

**ARRANGEMENT AGREEMENT**

**between**

**ATICO MINING CORPORATION**

**- and -**

**TOACHI MINING INC.**

**Dated July 8, 2019**

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## ARRANGEMENT AGREEMENT

**THIS AGREEMENT** made the 8<sup>th</sup> day of July, 2019

**B E T W E E N:**

**ATICO MINING CORPORATION,**

a corporation existing under the  
*Business Corporations Act* (British Columbia),

(hereinafter referred to as “**Atico**”)

- and -

**TOACHI MINING INC.**

a corporation existing under the  
*Canada Business Corporations Act*,

(hereinafter referred to as “**Toachi**”)

**WHEREAS** Atico wishes to acquire all of the issued and outstanding Toachi Shares (as defined below);

**AND WHEREAS** Atico and Toachi propose to carry out the transactions contemplated by this Agreement by way of Plan of Arrangement under the provisions of the *Canada Business Corporations Act*;

**AND WHEREAS** the Toachi Board has unanimously determined, after receiving financial and legal advice and the unanimous recommendation of the Toachi Special Committee, that the Arrangement is fair to the Toachi Shareholders and that the Arrangement is in the best interests of Toachi, and the Toachi Board has decided to recommend that the Toachi Shareholders vote in favour of the Arrangement, all subject to the terms and conditions contained in this Agreement;

**AND WHEREAS** concurrently with the execution and delivery of this Agreement and in order to induce Atico to enter into this Agreement, Atico has entered into the Voting Agreements with certain Toachi Shareholders, pursuant to which, among other things, such Toachi Shareholders agree, subject to the terms and conditions thereof, to vote their Toachi Shares in favour of the Toachi Arrangement Resolutions;

**NOW THEREFORE** in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties hereto, the Parties hereto hereby covenant and agree as follows:

**ARTICLE 1**  
**DEFINITIONS, INTERPRETATION AND SCHEDULES**

**1.1 Definitions**

In this Agreement, unless the context otherwise requires, the following words and terms used herein or in an exhibit with the initial letter or letters thereof capitalized shall have the meanings ascribed to them below:

- (a) **“Aboriginal”** means any local aboriginal or indigenous peoples, including any group or council thereof;
- (b) **“Aboriginal Claim”** means any claim, written assertion or demand, whether proven or unproven, made by any Aboriginals or Aboriginal groups with respect to Aboriginal title, Aboriginal rights, treaty rights or any other Aboriginal interest;
- (c) **“Acquisition Proposal”** means:
  - (i) with respect to Atico, any proposal or offer made by a third party regarding a merger, amalgamation, statutory arrangement, share exchange, business combination, recapitalization, take-over bid, tender offer, sale, joint venture or other disposition, directly or indirectly, of 50% of the assets of Atico (on a consolidated basis) in a single transaction or a series of related transactions (or any lease, long-term supply agreement or other arrangement having the same economic effect as a sale or other disposition of 50% of the assets of Atico), reorganization, liquidation, winding-up, sale, issue or redemption of 50% of the total number of common shares or rights or interests therein or thereto or similar transactions involving Atico and/or the Atico Subsidiaries (other than the Arrangement); and
  - (ii) with respect to Toachi, any proposal or offer made by a third party regarding a merger, amalgamation, statutory arrangement, share exchange, business combination, recapitalization, take-over bid, tender offer, sale, joint venture or other disposition, directly or indirectly, of 10% or more of the assets of Toachi (on a consolidated basis) in a single transaction or a series of related transactions (or any lease, long-term supply agreement or other arrangement having the same economic effect as a sale or other disposition of 10% or more the assets of Toachi), reorganization, liquidation, winding-up, sale, issue or redemption of 10% or more of the total number of common shares or rights or interests therein or thereto or similar transactions involving Toachi and/or the Toachi Subsidiaries (other than the Arrangement); and
- (d) **“affiliate”** has the meaning ascribed thereto in the National Instrument 45-106 – *Prospectus and Registration Exemptions*;
- (e) **“Agreement”** means this Arrangement Agreement, together with the schedules attached hereto, as amended, amended and restated or supplemented from time to time;
- (f) **“Arrangement”** means the arrangement of Toachi under Section 192 of the CBCA on the terms and subject to the conditions set out in the Plan of Arrangement, subject to any amendments or variations thereto made in accordance with Section 7.1 hereof or the Plan of Arrangement or made at the direction of the Court in the Final Order (*provided, however*, that any such amendment or variation is acceptable to both Toachi and Atico, each acting reasonably);

- (g) “**Atico Balance Sheet**” shall have the meaning ascribed to such term in subsection (m) of Schedule B;
- (h) “**Atico Board**” means the board of directors of Atico;
- (i) “**Atico Disclosure Letter**” means the letter dated July 8, 2019 delivered by Atico to Toachi with respect to certain matters in this Agreement;
- (j) “**Atico Employee**” means an employee of Atico or an Atico Subsidiary;
- (k) “**Atico Material Contract**” means any legally binding agreement, commitment, contract, license, indenture, obligation or undertaking to which Atico or any of the Atico Subsidiaries is a party or by which it or any of the Atico Subsidiaries is bound or affected or to which any of their respective properties or assets is subject: (i) that if terminated or modified or if it ceased to be in effect, would reasonably be expected to have a Material Adverse Effect on Atico; (ii) relating directly or indirectly to the guarantee of any liabilities or obligations or to indebtedness for borrowed money in excess of \$250,000 in the aggregate; (iii) restricting the incurrence of indebtedness by Atico or any of the Atico Subsidiaries or restricting the payment of dividends by Atico; (iv) under which Atico or any of the Atico Subsidiaries is obligated to make or expects to receive payments in excess of \$250,000 over the remaining term of such agreement or commitment; (v) that creates an exclusive dealing arrangement or right of first offer or refusal that is material to Atico and the Atico Subsidiaries taken as a whole; (vi) that materially limits or restricts (A) the ability of Atico or any Atico Subsidiary to engage in any line of business or carry on business in any geographic area, or (B) the scope of persons to whom Atico or any of the Atico Subsidiaries may sell products or deliver services; (vii) that is otherwise material to Atico and the Atico Subsidiaries, taken as a whole; and (viii) in respect of Atico, includes each of the contracts listed in the Atico Disclosure Letter;
- (l) “**Atico MD&A**” shall have the meaning ascribed to such term in subsection (j)(i) of Schedule B;
- (m) “**Atico Mineral Rights**” shall have the meaning ascribed to such term in subsection (o)(i) of Schedule B;
- (n) “**Atico Options**” means the outstanding options issued pursuant to the Atico Stock Option Plan to purchase Atico Shares;
- (o) “**Atico Properties**” shall have the meaning ascribed to such term in subsection (o)(i) of Schedule B;
- (p) “**Atico RSU Plan**” means the restricted share unit plan approved by the Atico Board on April 12, 2016;
- (q) “**Atico RSUs**” means the outstanding restricted share units issued pursuant to the Atico RSU Plan representing the right to receive for each vested restricted share unit, cash equal to the fair market value of one common share, at the time, in the manner, and subject to the terms, set forth in the Atico RSU Plan and the applicable grant letter;
- (r) “**Atico Shareholders**” means, at any time, the holders of Atico Shares;
- (s) “**Atico Shares**” means common shares in the capital of Atico;

- (t) “**Atico Stock Option Plan**” means the amended stock option plan of Atico re-approved by the Atico Shareholders on May 30, 2018;
- (u) “**Atico Subsidiaries**” means, collectively, Atico Mining Corporation Colombia SAS and Atico Mining Corporation Peru SAC, each a wholly-owned Subsidiary of Atico incorporated under the laws of Colombia, and Peru, respectively and Minera El Roble SA, a 90% owned Subsidiary of Atico existing under the laws of Colombia;
- (v) “**Atico Technical Report**” means the technical report prepared for Atico entitled “El Roble Mine Updated Mineral Resource and Initial Mineral Reserve Estimates” dated effective June 30, 2018;
- (w) “**BCBCA**” means the *Business Corporations Act* (British Columbia);
- (x) “**Bridge Loan**” has the meaning ascribed to it in Section 4.1(r);
- (y) “**Business Day**” means any day, other than a Saturday, a Sunday or a statutory holiday in Vancouver, British Columbia or Toronto, Ontario;
- (z) “**CBCA**” means the *Canada Business Corporations Act*;
- (aa) “**Change in Recommendation**” shall have the meaning ascribed to such term in Section 6.1(b)(iv);
- (bb) “**CMLP**” means Compania Minera La Plata S.A.;
- (cc) “**Court**” means the Ontario Superior Court of Justice;
- (dd) “**disclosed by Atico**” or “**Atico Filings**” means disclosed by Atico in its public disclosure filings since December 31, 2018 or disclosed in the Atico Disclosure Letter;
- (ee) “**disclosed by Toachi**” or “**Toachi Filings**” means disclosed by Toachi in its public disclosure filings since July 31, 2018 or disclosed in the Toachi Disclosure Letter;
- (ff) “**Dissent Rights**” means the rights of dissent exercisable by registered Toachi Shareholders in respect of the Arrangement, described in the Plan of Arrangement;
- (gg) “**Effective Date**” means the effective date of the Arrangement, which shall be the second Business Day following the date on which all of the conditions precedent to the completion of the Arrangement contained in Article 5 have been satisfied or waived in accordance with this Agreement (other than those conditions which cannot, by their terms or nature, be satisfied until the Effective Date, but subject to satisfaction or waiver of such conditions as of the Effective Date), or such other date as may be mutually agreed in writing by the Parties;
- (hh) “**Effective Time**” has the meaning given in the Plan of Arrangement;
- (ii) “**Employment Laws**” means all Laws respecting employment, including pay equity, wages, hours of work, overtime, human rights and occupational health and safety, workers compensation;
- (jj) “**Encumbrance**” means any mortgage, hypothec, pledge, assignment, charge, lien, claim, security interest, adverse interest, other third person interest or encumbrance of any kind, whether contingent or absolute, and any agreement, option, right or privilege (whether by Law, contract or otherwise) capable of becoming any of the foregoing;

- (kk) **“Environmental Laws”** means all applicable Laws, including applicable common law, imposing obligations, responsibilities, liabilities or standards of conduct for or relating to: (a) the regulation or control of pollution, contamination, activities, materials, substances or wastes in connection with or for the protection of human health or safety, the environment or natural resources (including climate, air, surface water, groundwater, wetlands, land surface, subsurface strata, wildlife, aquatic species and vegetation); or (b) the use, generation, disposal, treatment, processing, recycling, handling, transport, distribution, destruction, transfer, import, export or sale of Hazardous Substances;
- (ll) **“Environmental Liabilities”** means, with respect to any Person, all liabilities, obligations, responsibilities, responses, losses, damages, punitive damages, property damages, consequential damages, treble damages, costs (including control, remedial and removal costs, investigation costs, capital costs, operation and maintenance costs), expenses, fines, penalties and sanctions incurred as a result of or related to any claim, suit, action, administrative or court order, investigation, proceeding or demand by any Person, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law, relating to any environmental matter, arising under or related to any Environmental Laws, Environmental Permits, or in connection with any: (a) Release or threatened Release or presence of a Hazardous Substance whether on, at, in, under, from or about or in the vicinity of any real or personal property; (b) tank, drum, pipe or other container that contains or contained a Hazardous Substance; or (c) use, generation, disposal, treatment, processing, recycling, handling, transport, transfer, import, export or sale of Hazardous Substance;
- (mm) **“Environmental Permits”** means all Permits issued or required by any Governmental Entity pursuant to any Environmental Law;
- (nn) **“Expense Reimbursement Amount”** means a Party’s reasonable, documented expenses incurred in connection with the Arrangement in an amount not to exceed \$175,000;
- (oo) **“Final Order”** means the final order of the Court approving the Arrangement (including all amendments thereto made prior to the Effective Time), in a form acceptable to both Toachi and Atico, each acting reasonably, granted pursuant to Section 192 of the CBCA, after a hearing upon the procedural and substantive fairness of the terms and conditions of the Arrangement, as such order may be affirmed, amended, modified, supplemented or varied by the Court (with the consent of both Toachi and Atico, each acting reasonably) at any time prior to the Effective Date or, if appealed, as affirmed or amended (provided that any such amendment is acceptable to both Toachi and Atico, each acting reasonably) on appeal unless such appeal is withdrawn, abandoned or denied;
- (pp) **“Governmental Entity”** means any applicable (i) multinational, federal, provincial, territorial, state, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitral body or arbitrator, commission, board, bureau or agency, whether domestic or foreign, (ii) any subdivision, agency, commission, board or authority of any of the foregoing, (iii) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing, or (iv) any stock exchange, including the TSX-V;
- (qq) **“Hazardous Substance”** means any chemical, material or substance in any form, whether solid, liquid, gaseous, semisolid or any combination thereof, whether waste material, raw material, finished product, intermediate product, by-product or any other material or article, that is listed or regulated under any Environmental Laws as a hazardous substance, toxic substance, waste or

contaminant or is otherwise listed or regulated under any Environmental Laws because it poses a hazard to human health or the environment, including petroleum products, asbestos, PCBs, urea formaldehyde foam insulation and lead-containing paints or coatings;

- (rr) “**IFRS**” means generally accepted accounting principles as set out in the CPA Canada Handbook – Accounting for an entity that prepares its financial statements in accordance with International Financial Reporting Standards, at the relevant time, applied on a consistent basis;
- (ss) “**Interim Order**” means the interim order of the Court, contemplated by Section 2.2 of this Agreement and made pursuant to Section 192 of the CBCA, providing for, among other things, the calling and holding of the Toachi Meeting, as the same may be amended by the Court with the consent of both Toachi and Atico, each acting reasonably, in connection with the Arrangement, including any amendment thereto;
- (tt) “**La Plata Loan Agreement**” means a loan agreement, in the form attached at Schedule 1.1 to the Toachi Disclosure Letter, to be entered into between Toachi and a third party lender providing for a loan to Toachi of US\$1,000,000 for the purposes of permitting Toachi to earn-in to a 60% interest in CMLP, which shall be secured against the assets of Toachi on a *pari passu* basis with Atico under the Bridge Loan.
- (uu) “**La Plata Option Agreement**” means the option agreement dated February 10, 2016 among Allen Brown Hidalgo, Maria Olivia Hidalgo Gutierrez, Philips Brown Hidalgo, James Brown Hidalgo, Steve Brown Hidalgo, Susan Brown Hidalgo, Toachi (formerly Ferrum Americas Mining Inc.) and CMLP including its schedules and forms and, when existing, the executed copies of the agreements and instruments provided in such schedules, as the same may be amended, modified or supplemented from time to time;
- (vv) “**Laws**” means all laws, by-laws, rules, regulations, orders, ordinances, protocols, codes, guidelines, instruments, policies, notices, directions and judgments or other requirements of any Governmental Entity;
- (ww) “**Liability**” of any person shall mean and include: (i) any right against such person to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; (ii) any right against such person to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to any equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured; and (iii) any obligation of such person for the performance of any covenant or agreement (whether for the payment of money or otherwise);
- (xx) “**Mailing Deadline**” means August 8, 2019, subject to extension pursuant to Section 2.4(b);
- (yy) “**Material Adverse Effect**” means, in respect of any Party, any one or more changes, effects, events, occurrences, circumstances or states of fact, that either individually or in the aggregate, that is, or would reasonably be expected to be, material and adverse to the business, properties, assets, liabilities (including any contingent liabilities that may arise through outstanding, pending or threatened litigation or otherwise), capitalization, condition (financial or otherwise), operations or results of operations of that Party and its Subsidiaries and material joint ventures taken as a whole, other than any change, effect, event or occurrence:
  - (i) relating to the global economy, political conditions or securities markets in general;

- (ii) affecting the industry in which that Party and its Subsidiaries and material joint ventures operate in general;
- (iii) relating to a change in the market trading price of publicly traded securities of that Party, either:
  - (A) related to this Agreement and the Arrangement or the announcement thereof, or
  - (B) related to such a change in the market trading price primarily resulting from a change, effect, event or occurrence excluded from this definition of Material Adverse Effect under clauses (i), (ii), (iv), (v), or (vi) hereof;
- (iv) relating to the rate at which Canadian dollars can be exchanged for United States dollars or vice versa;
- (v) relating to any generally applicable change in applicable Laws or regulations (other than orders, judgments or decrees against that Party any of its Subsidiaries and material joint ventures) or in IFRS; or
- (vi) attributable to the announcement, pendency or consummation of this Agreement or the Arrangement, or otherwise contemplated by or resulting from the terms of this Agreement;  
  
*provided, however, that such effect referred to in clause (i), (ii) or (v) above does not primarily relate only to (or have the effect of primarily relating only to) that Party and its Subsidiaries and material joint ventures, taken as a whole, or disproportionately adversely affect that Party and its Subsidiaries and material joint ventures taken as a whole, compared to other companies of similar size operating in the industry in which that Party and its Subsidiaries and material joint ventures operate;*
- (zz) “**Material Contract**” means an Atico Material Contract or Toachi Material Contract, as applicable;
- (aaa) “**Meeting Deadline**” means September 12, 2019, subject to extension pursuant to Section 2.4(b);
- (bbb) “**MI 61-101**” means Multilateral Instrument 61-101 – Protection of Minority Security Holders in Special Transactions;
- (ccc) “**misrepresentation**” has the meaning ascribed thereto in the *Ontario Securities Act*;
- (ddd) “**Money Laundering Laws**” means applicable financial record-keeping and reporting requirements of the money laundering Laws of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Entity;
- (eee) “**Net Liabilities**” means cash plus HST receivables plus advances less trade payables and accruals for expenditures made in the ordinary course or in connection with transactions contemplated in this Agreement (for certainty, including the La Plata Loan Agreement and the Bridge Loan, if drawn, but excluding any claim for an amount payable to a Dissenting Toachi Shareholder (as defined in the Plan of Arrangement));

- (fff) “**NI 43-101**” means National Instrument 43-101 – *Standards of Disclosure for Mineral Projects*;
- (ggg) “**Outside Date**” means the date by which the Arrangement contemplated by this Agreement is to be completed, which date shall be November 29, 2019, subject to extension pursuant to Section 2.4(b);
- (hhh) “**Parties**” means Atico and Toachi, and “**Party**” means either one of them;
- (iii) “**Permit**” means any license, permit, certificate, consent, order, grant, approval, agreement, classification, restriction, registration or other authorization of, from or required by any Governmental Entity;
- (jjj) “**Permitted Encumbrances**” means, in respect of a Party or any of its Subsidiaries, any one or more of the following:
  - (i) Encumbrances for Taxes and utilities which in each case are not yet due or delinquent;
  - (ii) easements, rights of way, zoning ordinances, and other similar land use and environmental regulations which are not, individually or in the aggregate, material in amount or effect the business of the applicable Party and its Subsidiaries;
  - (iii) inchoate or statutory Encumbrances of contractors, subcontractors, mechanics, workers, suppliers, materialmen, carriers and others in respect of the construction, maintenance, repair or operation of a Party’s assets, provided that such Encumbrances are related to obligations not due or delinquent, are not registered against title to any of a Party’s assets and in respect of which adequate holdbacks are being maintained as required by applicable Law;
  - (iv) the right reserved to or vested in any Governmental Entity by any statutory provision or by the terms of any lease, licence, franchise, grant or permit of a Party or any of its Subsidiaries, to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition of their continuance; and
  - (v) Encumbrances listed and described in the Atico Disclosure Letter or the Toachi Disclosure Letter, as the case may be, under the heading “Permitted Encumbrances”;
- (kkk) “**person**” includes an individual, partnership, association, body corporate, trustee, trust, joint venture, executor, administrator, legal representative, government (including any Governmental Entity) or any other entity, whether or not having legal status;
- (lll) “**Plan of Arrangement**” means the plan of arrangement set forth in Schedule A;
- (mmm) “**Receiving Party**” has the meaning ascribed to it in Section 6.2(a);
- (nnn) “**Responding Party**” has the meaning ascribed to it in Section 6.2(a);
- (ooo) “**Release**” shall mean any release, spill, leak, discharge, abandonment, disposal, pumping, pouring, emitting, emptying, injecting, leaching, dumping, depositing, dispersing, passive migration, allowing to escape or migrate into or through the environment (including ambient air, surface water, ground water, land surface and subsurface strata or within any building, structure,

facility or fixture) of any Hazardous Substance, including the abandonment or discarding of Hazardous Substances in barrels, drums, tanks or other containers, regardless of when discovered;

- (ppp) “**Remedial Action**” shall mean any investigation, feasibility study, monitoring, testing, sampling, removal (including removal of underground storage tanks), restoration, cleanup, remediation, closure, site restoration, remedial response or remedial work;
- (qqq) “**SEC**” means the United States Securities and Exchange Commission;
- (rrr) “**Section 3(a)(10) Exemption**” has the meaning ascribed to it in Section 2.13;
- (sss) “**Securities Authorities**” means the British Columbia Securities Commission, the Ontario Securities Commission and the other securities regulatory authorities in the provinces and territories of Canada and the SEC, collectively;
- (ttt) “**SEDAR**” means the System for Electronic Document Analysis and Retrieval;
- (uuu) “**Share Consideration**” means 0.24897 of an Atico Share for each Toachi Share;
- (vvv) “**Subsidiary**” means, with respect to a specified body corporate, any body corporate of which the specified body corporate is entitled to elect a majority of the directors thereof and shall include any body corporate, partnership, joint venture or other entity over which such specified body corporate exercises direction or control or which is in a like relation to such a body corporate, excluding any body corporate in respect of which such direction or control is not exercised by the specified body corporate as a result of any existing contract, agreement or commitment;
- (www) “**Superior Proposal**” means:
  - (i) With respect to Atico, a *bona fide* written Acquisition Proposal made by a third party or group of persons with whom Atico deals at arm’s length to, directly or indirectly, acquire assets that individually or in the aggregate constitute all or substantially all of the assets (on a consolidated basis) of Atico or not less than all of the common shares of Atico, whether by way of merger, amalgamation, statutory arrangement, share exchange, take-over bid, tender offer, business combination, or otherwise, and that the Atico Board determines in good faith after consultation with its financial advisors and outside legal counsel: (a) is reasonably capable of being completed without undue delay, taking into account all legal, financial, regulatory and other aspects of such proposal and the person or group of persons making such proposal; (b) is not subject to any due diligence condition; (c) is fully financed; (d) is offered or made to all Atico Shareholders (other than the person making the Acquisition Proposal and its affiliates) on the same terms; and (e) would, in the opinion of Atico Board acting in good faith, if consummated in accordance with its terms (without assuming away the risk of non-completion), result in a transaction more favourable to the Atico Shareholders from a financial point of view, than the terms of the Arrangement (including any amendments proposed by Toachi pursuant to Section 6.2(b)); and
  - (ii) With respect to Toachi, a *bona fide* written Acquisition Proposal made by a third party or group of persons with whom Toachi deals at arm’s length to, directly or indirectly, acquire assets that individually or in the aggregate constitute all or substantially all of the assets (on a consolidated basis) of Toachi or not less than all of the common shares of Toachi, whether by way of merger, amalgamation, statutory arrangement, share exchange, take-

over bid, tender offer, business combination, or otherwise, and that the Toachi Board determines in good faith after consultation with its financial advisors and outside legal counsel: (a) is reasonably capable of being completed without undue delay, taking into account all legal, financial, regulatory and other aspects of such proposal and the person or group of persons making such proposal; (b) is not subject to any due diligence condition; (c) is fully financed; (d) is offered or made to all Toachi Shareholders (other than the person making the Acquisition Proposal and its affiliates) on the same terms; and (e) would, in the opinion of Toachi Board acting in good faith, if consummated in accordance with its terms (without assuming away the risk of non-completion), result in a transaction more favourable to the Toachi Shareholders (other than Atico and its affiliates), from a financial point of view, than the terms of the Arrangement (including any amendments proposed by Atico pursuant to Section 6.2(b));

- (xxx) **“Superior Proposal Notice”** shall have the meaning ascribed to such term in Section 6.2(a);
- (yyy) **“Tax”** and **“Taxes”** means all taxes, assessments, charges, dues, duties, rates, fees, imposts, levies and similar charges of any kind lawfully levied, assessed or imposed by any Governmental Entity, including all income taxes (including any tax on or based upon net income, gross income, income as specially defined, earnings, profits or selected items of income, earnings or profits) and all capital taxes, gross receipts taxes, environmental taxes, sales taxes, use taxes, *ad valorem* taxes, value added taxes, transfer taxes (including, without limitation, taxes relating to the transfer of interests in real property or entities holding interests therein), franchise taxes, license taxes, withholding taxes, payroll taxes, employment taxes, Canada or Quebec Pension Plan premiums, excise, severance, social security, workers’ compensation, employment insurance or compensation taxes or premium, stamp taxes, occupation taxes, premium taxes, property taxes, windfall profits taxes, alternative or add-on minimum taxes, goods and services tax, customs duties or other taxes, fees, imports, assessments or charges of any kind whatsoever, together with any interest and any penalties or additional amounts imposed by any Governmental Entity;
- (zzz) **“Tax Act”** means the *Income Tax Act* (Canada), as amended, and the regulations thereunder, as amended;
- (aaaa) **“Tax Returns”** means all returns, schedules, elections, declarations, reports, information returns, notices, forms, statements and other documents made, prepared or filed with any Governmental Entity or required to be made, prepared or filed with any Governmental Entity relating to Taxes;
- (bbbb) **“Termination Fee”** means \$400,000 when payable by Toachi and \$245,000 when payable by Atico;
- (cccc) **“Toachi Arrangement Approval”** means the approval of the Toachi Arrangement Resolutions as set out in Section 2.2(a)(iii) of this Agreement;
- (dddd) **“Toachi Arrangement Resolutions”** means the resolutions of Toachi Shareholders, approving the Plan of Arrangement, to be considered at the Toachi Meeting and substantially in the form set out in Schedule D;
- (eeee) **“Toachi Balance Sheet”** shall have the meaning ascribed to such term in subsection Schedule C(I) of Schedule C;
- (ffff) **“Toachi Board”** means the board of directors of Toachi;

- (gggg) “**Toachi Circular**” means the notice of the Toachi Meeting and accompanying management information circular, including all schedules, appendices and exhibits to, and information incorporated by reference in, such management information circular, to be sent to the Toachi Shareholders in connection with the Toachi Meeting, as amended, supplemented or otherwise modified from time to time in accordance with the terms of this Agreement;
- (hhhh) “**Toachi Debentures**” means convertible debentures of Toachi issued on January 4, 2019, January 23, 2019, and March 15, 2019 in the aggregate principal amount of C\$2,800,000, which are convertible into Toachi Shares;
- (iiii) “**Toachi Disclosure Letter**” means the letter dated July 8, 2019 delivered by Toachi to Atico with respect to certain matters in this Agreement;
- (jjjj) “**Toachi Employee**” means an employee of Toachi or any Toachi Subsidiary;
- (kkkk) “**Toachi Employee Plan**” shall have the meaning ascribed to such term in subsection Schedule C(r)(viii) of Schedule C;
- (llll) “**Toachi Locked-up Shareholders**” means all of the directors and officers of Toachi, Pierre Bureau and Laurence Curtis;
- (mmmm) “**Toachi Material Contract**” means any legally binding agreement, commitment, contract, license, indenture, obligation or undertaking to which Toachi or any of the Toachi Subsidiaries is a party or by which it or any of the Toachi Subsidiaries is bound or affected or to which any of their respective properties or assets is subject: (i) that if terminated or modified or if it ceased to be in effect, would reasonably be expected to have a Material Adverse Effect on Toachi; (ii) relating directly or indirectly to the guarantee of any liabilities or obligations or to indebtedness for borrowed money in excess of \$100,000 in the aggregate; (iii) restricting the incurrence of indebtedness by Toachi or any of the Toachi Subsidiaries or restricting the payment of dividends by Toachi; (iv) under which Toachi or any of the Toachi Subsidiaries is obligated to make or expects to receive payments in excess of \$100,000 over the remaining term of such agreement or commitment; (v) that creates an exclusive dealing arrangement or right of first offer or refusal that is material to Toachi and the Toachi Subsidiaries taken as a whole; (vi) that materially limits or restricts (A) the ability of Toachi or any Toachi Subsidiary to engage in any line of business or carry on business in any geographic area, or (B) the scope of persons to whom Toachi or any of the Toachi Subsidiaries may sell products or deliver services; or (vii) that is otherwise material to Toachi and the Toachi Subsidiaries, taken as a whole; and (viii) in respect of Toachi, includes each of the contracts listed in the Toachi Disclosure Letter;
- (nnnn) “**Toachi MD&A**” shall have the meaning ascribed to such term in subsection Schedule C(i)(i) of Schedule C;
- (oooo) “**Toachi Meeting**” means the special meeting of the Toachi Shareholders held to consider and approve, among other things, the Arrangement;
- (pppp) “**Toachi Mineral Rights**” shall have the meaning ascribed to such term in subsection Schedule C(n)(i) of Schedule C;
- (qqqq) “**Toachi Newco**” means a wholly-owned subsidiary of Toachi to be incorporated under the laws of Ecuador for the purposes of holding a 60% interest in Compania Minera La Plata S.A. following exercise of the first option under the La Plata Option Agreement;

- (rrrr) **“Toachi Options”** means the outstanding options issued pursuant to the Toachi Stock Option Plan to purchase Toachi Shares;
- (ssss) **“Toachi Optionholders”** means, at any time, the holders of Toachi Options;
- (tttt) **“Toachi Property”** shall have the meaning ascribed to such term in subsection Schedule C(n)(i) of Schedule C;
- (uuuu) **“Toachi RSU Plan”** means the restricted share unit plan approved by the Toachi Shareholders on January 31, 2018;
- (vvvv) **“Toachi RSUs”** means the outstanding restricted share units each providing the right to receive a Toachi Share granted pursuant to the Toachi RSU Plan;
- (wwww) **“Toachi RSU Holder”** means a holder of one or more Toachi RSU;
- (xxxx) **“Toachi Shareholders”** means, at any time, the holders of Toachi Shares;
- (yyyy) **“Toachi Shares”** means common shares in the capital of Toachi;
- (zzzz) **“Toachi Special Committee”** means the special committee of independent directors of the Toachi Board formed to consider various alternatives available to Toachi and make recommendations with respect thereto;
- (aaaaa) **“Toachi Stock Option Plan”** means the Stock Option Plan of Toachi most recently re-approved by the Toachi Shareholders on January 31, 2019;
- (bbbbbb) **“Toachi Subsidiaries”** means, collectively, Toachiec Exploraciones Mineras S.A., a wholly-owned Subsidiary of Toachi and Compania Minera La Plata S.A., a 0.01% owned Subsidiary for which Toachi has an option to acquire up to a 75% interest, each incorporated in Ecuador;
- (ccccc) **“Toachi Technical Report”** means the technical report prepared for Toachi entitled “La Plata VHMS Project Cotpoaxi Province Ecuador, South America” with effective date of August 31, 2017;
- (ddddd) **“Toachi Warrants”** means the common share purchase warrants of Toachi as set forth in the Toachi Disclosure Letter;
- (eeeee) **“TSX-V”** means the TSX Venture Exchange Inc.;
- (fffff) **“United States”** or **“U.S.”** means the United States of America, its territories and possessions, any State of the United States and the District of Columbia;
- (ggggg) **“U.S. Tax Code”** means the U.S. *Internal Revenue Code of 1986*, as amended;
- (hhhhh) **“Voting Agreements”** means the voting support agreements (including all amendments thereto) between Atico and the Toachi Locked-up Shareholders setting forth the terms and conditions upon which they have agreed, among other things, to vote their Toachi Shares in favour of the Toachi Arrangement Resolutions; and
- (iiiiii) **“1933 Act”** means the United States *Securities Act of 1933*, as amended.

## **1.2 Interpretation Not Affected by Headings**

The division of this Agreement into articles, sections, subsections, paragraphs and subparagraphs and the insertion of headings herein are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement. The terms “this Agreement”, “hereof”, “herein”, “hereto”, “hereunder” and similar expressions refer to this Agreement and the schedules attached hereto and not to any particular article, section or other portion hereof and include any agreement, schedule or instrument supplementary or ancillary hereto or thereto.

## **1.3 Number and Gender**

In this Agreement, unless the context otherwise requires, words importing the singular only shall include the plural and vice versa, words importing the use of either gender shall include both genders and neutral.

## **1.4 Date for any Action**

If the date on which any action is required to be taken hereunder by any Party hereto is not a Business Day, such action shall be required to be taken on the next succeeding day that is a Business Day.

## **1.5 Statutory References**

Any reference in this Agreement to a statute includes all regulations and rules made thereunder, all amendments to such statute or regulation in force from time to time and any statute or regulation that supplements or supersedes such statute or regulation.

## **1.6 Currency**

Unless otherwise stated, all references in this Agreement to amounts of money are expressed in lawful money of Canada.

## **1.7 Invalidity of Provisions**

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable Law, the Parties hereto waive any provision of Law that renders any provision of this Agreement or any part thereof invalid or unenforceable in any respect. The Parties hereto will engage in good faith negotiations to replace any provision hereof or any part thereof that is declared invalid or unenforceable with a valid and enforceable provision or part thereof, the economic effect of which approximates as much as possible the invalid or unenforceable provision or part thereof that it replaces.

## **1.8 Accounting Matters**

Unless otherwise stated, all accounting terms used in this Agreement shall have the meanings attributable thereto under IFRS and all determinations of an accounting nature required to be made hereunder shall be made in a manner consistent with IFRS.

## **1.9 Knowledge**

Where the phrases “to the knowledge of” or to a Party’s “knowledge” are used, such phrase shall mean, in respect of each representation and warranty or other statement which is qualified by such phrase, that

such representation and warranty or other statement is being made based upon the collective actual knowledge of, in the case of Atico, Fernando Ganoza and Igor Dutina, and, in the case of Toachi, Alain Bureau and Joe Fazzini, in each case after due inquiry.

### 1.10 Meaning of Certain Phrases

In this Agreement the phrase “in the ordinary and regular course of business” of a person, or phrases of similar expression and intent, shall mean and refer to those activities that are consistent with past practices of such person and in the ordinary course of the normal day-to-day business and operations of such person, and the phrase “consent not to be unreasonably withheld”, or phrases of similar expression and intent, shall mean that such consent shall not be unreasonably withheld, conditioned or delayed.

### 1.11 Schedules

The following schedules are attached to, and are deemed to be incorporated into and form part of, this Agreement:

<u>Schedule</u>	<u>Matter</u>
A	Plan of Arrangement
B	Representations and Warranties of Atico
C	Representations and Warranties of Toachi
D	Toachi Arrangement Resolutions

## ARTICLE 2 THE ARRANGEMENT

### 2.1 Arrangement

The Parties 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.

### 2.2 Interim Order

- (a) Toachi shall apply to the Court pursuant to Section 192 of the CBCA and in a manner acceptable to Atico, acting reasonably, as soon as reasonably practicable following the execution of this Agreement, and in any event in time to hold the Toachi Meeting in accordance with Section 2.3, and prepare, file and diligently pursue an application for the Interim Order, which shall provide, among other things:
  - (i) for the class of persons to whom notice is to be provided in respect of the Arrangement and the Toachi Meeting and for the manner in which such notice is to be provided;
  - (ii) for confirmation of the record date for the Toachi Meeting;
  - (iii) that the requisite approval (the “**Toachi Arrangement Approval**”) for the Toachi Arrangement Resolutions shall be the affirmative vote of:

- (A) at least 66 $\frac{2}{3}$ % of the votes cast on the Arrangement Resolution by Toachi Shareholders present in person or represented by proxy at the Toachi Meeting; and
  - (B) to the extent required by MI 61-101, a majority of the votes cast on the Arrangement Resolution by Toachi Shareholders present in person or represented by proxy at the Toachi Meeting excluding for this purpose votes attached to the Toachi Shares held by persons described in items (a) through (d) of Section 8.1(2) of MI 61-101;
  - (iv) that in all other respects, the terms, conditions and restrictions of Toachi's constating documents, including quorum requirements and other matters, shall apply in respect of the Toachi Meeting;
  - (v) for the grant of Dissent Rights to registered Toachi Shareholders, as contemplated in the Plan of Arrangement;
  - (vi) for notice requirements with respect to the presentation of the application to the Court for the Final Order;
  - (vii) that the Toachi Meeting may be adjourned or postponed from time to time by the Toachi Board or management, subject to the terms of this Agreement, without the need for additional approval of the Court;
  - (viii) that the record date for Toachi Shareholders entitled to notice of and to vote at the Toachi Meeting will not change in respect of any adjournment(s) or postponement(s) of the Toachi Meeting;
  - (ix) that it is Atico's intention to rely upon Section 3(a)(10) of the 1933 Act to issue, based on the Court's approval of the Arrangement and in accordance with the Plan of Arrangement, the Share Consideration to Toachi Shareholders who are resident in the United States in exchange for Toachi Shares without registration under the 1933 Act; and
  - (x) for such other matters as Atico may reasonably require, subject to the consent of Toachi, such consent not to be unreasonably withheld, delayed or conditioned.
- (b) The application and motion materials, including affidavit materials, draft orders and any amendments thereto for the applications referred to in this Section 2.2 shall be in a form satisfactory to both Parties acting reasonably.

### **2.3 Toachi Meeting**

Subject to receipt of the Interim Order and the terms of this Agreement:

- (a) Toachi shall convene and conduct the Toachi Meeting in accordance with the Interim Order, Toachi's articles and by-laws and applicable Laws as soon as reasonably practicable with a targeted date of on or before September 5, 2019, and, in any event, by the Meeting Deadline. Toachi shall, in consultation with Atico, fix and publish a record date for the purposes of determining the Toachi Shareholders entitled to receive notice of and vote at the Toachi Meeting in accordance with the Interim Order.

- (b) Toachi will promptly advise Atico as Atico may reasonably request as to the aggregate tally of the proxies received by Toachi in respect of the Toachi Arrangement Resolutions.
- (c) Toachi will promptly advise Atico of any written notice of dissent or purported exercise by any Toachi Shareholder of Dissent Rights received by Toachi in relation to the Arrangement, of any withdrawal of Dissent Rights received by Toachi and of any written communications sent by or on behalf of Toachi to any Toachi Shareholder exercising or purporting to exercise Dissent Rights in relation to the Arrangement.
- (d) Within five days of the execution of this Agreement and as soon as practical after the record date for the Toachi Meeting, Toachi will prepare or cause to be prepared by its transfer agent and provided to Atico a list of the holders of Toachi Shares, Toachi Options, Toachi RSUs, Toachi Warrants and Toachi Debentures and will deliver to Atico thereafter upon request supplemental lists setting out any changes thereto, all such deliveries to be in electronic format if available from Toachi's transfer agent.

## **2.4 Toachi Circular**

- (a) As promptly as reasonably practicable following execution of this Agreement and in any event prior to the close of business on the Mailing Deadline, Toachi shall (i) prepare the Toachi Circular together with any other documents required by applicable Laws, (ii) file the Toachi Circular in all jurisdictions where the same is required to be filed, and (iii) mail the Toachi Circular as required under applicable Laws and by the Interim Order. On the date of mailing thereof, the Toachi Circular shall comply in all material respects with all applicable Laws and the Interim Order and shall contain sufficient detail to permit the Toachi Shareholders to form a reasoned judgement concerning the matters to be placed before them at the Toachi Meeting.
- (b) If Toachi provides a notice to Atico regarding a possible Acquisition Proposal pursuant to Section 6.1(f) prior to the mailing of the Toachi Circular, then unless the Parties agree otherwise, the Mailing Deadline will be extended until the date that is seven days following the earlier of either (i) written notification from Toachi to Atico that the Toachi Board has determined that the Acquisition Proposal is not a Superior Proposal, or (ii) the date on which Toachi and Atico enter into an amended agreement pursuant to Section 6.2(b) which results in the Acquisition Proposal in question not being a Superior Proposal. In the event that the Mailing Deadline is so extended, the Meeting Deadline and the Outside Date shall be extended by the same number of days as the Mailing Deadline has been extended.
- (c) Subject to Section 6.1, Toachi shall (i) solicit proxies in favour of the Arrangement Resolutions, against any resolution submitted by any other Toachi Shareholder, including, if so requested by Atico, using the services of dealers and proxy solicitation services and permitting Atico to otherwise assist Toachi in such solicitation, and, notwithstanding any other provision of this Agreement, the costs and expenses associated with any such proxy solicitation required by Atico shall be paid by Atico, and take all other actions that are reasonably necessary or desirable to seek the Toachi Shareholder Approval, (ii) recommend to holders of Toachi securities that they vote in favour of the Arrangement Resolutions, (iii) not make a Change in Recommendation and (iv) include in the Toachi Circular statements that (A) the Toachi Board has received a fairness opinion and, after receiving legal and financial advice, (other than the directors who have abstained from voting, if any) unanimously determined that the Arrangement is in the best interests of Toachi and recommends that Toachi Shareholders vote in favour of the Toachi Arrangement Resolutions and (B) each Toachi Locked-up Shareholder has agreed to vote all of such person's Toachi Shares (including any Toachi Shares issued upon the exercise or settlement

of any Toachi Options, Toachi RSUs and Toachi Warrants) and/or Toachi Options and Toachi RSUs, as applicable, in favour of the Toachi Arrangement Resolutions, subject to the other terms of this Agreement and the Voting Agreements.

- (d) Atico shall provide to Toachi all information regarding Atico, its affiliates and the Atico Shares, including any pro forma financial statements prepared in accordance with IFRS and applicable Laws as required by the Interim Order or applicable Laws for inclusion in the Toachi Circular or in any amendments or supplements to such Toachi Circular. Atico shall also use commercially reasonable efforts to obtain any necessary consents from any of its auditors and any other advisors to the use of any financial, technical or other expert information required to be included in the Toachi Circular and to the identification in the Toachi Circular of each such advisor. Atico shall ensure that such information shall be complete and correct in all material respects and comply in all material respects with applicable Laws and that it does not include any misrepresentation.
- (e) Atico shall indemnify and save harmless Toachi, Toachi Subsidiaries and any and all of their respective directors, officers, employees, auditors, accountants or representatives from and against any and all liabilities, claims, demands, losses, costs, damages and expenses to which Toachi, Toachi Subsidiaries or any of their respective directors, officers, employees, auditors, accountants or representatives may be subject or which Toachi, Toachi Subsidiaries or any of their respective directors, officers, employees, auditors, accountants or representatives may suffer as a result of, or arising from, any misrepresentation or alleged misrepresentation contained in any information included in the Toachi Circular relating to and furnished by Atico, Atico Subsidiaries and their respective directors, officers, employees, auditors, accountants or representatives for inclusion in the Toachi Circular, including any order made, or any litigation, proceeding or governmental investigation instituted by the Securities Authorities or other Governmental Entity based on such a misrepresentation or alleged misrepresentation.
- (f) Atico and its legal counsel shall be given a reasonable opportunity to review and comment on the Toachi Circular prior to the Toachi Circular being printed and filed with any Governmental Entity, and reasonable consideration shall be given to any comments made by Atico and its legal counsel, provided that all information relating solely to Atico, its affiliates and the Atico Shares included in the Toachi Circular shall be in form and content satisfactory to Atico, acting reasonably. Toachi shall provide Atico with final copies of the Toachi Circular prior to the mailing to the Toachi Shareholders.
- (g) Toachi and Atico shall each promptly notify each other if at any time before the Effective Date either becomes aware that the Toachi Circular contains a misrepresentation, or that otherwise requires an amendment or supplement to the Toachi Circular and the Parties shall co-operate in the preparation of any amendment or supplement to the Toachi Circular as required or appropriate, and Toachi shall promptly mail or otherwise publicly disseminate any amendment or supplement to the Toachi Circular to Toachi Shareholders and, if required by the Court or applicable Laws, file the same with any Governmental Entity and as otherwise required.

## **2.5 Preparation of Filings**

Atico and Toachi shall co-operate and use their reasonable commercial efforts in good faith to take, or cause to be taken, all reasonable actions, including the preparation of any applications for Regulatory Approvals and other orders, registrations, consents, filings, rulings, exemptions, no-action letters, circulars and approvals required in connection with this Agreement and the Arrangement and the preparation of any required documents, in each case as reasonably necessary to discharge their respective obligations under this Agreement, the Arrangement and the Plan of Arrangement, and to complete any of transactions contemplated by this

Agreement, including their obligations under applicable Laws. It is acknowledged and agreed that, unless required to ensure that the Consideration Shares are freely tradeable in Canada and that the Consideration Shares will not be subject to transfer restrictions under the 1933 Act upon their issuance, except for Consideration Shares that are held by “affiliates”, as defined in Rule 405 of the 1933 Act, of Atico, Atico shall not be required to file a prospectus or similar document or otherwise become subject to the securities Laws of any jurisdiction (other than a Province of Canada) in order to complete the Arrangement. Atico may elect to make such securities and other regulatory filings in the United States or other jurisdictions as may be reasonably necessary or desirable in connection with the completion of the Arrangement. Toachi shall provide to Atico all information regarding Toachi and its affiliates as required by applicable securities Laws in connection with such filings. Toachi shall also use commercially reasonable efforts to obtain any necessary consents from any of its auditors and any other advisors to the use of any financial, technical or other expert information required to be included in such filings and to the identification in such filings of each such advisor.

## **2.6 Final Order**

If the Interim Order is obtained and the Toachi Arrangement Approval is obtained, as provided for in the Interim Order and as required by applicable Law, then, subject to the terms of this Agreement, Toachi shall as soon as reasonably practicable and, in any event, within five Business Days after obtaining the Toachi Arrangement Approval apply to the Court for the Final Order and diligently pursue such application. The application and motion materials, including affidavit materials, draft orders and any amendments thereto for the application referred to in this Section 2.6 shall be in a form satisfactory to both Parties, each acting reasonably.

## **2.7 Court Proceedings**

Subject to the terms of this Agreement, Atico will cooperate with and assist Toachi in seeking the Interim Order and the Final Order, including by providing Toachi on a timely basis any information reasonably required to be supplied by Atico in connection therewith. Toachi will provide legal counsel to Atico with reasonable opportunity to review and comment upon drafts of all material to be filed with the Court in connection with the Arrangement and will give reasonable consideration to all such comments. Subject to applicable Law, Toachi will not file any material with the Court in connection with the Arrangement or serve any such material, and will not agree to modify or amend materials so filed or served, except as contemplated by this Section 2.7 or with Atico’s prior written consent, such consent not to be unreasonably withheld, conditioned or delayed. Toachi shall also provide to Atico’s outside counsel on a timely basis copies of any notice of appearance or other Court documents served on Toachi in respect of the application for the Interim Order or the Final Order or any appeal therefrom and of any notice, whether written or oral, received by Toachi indicating any intention to oppose the granting of the Interim Order or the Final Order or to appeal the Interim Order or the Final Order.

## **2.8 Delivery of Consideration**

Atico will, following receipt by Toachi of the Final Order and at least one day prior to the Effective Date, deposit in escrow with the Depositary sufficient Atico Shares to satisfy the Share Consideration payable to the Toachi Shareholders pursuant to the Plan of Arrangement (other than Toachi Shareholders exercising Dissent Rights and who have not withdrawn their notice of objection).

## **2.9 Closing**

On the second (2<sup>nd</sup>) Business Day after the satisfaction or, where not prohibited, the waiver of the conditions (excluding conditions that, by their terms, cannot be satisfied until the Effective Date, but subject to the satisfaction or, where not prohibited, the waiver of those conditions as of the Effective Date) set forth in Article 5, unless another time or date is agreed to in writing by the Parties, Toachi shall file with the Registrar any records, information or other documents required to be filed with the Registrar in connection with the Arrangement. From

and after the Effective Time, the Plan of Arrangement will have all of the effects provided by applicable Law, including the CBCA. The closing of the Arrangement will take place at the offices of Blake, Cassels & Graydon LLP, 595 Burrard Street, Suite 2600, Three Bentall Centre, Vancouver, British Columbia V7X 1L3 at 9:00 a.m. (Vancouver time) on the Effective Date, or at such other time and place as may be agreed to by the Parties.

## **2.10 Announcement and Shareholder Communications**

Atico and Toachi shall each publicly announce the transactions contemplated hereby promptly following the execution of this Agreement by Atico and Toachi, the text and timing of each Party's announcement to be approved by the other Party in advance, acting reasonably. Atico and Toachi shall co-operate in the preparation of presentations, if any, to Toachi Shareholders or the Atico Shareholders regarding the transactions contemplated by this Agreement, and no Party shall (a) issue any press release or otherwise make public announcements with respect to this Agreement or the Plan of Arrangement without the prior consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed) or (b) make any filing with any Governmental Entity with respect thereto without prior consultation with the other Party; *provided, however*, that the foregoing shall be subject to each Party's overriding obligation to make any disclosure or filing required under applicable Laws or stock exchange rules, and the Party making such disclosure shall use all commercially reasonable efforts to give prior oral or written notice to the other Party and reasonable opportunity to review or comment on the disclosure or filing, and if such prior notice is not possible, to give such notice immediately following the making of such disclosure or filing; and provided further, however, that, except as otherwise required by Sections 6.1 and 6.2, a Party shall have no obligation to obtain the consent of or consult with the other Party prior to any press release, public statement, disclosure or filing with regard to an Acquisition Proposal or a Company Change of Recommendation.

## **2.11 Withholding Taxes**

Toachi, Atico and the Depositary will be entitled to deduct and withhold from any consideration otherwise payable to any person under the Plan of Arrangement (including any payment to Dissenting Toachi Shareholders) such amounts as Toachi, Atico or the Depositary is required to deduct and withhold with respect to such payment under the Tax Act, the U.S. Tax Code, and the rules and regulations promulgated thereunder, or any provision of any provincial, state, local or foreign tax law as counsel may advise is required to be so deducted and withheld by Toachi, Atico or the Depositary, as the case may be. For the purposes hereof, all such withheld amounts shall be treated as having been paid to the person in respect of which such deduction and withholding was made on account of the obligation to make payment to such person hereunder, provided that such deducted or withheld amounts are actually remitted to the appropriate Governmental Entity by or on behalf of Toachi, Atico or the Depositary, as the case may be. To the extent necessary, such deductions and withholdings may be effected by selling any Toachi Shares or Atico Shares to which any such person may otherwise be entitled under the Plan of Arrangement, and any amount remaining following the sale, less deduction and remittance of any applicable tax and any fees related to such sale, shall be paid to the person entitled thereto as soon as reasonably practicable.

## **2.12 U.S. Tax Matters.**

The Arrangement is intended to qualify as a reorganization within the meaning of Section 368(a) of the U.S. Tax Code and this Agreement and the Plan of Arrangement are intended to constitute a "plan of reorganization" within the meaning of the Treasury Regulations promulgated under Section 368 of the U.S. Tax Code. Notwithstanding the foregoing, neither Party hereto makes any representation, warranty or covenant to any other Party or to any Atico Shareholder, Toachi Shareholder or other holder of Atico securities or Toachi securities (including, without limitation, stock options, restricted share units, warrants, debt instruments or other similar rights or instruments) regarding the U.S. tax treatment of the Arrangement, including, but not limited to, whether the Arrangement will qualify as a reorganization within the meaning of Section 368(a) of the U.S. Tax Code or as a tax-deferred reorganization for purposes of any United States state or local income Tax Law.

### **2.13 U.S Securities Laws.**

The Parties intend that the Arrangement shall be carried out such that the issuance of the Share Consideration to Toachi Shareholders in exchange for Toachi Shares qualifies in the United States for the exemption from the registration requirements of the 1933 Act provided by Section 3(a)(10) of the 1933 Act (the “**Section 3(a)(10) Exemption**”) and applicable U.S. state securities Laws in reliance upon similar exemptions under applicable U.S. state securities Laws. Each Party agrees to act in good faith, consistent with the intent of the Parties and the intended treatment of the Arrangement as set forth in this Section 2.13. In order to ensure the availability of the Section 3(a)(10) Exemption, the Parties agree that the Arrangement will be carried out on the following basis:

- (a) the Arrangement will be subject to the approval of the Court;
- (b) the Court will be advised as to the intention of the Parties to rely on the Section 3(a)(10) Exemption prior to the Court hearing at which the Final Order will be sought;
- (c) the Court will be required to satisfy itself as to the substantive and procedural fairness of the Arrangement;
- (d) the Final Order will expressly state that the Arrangement is approved by the Court as being fair to the Toachi Shareholders to whom Atico Shares will be issued;
- (e) the Parties will ensure that each Toachi Shareholder entitled to receive securities on completion of, and pursuant to, the Arrangement will (i) be given adequate notice advising them of their right to attend the Court hearing and providing them with sufficient information necessary for them to exercise that right, and (ii) be advised that the securities issuable pursuant to the Arrangement have not been and will not be registered under the 1933 Act and will be issued by Atico in reliance on the Section 3(a)(10) Exemption, and that certain restrictions on resale under the securities Laws of the United States, including, as applicable, Rule 144 under the 1933 Act, may be applicable with respect to securities issued to affiliates of Atico;
- (f) the Interim Order will specify that each Toachi Shareholder entitled to receive securities on completion of the Arrangement will have the right to appear before the Court at the Court hearing on the Final Order so long as such Toachi Shareholder files and delivers a response to petition within a reasonable time; and
- (g) Atico will request that the Final Order include a statement to substantially the following effect: “This Order will serve as a basis of a claim to an exemption, pursuant to Section 3(a)(10) of the United States Securities Act of 1933, as amended, from the registration requirements otherwise imposed by that act, regarding the distribution of securities of Atico Mining Corporation, pursuant to the Plan of Arrangement.”

## **ARTICLE 3 REPRESENTATIONS AND WARRANTIES**

### **3.1 Representations and Warranties of Atico**

- (a) Except to the extent qualified as set forth in the correspondingly numbered paragraph of the Atico Disclosure Letter, Atico represents and warrants to Toachi as set forth in Schedule B and acknowledges and agrees that Toachi is relying upon such representations and warranties in connection with the entering into of this Agreement.

- (b) The representations and warranties of Atico 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.

### **3.2 Representations and Warranties of Toachi**

- (a) Except to the extent qualified as set forth in the correspondingly numbered paragraph of the Toachi Disclosure Letter, Toachi represents and warrants to Atico as set forth in Schedule C and acknowledges and agrees that Atico is relying upon such representations and warranties in connection with the entering into of this Agreement.
- (b) The representations and warranties of Toachi 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**

### **4.1 Covenants of Atico**

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, except as required by Law, consented to by an executive officer of Toachi in writing or otherwise expressly permitted by this Agreement, Atico hereby covenants and agrees with Toachi as follows:

- (a) Subject to obtaining any required consents, Atico will promptly provide Toachi with any pertinent information in the possession or control of Atico and relating to Atico, the Atico Subsidiaries or any of their respective businesses reasonably requested in writing by Toachi or its counsel so that Toachi may complete its due diligence investigations of Atico and the Atico Subsidiaries.
- (b) Atico shall, and shall cause the Atico Subsidiaries to conduct its and their respective businesses only in, and shall not take any action except in the usual, ordinary and regular course of business of Atico and the Atico Subsidiaries consistent with past practices of Atico and the Atico Subsidiaries except as contemplated by this Agreement and in the Atico Disclosure Letter and shall use commercially reasonable efforts to preserve intact its current business organizations, assets, properties, rights, goodwill, workforce and business relationships.
- (c) Atico shall not, except as provided for in this Agreement or in the Atico Disclosure Letter, without prior consultation with and the written consent of Toachi, such consent not to be unreasonably withheld, delayed or conditioned, directly or indirectly do, agree to do, or permit to occur any of the following: (i) declare, set aside or pay any dividend or other distribution or payment in respect of any of the shares of Atico; (ii) adopt resolutions or enter into any agreement providing for the amalgamation, merger, consolidation, reorganization, liquidation, dissolution or any other extraordinary transaction in respect of itself or any of its Subsidiaries or adopt any plan of liquidation; or (iii) reduce its stated capital.
- (d) Atico shall cause the Atico Shares to be issued to Toachi Shareholders in connection with the Arrangement to be listed on all exchanges on which the Atico Shares are listed and to cause the Atico Shares issuable pursuant to exercise or conversion of any of the Toachi Options and Toachi Warrants to be approved for listing on the TSX-V upon issuance.

- (e) As soon as practicable, Atico shall apply to list the Atico Shares issuable or to be made issuable pursuant to the Arrangement (including all Atico Shares issuable upon the exercise or conversion of the Toachi Options and Toachi Warrants) on the TSX-V, and shall use its commercially reasonable efforts to obtain approval, subject to customary conditions, for the listing of such Atico Shares on the TSX-V.
- (f) Except for non-substantive communications, Atico shall furnish promptly to Toachi a copy of each notice, report, schedule or other document or communication delivered, filed or received by Atico in connection with this Agreement, the Arrangement, any filings made under any applicable Law and any dealings or communications with any Governmental Entity (including any Securities Authority or stock exchange) in connection with, or in any way affecting, the transactions contemplated by this Agreement.
- (g) Other than as disclosed by Atico in the Atico Disclosure Letter, or in contemplation of or as required to give effect to the transactions contemplated by this Agreement, Atico shall not, without the prior written consent of Toachi, such consent not to be unreasonably withheld, conditioned or delayed, directly or indirectly do or permit to occur any of the following, except where to do so would be in the ordinary course of business and consistent with past practice of Atico or the Atico Subsidiaries:
  - (i) issue, grant, sell, pledge, lease, dispose of, encumber or create any Encumbrance on or agree to issue, grant, sell, pledge, lease, dispose of or encumber or create any Encumbrance on, or permit the Atico Subsidiaries to issue, sell, pledge, lease, dispose of, encumber or create any Encumbrance on or agree to issue, sell, pledge, lease, dispose of, or encumber or create any Encumbrance on, any shares of, or any options, warrants, calls, conversion privileges or rights of any kind to acquire any shares of, Atico or the Atico Subsidiaries, other than the issue of Atico Shares pursuant to the exercise or conversion, as the case may be, of options, warrants, convertible or exchangeable securities or other rights to acquire Atico Shares, all as issued and outstanding on the date hereof in accordance with their terms as of the date hereof;
  - (ii) other than pursuant to obligations or rights under existing contracts, agreements and commitments (to the extent such rights have been exercised or initiated by other persons), sell, lease or otherwise dispose of, or permit the Atico Subsidiaries to sell, lease or otherwise dispose of, any material property or assets or enter into any agreement or commitment in respect of any of the foregoing;
  - (iii) amend or propose to amend the Notice of Articles, Articles or by-laws (or their equivalent) of Atico or the Atico Subsidiaries or any of the terms of the Atico Options as they exist at the date of this Agreement;
  - (iv) split, divide, combine or reclassify any of the Atico Shares; or
  - (v) redeem, purchase or offer to purchase, or permit the Atico Subsidiaries to redeem, purchase or offer to purchase, any Atico Shares or, other than pursuant to the Atico Stock Option Plan or Atico RSU Plan, any options or obligations or rights under existing contracts, agreements and commitments;
  - (vi) acquire (by merger amalgamation, consolidation, arrangement or acquisition of shares or assets or otherwise) or agree to acquire any corporation or other entity (or material interest therein) or division of any corporation or other entity, or permit any of the Atico

Subsidiaries to acquire or agree to acquire any corporation or other entity (or material interest therein) or division of any corporation or other entity;

- (vii) (A) satisfy or settle any claims or disputes (except such as have been included in the consolidated financial statements of Atico) which are, individually or in the aggregate, in an amount in excess of \$250,000 or which constitutes a claim between Atico and the Atico Subsidiaries or between Atico Subsidiaries; (B) relinquish any contractual rights that are, individually or in the aggregate, in an amount in excess of \$250,000; or (C) enter into any interest rate, currency or commodity swaps, hedges, caps, collars, forward sales or other similar financial instruments other than in the ordinary and regular course of business and not for speculative purposes;
  - (viii) incur, authorize, agree or otherwise become committed to provide guarantees for borrowed money or incur, authorize, agree or otherwise become committed for any indebtedness for borrowed money, or permit any of the Atico Subsidiaries to incur, authorize, agree or otherwise become committed to provide guarantees for borrowed money or incur, authorize, agree or otherwise become committed for any indebtedness for borrowed money other than in the ordinary course of business;
  - (ix) except as required by IFRS or any other generally accepted accounting principle to which Atico or any Atico Subsidiary may be subject or any applicable Law, make any material changes to the existing accounting practices of Atico or make any material tax election inconsistent with past practice; or
  - (x) enter into, or cause the Atico Subsidiaries to enter into, new commitments of a capital expenditure nature or incur any new contingent liabilities other than (A) ordinary course expenditures; (B) expenditures required by Law; and (C) expenditures made in connection with transactions contemplated in this Agreement.
- (h) Except where the prior intention to do so has been disclosed in writing to Toachi by Atico, Atico shall not, without the prior written consent of Toachi, such consent not to be unreasonably withheld, conditioned or delayed, and shall not permit the Atico Subsidiaries to, enter into or modify any employment, consulting, severance, collective bargaining or similar agreement, policy or arrangement with, or grant any bonus, salary increase, option to purchase shares, pension or supplemental pension benefit, profit sharing, retirement allowance, deferred compensation, incentive compensation, severance, change of control or termination pay to, or make any loan to, any officer, director, employee or consultant of Atico or any of the Atico Subsidiaries, in each case, other than pursuant to any existant contracts or employment agreements, policies or plans previously disclosed to Toachi and in the ordinary course of business and consistent with past practice.
- (i) Atico shall use its commercially reasonable efforts, and shall cause the Atico Subsidiaries to use their commercially reasonable efforts, to cause their respective current insurance (or reinsurance) policies not to be cancelled or terminated or any of the coverage thereunder to lapse, unless simultaneously with 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 cancelled, terminated or lapsed policies for substantially similar premiums are in full force and effect.
- (j) Atico shall:

- (i) not take any action, or refrain from taking any action (subject to commercially reasonable efforts), or permit any action to be taken or not taken, inconsistent with the provisions of this Agreement or which would reasonably be expected to materially impede the completion of the transactions contemplated hereby or would render, or that would reasonably be expected to render, any representation or warranty made by Atico in this Agreement untrue or inaccurate in any material respect at any time prior to the Effective Time if then made, or which would, or would reasonably be expected to, have a Material Adverse Effect on Atico, provided that Atico may take any such action or refrain from taking such action (subject to commercially reasonable efforts) as a result of this Agreement, in the event Atico immediately notifies Toachi in writing of such circumstances; and
  - (ii) promptly notify Toachi in writing of: (A) any Material Adverse Effect, or any change, event, occurrence or state of facts that would reasonably be expected to have a Material Adverse Effect, in respect of the business or in the conduct of the business of Atico; (B) any material Governmental Entity or third person complaints, investigations or hearings (or communications indicating that the same may be contemplated); (C) any breach by Atico of any covenant or agreement contained in this Agreement; or (D) any event occurring subsequent to the date hereof that would render any representation or warranty of Atico contained in this Agreement, if made on or as of the date of such event or the Effective Date, to be untrue or inaccurate in any material respect.
- (k) Atico shall not and will cause the Atico Subsidiaries not to, other than in the ordinary course of business and upon reasonable notice to Toachi, terminate, extend, enter into, renew or modify in any respect any Material Contract, agreement, lease, commitment or arrangement to which Atico or the Atico Subsidiaries is a Party or by which any of them is bound, except insofar as may be necessary to permit or provide for the completion of the Arrangement or where to do so would not have a Material Adverse Effect.
- (l) Atico shall use all commercially reasonable efforts to satisfy, or cause to be satisfied, all conditions precedent to its obligations to the extent that the same is within its control and to take, or cause to be taken, all other action and to do, or cause to be done, all other things necessary, proper or advisable under all applicable Laws to complete the transactions contemplated by this Agreement, including using its commercially reasonable efforts to:
- (i) obtain all other consents, approvals and authorizations as are required to be obtained by Atico or any of the Atico Subsidiaries under any applicable Law or from any Governmental Entity that would, if not obtained, materially impede or delay the completion of the transactions contemplated by this Agreement or have a Material Adverse Effect on Atico;
  - (ii) effect all necessary registrations, filings and submissions of information requested by Governmental Entities required to be effected by it in connection with the transactions contemplated by this Agreement and participate and appear in any proceedings of any Party hereto before any Governmental Entity;
  - (iii) oppose, lift or rescind any injunction or restraining order or other order or action challenging or affecting this Agreement, the transactions contemplated hereby or seeking to stop, or otherwise adversely affecting the ability of the Parties hereto to consummate, the transactions contemplated hereby;

- (iv) fulfill all conditions and satisfy all provisions of this Agreement required to be fulfilled or satisfied by Atico; and
- (v) cooperate with Toachi in connection with the performance by it of its obligations hereunder; *provided, however*, that the foregoing shall not be construed to obligate Atico to pay or cause to be paid any monies to cause such performance to occur.
- (m) Subject to applicable Laws, Atico shall use commercially reasonable efforts to conduct itself so as to keep Toachi fully informed as to the material decisions or actions required to be made with respect to the operation of its business.
- (n) Atico shall make, or cooperate as necessary in the making of, all necessary filings and applications under all applicable Laws required in connection with the transactions contemplated hereby and take all reasonable action necessary to be in compliance with such Laws.
- (o) Atico shall use its commercially reasonable efforts to conduct its affairs, and to cause the Atico Subsidiaries to conduct their affairs, so that all of the representations and warranties of Atico contained herein shall be true and correct in all material respects on and as of the Effective Date as if made on and as of such date.
- (p) Atico shall cooperate with Toachi and its representatives in the provision of (a) upon reasonable notice, reasonable access during normal business hours to its and the Atico Subsidiaries' (i) premises, (ii) assets (including all books and records, whether retained internally or otherwise), and (iii) personnel, so long as the access does not unduly interfere with the ordinary course conduct of business; and (b) such technical, financial and operating data or other information with respect to its assets or business as is reasonably requested.
- (q) Atico shall execute and deliver, or cause to be executed and delivered, at the closing of the transactions contemplated hereby such customary agreements, certificates, resolutions and other closing documents as may be required by Toachi, all in form satisfactory to Toachi, acting reasonably.
- (r) Provided that Toachi is not at the time in breach of this Agreement, Atico hereby agrees to provide a bridge loan of up to US\$535,000 (the "**Bridge Loan**") to Toachi, such Bridge Loan to be evidenced by one or more promissory notes and secured by a trust deed, with priority to be governed by the terms of an intercreditor agreement between Atico and the lender under the La Plata Loan Agreement, each in the forms attached at Schedule 4.1(r) to the Atico Disclosure Letter and shall be made available to Toachi in the amounts, and on the dates, mutually agreed by the parties.
- (s) Atico shall maintain the Toachi Stock Option Plan until the last Toachi Options have expired under its terms.

## 4.2 Covenants of Toachi

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, except as required by Law, consented to by an executive officer of Atico in writing or otherwise expressly permitted by this Agreement, Toachi hereby covenants and agrees with Atico as follows:

- (a) Subject to obtaining any required consents, Toachi will promptly provide Atico with any pertinent information in the possession or control of Toachi and relating to Toachi or the Toachi Subsidiaries and, in addition but subject to any confidentiality obligations, will provide any information reasonably requested in writing by Atico or its counsel so that Atico may complete its due diligence investigations of Toachi and the Toachi Subsidiaries.
- (b) Toachi shall, and shall cause the Toachi Subsidiaries to conduct its and their respective businesses only in, and shall not take any action except in the usual, ordinary and regular course of business of Toachi and the Toachi Subsidiaries and consistent with past practices of Toachi and the Toachi Subsidiaries except as contemplated by this Agreement and in the Toachi Disclosure Letter and shall use commercially reasonable efforts to preserve intact its current business organizations, assets, properties, rights, goodwill, workforce and business relationships.
- (c) Toachi shall not, except as provided for in this Agreement or in the Toachi Disclosure Letter, without prior consultation with and the written consent of Atico, such consent not to be unreasonably withheld, conditioned or delayed, directly or indirectly do, agree to do, or permit to occur any of the following: (i) declare, set aside or pay any dividend or other distribution or payment in respect of any of the shares of Toachi; (ii) adopt resolutions or enter into any agreement providing for the amalgamation, merger, consolidation, reorganization, liquidation, dissolution or any other extraordinary transaction in respect of itself or any of its Subsidiaries or adopt any plan of liquidation; or (iii) reduce its stated capital.
- (d) Toachi shall not settle or compromise any action brought by any present, former or purported holder of any of its securities in connection with the transactions contemplated by this Agreement, including the Arrangement, without the prior consent of Atico, not to be unreasonably withheld, delayed or conditioned.
- (e) Except for proxies and other non-substantive communications, Toachi shall furnish promptly to Atico a copy of each notice, report, schedule or other document or communication delivered, filed or received by Toachi in connection with this Agreement, the Arrangement, the Interim Order or the Toachi Meeting relating to any filings made under any applicable Law and any dealings or communications with any Governmental Entity, Securities Authority or stock exchange in connection with, or in any way affecting, the transactions contemplated by this Agreement.
- (f) Other than with respect to the La Plata Loan Agreement, the Bridge Loan and as otherwise disclosed by Toachi in the Toachi Disclosure Letter, provided that Toachi may not terminate, extend, renew, amend or modify in any respect the La Plata Loan Agreement or the Bridge Loan without the prior written consent of Atico, or in contemplation of or as required to give effect to the transactions contemplated by this Agreement, Toachi shall not, without the prior written consent of Atico, such consent not to be unreasonably withheld, conditioned or delayed, directly or indirectly do or permit to occur any of the following, except where to do so would be in the ordinary course of business and consistent with past practice of Toachi or the Toachi Subsidiaries:
  - (i) issue, grant, sell, pledge, lease, dispose of, encumber or create any Encumbrance on or agree to issue, grant, sell, pledge, lease, dispose of or encumber or create any Encumbrance on, or permit the Toachi Subsidiaries to issue, sell, pledge, lease, dispose of, encumber or create any Encumbrance on or agree to issue, sell, pledge, lease, dispose of, or encumber or create any Encumbrance on, any shares of, or any options, warrants, calls, conversion privileges or rights of any kind to acquire any shares of, Toachi, any of the Toachi Subsidiaries, other than the issue of Toachi Shares pursuant to the exercise or conversion, as the case may be, of options, restricted share units, warrants, convertible or

exchangeable securities or other rights to acquire Toachi Shares, all as issued and outstanding on the date hereof in accordance with their terms as of the date hereof;

- (ii) other than pursuant to obligations or rights under existing contracts, agreements and commitments (to the extent such rights have been exercised or initiated by other persons), sell, lease or otherwise dispose of, or permit any of the Toachi Subsidiaries to sell, lease or otherwise dispose of, any property or assets or enter into any agreement or commitment in respect of any of the foregoing;
- (iii) amend or propose to amend the Notice of Articles, Articles or by-laws (or their equivalent) of Toachi or any of the Toachi Subsidiaries or any of the terms of the Toachi Options or Toachi Warrants as they exist at the date of this Agreement;
- (iv) split, divide, combine or reclassify any of the Toachi Shares;
- (v) redeem, purchase or offer to purchase, or permit any of the Toachi Subsidiaries to redeem, purchase or offer to purchase, any Toachi Shares or, other than pursuant to the Toachi Stock Option Plan, any options or obligations or rights under existing contracts, agreements and commitments;
- (vi) acquire (by merger, amalgamation, consolidation, arrangement or acquisition of shares or assets or otherwise) or agree to acquire any corporation or other entity (or material interest therein) or division of any corporation or other entity, or permit any of the Toachi Subsidiaries to acquire or agree to acquire any corporation or other entity (or material interest therein) or division of any corporation or other entity;
- (vii) (A) satisfy or settle any claims or disputes (except such as have been included in the consolidated financial statements of Toachi) which are, individually or in the aggregate, in an amount in excess of \$50,000 or which constitutes a claim between Toachi and any Toachi Subsidiary or between Toachi Subsidiaries; (B) relinquish any contractual rights that are, individually or in the aggregate, in an amount in excess of \$50,000; or (C) enter into any interest rate, currency or commodity swaps, hedges, caps, collars, forward sales or other similar financial instruments other than in the ordinary and regular course of business and not for speculative purposes;
- (viii) incur, authorize, agree or otherwise become committed to provide guarantees for borrowed money or incur, authorize, agree or otherwise become committed for any indebtedness for borrowed money, or permit any of the Toachi Subsidiaries to incur, authorize, agree or otherwise become committed to provide guarantees for borrowed money or incur, authorize, agree or otherwise become committed for any indebtedness for borrowed money;
- (ix) except as required by IFRS or any other generally accepted accounting principle to which Toachi or any Toachi Subsidiary may be subject or any applicable Law, make any changes to the existing accounting practices of Toachi or make any material tax election inconsistent with past practice;
- (x) enter into, or cause any Toachi Subsidiaries to enter into, new commitments of a capital expenditure nature or incur any new contingent liabilities other than (A) ordinary course expenditures; (B) expenditures required by Law; and (C) expenditures made in connection with transactions contemplated in this Agreement; or

- (xi) incur, or cause or permit any Toachi Subsidiary to incur, any liabilities which would result in the condition in Section 5.3(g) not to be satisfied except if approved in writing by Atico, in its sole discretion.
- (g) Except where the prior intention to do so has been disclosed in writing to Atico by Toachi, Toachi shall not, without the prior written consent of Atico, such consent not to be unreasonably withheld, conditioned or delayed, and shall not permit the Toachi Subsidiaries to, enter into or modify any employment, consulting, severance, collective bargaining or similar agreement, policy or arrangement with, or grant any bonus, salary increase, option to purchase shares, pension or supplemental pension benefit, profit sharing, retirement allowance, deferred compensation, incentive compensation, severance, change of control or termination pay to, or make any loan to, any officer, director, employee or consultant of Toachi or any of the Toachi Subsidiaries.
- (h) Toachi shall use its commercially reasonable efforts, and shall cause the Toachi Subsidiaries to use their commercially reasonable efforts, to cause their respective current insurance (or reinsurance) policies not to be cancelled or terminated or any of the coverage thereunder to lapse, unless simultaneously with 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 cancelled, terminated or lapsed policies for substantially similar premiums are in full force and effect.
- (i) Toachi shall:
  - (i) not take any action, or refrain from taking any action (subject to commercially reasonable efforts), or permit any action to be taken or not taken, inconsistent with the provisions of this Agreement or which would reasonably be expected to materially impede the completion of the transactions contemplated hereby or would render, or that would reasonably be expected to render, any representation or warranty made by Toachi in this Agreement untrue or inaccurate in any material respect at any time prior to the Effective Time if then made, or which would or would reasonably be expected to have a Material Adverse Effect on Toachi, provided that Toachi may take any such action or refrain from taking such action (subject to commercially reasonable efforts) as a result of this Agreement, in the event Toachi immediately notifies Atico in writing of such circumstances; and
  - (ii) promptly notify Atico of: (A) any Material Adverse Effect, or any change, event, occurrence or state of facts that would reasonably be expected to have a Material Adverse Effect, in respect of the business or in the conduct of the business of Toachi; (B) any material Governmental Entity or third person complaints, investigations or hearings (or communications indicating that the same may be contemplated); (C) any breach by Toachi of any covenant or agreement contained in this Agreement; or (D) any event occurring subsequent to the date hereof that would render any representation or warranty of Toachi contained in this Agreement, if made on or as of the date of such event or the Effective Date, to be untrue or inaccurate in any material respect.
- (j) Toachi shall not, other than in the ordinary course of business and upon reasonable notice to Atico, terminate, extend, enter into, renew or modify in any respect any Material Contract, agreement, lease, commitment or arrangement to which Toachi, or the Toachi Subsidiaries, is a Party or by which any of them is bound, except insofar as may be necessary to permit or provide for the completion of the Arrangement or where to do so would not have a Material Adverse Effect.

- (k) Toachi shall use all commercially reasonable efforts to satisfy, or cause to be satisfied, all conditions precedent to its obligations to the extent that the same is within its control and to take, or cause to be taken, all other action and to do, or cause to be done, all other things necessary, proper or advisable under all applicable Laws to complete the transactions contemplated by this Agreement, including using its commercially reasonable efforts to:
  - (i) obtain the Toachi Arrangement Approval in accordance with the provisions of the CBCA, the Interim Order and the requirements of any applicable regulatory authority;
  - (ii) obtain all other consents, approvals and authorizations as are required to be obtained by Toachi or any of the Toachi Subsidiaries under any applicable Law or from any Governmental Entity that would, if not obtained, materially impede or delay the completion of the transactions contemplated by this Agreement or have a Material Adverse Effect on Toachi;
  - (iii) effect all necessary registrations, filings and submissions of information requested by Governmental Entities required to be effected by it in connection with the transactions contemplated by this Agreement and participate and appear in any proceedings of any Party hereto before any Governmental Entity;
  - (iv) oppose, lift or rescind any injunction or restraining order or other order or action challenging or affecting this Agreement, the transactions contemplated hereby or seeking to stop, or otherwise adversely affecting the ability of the Parties hereto to consummate, the transactions contemplated hereby;
  - (v) fulfill all conditions and satisfy all provisions of this Agreement and the Plan of Arrangement required to be fulfilled or satisfied by Toachi; and
  - (vi) cooperate with Atico in connection with the performance by it of its obligations hereunder, provided however that the foregoing shall not be construed to obligate Toachi to pay or cause to be paid any monies to cause such performance to occur.
- (l) Subject to applicable Laws, Toachi shall use commercially reasonable efforts to conduct itself so as to keep Atico fully informed as to the material decisions or actions required to be made with respect to the operation of its business.
- (m) Toachi shall make, or cooperate as necessary in the making of, all necessary filings and applications under all applicable Laws required in connection with the transactions contemplated hereby and take all reasonable action necessary to be in compliance with such Laws.
- (n) Toachi shall use its commercially reasonable efforts to conduct its affairs and to cause the Toachi Subsidiaries to conduct their affairs so that all of the representations and warranties of Toachi contained herein shall be true and correct in all material respects on and as of the Effective Date as if made on and as of such date.
- (o) Toachi shall cooperate with Atico and its representatives in the provision of (a) upon reasonable notice, reasonable access during normal business hours to its and the Toachi Subsidiaries' respective (i) premises, (ii) assets (including all books and records, whether retained internally or otherwise), and (iii) personnel, so long as the access does not unduly interfere with the ordinary course conduct of business; and (b) such technical, financial and operating data or other information with respect to its assets or business as is reasonably requested.

- (p) Toachi shall execute and deliver, or cause to be executed and delivered, at the closing of the transactions contemplated hereby such customary agreements, certificates, resolutions and other closing documents as may be required by Atico, all in form satisfactory Atico, acting reasonably.
- (q) Except with the prior written consent of Atico, such consent not to be unreasonably withheld, Toachi shall use the proceeds of the Bridge Loan solely to finance those costs and expenses set forth in the liquidity budget approved by the Parties as set forth in Schedule 4.2(q) of the Toachi Disclosure Letter and provide bi-weekly reports showing the actual use of proceeds.
- (r) Toachi shall use commercially reasonable efforts to obtain voting support agreements in substantially the form of the Voting Agreements, or such other form as is acceptable to Atico, acting reasonably, from the Toachi Shareholders set forth in Schedule 4.2(r) of the Toachi Disclosure Letter.

### **4.3 Indemnification and Insurance**

- (a) Prior to the Effective Date, Toachi shall purchase customary run-off insurance of directors' and officers' liability insurance providing protection no less favourable in the aggregate than the protection provided by the policies maintained by Toachi that are in effect immediately prior to the Effective Date and providing protection in respect of claims arising from facts or events that occurred on or prior to the Effective Date and Atico will, or will cause Toachi to maintain such run-off policies in effect without any reduction in scope or coverage for six years from the Effective Date; provided that in such case, Atico will not be required to pay any amounts in respect of such coverage prior to the Effective Time, provided however, that in no event shall Toachi pay aggregate premiums for such "run-off" insurance policies in excess of 150% of the aggregate annual premium for directors' and officers' liability policies currently maintained by Toachi.
- (b) Atico hereby covenants and agrees that all rights to indemnification or exculpation in favour of the directors and officers of Toachi and of the Toachi Subsidiaries provided in the current articles or by-laws of Toachi or Toachi Subsidiaries, as applicable, or in any agreement, and any directors' and officers' insurance now existing in favour of the directors or officers of Toachi or any Toachi Subsidiary, shall survive the completion of the Arrangement (or be replaced with substantially equivalent coverage from another provider) and shall continue in full force and effect (either directly or via run-off insurance or insurance provided by an alternative provider) for a period of not less than six years from the Effective Date, and Atico undertakes to ensure that this covenant shall remain binding upon its successors and assigns.
- (c) Toachi shall act as agent and trustee of the benefits of the foregoing for its directors and officers and those of the Toachi Subsidiaries for the purpose of this Section 4.3, and this Section 4.3 shall survive the execution and delivery of this Agreement and the completion of the Arrangement and shall be enforceable against Atico by the persons described in Subsection 4.3(b) hereof.

## **ARTICLE 5 CONDITIONS**

### **5.1 Notice and Cure Provisions**

Each Party hereto shall give prompt notice to the other of the occurrence, or failure to occur, at any time from the date hereof until the Effective Date, of any event or state of facts which occurrence or failure would, would be reasonably likely to or could reasonably:

- (a) cause any of the representations or warranties of such Party hereto contained herein to be untrue or inaccurate in any respect on the date hereof or on the Effective Date;
- (b) result in the failure to comply with or satisfy any covenant or agreement to be complied with or satisfied by such Party hereto prior to the Effective Date; or
- (c) result in the failure to satisfy any of the conditions precedent in favour of the other Party hereto contained in Section 5.2 and Section 5.3 or 5.4, as the case may be.

Subject as herein provided, a Party hereto may (a) elect not to complete the transactions contemplated hereby by virtue of the conditions in Section 5.2 and Section 5.3 or 5.4, as applicable, not being satisfied or waived or (b) exercise any termination right arising therefrom; *provided, however*, that (i) promptly and in any event prior to the Effective Date, the Party hereto intending to rely thereon has delivered a written notice to the other Party hereto specifying in reasonable detail the breaches of covenants or untruthfulness or inaccuracy of representations and warranties or other matters that the Party hereto delivering such notice is asserting as the basis for the exercise of the termination right, as the case may be, and (ii) if any such notice is delivered, and a Party hereto is proceeding diligently, at its own expense, to cure such matter, if such matter is capable of being cured, the Party hereto that has delivered such notice may not terminate this Agreement until the earlier of the Outside Date and the expiration of a period of 15 days from date of delivery of such notice. If such notice has been delivered prior to the date of the Toachi Meeting, the Toachi Meeting shall be adjourned or postponed until the expiry of such period without causing any breach of any other provision contained herein.

## 5.2 Mutual Conditions

The obligations of Atico and Toachi to complete the Arrangement shall be subject to the satisfaction of, among others, the following mutual conditions, which may be waived in whole or in part only with the consent of each of the Parties at any time:

- (a) **Orders.** The Interim Order and the Final Order shall have been granted on terms consistent with this Agreement and acceptable to the Parties, each acting reasonably, and shall not have been set aside or modified in a manner unacceptable to the Parties, each acting reasonably, on appeal or otherwise.
- (b) **Toachi Arrangement Approval.** The Toachi Shareholders shall have approved the Toachi Arrangement Resolutions in accordance with the Interim Order and approved or consented to such other matters as Atico and Toachi shall consider necessary or desirable in connection with the Arrangement in the manner required thereby.
- (c) **Consents.** (A) All consents, waivers, permits, exemptions, order and approvals of, and any registrations and filings with, any Governmental Entity; and (B) all third person and other consents, waivers, permits, exemptions, orders and approvals, the failure of which to obtain or the non-expiry of which would, or could reasonably be expected to have, a Material Adverse Effect on either Atico or Toachi or materially impede or delay the completion of the Arrangement, shall have been obtained or received on terms that are reasonably satisfactory to each Party hereto.
- (d) **No Action.** There shall have been no action taken, pending or threatened under any applicable Law or by any Governmental Entity which:
  - (i) makes it illegal or otherwise directly or indirectly restrains, enjoins or prohibits the completion of the Arrangement, or

- (ii) results or could reasonably be expected to result in a judgment, order, decree or assessment of damages, directly or indirectly, relating to the Arrangement which is, or could be, reasonably expected to have a Material Adverse Effect on Atico or Toachi, respectively.
- (e) **Prospectus Exemptions.** The distribution of the securities pursuant to the Arrangement shall be exempt from the prospectus and registration requirements of applicable Canadian securities Laws either by virtue of exemptive relief from the securities regulatory authorities of each of the provinces of Canada or by virtue of applicable exemptions under Canadian securities Laws and shall not be subject to resale restrictions under applicable Canadian securities Laws (other than as applicable to control persons or pursuant to Section 2.6 of National Instrument 45-102).
- (f) **U.S. Registration Exemption.** Under the Plan of Arrangement (i) the issuance of the Atico Shares as Share Consideration to Toachi Shareholders in exchange for Toachi Shares shall qualify in the United States for the Section 3(a)(10) Exemption and for exemptions under applicable state securities Laws (except for those states requiring a filing), and (ii) the Final Order will serve as a basis of a claim to the Section 3(a)(10) Exemption;
- (g) **TSX-V Acceptance.** Atico and Toachi shall have each received the required acceptance of the TSX-V to the transactions contemplated by this Agreement.
- (h) **No Termination.** This Agreement shall not have been terminated pursuant to Section 6.5 hereof.

### 5.3 Conditions to Obligations of Atico

The obligation of Atico to complete the Arrangement shall be subject to the satisfaction of, among others, the following conditions, any of which may be waived in whole or in part by Atico:

- (a) **Performance by Toachi.** All covenants of Toachi under this Agreement to be performed or complied with on or before the Effective Time which have not been waived by Atico shall have been duly performed or complied with by Toachi in all material respects, and Atico shall have received a certificate of Toachi, addressed to Atico and dated the Effective Date, signed on behalf of Toachi by two senior officers of Toachi (on Toachi's behalf and without personal liability), confirming the same as of the Effective Date.
- (b) **Representations and Warranties.** The representations and warranties made by Toachi in this Agreement shall be true and correct in all material respects as of the Effective Date as if made on and as of such date (except to the extent that such representations and warranties made by Toachi as of a specified date, in which event such representations and warranties shall be true and correct as of such specified date), except where any failures or breaches of representations and warranties would not either, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect on Toachi, and Atico shall have received a certificate of Toachi, addressed to Atico and dated the Effective Date, signed on behalf of Toachi by two senior officers of Toachi (on Toachi's behalf and without personal liability), confirming the same as of the Effective Date. No representation or warranty made by Toachi hereunder shall be deemed not to be true and correct if the facts or circumstances that make such representation or warranty untrue or incorrect are disclosed or referred to in the Toachi Disclosure Letter, or provided for or stated to be exceptions under this Agreement.
- (c) **No Material Adverse Effect.** There shall not have been any event or change that has had or would be reasonably likely to have a Material Adverse Effect on Toachi, and Atico shall have

received a certificate of Toachi, addressed to Atico and dated the Effective Date, signed on behalf of Toachi by two senior officers of Toachi (on Toachi's behalf and without personal liability), confirming the same as of the Effective Date.

- (d) **Directors.** Toachi shall have obtained and delivered to Atico written resignations and releases to be effective as of the Effective Date from the directors of Toachi and its Subsidiaries as may be requested by, and in form and substance satisfactory to, Atico, acting reasonably.
- (e) **Officers and Employees.** Adequate arrangements shall have been made to modify any entitlements to receive compensation benefits triggered by or arising as a result of the consummation of the Arrangement from the Toachi Employee named in Section 5.4(g) to be retained after the Effective Date in a manner acceptable to Atico and the Toachi Employee.
- (f) **Exercise of Dissent Rights.** Holders of no more than 5% of the outstanding Toachi Shares at the Effective Time shall have exercised Dissent Rights.
- (g) **Net Liabilities.** Toachi and the Toachi Subsidiaries shall have Net Liabilities as of the Effective Date of less than US\$5,500,000.
- (h) **La Plata Option Agreement.** Toachi shall have entered into the La Plata Loan Agreement, on terms reasonably acceptable to Atico, and, utilizing the proceeds therefrom, shall have fully exercised the first option under the La Plata Option Agreement and Toachi Newco shall be the registered and beneficial owner of a 60% interest in the share capital Compania Minera La Plata S.A. free and clear of all Encumbrances except as per the La Plata Loan Agreement, the Bridge Loan and the Permitted Encumbrances, and Toachi shall have provided satisfactory evidence of the foregoing to Atico. There shall be no material adverse change related to the La Plata Option Agreement nor the rights of Toachi thereunder as determined by Atico in its sole discretion, acting reasonably.
- (i) **Debentures.** Toachi shall have entered into amending agreements with each holder of Toachi Debentures providing for the treatment of the Toachi Debentures as a result of the consummation of the Arrangement in a manner acceptable to Atico. There shall be no event of default, acceleration of repayment, penalty payment owing or any other materially adverse change, as determined by Atico in its sole discretion, acting reasonably, or notice thereof, under the Toachi Debentures.
- (j) **Loan between Toachi and Goliath Trust.** Prior to or concurrent with Closing, Toachi shall, as instructed by Atico, pay out any outstanding principal and interest owing under the loan dated June 6, 2019 between Toachi and Goliath Trust.
- (k) **Bridge Loan Security.** Following exercise of the first option under the La Plata Option Agreement and within 10 days of the execution of this Agreement, Toachi and the Toachi Subsidiaries shall have taken all steps necessary to perfect the security interest of Atico in the shares of Toachi Newco pursuant to the terms of the trust deed referenced in Section 4.1(r).

#### **5.4 Conditions to Obligations of Toachi**

The obligations of Toachi to complete the Arrangement shall be subject to the satisfaction of, among others, the following conditions, any of which may be waived in whole or in part by Toachi:

- (a) **Performance by Atico.** All covenants of Atico under this Agreement to be performed or complied with on or before the Effective Time which have not been waived by Toachi shall have been duly performed or complied with by Atico in all material respects, and Toachi shall have received a certificate of Atico, addressed to Toachi and dated the Effective Date, signed on behalf of Atico by two senior officers of Atico (on Atico's behalf and without personal liability), confirming the same as of the Effective Date.
- (b) **Representations and Warranties.** The representations and warranties made by Atico in this Agreement shall be true and correct in all material respects as of the Effective Date as if made on and as of such date (except to the extent that such representations and warranties made by Atico as of a specified date, in which event such representations and warranties shall be true and correct as of such specified date), except where any failures or breaches of representations and warranties would not either, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect on Atico, and Toachi shall have received a certificate of Atico, addressed to Toachi and dated the Effective Date, signed on behalf of Atico by two senior officers of Atico (on Atico's behalf and without personal liability), confirming the same as of the Effective Date. No representation or warranty made by Atico hereunder shall be deemed not to be true and correct if the facts or circumstances that make such representation or warranty untrue or incorrect are disclosed or referred to in the Atico Disclosure Letter, or provided for or stated to be exceptions under this Agreement.
- (c) **No Material Adverse Effect.** There shall not have been any event or change that has had or would be reasonably likely to have a Material Adverse Effect on Atico, and Toachi shall have received a certificate of Atico, addressed to Toachi and dated the Effective Date, signed on behalf of Atico by two senior officers of Atico (on Atico's behalf and without personal liability), confirming the same as of the Effective Date.
- (d) **Listing of Atico Shares.** The Atico Shares to be issued to Toachi Shareholders in connection with the Arrangement and to be issued pursuant to exercise or conversion of any of the Toachi Options and Toachi Warrants shall have been approved for listing on the TSX-V, subject only to satisfaction of the customary listing conditions of the TSX-V and Atico shall have delivered evidence thereof satisfactory to Toachi, acting reasonably.
- (e) **Transition Consulting Agreements.** Atico shall have executed transition consulting agreements with those individuals listed in Schedule 5.4(e) of the Toachi Disclosure Letter upon terms and conditions to the satisfaction of their respective parties.
- (f) **Composition of Board of Atico.** On the Effective Date, the Atico Board shall be composed of not more than 7 persons, and shall include Jonathan Goodman or, if such individual is unable or unwilling to act, another individual nominated by Toachi, to serve until the first shareholders meeting of Atico Shareholders at which directors are elected following the Effective Date, provided that such other nominee shall have been approved by the Atico Board (such approval not to be unreasonably withheld or delayed) and meet Atico's criteria of general application for director candidates.
- (g) **Personnel of Atico.** On the Effective Date, Atico shall appoint Alain Bureau as President of Atico.
- (h) **Change of Control Payments.** Atico shall have made arrangements, satisfactory to Toachi acting reasonably, for payment, within 30 days of the Effective Date and without any conditions

or restrictions, of the change of control payment(s) (net only of required statutory withholdings) due to individual(s) listed in Schedule 5.4(h) of the Toachi Disclosure Letter.

## **5.5 Merger of Conditions**

The conditions set out in Sections 5.2, 5.3 and 5.4 shall be conclusively deemed to have been satisfied, fulfilled or waived at the Effective Time, and the Parties shall execute a certificate confirming the Effective Date.

## **ARTICLE 6 NON-SOLICITATION AND TERMINATION**

### **6.1 Non-Solicitation.**

- (a) Each Party shall, and shall direct and cause its Subsidiaries and its and its Subsidiaries' respective officers, directors, employees, representatives, advisors and agents to immediately cease and cause to be terminated any solicitation, encouragement, activity, discussion or negotiation, whether or not initiated by such Party, with any parties (other than the other Party) commenced prior to the date of this Agreement with respect to an Acquisition Proposal, and the Party shall request the return of information regarding such Party and its Subsidiaries previously provided to such parties and shall request the destruction of all materials including or incorporating any confidential information regarding such Party and its Subsidiaries. Each Party agrees not to release any third party from any confidentiality agreement relating to a potential Acquisition Proposal to which such third party is a party. Each Party further agrees not to release any third party from any standstill or similar agreement or obligation to which such third party is a party or by which such third party is bound (it being understood and agreed that the automatic termination of a standstill provision due to the announcement of the Arrangement or the entry into this Agreement shall not be a violation of this Section 6.1(a)).
- (b) Subject to Section 6.2, or unless permitted pursuant to this Section 6.1, each Party agrees that it shall not, and shall not authorize or permit any of its officers, directors, employees, representatives, advisors or agents or its Subsidiaries, directly or indirectly, to:
  - (i) make, solicit, initiate, promote or facilitate, including by way of furnishing information, permitting any visit to its facilities or properties or entering into any form of agreement, arrangement or understanding, any inquiries or the making of any proposals regarding an Acquisition Proposal or that may be reasonably be expected to lead to an Acquisition Proposal;
  - (ii) participate, directly or indirectly in any discussions or negotiations regarding, or furnish to any person any information or otherwise co-operate with, respond to, assist or participate in any Acquisition Proposal or potential Acquisition Proposal;
  - (iii) remain neutral with respect to, or agree to, approve or recommend, any Acquisition Proposal or potential Acquisition Proposal (it being understood that publicly taking no position or a neutral position with respect to an Acquisition Proposal until three Business Days following formal announcement of such Acquisition Proposal shall not be considered to be a violation of this paragraph (iii));
  - (iv) withdraw, modify, qualify or change in a manner adverse to the other Party, or publicly propose to or publicly state that it intends to withdraw, modify, qualify or change in a

manner adverse to the other Party, the approval, recommendation or declaration of advisability of the board of directors of the Party of either the Arrangement or this Agreement, as the case may be (a “**Change in Recommendation**”) (it being understood that failing to affirm the approval or recommendation of the board of directors of the Party of the Arrangement or this Agreement within three Business Days after an Acquisition Proposal relating to the Party has been publicly announced and, in circumstances where no Acquisition Proposal has been made, within two Business Days of being requested to do so by the other Party, shall be considered an adverse modification);

- (v) enter into any agreement, arrangement or understanding effecting or related to any Acquisition Proposal or requiring it to abandon, terminate or fail to consummate the Arrangement, or providing for the payment of any break, termination or other fees or expenses to any person in the event that the Party completes the Arrangement; or
  - (vi) make any public announcement or take any other action inconsistent with the recommendation of the board of directors of the Party that Toachi Shareholders approve the Arrangement.
- (c) Notwithstanding Section 6.1(b) and any other provisions of this Agreement, the board of directors of a Party may consider, participate in any discussions or negotiations with, and provide information to any person who has delivered a *bona fide* written Acquisition Proposal which was not solicited, facilitated or encouraged by the Party after the date of this Agreement and did not otherwise result from a breach of this Section 6.1 by the Party, if:
- (i) the board of directors of the Party first determines in good faith, after consultation with its financial advisor and outside legal counsel, that such Acquisition Proposal constitutes or would reasonably be expected to constitute a Superior Proposal and that it is necessary to take such action in order to discharge properly its fiduciary duties;
  - (ii) such person was not restricted from making such Acquisition Proposal pursuant to an existing standstill or similar restriction in favour of the Party;
  - (iii) prior to providing any confidential non-public information to such person, the Party obtains a confidentiality and standstill agreement from the person making such Acquisition Proposal, provided, for greater certainty, that such standstill shall not preclude such person from making a Superior Proposal; and
  - (iv) the Party sends a copy of any such confidentiality agreement to the other Party promptly upon its execution and the other Party is provided with a list of the information provided to such person and is immediately provided with access to similar information to which such person was provided.
- (d) Nothing contained in this Section 6.1 or elsewhere in this Agreement shall prohibit the board of directors of either Party from making a Change in Recommendation or from making any disclosure to any securityholder of such Party if, in the good faith judgment of such board of directors, after consultation with outside legal counsel, such action is necessary for the board of directors of the Party to act in a manner consistent with its fiduciary duties or is otherwise required under applicable Laws; *provided, however*, that:

- (i) in the case of a proposal to make a Change in Recommendation that does not relate to a Superior Proposal and except as may otherwise be necessary for the board of directors of the Party to act in a manner consistent with its fiduciary duties, not less than 48 hours before the board of directors of the Party considers any such proposal the Party shall give the other Party written notice of such proposal and promptly advise the other Party of its board of director's intention to consider such proposal; and
- (ii) this Section 6.1(d) shall not relieve Toachi from its obligation to proceed to call and hold the Toachi Meeting and to hold the vote on the Toachi Arrangement Resolutions, except in circumstances where this Agreement is terminated in accordance with the terms hereof.
- (e) Nothing contained in this Section 6.1 shall prohibit the board of directors of the Party from distributing a circular in compliance with applicable Canadian and U.S. securities Laws, as applicable, in response to a take-over bid or tender offer; *provided, however*, that the board of directors of the Party shall not, except as permitted by Section 6.1 or 6.2, make a Change in Recommendation or recommend an Acquisition Proposal.
- (f) From and after the date of this Agreement, a Party shall promptly (and in any event within 24 hours) notify the other Party, at first orally and then in writing, of any proposals, offers or written inquiries relating to or constituting an Acquisition Proposal, or any request for non-public information relating to the Party or its Subsidiaries, including a description of the terms and conditions of any proposal, inquiry or offer and the identity of the person making such proposal, inquiry or offer and provide the other Party with a copy of any such proposal, offer or inquiry. Each Party shall keep the other Party fully informed on a prompt basis of the status, including any change to the material terms, of any such inquiry, proposal or offer.
- (g) Each Party shall ensure that its officers, directors and employees and its Subsidiaries and their officers, directors, employees and any financial advisors or other advisors, agents or representatives retained by it are aware of the provisions of this Section 6.1, and it shall be responsible for any breach of this Section 6.1 by such officers, directors, employees, financial advisors or other advisors, agents or representatives.

## **6.2 Right to Accept a Superior Proposal.**

- (a) If a Party has complied with Section 6.1, with respect thereto, the Party may accept, approve, recommend or enter into any agreement, understanding or arrangement in respect of a Superior Proposal (other than a confidentiality agreement, the execution of which shall not be subject to the conditions of this Section 6.2) received (the "**Receiving Party**") after the date hereof and prior to the date of approval of the Arrangement by the Toachi Shareholders, and the Receiving Party may terminate this Agreement if, and only if: (1) the Receiving Party has provided the other Party (the "**Responding Party**") with a copy of the Superior Proposal document; (2) the Receiving Party has provided the Responding Party with the information regarding such Superior Proposal required under Section 6.1(f); (3) the board of directors of the Receiving Party has determined in good faith after consultation with outside legal counsel and its financial advisors that it is necessary in order for the board of directors of the Receiving Party to discharge properly its fiduciary duties to withdraw or modify its approval or recommendation of this Agreement and to approve or recommend such Superior Proposal; and (4) five Business Days shall have elapsed from the date the Responding Party received written notice (a "**Superior Proposal Notice**") advising it that the board of directors of the Receiving Party has resolved to accept, approve, recommend or enter into an agreement in respect of such Superior Proposal including a copy of such agreement subject only to this Section 6.2. In the event that the Receiving Party provides the

Responding Party with a Superior Proposal Notice on a date that is less than seven Business Days prior to the Toachi Meeting, Toachi shall adjourn the Toachi Meeting to a date that is not less than six days and not more than 15 days after the date of the Superior Proposal Notice and the Outside Date shall be postponed by a number of days equal to the number of days of such adjournment.

- (b) During the five Business Day period referred to in Section 6.2(a)(4), the Receiving Party agrees that the Responding Party shall have the right, but not the obligation, to offer in writing to amend the terms of this Agreement. The terms of any proposed amendment to this Agreement shall be provided by the Responding Party to the Receiving Party. The board of directors of the Receiving Party will review any written proposal by the Responding Party to amend the terms of this Agreement in good faith in order to determine, in its discretion in the exercise of its fiduciary duties, whether the amended proposal would, upon acceptance by the Receiving Party, result in such Superior Proposal ceasing to be a Superior Proposal. If the board of directors of the Receiving Party so determines, the Receiving Party will enter into an amended agreement with the Responding Party reflecting the amended proposal. If the board of directors of the Receiving Party does not so determine, the Receiving Party may accept, approve, recommend or enter into an agreement, understanding or arrangement in respect of such Superior Proposal, subject to compliance with Section 6.3 hereof.
- (c) Each Party also acknowledges and agrees that each successive material modification of any Acquisition Proposal shall constitute a new Acquisition Proposal for purposes of the requirement under Section 6.2(a), and will initiate an additional five Business Day notice period.

### **6.3 Termination Payment.**

- (a) In the event that:
  - (i) a Party enters into an agreement to effect an Acquisition Proposal that is a Superior Proposal in accordance with Section 6.2; or
  - (ii) a Party makes a Change in Recommendation in respect of the Arrangement, except if due to a Material Adverse Effect in respect of the other Party due to changes, effects, events, occurrences, facts or circumstances originating from the other Party,

then the Party shall immediately pay to the other Party the Termination Fee by wire transfer of immediately available funds. If the Party has previously paid the other Party the Expense Reimbursement Amount pursuant to Section 6.4, the amount of the Termination Fee shall be reduced by the amount of the Expense Reimbursement Amount actually paid. The Party shall not be obligated to make payment greater in aggregate than such amount pursuant to this Section 6.3. Each of the Parties hereby acknowledges that the Termination Fee is a payment of liquidated damages which is a genuine pre-estimate of the damages which the other Party will suffer or incur as a result of the event giving rise to such damages and the resultant non-completion of the Arrangement and is not a penalty. Each Party hereby irrevocably waives any right it may have to raise as a defence that any such liquidated damages are excessive or punitive. Upon receipt by the other Party of the Termination Fee to which it is entitled, the other Party shall have no further claim against the Party in respect of the failure to complete the Arrangement, provided that nothing herein shall preclude the other Party from seeking injunctive relief to restrain any breach or threatened breach by the Party of any of its obligations hereunder or otherwise to obtain specific performance without the necessity of posting bond or security in connection therewith.

(b) In addition to the foregoing, if this Agreement is terminated pursuant to Section 6.5(b), (d), (f), (g) or (h) hereof, and prior to the Toachi Meeting, a *bona fide* Acquisition Proposal, or the intention to enter a *bona fide* Acquisition Proposal with respect to Toachi, has been publicly announced and not withdrawn and within 12 months of the date of such termination:

- (i) any person or group of people:
  - (A) directly or indirectly acquires Toachi by takeover bid, arrangement, business combination or otherwise;
  - (B) directly or indirectly acquires the assets of Toachi or one or more of the Toachi Subsidiaries that: (1) constitute more than 50% of the consolidated assets of Toachi; (2) generate more than 50% of the consolidated revenue of Toachi; or (3) generate more than 50% of the consolidated operating income of Toachi; or
  - (C) directly or indirectly acquires more than 50% of the voting or equity securities of Toachi; or
- (ii) Toachi and/or one or more of the Toachi Subsidiaries enters into a definitive agreement in respect of, or the Toachi Board approves or recommends, a transaction contemplated by (i) above with any person or group of people and that arrangement is consummated at any time thereafter,

then Toachi shall immediately pay to Atico the Termination Fee by wire transfer of immediately available funds.

(c) In addition to the foregoing, if this Agreement is terminated pursuant to Section 6.5(c), (e), (g) or (h) hereof, and prior to the Toachi Meeting, a *bona fide* Acquisition Proposal, or the intention to enter a *bona fide* Acquisition Proposal with respect to Atico, has been publicly announced and not withdrawn and within 12 months of the date of such termination:

- (i) any person or group of people:
  - (A) directly or indirectly acquires Atico by takeover bid, arrangement, business combination or otherwise;
  - (B) directly or indirectly acquires the assets of Atico or one or more of the Atico Subsidiaries that: (1) constitute more than 50% of the consolidated assets of Atico; (2) generate more than 50% of the consolidated revenue of Atico; or (3) generate more than 50% of the consolidated operating income of Atico; or
  - (C) directly or indirectly acquires more than 50% of the voting or equity securities of Atico; or
- (ii) Atico and/or one or more of the Atico Subsidiaries enters into a definitive agreement in respect of, or the Atico Board approves or recommends, a transaction contemplated by (i) above with any person or group of people and that arrangement is consummated at any time thereafter,

then Atico shall immediately pay to Toachi the Termination Fee by wire transfer of immediately available funds.

#### **6.4 Expense Reimbursement**

In the event that this Agreement is terminated:

- (a) by Atico pursuant to Sections 6.5(g) or 6.5(h) as a result of a breach of representation or warranty by Toachi or by Atico pursuant to Section 6.5(i), then Toachi shall within 15 days pay to Atico the Expense Reimbursement Amount by wire transfer of immediately available funds; or
- (b) by Toachi pursuant to Sections 6.5(g) or 6.5(h) as a result of a breach of representation or warranty by Atico or by Toachi pursuant to Section 6.5(j), or by Atico pursuant to Section 6.5(c), then Atico shall immediately pay to Toachi the Expense Reimbursement Amount by wire transfer of immediately available funds.

Each of the Parties hereby acknowledges that the Expense Reimbursement Amount is a payment of liquidated damages which is a genuine pre-estimate of the damages which the other Party will suffer or incur as a result of the event giving rise to such damages and the resultant non-completion of the Arrangement and is not a penalty. Each Party hereby irrevocably waives any right it may have to raise as a defence that any such liquidated damages are excessive or punitive. Upon receipt by a Party of the Expense Reimbursement Amount to which it is entitled, such Party shall, other than as set forth in Section 6.3(b), have no further claim against the other Party in respect of the failure to complete the Arrangement, provided that nothing herein shall preclude a Party from seeking injunctive relief to restrain any breach or threatened breach by the other Party of any of its obligations hereunder or otherwise to obtain specific performance without the necessity of posting bond or security in connection therewith.

#### **6.5 Termination**

Except for Sections 6.3 and 6.4 of this Agreement, this Agreement may be terminated at any time:

- (a) by mutual written agreement between Atico and Toachi;
- (b) by Atico if: (i) the Toachi Board shall have withdrawn or modified in a manner adverse to it its approval or recommendation of the Arrangement (in accordance with Section 6.1 or 6.2); (ii) the Toachi Board shall have approved or recommended an Acquisition Proposal; or (iii) Toachi shall have entered into a definitive agreement with respect to a Superior Proposal;
- (c) by Toachi if: (i) the Atico Board shall have withdrawn or modified in a manner adverse to it its approval or recommendation of the Arrangement (in accordance with Section 6.1 or 6.2); (ii) the Atico Board shall have approved or recommended an Acquisition Proposal; or (iii) Atico shall have entered into a definitive agreement with respect to a Superior Proposal;
- (d) by Toachi in order to enter into a definitive written agreement with respect to a Superior Proposal, subject to compliance with Section 6.2 and the payment of the Termination Fee required to be paid pursuant to Section 6.3;
- (e) by Atico in order to enter into a definitive written agreement with respect to a Superior Proposal, subject to compliance with Section 6.2 and the payment of the Termination Fee required to be paid pursuant to Section 6.3;
- (f) by any Party if the required approval of the Toachi Arrangement Resolutions shall not have been obtained at the Toachi Meeting in the manner required by the Interim Order;

- (g) by any Party if any condition precedent to its obligations has not been satisfied by the Outside Date or where it is clear that the condition cannot be satisfied by the Outside Date, and such breach or failure is incapable of being cured or is not cured prior to the Outside Date in accordance with the terms of Section 5.1, except that the right to terminate this Agreement under this Section 6.5(g) shall not be available to any Party whose failure to fulfill any of its obligations or whose breach of any of its representations and warranties under this Agreement has been the cause of, or directly resulted in, the inability to satisfy such condition precedent by the Outside Date;
- (h) by any Party if the Effective Time shall not have occurred on or before the Outside Date, except that the right to terminate this Agreement under this Section 6.5(h) shall not be available to any Party whose failure to fulfill any of its obligations or whose breach of any of its representations and warranties under this Agreement has been the cause of, or directly resulted in, the failure of the Effective Time to occur by such Outside Date;
- (i) by Atico if there is a material breach by Toachi of its covenants under this Agreement, provided however, that Atico is not then in breach of this Agreement so as to cause any of the covenants under this Agreement not to be satisfied by Toachi;
- (j) by Toachi if there is a material breach by Atico of its covenants under this Agreement, provided however, that Toachi is not then in breach of this Agreement so as to cause any of the covenants under this Agreement not to be satisfied by Atico; or
- (k) by any Party if any law makes the completion of the Arrangement or the transactions contemplated by this Agreement illegal or otherwise prohibited, and such law has become final and non-appealable.

## **ARTICLE 7 AMENDMENT**

### **7.1 Amendment**

This Agreement may, at any time and from time to time before or after the holding of the Toachi Meeting, be amended by mutual written agreement of the Parties hereto without, subject to applicable Law, further notice to or authorization on the part of the Toachi Shareholders, and any such amendment may, without limitation:

- (a) change the time for the performance of any of the obligations or acts of any Party hereto;
- (b) waive any inaccuracies in or modify any representation or warranty contained herein or in any document delivered pursuant hereto;
- (c) waive compliance with or modify any of the covenants herein contained and waive or modify the performance of any of the obligations of any Party hereto; and
- (d) waive compliance with or modify any condition herein contained;

*provided, however*, that notwithstanding the foregoing: (i) following the Toachi Meeting, the Share Consideration shall not be amended without the approval of the Toachi Shareholders given in the same manner as required for the approval of the Arrangement or as may be ordered by the Court; and (ii) this Agreement and the Plan of Arrangement may be amended in accordance with the Final Order.

**ARTICLE 8  
GENERAL**

**8.1 Notices**

Any notice, consent, waiver, direction or other communication required or permitted to be given under this Agreement by a Party hereto shall be in writing and shall be delivered by hand to the Party hereto to which the notice is to be given at the following address or sent by email to the following email address or to such other address or email address as shall be specified by a Party hereto by like notice. Any notice, consent, waiver, direction or other communication aforesaid shall, if delivered, be deemed to have been given and received on the date on which it was delivered to the address provided herein (if a Business Day or, if not, then the next succeeding Business Day) and if sent by email be deemed to have been given and received at the time of receipt (if a Business Day or, if not, then the next succeeding Business Day) unless actually received after 4:00 p.m. (Vancouver time) at the point of delivery in which case it shall be deemed to have been given and received on the next Business Day.

The address for service of each of the Parties hereto shall be as follows:

- (a) if to Atico:

Atico Mining Corporation  
Suite # 501, 543 Granville St.  
Vancouver, BC V6C 1X8

Attention: Fernando E. Ganoza  
Email: [feganoza@aticomining.com](mailto:feganoza@aticomining.com)

With a copy to:

Blake, Cassels & Graydon LLP  
595 Burrard Street, Suite 2600  
Three Bentall Centre  
Vancouver, British Columbia V7Z 1L3

Attention: Peter O'Callaghan  
Email: [peter.ocallaghan@blakes.com](mailto:peter.ocallaghan@blakes.com)

- (b) if to Toachi:

Toachi Mining Inc.  
1 Adelaide Street East, 20<sup>th</sup> Floor  
Toronto, Ontario M5C 2V9

Attention: Alain Bureau  
Email: [alain@toachimining.com](mailto:alain@toachimining.com)

With a copy to:

Seguin Racine, Attorneys Ltd.  
3030, Le Carrefour Blvd., Suite 1002  
Laval, QC H7T 2P5

Attention: Sylvain Aird  
Email: [sa@seguinracine.com](mailto:sa@seguinracine.com)

## **8.2 Remedies**

The Parties hereto acknowledge and agree that an award of money damages may be inadequate for any breach of this Agreement by any Party hereto or its representatives and advisors and that such breach may cause the non-breaching Party hereto irreparable harm. Each Party agrees that it will not request that a court find that its breach or threatened breach has not or will not cause the other Party irreparable harm and no Party will lend assistance to such a request. The Parties hereto agree that, in the event of any such breach or threatened breach of this Agreement by one of the Parties hereto, Toachi (if Atico is the breaching Party) or Atico (if Toachi is the breaching Party) will be entitled to seek equitable relief, including interim, interlocutory and permanent injunctive relief and specific performance. Each Party agrees that it will not take the position in court or otherwise that its breach or threatened breach has not or will not cause the other Party irreparable harm and no Party will lend assistance to such position. Each Party agrees that it will not request that the court require the Party or Parties seeking such relief to provide an undertaking as to damages or to post a bond or security as a condition of granting such relief. Without limiting the generality of the foregoing, the Parties hereto acknowledge and agree that a mandatory order or other injunctive relief may be granted to enforce any negative covenant in this agreement without the requirement to demonstrate irreparable harm or that the balance of convenience favours the Party seeking such relief. Subject to any other provision hereof including, without limitation, Section 6.5 hereof, such remedies will not be the exclusive remedies for any breach of this Agreement but will be in addition to all other remedies available hereunder at law or in equity to each of the Parties hereto.

## **8.3 Expenses**

Except as set forth in Sections 2.4(c) and 6.4 the Parties hereto agree that all out-of-pocket expenses incurred in connection with this Agreement and the transactions contemplated hereby, the Toachi Meeting and the preparation and mailing of the Toachi Circular, including legal and accounting fees, printing costs, financial advisor fees and all disbursements by advisors, shall be paid by the Party hereto incurring such expense and that nothing in this Agreement shall be construed so as to prevent the payment of such expenses. The provisions of this Section 8.3 shall survive the termination of this Agreement.

## **8.4 Time of the Essence**

Time shall be of the essence in this Agreement.

## **8.5 Entire Agreement**

This Agreement, together with the agreements and other documents herein or therein referred to, constitute the entire agreement between the Parties hereto pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, between the Parties hereto with respect to the subject matter hereof. There are no representations, warranties, covenants or conditions with respect to the subject matter hereof except as contained herein.

## **8.6 Further Assurances**

Each Party hereto shall, from time to time, and at all times hereafter, at the request of the other of them, but without further consideration, do, or cause to be done, all such other acts and execute and deliver, or cause to be executed and delivered, all such further agreements, transfers, assurances, instruments or documents as shall be reasonably required in order to fully perform and carry out the terms and intent hereof including, without limitation, the Plan of Arrangement.

## **8.7 Governing Law**

This Agreement shall be governed by, and be construed in accordance with, the Laws of the Province of Ontario and the Laws of Canada applicable therein but the reference to such Laws shall not, by conflict of Laws rules or otherwise, require the application of the law of any jurisdiction other than the Province of Ontario.

## **8.8 Execution in Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall conclusively be deemed to be an original and all such counterparts collectively shall be conclusively deemed to be one and the same. Delivery of an executed counterpart of the signature page to this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement, and such facsimile or similar executed electronic copy shall be legally effective to create a valid and binding agreement between the Parties.

## **8.9 Waiver**

No waiver or release by any Party hereto shall be effective unless in writing and executed by the Party granting such waiver or release, and any waiver or release shall affect only the matter, and the occurrence thereof, specifically identified therein and shall not extend to any other matter or occurrence. Waivers may only be granted upon compliance with the provisions governing amendments set forth in Section 7.1 hereof.

## **8.10 No Personal Liability**

- (a) No director or officer of Atico shall have any personal Liability whatsoever (other than in the case of fraud or wilful misconduct) to Toachi under this Agreement or any other document delivered in connection with this Agreement or the Arrangement by or on behalf of Atico.
- (b) No director or officer of Toachi shall have any personal Liability whatsoever (other than in the case of fraud or wilful misconduct) to Atico under this Agreement or any other document delivered in connection with this Agreement or the Arrangement by or on behalf of Toachi.

## **8.11 Enurement and Assignment**

This Agreement shall enure to the benefit of the Parties hereto and their respective successors and permitted assigns and shall be binding upon the Parties hereto and their respective successors. This Agreement may not be assigned by any Party hereto without the prior written consent of the other Party hereto.

*[Signature Page follows]*

**IN WITNESS WHEREOF** the Parties hereto have executed this Agreement as of the date first above written.

**ATICO MINING CORPORATION**

Per: (Signed) "*Fernando E. Ganoza*"

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Name: Fernando E. Ganoza  
Title: Chief Executive Officer

**TOACHI MINING INC.**

Per: (Signed) "*Alain Bureau*"

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Name: Alain Bureau  
Title: Chief Executive Officer

**SCHEDULE A**  
**PLAN OF ARRANGEMENT**  
**UNDER SECTION 192 OF THE**  
**CANADA BUSINESS CORPORATIONS ACT**

**ARTICLE 1**  
**INTERPRETATION**

**1.1 Definitions**

In this Plan of Arrangement, unless there is something in the subject matter or context inconsistent therewith, the following terms shall have the respective meanings set out below and grammatical variations of those terms shall have corresponding meanings:

- (a) **“Arrangement”** means the arrangement under the provisions of Section 192 of the CBCA, on the terms and subject to the conditions set out in this Plan of Arrangement, subject to any amendments or variations thereto made in accordance with Section 7.1 of the Arrangement Agreement or the provisions hereof or made at the direction of the Court in the Final Order with the consent of Toachi and Atico, each acting reasonably;
- (b) **“Arrangement Agreement”** means the agreement made as of July 8, 2019 between Toachi and Atico, including the schedules thereto, as the same may be supplemented or amended from time to time prior to the Effective Date;
- (c) **“Articles of Arrangement”** means the articles of arrangement of Toachi in respect of the Arrangement required by the CBCA to be sent to the Director after the Final Order has been granted, giving effect to the Arrangement, which shall include this Plan of Arrangement and otherwise be in a form and content satisfactory to the Parties, each acting reasonably;
- (d) **“Arrangement Resolutions”** means the special resolution to be considered and, if thought fit, passed by the Toachi Shareholders at the Toachi Meeting to approve the Arrangement and related matters to be substantially in the form and content of Schedule D to the Arrangement Agreement;
- (e) **“Atico”** means Atico Mining Corporation;
- (f) **“Atico Shares”** means common shares in the capital of Atico;
- (g) **“Business Day”** means any day, other than a Saturday, a Sunday or a statutory holiday in Vancouver, British Columbia or Toronto, Ontario;
- (h) **“CBCA”** means the Canada Business Corporations Act;
- (i) **“Certificate of Arrangement”** means the certificate of arrangement giving effect to the Arrangement, issued by the Director pursuant to subsection 192(7) of the CBCA after the Articles of Arrangement have been filed;
- (j) **“Court”** means the Ontario Superior Court of Justice;

- (k) **“Depository”** means any trust company, bank or other financial institution agreed to in writing by each of the Parties for the purpose of, among other things, exchanging certificates representing Toachi Shares for the Share Consideration in connection with the Arrangement;
- (l) **“Dissent Rights”** has the meaning ascribed thereto in Section 4.1 of the Plan of Arrangement;
- (m) **“Dissenting Toachi Shareholder”** means a registered holder of Toachi Shares who has duly and validly exercised the Dissent Rights in respect of the Arrangement Resolutions in strict compliance with the dissent procedures set out in section 190 of the CBCA, as modified by Article 4.1 of the Plan of Arrangement, the Interim Order and the Final Order and has not withdrawn or been deemed to have withdrawn such exercise of dissent rights;
- (n) **“Dissenting Shares”** means the Toachi Shares held by Dissenting Toachi Shareholders in respect of which such Dissenting Toachi Shareholders have given notice of dissent in accordance with section 190 of the CBCA, as modified by Article 4.1 of the Plan of Arrangement and the Interim Order and who, as of the Effective time, has not withdrawn or lost such Dissent Rights;
- (o) **“Effective Date”** means the date shown on the Certificate of Arrangement to be issued by the Director pursuant to subsection 192(7) of the CBCA in respect of the Articles of Arrangement giving effect to the Arrangement;
- (p) **“Effective Time”** means 12:01 a.m. (Toronto time) on the Effective Date or such other time as Toachi and Atico may agree upon in writing;
- (q) **“Encumbrance”** means any mortgage, hypothec, pledge, assignment, charge, lien, claim, security interest, adverse interest, other third person interest or encumbrance of any kind, whether contingent or absolute, and any agreement, option, right or privilege (whether by Law, contract or otherwise) capable of becoming any of the foregoing;
- (r) **“Final Order”** means the final order of the Court approving the Arrangement (including all amendments thereto made prior to the Effective Time), in a form acceptable to both Toachi and Atico, each acting reasonably, granted pursuant to Section 192 of the CBCA, after a hearing upon the procedural and substantive fairness of the terms and conditions of the Arrangement, as such order may be affirmed, amended, modified, supplemented or varied by the Court (with the consent of both Toachi and Atico, each acting reasonably) at any time prior to the Effective Date or, if appealed, as affirmed or amended (provided that any such amendment is acceptable to both Toachi and Atico, each acting reasonably) on appeal unless such appeal is withdrawn, abandoned or denied;
- (s) **“Former Toachi Shareholders”** means, at and following the Effective Time, the holders of Toachi Shares immediately prior to the Effective Time (other than Dissenting Toachi Shareholders);
- (t) **“Governmental Entity”** means any applicable (i) multinational, federal, provincial, territorial, state, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitral body or arbitrator, commission, board, bureau or agency, whether domestic or foreign, (ii) any subdivision, agency, commission, board or authority of any of the foregoing, (iii) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing, or (iv) any stock exchange, including the TSX-V;

- (u) **“holder”**, when used with reference to any securities of Toachi, means the holder of such securities shown from time to time in the central securities register maintained by or on behalf of Toachi in respect of such securities;
- (v) **“Interim Order”** means the interim order of the Court to be issued following the application therefor submitted to the Court as contemplated by Section 2.2 of the Arrangement Agreement, and made pursuant to Section 192 of the CBCA, in a form and substance acceptable to Toachi and Atico, each acting reasonably, providing for, among other things, the calling and holding of the Toachi Meeting, as the same may be amended, affirmed, modified, supplemented or varied by the Court with the consent of both Toachi and Atico, each acting reasonably, in connection with the Arrangement, including any amendment thereto;
- (w) **“Plan of Arrangement”** means this plan of arrangement proposed under Section 192 of the CBCA, including any appendices hereto, and any amendments, modifications or supplements hereto made from time to time in accordance with the terms hereof or made at the direction of the Court in the Final Order, with the prior written consent of Toachi and Atico, each acting reasonably;
- (x) **“Share Consideration”** means, in respect of each Toachi Share, 0.24897 of an Atico Share;
- (y) **“Tax Act”** means the *Income Tax Act* (Canada), as amended, and the regulations thereunder, as amended;
- (z) **“Toachi”** means Toachi Mining Inc., a corporation incorporated under the laws of the Province of Canada;
- (aa) **“Toachi Debentures”** means convertible debentures of Toachi issued on January 4, 2019, January 23, 2019, and March 15, 2019 in the principal amount of C\$2,800,000, which are convertible into Toachi Shares;
- (bb) **“Toachi Debentureholder”** means a holder of Toachi Debentures;
- (cc) **“Toachi Meeting”** means the special meeting of the Toachi Shareholders, including any adjournment or postponement thereof, to be called and held in accordance with the Interim Order for the purpose of considering and, if thought fit, approving the Arrangement Resolutions;
- (dd) **“Toachi Option”** means an option to acquire a Toachi Share granted pursuant to the Toachi Stock Option Plan which is outstanding and unexercised immediately prior to the Effective Time, whether or not vested;
- (ee) **“Toachi Optionholder”** means a holder of one or more Toachi Options;
- (ff) **“Toachi RSU”** means a restricted share unit providing the right to receive a Toachi Share granted pursuant to Toachi’s Restricted Share Unit Plan dated December 8, 2017 which is outstanding and unexercised immediately prior to the Effective Time, whether or not vested;
- (gg) **“Toachi RSU Holder”** means a holder of one or more Toachi RSU;
- (hh) **“Toachi RSU Plan”** means the restricted share unit plan approved by the Toachi Shareholders on January 31, 2018;

- (ii) **“Toachi Securityholders”** means, together, the Toachi Shareholders, Toachi RSU Holders, Toachi Optionholders, Toachi Warrantholders and Toachi Debentureholders;
- (jj) **“Toachi Shareholder”** means a holder of one or more Toachi Shares;
- (kk) **“Toachi Shares”** means the common shares without par value in the capital of Toachi;
- (ll) **“Toachi Share Letter of Transmittal”** means the letter of transmittal to be delivered by Toachi to the Toachi Shareholders providing for the delivery of Toachi Shares to the Depository;
- (mm) **“Toachi Stock Option Plan”** means the 2011 stock option plan of Toachi;
- (nn) **“Toachi Warrants”** means outstanding share purchase warrants of Toachi immediately prior to the Effective Time;
- (oo) **“Toachi Warrantholders”** means a holder of one or more Toachi Warrants;
- (pp) **“TSX-V”** means the TSX Venture Exchange; and
- (qq) **“U.S. Tax Code”** means the United States *Internal Revenue Code of 1986*, as amended.

Any capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Arrangement Agreement. In addition, words and phrases used herein and defined in the CBCA and not otherwise defined herein or in the Arrangement Agreement shall have the same meaning herein as in the CBCA unless the context otherwise requires.

## **1.2 Interpretation Not Affected by Headings, etc.**

The division of this Plan of Arrangement into Articles, Sections, paragraphs and other portions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof. Unless otherwise indicated, all references to an “Article”, “Section” or “paragraph” followed by a number and/or a letter refer to the specified Article, Section or paragraph of this Plan of Arrangement. The terms “Plan of Arrangement”, “this Plan of Arrangement”, “the Plan of Arrangement”, “hereto”, “hereof”, “herein”, “hereby”, “hereunder” and similar expressions refer to this Plan of Arrangement in its entirety and not any particular provision hereof.

## **1.3 Number and Gender**

In the Plan of Arrangement, unless the context otherwise requires, words used herein importing the singular include the plural and *vice versa*, word importing the use of any gender shall include both gender and neutral.

## **1.4 Date of Any Action**

In the event that any date on which any action is required to be taken hereunder by any of the Parties is not a Business Day, such action shall be required to be taken on the next succeeding day which is a Business Day.

## **1.5 Statutory Reference**

Any reference in this Plan of Arrangement to a statute includes all regulations made thereunder, all amendments to such statute or regulation in force from time to time and any statute or regulation that supplements or supersedes such statute or regulation.

## **1.6 Time**

Time shall be of the essence in every matter or action contemplated hereunder. All times expressed herein or in any letter of transmittal contemplated herein are local time (Toronto, Ontario) unless otherwise stipulated herein or therein.

## **1.7 Currency**

Unless otherwise stated, all references herein to amounts of money are expressed in lawful currency of Canada and “\$” refers to Canadian dollars.

## **ARTICLE 2 EFFECT OF THE ARRANGEMENT**

### **2.1 Arrangement Agreement**

This Plan of Arrangement is made pursuant to, is subject to the provisions of, and forms a part of the Arrangement Agreement, except in respect of the sequence of the steps comprising the Arrangement, which shall occur in the order set forth herein. If there is any conflict between the provisions of this Plan of Arrangement and the provisions of the Arrangement Agreement regarding the Arrangement, the provisions of the Plan of Arrangement shall govern.

### **2.2 Binding Effect**

This Plan of Arrangement and the Arrangement, upon the filing of the Articles of Arrangement and issuance of the Certificate of Arrangement, will become effective at the Effective Time and shall be binding upon Atico, Toachi, the Toachi Shareholders (including, for certainty, Dissenting Toachi Shareholders), the Toachi Optionholders, the Toachi RSU Holders, the Toachi Warrantholders, the Toachi Debentureholders and the Depositary.

## **ARTICLE 3 ARRANGEMENT**

### **3.1 The Arrangement**

Commencing at the Effective Time, each of the events set out below shall occur and be deemed to occur in the following sequence, in each case without any further authorization, act or formality of or by Toachi, Atico or any other person:

- (a) each Toachi Share held by a Dissenting Toachi Shareholder who has validly exercised their Dissent Rights and which Dissent Rights remain valid immediately prior to the Effective Time, shall be deemed to be acquired by Toachi from the Dissenting Toachi Shareholder, without any further act or formality on its part, free and clear of all Encumbrances, and shall be cancelled in consideration for a debt claim against Toachi for an amount determined and payable in accordance with Article 4 hereof, and:

- (i) such Dissenting Toachi Shareholders shall cease to be the holders of such Toachi Shares and to have any rights as holders of such Toachi Shares, other than the right to be paid fair value for such Toachi Shares (with Toachi funds not directly or indirectly provided by Atico or any affiliate of Atico), as set out in Article 4 hereof;
  - (ii) such Dissenting Toachi Shareholders' names shall be removed as the holders of such Toachi Shares from the register of Toachi Shares maintained by or on behalf of Toachi; and
  - (iii) such Toachi Shares shall be cancelled and returned to treasury;
- (b) notwithstanding the terms of the Toachi RSU Plan, each Toachi RSU outstanding and held by a Toachi RSU Holder shall be deemed to be vested and exercisable, and shall (without further action or notice by or on behalf of any Toachi RSU Holder or Toachi) be disposed of and surrendered by the Toachi RSU Holder to Toachi in exchange for one Toachi Share in respect of each Toachi RSU, less applicable withholdings and:
- (i) the holders of such Toachi RSUs shall cease to be the holders thereof, and to have any rights as holders of such Toachi RSUs other than the right to receive the consideration to which they are entitled under this Section 3.1(b) in accordance with the Plan of Arrangement;
  - (ii) such holders' name shall be removed from the register of the Toachi RSUs maintained by or on behalf of Toachi; and
  - (iii) the Toachi RSU Plan and all agreements relating to such Toachi RSUs shall be terminated and shall be of no further force and effect;
- (c) each Toachi Share outstanding (other than Toachi Shares held by a Dissenting Toachi Shareholder, Atico or any subsidiary of Atico) shall be transferred to Atico in exchange for the Share Consideration, and:
- (i) the holders of such Toachi Shares shall cease to be the holders thereof and to have any rights as holders of such Toachi Shares, other than the right to receive the Share Consideration in respect of such Toachi Shares in accordance with the Plan of Arrangement;
  - (ii) such holders' names shall be removed as the holders of such Toachi Shares from the register of Toachi Shares maintained by or on behalf of Toachi; and
  - (iii) Atico shall be deemed to be the transferee of such Toachi Shares, free and clear of all Encumbrances, and shall be entered in the register of Toachi Shares maintained by or on behalf of Toachi as the holder of such Toachi Shares;
- (d) from the Effective Date until expiry of the Toachi Warrants (in accordance with their respective terms), Atico will assume all of the covenants and obligations of Toachi under the Toachi Warrants and in accordance with the terms and conditions of the respective warrant certificates, do all things necessary to provide for the application of the provisions set forth in such warrant certificates with respect to the rights and interests of the holders thereof, such that upon exercise a Toachi Warrant will entitle the holder thereof to receive, for each Toachi Warrant, 0.24897 of an Atico Share, subject to adjustment in accordance with their terms, and the Toachi Warrants

will otherwise be valid and binding obligations of Atico entitling the holders thereof, as against Atico, to all the rights of such holders as set out in their respective warrant certificates;

- (e) from the Effective Date until expiry of the Toachi Options (in accordance with their respective terms), Atico will assume all of the covenants and obligations of Toachi under the Toachi Options and in accordance with the terms and conditions of the Toachi Stock Option Plan, do all things necessary to provide for the application of the provisions set forth in the Toachi Stock Option Plan with respect to the rights and interests of the holders thereof, such that upon exercise a Toachi Option will entitle the holder thereof to receive, for each Toachi Option, 0.24897 of an Atico Share, subject to adjustment in accordance with their terms, and the Toachi Options will otherwise be valid and binding obligations of Atico entitling the holders thereof, as against Atico, to all the rights of such holders as set out in the Toachi Stock Option Plan; and
- (f) from the Effective Date until expiry of the Toachi Debentures (in accordance with their respective terms), Atico will assume all of the covenants and obligations of Toachi under the Toachi Debentures and in accordance with the terms and conditions of the respective Toachi Debentures, do all things necessary to provide for the application of the provisions set forth in such Toachi Debentures with respect to the rights and interests of the holders thereof, such that upon conversion the Toachi Debentures will entitle each holder thereof to receive 0.24897 of an Atico Share for each Toachi Share the holders would have received had they converted their Toachi Debentures immediately prior to the Effective Date, subject to adjustment in accordance with their terms, and the Toachi Debentures will otherwise be valid and binding obligations of Atico entitling the holders thereof, as against Atico, to all the rights of such holders as set out in their respective Toachi Debentures.

### **3.2 Post Effective Time Procedures**

- (a) Following the receipt of the Final Order and prior to the Effective Date, Atico shall deliver or arrange to be delivered to the Depositary the Share Consideration, including certificates representing Atico Shares required to be issued to Former Toachi Shareholders, in accordance with the provisions of Section 3.1(c) hereof, which certificates shall be held by the Depositary as agent and nominee for such Former Toachi Shareholders for distribution to such Former Toachi Shareholders in accordance with the provisions of Article 5 hereof.
- (b) Subject to the provisions of Article 5 hereof, and upon return of a properly completed Toachi Share Letter of Transmittal by a registered Former Toachi Shareholder together with certificates, if any, which, immediately prior to the Effective Time represented Toachi Shares and such other documents as the Depositary and Atico may reasonably require, Former Toachi Shareholders shall be entitled to receive delivery of the certificates representing Atico Shares to which they are entitled pursuant to Section 3.1(c) hereof.

### **3.3 No Fractional Atico Shares**

In no event shall any holder of Toachi Shares be entitled to a fractional Atico Share. Where the aggregate number of Atico Shares to be issued to a Toachi Shareholder as consideration under or as a result of this Arrangement would result in a fraction of a Atico Share being issuable, the number of Atico Shares to be received by such Toachi Shareholder shall be rounded down to the nearest whole Atico Share and no former Toachi Shareholder will be entitled to any compensation in respect of a fractional Atico Share.

**ARTICLE 4  
DISSENT RIGHTS**

**4.1 Rights of Dissent**

- (a) Pursuant to the Interim Order, each registered Toachi Shareholder may exercise rights of dissent (“**Dissent Rights**”) under Section 190 of the CBCA as modified by this Article 4, the Interim Order and the Final Order in respect of the Arrangement, provided that the written objection to the Arrangement Resolutions contemplated by Section 190 of the CBCA must be sent to and received by Toachi not later than 5:00 p.m. on the Business Day that is two Business Days before the Toachi Meeting or any date to which the Toachi Meeting (as it may be postponed or adjourned from time to time). Further holders who duly exercise such Dissent Rights shall be deemed to have transferred their Toachi Shares to Toachi as of the Effective Time, without any further act or formality and free and clear of any Encumbrances, and if they:
- (i) are ultimately determined to be entitled to be paid fair value for their Dissenting Shares, which fair value shall be determined as of the close of business on the day before the Effective Date, will be entitled to be paid for such fair value by Toachi and 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 their Toachi Shares; or
  - (ii) are ultimately not entitled, for any reason, to be paid fair value for the Dissenting Shares, will be deemed to have participated in the Arrangement, as of the Effective Time, on the same basis as a Toachi Shareholder who has not exercised Dissent Rights and be entitled to receive only the consideration set forth in Article 3.1(c) hereof that such holder would have received if such holder had not exercised Dissent Rights;
- (b) In no circumstances will Toachi, Atico or any other person be required to recognize a holder exercising Dissent Rights as a holder of Toachi Shares after the completion of the steps set forth in Article 3.1(a), and each Dissenting Toachi Shareholder will cease to be entitled to the rights of a Toachi Shareholder in respect of the Toachi Shares in relation to which such Dissenting Toachi Shareholder has exercised Dissent Rights and the central securities register of Toachi will be amended to reflect that such former holder is no longer the holder of such Toachi Shares as and from the completion of the steps in Article 3.1(a).
- (c) In addition to any other restrictions set forth in the CBCA, none of the following shall be entitled to exercise Dissent Rights: (i) Toachi Optionholders; (ii) Toachi RSU Holders (iii) Toachi Warranholders; (iv) Toachi Debentureholders; and (v) Toachi Shareholders who vote, or instruct a proxyholder to vote, in favour of the Arrangement Resolutions.

**ARTICLE 5  
DELIVERY OF CONSIDERATION**

**5.1 Delivery of Share Consideration**

- (a) As soon as practicable following the later of the Effective Date and the surrender to the Depository for cancellation of a certificate that immediately prior to the Effective Time represented outstanding Toachi Shares that were transferred under Section 3.1(c), together with a duly completed Toachi Share Letter of Transmittal, such additional documents and instruments as the Depository may reasonably require and such other documents and instruments as would have

been required to effect such transfer under the CBCA and the articles of Toachi or Atico, as applicable, the former holder of such Toachi Shares shall be entitled to receive in exchange therefor, and the Depository shall deliver to such holder following the Effective Time, or make available for pick up at its offices during normal business hours, a certificate representing Atico Shares that such holder is entitled to receive in accordance with Section 3.1(c) hereof, less any amounts withheld pursuant to Section 5.5.

- (b) Subject to Section 5.3, until surrendered as contemplated by this Section 5.1, each certificate which immediately prior to the Effective Time represented Toachi Shares will be deemed after the Effective Time to represent only the right to receive from the Depository upon such surrender a certificate representing Atico Shares that the holder of such certificate is entitled to receive in accordance with Section 3.1(c) hereof, less any amounts withheld pursuant to Section 5.5.
- (c) Toachi and Atico will cause the Depository, as soon as a Former Toachi Shareholder becomes entitled to the Share Consideration in accordance with Section 3.1(c), to:
  - (i) forward or cause to be forwarded by first class mail (postage paid) to such former holder at the address specified in the Toachi Share Letter of Transmittal;
  - (ii) if requested by such former holder in the Toachi Share Letter of Transmittal make available at the offices of the Depository specified in the Toachi Share Letter of Transmittal for pick up by such former holder; or
  - (iii) if the Toachi Share Letter of Transmittal neither specifies an address as described in Section 5.1(c)(i) nor contains a request as described in Section 5.1(c)(ii), forward or cause to be forwarded by first class mail (postage paid) to such former holder at the address of such former holder as shown on the applicable securities register maintained by or on behalf of Toachi immediately prior to the Effective Time,

a certificate representing the Share Consideration to such Former Toachi Shareholder in accordance with the provisions hereof.

- (d) No holder of Toachi Shares, Toachi RSU or Toachi Options shall be entitled to receive any consideration or entitlement with respect to such Toachi Shares, Toachi RSU or Toachi Options, other than any consideration or entitlement to which such holder is entitled to receive in accordance with Section 3.1, this section 5.1 and other terms of this Plan of Arrangement and, for greater certainty, no such holder will be entitled to receive any interest, dividends, premium or other payment in connection therewith, other than any declared but unpaid dividends.

## **5.2 Lost Certificates**

In the event any certificate which immediately prior to the Effective Time represented any outstanding Toachi Shares that were acquired by Atico or Toachi pursuant to Section 3.1 hereof has been lost, stolen or destroyed, upon the making of an affidavit of that fact by the former holder of such Toachi Shares, the Depository will deliver to such person or make available for pick up at its offices in exchange for such lost, stolen or destroyed certificate, a certificate representing Atico Shares to which the former holder of such Toachi Shares is entitled to receive pursuant to Section 3.1 hereof in accordance with such holder's Toachi Share Letter of Transmittal. When authorizing such payment in relation to any lost, stolen or destroyed certificate, the former holder of such Toachi Shares will, as a condition precedent to the delivery of such Share Consideration, give a bond satisfactory to Atico and the Depository (acting reasonably) in such sum as Atico may direct or otherwise indemnify Atico and Toachi

in a manner satisfactory to Atico against any claim that may be made against Atico or Toachi with respect to the certificate alleged to have been lost, stolen or destroyed.

### **5.3 Extinction of Rights**

If any Former Toachi Shareholder fails to deliver to the Depositary the certificates, documents or instruments required to be delivered to the Depositary under Section 5.1 or Section 5.2 in order for such Former Toachi Shareholder to receive the Share Consideration which such former holder is entitled to receive pursuant to Section 3.1 hereof, on or before the date that is six years after the Effective Date, on the date that is six years after the Effective Date (i) such former holder will be deemed to have donated and forfeited to Atico or its successor any Share Consideration held by the Depositary in trust for such former holder to which such former holder is entitled and (ii) any certificate representing Toachi Shares formerly held by such former holder will cease to represent a claim of any nature whatsoever and will be deemed to have been surrendered to Atico and will be cancelled. Neither Toachi nor Atico, or any of their respective successors, will be liable to any person in respect of any Share Consideration (including any consideration previously held by the Depositary in trust for any such former holder) which is forfeited to Toachi or Atico or delivered to any public official pursuant to any applicable abandoned property, escheat or similar law.

### **5.4 Distributions with Respect to Unsurrendered Certificates**

No dividend or other distribution declared or made after the Effective Time with respect to Atico Shares with a record date after the Effective Time shall be delivered to the holder of any unsurrendered certificate that, immediately prior to the Effective Time, represented outstanding Toachi Shares unless and until the holder of such certificate shall have complied with the provisions of Section 5.1 or Section 5.2 hereof. Subject to applicable law and to Section 5.5 hereof, at the time of such compliance, there shall, in addition to the delivery of a certificate representing the Atico Shares to which such holder is thereby entitled, be delivered to such holder, without interest, the amount of the dividend or other distribution with a record date after the Effective Time theretofore paid with respect to such Atico Shares.

### **5.5 Withholding Rights**

Toachi, Atico and the Depositary will be entitled to deduct and withhold from any consideration otherwise payable to any person under the Plan of Arrangement (including any payment to Dissenting Toachi Shareholders) such amounts as Toachi, Atico or the Depositary is required to deduct and withhold with respect to such payment under the Tax Act, the U.S. Tax Code, and the rules and regulations promulgated thereunder, or any provision of any provincial, state, local or foreign tax law as counsel may advise is required to be so deducted and withheld by Toachi, Atico or the Depositary, as the case may be. For the purposes hereof, all such withheld amounts shall be treated as having been paid to the person in respect of which such deduction and withholding was made on account of the obligation to make payment to such person hereunder, provided that such deducted or withheld amounts are actually remitted to the appropriate Governmental Entity by or on behalf of Toachi, Atico or the Depositary, as the case may be. To the extent necessary, such deductions and withholdings may be effected by selling any Toachi Shares or Atico Shares to which any such person may otherwise be entitled under the Plan of Arrangement, and any amount remaining following the sale, less deduction and remittance or any applicable tax and any fees related to such sale, shall be paid to the person entitled thereto as soon as reasonably practicable.

### **5.6 No Encumbrances**

Any exchange or transfer of securities pursuant to this Plan of Arrangement shall be free and clear of any Encumbrances or other claims of third parties of any kind.

## **5.7 Paramountcy**

From and after the Effective Time: (a) the Plan of Arrangement shall take precedence and priority over any and all Toachi Shares, Toachi Options, Toachi RSUs, Toachi Warrants and Toachi Debentures issued prior to the Effective Time, (b) the rights and obligations of the Toachi Securityholders, Toachi, Atico, the Depositary and any transfer agent or other depositary therefor in relation thereto, shall be solely as provided for in the 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 Toachi Shares, Toachi Options, Toachi RSUs, Toachi Warrants or Toachi Debentures shall be deemed to have been settled, compromised, released and determined without liability except as set forth in the Plan of Arrangement.

## **ARTICLE 6 AMENDMENTS**

### **6.1 Amendments to Plan of Arrangement**

- (a) Toachi and Atico reserve the right to 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 (i) set out in writing, (ii) approved by Toachi and Atico, each acting reasonably, (iii) filed with the Court and, if made following the Toachi Meeting, approved by the Court, and (iv) communicated to or approved by the Toachi Securityholders if and as required by the Court.
- (b) Any amendment, modification or supplement to this Plan of Arrangement may be proposed by Toachi at any time prior to the Toachi Meeting (provided that Atico has consented thereto) with or without any other prior notice or communication and, if so proposed and accepted by the persons voting at the Toachi Meeting (other than as may be required under the Interim Order), will become part of this Plan of Arrangement for all purposes.
- (c) Any amendment, modification or supplement to this Plan of Arrangement that is approved or directed by the Court following the Toachi Meeting will be effective only if such amendment, modification or supplement (i) is consented to by each of Toachi and Atico (in each case acting reasonably), and (ii) if required by the Court or applicable law, is consented to by some or all, applicable, of the Toachi Securityholders, as applicable, voting in the manner directed by the Court.
- (d) Any amendment, modification or supplement to this Plan of Arrangement may be made following the Effective Date unilaterally by Atico provided that it concerns a matter which, in the reasonable opinion of Atico, is of an administrative nature required to better give effect to the implementation of this Plan of Arrangement and is not adverse to the financial or economic interests of any Former Toachi Shareholder.
- (e) This Plan of Arrangement may be withdrawn prior to the Effective Time in accordance with the terms of the Arrangement Agreement.

## **ARTICLE 7 TERMINATION**

This Plan of Arrangement may be withdrawn prior to the Effective Time in accordance with the terms of the Arrangement Agreement.

**ARTICLE 8  
FURTHER ASSURANCES**

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

**SCHEDULE B**  
**REPRESENTATIONS AND WARRANTIES OF ATICO**

- (a) **Organization and Qualification.** Atico is duly incorporated and validly existing and in good standing under the BCBCA and has corporate power and authority to own its assets and has all material permits necessary to conduct its business as now owned and conducted. Atico is duly qualified to carry on business and is in good standing in each jurisdiction in which the character of its properties or the nature of its activities makes such qualification necessary, except where the failure to be so qualified will not, individually or in the aggregate, have a Material Adverse Effect on Atico. True and complete copies of the constating documents of Atico have been delivered or made available to Toachi, and Atico has not taken any action to amend or supersede such documents.
- (b) **Authority Relative to this Agreement.** Atico has the requisite corporate power and authority to enter into this Agreement and to perform its obligations hereunder and to complete the Plan of Arrangement. The execution and delivery of this Agreement by Atico and the consummation by it of the transactions contemplated by this Agreement have been duly authorized by the Atico Board, and no other corporate proceedings on the part of Atico are necessary to authorize this Agreement. This Agreement has been duly executed and delivered by Atico and constitutes a valid and binding obligation of Atico, enforceable by Toachi against it in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency and other applicable Laws affecting the enforcement of creditors' rights generally and subject to the qualification that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.
- (c) **No Conflict, Required Filings and Consent.** The execution and delivery by Atico of this Agreement and the performance by it of its covenants hereunder and the completion of the Plan of Arrangement will not violate, conflict with or result in a breach of any provision of the constating documents of Atico or those of the Atico Subsidiaries, and except as would not, individually or in the aggregate, have, or reasonably be expected to have, a Material Adverse Effect on Atico, will not: (a) violate, conflict with or result in a breach of: (i) any material agreement, contract, indenture, deed of trust, mortgage, bond, instrument, authorization, licence or permit to which Atico or the Atico Subsidiaries is a party or by which either is bound; or (ii) any Law to which Atico or the Atico Subsidiaries is subject or by which either is bound; (b) give rise to any right of termination, or the acceleration of any indebtedness, under any such agreement, contract, indenture, authorization, deed of trust, mortgage, bond, instrument, licence or permit; or (c) give rise to any rights of first refusal or rights of first offer, trigger any change in control or influence provisions or any restriction or limitation under any such agreement, contract, indenture, authorization, deed of trust, mortgage, bond, instrument, licence or permit, or result in the imposition of any encumbrance, charge or lien upon any of Atico's assets or the assets of the Atico Subsidiaries. Other than the Interim Order, the Final Order, filings required to be made pursuant to applicable securities Laws and filings required to be made with the TSX-V, no authorization, consent or approval of, or filing with, any Governmental Entity or other authority is necessary on the part of Atico for the consummation by Atico of its obligations in connection with the Plan of Arrangement under this Agreement, for the completion of the Plan of Arrangement nor to avoid any loss of any rights or assets or any interest therein held by Atico or the Atico Subsidiaries in any material properties, except for such authorizations, consents, approvals and filings as to which the failure to obtain or make would not, individually or in the aggregate, prevent or materially delay consummation of the Plan of Arrangement.

- (d) **Atico Subsidiaries.** Other than the Atico Subsidiaries, Atico has no material interests in any Person. Each of the Atico Subsidiaries is duly organized, validly existing and in good standing under the Laws of its jurisdiction of incorporation or organization, has full corporate power and authority to own its assets and conduct its business as now owned and conducted by it and is duly qualified to carry on business in each jurisdiction in which the character of its properties or the nature of its activities makes such qualification necessary. Atico beneficially owns, directly or indirectly, all of the issued and outstanding securities of the Atico Subsidiaries. All of the outstanding shares in the capital of the Atico Subsidiaries owned directly or indirectly by Atico are: (a) validly issued and fully-paid and all such shares are owned free and clear of all Encumbrances; and (b) are free of any other restrictions including any restriction on the right to vote, sell or otherwise dispose of shares. There are no outstanding options, rights, entitlements, understandings or commitments (contingent or otherwise) providing to any third party the right to acquire any shares or other ownership interests in the Atico Subsidiaries.
- (e) **Regulatory Filings.** Atico has filed all documents required to be filed in accordance with applicable Laws and the Atico Filings have complied in all material respects with all applicable requirements. None of the Atico Filings, at the time filed or as subsequently amended, contained any material misrepresentation. Atico has not filed any confidential material change report with any Securities Authority which at the date hereof remains confidential. There are no outstanding or unresolved comments in a comment letter from any Securities Authority with respect to any Atico Filings, and, to the knowledge of Atico, neither it nor any of the Atico Filings is subject to an ongoing audit, review, comment or investigation by any Securities Authority or the TSX-V.
- (f) **Compliance with Laws.**
- (i) The operations of Atico and the Atico Subsidiaries have been and are now conducted in compliance with all applicable Laws of each jurisdiction in which it does business, the Laws of which have been and are now applicable to the operations of Atico or the Atico Subsidiaries and neither Atico nor the Atico Subsidiaries has received any notice of any alleged violation of any such Laws, other than non-compliance or alleged violations which, individually or in the aggregate, would not have a Material Adverse Effect on Atico.
- (ii) Neither Atico nor the Atico Subsidiaries is in conflict with, or in default (including cross defaults) under or in violation of: (A) its constating documents or, as applicable, equivalent organizational documents; or (B) any material agreement or understanding to which it or by which any of the properties or assets in which it has a controlling interest or an option to acquire a controlling interest is bound or affected, except for such conflicts, defaults or violations which, individually or in the aggregate, would not have a Material Adverse Effect on Atico.
- (g) **Company Authorizations.** Atico and the Atico Subsidiaries have obtained all authorizations necessary for the ownership, operation, development, maintenance, or use of the material assets of Atico or the Atico Subsidiaries or otherwise in connection with the material business or operations of Atico or the Atico Subsidiaries as presently carried on, and such authorizations are in full force and effect in all material respects. Atico and the Atico Subsidiaries have complied with and are in compliance with all authorizations, except, in each case, for such non-compliance which, individually or in the aggregate, would not have a Material Adverse Effect on Atico. There is no action or proceeding pending or, to the knowledge of Atico, threatened regarding any of the authorizations nor, to its knowledge, is there any investigation pending or threatened regarding any of the authorizations. Neither Atico nor the Atico Subsidiaries has received any notice,

whether written or oral, of revocation or non-renewal of any such authorizations, or of any intention of any person to revoke or refuse to renew any of such authorizations, except in each case, for revocations or non-renewals which, individually or in the aggregate, would not have a Material Adverse Effect on Atico and, to the knowledge of Atico, all such authorizations continue to be effective in order for Atico and the Atico Subsidiaries to continue to conduct their respective businesses as they are currently being conducted.

(h) **Capitalization and Listing.**

- (i) The authorized share capital of Atico consists of an unlimited number of Atico Shares. As at the date of this Agreement there are: (A) 98,502,337 Atico Shares validly issued and outstanding as fully-paid and non-assessable shares of Atico; (B) outstanding Atico Options providing for the issuance of 9,446,285 Atico Shares upon the exercise thereof; and (C) 1,826,264 outstanding Atico RSUs redeemable for cash upon the redemption thereof. Other than the Atico Options and Atico RSUs, there are no options, warrants, conversion privileges, calls or other rights, shareholder rights plans, agreements, arrangements, commitments, or obligations of Atico or the Atico Subsidiaries to issue or sell any shares of Atico or the Atico Subsidiaries or securities or obligations of any kind convertible into, exchangeable for or otherwise carrying the right or obligation to acquire any shares of Atico or the Atico Subsidiaries, and there are no outstanding stock appreciation rights, phantom equity or similar rights, agreements, arrangements or commitments of Atico or the Atico Subsidiaries, and no person is entitled to any pre-emptive or other similar right granted by Atico or the Atico Subsidiaries.
  - (ii) The Atico Disclosure Letter sets forth, as of the date hereof, the holders of all outstanding Atico Options and Atico RSUs and the number, exercise prices and expiration dates thereof to such holders. All Atico Shares that may be issued pursuant to the exercise of outstanding Atico Options prior to the Effective Time will, when issued in accordance with the terms of the Atico Options, as applicable, be duly authorized, validly issued, fully-paid and non-assessable and are not and will not be subject to, or issued in violation of, any pre-emptive rights.
  - (iii) There are no outstanding contractual obligations of Atico or the Atico Subsidiaries to repurchase, redeem or otherwise acquire any Atico Shares or any shares of the Atico Subsidiaries. The Atico Subsidiaries do not own any Atico Shares.
  - (iv) No order ceasing or suspending trading in securities of Atico nor prohibiting the sale of such securities has been issued and is outstanding against Atico or its directors, officers or promoters.
  - (v) All outstanding Atico Shares, all outstanding Atico Options, all outstanding Atico RSUs and all outstanding shares of capital stock, voting securities or other ownership interests, securities or interests in Atico or the Atico Subsidiaries, have been issued or granted, as applicable.
- (i) **Shareholder and Similar Agreements.** Atico is not party to any shareholder, pooling, voting trust or other similar agreement relating to the issued and outstanding shares in the capital of Atico or the Atico Subsidiaries.

(j) **Financial Statements.**

- (i) The audited consolidated financial statements for Atico for the fiscal year ended on December 31, 2018 (including the notes thereto and related management's discussion and analysis (collectively, the "**Atico MD&A**") and the reports by the auditors thereon), the interim unaudited consolidated financial statements for Atico for the period ended March 31, 2019 (including the notes thereto and related management's discussion and analysis), have been, and all financial statements of Atico which are publicly disseminated by Atico in respect of any subsequent periods prior to the Effective Date will be, prepared in accordance with IFRS applied on a basis consistent with prior periods and present fairly, in all material respects, the assets, liabilities, consolidated financial position of Atico as of the respective dates thereof and its results of operations and cash flows for the respective periods covered thereby (except as may be indicated expressly in the notes thereto). There are no outstanding loans made by Atico or the Atico Subsidiaries to any executive officer or director of Atico.
- (ii) Neither Atico nor the Atico Subsidiaries is a party to, or has any commitment to become a party to, any joint venture, off-balance sheet arrangement or any similar contract (including any contract relating to any transaction or relationship between or among Atico or the Atico Subsidiaries, on the one hand, and any unconsolidated affiliate, including any structured finance, special purpose of limited purpose entity or person, on the other hand) where the result, purpose or effect of such contract is to avoid disclosure of any material transaction involving, or material liabilities of, Atico or the Atico Subsidiaries, in the published financial statements of Atico or the Atico Filings.

(k) **Disclosure Controls.**

- (i) Atico has established and maintains a system of internal control over financial reporting that is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with IFRS.
- (ii) To the knowledge of Atico, there is no material weakness (as such term is defined in National Instrument 52-109 – Certification of Disclosure in Issuers' Annual and Interim Filings) relating to the design, implementation or maintenance of its internal control over financial reporting, or fraud, whether or not material, that involves management or other employees who have a significant role in the internal control over financial reporting of Atico.

(l) **Auditors.** Atico has never had any reportable disagreement (within the meaning of Section 4.11 of National Instrument 51-102 – *Continuous Disclosure Obligations*) with its present or any former auditor.

(m) **Undisclosed Liabilities.** Neither Atico nor the Atico Subsidiaries has any liabilities or obligations of any nature, whether or not accrued, contingent or otherwise, and are not party to or bound by any suretyship, guarantee, indemnification or assumption agreement, or endorsement of, or any other similar contract with respect to the obligations, liabilities or indebtedness of any person, except for: (a) liabilities and obligations that are specifically presented on the audited balance sheet of Atico as of December 31, 2018 or unaudited balance sheet of Atico as of March 31, 2019 (the "**Atico Balance Sheet**") or disclosed in the notes thereto; or (b) liabilities and obligations incurred in the ordinary course since March 31, 2019, that are not and would not, individually or

in the aggregate with all other liabilities and obligations of Atico and the Atico Subsidiaries (other than those disclosed on the Atico Balance Sheet and/or in the notes to the Atico financial statements or the Atico Disclosure Letter), reasonably be expected to have a Material Adverse Effect on Atico, or, as a consequence of the consummation of the Plan of Arrangement, have a Material Adverse Effect on Atico.

- (n) **No Hedging.** Other than as disclosed in the Atico Disclosure Letter, neither Atico nor the Atico Subsidiaries has, on the date of this Agreement, any foreign currency hedging or commodity hedging arrangements in effect.
- (o) **Interest in Properties and Mineral Rights.**
  - (i) All of Atico's and the Atico Subsidiaries' real properties (the "**Atico Properties**") and all of Atico's and the Atico Subsidiaries' mineral interests and rights, in each case, either existing under contract, by operation of Law or otherwise (collectively, and where material, the "**Atico Mineral Rights**"), are set out in the Atico Disclosure Letter. Neither Atico nor the Atico Subsidiaries, owns or has any interest in any other material real property or any material mineral interests and rights.
  - (ii) Atico or the Atico Subsidiaries holds either freehold title, mining leases, mining concessions, mining claims, exploration permits, participating interests or other conventional property or proprietary interests or rights recognized in the jurisdiction in which the Properties are located sufficient to permit Atico to explore for and exploit the minerals relating thereto, all agreements by which Atico holds an interest in the Atico Properties, business or assets are in good standing according to their terms and the Atico Properties are in good standing under the applicable laws of the jurisdictions in which they are situated and all such agreements are enforceable in accordance with their terms (subject to such limitations and prohibitions as may exist or may be enacted in applicable laws relating to bankruptcy, insolvency, liquidation, moratorium, reorganization, arrangement or winding-up and other laws, rules and regulations of general application affecting the rights, powers, privileges, remedies and/or interests of creditors generally).
  - (iii) All of the Atico Mineral Rights have been properly located and recorded in compliance with applicable Law and are comprised of valid and subsisting mineral claims.
  - (iv) The Atico Properties and the Atico Mineral Rights are in good standing under applicable Law and, to the knowledge of Atico, all material filings with Governmental Entities in respect thereof have been filed, all work required to be performed and filed in respect thereof has been performed and filed, all Taxes, rentals, fees, expenditures and other payments in respect thereof have been paid or incurred and all filings in respect thereof have been made.
  - (v) Other than as disclosed in the Atico Disclosure Letter, there is no adverse claim against or challenge to the title to or ownership of the Atico Properties or any of the Atico Mineral Rights.
  - (vi) No person has any back-in rights, earn-in rights, rights of first refusal or similar provisions or rights which would affect Atico's or the Atico Subsidiaries' interest in the Atico Properties or any of the Atico Mineral Rights.

- (vii) Other than disclosed in the Atico Disclosure Letter, there are no material restrictions on the ability of Atico and the Atico Subsidiaries to use, transfer or exploit the Atico Properties or any of the Atico Mineral Rights, except pursuant to the applicable Law and the terms of the relevant Atico Mineral Rights.
- (viii) Neither Atico nor the Atico Subsidiaries has received any notice, whether written or oral, from any Governmental Entity of any revocation or intention to revoke any interest of Atico or the Atico Subsidiaries in any of the Atico Properties or any of the Atico Mineral Rights.
- (ix) Neither Atico nor the Atico Subsidiaries has received any compliance orders, citations or notices relating to non-compliance or alleged non-compliance of any Atico Mineral Rights.
- (x) Atico and the Atico Subsidiaries have all surface rights, including fee simple estates, leases, easements, rights of way and permits or licences from landowners or Governmental Entities permitting the use of land by Atico and the Atico Subsidiaries, and mineral interests that are required to exploit the development potential of the Atico Property and the Atico Mineral Rights as contemplated in Atico Filings filed (and available on SEDAR) on or before the date hereof and no third party or group holds any such rights that would be required by Atico to develop the Atico Property or any of the Atico Mineral Rights as contemplated in Atico Filings filed (and available on SEDAR) on or before the date hereof.
- (p) **Mineral Resources.** The Atico Technical Report accurately and completely sets forth all material facts relating to properties covered by such report; since the date of preparation of the Atico Technical Report there has been no material change, that would disaffirm or change any aspect of the Atico Technical Report in any material respect, except as disclosed in any document forming part of the Atico Filings. The Atico Technical Report complied in all material respects with the requirements of NI 43-101 at the time of filing thereof and presented the quantity of mineral resources attributable to the properties evaluated therein as at the date stated therein based upon information available at the time such Atico Technical Report was prepared.
- (q) **Exploration Information.** Atico has provided Toachi with access to full and complete copies of all material exploration information and data relating to the Atico Properties, and which is owned by, or within the possession or control of, Atico or the Atico Subsidiaries, including, without limitation, all material geological, geophysical and geochemical information and data (including all drill, sample and assay results and all maps) and all technical reports, feasibility studies and other similar reports and studies concerning the Atico Mineral Rights or the Atico Properties, and Atico has the sole right, title, ownership and right to use all such information, data reports and studies.
- (r) **Operational Matters.** Except as would not, individually or in the aggregate, be reasonably expected to result in a Material Adverse Effect on Atico:
  - (i) all rentals, royalties, overriding royalty interests, production payments, net profits, interest burdens, payments and obligations due and payable, or performable, as the case may be, on or prior to the date hereof under, with respect to, or on account of, any direct or indirect assets of Atico and the Atico Subsidiaries, have been: (A) duly paid; (B) duly performed; or (C) provided for prior to the date hereof; and

- (ii) all costs, expenses, and liabilities payable on or prior to the date hereof under the terms of any material contracts and agreements to which Atico or the Atico Subsidiaries is bound have been properly and timely paid, except for such expenses that are being currently paid prior to delinquency in the ordinary course.
- (s) **Employment Matters.** Atico is in material compliance with all terms and conditions of employment and all Employment Laws. Neither Atico nor the Atico Subsidiaries has received notice of, nor to its knowledge, is subject to any outstanding grievance, complaint, investigation, or orders under any Employment Law, or any claim for wrongful dismissal, constructive dismissal, unfair labour practice or any other claim or litigation relating to employment or termination of employment or relationships of Atico Employees or independent contractors which, if adversely determined, would have, or reasonably would be expected to have, a Material Adverse Effect on Atico, or prevent or materially delay the consummation of the Arrangement and, to the knowledge of Atico, no such claims or litigation are threatened. No slowdown or work stoppage is pending or, to the knowledge of Atico, threatened against or directly affecting Atico.
- (t) **Absence of Certain Changes or Events.** Except as set forth in the Atico Disclosure Letter, since March 31, 2019:
  - (i) Atico and the Atico Subsidiaries have conducted their respective businesses only in the ordinary course;
  - (ii) no liability or obligation of any nature (whether absolute, accrued, contingent or otherwise) which has had or is reasonably likely to have a Material Adverse Effect on Atico has been incurred;
  - (iii) there has not been any event, circumstance or occurrence which has had or is reasonably likely to give rise to a Material Adverse Effect on Atico;
  - (iv) there has not been any change in the accounting practices used by Atico and the Atico Subsidiaries;
  - (v) there has not been any material increase in the salary, bonus, or other remuneration payable to any non-executive employees of any of Atico or the Atico Subsidiaries;
  - (vi) there has not been any change in the remuneration or compensation paid to the directors of Atico;
  - (vii) there has not been any redemption, repurchase or other acquisition of Atico Shares by Atico, or any declaration, setting aside or payment of any dividend or other distribution (whether in cash, shares or property) with respect to the Atico Shares;
  - (viii) there has not been any entering into, or an amendment of, any Material Contract other than in the ordinary course;
  - (ix) there has not been any satisfaction or settlement of any material claims or material liabilities that were not reflected in Atico's audited financial statements, other than the settlement of claims or liabilities incurred in the ordinary course; and
  - (x) there has not been any increase in the salary, bonus, or other remuneration payable to any officers or senior or executive officers of Atico or the Atico Subsidiaries.

- (u) **Litigation.** Other than as disclosed in the Atico Disclosure Letter, there is no claim, action, proceeding or investigation pending or, to the knowledge of Atico, threatened against or relating to Atico or the Atico Subsidiaries, the business of Atico or the Atico Subsidiaries, or affecting any of their properties or assets, before or by any Governmental Entity which, if adversely determined, would, or reasonably would be expected to have, a Material Adverse Effect on Atico or prevent or materially delay the consummation of the Plan of Arrangement, nor to the knowledge of Atico are there any events or circumstances which would reasonably be expected to give rise to any such claim, action, proceeding or investigation (provided that this representation shall not apply to claims, actions, proceedings, or investigations which may arise after the date of this Agreement which do not have a reasonable prospect of succeeding or, if successful, would not give rise to, nor reasonably be expected to give rise to, a Material Adverse Effect on Atico). Neither Atico nor the Atico Subsidiaries is subject to any outstanding order, writ, injunction or decree which has had or is reasonably likely to have a Material Adverse Effect on Atico or which would reasonably be expected to prevent or materially delay consummation of the transactions contemplated by this Agreement.
- (v) **Taxes.**
- (i) Each of Atico and the Atico Subsidiaries has duly and in a timely manner made or prepared all Tax Returns required to be made or prepared by it, and duly and in a timely manner filed all Tax Returns required to be filed by it with the appropriate Governmental Entity, such Tax Returns were complete and correct in all material respects and Atico and each of the Atico Subsidiaries has paid all Taxes, including installments on account of Taxes for the current year required by applicable Law, which are due and payable by it whether or not assessed by the appropriate Governmental Entity. Since such publication date, no material liability in respect of Taxes not reflected in such statements or otherwise provided for has been assessed, proposed to be assessed, incurred or accrued, other than in the ordinary course. Atico and each of the Atico Subsidiaries have not received any refund of Taxes to which they are not entitled.
- (ii) Each of Atico and the Atico Subsidiaries has duly and timely withheld all Taxes and other amounts required by Law to be withheld by it (including Taxes and other amounts required to be withheld by it in respect of any amount paid or credited or deemed to be paid or credited by it to or for the benefit of any person) and has duly and timely remitted to the appropriate Governmental Entity such Taxes or other amounts required by Law to be remitted by it.
- (iii) Each of Atico and the Atico Subsidiaries has duly and timely collected all amounts on account of any sales, use or transfer Taxes, including goods and services, harmonized sales, provincial and territorial taxes and state and local taxes, required by Law to be collected by it and has duly and timely remitted to the appropriate Governmental Entity such amounts required by Law to be remitted by it.
- (iv) Neither Atico nor any of the Atico Subsidiaries has made, prepared and/or filed any elections, designations or similar filings relating to Taxes or entered into any agreement or other arrangement in respect of Taxes or Tax Returns that has effect for any period ending after the Effective Date.
- (v) There are no proceedings, investigations, audits or claims now pending or threatened against Atico or any of the Atico Subsidiaries in respect of any Taxes and there are no matters under discussion, audit or appeal with any Governmental Entity relating to Taxes.

- (vi) Neither Atico nor any of the Atico Subsidiaries has acquired property from a non-arm's length person, within the meaning of the Tax Act: (i) for consideration the value of which is less than the fair market value of the property; or (ii) as a contribution of capital for which no shares were issued by the acquirer of the property.
- (vii) For the purposes of the Tax Act and any other relevant Tax purposes:
  - (A) Atico is a resident in Canada; and
  - (B) Each of Atico Mining Corporation Colombia SAS, Atico Mining Corporation Peru SAC and Minera El Roble SA is a non-resident of Canada.
- (viii) There are no Encumbrances (other than Permitted Encumbrances) with respect to Taxes upon any properties or assets of Atico or any of the Atico Subsidiaries.
- (ix) Each of Atico and the Atico Subsidiaries has made full and adequate provision in the books and records and interim financial statements for all Taxes which are not yet due and payable but which relate to periods ending on or before the Effective Date. Neither Atico nor the Atico Subsidiaries has received any refund of Taxes to which it is not entitled.
- (x) There are no outstanding agreements, arrangements, waivers or objections extending the statutory period or providing for an extension of time with respect to the assessment or reassessment of Taxes or the filing of any Tax Return by, or any payment of Taxes by, Atico or any of the Atico Subsidiaries and, to the knowledge of Atico, there is no reason to expect that any such claim, action, suit, audit, proceeding, investigation or other action may be asserted against Atico or any of the Atico Subsidiaries by a Governmental Entity for any period ending on or prior to the Effective Date.
- (xi) Neither Atico nor the Atico Subsidiaries has acquired property or services from, or disposed of property or provided services to, a person with whom it does not deal at arm's length (within the meaning of the Tax Act) for an amount that is other than the fair market value of such property or services, nor has Atico or any of the Atico Subsidiaries been deemed to have done so for purposes of the Tax Act.
- (xii) None of sections 78 or 80 to 80.04 of the Tax Act have applied to Atico or the Atico Subsidiaries, and there are no circumstances existing which could reasonably be expected to result in the application of sections 78 or 80 to 80.04 of the Tax Act to Atico or the Atico Subsidiaries.
- (xiii) For all transactions between Atico on the one hand, and any non-resident person with whom Atico was not dealing at arm's length, for the purposes of the Tax Act, on the other hand, during a taxation year commencing after 1998 and ending on or before the Effective Date, Atico has made or obtained records or documents that satisfy the requirements of paragraphs 247(4)(a) to (c) of the Tax Act. Atico has not entered into an agreement contemplated by Section 191.3 of the Tax Act.
- (xiv) To the knowledge of Atico, no material claim has been made by any Governmental Entity in a jurisdiction where Atico or any of the Atico Subsidiaries does not file Tax Returns

that Atico or any of the Atico Subsidiaries is required to file Tax Returns or may be subject to Tax by that jurisdiction.

- (w) **Books and Records.** The corporate records and minute books of Atico and the Atico Subsidiaries have been maintained in accordance with all applicable Laws, and the minute books of Atico and the Atico Subsidiaries as provided to Toachi are complete and accurate in all material respects. The corporate minute books for Atico and the Atico Subsidiaries contain minutes of all meetings and resolutions of the directors and shareholders held. The financial books and records and accounts of Atico and the Atico Subsidiaries in all material respects: (a) have been maintained in accordance with good business practices and in accordance with IFRS and with the accounting principles generally accepted in the country of domicile of each such entity, on a basis consistent with prior years; (b) are stated in reasonable detail and, in the case of the Atico Subsidiaries, during the period of time when owned by Atico, accurately and fairly reflect the transactions and dispositions of assets of Atico and the Atico Subsidiaries; and (c) in the case of the Atico Subsidiaries, during the period of time when owned by Atico, accurately and fairly reflect the basis for Atico's consolidated financial statements.
- (x) **Insurance.**
  - (i) Atico has in place reasonable and prudent insurance policies appropriate for its size, nature and stage of development. All premiums payable prior to the date hereof under such policies of insurance have been paid, and neither Atico nor Atico subsidiaries has failed to give any notice or make a claim thereunder on a timely basis.
  - (ii) Each of such policies and other forms of insurance is in full force and effect on the date hereof and Atico will use commercially reasonable efforts to keep them in full force and effect or renew them as appropriate through the Effective Date. No written (or to the actual knowledge of Atico other) notice of cancellation or termination has been received by Atico or the Atico Subsidiaries with respect to any such policy.
- (y) **Non-Arm's Length Transactions.** Except for the transactions contemplated in this Agreement, director and officer indemnification agreements and employment or employment compensation agreements entered into in the ordinary course, there are no current contracts, commitments, agreements, arrangements or other transactions (including relating to indebtedness by Atico or the Atico Subsidiaries) between Atico or the Atico Subsidiaries, on the one hand, and any (a) officer or director of Atico or the Atico Subsidiaries, (b) any holder of record or, to the knowledge of Atico, beneficial owner of five percent or more of the voting securities of Atico, or (c) any affiliate or associate of any officer, director or beneficial owner, on the other hand.
- (z) **Environmental.** Except for any matters that, individually or in the aggregate, would not have or would not reasonably be expected to have a Material Adverse Effect on Atico or as disclosed to Toachi:
  - (i) all facilities and operations of Atico and the Atico Subsidiaries have been conducted, and are now, in material compliance with all Environmental Laws;
  - (ii) Atico and the Atico Subsidiaries are in possession of, and in material compliance with, all permits required under Environmental Laws to own, lease and operate the Atico Properties and Atico Mineral Rights and to conduct their respective business as they are now being conducted;

- (iii) no environmental reclamation or closure obligation, demand, notice, work order or other liabilities presently exist with respect to any portion of any currently or formerly owned, leased, used or otherwise controlled property, interests and rights or relating to the operations and business of Atico and the Atico Subsidiaries, and, to the knowledge of Atico, there is no basis for any such obligations, demands, notices, work orders or liabilities to arise in the future as a result of any activity in respect of such property, interests, rights, operations and business;
  - (iv) neither Atico nor the Atico Subsidiaries is subject to any proceeding, application, order or directive which relates to environmental, health or safety matters, and which may require any material work, repairs, construction or expenditures;
  - (v) other than as disclosed in the Atico Disclosure Letter, to the knowledge of Atico, there are no changes in the status, terms or conditions of any Environmental Permits held by Atico or the Atico Subsidiaries or any renewal, modification, revocation, reassurance, alteration, transfer or amendment of any such Environmental Permits, or any review by, or approval of, any Governmental Entity of such Environmental Permits, consents, waivers, permits, orders and exemptions that are required in connection with the execution or delivery of this Agreement, the consummation of the transactions contemplated herein or the continuation of the business of Atico or the Atico Subsidiaries following the Effective Date;
  - (vi) neither Atico nor the Atico Subsidiaries (i) is a party to any litigation or administrative proceeding nor, to the knowledge of Atico, has any litigation or administrative proceeding been threatened against it or its property or assets, which in either case (1) asserts or alleges that it violated any Environmental Laws, (2) asserts or alleges that it is required to clean up, remove or take remedial or other response action due to the Release of any Hazardous Substances, or (3) asserts or alleges that it is required to pay all or a portion of the cost of any past, present or future cleanup, removal or remedial or other response action which arises out of or is related to the Release of any Hazardous Substances, (ii) has any knowledge of any conditions existing currently which could reasonably be expected to subject it to damages, penalties, injunctive relief or cleanup costs under any Environmental Laws or which require or are likely to require cleanup, removal, Remedial Action or other response by it pursuant to applicable Environmental Laws; and (iii) is subject to any judgment, decree, order or citation related to or arising out of applicable Environmental Law and has not been named or listed as a potentially responsible party by any Governmental Entity in a matter arising under any Environmental Laws;
  - (vii) Atico and the Atico Subsidiaries have made available to Toachi all material audits, assessments, investigation reports, studies, plans, regulatory correspondence and similar information with respect to environmental matters; and
  - (viii) to the knowledge of Atico, neither Atico nor the Atico Subsidiaries is subject to any past or present fact, condition or circumstance that would reasonably be expected to result in any material liability under any Environmental Laws.
- (aa) **Restrictions on Business Activities.** There is no agreement, judgment, injunction, order or decree binding upon Atico or the Atico Subsidiaries that has or would reasonably be expected to have the effect of prohibiting, restricting or materially impairing any business practice of Atico or the Atico Subsidiaries, any acquisition of property by Atico or the Atico Subsidiaries, or the

conduct of business by Atico or the Atico Subsidiaries, as currently conducted (including following the transactions contemplated by this Agreement).

- (bb) **Material Contracts.** Atico and the Atico Subsidiaries have performed in all material respects all respective obligations required to be performed by them to date under their Material Contracts. Neither Atico nor the Atico Subsidiaries is in breach or default under any Material Contract to which it is a party or bound, nor does Atico have knowledge of any condition that with the passage of time or the giving of notice or both would result in such a breach or default, except in each case where any such breaches or defaults would not, individually or in the aggregate, result, or reasonably be expected to result, in a Material Adverse Effect on Atico. Neither Atico nor the Atico Subsidiaries knows of, nor have they received written notice of, any breach or default under (nor, to the knowledge of Atico, does there exist any condition which with the passage of time or the giving of notice or both would result in such a breach or default under) any such Material Contract by any other party thereto, except where any such violation or default would not, individually or in the aggregate, result, or reasonably be expected to result, in a Material Adverse Effect on Atico. Prior to the date hereof, Atico has made available to Toachi true and complete copies of all of the Material Contracts of Atico. All of Atico's and the Atico Subsidiaries' Material Contracts are legal, valid, binding and in full force and effect and are enforceable by Atico (or the Atico Subsidiaries, as the case may be) in accordance with their respective terms (subject to bankruptcy, insolvency and other applicable Laws affecting creditors' rights generally, and to general principles of equity) and are the product of fair and arm's length negotiations between the parties thereto. Neither Atico nor the Atico Subsidiaries is a party to any Material Contract that contains any non-competition obligation or otherwise restricts in any material way the business of Atico or the Atico Subsidiaries.
- (cc) **No Cease Trade Orders.** No Securities Authority or other Governmental Entity or any similar regulatory authority in any jurisdiction has issued any order which is currently outstanding preventing or suspending trading in any securities of Atico, and no such proceeding is pending, contemplated or, to the knowledge of Atico, threatened.
- (dd) **Reporting Issuer Status.** As of the date hereof, Atico is a reporting issuer not in default (or the equivalent) under the securities Laws of each of the provinces of British Columbia, Alberta, Saskatchewan, Manitoba and Ontario.
- (ee) **Stock Exchange Compliance.** The Atico Shares are listed and posted for trading on the TSX-V, and Atico is in compliance in all material respects with the applicable listing and corporate governance rules and regulations of the TSX-V.
- (ff) **Approvals and Recommendation.** The Atico Board has received a fairness opinion, and the Atico Board has unanimously, after receiving legal and financial advice, determined that the Plan of Arrangement is in the best interests of Atico.
- (gg) **No Expropriation.** No property or asset of Atico or the Atico Subsidiaries (including any Atico Properties or Atico Mineral Rights) has been taken or expropriated by any Governmental Entity, no notice or proceeding in respect thereof been given or commenced nor, to the knowledge of Atico, is there any intent or proposal to give any such notice or to commence any such proceeding.
- (hh) **Money Laundering Laws.** The operations of Atico are and have been conducted at all times in compliance with applicable Money Laundering Laws, and no action, suit or proceeding by or before any Governmental Entity involving Atico with respect to the Money Laundering Laws is pending or to Atico's knowledge threatened.

- (ii) **Anti-Corruption.** None of Atico, the Atico Subsidiaries, or, to the knowledge of Atico, any of its or their respective directors, executives, officers, representatives, agents or employees: (i) have used or is using any corporate funds for any illegal contributions, gifts, entertainment or other expenses relating to political activity that would be illegal; (ii) have failed to disclose fully any contribution in violation of any Law; (iii) have used or is using any corporate funds for any direct or indirect illegal payments to any foreign or domestic governmental officials or employees; (iv) have violated or is violating any provision of the *United States Foreign Corrupt Practices Act of 1977*, the *Corruption of Foreign Public Officials Act* (Canada) or any other applicable Law of similar effect; (v) have established or maintained, or is maintaining, any illegal fund of corporate monies or other properties; or (vi) have made any bribe, illegal rebate, illegal payoff, influence payment, kickback or other illegal payment of any nature.
- (jj) **Aboriginal, NGOs and Community Groups.** No material dispute between Atico or the Atico Subsidiaries and any Aboriginal, non-governmental organization, community, or community group exists or, to the best of Atico's knowledge, is threatened or imminent with respect to any of Atico's or the Atico Subsidiaries' properties or exploration activities. Neither Atico nor the Atico Subsidiaries has received any written, or to the knowledge of Atico, oral notice of any Aboriginal Claim which could reasonably be expected to affect or impair Atico's or the Atico Subsidiaries' right, title or interest in any Atico Property.
- (kk) **Arrangements with Shareholders of Toachi.** Other than the Voting Agreements and this Agreement, Atico does not have any agreement, arrangement or understanding (whether written or oral) with respect to Toachi or any of its securities, businesses or operations with any shareholder of Toachi, any interested party of Toachi or any related party of any interested party of Toachi, or any joint actor with any such persons (and for this purpose, the terms "interested party", "related party" and "joint actor" shall have the meanings ascribed to such terms in MI 61-101).
- (ll) **No Shareholder Approval Required.** No approval or consent by the Atico Shareholders is required under applicable Laws in connection with the Arrangement.
- (mm) **Disclosure.** Atico has made available to Toachi all material information concerning Atico, the Atico Subsidiaries and their respective businesses through the Atico Filings, information disclosed in Atico's virtual data room or the Atico Disclosure Letter and all such information as made available to Toachi is accurate, true and correct in all material respects.

## SCHEDULE C

### REPRESENTATIONS AND WARRANTIES OF TOACHI

- (a) **Organization and Qualification.** Toachi is duly incorporated and validly existing and in good standing under the CBCA and has corporate power and authority to own its assets and has all material permits necessary to conduct its business as now owned and conducted. Toachi is duly qualified to carry on business and is in good standing in each jurisdiction in which the character of its properties or the nature of its activities makes such qualification necessary, except where the failure to be so qualified will not, individually or in the aggregate, have a Material Adverse Effect on Toachi. True and complete copies of the constating documents of Toachi have been delivered or made available to Atico, and Toachi has not taken any action to amend or supersede such documents.
- (b) **Authority Relative to this Agreement.** Toachi has the requisite corporate power and authority to enter into this Agreement and to perform its obligations hereunder and to complete the Plan of Arrangement. The execution and delivery of this Agreement by Toachi and the consummation by it of the transactions contemplated by this Agreement have been duly authorized by the Toachi Board, and no other corporate proceedings on the part of Toachi are necessary to authorize this Agreement other than the Toachi Arrangement Approval. This Agreement has been duly executed and delivered by Toachi and constitutes a valid and binding obligation of Toachi, enforceable by Atico against it in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency and other applicable Laws affecting the enforcement of creditors' rights generally and subject to the qualification that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.
- (c) **No Conflict, Required Filings and Consent.** The execution and delivery by Toachi of this Agreement and the performance by it of its covenants hereunder and the completion of the Plan of Arrangement will not violate, conflict with or result in a breach of any provision of the constating documents of Toachi or those of any of the Toachi Subsidiaries, and except as would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect on Toachi, will not: (a) violate, conflict with or result in a breach of: (i) any material agreement, contract, indenture, deed of trust, mortgage, bond, instrument, authorization, licence or permit to which Toachi or any the Toachi Subsidiaries is a party or by which either or any the Toachi Subsidiaries is bound; or (ii) any Law to which Toachi or any of the Toachi Subsidiaries is subject or by which either or any of the Toachi Subsidiaries is bound except as disclosed in the Toachi Disclosure Letter; (b) give rise to any right of termination, or the acceleration of any indebtedness, under any such agreement, contract, indenture, authorization, deed of trust, mortgage, bond, instrument, licence or permit; or (c) give rise to any rights of first refusal or rights of first offer, trigger any change in control or influence provisions or any restriction or limitation under any such agreement, contract, indenture, authorization, deed of trust, mortgage, bond, instrument, licence or permit, or result in the imposition of any encumbrance, charge or lien upon any of Toachi's assets or the assets of any of the Toachi Subsidiaries. Other than the Interim Order, the Final Order, filings required to be made pursuant to applicable securities Laws and filings required to be made with the TSX-V, no authorization, consent or approval of, or filing with, any Governmental Entity or other authority is necessary on the part of Toachi for the consummation by Toachi of its obligations in connection with the Plan of Arrangement under this Agreement, for the completion of the Plan of Arrangement nor to avoid any loss of any rights or assets or any interest therein held by Toachi or any of the Toachi Subsidiaries in any material properties, except for such authorizations, consents, approvals and filings as to which the failure

to obtain or make would not, individually or in the aggregate, prevent or materially delay consummation of the Plan of Arrangement.

- (d) **Toachi Subsidiaries.** The Toachi Subsidiaries are the only Subsidiaries of Toachi, and Toachi has no material interests in any other Person. Each Toachi Subsidiary is duly organized, validly existing and in good standing under the Laws of its jurisdiction of incorporation or organization, has full corporate power and authority to own its assets and conduct its business as now owned and conducted by it and is duly qualified to carry on business in each jurisdiction in which the character of its properties or the nature of its activities makes such qualification necessary. Toachi beneficially owns, directly or indirectly, all of the issued and outstanding securities of each of the Toachi Subsidiaries. All of the outstanding shares in the capital of each of the Toachi Subsidiaries owned directly or indirectly by Toachi are: (a) validly issued and fully-paid and all such shares are owned free and clear of all Encumbrances; and (b) are free of any other restrictions including any restriction on the right to vote, sell or otherwise dispose of shares. There are no outstanding options, rights, entitlements, understandings or commitments (contingent or otherwise) providing to any third party the right to acquire any shares or other ownership interests in any Toachi Subsidiaries.
- (e) **Regulatory Filings.** Toachi has filed all documents required to be filed in accordance with applicable Laws and the Toachi Filings have complied in all material respects with all applicable requirements. None of the Toachi Filings, at the time filed or as subsequently amended, contained any misrepresentation. Toachi has not filed any confidential material change report with any Securities Authority which at the date hereof remains confidential. There are no outstanding or unresolved comments in a comment letter from any Securities Authority with respect to any Toachi Filings and, to the knowledge of Toachi, neither it nor any of the Toachi Filings is subject to an ongoing audit, review, comment or investigation by any Securities Authority or the TSX-V.
- (f) **Compliance with Laws.**
  - (i) The operations of Toachi and the Toachi Subsidiaries have been and are now conducted in compliance with all applicable Laws of each jurisdiction in which it does business, the Laws of which have been and are now applicable to the operations of Toachi or of any of the Toachi Subsidiaries and none of Toachi or any of the Toachi Subsidiaries has received any notice of any alleged violation of any such Laws, other than non-compliance or alleged violations which, individually or in the aggregate, would not have a Material Adverse Effect on Toachi.
  - (ii) None of Toachi or any of the Toachi Subsidiaries is in conflict with, or in default (including cross defaults) under or in violation of: (A) its constating documents or, as applicable, equivalent organizational documents; or (B) any material agreement or understanding to which it or by which any of the properties or assets in which it has a controlling interest or an option to acquire a controlling interest is bound or affected, except for such conflicts, defaults or violations which, individually or in the aggregate, would not have a Material Adverse Effect on Toachi.
- (g) **Company Authorizations.** Toachi and the Toachi Subsidiaries have obtained all authorizations necessary for the ownership, operation, development, maintenance, or use of the material assets of Toachi or the Toachi Subsidiaries or otherwise in connection with the material business or operations of Toachi or the Toachi Subsidiaries as presently carried on, and such authorizations are in full force and effect in all material respects. Toachi and the Toachi Subsidiaries have

complied with and are in compliance with all authorizations, except, in each case, for such non-compliance which, individually or in the aggregate, would not have a Material Adverse Effect on Toachi. There is no action or proceeding pending or, to the knowledge of Toachi, threatened regarding any of the authorizations nor, to its knowledge, is there any investigation pending or threatened regarding any of the authorizations. None of Toachi or any of the Toachi Subsidiaries has received any notice, whether written or oral, of revocation or non-renewal of any such authorizations, or of any intention of any person to revoke or refuse to renew any of such authorizations, except in each case, for revocations or non-renewals which, individually or in the aggregate, would not have a Material Adverse Effect on Toachi and, to the knowledge of Toachi, all such authorizations continue to be effective in order for Toachi and the Toachi Subsidiaries to continue to conduct their respective businesses as they are currently being conducted.

(h) **Capitalization and Listing.**

- (i) The authorized share capital of Toachi consists of an unlimited number of Toachi Shares. As at the date of this Agreement there are: (A) 81,480,185 Toachi Shares validly issued and outstanding as fully-paid and non-assessable shares of Toachi; (B) outstanding Toachi Options providing for the issuance of 6,842,000 Toachi Shares upon the exercise thereof; (C) outstanding Toachi Warrants providing for the issuance of 9,999,999 Toachi Shares upon the exercise thereof; (D) 941,250 Toachi RSUs providing for the issuance of 941,250 Toachi Shares upon the vesting thereof; and (E) outstanding Toachi Debentures in the principal amount of \$2,800,000 providing for the issuance of 23,333,332 Toachi Shares upon the conversion thereof. Other than the Toachi Options, Toachi Warrants, Toachi RSUs and Toachi Debentures there are no options, warrants, conversion privileges, calls or other rights, shareholder rights plans, agreements, arrangements, commitments, or obligations of Toachi or any of the Toachi Subsidiaries to issue or sell any shares of Toachi or of any of the Toachi Subsidiaries or securities or obligations of any kind convertible into, exchangeable for or otherwise carrying the right or obligation to acquire any shares of Toachi or any of the Toachi Subsidiaries, and there are no outstanding stock appreciation rights, phantom equity or similar rights, agreements, arrangements or commitments of Toachi or any of the Toachi Subsidiaries, and no person is entitled to any pre-emptive or other similar right granted by Toachi or any of the Toachi Subsidiaries.
- (ii) The Toachi Disclosure Letter sets forth, as of the date hereof, the holders of all outstanding Toachi Options, Toachi Warrants, Toachi RSUs and Toachi Debentures and the number, exercise prices, conversion prices and expiration dates thereof to such holders. All Toachi Shares that may be issued pursuant to the exercise or conversion of outstanding Toachi Options, Toachi Warrants, Toachi RSUs and Toachi Debentures prior to the Effective Time will, when issued in accordance with the terms of the Toachi Options, Toachi Warrants, Toachi RSUs or Toachi Debentures, as applicable, be duly authorized, validly issued, fully-paid and non-assessable and are not and will not be subject to, or issued in violation of, any pre-emptive rights.
- (iii) There are no outstanding contractual obligations of Toachi or any of the Toachi Subsidiaries to repurchase, redeem or otherwise acquire any Toachi Shares or any shares of any of the Toachi Subsidiaries. No Toachi Subsidiary owns any Toachi Shares.
- (iv) No order ceasing or suspending trading in securities of Toachi nor prohibiting the sale of such securities has been issued and is outstanding against Toachi or its directors, officers or promoters.

- (v) All outstanding Toachi Shares, all outstanding Toachi Options, all outstanding Toachi Warrants, all outstanding Toachi RSUs, all outstanding Toachi Debentures and all outstanding shares of capital stock, voting securities or other ownership interests, securities or interests in Toachi or any of the Toachi Subsidiaries, have been issued or granted, as applicable, in compliance in all material respects with all applicable securities Laws, including the 1933 Act.
  - (vi) **Shareholder and Similar Agreements.** Toachi is not party to any shareholder, pooling, voting trust or other similar agreement relating to the issued and outstanding shares in the capital of Toachi or any of the Toachi Subsidiaries.
- (i) **Financial Statements.**
- (i) The audited consolidated financial statements for Toachi as at the fiscal year ended on July 31, 2018 (including the notes thereto and related management’s discussion and analysis (collectively, the “**Toachi MD&A**”) and the reports by the auditors thereon), the interim unaudited consolidated financial statements for Toachi for the period ended April 30, 2019 (including the notes thereto and related management’s discussion and analysis) have been, and all financial statements of Toachi which are publicly disseminated by Toachi prior to the Effective Date in respect of any subsequent periods will be, prepared in accordance with IFRS applied on a basis consistent with prior periods and present fairly, in all material respects, the assets, liabilities, consolidated financial position of Toachi as of the respective dates thereof and its results of operations and cash flows for the respective periods covered thereby (except as may be indicated expressly in the notes thereto). There are no outstanding loans made by Toachi or any of the Toachi Subsidiaries to any executive officer or director of Toachi.
  - (ii) Except as disclosed in the Toachi Disclosure Letter, neither Toachi nor any of the Toachi Subsidiaries is a party to, or has any commitment to become a party to, any joint venture, off-balance sheet arrangement or any similar contract (including any contract relating to any transaction or relationship between or among Toachi or any of the Toachi Subsidiaries, on the one hand, and any unconsolidated affiliate, including any structured finance, special purpose of limited purpose entity or person, on the other hand) where the result, purpose or effect of such contract is to avoid disclosure of any material transaction involving, or material liabilities of, Toachi or any of the Toachi Subsidiaries, in the published financial statements of Toachi or the Toachi Filings.
  - (iii) Since April 30, 2019, neither Toachi nor any of the Toachi Subsidiaries nor, to Toachi’s knowledge, any director, officer, auditor, accountant or representative of Toachi or any of the Toachi Subsidiaries has received or otherwise had or obtained knowledge of any complaint, allegation, assertion, or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods of Toachi or any of the Toachi Subsidiaries or their respective internal accounting controls, including any complaint, allegation, assertion, or claim that Toachi or any of the Toachi Subsidiaries has engaged in questionable accounting or auditing practices, which has not been resolved to the satisfaction of the audit committee of the Toachi Board.
- (j) **Disclosure Controls and Internal Control over Financial Reporting.**
- (i) Toachi has established and maintains a system of internal control over financial reporting that is designed to provide reasonable assurance regarding the reliability of financial

reporting and the preparation of financial statements for external purposes in accordance with IFRS.

- (ii) To the knowledge of Toachi, there is no material weakness (as such term is defined in National Instrument 52-109 – *Certification of Disclosure in Issuers’ Annual and Interim Filings*) relating to the design, implementation or maintenance of its internal control over financial reporting, or fraud, whether or not material, that involves management or other employees who have a significant role in the internal control over financial reporting of Toachi.
- (k) **Auditors.** Toachi has never had any reportable disagreement (within the meaning of Section 4.11 of National Instrument 51-102 – *Continuous Disclosure Obligations*) with its present or any former auditor.
- (l) **Undisclosed Liabilities.** Except as disclosed in the Toachi Disclosure Letter, neither Toachi nor any of the Toachi Subsidiaries has any liabilities or obligations of any nature, whether or not accrued, contingent or otherwise, and are not party to or bound by any suretyship, guarantee, indemnification or assumption agreement, or endorsement of, or any other similar contract with respect to the obligations, liabilities or indebtedness of any person, except for: (a) liabilities and obligations that are specifically presented on the audited balance sheet of Toachi as of July 31, 2018 or unaudited balance sheet of Toachi as of April 30, 2019 (the “**Toachi Balance Sheet**”) or disclosed in the notes thereto; or (b) liabilities and obligations incurred in the ordinary course since April 30, 2019, that are not and would not, individually or in the aggregate with all other liabilities and obligations of Toachi and the Toachi Subsidiaries (other than those disclosed on the Toachi Balance Sheet and/or in the notes to the Toachi financial statements), reasonably be expected to have a Material Adverse Effect on Toachi, or, as a consequence of the consummation of the Plan of Arrangement, have a Material Adverse Effect on Toachi.
- (m) **No Hedging.** Neither Toachi nor the Toachi Subsidiaries has, on the date of this Agreement, any foreign currency hedging or commodity hedging arrangements in effect.
- (n) **Interest in Properties and Mineral Rights.**
  - (i) All of Toachi’s and the Toachi Subsidiaries’ interests in real properties (the “**Toachi Property**”) and all of Toachi’s and the Toachi Subsidiaries’ mineral interests and rights, in each case, either existing under contract, by operation of Law or otherwise (collectively, and where material, the “**Toachi Mineral Rights**”), are set out in the Toachi Disclosure Letter. Neither Toachi nor the Toachi Subsidiaries, owns or has any interest in any other material real property or any material mineral interests and rights.
  - (ii) Compania Minería La Plata S.A. is the sole legal and beneficial owner of all right, title and interest in and to the Toachi Property except as described in the Toachi Disclosure Letter and the Toachi Mineral Rights, free and clear of any Encumbrances other than Permitted Encumbrances.
  - (iii) Except as described in the Toachi Disclosure Letter, Toachi has entered into the La Plata Option Agreement and Toachi is not in breach or default under the La Plata Option Agreement, and Toachi does not have knowledge of any condition that with the passage of time or the giving of notice or both would result in such a breach or default. Toachi has no knowledge of, nor has it received written notice of, any breach or default under (nor, to the knowledge of Toachi, does there exist any condition which with the passage

of time or the giving of notice or both would result in such a breach or default under) the La Plata Option Agreement by any other party thereto.

- (iv) The La Plata Option Agreement represents the only option, earn-in or other similar agreement of Toachi currently in effect and neither Toachi nor the Toachi Subsidiaries has any rights, obligations or liabilities under any other agreement pertaining to the option, earn-in or other similar arrangement with respect to a mineral property.
- (v) All of the Toachi Mineral Rights have been properly allocated in compliance with applicable Law and are comprised of valid and subsisting mineral claims.
- (vi) The Toachi Property and the Toachi Mineral Rights are in good standing under applicable Law and, to the knowledge of Toachi, all material filings with Governmental Entities in respect thereof have been filed, all material work required to be performed and filed in respect thereof has been performed and filed, all Taxes, rentals, fees, expenditures and other payments in respect thereof have been paid or incurred and all filings in respect thereof have been made.
- (vii) Toachi has satisfied the requirement in the La Plata Option Agreement to incur the Phase I Payment (as such term is defined in the La Plata Option Agreement) and in addition has made the following cash payments as required by Section 5.2(b) of the La Plata Option Agreement: (i) US\$75,000 upon exercising the letter of intent, (ii) US\$125,000, (iii) US\$200,000, (iv) US\$250,000 and (v) US\$350,000.
- (viii) There is no material adverse claim against or challenge to the title to or ownership of the Toachi Property or any of the Toachi Mineral Rights.
- (ix) Except as disclosed in the Toachi Disclosure Letter, Toachi has the right to maintain and operate the Toachi Property and all of the Toachi Mineral Rights.
- (x) Except as disclosed in the Toachi Disclosure Letter, no person other than Toachi or the Toachi Subsidiaries has any interest in the Toachi Property or any of the Toachi Mineral Rights or any right to acquire any such interest.
- (xi) There are no back-in rights, earn-in rights, rights of first refusal or similar provisions or rights which would affect Toachi's interest in the Toachi Property or any of the Toachi Mineral Rights.
- (xii) Except as described in the La Plata Option Agreement and as disclosed in the Toachi Disclosure Letter, there are no restrictions on the ability of Toachi to use, transfer or exploit the Toachi Property or any of the Toachi Mineral Rights, except pursuant to the terms of the relevant Toachi Mineral Rights.
- (xiii) Neither Toachi nor any of the Toachi Subsidiaries has received any notice, whether written or oral, from any Governmental Entity of any revocation or intention to revoke any interest of Toachi or a Toachi Subsidiary in any of the Toachi Property or any of the Toachi Mineral Rights.
- (xiv) Neither Toachi nor any of the Toachi Subsidiaries has received any compliance orders, citations or notices relating to non-compliance or alleged non-compliance of any Toachi Mineral Rights.

- (xv) Except as disclosed in the Toachi Disclosure Letter, Toachi and the Toachi Subsidiaries have all rights, permits, licenses and mineral interests that are required to exploit the development potential of the Toachi Property and the Toachi Mineral Rights as contemplated in Toachi Filings filed (and available on SEDAR) on or before the date hereof.
  
- (o) **Mineral Resources.** The Toachi Technical Report accurately and completely sets forth all material facts relating to properties covered by such report; since the date of preparation of the Toachi Technical Report there has been no material change, that would disaffirm or change any aspect of the Toachi Technical Report in any material respect, except as disclosed in any document forming part of the Toachi Filings. The Toachi Technical Report complied in all material respects with the requirements of NI 43-101 at the time of filing thereof and presented the quantity of mineral resources attributable to the properties evaluated therein as at the date stated therein based upon information available at the time such Toachi Technical Report was prepared.
  
- (p) **Exploration Information.** Toachi has provided Atico with access to full and complete copies of all exploration information and data relating to the Toachi Property, and which is owned by, or within the possession or control of, Toachi or any of the Toachi Subsidiaries, including, without limitation, all geological, geophysical and geochemical information and data (including all drill, sample and assay results and all maps) and all technical reports, feasibility studies and other similar reports and studies concerning the Toachi Mineral Rights or the Toachi Property, and Toachi has the sole right, title, ownership and right to use all such information, data reports and studies.
  
- (q) **Operational Matters.** Except as would not, individually or in the aggregate, be reasonably expected to result in a Material Adverse Effect on Toachi:
  - (i) all rentals, royalties, overriding royalty interests, production payments, net profits, interest burdens, payments and obligations due and payable, or performable, as the case may be, on or prior to the date hereof under, with respect to, or on account of, any direct or indirect assets of Toachi and the Toachi Subsidiaries, have been: (A) duly paid; (B) duly performed; or (C) provided for prior to the date hereof; and
  - (ii) all costs, expenses, and liabilities payable on or prior to the date hereof under the terms of any material contracts and agreements to which Toachi or any of the Toachi Subsidiaries is bound have been properly and timely paid, except for such expenses that are being currently paid prior to delinquency in the ordinary course.
  
- (r) **Employment Matters.**
  - (i) The Toachi Disclosure Letter sets out a true and complete list of all employees of Toachi or any of its subsidiaries, including their respective:
    - (A) location;
    - (B) hire date;
    - (C) cumulative length of service;
    - (D) position;
    - (E) compensation (including but not limited to salary, bonus and commissions);
    - (F) eligibility to participate in short-term and long-term incentive plans (and grants received under these plans, if any);

- (G) benefits;
- (H) vacation entitlement in days;
- (I) current status (full-time or part-time, active or non-active, and if non-active, the reason for leave); and
- (J) whether they are subject to a written employment contract,

as well as a list of all former employees of Toachi or any of its subsidiaries to whom Toachi or any of its subsidiaries has or may have any outstanding obligations, indicating the nature and value of such obligations.

- (ii) Except as disclosed in the Toachi Disclosure Letter, neither Toachi nor any of the Toachi Subsidiaries has entered into any written or oral agreement or understanding providing for severance or termination payments to any director, officer or employee in connection with the termination of their position or their employment as a direct result of a change in control of Toachi (including as a result of the Plan of Arrangement).
- (iii) Neither Toachi nor any of the Toachi Subsidiaries (i) is a party to any collective bargaining agreement, or (ii) is subject to any application for certification or, to the knowledge of Toachi, threatened or apparent union-organizing campaigns for employees not covered under a collective bargaining agreement. To the knowledge of Toachi, no fact or event exists that is likely to give rise to a change in this representation on or before the Effective Date.
- (iv) Neither Toachi nor any of the Toachi Subsidiaries has received notice of, nor to its knowledge, is subject to any claim for wrongful dismissal, constructive dismissal or any other tort claim, actual or, to the knowledge of Toachi, threatened, or any litigation actual, or to the knowledge of Toachi, threatened, relating to employment or termination of employment of employees or independent contractors. No labour strike, lock-out, slowdown or work stoppage is pending or, to the knowledge of Toachi, threatened against or directly affecting Toachi.
- (v) All amounts due or accrued due for all salary, wages, bonuses, vacation with pay, workers compensation and other benefits for the period up to April 30, 2019 have either been paid or are accurately reflected in Toachi's financial books and records in all material respects.
- (vi) Except as disclosed in the Toachi Disclosure Letter, neither the execution of this Agreement nor the consummation of the Plan of Arrangement and the other transactions contemplated in this Agreement will:
  - (A) result in any payment (including, without limitation, bonus, golden parachute, retirement, severance, retiring allowance or similar payment, or any other benefit or enhanced benefit) becoming due or payable to any current or former Toachi Employee; or
  - (B) increase the rate of wages, salaries, commissions, bonuses, incentive compensation or other remuneration, severance entitlements, or benefits otherwise payable to any current or former Toachi Employee.
- (vii) Neither Toachi nor any of the Toachi Subsidiaries currently sponsors, maintains, contributes to or has any material liability under, and has not in the past five years sponsored, maintained, contributed to or incurred any liability under, a "registered

pension plan” or a “retirement compensation arrangement”, each as defined under the Tax Act, a “pension plan” as defined under applicable pension benefits standards legislation, or any other plan organized and administered to provide pensions for Toachi Employees or former Toachi Employees.

- (viii) The Toachi Disclosure Letter lists each plan, program, policy, agreement, collective bargaining agreement or other arrangement providing for compensation, severance, deferred compensation, performance awards, stock or stock-based awards, fringe, retirement, death, disability or medical benefits or other employee benefits or remuneration of any kind, including each employment, severance, retention, change in control or consulting plan, program arrangement or agreement, in each case whether written or unwritten or otherwise, funded or unfunded, which is or has been sponsored, maintained, contributed to, or required to be contributed to, by Toachi or any of the Toachi Subsidiaries for the benefit of any current or former employee, independent contractor, consultant or director of Toachi or any of the Toachi Subsidiaries, or with respect to which Toachi or any of the Toachi Subsidiaries has or may have any material Liability (collectively, the “**Toachi Employee Plans**”).
- (ix) Toachi has made available to Atico correct and complete copies (or, if a plan is not written, a written description) of all Toachi Employee Plans and amendments thereto in each case that are in effect as of the date hereof, and, to the extent applicable: (i) all related trust agreements, funding arrangements and insurance contracts now in effect or required in the future as a result of the transactions contemplated by this Agreement or otherwise; (ii) the most recent opinion or determination letter received regarding the tax-qualified status of each Toachi Employee Plan; (iii) the most recent financial statements for each Toachi Employee Plan; and (iv) the current summary plan description for each Toachi Employee Plan.
- (x) Each Toachi Employee Plan has been established, administered, and maintained in all material respects in accordance with its terms and in material compliance with applicable Laws; (i) Toachi and the Toachi Subsidiaries, where applicable, have timely made all material contributions and other material payments required by and due under the terms of each Toachi Employee Plan and applicable law, and all benefits accrued under any unfunded Toachi Employee Plan have been paid, accrued or otherwise adequately reserved to the extent required by, and in accordance with IFRS; (ii) except to the extent limited by applicable law, each Toachi Employee Plan can be amended, terminated or otherwise discontinued after the Effective Date in accordance with its terms; (iii) as of the date hereof, there are no material audits, inquiries or legal actions pending or, to the knowledge of Toachi, threatened by any Governmental Entity with respect to any Toachi Employee Plan; and (iv) as of the date hereof, there are no material legal actions pending, or, to the knowledge of Toachi, threatened with respect to any Toachi Employee Plan (in each case, other than routine claims for benefits).
- (xi) No Toachi Employee Plan has, within the three years prior to the date hereof, been the subject of an examination or audit by a Governmental Entity or is the subject of an application or filing under, or is a participant in, an amnesty, voluntary compliance, self-correction or similar program sponsored by any Governmental Entity.
- (xii) Toachi is in material compliance with all terms and conditions of employment and all Employment Laws. Neither Toachi nor any of the Toachi Subsidiaries is subject to any outstanding grievance, complaint, investigation, or orders under any Employment Law,

or any claim for wrongful dismissal, constructive dismissal, unfair labour practice or any other claim or litigation relating to employment or termination of employment or relationships of Toachi Employees or independent contractors which, if adversely determined, would have, or reasonably would be expected to have, a Material Adverse Effect on Toachi, or prevent or materially delay the consummation of the Arrangement and, to the knowledge of Toachi, no such claims or litigation are threatened.

- (s) **Absence of Certain Changes or Events.** Except as disclosed in the Toachi Disclosure Letter, since April 30, 2019;
- (i) Toachi and the Toachi Subsidiaries have conducted their respective businesses only in the ordinary course;
  - (ii) no liability or obligation of any nature (whether absolute, accrued, contingent or otherwise) which has had or is reasonably likely to have a Material Adverse Effect on Toachi has been incurred;
  - (iii) there has not been any event, circumstance or occurrence which has had or is reasonably likely to give rise to a Material Adverse Effect on Toachi;
  - (iv) there has not been any change in the accounting practices used by Toachi and the Toachi Subsidiaries;
  - (v) there has not been any increase in the salary, bonus, or other remuneration payable to any non-executive employees of any of Toachi or the Toachi Subsidiaries;
  - (vi) there has not been any change in the remuneration or compensation paid to the directors of Toachi;
  - (vii) there has not been any redemption, repurchase or other acquisition of Toachi Shares by Toachi, or any declaration, setting aside or payment of any dividend or other distribution (whether in cash, shares or property) with respect to the Toachi Shares;
  - (viii) there has not been any entering into, or an amendment of, any Material Contract other than in the ordinary course;
  - (ix) there has not been any satisfaction or settlement of any material claims or material liabilities that were not reflected in Toachi's audited financial statements, other than the settlement of claims or liabilities incurred in the ordinary course; and
  - (x) there has not been any increase in the salary, bonus, or other remuneration payable to any officers or senior or executive officers of Toachi or the Toachi Subsidiaries.
- (t) **Litigation.** There is no claim, action, proceeding or investigation pending or, to the knowledge of Toachi, threatened against or relating to Toachi or any of the Toachi Subsidiaries, the business of Toachi or any of the Toachi Subsidiaries, or affecting any of their properties or assets, before or by any Governmental Entity which, if adversely determined, would have, or reasonably would be expected to have, a Material Adverse Effect on Toachi or prevent or materially delay the consummation of the Plan of Arrangement, nor to the knowledge of Toachi are there any events or circumstances which would reasonably be expected to give rise to any such claim, action, proceeding or investigation (provided that this representation shall not apply to claims, actions,

proceedings, or investigations which may arise after the date of this Agreement which do not have a reasonable prospect of succeeding or, if successful, would not give rise to, nor reasonably be expected to give rise to, a Material Adverse Effect on Toachi). Neither Toachi nor any of the Toachi Subsidiaries is subject to any outstanding order, writ, injunction or decree which has had or is reasonably likely to have a Material Adverse Effect on Toachi or which would reasonably be expected to prevent or materially delay consummation of the transactions contemplated by this Agreement.

(u) **Taxes.**

- (i) Each of Toachi and the Toachi Subsidiaries has duly and in a timely manner made or prepared all Tax Returns required to be made or prepared by it, and duly and in a timely manner filed all Tax Returns required to be filed by it with the appropriate Governmental Entity, such Tax Returns were complete and correct in all material respects and Toachi and each of the Toachi Subsidiaries has paid all Taxes, including installments on account of Taxes for the current year required by applicable Law, which are due and payable by it whether or not assessed by the appropriate Governmental Entity. Since such publication date, no material liability in respect of Taxes not reflected in such statements or otherwise provided for has been assessed, proposed to be assessed, incurred or accrued, other than in the ordinary course. Toachi and the Toachi Subsidiaries have not received any refund of Taxes to which they are not entitled.
- (ii) Each of Toachi and the Toachi Subsidiaries has duly and timely withheld all Taxes and other amounts required by Law to be withheld by it (including Taxes and other amounts required to be withheld by it in respect of any amount paid or credited or deemed to be paid or credited by it to or for the benefit of any person) and has duly and timely remitted to the appropriate Governmental Entity such Taxes or other amounts required by Law to be remitted by it.
- (iii) Each of Toachi and the Toachi Subsidiaries has duly and timely collected all amounts on account of any sales, use or transfer Taxes, including goods and services, harmonized sales, provincial and territorial taxes and state and local taxes, required by Law to be collected by it and has duly and timely remitted to the appropriate Governmental Entity such amounts required by Law to be remitted by it.
- (iv) Neither Toachi nor any of the Toachi Subsidiaries has made, prepared and/or filed any elections, designations or similar filings relating to Taxes or entered into any agreement or other arrangement in respect of Taxes or Tax Returns that has effect for any period ending after the Effective Date.
- (v) There are no proceedings, investigations, audits or claims now pending or threatened against Toachi or any of the Toachi Subsidiaries in respect of any Taxes and there are no matters under discussion, audit or appeal with any Governmental Entity relating to Taxes.
- (vi) Neither Toachi nor any of the Toachi Subsidiaries has acquired property from a non-arm's length person, within the meaning of the Tax Act: (i) for consideration the value of which is less than the fair market value of the property; or (ii) as a contribution of capital for which no shares were issued by the acquirer of the property.
- (vii) For the purposes of the Tax Act and any other relevant Tax purposes:

- (A) Toachi is a resident in Canada; and
  - (B) Each of Toachiec Exploraciones Mineras S.A. Toachi and Compania Minera La Plata S.A. is a non-resident of Canada.
- (viii) There are no Encumbrances (other than Permitted Encumbrances) with respect to Taxes upon any properties or assets of Toachi or any of the Toachi Subsidiaries.
- (ix) Each of Toachi and the Toachi Subsidiaries has made full and adequate provision in the books and records and interim financial statements for all Taxes which are not yet due and payable but which relate to periods ending on or before the Effective Date. Neither Toachi nor the Toachi Subsidiaries has received any refund of Taxes to which it is not entitled.
- (x) There are no outstanding agreements, arrangements, waivers or objections extending the statutory period or providing for an extension of time with respect to the assessment or reassessment of Taxes or the filing of any Tax Return by, or any payment of Taxes by, Toachi or any of the Toachi Subsidiaries and, to the knowledge of Toachi, there is no reason to expect that any such claim, action, suit, audit, proceeding, investigation or other action may be asserted against Toachi or any of the Toachi Subsidiaries by a Governmental Entity for any period ending on or prior to the Effective Date.
- (xi) Neither Toachi nor the Toachi Subsidiaries has acquired property or services from, or disposed of property or provided services to, a person with whom it does not deal at arm's length (within the meaning of the Tax Act) for an amount that is other than the fair market value of such property or services, nor has Toachi or any of the Toachi Subsidiaries been deemed to have done so for purposes of the Tax Act.
- (xii) None of sections 78 or 80 to 80.04 of the Tax Act have applied to Toachi or the Toachi Subsidiaries, and there are no circumstances existing which could reasonably be expected to result in the application of sections 78 or 80 to 80.04 of the Tax Act to Toachi or the Toachi Subsidiaries.
- (xiii) For all transactions between Toachi, on the one hand, and any non-resident person with whom Toachi was not dealing at arm's length, for the purposes of the Tax Act, on the other hand, during a taxation year commencing after 1998 and ending on or before the Effective Date, Toachi has made or obtained records or documents that satisfy the requirements of paragraphs 247(4)(a) to (c) of the Tax Act. Toachi has not entered into an agreement contemplated by Section 191.3 of the Tax Act.
- (xiv) To the knowledge of Toachi, no material claim has been made by any Governmental Entity in a jurisdiction where Toachi or any of the Toachi Subsidiaries does not file Tax Returns that Toachi or any of the Toachi Subsidiaries is required to file Tax Returns or may be subject to Tax by that jurisdiction.
- (v) **Books and Records.** The corporate records and minute books of Toachi and the Toachi Subsidiaries have been maintained in accordance with all applicable Laws, and the minute books of Toachi and the Toachi Subsidiaries as provided to Atico are complete and accurate in all material respects. The corporate minute books for Toachi and the Toachi Subsidiaries contain minutes of all meetings and resolutions of the directors and shareholders held. The financial books and records and accounts of Toachi and the Toachi Subsidiaries in all material respects: (a) have

been maintained in accordance with good business practices and in accordance with IFRS and with the accounting principles generally accepted in the country of domicile of each such entity, on a basis consistent with prior years; (b) are stated in reasonable detail and, in the case of Toachi's Subsidiaries, during the period of time when owned by Toachi, accurately and fairly reflect the transactions and dispositions of assets of Toachi and the Toachi Subsidiaries; and (c) in the case of Toachi's Subsidiaries, during the period of time when owned by Toachi, accurately and fairly reflect the basis for Toachi's consolidated financial statements.

(w) **Insurance.**

- (i) Toachi has in place reasonable and prudent insurance policies appropriate for its size, nature and stage of development. All premiums payable prior to the date hereof under such policies of insurance have been paid, and neither Toachi nor any of the Toachi Subsidiaries has failed to give any notice or make a claim thereunder on a timely basis.
- (ii) Each of such policies and other forms of insurance is in full force and effect on the date hereof and Toachi will use commercially reasonable efforts to keep them in full force and effect or renew them as appropriate through the Effective Date. No written (or to the actual knowledge of Toachi other) notice of cancellation or termination has been received by Toachi or any of the Toachi Subsidiaries with respect to any such policy.

(x) **Non-Arm's Length Transactions.** Except for the transactions contemplated in this Agreement, director and officer indemnification agreements and employment or employment compensation agreements entered into in the ordinary course, there are no current contracts, commitments, agreements, arrangements or other transactions (including relating to indebtedness by Toachi or any of the Toachi Subsidiaries) between Toachi or any of the Toachi Subsidiaries, on the one hand, and any (a) officer or director of Toachi or any of the Toachi Subsidiaries, (b) holder of record or, to the knowledge of Toachi, beneficial owner of five percent or more of the voting securities of Toachi, or (c) affiliate or associate of any officer, director or beneficial owner, on the other hand.

(y) **Environmental.** Except for any matters that, individually or in the aggregate, would not have or would not reasonably be expected to have a Material Adverse Effect on Toachi or as disclosed to Atico:

- (i) all facilities and operations of Toachi and the Toachi Subsidiaries have been conducted, and are now, in compliance with all Environmental Laws;
- (ii) Toachi and the Toachi Subsidiaries are in possession of, and in compliance with, all permits required under Environmental Laws to own, lease and operate the Toachi Property and Toachi Mineral Rights and to conduct their respective business as they are now being conducted;
- (iii) no environmental reclamation or closure obligation, demand, notice, work order or other liabilities presently exist with respect to any portion of any currently or formerly owned, leased, used or otherwise controlled property, interests and rights or relating to the operations and business of Toachi and the Toachi Subsidiaries, and, to the knowledge of Toachi, there is no basis for any such obligations, demands, notices, work orders or liabilities to arise in the future as a result of any activity in respect of such property, interests, rights, operations and business;

- (iv) neither Toachi nor any of the Toachi Subsidiaries is subject to any proceeding, application, order or directive which relates to environmental, health or safety matters, and which may require any material work, repairs, construction or expenditures;
- (v) to the knowledge of Toachi, there are no changes in the status, terms or conditions of any Environmental Permits held by Toachi or any of the Toachi Subsidiaries or any renewal, modification, revocation, reassurance, alteration, transfer or amendment of any such Environmental Permits, or any review by, or approval of, any Governmental Entity of such Environmental Permits, consents, waivers, permits, orders and exemptions that are required in connection with the execution or delivery of this Agreement, the consummation of the transactions contemplated herein or the continuation of the business of Toachi or any of the Toachi Subsidiaries following the Effective Date;
- (vi) neither Toachi nor any of the Toachi Subsidiaries (i) is a party to any litigation or administrative proceeding nor, to the knowledge of Toachi, has any litigation or administrative proceeding been threatened against it or its property or assets, which in either case (1) asserts or alleges that it violated any Environmental Laws, (2) asserts or alleges that it is required to clean up, remove or take remedial or other response action due to the Release of any Hazardous Substances, or (3) asserts or alleges that it is required to pay all or a portion of the cost of any past, present or future cleanup, removal or remedial or other response action which arises out of or is related to the Release of any Hazardous Substances, (ii) has any knowledge of any conditions existing currently which could reasonably be expected to subject it to damages, penalties, injunctive relief or cleanup costs under any Environmental Laws or which require or are likely to require cleanup, removal, Remedial Action or other response by it pursuant to applicable Environmental Laws; and (iii) is subject to any judgment, decree, order or citation related to or arising out of applicable Environmental Law and has not been named or listed as a potentially responsible party by any Governmental Entity in a matter arising under any Environmental Laws;
- (vii) Toachi and the Toachi Subsidiaries have made available to Atico all material audits, assessments, investigation reports, studies, plans, regulatory correspondence and similar information with respect to environmental matters; and
- (viii) to the knowledge of Toachi, Toachi and the Toachi Subsidiaries are not subject to any past or present fact, condition or circumstance that would reasonably be expected to result in any material liability under any Environmental Laws.
- (z) **Restrictions on Business Activities.** There is no agreement, judgment, injunction, order or decree binding upon Toachi or any of the Toachi Subsidiaries that has or would reasonably be expected to have the effect of prohibiting, restricting or materially impairing any business practice of Toachi or any of the Toachi Subsidiaries, any acquisition of property by Toachi or any of the Toachi Subsidiaries, or the conduct of business by Toachi or any of the Toachi Subsidiaries, as currently conducted (including following the transactions contemplated by this Agreement).
- (aa) **Material Contracts.** Toachi and the Toachi Subsidiaries have performed in all material respects all respective obligations required to be performed by them to date under their Material Contracts. Neither Toachi nor any of the Toachi Subsidiaries is in breach or default under any Material Contract to which it is a party or bound, nor does Toachi have knowledge of any condition that with the passage of time or the giving of notice or both would result in such a breach or default, except in each case where any such breaches or defaults would not, individually or in the

aggregate, result, or reasonably be expected to result, in a Material Adverse Effect on Toachi. Neither Toachi nor any of the Toachi Subsidiaries knows of, nor have they received written notice of, any breach or default under (nor, to the knowledge of Toachi, does there exist any condition which with the passage of time or the giving of notice or both would result in such a breach or default under) any such Material Contract by any other party thereto except where any such violation or default would not, individually or in the aggregate, result, or reasonably be expected to result, in a Material Adverse Effect on Toachi. Prior to the date hereof, Toachi has made available to Atico true and complete copies of all of the Material Contracts of Toachi and its Subsidiaries. All of Toachi's and each Toachi Subsidiary's Material Contracts are legal, valid, binding and in full force and effect and are enforceable by Toachi (or its Subsidiary, as the case may be) in accordance with their respective terms (subject to bankruptcy, insolvency and other applicable Laws affecting creditors' rights generally, and to general principles of equity) and are the product of fair and arm's length negotiations between the parties thereto. Except as may be disclosed in the Toachi Disclosure Letter, neither Toachi nor any of the Toachi Subsidiaries is a party to any Material Contract that contains any non-competition obligation or otherwise restricts in any material way the business of Toachi or any of the Toachi Subsidiaries.

- (bb) **Toachi Debentures.** Except as may be disclosed in the Toachi Disclosure Letter, Toachi is in material compliance with all terms and conditions of the Toachi Debentures, has performed in all material respects all obligations required to be performed by it to date under the Toachi Debentures, is not in breach or default under the Toachi Debentures and has made all payments required by and due under the terms of the Toachi Debentures and applicable law.
- (cc) **Fees and Expenses.** The Toachi Disclosure Letter sets forth: (A) the aggregate amount of fees payable to any broker, investment banker, financial advisor or other person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of Toachi; (B) the amount of fees and expenses reasonably attributable to this Agreement and the transactions contemplated hereby that Toachi has incurred to date and an estimate of the amount of fees and expenses that Toachi expects to incur by the Effective Date (other than the fees and expenses payable to those brokers identified pursuant to (A) of this paragraph) and (C) the amount of such fees and expenses that has been paid to date.
- (dd) **No Cease Trade Orders.** No Securities Authority or other Governmental Entity or any similar regulatory authority in any jurisdiction has issued any order which is currently outstanding preventing or suspending trading in any securities of Toachi, and no such proceeding is pending, contemplated or, to the knowledge of Toachi, threatened.
- (ee) **Reporting Issuer Status.** As of the date hereof, Toachi is a reporting issuer not in default (or the equivalent) under the securities Laws of each of the provinces of British Columbia, Alberta, and Ontario.
- (ff) **Stock Exchange Compliance.** The Toachi Shares are listed and posted for trading on the TSX-V, and Toachi is in compliance in all material respects with the applicable listing and corporate governance rules and regulations of the TSX-V.
- (gg) **Approvals and Recommendation.** The Toachi Board and Toachi Special Committee have received a fairness opinion, and the Toachi Board, (other than the directors who have abstained from voting, if applicable) has unanimously, after receiving legal and financial advice, determined that the Plan of Arrangement is in the best interests of Toachi and recommends that Toachi Shareholders each vote in favour of the Toachi Arrangement Resolutions.

- (hh) **Independent Directors; Special Committee.** Prior to entering into this Agreement, the Toachi Board formed the Toachi Special Committee, each member of which is an “independent director” as defined in MI 61-101. The Toachi Board engaged a financial advisor to deliver a fairness opinion to the Toachi Board as to the fairness to the Toachi Shareholders, from a financial point of view, of the consideration to be received by Toachi Shareholders, under the Plan of Arrangement. The financial advisor has delivered orally such fairness opinion, which has not been modified, amended, qualified or withdrawn, to the Toachi Board. Based on the information available to them as of the date hereof, the Toachi Special Committee has unanimously recommended and approved this Agreement and the completion of the Plan of Arrangement.
- (ii) **No Expropriation.** No property or asset of Toachi or the Toachi Subsidiaries (including any Toachi Property or Toachi Mineral Rights) has been taken or expropriated by any Governmental Entity, no notice or proceeding in respect thereof been given or commenced nor, to the knowledge of Toachi, is there any intent or proposal to give any such notice or to commence any such proceeding.
- (jj) **Money Laundering Laws.** The operations of Toachi are and have been conducted at all times in compliance with applicable Money Laundering Laws, and no action, suit or proceeding by or before any Governmental Entity involving Toachi with respect to the Money Laundering Laws is pending or to Toachi’s knowledge threatened.
- (kk) **Anti-Corruption.** None of Toachi, any Toachi Subsidiary, or, to the knowledge of Toachi, any of its or their respective directors, executives, officers, representatives, agents or employees: (i) have used or is using any corporate funds for any illegal contributions, gifts, entertainment or other expenses relating to political activity that would be illegal; (ii) have failed to disclose fully any contribution in violation of any Law; (iii) have used or is using any corporate funds for any direct or indirect illegal payments to any foreign or domestic governmental officials or employees; (iv) have violated or is violating any provision of the *United States Foreign Corrupt Practices Act of 1977*, the *Corruption of Foreign Public Officials Act (Canada)* or any other applicable Law of similar effect; (v) have established or maintained, or is maintaining, any illegal fund of corporate monies or other properties; or (vi) have made any bribe, illegal rebate, illegal payoff, influence payment, kickback or other illegal payment of any nature.
- (ll) **Aboriginal, NGOs and Community Groups.** No material dispute between Toachi or any of the Toachi Subsidiaries and any Aboriginal, non-governmental organization, community, or community group exists or, to the best of Toachi’s knowledge, is threatened or imminent with respect to any of Toachi’s or any of the Toachi Subsidiaries’ properties or exploration activities. Neither Toachi nor any of the Toachi Subsidiaries has received any written, or to the knowledge of Toachi, oral, notice of any Aboriginal Claim which could reasonably be expected to affect or impair Toachi’s or any of the Toachi Subsidiaries’ right, title or interest in any Toachi Property.
- (mm) **No “Collateral Benefit”.** Except as set forth in the Toachi Disclosure Letter, to the knowledge of Toachi, no related party of Toachi (within the meaning of MI 61-101) together with its associated entities, beneficially owns or exercises control or direction over 1% or more of the outstanding Toachi Shares, except for related parties who will not receive a “collateral benefit” (within the meaning of such instrument) as a consequence of the transactions contemplated by this Agreement.
- (nn) **Competition Act.** Neither the aggregate value of the assets of Toachi in Canada nor the gross revenues from sales in or from Canada generated from those assets, as determined in accordance

with Part IX of the *Competition Act* (Canada) meet or exceed the applicable threshold for any pre-closing notification or review as the case may be.

- (oo) **U.S. Securities Law Matters.** Toachi: (i) is a “foreign private issuer” as defined in Rule 405 under the 1933 Act; (ii) has no class of securities outstanding that is or is required to be registered under Section 12 of the United States *Securities Exchange Act of 1934*, as amended, or that is subject to the reporting requirements of Section 13 or 15(d) thereof; and (iii) is not registered or required to register as an investment company under the United States *Investment Company Act of 1940*, as amended.
- (pp) **Disclosure.** Toachi has made available to Atico all material information concerning Toachi, the Toachi Subsidiaries and their respective businesses through the Toachi Filings, information disclosed in Toachi’s virtual data room or the Toachi Disclosure Letter and all such information as made available to Atico is accurate, true and correct in all material respects.

## SCHEDULE D

### FORM OF TOACHI RESOLUTIONS

#### BE IT RESOLVED THAT:

1. The arrangement (the “**Arrangement**”) under section 192 of the *Canada Business Corporations Act* (the “**CBCA**”) involving Toachi Mining Inc. (“**Toachi**”) pursuant to the arrangement agreement between Toachi and Atico Mining Corporation dated July 8, 2019 (the “**Arrangement Agreement**”), all as more particularly described and set forth in the Management Proxy Circular of Toachi dated [●], 2019 (the “**Circular**”), accompanying the notice of this meeting (as the Arrangement may be, or may have been, amended, modified, or supplemented in accordance with its terms), is hereby authorized, approved and adopted;
2. The plan of arrangement, as it may be or has been duly amended, modified or supplemented (the “**Plan of Arrangement**”), involving Toachi and implementing the Arrangement, the full text of which is set out in Appendix [●] to the Circular (as the Plan of Arrangement may be, or may have been, duly amended, modified or supplemented in accordance with its terms), is hereby approved and adopted;
3. The Arrangement Agreement and the transactions contemplated therein, the actions of the directors of Toachi in approving the Arrangement and the actions of the directors and officers of Toachi in executing and delivering the Arrangement Agreement and in causing the performance by Toachi of its obligations thereunder and any amendments thereto in accordance with its terms are hereby ratified and approved;
4. Toachi be and is hereby authorized to apply for a Final Order from the Ontario Superior Court of Justice (Commercial List) to approve the Arrangement on the terms set forth in the Arrangement Agreement and the Plan of Arrangement (as they may be, or may have been amended, modified or supplemented and as described in the Circular);
5. Notwithstanding that this resolution has been passed (and the Plan of Arrangement adopted) by the Toachi Shareholders (as defined in the Arrangement Agreement) or that the Arrangement has been approved by the Ontario Superior Court of Justice (Commercial List), the directors of Toachi are hereby authorized and empowered, without further notice to, or approval of, the holders of common shares of Toachi:
  - a. to amend the Arrangement Agreement or the Plan of Arrangement to the extent permitted by the Arrangement Agreement or the Plan of Arrangement; or
  - b. subject to the terms of the Arrangement Agreement, not to proceed with the Arrangement.
6. Any one director or officer of Toachi be and is hereby authorized and directed for and on behalf of Toachi to execute, whether under the corporate seal of Toachi or otherwise, and deliver for filing with the Director under the CBCA articles of arrangement and such other documents as are necessary or desirable to give effect to the Arrangement and the Plan of Arrangement in accordance with the Arrangement Agreement, such determination to be conclusively evidenced by the execution and delivery of such articles of arrangement and any such documents; and
7. Any one director or officer of Toachi be and is hereby authorized and directed for and on behalf of Toachi to execute or cause to be executed, whether under the corporate seal of Toachi or otherwise, and deliver or cause to be delivered, all such agreements, forms, waivers, notices, certificates, confirmations and other documents and instruments, and to perform or cause to be performed all such other acts and things, as in

the opinion of such director or officer may be necessary, desirable or useful for the purpose of giving effect to these resolutions and the matters authorized thereby, including:

- a. all actions required to be taken by or on behalf of Toachi, all necessary filings and the obtention of the necessary approvals, consents and acceptances of appropriate regulatory authorities; and
- b. the signing of the certificates, consents and other documents or declarations required under the Arrangement Agreement or otherwise to be entered into by Toachi,

such determination to be conclusively evidenced by the execution and delivery of such document, agreement or instrument or the doing of any such act or thing.