

## BOARD REFRESHMENT AGREEMENT

**THIS AGREEMENT** is made as of the 29<sup>th</sup> day of August, 2022,

**BETWEEN:**

**BENCHMARK METALS INC.**, a company incorporated under the laws of the Province of British Columbia ("**Benchmark**" or the "**Corporation**")

- and -

**DELBROOK CAPITAL ADVISORS INC.**, a company incorporated under the laws of the Province of British Columbia, on behalf of itself and as the investment fund manager and portfolio manager and/or investment sub-advisor to the Funds ("**Delbrook**" or the "**Investor**").

**WHEREAS** Delbrook, as of the date hereof, as investment fund and portfolio manager and/or investment sub-advisor, as applicable, to certain investment funds, including the Delbrook Resource Opportunities Fund, the Delbrook Resource Opportunities Master Fund LP and the Next Edge Strategic Metals and Commodities Fund (collectively, the "**Funds**"), has direction and/or or control over, and collectively the Funds are the beneficial owners of, directly or indirectly, an aggregate of 20,093,400 common shares and 2,000,000 common share purchase warrants of Benchmark, representing approximately 10.6% of the issued and outstanding common shares of Benchmark;

**AND WHEREAS** on August 22, 2022, Delbrook, on behalf of itself and the Funds, sent a letter to the Board regarding, among other things, the Board's composition, corporate governance matters and capital allocation strategies, and provided governance recommendations to the Corporation that the Investor considers would improve the Corporation's operational, financial and stock price performance and enhance the Corporation's long-term value for the benefit of all of its shareholders and key stakeholders, including identifying the Independent Nominees set out herein and recommending them for appointment to the Board;

**AND WHEREAS** the Corporation and the Board wish to take all steps necessary to, among other things, appoint the Independent Nominees identified by Delbrook to the Board, appoint one Independent Nominee as the Independent Lead Director of the Board and reconstitute the Board's standing committees, all as further described, and subject to the terms and conditions set forth herein;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### 1. **Definitions**

For purposes of this Agreement, in addition to capitalized terms defined elsewhere in this Agreement, unless the context otherwise requires, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have the corresponding meanings:

- (a) “**Affiliate**” means, with respect to any person, any other person that is directly or indirectly controlling, controlled by or under common control with such person, where “control” and derivative terms mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities, by contract or otherwise;
- (b) “**Audit Committee**” means the audit committee of the Board;
- (c) “**BCBCA**” means the *Business Corporations Act* (British Columbia), as amended, supplemented and/or restated from time to time;
- (d) “**Board**” means the board of directors of the Corporation;
- (e) “**Independent**” means independent as determined under NI 52-110;
- (f) “**NI 52-110**” means National Instrument 52-110 – *Audit Committees*;
- (g) “**NI 62-103**” means National instrument 62-103 – *The Early Warning System and Related Take-Over Bid and Insider Reporting Issues*; and
- (h) “**person**” means any individual, partnership (whether general or limited), unlimited liability company, corporation, association, trust, member of a joint venture or other entity.

## 2. **Board Matters**

Having considered the Investor’s request that the Independent Nominees be appointed to the Board, and having received the consents to act as directors of the Independent Nominees, the Board has determined to appoint the Independent Nominees to the Board and the Corporation shall take all steps necessary to, as promptly as practicable and, in any event, by no later than August 29, 2022 (the “**Effective Date**”):

- (a) obtain, accept, ratify and confirm the resignations of each of Mr. Sean Mager and Mr. Michael Dufresne (the “**Outgoing Directors**”) in their capacity as directors of the Corporation from the Board;
- (b) immediately upon the resignations of the Outgoing Directors pursuant to Section 2(a) above, appoint each of Mr. Keith Peck and Mr. Peter Gundy (the “**Independent Nominees**”) to the Board to fill the vacancies caused by the resignations referred to in Section 2(a);
- (c) effective immediately upon his becoming a director as provided in Section 2(b) above, appoint Mr. Peck to serve as the Board’s Independent Lead Director.

The Corporation shall take all steps necessary to nominate and include the Independent Nominees on the slate of directors to be put forward by management for approval by the Corporation’s shareholders at the 2022 annual meeting of the Corporation’s shareholders with respect to the election of directors (the “**2022 Meeting**”) to be held no later than November 30, 2022, recommend to the Corporation’s shareholders that the shareholders vote in favour of the election of the Independent Nominees in the Corporation’s management information circular and

other documents relating to the 2022 Meeting, and shall not change the composition of the Board for such 2022 Meeting except as expressly contemplated herein, without the Investor's consent. Until the termination of this Agreement (as set out in Section 9), the size of the Board shall remain at five directors and neither the Corporation nor the Board shall take any steps that would require the resignation or removal of any Independent Nominee, without the prior written consent of the Investor.

### 3. **Committees**

The Corporation agrees that concurrently with resignations of the Outgoing Directors and the appointments of the Independent Nominees to the Board, the following shall occur as of the Effective Date:

- (a) The Audit Committee shall be reconstituted and comprised of three members, each of whom must be Independent, which members as of the Effective Date shall be Mr. Gundy, Mr. Peck and Mr. Toby Pierce. Mr. Gundy shall be appointed as the Audit Committee Chair.
- (b) The Corporation shall form and establish a Governance, Nominating and Compensation Committee (the "**GNC Committee**"), which shall be comprised of three members, each of whom must be Independent. The GNC Committee shall assist the Board with respect to governance, nominating and compensation matters pertaining to the Corporation in accordance with a mandate to be authorized by the Board. As of the Effective Date, Mr. Peck, Mr. Gundy and Mr. Pierce shall be appointed to the GNC Committee, and shall appoint a Chair of such committee from among their numbers.

The Corporation shall maintain the size, composition, independence and leadership of such committees of the Board until at least immediately following the 2023 annual meeting of the Corporation's shareholders with respect to the election of directors, subject to the committee members' continued compliance with the independence requirements established under NI 52-110. Following such period, the leadership and composition of the committees of the Board shall be determined by the Board, on recommendation of the GNC Committee.

### 4. **Additional Corporation Covenants**

- (a) If during the term of this Agreement, an Independent Nominee ceases to serve as a member of the Board, and provided that the Investor maintains an equity interest in the Corporation of at least ten percent (10%) of the total issued and outstanding shares of Benchmark (calculated based on the total number of Benchmark common shares issued and outstanding, and assuming the exercise in full of all common share purchase warrants under the direction and/or control of the Investor, and excluding any common shares issued by the Corporation from treasury after the date hereof), then the Investor shall be entitled to identify another Independent Nominee for appointment to the Board (a "**Successor Director**"), and the Corporation shall take all necessary actions to cause any such Successor Director to be appointed to the Board; provided that the Board shall not be required to appoint any individual as a Successor Director if, on the recommendation of the GNC Committee and upon the advice of outside legal counsel, the Board determines that it could not appoint the proposed director without violating applicable law. If a Successor Director identified by the Investor is rejected, the

Investor shall be entitled to continue proposing successive replacements until the GNC Committee recommends the appointment of such proposed director, following which such proposed director shall be promptly, and in any event within 10 days, appointed to the Board. Any such Successor Director appointed to the Board shall take over the same positions and titles on the Board and be appointed to the same Board committee(s) as were held by the departing Independent Director immediately prior to ceasing to be a member of the Board.

- (b) The Corporation shall provide the Investor, the Independent Nominees and their respective counsel with timely opportunity to review and comment on drafts of the Corporation's management information circular and all other documents required by applicable laws and stock exchange rules to be delivered to the Corporation's shareholders or published in connection with the 2022 Meeting and shall incorporate all reasonable comments provided by the Investor, the Independent Nominees or their respective counsel. All portions of the circular or such other documents pertaining to the 2022 Meeting that refer to or relate to the Investor or the Independent Nominees shall be satisfactory to the Investor and the Independent Nominees, acting reasonably.
- (c) Unless otherwise recommended by GNC Committee (provided such committee is, at such time, comprised entirely of Independent directors), the Corporation shall use its reasonable best efforts to cause the nomination and election of the Independent Nominees at the 2023 annual meeting of the Corporation's shareholders.
- (d) Except as required by applicable laws, the Corporation shall not call or hold any interim special meeting of shareholders (other than the 2022 Meeting) prior to the 2023 annual meeting of the Corporation's shareholders.
- (e) The Corporation agrees to promptly amend and/or supplement the Corporation's corporate governance mandates, charters, policies and guidelines, as applicable, to reflect the addition of the role of Lead Director of the Board and the formation of the GNC Committee, on such terms as the Board (as reconstituted in accordance with this Agreement) shall approve, on recommendation of the GNC Committee.
- (f) Except as required by applicable laws or stock exchange rules, neither the Corporation nor the Board shall (i) alter or adopt policies, procedures, processes, codes, rules, standards or guidelines applicable to directors of the Corporation or amend its governing documents as in effect on the date hereof in a manner that would interfere with or be contrary to the purpose and provisions of this Agreement or (ii) utilize committees of the Board for the purpose of discriminating against any Independent Director of the Board in order to limit their participation in substantive deliberations of the Board or any committee thereof.

## 5. Skills and Qualifications

The Corporation and Delbrook agree that each of the Independent Nominees possesses the appropriate skills and qualifications (including any qualifications under the BCBCA) to serve on the Board as a director, and each such nominee qualifies as an Independent director of the Corporation.

## 6. **Corporate Governance Matters**

Upon appointment to the Board, the Corporation and the Investor acknowledge and agree that each Independent Nominee shall:

- (a) be governed by the same statutory obligations and Corporation policies regarding confidentiality, conflicts of interest, misappropriation of corporate opportunities, fiduciary duties, duty of care, trading and disclosure policies and other Corporation governance policies and guidelines (as applied on a reasonable and good faith basis) as are applicable generally to all directors of the Corporation and as currently in effect; and
- (b) be entitled to the same protections, rights and benefits of director and officer insurance, any indemnity and exculpation arrangements and any other benefits available generally to the directors of the Board.

## 7. **Expenses**

Each party shall be responsible for its own fees and expenses incurred in connection with this Agreement and the effectuation of this Agreement.

## 8. **Press Release and Other Public Disclosures**

Immediately following the execution and delivery of this Agreement, the parties agree that the Corporation shall issue a press release, in form and substance satisfactory to the Investor, announcing the matters set out in this Agreement. The Corporation shall provide the Investor and its counsel with timely opportunity to review and comment on such draft press release and any other disclosures (including any material change report that may be required to be filed by the Corporation) relating to this Agreement or the matters set out herein, and shall incorporate its reasonable comments. The Corporation shall not make any statements or filings that are inconsistent with or contrary to the disclosure in the press release issued pursuant to this Section 8 or, except as required by applicable laws or stock exchange rules, issue any other press release or other public announcement with respect to the matters that are the subject of this Agreement, without the prior written consent of the Investor (not to be unreasonably withheld). The parties acknowledge that the Corporation will file a copy of this Agreement on SEDAR (with such redactions as may be reasonably requested by either party and permitted under applicable Canadian securities laws) and the Investor will file an amendment and corresponding press release amending its alternative monthly reporting system report under NI 62-103.

## 9. **Termination**

This Agreement shall terminate and be of no further force and effect on the day immediately following the 2023 annual meeting of the Corporation's shareholders to be held with respect to the election of directors of the Corporation; provided that Sections 6, 7, 8, 12, 13 and 14 shall survive any such termination or expiration for a period of one year following such termination or expiration.

## 10. **Representations and Warranties**

- (a) The Corporation represents and warrants to the Investor that: (i) the Corporation has the corporate power and authority to execute this Agreement and to bind it

hereto; (ii) this Agreement has been duly and validly authorized, executed and delivered by the Corporation, constitutes a legal, valid and binding obligation and agreement of the Corporation, and is enforceable against the Corporation in accordance with its terms, except as enforcement thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or similar laws generally affecting the rights of creditors and subject to general equity principles, and (iii) the execution, delivery and performance of this Agreement by the Corporation does not and will not violate or conflict with (A) any law, rule, regulation, order, judgment or decree applicable to it or any of its Affiliates, or (B) result in any breach or violation of or constitute a default (or an event that with notice or lapse of time or both could become a default) under or pursuant to, or result in the loss of a material benefit under, or give any right of termination, amendment, acceleration or cancellation of, any organizational document or any material contract, commitment, understanding or arrangement to which the Corporation or any Affiliate thereof is a party or by which it is bound.

- (b) The Investor represents and warrants to the Corporation that: (i) this Agreement has been duly and validly authorized, executed and delivered by the Investor and constitutes a legal, valid and binding obligation and agreement of the Investor, enforceable against the Investor in accordance with its terms, except as enforcement thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or similar laws generally affecting the rights of creditors and subject to general equity principles; (ii) the Investor has the authority to execute this Agreement and to bind the Investor to the terms hereof; and (iii) the execution, delivery, and performance of this Agreement by the Investor does not and will not violate or conflict with (A) any law, rule, regulation, order, judgment or decree applicable to the Investor, or (B) result in any breach or violation of or constitute a default (or an event that with notice or lapse of time or both could become a default) under or pursuant to, or result in the loss of a material benefit under, or give any right of termination, amendment, acceleration or cancellation of, any organizational document, agreement, contract, commitment, understanding or arrangement to which the Investor is a party or by which it is bound.

## 11. Notices

Notices are to be delivered in writing, in the case of the Corporation, to 10545 – 45 Avenue NW, 250 Southridge, Suite 300, Edmonton, AB, Canada T6H 4M9, Attention: John Williamson, [*email redacted*], with a copy to (which shall not constitute notice) Harper Grey LLP, 650 W. Georgia, Suite 3200, Vancouver, BC V6B 4P7, Attention: Paul Bowes, [*email redacted*], and in the case of the Investor, to Suite 1500 – 1199 W. Hastings Street, Vancouver, BC, Canada V6E 3T5, Attention: Matthew Zabloski, [*email redacted*], with a copy to (which shall not constitute notice) McCarthy Tétrault LLP, Suite 5300, TD Bank Tower, Box 48, 66 Wellington Street West, Toronto, ON, Canada M5K 1E6, Attention: Jennifer F. Longhurst, [*email redacted*], or to such other address as may be given by each party from time to time under this Section 11.

Notices shall be deemed properly given upon personal delivery, the day following deposit by overnight prepaid carrier, three days after deposit in Canada Post mail, or upon email delivery.

**12. Miscellaneous Provisions**

- (a) This Agreement constitutes the entire agreement and understanding of the parties, and supersedes any and all previous agreements and understandings, whether oral or written, between the parties regarding the matters set out in this Agreement.
- (b) No provision of this Agreement may be amended, modified or waived, except in a writing signed by the parties hereto. Any waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Agreement. The failure of a party to insist on strict adherence to any term of this Agreement on one or more occasions shall not be construed as a waiver or deprive such party of the right to thereafter insist on strict adherence to that term or any other term of this Agreement.
- (c) No party to this Agreement may assign any of its rights or benefits under this Agreement, or delegate any of its duties or obligations, except with the prior written consent of the other parties.
- (d) The representations, warranties and agreements of the parties contained herein are intended solely for the benefit of the party to whom such representations, warranties or agreements are made, and shall confer no rights, benefits, remedies, obligations, or liabilities hereunder, whether legal or equitable, in any other person or entity, and no other person or entity shall be entitled to rely thereon.
- (e) The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision, and if any restriction in this Agreement is found by a court to be unreasonable or unenforceable, then such court may amend or modify the restriction so that it can be enforced to the fullest extent permitted by law.
- (f) The section headings in this Agreement have been inserted as a matter of convenience of reference and are not a part of this Agreement.
- (g) This Agreement may be executed by electronic signature in any number of counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument.

**13. Remedies**

Each party acknowledges and agrees that monetary damages would not be a sufficient remedy for any breach (or threatened breach) of this Agreement by it and that, in the event of any breach or threatened breach hereof, (a) the non-breaching party shall have the right to seek immediate injunctive and other equitable relief, without proof of actual damages; (b) the breaching party will not plead in defense thereof that there would be an adequate remedy at law; and (c) the breaching party agrees to waive any applicable right or requirement that a bond or other security be posted by the non-breaching party. Such remedies will not be the exclusive remedies for a breach of this Agreement but will be in addition to all other remedies that may be available to the non-breaching party at law or in equity. If either party institutes any legal suit, action or proceeding against the other party arising out of or relating to this Agreement, the prevailing party in the suit, action or proceeding shall be entitled to receive, in addition to all other damages to which it may be entitled,

the costs incurred by such party in conducting the suit, action or proceeding, including reasonable legal fees and expenses and court costs.

14. **Governing Law; Attornment**

This Agreement and the parties' rights and obligations hereunder shall be governed by, and construed and enforced in accordance with, the laws of the Province of British Columbia and the federal laws of Canada applicable therein, without giving effect to any conflict-of-laws provisions that would result in the application of the laws of a different jurisdiction. Each party (a) irrevocably and unconditionally submits to the jurisdiction and venue of the courts located in the Province of British Columbia and any courts competent to hear appeals therefrom; (b) agrees that it shall not attempt to deny or defeat such jurisdiction by motion or other request for leave from any such court; and (c) agrees that it shall not bring any action, claim or proceeding relating to this Agreement or otherwise in any court other than the courts of the Province of British Columbia.

*[Remainder of page intentionally left blank; signature page follows]*

**IN WITNESS OF WHICH** the parties have duly executed this Agreement as of the date first written above.

**BENCHMARK METALS INC.**

By: */s/ John Williamson*

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Name: John Williamson

Title: CEO & Chairman

**DELBROOK CAPITAL ADVISORS INC.**

By: */s/ Matthew Zabloski*

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Name: Matthew Zabloski

Title: Managing Director