

Stay Parties and any other of the entities in the Lydian Group, as set out in the Amended and Restated Initial Order.

6. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to guarantee a credit facility from Orion Co IV (ED) Limited, Resource Capital Fund VI L.P. and Osisko Bermuda Limited (collectively, the “**DIP Lenders**”) in connection with the Sixteenth Amending Agreement dated March 10, 2020 between the DIP Lenders, Lydian Armenia CJSC (“**Lydian Armenia**”) as Borrower and the Applicants and the other Lydian Group entities listed therein as guarantors (the “**DIP Agreement**”), in order to finance working capital requirements of the Applicants and Non-Applicant Stay Parties, and other general corporate purposes, all as specifically provided for in the DIP Agreement.

7. **THIS COURT ORDERS** that the DIP Lenders shall be entitled to the benefit of and are hereby granted a charge (the “**DIP Charge**”), which DIP Charge shall not secure an obligation that exists before this Order is made. The DIP Charge shall have the priority set out in paragraphs 10 and 12 hereof.

8. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lenders may take such steps from time to time as they may deem necessary or appropriate to file, register, record or perfect the DIP Charge;
- (b) upon the occurrence of an event of default under the DIP Agreement, the DIP Lenders may apply to the Court to exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Agreement and the DIP Charge; and
- (c) the foregoing rights and remedies of the DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

9. **THIS COURT ORDERS AND DECLARES** that the DIP Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the “**BIA**”), with respect to any advances made under the DIP Agreement.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

10. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Directors' Charge (as each of those terms is defined in the Amended and Restated Initial Order), the Transaction Charge and the DIP Charge, as among them, shall be as follows:

First - Administration Charge (to the maximum amount of \$658,200 (being US\$500,000 as per the Bank of Canada's published exchange rate on December 20, 2019));

Second- the Directors' Charge (to the maximum amount of \$263,280);

Third- the Transaction Charge (to the maximum amount of \$5,923,800 (being US\$4,500,000 as per the Bank of Canada's published exchange rate on December 20, 2019));

Fourth- the DIP Charge.

11. **THIS COURT ORDERS** that, for greater certainty, the Administration Charge, the Director's Charge, the Transaction Charge and the DIP Charge shall not apply to the equipment owned by Lydian Armenia intended for use in connection with the Amulsar Project (as defined in the Sellers Stay Extension Affidavit) and financed by equipment financiers including CAT and ING.

12. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the Directors' Charge, the Transaction Charge or the DIP Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

13. **THIS COURT ORDERS** that each of the Administration Charge, the Directors' Charge, the Transaction Charge or the DIP Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any individual, firm, corporation, governmental

body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**").

14. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Administration Charge, the Directors' Charge, the Transaction Charge or the DIP Charge, unless the Applicants also obtain the prior written consent of the Monitor and the beneficiaries of the Administration Charge, the Directors' Charge, the Transaction Charge and the DIP Charge.

15. **THIS COURT ORDERS** that the Administration Charge, the Directors' Charge, the Transaction Charge and the DIP Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by the creation of the Charges; and
- (c) the payments made by the Applicants pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

MONITOR'S FEES AND ACTIVITIES

16. **THIS COURT ORDERS** that the Monitor's activities, as set out in the Second Report of the Monitor dated February 28, 2020, be and hereby are approved; provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

17. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and the Monitor's counsel, Thornton Grout Finnigan LLP, as disclosed in the Third Report and detailed in the Affidavit of Alan Hutchens sworn March 10, 2020 (the "**Hutchens Affidavit**") and the Affidavit of D.J. Miller sworn March 9, 2020 (the "**Miller Affidavit**"), respectively, as appended to the Third Report, be and hereby are approved.

SEALING

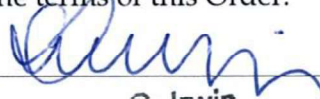
18. **THIS COURT ORDERS** that the First Sellers BMO Affidavit, the Second Sellers BMO Affidavit, the BMO Engagement Letter, the Revised BMO Engagement Letter, the CAT Settlement and the ING Settlement (as each of the foregoing terms are defined in the Sellers Stay Extension Affidavit), the unredacted DIP Agreement, the unredacted Sellers Stay Extension Affidavit, and the unredacted invoices attached as Confidential Exhibit 1 to each of the Hutchens Affidavit and Miller Affidavit are hereby sealed and shall not form part of the public record until further order of the Court.

GENERAL

19. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, Armenia, the Bailiwick of Jersey, the United Kingdom, or the United States to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

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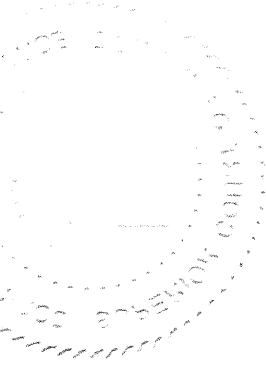
MAR 11 2020


C. Irwin
Registrar

PER / PAR: 

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.: CV-19-00633392-00CL



**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

ORDER

**(Re Approval of BMO Engagement, DIP
Agreement and Extension of the Stay of
Proceedings)**

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**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 March 10, 2020)**

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. 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.

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

4. This affidavit (the “**Sellers Stay Extension Affidavit**”) is sworn in support of a motion brought by the Applicants pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”, and such proceedings, the “**CCAA Proceedings**”) seeking:

- a) an Order substantially in the form of the draft order attached as Tab 3 of the Motion Record,
 - (i) approving the Engagement Letter between BMO Nesbitt Burns Inc. (“**BMO**”) and the Applicants and Lydian Armenia CJSC (“**Lydian Armenia**”) dated February 21, 2020 (the “**Revised BMO Engagement Letter**”), increasing the Administration Charge to include BMO’s Monthly Fee (as defined and described below) and adding a Transaction Charge to the Amended and Restated Initial Order granted in these proceedings to include BMO’s Recapitalization Fee (as defined and described below);
 - (ii) sealing the Revised BMO Engagement Letter and the Affidavit of Edward Sellers sworn March 10, 2020 describing the terms of the Revised BMO Engagement Letter (the “**Second Sellers BMO Affidavit**”), and continuing to seal the Affidavit of Edward Sellers sworn January 1, 2020 (the “**First Sellers BMO Affidavit**”) and the Engagement Letter between BMO and Lydian International dated October 1, 2019 exhibited thereto (the “**BMO Engagement Letter**”);
 - (iii) approving the Applicants’ ability to enter into an agreement regarding debtor-in-possession financing (the “**DIP Agreement**”) pursuant to which the Applicants will obtain access to a DIP Facility (as defined below) to fund certain obligations of the Applicants and the Non-Applicant Stay Parties through the stay extension period to April 30, 2020, which is to be secured by a charge over the Applicants’ property (“**DIP Charge**”);
 - (iv) sealing the unredacted DIP Agreement, the unredacted Sellers Stay Extension Affidavit, CAT Settlement and the ING Settlement (as defined below);
 - (v) extending the stay of proceedings (the “**Stay Period**”) in respect of the Applicants and the Non-Applicant Stay Parties to April 30, 2020;

- (vi) approving the fees of the Monitor and its counsel;
 - (vii) sealing Confidential Exhibit “1” attached to the Affidavit of Alan Hutchens sworn March 9, 2020 and Confidential Exhibit “1” attached to the Affidavit of D.J. Miller sworn March 9, 2020, each of which are appended to the Monitor’s Third Report to the Court dated March 9, 2020 (the “**Third Report**”) and contain unredacted invoices issued by the Monitor and its counsel, respectively; and
 - (viii) approving the Monitor’s activities to date as set out in its Second Report to the Court dated February 28, 2020 and the Third Report; and
- b) such further and other relief as the Court deems just.

PART 1 - STATUS OF THE CCAA PROCEEDINGS

5. I repeat and rely on my affidavits sworn December 22, 2019 (the “**Initial Affidavit**”) and January 20, 2020 (the “**Comeback Affidavit**”) in support of this motion. Copies of the Initial Affidavit and the Comeback Affidavit (without exhibits) are attached hereto as **Exhibit “A”** and **Exhibit “B”**, respectively. Capitalized terms not otherwise defined herein are as defined in the Comeback Affidavit.

6. The Applicants’ business consists of the exploration and development of a gold mine located in south-central Armenia (the “**Amulsar Project**” or “**Amulsar**”). The Initial Order was granted on December 23, 2019. On January 2, 2020, the Court issued an Order extending the Stay Period with respect to the Applicants and the Non-Applicant Stay Parties to January 23, 2020. At the Applicants’ motion returnable on January 23, 2020 (the “**Comeback Motion**”), the Court issued an Amended and Restated Initial Order which, among other things, expanded the Applicants’ restructuring capabilities within the CCAA Proceedings, granted additional protections to the Monitor and extended the Stay Period with respect to the Applicants and the Non-Applicant Stay Parties until March 2, 2020. At the Applicants’ motion returnable on March 2, 2020, this Court further extended the Stay Period to March 11, 2020. A copy of the Amended and Restated Initial Order is attached hereto as **Exhibit “C”**, and is available, together with all other filings in the CCAA Proceedings, on the Monitor’s website for these proceedings at <https://www.alvarezandmarsal.com/Lydian>.

A. The Applicants' Activities Since the Comeback Motion

7. Since the granting of the Amended and Restated Initial Order, the Applicants, with the oversight and assistance of the Monitor, have been working diligently to maintain the stability of their business operations, continue discussions with their senior lenders and other stakeholders, and advance discussions regarding a potential sale involving the Lydian Group. On the basis of input received from the Lydian Group's senior lenders, since the Comeback Motion the Applicants have not taken any material steps to advance the solicitation process for the financing of the Lydian Group's Treaty Arbitration.

8. The Applicants' activities since the Comeback Motion include the following:

- (a) attempting to engage in a further dialogue with the GOA with respect to regaining access to the Amulsar site;
- (b) finalizing materials, together with the Monitor, seeking the recognition of the Initial Order, Amended and Restated Initial Order and CCAA Proceedings by the Royal Court of Jersey, as further outlined below;
- (c) communicating and meeting with the Lydian Group's lenders regarding a variety of topics including the progress of negotiations with various stakeholders, the lenders' position regarding a viable path forward to maximize stakeholder value for the Lydian Group, the status of the equipment at the Amulsar site and the progress of the SISP;
- (d) negotiating the DIP Agreement with the Applicants' senior lenders;
- (e) continuing to advance discussions with respect to implementing a transaction with a potential purchaser who participated in the SISP, as further described below;
- (f) communicating with one of the Applicants' equipment lessors, Caterpillar Financial Services (UK) Limited ("**CAT**") in response to the objection (the "**CAT Objection**") filed in connection with the Comeback Motion, objecting to the Applicants' request to extend the stay of proceedings, on the basis that CAT seeks to take immediate possession of its equipment located at the Amulsar Project. The

CAT Objection was scheduled to be heard on March 5, 2020. The Applicants have reached a consensual resolution to the CAT Objection (the “**CAT Settlement**”), a copy of which will be filed under seal with this Court;

- (g) preparing materials to respond to CAT’s documentary production requests in connection with the CAT Objection, and preparing for potential cross-examinations, as outlined below;
- (h) communicating with another equipment lessor of the Applicants, ING Bank N.V, and AB Svensk Exportkredit (publ) (“**ING**”) regarding the proposed treatment of ING’s equipment located at the Amulsar Project during the pendency of the CCAA Proceedings;
- (i) communicating with the Lydian Group’s insurance broker regarding extending the Course of Construction insurance coverage for the equipment on the Amulsar site beyond March 31, 2020, or obtaining substitute asset insurance coverage. I understand that although a few markets initially expressed interest in providing substitute asset insurance coverage, a combination of a hardening insurance market affecting all property risks globally, hesitancy to underwrite risks in Armenia and the fact the project has been stalled for more than 18-months have proven to be challenging factors in obtaining replacement insurance. The Applicants continue to pursue insurance options;
- (j) continuing a dialogue with the Lydian Group’s insurance broker to understand the potential availability of any D&O insurance coverage beyond March 2, 2020. Following discussions with their D&O insurance providers, the Applicants were able to obtain a 14-day extension of D&O insurance coverage from March 2, 2020 to March 16, 2020. I understand a further extension is available through the proposed extension of the Stay Period, provided various conditions are met, including financial support for the Applicants through the proposed extension of the Stay Period;

- (k) implementing certain governance changes with respect to certain subsidiaries of the Applicants in the British Virgin Islands and Lydian Armenia, as further described below;
- (l) engaging in a dialogue with the Lydian Group's lenders, equipment financiers and counsel in Canada, the United Kingdom and Armenia in order to determine the most efficient way to streamline the Applicants' governance structure;
- (m) completing audited year-end financial reporting and making public markets disclosure as required by Reporting Issuers subject to Canadian securities laws;
- (n) making arrangements to close the Denver office of the Lydian Group and source alternative resources and support to continue with adequate levels of financial control and reporting for the Lydian Group during the proposed extension of the Stay Period; and
- (o) preparing a cash flow forecast for the period requested for the stay extension, and related financial information on potential scenarios under consideration as part of the path forward, in consultation with the Monitor.

9. As will be outlined below, the Applicants implemented certain governance changes with respect to the Applicants' subsidiaries in the British Virgin Islands, as well as Lydian Armenia. These governance changes became effective on February 21, 2020.

10. Further, the Applicants intend to implement additional governance changes with respect to other members of the Lydian Group. The changes are described below.

11. The Applicants continue to engage in discussions with their lenders regarding a viable path forward to maximize stakeholder value. To that end, the Applicants have been advancing discussions with a purchaser who emerged through the SISP (the "**SISP Party**").

12. Due to their inability to access additional liquidity generally, the Applicants will require DIP financing in order to continue their efforts in pursuing a transactional outcome for the Lydian Group and pursue other steps beyond March 11, 2020. As will be described in greater detail below, the Applicants' secured lenders, being Orion Co IV (ED) Limited, a division of Orion Capital Management ("**Orion**") Resource Capital Fund VI L.P. ("**RCF**") and Osisko Bermuda

Limited (“**Osisko**”) (collectively, the “**DIP Lenders**”), have agreed to provide the Applicants with a DIP Facility to support the Applicants through to the requested extension of the Stay Period to April 30, 2020.

(a) **Jersey Recognition Proceedings**

13. On December 23, 2019, as amended on January 23, 2020, the Applicants sought and obtained a Letter of Request from this Court seeking the assistance of the Royal Court of Jersey (the “**Royal Court**”) to assist the Applicants and the Monitor in advancing the Applicants’ restructuring proceedings. Since the Letter of Request was issued, the Applicants have worked with their Jersey counsel to prepare and finalize materials seeking the recognition of the CCAA Proceedings by the Royal Court, including supporting affidavits from the Applicants’ Canadian counsel and the Monitor and providing notification of the recognition proceedings to Lydian International’s creditors, in accordance with the requirements of Jersey law. On February 25, 2020, the Royal Court issued an Order (the “**Recognition Order**”), ordering that the Amended and Restated Initial Order be recognized and given effect to provide that:

- a) Alvarez & Marsal Canada Inc. shall be appointed as Monitor of Lydian International, with such appointment to be registered in the rolls of the Royal Court and the appointment of the Monitor notified to the Jersey Financial Services Commission;
- b) Lydian International is to remain in possession of its current and future assets, undertakings and properties of every nature and kind whatsoever in Jersey;
- c) subject to further order of the Ontario Court (as defined in the Recognition Order), Lydian International shall continue to carry on its business in a manner consistent with the preservation of its business and property; and
- d) no proceeding or enforcement process in or out of any court or tribunal be commenced or continued against or in respect of Lydian International, or affecting its business or the property, except with the written consent of Lydian International and the Monitor, or with leave of the Ontario Court.

14. The Recognition Order further provides that reasons will be set out in a judgment to be delivered by the Deputy Bailiff at a later date, which the Applicants have not yet received. A copy of the Recognition Order is attached hereto as **Exhibit "D"**.

(b) CAT Objection

15. On January 22, 2020, CAT filed an objection in connection with the Comeback Motion, for the purpose of initiating steps to enforce on equipment supplied to Lydian Armenia currently located at the Amulsar site (the "**CAT Equipment**"). On January 22, 2020, I swore an affidavit in response to the CAT Objection (the "**CAT Responding Affidavit**"). The parties agreed to adjourn the hearing of the CAT Objection pending the next hearing (which was then scheduled to occur on March 2, 2020), and to provide the parties an opportunity to discuss potential resolution of the CAT Objection.

16. On January 27, 2020, CAT's counsel sought the production of certain documents in anticipation of conducting a cross-examination on the CAT Responding Affidavit. The Applicants worked with their counsel to compile the necessary documentation to respond to CAT's production request and to prepare for potential cross examinations.

17. On February 19, 2020, CAT filed a Supplementary Motion Record in connection with the CAT Objection, (the "**CAT Reply Materials**").

18. Following further discussions between the Applicants, CAT, and the Lydian Group's senior lenders, the Applicants and CAT have reached a consensual resolution regarding the CAT Objection. I understand that pursuant to the CAT Settlement, CAT has agreed that the CAT Equipment can stay at the Amulsar site [REDACTED]. The terms of the CAT Settlement are confidential and will be filed under seal with the Court.

19. During our Court attendance on January 23, 2020, counsel for ING advised that their client would also be opposing future stay extensions and he anticipated delivering motion materials similar to the CAT Objection. While motion materials were not ultimately delivered, the Applicants have also reached a resolution with ING (the "**ING Settlement**") which would ensure their support [REDACTED]. The terms of the settlement with ING are confidential and will be filed under seal with the Court.

(c) **Governance Changes Implemented to Date**

20. The corporate structure of the Lydian Group on the date of the commencement of the CCAA Proceedings (the “**Filing Date**”) was described in detail in my Initial Affidavit. For ease of reference, a copy of the Lydian Group’s corporate chart as of the Filing Date is attached hereto as **Exhibit “E”**.

21. In mid-February 2020, the Applicants became aware of material potential director or officer liability arguments under Armenian law.

22. In order to address this risk, and to ensure that there was continuing financial support for payment obligations which were or may be incurred by Lydian Armenia, the following governance changes were implemented with respect to the Lydian Group:

- a) William Dean, Hayk Aloyan and I, as the three directors of 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, resigned. 11910728 Canada Inc.(“**DirectorCo**”), a corporation incorporated under the laws of the *Canada Business Corporations Act*, which is a direct, wholly-owned subsidiary of Lydian Canada, was appointed as the sole director of Lydian Holdings, in accordance with the corporate law requirements of the British Virgin Islands. I am the sole officer and director of DirectorCo;
- b) William Dean, Hayk Aloyan and I, as the three directors of 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 wholly owns Lydian Armenia, resigned. DirectorCo was appointed as the sole director of Lydian Resources;
- c) all directors and officers of Lydian Armenia, other than the Managing Director Hayk Aloyan, resigned in their capacities as directors and officers, though they remained employees of Lydian Armenia, if so employed. DirectorCo was named the sole shareholder representative for Lydian Armenia in accordance with Armenian law requirements. This enables DirectorCo to exercise authority as shareholder of Lydian Armenia. Mr. Aloyan retained his officer role as Managing

Director, subject to the direction of DirectorCo as shareholder representative of Lydian Resources.

23. An updated version of the Lydian Group's corporate chart, which reflects these changes, is attached hereto as **Exhibit "F"**.

24. The above governance changes are intended to address the potential liability issues arising under Armenian law referred to above while leaving the powers to direct Lydian Armenia's activities within the existing chain of authority below Lydian International.

(d) Upcoming Governance Changes

25. As noted, the Applicants sought and were able to obtain a 14-day extension of D&O insurance coverage from March 2, 2020 to March 16, 2020.

26. The Applicants considered their governance needs in each jurisdiction where members of the Lydian Group are incorporated, being Jersey, Canada, the United Kingdom, the British Virgin Islands and Armenia. Following this review and extensive consultations with the senior lenders, it is anticipated that the following governance changes will occur prior to advances being available under the proposed DIP Agreement:

- a) I will continue to serve as Interim President and Chief Executive Officer of Lydian International through the proposed extension of the Stay Period to April 30, 2020;
- b) the members of the existing Board of Directors of Lydian International, other than Victor Flores and I, will resign;
- c) the other directors and officers of Lydian Canada and Lydian UK, will resign. I will stay on as director, and Victor Flores will also be appointed as a director of those entities;
- d) Victor Flores will also be appointed a director of DirectorCo; and
- e) A third director may also be appointed in the future to one or more of the boards of Lydian International, Lydian Canada, Lydian UK and DirectorCo following consultation with the Lydian Group's senior lenders.

27. I have been advised a further extension of the D&O insurance coverage is available for the ongoing directors and officers through the proposed extension of the Stay Period to April 30,

2020, provided various conditions are met, including financial support being available to the Applicants through the proposed extension of the Stay Period. I understand that the Monitor will be filing a report in connection with the within motion, showing that the DIP Facility will provide the necessary financial support to the Applicants through to April 30, 2020.

(e) **SISP**

28. BMO and the Applicants, in consultation with their lenders, are continuing to engage and advance discussions with the SISP Party.

(f) **Communication to the Court by Members of the Armenian Environmental Front Civil Initiative**

29. I understand that early on February 28, 2020, the Monitor received an email from Arpine Galfayan, on behalf of the Armenian Environmental Front (“AEF”) Civil Initiative. Attached to the email was a letter to the Court (the “**AEF Letter**”) from certain individuals who identify themselves as Armenian citizens and members of the AEF Civil Initiative, which they describe as a volunteer environmental watchdog group. It appears that the email and AEF Letter were also emailed directly to the Court, without being served on the service list. A copy of the AEF Letter, with the enclosure referred to therein, is attached hereto as **Exhibit “G”**.

30. In short, the AEF Letter alleges that there were certain factual misrepresentations contained in my Initial Affidavit, including with respect to (i) the April 10, 2019 ruling issued by Armenia’s Administrative Court 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 was attached to the Initial Affidavit, and which is attached again hereto as **Exhibit “H”**, and (ii) the findings contained in the August 7, 2019 report of Earth Link and Advanced Resources Development (“**ELARD**”), following the environmental audit conducted by ELARD in 2019. The AEF Letter also implies that Lydian Armenia inappropriately entered into a settlement agreement with the Jermuk Health Centre CJSC (the “**Jermuk Health Centre**”) related to the termination of a long term lease agreement.

31. The Applicants have provided extensive and detailed documentation to the Monitor addressing the points raised in the AEF Letter, much of which is technically complex. I did not

have time to sit with the Monitor to take them through the materials or swear a responding affidavit, but will turn to it promptly after the hearing of the extension motion.

PART 2 - RELIEF REQUESTED BY THE APPLICANTS

A. BMO Engagement and Transaction Charge

32. As outlined in the Comeback Affidavit, BMO's services in connection with the SISP were provided pursuant to the BMO Engagement Letter. The Applicants filed a copy of the BMO Engagement Letter under seal with this Court in connection with the Comeback Motion, as an exhibit to the First Sellers BMO Affidavit. At the Comeback Motion, the Applicants advised the Court that the issue of the BMO Engagement Letter would be determined at a later date. The Applicants, with the Monitor's assistance, were able to continue discussions with their senior lenders and a consensus was reached on the terms of the relief being sought by the Applicants relating to the BMO Engagement Letter.

33. The BMO Engagement Letter was amended on February 21, 2020 to address this arrangement and add additional members of the Lydian Group as signatories (the "**Revised BMO Engagement Letter**"). The Revised BMO Engagement letter sets out the scope of BMO's services as financial advisor to the Applicants, and provides for a monthly work fee (the "**Monthly Fee**") and a transaction fee payable to BMO upon the completion of a successful sale or refinancing transaction, consisting of a percentage of the transaction value (the "**Recapitalization Fee**"). .

34. In order to secure the Applicants' obligations under the Revised BMO Engagement Letter, the Applicants are seeking to increase the Administration Charge to the maximum total amount of \$500,000 to secure the Monthly Fee and add the Transaction Charge to secure the Recapitalization Fee, to the maximum total amount of \$4,500,000. The Administration Charge and the Transaction Charge shall not apply to the equipment financed by the equipment financiers, including CAT and ING. I understand the Applicants' senior lenders are supportive of the increase to the Administration Charge and the granting of the Transaction Charge.

35. BMO has worked extensively with the Applicants since its initial engagement and has significant knowledge with respect to the business, operations and finances of the Lydian Group. As noted in the Comeback Affidavit, BMO has worked diligently to assist the Applicants in carrying out the SISP and the solicitation for the financing of the Treaty Arbitration. Since the

Comeback Motion, BMO has worked with the Applicants to advance discussions with the SISP Party. BMO's continued involvement will be critical to the successful completion of a transaction as part of the CCAA Proceedings that will maximize value for stakeholders.

36. I have sworn a further affidavit (the "**Second Sellers BMO Affidavit**") in connection with the Applicants' request attaching the Revised BMO Engagement Letter as an exhibit, which will also be filed under seal. Due to the commercially sensitive nature of the information contained in the engagement letters between BMO and Lydian International, and consistent with what I am advised is BMO's past practice, the Applicants are seeking the approval and sealing of the Revised BMO Engagement Letter, and the sealing of the Second Sellers BMO Affidavit and exhibits thereto, pending further Order of this Court. The Applicants are also seeking a continuation of the sealing of the First Sellers BMO Affidavit. I note that in connection with the sealing order for the First Sellers BMO Affidavit and the BMO Engagement Letter granted at the Comeback Motion, Chief Justice Morawetz noted in his endorsement (the "**Comeback Endorsement**") that "I am satisfied that these two documents contain sensitive commercial information, the disclosure of which could be harmful to the stakeholders and as such these documents are to be sealed pending further order." A copy of the Comeback Endorsement is attached hereto as **Exhibit "I"**.

B. DIP Agreement Approval and DIP Charge

37. As was demonstrated by the cash flow forecast filed with the Initial Affidavit, and is set out in the Monitor's First Report dated January 21, 2020 (the "**First Report**"), a copy of which is attached hereto as **Exhibit "J"**, at the time of the Comeback Motion, and the updated cashflows filed in respect of the March 2, 2020 motion, the Applicants identified that interim financing would be required beyond March 11, 2020.

38. The Applicants, in consultation with the Monitor, prepared an updated 13-week cash flow forecast for the period between March 6, 2020 to May 1, 2020, which illustrates that the Applicants will require financing in order to continue operations through the extension of the Stay Period to April 30, 2020.

39. As set out in the Initial Affidavit, in January 2019, certain of the Applicants' lenders, including Orion and RCF, committed to make available an additional amount of up to \$18.56

million to fund Lydian Armenia through to December 20, 2019 ("**Term Facility B**"). As of the Filing Date, approximately \$12 million has been drawn under Term Facility B.

40. The Applicants and their counsel, in consultation with the Monitor, have negotiated an amendment to the Term Facility B (as amended, the "**DIP Agreement**") pursuant to which the Applicants will obtain access to an additional amount [REDACTED] (the "**DIP Facility**") to be provided as additional draws under the Term Facility B. A copy of the unredacted DIP Agreement is attached hereto as **Confidential Exhibit "K"**.

41. Given the current structure of Term Facility B and the Cash Management System as previously described in the Initial Affidavit, funds made available through Lydian Armenia facilities are available to be transferred to and used by the Applicants. Funding for the proposed extension of the Stay Period includes a continuation of the Applicants' practice, as outlined in the Initial Affidavit, of transferring funds from Lydian Armenia (a Non-Applicant Stay Party) to Lydian International (an Applicant) pursuant to the Cash Management System, on an as-needed basis, and may include transfers from other members of the Lydian Group. In accordance with original loan structure in Term Facility B, the Applicants are not borrowers under the DIP Facility, but participate as guarantors of the DIP Facility.

42. The material terms of the DIP Agreement are set out below:

Borrower: Lydian Armenia;

Lenders: Orion, RCF and Osisko;

Guarantors: the Applicants, Lydian Holdings, Lydian Resources, Lydian US Corporation, Kavkaz Zoloto CJSC, Lydian Resources Georgia Limited, Lydian Resources Kosovo Limited, Georgian Resource Company LLC;

Facility Amount: a non-revolving credit facility up to a maximum amount of

[REDACTED]
[REDACTED]
[REDACTED];

Availability: DIP Facility is available to be drawn until it matures;

Maturity: DIP Facility matures at the earlier of (i) the occurrence of any Additional Event of Default (as described in the DIP Agreement), (ii) [REDACTED] and (iii) the date of a Change of Control (as defined in Term Facility B);

Conditions: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED];

Interest Rate: 15% per annum; and

Charge: amounts owing under the DIP Facility are proposed to have a fourth-ranking Court-ordered charge on the Property of the Applicants (the "DIP Charge").

43. The DIP Facility is expected to provide sufficient liquidity to allow the Applicants to pay for obligations incurred and scheduled to be paid through [REDACTED]. In addition, as reflected in the DIP Agreement, the Maximum DIP Amount may be increased by an amount not to exceed a [REDACTED] in the aggregate on account of reasonable additional costs incurred relating to the period between March 10, 2020 [REDACTED] and the parties shall determine the quantum of such reasonable additional costs by no later [REDACTED]. This is intended to address ordinary course obligations being incurred by the Applicants during the proposed extension of the Stay Period. Accordingly, the Applicants seek an order authorizing and empowering them to guarantee the DIP Agreement, in order to make the DIP Facility available for the purpose of financing their operations [REDACTED].

44. The DIP Agreement contains commercially sensitive information, including [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

C. Approval of Monitor's Fees and Activities

45. I understand that the Monitor will be filing the Third Report in connection with the within motion seeking approval of its activities, as detailed in the Second Report of the Monitor dated February 26, 2020 and the Third Report, as well as the Monitor's fees since the commencement of the CCAA Proceedings. The Applicants have reviewed the fees of the Monitor and its counsel and support of the payment of the same.

D. Stay Extension

46. Since the Comeback Motion, the Applicants, with the oversight and assistance of the Monitor, have been largely focused on maintaining operational stability of the Lydian Group, while continuing to engage with lenders and various stakeholders on a viable path forward, [REDACTED]

[REDACTED]

47. The Applicants are requesting an extension of the Stay Period until and including April 30, 2020 to provide stability to the Applicants and allow them to continue their efforts to achieve a viable path forward that will maximize recoveries for all stakeholders. During the extended Stay Period through to April 30, 2020, [REDACTED]

[REDACTED]

48. I have been advised that the Monitor will be filing a report, which I understand will include the Applicants' prepared cash flows, demonstrating that the DIP Facility is expected to provide the Applicants with sufficient funding to continue operations through to the requested extension of the Stay Period to April 30, 2020.

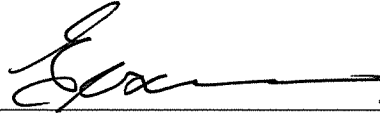
49. Since the granting of the Amended and Restated Initial Order, the Applicants have continued to act diligently and in good faith in respect of all matters relating to the CCAA Proceedings, and will continue to do so during the proposed extension of the Stay Period through to April 30, 2020.

SWORN BEFORE ME at the City of
Toronto, Province of Ontario, on March
10, 2020.



Commissioner for Taking Affidavits

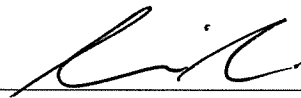
Sanja Sopic



Edward A. Sellers

TAB A

This is
EXHIBIT "A"
referred to in the Affidavit of
EDWARD A. SELLERS
sworn March 10, 2020

A handwritten signature in black ink, appearing to be "L. A. Sellers", is written over a horizontal line.

A Commissioner etc.

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 days 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

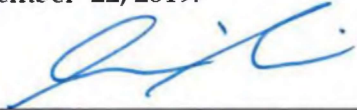
152. Should this Court grant the Lydian Group's application for CCAA protection, the Applicants intend to use the stability provided through the CCAA process to progress discussions with their stakeholders.

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;

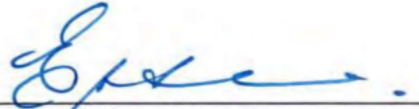
- e) grant super-priority to the court-ordered charges over any secured creditors who were not served with the Applicants' Application Record; and
- f) extend the stay of proceedings granted in the initial order.

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



Commissioner for Taking Affidavits

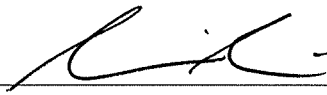
Sanja Sopic



Edward A. Sellers

TAB B

This is
EXHIBIT "B"
referred to in the Affidavit of
EDWARD A. SELLERS
sworn March 10, 2020

A handwritten signature in black ink, appearing to be "R. H.", written over a horizontal line.

A Commissioner etc.

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 January 20, 2020)

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. 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.
3. All references to currency in this affidavit are references to United States dollars, unless otherwise indicated.
4. This affidavit is sworn in support of a motion brought by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**", and such proceedings, the "**CCAA Proceedings**") seeking:

- a) an Amended and Restated Initial Order providing for certain amendments to the Initial Order substantially in the form of the draft order attached as Tab 3 of the Motion Record, including provisions expanding the Applicants' restructuring capabilities within the CCAA Proceedings, increasing the Administration Charge and adding a Transaction Charge (as defined below) to include the fees payable to the Applicants' financial advisor;
- b) an order substantially in the form of the draft order attached as Tab 4 of the Motion Record: (i) extending the stay of proceedings (the "**Stay Period**") in respect of the Applicants and the Non-Applicant Stay Parties to February 25, 2020; (ii) sealing the unredacted version of the BMO Engagement Letter; (iii) approving the Monitor's activities to date; and
- c) such further and other relief as the Court deems just.

PART 1 - BACKGROUND AND STATUS OF THE CCAA PROCEEDINGS

5. I repeat and rely on my affidavit sworn December 22, 2019 (the "**Initial Affidavit**") in support of this motion. A copy of the Initial Affidavit (without exhibits) is attached hereto as **Exhibit "A"**.

6. The Applicants are part of a corporate enterprise (the "**Lydian Group**") ultimately owned by Lydian International whose business consists of the exploration and development of a gold mine located in south-central Armenia (the "**Amulsar Project**" or "**Amulsar**").

7. The Applicant Lydian International is a corporation continued under the laws of Jersey from the Province of Alberta, and is the parent corporation of the Lydian Group. The other two Applicants, Lydian Canada Ventures Corporation ("**Lydian Canada**") and Lydian U.K. Corporation Limited ("**Lydian UK**"), are subsidiaries of Lydian International. Due to the complete integration of the business and operations of the Lydian Group, the Applicants also sought and obtained an extension of the stay of proceedings over other members of the Lydian Group, including Lydian Armenia CJSC ("**Lydian Armenia**"), the principal operating subsidiary in the Lydian Group. The corporate structure of the Lydian Group is described in greater detail in the Initial Affidavit. For ease of reference, a copy of the Lydian Group's corporate chart is attached hereto as **Exhibit "B"**.

8. As set out in greater detail in my Initial Affidavit, the Applicants sought, and obtained CCAA protection, on December 23, 2019 due to the confluence of a number of factors, including (i) ongoing illegal blockades at the Amulsar site since June 2018 which prevented Lydian Armenia from accessing the site and completing construction, and caused the Lydian Group to default on its obligations to its lenders, (ii) certain actions and inactions of the Government of Armenia (the "GOA"), which continue to prevent the resumption of construction activity at the Amulsar site, despite the findings of audits that Lydian Armenia is in compliance with all environmental requirements, and (iii) the expiration of the Lydian Group's forbearance arrangements with their lenders.

9. As a result of these and other factors described in the Initial Affidavit, the Applicants sought and obtained creditor protection and related relief under the CCAA pursuant to a December 23, 2019 order of this Court (the "**Initial Order**"). Alvarez & Marsal Canada Inc. ("**A&M**") was appointed Monitor of the Applicants (the "**Monitor**") in the CCAA Proceedings. On January 2, 2020, this Court issued an Order extending the Stay Period with respect to the Applicants to January 23, 2020 (the "**Stay Order**"). Copies of the Initial Order and the Stay Order are attached hereto as **Exhibit "C"**, and **"D"**, respectively, and are available, together with all other filings in the CCAA Proceedings, on the Monitor's website for these proceedings at <https://www.alvarezandmarsal.com/Lydian>.

A. Status of Proceedings

10. Since the granting of the Initial Order on December 23, 2019, the Applicants, with the oversight and assistance of the Monitor, have been working diligently to maintain the stability of their business operations, continue discussions with their senior lenders and other stakeholders, and advance discussions regarding a potential sale involving the Lydian Group or a financing of the Lydian Group's Treaty Arbitration, which is described in the Initial Affidavit.

11. The Applicants' activities since the Initial Order include the following:

- (a) making several follow up requests to the GOA to confirm the GOA's intentions with respect to restoring Lydian Armenia's access to the Amulsar site, to which no response was received. During my recent visit to the Amulsar Project with the Monitor, the GOA did not make itself available to meet with Lydian

representatives, and the Applicants are uncertain whether further meetings will occur in the near term;

- (b) making repeated requests and engaging in a dialogue with the GOA with respect to regaining access to the Amulsar site to permit winterization to be completed. These efforts were not successful, as the blockaders have refused to permit Lydian Armenia to access the site to complete winterization and the GOA has failed to take action to restore access for this purpose. The Applicants will continue their efforts in this regard and will maintain an advanced state of readiness to effect winterization, including maintaining all necessary supplies and making arrangements with service providers;
- (c) responding to information requests from the Lydian Group's lenders regarding a variety of topics including the progress of negotiations with various stakeholders, the Lydian Group's intentions regarding a viable path forward to maximize stakeholder value, the status of the equipment at the Amulsar site and the progress of the strategic sale and investment solicitation process ("SISP") and Treaty Arbitration financing process;
- (d) advancing discussions relating to a potential purchaser who participated in the SISP carried out by BMO Nesbitt Burns Inc. ("BMO"), as further described below;
- (e) responding to inquiries from and engaging with various parties who have expressed an interest in financing the Treaty Arbitration, as further described below;
- (f) communicating with Ameriabank CJSC ("Ameriabank") regarding amounts swept from Lydian Armenia's bank accounts following the CCAA filing;
- (g) preparing materials, together with the Monitor, seeking the recognition of the Initial Order and CCAA Proceedings by the Royal Court of Jersey, as further outlined below;

- (h) continuing a dialogue with the Lydian Group's insurance broker to understand the potential availability of any D&O insurance coverage beyond January 31, 2020. Following discussions with their D&O insurance providers, the Applicants were able to obtain an initial one month extension of D&O insurance coverage from December 31, 2019 to January 31, 2020. A further one month extension of D&O insurance coverage has been obtained following discussions, which included the Monitor, with the Applicant's D&O insurance providers;
- (i) finalizing arrangements with the Applicants' insurance broker to extend coverage for Cost of Construction insurance, including coverage for on-site equipment, until March 31, 2020 in consultation with the Monitor, and advancing discussions with Applicant's insurance broker regarding replacement insurance for asset protection;
- (j) meeting with employees in Armenia, together with the Monitor, to explain the CCAA Proceedings and answer any employee questions regarding the path forward;
- (k) planning for further cost reductions in consultation with the Monitor, including implementing certain further employee reductions in Armenia which have become necessary due to the circumstances arising from the GOA's failure to restore Lydian Armenia's access to the Amulsar site; and
- (l) preparing a cash flow forecast for the period requested for the stay extension, and related financial information on potential scenarios under consideration as part of the path forward, in consultation with the Monitor.

12. In light of timing of the commencement of the Applicants' CCAA Proceedings shortly before the beginning of the 2019 Holiday Season in North America and through the new year in Armenia, and the short extension of the stay of proceedings through to January 23, 2020 granted through the Stay Order, the Applicants have not made definitive decisions regarding the direction of their restructuring and require more time to continue their discussions with their stakeholders and to consider their options to maximize value.

(a) SISP

13. As described in the Initial Affidavit, the Lydian Group retained BMO in 2018 to canvas potential refinancing or sale options and carry out the SISP. The 2018 process generated potential interest from several parties but no transaction resulted from it. In the Fall of 2019, BMO renewed its efforts in connection with the SISP based on the GOA's statements that they would support the reopening of the Amulsar Project. BMO reached out to a broad range of potential strategic and financial counterparties. Several counterparties expressed concerns regarding the situation in Armenia, and Lydian Armenia's continued inability to access the Amulsar site.

14. BMO and the Applicants are reviewing the current status of the SISP and a non-binding draft term sheet setting out a proposal for a transaction with respect to the Amulsar Project. The Applicants and BMO were engaged in discussions with a potential purchaser prior to the commencement of the CCAA Proceedings. Discussions have been ongoing between the potential purchaser and one of the Applicant's secured lenders to determine if a transaction can be implemented, with the support of the Applicants' stakeholders.

15. The Applicants and BMO, with the assistance and oversight of the Monitor, intend to take carriage of those discussions within the current SISP to determine if a viable proposal can be submitted to the Applicants' stakeholders and the Court.

(b) Treaty Arbitration Financing

16. As outlined in the Initial Affidavit, in October 2019, the Lydian Group, with the assistance of BMO, commenced a process to solicit interest in financing the Treaty Arbitration. BMO contacted a variety of established litigation financing companies with substantial funds under their management. Parties were provided with access to a Virtual Data Room ("VDR") containing a selected set of arbitration-related documentation, following execution of a Common Interest Privilege and Confidentiality Agreement. Additional parties approached BMO after the commencement of the CCAA Proceedings to seek the opportunity to consider the potential arbitration financing. This solicitation process has generated several non-binding expressions of interest to date. The Applicants and BMO, with the assistance and oversight of the Monitor, intend to continue with the Treaty Arbitration financing solicitation process during the proposed stay extension period.

(c) **Jersey Recognition Proceedings**

17. On December 23, 2019 the Applicants sought and obtained a Letter of Request from this Court seeking the assistance of the Royal Court of Jersey (the “**Royal Court**”) to assist the Applicants and the Monitor in advancing the Applicants’ restructuring proceedings. Since the Letter of Request was issued, the Applicants have worked with their Jersey counsel to prepare materials seeking the recognition of the CCAA Proceedings by the Royal Court, and those materials have been finalized as of the date of the swearing of this affidavit. I understand from Jersey counsel that there is a hearing scheduled before the Royal Court on January 24, 2020, at which time the Applicants will be seeking an Order of the Royal Court formally recognizing the CCAA Proceedings in Jersey. The Monitor is filing an affidavit to assist the Jersey Court in connection with the request for recognition, and the form of such affidavit has also been finalized. Applicants will update the Court on developments in that regard on January 23, 2020.

PART 2 - THE AMENDED AND RESTATED INITIAL ORDER

18. The proposed Amended and Restated Initial Order provides for certain amendments to the Initial Order, namely the insertion of certain provisions contained in the standard form template CCAA Initial Order developed by the model order subcommittee of the Commercial List Users’ Committee of the Ontario Superior Court of Justice (the “**Model Initial Order**”). These include more fulsome restructuring provisions and provisions expanding the Monitor’s rights to assist with the Applicants’ restructuring efforts, and the granting of a Transaction Charge (as defined and described below). A blackline comparison showing the proposed amendments to the Model Initial Order is attached at Tab 5 to the Applicant’s motion record.

A. Restructuring Provisions

19. At the time the CCAA Proceedings were commenced, the Applicants needed urgent relief to permit them to stabilize their situation and explore the best avenues to maximize recoveries for their stakeholders. As a result, the Applicants did not seek to include certain restructuring provisions from the Model Initial Order in the Initial Order. The Applicants now intend to seek those more expansive restructuring provisions in the Amended and Restated Initial Order in order to enable them to take certain steps that may become necessary during the CCAA Proceedings, including: reducing or shutting down their business or operations, terminating

employees, and pursuing all avenues of refinancing for all or part of the Lydian Group's business, in whole or in part.

20. Further, through the Amended and Restated Initial Order, the Applicants are seeking to expand the Monitor's ability, as contemplated in the Model Initial Order, to advise the Applicants in the development of a Plan of Compromise or Arrangement, hold and administer meeting(s) for voting purposes, as well as returning some of the additional protective language found in the Model Initial Order.

B. Charges

(a) D&O Charge

21. In light of the extension of the Applicants' D&O insurance coverage through to March 2, 2020, the Applicants do not intend to seek an increase in the D& O Charge of USD \$200,000 at this time.

(b) BMO Engagement and Transaction Charge

22. The Applicants do not currently anticipate seeking to increase their Administration Charge as it relates to counsel or the Monitor at this time. The Applicants are seeking to expand the Administration Charge to grant protection to the Applicants' financial advisor, BMO. BMO's services in connection with the SISP and the solicitation process for the financing of the Treaty Arbitration were provided pursuant to an engagement letter between BMO and Lydian International, which was most recently amended on October 1, 2019 (the "**BMO Engagement Letter**"). The BMO Engagement letter (in the form to be filed) sets out the scope of BMO's services as financial advisor to Lydian International, and provides for a monthly work fee and a transaction fee payable to BMO upon the completion of a successful sale or refinancing transaction, consisting of a percentage of the transaction value.

23. In order to secure Lydian International's obligations under the BMO Engagement Letter, the Applicants are seeking to increase the Administration Charge to cover BMO's monthly work fee, to the maximum amount of USD\$500,000. In addition, the Applicants will also be seeking a charge, in an amount to be determined and disclosed prior to the hearing of this motion (the "**Transaction Charge**") to secure BMO's potential transaction fee payable if a successful