

**UNDERWRITING AGREEMENT**

March 2, 2011

IC Potash Corp.  
Suite 3700, 100 King Street West  
Toronto, Ontario M5X 1C9

**Attention: Sidney Himmel, President and Chief Executive Officer**

Dear Sirs:

Based upon and subject to the terms and conditions set out in this agreement (the “**Underwriting Agreement**”), Stifel Nicolaus Canada Inc. (the “**Lead Underwriter**”), Wellington West Capital Markets Inc., Macquarie Capital Markets Canada Ltd., Cormark Securities Inc., Mackie Research Capital Corporation, Clarus Securities Inc. and Stonecap Securities Inc. (together with the Lead Underwriter, the “**Underwriters**”) hereby offer to purchase from IC Potash Corp. (the “**Company**”), and the Company hereby agrees to sell to the Underwriters, 12,500,000 common shares (the “**Common Shares**”) of the Company (the “**Purchased Shares**”), at a price of \$1.60 per Purchased Share, for aggregate gross proceeds to the Company of \$20,000,000.

In addition, the Company hereby grants to the Underwriters an option (the “**Over-Allotment Option**”) to purchase additional Common Shares (the “**Additional Shares**”) for the purpose of covering the Underwriters’ over-allocation position, if any, in connection with the Offering and for market stabilization purposes. The Over-Allotment Option may be exercised by the Underwriters to acquire up to 3,000,000 Additional Shares at a price of \$1.60 per Additional Share. The Over-Allotment Option is exercisable in whole or in part, at the sole discretion of the Underwriters, for a period of 30 days following the Closing Date (as hereinafter defined), as more particularly described in Section 11. If the Over-Allotment Option is exercised in full by the Underwriters, the aggregate gross proceeds of the Offering will be \$23,000,000.

The Purchased Shares and the Additional Shares are collectively referred to herein as the “**Offered Shares**” and the offer and sale of the Purchased Shares, and the offer and sale of the Additional Shares, if any, is collectively referred to as the “**Offering**”.

The Offered Shares may be distributed in each of the provinces of Canada other than Quebec (the “**Qualifying Jurisdictions**”) by the Underwriters pursuant to the Final Prospectus (as hereinafter defined). Subject to applicable law and the terms of this Underwriting Agreement, the Offered Shares may also be distributed outside Canada and the United States where they may be lawfully sold on a basis exempt from the prospectus, registration and similar requirements of any such jurisdictions. The Underwriters acknowledge that the Offered Shares have not been and will not be registered under the U.S. Securities Act or any United States state securities laws and may not be offered or sold in the United States, except pursuant to an exclusion or exemption from the registration requirements of the U.S. Securities Act or any United States state securities laws and with the prior consent of the Company.

In consideration of the services to be rendered by the Underwriters in connection with the Offering, the Company shall pay to the Underwriters a cash fee (the “**Underwriting Fee**”) equal to 6.0% of the gross proceeds of the Offering (including any proceeds from the sale of any Additional Shares issued and sold pursuant to the exercise of the Over-Allotment Option).

The Underwriters shall have the right to invite one or more investment dealers (each, a “**Selling Firm**”) to form a selling group to participate in the soliciting of offers to purchase the Offered Shares and the Underwriters have the exclusive right to control all compensation arrangements between the members of the selling group. The Underwriters shall comply, and ensure that any Selling Firm shall agree with the Underwriters to comply, with all applicable laws and with the covenants and obligations of the Underwriters herein.

Based on the foregoing and upon and subject to the terms and conditions of this Underwriting Agreement, the Underwriters hereby severally, and not jointly, or jointly and severally, in their respective percentages set out in Section 18, offer to purchase the Purchased Shares, and by its acceptance of the offer constituted by this Underwriting Agreement, the Company agrees to issue and sell to the Underwriters, on the Closing Date, the Purchased Shares.

The following are the terms and conditions of the agreement between the Company and the Underwriters:

## **TERMS AND CONDITIONS**

### **Section 1      Definitions and Interpretation**

(1) In this Underwriting Agreement:

“**affiliate**”, “**associate**”, “**material fact**”, “**material change**”, and “**misrepresentation**” shall have the respective meanings ascribed thereto in the *Securities Act* (Ontario);

“**Business Day**” means any day other than a Saturday, Sunday or statutory or civic holiday in Toronto, Ontario;

“**Canadian Securities Laws**” means, collectively, all applicable securities laws of each of the Qualifying Jurisdictions and the respective rules and regulations under such securities laws together with applicable published instruments, notices and orders of the securities regulatory authorities in the Qualifying Jurisdictions;

“**Closing**” means the completion of the issue and sale of the Purchased Shares and, if applicable, any Additional Shares issued and sold pursuant to the exercise of the Over-Allotment Option;

“**Closing Date**” means March 17, 2011 or any earlier or later date as may be agreed to by the Company and the Underwriters, each acting reasonably, but in any event not later than March 31, 2011;

“**Company’s Auditors**” means such firm of chartered accountants as the Company may have appointed or may from time to time appoint as auditors of the Company, including prior auditors of the Company, as applicable;

“**distribution**” means distribution or distribution to the public, as the case may be, for the purposes of the Canadian Securities Laws;

“**Debt Instrument**” means any loan, bond, debenture, promissory note or other instrument evidencing indebtedness (demand or otherwise) for borrowed money or other liability;

**“Documents Incorporated by Reference”** means all financial statements, management information circulars, annual information forms, material change reports, business acquisition reports or other documents issued by the Company, whether before or after the date of this Underwriting Agreement, that are incorporated by reference, or deemed to be incorporated by reference, into the Preliminary Prospectus, Final Prospectus or any Supplementary Material;

**“Environmental Laws”** has the meaning ascribed thereto in paragraph 7(1)(ff);

**“Environmental Permits”** has the meaning ascribed thereto in paragraph 7(1)(gg);

**“Final Prospectus”** means the (final) short form prospectus, including all of the Documents Incorporated by Reference, prepared by the Company and certified by the Company and the Underwriters in accordance with Canadian Securities Laws, qualifying the distribution of the Offered Shares;

**“Financial Statements”** means the financial statements of the Company included in the Documents Incorporated by Reference, including the notes to such statements and any related auditors’ report on such statements;

**“Governmental Authority”** means and includes, without limitation, any national, federal government, province, state, municipality 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, and any governmental department, commission, board, bureau, agency or instrumentality, including the Securities Commissions;

**“Hazardous Substances”** has the meaning ascribed thereto in paragraph 7(1)(ff);

**“including”** means including without limitation;

**“Indemnified Party”** has the meaning given to that term in Section 15(1);

**“knowledge of the Company”** (or any similar phrases) means the actual knowledge of: (i) Sidney Himmel, the President and Chief Executive Officer of the Company; (ii) Kevin Strong, the Chief Financial Officer of the Company; (iii) Randy Foote, the Chief Operating Officer of the Company; and (iv) Patrick Okita, the Chief Exploration and Development Officer of the Company, together with the knowledge which they would have had if they had conducted a reasonable inquiry into the relevant subject matter;

**“Material Adverse Effect”** means a material adverse change in the condition (financial or otherwise), assets, liabilities (contingent or otherwise), business, affairs, operations, properties, or capital of the Company and the Subsidiaries, taken as a whole, whether or not arising in the ordinary course of business;

**“Material Property”** means the Ochoa property located in Lea County, New Mexico (on which Ochoa project is located) in which the Company holds certain interests, as more particularly described in the Preliminary Prospectus and the Ochoa Technical Report;

**“Mineral Rights”** as the meaning ascribed thereto in paragraph 7(1)(kk);

**“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*;

“**NP 11-202**” means National Policy 11-202 – *Process for Prospectus Reviews in Multiple Jurisdictions*;

“**Ochoa Technical Report**” means the technical report in respect of the Material Property entitled “NI 43-101 Technical Report on the Polyhalite Resources and updated Preliminary Economic Assessment of the Ochoa Project, Lea County, Southeast New Mexico” prepared by William Crowl, Donald Hulse and Terre Lane for the Company on behalf of Gustavson Associates, LLP and by Deepak Malhotra of Resource Development, Inc.;

“**Offering Documents**” means, collectively, the Preliminary Prospectus, the Final Prospectus, and any Supplementary Material;

“**Over-Allotment Closing Date**” means the third Business Day after the Over-Allotment Notice is delivered to the Company, or any earlier or later date as may be agreed to in writing by the Company and the Underwriters, each acting reasonably, but in no event later than 30 days from the Closing Date;

“**Over-Allotment Notice**” has the meaning ascribed thereto in Subsection 11(1);

“**Passport System**” means the system and procedures for prospectus filing and review under Multilateral Instrument 11-102 – *Passport System* adopted by the Securities Commissions (other than the Ontario Securities Commission) and NP 11-202;

“**person**” means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority or other legal entity;

“**Preliminary Prospectus**” mean the preliminary short form prospectus of the Company dated March 2, 2011, including all Documents Incorporated by Reference, prepared by the Company and certified by the Company and Underwriters in accordance with Canadian Securities Laws, relating to the distribution of the Offered Shares;

“**Securities Commissions**” means the applicable securities commission or regulatory authority in each of the Qualifying Jurisdictions;

“**Standard Listing Conditions**” has the meaning given to that term in paragraph 3(4)(c);

“**Subsidiaries**” means: (i) Intercontinental Potash Corp., a corporation existing under the laws of Canada; (ii) Intercontinental Potash Corp. (USA), a corporation existing under the laws of Colorado; and (iii) Trigon Exploration Utah Inc., a corporation existing under the laws of Utah, and “**Subsidiary**” means any one of them;

“**subsidiary**” means a subsidiary for purposes of the *Securities Act* (Ontario);

“**Supplementary Material**” means, collectively, any amendment to the Preliminary Prospectus or Final Prospectus, or any amendment or supplemental prospectus or ancillary materials that may be filed by or on behalf of the Company under Canadian Securities Laws relating to the distribution of the Offered Shares;

“**Time of Closing**” means 8:00 a.m. (Toronto time) on the Closing Date or the Over-Allotment Closing Date, as applicable, or any other time on the Closing Date or the Over-Allotment Closing Date, as applicable, as may be agreed to by Company and the Underwriters;

“**Transfer Agent**” means Computershare Trust Company of Canada;

“**TSXV**” means the TSX Venture Exchange;

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

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

- (2) **Headings, etc.** The division of this Underwriting Agreement into sections, subsections, paragraphs and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Underwriting Agreement. Unless something in the subject matter or context is inconsistent therewith, references herein to sections, subsections, paragraphs and other subdivisions are to sections, subsections, paragraphs and other subdivisions of this Underwriting Agreement.
- (3) **Currency.** Except as otherwise indicated, all amounts expressed herein in terms of money refer to lawful currency of Canada and all payments to be made hereunder shall be made in such currency.
- (4) **Capitalized Terms.** Capitalized terms used but not defined herein have the meanings ascribed to them in the Preliminary Prospectus.

## **Section 2 Filing of the Preliminary Prospectus and Final Prospectus**

- (1) As soon as possible, and in any event not later than 2:00 p.m. (Toronto time) on March 2, 2011, the Company shall have prepared and filed under the Canadian Securities Laws the Preliminary Prospectus and other related documents relating to the proposed distribution of the Offered Shares in the Qualifying Jurisdictions, and the Company shall have obtained a receipt or deemed receipt therefor from the Ontario Securities Commission (as principal regulator) and each of the other Securities Commissions pursuant to the Passport System by 5:00 p.m. (Toronto time) on such date.
- (2) The Company shall use commercially reasonable efforts to satisfy all comments with respect to the Preliminary Prospectus as soon as possible after receipt of such comments. The Company shall, in any event, not later than 2:00 p.m. (Toronto time) on March 14, 2011, have prepared and filed under the Canadian Securities Laws the Final Prospectus and other related documents relating to the proposed distribution of the Offered Shares in the Qualifying Jurisdictions, and the Company shall have obtained a receipt or deemed receipt therefor from the Ontario Securities Commission (as principal regulator) and each of the other Securities Commissions pursuant to the Passport System by 5:00 p.m. (Toronto time) on such date.
- (3) Until the earlier of the date on which: (i) the distribution of the Offered Shares is completed; or (ii) the Underwriters have exercised their termination rights pursuant to Section 13, the Company will promptly take, or cause to be taken, all additional steps and proceedings that may from time to time be required under Canadian Securities Laws to continue to qualify the distribution of the Offered Shares or, in the event that the Offered Shares have, for any reason, ceased so to qualify,

to so qualify again the Offered Shares, as applicable, for distribution in the Qualifying Jurisdictions.

### **Section 3      Delivery of Preliminary Prospectus, Final Prospectus and Related Matters**

- (1) The Company shall deliver without charge to the Underwriters, as soon as practicable following the issuance of a receipt or deemed receipt (as applicable) by each of the Securities Commissions for the Preliminary Prospectus and Final Prospectus, respectively, under the Passport System, in such cities in the Qualifying Jurisdictions as the Underwriters shall notify the Company, as many commercial copies of the Preliminary Prospectus and the Final Prospectus as the Underwriters may reasonably request for the purposes contemplated under Canadian Securities Laws (and, in any event, such deliveries will be made by 2:00 p.m. (Toronto time) on the next Business Day for deliveries within Toronto, Ontario, and within 24 hours for deliveries outside of Toronto, Ontario). The Company will similarly cause to be delivered to the Underwriters, in such cities in the Qualifying Jurisdictions as the Underwriters may reasonably request, commercial copies of any Supplementary Material required to be delivered to purchasers or prospective purchasers of the Offered Shares. Each delivery of the Preliminary Prospectus, the Final Prospectus or any Supplementary Material will have constituted and constitute the Company's consent to the use of the Preliminary Prospectus, the Final Prospectus and any Supplementary Material by the Underwriters for the distribution of the Offered Shares in the Qualifying Jurisdictions in compliance with the provisions of this Underwriting Agreement and Canadian Securities Laws.
- (2) Each delivery of the Preliminary Prospectus, the Final Prospectus and any Supplementary Material, as applicable, to the Underwriters by the Company in accordance with this Underwriting Agreement will constitute the representation and warranty of the Company to the Underwriters that (except for information and statements relating solely to the Underwriters and furnished by them specifically for use in the Preliminary Prospectus, Final Prospectus or Supplementary Material, as applicable), at the respective date of such document:
  - (a) the information and statements contained in the Preliminary Prospectus, the Final Prospectus or Supplementary Material, as applicable (including, in each case, the Documents Incorporated by Reference therein): (i) are true and correct in all material respects and contain no misrepresentation; and (ii) constitute full, true and plain disclosure of all material facts relating to the Offered Shares and the Company;
  - (b) no material fact has been omitted from the Preliminary Prospectus, the Final Prospectus or Supplementary Material, as applicable, that is required to be stated in the document or is necessary to make the statements therein not misleading in the light of the circumstances in which they were made; and
  - (c) the Preliminary Prospectus, the Final Prospectus or Supplementary Material, as applicable, complies in all material respects with Canadian Securities Laws.
- (3) The Company will also deliver to the Underwriters, contemporaneously with, or prior to the filing of the Preliminary Prospectus and the Final Prospectus, unless otherwise indicated:
  - (a) a copy of the Preliminary Prospectus and the Final Prospectus manually signed on behalf of the Company, by the persons and in the form required by Canadian Securities Laws;
  - (b) a copy of any other document filed with, or delivered to, the Securities Commissions by the Company under Canadian Securities Laws in connection with the Offering, including

any Supplementary Material and any document incorporated by reference in the Preliminary Prospectus or Final Prospectus not previously filed on SEDAR;

- (c) in the case of the Final Prospectus, evidence satisfactory to the Underwriters of the conditional approval of the listing of the Offered Shares for trading on the TSXV, subject only to the satisfaction by the Company of customary post-closing conditions imposed by the TSXV in similar circumstances (the “**Standard Listing Conditions**”); and
  - (d) in the case of the Final Prospectus, a “long-form” comfort letter dated the date of the Final Prospectus, in form and substance satisfactory to the Underwriters, acting reasonably, addressed to the Underwriters and the directors of the Company, from the Company’s Auditors, and based on a review completed not more than two Business Days prior to the date of the letter, with respect to financial and accounting information relating to the Company included and incorporated by reference in the Final Prospectus, which letter shall be in addition to the auditors’ report contained in the Final Prospectus and any auditors’ comfort letter addressed to the Securities Commissions and filed with or delivered to the Securities Commissions under Canadian Securities Laws.
- (4) Opinions, comfort letters and other documents substantially similar to those referred to in this Section 3 will be delivered to the Underwriters and the Company, and their respective counsel, as applicable, with respect to any Supplementary Material, contemporaneously with, or prior to the filing of, such Supplementary Material.

#### **Section 4 Material Changes During the Distribution of the Offered Shares**

- (1) The Company will promptly inform the Underwriters during the period prior to the completion of the distribution of the Offered Shares of the full particulars of:
  - (a) any material change (whether actual, anticipated, threatened, contemplated, or proposed by, to, or against) in the condition (financial or otherwise), assets, liabilities (contingent or otherwise), business, affairs, operations, properties, capital or prospects of the Company and the Subsidiaries, taken as a whole;
  - (b) any material fact that has arisen or has been discovered and would have been required to have been stated in any of the Offering Documents had that fact arisen or been discovered on, or prior to, the date of the Offering Documents, as the case may be;
  - (c) any change in any material fact or any misstatement of any material fact contained in any of the Offering Documents, or the existence of any new material fact, in each case which is of a nature as to render any of the Offering Documents misleading or untrue in any material respect or would result in a misrepresentation therein; or
  - (d) any change in applicable laws, materially and adversely affecting, or which could reasonably be expected to materially and adversely affect, the condition (financial or otherwise), condition (financial or otherwise), assets, liabilities (contingent or otherwise), business, affairs, operations, properties, capital or prospects of the Company and the Subsidiaries, taken as a whole, or the distribution of the Offered Shares.
- (2) The Company shall comply with Section 57 of the *Securities Act* (Ontario) and with the comparable provisions of other Canadian Securities Laws, and the Company will prepare and will file promptly any Supplementary Material which, in the opinion of the Company, may be

necessary, and will, until the distribution of the Offered Shares is complete, otherwise comply with all applicable filing and other requirements under Canadian Securities Laws arising as a result of such fact or change necessary to continue to qualify the Offered Shares for distribution in each of the Qualifying Jurisdictions.

- (3) The Company and the Underwriters acknowledge that the Company is required by Canadian Securities Laws to prepare and file an amendment to the Final Prospectus if at any time prior to the completion of the distribution of the Offered Shares the Final Prospectus contains a misrepresentation. The Company will promptly prepare and file with the Securities Commissions any amendment or supplement thereto, or other Supplementary Material, which in the opinion of the Company, acting reasonably, may be necessary or advisable to correct such misrepresentation.
- (4) In addition, if, during the period from the date hereof to the later of the Closing Date and the date of the completion of the distribution of the Offered Shares, it shall be necessary to file an amendment to the Preliminary Prospectus or Final Prospectus, or any other Supplementary Material, in order to comply with any Canadian Securities Laws, the Company shall, in cooperation with the Underwriters and their counsel, make any such filing as soon as reasonably possible.
- (5) In addition to the provisions of Subsections 4(1) and 4(2), the Company will, in good faith, discuss with the Underwriters any change, event, development or fact, contemplated, anticipated, threatened, or proposed in Subsections 4(1) and 4(2) that is of such a nature that there may be reasonable doubt as to whether notice should be given to the Underwriters and will consult with the Underwriters with respect to the form and content of any Supplementary Material proposed to be filed by the Company, it being understood and agreed that no such Supplementary Material will be filed with any Securities Commission until the Underwriters and their legal counsel have been given a reasonable opportunity to review and approve such material, acting reasonably.

## **Section 5      Due Diligence**

Prior to the filing of the Preliminary Prospectus and the Final Prospectus and, if applicable, prior to the filing of any Supplementary Material, the Company will provide the Underwriters and their legal counsel with timely access to all due diligence information as may be reasonably required by the Underwriters in order for them to fulfil their obligations as underwriters under Canadian Securities Laws and to enable them to responsibly execute the certificate required to be executed by each of them in the Preliminary Prospectus and the Final Prospectus, or in any Supplementary Material (if applicable). It shall be a condition precedent to the Underwriters' execution of any certificate in any Offering Document that the Underwriters be satisfied, acting reasonably, as to the form and content of the document. The Underwriters shall not unreasonably withhold or delay the execution of any such Offering Document required to be executed by the Underwriters and filed in compliance with applicable laws, including Canadian Securities Laws, for the purpose of the Offering.

## **Section 6      Conditions of Closing**

The Underwriters' obligations under this Underwriting Agreement (including the obligation to complete the purchase of the Purchased Shares or Additional Shares, if applicable) are conditional upon and subject to:

- (1) **Legal Opinions.** The Underwriters receiving at the Time of Closing, legal opinions addressed to the Underwriters from Cassels Brock & Blackwell LLP, counsel to the Company, or local counsel



with respect to those matters governed by the laws of jurisdictions other than the jurisdictions in which it is qualified to practice, which counsel may rely as to matters of fact, on certificates of the officers of the Company and other documentation standard for legal opinions in transactions of a similar nature to the Offering, in form and substance acceptable to the Underwriters, acting reasonably, including as to:

- (a) the Company being a “reporting issuer”, in each of the Qualifying Jurisdictions and not in default under Canadian Securities Laws in the Qualifying Jurisdictions;
- (b) the Company being a corporation existing under the *Canada Business Corporations Act*;
- (c) the Company having all necessary corporate power and capacity to carry on its business as now conducted and to own, lease and operate its properties and assets;
- (d) the Company having all necessary corporate power and capacity to execute and deliver this Underwriting Agreement and to perform its obligations hereunder, including the issuance and sale of the Purchased Shares and the Additional Shares issuable upon exercise of the Over-Allotment Option;
- (e) the authorized and issued and outstanding share capital of the Company;
- (f) all necessary corporate action having been taken by the Company to authorize the execution and delivery of this Underwriting Agreement and the performance of its obligations hereunder, including the issuance and sale of the Purchased Shares and the Additional Shares issuable upon exercise of the Over-Allotment Option, and this Underwriting Agreement having been executed and delivered by the Company and constituting a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to standard qualifications, including that specific performance and other equitable remedies may only be granted in the discretion of a court of competent jurisdiction, that the provisions thereof relating to indemnity, contribution and waiver of contribution may be unenforceable and that enforceability is subject to the provisions of the *Limitations Act, 2002* (Ontario);
- (g) all necessary corporate action having been taken by the Company to authorize the execution and delivery of each of the Preliminary Prospectus, the Final Prospectus and any Supplementary Material and the filing thereof with the Securities Commissions;
- (h) the Purchased Shares having been duly and validly authorized and that, at the Time of Closing and upon payment of the purchase price therefor, the Purchased Shares will be duly and validly issued as fully paid and non-assessable Common Shares;
- (i) the Additional Shares issuable upon exercise of the Over-Allotment Option having been reserved for issuance by the Company and that, upon exercise of the Over-Allotment Option in accordance with this Underwriting Agreement and upon payment of the purchase price therefor, such Additional Shares will be duly and validly issued as fully paid and non-assessable Common Shares;
- (j) the execution and delivery of this Underwriting Agreement, the fulfilment of the terms hereof by the Company, including the issuance and sale of the Purchased Shares and the Additional Shares issuable upon exercise of the Over-Allotment Option, do not and will not (as the case may be) conflict with or result in a breach or violation of any of the terms

or provisions of, or constitute a default under, whether after notice or lapse of time or both: (i) the provisions of any law, statute, rule or regulation to which the Company is subject; or (ii) the constating documents of the Company;

- (k) all necessary documents having been filed, all requisite proceedings have been taken and all approvals, permits, authorizations and consents of the appropriate regulatory authority in each of the Qualifying Jurisdictions having been obtained by the Company to qualify the distribution of the Offered Shares, through persons who are registered under applicable Canadian Securities Laws and who have complied with the relevant provisions of applicable Canadian Securities Laws;
  - (l) the Purchased Shares and the Additional Shares issuable upon exercise of the Over-Allotment Option having been conditionally approved for listing on the TSXV (subject to the Standard Listing Conditions);
  - (m) the statements set forth in the Final Prospectus under the caption “Eligibility for Investment” being true and correct;
  - (n) the form and terms of the definitive certificates representing the Common Shares having been approved by the board of directors of the Company and complying in all material respects with applicable corporate law requirements and the rules and by-laws of the TSXV; and
  - (o) the Transfer Agent having been duly appointed as the transfer agent and registrar for the Common Shares.
- (2) **Subsidiary Opinions.** The Underwriters shall have received at the Time of Closing legal opinions addressed to the Underwriters, in form and substance satisfactory to the Underwriters, acting reasonably, dated as of the Closing Date, from counsel to each of the Subsidiaries, which counsel in turn may rely, as to matters of fact, on certificates of public officials and officers of the Subsidiaries, as appropriate, with respect to the following matters: (a) each Subsidiary is a corporation existing under the laws of the jurisdiction in which it was incorporated, amalgamated or continued, as the case may be, and has all requisite corporate power to carry on its business as now conducted and to own, lease and operate its property and assets; and (b) as to the issued and outstanding shares of each Subsidiary registered, directly or indirectly, in the name of the Company;
- (3) **Permit and Lease Report.** The Underwriters shall have received at the Time of Closing a permit and lease report addressed to the Underwriters, in form and substance satisfactory to the Underwriters, acting reasonably, dated as of the Closing Date, from counsel to the Company in New Mexico, which counsel in turn may rely, as to matters of fact, on records of public officials in the New Mexico State Land Office and the Carlsbad Regional Bureau of Land Management Office, with respect to the record interest of the Company and/or the Subsidiaries in the potassium exploration or mining rights represented by the permits and leases, as applicable, comprising the Mineral Rights.
- (4) **Corporate Certificate.** The Underwriters shall have received at the Time of Closing a certificate, dated as of the Closing Date, signed by the President and Chief Executive Officer of the Company, or such other officer(s) of the Company as the Underwriters may agree, certifying for and on behalf of the Company, to the best of the knowledge, information and belief of the person(s) so signing, with respect to: (a) the articles and by-laws of the Company; (b) the

resolutions of the Company's board of directors relevant to the issue and sale of the Offered Shares and the authorization of this Underwriting Agreement and the other agreements and transactions contemplated herein; and (c) the incumbency and signatures of the signing officer(s) of the Company;

- (5) **Closing Certificate.** The Company shall have delivered to the Underwriters, at the Time of Closing, a certificate dated the Closing Date addressed to the Underwriters and signed by the President and Chief Executive Officer and the Chief Financial Officer of the Company, or such other officers as the Underwriters may agree, certifying for and on behalf of the Company, and not in their personal capacities, after having made due inquiries, with respect to the following matters:
- (a) the Company having complied, in all material respects, with all the covenants and satisfied all the terms and conditions of this Underwriting Agreement on its part to be complied with and satisfied at or prior to the Time of Closing;
  - (b) no order, ruling or determination having the effect of ceasing the trading or suspending the sale of the Offered Shares or any other securities of the Company has been issued by any regulatory authority and is continuing in effect and no proceedings for such purpose have been instituted or are pending, contemplated or threatened under any applicable laws, including Canadian Securities Laws, or by any regulatory authority;
  - (c) subsequent to the respective dates as at which information is given in the Final Prospectus, there having not occurred a Material Adverse Effect, or any change or development involving a prospective Material Adverse Effect, other than as disclosed in the Final Prospectus or any Supplementary Material, as the case may be;
  - (d) no material change relating to the Company and the Subsidiaries, taken as a whole, having occurred since the date hereof, with respect to which the requisite material change report has not been filed and no such disclosure having been made on a confidential basis that remains confidential; and
  - (e) the representations and warranties of the Company contained in this Underwriting Agreement and in any certificates of the Company delivered pursuant to or in connection with this Underwriting Agreement, being true and correct in all respects (in the case of any representation or warranty containing any materiality or Material Adverse Effect qualifier) or in all material respects (in the case of any representation or warranty without any materiality or Material Adverse Effect qualifier), with the same force and effect as if made on and as at the Time of Closing, after giving effect to the transactions contemplated by this Underwriting Agreement;
- (6) **Certificate of Transfer Agent.** The Company having delivered to the Underwriters at the Time of Closing a certificate of the Transfer Agent, certifying as to the number of Common Shares issued and outstanding as at the close of business on the Business Day prior to the Closing Date;
- (7) **Bring Down Auditor Comfort Letter.** The Company having caused the Company's Auditors to deliver to the Underwriters a comfort letter, dated the Closing Date, in form and substance satisfactory to the Underwriters, acting reasonably, bringing forward to the date which is two Business Days prior to the Closing Date, the information contained in the comfort letter referred to in paragraph 3(4)(d);

- (8) **Certificate of Status.** The Underwriters shall have received a certificate of compliance (or the equivalent) in respect of the Company and each of the Subsidiaries issued by the appropriate regulatory authority in the each jurisdiction under which the Company and the Subsidiaries exist;
- (9) **No Termination.** The Underwriters not having exercised any rights of termination set forth in Section 13; and
- (10) **Other Documentation.** The Underwriters having received at the Time of Closing such further certificates and other documentation from the Company as may be contemplated herein or as the Underwriters may reasonably require, provided, however, that the Underwriters shall request any such certificate or document within a reasonable period prior to the Time of Closing that is sufficient for the Company to obtain and deliver such certificate or document.

## **Section 7 Representations and Warranties of the Company**

- (1) The Company represents and warrants to the Underwriters as of the date hereof, and acknowledges that the Underwriters are relying upon each of such representations and warranties in completing the Closing, that:
  - (a) the Company (i) is duly incorporated under the *Canada Business Corporations Act* and is up-to-date in respect of all material corporate filings and is in good standing under such Act; (ii) has all requisite corporate power and capacity to carry on its business as now conducted and to own, lease and operate its properties and assets (including as described in the Preliminary Prospectus); and (iii) has all requisite corporate power and capacity to enter into this Underwriting Agreement and to perform its obligations hereunder, including to issue and sale of the Purchased Shares and the Additional Shares issuable upon exercise of the Over-Allotment Option;
  - (b) the Subsidiaries are the only subsidiaries of the Company and all outstanding shares of the Subsidiaries are held, directly or indirectly, by the Company and are held free and clear of all mortgages, liens, charges, pledges, security interests, encumbrances, claims and demands of any nature whatsoever. All of such shares in the capital of the Subsidiaries have been duly authorized and validly issued and are outstanding as fully paid and non-assessable shares and no person has any right, agreement or option, present or future, contingent or absolute, or any right capable of becoming a right, agreement or option, for the purchase from the Company of any interest in any of such shares or for the issue or allotment of any unissued shares in the capital of the Subsidiaries or any other security convertible into or exchangeable for any such shares;
  - (c) each of the Subsidiaries: (i) has been duly incorporated in its respective jurisdiction of incorporation and is up-to-date in respect of all material corporate filings and is in good standing under the laws of such jurisdiction; and (ii) has all requisite corporate power and capacity to carry on its business as now conducted and to own, lease and operate its properties and assets (including as described in the Preliminary Prospectus);
  - (d) no proceedings have been taken, instituted or, to the knowledge of the Company, are pending for the dissolution or liquidation of the Company or any of the Subsidiaries;
  - (e) the Company and each of the Subsidiaries has conducted its business in compliance, in all material respects, with all applicable laws, rules and regulations of each jurisdiction in which its business is carried on and is licensed, registered or qualified in all jurisdictions

in which it owns, leases or operates its property or carries on its business (as is required for its business to be carried on as now conducted) and it has not received a notice of non-compliance, nor has any knowledge of, any facts that could give rise to a notice of non-compliance with any such laws, rules or regulations which could reasonably be expected to have a Material Adverse Effect and all such licences, registrations and qualifications are valid, subsisting and in good standing;

- (f) all necessary corporate action has been taken, or will have been taken prior to the Time of Closing, by the Company so as to validly issue and sell the Offered Shares and to issue the Over-Allotment Option;
- (g) the execution and delivery of this Underwriting Agreement and the fulfilment of the terms hereof by the Company, including the issuance and sale of the Purchased Shares and the Additional Shares issuable upon exercise of the Over-Allotment Option, have been duly authorized by all necessary corporate action of the Company and this Underwriting Agreement has been executed and delivered by the Company and constitutes, a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms;
- (h) the execution and delivery of this Underwriting Agreement and the fulfilment of the terms hereof by the Company, including the issuance and sale of the Purchased Shares and the Additional Shares issuable upon exercise of the Over-Allotment Option, do not and will not require the consent, approval, authorization, registration or qualification of or with any Governmental Authority, stock exchange, Securities Commission or other third party, except such as have been obtained or such as may be required (and shall be obtained prior to the Time of Closing) under Canadian Securities Laws or stock exchange regulations;
- (i) the execution and delivery of this Underwriting Agreement and the fulfilment of the terms hereof by the Company, including the issuance and sale of the Purchased Shares and the Additional Shares issuable upon exercise of the Over-Allotment Option, do not and will not (as the case may be) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, whether after notice or lapse of time or both: (i) any statute, rule or regulation applicable to the Company or any of the Subsidiaries, including Canadian Securities Laws; (ii) the constating documents or resolutions of the Company or any of the Subsidiaries; (iii) the terms of any mortgage, note, indenture, contract, agreement, joint venture, partnership, instrument, lease or any other document to which the Company or any of the Subsidiaries are a party or by which they are bound; or (iv) any judgment, decree or order binding the Company, any of the Subsidiaries or the property or assets of the Company or any of the Subsidiaries;
- (j) the Purchased Shares and the Additional Shares issuable upon exercise of the Over-Allotment Option have been, or prior to the Time of Closing will be, duly and validly reserved and authorized for issuance and, upon receipt by the Company of the purchase price therefor, will be validly issued as fully paid and non-assessable Common Shares;
- (k) the authorized capital of the Company consists of an unlimited number of Common Shares, of which, as of March 1, 2011, 107,393,215 Common Shares were outstanding as fully paid and non-assessable Common Shares. Except as disclosed in the Preliminary Prospectus, there are no options, warrants or other securities convertible into, or exchangeable or exercisable for, Common Shares;

- (l) the Company is a “reporting issuer” in Alberta, British Columbia, Ontario and the Northwest Territories as of the date hereof, and at the Time of Closing will also be a “reporting issuer” in Saskatchewan, Manitoba, Newfoundland and Labrador, New Brunswick, Nova Scotia and Prince Edward Island, and is not included in a list of defaulting reporting issuers maintained by the securities regulators in such jurisdictions and, in particular, without limiting the foregoing, the Company has at all relevant times complied with its obligations to make timely disclosure of all material changes relating to it, no such disclosure has been made on a confidential basis that is still maintained on a confidential basis, and there is no material change relating to the Company which has occurred and with respect to which the requisite material change report has not been filed with the securities regulators in such jurisdictions;
- (m) no order ceasing or suspending trading in any securities of the Company or prohibiting the sale of the Offered Shares or the trading of any of the Company’s issued securities has been issued and no proceedings for such purpose are threatened or, to the knowledge of the Company, pending;
- (n) except as disclosed in the Preliminary Prospectus, no person has any agreement or option or right or privilege (whether at law, pre-emptive or contractual) capable of becoming an agreement for the purchase, subscription or issuance of, or conversion into, any unissued shares, securities, warrants or convertible obligations of any nature of the Company or any of the Subsidiaries;
- (o) to the knowledge of the Company, there is no legislation, or proposed legislation published by a legislative body, which it anticipates will materially and adversely affect the condition (financial or otherwise), assets, liabilities (contingent or otherwise), business, affairs, operations, properties, capital or prospects of the Company and the Subsidiaries, taken as a whole;
- (p) to the knowledge of the Company, no agreement is in force or effect which in any manner affects the voting or control of any of the securities of the Company or the Subsidiaries;
- (q) except as disclosed in the Preliminary Prospectus, the Corporation has not approved or entered into any binding agreement in respect of: (i) the purchase of any material property or assets or any interest therein or the sale, transfer or other disposition of any material property or assets or any interest therein currently owned, directly or indirectly, by the Company whether by asset sale, transfer of shares or otherwise; or (ii) the change of control (by sale or transfer of shares or sale of all or substantially all of the property and assets of the Company or otherwise) of the Company, and the Company has no knowledge of any proposed or planned disposition of shares by any shareholder who owns, directly or indirectly, 10% or more of the outstanding Common Shares;
- (r) since December 31, 2010, except as disclosed in the Preliminary Prospectus: (i) there has not been any material change in the condition (financial or otherwise), assets, liabilities (contingent or otherwise), business, affairs, operations, properties, capital or prospects of the Company and the Subsidiaries, taken as a whole; (ii) there has not been any material change in the capital stock or long-term debt of the Company and the Subsidiaries on a consolidated basis; and (iii) the Company and the Subsidiaries have carried on their respective businesses in the ordinary course;

- (s) the Financial Statements: (i) have been prepared in accordance with Canadian generally accepted accounting principles, applied on a basis consistent with prior periods; (ii) are, in all material respects, consistent with the books and records of the Company; (iii) contain and reflect all material adjustments for the fair presentation of the results of operations and the financial condition of the business of the Company for the periods covered thereby; (iv) present fairly, in all material respects, the financial position of the Company as at the date thereof and the results of its operations and the changes in its financial position for the periods then ended; (v) contain and reflect adequate provision or allowance for all reasonably anticipated liabilities, expenses and losses of the Company; and (vi) do not omit to state any material fact that is required by generally accepted accounting principles or by applicable law to be stated or reflected therein or which is necessary to make the statements contained therein not misleading;
- (t) neither the Company nor the Subsidiaries have any liabilities, direct or indirect, contingent or otherwise, not disclosed in the Preliminary Prospectus which could reasonably be expected to have a Material Adverse Effect;
- (u) to the knowledge of the Company, the Company's Auditors who audited the consolidated financial statements of the Company for the year ended December 31, 2010 and delivered their auditors' report thereon are independent public accountants as required by the Canadian Securities Laws;
- (v) there has not been any "reportable event" (within the meaning of National Instrument 51-102 – *Continuous Disclosure Obligations*) with the Company's Auditors;
- (w) the Company maintains a system of internal accounting controls sufficient to provide reasonable assurance that, (i) transactions are executed in accordance with management's general or specific authorizations, and (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with Canadian generally accepted accounting principles and to maintain asset accountability;
- (x) there are no actions, suits, judgments, investigations, inquires or proceedings of any kind whatsoever outstanding (whether or not purportedly on behalf of the Company or any Subsidiary) or, to the knowledge of the Company, pending or threatened against or affecting the Company, any Subsidiary or their respective directors or officers, at law or in equity or before or by any commission, board, bureau or agency of any kind whatsoever and, to the knowledge of the Company, there is no basis therefor and neither the Company nor any Subsidiary is subject to any judgment, order, writ, injunction, decree, award, rule, policy or regulation of any Governmental Authority which, either separately or in the aggregate, could reasonably be expected to have a Material Adverse Effect or would adversely affect the ability of the Company to perform its obligations under this Underwriting Agreement;
- (y) no legal or governmental proceedings or inquiries are pending to which the Company or any Subsidiary is a party or to which its property is subject that would result in the revocation or modification of any material certificate, authority, permit or licence necessary to conduct the business now conducted by the Company and the Subsidiaries which, if the subject of an unfavourable decision, ruling or finding would have a Material Adverse Effect and, to the knowledge of the Company, no such legal or governmental proceedings or inquiries have been threatened against or are contemplated with respect to the Company or the Subsidiaries, or with respect to their respective properties and assets;

- (z) neither the Company nor any of the Subsidiaries is in violation of its constating documents or in default of the performance or observance of any material obligation, agreement, covenant or condition contained in any material contract or other material instrument to which it is a party or by which it or its property may be bound, except where such violation or default could not reasonably be expected to have a Material Adverse Effect;
- (aa) to the knowledge of the Company, no counterparty to any material obligation, agreement, covenant or condition contained in any material contract or other material instrument to which the Company or a Subsidiary is a party is in default in the performance or observance thereof, except where such default in performance could not reasonably be expected to have a Material Adverse Effect;
- (bb) all taxes (including income tax, capital tax, payroll taxes, employer health tax, workers' compensation payments, property taxes, custom and land transfer taxes), duties, royalties, levies, imposts, assessments, deductions, charges or withholdings and all liabilities with respect thereto including any penalty and interest payable with respect thereto (collectively, "Taxes") due and payable by the Company or any of the Subsidiaries have been paid, except for where the failure to pay such taxes would not constitute an adverse material fact of the Company or the Subsidiaries or result in a Material Adverse Effect. All tax returns, declarations, remittances and filings required to be filed by the Company and the Subsidiaries have been filed with all appropriate Governmental Authorities and all such returns, declarations, remittances and filings are complete and materially accurate and no material fact or facts have been omitted therefrom which would make any of them misleading except where the inaccuracy or failure to file such documents would not constitute an adverse material fact of the Company or the Subsidiaries or result in a Material Adverse Effect. To the best of the knowledge of the Company, no examination of any tax return of the Company or the Subsidiaries is currently in progress and there are no issues or disputes outstanding with any Governmental Authority respecting any taxes that have been paid, or may be payable, by the Company, in any case, except where such examinations, issues or disputes would not constitute an adverse material fact of the Company or the Subsidiaries or result in a Material Adverse Effect;
- (cc) Computershare Trust Company of Canada at its principal transfer office in the City of Vancouver, British Columbia has been duly appointed as the registrar and transfer agent for the Common Shares;
- (dd) except as disclosed in the Preliminary Prospectus, none of the directors or officers of the Company, any known holder of more than 10% of any class of shares of the Company, or any known associate or affiliate of any of the foregoing persons, has had any material interest, direct or indirect, in any transaction during the two most recently completed financial years or during the current financial year, or any proposed material transaction which, as the case may be, materially affected, is material to or will materially affect the Company and the Subsidiaries, taken as a whole;
- (ee) each Debt Instrument to which the Company or a Subsidiary is a party is in good standing and each of the Company and the Subsidiaries is not in default of any obligation or covenant under any such Debt Instrument that could reasonably be expected to have a Material Adverse Effect and neither the Company nor any of the Subsidiaries is party to any material Debt Instrument or has any material loans or other indebtedness outstanding



which has been made to any of its shareholders, officers, directors or employees, past or present, or any person not dealing at arm's length with them;

- (ff) the Company and the Subsidiaries are in compliance, in all material respects, with all applicable federal, provincial, state, municipal and local laws, statutes, ordinances, by-laws and regulations and orders, directives and decisions rendered by any ministry, department or administrative or regulatory agency, domestic or foreign (the “**Environmental Laws**”) relating to the protection of the environment, occupational health and safety or the processing, use, treatment, storage, disposal, discharge, transport or handling of any pollutants, contaminants, chemicals or industrial, toxic or hazardous wastes or substance (“**Hazardous Substances**”);
- (gg) the Company and the Subsidiaries have, collectively, obtained all material licences, permits, approvals, consents, certificates, registrations and other authorizations under all applicable Environmental Laws (the “**Environmental Permits**”) necessary as at the date hereof to access the properties and for the operation of the businesses as presently carried on, and each Environmental Permit is valid, subsisting and in good standing and neither the Company nor any of the Subsidiaries is in default or breach, in any material respect, of any Environmental Permit and, to the knowledge of the Company, no proceeding is pending or threatened to revoke or limit any Environmental Permit;
- (hh) neither the Company nor any of the Subsidiaries has used, except in compliance in all material respects with all Environmental Laws and Environmental Permits, any property or facility which it owns or leases or previously owned or leased, to generate, manufacture, process, distribute, use, treat, store, dispose of, transport or handle any Hazardous Substance;
- (ii) neither the Company nor any of the Subsidiaries have received any notice of, or been prosecuted for an offence alleging, any material non-compliance with any Environmental Law nor is the Company aware of any such notice which has been given to a prior occupant of the Material Property which remains applicable to the Company, and neither the Company nor any of the Subsidiaries have settled any allegation of non-compliance short of prosecution, in respect of the Material Property. There are no orders or directions relating to environmental matters requiring any material work, repairs, construction or capital expenditures to be made with respect to any of the assets of the Company or any of its Subsidiaries which are material to the Company, nor has the Company or any of its Subsidiaries received notice of any of the same;
- (jj) neither the Company nor any of the Subsidiaries has received any notice wherein it is alleged or stated that it is potentially responsible for a federal, provincial, state, municipal or local clean-up site or corrective action under any Environmental Laws and neither the Company nor any of the Subsidiaries has received any request for information in connection with any federal, state, provincial, municipal or local inquiries as to disposal sites;
- (kk) the leases, licenses, permits, claims, concessions or other mineral rights in respect of the Material Property and in which the Company and/or the Subsidiaries hold an interest (collectively, the “**Mineral Rights**”) are accurately and completely described in all material respects in the Preliminary Prospectus, all assessments or other work required to be performed in relation to such Mineral Rights in order to maintain the interest of the Company or the Subsidiary therein, if any, have been performed to date and the

Company and/or the Subsidiaries have complied in all material respects with all applicable governmental laws, regulations and policies in this regard as well as with regard to contractual obligations to third parties in connection therewith, except for any non-compliance which could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Mineral Rights are sufficient to permit the holder thereof to explore for the minerals relating thereto and the Mineral Rights have been validly located and recorded in accordance with all applicable laws and are in good standing in all material respects as of the date of this Underwriting Agreement. The Company knows of no claim or basis for any claim (including a claim with respect to native rights) that might or could adversely affect the right thereof to use, transfer or otherwise exploit the Mineral Rights;

- (ll) each of the Company and the Subsidiaries hold such rights, titles and interests as are necessary or appropriate to authorize and enable it to access the Material Property, and to carry on the material mineral exploration and mine development activities as currently being undertaken or contemplated and has obtained or, upon performance of all conditions precedent expects to be able to obtain, such rights, titles and interests as may be required to complete the exploration program and mine development activities on the Material Property as described in the Preliminary Prospectus and, to the extent obtained, is not in default of such rights, titles and interests;
- (mm) except as disclosed in the Preliminary Prospectus, the Company and its Subsidiaries have no responsibility or obligation to pay any commission, royalty, licence fee or similar payment to any person with respect to the Mineral Rights;
- (nn) the agreements, documents or instruments pursuant to which the Company and the Subsidiaries hold in the Mineral Rights are valid and subsisting agreements, documents or instruments in full force and effect, enforceable in accordance with the terms thereof, the Company and the Subsidiaries are not in default, in any material respect, of any of the provisions of any such agreements, documents or instruments nor has any such default been alleged, and the Mineral Rights are in good standing under the applicable statutes and regulations of the jurisdictions in which the Material Property is situated, and there has been no default under any lease, license, permit, claim, concession or other mineral right pursuant to which the Mineral Rights are derived which could reasonably be expected to have a Material Adverse Effect and all taxes, rents or other payments required to be paid with respect to the Mineral Rights to the date hereof have been paid. The interest of the Company and the Subsidiaries in the Mineral Rights is not subject to any right of first refusal or purchase or acquisition rights;
- (oo) except as disclosed in the Preliminary Prospectus, the Company and each of the Subsidiaries is the absolute legal and beneficial owner of, and has good and marketable title to, all of its material properties and assets, including the Mineral Rights, free of all mortgages, liens, charges, pledges, security interests, encumbrances, claims or demands of any nature whatsoever and no other property rights, including access rights, are necessary for the conduct of the business of the Company or its Subsidiaries as currently conducted;
- (pp) all operations on the Company's properties have been conducted in all material respects in accordance with good mining and engineering practices and all applicable material workers' compensation and health and safety and workplace laws, regulations and policies have been complied with in all material respects;

- (qq) the Material Property is the only mineral property material to the Company;
- (rr) since the date of the Ochoa Technical Report, there has been no material change in the status of the geological knowledge of the Company with respect to Ochoa Property. The Company made available to the authors of the Ochoa Technical Report, prior to the issuance thereof, for the purpose of preparing the Ochoa Technical Report, all information requested and, to the knowledge of the Company, at the time the information was provided, such information did not contain any material misrepresentation;
- (ss) the Company and the Subsidiaries are in compliance with all laws respecting employment and employment practices, terms and conditions of employment, pay equity and wages, except where non-compliance with such laws could not reasonably be expected to have a Material Adverse Effect, and has not and is not engaged in any unfair labour practice;
- (tt) each material plan for retirement, bonus, stock purchase, profit sharing, stock option, deferred compensation, severance or termination pay, insurance, medical, hospital, dental, vision care, drug, sick leave, disability, salary continuation, legal benefits, unemployment benefits, vacation, incentive or otherwise contributed to or required to be contributed to, by the Company for the benefit of any current or former director, officer, employee or consultant of the Company (the “**Employee Plans**”) has been maintained in compliance with its terms and with the requirements prescribed by any and all statutes, orders, rules and regulations that are applicable to such Employee Plans, in each case in all material respects and has been publicly disclosed to the extent required by Canadian Securities Laws;
- (uu) the Company and each of the Subsidiaries is in compliance with all applicable anti-bribery or anti-corruption laws and neither the Corporation nor any Subsidiary has authorized, offered or made payments directly or indirectly to any individual, person or other entity that would result in a violation of any applicable anti-bribery or anti-corruption laws and no part of the proceeds received from the Offering will be used for any purpose that could constitute a violation of the laws of Canada or any other applicable anti-bribery or anti-corruption laws in the jurisdictions in which the Corporation and its Subsidiaries operate;
- (vv) the material assets of the Company and the Subsidiaries and their business and operations are insured against loss or damage with responsible insurers and, to the knowledge of the Company, its coverage thereunder is consistent with that obtained by reasonably prudent participants in comparable businesses, and such coverage is in full force and effect, and the Company has not failed to promptly give any notice of any material claim thereunder;
- (ww) with respect to each premises of the Company or the Subsidiaries which is material to the Company and the Subsidiaries on a consolidated basis and which the Company or any of the Subsidiaries occupies as tenant (the “**Leased Premises**”), the Company or such Subsidiary has the exclusive right to occupy and use the Leased Premises and each of the leases pursuant to which the Company and/or such Subsidiary occupies the Leased Premises is in good standing and in full force and effect. Other than the Leased Premises and the Mineral Rights, the Company has no interest in any real property;
- (xx) the minute books of the Company and each of the Subsidiaries made available to the Underwriters contain copies of all constating documents and all proceedings of

securityholders and directors (and committees thereof) and are complete in all material respects;

- (yy) the Company has not completed any “significant acquisition” or “significant disposition”, nor is it proposing any “probable acquisitions” (as such terms are used in NI 44-101) that would require the inclusion of any additional financial statements or *pro forma* financial statements in the Preliminary Prospectus pursuant to Canadian Securities Laws;
- (zz) the Company is eligible to file a short form prospectus in each of the Qualifying Jurisdictions pursuant to Canadian Securities Laws and on the date of and upon filing of the Final Prospectus there will be no documents required to be filed under applicable Canadian Securities Laws in connection with the Offering that will not have been filed as required;
- (aaa) the Company, is not aware of any circumstances presently existing under which liability is or could reasonably be expected to be incurred under Part XXIII.1 – Civil Liability for Secondary Market Disclosure of the *Securities Act* (Ontario) or analogous securities laws in the other Qualifying Jurisdictions; and
- (bbb) other than the Underwriters, there is no person acting or purporting to act at the request or on behalf of the Company that is entitled to any brokerage or finder’s fee in connection with the transactions contemplated by this Underwriting Agreement.

## **Section 8 Additional Covenants of the Company**

(1) In addition to any other covenant of the Company set forth in this Underwriting Agreement, the Company covenants with the Underwriters that:

- (a) **Stock Exchange Listing.** The Company will file or cause to be filed with the TSXV all necessary documents and will take commercially reasonable steps to ensure that the Purchased Shares and the Additional Shares issuable upon exercise of the Over-Allotment Option have been conditionally approved for listing on the TSXV, prior to the filing of the Final Prospectus with the Securities Commissions, subject only to satisfaction by the Company of the Standard Listing Conditions, and the Company shall thereafter fulfil the Standard Listing Conditions within the time period prescribed by the TSXV;
- (b) **Other Filings.** The Company will make all necessary filings, use commercially reasonable efforts to obtain all necessary regulatory consents and approvals (if any) and the Company will pay all filing fees required to be paid in connection with the transactions contemplated in this Underwriting Agreement;
- (c) **Press Releases.** Subject to compliance with applicable law, any press release of the Company during the period of distribution of the Offered Shares will be provided in advance to Underwriters, and the Company will use its reasonable efforts to agree to the form and content thereof with the Underwriters, prior to the release thereof, and any press release shall include the following legend: “*Not for distribution to United States newswire services or for dissemination in the United States*”;

- (d) **Use of Proceeds.** The Company confirms its intention to use the net proceeds from the purchase and sale of the Offered Shares in accordance with the descriptions set forth under the heading “Use of Proceeds” in the Preliminary Prospectus;
- (e) **Standstill Period.** During the period commencing on the date hereof and ending on the day which is 90 days following the Closing Date, the Company shall not, directly or indirectly, without the prior written consent of the Lead Underwriter, on behalf of the Underwriters, such consent not to be unreasonably withheld, sell or issue, or negotiate or enter into any agreement to sell or issue, any securities of the Company, except pursuant to: (i) the Offering; (ii) the issuance of non-convertible debt securities; (iii) the exercise of convertible securities, options or warrants of the Company outstanding as of February 24, 2011; (iv) the Company’s stock option plan; (v) the acquisition of shares or assets from persons acting at arm’s length to the Company which do not result in a change of control of the Company; or (vi) the pre-emptive granted by the Company to Resource Capital Fund V L.P. pursuant to a subscription agreement between the parties dated as of August 29, 2010; and
- (f) **Lock-up Arrangements.** Provided that the Offering contemplated hereby is completed, such directors and officers of the Company as the Underwriters may reasonably require will enter into agreements on terms and conditions satisfactory to the Lead Underwriter, on behalf of the Underwriters, acting reasonably, pursuant to which they will covenant and agree that they will not, for a period of 90 days following the Closing Date, directly or indirectly, offer, sell, contract to sell, lend, swap, or enter into any other agreement to transfer the economic consequences of, or otherwise dispose of or deal with, or publicly announce any intention to offer, sell, contract to sell, grant or sell any option to purchase, hypothecate, pledge, transfer, assign, purchase any option or contract to sell, lend, swap or enter into any agreement to transfer the economic consequences of, or otherwise dispose of or deal with, whether through the facilities of a stock exchange, by private placement or otherwise, any Common Shares or other securities of the Company held by them, directly or indirectly, unless: (a) they obtain the prior written consent of the Lead Underwriter, on behalf of the Underwriters; or (b) there occurs a take-over bid, plan of arrangement, amalgamation or similar transaction involving a change of control of the Company.

## **Section 9 Covenants of the Underwriters**

- (1) The Underwriters hereby covenant and agree with the Company as follows:
  - (a) During the period of distribution of the Offered Shares by or through the Underwriters or a Selling Firm, the Underwriters will offer and sell, and the Underwriters will require any Selling Firm to agree to offer and sell, the Offered Shares to the public only in the Qualifying Jurisdictions in compliance with Canadian Securities Laws and in accordance with this Underwriting Agreement. For the purposes of this paragraph 9(1)(a), the Underwriters shall be entitled to assume that the Offered Shares are qualified for distribution in any Qualifying Jurisdiction where a receipt for the Final Prospectus has been issued.
  - (b) The Underwriters will not, and will require any Selling Firm to agree not to, directly or indirectly, solicit offers to purchase or sell the Offered Shares or deliver any Offering Document to purchasers or prospective purchasers of the Offered Shares so as to require registration of the Offered Shares or filing of a prospectus or registration statement with

respect to those Offered Shares under the laws of any jurisdiction other than the Qualifying Jurisdictions.

- (c) The Underwriters, and any Selling Firm appointed hereunder, will use commercially reasonable efforts to complete the distribution of the Offered Shares as promptly as possible after the Time of Closing. The Underwriters will notify the Company as soon as possible when, in the Underwriters' opinion, the Underwriters and the Selling Firms have ceased the distribution of the Offered Shares and will promptly provide the Company, in writing, with a breakdown of the number of Offered Shares distributed in each of the Qualifying Jurisdictions where that breakdown is required by a Securities Commission for the purpose of calculating fees payable to, or making filings with, that Securities Commission.
  - (d) Upon the Company obtaining the necessary receipts therefor in each Qualifying Jurisdiction, the Underwriters shall deliver one copy of the Preliminary Prospectus, the Final Prospectus and any Supplementary Material to each of the purchaser of Offered Shares within one Business Day of receipt thereof.
- (2) No Underwriter shall be liable to the Company under this Section 9 with respect to a default by any of the other Underwriters.

#### **Section 10 Closing**

- (1) **Location of Closing.** The Closing will be completed at the offices of Cassels Brock & Blackwell LLP in Toronto, Ontario, at the Time of Closing on the Closing Date or at such other place as the Underwriters and the Company may agree.
- (2) **Certificates.** At the Time of Closing, subject to the terms and conditions contained in this Underwriting Agreement, the Company shall deliver to the Lead Underwriter, on behalf of the Underwriters, a certificate representing the Purchased Shares registered in the name of "CDS & Co." (or in such other name as the Underwriters may direct), against payment of the aggregate purchase price for the Purchased Shares by certified cheque, bank draft or wire transfer dated the Closing Date and payable to the Company (or as the Company may otherwise direct). The Company will, at the Time of Closing and upon such payment of the aggregate purchase price to the Company, make payment in full of the Underwriting Fee which will be made by the Company directing the Underwriters to withhold the Underwriting Fee and the reasonable expenses of the Underwriters payable pursuant to Section 17 from the payment of the aggregate purchase price of the Offered Shares issued and sold on the Closing Date.

#### **Section 11 Over-Allotment Option**

- (1) The Company has granted to the Underwriters, for the purpose of covering over-allotments, if any, or for market stabilization purposes, the Over-Allotment Option to purchase up to 3,000,000 Additional Shares at a price of \$1.60 per Additional Shares. The Over-Allotment Option is exercisable in whole or in part at any time or times on or before 5:00 p.m. (Toronto time) on the date that is 30 days following the Closing Date. The Lead Underwriter, on behalf of the Underwriters, may exercise the Over-Allotment Option from time to time, in whole or in part, by delivering written notice to the Company (the "**Over-Allotment Notice**") specifying the number of Additional Shares that the Underwriters wish to purchase. If the Underwriters exercise the Over-Allotment Option, the Underwriters shall, on the Over-Allotment Closing Date, pay to the Company the aggregate purchase price for the Additional Shares so purchased by wire transfer,

certified cheque or bank draft dated the Over-Allotment Closing Date against delivery of a certificate representing the Additional Shares registered in the name of “CDS & Co.” (or in such other name as the Underwriters may direct). The applicable terms, conditions and provisions of this Underwriting Agreement (including the provisions of Section 6 relating to closing deliveries) shall apply *mutatis mutandis* to the issuance of any Additional Shares pursuant to any exercise of the Over-Allotment Option, except as otherwise agreed by the Company and the Underwriters.

- (2) In the event that the Company shall subdivide, consolidate, reclassify or otherwise change its Common Shares during the period in which the Over-Allotment Option is exercisable, appropriate adjustments will be made to the offering price and to the number of Additional Shares issuable on exercise thereof such that the Underwriters are entitled to arrange for the sale of the same number and type of securities that the Underwriters would have otherwise arranged for had they exercised such Over-Allotment Option immediately prior to such subdivision, consolidation, reclassification or change.

## **Section 12 Compensation of the Underwriters**

- (1) **Underwriting Fee on Purchased Shares.** The Company shall pay to the Underwriters at the Time of Closing on the Closing Date the Underwriting Fee (equal to 6.0% of the aggregate gross cash proceeds received from the sale of the Purchased Shares) in consideration of the services to be rendered by the Underwriters in connection with the Offering.
- (2) **Underwriting Fee on Additional Shares.** The Company shall pay to the Underwriters at the Time of Closing on the Over-Allotment Closing Date, if applicable, the Underwriting Fee (equal to 6.0% of the aggregate gross cash proceeds received from the sale of any Additional Shares).

## **Section 13 Termination Rights**

- (1) All terms and conditions set out in this Underwriting Agreement shall be construed as conditions and any breach or failure by the Company to comply with any such conditions in favour of the Underwriters shall entitle the Underwriters to terminate their obligation to purchase the Purchased Shares by written notice to that effect given to the Company prior to the Time of Closing. The Company shall use commercially reasonable efforts to cause all conditions in this Underwriting Agreement to be satisfied. 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 their rights in respect of any subsequent breach or non-compliance, provided that to be binding on the Underwriters any such waiver or extension must be in writing.
- (2) In addition to any other remedies which may be available to the Underwriters in respect of any default, act or failure to act, or non-compliance with the terms of this Underwriting Agreement by the Company, the Underwriters (or any of them) shall be entitled, at their option, to terminate and cancel, without any liability on the part of the Underwriters, their obligations under this Underwriting Agreement to purchase the Purchased Shares by giving written notice to the Company at any time after the date hereof and prior to the Time of Closing:
  - (a) there should be discovered any material fact which existed as of the date hereof but which has not been publicly disclosed which, in the sole opinion of the Underwriters or any of them, has or would be expected to have a significant adverse effect on the market price or value of the securities of the Company;

- (b) there is, in the sole opinion of the Underwriters (or any of them), a material change or a change in any material fact or new material fact shall arise which would be expected to have a significant adverse effect on the business, affairs, or profitability of the Company or on the market price or the value of the securities of the Company;
  - (c) there should develop, occur or come into effect any event of terrorism, accident, or new or change in governmental law or regulation or other condition or financial occurrence of national or international consequence, which, in the sole opinion of the Underwriters (or any of them), acting reasonably, has or would be expected to have a significant adverse effect on the financial markets generally or the business, affairs, operations or profitability of the Company or the Subsidiaries or the market price or value of the securities of the Company;
  - (d) any inquiry, action, suit, proceeding or investigation (whether formal or informal) (including matters of regulatory transgression or unlawful conduct), is commenced, announced or threatened in relation to the Company or any one of the officers or directors of the Company or any of its principal shareholders which, in the sole opinion of the Underwriters (or any of them), acting reasonably, has or would be expected to have a significant adverse effect on the market price or value of the securities of the Company;
  - (e) any order to cease trading in securities of the Company is made or threatened by a securities regulatory authority (including the TSXV); or
  - (f) the Company is in breach of any material term, condition or covenant of this Underwriting Agreement or any representation or warranty given by the Company in this Underwriting Agreement becomes or is false in any material respect.
- (3) If the obligations of the Underwriters under this Underwriting Agreement are terminated pursuant to the termination rights in this Section 13, the liability of the Company to the Underwriters shall be limited to the obligations under Sections 15, 16 and 17.
- (4) The right of the Underwriters (or any of them) to terminate their obligations under this Underwriting Agreement is in addition to any other remedies they may have in respect of any rights contemplated by the Underwriting Agreement. A notice of termination given by one Underwriter under this Section 13 shall not be binding upon the other Underwriters.

#### **Section 14 Survival of Representations and Warranties**

All representations, warranties, covenants and agreements herein contained or contained in any documents delivered pursuant to this Underwriting Agreement and in connection with the transaction of purchase and sale herein contemplated shall survive the purchase and sale of the Offered Shares and the termination of this Underwriting Agreement and shall continue in full force and effect for the benefit of the Underwriters and/or the Company, as the case may be, in accordance with applicable law, regardless of the Closing of the Offering, any subsequent disposition of the Purchased Shares or any Additional Shares issued on exercise of the Over-Allotment Option and any investigation by or on behalf of the Underwriters with respect thereto.

#### **Section 15 Indemnity**

- (1) The Company covenants and agrees to protect, indemnify, and save harmless, each of the Underwriters and their respective affiliates, and each and every one of their respective directors,



officers, employees, partners, agents, shareholders and control persons (individually, an “**Indemnified Party**” and collectively, the “**Indemnified Parties**”) harmless from and against any and all expenses, losses (excluding loss of profits), claims, damages, liabilities or actions, joint or several (including, if settled in accordance with the terms hereof, the aggregate amount paid in settlement of any actions, suits, proceedings or claims and the reasonable fees and expenses of their counsel that may be incurred in advising with respect to and/or defending any claim that may be made against the Indemnified Parties) to which any Indemnified Party may become subject or otherwise involved in any capacity under any statute or common law or otherwise insofar as such expenses, losses, claims, actions, damage or liabilities arise out of or are based, directly or indirectly, upon the performance of professional services rendered to the Company by the Indemnified Parties (or any of them), whether directly or indirectly, in connection with the Offering, including by reason of:

- (a) any statement (except for statements relating solely to the Underwriters and furnished by them specifically for use in the Offering Documents) contained in the Offering Documents (including, for greater certainty, in any documents incorporated by reference therein), which at the time and in the light of the circumstances under which it was made contains or is alleged to contain a misrepresentation or any misstatement of a material fact;
  - (b) the omission or alleged omission to state in the Offering Documents (including, for greater certainty, in any documents incorporated by reference therein), or any certificate of the Company delivered hereunder or pursuant hereto, any material fact (other than a material fact relating solely to the Underwriters) required to be stated therein or necessary to make any statement therein not misleading;
  - (c) any order made, or inquiry, investigation or proceeding commenced by any securities regulatory authority or other competent authority based upon any misrepresentation, untrue statement or omission or alleged untrue statement or omission in the Offering Documents (including, for greater certainty, in any documents incorporated by reference therein and except for information and statements relating solely to the Underwriters and furnished by them specifically for use in the Offering Documents) that prevents or restricts the trading in any of the Company’s securities or the distribution or distribution to the public, as the case may be, of any of the Offered Shares in any of the Qualifying Jurisdictions;
  - (d) the Company not complying with any requirement of applicable laws, including Canadian Securities Laws, or stock exchange requirements in connection with the transactions contemplated herein, including the Company’s non-compliance with any statutory requirement to make any document available for inspection; or
  - (e) any breach of a representation or warranty of the Company contained in this Underwriting Agreement or the failure of the Company to comply with any of its obligations hereunder.
- (2) Notwithstanding Subsection 15(1), the indemnification in Subsection 15(1) does not and shall not apply to the extent that a court of competent jurisdiction in a final judgment that has become non-appealable shall determine that such expenses, losses, claims, damages, liabilities or actions were caused or incurred by the gross negligence, fraud, wilful misconduct or recklessness of the Underwriters.

- (3) If any matter or thing contemplated by this Section 15 shall be asserted against any Indemnified Party in respect of which indemnification is or might reasonably be considered to be provided, such Indemnified Party will notify the Company as soon as possible of the nature of such claim (provided that omission to so notify the Company will not relieve the Company of any liability that it may otherwise have to the Indemnified Party hereunder, except to the extent the Company is materially prejudiced by such omission) and the Company shall be entitled (but not required) to assume the defence of any suit brought to enforce such claim; provided, however, that the defence shall be through legal counsel reasonably acceptable to such Indemnified Party and that no settlement may be made by the Company or such Indemnified Party without the prior written consent of the other, such consent not to be unreasonably withheld.
- (4) In respect of any such claim, such Indemnified Party shall have the right to retain other legal counsel to act on such Indemnified Party's behalf, provided that the fees and disbursements of such other legal counsel shall be paid by such Indemnified Party, unless: (a) employment of such counsel has been authorized in writing by the Company; (b) the Company has not assumed the defence of the action within a reasonable period of time after receiving notice of the claim; (c) the named parties to any such claim include both the Company and the Indemnified Party and the Indemnified Party has been advised by counsel to the Indemnified Party that there may be a conflict of interest between the Company and the Indemnified Party; or (iv) there are one or more defences available to the Indemnified Party which are different from or in addition to those available to the Company such that there may be a conflict of interest between the Company and the Indemnified Party, in which event such fees and disbursements of the Indemnified Parties counsel shall be paid by the Company to the extent that they have been reasonably incurred; provided that in no circumstances will the Company be required to pay the fees and expenses of more than one set of legal counsel for all Indemnified Parties and, in addition, one additional set of local counsel in each applicable jurisdiction with respect to any particular claim or set of related claims.
- (5) To the extent that any Indemnified Party is not a party to this Underwriting Agreement, the Underwriters shall obtain and hold the right and benefit of this Section 15 in trust for and on behalf of such Indemnified Party.
- (6) The Company hereby consents to personal jurisdiction in any court in which any claim that is subject to indemnification hereunder is brought against the Underwriters or any Indemnified Party and to the assignment of the benefit of this Section 15 to any Indemnified Party for the purpose of enforcement provided that nothing herein shall limit the Company's right or ability to contest the appropriate jurisdiction or forum for the determination of any such claims.
- (7) The rights of the Company contained in this Section 15 shall not enure to the benefit of any Indemnified Party if the Underwriters were provided with a copy of any amendment or supplement to the Offering Documents which corrects any untrue statement or omission or alleged omission that is the basis of a claim by a party against such Indemnified Party and that is required, under the Applicable Securities Laws, to be delivered to such party by the Underwriters.
- (8) The rights of the Company contained in this Section 15 shall not enure to the benefit of any Indemnified Party to the extent that any such loss, claim, damage, or liability arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission made in any Offering Document in reliance upon and in conformity with written information concerning the Underwriters furnished to the Company by the Underwriters in writing specifically for use therein under the heading "Plan of Distribution" contained in the Offering Documents.

- (9) The Company shall not be liable under this Section 15 for any settlement of any claim effected without its prior written consent.
- (10) No Indemnified Party shall have any liability (whether, direct or indirect, in contract or tort or otherwise) to the Company, or any person asserting claims on behalf of or in right of the Company, in connection with the performance of professional services rendered to the Company by the Indemnified Party, directly or indirectly, in connection with the Offering, except to the extent that a court of competent jurisdiction in a final judgment that has become non-appealable shall determine that any expenses, losses, claims, damages, liabilities incurred by the Company arising therefrom were caused solely by the gross negligence, fraud, wilful misconduct or recklessness of such Indemnified Party.

## **Section 16 Contribution**

In the event that the indemnity provided for in Section 15 is declared by a court of competent jurisdiction to be illegal or unenforceable as being contrary to public policy or for any other reason, the Underwriters and the Company shall contribute to the aggregate of all expenses, losses, claims, damages, liabilities or actions of the nature provided for above such that each Underwriter shall be responsible for that portion represented by the percentage that the portion of the Underwriting Fee payable by the Company to such Underwriter bears to the gross proceeds realized by the Company from the distribution of the Offered Shares, whether or not the Underwriters have been sued together or separately, and the Company shall be responsible for the balance, provided that, in no event, shall an Underwriter be responsible for any amount in excess of the portion of the Underwriting Fee actually received by such Underwriter. In the event that the Company may be held to be entitled to contribution from the Underwriters under the provisions of any statute or law, the Company shall be limited to contribution in an amount not exceeding the lesser of: (a) the portion of the full amount of expenses, losses, claims, damages, expenses, liabilities or actions giving rise to such contribution for which such Underwriter is responsible; and (b) the amount of the Underwriting Fee actually received by any Underwriter. Notwithstanding the foregoing, a person guilty of gross negligence, fraud, wilful misconduct or recklessness shall not be entitled to contribution from any other party. Any party entitled to contribution will, promptly after receiving notice of commencement of any claim, action, suit or proceeding against such party in respect of which a claim for contribution may be made against another party or parties under this Section 16, notify such party or parties from whom contribution may be sought, but the omission to so notify such party shall not relieve the party from whom contribution may be sought from any obligation it may have otherwise under this Section 16, except to the extent that the party from whom contribution may be sought is materially prejudiced by such omission. The right to contribution provided herein shall be in addition and not in derogation of any other right to contribution which the Underwriters may have by statute or otherwise by law; provided, however, that this Section 16 will apply, *mutatis mutandis*, in respect of any other such right.

## **Section 17 Expenses**

The Company will be responsible for all costs and expenses related to the Offering, whether or not it is completed, including all fees and disbursements of its legal counsel, accountants and auditors, expenses related to road shows and marketing activities, printing costs, filing fees, taxes thereon and all reasonable out-of-pocket expenses of the Underwriters (including their travel expenses in connection with due diligence and marketing meetings and the reasonable fees and disbursements and taxes thereon of their legal counsel up to a maximum of \$100,000 (exclusive of disbursements and taxes)). Costs and expenses of the Underwriters, assuming Closing of the Offering, shall be payable by the Company to the Lead Underwriter, on behalf of the Underwriters, at the Time of Closing.

## Section 18 Liability of the Underwriters

- (1) The obligation of the Underwriters to purchase the Purchased Shares (or the Additional Shares, if the Over-Allotment Option is exercised) in connection with the Offering at the Time of Closing on the Closing Date (or the Over-Allotment Closing Date in the case of the exercise of the Over-Allotment Option) shall be several, and not joint, nor joint and several, and shall be as to the following percentages:

Stifel Nicolaus Canada Inc.	30%
Wellington West Capital Markets Inc.	21%
Macquarie Capital Markets Canada Ltd.	21%
Cormark Securities Inc.	16%
Mackie Research Capital Corporation	8%
Clarus Securities Inc.	2%
Stonecap Securities Inc.	2%
	<hr/>
	100%

- (2) If an Underwriter (a “**Refusing Underwriter**”) shall not complete the purchase and sale of the Offered Shares which such Underwriter has agreed to purchase hereunder for any reason whatsoever (the “**Defaulted Shares**”), the other Underwriters (the “**Continuing Underwriters**”) shall be entitled, at their option, to purchase all but not less than all of the Offered Shares which would otherwise have been purchased by such Refusing Underwriter *pro rata* according to the number of Offered Shares to have been acquired by the Continuing Underwriters hereunder or in such proportion as the Continuing Underwriters shall agree in writing. If the Continuing Underwriters do not elect to purchase the balance of the Offered Shares pursuant to the foregoing and the number of Defaulted Shares does not exceed 10% of the Offered Shares, the Continuing Underwriters will be obligated to purchase the Defaulted Shares on a *pro rata* basis. If the number of Defaulted Shares exceeds 10% of the Offered Shares: (a) the Continuing Underwriters shall not be obliged to purchase any of the Offered Shares that any Refusing Underwriter is obligated to purchase; and (b) the Company shall not be obliged to sell less than all of the Offered Shares, and the Company shall be entitled to terminate its obligations under this Underwriting Agreement arising from its acceptance of this offer, in which event there shall be no further liability on the part of the Company or the Continuing Underwriters, except pursuant to the provisions of Sections 15, 16 and 17.

## Section 19 Action by Underwriters

All steps which must or may be taken by the Underwriters in connection with this Underwriting Agreement, with the exception of the matters relating to termination contemplated by Section 13 or as otherwise specified herein, may be taken by the Lead Underwriter, on behalf of the Underwriters, and the execution of this Underwriting Agreement by the Company shall constitute the Company’s authority for accepting notification of any such steps from, and for delivering the definitive documents constituting the Offered Shares to, or to the order of, the Lead Underwriter.

## **Section 20     Governing Law**

This Underwriting Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each of the parties irrevocably attorns to the jurisdiction of the courts of the Province of Ontario.

## **Section 21     Notices**

All notices or other communications by the terms hereof required or permitted to be given by one party to another shall be given in writing by personal delivery or by facsimile to such other party as follows:

- (a)     to the Company at:

IC Potash Corp.  
Suite 3700, 100 King Street West  
Toronto, Ontario M5X 1C9

Attention:                 Sidney Himmel  
Facsimile:                 416.624.3781

with a copy to (which copy shall not constitute notice):

Cassels Brock & Blackwell LLP  
2100 Scotia Plaza  
40 King Street West  
Toronto, Ontario M5H 3C2

Attention:                 Jay Goldman  
Facsimile No.:             416.644.9337

- (b)     to the Underwriters at:

Stifel Nicolaus Canada Inc.  
79 Wellington Street West, 21<sup>st</sup> Floor  
Toronto, Ontario M5K 1B7

Attention:                 Scott Walters  
Facsimile No.:             416.815.1621

Wellington West Capital Markets Inc.  
145 King Street West  
Suite 700  
Toronto, Ontario M5H 1J8

Attention:                 Noem Silberstein  
Facsimile No.:             416.642.1910

Macquarie Capital Markets Canada Ltd.  
Brookfield Place  
181 Bay Street, Suite 3100  
Toronto, Ontario M5J 2T3

Attention: James Meloche  
Facsimile No.: 416.848.3699

Cormark Securities Inc.  
Royal Bank Plaza, South Tower  
200 Bay Street  
Suite 2800, P.O. Box 63  
Toronto, Ontario M5J 2J2

Attention: Jeff Fallows  
Facsimile No.: 416.943.6496

Mackie Research Capital Corporation  
199 Bay Street, Suite 4500  
Commerce Court West, Box 368  
Toronto, Ontario M5L 1G2

Attention: Howard Katz  
Facsimile No.: 416.860.7674

Clarus Securities Inc.  
Exchange Tower  
130 King Street West, Suite 3640  
Toronto, Ontario M5X 1A9

Attention: Brett Whalen  
Facsimile No.: 416.343.2798

Stonecap Securities Inc.  
181 Bay Street, Suite 900  
P.O. Box 779  
Toronto, ON M5J 2T3

Attention: Patrick Langlois  
Facsimile No.: 416.342.9941

with a copy to (which copy shall not constitute notice):

Wildeboer Dellelce LLP  
Suite 800, Wildeboer Dellelce Place  
365 Bay Street  
Toronto, Ontario M5H 2V1

Attention: James Brown  
Facsimile No.: 416.361.1790

or at such other address or facsimile number as may be given by either of them to the other in writing from time to time and such notices or other communications shall be deemed to have been received when personally delivered or, if delivered by facsimile, on the date of receipt (with receipt confirmed) provided notice or communication is received prior to 5:00 p.m. (recipient's time) on a Business Day or, in any other case, on the next Business Day after such notice or other communication has been delivered by facsimile.

## **Section 22 Counterpart Signature**

This Underwriting Agreement may be executed in one or more counterparts (including counterparts by facsimile or other electronic means), which together shall constitute an original copy hereof as of the date first noted above.

## **Section 23 Time of the Essence**

Time shall be of the essence in this Underwriting Agreement.

## **Section 24 Severability**

If any provision of this Underwriting Agreement is determined to be void or unenforceable, in whole or in part, such void or unenforceable provision shall not affect or impair the validity of any other provision of this Underwriting Agreement and shall be severable from this Underwriting Agreement.

## **Section 25 Entire Agreement**

This Underwriting Agreement constitutes the entire agreement between the Underwriters and the Company relating to the subject matter hereof and supersedes all prior agreements between the Underwriters and the Company relating to the Offering, including the provisions of the engagement letter dated as of February 24, 2011 between the Company and the Lead Underwriter.

## **Section 26 Obligations of the Underwriters**

In performing their respective obligations under this Underwriting Agreement, the Underwriters shall be acting severally and not jointly and severally. Nothing in this Underwriting Agreement is intended to create any relationship in the nature of a partnership, or joint venture between the Underwriters.

## **Section 27 No Fiduciary Relationship**

The Company acknowledges and agrees that: (a) no Underwriter has assumed or will assume an advisory or fiduciary responsibility in favour of the Company with respect to the Offering contemplated hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) and no Underwriter has any obligation to the Corporation with respect to the Offering contemplated hereby except the obligations expressly set forth in this Underwriting Agreement; (b) the Underwriters and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company; and (c) the Underwriters have not provided any legal, accounting, regulatory or tax advice with respect to the Offering contemplated hereby and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it deemed appropriate.

**Section 28      Market Stabilization.**

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

**Section 29      Effective Date**

This Underwriting Agreement is intended to and shall take effect as of the date first set forth above, notwithstanding its actual date of execution or delivery.

**[Remainder of Page Left Blank Intentionally]**



If the Company is in agreement with the foregoing terms and conditions, please so indicate by executing a copy of this Underwriting Agreement where indicated below and delivering the same to the Underwriters.

Yours very truly,

**STIFEL NICOLAUS CANADA INC.**

Per: (Signed) "Amy Freedman"  
Authorized Signing Officer

**WELLINGTON WEST CAPITAL MARKETS INC.**

Per: (Signed) "Noam Silberstein"  
Authorized Signing Officer

**MACQUARIE CAPITAL MARKETS CANADA LTD.**

Per: (Signed) "James Meloche"  
Authorized Signing Officer

Per: (Signed) "Mike Mackasey"  
Authorized Signing Officer

**CORMARK SECURITIES INC.**

Per: (Signed) "Jeff Fallows"  
Authorized Signing Officer

**MACKIE RESEARCH CAPITAL CORPORATION**

Per: (Signed) "Howard Katz"  
Authorized Signing Officer

**CLARUS SECURITIES INC.**

Per: (Signed) "Brett Whalen"  
Authorized Signing Officer

**STONECAP SECURITIES INC.**

Per: (Signed) "Patrick Langlois"  
Authorized Signing Officer

The foregoing accurately reflects the terms of the transaction that we are to enter into and such terms are agreed to.

**ACCEPTED** as of this 2<sup>nd</sup> day of March, 2011.

**IC POTASH CORP.**

Per: (Signed) "Sidney Himmel"  
Authorized Signing Officer