pursuant to paragraph **Error! Reference source not found.** of the CCAA Order, Alvarez & Marsal Canada Inc. was appointed as the monitor (the "Monitor"), an officer of the Ontario Court, to monitor the business and financial affairs of the Debtors pursuant to the CCAA.

4. Pursuant to the CCAA and the CCAA Order, the Monitor has broad powers including the authorization to have full and complete access to the Debtor's Property (as the term "Property" is defined in the CCAA Order), including the premises, books, records, data (including in electronic form) and other financial documents of the Debtors, to the extent that is necessary to adequately assess the Debtors' business and financial affairs or to perform its duties arising under the CCAA Order (see e.g. paragraph **Error! Reference source not found.** of the CCAA Order).

5. Pursuant to paragraph **Error! Reference source not found.**, the Monitor was granted the authority and powers "to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of [the CCAA Order] and for assistance in carrying out the terms of [the CCAA Order]". The same paragraph further provides that "the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada."

NOW:

6. I, the Honourable Geoffrey B. Morawetz, Chief Justice of the Ontario Court, confirm that, as a matter of international comity, the courts of the provinces and territories of Canada will give effect to orders made by the Royal Court of Jersey relating to the bankruptcy of an individual or company (save for the purpose of enforcing the fiscal laws of Jersey).

7. It having been shown to the satisfaction of the Ontario Court that it is necessary for the purposes of justice and to assist the Monitor in the performance of its duties, pursuant to the CCAA Order of the Ontario Court, I hereby request the assistance of the Royal Court of Jersey, pursuant to its inherent jurisdiction, to act in aid of the Monitor in the conduct of the reorganization of the Debtors and in particular (without prejudice to the generality of the foregoing):

- (a) by recognising the appointment of the Monitor with such appointment to be registered in the Rolls of the Royal Court of Jersey in respect of Lydian International;
- (b) by recognising the rights and powers of the Monitor to take all steps on behalf of Lydian International necessary to bring the Property and Business of Lydian International under its control;
- (c) by declaring that no action shall be taken or proceeded with against Lydian International except by leave of the Court and subject to such terms as the Court may impose; and
- (d) by granting such further or other relief as it thinks fit in aid of the Monitor and the reorganization of Lydian International.

Dated: 23 December 2019

The Honourable Geoffrey B. Morawetz,
Chief Justice of the Superior Court of Justice
(Ontario)

EXHIBIT “C”

*THIS IS EXHIBIT "C", referred to in the
Affidavit of EDWARD A. SELLERS,
sworn on December 22, 2019.*



Commissioner for Taking Affidavits

REPUBLIC OF ARMENIA
ADMINISTRATIVE COURT

RULING

Administrative case No VD/9786/05/18

In the name of the Republic of Armenia

April 10, 2019

Yerevan city

The administrative case opened by Lydian Armenia, CJSC (hereinafter referred to as the Company or Claimant) against RA Police, represented by the Jermuk Department of the RA Police division for Vayots Dzor province (hereinafter referred to as the Department or Respondent), is being heard by the Administrative Court of the Republic of Armenia (hereinafter referred to as the Court) at the open sitting,

chaired by

Judge AVAGYAN Artur, with clerks NERSISYAN Inna and HOVAKIMYAN Nelli;

and attended by:

Claimant's counsel NASIBYAN Khoren (license No 1509, based on power of attorney executed by Lydian Armenia, CJSC on Sept. 19, 2018); and

Respondent's counsel SARGSYAN Arman (based on the power of attorney executed by Police Deputy Chief on Oct.05, 2018).

Under the case, the Claimant seeks a decision that will make the Police Department to remove trespassing from the Claimant-owned real property areas with coordinates of 39.740911, 45.609243 and 39.734013, 45.608475.

Below are the facts determined by the Court.

1. Procedural history

On Sept. 20, 2018, a claim was brought by the Company's counsel seeking to instruct the Police (represented by the Department) to remove trespassers from the Company-owned real property areas with coordinates of 39.740911, 45.609243 and 39.734013, 45.608475.

The claim was admitted for hearing based on the Court's ruling of Sept. 27, 2018.

The preliminary court sitting, held on October 29, 2018, was attended by Claimant's counsel Khoren Nasibyan and Respondent's counsel Arman Sargsyan.

Under the Evidence Disclosure Decision passed by the Court on October 29, 2018, the RA Police division for Vayots Dzor province was instructed to provide all the case information collected in relation to the Company-submitted applications.

Under the statement of claim, supplemented on Sept.20, 2018, the Company's counsel asked the Court to instruct the Police Department to remove trespassers from the Company-owned real property areas with 39.740911, 45.609243 and 39.734013, 45.608475 coordinates.

The preliminary court sitting, held on November 20, 2018, was attended by Claimant's counsel Khoren Nasibyan and Respondent's counsel Arman Sargsyan.

The preliminary court sitting, scheduled for December 21, 2018, at 3 p.m., was not held because of the absence of judge Artur Avagyan, who participated in the general meeting of judges.

The preliminary court sitting, held on January 30, 2019, was attended by Claimant's counsel Khoren Nasibyan and Respondent's counsel Arman Sargsyan, with the decision made by the Court to allow the case to proceed.

The court hearing held on March 21, 2019, at 3 p.m., was attended by Claimant's counsel Khoren Nasibyan and Respondent's counsel Arman Sargsyan. The Court completed the court examination of the case at its March 21 sitting and set the date of announcing the judgement on the merits, that is April 10, 2019, at 5 p.m.

2. Legal Reasoning of the Claimant

Below are the facts, reasoning and demands made by the Claimant under the statement of claim:

In early June 2018, a group of people trespassed on the Claimant-owned territory (with the coordinates of 39.740911, 45.609243) and installed a trailer therein, having no owner's permission and/or any legal authority thereunto. On August 13, 2019, Police report was filed by the Company counsel Khoren Nasibyan to remove the trespassers from the above-mentioned Company-owned territory. The Police report was accompanied with the areas' legal-possession-certifying document, namely certificates on State registration of real property rights for the land areas. Under the RA Government's Resolution No 797-N of May 10, 2007, clause 4 of the Annex, the Police department officers were supposed to visit the real property area within a 3 hours' period upon receipt of the police report, but none of them did so and/or made a call within the prescribed period of time. Instead, on August 14, 2018 the Police department chief sent a letter No 84/1367 to the Company requiring a submission of plans of the real property units, specified by the above-mentioned State registration certificates. The demand for the plan submission was not justified and was made irrespective of the fact that no plan-submission requirement is stipulated by the RA Government's Resolution. Under the Police department Chief's note No 84/1376 of August 15, 2018, the Claimant counsel was invited to the Police department for presenting the case. Based on the Police department chief's letter No 84/1394 of August 20, 2018, the Police found no elements of trespassing in this case.

On August 22, 2018, the Claimant had to re-file his Police report because of the ongoing actions at the site impeding the exercise of the ownership rights by the Claimant. In response, the Police department chief sent another incomprehensible letter No 84/1394 on August 23, 2018 stating that the trailer was installed at the territory beyond the Company-owned area, which was not consistent with the reality. The actions and inactivity of the Police department officers were not appealed by way of subordination by the Claimant. Until the day of submission of the statement of claim, the Claimant was deprived of the opportunity to exercise his property ownership rights because of the failure of the Police department's staff to exercise the authorities stipulated by the above-mentioned Annex to the RA Government's Resolution No 797-N of May 10, 2007.

When applying the provisions of the RA Constitution (article 10.1), the RA Civil Code (articles 163.1, 203.1, 203.4 and 203.5), as well as the RA Government's Resolution No 797-N of May 10, 2007 on the "Procedure and Conditions of Police Authorization by Legal Possessor of Real Property for the purpose of Preventing and/or Removing Trespassing" (Annex sections 1, 2, 4, 11, 12 and 14) to the facts of the case, it becomes clear that the Police department officers were supposed to discharge the duties prescribed by the above-mentioned Government's Resolution (Annex, clause 4), namely to visit the real property area within a three hours' period upon receipt of the Claimant's report, which was not done de facto. Besides, under the letter of August 14, 2018, the Police required the plans of the real property units aside from the Certificates on the State registration of the real property rights, having no reasonable cause to do so. The above-mentioned Government's Resolution (Annex, clause 2) states that a certificate on State registration of real property rights shall be deemed as the document that certifies the legal possession of the real property. Meanwhile, the Police report submitted by the Claimant on August 13, 2018, was accompanied with both the mentioned certificates and the plans of the areas, which are not required under the law. Under the circumstances, the Police's demand is groundless and unnecessary, and it implies a breach of the principle of the prohibition of abuse of formal requirements, prescribed by article 5 of the RA law on "Fundamentals of Administration and Administrative Procedure", as well as a disregard of the Principle of the Maximum, stipulated by article 9 of the same law.

It is worth mentioning that the failure to open an investigation based on filed police reports and the above-mentioned disregard of procedural and substantive rules were justified by the Police by the fact that the trespassers were exercising their constitutional right for freedom of assembly (RA Constitution, article 44.1), according to the the Police department Chief's letter No 84/1394 of August 20, 2018. The Police department has missed the point of the RA law on "Freedom of assemblies" article 4.1 stating that no mass meetings shall be held in a privately-owned area unless authorized by the owner thereof and no trailers/lodge shall be installed and/or constructed by the mass meeting participants therein even with the connivance of the law enforcement bodies. Besides, the RA law on "Freedom of assemblies" article 4.1 states that "the place of assembly should be the one to which everyone has access."

It will be difficult to regard the privately-owned production site, which is a matter of dispute, as "accessible for everyone". Such a liberal interpretation of the law implies ominous consequences for the society and the Police department's logic suggests that everyone may break another's fundamental rights and may trespass to a privately-owned real property just by force of the right for freedom of assemblies prescribed by the RA Constitution article 44.

Police were supposed to be guided by RA law on "Regulatory legal acts" article 41. The literal interpretation of the law on "Freedom of assemblies" article 1.4 implies that a privately-owned land area may serve as a place of assembly if accessible for everyone (namely, if authorized by the land area owner or if organized by the latter, and etc.). In this case, the situation differs as the Claimant, who is the owner of the land area, is deprived of the opportunity to exercise his ownership rights as prescribed by RA Constitution article 10. At this, the land area, which is privately owned by the Claimant, may not serve as a place for assembly.

With regard to legal position of the European court on human rights under the case *Djavit An v. Turkey* (2003), para.56; *Rassemblement Jurassien Unite Jurassienne v. Switzerland* (1979), p.119, we may state that the case situation is completely different from similar ones, when the right for freedom of assemblies is being exercised on State- and/or community-owned facilities.

In this case, the administrative body has disregarded the peculiarities of the situation and the principle of "prohibition of arbitrariness" prescribed by the RA law on "Fundamentals of Administration and Administrative Procedure" article 7. As proceeding from article 7.2 of the same law, Police has obviously disregarded the peculiarities of the situation (the fact of the land area being privately owned and not accessible for everyone), which implies "displaying individual approach towards essentially different factual circumstances."

The Police department's chief's letter No 84/1394 of August 20, 2018 refers to RA Civil Code article 203.2, which states that *"It shall not be deemed to be intrusion where 1) the land parcel is not fenced or walled in, or 2) there is no written or voice message or image sign prohibiting the entrance into the land parcel."* And the prerequisite is that *"the entry into the land parcel will not cause any damage to the land parcel"*. The disputed land areas are not fenced but are deemed to be mining area and *there is* a sign stating the fact (image sign). And what about the numerous voice statements and messages, made by the land owner's representatives, and the Police reports filed on August 13, 2018 and August 22, 2018. What are they if not the written and voice messages prohibiting the entrance to the land parcel?

The Police has also disregarded the prerequisite of the RA Civil Code article 203.2, stating that *"the entrance shall not cause any damage to the land parcel"*. As mentioned above, the land parcel is a mining area and the fact that the Claimant is deprived of the opportunity to provide for a proper protection, possession and use of the land area because of a group of trespassers means that the land plot may be damaged.

As to the incomprehensible letter No 84/1394, sent by the Police department Chief on August 23, 2018 and stating that the trailer was installed at the area not owned by the Claimant, it's worth dwelling on reasonability of the statement, as it is completely groundless and does not meet the reality, as the land areas do belong to the Company which fact is proven by the certificates on State registration of real property ownership.

Based on the RA law on "Regulatory legal acts" article 41, we may state that the law does not restrict the land plot owner's and/or legal possessor's right to possess the land area, subjected to trespassing and installation of an unknown trailer by trespassers. In addition, it should be mentioned that according to the RA law on "Police of the RA", article 2.1.5, the Police shall provide for an equal protection of all forms of ownership. The improper examination of the police reports, as prescribed by RA law on "Police service of the RA" articles 20.1.1 and 20.1.6, and the failure to remove trespassers, mean that the Police has failed to discharge its duties prescribed by the above norms and the RA law on "Fundamentals of Administration and Administrative procedure" article 4, 5, 7 and 9, as well as the RA Government's Resolution No 292-N of May 10, 2007 on "Procedure and Conditions of Police Authorization by Legal Possessor of Real Property for the purpose of Preventing and/or Removing Trespassing" (Annex sections 1, 2, 4, 11, 12 and 14)", by bringing to lasting breach of property rights certified under the real property rights registration certificates No 18082016-10-0021, 18082016-10-0011, 18082016-10-0055, 18082016-10-0069 and 18082016-10-0013.

On November 14, 2018, the Claimant counsel supplemented the statement of claim as follows:

Material events, which followed the filing of the statement of claim, were not responded by the Respondent properly. Thus, on October 22, 2018, the Claimant filed a report with the Respondent stating that the Claimant-owned territory (coordinates of 39.734013, 45.608475) was trespassed on October 21, 2019 by third persons bypassing the prohibiting sign, and a 3-room metal trailer

was installed there. The report was filed by the Claimant in a manner prescribed by the RA Government's Resolution No 797-N of May 10, 2007, as in previous case.

Just like before, no actions prescribed by the above Resolution No 797-N were implemented by the Respondent. Namely, on October 26, 2018 the Respondent sent a formal letter No 84/1848, signed by Police department acting chief A.Armenakyan, saying that a number of measures were taken by the Police department staff for the purpose of removing the trailer, installed at the entrance of the Claimant's site by a group of Jermuk residents, such as negotiating with the persons and the delivery of crane at the site, and etc., with no tangible results achieved.

Article 203.2 of the RA Civil Code was quoted by the Respondent irrespective of the above-mentioned "measures taken" implying that the Respondent did recognize the lawfulness of the Claimant's demands, and by this the Respondent contradicted the above paragraph, and disregarded the fact that the above-mentioned prohibiting sign had been installed just in front of the site entrance. By the letter, the Respondent urged the Claimant to take measures required to remove the property illegally installed at his own territory, which means that the Respondent once again recognized the legal rights that the Claimant held in the area and the fact of trespassing to the area by third persons.

Based on the above-mentioned, the Claimant asked the Respondent to remove trespassers from the areas, lawfully possessed by him (the Claimant) and having the coordinates of 39.740911, 45.609243 and 39.734013, 45.608475.

3. Legal Reasoning of the Respondent

Below is the reasoning presented by the Respondent in writing:

On August 13, 2018, at 8 p.m., a police report was filed by Khoren Nasibyan, the counsel for the Company, asking to remove the trespassers from the Company-owned territory with coordinates of 39.740911, 45609243. The report was accompanied with certificates No 18082016-10-0021, 18082016-10-0011, 18082016-10-0055, 18082016-10-0069 and 18082016-10-0013 on State registration of real property rights, and a power of attorney. The report was received by e-mail and immediately assigned to Police officer G.Tadevosyan to proceed with. The same day, at 8:03 p.m., G.Tadevosyan communicated with the Company counsel Kh.Nasibyan by mobile (098-190000), who said that he would not be able to visit the mentioned site as he was leaving for Yerevan. G.Tadevosyan presented the procedure saying that the Police were to visit the real property site within a 3 hours' period upon receipt of the Police report to identify the person filing the report, to check the documents certifying the real property rights and to identify the trespassers and/or those trying to intrude the territory and to determine the reasons and/or bases of their presence or attempted entry and to draw up a report of the incident. The same day, at 8:45 p.m., G.Tadevosyan arrived at the site with 3 police officers. The site was occupied by a group of Jermuk city residents protesting against the Amulsar gold mine project. No Company representative was present at the area within the period, G.Tadevosyan had two phone calls the same day at 8:49 p.m. and 9:43 p.m. with Kh.Nasibyan, who said that no Company representative would visit the real property area and that they (the Police) should remove the trespassers. The transcripts of the calls made from G.Tadevosyan's phone within the period are attached. The calls made to Kh.Nasibyan's phone number of 098190000 are detailed by hour and minutes and coincide with the time period when the report was drawn up under the case materials. The

statement, made in the claim, on that no Police officer visited the site and/or called within a 3 hours' period, is not true and does not meet the reality.

It was determined by the visit that a group of Jermuk city residents had been keeping the site-leading roads blocked since June 22, 2018 by holding a peaceful campaign against Amulsar gold project. No measures were taken to remove the persons from the area that day and no supplementary checks and investigations were made by the Police officer as there was no representative of the legal possessor of the land area present at the site to identify the problem and no detailed plans of the land area were attached to the real property certificates, attached to the police report, to see the factual boundaries of the Company-owned territory. Thus, on August 14, 2018 the Police department chief sent a letter No 84/1367 requiring from the Claimant copies of the plans for the real property units, specified in the above-mentioned certificates, to form a clear idea of the boundaries of the Company-owned land areas. The same day, an information request was made to the Jermuk office of the Real Property Cadaster Committee, by the Police Chief's letter No 84/1368. On August 15, 2018, an electronic version of the plan-map, prepared by the Company experts, was received from Kh.Nasibyan, who said that this was the only boundary map that they could provide. The layout map did not reflect the boundaries of the real property by meters either. The plans, received on August 16, 2018 from the Jermuk office of the Real property cadaster, were better-defined but lacked the metering details again. According to the Claimant, the plans-submission demand is not justified as no such requirement is prescribed by RA Government's relevant resolution. But it should be mentioned that the Resolution is not as much applicable to land areas as it is to apartments and enclosed structures. That is why the police department had to make supplementary checks and surveys, which are not prohibited for the purpose of providing comprehensive and complete materials. The Police department's demand for written explanation (which was found pointless by the Company's counsel) was made to the Complainant for the same reason, that is to get complete information.

According to the Department-collected materials, no elements of trespassing as prescribed by RA Civil code article 203.2 are found in the actions of the group of persons protesting at the entrance of the real property area, and the notion of "a group of persons" is a relative concept. The problem here does not apply to the specified territory but it occurs because of a group of Jermuk residents, who keep the Company sites-leading roads blocked at various localities of the Jermuk community in protest at the Amulsar gold project. When making the protests, the protestors do not necessarily stay within the Company-owned areas all day long, there may be one or two persons staying within the areas at a time, which means that the group of persons stayed both within, and out of, the Company-owned area entrance during the protesting campaign.

Thus, even if the group of persons had continued its protests out of the Company property area due to the Police department's awareness work, the Claimant's problem would not have been solved completely. The Claimant did not use the whole of territory before the start of the protesting campaign, and it was the presence of a group of people who regulated the entry to, and the exit from, the territory. Besides, the community-owned water lines and high-voltage electric lines are still crossing the area. As to "the voice statements and demands", made by the Company after the start of the protests, then they were not perceived by the Department as voice messages as those were not addressed to indefinite circle, the area was open to everyone, considering the regular presence of people there (like in the cases of car breakdown, and etc.). Anyhow, the Department finds that a group of persons may hold a protest campaign at the place and for the purposes not contradicting the requirements of the RA law on "Freedom of assemblies".

On August 22, 2018, the second report was filed by the Company in relation to the same problem and supplemented by the fact that a trailer was installed by the group of persons at the same place. Immediately after receipt of the report, the Police department officers visited the site and drew up a similar report. Once again, no Company representatives participated in the process as they did not visit the site. Based on the report, drawn up with the involvement of the Chief architect of the Jermuk municipality Arsen Garnikyan on August 23, 2018, the above-mentioned installed trailer was not located at the territory owned by the Company.

4. Material facts

Below is the evidence material to the case:

- 1) The Company counsel's letter, addressed to the Police department chief on August 13, 2018 and requesting to take measures aimed at removing trespassing within the period specified by RA Government's resolution No 797-N (Annex, clauses 1, 3 and 4) and considering the fact that the Company-owned area (with coordinates of 39.740911 and 45.609243) was trespassed by a group of persons with no legal basis or authorization of legal holder;
- 2) Police department chief's letter No 1394 addressed to the Company counsel and stating that based on checks and surveys it was determined that a group of persons were participating in peaceful anti-Amulsar demonstration, at the beginning of the road leading to land areas 11, 9, 25, 29 and 30 located on street 30 of Gndevaz village, Jermuk community, at "Renko" called section, a few meters left from the road. The analysis of factual circumstances proved that there were no constituent elements of trespassing in this case, and that's why no measures were taken to remove the persons, temporarily present at the area.
- 3) The Company director's letter addressed to the Police department chief on August 22, 2018 and asking to remove trespassing and to relocate the unlawfully-installed trailer within the prescribed period of time, considering the fact that a group of persons trespassed to the real property area (coordinates of 39.740911, 45.609243) and installed a trailer therein, having no legal basis or authorization of legal owner, and refused to leave the area and relocate the trailer irrespective of numerous warnings and demands made by the Company.
- 4) The Police department chief's letter No 1427 addressed to the Company director and stating that as determined by the Department there were no elements of trespassing by the group of persons, present at the above-mentioned site, as defined by RA Civil code article 203.2, and that the trailer, installed by the group of persons, was located out of the site owned by the Company, according to the metering, made by the involvement of the Jermuk municipality chief architect;
- 5) Company Security deputy chief's letter addressed to the Police department chief on October 22, 2018 and notifying that a trailer was unlawfully installed at the Company-owned area, namely the Site 28 road, on October 21 by the group of persons keeping the Amulsar roads blocked by disregarding the warnings and objections of the Company security staff. In this regard, it was asked to remove the trespassing and to relocate the trailer.
- 6) Letter addressed by the Company's Security deputy chief to the Police department chief on October 24, 2018 and notifying that the trailer, unlawfully installed at the Company-

owned area on October 21, was not removed yet. In this regard, it was asked to remove the trespassing and to relocate the trailer.

- 7) Letter No 1848 addressed by the Police department acting chief to the Company's Managing Director on Oct. 26, 2018 and notifying that a number of measures had been taken by the Police Department staff, namely negotiations held with the trailer-installing persons and a crane delivered, and etc., to remove the trailer from the Company-owned Site 28, installed by a group of Jermuk residents protesting against the Amulsar gold project. But the measures failed and the trailer remained unmoved.
- 8) Note No 04.33 dated Feb.22, 2019 provided by Geocard SNGO of the Geodesy and Cartography SNCO, State committee of real property cadaster, used as a basis for surveying the location of the metal trailer installed by activists at the Company-owned land areas next to Gndevaz village of Jermuk community. Based on the metering of the trailer's points, made on Feb.15, 2019 by the Geodesy and Cartography SNCO's surveying and metering department employees by means of GS-10/GS-15 GPS station, it was determined that
 1. The metal trailer, installed to the right of the big turning point on the 7th km of the road connecting Jermuk with the Yerevan-Meghri highway, is located within the land area, encoded as 0224-0096 and owned by the Company, namely with the turning points of 103, 104, 105 and 106 and surface are of 26sq.m covered;
 2. The metal trailer, installed on the 8th km of the road connecting Jermuk with the Yerevan-Meghri highway, is located within the land area, encoded as 0222-0057, 0022-61, 0022-0063 and owned by the Company, namely with the turning points of 56, 57, 58 and 59 and surface are of 31sq.m covered.
 - The surface area of 10.6 sq.m is located within the land area encoded as 0222-0057 leased by the Company;
 - The surface area of 6.6 sq.m is located within the land area encoded as 0222-0061 and owned by the Company;
 - The surface area of 13.8 sq.m is located within the land area encoded as 0222-0063 and owned by the Company.
- 9) - Certificate on State registration of real property rights No 18082016-10-0013 stating that the land area No 25, located at street 30, Gndevaz community, Vayots Dzor province, with total surface of 0,5461 ha and designated with 10-016-0222-0061 cadastral code, is owned by the Company.
 - Certificate on State registration of real property rights No 19042017-10-0011 stating that the land area, located in Gndevaz community, Jermiuk community, Vayots Dzor province, with total surface of 0,2014 ha and designated with 10-016-0222-0057 cadastral code, is leased by the Company.
 - Certificate on State registration of real property rights No 18082016-10-0069 stating that the land area No 29, located on street 30, Gndevaz community, Vayots Dzor province, with total surface of 0,19416 ha and designated with 10-016-0222-0063 cadastral code, is owned by the Company.
 - Certificate on State registration of real property rights No 18082016-10-0107 stating that the land area No 9, located on street 27 of Gndevaz community, Vayots Dzor province, with total surface of 1,3 ha and designated as 10-016-0224-0096 cadastral code, is owned by the Company.

5. Court's Reasoning and Conclusions

After comprehensive, complete and fact-based examination and analysis of the case materials and evidence, and according to inner conviction, the Court has determined to uphold the claims, based on the below-mentioned grounds.

RA Constitution article 8 states that *"All forms of ownership shall be recognized and equally protected in the Republic of Armenia."*

RA Constitution article 31 states that *"Everyone shall have the right to possess, use and dispose of legally acquired property at his or her discretion."*

RA Constitution article 29 states that *"Everyone shall have the right to freely participate and organize peaceful, unarmed assemblies."*

European convention on human rights, article 11.1, states that *"Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests."*

Article 11.2 of the same Convention that *"No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others..."*

RA Civil code, article 163.1, states that *"The right of ownership is the right of a subject, recognized and protected by law and other legal acts, to possess, use, and dispose of property belonging to it at its discretion."*

RA Civil code, article 202.1, states that *"Territorial boundaries of a land parcel shall be determined, as prescribed by law, by the State authorized body, based on the documents issued to the owner."*

Section 2 of the same article states that *"The right of ownership to land parcel shall extend to terrestrial and underground territory within the boundaries thereof, except for the cases provided for by law."*

Section 3 of the same article states that *"Owner of the land parcel shall have the right to use everything situated on and under the surface of his or her land parcel, unless otherwise provided for by law and unless it violated the rights of other persons."*

RA Civil Code article 203.1 states that *"Each person shall have the right to prevent others from entering the land parcel, building, structure and the territory of other immovable property under his or her legal possession."*

No one shall have the right to enter a land parcel, building, structure or the territory of other immovable property (hereinafter referred to as "intrusion") without the grounds established by law or permission of legal possessor.

The following shall also be considered as intrusion: 1) failure to comply with the demand of the legal possessor to leave the land parcel, building or structure or the territory of other immovable property by a person who has entered the land parcel, building or structure or the territory of other immovable property upon the permission of the legal possessor; 2) failure to comply with the

demand of the legal possessor to leave the land parcel, building or structure or the territory of other immovable property by a person who has entered the land parcel, building or structure or the territory of other immovable property on the grounds established by law, following the termination of those grounds or after performance of the relevant actions provided for by law."

According to section 2 of the same article, "It shall not be deemed to be intrusion where the land parcel is not fenced or walled in, or there is no written or voice message or image sign prohibiting the entrance into the land parcel, and the entry into the land parcel will not cause damage to the land parcel."

According to section 4 of the same article, "Legal possessor shall have the right to undertake reasonable measures of defense in order to prevent or eliminate the intrusion, including the use of force proportionate to the consequence of intrusion, when non-forcible measures may not prevent or eliminate the intrusion. Legal possessor shall have the right to remove the property of another person illegally situated in his or her land parcel, building or structure or the territory of immovable property. Damage caused to the person, who has made the intrusion, as a result of measures undertaken for the purpose of prevention or elimination of the intrusion under the conditions provided for by this part, shall not be subject to compensation."

According to section 5 of the same article, "Legal possessor of a land parcel, building or structure or the territory of other immovable property shall have the right to authorize the police to carry out actions on behalf of him or her, aimed at prevention or elimination of intrusion. Procedure for and conditions of authorizing the police by a legal possessor shall be established by the Government."

RA law on "Freedom of assemblies" article 2.1 states that "for the purpose of the law, an assembly shall be peaceful and no-weapon meetings of two or more persons in a place for the purpose of forming or expressing opinions on issues of public interest..."

Article 2.4 of the same law states that "Place of general use shall be an open space of State or municipal property (street, sidewalk, square, park, garden, land plot, and etc.) ..."

RA law on "Freedom of assemblies" article 14.3 states that "In case if the place of assembly is a State- or community-owned open-space property, which is leased, and/or is a privately-owned open-space area or structure, then the assembly notification shall be accompanied with a written authorization of the leaser and/or owner. No authorization shall be required for the assembly if everyone has a free access to the area."

According to the RA Government's Resolution No 797-N of May 10, 2007 determining the "Procedure and Conditions of Police Authorization by Legal Possessor of Real Property for the purpose of Preventing and/or Removing Trespassing", annex p. 1, "a legal possessor of a land plot, structure or building (hereinafter referred to as the Real property) shall have a right to authorize Police to act on his and/or her behalf for the purpose of preventing and/or removing trespassers who have entered the real property without the grounds established by law or permission of legal possessor (hereinafter trespassing)."

Section 2 of the same Annex states that a legal possessor of the real property is the person who holds a right to possess, own, use or dispose of the property on the grounds established by law or relevant contract, that includes but is not limited to owners, possessors (leaser, beneficiary, developer) or administrator (trust manager) and authorized representatives thereof. The right of

real property legal possession shall be certified by real property rights certificate and/or other equivalent certificates issued by State committee of real property cadaster, RA government.

According to section 3 of the Annex, for the purpose of preventing and/or removing trespassing, legal possessor of real property may apply to Police by phone or other communication means or by personal appearance to the police station to invite police officers to the real property.

According to section 4 of the Annex, Police shall visit the site of the real property within a 3 hours' period upon receipt of the legal possessor's application (police report), unless other time periods are provided for by the legal possessor in the application/report.

According to section 5 of the Annex, upon arrival at the real property site Police shall identify the person who had filed the report, shall check the documents certifying the legal possessor's rights to the real property, shall identify the trespassers and/or persons attempting to trespass, as well as shall determine the legal bases or reasons of his/her presence at the real property area.

According to section 11 of the Annex, in cases when it is determined by Police officer that a person is not authorized to be at the site and/or if the person refuses to identify himself and/or herself or provide documents certifying the validity of his being at the site, and/or the dispute between the parties is based on invalid agreement, then the Police officer shall make an oral warning not to enter the site and/or to leave the site of the real property within a reasonable period of time.

According to section 14 of the Annex, after being authorized by legal possessor of the real property the Police officer will make another demand to leave the site or to abstain from trespassing to the site by warning that failure to comply with his instructions will be deemed as public disobedience with all the implications prescribed by law. Should the trespasser refuse to comply with the police officer's instructions once again, the latter will have a right to apply force or special means prescribed by law for the purpose of preventing and/or eliminating trespassing.

The analysis of the above-mentioned legal norms proves that the RA Constitution guarantees a right of ownership, at this everyone shall have the right to possess, use and dispose of the right at his/her discretion. The ownership right to land parcel shall cover both aboveground and underground areas thereof, except for the cases prescribed by the law, with the boundaries determined by authorized State body based on documents issued to the owner. One of the warranties of the real property right is the right prescribed by the RA Civil Code for everyone to prevent other persons' intrusion, in this case trespassing, to the real property legally possessed by him/her. At this, the intrusion means an entering a land parcel, building, structure or the territory of other immovable property without the grounds established by law or permission of legal possessor. Besides, for the purpose of removing trespassing a legal possessor shall have a right to take reasonable protection measures, including the removal of property unlawfully installed at the real property area. It is worth mentioning that there are no elements of intrusion in the cases when the land parcel is not fenced and/or walled, and/or there is no written or voice message or visual sign prohibiting the entrance into the land parcel, and/or the entry into the land parcel will not cause any damage to the land parcel. Real property legal possessor shall have a right to authorize police to act on his/or her behalf for the purpose of removing trespassing, with the conditions and procedure of the authorization prescribed by the RA government. For the purpose of preventing/removing trespassing, prescribed by the RA government's resolution, real property's legal possessor shall have a right to authorize police, as prescribed by respective resolution, to take measures aimed to remove the trespassing on the basis not prescribed by the law and/or not authorized by legal possessor. The real property legal possessor shall be the

person who is entitled to possess, own and use real property based on agreement or law, including but not limited to the real property owner. The right of legal possession of real property shall be certified by entitlement certificates to be issued by State committee of real property cadaster. For the purpose of preventing and/or removing trespassing, legal possessor of real property may apply to Police by phone or other communication means and/or by personal appearance to the police station to invite police officers to the real property. Police officer shall visit the site of the real property within a 3 hours' period upon receipt of the legal possessor's application (police report), unless other time periods are provided for by the legal possessor in the application. After being authorized by legal possessor of the real property the Police officer will make another demand to leave the site or to abstain from trespassing to the site by warning that failure to comply with his instructions will be deemed as public disobedience with all the implications prescribed by law. Should the trespasser refuse to comply with the police officer's instructions once again, the latter will have a right to apply force or special means prescribed by law for the purpose of preventing and/or eliminating trespassing.

RA legislation guarantees the right for peaceful unarmed assemblies, with no restrictions placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. At this, an assembly is a peaceful and armed temporary presence of two and more persons at a place for the purpose of forming and expressing an opinion on any issue of public interest. And the place of assembly is a State- and/or community and/or privately-owned open-space area or structure, accessible to everyone. Moreover, for the above cases the law requires a written permission to be issued by the property owner or possessor for holding the assembly. No permission will be required in the cases when the place of holding the assembly is accessible to everyone.

Under this case, the Claimant asks the Court to instruct Police to remove trespassing of the Company-owned real property units with coordinates of 39.740911, 45.609243 and 39.734013, 45.608475. The claim is based on the facts that a group of persons have trespassed the Claimant-possessed land area, without the Claimant's authorization/permission, have installed a trailer there and refuse to leave the territory, which implies a violation of the Claimant's right of possession prescribed by the RA legislation.

In response, the Respondent, namely the Police, notifies by letters dated August 20, 2018 and August 23, 2018, that there are no elements of trespassing (in one case it is deemed to be an assembly and in the other case the trailer is not located at the territory owned/possessed by the Company) and by letter of October 26, 2018 they informed that the measures taken by the Police department staff for the purpose of relocating the trailer have failed.

Meanwhile the Court has determined, based on the analysis of legal norms and case evidence, that according to Note No 04.33 dated Feb.22, 2019 provided by Geocard, SNGO of the Geodesy and Cartography SNCO of the RA government's committee for real property rights, the land plots encoded as 0224-0096, 0222-0057, 0022-0061, 0022-0063, trespassed by the above persons and used for installation of the trailer, are legally possessed (owned and/or leased) by the Company. Which means that the Company, as a legal possessor of the land plots, was and is authorized and entitled to take reasonable measures for the purpose of protecting its rights. Namely, to authorize the Police to remove trespassing from the Company's legally-possessed land area and to relocate the trailer unlawfully installed therein. At this, the Court has determined

that the Police were charged by law to take measures to remove trespassers, up to the applying force or other measures prescribed by the law.

Court has determined that a group of persons has trespassed to the Company-possessed land area and installed a trailer with no authorization of the Company, which is a legal possessor thereof, with no legal authorization thereof and by violating the Company's right of inviolability of ownership and the right of unhindered use of property.

Court has determined that the fact of availability or absence of the fences and/or walls, as well as the entrance-prohibiting written or voice messages or image signs on the disputed land area shall not be qualified as an absence of elements of trespassing as there is a photo in the case evidence showing the Company-installed written sign strictly prohibiting unauthorized entry to the site. Besides, the actions taken by the legal possessor of the land area to remove trespassing testify to the presence of the elements of trespassing, which means that the unauthorized entry to the land area by the group of persons was unlawful and should be deemed as trespassing.

As to the Respondent's arguments stating that the entry to the land plot by the group of persons should be deemed as the exercise of the persons' right for freedom of assembly, the Court has determined that the refusal to leave the Company-possessed land area should not be regarded lawful, as it implies the violation of the Company's right of inviolability of property and the right of unhindered possession thereof.

Thus, the Court has determined that the right for freedom of assembly shall not be deemed as an absolute right and shall not be interpreted that broadly, based on the limitations prescribed by national and international laws applied for protection of third persons' rights and freedoms. The purpose of the Court is to provide for balance between the two rights guaranteed by the RA Constitution, as the Court finds that none of the Constitutional rights shall be exercised through restriction of other rights. Moreover, a place of mass gathering shall be deemed as a place of assembly only if it is accessible to everyone and provided that the owner and/or possessor of the land area has authorized in writing the holding of the assembly at the area, and there is no need for the authorization if everyone has access to the area.

This is the legal position expressed by the European court on human rights when determining that "The right for freedom of assembly is one of the public society bases and shall not be interpreted restrictively (see G.v. The Federal Republic of Germany, No 13079/87, Dec. 6.3.89, D.R. 60 p. 256, at p.263). This right is applicable to private assemblies and public rallies (see Rassemblement Jurassien and Unite Jurassienne v.Switzerland, No.8191/78 Dec. 10.10.79, D.R. 17 p. 119), demonstrations (see Christian against fascism and racism v. The United Kingdom, No. 8440/78 Dec. 16.7.80, D.R. 21 p. 148) and sit-in strikes. Nevertheless, *the Court-voiced positions contain no statement that the right for freedom of assemblies is aimed to guarantee the right of assemblies for public or social purposes in any place (see Anderson and nine others v. The United Kingdom, No. 33689/96, 27.10.97, 25 EHRR CD 172)*".

This means that the exercise of the right of assemblies is not absolute and may not be exercised everywhere, in this case in the privately-owned area with no authorization by the legal possessor thereof. The unavailability of the authorization for holding the assembly at the area by the Company, which is a legal possessor of the land plot, implies that there is no opportunity to access the mentioned area for peaceful assemblies as well. Moreover, according to the Court the Police have not provided an evidence of that the protesters were deprived of the opportunity to hold the assembly at any other area, not possessed by the Company.

Based on the above-mentioned the Court concludes that the presence of the group of persons at the area lawfully possessed by the Company shall be deemed as trespassing, which means that the Company's claim may and shall be upheld to instruct Police to remove trespassing from the Company-owned real property units with coordinates of 39.740911, 45.609243 and 39.734013, 45.608475.

As to the court expenses under the case, the RA Administrative procedure code's article 60.1 states that it is the aggrieved party that shall pay the costs incurred by the RA Court Department in relation to experts and witnesses, as well as the other party's costs incurred for proper exercise of the right of court defense. The Court hereby finds that the Respondent, represented by the Police, shall pay the State duty amount previously paid by Claimant.

Based on the above-mentioned and in accordance with the RA Administrative Procedure Code, articles 60, 1240127 and 132, the Court has determined

1. To uphold the claim brought by Lydian Armenia, CJSC versus Police (represented by Jermuk Police department, Vayots Dzor province division, RA Police);

To instruct the Police to remove trespassing from the Company-owned real property units with coordinates of 39.740911, 45.609243 and 39.734013, 45.608475.

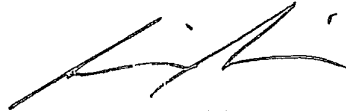
2. To collect the State duty amount of AMD 4000 from the Police in favor of Lydian Armenia, CJSC.
3. This Ruling shall come into force within a month after publishing thereof and may be appealed to the RA Court of Appeal within the prescribed period.
4. The Ruling will be enforced by the Court decision enforcement bodies if not execute voluntarily.

Judge,

Artur Avagyan

EXHIBIT “D”

*THIS IS EXHIBIT "D", referred to in the
Affidavit of EDWARD A. SELLERS,
sworn on December 22, 2019.*



Commissioner for Taking Affidavits

FOURTH AMENDED AND RESTATED FORBEARANCE AGREEMENT

THIS FOURTH AMENDED AND RESTATED FORBEARANCE AGREEMENT is dated as of October 14, 2019

BETWEEN:

LYDIAN ARMENIA CJSC ("Lydian Armenia")

-and-

LYDIAN INTERNATIONAL LIMITED ("Lydian")

-and-

ORION CO IV (ED) LIMITED ("Orion")

-and-

RESOURCE CAPITAL FUND VI L.P. ("RCF")

-and-

OSISKO BERMUDA LIMITED ("Osisko")

-and-

ING BANK N.V. ("ING")

-and-

AB SVENSK EXPORTKREDIT (publ) ("SEK")

-and-

CATERPILLAR FINANCIAL SERVICES (UK) LIMITED ("CAT")

-and-

AMERIABANK CLOSED JOINT-STOCK COMPANY
("Ameriabank")

(each, a "Party" and collectively, the "Parties")

RECITALS:

- (a) Lydian Armenia, Lydian, Orion, Osisko and RCF have entered into a credit agreement made as of November 30, 2015, as amended by an amending agreement dated as of March 11, 2016, as further amended by a second amending agreement dated September 30, 2016, as further amended by a

third amending agreement dated October 14, 2016, as further amended by a fourth amending agreement dated October 21, 2016, as further amended by a fifth amending agreement dated June 30, 2017, as further amended by a sixth amending agreement dated April 19, 2018, as further amended by a seventh amending agreement dated June 29, 2018, as further amended by an eighth amending agreement dated July 31, 2018, as further amended by a ninth amending agreement dated August 15, 2018, as further amended by a tenth amending agreement dated August 31, 2018, as further amended by an eleventh amending agreement dated September 28, 2018, as further amended by a twelfth amending agreement dated November 2, 2018, as further amended by a thirteenth amending agreement dated January 15, 2019, as further amended by a fourteenth amending agreement dated July 1, 2019 and as further amended by a fifteenth amending agreement (the "Senior Credit Amending Agreement") dated October 1, 2019 (collectively, the "Senior Credit Agreement");

- (b) Lydian Armenia, Lydian, Osisko (as successor to Orion Co IV (SO) Limited) and RCF have entered into an amended and restated purchase and sale agreement dated January 15, 2019 (the "Stream Agreement");
- (c) Lydian Armenia, Lydian and CAT have entered into a credit agreement made as of December 22, 2016, as amended by a first amendment to credit agreement dated August 17, 2017, as further amended by a second amendment to credit agreement dated June 27, 2018 and as further amended by a third amendment to credit agreement (the "CAT Third Amendment") dated as of the date hereof (collectively, the "CAT Agreement");
- (d) Lydian Armenia, Lydian and ING have entered into a facility agreement dated February 8, 2017, as transferred by ING to SEK, as lender, pursuant to a transfer certificate dated March 31, 2017, as amended by a first amendment to facility agreement dated December 14, 2017 and as further amended by a second amendment to facility agreement dated July 31, 2018 (collectively, the "SEK Agreement");
- (e) Lydian Armenia and Ameriabank have entered into principal agreement no. 171116 dated November 17, 2016, as amended by an amendment to principal agreement no. 171116 dated May 29, 2017 and a second amendment to principal agreement dated July 18, 2018 (collectively, the "Ameriabank Agreement", together with Senior Credit Agreement, CAT Agreement and SEK Agreement, the "Facility Agreements");
- (f) Lydian Armenia is a debtor of each of Orion, RCF, Osisko, ING, SEK, CAT and Ameriabank pursuant to their respective Facility Agreements;
- (g) Lydian Group Members (as defined below) have breached and may with the passage of time breach certain covenants and other obligations, and have triggered or may trigger certain events of default under the Credit Documents (as defined below) solely and directly as a result of (collectively

and as further detailed in Exhibit "A" hereto, the "Specified Events of Default");

- (i) certain ongoing blockades at Lydian Armenia's Amulsar gold project located in the Republic of Armenia (the "Project");
 - (ii) certain audits and fact finding investigations of the Project undertaken by or on behalf of the Republic of Armenia; and
 - (iii) the failure to deliver any updated project schedule or construction budget as may be required pursuant to the Credit Documents.
- (h) Lydian has advised that it intends to pursue one or more of: (i) a sale solicitation process in respect of the Project, (ii) a private or public issuance, sale, or placement of equity, equity-linked or debt securities of Lydian (together, the "Sale and Investor Solicitation Process"), and/or (iii) an arbitration claim against the Government of Armenia (the "Arbitration Process", together with the Sales and Investor Solicitation Process, the "Combined Processes"), and has requested certain accommodations to provide Lydian and Lydian Armenia with sufficient time in which to pursue such processes.
- (i) The Parties entered into a forbearance agreement dated October 31, 2018, which was amended and restated on December 21, 2018, July 1, 2019 and October 1, 2019 (the "Existing FA"), and have agreed to amend and restate the Existing FA on the terms and conditions set forth herein.
- (j) Among other things, Lydian Armenia has requested and: (i) Orion, RCF and Osisko (collectively, the "Senior Credit Lenders") have agreed to extend the Term Facility B Availability Period and Term Facility B Maturity Date (as such terms are defined in the Senior Credit Agreement) to December 20, 2019; (ii) each of the Senior Credit Lenders has agreed to continue to advance additional amounts under the Term Facility B (as defined in the Senior Credit Agreement) in accordance with Section 2.3(1); (iii) Orion, RCF, Osisko, ING, CAT, SEK and Ameriabank (collectively, the "Creditors") have agreed to forbear from declaring or acting upon the Specified Events of Default during the Forbearance Period (as defined below); (iv) except as provided in this Agreement, the Creditors have agreed to forbear from exercising any default-related rights or remedies against the Lydian Group Members under the Credit Documents as a result of the Specified Events of Default during the Forbearance Period; and (v) except as provided in this Agreement, the Creditors have agreed to temporarily suspend all principal and interest payments and all other payment obligations (excluding any reimbursable expenses due and owing under each applicable Facility Agreement during the Forbearance Period) due to each of them under each applicable Facility Agreement during the Forbearance Period, all subject to and in accordance with the terms and conditions contained in this Agreement.

In consideration of the foregoing and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows.

ARTICLE 1 INTERPRETATION

Section 1.1 Definitions.

As used in this Agreement (including the Exhibits attached hereto), the following terms have the following meanings:

"A&R Credit/Stream Intercreditor Agreement" means the amended and restated intercreditor agreement dated as of September 28, 2018 between the Lydian Group Members, Orion (in its capacity as administrative agent under the Senior Credit Agreement) and Osisko (in its capacity as purchasers' agent under the Stream Agreement), as amended by the first amendment dated October 31, 2018 and as further amended by the second amendment dated January 15, 2019.

"Additional Event of Default" has the meaning given to it in Section 4.2.

"Adverse Claim" has the meaning given to it in Section 2.5(1)(l).

"Agreement" or "Forbearance Agreement" or "Amended and Restated Forbearance Agreement" means this forbearance agreement.

"Ameriabank Agreement" has the meaning given to it in the recitals.

"Business Day" means any day, other than a Saturday, Sunday or statutory holiday in any one of Toronto, Ontario, New York City, New York or Yerevan, Armenia, or a day on which banks are generally closed in any one of those cities.

"CAT Agreement" has the meaning given to it in the recitals.

"CAT Intercreditor Agreement" means the intercreditor agreement dated as of December 22, 2016 between Orion (in its capacity as collateral agent under the A&R Credit/Stream Intercreditor Agreement), CAT, Lydian Armenia and Lydian, as amended.

"Combined Processes" has the meaning given to it in the recitals.

"Credit Documents" means the Facility Agreements, the Stream Agreement and any other agreements or documents executed and delivered pursuant to or in connection with the Facility Agreements and the Stream Agreement.

"Creditors" has the meaning given to it in the recitals.

"Facility Agreements" has the meaning given to it in the recitals.

"Forbearance Period" means the period commencing on October 31, 2018 and ending on the earlier of (i) December 20, 2019, (ii) the occurrence of an Additional Event of Default, (iii) the

date on which any Lydian Group Member breaches any provision of this Agreement, unless extended in writing by each of the Parties, or (iv) if the Senior Credit Lenders have failed at any time to make a cash advance to the Lydian Group Members such as to ensure that the amount of unrestricted cash of the Lydian Group Members is not less than \$3,000,000 (following three days' notice to the Senior Credit Lenders from any Creditor) or the amount of unrestricted cash of the Lydian Group Members is otherwise less than \$3,000,000 (following three days' notice to the Senior Credit Lenders from any Creditor) at any time, the date on which any Creditor notifies Lydian that it wishes to terminate this Agreement and the Forbearance Period whereupon the Forbearance Period will immediately terminate with respect to such Creditor on the date of such notice.

"Green Light Condition" means that Lydian Armenia has entered into an agreement with the Government of Armenia which, *inter alia*, (i) provides for a framework to address certain matters relating to the Project, including investor protections and compensation for impacts that may have been caused to Lydian or the Project due to the ongoing blockades, and (ii) permits or provides for the recommencement of construction of the Project, and which agreement is in all respect, in form and substance, satisfactory to Lydian and each of the Creditors, acting reasonably.

"Guarantee" means, with respect to any Person, any agreement, undertaking or arrangement by which the Person guarantees, endorses or otherwise becomes or is contingently liable upon (by direct or indirect agreement, contingent or otherwise, to provide funds for payment, to supply funds to, or otherwise to invest in a debtor, or otherwise to assure a creditor against loss) the obligation, debt or other liability of any other Person or guarantees the payment of dividends or other distributions upon the shares of any Person.

"Intercreditor Agreements" means, collectively: (i) the A&R Credit/Stream Intercreditor Agreement; (ii) the CAT Intercreditor Agreement; (iii) the SEK Intercreditor Agreement; and (iv) the intercreditor agreement dated as of November 17, 2016 between Orion (in its capacity as collateral agent under the A&R Credit/Stream Intercreditor Agreement), Ameriabank, Lydian Armenia and Lydian, in each case, as amended to date and as further amended, supplemented or otherwise modified from time to time.

"Lydian Group Members" means, collectively, Lydian and each of its subsidiaries.

"Orion Collateral Agent" means Orion Co IV (ED) Limited in its capacity as collateral agent for and on behalf of the Other Lydian Creditors (as defined in the SEK Intercreditor Agreement).

"Persons" means and includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, limited liability partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and governmental authorities.

"Postponed Payments" has the meaning given to such term in Section 2.2.

"Project" has the meaning given to it in the recitals.

"Security" means any mortgage, debenture, pledge, hypothec, lien, charge, claim, deed of trust, royalty, assignment by way of security, hypothecation, security interest, conditional sales agreement, lease or title retention agreement, financing statement or other registration or recording in any public registry system affecting any property or other encumbrance, granted or permitted, in respect of any property, or any consignment by way of security or capital lease of property, or any other security agreement, trust or arrangement having the effect of security for the payment of any debt, liability or other obligation.

"SEK Agreement" has the meaning given to it in the recitals.

"SEK Intercreditor Agreement" means the intercreditor agreement dated as of April 21, 2017 between Orion Collateral Agent, SEK, Lydian Armenia and Lydian, as amended.

"Senior Credit Agreement" has the meaning given to it in the recitals.

"Senior Credit Lenders" has the meaning given to it in the recitals.

"Senior Lender Forbearance Advances" has the meaning given to it in Section 2.3(1).

"Specified Events of Default" has the meaning given to it in the recitals.

"Stream Agreement" has the meaning given to it in the recitals.

ARTICLE 2 FORBEARANCE

Section 2.1 Forbearance Period.

In reliance upon the acknowledgements, confirmations, representations, warranties, covenants and agreements of Lydian and Lydian Armenia contained in this Agreement, and subject to the terms and conditions of this Agreement, the Creditors hereby agree to forbear from declaring or acting upon, or exercising default-related rights or remedies under any Credit Document against any Lydian Group Member in respect of, the Specified Events of Default during the Forbearance Period, except as contemplated in this Agreement. Effective immediately on the expiration of the Forbearance Period, the agreement of the Creditors to forbear from declaring or acting upon the Specified Events of Default, or exercising their rights and remedies as set forth herein shall automatically and without further notice, demand or any other requirement by the Creditors made to Lydian and Lydian Armenia expire and be of no further force and effect, it being expressly agreed that the effect of such expiration will be to permit the Creditors to declare the Specified Event of Default and to exercise, without further notice or demand, their respective rights and remedies immediately, in each case, subject to the Intercreditor Agreements.

Section 2.2 Principal and Interest Payments.

- (1) Subject to clause (2) below, the Creditors hereby agree to temporarily suspend all principal and interest payments and all other payment obligations (including for

greater certainty, in respect of the Senior Lender Forbearance Advances, and excluding any reimbursable expenses due and owing under each applicable Facility Agreement during the Forbearance Period) due and payable to each of them under each applicable Facility Agreement during the Forbearance Period, provided that interest shall accrue on all principal and interest during the Forbearance Period at a rate which is two per cent (2%) per annum higher than the rate which would otherwise have been payable (collectively, the "Postponed Payments"). The Postponed Payments shall bear interest in accordance with the terms of the applicable Facility Agreement (provided that such interest shall be based on the non-default rates specified in the applicable Facility Agreement, as increased by the aforesaid 2% per annum) and such Postponed Payments shall be irrevocably, unconditionally and indefeasibly due and payable in full at the end of the Forbearance Period.

- (2) Notwithstanding the foregoing, (i) with respect to each Senior Lender Forbearance Advance, the Senior Credit Lenders, as applicable, shall be entitled to the original issue discount in accordance with Section 2.2.3 and Section 3.2.3 of the Credit Agreement and (ii) with respect to the Ameriabank loan, all interest payable during the Forbearance Period on such outstanding loan shall be capitalized and added to the principal amount of such loan.

Section 2.3 Senior Lender Forbearance Advances.

- (1) Subject to Section 2.3(2), during the Forbearance Period until the principal amount of the Term Facility B is fully drawn, the Senior Credit Lenders, on a several basis, hereby agree to make such cash advances under and subject to the Senior Credit Agreement such that the Lydian Group Members will at all times have unrestricted cash in an amount equal to at least US\$3,000,000 (the "Senior Lender Forbearance Advances"). The Senior Credit Lenders acknowledge that the Senior Lender Forbearance Advances are subject to Section 2.2 of this Agreement.
- (2) The Senior Lender Forbearance Advances shall be subject to the satisfaction of each of the Senior Credit Lenders, acting reasonably, that Lydian is progressing to implement the Combined Processes in accordance with Exhibit "E". Lydian shall provide the Senior Credit Lenders with such information and documents as the Senior Credit Lenders reasonably require in order to make the determination set forth in the preceding sentence.
- (3) Lydian and Lydian Armenia will, promptly upon request of any Creditor, provide evidence of receipt of each Senior Lender Forbearance Advance.

Section 2.4 Tolling.

- (1) Subject to the terms of the Intercreditor Agreements, as of the date hereof and continuing until 14 days following the end of the Forbearance Period, and whether or not demand for payment or a notice of intention to enforce security has previously been delivered by any of the Creditors, the Parties hereby agree to toll and suspend the running of all applicable statutes of limitations, laches or other doctrines related to the passage of time in relation to the Credit Documents and any

rights, remedies or benefits arising from the Credit Documents and any other related matters, and each of the Parties confirms that this Agreement is intended to be an agreement to suspend or extend the limitation period provided by applicable law, any contractual time limitation on the commencement of proceedings, any claims or defenses based upon any applicable statute of limitations, contractual limitations, or any time related doctrine including waiver, acquiescence or laches. To the extent legally possible, each day that has elapsed during the Forbearance Period will be taken into account for the purposes of any enforcement notice periods (statutory or otherwise) contemplated under Armenian law.

Section 2.5 Additional Agreements.

(1) Each of Lydian (on behalf of itself and the other Lydian Group Members) and Lydian Armenia agree to the following:

- (a) the Lydian Group Members shall maintain their respective existence as valid and subsisting corporations;
- (b) Unless the prior written consent of the Senior Credit Lenders has been obtained, Lydian and Lydian Armenia shall use the Senior Lender Forbearance Advances in accordance with the cash flow forecast as set out in Exhibit "C" (including for expenses and legal fees of their advisors) and shall ensure that:
 - (i) the actual aggregate cash expenditure from October 1, 2019 to December 20, 2019 shall not exceed the budgeted aggregate cash expenditure for such period, as set out in Exhibit "C";
 - (ii) the actual aggregate cash expenditure from October 1, 2019 to December 20, 2019 for each of the following categories: (a) US Corporate Costs and LTD Corporate Costs, and (b) Armenia Costs and Other Activities (excluding "Professional Fees"), shall not exceed 110% of the budgeted aggregate cash expenditure for each such category for such period, as set out in Exhibit "C"; and
 - (iii) the cumulative actual aggregate cash expenditure from October 1, 2019 to the end of any given month shall not exceed 110% of the cumulative budgeted cash expenditure from October 1, 2019 to the end of any such month, as set out in Exhibit "C";

provided that, for greater certainty, the Senior Lender Forbearance Advances shall not be used to pay obligations owing to any of the Creditors (excluding any reimbursable expenses due and owing under each applicable Facility Agreement during the Forbearance Period);

- (c) during the Forbearance Period, the Lydian Group Members shall not:
 - (i) make any material acquisitions or investments; (ii) consensually create any further liens; or (iii) make or provide any capital contributions or financial

assistance to third parties, in each case, without the prior written consent of the Creditors;

- (d) during the Forbearance Period, except as contemplated in the cash flow forecast as set out in Exhibit "C", the Lydian Group Members shall not make any discretionary bonus payments to any management or employees without the prior written consent of the Senior Credit Lenders;
- (e) during the Forbearance Period, the Lydian Group Members shall not, other than (A) in the ordinary course of business and consistent with past practice, or (B) as contemplated in the cash flow forecast as set out in Exhibit "C", incur or enter into any new liability or obligation of any nature or kind in an amount:
 - (i) in excess of US\$200,000 during the Forbearance Period, without the prior written consent of the Senior Credit Lenders, or
 - (ii) without limiting clause (i) above, in excess of US\$500,000 during the Forbearance Period (other than any reasonable and properly incurred fees and costs and expenses payable to legal counsel and other advisers necessary for the conduct of the Sale and Investor Solicitation Process), without the prior written consent of the Creditors;

provided in any event that no such liability or obligation shall be owed to (A) any Person that is not at arm's length, or (B) any Creditor other than, subject to the provisions of this Agreement and under the Facility Agreements;

- (f) the Lydian Group Members shall remain current in the payment of any obligations to their employees and governmental obligations (including all taxes and the remittance of all source deductions and sales taxes for which any of the Lydian Group Members are responsible) or any other payable or other secured claim that, in each case, is capable of ranking in priority to or *pari passu* with the obligations owing under the Credit Documents;
- (g) no Lydian Group Member will establish and/or maintain any new operating accounts, deposit accounts or other bank or securities accounts without the consent of the Senior Credit Lenders;
- (h) Lydian shall maintain and keep under operation each of the accounts of the Lydian Group Members currently opened and existing at Ameriabank;
- (i) Lydian shall use commercially reasonable efforts to implement the Combined Processes in accordance with the timeline attached as Exhibit "E" to this Agreement and shall provide an update to the Creditors on the Combined Processes or any other plan, arrangement or process Lydian is pursuing prior to the last day of every month, commencing in October 2019, and Lydian

shall supplement such update with all further information any of the Creditors may reasonably require;

- (j) Lydian shall promptly (and, in any event, within three (3) business days of receipt) notify the Creditors of any offer, expressions of interest, letters of intent or other similar communications that it or its advisors receives, whether in writing or otherwise, in respect of a potential or proposed purchase of the Project (or any other plan, arrangement or process involving the disposition of the Project), together with a copy of each such offer or submission (if in writing), and shall promptly provide to the Creditors all further information any of the Creditors may reasonably request in respect of any such submission or communication;
- (k) the Lydian Group Members shall, subject to the ongoing blockades: (i) take all necessary actions which are within their control to maintain all assets that are subject to any Security in favour of any of the Creditors assembled, in good working condition and safe from any hazards, and (ii) take all necessary steps which are within their control and required to protect such assets from any removal from the site of the Project and any weather or other environmental hazards;
- (l) if any Lydian Group Member shall become aware that any person or entity is asserting any lien, encumbrance, security interest or adverse claim (including any writ of seizure and sale, garnishment, judgment, execution, civil enforcement order, or similar process or any claim of control) against any of them or any of their property (each, an "Adverse Claim"), they shall promptly notify each of the Creditors in writing thereof and provide all documentation and other information that any of the Creditors may request regarding such Adverse Claim;
- (m) the Lydian Group Members shall execute and deliver to any Creditor such documents and take such actions as such Creditor deems necessary or advisable to perfect or protect such Creditor's security interests, mortgages or liens granted by any Lydian Group Member;
- (n) Lydian shall ensure that all actions are taken that any Creditor may require to evidence or confirm that any security interests granted under the Credit Documents are perfected and enforceable including engagement of local counsel for such purposes;
- (o) At Lydian's sole cost and expense, Lydian shall (i) provide to CAT (or its authorized representatives) free and unrestricted access and rights to inspect at any time in CAT's discretion the Mobile Mining Equipment (as such term is defined under the CAT Agreement) situate on or delivered to the Project site at any time prior to or during the Forbearance Period (provided that CAT acknowledges that such access may be restricted by the ongoing blockades), (ii) provide to CAT (or its authorized representatives) records of any and all maintenance performed to date on the Mobile Mining Equipment (as such