

**AGENCY OFFERING AGREEMENT  
(Capital Pool Company)**

THIS AGREEMENT dated for reference the 22nd day of December, 2011.

BETWEEN:

**RAILTOWN CAPITAL CORP.**, of Suite 108, 329 Main Street,  
Vancouver, British Columbia V6A 2S9

(the “**Issuer**”)

AND:

**HAYWOOD SECURITIES INC.**, of Suite 700 – 200 Burrard  
Street, Vancouver, British Columbia, V6C 3L6

(the “**Agent**”)

WHEREAS:

A. The Issuer wishes to raise money as a capital pool company for the purposes set forth in its Final Prospectus, which is to be filed by the Issuer with the Regulatory Authorities, by offering for sale certain of its securities; and

B. The Issuer wishes to appoint the Agent, as its exclusive agent, to distribute those securities and to provide advice in connection with the Issuer’s listing application with the Exchange, and the Agent is willing to accept the appointment on the terms and conditions of this Agreement;

THE PARTIES to this Agreement therefore agree:

**1. DEFINITIONS**

In this Agreement

- (a) “**Acts**” means the *Securities Act* (British Columbia), the *Securities Act* (Alberta) and the *Securities Act* (Ontario) and the regulations and rules made thereunder and all instruments, policy statements, blanket orders, notices, directions and rulings issued by the Commissions, all as amended;
- (b) “**Agent**” means Haywood Securities Inc.;
- (c) “**Agent’s Commission**” means the commission payable by the Issuer to the Agent pursuant to subsection 3.1;

- (d) “**Agent’s Options**” means the non-transferable share purchase options of the Issuer to be issued to the Agent pursuant to subsection 3.3;
- (e) “**Agent’s Option Shares**” means the previously unissued Common Shares, as presently constituted, which may be issued upon the exercise of the Agent’s Options;
- (f) “**Applicable Securities Laws**” means the Acts and the respective regulations, rules, instruments, blanket rulings and orders made thereunder, together with applicable published fee schedules, prescribed forms, policy statements and other regulatory instruments of the Commissions;
- (g) “**Certificates**” means the global certificate representing the Shares issued in the name of the Agent, and the certificates representing the Agent’s Options in the names and denominations directed by the Agent;
- (h) “**Closing Date**” has the meaning ascribed thereto in subsection 7.3;
- (i) “**Closing Time**” has the meaning ascribed thereto in subsection 7.3;
- (j) “**Commissions**” means the British Columbia Securities Commission, the Alberta Securities Commission and the Ontario Securities Commission;
- (k) “**Common Shares**” means the common shares in the capital of the Issuer;
- (l) “**Corporate Finance Fee Shares**” means the 100,000 Common Shares, which are issuable by the Issuer to the Agent in partial consideration of the services performed by the Agent under this Agreement;
- (m) “**Effective Date**” means the date on which a receipt for the Final Prospectus is issued by or on behalf of the Commissions;
- (n) “**Exchange**” means the TSX Venture Exchange;
- (o) “**Final Prospectus**” means the final prospectus intended to be filed by the Issuer with the Regulatory Authorities in connection with the Offering and any amendments to it which may be filed with the Regulatory Authorities;
- (p) “**Indemnitior**” has the meaning ascribed thereto in subsection 11.1;
- (q) “**Issuer**” means Railtown Capital Corp.;
- (r) “**Listing Date**” means the date the Common Shares are listed for trading on the Exchange;
- (s) “**Material Change**” has the meaning ascribed thereto in the Acts;
- (t) “**Material Fact**” has the meaning ascribed thereto in the Acts;

- (u) “**Offering**” means the offering of the Shares under the Prospectus for gross proceeds of \$500,000;
- (v) “**Offering Price**” means the price at which the Shares are offered for sale under the Prospectus, being \$0.10 per Share;
- (w) “**Officer’s Certificate**” has the meaning ascribed thereto in subsection 6.1;
- (x) “**Personnel**” has the meaning ascribed thereto in subsection 11.1;
- (y) “**Policy**” means Policy 2.4 of the Exchange entitled “Capital Pool Companies”, as amended from time to time;
- (z) “**Preliminary Prospectus**” means the preliminary prospectus filed by the Issuer with the Regulatory Authorities in connection with the Offering and any amendments to it which may be filed with the Regulatory Authorities;
- (aa) “**Proceeds**” means the gross proceeds of the Offering, less:
  - (i) the Agent’s Commission; and
  - (ii) the reasonable expenses of the Agent, including the reasonable fees and disbursements of the Agent’s legal counsel, incurred in connection with the Offering and not repaid by the Issuer prior to the Closing Time;
- (bb) “**Prospectus**” means the Preliminary Prospectus and Final Prospectus, as applicable, filed or intended to be filed by the Issuer with the Regulatory Authorities in connection with the Offering, and the qualification of the Common Shares, the Corporate Finance Fee Shares, the Agent’s Options and the Agent’s Option Shares, and any amendments thereto which may be filed with the Regulatory Authorities;
- (cc) “**Qualifying Jurisdictions**” means the Provinces of Ontario, British Columbia and Alberta;
- (dd) “**Qualifying Transaction**” has the meaning ascribed thereto in the Policy;
- (ee) “**Regulatory Authorities**” means the Commissions and the Exchange;
- (ff) “**Securities**” means the Shares, Corporate Finance Fee Shares, the Agent’s Options and the Agent’s Option Shares; and
- (gg) “**Shares**” means the 5,000,000 Common Shares sold pursuant to the Offering.

## **2. APPOINTMENT OF AGENT**

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

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

2.3 The Agent may offer selling group participation in the normal course of the brokerage business to selling groups of other licensed dealers, brokers and investment dealers, the fees of whom shall be the responsibility of the Agent and who may or who may not be offered part of the Agent's Commission or Agent's Options to be received by the Agent pursuant to this Agreement.

## **3. AGENT'S COMMISSION AND FEES**

3.1 The Issuer will pay the Agent a cash commission (the "**Agent's Commission**") equal to 10% of the gross proceeds of the sale of the Shares, whether purchased by the Agent for its own account or for its clients or purchased by other members of the Exchange for their own accounts or for their respective clients.

3.2 At the Closing Time, the Issuer will issue to the Agent the Corporate Finance Fee Shares. The distribution of the Corporate Finance Fee Shares will be qualified under the Prospectus.

3.3 As further consideration for the Agent assisting the Issuer in connection with the Offering at the Closing Time, the Issuer will issue to the Agent (or to members of the Agent's selling group in such amounts as the Agent directs) options (the "**Agent's Options**"), entitling the holders thereof to purchase 500,000 Agent's Option Shares for a period of 24 months from the Listing Date at the Offering Price. The Agent's Options will be non-transferable and the distribution of the Agent's Options will be qualified under the Prospectus.

3.4 The terms governing the Agent's Options will be set out in the Certificates, the form of which will be subject to the approval of the Issuer and the Agent, acting reasonably, and will include provisions for the appropriate adjustment in the class, number and price of the Agent's Option Shares issuable upon exercise of the Agent's Options upon the occurrence of certain events, including any subdivision, consolidation or reclassification of the Common Shares, payment of stock dividends or amalgamation of the Issuer.

3.5 The issue of the Agent's Options will not restrict or prevent the Issuer from obtaining any other financing, nor from issuing additional securities or rights during the period within which the Agent's Options are exercisable.

#### **4. OFFERING TERMS**

4.1 The Agent will offer the Shares for sale at the Offering Price in the Qualifying Jurisdictions on a commercially reasonable efforts basis in accordance with the Applicable Securities Laws and the policies of the Exchange.

4.2 Residents of the Qualifying Jurisdictions may subscribe for Shares by delivering to the Agent on or prior to the Closing Date:

- (a) payment of the aggregate subscription price in a manner acceptable to the Agent; and
- (b) such documents, certificates and forms as may be required by the Applicable Securities Laws and such questionnaire, undertakings and other material as, in the opinion of the Agent, may be required.

4.3 The Offering is subject to all of the Shares being subscribed for under the Offering.

4.4 All funds received by the Agent for subscriptions will be held in trust by the Agent pending completion of the Offering.

4.5 Notwithstanding any other term of this Agreement, all subscription funds received by the Agent will be returned to the subscribers without interest or deduction if the Offering does not close within 90 days after the date of the receipt for the Final Prospectus or within 90 days after the date of the receipt for an amendment to the Final Prospectus in which case the Offering must not close later than 180 days from the date of the receipt for the Final Prospectus.

#### **5. FILING OF PROSPECTUS AND CONDUCT OF THE OFFERING**

5.1 The Issuer will cause the Prospectus to be filed with the Regulatory Authorities, will deliver all necessary copies of the Prospectus to the Regulatory Authorities and will use its commercially reasonable efforts to have the Prospectus accepted by the Regulatory Authorities and have the Commissions issue receipts for the Preliminary Prospectus and the Final Prospectus.

5.2 The Issuer will provide the Agent with as many copies of the Prospectus (and in the event of an amendment, of such amended Prospectus) as the Agent reasonably requests, and any such delivery will constitute the consent of the Issuer to the use thereof in connection with the Offering subject to Applicable Securities Laws. The Agent will deliver to each purchaser a copy of the Prospectus sufficiently in advance of the Closing Date such that all withdrawal rights under the Applicable Securities Laws will have expired by the Closing Time.

5.3 Prior to the Effective Date, the Issuer will apply to the Exchange for a conditional acceptance of the listing of the Common Shares and, provided that the Issuer is not in breach of its obligations under this Agreement, the Agent will use its commercially reasonable efforts to

cause all such documents to be filed by it with the Exchange as may be required by the rules and policies of the Exchange.

5.4 Following the Effective Date and after consulting with the Exchange, the Issuer and the Agent will set the Closing Date and the Closing Time. The Closing Date will be no later than 90 days after the Effective Date.

5.5 If, after the Prospectus is first filed with the Regulatory Authorities but before the conclusion of the distribution of the Shares under the Prospectus, a Material Change occurs in the affairs of the Issuer, then the Issuer will:

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

5.6 After the Offering is completed, the Issuer and the Agent will forthwith file any documents required by the Exchange necessary to permit the Common Shares to commence trading on the Exchange.

## 6. OPINIONS AND CERTIFICATES

6.1 Prior to the Agent executing the Agent's certificate attached to the Final Prospectus, the Issuer will deliver to the Agent and its legal counsel in forms acceptable to them a certificate of the Issuer, dated as of the date of the Final Prospectus and signed by the chief executive officer and the chief financial officer of the Issuer or by such other officer approved by the Agent, certifying certain facts relating to the Issuer and its affairs (the "**Officer's Certificate**").

6.2 On the Closing Date, the Issuer will deliver to the Agent:

- (a) the Officer's Certificate, updated to the Closing Date;
- (b) an opinion of legal counsel for the Issuer addressed to the Agent and its legal counsel relating to any legal matter in connection with the Prospectus and the creation, issuance and sale of the Securities for which the Agent may reasonably request an opinion; and
- (c) documents evidencing the necessary approval of the Regulatory Authorities for the Offering and the conditional listing of the Common Shares on the Exchange.

6.3 The Issuer will also deliver any other certificates, comfort letters or opinions in connection with any matter related to the Offering or the Prospectus which are reasonably requested by the Agent or its legal counsel.

## 7. CONDITIONS OF CLOSING AND CLOSING

7.1 The Agent's obligations under this Agreement are conditional upon and subject to the fulfilment of the following conditions before the Closing Time, which conditions the Issuer covenants to use its commercially reasonable efforts to fulfil or cause to be fulfilled before the Closing Time:

- (a) all actions required to be taken by or on behalf of the Issuer, including the passing of all requisite resolutions of directors of the Issuer, will have been taken so as to approve the Prospectus and to validly create and distribute the Securities;
- (b) the Issuer will have made all necessary filings with and obtained all necessary approvals, consents and acceptances from the Regulatory Authorities for the Prospectus and to permit the Issuer to fulfil its obligations hereunder;
- (c) the Common Shares, including the Corporate Finance Fee Shares and the Agent's Option Shares, will have been conditionally accepted for listing on the Exchange; and
- (d) the certificates, opinions and other documents contemplated by section 6 of this Agreement will have been delivered to the Agent and its legal counsel.

7.2 The Agent's obligations under this Agreement with respect to acting as agent for the purposes of the Offering are also conditional upon and subject to: (a) the Issuer allowing the Agent and its representatives to conduct all due diligence, which the Agent may reasonably require in connection with the Offering; and (b) prior to the filing of the Final Prospectus, the Agent's due diligence review not revealing any material adverse information or fact that is not generally known to the public that might, as determined in the sole discretion of the Agent, adversely affect the value or market price of the Shares or the investment quality or marketability of the Shares.

7.3 The Offering will be completed at the offices of the Issuer or the Issuer's legal counsel at such time (the "**Closing Time**") and on such date (the "**Closing Date**") as may be agreed to by the Issuer and the Agent in consultation with the Exchange; provided, however, that if the Issuer has not been able to comply with any of the covenants or conditions set out herein required to be complied with by the Closing Time and Closing Date or such other date and time as may be mutually agreed to, then the respective obligations of the parties will terminate without further liability or obligation except for obligations of the Issuer with respect to the payment of expenses and indemnity and contribution provided for in this Agreement.

7.4 The Issuer will, on the Closing Date, deliver the Certificates to the Agent against payment of the Proceeds. The Agent will, on the Closing Date, deliver to the Issuer a written description and reconciliation of its expenses deducted from the gross proceeds of the Offering.

7.5 If the Issuer has satisfied all of its obligations under this Agreement, the Agent will, on the Closing Date, pay the Proceeds to the Issuer against delivery of the Certificates.

## **8. TERMINATION**

8.1 The Agent may terminate its obligations under this Agreement by notice in writing to the Issuer at any time before the Closing Date if, as determined in the sole discretion of the Agent acting reasonably:

- (a) there is an event, accident, act of terrorism, public protest, governmental law or regulation or other occurrence of any nature which, in the sole opinion of the Agent, acting reasonably, seriously affects or will seriously affect the financial markets or the business of the Issuer or the ability of the Agent to perform its obligations under this Agreement;
- (b) the Shares cannot, in the opinion of the Agent, acting reasonably, be practicably or profitably marketed due to the state of the financial markets;
- (c) following a consideration of the history, business, products, property or affairs of the Issuer or its principals and promoters, or of the state of the financial markets in general, or the state of the market for the Issuer's securities in particular, the Agent determines, in its sole discretion, acting reasonably, that it is not in the interest of the purchasers to complete the purchase and sale of the Shares;
- (d) an enquiry or investigation (whether formal or informal) in relation to the Issuer, or any of the Issuer's directors or officers, is commenced or threatened by an officer or official of any competent authority; or
- (e) a material adverse change or an adverse change in a Material Fact occurs, or is likely to occur, in the business, affairs, capital or share ownership of the Issuer.

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

- (a) any order to cease trading (including communicating with persons in order to obtain expressions of interest) in the securities of the Issuer is made by a competent regulatory authority and that order is still in effect;
- (b) the Issuer is in breach of any term of this Agreement in any material respect;
- (c) the Agent determines that any of the representations or warranties made by the Issuer in this Agreement are false or have become false in any material respect;
- (d) the Agent is advised that the Exchange will not approve the listing of the Common Shares; or
- (e) the Agent is not, in its sole discretion, acting reasonably, satisfied with the results of its due diligence review of the Issuer.



8.3 This Agreement will terminate if the Effective Date has not occurred within 120 days of the reference date of this Agreement or by such other date as may be agreed to by the Issuer and the Agent.

## **9. REPRESENTATIONS, WARRANTIES AND COVENANTS**

9.1 The Issuer represents, warrants and covenants to the Agent, as the case may be, that:

- (a) the Issuer is a valid and subsisting corporation duly incorporated and in good standing under the laws of the jurisdiction in which it is incorporated;
- (b) the Issuer is duly registered or licensed to carry on business in each jurisdiction in which it carries on business or owns property;
- (c) the authorized and issued capital of the Issuer is as disclosed in the Prospectus and the issued Common Shares are validly issued, fully paid and non-assessable;
- (d) upon their issuance, the Shares, the Corporate Finance Fee Shares, and all of the Agent's Option Shares that may be issued upon the due exercise (including payment of the exercise price per Agent's Option Share) of the Agent's Options will be validly issued as fully paid and non-assessable Common Shares;
- (e) the Issuer has no subsidiaries;
- (f) except as disclosed in the Prospectus, there are no outstanding options, agreements or rights of any kind whatsoever to acquire Common Shares or any other securities of the Issuer;
- (g) the Issuer currently carries on business as a capital pool company, as contemplated by the Policy, and has complied with and will continue to comply with all material requirements of the Policy until it completes a Qualifying Transaction;
- (h) the Issuer will use its commercially reasonable efforts to maintain its status as a reporting issuer not in material default of any Applicable Securities Laws for a period of 24 months following the Listing Date, and will use its commercially reasonable efforts to maintain its listing on the Exchange during such 24 months and to complete a Qualifying Transaction within such 24 months;
- (i) the Prospectus contains full, true and plain disclosure of all Material Facts relating to the Issuer, and its business and securities, and contains no "misrepresentations", within the meaning of the Acts;
- (j) the financial statements of the Issuer which form part of the Prospectus accurately reflect the financial position of the Issuer at the date of the financial statements

and there have been no adverse Material Changes in the financial position of the Issuer since that date, except as fully and plainly disclosed in the Prospectus;

- (k) the Issuer has materially complied and will comply materially with the requirements of all applicable corporate and securities laws, including, without limitation, the Acts and the *Business Corporations Act* (British Columbia) in relation to the issue and trading of its securities and all matters relating to the Offering;
- (l) the issue and sale of the Securities by the Issuer does not and will not conflict with, and does not and will not result in a breach of, any of the terms of the Issuer's incorporating documents or any agreement or instrument to which the Issuer is a party;
- (m) except as disclosed in the Prospectus, the Issuer is not a party to any actions, suits or proceedings that could materially affect its business or financial condition, and no such actions, suits or proceedings are contemplated or have been threatened;
- (n) except as disclosed in the Prospectus:
  - (i) none of the directors or officers of the Issuer are indebted or under obligation to the Issuer, on any account whatsoever; and
  - (ii) the Issuer has not guaranteed or agreed to guarantee any debt, liability or other obligation of any kind whatsoever of any person, firm or corporation of any kind whatsoever;
- (o) to the knowledge of the Issuer, all tax returns, reports, elections, remittances and payments of the Issuer, required by law to have been filed or made, have been filed or made and are substantially true, complete and correct and all taxes of the Issuer, have been paid or accrued and are reflected in the financial statements which form part of the Prospectus;
- (p) the Issuer has made adequate provision for taxes payable for the current period for which tax returns are not yet required to be filed and the Issuer is not aware of any contingent tax liability affecting the Issuer;
- (q) there is not presently, and will not be until the completion of the Offering, any Material Change or change in any Material Fact relating to the Issuer which has not been or will not be fully disclosed to the Agent;
- (r) the minute book of the Issuer, as provided or made available to the Agent or its legal counsel, is true and correct in all material respects and contains all the resolutions of its respective directors and shareholders;
- (s) other than the Agent, no person, firm or corporation acting or purporting to act at the request of the Issuer is entitled to any brokerage, agency or finder's fee in connection with the transactions described herein;

- (t) the Issuer is not a party to any actions, suits or proceedings that could materially affect its business or financial condition, and to the best of the Issuer's knowledge no such actions, suits or proceedings are contemplated or have been threatened which are not disclosed in the Prospectus;
- (u) there are no judgements against the Issuer which are unsatisfied, nor is the Issuer subject to any consent decrees or injunctions;
- (v) Computershare Investor Services Inc. has been duly appointed as the registrar and transfer agent of the Common Shares;
- (w) this Agreement has been authorized by all necessary corporate action on the part of the Issuer;
- (x) the directors and senior officers of the Issuer have or will have been provided with a copy of the Preliminary Prospectus and the Final Prospectus for their review, and the directors of the Issuer have or will have duly approved the Preliminary Prospectus and Final Prospectus at the respective times they are filed with the Regulatory Authorities, and will have authorized their distribution by the Agent in connection with the Offering;
- (y) the Issuer will, in good faith, discuss with the Agent any change in circumstances that is of a nature that there is reasonable doubt as to whether notice in writing needs to be given to the Agent pursuant to paragraph 5.5(a) of this Agreement;
- (z) the Issuer has set aside sufficient shares in its treasury to issue the Shares, the Corporate Finance Fee Shares and the Agent's Option Shares; and
- (aa) the representations and warranties in this section are true and correct and will remain so at all times up to and including the Closing Time unless otherwise disclosed in writing to the Agent.

9.2 The Agent represents, warrants and covenants to the Issuer that:

- (a) it is a valid and subsisting corporation duly incorporated, continued or amalgamated and in good standing under the laws of the jurisdiction in which it was incorporated, continued or amalgamated;
- (b) it will use its commercially reasonable efforts to solicit and obtain subscriptions for the Shares in the Qualifying Jurisdictions in such a manner so as to enable the Issuer to comply with the requirements of subsection 3.2 of the Policy;
- (c) it is a member in good standing of the Exchange;
- (d) it has complied with and will comply with the requirements of the Applicable Securities Laws in the jurisdictions where it is registered in relation to all matters relating to the Offering;

- (e) it will deliver to the Issuer on the Closing Date, a Distribution Summary Statement as required by subsection 3.2 of Policy 2.3 of the Exchange; and
- (f) this Agreement is a valid and binding obligation of the Agent enforceable in accordance with its terms.

## **10. EXPENSES OF AGENT**

10.1 The Issuer will pay all of the expenses of the Offering and all the expenses reasonably incurred by the Agent in connection with the Offering and its services provided under this Agreement, whether or not it is completed, including, without limitation, marketing costs, due diligence costs, travel costs, the fees and the reasonable expenses of the legal counsel for the Agent and the fees and expenses of any experts or third parties engaged by the Agent (following written consent by the Issuer), expenses incurred in conducting background checks on the existing or proposed directors, officers and promoters of the Issuer, long distance telephone, courier, photocopying, fax and similar expenses. The Issuer has paid to the Agent a retainer in the amount of \$10,000 in connection with the Agent's anticipated expenses, including legal expenses.

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

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

10.4 The Issuer authorizes the Agent to deduct its expenses in connection with the Offering from the gross proceeds of the Offering and any advance payments made by the Issuer, including expenses for which an account has not yet been rendered to the Issuer.

## **11. INDEMNITY AND CONTRIBUTION**

11.1 The Issuer (referred to as the "**Indemnitor**" in this Section) hereby agrees to indemnify and hold the Agent and each of its subsidiaries and affiliates, and each of their directors, officers and employees (hereinafter referred to as the "**Personnel**") harmless from and against any and all expenses, losses (other than loss of profits), fees, claims, actions (including shareholder actions, derivative actions or otherwise), damages, obligations, or liabilities, whether joint or several, and the fees and expenses of their counsel, that may be incurred in advising with respect to and/or defending any actual or threatened claims, actions, suits, investigations or proceedings to which the Agent and/or its Personnel may become subject or otherwise involved in any capacity under any statute or common law, or otherwise insofar as such expenses, losses, claims, damages, liabilities or actions arise out of or are based, directly or indirectly, upon the performance or professional services rendered to the Indemnitor by the Agent and its Personnel hereunder (including the aggregate amount paid in settlement of any such actions, suits,

investigations, proceedings or claims that may be made against the Agent and/or its Personnel, provided that the Indemnitor has agreed to such settlement), provided, however, that this indemnity shall not apply to the extent that a court of competent jurisdiction in a final judgment that has become non-appealable shall determine that:

- (a) the Agent and/or its Personnel have breached this Agreement, been grossly negligent or have committed wilful misconduct or any fraudulent act in the course of such performance; and
- (b) the expenses, losses, claims, damages or liabilities, as to which indemnification is claimed, were directly caused by the breach of this Agreement, gross negligence, wilful misconduct or fraud referred to in (a).

Without limiting the generality of the foregoing, this indemnity shall apply to all expenses (including legal expenses), losses, claims and liabilities that the Agent may incur as a result of any action or litigation that may be threatened or brought against the Agent and/or its Personnel, and the Issuer will reimburse the Agent for any and all expenses or liabilities which are indemnifiable hereunder as and when they are incurred by the Agent.

11.2 If for any reason (other than the occurrence of any of the events itemized in 11.1(a) and 11.1(b) above), the foregoing indemnification is unavailable to the Agent or any Personnel or is insufficient to hold the Agent or any Personnel harmless as a result of such expense, loss, claim, damage or liability, the Indemnitor, the Agent and such Personnel will contribute to such expense, loss, claims, damage or liability in such proportion as is appropriate to reflect not only the relative benefits received by the Indemnitor on the one hand and the Agent or any Personnel on the other hand but also the relative fault of the Indemnitor and the Agent or any Personnel, as well as any relevant equitable considerations; provided that the Indemnitor shall in any event contribute to the amount paid or payable by the Agent or any Personnel as a result of such expense, loss, claim, damage or liability and any excess of such amount over the amount of the fees received by the Agent hereunder.

11.3 The Indemnitor agrees that if any legal proceeding is brought against the Indemnitor, the Agent and/or any of its Personnel by any governmental commission or regulatory authority or any stock exchange or other entity having regulatory authority, either domestic or foreign, or any such entity shall investigate the Indemnitor, the Agent and/or any of its Personnel shall be required to testify in connection therewith or shall be required to respond to procedures designed to discover information regarding, in connection with, or by reason of the performance of professional services rendered to the Indemnitor, then the Agent shall have the right to employ its own counsel in connection therewith provided that the Agent acts reasonably in selecting such counsel, and the fees and expenses of such counsel as well as the costs (including an amount to reimburse the Agent for time spent by its Personnel in connection therewith) and out-of-pocket expenses incurred by its Personnel in connection therewith shall be paid by the Indemnitor as and when they occur.

11.4 Promptly after receipt of notice of the commencement of any legal proceeding against the Agent or any of its Personnel or after receipt of notice of the commencement or any investigation, which is based, directly or indirectly, upon any matter in respect of which

indemnification may be sought from the Indemnitor, the Agent will notify the Indemnitor in writing of the commencement thereof, and throughout the course thereof, will provide copies of all relevant documentation to the Indemnitor, will keep the Indemnitor advised of the progress thereof and will discuss with the Indemnitor all significant actions proposed. However, the failure by the Agent to notify the Indemnitor will not relieve the Indemnitor of its obligations to indemnify the Agent and/or any such Personnel. The Indemnitor shall on behalf of itself and the Agent, and/or any such Personnel, as applicable, be entitled (but not required) to assume the defence of any suit brought to enforce such legal proceeding; provided, however, that the defence shall be conducted through legal counsel acceptable to the Agent and/or any such Personnel, as applicable, acting reasonably, that no settlement of any such legal proceeding may be made by the Indemnitor without the prior written consent of the Agent and/or any such Personnel, as applicable, and neither the Agent nor any such Personnel, as applicable, shall be liable for any settlement of any such legal proceeding unless it has consented in writing to such settlement, such consent not to be unreasonably withheld. The Agent and its Personnel shall have the right to appoint its or their own separate counsel at the Indemnitor's cost provided that, in connection with any legal proceeding other than a legal proceeding in Subsection 11.3:

- (a) the Agent and/or its Personnel have been advised by such counsel that there may be legal defences available to them which are different from or additional to defences available to the Issuer (in which case the Issuer shall not have the right to assume the defence of such proceedings on the indemnified party's behalf);
- (b) the Issuer shall not have undertaken the defence of such proceedings and employed counsel within fifteen (15) days after notice of commencement of such proceedings; or
- (c) the employment of such counsel has been authorized by the Issuer in connection with the defence of such proceedings.

Notwithstanding the foregoing, no settlement of any legal proceeding may be made by the Agent or its Personnel without the prior written consent of the Indemnitor, which consent will not be unreasonably withheld.

11.5 The indemnity and contribution obligations of the Indemnitor shall be in addition to any liability, which the Indemnitor may otherwise have, shall extend upon the same terms and conditions to the Personnel of the Agent and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Indemnitor, the Agent, and any of the Personnel of such Agent. The foregoing provisions shall survive the completion of professional service rendered under this Agreement.

## **12. RIGHT OF FIRST REFUSAL**

12.1 The Issuer will notify the Agent of the terms of any further brokered equity financing or non-brokered equity financing in respect of which commissions or finder's fees will be paid, that it requires or proposes to obtain during the 24 months following the date on which the Common Shares commence trading on the Exchange, and the Agent will have the right of first refusal to act as the Issuer's lead selling agent in respect of any such financing.

12.2 The Issuer will notify the Agent of any Qualified Transaction proposed to be completed during the 24 months following the date on which the Common Shares commence trading on the Exchange, and the Agent will have the right of first refusal to act as the Issuer's sponsor pursuant to Policy 2.2 of the Exchange entitled "Sponsorship and Sponsorship requirements" with respect to such Qualifying Transaction.

12.3 The rights of first refusal referred to in Sections 12.1 and 12.2 must be exercised by the Agent within 15 days following the receipt of the notice from the Issuer to the Agent containing the terms of the proposed financing or proposed Qualifying Transaction, as applicable, by notifying the Issuer that it will provide such financing or such sponsorship, as applicable, on the terms set out in the notice.

12.4 The rights of first refusal referred to in Sections 12.1 and 12.2 will not terminate with respect to any future offerings or Qualifying Transactions, as applicable if, on receipt of any notice from the Issuer under this Section, the Agent fails to exercise the right.

12.5 The rights of first refusal granted under this Section 12 will terminate if the Offering is not completed within the period provided in this Agreement.

### **13. PUBLIC DISCLOSURE**

The Issuer agrees that no public announcement or press release concerning this Agreement or any other instrument related thereto, or the relationship between the Issuer and the Agent shall be made without prior written consent of the Agent, such consent not to be unreasonably withheld or delayed.

### **14. NOTICE**

Any notice or other communication to be given hereunder shall be addressed and delivered to:

- (a) in the case of the Issuer:

Railtown Capital Corp.  
Suite 108, 329 Main Street  
Vancouver, British Columbia V6A 2S9  
(Fax No.: 604-685-8334)

Attention: Jason Moreau

with a copy to:

Beadle Woods, Business Lawyers  
Suite 600 – 1090 West Georgia Street  
Vancouver, British Columbia V6E 3V7  
(Fax No: 604-357-1030)

Attention: Michael Raven

(b) and in the case of the Agent:

Haywood Securities Inc.  
700 – 200 Burrard Street  
Vancouver, British Columbia V6C 3L6  
(Fax No.: 604-697-7495)

Attention: Paul Woodward

with a copy to:

McCullough O'Connor Irwin LLP  
Suite 2610, 1066 West Hastings Street  
Vancouver, British Columbia V6E 3X1  
(Fax No.: 604-687-7099)

Attention: James D. Beeby

and if so given, shall be deemed to have been given and received upon receipt by the addressee or a responsible officer of the addressee if delivered, or one hour after being telecopied and receipt confirmed during normal business hours, as the case may be. Any party may, at any time, give notice in writing to the other in the manner provided for above of any change of address or telecopier number.

## **15. TIME**

Time is of the essence of this Agreement and will be calculated in accordance with the provisions of the *Interpretation Act* (British Columbia).

## **16. SURVIVAL OF REPRESENTATIONS AND WARRANTIES**

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

## **17. ENTIRE AGREEMENT**

This Agreement contains the full agreement of the parties in respect of the subject matter hereof and supercedes and replaces all previous written or unwritten agreements and understandings including, without limitation, the engagement letter dated August 1, 2011.



**18. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the courts of such Province will have jurisdiction over any dispute arising under this Agreement.

**19. LANGUAGE**

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

**20. ENUREMENT**

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

**21. HEADINGS**

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

**22. COUNTERPARTS**

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

*[remainder of page left intentionally blank]*

IN WITNESS WHEREOF the parties hereto have hereunto executed this Agreement as of the day and year first above written.

**RAILTOWN CAPITAL CORP.**

                  *"Jason Moreau"*  
Authorized Signatory

**HAYWOOD SECURITIES INC.**

                  *"Martin Burian"*  
Authorized Signatory