

## AGENCY AGREEMENT

THIS AGREEMENT is made as of the 27th day of April, 2012

### AMONG:

**SPIRIT BEAR CAPITAL CORP.**, Suite 300 – 576 Seymour  
Street, Vancouver, BC V6B 3K1

(the "**Corporation**")

### AND:

**MACQUARIE PRIVATE WEALTH INC.**, 550 Burrard  
Street, Suite 500, Vancouver, BC V6C 2B5

(the "**Agent**")

### WHEREAS:

- A. the Corporation wishes to raise funds by the sale of the Offered Common Shares in the Offering Jurisdictions;
- B. the Corporation has agreed to file the Prospectus in accordance with the Securities Legislation in order to qualify the distribution of the Offered Common Shares, the Stock Options and the Agent's Option; and
- C. the Corporation has agreed to retain the Agent as its exclusive agent to solicit subscriptions for the Offered Common Shares on a commercially reasonable efforts basis, and the Agent has agreed to act in such capacity upon the terms and conditions hereinafter set out.

**NOW THEREFORE** in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

### ARTICLE 1 INTERPRETATION

1.1 For the purposes of this Agreement, including the recitals and any amendment hereto, the following words and phrases shall have the following meanings:

- (a) "**Agent's Commission**" has the meaning ascribed thereto in Section 3.1;

"**Agent's Option**" means the sole, exclusive, irrevocable and non-transferable option to purchase that number of Common Shares as is equal to 10% of the aggregate number of Common Shares sold under the Offering at a price of \$0.10 per Agent's Share, for a period of 24 months from the Listing Date, to be granted by the Corporation to the Agent in accordance with Section 3.6;

- (b) "**Agent's Option Certificate**" means the certificate representing the Agent's Option;
- (c) "**Agent's Shares**" means the Common Shares to be issued on exercise of the Agent's Option;

- (d) "**Agreement**" means this agreement and the schedules hereto;
- (e) "**Agreement in Principle**" has the meaning given in the Policy;
- (f) "**Closing**" means the closing of the issue and sale of the Offered Common Shares as herein contemplated;
- (g) "**Closing Date**" means the date upon which the Closing occurs, which date shall be determined by agreement between the Corporation and the Agent and shall not be later than the last day of the Offering Period;
- (h) "**Commissions**" means the respective securities commissions or equivalent regulatory authorities administering the Securities Legislation;
- (i) "**Common Shares**" means common shares in the capital of the Corporation;
- (j) "**Completion of the Qualifying Transaction**" has the meaning given in the Policy;
- (k) "**Corporate Finance Fee**" has the meaning ascribed to it in Section 3.2;
- (l) "**Engagement Letter**" means the engagement letter dated February 3, 2012 from the Agent to the Corporation in respect of the Offering;
- (m) "**Executive Directors**" means the respective Executive Directors or equivalent authority of the Commissions;
- (n) "**Exchange**" means the TSX Venture Exchange Inc.;
- (o) "**Listing Date**" means the date the Common Shares are listed and begin trading on the Exchange;
- (p) "**Offering**" means the offer by the Corporation to sell the Offered Common Shares as contemplated by the Prospectus and this Agreement;
- (q) "**Offered Common Shares**" means an aggregate of 3,000,000 Common Shares offered for sale by the Corporation by way of an Initial Public Offering, at \$0.10 per share for gross proceeds of \$300,000 as contemplated by the Prospectus and this Agreement;
- (r) "**Offering Jurisdictions**" means the Provinces of British Columbia, Alberta and Ontario and such other selling jurisdictions as may be agreed to in writing by the Corporation and the Agent;
- (s) "**Offering Period**" means the period of 90 days from the date of issuance of the receipt for the final Prospectus;
- (t) "**Policy**" means Policy 2.4 of the Exchange entitled "Capital Pool Companies";
- (u) "**Preliminary Prospectus**" means the preliminary prospectus of the Corporation, and any amendments thereto, duly approved, signed, certified and filed in accordance with the Securities Legislation;
- (v) "**Principal Regulator**" means the British Columbia Securities Commission;

- (w) "**Prospectus**" means the prospectus of the Corporation, and any amendments thereto, duly approved, signed, certified and filed in accordance with the Securities Legislation qualifying the Offered Common Shares for distribution in the Offering Jurisdictions and qualifying the Stock Options and Agent's Option for distribution in the Offering Jurisdictions;
- (x) "**Stock Options**" means options to acquire an aggregate of 500,000 Common Shares to be granted to the directors and officers of the Corporation upon completion of the Offering and listing of the Corporation's Common Share on the Exchange, each option exercisable for a period of five years from date of grant at a purchase price of \$0.10 per Common Share;
- (y) "**Qualifying Transaction**" has the meaning given in the Policy;
- (z) "**Securities Legislation**" means the *Securities Act* (British Columbia), the *Securities Act* (Alberta) and the *Securities Act* (Ontario) and the securities legislation of such other selling jurisdictions as may be agreed to in writing by the Corporation and the Agent, and the respective regulations and rules thereto and the policy statements, instruments, notices and blanket orders of the respective Commissions, the national policy statements and national instruments applied by the respective Commissions, and the policies and by-laws of the Exchange;
- (aa) "**Subscribers**" means subscribers for Offered Common Shares;
- (bb) "**Subscription Funds**" means the gross funds received in respect of subscriptions for Offered Common Shares pursuant to and in accordance with the terms of the Prospectus and this Agreement;
- (cc) "**Time of Closing**" means 11:00 a.m. (Vancouver time) on the Closing Date or such other time on the Closing Date as the Corporation and the Agent may agree; and
- (dd) "**Total Subscription**" means subscriptions for all of the Offered Common Shares.

1.2 For the purposes of this Agreement, all references to "Dollars" or "\$" shall mean Canadian funds, unless otherwise specified.

1.3 The headings of this Agreement are inserted for convenience of reference only and shall not in any manner affect the construction or meaning of anything herein contained or govern the rights or liabilities of the parties hereto.

1.4 Words importing the singular number only shall include the plural and vice versa and words of gender shall entail all genders, including the neuter gender and words importing persons shall include companies, corporations, partnerships, syndicates, trusts and any number or aggregate of persons.

## **ARTICLE 2 APPOINTMENT OF AGENT**

2.1 Subject to the terms hereof, the Agent is hereby appointed by the Corporation as, and the Agent hereby agrees to act as, the sole and exclusive agent of the Corporation to solicit subscriptions to purchase the Offered Common Shares from Subscribers in the Offering Jurisdictions in accordance with the Securities Legislation. The Agent shall use its commercially reasonable efforts to obtain subscriptions to purchase all of the Offered Common Shares. The Agent shall act as agent only and shall be under no obligation to purchase any of the Offered Common Shares. The Agent may retain as sub-agents other

registered securities dealers and may receive subscriptions from such securities dealers provided that any compensation paid or payable to such agents shall be paid by the Agent at no additional cost to the Corporation. The Agent shall be under no liability for any failure to sell any or all of the Offered Common Shares or to engage sub-agents.

2.2 The Offering is subject to a minimum subscription of 3,000,000 Common Shares. The Agent agrees to hold all subscription funds received by the Agent until the minimum subscription has been attained. Notwithstanding any other terms of this Agreement, all subscription funds received by the Agent will be returned to the Subscribers without interest or deduction if the minimum subscription is not attained by the last day of the Offering Period.

2.3 The Agent shall secure from each Subscriber such certificates, documents and forms as may be required by the Securities Legislation and such questionnaires, undertakings and other material as may, in the opinion of the Agent, be required by the Exchange.

### **ARTICLE 3 AGENT'S FEES**

3.1 In consideration of the Agent agreeing to act as agent for the Offering, the Corporation agrees to pay to the Agent at the Time of Closing, a cash commission equal to ten percent (10%) of the Subscription Funds received from the sale of the Offered Common Shares (the "**Agent's Commission**"). The Agent's Commission shall be paid by the Corporation to the Agent by certified cheque or in such other manner as is satisfactory to the Agent.

3.2 The Corporation has also agreed to pay to the Agent on Closing, a non-refundable due diligence corporate finance fee (the "**Corporate Finance Fee**") of \$15,000 plus H.S.T.

3.3 The Corporation will also pay to the Agent, whether or not the Offering is completed, the fees and expenses of the Agent's legal counsel in connection with the Offering (the "**Legal Expenses**").

3.4 The Corporation has paid to the Agent the Corporate Finance Fee and a \$7,000 deposit which shall be applied against the Legal Expenses and expenses of the Agent, as more particularly described in Article 10 hereof.

3.5 If the Agent retains sub-agents or receives subscriptions from sub-agents, the Agent, in its sole discretion, shall pay them a fee as may be agreed among them, but in no event shall the Corporation be required to pay a fee in excess of the Agent's Commission.

3.6 The Corporation agrees to grant the Agent's Option to the Agent, and to such sub-agents as the Agent may direct, at the Time of Closing, and to execute and deliver to the Agent the Agent's Option Certificate setting forth the terms and conditions of the Agent's Option. The Corporation and the Agent intend that the Agent's Option will be qualified under and be distributed pursuant to the Prospectus.

### **ARTICLE 4 SUBSCRIPTIONS**

4.1 Residents of the Offering Jurisdictions may subscribe to purchase Offered Common Shares by delivering to the Agent or any authorized sub-agent on or prior to the Closing Date payment of the aggregate subscription price in respect of the Offered Common Shares subscribed for.

**ARTICLE 5**  
**REPRESENTATIONS AND WARRANTIES OF THE CORPORATION**

5.1 The Corporation represents and warrants to the Agent and hereby acknowledges that the Agent is relying on such representations and warranties in entering into this Agreement as follows:

- (a) the Corporation has been duly incorporated and organized and is valid and subsisting and in good standing under the laws of its jurisdiction of incorporation and has all the requisite corporate power and capacity to carry on its business as now conducted and as presently proposed to be conducted;
- (b) the Corporation does not own or have an interest in any assets other than cash or short term investments;
- (c) the Corporation has no business operations of any kind other than as permitted by the Policy;
- (d) the authorized capital of the Corporation and the issued capital of the Corporation is as disclosed in the Prospectus; all of the issued and outstanding securities of the Corporation have been duly issued, in compliance with all applicable securities laws, and are fully paid and non-assessable; to the best of the knowledge of the Corporation, none of the issued and outstanding securities of the Corporation are owned directly or indirectly by any director, officer, employee or contractor of the Agent or any affiliates (as defined by the Policies of the Exchange) of any of the foregoing except as disclosed in the Prospectus; and, no person, firm or corporation has any agreement or option, or right or privilege, whether pre-emptive or contractual, capable of becoming an agreement, including convertible securities, for the purchase, subscription or issuance of any unissued shares or other securities of the Corporation except as disclosed in the Prospectus;
- (e) to the knowledge of the Corporation, there is no action, proceeding or investigation pending or threatened against the Corporation before or by any federal, provincial, state, municipal, county or other governmental department, commission, board or agency, domestic or foreign, which may result in any material adverse change in the condition, financial or otherwise, of the Corporation, or which questions the validity of any action taken or to be taken by the Corporation pursuant to or in connection with this Agreement or as contemplated by the Prospectus;
- (f) the audited financial statements of the Corporation, including the notes thereto, contained in the Prospectus present fairly, in all material respects, the financial position and condition of the Corporation as at the date thereof, reflect all liabilities (absolute, accrued, contingent or otherwise) of the Corporation as at the date thereof, and have been prepared in accordance with generally accepted accounting principles applied on a consistent basis and there has not been any material adverse change in such position or condition since such date;
- (g) no event of material default under the constating documents, by-laws or resolutions of the Corporation or under any agreement or instrument to which the Corporation is a party has occurred and no event which with the giving of notice or the passage of time or both would constitute an event of material default under the constating documents, by-laws or resolutions of the Corporation or under any such agreement or instrument has occurred and is continuing;

- (h) the Corporation has not entered into a transaction of a nature material to the Corporation other than as disclosed in the Prospectus, and all material agreements to which it is a party or by which it is bound are disclosed in the Prospectus;
- (i) the Corporation has not reached an Agreement in Principle and the Corporation has not reached an agreement with another party to a Qualifying Transaction on all terms of the Qualifying Transaction in respect of which no material conditions exist, the satisfaction of which is outside the control of the Corporation (such as completion of a financing, maturation of a business, development of assets or approval of a third party), and no significant due diligence matters remain unresolved for such agreement;
- (j) the Corporation has not made any payment which is prohibited under Section 8 of the Policy;
- (k) except as disclosed herein or in the Prospectus, there is no person, firm or corporation acting or purporting to act for the Corporation entitled to any brokerage or finder's fee in connection with any of the transactions contemplated herein;
- (l) the execution and delivery by the Corporation of this Agreement and the performance of its obligations hereunder will not result in any breach or violation of, or be in conflict with, or constitute a default, under any term or provision of the constating documents of the Corporation or any shareholders' or directors' resolutions of the Corporation, or, to the best of the Corporation's knowledge, any agreement to which the Corporation is a party or by which the Corporation or any of its property is bound, and this Agreement has been duly authorized, executed and delivered by the Corporation;
- (m) no approval, authorization, consent or other order of any governmental authority is required in connection with the execution and delivery or with the performance by the Corporation of this Agreement except requisite filings with the Commissions and the Exchange;
- (n) the Corporation is not currently a reporting issuer under the laws of any jurisdiction, is not in default of any material requirement of the Securities Legislation, and will be, at the Time of Closing, a reporting issuer under the Securities Legislation of each of the Offering Jurisdictions;
- (o) the Corporation is in compliance in all material respects with its continuous disclosure obligations under applicable Securities Legislation and the rules and regulations of the Exchange and, without limiting the generality of the foregoing, there has not occurred any material adverse change, financial or otherwise, in the assets, liabilities (contingent or otherwise), business, financial condition or capital of the Corporation since January 31, 2012 which has not been publicly disclosed on a non-confidential basis, all statements set forth in all documents publicly filed by or on behalf of the Corporation pursuant to applicable Securities Legislation were true, correct and complete in all material respects and did not contain any misrepresentation as of the date of such statements and the Corporation has not filed any confidential material change reports since the date of such statements which remains confidential as at the date hereof;
- (p) to the best of the Corporation's knowledge, none of the directors or senior officers of the Corporation, or any holder of more than 10% of its outstanding Common Shares, or any associate or affiliate (as such terms are defined in the Securities Legislation) of any of the foregoing persons or companies has, or has had any material interest, direct or indirect, in any continuing or existing material transaction or has any material interest, direct or

indirect, in any proposed material transaction which, as the case may be, is material to or will materially affect the Corporation, except as stated in the Prospectus;

- (q) no securities commission or other governmental authority has issued any order preventing or suspending the use of the Preliminary Prospectus or the Prospectus;
- (r) all statements, facts, data, information and material made, furnished or provided from time to time by the Corporation in writing to the Agent relating to the Corporation were true and correct in all material respects as at the respective dates of said documents and all material facts relating to the Corporation have been fully disclosed to the Agent and such statements, facts, data, information and material did not and do not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make any statement or fact contained therein not misleading in light of the circumstances in which it was made (except when modified or superseded by statements, facts, data, information and materials subsequently provided to the Agent);
- (s) the directors and senior officers of the Corporation will have reviewed the Preliminary Prospectus and the Prospectus and the directors will have duly approved the Preliminary Prospectus and the Prospectus at the respective times they are filed with the Commissions and the Exchange and will have authorized its distribution by the Agent in connection with the Offering;
- (t) except statements or facts relating solely to the Agent, for which the Corporation makes no representation or warranty, the Prospectus contains full, true and plain disclosure of all material facts in relation to the Offered Common Shares, the Agent's Option and any other securities distributed under the Prospectus as required by the Securities Legislation; none of the statements or facts contained in the Prospectus is false or misleading; and there has been no omission to state any material fact in the Prospectus necessary in order to make any statement contained therein not misleading in light of the circumstances in which it was made;
- (u) Computershare Investor Services Inc., at its principal office in the City of Vancouver, British Columbia, has been appointed registrar and transfer agent for the Common Shares;
- (v) the Corporation has full corporate power and authority to enter into this Agreement and the Agent's Option Certificate and to perform its obligations set out herein and therein and this Agreement and the Agent's Option Certificate will be, at the time of issuance of the Agent's Option Certificate, duly authorized, executed and delivered by the Corporation and will constitute a legal, valid and binding obligation of the Corporation enforceable in accordance with the terms of this Agreement, subject to the general qualification that:
  - (i) enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights generally;
  - (ii) equitable remedies, including the remedies of specific performance and injunctive relief, are available only in the discretion of the applicable court;
  - (iii) the equitable or statutory powers of the courts in Canada having jurisdiction to stay proceedings before them and the execution of judgment; and

- (iv) rights to indemnity, contribution and waiver hereunder and the ability to sever unenforceable terms may be limited under applicable law;
- (w) there is not, in the constating documents or by-laws of the Corporation or in any agreement, mortgage, note, debenture, indenture or other instrument or document to which the Corporation is a party, any restriction upon or impediment to the declaration or payment of dividends by the directors of the Corporation or the payment of dividends by the Corporation to the holders of its Common Shares;
- (x) to the best of its knowledge, after due inquiry, the Corporation has complied with and will comply fully with the requirements of all applicable corporate and securities laws, in relation to the issue and trading of its securities and in all matters relating to the Offering;
- (y) upon payment of the proceeds for the Offered Common Shares, the Offered Common Shares will be validly authorized and issued, the Agent's Option will be validly created, authorized and delivered and the Agent's Shares will be validly authorized, allotted and reserved for issuance upon the exercise of the Agent's Option and the Offered Common Shares and Agent's Shares will, when issued, be issued as fully paid and non-assessable securities and will be issued free and clear of all liens, charges and encumbrances of any kind whatsoever;
- (z) no order ceasing or suspending trading in securities of the Corporation or prohibiting the sale of such securities has been issued against the Corporation, or to the knowledge of the Corporation after due inquiry any of its directors, officers or promoters or to the knowledge of the Corporation after due inquiry against any other companies that have common directors, officers or promoters and, to the best of the Corporation's knowledge after due inquiry, no proceedings for this purpose have been instituted, are pending, contemplated or threatened; and
- (aa) as at the date hereof the minute books of the Corporation are true, complete and correct in all material respects and contain the minutes of all meetings and all resolutions of the directors and shareholders thereof.

## **ARTICLE 6 COVENANTS OF THE CORPORATION**

6.1 Forthwith following execution of this Agreement the Corporation will use its best efforts to take or cause to be taken all steps and proceedings that may be necessary under the Securities Legislation, including but not limited to the filing of the Prospectus and the obtaining of a final receipt from the British Columbia Securities Commission, to qualify the Offered Common Shares for distribution to the public resident in the Offering Jurisdictions through the Agent and sub-agents or other registered securities dealers and to qualify for distribution the Stock Options and the Agent's Option.

6.2 The proceeds received by the Corporation from the sale of the Offered Common Shares will be used by the Corporation as described in the Prospectus under the heading "Use of Proceeds" and in compliance with the provisions of the Policy.

6.3 The Corporation shall promptly notify the Agent of full particulars of any material change, actual, anticipated or threatened, during the period of distribution to the public of the Offered Common Shares pursuant to the Offering:

- (a) in the business or affairs of the Corporation;



- (b) in or relating to the directors or officers of the Corporation;
- (c) in any material fact contained or referred to in the Prospectus or in any material fact disclosed by the Corporation, which is of such a nature as to render the Prospectus or any amendment thereto, misleading or untrue; or
- (d) in any of the representations and warranties contained Article 5 of this Agreement;

and the Corporation shall file under the Securities Legislation, as soon as practicable and in any event within any statutory limitation therefor, such new or correcting information, amendments and other documents as the circumstances may require. The Corporation shall further provide the Agent with such copies of such information, amendments or other documents as the Agent may reasonably require.

6.4 The Corporation shall in good faith discuss with the Agent any change in circumstances which is of a nature that there is reasonable doubt as to whether notice in writing need be given to the Agent pursuant to Section 6.2.

6.5 The Corporation covenants with the Agent that it will advise the Agent promptly of any request of either of the Commissions, the Exchange or other regulatory body for any amendment to the Preliminary Prospectus or the Prospectus or for any additional information, or the issuance by either of the Commissions, the Exchange or any other regulatory body of any cease trading order or suspension order relating to the Common Shares or of the institution of any such proceedings during the period of distribution which shall be no later than the Closing Date. The Corporation covenants to use its best efforts to prevent the issuance of any such cease trading order or suspension order and, if issued, to obtain the withdrawal thereof as soon as possible.

6.6 The Corporation, from time to time at its expense, shall deliver to the Agent, at the direction of the Agent, as many commercial copies of the Preliminary Prospectus and the Prospectus (and in the event of an amendment, of such amended Preliminary Prospectus or Prospectus) as the Agent may reasonably request, and any such delivery shall constitute the consent of the Corporation to the use thereof in connection with the Offering subject to the provisions of Securities Legislation relating thereto.

6.7 Delivery of the Prospectus and any supplementary material shall constitute a representation and warranty by the Corporation to the Agent that all material information and statements (except information and statements relating solely to or provided solely by the Agent) contained in the Preliminary Prospectus and the Prospectus and supplementary material are true and correct in all material respects at the time of delivery thereof and contain no misrepresentation and constitute full, true and plain disclosure of all material facts relating to the Corporation and that no material fact has been omitted therefrom (except facts relating solely to the Agent) which is required to be stated therein or is necessary to make the statements or information contained therein not misleading in light of the circumstances under which they were made. Such delivery shall also constitute the Corporation's consent to the Agent's use of the Preliminary Prospectus and the Prospectus, any supplementary material and any other public documents supplied to the Agent by the Corporation for the distribution of the Offered Common Shares in the Offering Jurisdictions in compliance with the provisions of this Agreement and applicable Securities Legislation.

6.8

- (a) The Corporation covenants and agrees to protect, indemnify and save harmless the Agent and its directors, officers and employees (collectively the "**Indemnified Parties**") from and against all losses, claims, damages, liabilities, costs or expenses (other than loss of profits), in any way caused, sustained or incurred by reason of or resulting directly from:

- A. any statement or information contained in or omitted from the Preliminary Prospectus, the Prospectus, any amended Prospectus and additional or ancillary material, information, evidence, return, report, application, statement, table or document that may be filed, or required to be filed, in connection with the Offering under the Securities Legislation, except statements or information relating solely to the Agent or furnished to the Corporation by the Agent, which, at the time and in light of the circumstances under which it was made, was false or misleading with respect to any material fact or which omits to state any material fact, the omission of which makes the statement false or misleading;
- B. any breach of the representations, warranties and covenants of the Corporation contained herein;
- C. any prohibition or restriction of trading in the securities of the Corporation or any prohibition affecting the distribution of the Offered Common Shares which may be ordered by any one or more competent authorities if such prohibition is based on any statement or omission made by the Corporation in the Prospectus;
- D. the Prospectus failing to comply with the requirements of the Securities Legislation in the Offering Jurisdictions so as to permit the lawful sale of the Offered Common Shares or by reason of the Corporation having failed to take or cause to be taken such steps or proceedings as were necessary to permit the lawful sale of the Offered Common Shares as contemplated by the Prospectus and as contemplated hereby;
- E. any formal inquiry or investigation, whether prior to or subsequent to Closing, into the affairs, records or accounts of the Corporation or into holdings of securities of the Corporation or transactions in securities of the Corporation, which is commenced or contemplated by either or both of the Commissions or the Exchange except where same relates solely to the activities of the Agent;

and provided that this indemnity shall not apply to the extent that a court of competent jurisdiction in a final judgement, that has become non-appealable, shall determine that:

- F. the Indemnified Parties have been grossly negligent or have committed any fraudulent act in the course of such performance of their obligations arising pursuant to this Agreement; or
- G. the Agent has breached any material provision of this Agreement;

and the expenses, losses, claims, damages or liabilities, as to which indemnification is claimed, were directly caused by the gross negligence, fraud or breach (as referred to in clause (G) above).

- (b) If any matter or thing contemplated by Section 6.8(a) shall be asserted against the Indemnified Party, the Indemnified Party shall notify the Corporation as soon as possible of the nature of such claim and the Corporation 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 acceptable to the Indemnified Party, acting reasonably, and that no settlement may be made by the Corporation or the Indemnified

Party without prior written consent of the other. If the Corporation assumes the defence of any such suit, the Indemnified Party shall continue to have the right to employ its own counsel, which shall be acceptable to the Corporation, acting reasonably, in any proceeding relating to the claim contemplated by Section 6.8(a) and the reasonable fees and expenses of such counsel shall be recoverable by the Indemnified Party from the Corporation to the extent that the same shall be covered by the indemnity in Section 6.8(a) if:

- A. the Indemnified Party has been advised by such counsel that there may be legal defences available to it which are different from or additional to defences available to the Corporation (in which case the Corporation shall not have the right to assume the defence of such proceedings on the Indemnified Party's behalf);
  - B. the Corporation 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 Corporation in connection with the defence of such proceedings.
- (c) To the extent that any Indemnified Party is not a party to this Agreement, the Agent shall obtain and hold the right and benefit of this section in trust for and on behalf of such Indemnified Party.
- (d) Subject to section 6.8(a), in the event that, for any reason, the indemnity provided for in this section is illegal or unenforceable, the Agent and the Corporation shall contribute to the aggregate of all losses, claims, costs, damages, expenses or liabilities of the nature provided in this section such that the Agent shall be responsible for that portion represented by the percentage that the Agent's Commission herein bears to the gross proceeds from the Offering and the Corporation shall be responsible for the balance. Notwithstanding the foregoing, a person guilty of fraudulent misrepresentation 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 subsection, notify such party or parties from whom contribution may be sought. In no case shall such party from whom contribution may be sought be liable under this subsection unless such notice shall have been provided, but the omission to so notify such party shall not relieve the party from whom contribution may be sought from any other obligation it may have otherwise than under this subsection. The right to contribution provided in this subsection shall be in addition to and not in derogation of any other right to contribution which the Agent may have by statute or otherwise by law.
- (e) The Corporation hereby consents to personal service, jurisdiction and venue in any court in British Columbia in which any claim which is subject to indemnification hereunder is brought against any Indemnified Party and to the assignment of the benefit of this section to any Indemnified Party for the purpose of enforcement provided that nothing herein shall limit the Corporation's right or ability to contest the appropriate jurisdiction or forum for the determination of any such claim.

6.9 The Corporation will take all necessary action to register the Corporation in a timely manner, whenever the business or property of the Corporation makes such registration necessary.

6.10 The Corporation will take all necessary action to complete its application for listing of the Common Shares on the Exchange with all reasonable diligence after the Closing, and shall in any event submit all such documents within 10 days of the Closing Date, unless otherwise agreed to by the Corporation and the Agent.

6.11 The Corporation will promptly deliver to the Agent all documents or information requested by the Agent in relation to the transactions contemplated in this Agreement and in relation to the performance by the Agent of its due diligence investigations in respect of the Preliminary Prospectus and the Prospectus and the listing of the Corporation's Common Shares on the Exchange, including, without limitation, Personal Information Forms for all insiders and directors, financial statements, consent of insiders to background, credit, educational and other checks, shareholders lists, business plans, etc.

6.12 Subject to Article 10, hereof, the Agent can, in its sole discretion, retain at the Corporation's expense, any agents, experts, professionals or others which it deems necessary or advisable in order to perform its obligations and due diligence procedures under this Agreement and in accordance with the Policy, and the Corporation covenants that it will comply with all reasonable requests by such agents, experts or professionals in respect of their investigations into the business and affairs of the Corporation.

6.13 Until the Corporation completes a Qualifying Transaction, the Corporation will comply with all applicable provisions of the Policy. The Corporation will maintain its status as a reporting issuer not in default of any Securities Legislation in the Offering Jurisdictions for a period of 24 months following the date that its Common Shares are listed and posted for trading on the Exchange and will use its best efforts to maintain its listing on the Exchange during such 24 months and to complete a Qualifying Transaction within such 24 months.

## **ARTICLE 7 COVENANTS OF THE AGENT**

7.1 The Agent hereby covenants, subject to the conditions contained in Article 8 hereof, to use its commercially reasonable best efforts to solicit subscriptions for all of the Offered Common Shares in the Offering Jurisdictions.

7.2 The Agent hereby covenants and agrees that it will not solicit subscriptions for Offered Common Shares except in compliance with applicable law, the rules, policies and by-laws of the Exchange and the terms and conditions set forth in the Prospectus and this Agreement.

7.3 The Agent will only solicit subscriptions for the Offered Common Shares from Subscribers resident in the Offering Jurisdictions in compliance with Securities Legislation and the terms and conditions set out herein and will deliver to each Subscriber a copy of the Prospectus sufficiently in advance of the Time of Closing such that all withdrawal rights under applicable Securities Legislation will have expired at the Time of Closing.

7.4 The Agent will close the subscription books and thereafter not receive any further subscriptions for the Offered Common Shares at the earlier of such time:

- (a) as orders for the maximum number of Offered Common Shares have been received (for certainty being 3,000,000 Common Shares); or
- (b) as prescribed by Securities Legislation.

7.5 The obligation of the Agent to execute any certificate or deliver any documents pertaining to the Preliminary Prospectus and the Prospectus shall be conditional upon compliance by the Corporation to the date of such execution and delivery with each of its covenants contained in this Agreement to be

complied with prior to the filing of either the Preliminary Prospectus or the Prospectus, as the case may be.

7.6 The Agent covenants and agrees that it shall:

- (a) provide all such notices and documents as may be required by the Securities Legislation or otherwise in connection with the Offering, including those required for the Prospectus by the orders, policies, rules, regulations, by-laws and procedures of the Commissions and the Exchange which govern capital pool company offerings, as amended from time to time; and
- (b) deliver to the Exchange as soon as reasonably possible after the Closing Date, a Distribution Summary Statement as required by Section 1.4(h) of Policy 2.3 of the Exchange.

7.7 The Agent shall indemnify the Corporation and its directors, officers, employees and agents and shall save the Corporation and its directors, officers, employees and agents harmless from and against any and all out of pocket expenses or costs of any nature whatsoever, other than the loss of profits, caused by or arising out of the Agent's gross negligence, which gives rise to a breach of the obligations of the Agent described in this Article 7.

7.8 The Agent covenants and agrees that is registered as a dealer in British Columbia, Alberta and Ontario.

## **ARTICLE 8 CONDITIONS OF THE AGENT'S OBLIGATIONS**

8.1 The obligations of the Agent contained in this Agreement may be terminated by the Agent in the event that prior to the Time of Closing:

- (a) any order operating to restrict, prevent or cease trading in the Common Shares is made pursuant to the Securities Legislation and has not been revoked, rescinded or withdrawn;
- (b) there is any material breach or non-performance of any of the covenants of the Corporation herein contained that has not been rectified, remedied or waived;
- (c) any authority having jurisdiction, including any stock exchange, commences or gives notice that it intends to commence any formal inquiry or investigation in relation to the Corporation, its affairs, records or accounts or any of the directors or officers of the Corporation, or into any holdings or transactions in the securities of the Corporation;
- (d) any inquiry, investigation or other proceeding (whether formal or informal) in relation to the Corporation or any of its directors or officers is commenced, announced or threatened, or any order is issued by any federal, provincial or other government authority or by any stock exchange, or there is any change of law which, in the sole opinion of the Agent, operates or will operate to prevent or to restrict the trading of the Common Shares or the distribution of any Common Shares or materially adversely affects or may materially adversely affect the marketability of the Common Shares;
- (e) there shall occur any changes (actual, anticipated, contemplated or threatened) in the assets, liabilities, business or operations of the Corporation which, in the sole opinion of the Agent, could reasonably be expected to have a material adverse effect on the market

price or value of the Common Shares or materially adversely affects or may materially adversely affect the marketability of the Common Shares;

- (f) if there should develop, occur or come into effect or existence any event, action, state, condition or financial occurrence of consequence or any governmental action, law, regulation, inquiry or other occurrence of any nature whatsoever which, in the sole opinion of the Agent, acting reasonably, materially adversely affect or involve, the financial markets generally or the business, operations, affairs or financial condition of the Corporation, or the marketability of the Common Shares;
- (g) any new or amended Prospectus discloses information which, in the sole opinion of the Agent, acting reasonably, may result in the Subscribers of a material number of the Offered Common Shares exercising their rights under applicable legislation to withdraw from or rescind their purchase thereof at any time prior to the Closing;
- (h) there is any amendment to Securities Legislation which, in the sole opinion of the Agent, acting reasonably, will impose any material limitations or restrictions on the exercise of the Agent's Option or on the subsequent trading of Common Shares which are acquired, or which may be acquired, by the Agent under the Agent's Option; or
- (i) the Agent, acting reasonably, is not satisfied with the results of its due diligence investigations.

8.2 Any termination of any of the obligations of the Agent hereunder pursuant to the provisions hereof shall be effected by written notice to the Corporation not later than the Time of Closing. Notwithstanding the giving of any notice of termination hereunder, the provisions of Section 6.8 and all rights of action in connection therewith shall survive for a period of two years following such termination and the fees and expenses agreed to be paid by the Corporation, referred to in Article 10, incurred up to the time of the giving of such notice shall be paid by the Corporation. The rights of the Agent to terminate this Agreement are in addition to such remedies as it may have in respect of any default, misrepresentation, act or failure to act of the Corporation in respect of any of the transactions contemplated in this Agreement.

## **ARTICLE 9 THE CLOSING**

9.1 Subject to the terms and conditions hereof, the Closing shall take place at the Time of Closing at the offices of the Corporation's counsel, or such other location as the Corporation and the Agent may direct.

9.2 At the Time of Closing, the Corporation shall deliver to the Agent, and its counsel, a certificate, in form and substance satisfactory to counsel for the Agent, signed by the President, Chief Executive Officer and Chief Financial Officer and the Secretary of the Corporation, dated the Closing Date, addressed to the Agent to the effect that, to the knowledge of such officers after a reasonable investigation:

- (a) the representations and warranties of the Corporation herein are true and correct at and as at the Time of Closing after giving effect to the transactions contemplated by the Prospectus;
- (b) the Corporation has complied in all material respects with all covenants and satisfied all the conditions contained herein on its part to be performed or satisfied at or prior to the Closing Date;

- (c) such officers have carefully examined the Prospectus and since the respective dates as of which information is given in the Prospectus, except as set forth in and contemplated thereby, the Corporation has not incurred any material amount of liabilities or obligations (absolute, accrued, contingent or otherwise) and there has been no material adverse change in the assets or financial position of the Corporation; and there has occurred no event required to be set forth in an amended Prospectus which has not so been set forth; and
- (d) no event of material default under any agreement or instrument to which the Corporation is a party has occurred and no event which with the giving of notice or the passage of time or both would constitute an event of material default under any such agreement or instrument has occurred and is continuing.

9.3 At the Time of Closing, the Agent shall receive a favourable legal opinion, addressed to the Agent, and its counsel, from counsel to the Corporation, to the effect that:

- (a) the Corporation has been duly incorporated and organized and is valid and subsisting under the *Business Corporations Act* (British Columbia), and has all requisite corporate power and capacity to carry on its business as now conducted and as proposed in the Prospectus to be conducted;
- (b) the authorized and issued capital of the Corporation is as disclosed in the Prospectus;
- (c) the issued capital of the Corporation has been validly issued in accordance with applicable corporate and securities laws and is fully paid and non-assessable;
- (d) the form of the definitive certificate representing the Common Shares has been approved and adopted by the directors of the Corporation and conforms to the requirements of applicable law;
- (e) the Exchange has conditionally accepted notice of the issuance of the Offered Common Shares and the Agent's Options and has conditionally approved the listing of the Offered Common Shares and all previously issued Common Shares on the Exchange;
- (f) this Agreement and the Escrow Agreement entered into between the Company, Computershare Investor Services Inc. and the founding shareholders of the Company referred to in the Prospectus have been duly authorized by all necessary corporate action by the Corporation and have been duly executed and delivered by the Corporation and constitute valid and binding obligations of the Corporation and each is enforceable against the Corporation in accordance with its terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting the rights of creditors generally and except as limited by the application of equitable principles when equitable remedies are sought, and by the fact that rights to indemnity, contribution and waiver, and the ability to sever unenforceable terms, may be limited by applicable law;
- (g) the execution and delivery by the Corporation of this Agreement and the Agent's Option Certificate and the performance by the Corporation of its obligations hereunder and thereunder will not result in any material breach or violation of, or be in conflict with, or constitute a material default under, any term or provision of the constating documents or any shareholders' or directors' resolutions of the Corporation of which counsel is aware, or any agreement of which counsel is aware and to which the Corporation is a party or by which the Corporation is bound;

- (h) Computershare Investor Services Inc. at its principal offices in the City of Vancouver, British Columbia, has been duly appointed as the registrar and transfer agent for the Common Shares;
- (i) all necessary documents have been filed and proceedings taken under the Securities Legislation to qualify the distribution of the Offered Common Shares to subscribers resident in the Offering Jurisdictions, the Stock Options to the directors and officers of the Corporation and the Agent's Option to the Agent in the Offering Jurisdictions through registrants registered under the respective laws of the Offering Jurisdictions;
- (j) all necessary corporate action has been taken by the Corporation to authorize the grant of the Agent's Option and issuance of the Agent's Shares on exercise of the Agent's Option and the Agent's Shares, when issued and sold in accordance with the terms of the Agent's Option Agreement, will be validly issued as fully paid and non-assessable, and will be exempt from the prospectus requirements of the Securities Legislation and no other documents are or will be required to be filed, proceedings taken or approvals, permits, consents, orders or authorizations of regulatory authorities required to be obtained by the Corporation under the Securities Legislation in connection with any such trade made through a registrant properly registered under the Securities Legislation who has complied with the requirements thereof (subject to the usual qualifications); and
- (k) such other matters as the Agent may reasonably request in connection with this Offering.

9.4 In giving the foregoing opinions, counsel for the Corporation may rely upon opinions of local counsel, acceptable to the Agent, as to the laws of jurisdictions other than the jurisdictions in which such counsel is licensed to practice law, if any, and as to matters of fact not within their knowledge, upon certificates as to such facts, signed, in the case of the Corporation, by the Chief Executive Officer, the Secretary or a director of the Corporation and such other certificates and documentation as reasonably required to provide such opinions.

9.5 The Agent shall use its commercially reasonable best efforts to deliver to the Corporation and its counsel registration instructions for the certificates representing the Agents Option and the certificate(s) representing the Offered Common Shares on or before the day prior to the Closing Date.

9.6 At the Time of Closing, the Corporation shall direct Computershare Investor Services Inc., as the registrar and transfer agent for the Common Shares, to issue and deliver the Offered Common Shares in accordance with the instructions of the Agent and the Agent will pay the Subscription Funds from the sale of the Offered Common Shares pursuant to the Offering to the Corporation (less any amounts deducted pursuant to Section 9.7).

9.7 The Corporation authorizes the Agent to deduct its reasonable expenses, the Corporate Finance Fee and the Agent's Commission from the proceeds of the Offering accounting for any prepayment previously forwarded by the Corporation as provided for in Article 10 and Article 3.

9.8 If the Agent has not already deducted such amounts pursuant to the provisions of Section 9.7 at the Time of Closing, the Corporation shall deliver to the Agent payment of the Agent's Commission in the form satisfactory to the Agent as provided for in Article 3 hereof, payment of the Corporate Finance Fee and payment of the balance owed in respect of the expenses of the Agent and the fees and expenses of the Agent's legal counsel, accounting for any prepayment previously forwarded by the Corporation, as provided for in Article 10 and Article 3.



**ARTICLE 10  
EXPENSES OF THE ISSUE**

10.1 Notwithstanding any termination of this Agreement or the cancellation of its obligations by the Agent pursuant to Article 8 or otherwise provided herein, the Corporate Finance Fee and the costs and expenses of or incidental to the creation, issue and offering of the Offered Common Shares including the fees and expenses of counsel and auditors for the Corporation and counsel for the Agent, the Agent's Legal Expenses, all other expenses incurred by the Agent in connection with the Offering, the cost of printing and delivering the definitive certificates for the Offered Common Shares, the fees and disbursements of the transfer agent, the cost of preparing, printing and delivering the Prospectus to and by the Agent and the associated fees prescribed by the Securities Legislation in connection with the Offering shall be paid by the Corporation whether or not the Offering is completed as contemplated. The Corporation will pay the Corporate Finance Fee, the expenses incurred by the Agent, and the Legal Expenses from time to time as requested by the Agent by bank draft or certified cheque payable to the Agent or counsel to the Agent or in such other manner as is acceptable to the Agent.

**ARTICLE 11  
NOTICES**

11.1 Any notice required or permitted to be given hereunder shall be in writing and shall be deemed to have been given or made when delivered at the addresses of the relevant party set forth below or such other address as a party may stipulate in writing:

(a) to the Corporation at:

Spirit Bear Capital Corp.  
Suite 300 – 576 Seymour Street  
Vancouver, British Columbia V6B 3K1

Attention: Michael Waldkirch  
Fax: (604) 688-6995

with a copy to:

Thomas, Rondeau LLP  
Suite 300 – 576 Seymour Street  
Vancouver, British Columbia V6B 3K1

Attention: Craig D. Thomas  
Fax: (604) 688-6995

(b) to the Agent at:

Macquarie Private Wealth Inc.  
550 Burrard Street, Suite 500  
Vancouver, British Columbia V6C 2B5

(c) Attention: Nargis Sunderji  
Fax: (604) 640-0464

with a copy to:

Anfield Sujir Kennedy & Durno  
Barristers & Solicitors  
Suite 1600 - 609 Granville Street  
Vancouver, British Columbia, V7Y 1C3

Attention: Michael Kennedy  
Fax: (604) 669-3877

## **ARTICLE 12 RIGHT OF FIRST REFUSAL**

12.1 Subject to the completion of the Offering, the Corporation shall notify the Agent of the terms of any Qualifying Transactions and the proposed terms for sponsorship thereof for the period ending on the date which is twenty-four (24) months following the Listing Date (the "**Expiration Date**"), and the Agent shall have the right of first refusal to act as Sponsor for the Qualifying Transaction (as the term "**Sponsor**" is defined in the Exchange's Corporate Finance Manual Policy 1.1), if such is required by the Exchange, on the terms set out in the notice delivered to the Agent. The Agent may exercise the right of first refusal within ten (10) business days following the receipt of the notice. If the Agent fails or declines to give written notice within said ten (10) business days that it will provide such sponsorship on the terms set out in the notice, by notifying the Corporation in writing that it will act as Sponsor for the Qualifying Transaction on the terms set out in the notice, the Corporation may then make other arrangements to obtain such agent for sponsorship from another source on the same terms or on terms no less favourable to the Corporation. Subject to the terms and conditions contained in this Section 12.1, the right of first refusal will not terminate if, after receipt of any notice from the Corporation under the section, the Agent fails to exercise or waives the right and will only terminate on the Expiration Date.

12.2 Subject to the completion of the Offering, the Corporation shall notify the Agent of the terms of any further equity financings (each a "**Financing**") for which the Corporation elects to use an agent or underwriter that it requires or proposes to obtain from the date hereof to the date which is twenty-four (24) months following the Listing Date (the "**Financing Expiration Date**"), and the Agent shall have the right of first refusal to provide any such Financing on the terms set out in the notice delivered to the Agent. The Agent may exercise the right of first refusal within ten (10) business days following the receipt of the notice, by notifying the Corporation in writing that it will provide such Financing on the terms set out in the notice. If the Agent fails or declines to give written notice within said ten (10) business days that it will provide such Financing on the terms set out in the notice, the Corporation may then make other arrangements to obtain such Financing from another source on the same terms or on terms no less favourable to the Corporation. Subject to the terms and conditions of this Section 12.2, the right of first refusal will not terminate if, after receipt of any notice from the Corporation under this section, the Agent fails to exercise or waives the right and will only terminate on the Financing Expiration Date. For purposes of this section, "equity financing" includes a debt financing where such debt is capable of being converted into equity securities of the Corporation.

## **ARTICLE 13 MISCELLANEOUS**

13.1 Upon the request of the Agent, the Corporation will supply to the Agent a copy of all financial and other information given by the Corporation to its public shareholders or to any stock exchange at the time when such information is so given for a period of two years following Closing.

13.2 Time shall be of the essence with respect to the terms and conditions of this Agreement.

13.3 This Agreement may be executed in several counterparts and may be represented by facsimile, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument and notwithstanding their date of execution, shall be deemed to bear the date as of the date above written.

13.4 All warranties, representations, covenants, indemnifications and agreements herein contained or contained in certificates or documents submitted pursuant to or in connection with the transactions herein along with all rights of action in connection therewith shall survive the Closing of the Offering and shall continue in full force and effect for a period of two years following the Closing Date for the benefit of the Agent and for the benefit of the Corporation.

13.5 This Agreement supersedes all other agreements, documents, writings and verbal understandings among the parties relating to the subject matter hereof and represents the entire agreement between the parties relating to the subject matter hereof.


13.6 This Agreement shall be construed and interpreted, and the rights and obligations of the parties arising hereunder governed, by the laws of the Province of British Columbia. Each of the parties irrevocably attorns to the exclusive jurisdiction of the Courts of the Province of British Columbia with respect to this Agreement and any matters arising therefrom.

13.7 All the terms and provisions of this Agreement shall be binding upon, shall enure to the benefit of, and shall be enforceable by and against the parties hereto and their respective successors and assigns, but shall not be assignable, before or after the Time of Closing, without the written consent of the other parties hereto.

13.8 The Agent may waive in whole or in part any breach of, default under or non-compliance with any representation, warranty, term or condition hereof, or extend the time for compliance therewith.

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

**MACQUARIE PRIVATE WEALTH INC.**

Per:   
Authorized Signatory

Per: \_\_\_\_\_  
Authorized Signatory

**SPIRIT BEAR CAPITAL CORP.**

Per: \_\_\_\_\_  
Authorized Signatory

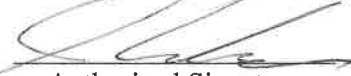
**IN WITNESS WHEREOF** the parties hereto have executed this Agreement effective the day and year first above written.

**MACQUARIE PRIVATE WEALTH INC.**

Per: \_\_\_\_\_  
Authorized Signatory

Per: \_\_\_\_\_  
Authorized Signatory

**SPIRIT BEAR CAPITAL CORP.**

Per:   
Authorized Signatory