

AGENCY AGREEMENT

THIS AGREEMENT dated for reference August 12, 2021 is made

BETWEEN

ESG CAPITAL 1 INC., 18 King Street East, Suite 902, Toronto, Ontario M5C 1C4.

(the “**Issuer**”);

AND

HAYWOOD SECURITIES INC., Bay Wellington Tower, Brookfield Place, Suite 2910, 181 Bay Street, Toronto, Ontario, M5J 2T3

(the “**Agent**”).

WHEREAS:

A. The Issuer wishes to raise money in accordance with the CPC Policy (as defined herein) and for the purposes set forth in the Prospectus (as defined herein), which is to be filed by the Issuer with the Regulatory Authorities (as defined herein), by offering for sale the Offered Shares (as defined herein) at the Offering Price (as defined herein);

B. The Issuer wishes to appoint the Agent to distribute the Offered Shares and the Agent is willing to accept the appointment on the terms and conditions of this Agreement;

THE PARTIES to this Agreement therefore agree:

1. DEFINITIONS

In this Agreement:

- (a) “**Affiliate**” has the meaning ascribed thereto in Section 6.2(b);
- (b) “**Agent**” means Haywood Securities Inc.;
- (c) “**Agent’s Commission**” has the meaning ascribed thereto in Section 8.1;
- (d) “**Agent’s Fee**” means the fee which is set out in this Agreement and which is payable by the Issuer to the Agent in consideration of the services performed by the Agent under this Agreement;
- (e) “**Agent’s Options**” means the stock options of the Issuer which will be issued as part of the Agent’s Fee and which have the terms provided in this Agreement;
- (f) “**Agent’s Shares**” means Common Shares that may be issued upon the exercise of the Agent’s Options;

- (g) “**Agreement in Principle**” has the meaning ascribed thereto in the CPC Policy;
- (h) “**Applicable Legislation**” means the securities acts in the Selling Provinces, the regulations and rules made thereunder, all administrative policy statements, instruments, blanket orders, notices, directions and rulings issued by the Commissions and the rules and policies of the Exchange, in particular, the CPC Policy;
- (i) “**Approval Date**” means the date the Common Shares commence trading on the Exchange;
- (j) “**Associate**” has the meaning ascribed thereto in Section 6.2(b);
- (k) “**Certificates**” means the certificates representing the Agent’s Options;
- (l) “**Claim**” has the meaning ascribed thereto in Section 15.1;
- (m) “**Closing**” means the closing of the purchase and sale, and the issuance by the Issuer, of the Offered Shares;
- (n) “**Closing Day**” means such day following the Effective Date as may be agreed to by the Issuer and the Agent on which the Closing takes place;
- (o) “**Commissions**” means the securities commissions in the Selling Provinces;
- (p) “**Common Shares**” means common shares in the capital of the Issuer;
- (q) “**Completion of the Qualifying Transaction**” has the meaning ascribed thereto in the CPC Policy;
- (r) “**Confirmation**” has the meaning ascribed thereto in Section 13.1;
- (s) “**Corporate Finance Fee**” means a cash fee in the amount of \$10,000 plus HST to be paid to the Agent by the Issuer in consideration of corporate finance and structuring services provided by the Agent;
- (t) “**CPC Policy**” means policy 2.4 of the Exchange entitled, “Capital Pool Companies” as may be amended by the Exchange from time to time;
- (u) “**CPC Stock Options**” means the options to be granted to directors and officers of the Issuer entitling the holders thereof to purchase an aggregate of 360,000 Common Shares at a price of \$0.20 per Common Share for a period of five years from the date of grant;
- (v) “**Distribution**” means the distribution or sale of the Securities pursuant to the Prospectus;
- (w) “**Effective Date**” means the date on which the Final Receipt is issued;

- (x) “**Exchange**” means the TSX Venture Exchange Inc.;
- (y) “**Final Receipt**” means the receipt issued for the final Prospectus by the Principal Regulator pursuant to National Policy 11-202 – *Process for Prospectus Reviews in Multiple Jurisdictions*, representing a final receipt for the Prospectus in each of the Selling Provinces;
- (z) “**Indemnified Party**” has the meaning ascribed thereto in Section 15.1;
- (aa) “**Issuer**” means ESG Capital 1 Inc.;
- (bb) “**Material Change**” has the meaning ascribed thereto in the Applicable Legislation;
- (cc) “**Material Fact**” has the meaning ascribed thereto in the Applicable Legislation;
- (dd) “**Misrepresentation**” has the meaning ascribed thereto in the Applicable Legislation;
- (ee) “**Non Arm’s Length Party**” has the meaning ascribed thereto in Section 6.2(c);
- (ff) “**Offered Shares**” means 1,000,000 Common Shares offered by the Issuer at the Offering Price pursuant to this Agreement and the Prospectus;
- (gg) “**Offering**” means the offering of the Offered Shares under the Prospectus;
- (hh) “**Offering Price**” means \$0.20 per Offered Share;
- (ii) “**Officer’s Certificate**” has the meaning ascribed thereto in Section 7.1;
- (jj) “**Plans**” has the meaning ascribed thereto in Section 13.2;
- (kk) “**Preliminary Prospectus**” means the preliminary prospectus of the Issuer dated May 21, 2021 and any amendments thereto approved, signed and certified in accordance with the Applicable Legislation and filed with the Commissions;
- (ll) “**Principal Regulator**” means the Ontario Securities Commission;
- (mm) “**Proceeds**” means the gross proceeds of the Offering, less:
 - (i) the Agent’s Commission;
 - (ii) the Corporate Finance Fee;
 - (iii) the expenses of the Agent in connection with the Offering which have not been repaid by the Issuer; and
 - (iv) any amount already received by the Issuer;

- (nn) **“Prospectus”** means the (final) prospectus and any amendments thereto, approved, signed and certified in accordance with the Applicable Legislation, qualifying the distribution of the Offered Shares, Agent’s Option and CPC Stock Options and filed with the Commissions;
- (oo) **“Public Float”** has the meaning ascribed thereto in Section 6.1(a);
- (pp) **“Qualifying Transaction”** has the meaning ascribed thereto in the CPC Policy;
- (qq) **“Regulatory Authorities”** means the Commissions and the Exchange;
- (rr) **“Resale Restrictions”** has the meaning ascribed thereto in Section 6.2(a);
- (ss) **“Securities”** means the Offered Shares, Agent’s Options and Agent’s Shares;
- (tt) **“Selling Provinces”** means British Columbia, Alberta and Ontario and such other provinces of Canada as may be agreed to by the Issuer and the Agent;
- (uu) **“Significant Assets”** has the meaning ascribed thereto in the CPC Policy; and
- (vv) **“Subscribers”** means those persons who subscribe for the Offered Shares through the Agent or through such other registrants retained by the Agent as sub-agents to sell subscriptions in conjunction with the Agent.

2. APPOINTMENT OF AGENT

The Issuer appoints the Agent as its exclusive agent and the Agent accepts the appointment and will act as the exclusive agent of the Issuer to offer the Offered Shares for sale under the Prospectus at the Offering Price on a commercially reasonable efforts basis.

3. THE SHARES

The Offered Shares will be issued and registered in the names and denominations reasonably requested by the Agent.

4. FILING OF PROSPECTUS

4.1 The Issuer will cause the Prospectus to be filed with the Regulatory Authorities, will deliver all necessary copies of the Prospectus to the Regulatory Authorities and will use commercially reasonable efforts to have the Prospectus accepted by the Regulatory Authorities.

4.2 The Issuer will provide the Agent with as many copies of the Prospectus as the Agent reasonably requests.

4.3 Delivery of the Prospectus and any amendment thereto shall constitute a representation and warranty by the Issuer to the Agent that all information and statements (except information and statements relating solely to the Agent) contained in the Prospectus and any amendment thereto are true and correct in all material respects at the time of delivery thereof and contain no Misrepresentations and constitute full, true and plain disclosure of all Material Facts relating to

the Issuer and the Securities and that no Material Fact or material information has been omitted therefrom (except facts or information relating solely to the Agent) which is required to be stated therein or is necessary to make statements of information contained therein not misleading in light of the circumstances under which they were made. Such delivery shall also constitute the Issuer's consent to the Agent's use of the Prospectus and any amendment thereto for the purpose of the sale of Offered Shares in compliance herewith and with the Applicable Legislation.

5. LISTING APPLICATION AND CONDUCT OF THE OFFERING

5.1 Prior to the Closing Day, the Issuer shall apply to list the Common Shares, including without limitation, the Offered Shares and Agent's Shares underlying the Agent's Options on the Exchange and conditional approval of such listing shall be obtained from the Exchange prior to Closing.

5.2 Following the Effective Date and after consulting with the Exchange, the Issuer and the Agent will set the Closing Day.

5.3 The Closing Day will be on or before the day which is:

- (a) 90 days after the Effective Date; or
- (b) if a receipt is issued for an amendment to the Prospectus, 90 days after the date of such receipt,

and in any event, no later than 180 days after the Effective Date.

5.4 After the Effective Date, the Issuer shall take all necessary steps to complete and file with the Exchange its application for listing with all other documentation required by the Exchange, to allow for the listing and posting for trading of the Common Shares on the Exchange, which is to occur no later than 2 days after the Closing Day unless otherwise agreed to by the Agent.

5.5 The Agent will advise the Issuer and its counsel when the Distribution under the Prospectus is complete.

5.6 All subscription funds received by the Agent will be held in trust by the Agent until immediately prior to Closing.

6. OBLIGATIONS OF THE AGENT

6.1 The Agent shall use its commercially reasonable efforts to obtain subscriptions for all of the Offered Shares, such that, and without limiting the generality of the foregoing:

- (a) at least 500,000 of the Common Shares (or such lesser number as is acceptable to the Exchange) outstanding on the Closing Date, including the Offered Shares, will be in the Public Float (as "**Public Float**" is defined in the Exchange's Corporate Finance Manual Policy 1.1);

- (b) to obtain subscriptions for the Offered Shares from at least 150 Subscribers (or such lesser number as is acceptable to the Exchange); and
- (c) Public Shareholders (as “**Public Shareholders**” is defined in the Exchange’s Corporate Finance Manual Policy 1.1) will beneficially own at least 20% of the issued and outstanding Common Shares upon completion of the Offering.

6.2 The Agent shall use its commercially reasonable efforts to ensure that:

- (a) each of the Subscribers is purchasing at least 1,000 Offered Shares free of Resale Restrictions (as “**Resale Restrictions**” is defined in the Exchange’s Corporate Finance Manual Policy 1.1);
- (b) at least 75% of the Offered Shares (being 750,000 of the Offered Shares) are purchased by Subscribers, which each individually purchase, directly or indirectly, no more than 2% of the Offered Shares (being 20,000 of the Offered Shares), and, in conjunction with such Subscriber’s Associates and Affiliates (as “**Associates**” and “**Affiliates**” are defined in the Exchange’s Corporate Finance Manual Policy 1.1), purchase no more than 4% of the Offered Shares (being 40,000 of the Offered Shares);
- (c) each of the Subscribers is not a Non Arm’s Length Party to the Issuer (as “**Non Arm’s Length Party**” is defined in the Exchange’s Corporate Finance Manual Policy 1.1); and
- (d) without the prior written consent of the Issuer, no individual Subscriber will purchase, directly or indirectly, greater than 200,000 of the Offered Shares (being 20% Offered Shares).

6.3 The Agent shall use its commercially reasonable efforts to only solicit subscriptions for the Offered Shares from Subscribers resident in the Selling Provinces in compliance with Applicable Legislation and the terms and conditions set out herein.

6.4 The Agent shall use its commercially reasonable efforts to close the subscription books and thereafter not receive any further subscriptions for the Offered Shares at the earlier of such time:

- (a) as orders for all of the Offered Shares have been received; or
- (b) as prescribed by Securities Legislation.

6.5 Provide all such notices and documents as may be required by Securities Legislation in connection with the sale of the Offered Shares pursuant to the Prospectus, including without limiting the generality of the foregoing, to deliver to the Exchange (or, at the option of the Agent, to the Issuer for delivery to the Exchange) as soon as reasonably possible after the Closing, a Distribution Summary Statement (Exchange Form 2E) or such other document as may be required by the Exchange, if any.

7. OPINIONS AND CERTIFICATES

7.1 On the Closing Day, the Issuer will deliver the following documents to the Agent and its counsel in a form acceptable to the Agent:

- (a) evidence of the necessary approval of the Regulatory Authorities for the Offering;
- (b) an opinion of counsel for the Issuer, dated as of the Closing Day and addressed to the Agent and its counsel, relating to any legal matter in connection with the creation, issuance and sale of the Securities for which the Agent may reasonably request an opinion;
- (c) a certificate of the Issuer, dated as of the Closing Day and signed by the chief executive officer and chief financial officer of the Issuer or such other officers approved by the Agent, certifying that after a reasonable investigation (the **“Officers’ Certificate”**):
 - (i) the representations and warranties of the Issuer contained herein are true and correct as at the Closing Day with the same force and effect as if made at and as at the Closing Day after giving effect to the transactions contemplated herein and by the Prospectus;
 - (ii) the Issuer has duly complied with all covenants and satisfied all the conditions contained herein on its part to be performed or satisfied prior to Closing;
 - (iii) no order suspending the sale or ceasing the trading of the Common Shares or any other securities of the Issuer has been issued and no proceedings for that purpose have been instituted or are pending or are, to the knowledge of such officer, contemplated or threatened by the Commissions, Exchange, or any other securities commission, stock exchange and similar regulatory authority;
 - (iv) such officer has carefully examined the Preliminary Prospectus and the Prospectus, and since the respective dates as of which information is given in the Preliminary Prospectus and the Prospectus, except as set forth in and contemplated thereby, the Issuer has not incurred any material liabilities or obligations (absolute, accrued, contingent or otherwise), or entered into any transaction not in compliance with the CPC Policy; there has been no material change in the assets, financial position, business or results of operations of the Issuer; and, to the best knowledge and information of such officer, there has occurred no event and no state or fact exists that, under Applicable Legislation, is required to be set forth in an amended Preliminary Prospectus or Prospectus that has not been so set forth; and
 - (v) no event of material default under any agreement or instrument to which the Issuer is a party has occurred and no event which with the giving of notice or the passage of time or both would constitute an event of material default under any such agreement or instrument has occurred and is continuing; and

- (d) any other certificates, comfort letters or opinions in connection with any matter related to the Prospectus which are reasonably requested by the Agent or its counsel.

8. AGENT'S FEE

8.1 In consideration of the services performed by the Agent under this Agreement, the Issuer agrees to pay the Agent a cash commission of 7.5% of the gross proceeds of the Offering, whether the Offered Shares are purchased by the Agent for its own account or for its clients or purchased by other members of the Exchange for their own accounts or for their clients (the “**Agent’s Commission**”).

8.2 In consideration for acting as Agent, the Issuer will issue the Agent’s Options to the Agent, or to members of its selling group as directed by the Agent, entitling the Agent, or members of its selling group, to purchase 100,000 Agent’s Shares. Each Agent’s Option will entitle the holder to purchase one Agent’s Share at the Offering Price at any time up to the close of business 24 months from the Approval Date.

8.3 Pursuant to the CPC Policy, no more than 50% of the aggregate number of Common Shares that may be acquired pursuant to the Agent’s Options may be sold prior to Completion of the Qualifying Transaction and the remaining 50% may only be sold after Completion of the Qualifying Transaction.

8.4 The Issuer agrees to pay to the Agent the Corporate Finance Fee on Closing.

8.5 In the event the Agent is willing proceed with the Offering but the Issuer precludes the Agent from completing the Offering, notwithstanding anything else in this Agreement, the Corporate Finance Fee shall be paid to the Agent (including for greater certainty in the event of termination of this Agreement pursuant to Section 11.2).

9. CLOSING

9.1 On Closing, if the Issuer has satisfied all of its obligations under this Agreement, the Issuer will deliver the Certificates to the Agent and will deposit the Offered Shares with CDS Clearing and Depository Services Inc. against payment of the Proceeds.

9.2 If the Issuer has satisfied all of its obligations under this Agreement, on Closing the Agent will pay the Proceeds to the Issuer against delivery of the Certificates and upon receipt of satisfactory evidence that the Offered Shares have been deposited with CDS Clearing and Depository Services Inc.

9.3 The obligation of the Agent to pay the Proceeds to the Issuer shall be subject to the following conditions precedent:

- (a) completion by the Agent of due diligence on the Issuer to its reasonable satisfaction;
- (b) the Issuer shall have performed or complied with each covenant and obligation herein provided on its part to be performed or complied with;

- (c) each of the representations and warranties of the Issuer herein shall continue to be true, and the Officers' Certificate shall contain certification to that effect; and
- (d) the Issuer shall have, to the satisfaction of the Agent's counsel, taken or caused to be taken all steps and proceedings which may be required under the Applicable Legislation to qualify the distribution of the Offered Shares to the public in the Selling Provinces through registrants who have complied with the provisions of the Applicable Legislation and to qualify the distribution of the Agent's Options to the Agent and any members of its selling group, including the filing and the obtaining of the Final Receipt.

10. COVENANTS AND OBLIGATIONS OF THE ISSUER

10.1 The Issuer covenants and agrees that it has complied with and will abide by and comply with all Applicable Legislation and will complete all filings required of the Issuer under the Applicable Legislation and by the Exchange in connection with the Offering, the Prospectus and the listing of the Offered Shares and the Agent's Shares.

10.2 The Issuer covenants and agrees that:

- (a) it has not and will not carry on any business other than the identification and evaluation of assets or businesses in connection with a potential Qualifying Transaction, until Completion of the Qualifying Transaction; and
- (b) it has not entered into an Agreement in Principle.

10.3 If, after the Prospectus is filed with the Regulatory Authorities but before the conclusion of the Distribution, a Material Change occurs in the affairs of the Issuer, the Issuer will:

- (a) notify the Agent immediately, in writing, with full particulars of the change;
- (b) file with the Regulatory Authorities as soon as practicable, and in any event no later than 10 days after the change occurs, an amendment to the Prospectus in a form acceptable to the Agent disclosing the Material Change; and
- (c) provide as many copies of that amendment to the Agent as the Agent may reasonably request.

10.4 The Issuer shall in good faith discuss with the Agent any fact or change in circumstances (actual and anticipated, contemplated or threatened, whether financial or otherwise) which is of such a nature that there is reasonable doubt as to whether notice in writing need be given to the Agent pursuant to the previous Subsection.

10.5 Until the Qualifying Transaction has occurred, the Issuer shall:

- (a) notify the Agent of any significant change proposed to be made in the corporate undertaking of the Issuer;

- (b) notify the Agent of any proposed issuance of a control block of securities (meaning a holding of Common Shares or other securities of the Issuer or both held by a person or combination of persons acting jointly or in concert to which are attached more than 20% of the voting rights attached to all outstanding securities of the Issuer carrying voting rights);
- (c) notify the Agent of any Agreement in Principle being reached with respect to a Qualifying Transaction;
- (d) notify the Agent of any proposed change to the constitution of the board of directors of the Issuer, or to the membership of senior management of the Issuer, including any resignations, terminations or departures of members of the board of directors or senior management; and
- (e) notify the Agent of any circumstances where the Issuer does not expect to comply with a filing deadline imposed by regulatory authorities, such notification to be provided at least 10 business days before the deadline;

forthwith upon the proposal of such change, issuance, sale, disposition or agreement.

10.6 Subject to any exemptions from the CPC Policy granted or permitted by the Exchange, until the Issuer completes a Qualifying Transaction, the Issuer will comply in all material respects with all applicable provisions of the CPC Policy.

11. TERMINATION

11.1 The Agent may terminate its obligations under this Agreement by notice in writing to the Issuer at any time before the Closing if:

- (a) there is an event, incident, accident, governmental law or regulation or other occurrence of any nature (including any escalation in the severity of the COVID-19 pandemic after the date hereof) which, in the opinion of the Agent acting reasonably, seriously affects or will seriously affect the financial markets or the business of the Issuer or the ability of the Agent to perform its obligations under this Agreement or the marketability of the Offered Shares;
- (b) an adverse Material Change or adverse change in a Material Fact relating to any of the Securities occurs or is announced by the Issuer;
- (c) following a consideration of the history, business, products, property or affairs of the Issuer or its principals and promoters, or the state of the financial markets in general, or the state of the market for the Issuer's securities in particular, or the possibility of investors exercising their statutory rights to withdraw from a purchase of the Issuer's securities, the Agent determines, in its sole discretion, that it is not in the interest of investors to complete the Offering;

- (d) the Offered Shares cannot, in the opinion of the Agent acting reasonably, be marketed profitably due to the state of the financial markets, or the market for the Offered Shares in particular; or
- (e) an enquiry or investigation (whether formal or informal) in relation to the Issuer, or the Issuer's directors, officers or promoters, is commenced or threatened by the Regulatory Authorities or any other securities commission, stock exchange or other regulatory authority having jurisdiction over the Issuer.

11.2 The Agent may terminate its obligations under this Agreement at any time if:

- (a) any order to cease trading (including communicating with persons in order to obtain expressions of interest) in the securities of the Issuer is made by the Commissions or other regulatory authority having jurisdiction over the Issuer and that order is still in effect;
- (b) the Issuer is in breach of any material term of this Agreement; or
- (c) the Agent determines that any of the representations or warranties made by the Issuer in this Agreement is false or has become false.

11.3 If the Agent exercises its right to terminate this Agreement, then the Issuer will immediately issue a press release setting out particulars of the termination.

11.4 The Agent, at its sole discretion, may terminate this Agreement in writing if a Final Receipt is not issued within 120 days of the reference date of this Agreement.

12. WARRANTIES AND REPRESENTATIONS

12.1 The Issuer warrants and represents to the Agent that:

- (a) the Issuer is a valid and subsisting corporation duly incorporated and in good standing under the laws of the jurisdiction in which it is incorporated;
- (b) the Issuer is duly registered and licenced to carry on business in the jurisdictions in which it carries on business or owns property where so required by the laws of that jurisdiction and is not otherwise precluded from carrying on business or owning property in such jurisdictions by any other commitment, agreement or document;
- (c) the Issuer has full corporate power and authority to carry on its business as now carried on by it and to undertake the Offering and this Agreement has been, or will be by the Closing, duly authorized by all necessary corporate action on the part of the Issuer;
- (d) the Issuer has not carried on any business other than the identification and evaluation of assets or business in connection with a potential Qualifying Transaction, except as permitted by the CPC Policy, and will continue to limit its business in this manner until the Completion of the Qualifying Transaction;

- (e) the Issuer has not entered into an Agreement in Principle and has no predetermined plans respecting an acquisition of Significant Assets;
- (f) all of the material transactions of the Issuer have been promptly and properly recorded or filed in its books or records and its minute books or records contain all records of the meetings and proceedings of its directors, shareholders and other committees, if any, since inception;
- (g) the authorized capital of the Issuer is as disclosed in the Prospectus and the issued and outstanding Common Shares are fully paid and non-assessable and, except as disclosed in the Prospectus, no person has any right, agreement or option, present or future, contingent or absolute, or any right capable of becoming such a right, agreement or option, for the issue or allotment of any unissued Common Shares or any other security convertible into or exchangeable for any Common Shares, or to require the Issuer to purchase, redeem or otherwise acquire any of the issued and outstanding Common Shares;
- (h) the Issuer has no subsidiaries;
- (i) the Issuer will reserve or set aside sufficient Common Shares in its treasury to issue the Offered Shares and Agent's Shares;
- (j) the Preliminary Prospectus contains, and the Prospectus will contain, full, true and plain disclosure of all Material Facts in relation to the Issuer, its business and its securities, will contain no Misrepresentations, will be accurate in all material respects and will omit no fact, the omission of which will make such representations misleading or incorrect;
- (k) the financial statements of the Issuer which form part of the Preliminary Prospectus and the Prospectus have been prepared in accordance with International Financial Reporting Standards, present fairly, in all material respects, the financial position and all material liabilities (accrued, absolute, contingent or otherwise) of the Issuer as at the date of the financial statements and there have been no adverse material changes in the financial position of the Issuer since the date thereof, and the business of the Issuer has been carried on in the usual and ordinary course consistent with past practice except as fully and plainly disclosed in the Preliminary Prospectus or the Prospectus;
- (l) the auditors of the Issuer who audited the financial statements of the Issuer which form part of the Prospectus and who provided their audit report thereon are independent public accountants as required under Applicable Legislation and there has never been a reportable event (within the meaning of National Instrument 51-102 – *Continuous Disclosure Obligations*) with the present auditors of the Issuer;
- (m) the Issuer has complied and will comply fully with the requirements of all applicable corporate and securities laws and administrative policies and directions, including, without limitation, Applicable Legislation and its regulations and the

Business Corporations Act (Ontario) in relation to the issue and trading of its securities and in all matters relating to the Offering;

- (n) the Issuer is in compliance with all applicable laws, regulations and statutes in the jurisdictions in which it carries on business;
- (o) the issue and sale of the Securities by the Issuer does not and will not conflict with, and does not and will not result in a breach of, or constitute a default under:
 - (i) any statute, rule or regulation applicable to the Issuer including, without limitation, the Applicable Legislation;
 - (ii) the constating documents, by-laws or resolutions of the Issuer which are in effect at the date hereof;
 - (iii) any agreement, debt instrument, mortgage, note, indenture, instrument, lease or other document to which the Issuer is a party or by which it is bound; or
 - (iv) any judgment, decree or order binding the Issuer or the property or assets of the Issuer;
- (p) the Issuer is not a party to any actions, suits or proceedings which could materially affect its business or financial condition, and to the knowledge of the Issuer no such actions, suits or proceedings are contemplated or have been threatened;
- (q) there are no judgments against the Issuer which are unsatisfied, nor are there any consent decrees or injunctions to which the Issuer is subject;
- (r) there is not presently, and will not be until the conclusion of the Distribution, any Material Change or change in any Material Fact relating to the Issuer which has not been or will not be fully disclosed in the Preliminary Prospectus or the Prospectus;
- (s) no order ceasing, halting or suspending trading in securities of the Issuer nor prohibiting the sale of such securities has been issued to and is outstanding against the Issuer or its directors, officers or promoters and to the knowledge of the Issuer and its directors, officers and promoters no investigations or proceedings for such purposes are pending or threatened;
- (t) the Issuer has filed all federal, provincial, local and foreign tax returns which are required to be filed, or has requested extensions thereof, and has paid all taxes required to be paid by it and any other assessment, fine or penalty levied against it, or any amounts due and payable to any governmental authority, to the extent that any of the foregoing is due and payable;
- (u) the Issuer has established on its books and records reserves which are adequate for the payment of all taxes not yet due and payable and there are no liens for taxes on the assets of the Issuer except for taxes not yet due, and there are no audits of any

of the tax returns of the Issuer which are known by the Issuer's management to be pending, and there are no claims which have been or may be asserted relating to any such tax returns which, if determined adversely, would result in the assertion by any governmental agency of any deficiency which would have a material adverse effect on the properties, business or assets of the Issuer;

- (v) the Issuer does not have any loans or other indebtedness outstanding which has been made to any of its shareholders, officers, directors or employees, past or present, or any person not dealing at "arm's length" (as such term is used in the *Income Tax Act (Canada)*);
- (w) other than the Agent, no person, firm or corporation acting or purporting to act at the request of the Issuer is entitled to any brokerage, agency or finder's fee in connection with the transactions described herein; and
- (x) the warranties and representations in this Subsection are true and correct and will remain so as of the conclusion of the Distribution.

12.2 The Agent warrants and represents to the Issuer that:

- (a) it is a valid and subsisting corporation under the law of the jurisdiction in which it was incorporated, continued or amalgamated;
- (b) it is a member in good standing of the Exchange; and
- (c) it has complied with and will fully comply with the requirements of all Applicable Legislation, its rules and regulations and the by-laws and rules of the Exchange, in relation to trading in the Securities and all matters relating to the Offering.

13. ELIGIBILITY FOR INVESTMENT

13.1 The Issuer covenants that it will obtain confirmation from the Exchange that the Offered Shares will be listed on the Exchange as of the Closing Day (the "**Confirmation**").

13.2 The Issuer acknowledges that the Agent is relying on the Confirmation with respect to sales of the Offered Shares into registered retirement savings plans, registered retirement income funds, deferred profit sharing plans, registered education savings plans, registered disability savings plans and tax-free savings accounts (collectively, the "**Plans**") and agrees that, if the Issuer has fulfilled its obligations under Section 13.1 by obtaining a Confirmation and if the Exchange does not issue a bulletin in relation to the listing of the Offered Shares at the close of market on the business day before the Closing, the Issuer will immediately notify the Agent and Closing may be delayed, at the sole discretion of the Agent.

14. EXPENSES OF AGENT

14.1 The Issuer will pay all of the expenses of the Offering and all the expenses reasonably incurred by the Agent in connection with the Offering including, without limitation, the fees and expenses of the solicitors for the Agent, subject to a maximum of \$10,000 (plus taxes and

disbursements) in relation to the fees of the solicitors for the Agent, unless the Issuer otherwise consents in writing, such consent not to be unreasonably withheld.

14.2 The Issuer will pay the expenses referred to in Subsection 14.1 even if the Prospectus and this Agreement are not accepted by the Regulatory Authorities or the transactions contemplated by this Agreement are not completed or this Agreement is terminated, unless the failure of acceptance or completion or the termination is the result of a breach of this Agreement by the Agent.

14.3 The Agent may, from time to time, render accounts to the Issuer for its expenses for payment on the dates set out in the accounts.

14.4 The Issuer authorizes the Agent to deduct its reasonable expenses in connection with the Offering from the proceeds of the Offering, including expenses for which an account has not yet been rendered to the Issuer.

15. INDEMNITY

15.1 The Issuer hereby agrees to indemnify and save harmless to the maximum extent permitted by law, the Agent, its affiliates and selling group members and their affiliates and their respective directors, officers, employees, partners, agents, advisors and shareholders (collectively, the “**Indemnified Parties**” and individually, an “**Indemnified Party**”) from and against any and all losses, claims, actions, suits, proceedings, investigations, damages, liabilities or expenses of whatsoever nature or kind (excluding loss of profits) whether joint or several, including the aggregate amount paid in reasonable settlement, provided the Issuer has agreed to such settlement, of any actions, suits, proceedings, investigations or claims and the fees, reasonable disbursements and taxes of their counsel in connection with any action, suit, proceeding, investigation or claim that may be made or threatened against any Indemnified Party or in enforcing this indemnity (each a “**Claim**” and, collectively, the “**Claims**”) to which an Indemnified Party may become subject or otherwise involved in any capacity insofar as the Claims relate to, are caused by, result from, arise out of or are based upon, directly or indirectly, the performance of services rendered by the Agent in connection with this Agreement whether performed before or after the execution of the Agreement by the Issuer, and to reimburse each Indemnified Party forthwith, upon demand, for any legal or other expenses reasonably incurred by such Indemnified Party in connection with any Claim.

15.2 If and to the extent that a court of competent jurisdiction, in a final non-appealable judgement in a proceeding in which an Indemnified Party is named as a party, determines that a Claim was caused by or resulted from an Indemnified Party’s gross negligence or bad faith, this indemnity shall cease to apply to such Indemnified Party in respect of such Claim and such Indemnified Party shall reimburse any funds advanced by the Issuer to the Indemnified Party pursuant to this indemnity in respect of such Claim. The Issuer agrees to waive any right the Issuer might have of first requiring the Indemnified Party to proceed against or enforce any other right, power, remedy or security or claim payment from any other person before claiming under this indemnity.

15.3 If any Claim is brought against an Indemnified Party or an Indemnified Party has received notice of the commencement of any investigation in respect of which indemnity may be sought against the Issuer, the Indemnified Party will give the Issuer prompt written notice of any such Claim of which the Indemnified Party has knowledge and the Issuer will undertake the investigation and defence thereof on behalf of the Indemnified Party, including the prompt employment of counsel acceptable to the Indemnified Parties affected and the payment of all expenses. Failure by the Indemnified Party to so notify shall not relieve the Issuer of their obligation of indemnification hereunder. No admission of liability and no settlement, compromise or termination of any Claim, or investigation shall be made without the consent of the Issuer and the consent of the Indemnified Parties affected, such consents not to be unreasonably withheld or delayed.

15.4 Notwithstanding that the Issuer will undertake the investigation and defence of any Claim, the Indemnified Parties will have the right to employ one separate counsel in each applicable jurisdiction with respect to such Claim and participate in the defence thereof, but the fees and expenses of such counsel will be at the expense of the Indemnified Parties unless:

- (a) employment of such counsel has been authorized in writing by the Issuer;
- (b) the Issuer has not assumed the defence of the action within a reasonable period of time after receiving notice of the Claim;
- (c) the named parties to any such Claim include the Issuer, and any of the Indemnified Parties, and the Indemnified Parties shall have been advised by counsel to the Indemnified Parties that there may be a conflict of interest between the Issuer and any Indemnified Party; or
- (d) there are one or more defences available to the Indemnified Parties which are different from or in addition to those available to the Issuer, as the case may be, in which case such fees and expenses of such counsel to the Indemnified Parties will be for the account of the Issuer. The rights accorded to the Indemnified Parties hereunder shall be in addition to any rights the Indemnified Parties may have at common law or otherwise. Without limiting the generality of the foregoing, this indemnity shall apply to all reasonable expenses (including legal expenses), losses, claims and liabilities that the Agent may incur as a result of any action, suit, proceeding or claim that may be threatened or brought against the Issuer.

15.5 If for any reason the foregoing indemnification is unavailable (other than in accordance with the terms hereof) to the Indemnified Parties (or any of them) or insufficient to hold them harmless, the Issuer agrees to contribute to the amount paid or payable by the Indemnified Parties as a result of such Claims in such proportion as is appropriate to reflect not only the relative benefits received by the Issuer or the Issuer's shareholders, and its constituencies on the one hand and the Indemnified Parties on the other, but also the relative fault of the parties and other equitable considerations which may be relevant. Notwithstanding the foregoing, the Issuer may be required to contribute to the amount paid or payable by the Indemnified Parties as a result of such Claim an amount in excess of the fees actually received by the Indemnified Parties hereunder.

15.6 The Issuer hereby constitutes the Agent as trustee for each of the other Indemnified Parties of the covenants of the Issuer under this indemnity with respect to such persons and the Agent agrees to accept such trust and to hold and enforce such covenants on behalf of such persons.

15.7 The Issuer agrees that, in any event, no Indemnified Party shall have any liability (either direct or indirect, in contract or tort or otherwise) to the Issuer or any person asserting claims on their behalf or in right for or in connection with the performance of services rendered by the Agent under this Agreement, except to the extent that any losses, expenses, claims, actions, damages or liabilities incurred by the Issuer are determined by a court of competent jurisdiction in a final judgement (in a proceeding in which an Indemnified Party is named as a party) that has become non-appealable to have been caused by or resulted from the gross negligence or bad faith of such Indemnified Party.

15.8 The Issuer agrees to reimburse the Indemnified Parties monthly for the time spent by the Indemnified Party's personnel in connection with any Claim at reasonable per diem rates. The Issuer also agrees that if any action, suit, proceeding or claim shall be brought against, or an investigation commenced in respect of the Issuer and the Agent or selling group member and personnel of such Agent or selling group member shall be required to testify, participate or respond in respect of or in connection with the performance of the services rendered by the Agent under this Agreement, each such Indemnified Party shall have the right to employ its own counsel in connection therewith and the Issuer will reimburse the Agent monthly for the time spent by its personnel in connection therewith at reasonable per diem rates together with such disbursements and reasonable out-of-pocket expenses as may be incurred, including reasonable fees and disbursements of such Indemnified Party's counsel.

15.9 The indemnity and contribution obligations of the Issuer shall be in addition to any liability which the Issuer may otherwise have shall extend upon the same terms and conditions to the Indemnified Parties and shall be binding upon and enure to the benefit of any successors, assigns, heirs and personal representatives of the Issuer and any Indemnified Party. The foregoing provisions shall survive the completion of professional services rendered under this Agreement or any termination of this Agreement.

16. ASSIGNMENT AND SELLING GROUP PARTICIPATION

16.1 The Agent will not assign this Agreement or any of its rights under this Agreement or, with respect to the Offered Shares, enter into any agreement in the nature of an option or a sub-option unless and until, for each intended transaction, the Agent has obtained the consent of the Issuer and notice has been given to and accepted by the Regulatory Authorities.

16.2 The Agent may offer selling group participation in the normal course of the brokerage business to selling groups of other licensed dealers, brokers and investments dealers, who may or who may not be offered part of the commissions or warrants to be received by the Agent pursuant to this Agreement.

17. NOTICE

17.1 Any notice under this Agreement will be given in writing and must be delivered, sent by facsimile transmission or mailed by prepaid post and addressed to the party to which notice is to

be given at the address indicated above, or at another address, including email, designated by such party in writing.

17.2 If notice is sent by facsimile transmission, email, or is delivered, it will be deemed to have been given at the time of transmission or delivery if such transmission or delivery is completed during normal business hours, otherwise it will be deemed to have been given on the next business day.

17.3 If notice is mailed, it will be deemed to have been received 48 hours following the date of mailing of the notice.

17.4 If there is an interruption in normal mail service due to strike, labour unrest or other cause at or prior to the time a notice is mailed the notice will be sent by facsimile transmission or will be delivered.

18. TIME

Time is of the essence of this Agreement.

19. SURVIVAL OF REPRESENTATIONS AND WARRANTIES

The representations, warranties, covenants and indemnities of the parties contained in this Agreement will survive the closing of the purchase and sale of the Securities.

20. LANGUAGE

Wherever a singular or masculine expression is used in this Agreement, that expression is deemed to include the plural, feminine or the body corporate where required by the context.

21. ENUREMENT

This Agreement enures to the benefit of and is binding on the parties to this Agreement and their successors and permitted assigns.

22. HEADINGS

The headings in this Agreement are for convenience of reference only and do not affect the interpretation of this Agreement.

23. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and supersedes any other previous agreement between the parties with respect to the Offering and there are no other terms, conditions, representations or warranties whether express, implied, oral or written by the Issuer or the Agent.

24. CURRENCY

Unless otherwise specified, all references to “\$” or currency used herein shall refer to the lawful currency of Canada.

25. COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which will be deemed to be an original and all of which will constitute one agreement, effective as of the reference date given above.

26. LAW

This Agreement and its application and interpretation will be governed exclusively by the laws prevailing in Ontario. The parties to this Agreement consent to the jurisdiction of the courts of Ontario, which courts shall have exclusive jurisdiction over any dispute of any kind arising out of or in connection with this Agreement.

[THIS SECTION HAS BEEN INTENTIONALLY LEFT BLANK]

This Agreement was executed and delivered as of the date given above.

ESG CAPITAL 1 INC.

Per: (signed) "Robert Pollock"

Name: Robert Pollock

Title: Chief Executive Officer

HAYWOOD SECURITIES INC.

Per: (signed) "Mathieu Couillard"

Name: Mathieu Couillard

Title: Managing Director, Investment Banking