

**KENADYR METALS CORP.**  
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**INFORMATION CIRCULAR**  
as at November 2, 2023 *(except as otherwise indicated)*

**This Information Circular is furnished in connection with the solicitation of proxies by the management of Kenadyr Metals Corp. for use at the annual general and special meeting (the “Meeting”) of its shareholders to be held on December 7, 2023 at the time and place and for the purposes set forth in the accompanying notice of Meeting.**

In this Information Circular, references to “the Company”, “we” and “our” refer to Kenadyr Metals Corp. “Common Shares” means common shares in the capital of the Company. “Beneficial Shareholders” means shareholders who do not hold Common Shares in their own name and “intermediaries” refers to brokers, investment firms, clearing houses and similar entities that own securities on behalf of Beneficial Shareholders.

**GENERAL PROXY INFORMATION**

**Solicitation of Proxies**

The solicitation of proxies will be primarily by mail, but proxies may be solicited personally or by telephone by directors, officers and regular employees of the Company. The Company will bear all costs of this solicitation. We have arranged for intermediaries to forward the meeting materials to beneficial owners of the Common Shares held of record by those intermediaries and we may reimburse the intermediaries for their reasonable fees and disbursements in that regard.

**Appointment of Proxyholders**

The individuals named in the accompanying form of proxy (the “Proxy”) are officers and/or directors of the Company. **If you are a shareholder entitled to vote at the Meeting, you have the right to appoint a person or company other than either of the persons designated in the Proxy, who need not be a shareholder, to attend and act for you and on your behalf at the Meeting. You may do so either by inserting the name of that other person in the blank space provided in the Proxy or by completing and delivering another suitable form of proxy.**

**Voting by Proxyholder**

The persons named in the Proxy will vote or withhold from voting the Common Shares represented thereby in accordance with your instructions on any ballot that may be called for. If you specify a choice with respect to any matter to be acted upon, your Common Shares will be voted accordingly. The Proxy confers discretionary authority on the persons named therein with respect to:

- (a) each matter or group of matters identified therein for which a choice is not specified, other than the appointment of an auditor and the election of directors,
- (b) any amendment to or variation of any matter identified therein, and
- (c) any other matter that properly comes before the Meeting.

**In respect of a matter for which a choice is not specified in the Proxy, the persons named in the Proxy will vote the Common Shares represented by the Proxy for the approval of such matter.**

## Registered Shareholders

Registered Shareholders may wish to vote by proxy whether or not they are able to attend the Meeting in person. Registered Shareholders electing to submit a proxy may do so by choosing one of the following methods:

- (a) complete, date and sign the Proxy and return it to the Company's transfer agent, Odyssey Trust Company ("**Odyssey**"), by at 1-800-517-4553, or by mail or hand delivery to Suite 323, 409 Granville Street, Vancouver, British Columbia Canada V6C 1T2;
- (b) use a touch-tone phone to transmit voting choices to a toll-free number. Registered shareholders must follow the instructions of the voice response system and refer to the enclosed Proxy form for the toll-free number, the holder's account number and the control number; or
- (c) use the internet through the website of the Company's transfer agent at [www.odysseytrust.com](http://www.odysseytrust.com). Registered Shareholders must follow the instructions that appear on the screen and refer to the enclosed Proxy form for the holder's account number and the control number.

In either case you must ensure the Proxy is received at least 48 hours (excluding Saturdays, Sundays and statutory holidays) before the Meeting or the adjournment thereof. Failure to complete or deposit the Proxy properly may result in its invalidation. The time limit for the deposit of proxies may be waived by the Company's board of directors (the "**Board**") at its discretion without notice. **Please note that in order to vote your Common Shares in person at the Meeting, you must attend the Meeting and register with the scrutineer before the Meeting. If you have already submitted a Proxy but choose to change your method of voting and attend the Meeting to vote, then you should register with the scrutineer before the Meeting and inform them that your previously submitted Proxy is revoked and that you personally will vote your Common Shares at the Meeting.**

## Beneficial Shareholders

**The following information is of significant importance to shareholders who do not hold Common Shares in their own name.** Beneficial Shareholders should note the only proxies that can be recognized and acted upon at the Meeting are those deposited by registered shareholders (those whose names appear on the records of the Company as the registered holders of Common Shares) or as set out in the following disclosure.

If Common Shares are listed in an account statement provided to a shareholder by a broker, then in almost all cases those Common Shares will not be registered in the shareholder's name on the records of the Company. Such Common Shares will more likely be registered under the name of the shareholder's broker or an agent of that broker. In Canada, the vast majority of such Common Shares are registered under the name of CDS & Co. (the registration name for The Canadian Depository for Securities Limited, which acts as nominee for many Canadian brokerage firms), and in the United States of America (the "U.S." or the "United States") the vast majority of such Common Shares are registered under the name of Cede & Co. as nominee for The Depository Trust Company (which acts as depository for many U.S. brokerage firms and custodian banks).

Intermediaries are required to seek voting instructions from Beneficial Shareholders in advance of shareholders' meetings. Every intermediary has its own mailing procedures and provides its own return instructions to clients.

There are two kinds of Beneficial Shareholders - those who object to their name being made known to the issuers of securities which they own (called “OBOs” for “*Objecting Beneficial Owners*”) and those who do not object to the issuers of the securities they own knowing who they are (called “NOBOs” for “*Non-Objecting Beneficial Owners*”).

These securityholder materials are sent to both registered and non-registered (beneficial) owners of the securities of the Company. If you are a non-registered owner, and the Company or its agent sent these materials directly to you, your name, address and information about your holdings of securities, were obtained in accordance with applicable securities regulatory requirements from the intermediary holding securities on your behalf.

Beneficial Shareholders who are OBOs should follow the instructions of their intermediary carefully to ensure that their Common Shares are voted at the Meeting.

The form of proxy supplied to you by your broker will be similar to the proxy provided to registered shareholders by the Company. However, its purpose is limited to instructing the intermediary on how to vote on your behalf. Most brokers now delegate responsibility for obtaining instructions from clients to Broadridge Financial Solutions Inc. (“Broadridge”) in Canada and in the United States. Broadridge mails a Voting Instruction Form (“VIF”) in lieu of a proxy provided by the Company. The VIF will name the same persons as the Company’s Proxy to represent you at the Meeting. You have the right to appoint a person (who need not be a Beneficial Shareholder of the Company), different from the persons designated in the VIF, to represent your Common Shares at the Meeting, and that person may be you. To exercise this right insert the name of your desired representative (which may be you) in the blank space provided in the VIF. Once you have completed and signed your VIF return it to Broadridge by mail or facsimile, or deliver your voting instructions to Broadridge by phone or via the internet, in accordance with Broadridge’s instructions. Broadridge tabulates the results of all instructions received and provides appropriate instructions respecting the voting of Common Shares to be represented at the Meeting. **If you receive a VIF from Broadridge, it must be completed and returned to Broadridge, in accordance with Broadridge’s instructions, well in advance of the Meeting in order to: (a) have your Common Shares voted at the Meeting as per your instructions; or (b) have an alternate representative chosen by you duly appointed to attend and vote your Common Shares at the Meeting.**

#### **Notice to Shareholders in the United States**

The solicitation of proxies involves securities of an issuer located in Canada and is being effected in accordance with the corporate laws of the Province of British Columbia, Canada and securities laws of the provinces of Canada. The proxy solicitation rules under the United States *Securities Exchange Act of 1934*, as amended, are not applicable to the Company or this solicitation, and this solicitation has been prepared in accordance with the disclosure requirements of the securities laws of the provinces of Canada. Shareholders should be aware that disclosure requirements under the securities laws of the provinces of Canada differ from the disclosure requirements under United States securities laws.

The enforcement by Shareholders of civil liabilities under United States federal securities laws may be affected adversely by the fact that the Company is incorporated under the *Business Corporations Act* (British Columbia) (“BCA”), as amended, certain of its directors and its executive officers are residents of Canada and a substantial portion of its assets and the assets of such persons are located outside the United States. Shareholders may not be able to sue a foreign company or its officers or directors in a foreign court for violations of United States federal securities laws. It may be difficult to compel a foreign company and its officers and directors to subject themselves to a judgment by a United States court.

## **Revocation of Proxies**

In addition to revocation in any other manner permitted by law, a registered shareholder who has given a proxy may revoke it by:

- (a) executing a proxy bearing a later date or by executing a valid notice of revocation, either of the foregoing to be executed by the registered shareholder or the registered shareholder's authorized attorney in writing, or, if the shareholder is a corporation, under its corporate seal by an officer or duly authorized attorney, and by delivering the proxy bearing a later date to Odyssey or at the address of the registered office of the Company at 1500 Royal Centre, 1055 West Georgia Street, P.O. Box 11117, Vancouver, British Columbia, V6E 4N7, at any time up to and including the last business day that precedes the day of the Meeting or, if the Meeting is adjourned, the last business day that precedes any reconvening thereof, or to the chairman of the Meeting on the day of the Meeting or any reconvening thereof, or in any other manner provided by law, or
- (b) personally attending the Meeting and voting the registered shareholder's Common Shares.

A revocation of a proxy will not affect a matter on which a vote is taken before the revocation.

## **INTEREST OF CERTAIN PERSONS OR COMPANIES IN MATTERS TO BE ACTED UPON**

No director or executive officer of the Company, or any person who has held such a position since the beginning of the last completed financial year of the Company, nor any nominee for election as a director of the Company, nor any associate or affiliate of the foregoing persons, has any substantial or material interest, direct or indirect, by way of beneficial ownership of securities or otherwise, in any matter to be acted on at the Meeting other than the election of directors, as further described below.

## **VOTING SECURITIES AND PRINCIPAL HOLDERS OF VOTING SECURITIES**

The Board has fixed November 2, 2023 as the record date (the "**Record Date**") for determining persons entitled to receive notice of the Meeting. Only shareholders of record at the close of business on the Record Date who either attend the Meeting personally or complete, sign and deliver a form of proxy in the manner and subject to the provisions described above will be entitled to vote or to have their Common Shares voted at the Meeting.

Effective as of market open on October 23, 2023, the Company's Common Shares began trading on the NEX Board of the TSX Venture Exchange ("**TSXV**") under stock symbol "KEN.H". The Company is authorized to issue an unlimited number of Common Shares. As of November 2, 2023, there were 11,803,955 Common Shares without par value issued and outstanding, each carrying the right to one vote. No group of shareholders has the right to elect a specified number of directors, nor are there cumulative or similar voting rights attached to the Common Shares. The Company is also authorized to issue an unlimited number of non-voting Preferred Shares, without par value. As at the Record Date, there were no Preferred Shares issued and outstanding.

To the knowledge of the directors and executive officers of the Company, there are no persons or corporations who beneficially owned, directly or indirectly, or exercised control or direction over, Common Shares carrying more than 10% of the voting rights attached to all outstanding Common Shares of the Company as at November 2, 2023.

## **VOTES NECESSARY TO PASS RESOLUTIONS**

A simple majority of affirmative votes cast at the Meeting is required to pass the resolutions described herein, except the approval of the sale of Kenadyr Mining Corporation which requires a special majority of

66% of the votes cast by shareholders. If there are more nominees for election as directors or appointment of the Company's auditor than there are vacancies to fill, those nominees receiving the greatest number of votes will be elected or appointed, as the case may be, until all such vacancies have been filled. If the number of nominees for election or appointment is equal to the number of vacancies to be filled, all such nominees will be declared elected or appointed by acclamation.

## **ELECTION OF DIRECTORS**

The Board has set the number of directors of the Company at three (3). As of the date of this information circular, the current directors of the Company are: Jonathan Yan, Timothy McCutcheon and Michael John Velletta.

The term of office of each of the current directors will end at the conclusion of the Meeting. Unless the director's office is vacated earlier in accordance with the provisions of the BCA, each director elected at the Meeting will hold office until the conclusion of the next annual general meeting of the Company, or if no director is then elected, until a successor is elected.

### *Advance Notice Policy*

At the Company's annual general and special meeting held December 18, 2013 the Shareholders of the Company approved an alteration to the Articles to include an advance notice provision (the "Advance Notice Provision"). The Advance Notice Provision provides for advance notice to the Company in circumstances where nominations of persons for election to the Board are made by shareholders of the Company other than pursuant to (i) a requisition of a meeting made pursuant to the provisions of the Act or (ii) a shareholder proposal made pursuant to the provisions of the Act. A copy of the Articles as altered by the shareholder resolution of December 18, 2013 was filed on January 23, 2014 under the Company's SEDAR profile at [www.sedarplus.ca](http://www.sedarplus.ca).

Among other things, the Advance Notice Provision fixes a deadline by which holders of Common Shares must submit director nominations to the Company prior to any annual or special meeting of shareholders and sets forth the minimum information that a shareholder must include in the notice to the Company for the notice to be in proper written form.

The Advance Notice Provision also requires all proposed director nominees to deliver a written representation and agreement that such candidate for nomination, if elected as a director of the Company, will comply with all applicable corporate governance, conflict of interest, confidentiality, share ownership, majority voting and insider trading policies and other policies and guidelines of the Company applicable to directors and in effect during such person's term in office as a director.

The foregoing is merely a summary of the Advance Notice Provision, is not comprehensive and is qualified by the full text of such policy, a copy of which is attached as Schedule "B" to the Company's management information circular filed on November 26, 2013 under the Company's SEDAR profile at [www.sedarplus.ca](http://www.sedarplus.ca).

### **Management Director Nominees**

The following table sets out the names of management's nominees for election as director, all major offices and positions with the Company and any of its significant affiliates each now holds, each nominee's current principal occupation, business or employment (for the five preceding years for each new nominee), the period of time during which each has been a director of the Company and the number of Common Shares of the Company beneficially owned by each, directly or indirectly, or over which each exercised control or direction, as at November 2, 2023.

<b>Nominee Position with the Company and Province or State and Country of Residence</b>	<b>Occupation, Business or Employment<sup>(1)</sup></b>	<b>Period as a Director of the Company</b>	<b>Common Shares Beneficially Owned or Controlled<sup>(1)(2)</sup></b>
Jonathan Yan <sup>(3)(4)(5)</sup> Director British Columbia, Canada	Audit and Accounting specialist (2013 – 2023); CFO of several natural resource companies (December 2020 to Present);	Since October 2023	Nil
Timothy McCutcheon <sup>(3)</sup> Chief Executive Officer and Director British Columbia, Canada	Metals and mining analyst (2003 to 2006); Director/CEO of several public emerging markets natural resources companies (2009 to present)	Since December 2019	130,000 <sup>(6)</sup>
Michael John Velletta <sup>(3)(4)(5)</sup> Director British Columbia, Canada	Barrister and Solicitor; Founding member of Velletta & Company.	Since November 2017	50,000 <sup>(7)</sup>

Notes:

- (1) The information as to principal occupation, business or employment and Common Shares beneficially owned or controlled is not within the knowledge of management of the Company and has been furnished by the respective nominees, or obtained from information available on SEDL.
- (2) On an undiluted basis.
- (3) Member of the Audit Committee.
- (4) Member of the Compensation Committee.
- (5) Member of the Corporate Governance Committee.
- (6) Mr. McCutcheon holds options to purchase 100,000 Common Shares exercisable at \$1.00, expiring December 24, 2024 and options to purchase 50,000 Common Shares exercisable at \$1.00, expiring February 25, 2024.
- (7) 40,000 of these shares are registered to Velletta Resource and Technology Corporation, a personal holding company owned by Mr. Velletta. Mr. Velletta holds options to purchase 50,000 Common Shares exercisable at \$1.00, expiring December 12, 2024 and options to purchase 25,000 Common Shares, expiring February 25, 2024.

## **Biographies of Director Nominees**

### *Jonathan Yan – Director*

Jonathan Yan, CPA, CA holds a Diploma in Accounting and a Bachelor of Science Degree from the University of British Columbia. Mr. Yan has 10 years of experience in audit and accounting for various private and publicly listed Canadian companies. He is currently the Chief Financial Officer of Axcap Ventures Inc. (CSE: AXCP) and First Uranium Resources Ltd. (CSE: URNM). He is currently a Director and Chief Financial Officer of Peak Minerals Ltd (CSE: PEK). He was the Chief Financial Officer and a Director of Carmanah Minerals Corp. (CSE: CARM) from December 2020 to January 2023. He was a Director of Ionic Brand Corp. (CSE: IONC) between December 2020 and March 2022.

### *Timothy McCutcheon – Director / Chief Executive Officer*

Mr. McCutcheon is a corporate mining executive and capital markets professional with over twenty years business experience. From 2003 to 2006, Mr. McCutcheon was a Thompson Extel and Institutional Investor-ranked metals and mining analyst for one of Europe’s largest brokerage firms. In 2006, Mr. McCutcheon was a founder of DBM Capital Partners, a Russia/CIS focused boutique mining resource merchant bank, with \$130 million assets under management and \$100 million in completed M&A transactions before being sold to a UK-based hedge fund in 2009. Since 2009, Mr. McCutcheon has been a

director/CEO of several public emerging markets natural resource companies with assets in Russia, Kyrgyzstan, Chile, Slovakia, Mali and Ghana. Mr. McCutcheon attended Columbia University and graduated with BA and MBA degrees.

*Michael John Velletta – Director*

Michael Velletta is a Barrister and Solicitor licensed to practice law in British Columbia. He is also founding member of Velletta & Company. Mr. Velletta was one of the original directors' of the Company and re-joined the board in November 2017.

**Penalties, Sanctions and Cease Trade Orders**

Except as set out below, no proposed director is, as at the date of this information circular, or has been, within ten (10) years before the date of this information circular, a director, chief executive officer or chief financial officer of any company (including the Company, in respect of which the information circular is being prepared) that:

- a. was subject to an order that was issued while the proposed director was acting in the capacity as director, chief executive officer or chief financial officer; or
- b. was subject to an order that was issued after the proposed director ceased to be a director, chief executive officer or chief financial officer and which resulted from an event that occurred while that person was acting in the capacity as director, chief executive officer or chief financial officer; or
- c. while that person was acting in that capacity, or within a year of that person ceasing to act in that capacity, became bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency or was subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver, receiver manager or trustee appointed to hold its assets; or
- d. has, within the ten (10) years before the date of this information circular, become bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency, or become subject to or instituted any proceedings, arrangement or compromise with creditors, or had a receiver, receiver manager or trustee appointed to hold the assets of the proposed director.

The British Columbia Securities Commission, as principal regulator, issued a management cease trade order against Chakana Copper Corp., a Company of which Kevin Ma was acting as Chief Financial Officer, on October 1, 2019 in connection with the late filing of the company's annual financial statements, management's discussion and analysis and officer's certifications for the year ended May 31, 2019. The management cease trade order was revoked on November 19, 2019 in connection with the completion of the annual filings.

On June 16, 2020, the British Columbia Securities Commission, as principal regulator, issued a management cease-trade order (the "MCTO") against Netcoins Holdings Inc. ("Netcoins Holdings") in connection with the late filing of Netcoins Holdings' annual financial statements, management's discussion and analysis and officer's certification for the year ended December 31, 2019. The MCTO was revoked on July 16, 2020 in connection with the completion of the annual filings. Mr. Kevin Ma was the Chief Financial Officer at the time of the issuance of the MCTO.

**APPOINTMENT OF AUDITOR**

Dale Matheson Carr-Hilton LaBonte LLP, Chartered Professional Accountants, 1500 – 1140 West Pender Street, Vancouver, British Columbia V6E 4G1 will be nominated at the meeting for re-appointment as

auditor for the ensuing year. Dale Matheson Carr-Hilton LaBonte LLP, Chartered Professional Accountants were first appointed as the Company's auditor on December 14, 2017.

**Unless otherwise directed, the persons named in the enclosed form of proxy intend to vote FOR the appointment of Dale Matheson Carr-Hilton LaBonte LLP, Chartered Professional Accountants, as auditor of the Company until the close of the next annual general meeting.**

#### **AUDIT COMMITTEE AND RELATIONSHIP WITH AUDITOR**

The Company is a venture issuer as defined under National Instrument 52-110 – *Audit Committees* (“NI 52-110”) and each venture issuer is required to disclose annually in its information circular certain information concerning the constitution of its Audit Committee and its relationship with its independent auditor, as set forth below.

##### **The Audit Committee's Charter**

A copy of the Company's Audit Committee Charter was attached as Schedule A to the Company's Management Information Circular dated May 24, 2017 and filed on SEDAR on June 1, 2017. The Audit Committee Charter was adopted by the Board on November 8, 2010 and the actions and decisions of the Audit Committee have been governed by the Charter since then, and continue to be so.

##### **Composition of the Audit Committee**

The current Audit Committee members are Messrs. Yan, McCutcheon and Velletta. Messrs. Yan and Velletta are independent, but Mr. McCutcheon is not independent as he is the Chief Executive Officer of the Company. All Audit Committee members are considered to be financially literate.

A member of the Audit Committee is independent if the member has no direct or indirect material relationship with the Company. A material relationship means a relationship which could, in the Board's reasonable opinion, interfere with the exercise of a member's independent judgement.

A member of the Audit Committee is considered financially literate if he or she has the ability to read and understand a set of financial statements presenting a breadth and level of complexity of accounting issues generally comparable to the breadth and complexity of issues one can reasonably expect to be raised by the Company.

##### **Relevant Education and Experience**

Each member of the Company's Audit Committee has adequate education and experience relevant to their performance as an Audit Committee member and, in particular, the requisite education and experience that provides the member with:

- (a) an understanding of the accounting principles used by the Company to prepare its financial statements and the ability to assess the general application of those principles in connection with estimates, accruals and reserves;
- (b) experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the Company's financial statements or experience actively supervising individuals engaged in such activities; and
- (c) an understanding of internal controls and procedures for financial reporting.

See *Biographies of Director Nominees* above, in particular the biographies of each Audit Committee member, for more information concerning each Audit Committee member's education and experience.

### **Audit Committee Oversight**

The Audit Committee has not made any recommendations to the Board to nominate or compensate any auditor other than Dale Matheson Carr-Hilton LaBonte LLP.

### **Reliance on Certain Exemptions**

The Company’s auditor, Dale Matheson Carr-Hilton LaBonte LLP, Chartered Professional Accountants, have not provided any material non-audit services. At no time since the commencement of the Company's two most recently completed financial years has the Company relied on the exemption in Section 2.4 of NI 52-110 (*De Minimis* Non-Audit Services), or an exemption from NI 52-110, in whole or in part, granted under Part 8 (*Exemptions*).

### **Pre-Approval Policies and Procedures**

The Audit Committee has not adopted specific policies and procedures for the engagement of non-audit services.

### **External Auditor Service Fees**

The Audit Committee has reviewed the nature and amount of the non-audit services provided by the Company’s current auditor, Dale Matheson Carr-Hilton LaBonte LLP, Chartered Professional Accountants, (the “Auditors”) to the Company to ensure auditor independence. Fees incurred with the Auditors, for audit and non-audit services in the last two fiscal years are outlined in the following table:

<b>Nature of Services</b>	<b>Fees Paid to Auditor in Year Ended December 31, 2022</b>	<b>Fees Paid to Auditor in Year Ended December 31, 2021</b>
Audit Fees <sup>(1)</sup>	\$35,427	\$21,256
Audit-Related Fees <sup>(2)</sup>	\$8,000	Nil
Tax Fees <sup>(3)</sup>	Nil	\$2,900
All Other Fees <sup>(4)</sup>	Nil	Nil
<b>Total</b>	<b>\$43,427</b>	<b>\$24,156</b>

Notes:

- (1) “Audit Fees” include fees necessary to perform the annual audit and quarterly reviews of the Company’s consolidated financial statements. Audit Fees include fees for review of tax provisions and for accounting consultations on matters reflected in the financial statements. Audit Fees also include audit or other attest services required by legislation or regulation, such as comfort letters, consents, reviews of securities filings and statutory audits.
- (2) “Audit-Related Fees” include services that are traditionally performed by the auditor. These audit-related services include employee benefit audits, due diligence assistance, accounting consultations on proposed transactions, internal control reviews and audit or attest services not required by legislation or regulation.
- (3) “Tax Fees” include fees for all tax services other than those included in “Audit Fees” and “Audit-Related Fees”. This category includes fees for tax compliance, tax planning and tax advice. Tax planning and tax advice includes assistance with tax audits and appeals, tax advice related to mergers and acquisitions, and requests for rulings or technical advice from tax authorities.
- (4) “All Other Fees” include all other non-audit services.

### **Exemption**

The Company is a “venture issuer” as defined in NI 52-110 and relies on the exemption in section 6.1 of NI 52-110 relating to Parts 3 (*Composition of Audit Committee*) and 5 (*Reporting Obligations*).

## CORPORATE GOVERNANCE

### General

National Instrument 58-101 - *Disclosure of Corporate Governance Practices* ("NI 58-101") requires issuers to disclose their corporate governance practices and National Policy 58-201 - *Corporate Governance Guidelines* ("NP 58-201") provides guidance on corporate governance practices. This section sets out the Company's approach to corporate governance and addresses the Company's compliance with NI 58-101.

Corporate governance refers to the policies and structure of the board of directors of a company, whose members are elected by and are accountable to the company's shareholders. Corporate governance encourages establishing a reasonable degree of independence of the board of directors from executive management and the adoption of policies to ensure the board of directors recognizes the principles of good management. The Board is committed to sound corporate governance practices as such practices are both in the interests of shareholders and help to contribute to effective and efficient decision-making.

### Board of Directors

Directors are considered to be independent if they have no direct or indirect material relationship with the Company. A "material relationship" is a relationship which could, in the Board's opinion, be reasonably expected to interfere with the exercise of a director's independent judgment.

The Board facilitates its independent supervision over management of the Company through frequent meetings of the Board at which members of management or non-independent directors are not in attendance and by retaining independent consultants where it deems necessary.

Management is delegated the responsibility for meeting defined corporate objectives, implementing approved strategic and operating plans, carrying on the Company's business in the ordinary course, managing cash flow, evaluating new business opportunities, recruiting staff and complying with applicable regulatory requirements. The Board facilitates its independent supervision over management by reviewing and approving long-term strategic, business and capital plans, material contracts and business transactions, and all debt and equity financing transactions. Through its Audit Committee, the Board examines the effectiveness of the Company's internal control processes and management information systems. The Board reviews executive compensation and recommends stock option grants.

The independent members of the Board are Jonathan Yan and Michael John Velletta. Mr. McCutcheon is not independent as he is an officer of the Company.

### Directorships

Certain members of the Board are currently serving on boards of directors of other reporting companies (or equivalent) as set out below:

Name of Director	Name of Reporting Issuer	Exchange
Timothy McCutcheon	World Copper Ltd.	TSXV
	Ovoca Bio PLC	AIM
Jonathan Yan	Peak Minerals Ltd.	CSE

### Orientation and Continuing Education

When new directors are appointed, they receive orientation, commensurate with their previous experience, on the Company's properties, business, technology and industry and on the responsibilities of directors.

Board meetings may also include presentations by the Company's management and employees to give the directors additional insight into the Company's business.

### **Ethical Business Conduct**

The Board has found that the fiduciary duties placed on individual directors by the Company's governing corporate legislation and the common law and the restrictions placed by applicable corporate legislation on an individual director's participation in decisions of the Board in which the director has an interest have been sufficient to ensure that the Board operates independently of management and in the best interests of the Company.

### **Nomination of Directors**

The Board considers its size each year when it considers the number of directors to recommend for election at the annual meeting of Shareholders, taking into account the number required to carry out the Board's duties effectively and to maintain a diversity of views and experience.

The Board does not have a nominating committee, and these functions are currently performed by the Board as a whole. However, if there is a change in the number of directors required by the Company, this policy will be reviewed.

### **Compensation**

The Board acting through its Compensation Committee determines compensation for the directors and the procedures for this determination are described under Statement of Executive Compensation below. With respect to compensation paid to the Chief Executive Officer, please refer to Statement of Executive Compensation below.

### **Other Board Committees**

In addition to the Audit Committee, the board also has a Compensation Committee and Corporate Governance Committee.

#### *Compensation Committee*

The Board has established a Compensation Committee consisting of Jonathan Yan and Michael John Vellella. The recommendations of the Committee are considered by the Board in determining compensation for the directors, the CEO and other senior executives and consultants.

#### *Corporate Governance Committee*

The Board has established a Corporate Governance Committee consisting of Jonathan Yan and Michael John Vellella. The recommendations of the Committee are considered by the Board in determining the adoption, implementation and management of certain policies and codes of practice with respect to standards of professional and ethical conduct.

### **Assessments**

The Board monitors the adequacy of information given to directors, communication between the Board and management, and the strategic direction and processes of the Board and the Audit Committee on an ongoing basis.

## **STATEMENT OF EXECUTIVE COMPENSATION**

### **General**

The following compensation information is provided as required under Form 51-102F6V for Venture Issuers (the "Form"), as such term is defined in NI 51-102.

For the purposes of this Statement of Executive Compensation:

“**compensation securities**” includes stock options, convertible securities, exchangeable securities and similar instruments including stock appreciation rights, deferred share units and restricted stock units granted or issued by the company or one of its subsidiaries for services provided or to be provided, directly or indirectly, to the company or any of its subsidiaries; and

“**NEO**” or “**named executive officer**” means each of the following individuals:

- (a) each individual who, in respect of the company, during any part of the most recently completed financial year, served as chief executive officer (“CEO”), including an individual performing functions similar to a CEO;
- (b) each individual who, in respect of the company, during any part of the most recently completed financial year, served as chief financial officer (“CFO”), including an individual performing functions similar to a CFO;
- (c) in respect of the company and its subsidiaries, the most highly compensated executive officer other than the individuals identified in paragraphs (a) and (b) at the end of the most recently completed financial year whose total compensation was more than \$150,000, as determined in accordance with subsection 1.3(5), for that financial year;
- (d) each individual who would be a named executive officer under paragraph (c) but for the fact that the individual was not an executive officer of the company, requirements and was not acting in a similar capacity, at the end of that financial year.

During the financial years ended December 31, 2021 and December 31, 2022, based on the definition above, the NEOs of the Company were: Timothy McCutcheon (CEO and Director) and Kevin Ma (CFO and Corporate Secretary). The directors of the Company who were not NEOs were Michael John Velletta and R. Stuart Angus (former Chairman and Director).

### Director and Named Executive Officer Compensation

The following compensation table, excluding options and compensation securities, provides a summary of the compensation paid by the Company to NEOs and members of the board of directors of the Company (the “Board”) for the two most recently completed financial years ended December 31, 2022 and December 31, 2021. Options and compensation securities are disclosed under the heading “Share Options and Other Compensation Securities” below.

Table of compensation excluding compensation securities							
Name and position	Year	Salary, consulting fee, retainer or commission (\$)	Bonus (\$)	Committee or meeting fees (\$)	Value of perquisites (\$)	Value of all other compensation (\$)	Total compensation (\$)
R. Stuart Angus Former Chairman and Director	2022	Nil	Nil	Nil	Nil	Nil	Nil
	2021	Nil	Nil	Nil	Nil	\$9,680	\$9,680
Kevin Ma CFO and Corporate Secretary	2022	Nil	Nil	Nil	Nil	Nil	Nil
	2021	\$113,700	Nil	Nil	Nil	\$9,680	\$47,480
Timothy McCutcheon CEO and Director	2022	Nil	Nil	Nil	Nil	Nil	Nil
	2021	\$80,000	Nil	Nil	Nil	\$9,680	\$89,680

Table of compensation excluding compensation securities							
Name and position	Year	Salary, consulting fee, retainer or commission (\$)	Bonus (\$)	Committee or meeting fees (\$)	Value of perquisites (\$)	Value of all other compensation (\$)	Total compensation (\$)
Michael John Velletta Director	2022	Nil	Nil	Nil	Nil	Nil	Nil
	2021	Nil	Nil	Nil	Nil	\$4,840	\$4,840

Notes:

- (1) Mr. Angus was appointed as the Company's Chairman and a director on March 28, 2017. Mr. Angus passed away on March 24, 2023.
- (2) Mr. Ma has been CFO and Corporate Secretary of the Company since March 28, 2017.
- (3) Mr. McCutcheon has been CEO and a director of the Company since December 24, 2019.
- (4) Mr. Velletta was appointed to the Board on November 1, 2017.

## Stock Options and Other Compensation Securities

### *10% Rolling Share Option Plan (Option-Based Awards)*

The Company currently has a share option plan dated November 8, 2010, as amended October 30, 2014 and on February 17, 2022, at which date the Board made further amendments to the Option Plan to reflect recent amendments to TSXV policies. The Company's Option Plan (the "**Option Plan**") was last approved by shareholders for continuation at the annual general meeting of the Company held on March 31, 2022.

The number of Common Shares which may be issued pursuant to options granted under the Option Plan ("**Options**") is a maximum of 10% of the issued and outstanding Common Shares, on a non-diluted basis, at the time of the grant.

The purpose of the Option Plan is to advance the interests of the Company by encouraging the directors, employees and consultants of the Company and of its subsidiaries or affiliates, if any, by providing them with the opportunity, through Options, to acquire Common Shares in the capital of the Company, thereby increasing their proprietary interest in the Company, encouraging them to remain associated with the Company and furnishing them with additional incentive in their efforts on behalf of the Company in the conduct of its affairs.

### *Material Terms of the Option Plan*

- (a) Persons who are Service Providers to the Company, being: *bona fide* directors, officers, employees and consultants of the Company, or its affiliates, or who are providing services to the Company or its affiliates, are eligible to receive grants of Options under the Option Plan;
- (b) Options granted to any one person in any 12 month period shall not exceed 5% of the issued and outstanding shares of the Company;
- (c) The Company will be required to obtain Disinterested Shareholder Approval prior to any of the following actions becoming effective:
  - (i) the Option Plan, together with all of the Company's other previous Share Compensation Arrangements, could result at any time in:

- the aggregate number of Common Shares reserved for issuance under Options granted to Insiders exceeding 10% of the Outstanding Shares in the event that this Plan is amended to reserve for issuance more than 10% of the Outstanding Shares;
  - the number of Optioned Shares issued to Insiders within any 12-month period exceeding 10% of the Outstanding Shares in the event that this Plan is amended to reserve for issuance more than 10% of the Outstanding Shares; or,
  - the issuance to any one Optionee, within any 12-month period, of a number of Common Shares exceeding 5% of the Outstanding Shares; or
- (ii) any reduction in the exercise price of or extensions to stock options granted to individuals that are Insiders of the Company.
- (d) Options granted to any one consultant to the Company in any 12 month period shall not exceed 2% of the issued and outstanding shares of the Company;
- (e) Options granted to all persons in aggregate who perform investor relations activities shall not exceed 2% of the issued and outstanding shares of the Company, provided that such options vest in stages over a 12 month period with no more than 1/4 of the options vesting in any 3 month period;
- (f) Options granted shall be non-assignable and not transferable and shall not have a term in excess of ten years;
- (g) In the case of an Optionee being dismissed from employment or service for cause, such Optionee's Options, whether or not vested at the date of dismissal, will immediately terminate without right to exercise same;
- (h) The exercise price of options granted will be set by the Board on the effective date and shall not be less than the closing price of the Company's shares on the last trading day less any discount permitted by the Exchange (as defined in the New Option Plan);
- (i) All options granted shall be evidenced by written option agreements; and
- (j) Any amendment to reduce the exercise price of options granted to insiders of the Company or extend the term of an option held by an insider of the Company is subject to approval of the disinterested Shareholders of the Company, and TSX Venture Exchange approval is required for any anti-dilution adjustment other than a stock split or consolidation, or to accelerate the vesting requirements for options granted to persons performing investor relations activities.

A copy of the Option Plan is attached as Schedule "A" to the information circular prepared for the Company's annual general meeting held on March 31, 2022, which was filed on SEDAR on March 2, 2022. A copy of the Option Plan will also be available at the Meeting.

### **Share Options and Other Compensation Securities**

The following table sets forth incentive stock options (option-based awards) issued pursuant to the Option Plan during the year ended December 31, 2022 and that were outstanding as of December 31, 2022.

Compensation Securities							
Name and position	Type of compensation security	Number of compensation securities, number of underlying securities, and percentage of class	Date of issue or grant Y/M/D	Issue, conversion or exercise price (\$)	Closing price of security or underlying security on date of grant (\$)	Closing price of security or underlying security at year end (\$)	Expiry Date Y/M/D
R. Stuart Angus	Options	82,000 <sup>(4)</sup> (8.75%)	2019/07/31	\$1.00 <sup>(3)(4)</sup>	\$0.85	\$0.045	2024/07/31
	Options	50,000 <sup>(4)</sup> (5.34%)	2021/02/26	\$1.00 <sup>(4)</sup>	\$0.45	\$0.045	2024/02/25
Kevin Ma	Options	40,000 <sup>(4)</sup> (4.27%)	2019/07/31	\$1.00 <sup>(3)(4)</sup>	\$0.85	\$0.045	2024/07/31
	Options	50,000 <sup>(4)</sup> (5.34%)	2021/02/26	\$1.00 <sup>(4)</sup>	\$0.45	\$0.045	2024/02/25
Timothy McCutcheon	Options	100,000 <sup>(4)</sup> (10.67%)	2019/12/24	\$1.00 <sup>(4)</sup>	\$0.40	\$0.045	2024/12/24
	Options	50,000 <sup>(4)</sup> (5.34%)	2021/02/26	\$1.00 <sup>(4)</sup>	\$0.45	\$0.045	2024/02/25
Michael John Velletta	Options	50,000 <sup>(4)</sup> (5.34%)	2019/12/12	\$1.00 <sup>(4)</sup>	\$0.40	\$0.045	2024/12/12
	Options	25,000 <sup>(4)</sup> (2.67%)	2021/02/26	\$1.00 <sup>(4)</sup>	\$0.45	\$0.045	2024/02/25

Notes:

- (1) Percentage of class represents % of compensation securities granted over the total number of compensation securities of the Company outstanding as of December 31, 2022.
- (2) Closing price of the Issuer's common shares as at December 31, 2022.
- (3) The exercise price of the incentive stock options were re-priced from \$0.80 to \$0.10 on July 31, 2019.
- (4) On August 10, 2021, the Company effected a share consolidation of its common shares on a one-for-10 basis. All figures are presented on a post-consolidation basis.

### Exercise of Compensation Securities by NEOs and Directors

There were no compensation securities exercised by NEOs and directors of the Company who were not NEOs during financial year ended December 31, 2022.

### Employment, Consulting and Management Agreements

During the financial year ended December 31, 2022, the Company had no agreements of compensatory plans or arrangements with any of its NEOs concerning severance payments of cash or equity compensation resulting from the resignation, retirement or any other termination of employment or other agreement with the Company or as a result of a change of control of the Company.

### Oversight and Description of Director and Named Executive Officer Compensation

#### *Elements of the Compensation Program*

The responsibilities relating to executive and director compensation, including reviewing and recommending compensation of the Company's officers and employees and overseeing the Company's base compensation structure and equity-based compensation program is performed by the Board as a whole. The Board also assumes responsibility for reviewing and monitoring the long-range compensation strategy for the Company's senior management. The Board generally reviews the compensation of senior management on an annual basis taking into account compensation paid by other issuers of similar size and activity and the performance of officers generally and in light of the Company's goals and objectives.

The Company is a small junior resource company with limited resources. The compensation for senior management of the Company is designed to ensure that the level and form of compensation achieves certain objectives, including: (a) attracting and retaining talented, qualified and effective executives; (b) motivating the short and long-term performance of executives; and (c) better aligning the interests of executive officers with those of the Company's shareholders. In the Board's view, paying salaries which are competitive in the markets in which the Company operates is a first step to attracting and retaining talented, qualified and effective executives. Competitive salary information on comparable companies is compiled from a variety of sources, including national and international publications.

The Board determines the compensation for the CEO and compensation of the Company's executives is also determined by the Board. In each case, the Board takes into consideration the prior experience of the executive, industry standards, competitive salary information on comparable companies of similar size and stage of development, the degree of responsibility and participation of the executive in the day-to-day affairs of the Company, and the Company's available cash resources.

In the Board's view, to attract and retain qualified and effective executives, the Company must pay base salaries which are reasonable in relation to the level of service expected while remaining competitive in the markets in which the Company operates.

The Board has assessed the Company's compensation plans and programs for its executive officers to ensure alignment with the Company's business plan and to evaluate the potential risks associated with those plans and programs. The Board has concluded that the compensation policies and practices do not create any risks that are reasonably likely to have a material adverse effect on the Company. The Board considers the risks associated with executive compensation and corporate incentive plans when designing and reviewing such plans and programs.

The Company has not adopted a policy restricting its executive officers or directors from purchasing financial instruments that are designated to hedge or offset a decrease in market value of equity securities granted as compensation or held, directly or indirectly, by its executive officers or directors. To the knowledge of the Company, none of the executive officers or directors has purchased such financial instruments.

#### Philosophy and Objectives

Compensation for senior management of the Company is designed to ensure that the level and form of compensation achieves certain objectives, which are:

- to attract and retain qualified and effective executives;
- to motivate the short and long-term performance of these executives; and
- to align their interests with those of the Company's shareholders.

In compensating its senior management, the Company has employed a combination of base salary and equity participation through its stock option plan.

#### Base Salary

In the Board's view, paying base salaries which are competitive in the markets in which the Company operates is a first step to attracting and retaining talented, qualified and effective executives. Competitive salary information on companies earning comparable revenues in a similar industry has been reviewed and compared over a variety of sources.

#### Equity Participation

The Company believes that encouraging its executives and employees to become shareholders is the best way of aligning their interests with those of its shareholders. Equity participation is accomplished through

the Company’s stock option plan. Stock options are granted to senior executives and employees taking into account a number of factors, including the amount and term of options previously granted, base salary and bonuses and competitive factors. Options, which vest immediately, are generally granted to senior executives and Board members.

### **Compensation Review Process**

Compensation for each of the Board members and each of the NEOs is approved by the Board as a whole. Base cash compensation and variable cash compensation levels are based, in part, on market survey data provided to the Board by independent consultants.

#### Base Salary or Consulting Fees

In the Board’s view, paying base salaries which are competitive in the markets in which the Company operates is a first step to attracting and retaining talented, qualified and effective executives. Competitive salary information on companies earning comparable revenues in a similar industry has been reviewed and compared over a variety of sources.

### **Director Compensation**

During the two most recently completed financial years, the directors received no cash compensation for acting in their capacity as directors of the Company.

Except for the potential grant to directors of share options, there were no arrangements under which directors were compensated by the Company during the two most recently completed financial years for their services in their capacity as directors.

### **Pension Disclosure**

The Company does not have a pension plan that provides for payments or benefits to the NEOs at, following, or in connection with retirement.

### **Equity Compensation Plan Information**

See disclosure under “Stock Options and Other Compensation Securities” under “Statement of Executive Compensation” above for disclosure on the Company’s equity compensation regime.

The following table sets out the Company’s equity compensation plan information as at the December 31, 2022 financial year-end:

	<b>Number of securities to be issued upon exercise of outstanding options</b>	<b>Weighted-average exercise price of outstanding compensation securities</b>	<b>Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column</b>
<b>Plan Category</b>	<b>(a)</b>	<b>(b)</b>	<b>(c)</b>
Equity compensation plans approved by securityholders - the Option Plan	339,000	\$1.00	841,396
Equity compensation plans not approved by securityholders	N/A	N/A	N/A
<b>Total</b>	<b>339,000</b>	<b>\$1.00</b>	<b>841,396</b>

### **INDEBTEDNESS OF DIRECTORS AND EXECUTIVE OFFICERS**

No directors, proposed nominees for election as directors, executive officers or their respective associates or affiliates, or other management of the Company were indebted to the Company or have any indebtedness that is the subject of a guarantee, support agreement, letter of credit or other similar arrangement or

understanding provided by the Company, as of the end of the most recently completed financial year or as at the date hereof.

### **INTEREST OF INFORMED PERSONS IN MATERIAL TRANSACTIONS**

To the knowledge of management of the Company, no informed person (a director, officer or holder of 10% or more of the Common Shares) or nominee for election as a director of the Company or any associate or affiliate of any informed person or proposed director had any interest in any transaction which has materially affected or would materially affect the Company or any of its subsidiaries during the year ended December 31, 2022, or has any interest in any material transaction during fiscal 2022 other than as disclosed in Note 12 - Related Party Transactions in the Company's annual financial statements for the financial year ended December 31, 2022.

### **MANAGEMENT CONTRACTS**

There are no management functions of the Company, which are to any substantial degree performed by a person or company other than the directors or senior officers of the Company.

### **PARTICULARS OF MATTERS TO BE ACTED UPON**

#### **Continuation of Share Option Plan**

The Option Plan is described above in this Information Circular under "*Statement of Executive Compensation – Stock Options and Other Compensation Securities*". The Option Plan was last approved by shareholders at the Company's annual general meeting held on March 31, 2022.

At the Meeting, shareholders will be asked to consider, and if deemed advisable, to pass, with or without variation, an ordinary resolution to approve the continuation of the Option Plan until the next annual general meeting of the Company.

An "*ordinary resolution*" is a resolution passed by the shareholders of the Company at a general meeting by a simple majority of the votes cast in person or by proxy.

#### *Shareholder Approval*

**"RESOLVED** as an ordinary resolution, that the Company's Stock Option Plan dated for reference November 8, 2010, as amended October 30, 2014 and on February 17, 2022, be ratified and approved for continuation until the next annual meeting of the Company."

**Unless otherwise directed, the persons named in the enclosed form of proxy intend to vote FOR the continuation of the Company's Stock Option Plan.**

A copy of the Plan will be available for inspection at the Meeting.

#### **Approval of Sale of Kenadyr Mining Corporation**

The Company owns 100% of the issued and outstanding securities of Kenadyr Mining Corporation, a company existing under the laws of the Province of British Columbia (the "**Subsidiary**"). The Subsidiary owns 100% of the Company's Kyrgyz Republic companies which hold natural resource licenses in the Kyrgyz Republic, which constitute the Borubai Project in the Chuy Region, Kyrgyz Republic, the Company's primary asset.

The Company does not have, and management does not see a reasonable way to have, the financial ability to advance its natural resource licenses in the Kyrgyz Republic. In general, after extreme political turmoil in 2021 resulting in the ousting of the then-president of the country, and the subsequent uncertainty regarding natural resource license tenure and taxation regime, capital market sentiment for mineral exploration in the Kyrgyz Republic has been extremely poor. Despite concerted effort to find investment for the Company's assets, no funds were secured. For fiscal year 2022 the Company wrote down the value of its natural resource assets in the Kyrgyz Republic to US\$30,000.

On September 27, 2023 the Company entered into a share purchase agreement (the "**Purchase Agreement**") with Rauf Ahkmatov, a Kyrgyz national (the "**Purchaser**"), pursuant to which the Purchaser agreed to purchase from the Company all of the issued and outstanding securities of the Subsidiary, and thus the Subsidiary's natural resource assets including the Borubai Project (the "**Assets**"), for an aggregate purchase price of US\$1,000,000 in cash minus any working capital deficit (the "**Transaction**"). The Transaction is, among other things, subject to TSXV approval and Company shareholder approval. Management intends to use the proceeds from the Transaction for working capital purposes, to pay outstanding payables and to seek new business opportunities. In connection with the Transaction, the Purchaser has paid an initial cash deposit of US\$30,000 to the Company (the "**Initial Deposit**"). Following the completion of the Transaction, the Company's available working capital is expected to be approximately \$155,984.

**Conditions Precedent.** The completion of the Transaction is conditional upon compliance by the parties with the covenants set out in the Purchase Agreement which includes certain conditions precedent to the obligations of the Company, the Subsidiary and the Purchaser to complete the Transaction, including but not limited to the following:

- conditional acceptance by the TSXV of the Transaction;
- the approval of the shareholders of the Company in accordance with the requirements of the BCA and the requirements of the TSXV (for clarity, the Company's disposition of the Assets is subject to: (i) approval of the Company's shareholders at the Meeting, and (ii) regulatory approval by the TSXV);
- no preliminary or permanent injunction or other order, decree or ruling issued by a Governmental Body (as defined in the Purchase Agreement), and no statute, rule, regulation or executive order promulgated or enacted by a Governmental Body, which restrains, enjoins, prohibits, or otherwise makes illegal the consummation of the transactions contemplated hereby, will be in effect other than the legal framework that was in place at signing of the Purchase Agreement;
- the approval of any other regulatory body having jurisdiction over the subject matter of the Purchase Agreement on terms acceptable to the parties; and
- the Purchase Agreement shall not have been terminated in accordance with its terms.

**Termination.** The Purchase Agreement may be terminated at any time in any of the following circumstances:

- at any time, by the written agreement of the Company and the Purchaser;
- by the Purchaser if there has been a material breach by the Company or the Subsidiary of any representation, warrant, covenant or agreement set forth in the Purchase Agreement or any of

the documents contemplated hereby, which breach the Company or the Subsidiary, as applicable, fails to cure within ten (10) business days after written notice thereof is given by the Purchaser, and in the event of such termination the Initial Deposit is to be returned to the Purchaser;

- by the Company or the Subsidiary if there has been a material breach by the Purchaser of any representation, warrant, covenant or agreement set forth in the Purchase Agreement or any of the documents contemplated hereby, which breach the Purchaser fails to cure within ten (10) business days after written notice thereof is given by the Company or the Subsidiary, as applicable, and in the event of such termination the Initial Deposit is not to be returned to the Purchaser;
- by any party, if it becomes apparent that the TSXV will not approve the terms of the Purchase Agreement or any other condition of closing has become incapable of being met, and in the event of such termination the Initial Deposit is to be returned to the Purchaser;
- by any party of the shareholders of the Company, under a properly construed meeting as per relevant law, do not approve the Transaction; and
- by the Company or the Subsidiary if the Transaction has not completed by January 31, 2024, provided that such party has not through its actions or inaction caused the Transaction not to complete by such date.

**Closing.** Subject to the satisfaction or waiver of all other closing conditions, the Company expects to complete the Transaction as soon as practicable following receipt of shareholder approval and of acceptance from the TSXV.

### **Shareholder Approval**

At the Meeting, shareholders will be asked to consider, and if thought fit, approve a special resolution to approve the Transaction. In order to be approved, the resolution requires the approval of at least two-thirds (66⅔%) of the votes cast thereon by shareholders of the Company present in person or represented by proxy at the Meeting. The Company is not aware of any Shareholder who will be ineligible to vote on the approval of the Transaction at the Meeting.

For greater certainty, the Transaction is an arm's length transaction and, to the best of the Company's knowledge, there are no shareholders with a material interest in the Transaction or the sale of the Subsidiary.

### **Regulatory Approval**

The Company has applied to the TSXV for acceptance of the Transaction. In accordance with the conditions set forth in the Purchase Agreement, the Company requires the conditional acceptance of the TSXV prior to closing the Transaction. Final acceptance of the TSXV will be subject to a number of customary conditions, including, but not limited to the receipt of shareholder approval of the Transaction at the Meeting. The acceptance of the Transaction by the TSXV should not be interpreted to mean that the TSXV has in any way passed upon the merits of the Transaction.

## **Related Party Transaction**

The Transaction is not considered to be a related party transaction under Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions*.

## **Recommendation of the Board**

The Board has unanimously approved the Transaction and the resulting disposition of substantially all of the Assets. The Board of the Company believes that the Transaction is in the best interests of the Company and, based on the factors set out above, that the Transaction is fair to Shareholders.

**Accordingly, the Board unanimously recommends that Shareholders allow for the completion of the Transaction by approving the Transaction.**

## **Shareholders' Right to Dissent**

Shareholders may dissent in respect of the Transaction Resolution set out below under Division 2, Part 8 of the BCA. If the Transaction is completed, dissenting Shareholders who comply with the procedures set forth in the BCA (“**Dissenting Shareholders**”) will be entitled to be paid the fair value of their Common Shares. This dissent right is summarized in Schedule “A” hereto and the text of Division 8, Part 2 of the BCA which is set forth in Schedule “B” to this Information Circular. Only registered Shareholders are entitled to exercise the right to dissent. Failure to comply strictly with the requirements set forth in Division 2, Part 8 of the BCA will result in the loss or unavailability of any right to dissent.

The statutory provisions dealing with the right of dissent are technical and complex. Any shareholders who wish to exercise their right of dissent should seek independent legal advice, as failure to comply strictly with the provisions of Part 8, Division 2 of the BCA may prejudice their right of dissent.

## **Risk Factors Related to the Transaction**

In evaluating whether to approve the Transaction, shareholders should carefully consider the following risk factors. Additional risks and uncertainties, including those currently unknown to or considered immaterial by the Company may also adversely affect the Transaction. The following risk factors are not a definitive list of all risk factors associated with the Transaction.

Whether or not the Transaction is completed, the Company will continue to face the risks that it currently faces with respect to its affairs, business and operations and future prospects. Such risk factors are set forth and described in the filings of the Company filed with the securities regulatory authorities which have been filed on the Company’s SEDAR+ profile at [www.sedarplus.ca](http://www.sedarplus.ca).

- **Completion of the Transaction.** There are a number of conditions precedent to the Transaction which are outside the control of the Company, including, but not limited to, approval of the Transaction Resolution (as defined herein), approval by the TSXV of the Transaction, and the completion of certain conditions of closing. There can be no certainty, nor can the Company provide any assurance, that these conditions will be satisfied or, if satisfied, when they will be satisfied. Moreover, a substantial delay in obtaining satisfactory approvals could result in the Transaction not being completed. In addition, each of the Company and the Purchaser has the right to terminate the Purchase Agreement in certain circumstances. Accordingly, there is no certainty that the Purchase Agreement will not be terminated before the completion of the Transaction. If the Transaction is not completed, there can be no assurance that the Company

will be able to find another opportunity to sell the Subsidiary on the same or similar terms, if any.

- **Trading Price of the Common Shares.** If, for any reason, the Transaction is not completed or its completion is materially delayed, the trading price of the Common Shares may be materially adversely affected to the extent that the current market price reflects a market assumption that the Transaction will be completed and the Company's business may suffer.
- **Exercise of Dissent Rights.** Shareholders have the right to exercise Dissent Rights (as defined in Schedule "A") and demand payment equal to the fair value of their common shares in cash. If Dissent Rights are exercised in respect of a significant number of shares, a substantial cash payment may be required to be made to such shareholders, which could have an adverse effect on the Company's financial condition and cash resources.

### **Resolution Sought**

At the meeting, Shareholders will be asked to approve a special resolution (the "**Transaction Resolution**") in substantially the following form:

**"BE IT RESOLVED** as a special resolution that:

- (a) the sale by the Company of the Subsidiary, including all of the Subsidiary's interest in the Assets, which sale constitutes a disposal of substantially all of the Company's undertaking, as contemplated by section 301 of the BCA, be and is hereby approved and authorized;
- (b) the execution of the Purchase Agreement, entered into between the Company, the Subsidiary and the Purchaser providing for the sale of the Subsidiary to the Purchaser, and the actions of the directors of the Company in approving the Transaction and the actions of the officers of the Company in executing and delivering the Purchase Agreement and any amendments thereto be and are hereby ratified and approved;
- (c) notwithstanding that this resolution has been duly passed by the Shareholders, the directors of the Company are hereby authorized and empowered, without further notice to, or approval of, the Shareholders to amend the Purchase Agreement to the extent permitted thereby, or, subject to the terms of the Purchase Agreement, not to proceed with the Transaction; and
- (d) any one or more directors and officers of the Company is hereby authorized and directed to perform all such acts, deeds and things and to execute, under corporate seal of the Company or otherwise, all such documents and other writings, including as may be required to give effect to the true intent of this resolution."

**In the absence of a contrary instruction, the persons named in the enclosed form of proxy intend to vote in favour of the above Transaction Resolution.**

### **ADDITIONAL INFORMATION**

Financial information is provided in the Company's audited financial statements for the year ended December 31, 2022 and the related management's discussion and analysis (the "Financial Statements"). The Financial Statements will be placed before the Meeting.

Additional information relating to the Company and a copy of the Financial Statements may be obtained under the Company's SEDAR at [www.Sedarplus.ca](http://www.Sedarplus.ca) or upon request from the Company at Suite 1507 – 1030 West Georgia Street, Vancouver, B.C. V6E 2Y3, Telephone: (604) 569-2963. The Company may require payment of a reasonable charge from any person or company who is not a securityholder of the Company, who requests a copy of any such document.

### **OTHER MATTERS**

The Board is not aware of any other matters which it anticipates will come before the Meeting as of the date of mailing of this information circular.

The contents of this information circular and its distribution to shareholders have been approved by the Board of the Company.

**DATED** at Vancouver, British Columbia this 8<sup>th</sup> day of November, 2023.

#### **BY ORDER OF THE BOARD**

*"Timothy McCutcheon"*

**Timothy McCutcheon**  
**Chief Executive Officer**

## SCHEDULE “A”

### DISSENTING SHAREHOLDERS’ RIGHTS

Shareholders who wish to dissent (each a “**Dissenting Shareholder**”) should take note that strict compliance with the dissent procedures (“**Dissent Procedures**”) is required.

Each registered holder of a Share is entitled to be paid the fair value of the holder’s common shares (“**Shares**”), provided that the holder duly dissents to the Transaction and the Transaction becomes effective.

Beneficial Shareholders who exercise dissent rights must do so through their broker, custodian, nominee or intermediary. The dissent rights are those rights pertaining to the right to dissent from the Transaction Resolution that are contained in Sections 237 to 247 of the BCA (the “**Dissent Rights**”). A shareholder (“**Shareholder**”) is not entitled to exercise Dissent Rights in respect of Shares the holder votes in favour of the Transaction Resolution.

A brief summary of the Dissent Procedures is set out below.

This summary does not purport to provide a comprehensive statement of the procedures to be followed by a Dissenting Shareholder who seeks payment of the fair value of the Shares held and is qualified in its entirety by reference to Sections 237 to 247 of the BCA. Sections 237 to 247 of the BCA are reproduced in Appendix B to this Information Circular. The Dissent Procedures must be strictly adhered to and any failure by a Shareholder to do so may result in the loss of that holder’s Dissent Rights. Accordingly, each Shareholder who wishes to exercise Dissent Rights should carefully consider and comply with the Dissent Procedures and consult such holder’s legal advisors.

Written notice of dissent from the Transaction Resolution containing the information required by Section 242(4) of the BCA must be sent to the Company by a Dissenting Shareholder at least two (2) days before the Meeting or any date to which the Meeting may be postponed or adjourned. The Notice of Dissent should be delivered by registered mail to the Company at the address for notice described below. After the Transaction Resolution is approved by Shareholders and within one month after the Company notifies the Dissenting Shareholder of the Company’s intention to act upon the Transaction Resolution pursuant to Section 243 of the BCA, the Dissenting Shareholder must send to the Company, a written notice that such holder requires the purchase of all of the Shares in respect of which such holder has given Notice of Dissent, together with the share certificate or certificates representing those Shares (including a written statement prepared in accordance with Section 244(1)(c) of the BCA if the dissent is being exercised by the Shareholder on behalf of a Beneficial Shareholder). A Dissenting Shareholder who does not strictly comply with the Dissent Procedures will not be entitled to be paid fair value for his, her or its Shares in respect of which the Dissent Rights are being exercised.

Any Dissenting Shareholder who has duly complied with Section 244(1) of the BCA will be entitled to receive the fair value that the Dissenting Shares had immediately before the passing of the Transaction Resolution.

All notices of dissent to the Transaction pursuant to Section 242 of the BCA should be sent to the Company: (i) at Suite 1507 – 1030 West Georgia Street, Vancouver, B.C. V6E 2Y3; or (ii) by email to: [tmccutcheon@kenadyr.com](mailto:tmccutcheon@kenadyr.com) (Attention: Chief Executive Officer).

## SCHEDULE “B”

### RIGHTS OF DISSENT

#### *BUSINESS CORPORATIONS ACT (BRITISH COLUMBIA)*

##### Division 2 — Dissent Proceedings

###### Definitions and application

237 (1) In this Division:

“**dissenter**” means a shareholder who, being entitled to do so, sends written notice of dissent when and as required by section 242;

“**notice shares**” means, in relation to a notice of dissent, the shares in respect of which dissent is being exercised under the notice of dissent;

“**payout value**” means,

- (a) in the case of a dissent in respect of a resolution, the fair value that the notice shares had immediately before the passing of the resolution,
- (b) in the case of a dissent in respect of an arrangement approved by a court order made under section 291 (2) (c) that permits dissent, the fair value that the notice shares had immediately before the passing of the resolution adopting the arrangement,
- (c) in the case of a dissent in respect of a matter approved or authorized by any other court order that permits dissent, the fair value that the notice shares had at the time specified by the court order, or
- (d) in the case of a dissent in respect of a community contribution company, the value of the notice shares set out in the regulations, excluding any appreciation or depreciation in anticipation of the corporate action approved or authorized by the resolution or court order unless exclusion would be inequitable.

(2) This Division applies to any right of dissent exercisable by a shareholder except to the extent that

- (a) the court orders otherwise, or
- (b) in the case of a right of dissent authorized by a resolution referred to in section 238 (1) (g), the court orders otherwise or the resolution provides otherwise.

###### Right to dissent

238 (1) A shareholder of a company, whether or not the shareholder’s shares carry the right to vote, is entitled to dissent as follows:

- (a) under section 260, in respect of a resolution to alter the articles

- (i) to alter restrictions on the powers of the company or on the business the company is permitted to carry on,
  - (ii) without limiting subparagraph (i), in the case of a community contribution company, to alter any of the company's community purposes within the meaning of section 51.91, or
  - (iii) without limiting subparagraph (i), in the case of a benefit company, to alter the company's benefit provision;
- (b) under section 272, in respect of a resolution to adopt an amalgamation agreement;
  - (c) under section 287, in respect of a resolution to approve an amalgamation under Division 4 of Part 9;
  - (d) in respect of a resolution to approve an arrangement, the terms of which arrangement permit dissent;
  - (e) under section 301 (5), in respect of a resolution to authorize or ratify the sale, lease or other disposition of all or substantially all of the company's undertaking;
  - (f) under section 309, in respect of a resolution to authorize the continuation of the company into a jurisdiction other than British Columbia;
  - (g) in respect of any other resolution, if dissent is authorized by the resolution;
  - (h) in respect of any court order that permits dissent.

(1.1) A shareholder of a company, whether or not the shareholder's shares carry the right to vote, is entitled to dissent under section 51.995 (5) in respect of a resolution to alter its notice of articles to include or to delete the benefit statement.

(2) A shareholder wishing to dissent must

- (a) prepare a separate notice of dissent under section 242 for
  - (i) the shareholder, if the shareholder is dissenting on the shareholder's own behalf, and
  - (ii) each other person who beneficially owns shares registered in the shareholder's name and on whose behalf the shareholder is dissenting,
- (b) identify in each notice of dissent, in accordance with section 242 (4), the person on whose behalf dissent is being exercised in that notice of dissent, and
- (c) dissent with respect to all of the shares, registered in the shareholder's name, of which the person identified under paragraph (b) of this subsection is the beneficial owner.

(3) Without limiting subsection (2), a person who wishes to have dissent exercised with respect to shares of which the person is the beneficial owner must

- (a) dissent with respect to all of the shares, if any, of which the person is both the registered owner and the beneficial owner, and
- (b) cause each shareholder who is a registered owner of any other shares of which the person is the beneficial owner to dissent with respect to all of those shares.

### **Waiver of right to dissent**

**239** (1) A shareholder may not waive generally a right to dissent but may, in writing, waive the right to dissent with respect to a particular corporate action.

(2) A shareholder wishing to waive a right of dissent with respect to a particular corporate action must

- (a) provide to the company a separate waiver for
  - (i) the shareholder, if the shareholder is providing a waiver on the shareholder's own behalf, and
  - (ii) each other person who beneficially owns shares registered in the shareholder's name and on whose behalf the shareholder is providing a waiver, and
- (b) identify in each waiver the person on whose behalf the waiver is made.

(3) If a shareholder waives a right of dissent with respect to a particular corporate action and indicates in the waiver that the right to dissent is being waived on the shareholder's own behalf, the shareholder's right to dissent with respect to the particular corporate action terminates in respect of the shares of which the shareholder is both the registered owner and the beneficial owner, and this Division ceases to apply to

- (a) the shareholder in respect of the shares of which the shareholder is both the registered owner and the beneficial owner, and
- (b) any other shareholders, who are registered owners of shares beneficially owned by the first mentioned shareholder, in respect of the shares that are beneficially owned by the first mentioned shareholder.

(4) If a shareholder waives a right of dissent with respect to a particular corporate action and indicates in the waiver that the right to dissent is being waived on behalf of a specified person who beneficially owns shares registered in the name of the shareholder, the right of shareholders who are registered owners of shares beneficially owned by that specified person to dissent on behalf of that specified person with respect to the particular corporate action terminates and this Division ceases to apply to those shareholders in respect of the shares that are beneficially owned by that specified person.

### **Notice of resolution**

**240** (1) If a resolution in respect of which a shareholder is entitled to dissent is to be considered at a meeting of shareholders, the company must, at least the prescribed number of days before the date of the proposed meeting, send to each of its shareholders, whether or not their shares carry the right to vote,

- (a) a copy of the proposed resolution, and
- (b) a notice of the meeting that specifies the date of the meeting, and contains a statement advising of the right to send a notice of dissent.

(2) If a resolution in respect of which a shareholder is entitled to dissent is to be passed as a consent resolution of shareholders or as a resolution of directors and the earliest date on which that resolution can be passed is specified in the resolution or in the statement referred to in paragraph (b), the company may, at least 21 days before that specified date, send to each of its shareholders, whether or not their shares carry the right to vote,

- (a) a copy of the proposed resolution, and
- (b) a statement advising of the right to send a notice of dissent.

(3) If a resolution in respect of which a shareholder is entitled to dissent was or is to be passed as a resolution of shareholders without the company complying with subsection (1) or (2), or was or is to be passed as a directors' resolution without the company complying with subsection (2), the company must, before or within 14 days after the passing of the resolution, send to each of its shareholders who has not, on behalf of every person who beneficially owns shares registered in the name of the shareholder, consented to the resolution or voted in favour of the resolution, whether or not their shares carry the right to vote,

- (a) a copy of the resolution,
- (b) a statement advising of the right to send a notice of dissent, and
- (c) if the resolution has passed, notification of that fact and the date on which it was passed.

(4) Nothing in subsection (1), (2) or (3) gives a shareholder a right to vote in a meeting at which, or on a resolution on which, the shareholder would not otherwise be entitled to vote.

#### **Notice of court orders**

**241** If a court order provides for a right of dissent, the company must, not later than 14 days after the date on which the company receives a copy of the entered order, send to each shareholder who is entitled to exercise that right of dissent

- (a) a copy of the entered order, and
- (b) a statement advising of the right to send a notice of dissent.

#### **Notice of dissent**

**242** (1) A shareholder intending to dissent in respect of a resolution referred to in section 238 (1) (a), (b), (c), (d), (e) or (f) or (1.1) must,

- (a) if the company has complied with section 240 (1) or (2), send written notice of dissent to the company at least 2 days before the date on which the resolution is to be passed or can be passed, as the case may be,
- (b) if the company has complied with section 240 (3), send written notice of dissent to the company not more than 14 days after receiving the records referred to in that section, or
- (c) if the company has not complied with section 240 (1), (2) or (3), send written notice of dissent to the company not more than 14 days after the later of

- (i) the date on which the shareholder learns that the resolution was passed, and
- (ii) the date on which the shareholder learns that the shareholder is entitled to dissent.

(2) A shareholder intending to dissent in respect of a resolution referred to in section 238 (1) (g) must send written notice of dissent to the company

- (a) on or before the date specified by the resolution or in the statement referred to in section 240 (2) (b) or (3) (b) as the last date by which notice of dissent must be sent, or
- (b) if the resolution or statement does not specify a date, in accordance with subsection (1) of this section.

(3) A shareholder intending to dissent under section 238 (1) (h) in respect of a court order that permits dissent must send written notice of dissent to the company

- (a) within the number of days, specified by the court order, after the shareholder receives the records referred to in section 241, or
- (b) if the court order does not specify the number of days referred to in paragraph (a) of this subsection, within 14 days after the shareholder receives the records referred to in section 241.

(4) A notice of dissent sent under this section must set out the number, and the class and series, if applicable, of the notice shares, and must set out whichever of the following is applicable:

- (a) if the notice shares constitute all of the shares of which the shareholder is both the registered owner and beneficial owner and the shareholder owns no other shares of the company as beneficial owner, a statement to that effect;
- (b) if the notice shares constitute all of the shares of which the shareholder is both the registered owner and beneficial owner but the shareholder owns other shares of the company as beneficial owner, a statement to that effect and
  - (i) the names of the registered owners of those other shares,
  - (ii) the number, and the class and series, if applicable, of those other shares that are held by each of those registered owners, and
  - (iii) a statement that notices of dissent are being, or have been, sent in respect of all of those other shares;
- (c) if dissent is being exercised by the shareholder on behalf of a beneficial owner who is not the dissenting shareholder, a statement to that effect and
  - (i) the name and address of the beneficial owner, and
  - (ii) a statement that the shareholder is dissenting in relation to all of the shares beneficially owned by the beneficial owner that are registered in the shareholder's name.

(5) The right of a shareholder to dissent on behalf of a beneficial owner of shares, including the shareholder, terminates and this Division ceases to apply to the shareholder in respect of that beneficial owner if subsections (1) to (4) of this section, as those subsections pertain to that beneficial owner, are not complied with.

### **Notice of intention to proceed**

**243** (1) A company that receives a notice of dissent under section 242 from a dissenter must,

- (a) if the company intends to act on the authority of the resolution or court order in respect of which the notice of dissent was sent, send a notice to the dissenter promptly after the later of
  - (i) the date on which the company forms the intention to proceed, and
  - (ii) the date on which the notice of dissent was received, or
- (b) if the company has acted on the authority of that resolution or court order, promptly send a notice to the dissenter.

(2) A notice sent under subsection (1) (a) or (b) of this section must

- (a) be dated not earlier than the date on which the notice is sent,
- (b) state that the company intends to act, or has acted, as the case may be, on the authority of the resolution or court order, and
- (c) advise the dissenter of the manner in which dissent is to be completed under section 244.

### **Completion of dissent**

**244** (1) A dissenter who receives a notice under section 243 must, if the dissenter wishes to proceed with the dissent, send to the company or its transfer agent for the notice shares, within one month after the date of the notice,

- (a) a written statement that the dissenter requires the company to purchase all of the notice shares,
- (b) the certificates, if any, representing the notice shares, and
- (c) if section 242 (4) (c) applies, a written statement that complies with subsection (2) of this section.

(2) The written statement referred to in subsection (1) (c) must

- (a) be signed by the beneficial owner on whose behalf dissent is being exercised, and
- (b) set out whether or not the beneficial owner is the beneficial owner of other shares of the company and, if so, set out
  - (i) the names of the registered owners of those other shares,

(ii) the number, and the class and series, if applicable, of those other shares that are held by each of those registered owners, and

(iii) that dissent is being exercised in respect of all of those other shares.

(3) After the dissenter has complied with subsection (1),

- (a) the dissenter is deemed to have sold to the company the notice shares, and
- (b) the company is deemed to have purchased those shares, and must comply with section 245, whether or not it is authorized to do so by, and despite any restriction in, its memorandum or articles.

(4) Unless the court orders otherwise, if the dissenter fails to comply with subsection (1) of this section in relation to notice shares, the right of the dissenter to dissent with respect to those notice shares terminates and this Division, other than section 247, ceases to apply to the dissenter with respect to those notice shares.

(5) Unless the court orders otherwise, if a person on whose behalf dissent is being exercised in relation to a particular corporate action fails to ensure that every shareholder who is a registered owner of any of the shares beneficially owned by that person complies with subsection (1) of this section, the right of shareholders who are registered owners of shares beneficially owned by that person to dissent on behalf of that person with respect to that corporate action terminates and this Division, other than section 247, ceases to apply to those shareholders in respect of the shares that are beneficially owned by that person.

(6) A dissenter who has complied with subsection (1) of this section may not vote, or exercise or assert any rights of a shareholder, in respect of the notice shares, other than under this Division.

### **Payment for notice shares**

**245** (1) A company and a dissenter who has complied with section 244 (1) may agree on the amount of the payout value of the notice shares and, in that event, the company must

- (a) promptly pay that amount to the dissenter, or
- (b) if subsection (5) of this section applies, promptly send a notice to the dissenter that the company is unable lawfully to pay dissenters for their shares.

(2) A dissenter who has not entered into an agreement with the company under subsection (1) or the company may apply to the court and the court may

- (a) determine the payout value of the notice shares of those dissenters who have not entered into an agreement with the company under subsection (1), or order that the payout value of those notice shares be established by arbitration or by reference to the registrar, or a referee, of the court,
- (b) join in the application each dissenter, other than a dissenter who has entered into an agreement with the company under subsection (1), who has complied with section 244 (1), and
- (c) make consequential orders and give directions it considers appropriate.

(3) Promptly after a determination of the payout value for notice shares has been made under subsection (2) (a) of this section, the company must

- (a) pay to each dissenter who has complied with section 244 (1) in relation to those notice shares, other than a dissenter who has entered into an agreement with the company under subsection (1) of this section, the payout value applicable to that dissenter's notice shares, or
- (b) if subsection (5) applies, promptly send a notice to the dissenter that the company is unable lawfully to pay dissenters for their shares.

(4) If a dissenter receives a notice under subsection (1) (b) or (3) (b),

- (a) the dissenter may, within 30 days after receipt, withdraw the dissenter's notice of dissent, in which case the company is deemed to consent to the withdrawal and this Division, other than section 247, ceases to apply to the dissenter with respect to the notice shares, or
- (b) if the dissenter does not withdraw the notice of dissent in accordance with paragraph (a) of this subsection, the dissenter retains a status as a claimant against the company, to be paid as soon as the company is lawfully able to do so or, in a liquidation, to be ranked subordinate to the rights of creditors of the company but in priority to its shareholders.

(5) A company must not make a payment to a dissenter under this section if there are reasonable grounds for believing that

- (a) the company is insolvent, or
- (b) the payment would render the company insolvent.

### **Loss of right to dissent**

**246** The right of a dissenter to dissent with respect to notice shares terminates and this Division, other than section 247, ceases to apply to the dissenter with respect to those notice shares, if, before payment is made to the dissenter of the full amount of money to which the dissenter is entitled under section 245 in relation to those notice shares, any of the following events occur:

- (a) the corporate action approved or authorized, or to be approved or authorized, by the resolution or court order in respect of which the notice of dissent was sent is abandoned;
- (b) the resolution in respect of which the notice of dissent was sent does not pass;
- (c) the resolution in respect of which the notice of dissent was sent is revoked before the corporate action approved or authorized by that resolution is taken;
- (d) the notice of dissent was sent in respect of a resolution adopting an amalgamation agreement and the amalgamation is abandoned or, by the terms of the agreement, will not proceed;
- (e) the arrangement in respect of which the notice of dissent was sent is abandoned or by its terms will not proceed;

- (f) a court permanently enjoins or sets aside the corporate action approved or authorized by the resolution or court order in respect of which the notice of dissent was sent;
- (g) with respect to the notice shares, the dissenter consents to, or votes in favour of, the resolution in respect of which the notice of dissent was sent;
- (h) the notice of dissent is withdrawn with the written consent of the company;
- (i) the court determines that the dissenter is not entitled to dissent under this Division or that the dissenter is not entitled to dissent with respect to the notice shares under this Division.

### **Shareholders entitled to return of shares and rights**

**247** If, under section 244 (4) or (5), 245 (4) (a) or 246, this Division, other than this section, ceases to apply to a dissenter with respect to notice shares,

- (a) the company must return to the dissenter each of the applicable share certificates, if any, sent under section 244 (1) (b) or, if those share certificates are unavailable, replacements for those share certificates,
- (b) the dissenter regains any ability lost under section 244 (6) to vote, or exercise or assert any rights of a shareholder, in respect of the notice shares, and
- (c) the dissenter must return any money that the company paid to the dissenter in respect of the notice shares under, or in purported compliance with, this Division.