**UNDERWRITING AGREEMENT**

September 16, 2019

Fortuna Silver Mines Inc.
Suite 650, 200 Burrard Street
Vancouver, British Columbia
V6C 3L6

Attention: Jorge A. Ganoza Durant, President and Chief Executive Officer
Luis D. Ganoza Durant, Chief Financial Officer

Dear Sirs:

The undersigned, CIBC World Markets Inc. ("**CIBC**") and Scotia Capital Inc. ("**Scotia**", and together with CIBC, the "**Lead Underwriters**"), and BMO Nesbitt Burns Inc. ("**BMO**", and together together with the Lead Underwriters, the "**Underwriters**" and each individually an "**Underwriter**") understand that Fortuna Silver Mines Inc. (the "**Corporation**") proposes to create, issue and sell to the Underwriters US$40,000,000 aggregate principal amount of 4.65% senior subordinated unsecured convertible debentures of the Corporation (the "**Purchased Debentures**") at a price of US$1,000 per Purchased Debenture (the "**Offering Price**").

Based upon the foregoing and subject to the terms, conditions, covenants, representations and agreements contained herein, the Underwriters hereby severally (and not jointly, nor jointly and severally), agree to purchase from the Corporation the Purchased Debentures at the Closing Time (as defined herein) in the respective percentages set forth in Section 23, and the Corporation hereby agrees to issue and sell to the Underwriters at the Closing Time all, but not less than all, of the Purchased Debentures at the Offering Price for an aggregate purchase price of US$40,000,000.

The Corporation hereby grants to the Underwriters the option (the "**Over-Allotment Option**") to purchase from the Corporation, at the Underwriters' sole discretion, exercisable in whole or in part at any time and from time to time not later than the 30th day following the Closing Date (as defined herein), up to US$6,000,000 aggregate principal amount of additional 4.65% senior subordinated unsecured convertible debentures of the Corporation (the "**Additional Debentures**" and, collectively with the Purchased Debentures, the "**Offered Debentures**") on the same basis and at the Offering Price for the purpose of covering over-allotments, if any, and for market stabilization purposes. In the event and to the extent that the Underwriters exercise the Over-Allotment Option, subject to the terms, conditions, covenants, representations and agreements contained herein, the Underwriters hereby severally (and not jointly, nor jointly and severally), agree to purchase from the Corporation the number of Additional Debentures as to which the Over- Allotment Option shall have been exercised in the respective percentages set forth in Section 23 hereof, and the Corporation hereby agrees to issue and sell to the Underwriters such number of Additional Debentures at the Offering Price.

Without affecting the obligation of the Underwriters to purchase the Purchased Debentures and, as applicable, the Additional Debentures at the Offering Price, after the Underwriters have made a reasonable effort to sell the Offered Debentures at the Offering Price, the offering price to the public may be decreased and further changed from time to time to an amount not greater than the Offering Price. Any such reduction shall not affect the proceeds to be received by the Corporation.

The Corporation has filed under and as required by Canadian Securities Laws (as hereinafter defined) a preliminary short form prospectus with each of the Canadian Securities Commissions (as hereinafter defined) relating to the Distribution (as defined herein) of the Offered Debentures (such short form prospectus, including the Documents Incorporated by Reference (as hereinafter defined), the "**Canadian Preliminary Prospectus**") and has obtained a Dual Prospectus Receipt (as hereinafter defined) therefor.

The Corporation shall settle all comments with the Canadian Securities Commissions in respect of the Canadian Preliminary Prospectus forthwith after obtaining a Dual Prospectus Receipt therefor. The Corporation shall prepare and file forthwith after any comments with respect to the Canadian Preliminary Prospectus have been received from, and have been resolved with, the Canadian Securities Commissions, and on a basis acceptable to the Underwriters, acting reasonably, and on the terms set out below, under and as required by Canadian Securities Laws with each of the Canadian Securities Commissions, a (final) short form prospectus (such short form prospectus, including the Documents Incorporated by Reference, the "**Canadian Final Prospectus**") and all other required documents, including any Document Incorporated by Reference therein that has not previously been filed, in order to qualify the Offered Debentures for Distribution to the public in each of the provinces of Canada, other than Quebec (the "**Qualifying Jurisdictions**") through the Underwriters or any other investment dealer or broker registered to transact such business in the applicable Qualifying Jurisdictions contracting with the Underwriters, and obtain a Dual Prospectus Receipt therefor no later than 2:00 pm (Vancouver time) on September 25, 2019.

The Corporation and the Underwriters agree that (i) any offers or sales of the Offered Debentures in Canada will be conducted through the Underwriters, or one or more affiliates of the Underwriters, duly registered in compliance with applicable Canadian Securities Laws and in compliance with Regulation S (as defined herein); and (ii) any offers or sales of the Offered Debentures in the United States (as defined herein) or to or for the account or benefit of U.S. Persons (as defined herein) will be made by the Underwriters, acting through their U.S. Affiliates (as defined herein) in compliance with Schedule "A" hereto, to Qualified Institutional Buyers (as defined herein), on a private placement basis, in accordance with Rule 144A (as defined herein) under the U.S. Securities Act (as defined herein), and in compliance with exemptions under applicable state securities laws. Subject to Applicable Securities Laws (as defined herein) and the terms of this Underwriting Agreement, the Offered Debentures may also be distributed outside of Canada and the United States in each jurisdiction where they may be lawfully sold by the Underwriters without: (a) giving rise to any requirement under the laws of such jurisdiction to prepare and/or file a prospectus, registration statement or document having similar effect; or (b) creating any ongoing compliance or continuous disclosure obligations for the Corporation pursuant to the laws of such jurisdiction.

Interest on the Offered Debentures will be payable semi-annually in arrears on the last business day of April and October of each year, with the first interest payment on April 30, 2020. Each Offered Debenture will be convertible into Underlying Shares (as defined herein) at the option of the holder of an Offered Debenture at any time prior to the close of business on the earliest of (i) the Business Day (as defined herein) immediately preceding the Maturity Date (as defined herein), (ii) if called for redemption, on the Business Day immediately preceding the date fixed for redemption, or (iii) if called for repurchase pursuant to a Change of Control (as defined herein), on the Business Day immediately preceding the payment date, at a conversion price (the "**Conversion Price**") of US$5.00 per Underlying Share, representing a conversion rate of approximately 200.0000 Underlying Shares for each US$1,000 principal amount of Offered Debentures. The Offered Debentures will otherwise have the terms specified in the Canadian Offering Documents (as defined herein) and the Debenture Indenture (as defined herein).

## TERMS AND CONDITIONS

**Section 1 Interpretation**

(1) Definitions

Where used in this Agreement or in any amendment hereto, the following terms shall have the following meanings, respectively:

"**Additional Closing Date**" and "**Additional Closing Time**" have the meanings ascribed thereto respectively in Section 16(2);

"**Additional Debentures**" has the meaning given to it in the third paragraph of this Agreement;

"**affiliate**" has the meaning given to it in the *Business Corporations Act* (British Columbia);

"**Agreement**" means the underwriting agreement resulting from the acceptance by the Corporation of the offer made by the Underwriters in this letter, including all schedules thereto, as it may be amended from time to time;

"**Anti-Money Laundering Laws**" has the meaning given to it Section 8(27);

"**Applicable Laws**" means, in relation to any Person or Persons, the Applicable Securities Laws and all other statutes, regulations, rules, orders, by-laws, codes, ordinances, decrees, the terms and conditions of any grant of approval, permission, authority or licence, or any judgment, order, decision, ruling, award, policy or guidance document, of any Governmental Authority that are applicable to such Person or Persons or its or their business, undertaking, property or securities and emanate from a Governmental Authority, having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities;

"**Applicable Securities Laws**" means the Canadian Securities Laws and the U.S. Securities Laws;

"**Business Day**" means any day, other than a Saturday or Sunday, on which banks are open for business in British Columbia and New York;

"**Canadian Final Prospectus**" has the meaning given to it in the sixth paragraph of this Agreement;

"**Canadian Offering Documents**" means each of the Canadian Preliminary Prospectus, the Canadian Final Prospectus, any Canadian Prospectus Amendment and any Marketing Documents;

"**Canadian Preliminary Prospectus**" has the meaning given to it in the fifth paragraph of this Agreement;

"**Canadian Prospectus Amendment**" means any amendment to the Canadian Preliminary Prospectus or the Canadian Final Prospectus;

"**Canadian Securities Commissions**" means the securities regulatory authorities in each of the Qualifying Jurisdictions;

"**Canadian Securities Laws**" means all applicable securities laws of each of the Qualifying Jurisdictions and the respective rules and regulations under such laws together with applicable published national, multilateral and local policy statements, instruments, notices, blanket orders and rulings of the securities regulatory authorities in the Qualifying Jurisdictions;

"**Caylloma Mine**" means the silver, lead and zinc mine in Southern Peru owned and operated, indirectly, by the Corporation;

"**Caylloma Report**" means the technical report with an effective date of March 8, 2019 entitled "Fortuna Silver Mines Inc.: Caylloma Mine, Caylloma District, Peru";

"**CDS**" means the CDS Clearing and Depository Services Inc.;

"**Change of Control**" shall have the meaning given to it in the Debenture Indenture;

"**Claim**" means losses (other than losses of profit), expenses, claims, actions, damages, liabilities, joint or solidary, including the aggregate amount paid in reasonable settlement of any actions in accordance with this Agreement, suits, proceedings, investigations or claims and the reasonable fees and expenses of counsel that may be incurred in advising with respect to and/or defending any action, suit, proceeding, investigation or claim that may be made or threatened against any Indemnified Party and the Indemnified Party enforcing its rights of indemnification or contribution under this Agreement;

"**Closing Date**" and "**Closing Time**" have the meanings given to them in Section 16(1);

"**Commission**" means the British Columbia Securities Commission;

"**Common Shares**" means the common shares in the capital of the Corporation;

"**comparables**" has the meaning given to it in NI 41-101;

"**Conversion Price**" has the meaning given to it in the eighth paragraph of this Agreement;

"**Corporation**" means Fortuna Silver Mines Inc.;

"**Credit Agreement**" means the third amended and restated credit agreement by and among, inter alia, The Bank of Nova Scotia, as lead arranger and administrative agent, The Bank of Nova Scotia and BNP Paribas, as lenders, and the Corporation, as borrower, made as of January 26, 2018, as amended pursuant to a joinder and first amendment made as of December 13, 2018, a second amendment made as of June 26, 2019 and as may be further amended from time to time;

"**Credit Facility**" means the credit facilities provided by The Bank of Nova Scotia and BNP Paribas to the Corporation pursuant to the Credit Agreement;

"**Debenture Indenture**" means the trust indenture to be dated as of the Closing Date, to be entered into between the Corporation and the Debenture Trustee, providing for the issue of the Offered Debentures;

"**Debenture Trustee**" means Computershare Trust Company of Canada, the debenture trustee for the Offered Debentures pursuant to the Debenture Indenture;

"**Defaulting Underwriter"** has the meaning given to it in Section 23(2);

"**Disclosure Record**" means the Corporation's prospectuses, registration statements, annual reports, annual and interim financial statements, annual information forms, business acquisition reports, management's discussion and analysis of financial condition and results of operations, information circulars, material change reports, press releases and all other information or documents required to be filed or furnished by the Corporation under the Applicable Securities Laws which have been publicly filed or otherwise publicly disseminated by the Corporation, including the Offering Documents;

"**Distribution**" means "distribution" or "distribution to the public" as those terms are defined in the Canadian Securities Laws;

"**Documents Incorporated by Reference**" means all interim and annual financial statements, management's discussion and analysis, business acquisition reports, management information circulars, annual information forms, material change

reports, Marketing Documents and other documents that are or are required by Applicable Securities Laws to be incorporated by reference into the Offering Documents or are deemed to be incorporated by reference into the Offering Documents, as applicable;

"**Dual Prospectus Receipt**" means the receipt issued by the Commission, which is deemed to also be a receipt of the other Canadian Securities Commissions and evidence of the receipt of the Ontario Securities Commission pursuant to Multilateral Instrument 11-102 — *Passport System* and National Policy 11-202 — *Process for Prospectus Reviews in Multiple Jurisdictions*, for the Canadian Preliminary Prospectus, the Canadian Final Prospectus and any Canadian Prospectus Amendment, as the case may be;

"**Eligible Issuer**" means an issuer which meets the criteria and has complied with the requirements of NI 44-101 so as to be qualified to offer securities by way of a short form prospectus;

"**Environmental Laws**" means all laws relating to the environment or its protection, including Applicable Laws relating to the storage, generation, use, handling, manufacture, processing, labelling, advertising, sale, display, transportation, treatment, reuse, recycling, release and disposal of Hazardous Substances;

"**Environmental Liabilities**" means, with respect to any Person, all liabilities, obligations, responsibilities, responses, losses, damages, punitive damages, property damages, consequential damages, treble damages, costs (including control, remedial and removal costs, investigation costs, capital costs, operation and maintenance costs), expenses, fines, penalties and sanctions incurred as a result of or related to any claim, suit, action, administrative or court order, investigation, proceeding or demand by any Person, arising under or related to any Environmental Laws, Environmental Permits, or in connection with any: (a) Release or threatened Release or presence of a Hazardous Substance; (b) tank, drum, pipe or other container that contains or contained a Hazardous Substance; or (c) use, generation, disposal, treatment, processing, recycling, handling, transport, transfer, import, export or sale of a Hazardous Substance;

"**Environmental Permits"** means all Permits or program participation requirements with or from any Governmental Authority under any Environmental Laws;

"**E.D.T.**" means Eastern Daylight Time;

"**Evaluation Date**" has the meaning given to it in Section 8(46);

"**Financial Information**" means (other than the Other Financial Information) (i) the Financial Statements, (ii) the management's discussion and analysis of the financial condition and results of operations of the Corporation for the year ended December 31, 2018, and (iii) the management's discussion and analysis of the financial condition and results of operations of the Corporation for the three and six months ended June 30, 2019;

"**Financial Statements**" means (i) the Audited Consolidated Financial Statements of the Corporation as at December 31, 2018 and December 31, 2017 and for the years then ended, together with the notes thereto and the auditors' report thereon, and (ii) the unaudited Interim Consolidated Financial Statements as at June 30, 2019 and for the three and six month periods then ended, together with the notes thereto;

"**Governmental Authority**" means and includes, without limitation, any national, federal, provincial, state or municipal government or other political subdivision of any of the foregoing, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any corporation or other entity owned or controlled (through stock or capital ownership or otherwise) by any of the foregoing;

"**GST**" has the meaning given to it in Section 3(2);

"**Hazardous Substance**" means any pollutant, contaminant, waste or chemical or any toxic, radioactive, ignitable, corrosive, reactive or otherwise hazardous or deleterious substance, waste or material, including cyanide, sulphuric acid, hydrogen sulphide, arsenic, cadmium, copper, lead, mercury, petroleum, polychlorinated biphenyls, asbestos and urea-formaldehyde insulation, and any other material, substance, pollutant or contaminant regulated or defined pursuant to, or that could result in liability under, any Environmental Law;

"**IFRS**" means International Financial Reporting Standards, as issued by the International Accounting Standards Board, which since January 1, 2011 are the generally accepted accounting principles as set by the Canadian Institute of Chartered Professional Accountants;

"**Indemnified Party**" has the meaning given to it in Section 10(1);

"**ITA**" means the *Income Tax Act* (Canada), as amended;

"**Lead Underwriters**" has the meaning given to it in the first paragraph of this Agreement;

"**Lien**" means any mortgage, charge, pledge, hypothec, prior claim, security interest, assignment, lien (statutory or otherwise), charge, title retention agreement or arrangement, or other encumbrance of any nature, including any arrangement or condition which, in substance, secures payment or performance of an obligation;

"**Lindero Project**" means the gold project in northern Argentina at which the Corporation, indirectly, is constructing an open pit gold heap leach mine;

"**Lindero Report"** means the technical report with an effective date of October 31., 2017 entitled "Fortuna Silver Mines Inc.: Lindero Property, Salta Province, Argentina";

"**Marketing Documents**" means the marketing materials approved in accordance with Section 4(3);

"**marketing materials**" has the meaning given to it in NI 41-101;

"**Material Adverse Effect**" means any effect that is or would reasonably be expected to be materially adverse to the results of operations, financial condition, assets, properties, capital, liabilities (contingent or otherwise) or prospects of the Corporation and its Subsidiaries on a consolidated basis, or that results or would reasonably be expected to result in the Offering Documents or any of them containing a misrepresentation;

"**material change**" means a material change in or relating to the Corporation for the purposes of Applicable Securities Laws or any of them, or where undefined under the Applicable Securities Laws of an Offering Jurisdiction means a change in or relating to the business, operations or capital of the Corporation and its Subsidiaries taken as a whole that would reasonably be expected to have a significant effect on the market price or value of any securities of the Corporation and includes a decision to implement such a change made by the board of directors of the Corporation;

"**material fact**" means a material fact for the purposes of Applicable Securities Laws or any of them, or where undefined under the Applicable Securities Laws of an Offering Jurisdiction means a fact that would reasonably be expected to have a significant effect on the market price or value of any securities of the Corporation;

"**Material Subsidiaries**" means, collectively, Fortuna Silver Holdings (Mexico) Inc., Continuum Resources Ltd., Compania Minera Cuzcatlan S.A. de C.V., Minera Bateas S.A.C., Goldrock Mines Corp., Mansfield (Bermuda) Ltd., Argex Mining (Barbados) Ltd., and Mansfield Minera S.A., and "**Material Subsidiary**" means any one of them;

"**Maturity Date**" means October 31, 2024, the maturity date for the Offered Debentures;

"**misrepresentation**" means a misrepresentation for the purposes of the Applicable Securities Laws of an Offering Jurisdiction or any of them, or where undefined under the Applicable Securities Laws of an Offering Jurisdiction means: (i) an untrue statement of a material fact, or (ii) an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made;

"**NI 41-101**" means National Instrument 41-101 – *General Prospectus Requirements*;

"**NI 43-101**" means National Instrument 43-101 – *Standards of Disclosure for Mineral Projects;*

"**NI 44-101**" means National Instrument 44-101 – *Short Form Prospectus Distributions*;

"**NI 51-102**" means National Instrument 51-102 – *Continuous Disclosure Obligations*;

"**NYSE**" means the New York Stock Exchange;

"**OFAC**" means the Office of Foreign Assets Control of the U.S. Department of the Treasury;

"**Offered Debentures**" has the meaning given to it in the third paragraph of this Agreement;

"**Offering**" means the sale of Offered Debentures pursuant to this Agreement;

"**Offering Documents**" means the Canadian Offering Documents and each U.S. Offering Memorandum;

"**Offering Jurisdictions**" means the Qualifying Jurisdictions, the United States, and those other jurisdictions outside Canada and the United States that are agreed to by the Corporation and the Lead Underwriters, provided no prospectus filing, offering memorandum, registration statement requirement or comparable obligations arise in such other jurisdictions as a result of such offer or sale ;

"**Offering Price**" has the meaning given to it in the first paragraph of this Agreement;

"**Other Financial Information**" means the non-IFRS financial information (including, without limitation, cash cost per payable ounce, cash cost per tonne, all-in sustaining cash cost per ounce, all-in cash cost per ounce, adjusted net (loss) income, operating cash flow per share before changes in working capital, EBITDA and adjusted EBITDA) contained in the Offering Documents;

"**Over-Allotment Option**" has the meaning given to it in the third paragraph of this Agreement;

"**Permits**" has the meaning given to it in Section 8(2);

"**Person**" means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or any other entity however designated or constituted;

**"Purchased Debentures**" has the meaning given to it in the first paragraph of this Agreement;

"**Purchasers**" means, collectively, each of the purchasers of the Offered Debentures arranged by the Underwriters pursuant to the Offering;

"**Qualified Institutional Buyer**" means a "qualified institutional buyer" as defined in Rule 144A;

"**Qualifying Jurisdictions**" has the meaning given to it in the sixth paragraph of this Agreement;

"**Regulation S**" means Regulation S under the U.S. Securities Act;

"**Release"** means any release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, deposit, disposal, discharge, dispersal, dumping, leaching or migration of any Hazardous Substance in the indoor or outdoor environment, including the movement of Hazardous Substance through or in the air, soil, surface water, ground water or property;

"**Remedial Order**" has the meaning given to it in Section 8(5);

"**Reports**" means the Caylloma Report, the San Jose Report and the Lindero Report;

"**Rule 144A**" means Rule 144A under the U.S. Securities Act;

"**Sanctions**" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by relevant Governmental Authorities, including, but not limited those administered by the United States government through OFAC or the U.S. Department of State, the United Nations Security Council, the European Union, or Her Majesty's Treasury of the United Kingdom;

"**San Jose Mine**" means the silver and gold mine in Southern Mexico owned and operated, indirectly, by the Corporation;

"**San Jose Report"** means the technical report with an effective date of February 22, 2019 entitled "Fortuna Silver Mines Inc.: San Jose Mine, Oaxaca, Mexico";

"**SEC**" means the United States Securities and Exchange Commission;

"**SEDAR**" means the System for Electronic Document Analysis and Retrieval;

"**Selling Firm"** has the meaning given to it in Section 2(1);

"**SOX**" has the meaning given to it in Section 8(46);

"**Standard Listing Conditions**" has the meaning given to it in Section 6(5)(a);

"**standard term sheet**" has the meaning ascribed to such term in NI 41-101;

"**Subsidiary**" has the meaning ascribed thereto in the Applicable Securities Laws of the Province of British Columbia and includes the Material Subsidiaries, and "**Subsidiaries**" means all of them;

"**Supplementary Material**" means, collectively, any amendment or supplement to the Canadian Offering Documents, any amendment or supplement to the U.S. Offering Memorandum, and any amendment or supplemental prospectus or ancillary materials that may be filed by or on behalf of the Corporation under Applicable Securities Laws relating to the Offering and/or the Distribution of the Offered Debentures;

"**template version**" has the meaning ascribed to such term in NI 41-101 and includes any revised template version of marketing materials as contemplated by NI 41-101;

"**TMX Group**" has the meaning given to it in Section 27;

"**Transaction Documents**" means, collectively, this Agreement, the Debenture Indenture, and the certificates (if any) representing the Offered Debentures;

"**TSX**" means the Toronto Stock Exchange;

"**Underlying Shares**" means the Common Shares issuable by the Corporation on the conversion of the Debentures (if and as applicable);

"**Underwriters**" has the meaning given to it in the first paragraph of this Agreement;

"**Underwriters' Fee**" has the meaning given to it in Section 3(1);

"**United States**" means the United States of America, its territories and possessions, any state of the United States and the District of Columbia;

"**U.S. Affiliate**" means the U.S. registered broker-dealer affiliate of an Underwriter;

"**U.S. Exchange Act**" means the United States *Securities Exchange Act of 1934*, as amended;

"**U.S. Offering Memorandum**" means each U.S. private placement memorandum, in a form and substance acceptable to the Underwriters, which has attached thereto a copy of the Canadian Preliminary Prospectus or the Canadian Final Prospectus, or any amendment or supplement thereto, delivered or to be delivered to purchasers of Offered Debentures in the United States or to or for the account or benefit of U.S. Persons pursuant to the terms and conditions hereof;

"**U.S. Person**" means a "U.S. person" as defined in Regulation S;

"**U.S. Securities Act**" means the United States *Securities Act of 1933*, as amended; and

"**U.S. Securities Laws**" means all applicable United States securities laws, including, without limitation, the U.S. Securities Act, the U.S. Exchange Act and the rules and regulations promulgated thereunder, and any applicable state securities laws.

(2) Capitalized terms used but not defined herein have the meanings ascribed to them in the Canadian Preliminary Prospectus.

(3) Any reference in this Agreement to a Section or Subsection shall refer to a section or subsection of this Agreement.

(4) All words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to in each case required and the verb shall be construed as agreeing with the required word and/or pronoun.

(5) References in this Agreement to the "knowledge of the Corporation" means the actual knowledge of any of the President and Chief Executive Officer and the Chief Financial Officer and Chief Operating Officer, and shall include the knowledge such individual should have after making inquiries with the members of senior management of the Corporation who are reasonably expected to have specific knowledge with respect to a given representation and warranty.

(6) Any reference in this Agreement to "$" or to "dollars" shall refer to the lawful currency of the United States, unless otherwise specified.

(7) The following are the schedules to this Agreement, which schedules are deemed to be a part hereof and are hereby incorporated by reference herein.

Schedule "A" – United States Offers and Sales

Schedule "B" – Matters to be Addressed in the Corporation's Canadian Counsel Opinion

**Section 2 Distribution and Attributes of the Offered Debentures**

(1) Each Underwriter shall be permitted to appoint additional investment dealers or brokers (each, a "**Selling Firm**") as its agents in the Offering and each such Underwriter may determine, and shall be solely responsible for, the remuneration payable to such Selling Firm. The Underwriters may offer the Offered Debentures, directly and through Selling Firms or any affiliate of an Underwriter, in the Offering Jurisdictions for sale to the public only in accordance with Applicable Securities Laws and in any jurisdiction outside of the Offering Jurisdictions (subject to Section 7 and Section 9(2)(d) hereof) to Purchasers permitted to purchase the Offered Debentures only in accordance with Applicable Securities Laws and applicable securities laws in such jurisdiction, and upon the terms and conditions set forth in the Offering Documents and in this Agreement. Each Underwriter shall require any Selling Firm appointed by such Underwriter to agree to the foregoing and such Underwriter shall be severally responsible for the compliance by such Selling Firm with the provisions of this Agreement.

(2) For purposes of this Section 2, the Underwriters shall be entitled to assume that the Offered Debentures are qualified for Distribution in any Qualifying Jurisdiction where a Dual Prospectus Receipt shall have been obtained following the filing of the Canadian Final Prospectus, unless otherwise notified in writing by the Corporation.

(3) CIBC, on behalf of the Underwriters, shall promptly notify the Corporation when, in their opinion, the Distribution of the Offered Debentures has ceased and will provide to the Corporation, as soon as practicable thereafter, a breakdown of the number of Offered Debentures distributed in each of the Qualifying Jurisdictions where such breakdown is required for the purpose of calculating fees payable to the Canadian Securities Commissions and, if applicable, fees payable to the NYSE.

(4) The Underwriters shall not, in connection with the services provided hereunder, make any representations or warranties with respect to the Corporation or its securities, other than as set forth in the Offering Documents.

(5) The Underwriters acknowledge that the Corporation is not taking any steps to qualify the Offered Debentures for Distribution or register the Offered Debentures or the Distribution thereof with any securities authority outside of the Qualifying Jurisdictions.

**Section 3 Underwriters' Fee**

(1) In consideration of the agreement of the Underwriters to purchase the Offered Debentures and to offer them to the public pursuant to the Offering Documents and other good and valuable consideration, the Corporation agrees to pay to the Underwriters a fee (the "**Underwriters' Fee**") of US$40.00 per Offered Debenture, payable at the Closing Time or the Additional Closing Time, as the case may be.

(2) The Underwriters' Fee will be deducted from the aggregate gross proceeds of the Offering and withheld for the account of the Underwriters. For greater certainty, the services provided by the Underwriters in connection herewith will not be subject to the Goods and Services Tax ("**GST**") provided for in the *Excise Tax Act* (Canada) and taxable supplies provided will be incidental to the exempt financial services provided. However, in the event that any Governmental Authority determines that GST is exigible on the Underwriters' Fee, the Corporation agrees to pay the amount of GST forthwith upon the request of the Underwriters.

**Section 4 Preparation of Prospectus; Marketing Materials; Due Diligence**

(1) During the period of the Distribution of the Offered Debentures, the Corporation shall co-operate in all respects with the Underwriters to allow and assist the Underwriters to participate fully in the preparation of, and allow the Underwriters to approve the form and content of, the Offering Documents and shall allow the Underwriters to conduct all "due diligence" investigations which the Underwriters may reasonably require in order to permit the Underwriters to fulfill their respective obligations under Applicable Securities Laws as underwriters and, in the case of the Canadian Preliminary Prospectus, the Canadian Final Prospectus and any Canadian Prospectus Amendment, to enable the Underwriters responsibly to execute any certificate required to be executed by the Underwriters. It shall be a condition precedent to (i) the Underwriters' execution of any certificate in any Offering Document that the Underwriters be satisfied as to the form and substance of the document, and (ii) the delivery of each U.S. Offering Memorandum to any purchaser or prospective purchaser that the Underwriters and their U.S. Affiliates be satisfied as to the form and substance of such document.

(2) The Corporation shall make available its senior management and use its commercially reasonable efforts to make available the authors of the Reports, and the Corporation's auditors and legal counsel (subject to each Underwriter complying with any reasonable conditions that such auditors may impose) to

answer any questions which the Underwriters may have and to participate in one or more due diligence sessions to be held prior to the Closing Time, or Additional Closing Time, as applicable.

(3) Without limiting the generality of clause (1) above, during the Distribution of the Offered Debentures:

(a) the Corporation shall prepare, in consultation with CIBC, and shall approve in writing, prior to the time that any such marketing materials are provided to potential Purchasers, a template version of any marketing materials reasonably requested to be provided by the Underwriters to any such potential Purchasers, and such marketing materials shall comply with Applicable Securities Laws and shall be acceptable in form and substance to the Underwriters and their counsel, acting reasonably;

(b) CIBC shall, on behalf of the Underwriters, approve a template version of any such marketing materials in writing prior to the time that such marketing materials are provided to potential Purchasers;

(c) the Corporation shall file a template version of any such marketing materials on SEDAR as soon as reasonably practical after such marketing materials are so approved in writing by the Corporation and CIBC and in any event on or before the day the Lead Underwriter informs the Corporation that marketing materials are to be first provided to any potential Purchaser, and any comparables shall be removed from the template version in accordance with NI 44-101 prior to filing such on SEDAR (provided that if any such comparables are removed, the Corporation shall deliver a complete template version of any such marketing materials to the Commission), and the Corporation shall provide a copy of such filed template version to the Underwriters as soon as practicable following such filing; and

(d) following the approvals and filings set forth in Sections 4(3)(a) to (c) above, the Underwriters may provide a limited use version of such marketing materials to potential Purchasers in accordance with Applicable Securities Laws.

(4) The Corporation and each Underwriter, on a several basis, covenants and agrees not to provide any potential Purchaser with any materials or information in relation to the Distribution of the Offered Debentures or the Corporation other than: (a) such marketing materials that have been approved and filed in accordance with Section 4(3); (b) the Offering Documents; and (c) any standard term sheets approved in writing by the Corporation and CIBC.

**Section 5 Material Changes**

(1) During the period from the date of this Agreement to the completion of the Distribution of the Offered Debentures, the Corporation covenants and agrees with the Underwriters that it shall promptly notify the Underwriters in writing, with full particulars, of:

(a) any material change (actual, anticipated, contemplated or threatened) in or relating to the business, affairs, operations, assets, liabilities (contingent or otherwise), capital or ownership of the Corporation and its Subsidiaries taken as a whole;

(b) any material fact which has arisen or been discovered and would have been required to have been stated in any of the Offering Documents had the fact arisen or been discovered on or prior to the date of such document; or

(c) any change in any material fact (which for purposes of this Agreement shall be deemed to include the disclosure of any previously undisclosed material fact) contained in the Canadian Offering Documents, as they exist immediately prior to such change, which change is, or may reasonably be expected to be, of such a nature as to render any statement in such Canadian Offering Documents, as they exist taken together in their entirety immediately prior to such change, misleading or untrue in any material respect or which would result in the Canadian Offering Documents, as they exist immediately prior to such change, containing a misrepresentation or which would result in the Canadian Offering Documents, as they exist immediately prior to such change, not complying with the Applicable Laws of any Qualifying Jurisdiction in which the Offered Debentures are to be offered for sale or which change would reasonably be expected to have a significant effect on the market price or value of any securities of the Corporation.

(2) The Underwriters agree, and will require each Selling Firm to agree, to cease the Distribution of the Offered Debentures upon the Underwriter receiving written notification of any change or material fact with respect to any Offering Document contemplated by this Section 5 and to not recommence the Distribution of the Offered Debentures until Supplementary Materials disclosing such change are filed in the Offering Jurisdictions.

(3) The Corporation shall promptly comply with all applicable filing and other requirements under Applicable Securities Laws whether as a result of such change or material fact; provided that the Corporation shall not file any Supplementary Material or other document without first providing the Underwriters with a copy of such Supplementary Material or other document and consulting with the Underwriters with respect to the form and content thereof.

(4) If during the Distribution of the Offered Debentures there is any change in any Applicable Securities Laws which results in a requirement to file a Canadian Prospectus Amendment, the Corporation shall, subject to the proviso in clause (2) above, make any such filing under Applicable Securities Laws as soon as possible.

(5) The Corporation shall in good faith discuss with the Underwriters any fact or change in circumstances (actual, anticipated, contemplated or threatened, financial or otherwise) which is of such a nature that there is reasonable doubt whether written notice need be given under this Section 5.

**Section 6 Deliveries to the Underwriters**

(1) The Corporation shall deliver or cause to be delivered to the Underwriters, forthwith:

(a) copies of the Canadian Preliminary Prospectus, the Canadian Final Prospectus, each related U.S. Offering Memorandum and any Marketing Documents duly signed (if applicable) as required by the laws of the Qualifying Jurisdictions; and

(b) copies of any Canadian Prospectus Amendment required to be filed under Section 5 hereof duly signed as required by the laws of all of the Qualifying Jurisdictions.

(2) The Corporation shall forthwith cause to be delivered to the Underwriters in such cities in the Offering Jurisdictions as they may reasonably request, without charge, such numbers of commercial copies of the Canadian Preliminary Prospectus, the Canadian Final Prospectus, each related U.S. Offering Memorandum and any Marketing Documents, excluding in each case the Documents Incorporated by Reference, as the Underwriters shall reasonably require. The Corporation shall similarly cause to be delivered to the Underwriters commercial copies of any Canadian Prospectus Amendment, excluding in each case the Documents Incorporated by Reference. The Corporation agrees that such deliveries shall be effected as soon as possible and, in any event, (i) by 12:00 noon local time, on September 17, 2019, with respect to the Canadian Preliminary Prospectus and the related U.S. Offering Memorandum, and (ii) in Toronto and New York with respect to the Canadian Final Prospectus, the related U.S. Offering Memorandum, any Marketing Documents and any Canadian Prospectus Amendment by 12:00 noon E.D.T. on the Business Day following the delivery by the Commission of the Dual Prospectus Receipt for the Canadian Final Prospectus or Canadian Prospectus Amendment, as the case may be, and in all other cities by 12:00 noon local time, on the next Business Day, provided that the Underwriters have given the Corporation written instructions as to the number of copies required and the places to which such copies are to be delivered not less than 24 hours prior to the time requested for delivery. The Corporation consents to the use by the Underwriters and Selling Firms of the Offering Documents in connection with the Distribution of the Offered Debentures in compliance with the provisions of this Agreement and Applicable Securities Laws.

(3) By the act of having delivered the Canadian Offering Documents and any Supplementary Material to the Underwriters, the Corporation shall have represented and warranted to the Underwriters that all information and statements (except any information or statements relating solely to the Underwriters, or any of them, provided by the Underwriters in writing for inclusion therein) contained in such documents, at the respective dates thereof, comply with the Canadian Securities Laws and are true and correct in all material respects, and that such documents, at such dates, contain no misrepresentation and do not omit to state a

material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and constitute full, true and plain disclosure of all material facts relating to the Corporation and the Offering as required by Canadian Securities Laws.

(4) Each delivery of the U.S. Offering Memorandum and any Supplementary Material to the Underwriters by the Corporation will constitute the representation and warranty of the Corporation to the Underwriters and the U.S. Affiliates that (except for information and statements relating solely to the Underwriters and the U.S. Affiliates and furnished by them specifically for use in the U.S. Offering Memorandum or Supplementary Material) at the respective times of delivery, such U.S. Offering Memorandum or Supplementary Material does not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

(5) The Corporation shall also deliver or cause to be delivered to the Underwriters the following:

(a) on or prior to the filing of the Canadian Final Prospectus with the Commission, evidence satisfactory to the Underwriters of the approval of the listing and posting for trading on the TSX of the Offered Debentures and the Underlying Shares, subject only to satisfaction by the Corporation of customary conditions imposed by the TSX in similar circumstances in its conditional approval letter (the "**Standard Listing Conditions**");

(b) on or prior to the Closing Time, evidence satisfactory to the Underwriters of the approval (or conditional approval) of the listing and posting for trading on the NYSE of the Underlying Shares;

(c) on or prior to the filing of the Canadian Final Prospectus with the Commission, a "long form" comfort letter of the auditor to the Corporation, dated the date of the Canadian Final Prospectus, in form and substance satisfactory to the Underwriters and Underwriters' counsel, acting reasonably, addressed to the Underwriters and the directors of the Corporation, and based on a review completed not more than two Business Days prior to the date of the letter, with respect to certain financial and accounting information relating to the Corporation and its Subsidiaries contained in the Offering Documents (including the Financial Information), which letter shall be in addition to the auditors' report incorporated by reference in the Canadian Final Prospectus; and

(d) on or prior to the filing of the Canadian Final Prospectus with the Commission, a certificate of the Chief Financial Officer of the Corporation, dated the date of the Canadian Final Prospectus, in form and substance satisfactory to the Underwriters and Underwriters' counsel, acting reasonably, with respect to the Other Financial Information and certain other financial and accounting

information relating to the Corporation and its Subsidiaries contained in the Offering Documents.

**Section 7 Regulatory Approvals**

(1) The Corporation will make all necessary filings, obtain all necessary consents and approvals (if any) and pay all filing fees required to be paid in connection with the transactions contemplated by this Agreement. The Corporation will qualify the Offered Debentures for offer and sale under the Applicable Securities Laws of the Offering Jurisdictions and in such other jurisdictions as the Underwriters may designate and maintain such qualifications in effect for so long as required for the Distribution of the Offered Debentures; provided, however, that (i) the Corporation shall not be obligated to make any material filing, file any prospectus, registration statement or similar document, consent to service of process, or qualify as a foreign corporation or as a dealer in securities in any of such other jurisdictions, or subject itself to taxation in respect of doing business in any of such other jurisdictions in which it is not otherwise so subject, or become subject to any additional periodic reporting or continuous disclosure obligations in such other jurisdictions, and (ii) the Underwriters and the Selling Firms shall comply with the Applicable Laws in any such designated jurisdiction in making offers and sales of Offered Debentures therein.

(2) The Corporation will file, or cause to be filed, with the TSX and the NYSE all necessary documents and will take, or cause to be taken, all necessary steps to ensure that the Offered Debentures and the Underlying Shares have been approved for listing and posting for trading on the TSX, subject only to satisfaction of the Standard Listing Conditions, and that the Underlying Shares have been approved for listing and posting for trading on the NYSE, in each case as soon as practicable after the date of this Agreement.

**Section 8 Representations and Warranties of the Corporation**

The Corporation represents and warrants to each of the Underwriters and acknowledges that the Underwriters are relying on such representations and warranties in entering into this Agreement. The representations and warranties of the Corporation contained in this Agreement shall be true as of the date hereof, the Closing Time and Additional Closing Time, if applicable (except for representations and warranties made as of a specified date, which shall be true as of that specified date).

(1) **Formation and Status**. Each of the Corporation and the Material Subsidiaries (i) is an entity duly created and validly existing under the laws of its jurisdiction and (ii) is duly registered to carry on its business in each jurisdiction where the conduct of its business is currently conducted or the ownership, leasing or operation of its property and assets requires such registration;

(2) **Ownership of Assets**. Each of the Corporation and the Material Subsidiaries holds all right, title and interest to all assets that are material to its respective business free and clear of all Liens, other than those disclosed in the Disclosure Record. Other than

as set out in the Disclosure Record, any real property held under lease by any of the Corporation or the Material Subsidiaries which is material, individually or in the aggregate, to the Corporation and the Material Subsidiaries, taken as a whole, is held by it under valid, subsisting and enforceable leases with such exceptions as are not material, individually or in the aggregate, to the Corporation and the Material Subsidiaries, taken as a whole. Except as may be described in the Disclosure Record, each of the Corporation and the Material Subsidiaries possesses all licenses, permits, certificates, waivers, consents, franchises, orders, approvals and authorizations (including under Environmental Laws) (collectively, the "**Permits**") necessary to own or lease the real property, improvements, equipment and personal property of such entity, and to conduct the business of such entity, as described in the Offering Documents, and is in material compliance with all such Permits, except for such Permits the absence of which or the failure to be in compliance with would not reasonably be expected to have a Material Adverse Effect;

(3) **Material Subsidiaries**. Other than the Material Subsidiaries, the Corporation has no Subsidiaries and no investment in any Person which in either case is material to the business and affairs of the Corporation. The Corporation is the direct or indirect registered and beneficial owner of all of the issued and outstanding shares of or other voting securities in each Material Subsidiary (except as otherwise described in the Disclosure Record), in each case (except as disclosed in the Disclosure Record) free and clear of all Liens and no Person has any agreement, option, right or privilege (whether pre-emptive or contractual) capable of becoming an agreement or option, for the purchase from the Corporation or any Material Subsidiary of any of the shares or other securities of any Material Subsidiary;

(4) **Power of the Corporation, Due Authorization and Enforceability**. The Corporation has the power and capacity to enter into and perform its obligations under the Transaction Documents and to carry out the transactions contemplated hereby and thereby and described in the Offering Documents, including, without limitation, the issuance and sale of the Offered Debentures. The Transaction Documents have been duly authorized, executed and delivered by the Corporation, and are legal, valid and binding obligations of the Corporation enforceable against the Corporation in accordance with their terms, provided that enforceability may be limited by bankruptcy, insolvency and other similar laws affecting creditors' rights generally, that specific performance, injunctive relief and other equitable remedies may only be granted in the discretion of a court of competent jurisdiction and that rights of indemnity and/or contribution set out in the Transaction Documents may be limited by Applicable Laws;

(5) **Compliance with Laws**. The Corporation and the Material Subsidiaries are in compliance, in all material respects, with all Applicable Laws (including Environmental Laws and those relating in whole or in part to health and safety). To its knowledge, there is no legislation, regulation, by-law or other lawful requirement currently in force or proposed to be brought into force by any Governmental Authority with which the Corporation or a Material Subsidiary will be unable to comply and where such non-compliance would reasonably be expected to have a

Material Adverse Effect. To the knowledge of the Corporation, neither it nor any Material Subsidiary is the subject of notice or order with respect to a material breach or alleged material breach of Environmental Laws (a "**Remedial Order**"), nor does the Corporation have any knowledge of any circumstances that would result in the issuance of any such Remedial Order, proceeding or action in respect of any Environmental Laws and that would reasonably be expected to result in a Material Adverse Effect;

(6) **Non Contravention**. The execution, delivery and performance by the Corporation of the Transaction Documents, the issuance and sale of the Offered Debentures, and the completion of the transactions contemplated hereby and described in the Offering Documents:

(a) do not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) require the consent, approval, authorization, filing, registration or qualification of or with, or notice to, any Governmental Authority, any Canadian Securities Commission, the SEC, the TSX, the NYSE or any other securities regulatory authority or stock exchange except: (i) those which have been obtained or will, be obtained prior to the Closing Time, or (ii) those as may be required (and will be obtained prior to the Closing Time) under Applicable Securities Laws;

(b) do not (or will not with the giving of notice, the lapse of time or the happening of any other event or condition) result in a breach or a violation of, or conflict with or result in a default under, allow any other Person to exercise any rights (including a right of termination or right of first refusal) under, or require any consent in respect of:

(i) any of the terms or provisions of the constating documents of any of the Corporation or the Material Subsidiaries;

(ii) any agreement, license or permit to which any of the Corporation or the Material Subsidiaries is a party other than with respect to any breach, violation, conflict, default or right that would not result in a Material Adverse Effect; or

(iii) any judgment, decree, order, writ, injunction or award of any Governmental Authority having or purporting to have, jurisdiction over any of the Corporation or the Material Subsidiaries;

(c) will not result in the violation of any Applicable Law except for such breach which would not result in a Material Adverse Effect; and

(d) will not give rise to any Lien of any kind whatsoever on or with respect to the properties or assets owned at the Closing Time by any of the Corporation or the Material Subsidiaries or to the acceleration or the maturity of any debt under any material indenture, mortgage, lease, agreement or instrument

binding or affecting any of the Corporation or the Material Subsidiaries or their properties;

(7) **Power and Authority**. The Corporation has the necessary power and authority to execute and deliver the Offering Documents (other than the Documents Incorporated by Reference and any Marketing Documents) and all requisite action has been taken by the Corporation to authorize the execution and delivery by it of the Offering Documents (other than the Documents Incorporated by Reference and any Marketing Documents);

(8) **Not an Investment Company**. The Corporation is not, and after giving effect to the Offering and the application of proceeds thereof will not be, required to be registered as an "Investment Company" within the meaning of that term under the United States Investment Company Act of 1940, as amended;

(9) **Description of Securities**. The attributes and characteristics of the Offered Debentures conform in all material respects to the attributes and characteristics thereof contained in the Offering Documents and the Debenture Indenture;

(10) **Material Contracts**. None of the Corporation, the Material Subsidiaries nor, to the knowledge of the Corporation, any other party is in default in the observance or performance of any term or obligation to be performed by it under any agreement or instrument which is material to the Corporation and its Material Subsidiaries on a consolidated basis, and no event has occurred or, to the knowledge of the Corporation, has been threatened which, with notice or lapse of time or both, would constitute such a default, in any case which default or event would have a Material Adverse Effect;

(11) **Authorized and Issued Capital**. The authorized share capital of the Corporation consists of an unlimited number of Common Shares of which, as of September 16, 2019, 160,291,553 Common Shares are validly issued and outstanding as fully paid. The issued and outstanding shares of the Material Subsidiaries are validly issued and outstanding as fully paid;

(12) **No Obligation to Issue Securities**. Except as contemplated by this Agreement and the Offering Documents and Common Shares issuable pursuant to the terms of the Corporation's existing equity compensation plans and convertible or exchangeable securities outstanding on the date hereof, there are no agreements, options, warrants, rights of conversion or other rights pursuant to which any of the Corporation or the Material Subsidiaries is, or may become, obligated to issue or transfer any securities (including debt securities) or securities convertible or exchangeable, directly or indirectly, into any of their respective securities;

(13) **No Options**. No Person has any written or oral agreement, option, understanding or commitment, or any right or privilege capable of becoming such for the purchase of material assets from any of the Corporation or the Material Subsidiaries other than in the ordinary course;

(14) **Voting and Control of Securities**. There is currently no, and there will not at the Closing Time be, any agreement in force or effect which, in any manner, affects or will affect the voting or control of any of the securities of any of the Corporation or the Material Subsidiaries;

(15) **Minute Books**. Other than with respect to the transactions contemplated herein, the minute books of the Corporation and its Material Subsidiaries, including those made available to the Underwriters, contain, in all material respects, complete and accurate adopted minutes of all meetings of the directors and shareholders of the Corporation held since February 1, 2017, and signed copies of all resolutions and by-laws duly passed or confirmed, other than at a meeting, by the directors of the Corporation since February 1, 2017;

(16) **Consents**. As at the Closing Time, (i) all necessary consents, approvals, authorizations, registrations or qualifications will have been obtained, and (ii) all required actions will have been taken and completed, by the Corporation in connection with the Offering and the completion of the transactions contemplated hereby (except as otherwise contemplated by the Offering Documents), except where the failure to obtain such a consent or take or complete such action would not have a Material Adverse Effect;

(17) **Registrar and Transfer Agent**. Computershare Trust Company of Canada has been duly appointed the registrar and transfer agent of the Corporation with respect to the Common Shares;

(18) **TSX and NYSE Listing**. The issued and outstanding Common Shares are listed and posted for trading on the TSX and the NYSE, the Offered Debentures and the Underlying Shares will be listed and posted for trading on the TSX, upon the Corporation complying with the Standard Listing Conditions, and the Underlying Shares will be listed and posted for trading on the NYSE;

(19) **Reporting Issuer Status**. The Corporation is a reporting issuer or the equivalent in each of the Qualifying Jurisdictions and is not in default under Applicable Securities Laws of any of the Qualifying Jurisdictions and is not on the list of defaulting issuers maintained by any Canadian Securities Commission or the SEC; in particular, the Corporation is in compliance, in all material respects, with all of its applicable continuous disclosure obligations under Applicable Securities Laws. No order, ruling or determination having the effect of suspending the sale or ceasing the trading of the Offered Debentures, the Common Shares or any other security of the Corporation has been issued or made by any Canadian Securities Commission, the SEC or stock exchange or any other regulatory authority and is continuing in effect and no proceedings for that purpose have been instituted or are pending or, to the knowledge of the Corporation, are contemplated or threatened by any such authority or under any Applicable Securities Laws;

(20) **Continuous Disclosure**. The Corporation is in compliance in all material respects with its timely and continuous disclosure obligations under the Applicable

Securities Laws of each of the Qualifying Jurisdictions, the SEC and the policies, rules and regulations of the TSX and the NYSE, as applicable, and, without limiting the generality of the foregoing, there has not occurred any material change (actual, anticipated, contemplated, threatened, financial or otherwise) in the business, assets (including intangible assets), affairs, operations, liabilities (contingent or otherwise), capital, properties, condition (financial or otherwise), results of operations or control of the Corporation and the Material Subsidiaries taken as a whole since December 31, 2018 which has not been set forth in the Offering Documents or otherwise publicly disclosed on a non-confidential basis, and the Corporation has not filed any confidential material change report which remains confidential as at the date hereof;

(21) **Eligible Issuer**. The Corporation is as of the date hereof an Eligible Issuer in the Qualifying Jurisdictions and, on the dates of and upon filing of the Canadian Preliminary Prospectus and the Canadian Final Prospectus, will be an Eligible Issuer in the Qualifying Jurisdictions and there will be no documents required to be filed under the Applicable Securities Laws in connection with the Offering that will not have been filed as required as at those respective dates;

(22) **Financial Information**. The Financial Information has been prepared in accordance with IFRS (and on a basis consistent throughout the periods indicated except as disclosed in the Financial Statements), is in accordance with the books and records of the Corporation, and the Financial Information, taken together, presents fairly, completely and accurately, in all material respects, the assets, liabilities (whether accrued, absolute, contingent of otherwise) and the financial position of the Corporation, as at the respective dates of such Financial Information and the financial condition, results of operations and cash flow of the Corporation for the periods covered by such Financial Information;

(23) **Other Financial Information**. The Other Financial Information is correct, in all material respects, and has been properly compiled to give effect to, as the case may be, the assumptions and adjustments described therein and such assumptions are reasonable and such adjustments are based on good faith estimates and assumptions which are reasonable;

(24) **No Undisclosed Liabilities**. None of the Corporation or the Material Subsidiaries has any liabilities or material obligations, whether contingent or otherwise, of the type required to be reflected on a balance sheet prepared in accordance with IFRS, except for liabilities or obligations: (i) that occurred in the ordinary course of business, (ii) reflected in or reserved against in the Financial Statements, or (iii) reflected in the Offering Documents;

(25) **No Actions, Suits, Proceedings or Inquiries**. There are no actions, suits, proceedings or inquiries existing or, to the knowledge of the Corporation, pending or threatened against or affecting any of the Corporation or the Material Subsidiaries at law or in equity or before or by any federal, provincial, municipal or other governmental department, commission, board, bureau, agency or instrumentality which would reasonably be expected to have a Material Adverse Effect or which

materially affects or may materially affect the Distribution of the Offered Debentures and, to the knowledge of the Corporation, no ground exists on which such actions, suit, proceeding or inquiry might be commenced with any reasonable likelihood of success, except as otherwise disclosed in the Disclosure Record;

(26) **OFAC**. Neither the Corporation, nor any of its Material Subsidiaries, nor, to the knowledge of the Corporation, any director, officer, agent, employee, affiliate or person acting on behalf of the Corporation is currently the target of any U.S. sanctions administered by OFAC; and the Corporation will not directly or indirectly use the proceeds of the Offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC; there are no pending or, to the knowledge of the Corporation, threatened claims against the Corporation or any of the Material Subsidiaries with respect to the Sanctions laws and regulations;

(27) **Anti-Money Laundering**. The operations of the Corporation and all of the Material Subsidiaries are and have been conducted at all times in compliance with, in each case to the extent applicable, the financial recordkeeping and reporting requirements, including those of the Currency and Foreign Transactions Reporting Act of 1970 (commonly known as the Bank Secrecy Act), as amended by Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), and the anti-money laundering statutes of all jurisdictions where the Corporation and its Subsidiaries currently or in the past have done business (including the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), as amended), the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Authority (collectively, the "**Anti-Money Laundering Laws**"), and no action, suit or proceeding by or before any court or Governmental Authority or any arbitrator involving the Corporation or any of its Subsidiaries with respect to the Anti-Money Laundering Laws is pending or threatened;

(28) **Interest in Properties and Fortuna Mineral Rights.**

(a) The San Jose Mine, the Caylloma Mine and the Lindero Project, as described in the Offering Documents (collectively, the "**Fortuna Property**") are the only mining properties currently material to the Corporation. The Fortuna Property and all of the Corporation's and the Material Subsidiaries' material mineral interests and rights (including any material claims, concessions, exploration licences, exploitation licences, prospecting permits, mining leases and mining rights, in each case, either existing under contract, by operation of law or otherwise) (collectively, the "**Fortuna Mineral Rights"**), are accurately described in the Disclosure Record. Other than the Fortuna Property and the Fortuna Mineral Rights, neither the Corporation nor the Material Subsidiaries, owns or has any interest in any material real property or any material mineral interests and rights;

(b) Except as disclosed in the Disclosure Record, the Corporation or a Material Subsidiary is the sole legal and beneficial owner of all right, title and interest in and to the Fortuna Property and the Fortuna Mineral Rights, free and clear of any material Liens;

(c) All of the Fortuna Mineral Rights have been properly located and recorded in compliance with Applicable Law and are comprised of valid and subsisting mineral claims;

(d) The Fortuna Property and the Fortuna Mineral Rights are in good standing under Applicable Law in all material respects and all work required to be performed and filed in respect thereof has been performed and filed, all taxes, rentals, fees, expenditures and other payments in respect thereof have been paid or incurred and all filings in respect thereof have been made;

(e) There is no material adverse claim against or challenge to the title to or ownership of the Fortuna Property or any of the Fortuna Mineral Rights;

(f) The Corporation or a Material Subsidiary has the exclusive right to deal with the Fortuna Property and all of the Fortuna Mineral Rights;

(g) Except as disclosed in the Disclosure Record, no Person other than the Corporation and the Material Subsidiaries has any interest in the Fortuna Property or any of the Fortuna Mineral Rights or the production or profits therefrom or any royalty in respect thereof or any right to acquire any such interest;

(h) Except as disclosed in the Disclosure Record, there are no back-in rights, earn-in rights, rights of first refusal or similar provisions or rights which would affect the Corporation's or a Material Subsidiary's interest in the Fortuna Property or any of the Fortuna Mineral Rights;

(i) There are no material restrictions on the ability of the Corporation and the Material Subsidiaries to use, transfer or exploit the Fortuna Property or any of the Fortuna Mineral Rights, except pursuant to Applicable Law;

(j) Neither the Corporation nor any of the Material Subsidiaries has received any notice, whether written or oral, from any Governmental Authority of any revocation or intention to (i) revoke any interest of the Corporation or a Material Subsidiary in any of the Fortuna Property or any of the Fortuna Mineral Rights; (ii) require modifications to the terms of existing contractual arrangements with such Governmental Authorities in relation to the Fortuna Mineral Rights, or (iii) not to renew any such interest in accordance with Applicable Law;

(k) The Corporation and the Material Subsidiaries have all surface rights, including fee simple estates, leases, easements, rights of way and permits or licences for operations from landowners or Governmental Authorities

permitting the use of land by the Corporation and the Material Subsidiaries, and mineral interests that are required to exploit the development potential of the Fortuna Property and the Fortuna Mineral Rights as contemplated in the Disclosure Record on or before the date hereof and no third party or group holds any such rights that would be required by the Corporation or a Material Subsidiary to develop the Fortuna Property or any of the Fortuna Mineral Rights as contemplated in the Disclosure Record on or before the date hereof; and

(l) All mines located in or on the lands of the Corporation or any of the Material Subsidiaries, or lands pooled or unitized therewith, which have been abandoned by the Corporation or any of the Material Subsidiaries, have been abandoned in accordance with good mining practices and in material compliance with all Applicable Laws, and all future abandonment, remediation and reclamation obligations known to the Corporation as of the date hereof have been fully and accurately set forth in the Disclosure Record;

(29) **Technical Reports.**

(a) The Corporation made available to the respective authors thereof prior to the issuance of the Reports, for the purpose of preparing the Reports, as applicable, all information requested, and no such information contained any material misrepresentation as at the relevant time the relevant information was made available;

(b) the Reports complied in all material respects with the requirements of NI 43-101 as at the date of each such Report;

(c) the Corporation is in compliance, in all material respects, with the provisions of NI 43-101 and has filed all technical reports required thereby and, at the time of filing, all such reports complied, in all material respects, with the requirements of NI 43-101;

(d) all scientific and technical information disclosed, included or incorporated by reference in the Disclosure Record: (i) is based upon information prepared, reviewed and/or verified by or under the supervision of a "qualified person" (as such term is defined in NI 43-101), (ii) has been prepared and disclosed in accordance with Canadian industry standards set forth in NI 43- 101, and (iii) was true, complete and accurate in all material respects at the time of filing;

(30) **Mineral Reserves and Resources.** The proven and probable mineral reserves and mineral resources for the Fortuna Property and the Fortuna Mineral Rights were prepared in all material respects in accordance with sound mining, engineering, geoscience and other applicable industry standards and practices, and in all material respects in accordance with all Applicable Laws, including the requirements of NI 43-101. There has been no material reduction (other than in respect of normal depletion due to mining activities) in the aggregate amount of estimated mineral reserves, estimated mineral resources or mineralized material of the Corporation,

the Material Subsidiaries and its material joint ventures, taken as a whole, from the amounts set forth in Disclosure Record. All information regarding the Fortuna Property and the Fortuna Mineral Rights, including all drill results, technical reports and studies, that is required to be disclosed by Applicable Law, have been disclosed in the Disclosure Record on or before the date hereof;

(31) **Operational Matters.** Except as would not, individually or in the aggregate, be reasonably expected to result in a Material Adverse Effect:

(a) all rentals, royalties, overriding royalty interests, production payments, net profits, interest burdens, payments and obligations due and payable, or performable, as the case may be, on or prior to the date hereof under, with respect to, or on account of, any direct or indirect assets of the Corporation, the Material Subsidiaries and its material joint ventures, have been: (A) duly paid or accrued; (B) duly performed; or (C) accrued prior to the date hereof;

(b) no material dispute between the Corporation or any of the Material Subsidiaries and any non-governmental organization, community, or community group exists or, to the knowledge of the Corporation, is threatened or imminent with respect to any of the Corporation's or any of the Material Subsidiaries' properties or exploration activities;

(c) the Corporation and the Material Subsidiaries possess all material Permits which are required for the operation of the Fortuna Properties, which Permits include but are not limited to environmental assessment certificates, water licenses, land tenures, and other necessary local, provincial, state and federal approvals; and

(d) all costs, expenses, and liabilities payable on or prior to the date hereof under the terms of any contracts and agreements to which the Corporation or any of the Material Subsidiaries or material joint ventures is directly or indirectly bound have been properly and timely paid, except for such expenses that are being currently paid prior to delinquency in the ordinary course of business;

(32) **Absence of Questionable Payments and Anti-Corruption**.

(a) None of the Corporation or its Subsidiaries nor to the knowledge of the Corporation any of its affiliates, directors, officers, employees or agents of the Corporation or of any of its Subsidiaries, has taken any action in furtherance of an offer, payment, promise to pay, or authorization or approval of the payment or giving of money, property, gifts or anything else of value to any "government official" (including any officer or employee of a Governmental Authority or government-owned or controlled entity or of a public international organization, or any Person acting in an official capacity for or on behalf of any of the foregoing, or any Person holding a legislative, administrative or judicial office, or any political party or party official or candidate for political office) to influence official action, including the failure to perform an official function, or secure an improper advantage in violation

of the *U.S. Foreign Corrupt Practices Act*, *Corruption of Foreign Public Officials Act (Canada)*, or any other international anti-corruption laws;

(b) The Corporation and its Subsidiaries and, to the knowledge of the Corporation, affiliates have conducted their businesses in compliance with applicable anti-corruption laws and have instituted and maintain and will continue to maintain policies and procedures designed to promote and achieve compliance with such laws and with the representation and warranty contained herein; and

(c) Neither the Corporation nor its Subsidiaries will use, directly or indirectly, the proceeds of the Offering in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any applicable anti-corruption laws;

(33) **No Labour Disputes**. No labour dispute with, or disruption by, the employees of any of the Corporation or the Material Subsidiaries which is expected to have a Material Adverse Effect exists or, to the knowledge of the Corporation, is threatened or imminent;

(34) **Taxes**. With such exceptions as are not material to the Corporation and the Material Subsidiaries, taken as a whole:

(a) the Corporation and each Material Subsidiary has duly and on a timely basis filed all tax returns required to be filed by it, has paid all taxes due and payable by it and has paid all assessments and reassessments and all other taxes, governmental charges, penalties, interest and other fines due and payable by it and which are claimed by any Governmental Authority to be due and owing and adequate provision has been made for taxes payable for any completed fiscal period for which tax returns are not yet required to be filed;

(b) except for customary extensions for U.S. federal tax returns, there are no agreements, waivers or other arrangements providing for an extension of time with respect to the filing of any tax return or payment of any tax, governmental charge or deficiency by the Corporation or any of the Material Subsidiaries;

(c) to the knowledge of the Corporation, there are no actions, suits, proceedings, investigations or claims threatened or pending against the Corporation or any of the Material Subsidiaries in respect of taxes, governmental charges or assessments, other than as set forth in the Disclosure Record; and

(d) there are no matters under discussion with any Governmental Authority relating to taxes, governmental charges or assessments asserted by any such authority, other than income tax audit in the ordinary course;

(35) **Insurance**. The Corporation and each of the Material Subsidiaries maintains insurance with respect to the properties and businesses of such entity of the types and in the amounts deemed adequate by such entity for their business as such

business is currently being conducted. Except as would not reasonably be expected to have a Material Adverse Effect, all such policies of insurance are in full force and effect and no default exists under such policies of insurance as to the payment of premiums or otherwise, under the terms of any such policy;

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

(a) all facilities and operations of the Corporation and the Material Subsidiaries have been conducted, and are now, in compliance with all Environmental Laws;

(b) the Corporation and the Material Subsidiaries are in possession of, and in compliance with, all Environmental Permits that are required to own, lease and operate the Fortuna Property and Fortuna Mineral Rights and to conduct their respective business as they are now being conducted;

(c) no environmental, reclamation or closure obligation, demand, notice, work order or other liabilities presently exist with respect to any portion of any currently or formerly owned, leased, used or otherwise controlled property, interests and rights or relating to the operations and business of the Corporation and the Material Subsidiaries except as disclosed in the Disclosure Record and, to the knowledge of the Corporation, there is no basis for any such obligations, demands, notices, work orders or liabilities to arise in the future as a result of any activity in respect of such property, interests, rights, operations and business;

(d) neither the Corporation nor any of the Material Subsidiaries is subject to any proceeding, application, order or directive which relates to environmental, health or safety matters, and which may require any material work, repairs, construction or expenditures; and

(e) to the knowledge of the Corporation, the Corporation and the Material Subsidiaries are not subject to any past or present fact, condition or circumstance that could reasonably be expected to result in liability under any Environmental Laws that would individually or in the aggregate, constitute a Material Adverse Effect.

(37) **Transactions, Arrangements, Obligations**. Other than as disclosed in the Financial Information or specifically disclosed in the Offering Documents, there are no off-balance sheet transactions, arrangements, obligations (including contingent obligations) or other relationships of any of the Corporation or the Material Subsidiaries with unconsolidated entities or other Persons that may have a material current or future effect on the financial condition, changes in financial condition, results of operations, earnings, cash flow, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses of such Persons or that would reasonably be expected to be material to an investor in making a decision to purchase the Offered Debentures. Except as disclosed in the Offering Documents,

none of the directors, officers or shareholders who beneficially own, directly or indirectly, or exercise control or direction over, more than 10% of the outstanding Common Shares or any known associate or affiliate of any such Person, had or has any material interest, direct or indirect, in any transaction or any proposed transaction (including, without limitation, any loan made to or by any such Person) with the Corporation or any Material Subsidiary which, as the case may be, materially affects, is material to or will materially affect the Corporation and the Material Subsidiaries on a consolidated basis;

(38) **No Finder's Fee**. None of the Corporation or the Material Subsidiaries has taken, and they agree that none of them will take, any action that would cause any of them to become liable for any claim or demand for a brokerage commission, finder's fee or other similar payment in connection with the issuance and sale of the Offered Debentures, other than the Underwriters' Fee;

(39) **Residence of the Corporation**. The Corporation is not, and will not be at Closing Time, a non-resident of Canada within the meaning of the ITA;

(40) **No Disagreement with Auditors**. There is not currently and, during the last three fiscal years, has not been any reportable event (within the meaning of NI 51-102) with the auditors of the Corporation;

(41) **Audit Committee**. The audit committee's responsibilities and composition comply with National Instrument 52-110 - *Audit Committees of the Canadian Securities Administrators*;

(42) **Significant Acquisitions/Dispositions**. Other than as disclosed in the Disclosure Record, the Corporation (i) has not made any acquisition that is a "significant acquisition" within the meaning of Canadian Securities Laws in its current financial year or prior financial years in respect of which historical and/or pro forma financial statements would be required to be included or incorporated by reference into the Offering Documents, and (ii) does not currently propose to make an acquisition that has progressed to a state where a reasonable person would believe that the likelihood of the acquisition being completed is high, and that would be a "significant acquisition" within the meaning of Canadian Securities Laws, if completed as of the date of the Offering Documents;

(43) **Internal Controls**. The Corporation maintains a system of internal controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit the financial statements to be fairly presented in accordance with IFRS and to maintain accountability for assets; (iii) access to its assets is permitted only in accordance with management's general or specific authorization; (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to differences; (v) material information relating to each of the Material Subsidiaries is made known to those within the Corporation responsible for the preparation of the financial

statements during the period in which the financial statements have been prepared and that such material information is disclosed to the public within the time periods required by Applicable Securities Laws. The Corporation's internal controls over financial reporting and disclosure controls and procedures are effective and the Corporation is not aware of any material weakness in their internal control over financial reporting;

(44) **Ordinary Course**. Except as may be disclosed in the Offering Documents, since December 31, 2018, the business of the Corporation and the Material Subsidiaries, taken as a whole, has been carried on in the ordinary course in all material respects and there has not been any undisclosed material change or change having a Material Adverse Effect;

(45) **Use of Proceeds**. The Corporation intends to use the net proceeds from the Offering in the manner specified in the Offering Documents under the heading "Use of Proceeds";

(46) **Sarbanes-Oxley**. The Corporation is in compliance with any and all applicable requirements of the *Sarbanes-Oxley Act of 2002* ("**SOX**") that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the SEC thereunder that are effective as of the date hereof and as of the Closing Date, as applicable. The Corporation and its Subsidiaries maintain a system of internal accounting controls in compliance with SOX and have established disclosure controls and procedures for the Corporation and designed such disclosure controls and procedures to ensure that information required to be disclosed by the Corporation in the reports it files or submits under the U.S. Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. The Corporation's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Corporation as of the end of the period covered by the most recently filed periodic report under the U.S. Exchange Act (such date, the "**Evaluation Date**"). The Corporation presented in its most recently filed periodic report under the U.S. Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the U.S. Exchange Act) of the Corporation that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Corporation;

(47) **Canadian Disclosure**. The Canadian Preliminary Prospectus complied, as of the time of filing thereof, and all other Canadian Offering Documents as of the time of filing thereof will comply, in all material respects with the applicable requirements of Canadian Securities Laws; the Canadian Preliminary Prospectus, as of the time of filing thereof, did not, and all other Canadian Offering Documents, as of the time of filing thereof and as of the Closing Time and the Additional Closing Time, as the case may be, will not, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the

statements therein, in light of the circumstances under which they were made, not misleading; and the Canadian Preliminary Prospectus, as of the time of filing thereof, constituted, and all other Canadian Offering Documents, as of the time of filing thereof and as of the Closing Time and the Additional Closing Time, as the case may be, will constitute, full, true and plain disclosure of all material facts relating to the Offered Debentures and to the Corporation; provided, however, that this representation and warranty shall not apply to any information or statement contained in or omitted from any Canadian Offering Document in reliance upon and in conformity with any information or statement relating solely to the Underwriters, or any of them, provided by the Underwriters in writing for inclusion therein.

**Section 9 Representations, Warranties and Covenants of the Underwriters**

(1) Each Underwriter hereby severally, and not jointly, nor jointly and severally, represents and warrants to the Corporation that:

(a) it is, and will remain until the completion of the Offering, duly registered pursuant to either the provisions of Canadian Securities Laws or the provisions of U.S. Securities Laws, as applicable, so as to permit it to lawfully fulfill its obligations hereunder; and

(b) it has good and sufficient right and authority to enter into this Agreement and complete the transactions contemplated under this Agreement on the terms and conditions set forth herein;

(2) The Underwriters hereby severally and not jointly, nor jointly and severally, covenant and agree with the Corporation to the following:

(a) Compliance with Securities Laws. The Underwriters will comply with Applicable Securities Laws in connection with the offer and sale and Distribution of the Offered Debentures; provided that any non-compliance by the Underwriters that arises because of non-compliance by the Corporation shall not constitute a breach of this paragraph;

(b) U.S. Offers and Sales. The Underwriters will comply with the obligations set out in Schedule "A" to this Agreement;

(c) Completion of Distribution. The Underwriters will use their commercially reasonable efforts to complete and cause the Selling Firms to complete the Distribution of the Offered Debentures as promptly as possible after the Closing Time;

(d) Jurisdictions. Other than the filing of the Offering Documents in the Offering Jurisdictions, the Underwriters will not, directly or indirectly, sell or solicit offers to purchase the Offered Debentures or distribute or publish any offering circular, prospectus, form of application, advertisement or other offering materials in any country or jurisdiction so as to require registration or filing of a prospectus with respect thereto or compliance by the Corporation with

regulatory requirements under the laws of, or subject the Corporation (or any of its directors, officers or employees) to any inquiry, investigation or proceeding of any securities regulatory authority, stock exchange or other authority in, any jurisdiction; and

(e) Liability on Default. No Underwriter shall be liable to the Corporation under this section with respect to the default by any of the other Underwriters.

(3) The Corporation agrees that the Underwriters are acting severally and not jointly (or jointly and severally) in performing their respective obligations under this Agreement and that no Underwriter shall be liable for any act, omission or conduct by any other Underwriter, any Selling Firms appointed by any other Underwriter or another Underwriters U.S. Affiliate, as the case may be, or for any default resulting from the Corporation's failure to comply with Applicable Securities Laws (provided such default was not caused by such Underwriter).

(4) No Underwriter that is a non-resident for purposes of the ITA will render any services under this Agreement in Canada.

**Section 10 Indemnification**

(1) The Corporation hereby agrees to protect, hold harmless and indemnify each of the Underwriters and their respective U.S. Affiliates, and their respective directors, officers, employees, affiliates, advisors, shareholders, partners, and agents (collectively, the "**Indemnified Parties**" and individually an "**Indemnified Party**") from and against any and all Claims to which an Indemnified Party may become subject or otherwise involved, in any capacity, insofar as the Claim relates to, is caused by, results from, or arises out of or is based upon, directly or indirectly, the engagement and activities of the Underwriters under this Agreement, including without limitation:

(a) (i) any information or statement contained in any Canadian Offering Document, which at the time and in light of the circumstances under which it was made contains or is alleged to contain a misrepresentation; (ii) any untrue statement or alleged untrue statement of a material fact contained (A) in an Offering Document or (B) in any other materials or information provided to investors by, or with the approval of, the Corporation in connection with the Offering, or (iii) the omission or alleged omission to state in any Offering Document, or in any other materials or information provided to investors by, or with the approval of, the Corporation in connection with the Offering, a material fact required to be stated therein or necessary to make the statements therein (in the light of the circumstances under which they were made, in the case of any prospectus) not misleading; except, in each case, any information or statement relating solely to the Underwriters, or any of them, provided by the Underwriters in writing for inclusion therein;

(b) (i) the breach of, or default under, any term, condition, covenant or agreement of the Corporation made or contained herein or in any other document of the

Corporation delivered pursuant hereto; or (ii) the breach of any representation or warranty of the Corporation made or contained herein or in any other document of the Corporation delivered pursuant hereto being or being alleged to be untrue, false or misleading;

(c) any order made or inquiry, investigation or proceeding commenced or threatened by any court, securities regulatory authority, stock exchange or by any other competent authority which prevents or restricts the trading in or the sale of the Corporation's securities or the Distribution of the Offered Debentures in any Offering Jurisdiction; or

(d) the non-compliance or alleged non-compliance by the Corporation with any of the Applicable Securities Laws relating to or connected with the Distribution of the Offered Debentures, including the Corporation's non-compliance with any statutory requirement to make any document available for inspection, but excluding any non-compliance resulting from actions of an Underwriter not in compliance with Applicable Securities Laws.

(2) Notwithstanding the foregoing, if and to the extent that a court of competent jurisdiction in a final judgment from which no appeal can be made or a Governmental Authority in a final ruling from which no appeal can be made determines that a Claim resulted from the gross negligence, fraud or willful misconduct of the Indemnified Party claiming indemnity, such Indemnified Party shall promptly reimburse to the Corporation any funds advanced to the Indemnified Party in respect of such Claim and the indemnity provided for in this Section 10 shall cease to apply to such Indemnified Party in respect of such Claim. For greater certainty, the Corporation and the Underwriters agree that they do not intend that any failure by the Underwriters to conduct such reasonable investigation as necessary to provide the Underwriters with reasonable grounds for believing the Offering Documents contained no misrepresentation shall constitute "gross negligence" or "willful misconduct" for purposes of this Section 10(2) or otherwise disentitle the Underwriters from indemnification hereunder.

(3) The Corporation hereby waives any right it might have of first requiring the Indemnified Party to proceed against or enforce any other right, power, remedy or security or claim payment from any other Person before claiming under this indemnity.

(4) If any Claim contemplated by this Section 10 shall be asserted against any of the Indemnified Parties, or if any potential Claim contemplated by this Section 10 shall come to the knowledge of any of the Indemnified Parties, the Indemnified Party concerned shall notify in writing the Corporation, as soon as reasonably practicable, of the nature of the Claim or potential Claim (provided that any failure to so notify in respect of any Claim or potential Claim will affect the liability of the Corporation under this Section 10 only to the extent it is prejudiced by such failure). The Corporation will, subject to the following, be entitled (but not required) to assume the defence on behalf of the Indemnified Party, of any suit brought to enforce the

Claim, provided that the defence will be through legal counsel selected by the Corporation and acceptable to the Indemnified Party, acting reasonably, and no admission of liability will be made by the Corporation or the Indemnified Party without, in each case, the prior written consent of all the Indemnified Parties affected and the Corporation, in each case, which consent will not be unreasonably withheld or delayed.

(5) No admission of liability and no settlement, compromise or termination of any action, suit, proceeding, claim, or investigation will be made without the consent of the Corporation and the consent of the Indemnified Party, such consents not to be unreasonably withheld or delayed. Notwithstanding that the Corporation may undertake the investigation, negotiation, defence or settlement (subject to the first sentence of this paragraph) of any Claim, an Indemnified Party will have the right to employ separate counsel with respect to any Claim and participate in the defence thereof, but the fees and expenses of such counsel will be at the expense of the Indemnified Party unless:

(a) employment of such counsel has been authorized in writing by the Corporation;

(b) the Corporation has not assumed the defence of the action within ten days after receiving notice of the Claim; and

(c) the named parties to any such Claim (including any added or third parties) include the Corporation and the Indemnified Party and the Corporation will have been advised in writing by counsel to the Indemnified Party that there may be a conflict of interest between the Corporation and the Indemnified Party or that there are one or more defenses available to the Indemnified Party which are different from or in addition to those available to the Corporation, in which case such reasonable fees and expenses of such counsel to the Indemnified Party will be for the Corporation's account. The rights accorded to the Indemnified Party hereunder will be in addition to any rights the Indemnified Party may otherwise have.

(6) The Corporation agrees that if any action, suit, proceeding or Claim will be brought against or an investigation commenced in respect of the Corporation or the Corporation and the Underwriters and personnel of the Underwriters will be required to testify, participate or respond in respect of or in connection with this Agreement, the Underwriters will have the right to employ their own counsel in connection therewith, provided that the Underwriters act reasonably in selecting such counsel, and the reasonable fees and expenses of such counsel as well as the reasonable costs (including an amount to reimburse the Underwriters for time spent by them or their personnel in connection therewith at their normal per diem rates together with such disbursements and reasonable out-of-pocket expenses incurred by the Underwriters or their personnel in connection therewith) shall be paid by the Corporation as they occur, provided in no circumstances will the Corporation be

required to pay the fees and expenses and costs of more than one set of legal counsel for all Underwriters (in addition to any local counsel that may be required).

(7) The Indemnified Parties hereby constitute the Lead Underwriters as trustee for each of the other Indemnified Parties of the Corporation's covenants under this indemnity with respect to such Persons and the Lead Underwriters agree to accept such trust and to hold and enforce such covenants on behalf of such Persons.

(8) The indemnities set out in this Section 10 will be in addition to any liability which the Corporation may otherwise have and, subject to Section 12 and Section 22 will survive and will continue in full force and effect, regardless of whether the Offering is completed.

**Section 11 Contribution**

(1) In order to provide for just and equitable contribution in circumstances in which the indemnity provided in Section 10 hereof would otherwise be available in accordance with its terms but is, for any reason not solely attributable to any one or more of the Indemnified Parties, held to be unavailable to or unenforceable by the Indemnified Parties or enforceable otherwise than in accordance with its terms, the Underwriters and the Corporation shall contribute to the aggregate of all Claims of the nature contemplated in Section 10 hereof and suffered or incurred by the Indemnified Parties in proportions as is appropriate to reflect not only the relative benefits secured by the Corporation on one hand and the Indemnified Parties on the other hand but also the relative fault of such respective parties as well or any relevant equitable consideration, provided however, that the Underwriters shall not in any event be liable to contribute, in the aggregate, any amount exceeding the amount of the Underwriters' Fee or any portion actually received by the Underwriters.

(2) The obligations of the Underwriters to contribute pursuant to this Section 11 are several in proportion to the number of Offered Debentures to be purchased by each of the Underwriters hereunder and not joint, nor joint and several.

**Section 12 Limitations on Rights of Indemnity and Contribution**

(1) The Corporation will not have any obligation to contribute pursuant to Section 11 in respect of any Claim except to the extent the indemnity given by it in Section 10 would have been applicable to that Claim in accordance with its terms, had that indemnity been found to be enforceable and available to the Indemnified Parties.

(2) The rights to contribution provided in Section 11 will be in addition to and not in derogation of any other right to contribution which the Indemnified Parties may have by statute or otherwise at law, provided that Section 11 will apply, *mutatis mutandis*, in respect of that other right.

(3) If an Indemnified Party has reason to believe that a claim for contribution may arise, the Indemnified Party will give the Corporation notice in writing, but failure to so notify will not relieve the Corporation of any obligation which they may have to the

Indemnified Party under this Section 12, except to the extent that the Corporation is materially prejudiced by that failure (in which case such obligation may be reduced by the prejudice actually suffered), and the right of the Corporation to assume the defense of that Indemnified Party will apply as set out in Section 10 of this Agreement, *mutatis mutandis*.

**Section 13 Covenants of the Corporation**

(1) The Corporation covenants and agrees with the Underwriters that:

(a) the Corporation will advise the Underwriters, promptly after receiving notice thereof, of the time when each Offering Document has been filed and when any Dual Prospectus Receipt has been obtained, and will provide evidence satisfactory to the Underwriters of each such filing and a copy of each such Dual Prospectus Receipt;

(b) between the date hereof and the date of completion of the Distribution of the Offered Debentures, the Corporation will advise the Underwriters, promptly after receiving notice or obtaining knowledge thereof, of:

(i) the issuance by any Canadian Securities Commission or the SEC of any order suspending or preventing the use of any of the Offering Documents, or, to the knowledge of the Corporation, the threatening of any such order;

(ii) the issuance by any Canadian Securities Commission, the SEC, the TSX or the NYSE of any order having the effect of ceasing or suspending the Distribution of the Offered Debentures or the trading in any securities of the Corporation, or of the institution or, to the knowledge of the Corporation, threatening of any proceeding for any such purpose;

(iii) any requests made by any Canadian Securities Commission for amending or supplementing any of the Offering Documents or for additional information; or

(iv) the receipt of any communication (written or oral) from any Canadian Securities Commission, the SEC, the TSX or the NYSE or any other Governmental Authority or competent authority relating to the Offering Documents or the Distribution of the Offered Debentures.

and the Corporation will use its commercially reasonable efforts to prevent the issuance of any order referred to in subparagraph (b)(i) above or subparagraph (b)(ii) above and, if any such order is issued, to obtain the withdrawal thereof at the earliest possible time;

(c) the Offered Debentures to be issued and sold by the Corporation hereunder will be duly and validly created, authorized and issued on the payment therefor, and such Offered Debentures will conform in all material respects to

the descriptions thereof contained in the Canadian Offering Documents and the Debenture Indenture;

(d) as at the Closing Time, the Underlying Shares will be duly and validly authorized for issuance on the conversion of the Offered Debentures, in accordance with the Debenture Indenture.

(e) the Corporation will use its commercially reasonable efforts to obtain conditional approval for the listing of the Offered Debentures and the Underlying Shares on the TSX, subject only to the Standard Listing Conditions, and the Underlying Shares on the NYSE, in each case by the Closing Time;

(f) the Corporation will make all necessary filings, use commercially reasonable efforts to obtain all necessary regulatory consents and approvals (if any) and will pay all filing fees required to be paid in connection with the transactions contemplated in this Agreement;

(g) subject to compliance with Applicable Law, any press release of the Corporation relating to the Offering or issued prior to the Closing Date will be provided in advance to CIBC on behalf of the Underwriters, and the Corporation will use commercially reasonable efforts to agree to the form and substance thereof with CIBC, acting reasonably, on behalf of the Underwriters, prior to the release thereof; and

(h) the Corporation will use the net proceeds from the Offering for the purposes described in the Offering Documents.

(2) Prior to the completion of the Distribution of the Offered Debentures, the Corporation will file all documents required to be filed with or furnished to the Canadian Securities Commissions and the SEC pursuant to Applicable Securities Laws.

(3) Except as contemplated by this Agreement, the Corporation will not, without the prior written consent of CIBC (not to be unreasonably withheld) on behalf of the Underwriters, directly or indirectly issue or offer any Common Shares or securities convertible into or exchangeable for Common Shares, or agree to do any of the foregoing or publicly announce any intention to do any of the foregoing, during the period from the date hereof and ending 90 days following the Closing Date; provided that, notwithstanding the foregoing, the Corporation may (i) issue Common Shares or securities convertible into or exchangeable for Common Shares pursuant to any equity incentive plan, stock ownership or purchase plan, or other equity plan in effect on the date hereof; and (ii) issue Common Shares issuable upon the conversion, exchange or exercise of convertible securities, including warrants or options, outstanding on the date hereof. In addition, the Corporation shall not file a prospectus under Canadian Securities Laws or a registration statement under the U.S. Securities Act in connection with any transaction by the Corporation or any Person that is prohibited pursuant to the foregoing, except pursuant to the Offering and for registration statements on Form S-8 relating to employee benefit plans.

**Section 14 All Terms to be Conditions**

All representations, warranties, covenants and other terms of this Agreement shall be and shall be deemed to be conditions, and any material breach of or failure to comply with any of them which in the reasonable opinion of an Underwriter materially and adversely affects the sale or distribution by it of the Offered Debentures shall entitle such Underwriter to terminate their obligation to purchase the Offered Debentures, by written notice to that effect given to the Corporation at or prior to the Closing Time or the Additional Closing Time, as applicable, subject to Section 10, Section 11 and Section 12 and Section 18 which will continue in full force. It is understood that the Underwriters may waive, in whole or in part, or extend the time for compliance with, any of such terms and conditions without prejudice to the rights of the Underwriters in respect of any such terms and conditions or any other or subsequent breach or non-compliance, provided that to be binding on the Underwriters any such waiver or extension must be in writing and signed by the Underwriters.

**Section 15 Termination by Underwriters**

(1) Each Underwriter shall also be entitled, in its sole discretion, to terminate and cancel its obligation to purchase the Offered Debentures if, at any time prior to the Closing Time or the Additional Closing Time, as applicable:

(a) any inquiry, action, suit, investigation or other proceeding (whether formal or informal) is commenced, announced or threatened, or any order or ruling is issued or made by any securities regulatory authority, the TSX, the NYSE or any other Governmental Authority (other than any such inquiry, action, suit, investigation or other proceeding or order based on the alleged activities of any of the Underwriters), which, in the opinion of such Underwriter, operates or would reasonably be expected to operate to prevent, or materially suspend, hinder, delay or restrict, or otherwise materially adversely affect the trading in or Distribution of the Offered Debentures or which, in the reasonable opinion of such Underwriter, might reasonably be expected to have a significant adverse effect on the market price or value of the Offered Debentures or the Common Shares;

(b) there should develop, occur or come into effect or existence any event, action, state, condition or major financial occurrence of national or international consequence (including any natural catastrophe) or any outbreak or escalation of national or international hostilities or any crisis or calamity or act of terrorism or similar event or any governmental action, change of Applicable Law (or the interpretation or administration thereof), inquiry or other occurrence of any nature whatsoever which, in the opinion of such Underwriter, seriously adversely affects, or might reasonably be expected to seriously adversely affect the financial markets in Canada or the United States or the business, operations or affairs of the Corporation and its Subsidiaries (taken as a whole); or

(c) there should occur, commence, or be announced, any material change with respect to the Corporation and its Subsidiaries on a consolidated basis or a

change in any material fact, whether or not in the ordinary course, or there is discovered any previously undisclosed material change or material fact, which has or, in the opinion of such Underwriter, might reasonably be expected to have a significant adverse effect on the business, operations, affairs or capital of the Corporation and its Subsidiaries (taken as a whole) or a significant adverse effect on the market price, or value of the Offered Debentures the Common Shares, or which results or, in the opinion of such Underwriter, might reasonably be expected to result in the Purchasers of a material number of Offered Debentures exercising their right under applicable legislation to withdraw from or rescind their purchase of Offered Debentures.

(2) The rights of termination contained in Section 15(1) may be exercised by any Underwriter giving written notice thereof to the Corporation and CIBC and are in addition to any other rights or remedies the Underwriters may have in respect of any default, act or failure to act or non-compliance by the Corporation in respect of any of the matters contemplated by this Agreement. A notice of termination given by one Underwriter under this Section 15 shall not be binding upon the other Underwriters.

(3) If this Agreement is terminated by any of the Underwriters pursuant to Section 15(1), there shall be no further liability on the part of such Underwriter or of the Corporation to such Underwriter, except in respect of any liability or obligation under Section 10, Section 11, Section 12 and Section 18.

**Section 16 Closing and Additional Closing**

(1) The closing of the purchase and sale of the Purchased Debentures herein provided for shall be completed at 8:00 a.m. (E.D.T.) on October 2, 2019, or such other date and/or time as may be agreed upon in writing by the Corporation and the Underwriters, but in any event not later than 42 days following the date of a final receipt for the Canadian Final Prospectus (respectively, the "**Closing Time**" and the "**Closing Date**") at the Vancouver offices of Blake, Cassels & Graydon LLP or at such other place as may be agreed upon in writing by the Corporation and the Underwriters, including via a virtual "electronic closing" whereby all documents are to be transmitted and received on or prior to the Closing Date via e-mail. In the event that the Closing Time has not occurred on or before the date which is 42 days following the date of a final receipt for the Canadian Final Prospectus, this Agreement shall, subject to Section 15(3) hereof, terminate.

(2) The closing of the purchase and sale of the Additional Debentures will be completed on the date (the "**Additional Closing Date**") and the time (the "**Additional Closing Time**") specified by CIBC on behalf of the Underwriters in any written notice given by the Underwriters pursuant to their election to purchase such Additional Debentures (provided that in no event shall such time be earlier than the Closing Time or earlier than two or later than ten Business Days after the date of the written notice of CIBC on behalf of the Underwriters to the Corporation in respect of the

Additional Debentures), or at such other times and dates as the Underwriters and the Corporation may agree upon in writing.

(3) Whether or not specifically contemplated in this Agreement, all provisions of this Agreement shall apply in the same manner and upon the same terms and conditions in respect of the Over-Allotment Option as would apply to the Purchased Debentures (including, but not limited to the payment of the Underwriters' Fee applicable to the Over-Allotment Option), and any steps to be taken or conditions to be satisfied at the Additional Closing Time shall be the same as those steps to be taken or conditions to be satisfied at the Closing Time.

**Section 17 Conditions of Closing and Additional Closing**

(1) The obligations of the Underwriters under this Agreement are subject to the accuracy of the representations and warranties of the Corporation contained in this Agreement both as of the date of this Agreement, the Closing Time and the Additional Closing Time, the performance by the Corporation of its obligations under this Agreement and receipt by the Underwriters, at the Closing Time or the Additional Closing Time, as applicable, of:

(a) a favourable legal opinion, dated the Closing Date and the Additional Closing Date, as applicable, from Blake, Cassels & Graydon LLP, the Corporation's Canadian counsel, as to matters of Canadian federal and provincial law (who may rely on certificates of officers of the Corporation with respect to certain factual matters and on the opinions of local counsel acceptable to them and to the Underwriters' counsel as to matters governed by the laws of jurisdictions in Canada other than the Provinces of British Columbia, Ontario and Alberta), addressed to the Underwriters and the Underwriters' counsel, such matters to be as set out in the attached Schedule "B" (subject to customary limitations, assumptions and qualifications);

(b) a favourable legal opinion, dated the Closing Date and the Additional Closing Date, as applicable, from Paul, Weiss, Rifkind, Wharton & Garrison LLP, the Corporation's U.S. counsel, addressed to the Underwriters, to the effect that it is not necessary in connection with the offer and sale of the Offered Debentures in the United States in the manner contemplated herein, to register the Offered Debentures or the Underlying Shares under the U.S. Securities Act, provided that no commission or other remuneration is paid or given directly or indirectly for soliciting the conversion of the Offered Debentures into Underlying Shares, and provided further that the Underlying Shares issuable upon conversion of the Offered Debentures are not exchanged in a case under Title 11 of the United States Code, it being understood that no opinion is expressed as to any subsequent resale of any Offered Debentures or Underlying Shares;

(c) favourable legal opinions, dated the Closing Date and the Additional Closing Date, as applicable, from the Corporation's counsel, in form and substance

satisfactory to the Underwriters, acting reasonably, regarding each of the Material Subsidiaries with respect to the following: (i) the incorporation and existence of each such Material Subsidiary under the laws of its jurisdiction of incorporation, (ii) as to the registered ownership of the issued and outstanding shares of each such Material Subsidiary, and (iii) that each such Material Subsidiary has all requisite corporate power under the laws of its jurisdiction of incorporation to carry on its business as presently carried on and own its properties;

(d) favourable legal opinions dated the Closing Date and the Additional Closing Date, as applicable, from the Corporation's external counsel, in form and substance satisfactory to the Underwriters, acting reasonably, regarding title to the Fortuna Property;

(e) delivery of the Purchased Debentures (and Additional Debentures, if applicable) to the Underwriters or to CDS, on behalf of the Underwriters, in the form of one or more fully registered global debenture certificates, representing the Purchased Debentures (and Additional Debentures, if applicable), or electronic deposit of the Purchased Debentures (and Additional Debentures, if applicable) with CDS, in which case such Purchased Debentures (and Additional Debentures, if applicable) will be held by CDS as a book-entry only or book-based security in accordance with CDS' rules and procedures, provided that the Underwriters will provide a direction to CDS with respect to the crediting of the Purchased Debentures (and Additional Debentures, if applicable) to the accounts of participants of CDS as shall be designated by the Underwriters in writing in sufficient time prior to the Closing Date to permit such crediting;

(f) evidence satisfactory to the Underwriters that the Corporation has obtained all necessary approvals, consents and/or subordination or priority agreements required to complete the Offering pursuant to the Credit Agreement and the Credit Facility;

(g) the Corporation's auditor's comfort letter dated the Closing Date and the Additional Closing Date, as applicable, updating the comfort letter referred to in Section 6(5)(c) above with such changes as may be necessary from the comfort letter delivered previously to bring the information therein forward to a date which is within two Business Days of the Closing Date and Additional Closing Date, as applicable;

(h) the certificate of the Corporation's Chief Financial Officer dated the Closing Date and the Additional Closing Date, as applicable, updating the certificate referred to in Section 6(5)(c) above with such changes as may be necessary from the certificate delivered previously to bring the information therein forward to the Closing Date and Additional Closing Date, as applicable;

(i) the Underwriters' Fee paid in accordance with Section 3;

(j) evidence satisfactory to the Lead Underwriters that the Corporation has obtained conditional approval for the listing of the Offered Debentures and the Underlying Shares on the TSX, subject only to the Standard Listing Conditions, and the listing of the Underlying Shares on the NYSE;

(k) a certificate, dated the Closing Date and the Additional Closing Date, as applicable, and signed on behalf of the Corporation, but without personal liability, by the President and Chief Executive Officer and by the Chief Financial Officer of the Corporation, or such other officers of the Corporation as may be reasonably acceptable to the Underwriters, certifying that: (i) the Corporation has complied with all covenants and satisfied all terms and conditions hereof to be complied with and satisfied by the Corporation at or prior to the Closing Time and the Additional Closing Time, as applicable; (ii) all the representations and warranties of the Corporation contained herein are true and correct as of the Closing Time and the Additional Closing Time, as applicable with the same force and effect as if made at and as of the Closing Time and the Additional Closing Time, as applicable, after giving effect to the transactions contemplated hereby; (iii) the Corporation is a "reporting issuer" or its equivalent under the Canadian Securities Laws, is an Eligible Issuer and is not on any list of defaulting reporting issuers maintained by any Canadian Securities Commission or the SEC; (iv) there has been no material change relating to the Corporation and the Material Subsidiaries, on a consolidated basis since the date of this Agreement which has not been generally disclosed, except for the Offering, and with respect to which the requisite material change statement or report has not been filed and no such disclosure has been made on a confidential basis; and (v) that, to the best of the knowledge, information and belief of the Persons signing such certificate, after having made reasonable inquiries, no order, ruling or determination having the effect of ceasing or suspending trading in the Common Shares or any other securities of the Corporation has been issued and no proceedings for such purpose are pending or are contemplated or threatened;

(l) at the Closing Time or the Additional Closing Time, as applicable, certificates dated the Closing Date or the Additional Closing Date, as applicable, signed on behalf of the Corporation, but without personal liability, by the Chief Financial Officer of the Corporation or another officer acceptable to the Underwriters, acting reasonably, in form and content satisfactory to the Underwriters, acting reasonably, with respect to the constating documents of the Corporation; the resolutions of the directors of the Corporation relevant to the Offering, including the allotment, issue (or reservation for issue) and sale of the Offered Debentures, the grant of the Over-Allotment Option, the authorization of this Agreement, the listing of the Offered Debentures on the TSX, the listing of the Underlying Shares on the TSX and the NYSE, the authorization of the transactions contemplated by this Agreement; and the incumbency and signatures of signing officers of the Corporation;

(m) at the Closing Time or the Additional Closing Time, as applicable, a certificate of good standing (or equivalent) for the Corporation and each of the Material Subsidiaries dated within one (1) Business Day (or such earlier or later date as the Underwriters may accept) of the Closing Date or the Additional Closing Date; and

(n) such other documents as the Underwriters or counsel to the Underwriters may reasonably require; and all proceedings taken by the Corporation in connection with the issuance and sale of the Offered Debentures shall be satisfactory in form and substance to the Lead Underwriters and counsel for the Underwriters, acting reasonably.

**Section 18 Expenses**

Whether or not the Offering is completed, the Corporation will pay all expenses and fees in connection with the Offering, including, without limitation, all expenses of or incidental to the issue, sale or Distribution of the Offered Debentures; the fees and expenses of the Corporation's counsel; all costs incurred in connection with the preparation of the Offering Documents and any amendments thereto; any filings with FINRA (as defined in Schedule "A"); and all expenses and fees incurred by the Underwriters, which shall include the reasonable fees and disbursements of the Underwriters' counsel up to a maximum in respect of such fees (not including disbursements and applicable taxes) of US$100,000. All fees and expenses incurred by the Underwriters or on their behalf shall be payable by the Corporation immediately upon receiving an invoice therefor from the Underwriters and shall be payable whether or not the Offering is completed.

**Section 19 No Advisory or Fiduciary Relationship**

The Corporation acknowledges and agrees that (a) the purchase and sale of the Offered Debentures pursuant to this Agreement, including the determination of the Offering Price and any related discounts and commissions, is an arm's-length commercial transaction between the Corporation, on the one hand, and the several Underwriters, on the other hand, (b) in connection with the Offering and the process leading to such transaction each Underwriter is and has been acting solely as a principal and is not the agent or fiduciary of the Corporation or its shareholders, creditors, employees or any other party, (c) no Underwriter has assumed or will assume an advisory or fiduciary responsibility in favour of the Corporation with respect to the Offering or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Corporation on other matters) and no Underwriter has any obligation to the Corporation with respect to the Offering except the obligations expressly set forth in this Agreement, (d) the Underwriters and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Corporation, and (e) the Underwriters have not provided any legal, accounting, regulatory or tax advice with respect to the Offering and the Corporation has consulted its own legal, accounting, regulatory and tax advisors to the extent it deems appropriate.

**Section 20 Notices**

Any notice to be given hereunder shall be in writing and may be given by facsimile or by hand delivery and shall, in the case of notice to the Corporation, be addressed and faxed or delivered to:

Fortuna Silver Mines Inc.
Suite 650, 200 Burrard Street
Vancouver, BC V6C 3L6

Attention: Jorge A. Ganoza Durant, President and Chief Executive Officer
Fax No.: (604) 484-4029

with a copy to (such copy not to constitute notice):

Blakes, Cassels & Graydon LLP
595 Burrard Street, Suite 2600,
Vancouver, BC V7X 1L3

Attention: Kathleen Keilty
Fax No.: (604) 631-3309

and to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
77 King Street West
Suite 3100, P.O. Box 226
Toronto, ON M5K 1J3

Attention: Christopher Cummings
Fax No.: (416) 504-0530

and in the case of the Underwriters, be addressed and faxed or delivered to:

CIBC World Markets Inc.
Suite 1200, Commerce Place
400 Burrard Street
Vancouver BC V6C 3A6

Attention: Sam Lee
Fax No.: (604) 891-6330

with a copy to (such copy not to constitute notice):

Stikeman Elliott LLP
666 Burrard Street, Suite 1700
Vancouver, BC V6C 2X8

Attention: Michael Urbani
Fax No.: (604) 681-1825

The Corporation and the Underwriters may change their respective addresses for notice by notice given in the manner referred to above.

**Section 21 Actions on Behalf of the Underwriters**

All steps which must or may be taken by the Underwriters in connection with this Underwriting Agreement, with the exception of the matters contemplated by Section 10, Section 14 and Section 15, or unless otherwise indicated herein, shall be taken by CIBC on the Underwriters' behalf and the execution of the Agreement by the Underwriters shall constitute the Corporation's authority for accepting notification of any such steps from, and for giving notice to, and for delivering any definitive certificate(s) representing the Offered Debentures to, or to the order of, CIBC.

**Section 22 Survival**

The representations, warranties, obligations and agreements contained in this Agreement or delivered pursuant to this Agreement shall survive the purchase by the Underwriters of the Offered Debentures and shall continue in full force and effect for a period of three years following the Closing Date unaffected by any subsequent disposition of the Offered Debentures by the Underwriters or the termination of the Underwriters' obligations, and shall not be limited or prejudiced by any investigation made by or on behalf of the Underwriters or the Corporation, as applicable, in connection with the distribution of the Offered Debentures.

**Section 23 Underwriters' Obligations**

(1) Subject to the terms of this Agreement, the Underwriters' obligations under this Agreement to purchase the Offered Debentures shall be several and not joint, nor joint and several and the liability of each of the Underwriters to purchase the Offered Debentures shall be limited to the following percentages of the purchase price paid for the Offered Debentures:

| | |
|---|---|
| CIBC World Markets Inc. | 60.0% |
| Scotia Capital Inc. | 30.0% |
| BMO Nesbitt Burns Inc. | 10.0% |
| | 100.0% |

(2) If any one or more of the Underwriters fails to purchase its or their applicable percentage of the Offered Debentures at the Closing Time or the Additional Closing Time, as the case may be, (each a "**Defaulting Underwriter**" and collectively, the "**Defaulting Underwriters**") and if the aggregate number of Offered Debentures that have not been purchased by the Defaulting Underwriter(s) represents 7.5% or

less of the Offered Debentures then the other Underwriters will be severally, and not jointly and severally, obligated to purchase, on a pro rata basis to their respective percentages as aforesaid, all but not less than all of the Offered Debentures not purchased by the Defaulting Underwriter(s), and to receive the Defaulting Underwriter(s)' portion of the Underwriters' Fee in respect thereof, and such non-defaulting Underwriters shall have the right, by notice to the Corporation, to postpone the Closing Date or the Additional Closing Date, as the case may be, by not more than three Business Days to effect such purchase. In the event that the aggregate number of Offered Debentures that have not been purchased by the Defaulting Underwriter(s) represents more than 7.5% of the Offered Debentures, the other Underwriters will have the right, but will not be obligated, to purchase all of the percentage of the Offered Debentures which would otherwise have been purchased by the Defaulting Underwriter(s); the Underwriters exercising such right will purchase such Offered Debentures, if applicable, pro rata to their respective percentages aforesaid or in such other proportions as they may otherwise agree. In the event that such right is not exercised, the non-defaulting Underwriters shall be relieved of all obligations to the Corporation arising from such default. Nothing in this section shall oblige the Corporation to sell to the Underwriters less than all of the Offered Debentures or relieve from liability to the Corporation any Underwriter which shall be so in default.

**Section 24 Market Stabilization**

In connection with the Distribution of the Offered Debentures, the Underwriters (or any of them) may effect transactions which stabilize or maintain the market price of the Offered Debentures at levels other than those which might otherwise prevail in the open market, but in each case as permitted by Applicable Securities Laws. Such stabilizing transactions, if any, may be discontinued by the Underwriters at any time.

**Section 25 Entire Agreement**

Any and all previous agreements with respect to the purchase and sale of the Offered Debentures, whether written or oral, are terminated and this Agreement constitutes the entire agreement between the Corporation and the Underwriters with respect to the purchase and sale of the Offered Debentures.

**Section 26 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws in force in the Province of British Columbia and the federal laws of Canada applicable therein.

**Section 27 TMX Group Limited Disclosure**

Each of CIBC and and BMO or an affiliate thereof, may own or control an equity interest in TMX Group Limited ("**TMX Group**") and may have a nominee director serving on TMX Group's board of directors. As such, each of said Underwriters may be considered to have an economic interest in the listing of securities on any exchange owned or operated by TMX Group, including the TSX, the TSX Venture Exchange and the Alpha Exchange. No

Person or company is required to obtain products or services from TMX Group or its affiliates as a condition of a dealer supplying or continuing to supply a product or service.

**Section 28 Time of the Essence**

Time shall be of the essence of this Agreement. This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

[*Remainder of page intentionally left blank*.]

If the foregoing is in accordance with your understanding and is agreed to by you, will you please confirm your acceptance by signing the enclosed copies of this letter at the place indicated and returning the same to us on September 16, 2019.

Yours truly,

**CIBC WORLD MARKETS INC.**

By: *(Signed) Sam Lee*
Sam Lee
Managing Director

**SCOTIA CAPITAL INC.**

By: *(Signed) Geoff Smith*
Geoff Smith
Managing Director

**BMO NESBITT BURNS INC.**

By: *(Signed) Carter Hohmann*
Carter Hohmann
Managing Director

The foregoing is in accordance with our understanding and is accepted by us.

**FORTUNA SILVER MINES INC.**

By: *(Signed) Luis Ganoza Durant*

Luis Ganoza Durant
Chief Financial Officer

## Schedule "A"

### UNITED STATES OFFERS AND SALES

As used in this Schedule "A", capitalized terms used herein and not defined herein shall have the meanings ascribed thereto in the underwriting agreement to which this Schedule "A" is annexed and to which it forms a part, and the following terms shall have the meanings indicated:

(a) "**Affiliate**" means "affiliate" as that term is defined in Rule 405 under the U.S. Securities Act;

(b) "**Directed Selling Efforts**" means "directed selling efforts" as that term is defined in Rule 902(c) of Regulation S. Without limiting the foregoing, but for greater clarity in this Schedule "A", it means, subject to the exclusions from the definition of directed selling efforts contained in Regulation S, any activity undertaken for the purpose of, or that could reasonably be expected to have the effect of, conditioning the market in the United States for any of the Offered Debentures and includes the placement of any advertisement in a publication with a general circulation in the United States that refers to the offering of the Offered Debentures;

(c) "**Distribution Compliance Period**" means the 40 day period that begins on the later of (i) the date the Offered Debentures are first offered to persons other than distributors in reliance on Regulation S or (ii) the Closing Date; provided that, all offers and sales by a distributor of an unsold allotment or subscription shall be deemed to be made during the Distribution Compliance Period;

(d) "**FINRA**" means the Financial Industry Regulatory Authority, Inc.;

(e) "**Foreign Issuer**" shall have the meaning ascribed thereto in Rule 902(e) of Regulation S. Without limiting the foregoing, but for greater clarity in this Schedule "A", it means any issuer which is (a) the government of any country other than the United States, or any political subdivision thereof or a national of any country other than the United States; or (b) a corporation or other organization incorporated under the laws of any country other than the United States, except an issuer meeting the following conditions as of the last business day of its second fiscal quarter: (1) more than 50 percent of the outstanding voting securities of such issuer are either directly or indirectly owned of record by residents of the United States; and (2) any of the following: (i) the majority of the executive officers or directors are United States citizens or residents, (ii) more than 50 percent of the assets of the issuer

are located in the United States, or (iii) the business of the issuer is administered principally in the United States;

(f) "**General Solicitation**" or "**General Advertising**" means "general solicitation" and "general advertising", as used in Rule 502(c) under the U.S. Securities Act. Without limiting the foregoing, but for greater clarity, General Solicitation or General Advertising includes, but is not limited to, any advertisements, articles, notices or other communications published in any newspaper, magazine or similar media or on the internet or broadcast over radio, internet or television, or any seminar or meeting whose attendees had been invited by General Solicitation or General Advertising; and

(g) "**Offshore Transaction**" means an "Offshore Transaction" as defined in Rule 902(h) of Regulation S.

(1) *Representations, Warranties and Covenants of the Corporation.* The Corporation hereby represents, warrants, covenants and agrees to and with the Underwriters that:

(a) The Corporation, as of the Closing Date, is a Foreign Issuer.

(b) Except with respect to offers and sales to Qualified Institutional Buyers in reliance upon an applicable exemption from registration under the U.S. Securities Act and applicable U.S. state securities laws, neither the Corporation nor any of its Affiliates, nor any Person acting on its or their behalf (other than the Underwriters, their respective Affiliates or any Person acting on its or their behalf, in respect of which no representation is made), has made or will make: (a) any offer to sell, or any solicitation of an offer to buy, any Offered Debentures in the United States or to or for the account or benefit of U.S. Persons; or (b) any sale of Offered Debentures unless, at the time the buy order was or will have been originated, the purchaser (i) is outside the United States and not a U.S. Person, or (ii) the Corporation and any Person acting on its behalf (other than the Underwriters, their respective Affiliates or any person acting on its or their behalf, in respect of which no representation is made) reasonably believes that the purchaser is outside the United States and not a U.S. Person.

(c) None of The Corporation or its Affiliates or any Person acting on its or their behalf (other than the Underwriters, their respective Affiliates or any person acting on its or their behalf, in respect of which no representation is made) has engaged or will engage in any Directed Selling Efforts in the United States with respect to the Offered Debentures, or has taken or will take any action that would cause the exemption afforded by Rule 144A under the U.S. Securities Act to be

unavailable for offers and sales of Offered Debentures in the United States or to or for the account or benefit of U.S. Persons in accordance with this Schedule "A", or the exemption from registration afforded by Rule 903 of Regulation S to be unavailable for offers and sales of Offered Debentures outside the United States in accordance with the Underwriting Agreement. None of the Corporation, any of its Affiliates or any Person acting on its or their behalf (other than the Underwriters, their respective Affiliates or any person acting on its or their behalf, in respect of which no representation is made) has offered or will offer to sell, or has solicited or will solicit offers to buy, Offered Debentures in the United States or to or for the account or benefit of U.S. Persons by means of any form of General Solicitation or General Advertising or in any manner involving a public offering within the meaning of Section 4(a)(2) of the U.S. Securities Act.

(d) The Offered Debentures offered and sold pursuant to Rule 144A satisfy the requirements set forth in Rule 144A(d)(3) under the U.S. Securities Act.

(2) Each Underwriter, severally and not jointly, nor jointly or severally, represents, warrants and covenants to the Corporation, on its own behalf and on behalf of each of its Affiliates, that, in connection with all sales of the Offered Debentures in the United States or to or for the account or benefit of U.S. Persons:

(a) It acknowledges that the Offered Debentures have not been and will not be registered under the U.S. Securities Act or applicable state securities laws and it has not offered and sold, and will not offer and sell, any Offered Debentures forming part of its allotment or otherwise except (a) in an Offshore Transaction in accordance with Rule 903 of Regulation S or (b) in the United States or to or for the account or benefit of U.S. Persons in accordance with this Schedule "A". Accordingly, neither the Underwriters nor any of its Affiliates, nor any person acting on its or their behalf, has made or will make (except in compliance with this Schedule "A") (a) any offer to sell, or any solicitation of an offer to buy, any Purchase Debentures in the United States or to or for the account or benefit of U.S. Persons, (b) any sale of Offered Debentures to any purchaser unless, at the time the buy order was or will have been originated the purchaser was outside the United States and not a U.S. Person and was not purchasing for the account or benefit of a person in the United States or a U.S. Person, or such Underwriter, Affiliate or person acting on behalf of either reasonably believed that such purchaser was outside the United States and not a U.S. Person and was not purchasing for the account or benefit of a person in the United States or a U.S. Person or (c) any Directed Selling Efforts in the United States with respect to the Offered Debentures.

(b) It has not entered and will not enter into any contractual arrangement with respect to the distribution of the Offered Debentures except with its

Affiliates, and selling group members or with the prior written consent of the Corporation. It shall require each Affiliate and selling group member to agree, for the benefit of the Corporation, to comply with, and shall use its reasonable best efforts to ensure that each Affiliate and each selling group member complies with, the same provisions of this Schedule "A" as apply to such Underwriters as if such provisions applied to such Affiliate and selling group member.

(c) It agrees that, at or prior to confirmation of the sale of the Offered Debentures, it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Offered Debentures from it during the Distribution Compliance Period a confirmation or notice to substantially the following effect:

> "The securities covered hereby have not been registered under the U.S. Securities Act of 1933, as amended (the "**U.S. Securities Act**"), and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons (i) as part of their distribution at any time or (ii) otherwise until 40 days after the later of the commencement of the offering and the closing date, except in either case in accordance with an exemption from the registration requirements of the U.S. Securities Act. Terms used herein have the meanings given to them in Regulation S under the U.S. Securities Act."

In addition, prior to the expiration of the Distribution Compliance Period, all subsequent offers and sales of the Offered Debentures by such Underwriter shall be made only in accordance with the provision of Rule 903 or 904 of Regulation S, pursuant to registration of the Offered Debentures under the U.S. Securities Act, or pursuant to an available exemption from the registration requirements of the U.S. Securities Act.

Such Underwriter agrees to obtain substantially identical undertakings from each member of any banking and selling group formed in connection with the distribution of the Offered Debentures contemplated hereby and to comply with the offering restriction requirements of Regulation S.

(d) All offers and sales of Offered Debentures in the United States shall be made through the Underwriter's U.S. Affiliate in compliance with all applicable U.S. federal and state broker-dealer requirements, as applicable (or otherwise pursuant to Rule 15a-6 under the U.S. Exchange Act). Such U.S. Affiliate is a Qualified Institutional Buyer and has been and will be, on the date of each offer or sale of Offered Debentures in the United States or to or for the account or benefit of U.S. Persons, duly registered as a broker-dealer pursuant to section 15(b) of the U.S. Exchange Act and under the laws of each state where such offers and sales are made (unless exempted from such state's registration requirements) and is a member in good standing with FINRA on the date hereof and at the date of any offer

or sale of the Offered Debentures in the United States or to or for the account or benefit of U.S. Persons.

(e) At the time of any offer or sale in the United States or to or for the account or benefit of U.S. Persons, it had reasonable grounds to believe and did or will believe that each offeree was a Qualified Institutional Buyer.

(f) It has not used and will not use, either directly or through its U.S. Affiliate, any form of General Solicitation or General Advertising, in connection with the offer or sale of the Offered Debentures in the United States or to or for the account or benefit of U.S. Persons and offers and sales of Offered Debentures in the United States or to or for the account or benefit of U.S. Persons have not been and will not be made in a manner involving a public offering within the meaning of Section 4(a)(2) of the U.S. Securities Act.

(g) On the Closing Date, it and its U.S. Affiliate, will deliver to the Corporation a certificate substantially in the form of Exhibit I attached hereto, relating to the manner of the offer and sale of the Offered Debentures in the United States or to or for the account or benefit of U.S. Persons or (ii) be deemed to represent and warrant to the Corporation, as at the Closing Date, that neither it, nor any of its Affiliates, nor any Person acting on its or their behalf has made any offers or sales of the Offered Debentures in the United States or to or for the account or benefit of U.S. Persons.

(h) It will deliver, through its U.S. Affiliate, a copy of the U.S. Offering Memorandum to each purchaser of Offered Debentures in the United States or who is a U.S. Person. Immediately prior to transmitting the U.S. Offering Memorandum to any offeree, it had reasonable grounds to believe and did believe that such offeree was a Qualified Institutional Buyer and at the time of completion of each sale of Offered Debentures in the United States or to or for the account or benefit of U.S. Persons, it will have reasonable grounds to believe and will believe that (i) each person in the United States or U.S. Person and (ii) each person offered Offered Debentures in the United States or each U.S. Person offered Offered Debentures, in each case that is purchasing Offered Debentures from it, is a Qualified Institutional Buyer.

(i) All purchasers of the Offered Debentures in the United States or who are U.S. Persons shall be informed that the Offered Debentures have not been and will not be registered under the U.S. Securities Act and are being offered and sold to them in reliance on the exemption from the registration requirements of the U.S. Securities Act provided by Rule 144A.

(j) Prior to the Closing Date, the Underwriters will provide the Corporation with a list of all purchasers of the Offered Debentures in the United States or who are U.S. Persons.

(k) Prior to completion of any sale of Offered Debentures in the United States or to U.S. Persons, each such purchaser will be required to execute a Qualified Institutional Buyer Investment Letter in the form of Exhibit A attached to the U.S. Offering Memorandum.

**Exhibit I to Schedule "A"**

**UNDERWRITERS' CERTIFICATE**

**TO: FORTUNA SILVER MINES INC.**

In connection with the private placement of the Offered Debentures of Fortuna Silver Mines Inc. (the "**Corporation**") to Qualified Institutional Buyers (the "**U.S. Private Placee**") pursuant to an applicable exemption from the registration requirement under the U.S. Securities Act of 1933, as amended (the "**U.S. Securities Act**"), pursuant to the underwriting agreement dated September 16, 2019 (the "**Underwriting Agreement**") between the Corporation and the underwriters named therein (each an "**Underwriter**"), the undersigned together with its United States broker-dealer affiliate (the "**U.S. Affiliate**") hereby certify that:

(1) each undersigned U.S. Affiliate of the undersigned Underwriter who offered or sold Offered Debentures in the United or to or for the account or benefit of U.S. Persons is duly registered as a broker or dealer under the U.S. Exchange Act and the securities laws of each state in which such offer or sale is made (unless exempted from the respective state's broker-dealer registration requirements) and a member of and in good standing with the Financial Industry Regulatory Authority, Inc. on the date hereof and on the date of each offer and sale made in the United or to or for the account or benefit of U.S. Persons;

(2) except for offers made in the United or to or for the account or benefit of U.S. Persons in accordance with Rule 15a-6 under the U.S. Exchange Act, all offers and/or sales of Offered Debentures in the United or to or for the account or benefit of U.S. Persons were made only through a U.S. Affiliate and have been effected in accordance with all applicable U.S. federal and state broker-dealer requirements;

(3) each offeree in the United States or who is a U.S. Person was provided with a copy of the preliminary U.S. Offering Memorandum, including the Preliminary Prospectus, and each purchaser of Offered Debentures in the United States who is a U.S. Person was provided with a copy of the final U.S. Offering Memorandum, including the Final Prospectus, and no other written material was used in connection with the offer and sale of the Offered Debentures in the United or to or for the account or benefit of U.S. Persons;

(4) immediately prior to transmitting the U.S. Offering Memorandum, we had reasonable grounds to believe and did believe that each U.S. Private Placee was a "qualified institutional buyer" (a "**Qualified Institutional Buyer**") as defined in Rule 144A of the U.S. Securities Act and, on the date hereof, we continue to believe that each such U.S. Private Placee that is purchasing Offered Debentures from us is a Qualified Institutional Buyer;

(5) it, and its affiliates, has not used and will not use any form of General Solicitation or General Advertising in connection with the offer or sale of the Offered Debentures in the United States or to or for the account or benefit of U.S. Persons;

(6) the offering of the Offered Debentures in the United States or to or for the account or benefit of U.S. Persons has been conducted by us and through our U.S. Affiliate in accordance with the terms of the Underwriting Agreement; and

(7) prior to any sale of Offered Debentures in the United States or to or for the account or benefit of U.S. Persons, we caused each U.S. Private Placee to execute a Qualified Institutional Buyer Investment Letter in the form of Exhibit A attached to the U.S. Offering Memorandum.

Words and terms with the initial letter or letters thereof capitalized in this certificate and not defined herein but defined in the Underwriting Agreement shall have the meanings given to such capitalized words and terms in the Underwriting Agreement unless otherwise defined herein.

Dated this ____day of _____, 2019.

**[UNDERWRITER]**

By:

**[U.S. AFFILIATE]**

By:

## Schedule "B"

### MATTERS TO BE ADDRESSED IN THE CORPORATION'S CANADIAN COUNSEL OPINION

(a) the Corporation is a corporation incorporated and validly existing under the *Business Corporations Act* (British Columbia);

(b) the Corporation is a reporting issuer (or the equivalent) in the Qualifying Jurisdictions, and is not included on a list of defaulting reporting issuers maintained by the securities regulatory authority that maintain such lists;

(c) the Corporation has all necessary corporate power and capacity to carry on its business as now conducted and to own, lease and operate its property and assets and the Corporation has the requisite corporate power and capacity to execute and deliver the Transaction Documents and to carry out the transactions contemplated thereby;

(d) the authorized and issued capital of the Corporation;

(e) all necessary corporate action has been taken by the Corporation to authorize the execution and delivery by the Corporation of the Transaction Documents and the performance by the Corporation of its obligations thereunder and to authorize the issuance, sale and delivery of the Purchased Debentures, the Additional Debentures and the grant of the Over-Allotment Option;

(f) all necessary corporate action has been taken by the Corporation to authorize the execution, if applicable, and delivery of each of the Canadian Preliminary Prospectus, the Canadian Final Prospectus, each U.S. Offering Memorandum, any Supplementary Material and any Marketing Documents and the filing thereof with the Commissions;

(g) all necessary documents have been filed, all requisite proceedings have been taken and all approvals, permits and consents of the appropriate regulatory authority in each Qualifying Jurisdiction have been obtained to qualify the Distribution of the Offered Debentures in each of the Qualifying Jurisdictions through Persons who are registered under Canadian Securities Laws and who have complied with the relevant provisions of such Canadian Securities Laws;

(h) if applicable, the form and terms of any certificates representing the Offered Debentures have been approved by the directors of the Corporation and are and will be in due form and in compliance with Applicable Laws and the rules, policies and by-laws of the TSX;

(i) if applicable, the form and terms of the definitive certificate representing the Underlying Shares have been approved by the directors of the Corporation and comply in all material respects with the *Business Corporations Act* (British Columbia), the Notice of Articles and Articles of the Corporation and the rules, policies and by-laws of the TSX;

(j) the Transaction Documents have been duly executed and delivered by the Corporation and each constitutes a legal, valid and binding obligation of the Corporation enforceable against the Corporation in accordance with its terms, subject to customary limitations and qualifications including, but not limited to, bankruptcy, insolvency and other laws affecting the rights of creditors generally and subject to the qualification that equitable remedies may be granted in the discretion of a court of competent jurisdiction and that enforcement of rights to indemnity, contribution and waiver of contribution set out in such Transaction Document may be limited by applicable law;

(k) the execution and delivery of the Transaction Documents and the fulfillment of the terms thereof by the Corporation, the offering, issuance, sale and delivery of the Purchased Debentures, the Additional Debentures, the Underlying Shares, and the grant of the Over-Allotment Option do not and will not conflict with any of the terms, conditions or provisions of the articles and notice of articles of the Corporation, any resolutions of the shareholders or directors (or any committee thereof) of the Corporation (of which counsel is aware) or any applicable corporate or securities laws of British Columbia or federal laws applicable therein;

(l) Computershare Trust Company of Canada has been appointed as the Debenture Trustee.

(m) Computershare Trust Company of Canada has been duly appointed as registrar and transfer agent for the Common Shares;

(n) the issuance of the Underlying Shares upon conversion, redemption or maturity of the Offered Debentures as contemplated by the Debenture Indenture, as the case may be, will be exempt from the prospectus and registration requirements under Canadian Securities Laws and no other documents are required to be filed, proceedings taken or approvals, permits, consents or authorizations of the appropriate regulatory authority in each of the Qualifying Jurisdictions obtained by the Corporation under Canadian Securities Laws to permit such issuance of the Underlying Shares, except for such filings, proceedings, approvals, permits, consents or authorizations which have been obtained (or will be obtained prior to the Closing Time);

(o) subject only to the Standard Listing Conditions, the Offered Debentures and the Underlying Shares have been conditionally accepted for listing on the TSX;

(p) upon full payment therefor and the issue thereof, the Offered Debentures and the Underlying Shares have been validly issued by the Corporation, and in the case of the Underlying Shares, as fully paid and non-assessable shares in the capital of the Corporation;

(q) the attributes of the Debentures and the Underlying Shares are consistent in all material respects with the description thereof contained or referred to in the Canadian Offering Documents and the Debenture Indenture;

(r) as to the accuracy of the statements under the headings "Eligibility For Investment" and "Certain Canadian Federal Income Tax Considerations" in the Canadian Final Prospectus; and

(s) such other matters as may be reasonably requested by the Underwriters no less than 48 hours prior to the Closing Time.