

1480775 B.C. LTD.

and

CLOUDMD SOFTWARE & SERVICES INC.

ARRANGEMENT AGREEMENT

May 14, 2024

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ARRANGEMENT AGREEMENT

THIS ARRANGEMENT AGREEMENT is made as of May 14, 2024,

BETWEEN:

1480775 B.C. LTD., a corporation incorporated under the laws of the Province of British Columbia

(the "**Purchaser**")

- **AND** -

CLOUDMD SOFTWARE & SERVICES INC., a corporation incorporated under the laws of the Province of British Columbia

(the "**Corporation**")

WHEREAS the Purchaser and the Corporation (collectively, the "**Parties**" and each, a "**Party**") have agreed, subject to the satisfaction of certain conditions precedent, to complete the Arrangement (as defined below) pursuant to the provisions of the *Business Corporations Act* (British Columbia) to give effect to the proposed acquisition by the Purchaser of all of the issued and outstanding Shares (as defined below);

AND WHEREAS in connection with the completion of the Arrangement, among other things, each holder of Shares will receive the Consideration (as defined below) for each Share held;

AND WHEREAS concurrently with the execution and delivery of this Agreement, each of the directors and executive officers of the Corporation are entering into voting and support agreements with the Purchaser (collectively, the "**Voting Support Agreements**") pursuant to which, among other things, such securityholders have agreed to vote their Voting Securities (as defined below) in favour of approval of the Arrangement Resolution (as defined below) at the Meeting (as defined below);

AND WHEREAS the Board (as defined below) has determined (with interested directors abstaining), upon the unanimous recommendation of the Special Committee (as defined below) having received financial and legal advice, that the Arrangement is fair to the Shareholders and that the Arrangement is in the best interests of the Corporation, and the Board (with the interested directors abstaining) has unanimously resolved to recommend that Voting Securityholders vote in favour of the Arrangement Resolution, all subject to the terms and conditions contained herein;

AND WHEREAS the Corporation entered into the Forbearance Agreement (as defined below) prior to entering into this Agreement, and concurrently with the execution and delivery of this Agreement, the Purchaser and the Corporation are entering into the CPS Bridge Loan Agreement (as defined below) to provide the Purchaser with the CPS Bridge Loan, and the Purchaser and the Secured Lender (as defined below) are entering into the Intercreditor Agreement (as defined below).

NOW THEREFORE, in consideration of the covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties agree as follows:

ARTICLE 1 INTERPRETATION

Section 1.1 Defined Terms

As used in this Agreement, the following terms have the following meanings:

"Acceptable Confidentiality Agreement" has the meaning specified in Section 5.3(4).

"Acquisition Proposal" means, other than the transactions contemplated by this Agreement and other than the Held-for-Sale Transaction or any transaction involving only the Corporation and/or one or more of its Subsidiaries or between one or more of its Subsidiaries, any written offer, inquiry or proposal from any Person or group of Persons other than the Purchaser (or any of its affiliates or any Person acting jointly or in concert (as such term is defined in National Instrument 62-104 – *Takeover Bids and Issuer Bids*) with the Purchaser or any of its affiliates) relating to (i) any direct or indirect acquisition, purchase, sale or disposition (or any lease, joint venture, royalty, license or other arrangement having the same economic effect as a sale or disposition), in a single transaction or a series of transactions, of (A) assets of the Corporation (including shares of Subsidiaries of the Corporation) and/or one or more of its Subsidiaries that, individually or in the aggregate, constitute 20% or more of the consolidated assets of the Corporation and its Subsidiaries, taken as a whole, determined based upon the most recent audited annual consolidated financial statements of the Corporation filed as part of the Corporation Filings, or contributing 20% or more of the consolidated revenue of the Corporation and its Subsidiaries, taken as a whole, determined based upon the most recent audited annual consolidated financial statements of the Corporation filed as part of the Corporation Filings, or (B) 20% or more of any class of voting or equity securities of the Corporation or 20% more of any class of voting or equity securities of any one or more of any of the Corporation's Subsidiaries that, individually or in the aggregate, contribute 20% or more of the consolidated revenues, determined based upon the most recent annual audited consolidated financial statements of the Corporation filed as part of the Corporation Filings, or constitute 20% or more of the consolidated assets of the Corporation and its Subsidiaries, taken as a whole, determined based upon the most recent audited annual consolidated financial statements of the Corporation filed as part of the Corporation Filings; (ii) any direct or indirect take-over bid, tender offer, exchange offer, sale or issuance of securities or other transaction that, if consummated, would result in such Person or group of Persons beneficially owning 20% or more of any class of voting or equity securities of the Corporation (including securities convertible into or exercisable or exchangeable for voting or equity securities of the Corporation) then outstanding; (iii) any plan of arrangement, merger, amalgamation, consolidation, share exchange, share reclassification, business combination, reorganization, recapitalization, liquidation, dissolution, winding up or exclusive license involving the Corporation or of the surviving entity or the resulting direct or indirect parent of the Corporation or the surviving entity; or (iv) any other similar transaction or series of transactions involving the Corporation or any of its Subsidiaries.

"affiliate" has the meaning specified in National Instrument 45-106 – *Prospectus Exemptions*, as in effect on the date of this Agreement, provided that in no event will a portfolio company or investment fund, in either case, affiliated with the Purchaser or the Guarantors be considered to be an affiliate of the Corporation or any of its Subsidiaries.

"Agreement" means this arrangement agreement between the Purchaser and the Corporation (including the Schedules hereto) as it may be amended, modified or supplemented from time to time in accordance with its terms.

"**Anti-Money Laundering Laws**" has the meaning specified in paragraph (25) of Schedule C.

"**Arrangement**" means an arrangement under Section 288 of the BCBCA in accordance with the terms and subject to the conditions set out in the Plan of Arrangement, subject to any amendments or variations to the Plan of Arrangement made in accordance with the terms of this Agreement and the Plan of Arrangement, in accordance with the terms of the Interim Order (once issued), or made at the direction of the Court in the Final Order with the prior written consent of the Corporation and the Purchaser, each acting reasonably.

"**Arrangement Resolution**" means the special resolution approving the Plan of Arrangement to be considered at the Meeting, substantially in the form of Schedule B.

"**associate**" has the meaning specified in the *Securities Act* (Ontario) as in effect on the date of this Agreement.

"**Authorization**" means, with respect to any Person, any order, permit, approval, consent, waiver, license or similar authorization of any Governmental Entity, whether by expiry or termination of an applicable waiting period or otherwise, that is binding upon or applicable to such Person, or its business, assets or securities.

"**BCBCA**" means the *Business Corporations Act* (British Columbia), and the regulations made thereunder, as promulgated or amended from time to time.

"**Board**" means the board of directors of the Corporation, as constituted from time to time.

"**Board Recommendation**" has the meaning specified in Section 2.4(2).

"**Books and Records**" means the books and records of the Corporation and its Subsidiaries, including books of account and Tax records, whether in written or electronic form.

"**Breaching Party**" has the meaning specified in Section 4.7(3).

"**Bump Transactions**" has the meaning specified in Section 4.10(1).

"**Business Day**" means any day of the year, other than a Saturday, Sunday or any day on which chartered banks are closed for business in Toronto, Ontario.

"**CASL**" means an *Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act* (Canada), also known as Canada's Anti-Spam Legislation, and all regulations thereto, as amended or supplemented from time to time.

"**CFPOA**" has the meaning specified in paragraph (25) of Schedule C.

"**Change in Recommendation**" has the meaning specified in Section 7.2(4)(b).

"**Circular**" means the notice of the Meeting and accompanying management information circular, including all schedules, appendices and exhibits thereto, to be sent to the Voting Securityholders

in connection with the Meeting, as amended, supplemented or otherwise modified from time to time in accordance with the terms of this Agreement.

"**Computer Systems**" means all computer hardware, servers, peripheral equipment, technology infrastructure (including telecommunications equipment), Software (including firmware), and other computer systems and services that are used by or accessible to the Corporation and its Subsidiaries (including to receive, store, process or transmit data) to carry on the business.

"**Confidentiality Agreement**" means the confidentiality agreement between the Corporation and an affiliate of the Purchaser dated April 11, 2024.

"**Consideration**" means \$0.04 in cash per Share to be paid to Shareholders pursuant to the Plan of Arrangement, without interest.

"**Contract**" means any written or oral agreement, commitment, engagement, contract, license, lease, obligation, undertaking or other right or obligation to which the Corporation or any of its Subsidiaries is a party or by which the Corporation or any of its Subsidiaries is bound or affected or to which any of their respective material properties or their material assets is subject.

"**Corporation**" has the meaning specified in the preamble.

"**Corporation Filings**" means all documents filed under the profile of the Corporation on the System for Electronic Document Analysis Retrieval + (SEDAR+) since January 1, 2022.

"**Corporation Financial Advisor**" means INFOR Financial Group Inc.

"**Corporation Group Member**" has the meaning specified in Section 7.4(13).

"**Corporation Intellectual Property**" has the meaning ascribed thereto in paragraph (26)(a) of Schedule C.

"**Corporation IP Agreements**" has the meaning ascribed thereto in paragraph (26)(a) of Schedule C.

"**Corporation Registered Intellectual Property**" has the meaning ascribed thereto in paragraph (26)(a) of Schedule C.

"**Corporation Service Providers**" means the directors, officers, employees, consultants, independent contractors and other individual service providers of the Corporation or its Subsidiaries, as the case may be, including part time and full-time officers and employees, officers and employees on a leave of absence, temporary employees or interns.

"**Corporation Termination Fee**" has the meaning specified in Section 7.4(2).

"**Corporation Termination Fee Event**" has the meaning specified in Section 7.4(3).

"**Court**" means the Supreme Court of British Columbia.

"**COVID-19**" means SARS-CoV-2 or COVID-19, and any evolutions thereof or related or associated epidemics, pandemic or disease outbreaks.

"**CPS Bridge Loan**" means the secured loan in the principal amount of \$1,000,000 provided by the Purchaser to support the Corporation's liquidity needs between the date hereof and the Effective Date.

"**CPS Bridge Loan Agreement**" means the agreement dated the date hereof between the Corporation and the Purchaser governing the CPS Bridge Loan.

"**D&O Insurance**" has the meaning specified in Section 4.9(1).

"**Credit Facilities**" means the credit agreement dated June 25, 2021 between 2844835 Ontario Inc., as borrower, and the Secured Lender, as lender, together with the guarantors thereunder, as amended by a first amendment dated as of March 28, 2023 and a second amendment dated as of October 20, 2023.

"**Data Room**" means the information database created by or on behalf of the Corporation in respect of the transactions contemplated in this Agreement as such existed on the date hereof, the index of documents of which is appended to Section 1.1 of the Disclosure Letter.

"**Data Security Requirements**" means, to the extent applicable to the Corporation relating to the Processing, protection or security of Personal Information or compliance with CASL: (i) the Privacy Laws; (ii) the terms of Contracts relating to the Processing, protection, or security of Personal Information or CASL compliance, binding on the Corporation or its Subsidiaries; (iii) the Payment Card Industry Data Security Standard; and (iv) the Corporation's and each of its Subsidiaries' internal and external-facing policies and procedures.

"**Depository**" means Endeavor Trust Corporation, in its capacity as depository for the Arrangement, or such other Person as the Corporation and the Purchaser agree to engage as depository for the Arrangement.

"**Disclosure Letter**" means the disclosure letter dated the date of this Agreement and delivered by the Corporation to the Purchaser with this Agreement.

"**Dissent Rights**" means the rights of dissent in respect of the Arrangement described in the Plan of Arrangement.

"**DSUs**" means any outstanding deferred share units issued pursuant to the Incentive Plan or otherwise.

"**Effective Date**" means the date designated by the Corporation and the Purchaser by notice in writing as the effective date of the Arrangement, after all of the conditions of the Arrangement Agreement and the Final Order have been satisfied or waived.

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

"**Employee Plans**" means any plan, program, policy, agreement or arrangement which provide for any retirement, bonus, commission, stock purchase, profit sharing, pension, stock option, restricted stock, restricted stock unit or any other equity or equity-based compensation, deferred compensation, change in control compensation, severance or termination pay, insurance, medical, welfare, hospital, dental, vision case, drug, sick leave, disability, accident, salary continuation, unemployment benefits, vacation or incentive plan, program, arrangement or other benefit or

compensation plan that is sponsored, maintained, contributed to, or required to be contributed to, by the Corporation or its Subsidiaries for the benefit of any Corporation Service Provider, or with respect to which the Corporation or any of its Subsidiaries has any current or contingent liability or obligation, other than (i) plans established pursuant to statute with which the Corporation or any of its Subsidiaries are required to comply, including the Canada Pension Plan, Quebec Pension Plan, Canada Employment Insurance, any plan administered under applicable provincial health tax, workers' compensation, workplace safety and insurance and any other Governmental Entity plans and (ii) Contracts with Corporation Service Providers.

"Expense Reimbursement Amount" has the meaning specified in Section 7.4(2).

"Expense Reimbursement Event" has the meaning specified in Section 7.4(10).

"Fairness Opinion" means the opinion of the Corporation Financial Advisor to the effect that, as of the date of such opinion, and based on and subject to the various assumptions made, procedures followed, matters considered and qualifications and limitations set forth therein, the Consideration to be received by the Shareholders pursuant to this Agreement is fair from a financial point of view to the Shareholders.

"FCPA" has the meaning specified in paragraph (25) of Schedule C.

"Final Order" means the final order of the Court under Section 291 of the BCBCA in a form acceptable to the Corporation and the Purchaser, each acting reasonably, approving the Arrangement, as such order may be amended by the Court (with the consent of both the Corporation and the Purchaser, each acting reasonably) at any time prior to the Effective Date or, if appealed, then, unless such appeal is withdrawn or denied, as affirmed or as amended (provided that any such amendment is acceptable to both the Corporation and the Purchaser, each acting reasonably) on appeal.

"Financial Statements" means, collectively: (i) the amended and restated audited consolidated financial statements of the Corporation as at and for the years ended December 31, 2022 and 2021, together with the related auditor's report on and notes to such financial statements; and (ii) the amended and restated unaudited condensed consolidated interim financial statements of the Corporation for the three and nine month periods ended September 30, 2023 and 2022, together with the notes to such financial statements.

"Forbearance Agreement" means the forbearance agreement dated as of May 14, 2024 between the Secured Lender, the Corporation and the other parties to the Credit Facilities.

"Forbearance Advisor" means KVS Advisory Inc.

"Governmental Entity" means (i) any international, multinational, national, federal, provincial, state, territorial, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitrator or arbitral body (public or private), commission, commissioner, board, bureau, minister, ministry, governor in council, cabinet, agency or instrumentality, domestic or foreign; (ii) any subdivision, agent or authority of any of the foregoing; (iii) any quasi-governmental or private body including any tribunal, commission, regulatory agency or self-regulatory organization exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing; or (iv) any Securities Authority or stock exchange, including the TSXV.

"**Guarantees**" has the meaning set forth in Section 4.11.

"**Guarantors**" means, collectively, CPS Partners Fund LP and CPS Partners Fund V LP.

"**Held-for-Sale Transaction**" means the ongoing sale process by the Corporation to dispose of those assets that have been classified as held-for-sale in the Corporation Filing.

"**IFRS**" means International Financial Reporting Standards, as issued by the International Accounting Standards Board.

"**Incentive Plan**" means the omnibus equity incentive plan of the Corporation dated effective December 15, 2022, as the same may be amended, restated or supplement from time to time.

"**Indemnified Persons**" has the meaning specified in Section 4.9(4).

"**Intellectual Property**" means all the of the following, whether domestic, foreign, or otherwise: (i) patents, patent rights, applications for patents and patent disclosures, and including all provisional applications, substitutions, continuations, continuations-in-part, patents of addition, improvement patents, divisionals, renewals, reissues, confirmations, counterparts, re-examinations and extensions thereof and all analogous rights; (ii) proprietary and non-public business information, inventions (whether patentable or not), invention disclosures, improvements, discoveries, trade secrets, confidential information, know-how, methods, processes, designs, technology, technical data, schematics, formulae and customer lists, and documentation relating to any of the foregoing; (iii) copyrights, copyrightable works, copyright registrations and applications for copyright registration and all moral rights associated with copyrights, copyright registrations and applications for copyright registration; (iv) integrated circuit topographies, integrated circuit topography registrations and applications, mask works, mask work registrations and applications for mask work registrations; (v) industrial designs, industrial designation registrations and applications, designs, design patents, design registrations and design registration applications; (vi) trade names, trade name registrations, business names, corporate names, telephone numbers, domain names, domain name registrations, social media accounts and handles, website names and world wide web addresses, common law trademarks, trademark registrations, trademark applications, signs, trade dress and logos, service marks, brand names, all identifiers of source and the goodwill associated with any of the foregoing; (vii) Software; and (viii) any other intellectual property or industrial property.

"**Intercreditor Agreement**" means the intercreditor agreement dated as of the date hereof between the Purchaser and the Secured Lender.

"**Interim Order**" means the interim order of the Court under Section 291 of the BCBCA in a form acceptable to the Corporation and the Purchaser, each acting reasonably, providing for, among other things, the calling and holding of the Meeting, as such order may be amended by the Court with the consent of the Corporation and the Purchaser, each acting reasonably.

"**Key Employees**" means the individuals set forth in Section 1.1 of the Disclosure Letter.

"**Labour Agreement**" has the meaning set forth in paragraph (d) of the definition of Material Contract.

"**Law**" means, with respect to any Person, any and all applicable national, federal, provincial, state, municipal or local law (statutory, civil, common or otherwise), constitution, treaty, convention,

ordinance, act, statute, code, rule, regulation, order, injunction, judgment, decree, ruling, award, writ, or other similar requirement, whether domestic or foreign, enacted, adopted, promulgated or applied by a Governmental Entity that is binding upon or applicable to such Person or its business, undertaking, property or securities, and to the extent that they have the force of law, all policies, guidelines, notices and protocols of any Governmental Entity, as amended.

"Leased Real Property" has the meaning set forth in paragraph (23)(a) of Schedule C.

"Lien" means any mortgage, charge, pledge, hypothec, security interest, prior claim, encroachment, option, right of first refusal or first offer, license, occupancy right, restrictive covenant, assignment, lien (statutory or otherwise), defect of title or encumbrance of any kind.

"Malicious Code" means viruses, worms, trojan horses, back doors, drop dead devices, time bombs (as such terms are commonly understood in the software industry), or any other code designed or intended to have any of the following functions: (i) disrupting, disabling, harming or otherwise impeding in any manner the operation of, or providing unauthorized access to, a computer system or network or other device on which such code is stored or installed; or (ii) damaging or destroying any data or file without the user's consent.

"Matching Period" has the meaning specified in Section 5.4(1)(d).

"Material Adverse Effect" means any change, event, occurrence, effect, state of facts or circumstance that, individually or in the aggregate with other changes, events, occurrences, effects, states of facts or circumstances, is or would reasonably be expected to have, a material and adverse effect on the business, operations, affairs, results of operations, assets, properties, liabilities (contingent or otherwise) or financial condition of the Corporation and its Subsidiaries, taken as a whole, which for greater certainty will include (A) the loss of any of the five largest non-fee for service customers of the Corporation or any of its Subsidiaries (measured by annualized revenue per customer), other than as a result of a corporate reorganization or similar transaction involving a customer of the Corporation or any of its Subsidiaries that is outside of the Corporation's control), or (B) the loss of one or more customers of the Corporation or any of its Subsidiaries that in the aggregate account for more than 4% of the Corporation's annualized consolidated revenue on a net basis, as determined in accordance with the methodology set out in Section 1.1 of the Disclosure Letter; but excludes any change, event, occurrence, effect, state of facts or circumstance resulting from or arising in connection with:

- (a) any change, development, condition or event affecting the healthcare and associated services industry as a whole;
- (b) any change in general political conditions (including any act of terrorism or any outbreak of hostilities or declared or undeclared war or any escalation or worsening thereof) or in general economic, business, banking, regulatory, financial, credit, currency exchange, interest rate, rates of inflation or capital market conditions in Canada or elsewhere;
- (c) any change or proposed change in any Laws, in IFRS or regulatory accounting or tax requirements, or in the interpretation, application or non-application of any of the foregoing;
- (d) any natural disaster;

- (e) any epidemic, pandemic or outbreaks of illness or disease (including the COVID-19 pandemic and its continuing effect on the Corporation and the local, national and global economy);
- (f) any changes in currency or exchange rates;
- (g) the failure by the Corporation to meet any internal or public projections, forecasts, guidance or estimates of revenues, earnings or cash flows (it being understood that the cause underlying such failure may be taken into account in determining whether a Material Adverse Effect has occurred) or any seasonal fluctuations in the Corporation's results;
- (h) any action taken (or omitted to be taken) by the Corporation or any of its Subsidiaries which is required to be taken (or omitted to be taken) pursuant to this Agreement or as required by applicable Law;
- (i) any actions taken (or omitted to be taken) (i) upon the written request of the Purchaser, or (ii) with the written consent of, or under the authority, direction or control of the Purchaser or its affiliates;
- (j) the execution, announcement, pendency or performance of this Agreement or the consummation of the Arrangement; or
- (k) any change in the market price or trading volumes of any securities of the Corporation,

provided, however, if any change, event, occurrence, effect, state of facts or circumstance referred to in clauses (a) through and including (f) above, materially and disproportionately adversely effects the Corporation and its Subsidiaries, taken as a whole, relative to other comparable companies and entities operating in the healthcare and associated services industry, such change, event, occurrence, effect, state of facts or circumstance may be taken into account in determining whether a Material Adverse Effect has occurred, but only to the extent of the disproportionate effect, and unless expressly provided in any particular section of this Agreement, references in certain sections of this Agreement to dollar amounts are not intended to be, and shall not be deemed to be, illustrative or interpretive for purposes of determining whether a "Material Adverse Effect" has occurred.

"Material Contract" means any Contract, other than: (i) any intercompany Contract among the Corporation and the Subsidiaries, and (ii) any Contract between the Purchaser and the Corporation:

- (a) that if terminated or modified or if it ceased to be in effect, would reasonably be expected to have a Material Adverse Effect;
- (b) relating directly or indirectly to indebtedness for borrowed money, or to the guarantee, support, indemnification or assumption or any similar commitment with respect to the obligations, liabilities (whether accrued, absolute, contingent or otherwise) or indebtedness of any Person other than the Corporation or any of the Subsidiaries in excess of \$150,000 on an annualized basis;
- (c) under which the Corporation or any of its Subsidiaries is obligated to make or expects to receive payments in excess of \$150,000 in any 12-month period or which contains minimum purchase commitments or other terms that restrict or limit the purchasing or selling ability of the Corporation or any of its Subsidiaries;

- (d) that is a collective bargaining agreement or other labour Contract with any labour union, works council, employee association or other labour organization (each a "**Labour Agreement**");
- (e) providing for the purchase, sale or exchange of, or option to purchase, sell or exchange, any property or asset where the purchase or sale price or agreed value or fair market value of such property or asset exceeds \$150,000, not including the Held-for-Sale Transaction;
- (f) relating to any litigation or settlement thereof which does or could have actual or contingent obligations or entitlement of the Corporation or any of its Subsidiaries in excess of \$150,000 and which have not been fully satisfied prior to the date of this Agreement;
- (g) that expressly limits or restricts in any material respect (A) the ability of the Corporation or any Subsidiary to engage in any line of business or carry on business in any geographic area, or (B) the scope of Persons to whom the Corporation or any of its Subsidiaries may sell products or conduct business;
- (h) that is a partnership agreement, limited liability company agreement, joint venture agreement or similar agreement or arrangement, relating to the formation, creation or operation of any partnership, limited liability company or joint venture in which the Corporation or any of its Subsidiaries is a partner, member or joint venturer (or other participant) that is material to the Corporation, but excluding any such partnership, limited liability company or joint venture which is a wholly-owned Subsidiary of the Corporation;
- (i) that contains express exclusivity or non-solicitation obligations (excluding any Contracts with Corporation Service Providers and customary non-solicitation provisions with customers, suppliers or partners) or similar rights, in each case, that are material to the Corporation and its Subsidiaries, taken as a whole;
- (j) providing for the acquisition or disposition by the Corporation or any of its Subsidiaries of any material business, division or product line (whether by merger, amalgamation, sale of shares, sale of assets or otherwise) or capital stock or other equity interests of any other Person, in each case, pursuant to which any material obligations of the Corporation or any of its Subsidiaries remain outstanding;
- (k) restricting the incurrence of indebtedness by the Corporation or any of its Subsidiaries (including by requiring the granting of an equal and rateable Lien) or the incurrence of any Liens on any properties or assets of the Corporation or any of its Subsidiaries, or restricting the payment of dividends by the Corporation;
- (l) for any expenditure or commitment to do so which individually or in the aggregate exceeds \$150,000;
- (m) relating to any interest rate, currency, commodity or hedging, swap, derivative or forward sale transactions which individually or in the aggregate exceeds \$100,000; or
- (n) that is a material Corporation IP Agreement.

"**Meeting**" means the special meeting of Voting Securityholders, including any adjournment or postponement of such special meeting in accordance with the terms of this Agreement, to be called and held in accordance with the Interim Order to consider the Arrangement Resolution.

"**MI 61-101**" means Multinational Instrument 61-101 – *Protection of Minority Shareholders in Special Transactions*.

"**misrepresentation**" has the meaning specified in the *Securities Act* (Ontario) and other Securities Laws.

"**officer**" has the meaning specified in the *Securities Act* (Ontario).

"**Open Source License**" means any "free software" license, "software libre" license, "public" license, or open-source software license, including any license that meets the "Open Source Definition" promulgated by the Open Source Initiative (www.opensource.org/licenses).

"**Open Source Software**" shall mean any Software licensed or distributed pursuant to the terms and conditions of an Open Source License.

"**Option Agreement**" means an agreement evidencing the terms of any Option.

"**Optionholders**" means holders of Options.

"**Options**" means the outstanding stock options to purchase Shares issued pursuant to the Incentive Plan and Option Agreements.

"**Ordinary Course**" means, with respect to an action taken by the Corporation or any of its Subsidiaries, that such action is taken in the ordinary course of the normal day-to-day operations of the business of the Corporation or such Subsidiary, consistent with past practices.

"**Outside Date**" means the date that is the earlier of: (a) 10 Business Days following the date of the Meeting; and (b) August 30, 2024, or such later date as may be agreed to in writing by the Parties.

"**Party**" has the meaning specified in the preamble.

"**Payout Amount**" has the meaning specified in Section 6.3(4).

"**Permitted Liens**" means, in respect of the Corporation or any of its Subsidiaries, any one or more of the following:

- (a) Liens for Taxes not at the time due and payable or otherwise contested in good faith or for which adequate reserves have been established;
- (b) restrictions, covenants, land use contracts, rent charges, building schemes, declarations of covenants, conditions and restrictions, servicing agreements, or other registered agreements or instruments in favour of any Governmental Entity, easements, rights-of-way, servitudes, rental pool agreements or other similar rights in or with respect to real property granted to or reserved by other Persons or properties, which individually or in the aggregate do not materially impair the use of or the operation of the business of such Person or the property subject thereto and provided that same have been complied with;
- (c) inchoate or statutory Liens or privileges imposed by applicable Law such as contractors, subcontractors, carriers, warehousemen's, mechanics, builder's, workers, suppliers, and materialmen's and others in respect of the construction, maintenance, repair or operation of real or personal property;

- (d) any security given to a public or private utility or other service provider or any other Governmental Entity when required by such utility or other Governmental Entity in connection with the operations of such person in the ordinary course of its business, but only to the extent relating to costs and expenses for which payment is not due;
- (e) any right reserved to or vested in any Governmental Entity by the terms of any permit, licence, certificate, order, grant, classification (including any zoning laws and ordinances and similar legal requirements), registration or other consent, approval or authorization acquired by such person from any Governmental Entity or by any Law, to terminate any such permit, licence, certificate, order, grant, classification, registration or other consent, approval or authorization or to require annual or other payments as a condition to the continuance thereof and which in the aggregate do not materially impair the use of or the operation of the business of such Person or the property subject thereto;
- (f) subdivision plans, site plans, subdivision plats, maps, surveys and similar instruments registered or recorded in the ordinary course of business which do not materially impair the use of or the operation of the business of such Person or the property subject thereto and provided the same have been complied with;
- (g) the reservations, exceptions, limitations, provisos and conditions, if any, expressed in any grants from the Crown or similar Governmental Entity of any owned, leased or licenced real property;
- (h) such other immaterial imperfections or immaterial irregularities of title or Lien that, in each case, do not materially adversely affect the use of the properties or assets subject thereto or otherwise materially adversely impair business operations of such properties;
- (i) purchase money liens and Liens securing rental payments under capital lease arrangements; and
- (j) Liens listed in Section 1.1 of the Disclosure Letter.

"**Person**" includes any individual, partnership, association, body corporate, organization, trust, estate, trustee, executor, administrator, legal representative, government (including Governmental Entity), syndicate or other entity, whether or not having legal status.

"**Personal Information**" means any information about an identified or identifiable individual, in any form (whether oral, written or electronic), including any record or data that can be manipulated, linked or matched by any method to identify an individual.

"**Plan of Arrangement**" means the plan of arrangement in the form of Schedule A to this Agreement, and any amendments or variations to such plan made in accordance with its terms, the terms of this Agreement, the terms of the Interim Order (once issued) or made at the direction of the Court in the Final Order with the prior written consent of the Corporation and the Purchaser, each acting reasonably.

"**Pre-Acquisition Reorganization**" has the meaning specified in Section 4.10(1).

"**Privacy Laws**" means all Laws concerning the Processing or protection of Personal Information, including (i) the *Personal Information Protection and Electronic Documents Act* (Canada) and any applicable substantially similar provincial legislation; (ii) CASL; (iii) Part VII.1 of the *Competition*

Act (Canada), sections 74.01(1) and 74.011; (iv) the *Criminal Code* (Canada), to the extent concerning the Processing or protection of Personal Information; (v) An Act to establish a legal framework for information technology (Quebec); and (vi) an Act to modernize legislative provisions as regards the protection of personal information (Quebec), and all applicable regulations each thereto, each as amended or supplemented from time to time.

"**Process**" and similar terms, means to collect, create, receive, acquire, access, store, maintain, retain, use, analyze, modify, manipulate, handle, copy, transmit, transfer, disclose, communicate, aggregate, anonymize, de-identify, destroy, erase, or dispose of.

"**Purchaser**" has the meaning specified in the preamble.

"**Purchaser Group Member**" has the meaning specified in Section 7.4(13).

"**Purchaser Termination Fee**" has the meaning set forth in Section 7.4(7).

"**Purchaser Termination Fee Event**" has the meaning set forth in Section 7.4(8).

"**Real Property Lease**" has the meaning set forth in paragraph (23)(a) of Schedule C.

"**Representative**" means, with respect to any Person, any officer, director, employee, representative (including any financial, legal or other advisor) or agent of such Person or of any of its Subsidiaries or affiliates.

"**Required Regulatory Approvals**" means any consent, waiver, permit, exemption, review, order, decision or approval of, or any registration and filing with, any Governmental Entity, or the expiry, waiver or termination of any waiting period imposed by applicable Law or a Governmental Entity, in each case in connection with the Arrangement including, without limitation, the approval of the TSXV.

"**Required Securityholder Approval**" means the required vote set forth in Section 2.2(2), together with any other vote required under the Interim Order.

"**RSUs**" means any outstanding restricted share units issued pursuant to the Incentive Plan or otherwise.

"**Secured Lender**" means the lender under the Credit Facilities.

"**Securities Authority**" means the Ontario Securities Commission and any other applicable securities commission or regulatory authority of a province or territory of Canada.

"**Securities Laws**" means the *Securities Act* (Ontario) and any other applicable Canadian provincial and territorial securities Laws.

"**Securityholders**" means, collectively, the Shareholders, the Optionholders and the holders of RSUs and DSUs.

"**Security Incident**" means any (i) loss, theft or unauthorized or unlawful access to, or Processing, corruption or exfiltration of, Personal Information under the control of or being Processed by the Corporation or any of its Subsidiaries; (ii) incident or event that compromises or breaches the confidentiality, protection, integrity, availability or security of the Corporation's or any of its

Subsidiaries' Computer Systems or Personal Information under the control of or being Processed by the Corporation or any of its Subsidiaries; or (iii) incident or event that triggers any reporting or notification obligation under any Data Security Requirement.

"**Shareholders**" means the registered or beneficial holders of the Shares, as the context requires.

"**Shares**" means the common shares in the capital of the Corporation.

"**Software**" means computer software and programs (both source code and object code form), all proprietary rights in the computer software and programs and all documentation and other materials related to the computer software and programs.

"**Special Committee**" means the special committee of the Board consisting solely of independent members of the Board formed in connection with the Arrangement and the other transactions contemplated by this Agreement.

"**Specified Exemptions**" has the meaning specified in Section 4.1(1).

"**Subsidiary**" has the meaning specified in National Instrument 45-106 – *Prospectus Exemptions* as in effect on the date of this Agreement.

"**Superior Proposal**" means any unsolicited *bona fide* written Acquisition Proposal to acquire not less than all of the outstanding Shares (other than Shares held by the Persons or group of Persons making such Acquisition Proposal) or all or substantially all of the assets of the Corporation on a consolidated basis (other than related to the Held-for-Sale Transaction) that:

- (a) did not result from or involve a breach of Article 5;
- (b) is not subject to any financing condition, and in respect of which it has been demonstrated to the satisfaction of the Board, acting in good faith after consultation with its financial advisor(s) and outside legal counsel, that adequate arrangements have been made in respect of any financing required to complete such Acquisition Proposal;
- (c) is not subject to a due diligence or access to information condition; and
- (d) in respect of which the Board (or any relevant committee thereof) determines, in its good faith judgment, after consulting with its outside legal counsel and financial advisors: (i) is reasonably capable of being completed, without undue delay, taking into account all financial, legal, regulatory and other aspects of such proposal and the Person or group of Persons making such proposal; and (ii) would, if consummated in accordance with its terms but without assuming away the risk of non-completion, result in a transaction which is more favorable, from a financial point of view, to the Shareholders than the Arrangement (including any amendments to the terms and conditions of the Arrangement proposed by the Purchaser pursuant to Section 5.4(2)).

"**Superior Proposal Notice**" has the meaning specified in Section 5.4(1)(c).

"**Tax Act**" means the *Income Tax Act* (Canada).

"**Tax Returns**" means all returns, reports, declarations, elections, notices, forms, designations, schedules, attachments, filings, and statements (including any amendments, and estimated tax

returns and reports, withholding tax returns and reports, and information returns and reports) filed or required to be filed in respect of Taxes (whether in tangible, electronic or other form).

"**Taxes**" means (i) any and all taxes, duties, fees, excises, premiums, assessments, imposts, levies and other charges or assessments of any kind whatsoever imposed by any Governmental Entity, including those levied on, or measured by, or described with respect to, income, gross receipts, profits, gains, windfalls, capital, capital stock, production, recapture, transfer, land transfer, license, gift, occupation, wealth, environment, net worth, indebtedness, surplus, sales, goods and services, harmonized sales, use, value-added, excise, special assessment, stamp, withholding, business, franchising, real or personal property, health, employer health, payroll, workers' compensation, employment or unemployment, severance, social services, social security, education, utility, surtaxes, customs, import or export, and including all employment insurance, health insurance and government pension plan premiums or contributions; and (ii) all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Entity on amounts of the type described in clause (i) above or this clause (ii).

"**Terminating Party**" has the meaning specified in Section 4.7(3).

"**Termination Notice**" has the meaning specified in Section 4.7(3).

"**TSXV**" means the TSX Venture Exchange.

"**Voting Securities**" means collectively, the Shares and Options.

"**Voting Securityholders**" means collectively, the Shareholders and Optionholders.

"**Voting Support Agreements**" has the meaning specified in the preamble.

"**wilful breach**" means a material breach that is a consequence of an act undertaken or a failure to act undertaken by the breaching Party with the actual knowledge that such act or failure to act would, or would be reasonably expected to, cause a breach of this Agreement.

Section 1.2 Certain Rules of Interpretation.

In this Agreement, unless otherwise specified:

- (1) **Headings, etc.** The provision of a Table of Contents, the division of this Agreement into Articles and Sections and the insertion of headings are for convenient reference only and do not affect the construction or interpretation of this Agreement.
- (2) **Currency.** All references to dollars or to \$ are references to Canadian dollars.
- (3) **Gender and Number.** Any reference to a gender includes all genders. Words importing the singular number only include the plural and *vice versa*.
- (4) **Certain Phrases and References, etc.** The words "including," "includes" and "include" mean "including (or includes or include) without limitation," and "the aggregate of," "the total of," "the sum of," or a phrase of similar meaning means "the aggregate (or total or sum), without duplication, of." Unless stated otherwise, "Article," "Section," and "Schedule" followed by a number or letter mean and refer to the specified Article or Section of or Schedule to this Agreement. The term "Agreement" and any reference in this Agreement to this Agreement or any other agreement or

document includes, and is a reference to, this Agreement or such other agreement or document as it may have been, or may from time to time be, amended, restated, replaced, supplemented or novated and includes all schedules to it. The term "made available" means copies of the subject materials were included in the Data Room or otherwise provided in writing in the manner expressly set forth in this Agreement.

- (5) **Capitalized Terms.** All capitalized terms used in any Schedule have the meanings ascribed to them in this Agreement.
- (6) **Knowledge.** In this Agreement, references to "to the knowledge of" means the actual knowledge of Karen Adams, Prakash Patel, Nathan Lane and John Plunkett, in each case after reasonable inquiry, with the presumption that such officers have made such due and diligent inquiries as they consider necessary and reasonable in the circumstances.
- (7) **Accounting Terms.** All accounting terms are to be interpreted in accordance with IFRS and all determinations of an accounting nature in respect of the Corporation required to be made shall be made in a manner consistent with IFRS.
- (8) **Statutes.** Any reference to a statute refers to such statute and all rules and regulations made under it, as it or they may have been or may from time to time be amended or re-enacted, unless stated otherwise.
- (9) **Computation of Time.** If any action may be taken within, or any right or obligation is to expire at the end of, a period of days under this Agreement, then the first day of the period is not counted, but the day of its expiry is counted. Whenever payments are to be made or an action is to be taken on a day which is not a Business Day, such payment will be made or such action will be taken on or not later than the next succeeding Business Day.

Section 1.3 Schedules.

The following schedules attached to this Agreement form an integral part of this Agreement for all purposes of it:

Schedule A	Plan of Arrangement
Schedule B	Arrangement Resolution
Schedule C	Representations and Warranties of the Corporation
Schedule D	Representations and Warranties of the Purchaser

Section 1.4 Disclosure Letter.

For the purpose of this Agreement, it is acknowledged and agreed that disclosure in any section or subsection of the Disclosure Letter will be deemed disclosed with respect to all Sections of this Agreement and all other sections or subsections of the Disclosure Letter to the extent the relevance of such disclosure to such Section or subsection is reasonably apparent on the face of such disclosure. The Disclosure Letter forms an integral part of this Agreement for all purposes of it. The Disclosure Letter itself and all information contained in it is confidential information and may not be disclosed unless (i) it is required to be disclosed pursuant to Law unless such Law permits the Parties to refrain from disclosing the information for confidentiality or other purposes or (ii) a Party needs to disclose it in order to enforce or exercise its rights under this Agreement and then only to the extent so required.

ARTICLE 2
THE ARRANGEMENT

Section 2.1 Arrangement.

The Corporation and the Purchaser agree that the Arrangement will be implemented in accordance with and subject to the terms and conditions of this Agreement and the Plan of Arrangement.

Section 2.2 Interim Order.

As soon as reasonably practicable after the date of this Agreement, the Corporation shall apply to the Court in a manner reasonably acceptable to the Purchaser pursuant to Section 291 of the BCBCA and, in cooperation with the Purchaser, prepare, file and diligently pursue a motion for the Interim Order, which must provide, among other things:

- (1) for the classes of persons to whom notice is to be provided in respect of the Arrangement and the Meeting and for the manner in which such notice is to be provided;
- (2) that the required level of approval for the Arrangement Resolution shall be at least: (i) two-thirds of the votes cast on such resolution by Shareholders present in person or represented by proxy at the Meeting; (ii) two-thirds of the votes cast on such resolution by Shareholders and Optionholders, voting as a single class, present in person or represented by proxy at the Meeting; and (iii) a simple majority of the votes cast on such resolution by Shareholders present in person or represented by proxy at the Meeting, excluding for this purpose votes attached to Shares held by persons described in items (a) through (d) of Section 8.1(2) of MI 61-101 (together, the "**Required Securityholder Approval**");
- (3) that, subject to the foregoing and any variations prescribed in the Interim Order, in all other respects, the terms, restrictions and conditions of the Corporation's constating documents, including quorum requirements and all other matters, shall apply in respect of the Meeting;
- (4) for the grant of the Dissent Rights to those Shareholders who are registered Shareholders as contemplated in the Plan of Arrangement;
- (5) for the notice requirements with respect to the presentation of the application to the Court for the Final Order;
- (6) that the Meeting may be adjourned or postponed from time to time by the Corporation with the prior consent of the Purchaser in accordance with the terms of this Agreement and without the need for additional approval of the Court;
- (7) for the fixing of the record date and that the record date for the Voting Securityholders entitled to notice of and to vote at the Meeting will not change in respect of any adjournment(s) or postponement(s) of the Meeting, unless required by applicable Law; and
- (8) for such other matters as the Purchaser or the Corporation (each with the prior consent of the other, such consent not to be unreasonably withheld or delayed) may reasonably require.

Section 2.3 The Meeting.

Subject to the terms of this Agreement and receipt of, and subject to the terms of, the Interim Order, the Corporation shall:

- (1) convene and conduct the Meeting in accordance with the Interim Order, the Corporation's constating documents and applicable Law as soon as reasonably practicable after the date of this Agreement (and the Corporation shall use commercially reasonable efforts to do so on or before July 12, 2024, but in any event no later than August 16, 2024), for the purpose of considering the Arrangement Resolution and for any other proper purpose as may be set out in the Circular and agreed to by the Purchaser, and not adjourn, postpone or cancel (or propose the adjournment, postponement or cancellation of) the Meeting without the prior written consent of the Purchaser, except:
 - (a) in the case of an adjournment, as required for quorum purposes;
 - (b) as required or permitted under Section 4.7(3) or Section 5.4(5);
 - (c) as required by applicable Law or by a Governmental Entity; or
 - (d) for not more than ten (10) Business Days in the aggregate for the purposes of attempting to solicit proxies to obtain the requisite approval of the Arrangement Resolution;
- (2) subject to the terms of this Agreement, unless the Board has made a Change in Recommendation, use commercially reasonable efforts to solicit proxies in favour of the approval of the Arrangement Resolution and against any resolution submitted by any Shareholder that is inconsistent with the Arrangement Resolution and the completion of any of the transactions contemplated by this Agreement, including, at the Corporation's option, or if so requested by the Purchaser (in which case it will be at the Purchaser's sole cost), acting reasonably, using dealer and proxy solicitation services firms engaged by the Corporation to solicit proxies in favour of the approval of the Arrangement Resolution;
- (3) provide the Purchaser with copies of or access to information regarding the Meeting generated by any dealer or proxy solicitation services firm, as reasonably requested from time to time by the Purchaser;
- (4) consult with the Purchaser in fixing the date of the Meeting, give notice to the Purchaser of the Meeting and allow the Representatives of the Purchaser (including its outside legal counsel) to attend the Meeting;
- (5) promptly advise the Purchaser, at such times as the Purchaser may reasonably request and on a daily basis on each of the last ten (10) Business Days prior to the date of the Meeting, as to the aggregate tally of the proxies (for greater certainty, specifying votes "for" and votes "against" the Arrangement Resolution) received by the Corporation in respect of the Arrangement Resolution;
- (6) promptly advise the Purchaser of any material communication (written or oral) from or claims brought by (or threatened to be brought by) any Person in opposition to the Arrangement, written notice of dissent, purported exercise or withdrawal of Dissent Rights, and written communications sent by or on behalf of the Corporation to any Shareholder exercising or purporting to exercise Dissent Rights, and shall cooperate and consult with the Purchaser in advance in connection with any discussions or communications with any Person in opposition to the Arrangement;

- (7) not make any payment or settlement offer, or agree to any payment or settlement prior to the Effective Time with respect to Dissent Rights without the prior written consent of the Purchaser;
- (8) not change the record date for the Voting Securityholders entitled to vote at the Meeting in connection with any adjournment or postponement of the Meeting unless required by applicable Law or the Court; and
- (9) at the request of the Purchaser from time to time, acting reasonably, provide the Purchaser with a list (in electronic form) of (i) the registered Shareholders, together with their addresses and respective holdings of Shares, all as shown on the records of the Corporation, as of a date that is not more than five (5) Business Days prior to the date of delivery of such list, (ii) the names and holdings of all Optionholders and holders of RSUs and DSUs and (iii) participants and book-based nominee registrants such as CDS & Co., and non-objecting beneficial owners of Shares, together with their addresses and respective holdings of Shares, all as can be reasonably obtained by the Corporation using the procedure set forth under Securities Laws. The Corporation shall from time to time require that its registrar and transfer agent furnish the Purchaser with such additional information, including updated or additional lists of Shareholders, and lists of securities positions and other assistance as the Purchaser may reasonably request in order to be able to communicate with respect to the Arrangement with the Voting Securityholders entitled to vote on the Arrangement Resolution.

Section 2.4 The Circular.

- (1) The Corporation shall, as promptly as reasonably practicable, prepare and complete, in consultation with the Purchaser, the Circular together with any other documents required by applicable Law in connection with the Meeting and the Arrangement, including obtaining the written Fairness Opinion for inclusion in the Circular, and the Corporation shall, as promptly as reasonably practicable after obtaining the Interim Order, cause the Circular and such other documents to be filed and sent to each Voting Securityholder and other Persons as required by the Interim Order and applicable Law, in each case so as to permit the Meeting to be held by the date specified in Section 2.3(1), provided that the Purchaser shall have complied with Section 2.4(4).
- (2) The Corporation shall ensure that the Circular complies in all material respects with the Interim Order and applicable Law and does not contain any misrepresentation (other than with respect to any information, including with respect to the Purchaser, the Guarantors or their respective affiliates, that is furnished in writing by or on behalf of the Purchaser, the Guarantors or their respective affiliates, as applicable, for inclusion in the Circular, including pursuant to Section 2.4(4)). Without limiting the generality of the foregoing, the Circular must include: (i) summaries and copies of the Fairness Opinion, (ii) a statement that the Special Committee has received the Fairness Opinion and has, after receiving legal and financial advice, unanimously recommended that the Board approve the Arrangement Agreement and that Voting Securityholders vote in favour of the Arrangement Resolution, (iii) a statement that the Board has unanimously (with interested directors abstaining from voting), after receiving the recommendation of the Special Committee, determined that the Consideration to be received by Shareholders is fair and that the Arrangement is in the best interests of the Corporation, and that the Board unanimously (with interested directors abstaining from voting) recommends that Voting Securityholders vote in favour of the Arrangement Resolution (the "**Board Recommendation**") and (iv) a statement that directors and executive officers of the Corporation who own Voting Securities and have signed Voting Support Agreements intend to vote all of their Voting Securities in favour of the Arrangement Resolution.

- (3) The Corporation shall give the Purchaser and its outside legal counsel a reasonable opportunity to review and comment on drafts of the Circular and other related documents, and shall give reasonable consideration to any comments made by the Purchaser and its outside legal counsel, and agrees that all information relating solely to the Purchaser and the Guarantors, and their respective affiliates, as applicable, that is furnished in writing by or on behalf of the Purchaser or a Guarantor, or their respective affiliates, as applicable, for inclusion in the Circular and any information describing the terms of the Arrangement and/or the Plan of Arrangement, must be in a form and content satisfactory to the Purchaser, acting reasonably. The Corporation shall provide the Purchaser with a final copy of the Circular prior to its mailing to the Voting Securityholders.
- (4) The Purchaser shall provide, on a timely basis, in writing to the Corporation all information concerning the Purchaser, the Guarantors and their respective affiliates, as applicable, that is required by the Interim Order or applicable Law to be included by the Corporation in the Circular or in other related documents, and the Purchaser shall ensure that such information does not contain any misrepresentation.
- (5) Each Party shall promptly notify the other Party if it becomes aware that the Circular contains any misrepresentation or otherwise requires an amendment or supplement. The Parties shall cooperate in the preparation of any such amendment or supplement as required or appropriate, and the Corporation shall promptly mail, file or otherwise publicly disseminate any such amendment or supplement to the Voting Securityholders and, if required by the Court or by applicable Law, file the same with the Securities Authorities or any other Governmental Entity as required.

Section 2.5 Final Order.

If the Interim Order is obtained and the Arrangement Resolution is passed at the Meeting as provided for in the Interim Order, the Corporation shall take all steps necessary or advisable to submit the Arrangement to the Court and diligently pursue an application for the Final Order pursuant to Section 291 of the BCBCA, as soon as reasonably practicable and in any event no later than three (3) Business Days after the Arrangement Resolution is passed at the Meeting, or within such other period as the Parties may agree, acting reasonably.

Section 2.6 Court Proceedings.

Subject to the terms of this Agreement, the Purchaser shall cooperate with, assist and consent to the Corporation seeking the Interim Order and the Final Order, including by providing to the Corporation, on a timely basis, any information regarding the Purchaser as required by applicable Law to be supplied by the Purchaser in connection therewith. In connection with all Court proceedings relating to obtaining the Interim Order and the Final Order, the Corporation shall:

- (1) diligently pursue, and cooperate with the Purchaser to obtain, the Interim Order and the Final Order;
- (2) provide the Purchaser and its outside legal counsel with a reasonable opportunity to review and comment upon drafts of all materials to be filed with, or submitted to, the Court or any Securities Authority in connection with the Arrangement, including drafts of the Interim Order and the Final Order, and give reasonable consideration to all comments of the Purchaser and its legal counsel, provided, however, that the Corporation agrees that all information relating solely to the Purchaser, the Guarantors and their respective affiliates included in all such materials must be in a form and content satisfactory to the Purchaser, acting reasonably;

- (3) provide outside legal counsel to the Purchaser on a timely basis with copies of any notice of appearance, evidence or other documents served on the Corporation or its outside legal counsel in respect of the motion for the Interim Order or the application for the Final Order or any appeal from them, and any notice, written or oral, indicating the intention of any Person to appeal, or oppose the granting of, the Interim Order or the Final Order;
- (4) ensure that all material filed with the Court in connection with the Arrangement is consistent in all material respects with the terms of this Agreement and the Plan of Arrangement;
- (5) not, unless required to do so under applicable Law (in which case a copy will be provided to the Purchaser) file any materials with the Court in connection with the Arrangement or serve any such material, or agree to modify or amend any materials so filed or served, except as contemplated by this Agreement or with the Purchaser's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed, provided that the Purchaser is not required to agree or consent to any increase in or variation in the form of the Consideration or other modification or amendment to such filed or served materials that expands or increases the Purchaser's obligations, or diminishes or limits the Purchaser's rights, set forth in any such filed or served materials or under this Agreement or the Arrangement;
- (6) oppose any proposal from any Person that the Final Order contain any provision inconsistent with this Agreement, and if required by the terms of the Final Order or by applicable Law to return to Court with respect to the Final Order do so only after notice to, and in consultation and cooperation with, the Purchaser; and
- (7) not unreasonably object to legal counsel to the Purchaser making such submissions on the hearing of the motion for the Interim Order and the application for the Final Order as such counsel considers appropriate, provided the Purchaser provides copies to the Corporation of any notice of appearance, motions or other documents supporting such submissions reasonably in advance of, and in any event not less than two (2) Business Days prior to, the hearing and such submissions are consistent with this Agreement and the Plan of Arrangement.

Section 2.7 Incentive Plan.

- (1) Each Option, RSU and DSU will be dealt with in accordance with the Plan of Arrangement. The Corporation will take all reasonable steps required or advisable to give effect to the foregoing.
- (2) All amounts payable in respect of the Options, RSUs and DSUs pursuant to the Plan of Arrangement shall be paid to the applicable recipient in accordance with the Plan of Arrangement.
- (3) The Parties acknowledge that no deduction will be claimed in computing the taxable income under the Tax Act of the Corporation or any Person not dealing at arm's length with the Corporation in respect of any payment made pursuant to the Plan of Arrangement in respect of an Option to an Optionholder who is a resident of Canada or who is employed in Canada for purposes of the Tax Act to the extent that the deduction under paragraph 110(1)(d) of the Tax Act would otherwise be available to such Optionholder, and the Corporation and each applicable Person not dealing at arm's length with the Corporation shall: (i) where applicable, make an election pursuant to subsection 110(1.1) of the Tax Act and otherwise comply with the requirements of such subsection in respect of the cash payments made in exchange for the surrender or termination of such Options; and (ii) provide evidence in writing of such election as contemplated by the Tax Act, it being understood that Optionholders will be entitled to claim any deductions available to such Persons pursuant to paragraph 110(1)(d) of the Tax Act in respect of the calculation of any benefit arising from the

surrender of such Options and that the Corporation will deduct or withhold Taxes from payments (as it is required to deduct or withhold with respect to such payments under the Tax Act or any provision of any other applicable Law relating to Taxes) to such holders of such Options for the surrender of such Options on the basis that such deduction is available. This Section 2.7(3) shall survive the Effective Date and is intended to be for the benefit of, and will be enforceable by, the Optionholders resident or employed in Canada and their respective heirs, executors, administrators and personal representatives and will be binding on the Corporation and its successors and assigns and such rights will be held by the Corporation, and any successor to the Corporation, in trust for such Optionholders; provided, however, that no approval of any beneficiary of such trust will be required in connection with any amendment or variation of this Section 2.7(3) prior to the Effective Date.

Section 2.8 Effective Date.

- (1) The Corporation and the Purchaser agree that the Arrangement will be implemented in accordance with and subject to the terms and conditions contained in this Agreement and the Plan of Arrangement. From and after the Effective Time, the steps to be carried out pursuant to the Arrangement shall become effective in accordance with the Plan of Arrangement.
- (2) The closing of the transactions contemplated hereby and by the Plan of Arrangement shall occur on the Effective Date via electronic document exchange (by email or other electronic means) or at such other time on the Effective Date as may be agreed to by the Parties. The Effective Date shall occur on the date upon which the Corporation and the Purchaser agree in writing or, in the absence of such agreement, three (3) Business Days after the satisfaction or, where not prohibited, the waiver by the applicable Party or Parties in whose favour the condition is stipulated, of the conditions set out in Article 6, excluding conditions that, by their terms, cannot be satisfied until the Effective Date, but subject to the satisfaction or, where not prohibited, the waiver by the applicable Party or Parties in whose favour the condition is stipulated, of those conditions as of the Effective Date. The Arrangement shall be effective at the Effective Time on the Effective Date.

Section 2.9 Payment of Consideration.

The Purchaser shall, following receipt of the Final Order and, in any event, not later than two (2) Business Days prior to the Effective Date, transfer or cause to be transferred to the Depositary sufficient funds to be held in escrow (the terms and conditions of such escrow to be satisfactory to the Corporation, the Depositary and the Purchaser, each acting reasonably) in order to satisfy the aggregate Consideration payable by the Purchaser as provided for in the Plan of Arrangement.

Section 2.10 Withholding Rights.

Each of the Purchaser, the Corporation, the Depositary or any other Person that makes a payment hereunder shall be entitled to deduct and withhold from the amounts otherwise payable under this Agreement and the Arrangement (including any amounts payable pursuant to Section 2.7) to any Person, such amounts as it is required to deduct and withhold with respect to such payment under the Tax Act or any provision of any other applicable Law relating to Taxes and remit such withheld amount to the appropriate Governmental Entity. To the extent that amounts are so properly deducted, withheld and remitted, such amounts shall be treated for all purposes of this Agreement and the Arrangement as having been paid to the Person in respect of which such deduction, withholding and remittance was made.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

Section 3.1 Representations and Warranties of the Corporation.

- (1) Except as set forth in the Disclosure Letter or the Corporation Filings (excluding any cautionary language and any disclosures set forth in any "risk factor" section and in any section relating to forward looking statements) prior to the date hereof, the Corporation hereby represents and warrants to the Purchaser as set forth in Schedule C hereto and acknowledges and agrees that the Purchaser is relying upon such representations and warranties in connection with the entering into of this Agreement and the consummation of the Arrangement.
- (2) Except for the representations and warranties set forth in this Agreement, neither the Corporation nor any other Person has made, or makes any other, express or implied representation and warranty, either written or oral, on behalf of the Corporation; provided that nothing in this Section 3.1(2) or otherwise shall limit the right of the Purchaser to bring any claim or cause of action against any Person arising out of any actual fraud in the making of the representations and warranties contained in Schedule C or the certificate delivered pursuant to Section 6.2(1). In particular, without limiting the foregoing disclaimer, except for the representations and warranties made by the Corporation in this Agreement, as set forth in Schedule C, neither the Corporation nor any other Person makes or has made any representation or warranty to the Purchaser or any of its Representatives, with respect to (a) any financial projection, forecast, estimate, budget, or prospective information relating to the Corporation or any of its Subsidiaries or their respective businesses or operations or (b) any oral or written information furnished or made available to the Purchaser or any of its Representatives in the course of their due diligence investigation of the Corporation or any of its Subsidiaries, the negotiation of this Agreement or the consummation of the Arrangement and the other transactions contemplated by this Agreement, including the accuracy, completeness or correctness thereof, and neither the Corporation nor any other Person will have liability to the Purchaser, their Representatives or any other Person in respect of such information, including any subsequent use of such information.
- (3) The representations and warranties of the Corporation contained in this Agreement shall not survive the completion of the Arrangement and shall expire and be terminated on the earlier of the Effective Time and the date on which this Agreement is terminated in accordance with its terms.

Section 3.2 Representations and Warranties of the Purchaser.

- (1) The Purchaser hereby represents and warrants to the Corporation as set forth in Schedule D and acknowledges and agrees that the Corporation is relying upon such representations and warranties in connection with the entering into of this Agreement and the consummation of the Arrangement.
- (2) Except for the representations and warranties set forth in this Agreement, neither the Purchaser nor any other Person has made, or makes any other, express or implied representation and warranty, either written or oral, on behalf of the Purchaser.
- (3) The representations and warranties of the Purchaser contained in this Agreement shall not survive the completion of the Arrangement and shall expire and be terminated on the earlier of the Effective Time and the date on which this Agreement is terminated in accordance with its terms.

ARTICLE 4 COVENANTS

Section 4.1 Conduct of Business of the Corporation.

- (1) The Corporation covenants and agrees that, during the period from the date of this Agreement until the earlier of the Effective Time and the time that this Agreement is terminated in accordance with its terms, the Corporation shall, and shall cause each of its Subsidiaries to, conduct business in the Ordinary Course in good faith consultation with the Purchaser, except (a) as expressly required or permitted by this Agreement, (b) to the extent necessary to comply with applicable Law or any order or directive of a Governmental Entity, (c) in connection with the Held-for-Sale Transaction, or (d) with the prior written consent of the Purchaser and the Forbearance Advisor, each acting reasonably and in good faith (clauses (a) to (d) collectively, the "**Specified Exemptions**").
- (2) Without limiting the generality of Section 4.1(1) and except pursuant to the Specified Exemptions, the Corporation covenants and agrees that, until the earlier of the Effective Time or the time that this Agreement is terminated in accordance with its terms, the Corporation shall, and shall cause its Subsidiaries to, use commercially reasonable efforts to maintain and preserve intact, in all material respects, the current business organization, goodwill and assets of the Corporation and its Subsidiaries (taken as a whole) and relationships with the Corporation Service Providers (as a group). Without limiting the generality of the foregoing, except pursuant to the Specified Exemptions, the Corporation shall not, and shall not permit any of its Subsidiaries to, directly or indirectly:
 - (a) amend its constating documents or, in the case of any Subsidiary which is not a corporation, its similar organizational documents;
 - (b) split, combine or reclassify any shares or declare, set aside or pay any dividend or other distribution or make any payment (whether in cash, stock or property or any combination thereof), in respect of the shares owned by any Person or the securities of any Subsidiary other than, in the case of any Subsidiary wholly-owned by the Corporation, any dividends, distributions or payments payable to the Corporation or any other wholly-owned Subsidiary of the Corporation;
 - (c) undertake any capital reorganization (other than a Pre-Acquisition Reorganization);
 - (d) redeem, repurchase, or otherwise acquire or offer to redeem, repurchase or otherwise acquire, any of its securities, except (i) as contemplated herein, (ii) pursuant to the Incentive Plan in the Ordinary Course, or (iii) for cash settled awards;
 - (e) adopt a plan of liquidation or resolution providing for its liquidation or dissolution;
 - (f) enter into, or resolve to enter into, any agreement that has the effect of creating a joint venture, partnership, shareholders' agreement or similar relationship between the Corporation or any of its Subsidiaries and another Person;
 - (g) engage in any transaction with any director, officer or employee of the Corporation or any of its Subsidiaries or any of their respective affiliates or associates except for non-material transactions where they are in the Ordinary Course;

- (h) issue, grant, deliver, sell, pledge or otherwise encumber, or authorize the issuance, grant, delivery, sale, pledge or other encumbrance or create any derivative interest in, any securities of the Corporation or its Subsidiaries or other equity or voting interests, or any call rights, puts, options, warrants, convertible securities, subscription rights, conversion rights, exchange rights, or similar rights exercisable or exchangeable for or convertible into, or otherwise evidencing a right to acquire such securities or other equity or voting interests, or any stock or equity appreciation rights, restricted stock, pre-emptive rights, phantom equity awards or any rights that are linked to the price or the value of the Shares, except for the issuance of Shares issuable pursuant to Options, RSUs or DSUs outstanding as of the date hereof in accordance with the terms of the Incentive Plan;
- (i) reorganize, merge, combine or amalgamate with any Person or acquire (by merger, amalgamation, consolidation, acquisition of securities, assets or otherwise), directly or indirectly, in one transaction or in a series of transactions, (i) any businesses, enterprises or properties or (ii) any assets or interests other than property and equipment, right-of-use assets or intangible assets acquired in the Ordinary Course;
- (j) reduce the stated capital of any shares in the capital of the Corporation;
- (k) sell, pledge, hypothecate, lease, license, sell and lease back, mortgage, dispose of, lose the right to use, surrender or encumber or otherwise transfer or dispose of, directly or indirectly, any of its assets, securities, properties, interests or businesses, except in the Ordinary Course (including, for greater certainty, non-exclusive Intellectual Property licenses granted to customers or distributors in the Ordinary Course) or in respect of assets whose book value, individually or in the aggregate, does not exceed \$150,000;
- (l) (i) sell, assign, transfer, abandon, permit to lapse or expire, license or sublicense, subject to any Lien (other than Permitted Liens), or otherwise dispose of any material Intellectual Property, other than the expiration of any Corporation Registered Intellectual Property at the end of its maximum statutory term; (ii) disclose any trade secrets or other confidential information material to the operation of the Corporation, other than pursuant to a written confidentiality and non-disclosure agreement entered into in the Ordinary Course with reasonable protections of, and preserving all rights of the Corporation and its Subsidiaries in such trade secrets or confidential information; or (iii) deliver, license or make available any source code;
- (m) create or incur any Lien (other than Permitted Liens);
- (n) prepay any long-term indebtedness (whether on account of borrowed money or otherwise) before its scheduled maturity or increase, create, incur, assume or otherwise become liable for any indebtedness for borrowed money or guarantees thereof or debt securities, other than in connection with (i) indebtedness owing by one wholly-owned Subsidiary of the Corporation to the Corporation or another wholly-owned Subsidiary of the Corporation or by the Corporation to another wholly-owned Subsidiary of the Corporation, (ii) advances or repayments in the Ordinary Course under the Corporation's or any Subsidiary's existing credit facilities, including the Credit Facilities or (iii) the scheduled repayment of the Corporation's or any Subsidiary's loans outstanding on the date of this Agreement and disclosed in the Disclosure Letter;
- (o) commence, cancel, waive, release, assign, settle, satisfy, pay or compromise any claim (other than insured claims), charge or right, litigation, action, arbitration proceeding, audit

or investigation (including with any Governmental Entity) (i) relating to the assets or the business of the Corporation or any of its Subsidiaries, in excess of an aggregate amount of \$150,000 or which would reasonably be expected to impede, prevent or materially delay the consummation of the transactions contemplated by this Agreement, or (ii) brought by any present, former or purported holder of securities of the Corporation or any of its Subsidiaries in connection with the transactions contemplated by this Agreement or the Plan of Arrangement;

- (p) make any loan or advance to, or any capital contribution or investment in, or assume, guarantee or otherwise become liable with respect to the liabilities or obligations of, any Person (other than in respect of a liability or obligation incurred by a Subsidiary of the Corporation, provided that the incurrence of such liability or obligation by such Subsidiary does not constitute a breach of this Agreement);
- (q) enter into any interest rate, currency (other than foreign exchange agreements), equity or commodity swaps, hedges, derivatives, forward sales contracts or similar financial instruments;
- (r) make any material change in the Corporation's methods of accounting, except as required by applicable Law, pursuant to written instructions, comments or orders of a Securities Authority or as required or permitted by IFRS;
- (s) other than as disclosed in Section (22) of the Disclosure Letter, (i) grant, accelerate, increase, decrease or otherwise amend any compensation, payment, award, remuneration or other benefit payable to, or for the benefit of, any Corporation Service Provider; (ii) make any incentive, bonus or profit sharing distribution or similar payment of any kind unless required by Contract; (iii) hire, engage, furlough, temporarily lay off or terminate (other than for cause) the employment or service of any Corporation Service Provider (other than to replace any current Corporation Service Provider earning an annual base compensation of less than \$90,000; provided that (A) the annual base compensation for such replacement Corporation Service Provider does not exceed \$100,000, and (B) the annual base compensation increases of all replacement Corporation Services Providers in excess of those Corporation Service Providers such individuals replaced does not exceed \$200,000 in the aggregate); (iv) grant any new rights of indemnification, retention, severance, change of control, bonus or termination pay to, or enter into any new employment agreement, indemnity agreement, deferred compensation or bonus compensation agreement (or amend such existing agreement) with, any Corporation Service Provider; or (v) take or propose any action to effect any of the foregoing;
- (t) except as required by applicable Law: (i) adopt, establish, commence participation in, enter into, modify, amend or terminate any Employee Plan, including any benefit or compensation plan, program, policy, agreement or arrangement that would be an Employee Plan if in effect on the date hereof; (ii) make any loan to any Corporation Service Provider (except for "routine indebtedness" as defined under applicable Securities Laws); (iii) waive or release any non-competition, non-solicitation, non-disclosure, non-interference, non-disparagement or other restrictive covenant obligation of any Corporation Service Provider; or (iv) take or propose any action to effect any of the foregoing;
- (u) amend or modify in any material respect, or terminate or waive any material right under, any Material Contract except for immaterial amendments in the Ordinary Course, or enter into any Contract that would be a Material Contract if in effect on the date hereof, or fail

to enforce any material breach of any Material Contract of which it becomes aware, or breach or violate or be in default under any Material Contract, except for the entering into of any Contract with suppliers, customers, distributors and agents relating to the supply of goods or the sale of inventory or license of products or services by the Corporation or any of its Subsidiaries, in each case, in the Ordinary Course;

- (v) grant any discount or reduction of amounts payable to the Corporation or any of its Subsidiaries under any Contract where the aggregate amount of such discounts or reductions would exceed \$500,000 on an annualized basis;
- (w) enter into an agreement that could result in the payment by the Corporation or any of its Subsidiaries of a finder's fee, success fee or other similar fee in connection with the Arrangement or the other transactions contemplated in this Agreement, provided that the foregoing shall not prohibit the Corporation from entering into an agreement with any dealer and proxy solicitation services firm for purposes of soliciting proxies in connection with the Arrangement;
- (x) enter into an agreement under which the Corporation or any of its Subsidiaries (A) is obligated to make payments in excess of \$300,000 on an annualized basis, or (B) expects to receive payments in excess of \$150,000 on an annualized basis;
- (y) make or amend any material Tax election, settle or compromise any material Tax claim, assessment, reassessment or liability, amend any Tax Return in any material respect, enter into any material agreement with a Governmental Entity with respect to Taxes, surrender any right to claim a material Tax abatement, reduction, deduction, exemption, credit or refund, consent to the extension or waiver of the limitation period applicable to any material Tax matter, or materially amend or change any of its methods of reporting income, deductions or accounting for income Tax purposes, except in each case in the Ordinary Course;
- (z) take any action or fail to take any action which action or failure to act would, or would reasonably be expected to, result in the loss, expiration or surrender of, or the loss of any material benefit under, or reasonably be expected to cause any Governmental Entities to institute proceedings for the suspension, revocation or limitation of rights under, any material Authorizations, or fail to pursue with commercially reasonable due diligence any pending applications to any Governmental Entities for material Authorizations;
- (aa) negotiate, modify, extend, terminate, or enter into any Labour Agreement, or recognize or certify any labour union, labour organization, works council, or group of employees as the bargaining representative for any employees of the Corporation or any of its Subsidiaries;
- (bb) except as contemplated in Section 4.9 and except for scheduled renewals in the Ordinary Course, amend, modify or terminate any material insurance (or re-insurance) policy of the Corporation or any of its Subsidiaries in effect on the date of this Agreement, unless simultaneously with any such termination, cancellation or lapse, replacement policies underwritten by insurance and re-insurance companies of nationally recognized standing providing coverage equal to or greater than the coverage under the terminated, cancelled or lapsed policy for substantially similar premiums are in full force and effect;

- (cc) waive, release, abandon, let lapse, grant or transfer any material right under, or amend, modify or change in any material respect, any existing material license or right to use the Intellectual Property of a third party;
- (dd) make any capital expenditure, or commitment to do so, which individually or in the aggregate exceeds \$150,000; or
- (ee) authorize, agree, resolve or otherwise commit to do any of the foregoing.

Section 4.2 Covenants of the Corporation Regarding the Arrangement.

- (1) The Corporation shall, and shall cause its Subsidiaries to, perform all obligations required or advisable to be performed by the Corporation or its Subsidiaries under this Agreement, cooperate in good faith with the Purchaser in connection therewith, and shall use its commercially reasonable efforts to perform all such other actions as may be necessary or advisable in order to consummate or make effective, as soon as reasonably practicable, the Arrangement and, without limiting the generality of the foregoing, the Corporation shall, and shall cause its Subsidiaries to:
 - (a) use its commercially reasonable efforts to satisfy all conditions precedent set forth in Section 6.1 and Section 6.2 and carry out the terms of the Interim Order and Final Order applicable to it and comply promptly with all requirements imposed by applicable Law on it or its Subsidiaries with respect to this Agreement or the Arrangement;
 - (b) use its commercially reasonable efforts to provide, obtain and maintain all third party or other notices, consents, waivers, permits, exemptions, orders, approvals, agreements, amendments or confirmations that are required or reasonably requested by the Purchaser in connection with the transactions contemplated by this Agreement (including those required under the Material Contracts or required in order to maintain the Material Contracts in full force and effect following completion of the Arrangement), in each case, on terms that are satisfactory to the Purchaser, acting reasonably and without paying, and without committing itself or the Purchaser to pay, any consideration or incurring any liability or obligation without the prior written consent of the Purchaser (it being expressly agreed by the Purchaser that no such consent, waiver, permit, exemption, order, approval, agreement, amendment or confirmation shall be a condition to the closing of the Arrangement, except to the extent provided for in Article 6);
 - (c) use its commercially reasonable efforts to effect all necessary registrations, filings and submissions of information required by Governmental Entities from the Corporation and its Subsidiaries relating to the Arrangement;
 - (d) use its commercially reasonable efforts to, upon reasonable consultation with the Purchaser, oppose, lift or rescind any injunction, restraining or other order, decree, judgment or ruling seeking to restrain, enjoin or otherwise prohibit or adversely affect the consummation of the Arrangement and defend, or cause to be defended, any proceedings to which it or any of its Subsidiaries is a party or brought against it or any of its Subsidiaries or any of their directors or officers challenging the Arrangement or this Agreement; and
 - (e) use its commercially reasonable efforts not to take any action, to refrain from taking any action, or not permit any action to be taken or not taken, which is inconsistent with this Agreement or the Arrangement or which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the Arrangement or the

transactions contemplated by this Agreement, other than as permitted under this Agreement.

- (2) The Corporation shall promptly notify the Purchaser of:
- (a) any Material Adverse Effect;
 - (b) any notice or other communication from any Person alleging (i) that the consent, waiver or approval of such Person is required in connection with this Agreement or the Arrangement, or (ii) such Person is terminating or otherwise materially adversely modifying a Material Contract as a result of the Arrangement or this Agreement;
 - (c) any notice or other communication from any Governmental Entity in connection with this Agreement (and, subject to Law, the Corporation shall contemporaneously provide a copy of any such written notice or communication to the Purchaser); or
 - (d) any actions, claims, suits, audits, investigations, arbitrations or other proceedings commenced or, to the knowledge of the Corporation, threatened against the Corporation or its Subsidiaries or affecting their assets that, if pending on the date of this Agreement, would have been required to have been disclosed pursuant to paragraph (17) of Schedule C or that relate to this Agreement or the Arrangement.

Section 4.3 Covenants of the Purchaser Relating to the Arrangement.

- (1) The Purchaser shall perform all obligations required or advisable to be performed by it under this Agreement, cooperate in good faith with the Corporation in connection therewith, and shall use its commercially reasonable efforts to perform all such other actions as may be necessary or advisable in order to consummate and make effective, as soon as reasonably practicable, the Arrangement and, without limiting the generality of the foregoing, the Purchaser shall:
- (a) use its commercially reasonable efforts to satisfy the conditions precedent set forth in Section 6.1 and Section 6.3 and carry out the terms of the Interim Order and Final Order applicable to it and comply promptly with all requirements imposed by applicable Law on it with respect to this Agreement or the Arrangement;
 - (b) use its commercially reasonable efforts to provide, obtain and maintain all third party or other notices, consents, waivers, permits, exemptions, orders, approvals, agreements, amendments or confirmations that are required or reasonably requested by the Corporation in connection with the transactions contemplated by this Agreement, in each case, on terms that are satisfactory to the Corporation, acting reasonably and without paying or guaranteeing, and without committing itself or the Corporation to pay or guarantee, any consideration or incurring any liability or obligation of the Corporation without the prior written consent of the Corporation (it being expressly agreed by the Corporation that no such consent, waiver, permit, exemption, order, approval, agreement, amendment or confirmation shall be a condition to the closing of the Arrangement, except to the extent provided for in Article 6);
 - (c) use its commercially reasonable efforts to effect all necessary registrations, filings and submissions of information required by Governmental Entities from it relating to the Arrangement or the transactions contemplated by this Agreement;

- (d) use its commercially reasonable efforts, upon reasonable consultation with the Corporation, to oppose, lift or rescind any injunction, restraining or other order, decree, judgment or ruling seeking to restrain, enjoin or otherwise prohibit or adversely affect the consummation of the Arrangement and defend, or cause to be defended, any proceedings to which it is a party or brought against it or its directors or officers and challenging the Arrangement or this Agreement; and
 - (e) use its commercially reasonable efforts to not take any action, or refrain from taking any action, or permit any action to be taken or not taken, which is inconsistent with this Agreement or the Arrangement or which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the Arrangement or the transactions contemplated by this Agreement, other than as permitted under this Agreement, including, for the avoidance of doubt, the taking of any action or the entering into of any transaction, including any merger, acquisition, joint venture, disposition, lease or contract that would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the transactions contemplated by this Agreement.
- (2) The Purchaser shall promptly notify the Corporation of:
- (a) any notice or other communication from any Person alleging that the consent, waiver or approval of such Person is required in connection with this Agreement or the Arrangement;
 - (b) any notice or other communication from any Governmental Entity in connection with this Agreement (and, subject to Law, the Purchaser shall contemporaneously provide a copy of any such written notice or communication to the Corporation); or
 - (c) any actions, suits, arbitrations or other proceedings commenced or, to the knowledge of the Purchaser, threatened against the Purchaser or the Guarantors affecting their assets that relate to this Agreement or the Arrangement, in each case to the extent that such action, suit, arbitration or proceeding would reasonably be expected to impair, impede, materially delay or prevent the Purchaser from performing its obligations under this Agreement or either of the Guarantors from performing their obligations under the Guarantees.

Section 4.4 Required Regulatory Approvals

- (1) As soon as reasonably practicable, each Party, or where appropriate, both Parties jointly, will make or file with the applicable Governmental Entity such notifications, filings, applications and related submissions required to obtain the Required Regulatory Approvals, and shall cooperate with the other Party in connection with all Required Regulatory Approvals sought by the other Party and in doing so, each Party will keep the other Party informed as to the status of those applications.
- (2) Each Party shall, and shall cause its affiliates to, use its commercial reasonable efforts to obtain the Required Regulatory Approvals as soon as is reasonably practicable after the date of this Agreement. Notwithstanding the foregoing or anything to the contrary in this Agreement, the Purchaser shall not be required to (or cause or consent to), and the Corporation shall not, without the Purchaser's prior written consent, sell, divest, license, hold separate, or accept any restriction on its freedom of action with respect to any assets or businesses of any Person, or agree to do any of the foregoing.
- (3) Each party shall not, without the written consent of the other party, "pull-and-refile", enter into any agreement with a Governmental Entity to delay the Effective Date in connection with the Required

Regulatory Approvals, or take any similar action with respect to any filing made with any Governmental Entity.

- (4) The Parties will furnish one another or the applicable Governmental Entity with such information and assistance as each other Party or Governmental Entity may reasonably request to obtain a Required Regulatory Approval. All requests and inquiries from any Governmental Entity will be dealt with by the Parties in consultation with one another.
- (5) With respect to obtaining the Required Regulatory Approvals, the Parties will:
 - (a) promptly notify one another of substantive written communications of any nature from a Governmental Entity relating to the Required Regulatory Approvals and provide the other Party with copies thereof, except to the extent of competitively sensitive information, which competitively sensitive information will be provided only to the external legal counsel or external expert of the other and will not be shared by such counsel or expert with any other Person;
 - (b) respond as promptly as reasonably possible to any inquiries or requests received from a Governmental Entity in respect of the Required Regulatory Approvals;
 - (c) permit the other Party to review in advance any proposed substantive written communications of any nature with a Governmental Entity in respect of the Required Regulatory Approvals, to the extent permitted by such Governmental Entity, and provide the other Party with final copies thereof, except to the extent of competitively sensitive information, which competitively sensitive information will be provided only to the external legal counsel or external expert of the other Party and will not be shared by such counsel or expert with any other Person; and
 - (d) not participate in any substantive meeting or discussion (whether in person, by telephone or otherwise) with a Governmental Entity in respect of the Required Regulatory Approvals unless it consults with the other Party in advance and gives the other Party the opportunity to attend and participate at such meeting or discussion (except where a Governmental Entity expressly requests that the other Party should not be present at the meeting or discussion or part or parts of the meeting or discussion, or except where competitively sensitive information may be discussed, in which case every effort will be made to allow external legal counsel to participate).
- (6) All filing fees and applicable Taxes in respect of any filing made with a Governmental Entity in order to obtain the Required Regulatory Approvals will be the responsibility of the Purchaser.

Section 4.5 Access to Information; Confidentiality.

- (1) From the date hereof until the earlier of the Effective Time and the termination of this Agreement, subject to Law and the terms of any existing Contract, the Corporation shall, and shall cause its Subsidiaries to, give to the Purchaser and its Representatives, upon reasonable notice and during normal business hours, reasonable access to its and its Subsidiaries' Books and Records, Contracts and financial and operating data or other information with respect to the assets or business of the Corporation or its Subsidiaries as the Purchaser or its Representatives may from time to time reasonably request in connection with strategic and integration planning and for any other reasons

reasonably relating to the transactions contemplated herein, so long as the access does not unduly interfere with the conduct of the business of the Corporation or its Subsidiaries.

- (2) This Section 4.5 shall not require the Corporation or its Subsidiaries to permit any access, or to disclose any information that in the reasonable good faith judgment of the Corporation, after consultation with outside legal counsel, is likely to result in the breach of any Contract, any violation of any Law or cause any privilege (including attorney-client privilege) that the Corporation or its Subsidiaries would be entitled to assert to be undermined with respect to such information.
- (3) The Purchaser shall treat, and shall cause its Representatives to treat, all information furnished to the Purchaser or any of its Representatives in connection with the transactions contemplated by this Agreement or pursuant to the terms of this Agreement in accordance with the terms of the Confidentiality Agreement. Without limiting the generality of the foregoing, the Purchaser acknowledges and agrees that the Disclosure Letter and all information contained in it is confidential and shall be treated in accordance with the terms of the Confidentiality Agreement. If this Agreement is terminated in accordance with its terms, the obligations under the Confidentiality Agreement shall survive the termination of this Agreement.

Section 4.6 Public Communications.

- (1) The Parties shall cooperate in the preparation of presentations, if any, to Securityholders regarding the Arrangement. Except as required by applicable Law, a Party must not issue any press release or make any other public statement, filing or disclosure with respect to this Agreement or the Arrangement without the consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed), and the Corporation must not make any filing with any Governmental Entity (other than as contemplated in Section 2.2, Section 2.5, Section 2.6, Section 4.2, Section 4.3 or Section 4.4 or as required by applicable Law) with respect to this Agreement or the Arrangement without the consent of the Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed); provided that any Party that is required by applicable Law to make disclosure with respect to the Arrangement or this Agreement shall use its commercially reasonable efforts to give the other Party prior oral or written notice and a reasonable opportunity for it and its outside legal counsel to review and comment on the disclosure or filing (other than with respect to confidential information of the disclosing Party contained in such disclosure or filing). The Party making such disclosure required by applicable Law shall give reasonable consideration to any comments made by the other Party or its outside legal counsel, and if such prior notice is not possible, shall give such notice immediately following the making of such disclosure or filing. None of the foregoing shall prevent (i) the Parties, including affiliates, from having discussions with their respective securityholders, financial analysts and other stakeholders so long as such discussions are limited to and consistent in all material respects with the most recent press releases made by the Parties or the Corporation Filings relating to the Arrangement; (ii) the Purchaser or its affiliates from reporting on or disclosing the status and terms (including price terms) of this Agreement and the transactions contemplated hereby on a confidential basis to its current and prospective direct or indirect limited partners or investors in connection with its fundraising, marketing, informational or reporting activities, provided all such disclosure is limited to and consistent in all material respects with the most recent press releases made by the Parties or the Corporation Filings; (iii) except as otherwise required by Article 5, any press release, public statement, disclosure or filing by the Corporation with regard to an Acquisition Proposal, a Change in Recommendation or in connection with any dispute between the Parties regarding this Agreement, the Arrangement and the transactions contemplated hereby; and (iv) any press release,

public statement, disclosure or filing by the Purchaser in connection with any dispute between the Parties regarding this Agreement, the Arrangement and the transactions contemplated hereby.

- (2) The Parties shall issue a joint press release promptly following the execution of this Agreement, with text and timing of the announcement to be approved by the Parties in advance, each acting reasonably.

Section 4.7 Notice and Cure Provisions.

- (1) Each Party shall promptly notify the other Party of the occurrence, or failure to occur, of any event or state of facts which occurrence or failure would, or would be reasonably expected to:
 - (a) cause any of the representations or warranties of such Party contained in this Agreement to be untrue or inaccurate in any material respect at any time from the date of this Agreement until the earlier of the Effective Time and the time this Agreement is terminated in accordance with its terms; or
 - (b) result in the failure to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by such Party prior to or at the Effective Time under this Agreement.
- (2) Notification provided under Section 4.7(1) will not affect the representations, warranties, covenants, agreements or obligations of the Parties (or remedies with respect thereto) or the conditions to the obligations of the Parties under this Agreement. In addition, the failure by any Party to provide notification pursuant to Section 4.7(1) shall not be considered in determining whether any condition in Section 6.2, Section 6.3(1) or Section 6.3(2) has been satisfied.
- (3) The Purchaser may not elect to exercise its right to terminate this Agreement pursuant to Section 7.2(4)(a) [*Breach of Representation or Warranty or Failure to Perform Covenant by the Corporation*] and the Corporation may not elect to exercise its right to terminate this Agreement pursuant to Section 7.2(3)(a) [*Breach of Representation or Warranty or Failure to Perform Covenant by the Purchaser*], unless the Party seeking to terminate the Agreement (the "**Terminating Party**") has delivered a written notice (a "**Termination Notice**") to the other Party (the "**Breaching Party**") specifying in reasonable detail all breaches of covenants, representations and warranties or other matters which the Terminating Party asserts as the basis for termination. After delivering a Termination Notice, provided the Breaching Party is proceeding diligently to cure such matter and such matter is capable of being cured prior to the Outside Date (with any wilful breach being deemed to be incurable), the Terminating Party may not exercise such termination right until the earlier of (a) the Outside Date, and (b) if such matter has not been cured by the date that is ten (10) Business Days following receipt of such Termination Notice by the Breaching Party, such date. If the Terminating Party delivers a Termination Notice prior to the date of the Meeting or the making of the application for the Final Order, unless the Parties agree otherwise, the Corporation shall postpone or adjourn the Meeting or delay making the application for the Final Order, or both, to the earlier of (a) five (5) Business Days prior to the Outside Date and (b) the date that is ten (10) Business Days following receipt of such Termination Notice by the Breaching Party (without causing any breach of any other provision contained herein).

Section 4.8 Employment Matters.

- (1) Prior to the Effective Time, the Corporation shall use commercially reasonable efforts to:

- (a) cause, and to cause its Subsidiaries to cause, all directors and officers of the Corporation and its Subsidiaries whose employment or engagement is not being continued by the Purchaser to provide resignations and releases of all claims against the Corporation or at the written request of the Purchaser shall terminate such officers effective as at the Effective Time; and
 - (b) cause each of the Key Employees to enter into a new employment agreement (to be effective as of the Effective Date) with the Corporation on terms satisfactory to the Purchaser, acting reasonably, which terms will be at least equivalent to such individual's existing employment terms.
- (2) The Purchaser agrees that it shall cause the Corporation, its Subsidiaries and any successor to the Corporation to honour and comply with the terms of all of the severance payment obligations of the Corporation or its Subsidiaries under the existing employment, consulting, change of control and severance agreements of the Corporation or its Subsidiaries, in exchange for the execution of full and final releases of the Corporation and its Subsidiaries from all liability and obligations in favour of the Corporation and in form and substance satisfactory to the Purchaser, acting reasonably. Without limiting the generality of the foregoing, the Purchaser agrees that the obligation to fund the foregoing payments is in addition to the requirement to fund any other costs, fees and expenses pursuant to the Arrangement.

Section 4.9 Insurance and Indemnification.

- (1) Prior to the Effective Time, the Corporation shall purchase customary "tail" or "run-off" policies of directors' and officers' liability insurance for a period of six years from and after the Effective Time with respect to any claim related to any period of time at or prior to the Effective Time from the Corporation's current insurance carriers or an insurance carrier with the same or better credit rating with respect to directors' and officers' liability insurance ("**D&O Insurance**"), and with terms, conditions, retentions and limits of liability that are no less advantageous to the present and former directors and officers of the Corporation and its Subsidiaries than the coverage provided under the Corporation's and its Subsidiaries' existing policies with respect to any actual or alleged error, misstatement, misleading statement, act, omission, neglect, breach of duty or any matter claimed against a present or former director or officer of the Corporation or any of its Subsidiaries by reason of them serving in such capacity that existed or occurred at or prior to the Effective Time (including in connection with the approval or completion of this Agreement, the Arrangement or the other transactions contemplated by this Agreement or arising out of or related to this Agreement and the transactions contemplated hereby), provided that the cost of such policies shall not exceed 300% of the current annual premium for the Corporation's D&O Insurance.
- (2) The Purchaser shall, from and after the Effective Time, cause the Corporation or the applicable Subsidiary to honour all rights to indemnification or exculpation now existing in favour of present and former employees, officers and directors of the Corporation and its Subsidiaries and acknowledges that such rights shall survive the completion of the Plan of Arrangement and shall continue in full force and effect in accordance with their terms.
- (3) If the Purchaser, the Corporation or any of its Subsidiaries or any of their respective successors or assigns following the Effective Time (i) consolidates or amalgamates with or merges or liquidates into any other Person and is not a continuing or surviving corporation or entity of such consolidation, amalgamation, merger or liquidation, or (ii) transfers all or substantially all of its properties and assets to any Person, proper arrangements shall be made so as to ensure that any such successor or assign (including, as applicable, any acquirer of substantially all of the properties

and assets of the Purchaser, the Corporation or its Subsidiaries) assumes all of the obligations set forth in this Section 4.9.

- (4) This Section 4.9 shall survive the consummation of the Arrangement and is intended to be for the benefit of, and shall be enforceable by, the present and former directors and officers of the Corporation and the Subsidiaries and their respective heirs, executors, administrators and personal representatives (the "**Indemnified Persons**") and shall be binding on the Purchaser, the Corporation and their respective successors and assigns, and, for such purpose, the Corporation hereby confirms that it is acting as agent on behalf of the Indemnified Persons. As part of the arrangements on closing of the Arrangement, the Purchaser and the Corporation shall provide direct confirmation of their undertakings under this Section 4.9 to the present directors and officers of the Corporation and any Subsidiary.

Section 4.10 Pre-Acquisition Reorganization.

- (1) Subject to Section 4.10(2), the Corporation agrees that, upon the reasonable written request by the Purchaser, the Corporation shall, and shall cause each of its Subsidiaries to, use commercially reasonable efforts to: (i) effect such reorganizations of the Corporation's or its Subsidiaries' business, operations and assets or such other transactions as the Purchaser may request in writing, acting reasonably, including amalgamations, continuances, wind-ups, distributions, contributions, sales, intercompany loans or the refinancing thereof, and any other transaction (each a "**Pre-Acquisition Reorganization**"); (ii) cooperate with the Purchaser and its advisors in order to determine the nature of any Pre-Acquisition Reorganization that might be undertaken and the manner in which any Pre-Acquisition Reorganizations might most effectively be undertaken (provided that such cooperation does not require the directors, officers, or employees of the Corporation to take any action in any capacity other than as a director, officer, or employee of the Corporation, as applicable); and (iii) cooperate with the Purchaser and its advisors to seek to obtain consents or waivers which might be required from the Corporation's lenders in connection with any Pre-Acquisition Reorganization, if any, provided that any costs, fees or expenses associated with any of the foregoing shall be at the Purchaser's sole expense. Without limiting the generality of the foregoing, the Corporation acknowledges that the Purchaser may enter into transactions (the "**Bump Transactions**") designed to step up the tax basis in certain capital property of the Corporation for purposes of the Tax Act and agrees to use commercially reasonable efforts to provide information reasonably required by the Purchaser in this regard on a timely basis and to reasonably assist in the obtaining of any such information prior to the Effective Date in order to facilitate a successful completion of the Bump Transactions or any such other reorganizations or transactions as is reasonably requested by the Purchaser.
- (2) The Corporation will not be obligated to participate in any Pre-Acquisition Reorganization unless the Corporation, acting reasonably, determines that such Pre-Acquisition Reorganization:
 - (a) does not adversely affect the interests of the Corporation, any of its Subsidiaries or the Securityholders in any material respect;
 - (b) does not require the Corporation to obtain the approval of the Shareholders or other Securityholders;
 - (c) does not impair, prevent or materially delay the consummation of the Arrangement or the ability of the Purchaser to obtain any financing required by it in connection with the transactions contemplated by this Agreement;

- (d) is effected as closely as is reasonably practicable prior to the Effective Time, provided that the completion of the Pre-Acquisition Reorganization shall not be a condition of the completion of the Arrangement;
 - (e) does not result in any breach by the Corporation or any of its Subsidiaries of any Material Contract, Authorization, constating document or applicable Law;
 - (f) does not require the Corporation or its Subsidiaries to take any action that could reasonably be expected to result in Taxes being imposed on, or any adverse Tax or other consequences to, any Securityholders greater than the Taxes or other consequences to such party in connection with the completion of the Arrangement in the absence of action being taken pursuant to this Section 4.10;
 - (g) shall not become effective unless the Purchaser has irrevocably waived or confirmed in writing the satisfaction of all conditions in its favour in Section 6.1 and Section 6.2 and shall have confirmed in writing that it is prepared, and able to promptly and without condition proceed to effect the Arrangement;
 - (h) does not reduce the Consideration;
 - (i) if necessary to avoid any adverse consequence to the Corporation or its Subsidiaries, can be unwound in the event the Arrangement is not consummated, without adversely affecting the Corporation or its Subsidiaries in any material manner;
 - (j) will not unreasonably interfere with the Corporation's material operations prior to the Effective Time; and
 - (k) will not require the Corporation to contravene any applicable Laws, its organizational documents, or any Material Contract.
- (3) The Purchaser hereby waives any breach of a representation, warranty or covenant by the Corporation, where such breach is a result of an action taken or omission by the Corporation or a Subsidiary pursuant to a request by the Purchaser in accordance with this Section 4.10.
- (4) The Purchaser shall provide written notice to the Corporation of any proposed Pre-Acquisition Reorganization at least 15 Business Days prior to the Effective Time. Upon receipt of such notice, the Purchaser and the Corporation shall work co-operatively and use commercially reasonable efforts to prepare prior to the Effective Time all documentation necessary and do all such other acts and things as are reasonably necessary, including making amendments to this Agreement or the Plan of Arrangement (provided that such amendments do not require the Corporation to obtain approval of Shareholders or other Securityholders (other than as properly put forward and approved at the Meeting)), to give effect to such Pre-Acquisition Reorganization.
- (5) The Purchaser agrees that it will be responsible for all costs and expenses associated with any Pre-Acquisition Reorganization to be carried out at its request and (A) shall forthwith reimburse the Corporation for all cost and expense including Taxes and out-of-pocket expenses, including the fees and disbursements of the Corporation's outside legal counsel incurred by the Corporation and any of its Subsidiaries in considering and effecting, or otherwise in connection with, any proposed Pre-Acquisition Reorganization, and (B) shall indemnify and save harmless the Corporation, its Subsidiaries and their respective Representatives from and against any and all liabilities (including Tax liabilities and loss of Tax attributes), losses, damages, claims, costs, reasonable expenses

(including actual out-of-pocket costs and expenses for filing fees and external counsel), interest awards, judgments and penalties suffered or incurred by any of them in connection with or as a result of any Pre-Acquisition Reorganization that was effected at the Purchaser's request prior to termination of this Agreement (other than due to a breach by the Corporation or any of its Subsidiaries of the terms and conditions of this Agreement or in circumstances that would give rise to the payment of the Corporation Termination Fee or the Expense Reimbursement Amount by the Corporation to the Purchaser) or as a result of the reversal (where such reversal is determined by the Corporation to be necessary, acting reasonably) of all or any part of the Pre-Acquisition Reorganization steps that was effected at the Purchaser's request prior to termination of this Agreement (other than due to a breach by the Corporation or any of its Subsidiaries of the terms and conditions of this Agreement or in circumstances that would give rise to the payment of the Corporation Termination Fee or the Expense Reimbursement Amount by the Corporation to the Purchaser), in the event the Arrangement does not proceed. The obligation of the Purchaser to reimburse the Corporation for all reasonable and documented fees and out-of-pocket expenses and to indemnify the Corporation and any of its Subsidiaries for liabilities (including Tax liabilities and loss of Tax attributes), losses, damages, claims, costs, reasonable expenses (including actual out-of-pocket costs and expenses for filing fees and external counsel), interest awards, judgments and penalties as set out in this Section, notwithstanding anything to the contrary herein, shall survive the termination of this Agreement.

Section 4.11 Guarantees

Concurrently with the execution of this Agreement, the Purchaser has delivered to the Corporation an unconditional and irrevocable limited guarantee addressed to, and in favour of, the Corporation from each Guarantor (the "**Guarantees**"), under which the Guarantors will jointly and severally guarantee the obligations and liabilities of the Purchaser (and its successors and permitted assigns) under this Agreement and the Plan of Arrangement, including (i) providing the Depository with sufficient funds under Section 2.9 to pay the aggregate Consideration payable to Shareholders pursuant to the Arrangement, (ii) providing the Secured Lender with the Payout Amount pursuant to Section 6.3(4), and (iii) all related or other fees and expenses for which the Purchaser is responsible under the terms of this Agreement. Each Guarantee is valid and in full force and effect, has not been amended, restated, modified, withdrawn, terminated or otherwise modified or varied, and constitutes the legal, valid and binding obligation of the applicable Guarantor, enforceable in accordance with its terms. No event has occurred or circumstance exists, including the execution, delivery and performance of this Agreement or the consummation of the transactions contemplated hereby, which, with or without notice, lapse of time or both, would constitute a default on the part of either Guarantor under its Guarantee.

ARTICLE 5 ADDITIONAL COVENANTS REGARDING NON-SOLICITATION

Section 5.1 Non-Solicitation.

- (1) Except as expressly provided in this Article 5, or to the extent the Purchaser has otherwise consented in writing, the Corporation shall not, and shall cause its Subsidiaries not to, directly or indirectly, through any of its Representatives (and in so doing shall instruct its and its Subsidiaries' Representatives not to, directly or indirectly):
 - (a) solicit, assist, initiate, knowingly encourage or otherwise knowingly facilitate (including by way of furnishing or providing copies of, access to, or disclosure of, any confidential information, properties, facilities, Books and Records or entering into any form of

agreement, arrangement or understanding) any inquiry, proposal or offer that constitutes or may reasonably be expected to constitute or lead to, an Acquisition Proposal;

- (b) enter into or otherwise engage or participate in any discussions or negotiations with any Person (other than the Purchaser and its affiliates) regarding any inquiry, proposal or offer that constitutes or may reasonably be expected to constitute or lead to, an Acquisition Proposal, provided that the Corporation may (i) contact and communicate with any Person for the purposes of clarifying the terms of any inquiry, proposal or offer made by such Person that constitutes or could reasonably be expected to constitute or lead to, an Acquisition Proposal, (ii) advise any Person of the restrictions of this Agreement, and (iii) advise any Person making an Acquisition Proposal that the Board (or the relevant committee thereof) has determined that their Acquisition Proposal does not constitute a Superior Proposal;
 - (c) make a Change in Recommendation;
 - (d) accept, approve, endorse or recommend, or publicly propose to accept, approve, endorse or recommend, or take no position or remain neutral with respect to, any Acquisition Proposal (it being understood that publicly taking no position or a neutral position with respect to an Acquisition Proposal for a period of no more than five (5) Business Days following the formal announcement or public disclosure of such Acquisition Proposal will not be considered to be in violation of this Section 5.1, provided that the Board has rejected such Acquisition Proposal and affirmed the Board Recommendation before the end of such five (5) Business Day period (or in the event that the Meeting is scheduled to occur within such five (5) Business Day period, prior to the third Business Day prior to the Meeting)); or
 - (e) accept or enter into or publicly propose to accept or enter into any agreement, understanding or arrangement with any Person (other than the Purchaser or any of its affiliates) in respect of an Acquisition Proposal (other than as permitted in this Article 5).
- (2) Except as expressly provided in this Article 5, the Corporation shall, and shall cause its Subsidiaries and their respective Representatives to, immediately cease and terminate, and cause to be terminated, any solicitation, encouragement, discussion, negotiations, or other activities with any Person (other than the Purchaser and its affiliates) with respect to any inquiry, proposal or offer that constitutes, or may reasonably be expected to constitute or lead to, an Acquisition Proposal, and in connection with such termination shall:
- (a) discontinue access to and disclosure of all information regarding the Corporation or any of its Subsidiaries, including the Data Room, any confidential information, properties, facilities and Books and Records; and
 - (b) promptly (and in any event within two (2) Business Days) request (i) the return or destruction of all copies of any confidential information regarding the Corporation or any of its Subsidiaries provided to any Person other than the Purchaser and its Representatives, and (ii) the destruction of all material including or incorporating or otherwise reflecting such confidential information regarding the Corporation or any of its Subsidiaries, to the extent that such information has not previously been returned or destroyed, using its commercially reasonable efforts to ensure that such requests are complied with in accordance with the terms of such rights.

- (3) The Corporation represents and warrants that it has not waived any confidentiality, standstill or similar agreement, restriction or covenant in effect as of the date of this Agreement to which the Corporation or any of its Subsidiaries is a party, and the Corporation covenants and agrees that (a) the Corporation shall use commercially reasonable efforts to enforce each confidentiality, standstill or similar agreement, restriction or covenant to which the Corporation or any of its Subsidiaries is a party or may hereafter become a party in accordance with Section 5.3, and (b) neither the Corporation nor any of its Subsidiaries have released or will, without the prior written consent of the Purchaser (which may be withheld or delayed in the Purchaser's sole and absolute discretion), release any Person from, or waive, amend, suspend or otherwise modify such Person's obligations respecting the Corporation, or any of its Subsidiaries, under any confidentiality, standstill or similar agreement or restriction to which the Corporation or any of its Subsidiaries is a party or may hereafter become a party in accordance with Section 5.3 (it being acknowledged by the Purchaser that the automatic termination or automatic release, in each case pursuant to the terms thereof, of any standstill restrictions of any such agreements as a result of the entering into and announcement of this Agreement shall not be a violation of this Section 5.1(3)).

Section 5.2 Notification of Acquisition Proposals.

- (1) If the Corporation or any of its Subsidiaries or, to the knowledge of the Corporation, any of their respective Representatives, receives or otherwise becomes aware of either: (i) any inquiry, proposal or offer that constitutes or may reasonably be expected to constitute or lead to an Acquisition Proposal, or (ii) any request for copies of, access to, or disclosure of, confidential information relating to the Corporation or any of its Subsidiaries, the Corporation shall promptly notify the Purchaser, at first orally, and then promptly, and in any event within 48 hours, in writing, of such Acquisition Proposal, inquiry, proposal, offer or request, the identity of all Persons making the Acquisition Proposal, inquiry, proposal, offer or request, and copies of material documents, correspondence or other material received in respect of, from or on behalf of any such Person if in writing or electronic form, and if not in writing or electronic form, a description of the material terms of such communication to the Corporation by or on behalf of any such Person.
- (2) The Corporation shall keep the Purchaser reasonably informed of the status of all developments and negotiations with respect to such Acquisition Proposal, inquiry, proposal, offer or request, including any material changes, modifications or other amendments to any such Acquisition Proposal, inquiry, proposal, offer or request and shall provide to the Purchaser all material correspondence relating to such Acquisition Proposal.

Section 5.3 Responding to an Acquisition Proposal.

Notwithstanding Section 5.1 and any other provision of this Agreement, if at any time prior to obtaining the Required Securityholder Approval, the Corporation receives a request for material non-public information or to enter into discussions, from a Person or group of Persons that proposes to the Corporation an unsolicited Acquisition Proposal then the Corporation may (i) provide copies of, access to or disclosure of confidential information, properties, facilities, or Books and Records to such Person or group of Persons and their respective Representatives and/or (ii) enter into, participate, facilitate and maintain discussions or negotiations with, and otherwise cooperate with or assist, the Person or group of Persons making such request, provided that, if and only if:

- (1) the Board first determines (based upon, *inter alia*, the recommendation of the Special Committee) in good faith, after consultation with its financial advisors and its outside legal counsel, that such Acquisition Proposal constitutes, or could reasonably be expected to constitute or lead to, a Superior Proposal and has provided the Purchaser with written confirmation thereof;

- (2) such Person was not restricted from making such Acquisition Proposal pursuant to an existing confidentiality, standstill, non-solicitation or similar agreement with the Corporation (it being acknowledged by the Purchaser that the automatic termination or automatic release, in each case pursuant to the terms thereof, of any standstill restrictions of any such agreements as a result of the entering into and announcement of this Agreement shall not be a violation of this Section 5.3);
- (3) the Corporation has been, and continues to be, in compliance with its obligations under this Article 5 in all material respects;
- (4) prior to providing any such copies, access, or disclosure, the Corporation enters into a confidentiality and standstill agreement with such Person on terms no less favourable than the Confidentiality Agreement (an "**Acceptable Confidentiality Agreement**"); and
- (5) prior to providing any such copies, access, or disclosure, the Corporation promptly provides the Purchaser with a true, complete and final executed copy of such Acceptable Confidentiality Agreement.

Section 5.4 Right to Match.

- (1) If the Corporation receives an Acquisition Proposal that the Board determines, in good faith after consultation with its outside financial and legal advisors, constitutes a Superior Proposal prior to obtaining the Required Securityholder Approval, the Board may (based upon, *inter alia*, the recommendation of the Special Committee), subject to compliance with Article 7, enter into a definitive agreement with respect to such Superior Proposal, if and only if:
 - (a) the Corporation has been, and continues to be, in compliance with its obligations under this Article 5 in all material respects;
 - (b) the Person making the Acquisition Proposal was not restricted from making such Acquisition Proposal pursuant to an existing confidentiality, standstill, non-solicitation or similar agreement with the Corporation (it being acknowledged by the Purchaser that the automatic termination or automatic release, in each case pursuant to the terms thereof, of any standstill restrictions of any such agreements as a result of the entering into and announcement of this Agreement shall not be considered to be such a restriction);
 - (c) the Corporation has delivered to the Purchaser a written notice of the determination of the Board that such Acquisition Proposal constitutes a Superior Proposal and of the intention of the Board to enter into such definitive agreement with respect to such Superior Proposal and/or withdraw or modify the Board Recommendation (the "**Superior Proposal Notice**");
 - (d) at least five (5) full Business Days (the "**Matching Period**") have elapsed from the date on which the Purchaser received the Superior Proposal Notice;
 - (e) during any Matching Period, the Purchaser has had the opportunity (but not the obligation), in accordance with Section 5.4(2), to offer to amend this Agreement and the Arrangement in order for such Acquisition Proposal to cease to be a Superior Proposal;
 - (f) if the Purchaser has offered to amend this Agreement and the Arrangement in accordance with Section 5.4(2), the Board has determined after the Matching Period in good faith, after consultation with its outside legal counsel and financial advisors, that such Acquisition

Proposal continues to constitute a Superior Proposal compared to the terms of the Arrangement as proposed to be amended by the Purchaser;

- (g) the Board has determined in good faith, after consultation with the Corporation's outside legal counsel, that the failure of the Board to enter into a definitive agreement with respect to such Superior Proposal would be inconsistent with its fiduciary duties; and
 - (h) prior to or concurrently with entering into such definitive agreement with respect to such Superior Proposal, the Corporation terminates this Agreement pursuant to Section 7.2(3)(b) and pays the Purchaser the Corporation Termination Fee.
- (2) The Corporation acknowledges and agrees that, during the Matching Period, the Purchaser shall have the opportunity, but not the obligation, to propose to amend the terms of this Agreement, including an increase in, or modification of, the Consideration. During the Matching Period: (a) the Board shall review any offer made by the Purchaser under this Section 5.4(2) to amend the terms of this Agreement and the Arrangement in good faith in order to determine whether such proposal would, upon acceptance, result in the Acquisition Proposal previously constituting a Superior Proposal ceasing to be a Superior Proposal; and (b) the Corporation shall negotiate in good faith with the Purchaser to make such amendments to the terms of this Agreement or the Plan of Arrangement as would enable the Purchaser to proceed with the transactions contemplated by this Agreement on such amended terms. If the Board determines (based upon, *inter alia*, the recommendation of the Special Committee) that such Acquisition Proposal would cease to be a Superior Proposal, the Corporation shall promptly so advise the Purchaser and the Corporation and the Purchaser shall amend this Agreement to reflect such offer made by the Purchaser, and shall take and cause to be taken all such actions as are necessary to give effect to the foregoing.
- (3) Each successive amendment or modification to any Acquisition Proposal that results in an increase in, or modification of, the Consideration (or value of such Consideration) to be received by Shareholders or other material terms or conditions thereof shall constitute a new Acquisition Proposal for the purposes of this Section 5.4, and the Purchaser shall be afforded a new Matching Period from the later of the date on which the Purchaser received the Superior Proposal Notice with respect to the new Superior Proposal from the Corporation.
- (4) At the written request of the Purchaser, the Board shall promptly reaffirm the Board Recommendation (based upon, *inter alia*, the recommendation of the Special Committee) by press release after any Acquisition Proposal which the Board has determined not to be a Superior Proposal is publicly announced or publicly disclosed or the Board determines that a proposed amendment to the terms of this Agreement or the Plan of Arrangement as contemplated under Section 5.4(2) would result in an Acquisition Proposal no longer being a Superior Proposal. The Corporation shall provide the Purchaser and its outside legal counsel with a reasonable opportunity to review and comment on the form and content of any such press release and shall make all reasonable amendments to such press release as requested by the Purchaser and its counsel.
- (5) If the Corporation provides a Superior Proposal Notice to the Purchaser on a date that is less than ten (10) Business Days before the Meeting, the Corporation shall be permitted to either proceed with or, upon request from the Purchaser, acting reasonably, adjourn or postpone the Meeting to a date that is not more than five (5) Business Days after the scheduled date of the Meeting, but in any event the Meeting shall not be adjourned or postponed to a date which would prevent the Effective Date from occurring on or prior to the Outside Date.

- (6) Nothing in this Agreement shall prohibit the Board from responding through a directors' circular or otherwise as required by applicable Securities Laws to an Acquisition Proposal provided that the Corporation shall provide the Purchaser and its counsel with a reasonable opportunity to review the form and content of such disclosure and shall give reasonable consideration to any comments made by the Purchaser and its counsel. Further, nothing in this Agreement shall prevent the Board from making any disclosure to the Securityholders if the Board, acting in good faith and upon the advice of its outside legal and financial advisors, shall have determined that the failure to make such disclosure would be inconsistent with the fiduciary duties of the Board or such disclosure is otherwise required under applicable Law; provided that the Corporation shall provide the Purchaser and its counsel with a reasonable opportunity to review the form and content of such disclosure and shall give reasonable consideration to any comments made by the Purchaser and its counsel. In addition, nothing contained in this Agreement shall prevent the Corporation or the Board from calling and/or holding a meeting of Shareholders requisitioned by Shareholders in accordance with the BCBCA or ordered to be held by a court in accordance with applicable Laws.
- (7) Any violation of the restrictions set forth in this Section 5.4 by the Corporation's Subsidiaries or the Corporation's or its Subsidiaries' respective Representatives shall be deemed to be a breach of this Section 5.4 by the Corporation. Furthermore, the Corporation shall be responsible for any breach of this Section 5.4 by its Subsidiaries and its and their respective Representatives.

ARTICLE 6 CONDITIONS

Section 6.1 Mutual Conditions Precedent.

The Parties are not required to complete the Arrangement unless each of the following conditions is satisfied on or prior to the Effective Time, which conditions may only be waived, in whole or in part, by the mutual consent of the Parties:

- (1) **Arrangement Resolution.** The Arrangement Resolution shall have been approved and adopted by the Voting Securityholders at the Meeting in accordance with the Interim Order.
- (2) **Interim and Final Order.** The Interim Order and the Final Order shall have each been obtained on terms consistent with this Agreement and shall not have been set aside or modified in a manner unacceptable to either the Corporation or the Purchaser, each acting reasonably, on appeal or otherwise.
- (3) **Required Regulatory Approvals.** The Required Regulatory Approvals shall have been obtained.
- (4) **Illegality.** No Law shall be in effect (whether temporary, preliminary or permanent) which prevents, prohibits or makes the consummation of the Arrangement illegal or otherwise prohibits or enjoins the Corporation or the Purchaser from consummating the Arrangement or any of the other transactions contemplated in this Agreement.
- (5) **No Legal Actions.** No action shall have been commenced by any Governmental Entity against the Corporation, any of its Subsidiaries or the Purchaser that remains pending and would (i) prohibit consummation of the Arrangement or (ii) cease trade, enjoin or prohibit the Purchaser's ability to acquire any Shares upon completion of the Arrangement.

Section 6.2 Additional Conditions Precedent to the Obligations of the Purchaser.

The Purchaser is not required to complete the Arrangement unless each of the following conditions is satisfied on or before the Effective Time, which conditions are for the exclusive benefit of the Purchaser and may only be waived, in whole or in part, by the Purchaser in its sole discretion:

- (1) **Representations and Warranties.** The representations and warranties of the Corporation set forth (i) in paragraph (1) [*Organization and Qualification*], paragraph (2) [*Corporate Authorization*], and paragraph (3) [*Execution and Binding Obligation*] of Schedule C hereto are, as of the date of this Agreement, and will be, as of the Effective Time, true and correct in all respects; (ii) in paragraph (6) [*Capitalization*] are, as of the date of this Agreement, and will be, as of the Effective Time, true and correct in all respects (other than (i) issuances of Shares pursuant to the exercise or vesting of Options, RSUs and/or DSUs, as applicable, outstanding as of the date hereof, or (ii) any other issuances of securities in accordance with Section 4.1) between the date hereof until the Effective Time and such failures to be true and correct that would have no more than a *de minimis* impact on the aggregate Consideration payable pursuant to the Arrangement; and (iii) otherwise in this Agreement (including in Schedule C hereto, other than those to which clause (i) or clause (ii) above applies) are, as of the date of this Agreement, and will be, as of the Effective Time, true and correct, except to the extent that the failure or failures of such representations and warranties to be so true and correct, individually or in the aggregate, has not had or would not reasonably be expected to have a Material Adverse Effect (and, for this purpose, any reference to "material", "Material Adverse Effect" or other concepts of materiality in such representations and warranties shall be ignored), and except for representations and warranties made as of a specified date, the accuracy of which shall be determined as of such specified date, and the Corporation has delivered a certificate confirming same to the Purchaser, executed by a senior officer of the Corporation (without personal liability) addressed to the Purchaser and dated the Effective Date.
- (2) **Performance of Covenants.** The Corporation shall have fulfilled or complied in all material respects with its covenants contained in this Agreement to be fulfilled or complied with by it on or prior to the Effective Time and shall have delivered a certificate confirming same to the Purchaser, executed by a senior officer of the Corporation (in each case without personal liability) addressed to the Purchaser and dated the Effective Date.
- (3) **Dissent Rights.** Dissent Rights shall not have been validly exercised, and not withdrawn or deemed to have been withdrawn, with respect to more than 5% of the issued and outstanding Shares.
- (4) **Consents and Notices.** The consents set forth on Section (C)(5)(c) of the Disclosure Letter shall have been obtained and the notices set forth on Section (C)(5)(c) of the Disclosure Letter shall have been duly provided to the applicable third parties.
- (5) **Material Adverse Effect.** Since the date of this Agreement, there shall have not occurred a Material Adverse Effect which is continuing as of the Effective Date.

Section 6.3 Additional Conditions Precedent to the Obligations of the Corporation.

The Corporation is not required to complete the Arrangement unless each of the following conditions is satisfied on or before the Effective Time, which conditions are for the exclusive benefit of the Corporation and may only be waived, in whole or in part, by the Corporation in its sole discretion:

- (1) **Representations and Warranties.** The representations and warranties of the Purchaser (i) set forth in paragraph (1) [*Organization and Qualification*], paragraph (2) [*Corporate Authorization*],

paragraph (3) [*Execution and Binding Obligation*], paragraph (5)(a) [*Non-Contravention*], paragraph (7) [*Security Ownership*] and paragraph (9) [*Financial Capacity*] of Schedule D hereto are, as of the date of this Agreement, and will be, as of the Effective Time, true and correct in all respects, except, in each case, for representations and warranties made as of a specified date, the accuracy of which shall be determined as of such specified date; and (ii) otherwise in this Agreement (including in Schedule D hereto, other than those to which clause (i) above applies) are, as of the date of this Agreement, and will be, as of the Effective Time, true and correct in all material respects, except for representations and warranties made as of a specified date, the accuracy of which shall be determined as of such specified date, and except where the failure of such representations and warranties to be true and correct, individually or in the aggregate, would not materially impede completion of the Arrangement, and the Purchaser has delivered a certificate confirming same to the Corporation, executed by a senior officer of the Purchaser (without personal liability) addressed to the Corporation and dated the Effective Date.

- (2) **Performance of Covenants.** The Purchaser shall have fulfilled or complied in all material respects with each of the covenants of the Purchaser contained in this Agreement to be fulfilled or complied with by it on or prior to the Effective Time, and the Purchaser shall have delivered a certificate confirming same to the Corporation, executed by a senior officer of the Purchaser (without personal liability) addressed to the Corporation and dated the Effective Date.
- (3) **Deposit of Consideration.** Subject to obtaining the Final Order and the satisfaction or waiver of the other conditions precedent contained herein in its favour (other than conditions which, by their nature, are only capable of being satisfied as of the Effective Time), the Purchaser shall have deposited or caused to be deposited with the Depositary in escrow in accordance with Section 2.9 the funds required to effect payment in full of the aggregate Consideration to be paid pursuant to the Arrangement, and the Depositary shall have confirmed receipt of the Consideration.
- (4) **Payout of Credit Facilities.** No later than one (1) Business Day prior to the Effective Date, the Purchaser shall have made arrangements satisfactory to the Secured Lender to indefeasibly pay in full all indebtedness, liabilities and obligations under the Credit Facilities (the "**Payout Amount**") as set out in a payout letter to be provided by the Secured Lender pursuant to the Forbearance Agreement.

Section 6.4 Satisfaction of Conditions.

The conditions precedent set out in Section 6.1, Section 6.2 and Section 6.3 will be conclusively deemed to have been satisfied, waived or released at the Effective Time. For greater certainty, and notwithstanding the terms of any escrow arrangement entered into between the Purchaser and the Depositary, all funds held in escrow by the Depositary pursuant to Section 2.9 hereof shall be released from escrow at the Effective Time without any further act or formality required on the part of any Person.

ARTICLE 7 TERM AND TERMINATION

Section 7.1 Term.

This Agreement shall be effective from the date hereof until the earlier of the Effective Time and the termination of this Agreement in accordance with its terms.

Section 7.2 Termination.

This Agreement may be terminated and the Arrangement abandoned at any time prior to the Effective Time (notwithstanding approval of the Arrangement Resolution by the Voting Securityholders and/or receipt of the Final Order) by:

- (1) the mutual written agreement of the Parties;
- (2) either the Corporation, on the one hand, or the Purchaser, on the other hand, if:
 - (a) **No Required Securityholder Approval.** The Required Securityholder Approval is not obtained at the Meeting in accordance with the Interim Order, provided that neither the Corporation nor the Purchaser may terminate this Agreement pursuant to this Section 7.2(2)(a) if the failure to obtain the Required Securityholder Approval has been caused by, or is a result of, a breach by such Party of any of its representations or warranties or the failure of such Party to perform any of its covenants or agreements under this Agreement;
 - (b) **Illegality.** After the date of this Agreement, any Law is enacted, made, enforced or amended, as applicable, that makes the consummation of the Arrangement illegal or otherwise permanently prohibits or enjoins the Corporation or the Purchaser from consummating the Arrangement, and such Law has, if applicable, become final and non-appealable; or
 - (c) **Occurrence of Outside Date.** The Effective Time does not occur on or prior to the Outside Date, provided that neither the Corporation nor the Purchaser may terminate this Agreement pursuant to this Section 7.2(2)(c) if the failure of the Effective Time to so occur has been caused by, or is a result of, a breach by such Party of any of its representations or warranties under this Agreement or the failure of such Party to perform any of its covenants or agreements under this Agreement;
- (3) the Corporation if:
 - (a) **Breach of Purchaser Representation, Warranty or Covenant.** A breach of any representation, warranty, covenant or agreement on the part of the Purchaser under this Agreement shall have occurred that would cause any condition in Section 6.3(1) [*Purchaser Representations and Warranties Condition*] or Section 6.3(2) [*Purchaser Covenants Condition*] not to be satisfied, and such breach or failure is incapable of being cured on or prior to the Outside Date or is not cured in accordance with the terms of Section 4.7(3); provided that the Corporation is not then in breach of this Agreement so as to directly or indirectly cause any condition in Section 6.2(1) [*Corporation Representations and Warranties Condition*] or Section 6.2(2) [*Corporation Covenants Condition*] not to be satisfied, and provided further that the Corporation may not terminate this Agreement pursuant to this Section 7.2(3)(a) if the Corporation or its Representatives had actual knowledge of the breach of the representation or warranty as of the date hereof or the breach of covenant is the result of any action or failure to take any action by the Corporation after the date hereof; or
 - (b) **Superior Proposal.** Prior to the approval by the Voting Securityholders of the Arrangement Resolution, the Board authorizes the Corporation to enter into a definitive written agreement with respect to a Superior Proposal (excluding an Acceptable Confidentiality Agreement in accordance with Section 5.3), provided the Corporation is

then in compliance with Article 5 in all material respects and that prior to or concurrent with such termination the Corporation pays the Corporation Termination Fee in accordance with Section 7.4; and

(4) the Purchaser if:

- (a) **Breach of Corporation Representation, Warranty or Covenant.** A breach of any representation, warranty, covenant or agreement on the part of the Corporation under this Agreement occurs that would cause any condition in Section 6.2(1) [*Corporation Representations and Warranties Condition*] or Section 6.2(2) [*Corporation Covenants Condition*] not to be satisfied, and such breach or failure is incapable of being cured on or prior to the Outside Date or is not cured in accordance with the terms of Section 4.7(3); provided that the Purchaser is not then in breach of this Agreement so as to directly or indirectly cause any condition in Section 6.3(1) [*Purchaser Representations and Warranties*] or Section 6.3(2) [*Purchaser Covenants Condition*] not to be satisfied, and provided further that the Purchaser may not terminate this Agreement pursuant to this Section 7.2(4)(a) if the Purchaser or its Representatives had actual knowledge of the breach of the representation or warranty as of the date hereof, or the breach of covenant is the result of any action or failure to take any action by the Purchaser after the date hereof;
- (b) **Change in Recommendation.** Prior to the approval by the Voting Securityholders of the Arrangement Resolution, (A) the Board or the Special Committee fails to recommend or withdraws, amends, modifies or qualifies, in a manner adverse to the Purchaser, or publicly proposes or states an intention to so withdraw, amend, modify or qualify, the Board Recommendation, (B) the Board or the Special Committee accepts, approves, endorses, enters into, recommends, or publicly proposes to accept, approve, endorse, enter into or recommend an Acquisition Proposal or takes no position or remains neutral with respect to a publicly announced, or otherwise publicly disclosed, Acquisition Proposal for more than five (5) Business Days (or in the event that the Meeting is scheduled to occur within such five (5) Business Day period, beyond the third (3rd) Business Day prior to the date of the Meeting), or (C) the Board or the Special Committee fails to publicly recommend or reaffirm the Board Recommendation within five (5) Business Days after having been requested in writing by the Purchaser to do so (or in the event that the Meeting is scheduled to occur within such five (5) Business Day period, prior to the third (3rd) Business Day prior to the date of the Meeting) (each, a "**Change in Recommendation**");
- (c) **Wilful Breach of Non-Solicit.** Prior to the approval by the Voting Securityholders of the Arrangement Resolution, the wilful breach by the Corporation, its Subsidiaries or their respective Representatives of any of their obligations under Article 5;
- (d) **Material Adverse Effect.** Since the date of this Agreement, there has occurred a Material Adverse Effect which is incapable of being cured on or prior to the Outside Date; or
- (e) **Failure to Hold Meeting.** The failure by the Corporation to hold the Meeting on or before the Outside Date,

provided that, in each case, the Party desiring to terminate this Agreement pursuant to this Section 7.2 (other than pursuant to Section 7.2(1)) shall give notice of such termination to the other Party, specifying in reasonable detail the basis for the Party's exercise of its termination right.

Section 7.3 Effect of Termination/Survival.

If this Agreement is terminated pursuant to Section 7.1 or Section 7.2, this Agreement shall become void and of no further force or effect without liability of any Party (or any shareholder or Representative of such Party) to the other Party to this Agreement, except that: (a) in the event of termination under Section 7.1 as a result of the Effective Time occurring, Section 2.8 [*Effective Date*] and Section 4.9 [*Insurance and Indemnification*] shall survive such termination; and (b) in the event of termination under Section 7.2, Section 4.5(3), this Section 7.3, Section 7.4, and Section 8.2 through to and including Section 8.13, shall survive, and provided further that no Party shall be relieved of any liability for any wilful breach by it of this Agreement or damages arising as a result of its fraud.

Section 7.4 Termination Fees and Expenses

- (1) Except as expressly otherwise provided in this Agreement, all fees, costs and expenses incurred in connection with this Agreement and the Plan of Arrangement and the transactions contemplated hereunder and thereunder, including all costs, expenses and fees of the Corporation incurred prior to or after the Effective Time in connection with, or incidental to, the Plan of Arrangement, shall be paid by the Party incurring such expenses, whether or not the Arrangement is consummated, provided that the Parties shall each pay half of any filing fees and applicable Taxes payable for or in respect of any application, notification or other filing made in respect of any regulatory process in respect of the transactions contemplated by this Agreement.
- (2) For the purposes of this Agreement, "**Corporation Termination Fee**" means \$3,000,000, and "**Expense Reimbursement Amount**" means the amount payable by the Corporation pursuant to Section 7.4(6).
- (3) For the purposes of this Agreement, "**Corporation Termination Fee Event**" means the termination of this Agreement:
 - (a) by the Purchaser pursuant to Section 7.2(4)(a) [*Breach of Corporation Representation, Warranty or Covenant*] as a result of a wilful breach by the Corporation or any of its Subsidiaries;
 - (b) by the Purchaser pursuant to Section 7.2(4)(b) [*Change in Recommendation*], unless the Change in Recommendation is as a result of a material adverse effect with respect to the Purchaser or a Guarantor;
 - (c) by the Purchaser pursuant to Section 7.2(4)(c) [*Wilful Breach of Non-Solicit*]; or
 - (d) by the Corporation pursuant to Section 7.2(3)(b) [*Superior Proposal*].
- (4) For the purposes of this Agreement, "**Expense Reimbursement Event**" means the termination of this Agreement:
 - (a) by the Purchaser pursuant to Section 7.2(2)(a) [*No Required Shareholder Approval*]; or
 - (b) by the Purchaser pursuant to Section 7.2(4)(e) [*Failure to Hold Meeting*].
- (5) If a Corporation Termination Fee Event occurs, the Corporation shall pay the Corporation Termination Fee to the Purchaser by wire transfer of immediately available funds, as follows:

- (a) if the Corporation Termination Fee is payable pursuant to Section 7.4(3)(a), Section 7.4(3)(b) or Section 7.4(3)(c), such amount shall be payable within two (2) Business Days following such termination; and
 - (b) if the Corporation Termination Fee is payable pursuant to Section 7.4(3)(d), such amount shall be payable concurrently with such termination.
- (6) If an Expense Reimbursement Event occurs, the Corporation shall reimburse the Purchaser in respect of the documented expenses and losses it has actually incurred in respect of the Arrangement and this Agreement up to a maximum of \$1,500,000. The Corporation shall pay such Expense Reimbursement Amount to the Purchaser by wire transfer of immediately available funds within two (2) Business Days following such termination. Each Party hereby acknowledges that in the event the Corporation Termination Fee or the Purchaser Termination Fee is paid by the Corporation or the Purchaser, as applicable, in accordance with Section 7.4, this Section 7.4(6) shall not apply and no reimbursement under this Section 7.4(6) shall be payable by the Corporation.
- (7) For the purposes of this Agreement, "**Purchaser Termination Fee**" means \$1,750,000.
- (8) For the purposes of this Agreement, "**Purchaser Termination Fee Event**" means the termination of this Agreement by the Corporation pursuant to Section 7.2(3)(a) [*Breach of Purchaser Representation, Warranty or Covenant*] as a result of a wilful breach by the Purchaser.
- (9) If a Purchaser Termination Fee Event occurs, the Purchaser shall pay the Purchaser Termination Fee to the Corporation or as the Corporation may direct by wire transfer of immediately available funds within two (2) Business Days following such termination. In the event the Purchaser Termination Fee becomes payable to the Corporation, the Corporation hereby irrevocably directs that the Purchaser pay the Purchaser Termination Fee to the Secured Lender.
- (10) The Corporation Termination Fee payable by the Corporation pursuant to this Agreement shall be paid free and clear of and without deduction or withholding for, or on account of, any present or future Taxes, unless such deduction or withholding is required by applicable Law. If the Corporation is required by applicable Laws to deduct or withhold any Taxes from the payment of the Corporation Termination Fee (i) the Corporation shall make such required deductions or withholdings and (ii) the Corporation shall remit the full amount deducted or withheld to the appropriate Governmental Entity in accordance with applicable Laws.
- (11) The Purchaser Termination Fee payable by the Purchaser pursuant to this Agreement shall be paid free and clear of and without deduction or withholding for, or on account of, any present or future Taxes, unless such deduction or withholding is required by applicable Law. If the Purchaser is required by applicable Law to deduct or withhold any Taxes from the payment of the Purchaser Termination Fee (i) the Purchaser shall make such required deductions or withholdings and (ii) the Purchaser shall remit the full amount deducted or withheld to the appropriate Governmental Entity in accordance with applicable Law.
- (12) Each Party acknowledges that the payment amounts set forth in this Section 7.4 are an integral part of the transactions contemplated by this Agreement, and that without these agreements the Parties would not enter into this Agreement, and that the payment amounts set forth in this Section 7.4 represent liquidated damages which are a genuine pre-estimate of the damages, including opportunity costs, reputational damages and expenses, which the Party entitled to such damages will suffer or incur as a result of the event giving rise to such payment and the resultant termination of this Agreement and are not penalties. Each of the Corporation and the Purchaser irrevocably

waives any right it may have to raise as a defence that any such liquidated damages are excessive or punitive.

- (13) Notwithstanding anything to the contrary set forth in this Agreement, except for injunctive relief in accordance with Section 8.5, or in the case of fraud, in the event of the termination of this Agreement by the Purchaser or the Corporation, as applicable:
- (a) the right to receive the Purchaser Termination Fee by the Corporation, when payable in accordance with the terms of this Agreement (including as a consequence of payment thereof pursuant to the Guarantee), shall be the sole and exclusive remedy of the Corporation and each of its and its Subsidiaries' former, current or future affiliates and Representatives (each of the foregoing Persons and such Persons' successors and assigns, a "**Corporation Group Member**") against the Purchaser, the Guarantors and each of their respective former, current or future affiliates, Representatives, general or limited partners, shareholders (or equivalent), equityholders, capital funds, managers, members or agents (each of the foregoing Persons and such Persons' successors and assigns, a "**Purchaser Group Member**"), for any monetary or other damages suffered by any Corporation Group Member, or any liability or obligation of any kind of any Purchaser Group Member, and
 - (b) in the event that the Corporation Termination Fee is payable, the right to receive the Corporation Termination Fee by the Purchaser, when payable in accordance with the terms of this Agreement, shall be the sole and exclusive remedy of the Purchaser or any other Purchaser Group Member against the Corporation or any other Corporation Group Member, for any monetary or other damages suffered by any Purchaser Group Member, or any liability or obligation of any kind of any Corporation Group Member,

in each case, caused by, arising out of, relating to or in connection with the event giving rise to such payment and the termination of this Agreement. In no event shall (i) the Corporation be entitled to collect the Purchaser Termination Fee on more than one occasion or (ii) the Purchaser be entitled to collect the Corporation Termination Fee on more than one occasion.

- (14) The Parties acknowledge that the agreements contained in Section 7.4 are an integral part of the transactions contemplated by this Agreement, and that without these agreements the Parties would not enter into this Agreement; accordingly, if the Corporation fails to pay the Corporation Termination Fee when due or if the Purchaser fails to pay the Purchaser Termination Fee when due and, in order to obtain such payment, the Purchaser, on the one hand, or the Corporation, on the other hand, commences a suit that results in a judgment against the Corporation for the Corporation Termination Fee or a judgment against the Purchaser for the Purchaser Termination Fee, the Corporation shall pay to the Purchaser, on the one hand, or the Purchaser shall pay to the Corporation, on the other hand, as applicable, its reasonable and documented costs and expenses (including reasonable and documented attorneys' fees) in connection with such suit, together with interest on such amount at the prime rate of the Bank of Montreal in effect on the date such payment was required to be made to and including the date on which such payment was actually received.

ARTICLE 8 GENERAL PROVISIONS

Section 8.1 Amendments.

- (1) This Agreement and the Plan of Arrangement may, at any time and from time to time before or after the holding of the Meeting but not later than the Effective Time, be amended by mutual written

agreement of the Parties, subject to the Plan of Arrangement, the Interim Order and the Final Order, without further notice to or authorization on the part of the Shareholders and any such amendment may, without limitation:

- (a) change the time for performance of any of the obligations or acts of the Parties;
- (b) waive any inaccuracies or modify any representation or warranty contained in this Agreement or in any document delivered pursuant to this Agreement;
- (c) waive compliance with or modify any of the covenants contained in this Agreement and waive or modify performance of any of the obligations of the Parties; and/or
- (d) waive compliance with or modify conditions contained in this Agreement;

provided that no such amendment or waiver may reduce or materially adversely affect the Consideration to be received by Shareholders under the Arrangement or change the timing of payment, or the form of, the Consideration without their approval at the Meeting or, following the Meeting, without their approval given in the same manner as required by applicable Laws for the approval of the Arrangement as may be required by the Court.

- (2) Notwithstanding the foregoing, the Plan of Arrangement may only be supplemented or amended in accordance with the provisions thereof.

Section 8.2 Notices.

- (1) Any notice, or other communication given regarding the matters contemplated by this Agreement must be in writing, sent by personal delivery, courier or electronic mail (provided confirmation of receipt is acknowledged by return electronic mail from the recipient) and addressed:

- (a) to the Purchaser:

1480775 B.C. Ltd.
c/o 41 Industrial St., Suite 201
Toronto, Ontario M4G 0C7

Attention: Michael Arblaster
Email: **[Redacted – Contact Information]**

with a copy_(which will not constitute notice) to:

Owens Wright LLP
20 Holly St., Suite 300
Toronto, ON M4S 3B1

Attention: Paul De Luca
Email: pdeluca@owenswright.com

- (b) to the Corporation at:

CloudMD Software & Services Inc.
181 University Ave, Suite 1101
Toronto, Ontario M5H 3M7

Attention: Karen Adams and Prakash Patel
E-mail: [Redacted – Contact Information]

with a copy (which will not constitute notice) to:

Cassels Brock & Blackwell LLP
40 Temperance St., Suite 3200
Toronto, ON M5H 0B4

Attention: Frank Arnone and Lindsay Clements
Email: farnone@cassels.com and lclements@cassels.com

- (2) Any notice or other communication is deemed to be given and received (i) if sent by personal delivery or same day courier, on the date of delivery if it is a Business Day and the delivery was made prior to 4:00 p.m. (Toronto time) and otherwise on the next Business Day, (ii) if sent by overnight courier, on the next Business Day or (iii) if sent by electronic mail, upon confirmation of receipt by the recipient if it is a Business Day and confirmation was received prior to 5:00 p.m. (Toronto time) and otherwise on the next Business Day. A Party may change its address for service from time to time by providing a notice in accordance with the foregoing. Any subsequent notice or other communication must be sent to the Party at its changed address. Any element of a Party's address that is not specifically changed in a notice will be assumed not to be changed. Sending a copy of a notice or other communication to a Party's outside legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to outside legal counsel does not invalidate delivery of that notice or other communication to a Party.

Section 8.3 Time of the Essence.

Time is of the essence in this Agreement.

Section 8.4 Further Assurances

Subject to the provisions of this Agreement, the Parties will, from time to time, do all acts and things and execute and deliver all such further documents and instruments, as the other Party may, either before the Effective Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement and, in the event the Arrangement becomes effective, to document or evidence any of the transactions or events set out in the Plan of Arrangement.

Section 8.5 Injunctive Relief.

Subject to Section 7.4(12) and Section 7.4(13), the Parties agree that irreparable harm would occur for which money damages would not be an adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Subject to Section 7.4(12) and Section 7.4(13), it is agreed that each Party shall be entitled to specific performance of the terms of this Agreement and an injunction or injunctions and other equitable relief to prevent breaches or threatened breaches of this Agreement, and to enforce compliance with the terms of this Agreement without any requirement for the securing or posting of any bond in connection with the obtaining of any such injunctive or other equitable relief, this being in addition to any other remedy to which a Party may be entitled at Law or in equity.

Section 8.6 Third Party Beneficiaries.

Except as provided in Section 2.7(3) [*Incentive Plan*] and Section 4.9 [*Insurance and Indemnification*] which, without limiting their terms, are intended as stipulations for the irrevocable benefit of, and shall be enforceable by, the third Persons mentioned in such provisions, the Corporation and the Purchaser intend that this Agreement will not benefit or create any right or cause of action in favour of any Person, other than the Parties and that no Person, other than the Parties, shall be entitled to rely on the provisions of this Agreement in any action, suit, proceeding, hearing or other forum.

Section 8.7 Waiver.

Any Party may (a) extend the time for the performance of any of the obligations or acts of the other Party, (b) waive compliance, except as provided herein, with any of the other Party's agreements or the fulfilment of any conditions to its own obligations contained herein, or (c) waive inaccuracies in any of the other Party's representations or warranties contained herein or in any document delivered by the other Party; provided, however, that any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of the Party to be bound by the waiver and, unless otherwise provided in the written waiver, will be limited to the specific breach or condition waived. A Party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a Party from any other or further exercise of that right or the exercise of any other right.

Section 8.8 Entire Agreement.

This Agreement (including the exhibits and schedules hereto), the Confidentiality Agreement, the Intercreditor Agreement and the CPS Bridge Loan Agreement constitute the entire agreement, and supersede all other prior agreements and understandings, both written and oral, between the Parties, or any of them, with respect to the subject matter hereof and thereof and, supersedes all prior agreements, understandings, negotiations and discussions, whether or oral or written, of the Parties. There are no other representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the Parties in connection the subject matters of this Agreement or the Confidentiality Agreement, except as expressly provided herein and therein. Except as expressly provided herein, this Agreement is not intended to and shall not confer upon any Person other than the Parties any rights or remedies hereunder.

Section 8.9 Successors and Assigns.

- (1) This Agreement becomes effective only when executed by the Corporation and the Purchaser. After that time, it will be binding upon and enure to the benefit of the Corporation, the Purchaser and their respective successors and permitted assigns.
- (2) Neither this Agreement nor any of the rights or obligations under this Agreement are assignable or transferable by any Party without the prior written consent of the other Party, except that the Purchaser may assign all or any portion of its rights and obligations under this Agreement to any of its affiliates which agrees to be bound by the applicable covenants of the Purchaser contained herein and comply with the applicable provisions of this Agreement, but no such assignment shall (i) relieve the Purchaser of its obligations hereunder and the Purchaser shall continue to be fully liable as primary obligor, on a joint and several basis with any such entity, to the Corporation for any default in performance by the assignee of the Purchaser's obligations hereunder, (ii) impair, delay or prevent the satisfaction of any other conditions set forth in Article 6, or (iii) impair, delay or prevent the consummation of the transactions contemplated by this Agreement.

Section 8.10 Severability.

If any provision of this Agreement is determined to be illegal, invalid or unenforceable by an arbitrator or any court of competent jurisdiction, that provision will be severed from this Agreement and the remaining provisions shall remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

Section 8.11 Governing Law.

- (1) This Agreement will be governed by, interpreted and enforced in accordance with the Laws of the Province of British Columbia and the federal Laws of Canada applicable therein.
- (2) Each Party irrevocably attorns and submits to the non-exclusive jurisdiction of the British Columbia courts situated in the City of Vancouver and waives objection to the venue of any proceeding in such court or that such court provides an inconvenient forum.

Section 8.12 Rules of Construction.

The Parties to this Agreement waive the application of any Law or rule of construction providing that ambiguities in any agreement or other document shall be construed against the Party drafting such agreement or other document.

Section 8.13 Enforcement.

This Agreement may only be enforced against, and any proceeding based upon, arising out of, or related to this Agreement, or the negotiation, execution or performance of this Agreement, may only be brought against, the entities that are expressly named as Parties hereto and then only with respect to the specific obligations set forth herein with respect to such Party.

Section 8.14 Counterparts.

This Agreement may be executed in any number of counterparts (including counterparts by e-mail) and all such counterparts taken together shall be deemed to constitute one and the same instrument. The Parties shall be entitled to rely upon delivery of an executed electronic copy of this Agreement, and such executed electronic copy shall be legally effective to create a valid and binding agreement between the Parties.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF the Parties have executed this Agreement.

1480775 B.C. LTD.

By: (signed) "*Michael Arblaster*" _____

Name: Michael Arblaster

Title: President

CLOUDMD SOFTWARE & SERVICES INC.

By: (signed) "*Karen Adams*" _____

Name: Karen Adams

Title: Chief Executive Officer

**SCHEDULE A
PLAN OF ARRANGEMENT**

**PLAN OF ARRANGEMENT
UNDER DIVISION 5 OF PART 9 OF THE
*BUSINESS CORPORATIONS ACT (BRITISH COLUMBIA)***

**ARTICLE 1
INTERPRETATION**

Section 1.1 Definitions

Unless indicated otherwise, where used in this Plan of Arrangement, capitalized terms used but not defined shall have the meanings specified in the Arrangement Agreement and the following terms shall have the following meanings (and grammatical variations of such terms shall have corresponding meanings):

"**Amalco**" means CloudMD Software & Services Inc., the amalgamated corporation under the BCBCA resulting from the amalgamation of the Corporation and the Purchaser pursuant to Section 2.3(10).

"**Arrangement**" means the arrangement under Section 288 of the BCBCA in accordance with the terms and subject to the conditions set out in this Plan of Arrangement, subject to any amendments or variations to this Plan of Arrangement made in accordance with the terms of the Arrangement Agreement and Section 6.1, in accordance with the terms of the Interim Order (once issued), or made at the direction of the Court in the Final Order with the prior written consent of the Corporation and the Purchaser, each acting reasonably.

"**Arrangement Agreement**" means the arrangement agreement dated May 14, 2024 between the Purchaser and the Corporation (including the schedules thereto), as it may be amended, modified or supplemented from time to time in accordance with its terms.

"**Arrangement Resolution**" means the special resolution approving this Plan of Arrangement to be considered at the Meeting, substantially in the form of Schedule B to the Arrangement Agreement.

"**BCBCA**" means the *Business Corporations Act* (British Columbia) and the regulations made thereunder, as promulgated or amended from time to time.

"**Business Day**" means any day of the year, other than a Saturday, Sunday or any day on which chartered banks are closed for business in Toronto, Ontario.

"**Circular**" means the notice of the Meeting and accompanying management information circular, including all schedules, appendices and exhibits thereto and information incorporated by reference into such management information circular, to be sent to the Voting Securityholders in connection with the Meeting, as amended, supplemented or otherwise modified from time to time in accordance with the terms of the Arrangement Agreement.

"**Consideration**" means \$0.04 in cash per Share to be paid to Shareholders, without interest.

"**Corporation**" means CloudMD Software & Services Inc.

"**Court**" means the Supreme Court of British Columbia.

"**Depository**" means Endeavor Trust Corporation in its capacity as depository for the Arrangement, or such other Person as the Corporation and the Purchaser agree to engage as depository for the Arrangement.

"**Dissent Rights**" has the meaning specified in Section 4.1.

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

"**DSUs**" means any outstanding deferred share units issued pursuant to the Incentive Plan or otherwise.

"**Effective Date**" means the date designated by the Corporation and the Purchaser by notice in writing as the effective date of the Arrangement, after all of the conditions of the Arrangement Agreement and the Final Order have been satisfied or waived.

"**Effective Time**" means 12:01 a.m. (Pacific time) on the Effective Date, or such other time as the Parties agree upon in writing before the Effective Date.

"**Final Order**" means the final order of the Court under Section 291 of the BCBCA in a form acceptable to the Corporation and the Purchaser, each acting reasonably, approving the Arrangement, as such order may be amended by the Court (with the consent of both the Corporation and the Purchaser, each acting reasonably) at any time prior to the Effective Date or, if appealed, then, unless such appeal is withdrawn or denied, as affirmed or as amended (provided that any such amendment is acceptable to both the Corporation and the Purchaser, each acting reasonably) on appeal.

"**Governmental Entity**" means (i) any international, multinational, national, federal, provincial, state, territorial, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitrator or arbitral body (public or private), commission, commissioner, board, bureau, minister, ministry, governor in council, cabinet, agency or instrumentality, domestic or foreign; (ii) any subdivision, agent or authority of any of the foregoing; (iii) any quasi-governmental or private body including any tribunal, commission, regulatory agency or self-regulatory organization exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing; or (iv) any Securities Authority or stock exchange, including the TSX Venture Exchange.

"**Incentive Plan**" means the omnibus equity incentive plan of the Corporation dated effective December 15, 2022, as the same may be amended, restated or supplemented from time to time.

"**Interim Order**" means the interim order of the Court under Section 291 of the BCBCA in a form acceptable to the Corporation and the Purchaser, each acting reasonably, providing for, among other things, the calling and holding of the Meeting, as such order may be amended by the Court with the consent of the Corporation and the Purchaser, each acting reasonably.

"**Law**" means, with respect to any Person, any and all applicable national, federal, provincial, state, municipal or local law (statutory, civil, common or otherwise), constitution, treaty, convention, ordinance, act, statute, code, rule, regulation, order, injunction, judgment, decree, ruling, award,

writ, or other similar requirement, whether domestic or foreign, enacted, adopted, promulgated or applied by a Governmental Entity that is binding upon or applicable to such Person or its business, undertaking, property or securities, and to the extent that they have the force of law, all policies, guidelines, notices and protocols of any Governmental Entity, as amended.

"**Letter of Transmittal**" means the letter of transmittal sent to holders of Shares for use in connection with the Arrangement.

"**Lien**" means any mortgage, charge, pledge, hypothec, security interest, prior claim, encroachment, option, right of first refusal or first offer, license, occupancy right, restrictive covenant, assignment, lien (statutory or otherwise), license, defect of title or encumbrance of any kind.

"**Meeting**" means the special meeting of Voting Securityholders, including any adjournment or postponement of such special meeting in accordance with the terms of the Arrangement Agreement, to be called and held in accordance with the Interim Order to consider the Arrangement Resolution.

"**Option Agreement**" means an agreement evidencing the terms of any Option.

"**Optionholders**" means holders of Options.

"**Options**" means any outstanding options to purchase Shares issued pursuant to the Incentive Plan or otherwise.

"**Parties**" means the Corporation and the Purchaser and "**Party**" means any one of them.

"**Person**" includes any individual, partnership, association, body corporate, organization, trust, estate, trustee, executor, administrator, legal representative, government (including Governmental Entity), syndicate or other entity, whether or not having legal status.

"**Plan of Arrangement**" means this plan of arrangement, and any amendments or variations made in accordance with the terms of the Arrangement Agreement and Section 6.1, in accordance with the terms of the Interim Order (once issued), or made at the direction of the Court in the Final Order with the prior written consent of the Corporation and the Purchaser, each acting reasonably.

"**Purchaser**" means 1480775 B.C. Ltd.

"**RSU Agreement**" means an agreement evidencing the terms of any RSU.

"**RSUs**" means any outstanding restricted share units issued pursuant to the Incentive Plan or otherwise.

"**Securities Authority**" means the Ontario Securities Commission and any other applicable securities commission or regulatory authority of a province or territory of Canada.

"**Securityholders**" means, collectively, the Shareholders, the Optionholders and the holders of RSUs and DSUs.

"**Shareholders**" means the registered or beneficial holders of the Shares, as the context requires.

"**Shares**" means the common shares in the capital of the Corporation, including any common shares issued upon the valid exercise of Options or exchange of DSUs or RSUs.

"**Tax Act**" means the *Income Tax Act* (Canada).

"**Voting Securityholders**" means collectively, the Shareholders and Optionholders.

Section 1.2 Certain Rules of Interpretation.

In this Plan of Arrangement, unless otherwise specified:

- (1) **Headings, etc.** The division of this Plan of Arrangement into Articles and Sections and the insertion of headings are for convenient reference only and do not affect the construction or interpretation of this Plan of Arrangement.
- (2) **Currency.** All references to dollars or to \$ are references to Canadian dollars.
- (3) **Gender and Number.** Any reference to gender includes all genders. Words importing the singular number only include the plural and *vice versa*.
- (4) **Certain Phrases and References, etc.** The words "including," "includes" and "include" mean "including (or includes or include) without limitation," and "the aggregate of," "the total of," "the sum of," or a phrase of similar meaning means "the aggregate (or total or sum), without duplication, of". Unless stated otherwise, "Article" and "Section" followed by a number or letter mean and refer to the specified Article or Section of this Plan of Arrangement. The terms "Plan of Arrangement," "hereof," "herein" and similar expressions refer to this Plan of Arrangement (as it may be amended, modified or supplemented from time to time) and not to any particular article, section or other portion hereof and include any instrument supplementary or ancillary hereto.
- (5) **Statutes.** Any reference to a statute refers to such statute and all rules and regulations made under it, as it or they may have been or may from time to time be amended or re-enacted, unless stated otherwise.
- (6) **Computation of Time.** For purposes of this Plan of Arrangement, a period of time is to be computed as beginning on the day following the event that began the period and ending at 4:30 p.m. (Vancouver time) on the last day of the period, if the last day of the period is a Business Day, or at 4:30 p.m. (Vancouver time) on the next Business Day if the last day of the period is not a Business Day. If the date on which any action is required or permitted to be taken under this Plan of Arrangement by a Person is not a Business Day, such action shall be required or permitted to be taken on the next succeeding day which is a Business Day.

ARTICLE 2 THE ARRANGEMENT

Section 2.1 Arrangement

This Plan of Arrangement constitutes an arrangement under Section 288 of the BCBCA and is made pursuant to, and is subject to the provisions of, the Arrangement Agreement.

Section 2.2 Binding Effect

This Plan of Arrangement and the Arrangement will become effective, and be binding on the Corporation, the Purchaser, all Securityholders (including Dissenting Holders), any agent or transfer agent therefor and the Depositary at and after the Effective Time, without any further act or formality required on the part of

any Person, except as expressly provided in this Plan of Arrangement. Other than as expressly provided for herein, no portion of this Plan of Arrangement shall take effect with respect to any Party or any other Person until the Effective Time.

Section 2.3 Arrangement

Commencing at the Effective Time on the Effective Date, each of the following events shall occur and shall be deemed to occur sequentially in the order as set out below without any further authorization, act or formality of or by the Corporation, the Purchaser or any other person:

- (1) each outstanding Share held by a Dissenting Holder in respect of which Dissent Rights have been validly exercised shall be deemed to have been transferred without any further act or formality by the holder thereof to the Purchaser (free and clear of all Liens), and:
 - (a) such Dissenting Holder shall cease to have any rights as a Shareholder other than the right to be paid the fair value of its Shares by the Purchaser, and following completion of the amalgamation under Section 2.3(10), Amalco, in accordance with Article 4;
 - (b) the name of such Dissenting Holder shall be removed from the register of holders of Shares maintained by or on behalf of the Corporation; and
 - (c) the Purchaser shall be recorded on the register of holders of Shares maintained by or on behalf of the Corporation as the holder of such Shares so transferred and shall be deemed to be the legal and beneficial owner thereof (free and clear of all Liens);
- (2) each outstanding Share (other than Shares held by any Dissenting Holder who has validly exercised such holder's Dissent Rights) shall be transferred without any further act or formality by the holder thereof to the Purchaser (free and clear of all Liens) in exchange for the Consideration, and
 - (a) the holder of such Share shall cease to have any rights as a Shareholder other than the right to be paid the Consideration in accordance with this Plan of Arrangement;
 - (b) the name of such holder shall be removed from the register of holders of Shares maintained by or on behalf of the Corporation; and
 - (c) the Purchaser shall be recorded on the register of holders of Shares maintained by or on behalf of the Corporation as the holder of the Shares so transferred and shall be deemed to be the legal and beneficial owner thereof (free and clear of all Liens);
- (3) each Option, whether vested or unvested, that is outstanding immediately prior to the Effective Time, notwithstanding the terms of the Incentive Plan or any applicable Option Agreement in relation thereto, shall be deemed to be unconditionally vested and exercisable, and such Option shall be, without any further action by or on behalf of the holder of such Option, surrendered by the holder thereof to the Corporation (free and clear of all Liens) in exchange for a cash payment equal to the amount (if any) by which the Consideration exceeds the exercise price of such Option, and such Option shall immediately be cancelled and, for greater certainty, where such amount is zero or negative, none of the Corporation, the Depositary or the Purchaser shall be obligated to pay such Optionholder any amount in respect of such Option;
- (4) concurrently with the step described in Section 2.3(3), (a) each Optionholder shall cease to be a holder of such Options, (b) each such Optionholder's name shall be removed from the applicable

- register maintained by the Corporation, (c) all Option Agreements shall be terminated and shall be of no further force and effect, and (d) each such Optionholder shall thereafter have only the right to receive the consideration to which they were entitled to receive pursuant to Section 2.3(3);
- (5) each DSU that is outstanding immediately prior to the Effective Time, notwithstanding the terms of the Incentive Plan or any agreement in relation to such DSU, shall be, without any further action by or on behalf of the holder of such DSU, deemed to be assigned and transferred by such holder to the Corporation (free and clear of all Liens) in exchange for a cash payment equal to the Consideration, and such DSU shall be immediately cancelled;
 - (6) concurrently with the step described in Section 2.3(5), (a) each holder of DSUs shall cease to be a holder of such DSUs, (b) each such holder's name shall be removed from the applicable register maintained by the Corporation, (c) all agreements relating to the DSUs shall be terminated and shall be of no further force and effect, and (d) each such holder shall thereafter have only the right to receive the consideration to which they were entitled to receive pursuant to Section 2.3(5);
 - (7) each RSU, whether vested or unvested, that is outstanding immediately prior to the Effective Time, notwithstanding the terms of the Incentive Plan or any applicable RSU Agreement in relation thereto, shall be deemed to be unconditionally vested, and such RSU shall be, without any further action by or on behalf of the holder of such RSU, deemed to be assigned and transferred by such holder to the Corporation (free and clear of all Liens) in exchange for a cash payment equal to the Consideration, and such RSU shall be immediately cancelled;
 - (8) concurrently with the step described in Section 2.3(7), (a) each holder of RSUs shall cease to be a holder of such RSUs, (b) each such holder's name shall be removed from the applicable register maintained by the Corporation, (c) the Incentive Plan and all RSU Agreements shall be terminated and shall be of no further force and effect, and (d) each such holder shall thereafter have only the right to receive the consideration to which they were entitled to receive pursuant to Section 2.3(7);
 - (9) the Shares shall be deemed to be de-listed from the TSX Venture Exchange and the Corporation shall make, and shall be deemed to have made, an election to cease to be a "public corporation" under subsection 89(1) of the Tax Act; and
 - (10) the Corporation and the Purchaser will amalgamate to form one corporate entity, Amalco, with the same effect as if they had amalgamated under Section 276 of the BCBCA and Amalco will continue as one corporation under the BCBCA, and the provisions of Article 4 will apply to Amalco.

ARTICLE 3 AMALGAMATION MATTERS

Section 3.1 Amalgamation

- (1) Upon the amalgamation of the Corporation and the Purchaser to form Amalco pursuant to Section 2.3(10), the following provisions will apply to Amalco:
 - (a) the notice of articles and articles of Amalco will be in the form of the notice of articles and articles of the Purchaser;
 - (b) the name of Amalco will be "CloudMD Software & Services Inc.";
 - (c) the registered office of Amalco will be the registered office of the Purchaser;

- (d) the authorized capital of Amalco will be an unlimited number of Class A common shares and an unlimited number of Class B common with the same rights, privileges, restrictions and conditions as the Class A common shares and Class B common shares, respectively, of the Purchaser;
 - (e) each issued and outstanding share of a class of the Purchaser will continue upon the amalgamation as a share of the same class of Amalco;
 - (f) all shares of the Corporation will be cancelled without any repayment of capital in respect thereof;
 - (g) the aggregate capital of the Class A common shares and Class B common shares of Amalco will be an amount equal to the sum of the paid-up capital for the purposes of the Tax Act of the Shares and the Class A common shares and Class B common shares of the Purchaser immediately prior to the amalgamation;
 - (h) there will be no restrictions on business that Amalco is authorized to carry on or the powers that Amalco may exercise;
 - (i) the board of directors of Amalco will, until otherwise changed in accordance with the BCBCA, consist of the same individuals and number of directors as the Purchaser had immediately prior to the Effective Time;
 - (j) all authorizations previously given by the shareholders and boards of directors of the Corporation and the Purchaser and their predecessors will be deemed to be authorizations given by the shareholders and board of directors of Amalco;
 - (k) the initial officers of Amalco shall be the same as the officers of the Purchaser;
 - (l) the fiscal year end of Amalco will be the fiscal year end of the Purchaser; and
 - (m) the first annual general meeting of Amalco or resolutions in lieu thereof shall be held within 18 months of the Effective Date.
- (2) The effect of the amalgamation of the Corporation and the Purchaser referred to in Section 2.3(10) will, at the time of the amalgamation, be as follows:
- (a) the property of each of the Corporation and the Purchaser will be the property of Amalco and, without limiting the provisions hereof, all rights of creditors or others will be unimpaired by such amalgamation, and all liabilities and obligations of the Corporation and the Purchaser, whether arising by contract or otherwise, may be enforced against Amalco to the same extent as if such obligations had been incurred or contracted by it (except in respect of any liabilities owed by the Corporation to the Purchaser or by the Purchaser to the Corporation which will be eliminated as a result of the amalgamation);
 - (b) any existing cause of action, claim or liabilities to prosecution of the Corporation and the Purchaser will be unaffected;
 - (c) any civil, criminal or administrative action or proceeding pending by or against either of the Corporation or the Purchaser may continue to be prosecuted by or against Amalco; and

- (d) a conviction against, or ruling, order or judgment in favour of or against, either of the Corporation or the Purchaser may be enforced by or against Amalco.

ARTICLE 4 DISSENT RIGHTS

Section 4.1 Dissent Rights

- (1) Registered Shareholders may exercise dissent rights with respect to all Shares held by such holders ("**Dissent Rights**") in connection with the Arrangement pursuant to and in strict compliance with the procedures set forth in Division 2 of Part 8 of the BCBCA, as modified by the Interim Order and this Section 4.1; provided that notwithstanding Section 242 of the BCBCA, that written objection to the Arrangement must be received by Corporation not later than 5:00 p.m. (Vancouver time) on the day that is two Business Days immediately preceding the date of the Meeting (as it may be adjourned or postponed from time to time).
- (2) Dissenting Holders who duly exercise their Dissent Rights shall be deemed to have transferred the Shares held by them and in respect of which Dissent Rights have been validly exercised to the Purchaser free and clear of all Liens, as provided in Section 2.3(1) and, if they:
 - (a) are ultimately entitled to be paid fair value for such Shares, (i) shall be deemed not to have participated in the transactions in Article 2 (other than Section 2.3(1)); (ii) shall be entitled to be paid the fair value of such Shares by the Purchaser, and following completion of the amalgamation under Section 2.3(10), Amalco, which fair value shall be determined as of the close of business on the day before the Arrangement Resolution was adopted; and (iii) will not be entitled to any other payment or consideration, including any payment that would be payable under the Arrangement had such holders not exercised their Dissent Rights in respect of such Shares; or
 - (b) are ultimately not entitled, for any reason, to be paid fair value for such Shares, shall be deemed to have participated in the Arrangement on the same basis as Shareholders who have not exercised Dissent Rights in respect of such Shares and shall be entitled to receive the Consideration to which holders of Shares who have not exercised Dissent Rights are entitled under Section 2.3(2) hereof (less any amounts withheld pursuant to Section 5.3).

Section 4.2 Recognition of Dissenting Holders

- (1) In no case shall the Corporation, the Purchaser, Amalco or any other Person be required to recognize a Person exercising Dissent Rights unless such Person is the registered Shareholder in respect of which such rights are sought to be exercised.
- (2) In no case shall the Corporation, the Purchaser, Amalco or any other Person be required to recognize any Shareholder who exercises Dissent Rights as a Shareholder after the Effective Time.
- (3) Shareholders who withdraw, or are deemed to withdraw, their right to exercise Dissent Rights shall be deemed to have participated in the Arrangement, as of the Effective Time, and shall be entitled to receive the Consideration to which Shareholders who have not exercised Dissent Rights are entitled under Section 2.3(2) hereof (less any amounts withheld pursuant to Section 5.3).
- (4) For greater certainty, in addition to any other restrictions under Division 2 of Part 8 of the BCBCA or the Interim Order, none of the following Persons shall be entitled to Dissent Rights: (a)

Optionholders, (b) holders of RSUs or DSUs, and (c) Shareholders who vote or have instructed a proxyholder to vote their Shares in favour of the Arrangement Resolution.

ARTICLE 5 CERTIFICATES AND PAYMENTS

Section 5.1 Payment of Consideration

- (1) Prior to the Effective Time, the Purchaser shall deposit, or arrange to be deposited, for the benefit of the Shareholders (other than the Dissenting Holders), cash with the Depositary in the aggregate amount equal to the payments in respect of Shares (other than Shares held by Dissenting Shareholders) required by this Plan of Arrangement, with the amount per Share in respect of which Dissent Rights have been exercised being deemed to be the Consideration for this purpose, net of applicable withholdings for the benefit of the Shareholders. The cash deposited with the Depositary by or on behalf of the Purchaser shall be held in an interest-bearing account, and any interest earned on such funds shall be for the account of the Purchaser.
- (2) Upon surrender to the Depositary for cancellation of a certificate which immediately prior to the Effective Time represented outstanding Shares that were transferred pursuant to Section 2.3(2), together with a duly completed and executed Letter of Transmittal and such additional documents and instruments as the Depositary may reasonably require, the Shareholders represented by such surrendered certificate shall be entitled to receive in exchange therefor, and the Depositary shall deliver to such holder, the cash which such holder has the right to receive under the Arrangement for such Shares, less any amounts withheld pursuant to Section 5.3, and any certificate so surrendered shall forthwith be cancelled.
- (3) As soon as reasonably practicable after the Effective Time, Amalco shall deliver or cause to be delivered to such former holders of applicable Options, a cheque (or other form of immediately available funds) representing the cash amount that such holder is entitled to receive pursuant to Section 2.3(3), less applicable withholdings pursuant to Section 5.3.
- (4) As soon as reasonably practicable after the Effective Time, Amalco shall deliver or cause to be delivered to such former holders of applicable DSUs, a cheque (or other form of immediately available funds) representing the cash amount that such holder is entitled to receive pursuant to Section 2.3(5), less applicable withholdings pursuant to Section 5.3.
- (5) As soon as reasonably practicable after the Effective Time, Amalco shall deliver or cause to be delivered to such former holders of applicable RSUs, a cheque (or other form of immediately available funds) representing the cash amount that such holder is entitled to receive pursuant to Section 2.3(7), less applicable withholdings pursuant to Section 5.3.
- (6) Until surrendered as contemplated by this Section 5.1, each certificate that immediately prior to the Effective Time represented Shares shall be deemed after the Effective Time to represent only the right to receive upon such surrender a cash payment in lieu of such certificate as contemplated in this Section 5.1, less any amounts withheld pursuant to Section 5.3. Any such certificate formerly representing Shares not duly surrendered on or before the sixth (6th) anniversary of the Effective Date shall cease to represent a claim by or interest of any former Shareholder of any kind or nature against or in the Corporation, the Purchaser or Amalco. On such date, all cash to which such former holder was entitled shall be deemed to have been surrendered to Amalco and shall be paid over by the Depositary to Amalco, or as directed in writing by Amalco.

- (7) Any payment made by way of cheque by the Depositary (or the Corporation or Amalco, as the case may be) in accordance with this Plan of Arrangement that has not been deposited or has been returned to the Depositary (or the Corporation or Amalco, as the case may be) or that otherwise remains unclaimed, in each case, on or before the sixth (6th) anniversary of the Effective Time, and any right or claim to payment hereunder that remains outstanding on the third (3rd) anniversary of the Effective Time, shall cease to represent a right or claim of any kind or nature and the right of the holder to receive the applicable consideration for the Shares, Options, DSUs or RSUs in accordance with this Plan of Arrangement shall terminate and be deemed to be surrendered and forfeited to Amalco for no consideration.
- (8) No Securityholder shall be entitled to receive any consideration with respect to their Shares, Options, DSUs or RSUs other than any cash payment to which such holder is entitled to receive in accordance with Section 2.3 and this Section 5.1, and, for greater certainty, no such Securityholder shall be entitled to receive any interest, dividends, premium or other payment in connection therewith.

Section 5.2 Lost Certificates

In the event any certificate which immediately prior to the Effective Time represented one or more Shares that were transferred pursuant to Section 2.3 shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such certificate to be lost, stolen or destroyed and who was listed immediately prior to the Effective Time as the registered holder thereof on the share register maintained by or on behalf of the Corporation, the Depositary shall issue in exchange for such lost, stolen or destroyed certificate, a cheque (or other form of immediately available funds) representing the cash amount to which such holder is entitled to receive for such Shares under this Plan of Arrangement in accordance with such holder's Letter of Transmittal. When authorizing such payment in exchange for any lost, stolen or destroyed certificate, the Person to whom such cash is to be delivered shall, as a condition precedent to the delivery of such cash, give a bond satisfactory to the Purchaser (and following completion of the amalgamation under Section 2.3(10), Amalco) and the Depositary (each acting reasonably) in such sum as the Purchaser, and following completion of the amalgamation under Section 2.3(10), Amalco, may direct, or otherwise indemnify the Corporation, the Purchaser and Amalco in a manner satisfactory to the Corporation and the Purchaser (and following completion of the amalgamation under Section 2.3(10), Amalco) against any claim that may be made against the Corporation, the Purchaser or Amalco, as the case may be, with respect to the certificate alleged to have been lost, stolen or destroyed.

Section 5.3 Withholding Rights

Each of the Corporation and the Purchaser (and following completion of the amalgamation under Section 2.3(10), Amalco) and the Depositary, as applicable, shall be entitled to deduct and withhold from any amount otherwise payable or deliverable to any Person under this Plan of Arrangement, such amounts as are required to be deducted and withheld with respect to such payment under the Tax Act or any provision of any other applicable Law in respect of Taxes and shall remit such deduction and withholding to the appropriate Governmental Entity. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes hereof as having been paid to the Person in respect of which such withholding was made.

Section 5.4 Calculations

All aggregate amounts of cash consideration to be received under this Plan of Arrangement will be calculated to the nearest cent (\$0.01). All calculations and determinations made in good faith by the

Corporation or the Purchaser (or Amalco, as the case may be) or the Depositary, as applicable, for the purposes of this Plan of Arrangement shall be conclusive, final and binding, absent manifest error.

Section 5.5 No Liens

Any exchange or transfer of securities in accordance with this Plan of Arrangement shall be free and clear of any Liens or other claims of third parties of any kind.

Section 5.6 Paramourtycy

From and after the Effective Time: (a) this Plan of Arrangement shall take precedence and priority over any and all Shares, Options, RSUs and DSUs issued or outstanding prior to the Effective Time, (b) the rights and obligations of the Securityholders, the Corporation, the Purchaser, Amalco, the Depositary and any transfer agent or other depositary therefor in relation thereto, shall be solely as provided for in this Plan of Arrangement, and (c) all actions, causes of action, claims or proceedings (actual or contingent and whether or not previously asserted) based on or in any way relating to any Shares, Options, RSUs or DSUs shall be deemed to have been settled, compromised, released and determined without liability except as set forth in this Plan of Arrangement.

ARTICLE 6 AMENDMENTS

Section 6.1 Amendments

- (1) The Corporation and the Purchaser may amend, modify and/or supplement this Plan of Arrangement at any time and from time to time prior to the Effective Time, provided that each such amendment, modification and/or supplement must be (a) set out in writing, (b) approved by the Corporation and the Purchaser, each acting reasonably, (c) filed with the Court and, if made following the Meeting, approved by the Court, and (d) communicated to the Securityholders if and as required by the Court.
- (2) Any amendment, modification or supplement to this Plan of Arrangement may be proposed by the Corporation or the Purchaser at any time prior to the Meeting (provided that the Corporation or the Purchaser, as applicable, shall have consented thereto) with or without any other prior notice or communication, and if so proposed and accepted by the Persons voting at the Meeting (other than as may be required under the Interim Order), shall become part of this Plan of Arrangement for all purposes.
- (3) Any amendment, modification or supplement to this Plan of Arrangement that is approved or directed by the Court following the Meeting shall be effective only if (a) it is consented to in writing by each of the Corporation and the Purchaser (in each case, acting reasonably), and (b) if required by the Court, approved by the Voting Securityholders in the manner directed by the Court.
- (4) Any amendment, modification or supplement to this Plan of Arrangement may be made following the Effective Date unilaterally by Amalco, provided that it concerns a matter which, in the reasonable opinion of Amalco is of an administrative nature required to better give effect to the implementation of this Plan of Arrangement and is not adverse to the economic interest of any former Securityholder.
- (5) This Plan of Arrangement may be withdrawn prior to the Effective Time in accordance with the terms of the Arrangement Agreement.

ARTICLE 7
FURTHER ASSURANCES

Section 7.1 Further Assurances

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

SCHEDULE B
ARRANGEMENT RESOLUTION

BE IT RESOLVED THAT:

1. The arrangement (the "**Arrangement**") under Section 288 of the *Business Corporations Act* (British Columbia) (the "**BCBCA**") of CloudMD Software & Services Inc. (the "**Corporation**"), pursuant to the arrangement agreement (the "**Arrangement Agreement**") between the Corporation and 1480775 B.C. Ltd. dated May 14, 2024, all as more particularly described and set forth in the management information circular of the Corporation dated [●], 2024 (the "**Circular**"), accompany the notice of this meeting (as the Arrangement may be modified or amended in accordance with its terms) is hereby authorized, approved and adopted.
2. The plan of arrangement of the Corporation (as it has been or may be amended, modified or supplemented in accordance with the Arrangement Agreement and its terms (the "**Plan of Arrangement**")), the full text of which is set out in Appendix [●] to the Circular, is hereby authorized, approved and adopted.
3. The (i) Arrangement Agreement and related transactions, (ii) actions of the directors of the Corporation in approving the Arrangement Agreement, and (iii) actions of the directors and officers of the Corporation in executing and delivering the Arrangement Agreement, and any amendments, modifications or supplements thereto, are hereby ratified and approved.
4. The Corporation be and is hereby authorized to apply for a final order from the Supreme Court of British Columbia (the "**Court**") to approve the Arrangement on the terms set forth in the Arrangement Agreement and the Plan of Arrangement (as they may be amended, modified or supplemented and as described in the Circular).
5. Notwithstanding that this resolution has been passed (and the Arrangement adopted) by the securityholders of the Corporation or that the Arrangement has been approved by the Court, the directors of the Corporation are hereby authorized and empowered to, at their discretion, without notice to or approval of the securityholders of the Corporation: (i) amend, modify or supplement the Arrangement Agreement or the Plan of Arrangement to the extent permitted by the Arrangement Agreement and/or the Plan of Arrangement; and (ii) subject to the terms of the Arrangement Agreement, not to proceed with the Arrangement and related transactions.
6. Any officer or director of the Corporation is hereby authorized and directed for and on behalf of the Corporation to execute or cause to be executed and to deliver or cause to be delivered all such other documents and instruments and to perform or cause to be performed all such other acts and things as such person determines may be necessary or desirable to give full effect to the foregoing resolution and the matters authorized thereby, such determination to be conclusively evidenced by the execution and delivery of such document or instrument or the doing of any such act or thing.

SCHEDULE C
REPRESENTATIONS AND WARRANTIES OF THE CORPORATION

(1) Organization and Qualification.

The Corporation is a corporation duly incorporated and validly existing under the laws of the Province of British Columbia and has all requisite corporate power and authority to own, lease and operate its assets and properties and conduct its business as now owned and conducted. The Corporation is duly qualified, licensed or registered to carry on business and is in good standing in each jurisdiction in which the character of its assets and properties, owned, leased, licensed or otherwise held, or the nature of its activities makes such qualification, licensing or registration necessary, except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect. The Corporation has made available to the Purchaser true, complete and correct copies of the Corporation's constating documents and such documents are in full force and effect.

(2) Corporate Authorization.

The Corporation has the requisite corporate power and authority to enter into this Agreement and (subject to obtaining approval of the Voting Securityholders of the Arrangement Resolution in the manner required by the Interim Order, the constating documents of the Corporation and Law, and approval of the Court) to perform its obligations under this Agreement. The execution and delivery by the Corporation of this Agreement and the consummation of the Arrangement and the other transactions contemplated by this Agreement have been duly authorized by all necessary corporate action on the part of the Corporation and no other corporate proceedings on the part of the Corporation are necessary to authorize the execution and delivery by it of this Agreement or the consummation of the Arrangement and the other transactions contemplated hereby other than approval of the Circular and calling of the Meeting by the Board, approval by the Voting Securityholders in the manner required by the Interim Order, the Corporation's constating documents and applicable Law, and approval by the Court.

(3) Execution and Binding Obligation.

This Agreement has been duly executed and delivered by the Corporation, and constitutes a legal, valid and binding agreement of the Corporation enforceable against it in accordance with its terms subject only to any limitation on enforcement under applicable Laws relating to (i) bankruptcy, winding-up, insolvency, reorganization, arrangement or other applicable Law affecting the enforcement of creditors' rights generally and (ii) the discretion that a court may exercise in the granting of extraordinary remedies such as specific performance and injunction.

(4) Governmental Authorization.

The execution, delivery and performance by the Corporation of its obligations under this Agreement and the consummation by the Corporation of the Arrangement and the other transactions contemplated hereby do not require any Authorization or other action by or in respect of, or filing, recording, registering or publication with, or notification to, any Governmental Entity by the Corporation or, to the knowledge of the Corporation, by any of its Subsidiaries other than: (i) the Interim Order and any filings required in order to obtain, and approvals required by, the Interim Order; (ii) the Final Order, and any filings required in order to obtain the Final Order; (iii) compliance with Securities Laws and stock exchange rules and policies; (iv) the Required Regulatory Approvals; and (v) any consents, waivers, approvals, actions or filings or notifications the absence of which would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(5) No Conflict/Non-Contravention.

The execution, delivery and performance by the Corporation of its obligations under this Agreement and the consummation of the Arrangement and the other transactions contemplated hereby do not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition):

- (a) contravene, conflict with, or result in any violation or breach of the constating documents of the Corporation or any of its Subsidiaries;
- (b) subject to the formalities described in paragraph (4) above, contravene, conflict with or result in a material violation or breach of any Law; or
- (c) except as disclosed in Section (5) of the Disclosure Letter, allow any Person to exercise any rights, require any consent or other action by any Person, or constitute a default under, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit to which the Corporation or any of its Subsidiaries are entitled (including by triggering any rights of first refusal or first offer, change in control provision or other restriction or limitation) under any Material Contract or any material Authorization to which the Corporation or any of its Subsidiaries is a party or by which the Corporation or any of its Subsidiaries is bound, or
- (d) result in the creation or imposition of any Lien upon any of the Corporation's material assets or the material assets of any of its Subsidiaries,

except in the case of (b), (c) or (d) where such contravention, conflict, violation, breach, or required consent would not, individually or in the aggregate, have a Material Adverse Effect.

(6) Capitalization.

- (a) The authorized share capital of the Corporation consists of an unlimited number of Shares, without nominal or par value. As of the date of this Agreement, 304,679,883 Shares are issued and outstanding. All outstanding Shares have been duly authorized and validly issued as fully paid and non-assessable. No Shares have been issued in violation of any pre-emptive or similar rights applicable to them. As at the date of this Agreement, there are 4,059,167 Options, 8,202,880 RSUs and 11,072,527 DSUs (including 8,250,000 DSUs conditionally granted on April 28, 2024) outstanding.
- (b) Other than the RSUs, Options and DSUs described above, there are no puts, calls, options, warrants, conversion rights or privileges, equity or equity-based awards, purchase rights, subscription rights, exchange rights, preemptive rights, phantom equity, equity appreciation, restricted stock, profit participation or other rights, agreements or commitments of any character whatsoever requiring or which may require the issuance, sale or transfer by the Corporation or any of its Subsidiaries of shares or other securities of the Corporation or any of its Subsidiaries or any securities convertible into, or exchangeable or exercisable for, or otherwise evidencing a right to acquire any shares or other securities of the Corporation or any of its Subsidiaries. There are no outstanding notes, bonds, debentures or other evidence of indebtedness of the Corporation having the right to vote (or that are convertible for or exercisable into securities having the right to vote) with the Shareholders on any matter.

- (c) All outstanding Shares, RSUs, Options and DSUs have been issued in compliance with applicable Law and the Corporation's constating documents in all material respects.
- (d) There are no obligations of the Corporation to repurchase, redeem or otherwise acquire any securities of the Corporation.
- (e) Since January 1, 2022, there has been no dividend or distribution of any kind declared, paid or made by the Corporation.

(7) Shareholders' and Similar Agreement.

The Corporation is not a party to any shareholder, pooling, voting or other similar arrangement or agreement relating to the ownership or voting of any of the securities of the Corporation and has not adopted a shareholder rights plan or any other similar plan or agreement.

(8) Subsidiaries.

- (a) Section (8) of the Disclosure Letter contains a complete list of all Subsidiaries in which the Corporation owns or controls, directly or indirectly, any equity or proprietary interest.
- (b) Each Subsidiary is a corporation or company duly incorporated or organized and validly existing under the laws of the jurisdiction of its incorporation, amalgamation, constitution or formation, as the case may be, and has all requisite corporate power and authority to own, lease and operate its properties and assets and to carry on its business as now being conducted, except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.
- (c) Except as disclosed in Section (8) of the Disclosure Letter, the Corporation is, directly or indirectly, the registered and beneficial owner of 100% of the outstanding shares or other equity interests of each Subsidiary, free and clear of any Liens and all such shares or other equity interests so owned by the Corporation have been duly authorized and validly issued, as fully paid and non-assessable, and no such shares or other equity interests have been issued in violation of any Law or any pre-emptive or similar rights.
- (d) Except for the shares or other equity interests owned by the Corporation in any Subsidiary, the Corporation does not own, beneficially or of record, any equity interests of any kind in any other Person.

(9) Securities Law Matters.

- (a) The Corporation is a "reporting issuer" under Securities Laws in each of the provinces of Canada and, except as disclosed in Section (9) of the Disclosure Letter, is not on the list of reporting issuers in default under the Securities Laws of such provinces.
- (b) The Shares are listed and posted for trading on the TSXV. Except as disclosed in Section (9) of the Disclosure Letter, the Corporation is not in default of any material requirements of any Securities Laws or the rules and policies of the TSXV.
- (c) The Corporation has not taken any action to cease to be a reporting issuer in any province of Canada or to delist the Shares under the rules or policies of the TSXV nor has the Corporation received notification from any Securities Authority seeking to revoke the

reporting issuer status of the Corporation or the registration of the Shares. Except as disclosed in Section (9) of the Disclosure Letter, no delisting, suspension of trading or cease trade or other order or restriction with respect to any securities of the Corporation is pending, in effect or, to the Corporation's knowledge, has been threatened, and, to the knowledge of the Corporation, the Corporation is not subject to any formal audit, review, enquiry, investigation or other proceeding relating to any such order by any Securities Authority or the TSXV. There are no outstanding or unresolved comments in comment letters from any Securities Authority with respect to any of the Corporation Filings.

- (d) Except as disclosed in Section (9) of the Disclosure Letter, the Corporation has timely filed all material forms, reports, schedules, statements and other documents required to be filed under Securities Laws with any Securities Authority since January 1, 2022. The documents comprising the Corporation Filings complied as filed in all material respects with applicable Laws and did not, as of the date filed (or, if amended or superseded by a subsequent filing prior to the date of this Agreement, on the date of such filing), contain any material misrepresentation.
- (e) The Corporation has not filed any confidential material change report (which at the date of this Agreement remains confidential) with any Securities Authority.

(10) Compliance with Laws.

The Corporation and each of its Subsidiaries is, and since January 1, 2022, has been, in compliance with applicable Law in all material respects. Neither the Corporation nor any of its Subsidiaries is, or, since January 1, 2022, has been, to the knowledge of the Corporation, under any audit or investigation with respect to, or, has received written notice of, or has been charged with, or, to the knowledge of the Corporation, threatened to be charged with, any violation or alleged violation of any Law in any material respect.

(11) Authorizations and Licenses.

- (a) The Corporation and each of its Subsidiaries own, possess have obtained and are in compliance with all Authorizations that are required by applicable Law in connection with the operation of the business of the Corporation or any of its Subsidiaries as presently conducted, or in connection with the current ownership, operation or use of the assets of the Corporation or any of its Subsidiaries, except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.
- (b) No action or proceeding is in progress or pending or, to the knowledge of the Corporation, threatened in respect of, and none of the Corporation or any of its Subsidiaries has received written notice of revocation, non-renewal of, or material amendments to, any such Authorization, or of the intention of any Governmental Entity to revoke, refuse to renew or materially amend any such Authorization, or, to the knowledge of the Corporation, is under investigation, except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.
- (c) Each Authorization is valid and in full force and effect, and is renewable by its terms or in the Ordinary Course, except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(12) **Fairness Opinion.**

The Board and the Special Committee have received the Fairness Opinion, the conclusion of which has been communicated to the Purchaser and a true and complete copy of which, when executed and delivered in writing, will be made available to the Purchaser, and the Fairness Opinion has not been withdrawn or modified.

(13) **Interested Parties.**

Except as disclosed in Section (13) of the Disclosure Letter, to the knowledge of the Corporation no "related party" of the Corporation (within the meaning of MI 61-101) (i) is a party to any "connected transaction" (within the meaning of MI 61-101) to the Arrangement, or (ii) together with its associated entities, beneficially owns or exercises control or direction over 1% or more of the outstanding Shares, except for related parties who will not receive a "collateral benefit" (within the meaning of MI 61-101) as a consequence of the transactions contemplated by this Agreement.

(14) **Brokers.**

Except as set out in Section (14) of the Disclosure Letter, no investment banker, broker, finder, financial advisor or other intermediary has been retained by or is authorized to act on behalf of the Corporation or any of its Subsidiaries or is entitled to any fee, commission or other payment from the Corporation or any of its Subsidiaries in connection with the Arrangement or any other transaction contemplated by this Agreement. Section (14) of the Disclosure Letter sets out the aggregate dollar amount payable to and as agreed upon with the Corporation Financial Advisor in the event the Arrangement is completed.

(15) **Board and Special Committee Approval.**

- (a) As of the date hereof, the Special Committee, after consultation with legal and financial advisors, has unanimously recommended that the Board approve the Arrangement and that the Voting Securityholders vote in favour of the Arrangement Resolution.
- (b) As of the date hereof, the Board, having received the unanimous recommendation of the Special Committee and after consultation with legal and financial advisors, has unanimously (with interested directors abstaining from voting): (i) determined that the Consideration to be received by Shareholders is fair, from a financial point of view, and that the Arrangement is in the best interests of the Corporation; (ii) resolved (with the interested directors abstaining from voting) to recommend that Voting Securityholders vote in favour of the Arrangement Resolution; and (iii) authorized the entering into of this Agreement and the performance by the Corporation of its obligations under this Agreement, and no action has been taken to amend, or supersede such determinations, resolutions, or authorizations.

(16) **Material Contracts.**

- (a) Section (16) of the Disclosure Letter contains a list of Material Contracts of the Corporation as of the date hereof. True and complete copies of all Material Contracts have been made available to the Purchaser.
- (b) Each Material Contract is in full force and effect and is a legal, valid and binding obligation of the Corporation or a Subsidiary, as applicable, enforceable against it in accordance with its terms, and, to the knowledge of the Corporation, is a legal, valid and binding obligation

of the other party to such Material Contract, enforceable against it in accordance with its terms, subject, in each case, to any limitation on enforcement under applicable Law relating to (i) bankruptcy, winding-up, insolvency, arrangement, reorganization or other applicable Law of general application affecting the enforcement of creditors' rights and (ii) the discretion that a court may exercise in the granting of extraordinary remedies such as specific performance and injunction.

- (c) None of the Corporation or any of its Subsidiaries has received from any other party to a Material Contract any written notice of any material breach or material default under any such Material Contract.
- (d) None of the Corporation or any of its Subsidiaries has received any written or oral notice that any party to a Material Contract intends to cancel, terminate or otherwise materially modify or not renew such Material Contract and, to the knowledge of the Corporation, no such action has been threatened.

(17) Litigation.

- (a) Except as disclosed in Section (17) of the Disclosure Letter, there are no material actions, suits, charges, claims, arbitrations, or proceedings, at law or in equity, by any Person (including the Corporation or any of its Subsidiaries), nor any arbitration, administrative or other proceeding by or before (or to the knowledge of the Corporation any investigation or audit by) any Governmental Entity, current, pending, or, to the knowledge of the Corporation, threatened against or affecting the Corporation, any of its officers or directors (in their capacity as such). Except as disclosed in Section (17) of the Disclosure Letter, since January 1, 2022, neither the Corporation nor any of its Subsidiaries has been subject to any judgment, order, writ, injunction, or decree entered in any lawsuit or proceeding.
- (b) There is no material award of any Governmental Entity outstanding against the Corporation or any of its Subsidiaries, and neither the Corporation nor any of its Subsidiaries, nor any of the material assets or properties of the Corporation and its Subsidiaries (taken as a whole), is subject to any outstanding order, writ, ruling, judgment, injunction or decree of any Governmental Entity.
- (c) There is no bankruptcy, liquidation, winding-up or other similar proceeding in progress or pending or, to the knowledge of the Corporation, threatened against or relating to the Corporation or any of its Subsidiaries before any Governmental Entity.

(18) Financial Statements.

- (a) The Financial Statements fairly present, in all material respects, the consolidated financial position, results of operations, comprehensive income, shareholders' equity and cash flow of the Corporation and its Subsidiaries, respectively, as at the dates and for the periods indicated. Such Financial Statements have been prepared in conformity with IFRS on a basis consistent throughout the periods indicated and are in accordance with the Books and Records of the Corporation and its Subsidiaries.
- (b) None of the Corporation or any of its Subsidiaries has any liabilities (whether accrued, absolute, contingent or otherwise) that would be required to be disclosed under IFRS, except (i) liabilities that are either reflected or reserved against in the Financial Statements, (ii) liabilities incurred in the Ordinary Course since September 30, 2023 or in connection

with this Agreement (including transaction expenses) and (iii) as would not be reasonably expected to be, individually or in the aggregate, material to the Corporation and its Subsidiaries.

- (c) Except as disclosed in Section (18) of the Disclosure Letter, since January 1, 2022, the Corporation has not corrected or restated, and does not intend to correct or restate, nor, to the knowledge of Corporation, is there any basis for any correction or restatement of, any aspect of the Financial Statements.
- (d) Except as described in the Financial Statements, there has been no material change in the Corporation's accounting policies, methods or principles, since December 31, 2022. Except as disclosed in the Corporation Filings, there are no, nor are there any commitments to become a party to, any off-balance sheet transactions of the Corporation or of any of its Subsidiaries with unconsolidated entities or other Persons.
- (e) Since the date of the most recent Financial Statements, there has been no change in the Corporation's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Corporation's internal control over financial reporting. To the knowledge of the Corporation, none of the Corporation, any of its Subsidiaries, or any of their respective Representatives has received or otherwise obtained knowledge of any material complaint, allegation, assertion, or claim, whether written or oral, regarding accounting, internal accounting controls or auditing matters, including any material complaint, allegation, assertion, or claim that the Corporation or any of its Subsidiaries has engaged in questionable accounting or auditing practices, or any expression of concern from its employees regarding questionable accounting or auditing matters.

(19) **Absence of Certain Changes.**

Since December 31, 2022, other than as disclosed in the Corporation Filings:

- (a) the Corporation and its Subsidiaries have conducted their respective businesses, in all material respects, in the Ordinary Course; and
- (b) there has not been a Material Adverse Effect.

(20) **Related Party Transactions.**

Neither the Corporation nor any of its Subsidiaries is indebted to any director, officer, or employee of the Corporation or any of its Subsidiaries or any of their respective affiliates or associates (except for amounts due in the Ordinary Course or pursuant to any Law or Contract such as salaries, bonuses, director's fees or the reimbursement of Ordinary Course expenses). There are no Contracts (other than the Voting Support Agreements or employment arrangements) with, or advances, loans, guarantees, liabilities or other obligations to, on behalf or for the benefit of, any officer or director of the Corporation or any of its Subsidiaries, or any of their respective affiliates or associates.

(21) **Taxes.**

- (a) Except with respect to matters which would not reasonably be expected to have a Material Adverse Effect: (i) all Tax Returns of the Corporation and its Subsidiaries required by applicable Law to be filed in any jurisdiction have been filed, all such returns are complete

and accurate and all Taxes shown on such returns or otherwise assessed which are due and payable have been paid, except Tax assessments against which appeals have been or will be promptly taken; and (ii) the Corporation and each of its Subsidiaries has properly withheld or collected and remitted all Taxes required to be withheld or collected and remitted by it.

- (b) All material Tax liabilities required to be provided for in accordance with IFRS are adequately provided for in the Financial Statements. The Corporation and each of its Subsidiaries have not incurred any material liability for Taxes other than those provided for in the Financial Statements and those arising in the Ordinary Course since the date of the Financial Statements.
- (c) Except (i) as disclosed in the Corporation Filings or (ii) where, if determined adversely to the Corporation or any of its Subsidiaries, such matters would not individually or collectively have a Material Adverse Effect, there are no actions, suits, proceedings, assessments, reassessments, claims or investigations in progress, pending or, to the knowledge of the Corporation, threatened in writing, against the Corporation or any of its Subsidiaries in respect of Taxes; and there are no Liens for Taxes upon the assets of the Corporation or any of its Subsidiaries except for Permitted Liens.
- (d) Neither the Corporation nor any of its Subsidiaries has waived any statute of limitations on the assessment or collection of any Taxes or agreed to any extension of time with respect to any Tax assessment or deficiency (other than pursuant to extensions of time to file Tax Returns obtained in the Ordinary Course).
- (e) No Governmental Entity of a jurisdiction where the Corporation or one of its Subsidiaries, as applicable, does not file a Tax Return has made a claim in writing to the Corporation or the particular Subsidiary, as the case may be, that the Corporation or its Subsidiary, as applicable, is subject to Tax or required to file Tax Returns in such jurisdiction.
- (f) None of the Corporation or its Subsidiaries (i) is a party to, bound by, or obligated under any Tax allocation, indemnity, or sharing contract or arrangement, or (ii) is liable for the Taxes of any other Person as a transferee or successor, by contract or under the Tax Act.
- (g) None of the Corporation or its Subsidiaries is subject to income Tax in any country other than the country (or political subdivision thereof) in which it was organized by virtue of having a permanent establishment (within the meaning of an applicable income tax treaty) or other place of business (including a place of management or other tax relevant nexus) in such country.
- (h) The terms and conditions made or imposed in respect of material transactions (or series of transactions) between (A) the Corporation or one of its Subsidiaries, as applicable, and (B) any Person not resident in Canada that was not dealing at arm's length (each within the meaning of the Tax Act) with the Corporation or such Subsidiary, as applicable, at the time of such transaction (or series of transactions) do not differ from those that would have been made between Persons dealing at arm's length (within the meaning of the Tax Act).
- (i) None of sections 17, 78 or 80 to 80.04 of the Tax Act (or comparable provisions of any other applicable Law) have applied to the Corporation or any of its Subsidiaries and there are no circumstances existing which could reasonably be expected to result in the

application of sections 17, 78 or 80 to 80.04 of the Tax Act (or comparable provisions of any other applicable Law) to the Corporation or any of its Subsidiaries.

- (j) The Corporation and each of its Subsidiaries has properly collected and remitted sales, use, value added and similar Taxes with respect to sales made to its customers or services provided to its customers.

(22) **Employee Matters.**

- (a) Section (22) of the Disclosure Letter sets forth a complete and correct list of each material Employee Plan. The Corporation has made available to the Purchaser correct and complete copies of all material documents pursuant to which each such Employee Plan is established, maintained, funded or administered.
- (b) All material contributions, premiums, and other payments required by and due under the terms of each Employee Plan have been timely paid in accordance with the terms of such Employee Plan and applicable Law. There are no pending or, to the knowledge of the Corporation, threatened claims, actions, suits, proceedings, hearings, or investigations (other than routine claims for benefits) with respect to any Employee Plan or any trust related thereto.
- (c) Each Employee Plan has been maintained, funded and administered in all material respects in accordance with its terms and with the requirements prescribed by applicable Laws that are applicable to such Employee Plan, and, to the knowledge of the Corporation, no condition exists, that has subjected, or would reasonably be expected to subject, the Corporation or its Subsidiaries to any material tax, fine, lien, penalty or other liability imposed by applicable Laws.
- (d) All material accruals for unpaid vacation pay or paid time off, premiums for unemployment insurance, health premiums, pension plan premiums, accrued wages, commissions and other compensation and Employee Plans payments of the Corporation and its Subsidiaries have been recorded in conformity, in all material respects, with IFRS and comply in all material respects as to the applicable accounting requirements of Securities Laws, and are reflected on the Books and Records of the Corporation and its Subsidiaries, as applicable.
- (e) The Corporation has no pension (including defined benefit pension), retirement or similar plans relating to current or former Corporation Service Providers, officers or directors of the Corporation or any of its Subsidiaries, whether written or oral. Neither the Corporation nor any of its Subsidiaries has any liability under any Employee Plan, or otherwise, to provide medical, death or other health, welfare or similar benefits with respect to Corporation Service Providers or other Person beyond their termination of employment or engagement (other than coverage mandated by applicable Law).
- (f) (i) Each of the Corporation and its Subsidiaries is, and since January 1, 2022 has been, in compliance in all material respects with the provisions of applicable federal, provincial, state, local and foreign Laws respecting employment, labour, and employment practices, including, without limitation, all Laws respecting terms and conditions of employment, health and safety, wages and hours (including the classification of independent contractors and exempt and non-exempt employees), immigration (including the completion of Forms I-9 for all U.S. employees), employment harassment, discrimination or retaliation, whistleblowing, disability rights or benefits, human rights, equal opportunity, pay equity,

plant closures and layoffs, employee trainings and notices, workers' compensation, labour relations, employee leave issues, COVID-19, affirmative action and unemployment insurance; (ii) there is no, and since January 1, 2022 there has been no, actual or, to the knowledge of the Corporation, threatened, unfair labour practice charge or application, material labour grievance, material labour arbitration, strike, lockout, organized work stoppage, slowdown, picketing, or other material labour dispute against or affecting the Corporation or its Subsidiaries, and the Corporation has no knowledge of any existing or imminent organized labour activity or disturbance that would impact, or has impacted since January 1, 2022, the Corporation or its Subsidiaries; (iii) the labour relations of the Corporation and its Subsidiaries are satisfactory in all material respects; (iv) the Corporation and its Subsidiaries are neither party to, nor bound by, any Labour Agreement and no employees of the Corporation or any of its Subsidiaries are represented by any labour union, works council, or other labour organization with respect to their employment with the Corporation or its Subsidiaries; and (v) no labour union, employee association, works council, other labour organization, or group of employees has been accredited or certified or has made a demand for recognition or certification or otherwise designated to represent any Corporation Service Providers and, to the knowledge of the Corporation, no accreditation or certification request is pending or threatened with respect to the Corporation Service Providers and no Labour Agreement or modification thereof has expired or is in effect with the Corporation or its Subsidiaries and none is currently being negotiated by the Corporation or its Subsidiaries.

- (g) To the knowledge of the Corporation, no current or former Corporation Service Provider is in any material respect in violation of any term of any employment Contract or restrictive covenant obligation: (i) currently owed to the Corporation or its Subsidiaries; or (ii) currently owed to any third party with respect to such person's right to be employed or engaged by the Corporation or its Subsidiaries.
- (h) Except as disclosed in Section (22) of the Disclosure Letter, no Corporation Service Provider earning an annual base compensation of greater than \$90,000 has given notice to terminate their employment or service or, to the knowledge of the Corporation, intends to give notice to terminate their employment or service.
- (i) The Corporation and its Subsidiaries have investigated and addressed all sexual harassment, or other discrimination, retaliation, or material policy violation allegations of which any of them is aware in respect of Corporation Service Providers in accordance with the requirements of applicable Law. The Corporation and its Subsidiaries do not reasonably expect any material liabilities with respect to any such allegations and to the knowledge of the Corporation there are no allegations against Corporation Service Providers that, if known to the public, would bring the Corporation and its Subsidiaries into material disrepute.
- (j) A list of all Corporation Service Providers as of the date hereof has been made available to the Purchaser, including, as applicable, each such Corporation Service Provider's (i) identification number; (ii) location of employment or engagement; (iii) department description and job level; (iv) active or inactive status; (v) hire date; (vi) hourly wage rate or annual salary; and (vii) commission eligibility and bonus eligibility. All Persons who have performed services for the Corporation have been in all material respects properly classified as an employee or a contractor and as overtime exempt or non-exempt pursuant to applicable Laws since January 1, 2022 and the Corporation has not received any notice from a Governmental Entity disputing such classification since January 1, 2022.

- (k) Except as disclosed in Section (22) of the Disclosure Letter, the consummation of the Arrangement and the other transactions contemplated hereby will not constitute an event under any Employee Plan or Contract with any Corporation Service Provider that will or may result in any severance or other payment or in the acceleration, vesting or increase in benefits with respect to any Corporation Service Provider.

(23) **Property.**

- (a) Except for Intellectual Property, which is addressed separately, the Corporation and its Subsidiaries have good and marketable title to the material property and material assets owned by them and hold valid leases in all real property leased by them (the "**Leased Real Property**"), in each case, free and clear of all Liens other than: (i) those which would not individually or in the aggregate have a Material Adverse Effect; or (ii) Permitted Liens. Section (23) of the Disclosure Letter sets forth the addresses of the Leased Real Property and a true, correct and complete list of each lease (including those leases that the Corporation has identified as being "redundant leases") relating to the Leased Real Property (each, a "**Real Property Lease**") and all amendments, extensions, renewals, guaranties and other agreements related to each Real Property Lease. The Corporation has made available to the Purchaser a true, correct and complete copy of each Real Property Lease and all amendments, extensions, renewals, guaranties and other agreements related thereto.
- (b) Neither the Corporation nor any of its Subsidiaries owns any real property.
- (c) Except for the Leased Real Property, neither the Corporation nor any of its Subsidiaries occupies or leases any real property. With respect to each of the premises comprising the Leased Real Property, other than those premises identified in Section (23) of the Disclosure Letter, the Corporation and/or its Subsidiaries occupy such premises and have the exclusive right to occupy and use such premises and, to the knowledge of the Corporation, each Real Property Lease is in good standing and in full force and effect.

(24) **Insurance.**

- (a) The Corporation and each of its Subsidiaries, as applicable, is insured by reputable third-party insurers. Each insurance policy currently in effect insures the physical properties, business, operations and assets of the Corporation and its Subsidiaries and is valid and binding and in full force and effect. Furthermore, since January 1, 2022 through the date of this Agreement, (a) the Corporation and its Subsidiaries have not received any written or, to the knowledge of the Corporation, oral notice of cancellation or non-renewal of any such policy or arrangement, other than in connection with the normal renewal process, nor is the termination of any such policies, to the knowledge of the Corporation, threatened; and (b) to the knowledge of the Corporation, there is no material claim pending under any of such policies or arrangements as to which coverage has been denied or disputed by the underwriters of such policies or arrangements.
- (b) Neither the Corporation nor any of its Subsidiaries is in material default with respect to its obligations under any of its insurance policies currently in effect.

(25) **Anti-Money Laundering and Anti-Corruption.**

- (a) Neither the Corporation, nor any of its Subsidiaries, nor any director, officer or employee of the Corporation or any of its Subsidiaries, nor, to the knowledge of the Corporation, any

agent, affiliate, or other person acting on behalf of the Corporation or any of its Subsidiaries, has in the past five (5) years, in the course of its actions for, or on behalf of, the Corporation or any of its Subsidiaries: (i) made any direct or indirect unlawful payment to any "foreign official" (as defined in the *U.S. Foreign Corrupt Practices Act of 1977*, as amended, and the rules and regulations thereunder (collectively, the "**FCPA**")) or to any "foreign public official" (as defined in the *Corruption of Foreign Public Officials Act (Canada)*, as amended (the "**CFPOA**")); (ii) violated, or is in violation of, any provision of the FCPA, the CFPOA, or any other U.S. or non-U.S. anti-bribery and anti-corruption Laws; or (iii) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment. No action, suit or proceeding by or before any Governmental Entity or any arbitrator involving the Corporation or any of its Subsidiaries with respect to anti-bribery and anti-corruption Laws is pending or, to the knowledge of the Corporation, threatened.

- (b) The operations of the Corporation and its Subsidiaries are and have been in the past five (5) years conducted in material compliance with all applicable anti-money laundering Laws of the jurisdictions in which the Corporation and its Subsidiaries conduct business, the rules and regulations thereunder and any related or similar rules, regulations or guidelines issued, administered or enforced by any Governmental Entity to which they are subject (collectively the "**Anti-Money Laundering Laws**") and no action, suit or proceeding by or before any Governmental Entity or any arbitrator involving the Corporation or any of its Subsidiaries with respect to the Anti-Money Laundering Laws is pending or, to the knowledge of the Corporation, threatened.
- (c) Neither the Corporation nor any of its Subsidiaries, nor any director, officer, or employee of the Corporation or any of its Subsidiaries, nor, to the knowledge of the Corporation, any agent, affiliate, or person acting on behalf of the Corporation or any of its Subsidiaries is currently, or has been in the past five (5) years: (i) the subject or target of any U.S. sanctions, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("**OFAC**"), any Canadian sanctions, including those administered by Global Affairs Canada, the Royal Canadian Mounted Police, or any other sanctions Laws of any other relevant sanctions authority; (ii) in the aggregate, 50% or greater owned, directly or indirectly, or otherwise controlled by a Person or Persons described in clause (i); (iii) located, organized or resident in, or a national of, a country or territory or government thereof that is the subject or target of such sanctions (including, without limitation, Sudan, Syria, Iran, North Korea, Venezuela, the Crimea region of Ukraine, and the so-called Donetsk People's Republic and Luhansk People's Republic regions of Ukraine (each a "**Sanctioned Country**")) (collectively, clauses (i)–(iii), a "**Sanctioned Person**"); (iv) engaging in any dealings or transactions with, on behalf of, or for the benefit of any Sanctioned Person or in any Sanctioned Country; or (v) otherwise in violation of any U.S., Canadian, or other relevant sanctions Laws, anti-boycott Laws, or Laws relating to export, reexport, transfer, retransfer, and import controls (collectively, "**Trade Control Laws**"). No action, suit or proceeding by or before any Governmental Entity or any arbitrator involving the Corporation or any of its Subsidiaries with respect to Trade Control Laws is pending or, to the knowledge of the Corporation, threatened.
- (d) Neither the Corporation nor any of its Subsidiaries nor, to the Corporation's knowledge, any employee or agent of the Corporation or any Subsidiary, has made any contribution or other payment to any official of, or candidate for, any federal, provincial, state or foreign office in violation of any Law or of the character required to be disclosed in the Corporation Filings.

(26) **Intellectual Property, Technology and Privacy.**

- (a) Section (26) of the Disclosure Letter lists (i) each application and registration of Intellectual Property (including for certainty domain names and social media accounts) owned by, or applied for or registered in the name of the Corporation or any of its Subsidiaries (such Intellectual Property collectively, the "**Corporation Registered Intellectual Property**") and, together with all other Intellectual Property owned by the Corporation or any of its Subsidiaries, the "**Corporation Intellectual Property**") and (ii) each license, agreement or other permission or contract (a) pursuant to which any of the Corporation or its Subsidiaries has granted to any third party, or that a third party has granted to the Corporation or its Subsidiaries, any license or right with respect to any material Intellectual Property, (b) that relates to the settlement of any material Intellectual Property-related dispute or litigation, (c) that provides for exclusivity in licenses or rights in material Corporation Intellectual Property granted, or (d) that provides for the acquisition or divestiture of material Intellectual Property or that limits the Corporation's or any of its Subsidiaries' ability to use, own, enforce, license or disclose any material Corporation Intellectual Property other than, in case of (i), (1) commercially available "off-the-shelf" software licenses under which Software is licensed to the Corporation or its Subsidiaries for their internal use, and (2) nonexclusive licenses, substantially on the Corporation's form template in all material respects, granted to customers and distributors in the Ordinary Course (collectively, the "**Corporation IP Agreements**"). All Corporation Registered Intellectual Property is valid, subsisting, to the knowledge of the Corporation, enforceable and in full force and effect in all material respects and, the Corporation and its Subsidiaries, as applicable, have, other than in the Ordinary Course regarding non-material Intellectual Property, paid all maintenance fees and made all filings required to maintain its ownership thereof in all material respects. For each item of Corporation Registered Intellectual Property, Section (26) of the Disclosure Letter lists: (i) with respect to patents, (a) the jurisdiction where the application or registration is located, (b) the title, (c) the application or patent number, (d) the date of filing, (e) the issuance date, if any, (f) the owner, (g) the status, and (h) the date of the next deadline, if any; (ii) with respect to trademarks, (a) the jurisdiction where the application or registration is located, (b) the trademark, (c) the application or registration number, (d) the filing date, (e) the registration date, if any, (f) the owner, (g) the status, and (h) the renewal date, if any; (iii) with respect to common law trademarks, (a) the trademark, and (b) the owner; (iv) with respect to domain names, (a) the website domain name, and (b) the domain provider; and (v) with respect to social media handles, (a) the social media platform, and (b) the account handle.
- (b) The Corporations or its Subsidiaries owns exclusively, free and clear of all Liens, other than Permitted Liens, all Corporation Intellectual Property. Since January 1, 2022, the Corporation has not received any written notice or claim challenging, as applicable, the ownership, use, validity, effectiveness or enforceability of any Corporation Intellectual Property.
- (c) The Corporation or one of its Subsidiaries owns exclusively, free and clear of all Liens other than Permitted Liens, licenses or otherwise has a right to use all of the material Intellectual Property used in or necessary for the operation, in all material respects, of the business of the Corporation and its Subsidiaries in the manner as presently conducted.
- (d) Except as would not otherwise reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect, to the knowledge of the Corporation, the operation of the businesses of the Corporation and its Subsidiaries as currently conducted has not and does

not infringe, misappropriate, violate or otherwise conflict with any Intellectual Property of any other person in any material respect, and to the knowledge of the Corporation, no person is currently infringing upon, misappropriating, violating or otherwise conflicting, or has since January 1, 2022, infringed upon, misappropriated, violated, or otherwise conflicted, with any Corporation Intellectual Property in any manner. Since January 1, 2022, the Corporation and its Subsidiaries have not received or sent any written notice or claim asserting that any infringement, misappropriation, violation or other conflict has occurred regarding Intellectual Property.

- (e) The Corporation, its Subsidiaries and, to the knowledge of the Corporation, the Corporation Service Providers have not disclosed any trade secrets other than pursuant to a valid and enforceable confidentiality agreement. To the knowledge of the Corporation, there has been no unauthorized disclosure of any trade secrets included in the Corporation Intellectual Property or breach of any obligations of confidentiality with respect to such trade secrets.
- (f) All Corporation Service Providers, and all former employees and independent contractors of the Corporation and its Subsidiaries, have executed and delivered to the Corporation or its Subsidiaries, as appropriate, written agreements in which they agree to maintain the confidentiality of confidential Corporation Intellectual Property, (except as otherwise conveyed by operation of Law) assign to the Corporation or its Subsidiaries, as appropriate in relation to the business, any rights in Intellectual Property which may arise in their name, and have provided written, unrestricted waivers of all moral rights in copyrighted works pertaining to the Corporation Intellectual Property. In each case where the Corporation or its Subsidiaries have acquired ownership of any Intellectual Property from any person, the Corporation or its Subsidiaries, as appropriate, have obtained a valid and enforceable assignment sufficient to irrevocably assign to the Corporation or its Subsidiaries, as appropriate, ownership of and all right title and interest to such Intellectual Property.
- (g) The Corporation and its Subsidiaries have implemented (and will continue until the Effective Date to use) tools and procedures consistent with industry practice that are designed to safeguard the Computer Systems against Malicious Code, and to the knowledge of the Corporation the material Computer Systems are free from Malicious Code.
- (h) The Corporation and its Subsidiaries have in place reasonable back-up systems and business continuity and disaster recovery plans, procedures and facilities designed to ensure the continuing availability of the functionality provided by the Computer Systems in the event of any disaster or other unscheduled unavailability affecting the Computer Systems.
- (i) The Corporation and each of its Subsidiaries have implemented and maintained commercially reasonable administrative, physical and technical safeguards ("**Security Safeguards**") designed to protect the Personal Information Processed by the Corporation or its Subsidiaries (or on their behalf) from loss, theft and unauthorized access, disclosure, copying, use and modification. Such Security Safeguards comply, and have since January 1, 2022 complied, with the Data Security Requirements in all material respects. The Corporation and its Subsidiaries have taken commercially reasonable steps to test (or to engage a qualified third party to test) such Security Safeguards on a regular basis.

- (j) All the source code for the material Software included in the material Corporation Intellectual Property is in the possession of the Corporation or its Subsidiaries. Except as set out in Section (26) of the Disclosure Letter, no material source code for any Software included in the material Corporation Intellectual Property has been delivered, licensed or made available to any escrow agent or other person other than Corporation Service Providers during their employment by the Corporation (who are subject to confidentiality obligations with respect thereto). The Corporation and its Subsidiaries do not have any duty or obligation (whether present, contingent or otherwise) to deliver, license or make available any such material source code for any Software included in the Corporation Intellectual Property to any escrow agent or other person. To the knowledge of the Corporation, except as disclosed in Section (26) of the Disclosure Letter, no Software included in the material Corporation Intellectual Property that is included in a material product or service of the Corporation or its Subsidiaries ("**Company Products**") contains, is derived from or is distributed with, Open Source Software that is licensed under any Open Source License that (i) imposes any material limitation, restriction, or condition on the right or ability of the Corporation or its Subsidiaries to use, make available, or distribute any such Software, (ii) require or condition the grant of any rights on the licensing, redistribution, disclosure or making available of the source code of any such Software; (iii) require any such Software be licensed for the purpose of making derivative works; (iv) impose any restriction on the consideration to be charged for the distribution or use of any such Software; or (v) grant, or purport to grant, to any third party, any rights or immunities under the Corporation's or its Subsidiaries' Intellectual Property. To the knowledge of the Corporation, except as disclosed in Section (26) of the Disclosure Letter, the Corporation and its Subsidiaries are in compliance in all material respects with the terms and conditions of, and have complied in all material respects with the obligations set forth in the Corporation's material Open Source Licenses including all material obligations regarding attribution notices, copyright statements, disclaimers, license terms, source code availability, and marking requirements.
- (k) Since January 1, 2022, there has been no material failure of any Computer System that has caused any material disruption to the Corporation or any of its Subsidiaries. Except as set out in Section (26) of the Disclosure Letter, since January 1, 2022, neither the Corporation nor its Subsidiaries have, to the Corporation's knowledge, been the subject of a Security Incident.
- (l) Section (26) of the Disclosure Letter lists all Open Source Software that is incorporated into, combined with, linked with, or distributed with, any material Company Product, and for each such Open Source Software: (i) the applicable Company Product; and (ii) the name and version number of the applicable Open Source License.
- (m) The Corporation and each of its Subsidiaries are and have been in compliance, in all material respects, with the Data Security Requirements. Neither the Corporation nor any of its Subsidiaries have been subject to any actual complaint, claim, demand, litigation, action, proceeding or investigation (including by or before any Governmental Entity) relating to any actual or alleged non-compliance with or violation of any Data Security Requirement. No such complaint, claim, demand, litigation, action, proceeding or investigation has been received in writing by the Corporation or any of its Subsidiaries or otherwise, to the Corporation's knowledge, threatened.
- (n) Where required under applicable Data Security Requirements, the Corporation and each of its Subsidiaries have implemented materially sufficient mechanisms to ensure that any

transfer of Personal Information from the country in which it is collected to any other country, and any access to Personal Information by Persons outside the country in which such information is collected, complies with all Data Security Requirements.

- (o) The completion of the Arrangement will not (i) violate any of the Data Security Requirements in any material respect, or (ii) require either Party to provide any notice to, or seek any consent from, any Person as it relates to Personal Information, except for any notice requirement under applicable statute. To the knowledge of the Corporation, except for restrictions set forth in applicable Laws or the Corporation's privacy policies or the scope of any valid consent (the form of which was made available to the Purchaser) there shall be no restriction on the use or receipt by the Purchaser of any Personal Information collected by the Corporation or its Subsidiaries prior to the date of this Agreement.

(27) **Auditor and Transfer Agent.**

- (a) The Corporation's auditors, KPMG LLP, are independent public accountants as required under Securities Laws and there has not been any disagreement (within the meaning of National Instrument 51-102 - *Continuous Disclosure Obligations*) with the present or any former auditors of the Corporation.
- (b) Endeavor Trust Corporation is the duly appointed registrar and transfer agent for the Shares.

(28) **Government Assistance.**

Except as disclosed in Section (28) of the Disclosure Letter, no agreements, loans, other funding arrangements or assistance programs are outstanding in favour of the Corporation or any of its Subsidiaries from any Governmental Entity.

(29) **Assets and Revenues in Canada.**

The aggregate value of all assets in Canada of the Corporation and corporations controlled by the Corporation or the annual gross revenues from sales in and from Canada generated from all such assets do not exceed, in either case, \$93 million as determined pursuant to section 110 of the *Competition Act* (Canada).

(30) **Disclosure.**

The Corporation has not withheld from the Purchaser any material facts existing as of the date hereof concerning the Corporation or any of its Subsidiaries, or their respective assets or liabilities, of which the Corporation has actual knowledge as of the date hereof.

SCHEDULE D
REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

(1) **Organization and Qualification.**

The Purchaser is a corporation duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has all requisite power and authority to own, lease and operate its assets and properties and conduct its business as now owned and conducted, except as would not, individually or in the aggregate, reasonably be expected to prevent or materially delay consummation of the Arrangement or the transactions contemplated hereby.

(2) **Corporate Authorization.**

The Purchaser has the requisite corporate power and authority to enter into and perform its obligations under this Agreement. The execution, delivery and performance by the Purchaser of its obligations under this Agreement and the consummation of the Arrangement and the other transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of the Purchaser and no other corporate proceedings on the part of the Purchaser are necessary to authorize the execution and delivery by it of this Agreement or the consummation of the Arrangement and the other transactions contemplated hereby.

(3) **Execution and Binding Obligation.**

This Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding agreement of the Purchaser enforceable against the Purchaser in accordance with its terms subject only to any limitation on enforcement under applicable Laws relating to (i) bankruptcy, winding-up, insolvency, reorganization, arrangement or other applicable Law affecting the enforcement of creditors' rights generally and (ii) the discretion that a court may exercise in the granting of extraordinary remedies such as specific performance and injunction.

(4) **Governmental Authorization.**

The execution, delivery and performance by the Purchaser of its obligations under this Agreement and the consummation by the Purchaser of the Arrangement and the transactions contemplated hereby do not require any Authorization or other action by or in respect of, or filing, recording, registering or publication with, or notification to, any Governmental Entity by the Purchaser other than: (i) the Interim Order and any filings required in order to obtain, and approvals required by, the Interim Order; (ii) the Final Order, and any filings required in order to obtain the Final Order; (iii) compliance with Securities Laws and stock exchange rules and policies; (iv) the Required Regulatory Approvals; and (v) any consents, waivers, approvals, actions or filings or notifications the absence of which would not, individually or in the aggregate, materially impede the ability of the Purchaser to consummate the Arrangement and the transactions contemplated hereby.

(5) **Non-Contravention.**

The execution, delivery and performance by the Purchaser of its obligations under this Agreement and the consummation of the Arrangement and the transactions contemplated hereby do not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition):

- (a) contravene, conflict with, or result in any violation or breach of the organizational documents of the Purchaser; or

- (b) assuming compliance with the matters referred to in paragraph (4) above, contravene, conflict with or result in a violation or breach of applicable Law except as would not, individually or in the aggregate, materially impede the ability of the Purchaser to consummate the Arrangement and the transactions contemplated hereby; or
- (c) allow any Person to exercise any rights, require any consent or other action by any Person, or constitute a default under, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit to which the Purchaser is entitled (including by triggering any rights of first refusal or first offer, change in control provision or other restriction or limitation) under any material contract or any material Authorization to which the Purchaser is a party or by which the Purchaser is bound.

(6) **Litigation.**

- (a) There are no claims, actions, suits, arbitrations, inquiries, investigations or proceedings pending, or, to the knowledge of the Purchaser threatened, against or relating to the Purchaser before any Governmental Entity nor is the Purchaser subject to any outstanding judgment, order, writ, injunction or decree that, either individually or in the aggregate, would reasonably be expected to prevent or materially delay consummation of the Arrangement or the transactions contemplated hereby.
- (b) There is no bankruptcy, liquidation, winding-up or other similar proceeding in progress or pending or, to the knowledge of the Purchaser, threatened against or relating to the Purchaser before any Governmental Entity.

(7) **Security Ownership.**

The Purchaser and/or its associates and affiliates do not own any Shares. The Purchaser is not a "related party" (within the meaning of MI 61-101) of the Corporation.

(8) **Certain Arrangements.**

Except for the Voting Support Agreements, there are no contracts, undertakings, commitments, arrangements or understandings, whether written or oral, between the Purchaser or any of its affiliates, on the one hand, and any beneficial owner of outstanding Shares, or any interested party of the Corporation or any related party of any interested party of the Corporation, or any joint actor with any such persons (and for this purpose, the terms "interested party", "related party" and "joint actor" shall have the meaning ascribed to such terms in MI 61-101), on the other hand, relating in any way to the Corporation, the Corporation's securities, businesses or operations, or the transactions contemplated by this Agreement, the Plan of Arrangement or the Arrangement Resolution.

(9) **Financial Capacity.**

The Purchaser, and to the knowledge of the Purchaser, the Guarantors, have made adequate arrangements to ensure that funds will be available to pay the aggregate Consideration as required by the Agreement and the Plan of Arrangement, and to satisfy all other obligations payable by the Purchaser pursuant to this Agreement and the Arrangement. For greater certainty, in no event shall the receipt or availability of any funds or financing by the Purchaser or any affiliate of the Purchaser or any other financing or other transactions be a condition to any of Purchaser's obligations hereunder.