

**SHARE SUBSCRIPTION PURCHASE AGREEMENT**

between

**GAIA Grow Corp.**

and

**New Life Sciences Capital, LLC**

**September 28, 2021**

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**THIS SHARE SUBSCRIPTION PURCHASE AGREEMENT** is dated September 28, 2021, and made **BETWEEN**:

- (1) **GAIA GROW CORP.**, (the "**Company**"), a company existing under the laws of the Province of British Columbia and having its registered office at Suite 303, 750 West Pender Street, Vancouver, BC V6C 2T7 Canada; and
- (2) **NEW LIFE SCIENCES CAPITAL, LLC**, (the "**Investor**"), a limited liability company existing under the laws of the State of Delaware.

**RECITALS:**

The Investor has agreed to invest an aggregate amount of up to C\$3,000,000 in the Company to subscribe for common shares in the capital of the Company, and, in relation thereto, the Company has agreed to issue common shares in the capital of the Company to the Investor for an aggregate subscription price of up to C\$3,180,000, in accordance with this Agreement.

**NOW THEREFORE**, the Parties agree as follows:

1. **Definitions and Interpretation**

1.1 **Definitions**

The following definitions apply in addition to the definitions set out elsewhere in this Agreement.

"**Actual Trading Day**" means a Trading Day on which trading actually takes place in the Shares on the CSE.

"**Added Tax**" means any sales tax, purchase tax, value added tax and legislation supplemental thereto or any other system of value added tax and any other similar turnover, sales or purchase, tax or duty levied by any other jurisdiction, whether central, regional or local, any other goods or services tax and other similar tax in any jurisdiction.

"**Added Tax Liability**" has the meaning given to such term in Section 11.2.

"**Affiliate**" means, with respect to any person, any other person who, directly or indirectly, Controls, is (at any time) under common Control with, or is (at any time) Controlled by, the person.

"**Amount Outstanding**" means, at any time, the aggregate of:

- (A) the Aggregate Subscription Amount Outstanding at that time; and
- (B) all other amounts that are owed by the Company to the Investor in accordance with this Agreement.

"**Applicable Floating Price**" has the meaning given to that term in Section 4.5(A).

"**Block Trade**" means a sale of Shares that has been negotiated with a third party buyer.

"**C\$**" or "**Canadian Dollars**" means the lawful currency for the time being of Canada.

**"Canadian Securities Commissions"** means the securities commissions or other similar regulatory bodies of any applicable province or territory of Canada.

**"Canadian Securities Laws"** means all applicable securities laws in each of the provinces and territories of Canada and the respective regulations, rules and forms thereunder together with applicable orders, rulings and published policy statements of the Canadian Securities Administrators and the Canadian Securities Commissions in each of the provinces and territories of Canada.

**"Canadian Securities Laws Legend"** has the meaning given to that term in Section 5.4(A).

**"Cash Payment Notice"** has the meaning given to that term in Section 4.3(A).

**"Cash Payment Notice Deadline"** has the meaning given to that term in Section 4.3(A).

**"Cash Payment Date"** has the meaning given to that term in Section 4.3(B).

**"CDS"** means CDS Clearing & Depository Services Inc.

**"CFPOA"** has the meaning given to that term in Section 8.3(K).

**"Closing"** means each of the First Closing, the Second Closing and any Subsequent Closing.

**"Closing Date"** means each of the First Closing Date, the Second Closing Date and any Subsequent Closing Date.

**"Closing Price"** means, on any date, the closing price (in Canadian Dollars) of the Shares on the CSE on that date (or if such date is not an Actual Trading Day, the Actual Trading Day immediately prior to such date), as reported by Bloomberg, LP or, at the investor's election, another internationally recognised market data provider selected by the investor.

**"Contemplated Transactions"** means the transactions contemplated in this Agreement, including each Closing, each Settlement and each issuance of Securities.

**"Control"** means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether (A) through ownership of voting securities, (B) through the power to appoint or remove a director, a manager or an executive officer, (C) by contract or (D) otherwise.

**"Corporations Act"** means the *Business Corporations Act* (British Columbia), as amended.

**"CSE"** means the Canadian Securities Exchange.

**"Deficiency"** has the meaning given to that term in Section 16.11(A); and **"Deficient"** shall be construed accordingly.

**"Direct Registration System"** or **"DRS"** means the direct registration system of the Transfer Agent through which Shares may be held in electronic book-entry form.

**"DRS Statement"** means, as to any Shares held by a person, a statement produced by the Direct Registration System evidencing such Shares held by such person in the Direct Registration System.

**"E-mail Time"** has the meaning given to that term in Section 16.7(D)(1).

**"End Date"** means, in relation to a Share Subscription Instrument, the date that is 48 months after the Closing Date on which the relevant Share Subscription Instrument is issued, as may be extended pursuant to the terms of this Agreement.

**"Equalisation Fee"** has the meaning given to that term in Section 10.13(A).

**"Event of Default"** has the meaning given to that term in Section 12.1.

**"Excluded Tax"** means a Tax imposed by any jurisdiction on the Investor, or assessed against the Investor, as a consequence of the Investor being a resident of or organised or doing business in that jurisdiction, but not any Tax:

- (A) calculated on or by reference to the gross amount of a payment provided for under this Agreement or made pursuant to a Contemplated Transaction (without the allowance of a deduction); or
- (B) imposed as a result of the Investor being considered a resident of or organised or doing business in any country other than the United States of America as a result of the Investor being a party to this Agreement or entering into a Contemplated Transaction.

**"Execution Date"** means the date of mutual execution of this Agreement.

**"FCPA"** has the meaning given to that term in Section 8.3(K).

**"Final Date"** means the date as of which both:

- (A) this Agreement has been terminated in accordance with its terms; and
- (B) there is no Amount Outstanding.

**"First Closing"** has the meaning given to that term in Section 2.1.

**"First Closing Conditions"** means the conditions set out in Sections 6.1 and 6.4.

**"First Closing Date"** has the meaning given to that term in Section 2.1; and following the occurrence of the First Closing, the First Closing Date shall mean the date on which the First Closing actually occurred.

**"First Prepayment Amount"** means C\$1,000,000.

**"First Subscription Amount"** means C\$1,080,000.

**"First Share Subscription Instrument"** has the meaning given to that term in Section 2.1.

**"Fixed Price"** means:

- (A) in relation to the First Share Subscription Instrument, the greater of (1) C\$0.05 and (2) the Fixed Reference Price in respect of the First Share Subscription Instrument;
- (B) in relation to the Second Share Subscription Instrument, the greater of (1) C\$0.05 and (2) the Fixed Reference Price in respect of the Second Share Subscription Instrument; and
- (C) in relation to a Subsequent Share Subscription Instrument, the greater of (1) C\$0.05 and (2) the Fixed Reference Price in respect of such Subsequent Share Subscription Instrument.

**"Fixed Reference Price"** means:

- (A) in relation to the First Share Subscription Instrument, C\$0.025;
- (B) in relation to the Second Share Subscription Instrument, the Closing Price on the Trading Day immediately prior to the Second Closing Date; and
- (C) in relation to a Subsequent Share Subscription Instrument, the Closing Price on the Trading Day immediately prior to the relevant Subsequent Closing Date,

in each case, as may be adjusted pursuant to Section 10.11(A) of this Agreement, and **"Fixed Reference Prices"** shall mean each such Fixed Reference Price collectively.

**"Governmental Authorisation"** means any authorisation, consent, license, permit or registration issued or granted by any Governmental Authority.

**"Governmental Authority"** means any Canadian, United States or other national, federal, provincial, state, territorial, municipal or local governmental, legislative, regulatory or administrative authority, agency or commission, any court, tribunal or judicial or arbitral body, including the CSE and the Canadian Securities Commissions.

**"Group Company"** means each of the Company and its Subsidiaries and **"Group"** means all of them.

**"Investor's Brokerage Account"** means the account of the Investor or the Sponsor, or the account the investor's or the Sponsor's nominee or designee, at a broker-dealer that is a participant in CDS Clearing & Depository Services Inc. (whose nominee holding company is CDS & Co.), the details of which may from time to time be notified by the Investor to the Company.

**"Investor's Shares"** means the Initial Placement Shares, the Placement Shares, the Make-Whole Shares and the Shares issued or issuable on exercise of the Warrants.

**"Laws"** means all laws (statutory and common law), regulations, judicial, governmental and administrative orders or determinations in any jurisdiction, and any Governmental Authority regulation, order, interpretation, guideline, policy, directive or ruling, including the Canadian Securities Laws, the Listing Rules and the U.S. Securities Laws, and **"Law"** has a correlative meaning.

**"Listing Agreement"** means the listing agreement between the CSE and the Company, in effect on the Execution Date.

**"Listing Rules"** means the policies of the CSE, and includes the provisions of the Listing Agreement.

**"Losses"** means all losses, claims, damages, liabilities, awards, fines, penalties, demands and expenses, whether actual or contingent and whether existing or threatened (including all judgments, amounts paid in settlements, legal fees, costs and disbursements and other expenses incurred in connection with investigating, preparing or defending any action, claim, proceeding, suit or investigation, existing or threatened, and the costs of enforcement).

**"Market Capitalisation"** means, at any time, the amount equal to (A) the number of Shares on issue at such time, multiplied by (B) the average of the daily VWAPs per Share during the three Trading Days immediately preceding such time.

**"Material Adverse Effect"** means any change, effect, event, occurrence or state of facts that is, or would reasonably be expected to be, material and adverse on:

- (A) the assets, liabilities, results of operations, condition (financial or otherwise), business, or prospects of the Company or the Group taken as a whole;
- (B) the ability of the Company to perform its obligations under this Agreement;
- (C) the validity or enforceability against the Company of any material provision of any Transaction Document; or
- (D) the likely price or value of any of the Investor's Shares.

**"Materials"** means any materials delivered or statements made by the Company or on behalf of the Company by any of its agents, officers, directors, employees or representatives in connection with, in, or pursuant to, any Transaction Document at any time (including, for the avoidance of doubt, the representations and warranties set out in Schedule 1), and the Public Record and any other continuous disclosure made by the Company in accordance with Canadian Securities Laws and the Listing Rules at any time.

**"Misrepresentation"** has the meaning given in the *Securities Act* (Ontario).

**"Money Laundering Laws"** has the meaning given to that term in Section 8.3(L).

**"New York Business Day"** means a day, other than a Saturday or Sunday, on which banks in New York, New York, USA are open for the general transaction of business.

**"NI 45-102"** means National Instrument 45-102 – Resale of Securities, as amended from time to time, and any successor instrument.

**"NI 45-106"** means National Instrument 45-106 – Prospectus Exemptions, as amended from time to time, and any successor instrument.

**"NI 55-104"** means National Instrument 55-104 – Insider Reporting Requirements and Exemptions, as amended from time to time, and any successor instrument.

**"NI 62-104"** means National Instrument 62-104 – Take-Over Bids and Issuer Bids, as amended from time to time, and any successor instrument.

**"Non-Public Information"** means any non-public fact or circumstance that, if made public, could be expected to have an effect upon the market price of the Shares, including any fact or circumstance that is a "material fact" or "material change" (as such terms are defined under Canadian Securities Laws) that has not been generally disclosed to the public.

**"Non-U.S. Person"** means any person who or that is not a "U.S. Person" as defined in Rule 902 of Regulation S under the U.S. Securities Act (which, for the avoidance of doubt, includes any company or partnership organised under the laws of a jurisdiction other than the United States that is directly or indirectly wholly owned by the Investor or the Sponsor, whether or not such company or partnership is in existence on the Execution Date).

**"OFAC"** has the meaning given to that term in Section 8.3(J).

**"Party"** means a party to this Agreement.

**"Placement Shares"** has the meaning given to that term in Section 4.1(F).

**"Placement Price"** means, in relation to a Settlement, the greater of (A) the Fixed Price set forth in the Settlement Notice relating to such Settlement, and (B) the Floating Price set forth in such Settlement Notice.

**"Potential Event of Default"** means an event or circumstance which, with notice or passage or lapse of time or both, would constitute an Event of Default.

**"Prepayment Amount"** means each of the First Prepayment Amount, the Second Prepayment Amount and any Subsequent Prepayment Amount (but, for clarity, not the sum total thereof).

**"Public Record"** means the documents filed by the Company with the Canadian securities regulatory authorities under the Company's profile on the SEDAR website ([www.sedar.com](http://www.sedar.com)).

**"Registered Holder"** means, as to any Investor's Shares at any time, the Investor or the Sponsor or the nominee of the Investor or the Sponsor in whose name such Investor's Shares are registered as the holder thereof at such time in the Direct Registration System or otherwise.

**"Relevant Person"** means each of the Investor, the Sponsor, the Sponsor Affiliates, and Affiliates of any of those persons, and the respective directors, officers, members, shareholders, partners, employees, attorneys, agents and permitted successors and assigns of each of the foregoing and Affiliates of any of those persons.

**"Relevant Share Subscription Instrument"** has the meaning given to that term in Section 4.1(B).

**"Second Closing"** has the meaning given to that term in Section 2.2.

**"Second Closing Conditions"** means the conditions set out in Sections 6.2 and 6.4.

**"Second Closing Date"** means the date determined by the Investor and notified to the Company by the Investor during the period commencing on the Execution Date and ending on the date that is two Toronto Business Days prior to the Second Closing Outside Date, such Second Closing Date in any event to be (A) no earlier than the First Closing Date, and (B) no later than the Second Closing Outside Date, subject to, and as may be postponed, deferred or otherwise modified under, the provisions of this Agreement; and following the occurrence of the



Second Closing, the Second Closing Date shall mean the date on which the Second Closing actually occurred.

**"Second Closing Initial Outside Date"** means the relevant date specified in subclause (A) of the definition of Second Closing Outside Date; provided, however, that, solely for purposes of Section 10.9 of this Agreement, in the event of a Company Postponement pursuant to Section 2.4(A) or an Investor Postponement pursuant to Section 10.10(A), the Second Closing Initial Outside Date will be the latest date to which the Second Closing Outside Date is postponed thereby.

**"Second Closing Outside Date"** means:

- (A) unless subclause (B), (C), or (D) of this definition applies, the date falling 365 calendar days following the First Closing Date; or
- (B) unless subclause (C) or (D) of this definition applies, in the event of a Company Postponement in relation to the Second Closing Outside Date pursuant to Section 2.4(A), the Second Closing Outside Date shall be the date to which the Second Closing Outside Date is postponed thereby; or
- (C) unless subclause (D) of this definition applies, in the event of an Investor Postponement in relation to the Second Closing Outside Date pursuant to Section 10.10(A), the Second Closing Outside Date shall be the date to which the Second Closing Outside Date is postponed thereby; or
- (D) in the event the Investor provides a notice described in Section 10.9(A) of this Agreement to postpone the Second Closing Outside Date, the date that is the last date on which the Second Closing could occur in accordance with Section 10.9 of this Agreement.

**"Second Closing Market Capitalisation Amount"** means the amount (in C\$) that is equal to 8% multiplied by the Market Capitalisation as at any one of the Trading Days (selected by the investor) during the five Trading Day period immediately prior to the Second Closing Date, as determined by the Investor.

**"Second Prepayment Amount"** means:

- (A) unless subclause (B) or (C) of this definition applies, C\$1,000,000; or
- (B) unless subclause (C) of this definition applies, in the event that the Investor makes the election described in Section 10.4 of this Agreement, an amount equal to the Second Closing Market Capitalisation Amount; or
- (C) in the event the Investor provides a notice described in Section 10.9(A) to specify the amount of the Second Prepayment Amount, the amount so specified by the Investor.

**"Second Share Subscription Instrument"** has the meaning given to that term in Section 2.2.

**"Second Subscription Amount"** means an amount (in C\$) equal to 109% of the Second Prepayment Amount paid or payable to the Company at the Second Closing.

**"Securities"** means each of the Share Subscription Instruments, the investor's Shares and the Warrants, and all of the foregoing collectively, and **"Security"** means any of the foregoing.

**"Security Interest"** means a charge, mortgage, lien, security interest, encumbrance, pledge, right of first refusal, pre-emptive right, title retention, trust arrangement, contractual right, right of call or set off or any other security arrangement.

**"Security Structure Event"** means any consolidation, sub-division, re-classification, re-designation or pro-rate cancellation of the Shares or any payment of an in specie dividend on the Shares by the Company or any distribution of Shares to holders of Shares other than by means of a rights issue or open offer.

**"Settlement"** has the meaning given to that term in Section 4.1.

**"Settlement Amount"** has the meaning given to that term in Section 4.1(A).

**"Settlement Date"** has the meaning given to that term in Section 4.1(H).

**"Settlement Notice"** has the meaning given to that term in Section 4.1.

**"Settlement Notice Date"** has the meaning given to that term in Section 4.1.

**"Share"** means a common share in the capital of the Company, and **"Shares"** has a correlative meaning.

**"Share Subscription Instrument"** means each of the First Share Subscription Instrument, the Second Share Subscription Instrument and any Subsequent Share Subscription Instrument, and **"Share Subscription Instruments"** means, collectively, the First Share Subscription Instrument, the Second Share Subscription Instrument and any Subsequent Share Subscription Instrument.

**"Share Subscription Instrument Certificate"** has the meaning given to that term in Section 2.1.

**"Structured Financing Transaction"** has the meaning given to that term in Section 8.2.

**"Subscription Amount"** means each of the First Subscription Amount, the Second Subscription Amount and any Subsequent Subscription Amount, and **"Subscription Amounts"** means, collectively, the First Subscription Amount, the Second Subscription Amount and any Subsequent Subscription Amount (but not the sum total thereof).

**"Subscription Amount Outstanding"** means, in relation to a Share Subscription Instrument, at any time, the Subscription Amount of such Share Subscription Instrument less the aggregate of the Settlement Amounts relating to such Share Subscription Instrument in respect of which (as of the time as of which the Subscription Amount Outstanding is determined) Placement Shares have been duly issued, or a cash payment has or cash payments have been made, by the Company to the investor, in accordance with this Agreement (including Sections 4 and 5), and **"Subscription Amounts Outstanding"** has a correlative meaning.

**"Subsequent Closing"** has the meaning given to that term in Section 2.3.

**"Subsequent Closing Conditions"** means the conditions set out in Sections 6.3 and 6.4.

**"Subsequent Closing Date"** means each date (if any) mutually agreed by the Investor and the Company for a Subsequent Closing, which date (if any) may not be after the date that is the first anniversary of the Execution Date; and following the occurrence of a Subsequent Closing, the Subsequent Closing Date of such Subsequent Closing shall be the date on which such Subsequent Closing actually occurred.

**"Subsequent Prepayment Amount"** means, in relation to a Subsequent Share Subscription Instrument (if any), an amount determined by mutual consent of the Parties and set out in the relevant Share Subscription Instrument as the prepayment amount thereof, but not exceeding C\$1,000,000 in the aggregate together with the Subsequent Prepayment Amounts of all other Subsequent Share Subscription Instruments.

**"Subsequent Share Subscription Instrument"** has the meaning given to that term in Section 2.3.

**"Subsequent Subscription Amount"** means, in relation to a Subsequent Share Subscription Instrument, an amount equal to the Subsequent Prepayment Amount of such Subsequent Share Subscription Instrument.

**"Subsidiary"** has the meaning given to that term in the Corporations Act.

**"Tax"** means any tax, including any Added Tax, levy, charge, impost, duty, fee, deduction, excise, assessment, impost, compulsory loan or withholding, and any income, stamp or transaction duty, tax or charge, which is assessed, levied, imposed or collected by any Governmental Authority and includes any interest, fine, penalty, charge, fee or other amount imposed on or in respect of any of such items.

**"Toronto Business Day"** means a day, other than a Saturday or Sunday, on which banks in Toronto, Ontario, Canada are open for the general transaction of business.

**"Trading Day"** means any day on which the Shares or other securities (as the case may be) may be traded on the CSE.

**"Transaction Documents"** means this Agreement, all amendments thereto, the Share Subscription Instrument Certificates, the Warrant Instrument, the Warrants and any other documents that the Parties agree are Transaction Documents for the purposes of this Agreement.

**"Transfer Agent"** means the registrar and transfer agent of the Company, being Computershare Investor Services Inc., a corporation existing under the Laws of Canada as at the Execution Date.

**"US\$" or "US Dollars"** means the lawful currency for the time being of the United States of America.

**"U.S. Exchange Act"** means the United States Securities Exchange Act of 1934, together with the rules and regulations of the U.S. Securities and Exchange Commission thereunder, all as the same shall be in effect at the time, and any successor statute, rules and regulations.

**"U.S. Securities Act"** means the United States Securities Act of 1933, together with the rules and regulations of the US Securities and Exchange Commission thereunder, all as the same shall be in effect at the time, and any successor statute, rules and regulations.

**"U.S. Securities Laws"** means the U.S. Securities Act, the U.S. Exchange Act and all other U.S. federal and state securities Laws, including the respective rules and regulations made thereunder together with applicable rules, policies, notices, discretionary rulings and orders issued by applicable securities regulatory authorities having application.

**"U.S. Securities Laws Legend"** has the meaning given to that term in Section 5.3(A).

**"VWAP"** means, in relation to a Trading Day, the volume weighted average price (in Canadian Dollars) of the Shares on the CSE on that Trading Day, as reported by Bloomberg, LP or, at the Investor's election, another internationally recognised market data provider selected by the Investor, and rounded down to three decimal places.

**"Warrant Certificate"** has the meaning given to that term in the Warrant Instrument.

**"Warrant Instrument"** has the meaning given to that term in the definition of "Warrants".

**"Warrants"** means the 4,800,000 warrants to purchase Shares to be issued by the Company to the Investor pursuant to Section 3.2 on the terms and conditions set out in the warrant instrument dated on or about the date hereof (the **"Warrant Instrument"**), which Warrants will have an exercise price per Share of C\$0.05 and an expiry date of 48 months following the First Closing Date.

## 1.2 Additional Definitions

The definitions set forth in Schedule 4 shall apply to the certain capitalized terms used in this Agreement, in addition to the definitions set out elsewhere in this Agreement.

## 1.3 Interpretation

The following rules of interpretation apply unless the context requires otherwise.

- (A) Headings are for convenience only and do not affect interpretation.
- (B) The singular includes the plural and vice versa.
- (C) A gender includes all genders.
- (D) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (E) Mentioning anything after "includes", "including", "for example", or similar expressions, does not limit what else might be included.
- (F) References in this Agreement to **"this Agreement"** or any other documents are to this Agreement or those documents as amended, supplemented or replaced from time to time and include any document which amends, supplements or replaces them.
- (G) Any reference in this Agreement to a **"Party"** shall include a reference to that Party's assigns expressly permitted under this Agreement, successors, and if applicable, and to the fullest extent permitted by applicable Law, to any administrator, administrative receiver, liquidator, manager or receiver or other similar officer appointed from time to time in respect of that Party.

- (H) A reference to a "person" includes an individual, corporation, partnership, limited liability partnership, trust, incorporated or unincorporated association or body, joint venture, limited liability company, joint stock company, Governmental Authority and other entity of any kind.
- (I) References to "Sections", "Schedules" and "Annexes" are to clauses of, schedules to, and annexes to, this Agreement.
- (J) The Schedules and the Annexes are incorporated in and form an integral part of this Agreement.
- (K) References to "issue" (where such reference relates to a Share or Shares) and derivations thereof shall be construed as references to the words "issue and allot, credited as fully paid and non-assessable" and derivations thereof.
- (L) This Agreement must be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting or causing any instrument to be drafted.
- (M) Any choice, permission, election, discretion or consent of the Investor may be exercised or given by the Investor in the Investor's absolute discretion.
- (N) Except as otherwise expressly provided, references to statutory provisions shall be construed as references to those provisions as amended or re-enacted or as their application is modified by other provision from time to time and shall include references to any provisions of which they are re-enactments (whether with or without modification).

#### 1.4 Payments

Any payments required under this Agreement to be made by a Party to any other person must be made in immediately available funds to the account specified to the Party by that other person from time to time.

#### 1.5 Investor nomination

If any payment is to be made or Security issued by the Company to the investor, the Investor may by notice to the Company specify a nominee or designee to receive the payment or the Security, and the obligation of the Company to make the payment or issue the Security is satisfied if it is made or issued to the specified nominee or designee.

#### 1.6 Time for compliance

- (A) Where, but for this Section 1.6(A), this Agreement requires the Company to perform an obligation on a day that is not a Toronto Business Day, the Company must perform that obligation on the preceding Toronto Business Day.
- (B) Where, but for this Section 1.6(B), this Agreement requires the Investor to perform an obligation on a day that is not a New York Business Day, the Investor must perform that obligation on the next New York Business Day or, in its discretion, the next New York Business Day that is also a Toronto Business Day.

## 1.7 **Investor's Rights and Obligations**

Any obligation of the Investor, including a payment obligation, under this Agreement may, at the Investor's election, be performed, fulfilled or otherwise satisfied by the Sponsor, and the Company shall accept the performance, fulfillment or satisfaction of such obligation by the Sponsor in all respects.

## 2. **Prepayment for Shares**

### 2.1 **First Closing**

Subject to the provisions of this Agreement, including the satisfaction or waiver of the First Closing Conditions, by no later than the tenth New York Business Day following the Execution Date (the "**First Closing Date**"), the Investor must pay or cause to be paid to the Company, and the Company shall be deemed to have accepted payment of, an amount equal to the First Prepayment Amount (the occurrence of such payment, the "**First Closing**"), as a prepayment of the subscription price equal to the First Subscription Amount, for Placement Shares that are to be issued from time to time in accordance with Section 4.1, at a per share subscription price equal to the Placement Price applicable to such issue, such Placement Shares to be issued by the Company to the Investor at the time or times required by, and otherwise in accordance with, Section 4.1. No later than immediately prior to the First Closing, the Company shall issue to the Investor a share subscription instrument (the "**First Share Subscription Instrument**") in respect of the First Subscription Amount (which shall be represented by a certificate (a "**Share Subscription Instrument Certificate**") substantially in the form of Annex A).

### 2.2 **Second Closing**

Subject to the provisions of this Agreement, including the satisfaction or waiver of the Second Closing Conditions, on the Second Closing Date, the Investor must pay or cause to be paid to the Company, and the Company shall be deemed to have accepted payment of, an amount equal to the Second Prepayment Amount (the occurrence of such payment, the "**Second Closing**"), as a prepayment of the subscription price equal to the Second Subscription Amount, for Placement Shares that are to be issued from time to time in accordance with Section 4.1, at a per share subscription price equal to the Placement Price applicable to such issue, such Placement Shares to be issued by the Company to the Investor at the time or times required by, and otherwise in accordance with, Section 4.1. No later than immediately prior to the Second Closing, the Company shall issue to the Investor a share subscription instrument (the "**Second Share Subscription Instrument**") in respect of the Second Subscription Amount (which shall be represented by a Share Subscription Instrument Certificate substantially in the form of Annex A).

### 2.3 **Subsequent Closings**

Subject to the provisions of this Agreement, including the satisfaction or waiver of the Subsequent Closing Conditions, on each Subsequent Closing Date (if any), the Investor must pay or cause to be paid to the Company, and the Company shall be deemed to have accepted payment of, an amount equal to the Subsequent Prepayment Amount (the occurrence of such payment, the "**Subsequent Closing**"), as a prepayment of the subscription price equal to the Subsequent Subscription Amount, for Placement Shares that are to be issued from time to time in accordance with Section 4.1, at a per share subscription price equal to the Placement Price applicable to such issue, such Placement Shares to be issued by the Company to the Investor at the time or times required by, and otherwise in accordance with, Section 4.1. No later than

immediately prior to the relevant Subsequent Closing, the Company shall issue to the Investor a share subscription instrument (the "Subsequent Share Subscription Instrument") in respect of the Subsequent Subscription Amount (which shall be represented by a Share Subscription Instrument Certificate substantially in the form of Annex A).

#### **2.4 Postponement of the occurrence of the Second Closing by the Company**

- (A) The Company may, on giving the Investor notice (a "Company Postponement Notice"), at any time prior to the Investor providing notice to the Company to determine the Second Closing Date, postpone the Second Closing Outside Date, by up to 90 calendar days ("Company Postponement Period") from the Second Closing Initial Outside Date (a "Company Postponement"). The Company may only give a Company Postponement Notice once during the term of this Agreement.
- (B) The exercise of a Company Postponement pursuant to Section 2.4(A) shall not affect any Closing, any Share Subscription Instrument issued at such Closing or any of the Investor's rights under this Agreement.

#### **2.5 Aggregate prepayments**

The Investor shall not be required to pay an aggregate amount exceeding C\$3,000,000 pursuant to Sections 2.1 to 2.3.

#### **2.6 Adjustments to payments**

All amounts payable by the Investor pursuant to this Agreement are subject to all set-offs and adjustments set out in this Agreement.

#### **2.7 Interest**

No interest is payable by the Company to the Investor in connection with the Amount Outstanding, except as provided in Section 12.6.

#### **2.8 Canadian Securities Laws**

The Company and the Investor agree that each Share Subscription Instrument issued under this Agreement shall constitute a "convertible security" within the meaning of the Listing Rules for purposes of the Listing Rules and a "convertible security" within the meaning of NI 45-102 for purposes of NI 45-102.

### **3. Commitment Fee, Warrants and Initial Placement Shares**

#### **3.1 Commitment Fee**

In consideration of the Investor's agreement to undertake the First Closing, at the First Closing, the Company shall pay the Investor a non-refundable commitment fee of C\$120,000, to be satisfied by way of set-off against the amount payable by the Investor pursuant to Section 2.1.

#### **3.2 Warrants**

In consideration of the investor's agreement to undertake the First Closing, no later than immediately before the First Closing, the Company shall issue to the Investor the Warrants.

### 3.3 Initial Placement Shares

- (A) In consideration of the Investor's agreement to undertake the First Closing and the obligations of the Investor under Sections 3.3(B) and 10.13, as payment of a fee to the Investor, no later than immediately before the First Closing, the Company shall issue to the Investor such number of Shares (the "Initial Placement Shares") as is equal to the Initial Placement Shares Issuance Number at the time of the issuance thereof.
- (B) In relation to any Settlement of a Subscription Amount that occurs after the issue of the Initial Placement Shares to the Investor, the Investor may elect, in its sole discretion, by notice thereof set forth in the relevant Settlement Notice, to have the Company's obligation to issue all or part of the Placement Shares to be issued in satisfaction of such a Settlement be satisfied by way of a reduction of the Initial Placement Shares Number (an "Initial Placement Election") (by a number that would result in the Initial Shareholding Number being no less than zero after the application of that reduction) rather than by way of the issuance of such Placement Shares in accordance with Section 4.1. In relation to an Initial Placement Election made in respect of a Settlement, the Investor must specify in the relevant Settlement Notice the whole number by which the Initial Placement Shares Number is being reduced, and, accordingly, the number of Placement Shares as to which the Company's obligation to issue is deemed to be satisfied; and, upon the Company's compliance with all of its obligations in relation to that Settlement, the Company's obligation to issue such number of Placement Shares will be deemed to be satisfied. An Initial Placement Election shall apply only to the Settlement to which such election relates. For clarity, the Investor is not required to make an Initial Placement Election in relation to any Settlement.

## 4. Share Issuances

### 4.1 Settlements

The Investor may elect, from time to time, at any time, one or multiple times, in its sole discretion, to require the Company to issue Shares in relation to any part, or all, of the Aggregate Subscription Amount Outstanding as at such time (but not exceeding the entire Aggregate Subscription Amount Outstanding as at such time) (each such issuance, a "Settlement") by providing the Company with notice (each, a "Settlement Notice" and the date of each such notice, a "Settlement Notice Date") specifying:

- (A) such part of the Aggregate Subscription Amount Outstanding (or, as the case may be, the entire Aggregate Subscription Amount Outstanding as at such time) in relation to which the Investor requires the Settlement to occur (the "Settlement Amount");
- (B) the Share Subscription Instrument that relates to such Settlement Amount (the "Relevant Share Subscription Instrument") (it being understood that a particular Settlement Notice may only relate to a particular Share Subscription Instrument and, accordingly, that one or more Settlement Notices may be given concurrently in relation to one or more Share Subscription Instruments);
- (C) the Fixed Price applicable to the Relevant Share Subscription Instrument;
- (D) the Floating Price applicable to the Settlement and the manner in which such Floating Price was calculated by the Investor;



- (E) the Placement Price applicable to that Settlement and the manner in which such Placement Price was calculated by the Investor;
- (F) the number of Shares (the "Placement Shares") that the Company must issue to the Investor in respect of that Settlement. That number must be determined by dividing the Settlement Amount (before giving effect to any set-offs under this Agreement) by the Placement Price notified by the Investor pursuant to Section 4.1(E), provided that if the resultant number contains a fraction, the number must be rounded down to the next whole number;
- (G) whether the Make-Whole Condition has been satisfied in relation to that Settlement and, if it has, the Make-Whole Amount and the Make-Whole Share Number in relation to that Settlement and the manner in which such Make-Whole Amount and Make-Whole Share Number were calculated by the Investor;
- (H) the date, determined by the Investor in its discretion, on which the Company must issue the Placement Shares (and, if applicable, the Make-Whole Shares) to the Investor (the "Settlement Date") in respect of that Settlement, provided that the Settlement Date must not be a date that is earlier than the Trading Day immediately following the Settlement Notice Date;
- (I) the details of the Investor or its or the Sponsor's designee or nominee to whom the Placement Shares (and, if applicable, the Make-Whole Shares) are to be delivered through the Direct Registration System in accordance with this Agreement (or, in the event that the Investor elects under Section 5.2(B) to receive the Placement Shares (and, if applicable, the Make-Whole Shares) into the Investor's Brokerage Account, the details of the Investor's Brokerage Account into which the Placement Shares (and, if applicable, the Make-Whole Shares) are to be delivered in accordance with this Agreement); and
- (J) solely to enable the Company to exercise its rights under Section 4.3(A) (if the Company elects to do so in accordance with Section 4.3(A)), the Cash Payment Amount and the manner in which such Cash Payment Amount was calculated by the Investor;

and, following the receipt of the Settlement Notice, subject to Section 4.3 (and in addition to the Company's obligations under Section 4.2), the Company must effect the Settlement of the Settlement Amount specified in that Settlement Notice by issuing in accordance with this Agreement (including Sections 4 and 5), the number of Placement Shares specified in that Settlement Notice (less, if applicable, the number of Placement Shares as to which the Company's obligation to issue is deemed to be satisfied as a result of an Initial Placement Election (if any) made by the Investor in that Settlement Notice) on the Settlement Date specified in that Settlement Notice, in the manner specified in that Settlement Notice. Such Placement Shares shall be issued by the Company at such time. For clarity, more than one Settlement may occur under this Agreement.

#### 4.2 Make-Whole

If, in relation to any Settlement, the Settlement Notice in relation to such Settlement specifies that the Make-Whole Condition is satisfied in respect of such Settlement, then (without limiting the Company's obligations under Section 4.1) the Company shall, on the Settlement Date specified in that Settlement Notice, pay to the Investor an amount, in cash, equal to the Make-Whole Amount specified in that Settlement Notice; provided, however, that, in the Company's

sole discretion, in lieu of making the foregoing payment in relation to such Settlement, the Company may issue to the Investor in accordance with the terms of this Agreement (including Sections 4 and 5), on the Settlement Date specified in that Settlement Notice, such number of Shares (the "Make-Whole Shares") as is equal to the Make-Whole Share Number specified in that Settlement Notice.

#### 4.3 Cash Payment in lieu of Settlement

- (A) Subject to this Section 4.3, after the Investor has delivered a Settlement Notice to the Company (the "Relevant Settlement Notice") requiring a Settlement of a Settlement Amount specified in the Relevant Settlement Notice, the Company may elect to make a cash payment in respect of all (and not some only) of that Settlement Amount (in lieu of issuing Placement Shares in respect of that Settlement Amount (but, for clarity, not in lieu of performing the Company's obligations under Section 4.2)) by giving notice to the investor (as to each such election, a "Cash Payment Notice") by email transmission to the investor no later than on the first Toronto Business Day following the Settlement Notice Date specified in the Relevant Settlement Notice (the "Cash Payment Notice Deadline"). Each Cash Payment Notice must include proof of the Company holding (as at the date on which such Cash Payment Notice is given) cleared funds in the amount equal to the Cash Payment Amount in relation to such Settlement (as set out in Section 4.3(B)). Any Cash Payment Notice given not in compliance with this Section 4.3 shall be void and of no effect.
- (B) If, in relation to any Settlement, the Company gives the Investor a valid Cash Payment Notice in accordance with Section 4.3(A), the Company must on the first Toronto Business Day immediately following the relevant Cash Payment Notice Deadline (the "Cash Payment Date"), pay to the investor an amount equal to the Cash Payment Amount in relation to such Settlement; provided, however, that, in the event that the Company fails to pay the Investor the Cash Payment Amount on the relevant Cash Payment Date or otherwise comply with the provisions of this Section 4.3, the relevant Cash Payment Notice shall be deemed to be void and of no effect, and the Company will be obligated to immediately issue the Placement Shares specified in the Relevant Settlement Notice on the relevant Cash Payment Date.
- (C) For the avoidance of doubt, the exercise by the Company of its rights under this Section 4.3 in relation to any Settlement shall not affect any other Settlement or the Investor's rights under this Agreement in any way. Notwithstanding the exercise by the Company of its rights under this Section 4.3 in relation to any Settlement, the Company shall be required to comply with its obligations under Section 4.2 in relation to that Settlement, including the payment of the Make-Whole Amount and the issue of Make-Whole Shares, as applicable, in accordance with Section 4.2.
- (D) The Company shall not have any of the rights set out in this Section 4.3 if an Event of Default occurs at any time.

#### 4.4 Settlement on the End Date

In relation to each Share Subscription Instrument, to the extent that as at the End Date for such Share Subscription Instrument, there is a Subscription Amount Outstanding in relation to that Share Subscription Instrument (and further provided that no Event of Default has occurred), then, by no later than the first Toronto Business Day following the relevant End Date, the Investor shall be required to provide the Company with a Settlement Notice in relation to such Subscription Amount Outstanding as at such End Date, and the Company and the Investor

shall comply with the provisions of this Section 4 in relation to such Settlement Notice and the corresponding Settlement. Without limiting the Investor's other rights under this Agreement, if, as at such End Date, an Event of Default has occurred, the Investor may elect to exercise its rights under Section 12.7 and extend such End Date, or elect to undertake a Settlement, in its sole discretion.

#### **4.5 Preservation of Floating Price**

If at any time (1) the Company is unable to issue Placement Shares and/or Make-Whole Shares on a Settlement Date or pay a Make-Whole Amount on a Settlement Date, in compliance with this Agreement, or (2) the issue of such Placement Shares and/or Make-Whole Shares, or the payment of the Make-Whole Amount on a Settlement Date in compliance with this Agreement would impose a Regulatory Burden on the Investor, then, in each case, without limiting any other rights of the investor under this Agreement, the investor may (but is not required to):

- (A) hold over the Floating Price that would have applied to the Settlement (the "Applicable Floating Price"); and
- (B) once the Company's inability to issue the Placement Shares and/or Make-Whole Shares or pay the Make-Whole Amount in compliance with this Agreement has been overcome or the issue of the Placement Shares and/or Make-Whole Shares or payment of the Make-Whole Amount would not impose a Regulatory Burden on the Investor, apply the Applicable Floating Price to determine the number of Placement Shares and/or Make-Whole Shares that are then issuable and the Make-Whole Amount that is then payable (and, if the Floating is so applied by the Investor, the Company shall then issue such number of Placement Shares and/or Make-Whole Shares and pay such Make-Whole Amount, as applicable).

#### **4.6 No Cash Payments**

Except as otherwise expressly stated in this Agreement, the Company may not repay all or any portion of a Subscription Amount (in whole or in part), or make any other payment in relation to any Share Subscription Instrument, prior to the End Date, without the consent of the Investor.

#### **4.7 Ranking of Amount Outstanding**

The Amount Outstanding constitutes a direct and unsecured obligation of the Company ranking *pari passu* with other unsecured and unsubordinated obligations of the Company other than obligations preferred by Law.

#### **4.8 Sole Consideration**

The sole consideration that the Company is entitled to receive for the issuance of Placement Shares (and, if applicable, the issuance of Make-Whole Shares or the payment of Make-Whole Amounts) in relation to a Subscription Amount shall be payment of the relevant Prepayment Amount, and the Investor shall have no obligation to make any other payments to the Company in relation to such Shares and to such Make-Whole Amounts.

#### **4.9 Listing Rules requirements**

Notwithstanding anything in this Agreement to the contrary, without limiting the Investor's other rights under this Agreement, if the CSE, any Canadian Securities Commission or any other

Governmental Authority takes any action that directly or indirectly challenges or impairs the rights of the Investor under this Agreement (but for the application of Section 16.11), then, insofar as this Agreement could in the reasonable opinion of the Investor be amended so as to avoid or remedy the relevant challenge or impairment, as the case may be, at the election of the Investor by notice to the Company, this Agreement will be deemed to be so amended so as to preserve the rights of the Investor under this Agreement (but for the application of Section 16.11). Upon the request of the Investor, to the extent permitted by Law, the Company will use its best efforts to contest any such action taken by the CSE, any Canadian Securities Commission or any other Governmental Authority.

**5. Requirements for the issue of Securities**

**5.1 News Releases and Regulatory Filings**

- (A) The Company shall make all necessary news releases and regulatory filings in connection with this Agreement and the Contemplated Transactions in accordance with Canadian Securities Laws and the Listing Rules.
- (B) On the Execution Date, the Company shall issue a news release, through a customary distribution channel in Canada, in respect of the execution of this Agreement (including a description of the Contemplated Transactions), which news release shall be in the form of Annex E.
- (C) On each Closing Date, the Company shall issue a news release, through a customary distribution channel in Canada, in respect of the related Closing, which news release shall be in the form of Annex F (in relation to the First Closing) or Annex G (in relation to any Closing other than the First Closing).
- (D) On the Execution Date, the Company shall duly complete, execute and post in electronic format to the website maintained by the CSE:
  - (1) a duly completed and executed Form 9 – Notice of Proposed Issuance of Listed Securities, substantially in the form of Annex H; and
  - (2) a duly completed and executed Form 6 – Certificate of Compliance, substantially in the form of Annex I.
- (E) Within 10 calendar days of each Closing Date, the Company will duly complete, execute and file with the British Columbia Securities Commission in accordance with NI 45-106 and all other applicable Law, a Form 45-106F1 – Report of Exempt Distribution, provided that such form must be in a form acceptable to the Investor prior to filing.
- (F) Within 10 calendar days of the Execution Date, the Company will duly complete and file with the Canadian Securities Commissions in the provinces in which the Company is a “reporting issuer”, a “material change report” in the form of Form 51-102F3 - Material Change Report, provided that such form must be in a form acceptable to the Investor prior to filing.
- (G) Without prejudicing any provision of this Agreement, if the Company determines that a news release, regulatory filing or other disclosure of the Company is required under applicable Law to be disseminated in connection with this Agreement, including in respect of any Closing or issuance of Investor’s Shares, the Company shall promptly

inform the Investor of such determination and ensure that any such news release or other disclosure is reasonably acceptable to the Investor prior its dissemination thereof.

## 5.2 Settlement and Delivery

- (A) Except where otherwise directed in writing by the Investor, the Company shall ensure that all Investor's Shares, when issued, are received by the Investor (or a designee or nominee of the Investor or the Sponsor) in electronic form in the Direct Registration System by electronic registration of a book-entry position representing such Investor's Shares, registered in the name of the Investor (or a designee or nominee of the Investor or the Sponsor). In addition, in relation to any issue of Investor's Shares being delivered in accordance with this Section 5.2(A), the Company shall (or shall cause the Transfer Agent to) deliver to the Investor (and, if the Investor is not the Registered Holder of such Investor's Shares, to such Registered Holder) a DRS Statement evidencing such Investor's Shares.
- (B) Notwithstanding anything in Section 5.2(A), in relation to any issuance of Investor's Shares to a Non-U.S. Person, the Investor may, by notice to the Company (which notice for clarity may be given in the Settlement Notice relating to such issuance), elect that such Investor's Shares be delivered into the Investor's Brokerage Account, in which event the Company shall ensure that such Investor's Shares, when issued, are received by the Investor (or a designee or nominee of the Investor or the Sponsor) by electronic deposit into the Investor's Brokerage Account through the facilities of CDS. For the avoidance of doubt, in accordance with Section 5.3(G), any such Investor's Shares will not be subject to the U.S. Securities Law Legend, or have or be associated with a "restricted" CUSIP/ISIN number.
- (C) In relation to any issuance of Investor's Shares, the Company shall deliver to the Transfer Agent a duly prepared and executed treasury direction (in accordance with the Transfer Agent's requirements) directing the Transfer Agent to issue such Investor's Shares in accordance with this Agreement (i) on the Execution Date or, if the Execution Date is not a Toronto Business Day, by no later than the first Toronto Business Day following the Execution Date (in the case of the Initial Placement Shares), (ii) on the first Toronto Business Day after the relevant Settlement Notice Date (in the case of Placement Shares and Make-Whole Shares), or (iii) on the relevant Issuance Date (as defined in the Warrant Instrument) (in the case of Shares issued on exercise of the Warrants).
- (D) Notwithstanding anything in Section 5.2(A) or 5.3(B), the Investor may, by notice to the Company, elect in relation to any issuance of Investor's Shares to receive such Investor's Shares by any other format permitted under applicable Law, by way of electronic or physical settlement or otherwise (including electronic deposit into the Investor's Brokerage Account through the facilities of CDS). Without limiting any of the Company's other obligations under this Agreement, if the Investor provides any such notice in relation to an issuance of Investor's Shares, the Company shall issue a treasury direction to the Transfer Agent directing the Transfer Agent to issue Investor's Shares in accordance with the settlement instructions set forth in such notice. If the Investor requests that any Investor's Shares be issued to the Investor's Brokerage Account or that any Shares held (including by the investor, the Sponsor or any designee or nominee of the Investor or the Sponsor) outside the Investor's Brokerage Account be transferred into the Investor's Brokerage Account, and such Investor's Shares are not freely tradeable on the CSE, the Company shall, at the investor's request, procure a "restricted" CUSIP/ISIN number for deposit of the Investor's Shares into the Investor's

Brokerage Account and the Company shall duly prepare and execute a treasury direction directing the Transfer Agent to deposit the Investor's Shares through the facilities of CDS into the Investor's Brokerage Account and/or provide such other assistance to the Investor as may be required. Unless the Investor provides such a request, none of the Investor's Shares shall have or be associated with a "restricted" CUSIP/ISIN number.

### 5.3 U.S. Securities Law Matters

- (A) The Company and the Investor agree that, insofar as required under the applicable requirements of the U.S. Securities Laws, except as set forth in Section 5.3(G), certificates evidencing Securities issued by the Company may, when issued, bear (or, in the case of Securities held through DRS, DRS Statements evidencing such Securities may bear) a legend (the "U.S. Securities Laws Legend") in the following form:

*THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT") OR UNDER ANY STATE SECURITIES LAWS, AND MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, ONLY (A) TO GAIA GROW CORP. (THE "COMPANY"), (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATIONS UNDER THE U.S. SECURITIES ACT AND IN COMPLIANCE WITH APPLICABLE LOCAL LAWS AND REGULATIONS, (C) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE U.S. SECURITIES ACT PROVIDED BY (i) RULE 144 OR (ii) 144A UNDER THE U.S. SECURITIES ACT, IF AVAILABLE, AND IN COMPLIANCE WITH APPLICABLE U.S. STATE SECURITIES LAWS; OR (D) IN COMPLIANCE WITH ANOTHER EXEMPTION FROM REGISTRATION UNDER THE U.S. SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS; PROVIDED THAT IN THE CASE OF TRANSFERS PURSUANT TO (C)(i) OR (D) ABOVE, A LEGAL OPINION REASONABLY SATISFACTORY TO THE COMPANY MUST FIRST BE PROVIDED TO THE COMPANY OR THE COMPANY'S TRANSFER AGENT, AS APPLICABLE, TO THE EFFECT THAT SUCH TRANSFER IS EXEMPT FROM REGISTRATION UNDER THE U.S. SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON STOCK EXCHANGES IN CANADA.*

- (B) The Company shall remove (or shall cause to be removed) the U.S. Securities Laws Legend on the certificates or DRS Statements evidencing Securities, as applicable, and any stop transfer instructions in respect thereof, (1) if such Securities are sold, assigned or transferred, or are proposed to be sold, assigned or transferred, outside the United States in accordance with the requirements of Rule 904 of Regulation S under the U.S. Securities Act, (2) if such Securities are sold, assigned or transferred pursuant to Rule 144 under the U.S. Securities Act, (3) if such Securities are eligible for sale under Rule 144 under the U.S. Securities Act, without the requirement for the Company to be in compliance with the current public information required under Rule 144 under the U.S. Securities Act as to such securities and without volume or manner-of-sale restrictions, (4) in connection with any other sale, assignment or other transfer of such Securities, provided that such sale, assignment or transfer of such Securities may be made without registration under the applicable requirements of the U.S. Securities Act or (5) if the U.S. Securities Laws Legend is otherwise not required under applicable requirements of the U.S. Securities Act.

- (C) Without limiting the generality of Section 5.3(B), in relation to any Securities evidenced by a certificate or DRS Statement that bears a U.S. Securities Laws Legend, if such U.S. Securities Laws Legend is not required pursuant to Section 5.3(B), the Company shall cooperate with the Investor (and, in the case of Investor's Shares, the Registered Holder of such Investor's Shares) in connection with, and shall take all necessary or appropriate actions to cause, the removal of the U.S. Securities Laws Legend on the certificate or DRS Statement, as applicable, evidencing such Securities, and any stop transfer instructions in respect thereof, in accordance with U.S. Securities Laws.
- (D) Without limiting the generality of Sections 5.3(B) and 5.3(C), in relation to each of the Share Subscription Instrument Certificates and the Warrant Certificate that bears a U.S. Securities Laws Legend, if such certificate is not required to bear the U.S. Securities Laws Legend pursuant to Section 5.3(B), upon the Investor's request, the Company shall promptly (but in any event no later than two (2) Trading Days from the Company's receipt of notice of such request) remove the U.S. Securities Laws Legend from such certificate, and deliver to the Investor a replacement Share Subscription Instrument Certificate or Warrant Certificate, as applicable, that does not bear the U.S. Securities Laws Legend.
- (E) Without limiting the generality of Sections 5.3(B) and 5.3(C), in relation to any Investor's Shares that are evidenced by a DRS Statement that bears a U.S. Securities Laws Legend (or are subject to stop transfer instructions in respect thereof), if such DRS Statements are not required to bear the U.S. Securities Laws Legend pursuant to Section 5.3(B), the Company shall:
- (1) upon the request of the investor or any other Registered Holder of such Investor's Shares, instruct the Transfer Agent to remove such U.S. Securities Laws Legend and/or any stop transfer instructions in respect thereof on a rush or expedited basis (for clarity, within a 24-hour turnaround time or, if available, less), and promptly pay all fees and costs charged by the Transfer Agent in respect thereof;
  - (2) upon the request of the Investor or any other Registered Holder of such Investor's Shares or the Transfer Agent, promptly (but in any event by no later than the first Toronto Business Day following the date of such request) provide (and cause the Company's counsel to provide) the Transfer Agent with all such corporation resolutions, instructions, opinions and other documentation that are necessary or advisable for, or that are requested by, the Transfer Agent to remove such U.S. Securities Laws Legend and/or any stop transfer instructions in respect thereof, including an opinion of counsel (at the Company's sole request) that is satisfactory to the Transfer Agent;
  - (3) upon the Company's receipt of a request by the Transfer Agent for the Company's approval or authorization to remove such U.S. Securities Laws Legend and/or any stop transfer instructions in respect thereof, immediately (but in any event within four hours of such request) provide such approval or authorization in a form acceptable to the Transfer Agent;
  - (4) upon the Transfer Agent's receipt of the documentation and instructions referenced in Section 5.3(E)(2) above and any other documentation from the Investor or any other Registered Holder of such Investor's Shares that is required by the Transfer Agent in order to remove such U.S. Securities Laws Legend and/or any stop transfer instructions in respect thereof, use best efforts to cause the Transfer Agent to promptly (but in any event no later than two (2) Trading Days

from the Transfer Agent's receipt of such documentation and instructions) remove the U.S. Securities Laws Legend from the DRS Statement evidencing such Investor's Shares and/or any stop transfer instructions in respect thereof, on a rush or expedited basis, and deliver to the Investor or any other Registered Holder of such Investor's Shares, as applicable, a DRS Statement evidencing such Investor's Shares that does not bear the U.S. Securities Laws Legend; provided, that, if such Investor's Shares are evidenced by a DRS Statement that does not then bear the Canadian Securities Laws Legend, at the request of the Investor, in lieu of delivering a DRS Statement evidencing such Investor's Shares in accordance with the foregoing provision, the Company shall deliver such Investor's Shares by electronic deposit into the Investor's Brokerage Account through the facilities of CDS;

- (5) cause the Company's counsel to cooperate with the Investor, any other Registered Holder of such Investor's Shares and their respective counsel, agents and other representatives in connection with the removal of such U.S. Securities Laws Legend and/or any stop transfer instructions in respect thereof, and not take any action that could delay, hinder or impair the removal of such U.S. Securities Laws Legend and/or any stop transfer instructions in respect thereof; and
  - (6) take any such other actions (and cause its counsel to take such other actions), in a prompt manner, that the Investor determines to be necessary or advisable to remove such U.S. Securities Laws Legend and/or any stop transfer instructions in respect thereof.
- (F) Without limiting the foregoing, in the event that counsel to the Company fails or refuses to render an opinion as required under this Section 5.3, then the Company irrevocably and expressly authorizes counsel to the Investor to render such opinion (as its or the Investor's counsel), and the Company shall cause the Transfer Agent to accept and rely on any such opinion, and shall reimburse the Investor for its costs in connection with the rendering of such opinion.
- (G) The Company acknowledges and agrees that (1) at any time following the Execution Date, all or any of the Securities may be sold, assigned or transferred to, and this Agreement and the Warrant Instrument may be assigned to, an Affiliate of the Investor who is a Non-U.S. Person, and (2) any such sale, assignment or transfer will be exempt from the registration requirements of the U.S. Securities Act pursuant to Rule 904 of Regulation S under the U.S. Securities Act. In the event that this Agreement is assigned to an Affiliate of the Investor who is a Non-U.S. Person, any Share Subscription Instrument Certificates issued to a Non-U.S. Person following such assignment will not bear or otherwise be subject to the U.S. Securities Laws Legend. In relation to any issuance of Investor's Shares to a Non-U.S. Person, if such Investor's Shares are delivered in electronic form in the Direct Registration Statement, the DRS Statement evidencing such Investor's Shares will not bear the U.S. Securities Laws Legend, and such Investor's Shares will not otherwise be subject to the U.S. Securities Legend or be subject to any stop transfer instructions in respect thereof. In addition, in relation to any issuance of Investor's Shares to a Non-U.S. Person at any time after the last date of the Statutory Hold Period applicable to such Investor's Shares, at the request of the Investor, in lieu of delivering such Investor's Shares in electronic form in the Direct Registration System, such Investor's Shares shall be delivered by electronic deposit into the Investor's Brokerage Account through the facilities of CDS, and such Investor's Shares will not otherwise be subject to the U.S. Securities Legend or have or be associated with a "restricted" CUSIP/SIN number. Without limiting any of the other



provisions of this Agreement or the Warrant Instrument, upon the sale, assignment or transfer of a Share Subscription Instrument or Warrant to an Affiliate of the Investor who is Non-U.S. Person pursuant to Rule 904 of Regulation S under the U.S. Securities Act, the Company shall promptly deliver to the Investor a replacement Share Subscription Instrument Certificate or Warrant Certificate representing such Share Subscription Instrument or Warrant, as applicable, reflecting the new record holder of such Share Subscription Instrument Certificate or Warrant Certificate and the removal of the U.S. Securities Laws Legend in respect thereof. Without limiting any of the other provisions of this Agreement, upon the sale, assignment or transfer of any Investor's Shares to an Affiliate of the Investor who is Non-U.S. Person pursuant to Rule 904 of Regulation S under the U.S. Securities Act, the Company shall comply with the provision of this Section 5.3 with respect to the removal of the U.S. Securities Laws Legend on the DRS Statement evidencing such Investor's Shares. Nothing in this Section 5.3(G) shall be deemed or construed to limit, impair or modify any other provision of this Section 5.3.

- (H) The Company shall not (and shall cause the Transfer Agent not to) enlarge the legend and transfer restrictions in relation to U.S. Securities Laws beyond the U.S. Securities Laws Legend.

#### 5.4 Canadian Securities Law Matters

- (A) Subject to Section 5.4(B), in relation to any Investor's Shares issued by the Company during the Statutory Hold Period applicable to such Investor's Shares, the Company and the Investor agree that the DRS Statement evidencing such Investor's Shares may bear a legend (the "**Canadian Securities Laws Legend**") when issued in the following form:

*UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE [INSERT THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE ISSUE DATE OF THE SECURITY].*

- (B) In relation to Investor's Shares issued by the Company after the end of the Statutory Hold Period applicable to such Investor's Shares, the DRS Statement evidencing such Investor's Shares shall not bear (and such Investor's Shares shall not otherwise be subject to) a Canadian Securities Laws Legend.
- (C) In relation to any Investor's Shares held by the Investor or any other Registered Holder at any time following the first Toronto Business Day after the end of the Statutory Hold Period applicable to such Investor's Shares, upon request of the investor or such other Registered Holder, the Company shall (or shall cause the Transfer Agent to) promptly (but in any event no later than two (2) Trading Days from the Company's receipt of notice of such request) remove the Canadian Securities Laws Legend from the DRS Statement evidencing such Investor's Shares, and deliver to the Investor or such other Registered Holder, as applicable, a DRS Statement evidencing such Investor's Shares that does not bear the Canadian Securities Laws Legend.
- (D) The Company and the Investor agree that each Share Subscription Instrument Certificate and Warrant Certificate issued by the Company may, when issued, bear the Canadian Securities Laws Legend. In relation to each of the Share Subscription Instrument Certificates and the Warrant Certificate, upon request of the investor at any time following the date that is four months and one calendar day after the relevant issue date of such certificate, the Company shall promptly (but in any event no later than two (2) Trading Days from the Company's receipt of notice of such request) remove the Canadian Securities Laws Legend from such certificate, and deliver to the Investor a

replacement Share Subscription Instrument Certificate or Warrant Certificate, as applicable, that does not bear the Canadian Securities Laws Legend.

- (E) The Company and Investor agree that, solely for purposes of NI 45-102 (and, for clarity, without modifying any provision of this Agreement by implication or otherwise), in respect of each Share Subscription Instrument, the Investor shall be deemed to be entitled to acquire all of the Placement Shares and Make-Whole Shares that are issuable or issued in relation to such Share Subscription Instrument, on the Closing Date in relation to such Share Subscription Instrument.
- (F) For the avoidance of doubt, nothing in this Section 5.4 or the defined terms used herein shall by implication or otherwise be limited, impaired or otherwise affected by the assignment of this Agreement and/or any of the Investor's rights and obligations under this Agreement, or the sale, assignment or transfer of the Securities, to any Affiliate of the Investor.

## 5.5 Listing

Without prejudice to the rights and remedies under Section 12, the Company shall use its best efforts to ensure that, at all times, the Shares and all Investor's Shares are listed and posted for trading on the CSE (and constitute listed securities within the meaning of the Listing Rules) and are freely tradeable on the CSE (disregarding, solely for purposes of this Section 5.5, the Canadian Securities Laws Legend at any time prior to the expiration of the Statutory Hold Period applicable to any such Investor's Shares), including taking all steps necessary to ensure the Investor's Shares are listed on CSE in accordance with the Listing Rules, including filing all documents required in compliance with the Listing Rules and promptly providing copies of such documents to the Investor if required by the Investor. If the Shares are suspended from trading or delisted for trading on the CSE, the Company is designated by the CSE as an "inactive issuer" (as such term is defined in the Listing Rules), or if the Company is required to take any action by any Law to ensure that the Shares or any Investor's Shares are freely tradeable on the CSE, the Company shall use its best endeavours to lift such suspension, remove such inactive status, or re-obtain the listing of such Shares on the CSE, or (if the Company has complied with the foregoing obligations but such suspension, inactive status or delisting has not been rectified) such other stock exchange as may be acceptable to the Investor.

## 5.6 Ownership Limit

- (A) In relation to any Settlement, in no event shall the relevant Settlement Notice specify an aggregate number of Placement Shares (and if applicable Make-Whole Shares) therein that would result in the Investor, at the time immediately after the issuance of the Placement Shares (and if applicable Make-Whole Shares) set forth in that Settlement Notice, having beneficial ownership of, or control or direction over, whether direct or indirect, Shares in excess of 9.9999% of the number of Shares outstanding immediately after giving effect to such issuance.
- (B) For purposes of this Section 5.6, the determination of the aggregate number of Shares beneficially owned by the Investor, or over which the Investor controls or directs, as applicable, and the number of Shares outstanding immediately after giving effect to the relevant issuance, shall include the number of Placement Shares (and if applicable Make-Whole Shares) specified in the relevant Settlement Notice (having regard to Section 5.6(A)), and shall exclude (1) the number of Shares issuable upon exercise of the Warrants that are unexercised at the time of the determination, and (2) the number of Placement Shares and Make-Whole Shares issuable in relation to the Aggregate

Subscription Amount Outstanding at the time of the determination. For purposes of this Section 5.6, beneficial ownership, or control or direction over, shall be determined in accordance with NI 55-104, NI 62-104, and the Listing Rules, subject to the immediately preceding sentence and the application of the limitation set forth in this Section 5.6.

- (C) The Investor shall have the sole authority and responsibility to determine whether the limitation set forth in this Section 5.6 applies to any Settlement Notice and the related Settlement, and in the event the Investor determines that the limitation set forth in this Section 5.6 applies to a Settlement Notice and the related Settlement, the determination of the aggregate number of Placement Shares (and if applicable Make-Whole Shares) that may be specified in such Settlement Notice shall be made solely by the Investor. For any reason at any time, from time to time, upon written or oral request of the Investor, the Company shall, within one Toronto Business Day of such request, confirm orally and in writing to the Investor the number of Shares then outstanding. Nothing contained herein shall restrict any of the rights of the Investor under this Agreement, including the right of the Investor to deliver Settlement Notices to the Company, or the validity of any issuance of Shares. The limitation set forth in this Section 5.6 may be waived by the Investor, at its election, upon not less than sixty-one (61) calendar days' prior notice to the Company.

#### 5.7 Requirements for all issues

If any of the requirements of this Section 5 or Section 10.12 are not satisfied in any respect in connection with any issuance of any Securities, then those Securities are deemed not to have been issued by the Company in accordance with or for the purposes of this Agreement, and the Company's obligation to issue the Securities is deemed to not have been discharged, and any amount paid or prepaid by the Investor in respect of such Securities (and/or, as the case may be, the relevant Settlement Amount in respect of which such Securities were purported to have been issued) remains (A) part of a Subscription Amount Outstanding or (B) (in the case of a purported issuance of Investor's Shares on exercise of Warrants) a sum owed to the Investor by the Company which sum shall be satisfied, in the Investor's discretion, through the issuance of Shares to the Investor in accordance with the Warrant Instrument or a cash repayment; unless any of the foregoing is waived by the Investor in writing at any time.

### 6. Conditions Precedent to Contemplated Transactions

#### 6.1 Specific conditions precedent to First Closing – Investor

The Investor has no obligation to effect the First Closing under Section 2.1 unless and until the following conditions are satisfied in the Investor's sole discretion, or waived in writing by the Investor, by no later than immediately before the First Closing:

- (A) the Company has delivered to the Investor:
- (1) a copy of resolutions substantially in the form of Annex B duly passed by the board of directors of the Company authorising the entry into and performance of this Agreement and the Contemplated Transactions;
  - (2) a certificate dated the First Closing Date, substantially in the form of Annex C, executed by its Chief Executive Officer;

- (3) the flow of funds request, substantially in the form of Annex D, in respect of the First Closing;
  - (4) a duly executed Share Subscription Instrument Certificate dated the First Closing Date, in respect of the First Share Subscription Instrument; and
  - (5) a duly executed Warrant Certificate substantially in the form agreed with the Investor;
- (B) the Company has duly issued the Initial Placement Shares and the Warrants in accordance with this Agreement and the Warrant Instrument, as the case may be; and
  - (C) the Initial Placement Shares have been listed and posted for trading on the CSE.

#### **6.2 Specific conditions precedent to Second Closing – Investor**

The Investor has no obligation to effect the Second Closing under Section 2.2 unless and until the following conditions are satisfied in the Investor's sole discretion, or waived in writing by the investor, by no later than one New York Business Day before the Second Closing:

- (A) if requested by the Investor,
  - (1) the Company has delivered to the investor a certificate dated the Second Closing Date substantially in the form of Annex C executed by its Chief Executive Officer; and
  - (2) the Company has delivered to the Investor the flow of funds request, substantially in the form of Annex D, in respect of the Second Closing; and
- (B) the Company has delivered to the investor a duly executed Share Subscription Instrument Certificate dated the Second Closing Date, in respect of the Second Share Subscription Instrument; and
- (C) the Company has duly issued all Securities which are required by this Agreement to be issued before the Second Closing, in accordance with this Agreement;
- (D) all of the Investor's Shares issued before the Second Closing have been listed and posted for trading on the CSE; and
- (E) the First Closing has occurred.

#### **6.3 Specific conditions precedent to each Subsequent Closing – Investor**

The Investor has no obligation to effect a Subsequent Closing under Section 2.3 unless and until the following conditions are satisfied in the Investor's sole discretion, or waived in writing by the Investor, by no later than one New York Business Day before the relevant Subsequent Closing:

- (A) the Company has delivered to the investor a certificate dated the relevant Subsequent Closing Date substantially in the form of Annex C executed by its Chief Executive Officer;

- (B) the Company has delivered to the Investor the flow of funds request, substantially in the form of Annex D, in respect of the relevant Subsequent Closing;
- (C) the Company has delivered to the Investor a duly executed Share Subscription Instrument Certificate dated the relevant Subsequent Closing Date, in respect of the relevant Subsequent Share Subscription Instrument; and
- (D) the Company has duly issued all Securities which are required by this Agreement to be issued before the relevant Subsequent Closing, in accordance with this Agreement; and
- (E) all of the Investor's Shares issued before the relevant Subsequent Closing have been listed and posted for trading on the CSE.

#### **6.4 General conditions precedent to each Contemplated Transaction – Investor**

The Investor has no obligation to effect any Closing, accept any issue of Securities or consummate any other Contemplated Transaction unless and until the following conditions are satisfied in the Investor's sole discretion, or waived in writing by the Investor, by no later than immediately before the time the Contemplated Transaction is due to be consummated.

- (A) The Company has performed, or complied in all respects with, all obligations required by this Agreement to be performed or complied with by the Company as at, or prior to, the Contemplated Transaction (including the obligations under Sections 5.1 to 5.5 and 10.12 in relation to all prior issuances of Securities to the Investor).
- (B) Where the Contemplated Transaction is a Closing, a Settlement or an Issue of Securities, the Company is ready, willing and able to perform (in accordance with all applicable Laws) and comply in all respects with, those requirements of Sections 5.1 to 5.5 and 10.12 which apply in respect of such Closing, such Settlement or such issue of Securities.
- (C) The board of directors of the Company has passed resolutions approving the Transaction Documents and the Contemplated Transactions, to the extent to which such approvals are, in the reasonable opinion of the Investor, or pursuant to any Law, required for the consummation of the Contemplated Transaction.
- (D) All consents, permits, approvals, registrations, waivers and documents, in the reasonable opinion of the Investor, necessary or appropriate for the consummation of the Contemplated Transaction have been issued and received by the Investor, and remain in full force and effect.
- (E) No Event of Default or Potential Event of Default would occur as a consequence of the Contemplated Transaction or has occurred (irrespective of whether it has been remedied or any grace period has expired).
- (F) The consummation of the Contemplated Transaction would not result in the Company or the Investor being in breach of any Law.
- (G) The Investor has received copies of such additional documents as the Investor may reasonably request or as are customary in Canada to effect the Contemplated Transaction.

- (H) Where the Contemplated Transaction is a Closing, the Investor (in its absolute discretion) is satisfied that the Company has sufficient authority to issue Shares to enable Settlement in full of the Subscription Amount of each Share Subscription Instrument issued prior to the Closing, as well as the Subscription Amount of the Share Subscription Instrument to be issued at such Closing if such Closing were to occur.
- (I) Where a Contemplated Transaction may not be effected under Canadian Securities Laws or the Corporations Act in the absence of obtaining approval of such Contemplated Transaction from the Company's shareholders, the Company has obtained such shareholder approval in accordance with applicable Laws.
- (J) Where a Contemplated Transaction is a Closing, the Closing Price on the second Trading Day immediately prior to such Closing is greater than C\$0.055.
- (K) The Investor has received such documents and evidence as the Investor may reasonably require to satisfy itself that the conditions in this Section 6.4 and (as the case may be) Sections 6.1, 6.2 and 6.3, have been satisfied.

#### **6.5 Failure to meet conditions – issue of Securities**

The Company shall not issue any Securities to the Investor without the prior consent of the Investor if on the issue of the Securities any of the conditions in the foregoing provisions of this Section 6 have not been fulfilled, or waived by the Investor. Any such issuance is deemed not to have been undertaken in accordance with or for the purposes of this Agreement, the Company's obligation to issue the Securities is deemed to not have been discharged, and any amount paid or prepaid by the Investor in respect of such Securities (and/or, as the case may be, the relevant Settlement Amount in respect of which such Securities were purported to have been issued) constitutes (A) part of an Amount Outstanding or (B) (in the case of a purported issuance of Investor's Shares on exercise of Warrants) a sum owed to the Investor by the Company which sum shall be satisfied, in the Investor's discretion, through the issuance of Shares to the Investor in accordance with the Warrant Instrument or a cash repayment; unless any of the foregoing is expressly waived by the Investor at any time.

#### **6.6 Requirement to fulfil conditions**

- (A) The Company shall cause the conditions set out in Sections 6.1, 6.2, 6.3 and 6.4 to be fulfilled by the times required by those Sections.
- (B) Without prejudice to Section 6.6(A), in the event that a Closing is unable to occur on the Closing Date of such Closing as a result of failure of any of the conditions set out in Sections 6.1, 6.2, 6.3 and 6.4, as applicable, to be fulfilled by the times required by those sections, then the Investor may, by notice to the Company, postpone the Closing Date of such Closing until such date as all such applicable conditions are fulfilled (in the opinion of the Investor acting reasonably) or waived in writing by the Investor.

#### **6.7 Conditions precedent to each Closing – Company**

The Company has no obligation to consummate a Closing unless the representations and warranties of the Investor contained in this Agreement are true and correct in all material respects as of the date or dates as of which they are made or deemed to be made or repeated under this Agreement other than where the requirement to give such representations and

warranties or a breach of those representations and warranties has been waived in writing by the Company.

## **7. Representations and Warranties**

### **7.1 Representations and warranties by the Company**

The Company represents and warrants to the Investor each of the statements set out in Schedule 1, and acknowledges that the Investor is relying on such representations and warranties in connection with the Contemplated Transactions.

### **7.2 Representations and warranties by the investor**

The Investor represents and warrants to the Company each of the statements set out in Schedule 2, and acknowledges that the Company is relying on such representations and warranties in connection with the Contemplated Transactions.

### **7.3 Deemed repetition**

Each of the representations and warranties made pursuant to this Section 7 is deemed to be made on the Execution Date and (except where it is expressly qualified as having been made only as of a particular date) repeated at each Closing and on each Settlement Date, by reference to the facts and circumstances subsisting at each such time.

### **7.4 Party's reliance**

Each Party (first Party) acknowledges that the other Party has entered into this Agreement in reliance on the representations and warranties of the first Party in this Agreement.

### **7.5 Construction of representation and warranties**

Each representation and warranty of a Party is to be construed independently of the others and is not limited by reference to any other representation or warranty.

### **7.6 Disclosures and limitations**

The representations and warranties of the Company under Section 7.1 set out in Schedule 1:

- (A) are not limited in any way by any knowledge of, or information obtained by, the Investor or its advisers or representatives; and
- (B) are qualified only to the extent expressly set out in Schedule 3.

### **7.7 Notice**

A Party (first Party) must immediately notify the other Party upon becoming aware of any breach of any representation or warranty given by the first Party under this Agreement.

### **7.8 Breach of representation or warranty**

A Party is in breach of this Agreement if any of the statements it represents and warrants pursuant to this Section 7 is untrue, incorrect or misleading, including by omission.

## 8. Conduct of affairs

### 8.1 Conduct of business

The Company must, and must cause each of the Group Companies to, conduct its business in a proper and efficient manner in accordance with good commercial practice, and ensure that for so long as there is any Amount Outstanding or Warrant unexpired and unexercised, the voting and other rights attached to the Shares (or any other securities of a Group Company) are not altered in a manner which, in the opinion of the Investor, is materially prejudicial to the Investor.

### 8.2 Structured Financing Transactions

From the Execution Date until the date that is 90 calendar days after the Final Date, the Company shall not effect, or enter into any agreement to effect any "Structured Financing Transaction", that is a transaction generally referred to as an equity line of credit, a controlled placement agreement, a stand-by equity distribution agreement, an equity swap, an equity sharing agreement, a subscription agreement for prepaid equity, or a convertible security, note or loan having a similar effect, or any other transaction with a third party in which the Company issues or sells the following:

- (A) any debt, equity or equity-linked securities that are convertible into, exchangeable or exercisable for, or include the right to receive Shares:
  - (1) at a conversion, exercise or exchange rate, or other price that is based on, and/or varies with, the trading prices of, or quotations for, the Shares; or
  - (2) at a conversion, exercise or exchange rate, or other price, that is subject to being reset at some future date after the initial issuance of such debt, equity or equity-linked security or upon the occurrence of specified or contingent events; or
- (B) any securities in a capital or debt raising transaction or series of related transactions which grant to an investor the right to receive additional securities based upon future transactions of the Company on terms more favourable than those granted to such investor in such first transaction or series of related transactions.

For the avoidance of doubt, none of rights issuances, share buy-backs, convertible securities, or equity issuances or offers, each at a fixed price per Share, is a Structured Financing Transaction.

### 8.3 Other negative covenants

For so long as the Investor holds any Securities or there is any Amount Outstanding, the Company shall not, and shall ensure that each Group Company does not (and, in relation to sub-Sections (J), (K) and (L) below, the officers, directors, employees, and agents acting on behalf of the Company or any Group Company do not), directly or indirectly, without the Investor's written approval:

- (A) dispose, in a single transaction or in a series of transactions, of all or any part of its assets unless such disposal is in the ordinary course of business, on arm's length terms and for fair market value;



- (B) reduce its paid-up or stated capital, issued share capital or any uncalled liability in respect of its issued capital, except by means of a purchase or redemption of the share capital that is permitted under the Corporations Act;
- (C) undertake any consolidation, pro rata cancellation, re-classification, re-designation or sub-division of its share capital, other than as contemplated by this Agreement or, in the case of a consolidation, as required by the CSE;
- (D) change the nature of its business;
- (E) change its transfer agent;
- (F) incur indebtedness that ranks, or is expressed to rank, senior to, or *pari passu* with, the Company's payment obligations under this Agreement;
- (G) grant or suffer to exist any Security Interest over assets of a Group Company in relation to the indebtedness described in sub-Section (F) above;
- (H) propose or enter into any plan or scheme of arrangement with its creditors;
- (I) transfer the jurisdiction of its incorporation;
- (J) conduct any dealings, directly or indirectly, with any person subject to Canadian, U.S., U.K., EU or Australian economic sanctions, including any person listed on the List of Specially Designated Nationals and Blocked Persons administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), or any person owned or controlled by, or acting on behalf of, any person subject to such sanctions, and any person, country or regime the subject of sanctions under applicable Law;
- (K) offer or make any bribe, kickback, or any other type of payment or confer any benefit that would be unlawful under any Law applicable to either Party or its agent, including the Canadian Corruption of Foreign Public Officials Act (the "CFPOA"), the Criminal Code (Canada), the U.S. Foreign Corrupt Practices Act of 1977 (the "FCPA"), the U.K. Bribery Act 2010 and the Criminal Code Act 1995 (Commonwealth of Australia);
- (L) act in contravention of any applicable financial record-keeping and reporting requirements of the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Government Authority ("Money Laundering Laws"), including the Canadian Proceeds of Crime (Money Laundering) and Terrorist Financing Act, the Anti-Money Laundering and Counter-Terrorism Financing Regulations 2008 (Commonwealth of Australia) and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (United Kingdom); or
- (M) enter into any agreement with respect to any of the matters referred to in sub-Sections (A) – (L) above.

For the avoidance of doubt, the Investor shall not approve any activity described in sub-Section (K) above. For the further avoidance of doubt, the Investor shall not approve any activity described in sub-Sections (J) and (L) above unless the Company or the Group Company has

received prior written authorisation to engage in such activity by the relevant Governmental Authority.

#### **8.4 Use of proceeds**

- (A) The Company must use the funds received from the Investor under this Agreement for general corporate purposes that are reasonable in light of the nature of the Company's business as at the Execution Date, and not, among other things, for dividend payments, or the repayment or redemption of any indebtedness or obligations or interests held by any security holders.
- (B) The Company will not use the funds received from the Investor under this Agreement in any manner that would cause the Company, the Investor, or any Affiliate of the Company or the Investor, to violate any applicable Laws, including any Money Laundering Laws, the foreign asset control regulations administered by OFAC or the U.S. Department of State, the CFPOA, the Criminal Code (Canada) or the FCPA.

#### **8.5 Integration**

The Company must not, and must ensure that its Affiliates do not, and all persons acting on its or their behalf do not, directly or indirectly, sell, offer for sale or solicit offers to buy, or otherwise negotiate in respect of, any security, in a manner, or under circumstances, that:

- (A) will adversely affect reliance by the Company on the provisions of Rule 506(b) of Regulation D under the U.S. Securities Act for the exemption from registration for the Contemplated Transactions including, without limitation, the offer and sale of the Securities to the Investor;
- (B) will require registration of the sale of the Securities under the U.S. Securities Act; or
- (C) will cause such offer or solicitation to be deemed integrated with the offering of the Securities to the Investor, whether under the U.S. Securities Act or otherwise.

#### **8.6 Miscellaneous**

- (A) The Company must not undertake any action to permit the Company or any of its securities to be listed or quoted on any financial market, quotation system, or stock exchange, other than the CSE and the Frankfurt Stock Exchange, without the Investor's prior written consent.
- (B) The Company must not register a class of equity securities under the U.S. Exchange Act and shall not, by the taking of any action or by omission to take action, be required to file reports pursuant to Section 13 or Section 15 of the U.S. Exchange Act.
- (C) In addition to any other obligations of the Company under this Agreement, the Company must (to the extent permitted by Law):

- (1) promptly notify the Investor of the Company's or any of its attorney's' or adviser's receipt of any written or oral correspondence from any Canadian Securities Commission, the CSE or any other Governmental Authority (or any of their respective attorneys or advisers) relating to this Agreement or the Contemplated Transactions;
  - (2) promptly provide the Investor with copies of any correspondence to or from any Canadian Securities Commission, the CSE or any other Governmental Authority (or any of their respective advisers), and, in the case of oral correspondence, written summaries thereof, relating to this Agreement or the Contemplated Transactions; and
  - (3) consult with the Investor prior to corresponding, in writing or orally, with the any Canadian Securities Commission, the CSE or any other Governmental Authority (or any of their respective attorneys or advisers) regarding this Agreement or the Contemplated Transactions, to the extent not prohibited by Law, and give reasonable and good faith consideration to any comments or other input provided by the Investor.
- (D) The Company agrees that any event, circumstance or occurrence that is beyond its control, including acts of God, flood, drought, earthquake or other natural disasters, or epidemics or pandemics (including coronavirus COVID-19 or any evolution or variant thereof), and/or any action taken by any Governmental Authority in connection therewith and/or the consequences of any such action:
- (1) shall not relieve the Company from any of its obligations or liabilities under any Transaction Document or in respect of any Contemplated Transactions; and/or
  - (2) shall not entitle the Company to terminate or rescind any Transaction Document in whole or in part or claim that any Transaction Document (or any part thereof) is void, invalid or frustrated under any Law or otherwise.

#### **8.7 Maintenance of Share registry**

Unless so required by applicable Law, the Company must not close its Share register or take any other action which prevents the transfer of its Shares or warrants generally.

#### **8.8 Publicity and confidentiality**

- (A) This Agreement, its subject matter and content, the Contemplated Transactions, and any non-public information provided by the Investor to the Company (including the terms of any Transaction Documents) are confidential information of the Investor. The Company must not, and must cause its Affiliates and all persons acting on behalf of the Company and any of its Affiliates not to, issue any news release or announcement concerning any such confidential information or otherwise disclose to any person such confidential information, in each case, without the prior written consent of the Investor, which consent must not be unreasonably withheld or delayed where the news release or announcement is proposed to be made pursuant to Canadian Securities Laws, the Listing Rules or is otherwise required by Law.
- (B) The Company must not refer to the Investor or any of its Affiliates in any news release or announcement without the Investor's prior written consent.

- (C) The Investor has the right to review, approve and amend all news releases, press releases and public disclosure documents concerning the Investor, or any Transaction Documents or Contemplated Transactions, which are required to be issued by the Company under applicable Laws.
- (D) The Investor and its Affiliates and/or advisers may describe the Investor's relationship with the Company under this Agreement and include the name and corporate logo of the Company in the Investor's and its Affiliates' and/or advisers' publicly available materials.
- (E) Notwithstanding anything herein to the contrary, to comply with United States Treasury Regulations Section 1.6011-4(b)(3)(i), each Party to this Agreement, and each employee, representative or other agent of such Party, may disclose to any and all persons, without limitation of any kind, the U.S. federal and state income tax treatment, and the U.S. federal and state income tax structure, of the transactions contemplated hereby and all materials of any kind (including opinions or other tax analyses) that are provided to such Party relating to such tax treatment and tax structure insofar as such treatment and/or structure relates to a U.S. federal or state income tax strategy provided to such recipient.

#### **8.9 Non-Public Information**

- (A) The Company must not, directly or indirectly, and must ensure that its Affiliates and agents and representatives do not, at any time after the date of this Agreement, without the prior consent of the Investor, disclose any Non-Public Information or material non-public information to a Relevant Person.
- (B) Where the Investor has consented to such disclosure, the Company must identify all Non-Public Information and material non-public information as such, and provide the Investor with the opportunity to accept or refuse to accept such information.

#### **8.10 Cannabis related activities**

- (A) The Company shall not (and shall cause each other Group Company and each director, officer, employee, agent or other person acting on behalf of a Group Company not to) cultivate, produce, process, manufacture, store, test, transport, import or distribute, any cannabis or cannabinoid product (which terms include, for greater certainty, all cannabis or cannabinoid products containing any level of THC or CBD) or otherwise engage in any direct or indirect dealings or transactions in or to the United States, its territories and possessions, any state of the United States or the District of Columbia or any other jurisdiction in which such activity is not fully lawful under all applicable federal, state, provincial, territorial or local laws.
- (B) The Company shall not (and shall cause each other Group Company and each director, officer, employee, agent or other person acting on behalf of a Group Company not to) engage in (i) any direct or indirect dealings or transactions in violation of United States federal or state criminal laws, including, without limitation, the United States Controlled Substances Act, the United States Racketeering Influenced and Corrupt Practices Act, the United States Travel Act or any anti-money laundering law or regulation, or (ii) any "aiding and abetting" in any violation of United States federal or state criminal laws.

- (C) The Company shall maintain (and shall cause each other Group Company to maintain) policies and procedures reasonably designed to ensure that the Group Companies do not carry on any cannabis-related activities in, or distribute or receive any cannabis or cannabinoid products (which terms include, for greater certainty, all cannabis or cannabinoid products containing any level of THC or CBD) to or from or receive or distribute any funds directly or indirectly, to or from any person carrying on such activities in any jurisdiction where such activities or products are not fully in compliance with all applicable federal, state, provincial or territorial or local laws.

#### 8.11 Listing Rules

The Company shall not adopt an interpretation of the Listing Rules or take any position in relation thereto in connection with any regulatory filing or communication that is contrary to or inconsistent with the rights and obligations of the Parties under this Agreement.

### 9. Investor's activities

#### 9.1 Investor's dealings in Securities

Subject to Section 9.2:

- (A) the Investor may purchase and/or sell or otherwise dispose of any Securities, at any time (in compliance with applicable Laws, including Canadian Securities Laws and United States federal and state securities Laws) and hold or not hold any Securities for any term; and
- (B) nothing in this Agreement is or may be deemed to be a representation or warranty by the investor which has the effect that:
- (1) the Investor's right to sell or otherwise dispose of any of the Securities at any time (in compliance with applicable Laws, including Canadian Securities Laws and United States federal and state securities Laws) is limited; or
  - (2) the Investor is required to hold any Securities for any period of time, except as required by any applicable Laws.

#### 9.2 Limitation on sales

For so long as the investor holds any Securities issued to it under this Agreement, the Investor must not, on any one Trading Day, sell such number of Investor's Shares on the CSE (excluding Investor's Shares sold in Block Trades) that exceeds the greater of:

- (A) 20% of the trading volume of Shares traded on that Trading Day; and
- (B) that number of Shares which, based on the prices at which the Investor's Shares are sold on the CSE by the investor on that Trading Day, has an aggregate value of C\$12,000.

The limitation in this Section 9.2 does not apply if an Event of Default or Potential Event of Default has occurred.

### **9.3 Acknowledgment**

The Company acknowledges and agrees that transactions in its securities by the Investor may impact the market prices of the Company's publicly-traded securities, including during periods when the prices at which the Company may be required to issue Investor's Shares are determined.

### **9.4 Register of Share Subscription Instruments**

For so long as there is an Aggregate Subscription Amount Outstanding, the Investor must, on behalf of the Company, as the Company's attorney, maintain a register of Share Subscription Instruments showing the Closing Dates, the Prepayment Amounts, the Subscription Amounts, the Fixed Reference Prices, and the Subscription Amount Outstanding of each of the Share Subscription Instruments, and details of all Settlements and payments made in relation to all Subscription Amounts.

### **9.5 No Shorting**

The Investor undertakes that it will not, and that it will cause its Affiliates not to, engage in short selling of the Shares.

## **10. Additional obligations and agreements**

### **10.1 No conflicting actions**

Subject to Section 10.2, no Party may take or omit to take any action, enter into any agreement, or make any commitment that would conflict or interfere in any material respect with its obligations to the other Party under this Agreement.

### **10.2 Compliance with Laws**

The Company and the Investor must each comply with all applicable Laws.

### **10.3 Further assurances**

The Company must:

- (A) take, or cause to be taken, all such further actions;
- (B) execute and deliver all such other agreements, certificates, instruments and documents; and
- (C) use its best endeavours to obtain (and refrain from taking any wilful action that would impede or delay obtaining) all third party consents, waivers, approvals (including all shareholder approvals referred to in this Agreement), authorisations and orders needed,

in each case, as may reasonably be required in order to consummate the Contemplated Transactions and to preserve and protect the rights of the Investor against impairment.

#### **10.4 Anti-dilution protection**

Notwithstanding anything contained in Section 2, in relation to the Second Closing, if (A) the Second Closing Market Capitalisation Amount is less than the amount specified in subclause (A) of the definition of Second Prepayment Amount, and (B) the Investor elects, by notice to the Company given on or prior to the Second Closing Date, to apply this Section 10.4 to the Second Closing, then, in accordance with subclause (B) of the definition of Second Prepayment Amount, the Second Prepayment Amount shall be equal to the Second Closing Market Capitalisation Amount (and, for clarity, the Investor will not be obligated to pay the Company an amount that exceeds the Second Closing Market Capitalisation Amount).

#### **10.5 Set-off**

- (A) The Investor may set off any of its obligations to the Company (whether or not due for payment), against any of the Company's obligations to the Investor (whether or not due for payment) under this Agreement and/or any Transaction Document.
- (B) The Investor may do anything necessary to effect any set-off undertaken in accordance with this Section 10.5 (including varying the date for payment of any amount payable by the Investor to the Company).

#### **10.6 Set-off exclusion**

All payments which are required to be made by the Company to the Investor must be made without, all Securities which are required to be issued by the Company to the Investor must be issued without, and the Subscription Amount of each Share Subscription Instrument must not be the subject of:

- (A) any set-off, counterclaim or condition; or
- (B) any deduction or withholding for Tax or any other reason, unless a deduction or withholding is required by Law (in which case Section 11.4 applies),

except as may otherwise be consented to by the Investor in writing.

#### **10.7 Transfer to the Investor's Brokerage Account**

In relation to any Investor's Shares held by the Investor or any other Registered Holder through DRs, the Company shall, upon the investor's request, cooperate with the Investor or such other Registered Holder and provide any assistance to the Investor or such other Registered Holder as may be requested by the Investor or such other Registered Holder, to electronically deposit such Investor's Shares into the Investor's Brokerage Account through the facilities of CDS, by way of physical or electronic settlement or otherwise.

#### **10.8 Rescission and withdrawal right**

Whenever the Investor provides a notice, or exercises a right, election or demand under this Agreement, and the Company does not perform its related obligations within the time periods provided in this Agreement, then the Investor may by notice to the Company rescind or withdraw the relevant notice, right, election or demand in whole or in part, without prejudice to its future actions and rights.

## 10.9 Base Price

- (A) Notwithstanding anything contained in Section 2, but without limiting Section 10.10, if the daily VWAPs per Share are equal to or less than the Base Price for any two consecutive Trading Days during the term of this Agreement (regardless of what any of the VWAPs were at any time prior), the Investor may, by notice to the Company:
- (1) postpone the Second Closing Outside Date (whereupon the Second Closing will be referred to for purposes of this Section 10.9 as the "Postponed Closing") by up to 90 calendar days (the "Pause Period") from the Second Closing Initial Outside Date, in which event Sections 10.9(B), 10.9(C) and 10.9(D) and subclause (D) of the definition of Second Closing Outside Date shall apply;
  - (2) specify that the amount of the Second Prepayment Amount be less than the amount specified in subclause (A) of the definition of Second Prepayment Amount, in which event subclause (C) of the definition of Second Prepayment Amount shall apply; or
  - (3) both postpone the Second Closing Outside Date under Section 10.9(A)(1) and reduce the amount of the Second Prepayment Amount under Section 10.9(A)(2).

The Investor may elect to postpone the Second Closing Outside Date, reduce the amount of the Second Prepayment Amount, or do both, under this Section 10.9(A) only once.

- (B) Postponement of the Second Closing Outside Date shall not affect the timing of any Settlement or any rights of the Investor under this Agreement. For clarity, notwithstanding the postponement of the Second Closing Outside Date, the Investor may, at any time during the Pause Period, by notice to the Company, designate a date as the Second Closing Date, in accordance with the definition thereof, that occurs prior to, during, or after the Pause Period.
- (C) If during the Pause Period, each VWAP per Share during any ten consecutive Trading Days is greater than the Base Price (such ten consecutive Trading Day period being, the "Renewal Prerequisite Period"), the Company may on 10 Trading Days' notice (the "Renewal Notice Period"), to be given no later than three Trading Days after the final date of the Renewal Prerequisite Period, require the Investor to consummate the relevant Postponed Closing (in which event the Postponed Closing shall occur, subject to the terms of this Agreement, on a date determined by the Investor and notified to the Company, which date must be no later than the tenth Trading Day following the end of the Renewal Notice Period), provided that the daily VWAPs per Share are greater than the Base Price on at least nine out of the 10 Trading Days during the Renewal Notice Period (the "Renewal Prerequisite"). The foregoing notice is irrevocable.
- (D) If the Company does not provide the Investor with a valid notice under Section 10.9(C), or the Renewal Prerequisite are not satisfied during the relevant Renewal Notice Period, the Investor may, by notice to the Company, effective immediately terminate this Agreement.



#### 10.10 Postponement of the occurrence of the Second Closing by the Investor

- (A) Without limiting Section 10.9, the Investor may postpone the Second Closing Outside Date, by notice to the Company (an "Investor Postponement Notice"), by a period of up to 90 calendar days (a "Investor Postponement Period") from the Second Closing Initial Outside Date (an "Investor Postponement"). The Investor may give an Investor Postponement Notice only once during the term of this Agreement.
- (B) An Investor Postponement shall not affect any Closing that occurred prior to the date of the Investor Postponement Notice, any Share Subscription Instrument issued at any such Closing or any of the Investor's rights under this Agreement.
- (C) For clarity, notwithstanding that the Investor has exercised an Investor Postponement, the Investor may, at any time after such exercise, by notice to the Company, designate a date as the Second Closing Date, in accordance with the definition thereof, that occurs prior to, during, or after the Investor Postponement Period.

#### 10.11 Adjustments

- (A) Each time a Security Structure Event occurs, each of the Initial Placement Shares Issuance Number and the initial Placement Shares Number shall, with effect from the date the Security Structure Event takes effect:
  - (1) in the case where the Security Structure Event is a sub-division, re-classification or re-designation where the aggregate number of Shares in issue immediately after (and as a result of) the sub-division or re-classification or re-designation is increased, be increased; and
  - (2) in the case where the Security Structure Event is a consolidation, pro rata cancellation, re-classification or re-designation where the aggregate number of Shares in issue immediately after (and as a result of) the consolidation, pro rata cancellation, re-classification or re-designation is reduced, be reduced,in each case, to that number obtained by multiplying the Initial Placement Shares Issuance Number or the Initial Placement Shares Number, as the case may be, then in effect by a fraction, of which the numerator is the aggregate number of Shares in issue immediately after such Security Structure Event and the denominator is the aggregate number of Shares in issue immediately before such Security Structure Event (the "Quotient"). In addition, each of the Fixed Reference Prices and the Base Price shall be adjusted by dividing the relevant Fixed Reference Price or the Base Price, as the case may be, in effect immediately prior to such Security Structure Event by the Quotient. Such adjustments shall become effective on the date of such Security Structure Event taking effect.
- (B) The intent of Section 10.11(A) is to maintain the relative benefit and burden to the Investor and the Company of their respective economic bargains.
- (C) When the Company becomes aware of a fact that may give rise to an adjustment under Section 10.11(A), the Company must promptly notify the Investor of the specifics of the fact that may give rise to such adjustment.

- (D) For so long as there is any Amount Outstanding, if, during any five consecutive Toronto Business Day period after the Execution Date, the Floating Price that would have applied on each of those Toronto Business Days (such Floating Price determined, solely for purposes of this Section 10.11(D), as though a Settlement occurred on the applicable Toronto Business Day) is equal to or less than C\$0.05, the Company shall, upon the request of the Investor, as soon as reasonably practicable (but in any event within 10 Toronto Business Days of the Company's receipt of notice of such request) use its best efforts to effect a consolidation of the share capital of the Company, at a ratio whereby on the date such request was received by the Company, the Closing Price of the Shares would have been no less than C\$0.10, or such greater price as is determined by the Investor in consultation with the Company (provided that such greater price shall not, without the consent of the Company, exceed C\$0.20), had the consolidation been effective on such date. The Company shall not effect the consolidation contemplated by this Section 10.11(D) unless the Investor requests such consolidation. The Company shall take all actions necessary or advisable to ensure that its legal name and ticker symbol are not required to be changed under the Listing Rules, and do not change, in connection with any consolidation required by this Section 10.11(D).
- (E) Without limiting the generality of Section 10.11(D), upon the request of the Investor, the Company shall promptly (but in any event within 10 Toronto Business Days of the Company's receipt of notice of such request) use its best efforts to effect a consolidation of the share capital of the Company, on the basis of one (1) post-consolidation Share for each three (3) pre-consolidation Share. The Company shall not effect the consolidation contemplated by this Section 10.11(E) unless the Investor requests such consolidation. The Company shall take all actions necessary or advisable to ensure that its legal name and ticker symbol are not required to be changed under the Listing Rules, and do not change, in connection with any consolidation required by this Section 10.11(E).

## 10.12 Shares

The Company undertakes that it will, for so long as there is an Aggregate Subscription Amount Outstanding or there are one or more Closings that could occur under the terms of this Agreement:

- (A) not modify the rights attaching to the Shares with respect to voting, dividends or liquidation nor issue any other class of equity share capital carrying any rights which are more favourable than the rights attaching to the Shares;
- (B) not make any issue, grant or distribution or take or omit to take any other action if the effect thereof would be that, on any Closing Date or Settlement, Shares could not, under any applicable Law then in effect, be legally issued as fully paid and non-assessable;
- (C) ensure that all of the Investor's Shares will be fully paid and non-assessable;
- (D) ensure that all of the Investor's Shares to be issued in connection with the Contemplated Transactions will rank *pari passu* with the then outstanding Shares;
- (E) ensure that all of the Investor's Shares held in the Investor's Brokerage Account are fungible with Shares held through participants at CDS;

- (F) ensure that all of the Investor's Shares issued in connection with the Contemplated Transactions will be listed and posted for trading on the CSE as soon as practicable and (in any event) by no later than the fifth Trading Day after the date of their issuance;
- (G) at all times ensure that there are sufficient authorised but unissued Shares available for issue to enable the issuance of Placement Shares and Make-Whole Shares in relation to the Aggregate Subscription Amount Outstanding in part or in full in accordance with this Agreement (and without having to offer the same to any existing shareholders of the Company or anyone else), free from pre-emptive or other preferential rights or other rights or restrictions (whether by constating document, contract, statute or otherwise); and
- (H) continue to make all applicable regulatory filings in respect of the listing of the Shares on the CSE and in accordance with Canadian Securities Laws and the Listing Rules.

### 10.13 Equalisation Payments

- (A) Provided that the Company has issued the Initial Placement Shares to the Investor, the investor may at any time, or shall in any event no later than the fifth Toronto Business Day after the Final Date, pay to the Company a fee (the "Equalisation Fee") in Canadian Dollars (in full and final satisfaction of all obligations of the Investor in connection with the Initial Placement Shares) equal to the product of (A) the Initial Placement Shares Number at such time, multiplied by (B) 90% of the average of five daily VWAPs per Share (as selected by the Investor in its sole discretion) during the period: (i) commencing on the date that is twenty-one (21) Actual Trading Days immediately prior to the date on which the Equalisation Fee is to be paid; and (ii) ending on the date that is immediately prior to the date on which the Equalisation Fee is to be paid, rounded down to the nearest Rounding Number, subject to Sections 10.13(B) and 10.13(C).
- (B) Where:
  - (1) the Investor would otherwise be required to make a payment to the Company in accordance with Section 10.13(A); and
  - (2) the Shares are suspended or delisted from trading on the CSE as at the time of determination of the Equalisation Fee;

the Investor's obligations under Section 10.13(A) shall be suspended while the event described in Section 10.13(B)(2) is continuing.
- (C) Where the Investor's obligations under Section 10.13(A) are suspended by virtue of Section 10.13(B) for a period of sixty (60) days, the Initial Placement Shares Number shall be reduced to zero and the Investor shall have no obligations or liabilities whatsoever under this Section 10.13, Section 3.3(B) or otherwise in connection with the Initial Placement Shares.

## **11. Taxes, stamp duty and withholdings**

### **11.1 Taxes generally**

- (A) Without limiting anything else in this Agreement, if the Investor is required to pay any Tax to any Governmental Authority of Canada or any province of Canada (other than Excluded Tax) in respect of any payment it receives from the Company, the Company must pay to the Investor the additional amount which the Investor reasonably determines to be necessary to ensure that the Investor receives, when due, a net amount (after payment of any Tax in respect of each additional amount) that is equal to the full amount it would have received if that Tax had not been imposed on the Investor.
- (B) The Company must:
- (1) pay any Tax (other than Excluded Tax) required to be paid to any Governmental Authority of Canada or any province of Canada which is payable in respect of any Transaction Document or any Contemplated Transaction, including in respect of:
    - (a) the execution, delivery, performance, release, discharge, amendment or enforcement of any Transaction Document or any Contemplated Transaction; and
    - (b) any payment received by the investor from the Company (including pursuant to any indemnity by the Company).

### **11.2 Added Tax**

If the Investor is or becomes liable to pay any Added Tax in respect of any supply it makes under, in accordance with, or pursuant to an enforcement of, this Agreement or any Contemplated Transaction, whether or not that supply is made to or for the benefit of the Company ("Added Tax Liability") then:

- (A) to the extent that an amount is payable by the Company to the Investor under this Agreement or in any Contemplated Transaction for that supply, that amount will be increased by the full amount of the Added Tax Liability; and
- (B) otherwise, the Company must indemnify the Investor for the full amount of the Added Tax Liability and any interest or penalties in relation to that Added Tax Liability.

### **11.3 Tax compliance by Company**

The Company must comply in all material respects with all applicable Laws relating to Tax and promptly file, or cause to be filed, all Tax returns, business activity statements, and other Tax filings, required under all applicable Laws, and the Company must, within five days after those amounts are required to have been paid, provide to the Investor written evidence of the payment of all Taxes, Added Tax Liability and stamp and other taxes which the Company is required to pay under this Agreement or under any other document to which the Company and the Investor are both parties.

#### 11.4 General withholding gross-up

If the Company is required by Law to withhold or deduct Tax or any other amount from any amount payable to the Investor:

- (A) the Company must pay the amount required to be withheld or deducted to the relevant Governmental Authority within the time allowed for such payment and shall furnish to the Investor an official receipt of the relevant Governmental Authority for the amount withheld or deducted or if such receipts are not issued by the authority concerned, a certificate of deduction or equivalent evidence relating to such amount;
- (B) the Company must pay such additional amounts as are necessary to ensure that after making the deduction or withholding, the Investor receives the full amount which it would have received if such withholding or deduction was not required; and
- (C) the Company must (or, as the case may be, must procure that the relevant Group Company must), within five days after those amounts are required by Law to have been paid, provide to the Investor written evidence of the payment of those amounts.

#### 12. Default

##### 12.1 Events of Default

Each of the following constitutes an "Event of Default":

- (A) The Company breaches or otherwise fails to comply in full with any of its obligations under any Transaction Document.
- (B) Any of the Materials is inaccurate, false or misleading in any material respect (including by omission), as at the date on which it is made, repeated or delivered, or deemed to be made, repeated or delivered, or any Materials or the Public Record contains a Misrepresentation.
- (C) The Company or any Subsidiary of the Company:
  - (1) is unable to pay its debts and satisfy its obligations when due, or stops, suspends or threatens to stop or suspend payment of all or a substantial part of its debts as they mature; or
  - (2) applies for or consents to the appointment of, or the taking of possession by, an administrator, liquidator, manager, receiver, custodian or other similar official in respect of the Company or any Subsidiary of the Company or over the whole or substantially all of the undertaking, property, assets or revenues of the Company or any Subsidiary of the Company; or
  - (3) commits an act of bankruptcy, or makes or proposes to make a general assignment for the benefit of creditors or a proposal under the Bankruptcy and Insolvency Act (Canada), the Companies' Creditors Arrangement Act (Canada) or a similar Law of any applicable jurisdiction, or a moratorium is agreed or declared or comes into effect in respect of or affecting all or substantially all the debts of the Company or any Subsidiary of the Company; or

- (4) commences or institutes any application, case, proceeding or other action under any statute, rule or regulation relating to bankruptcy, insolvency, winding-up, reorganization, administration, plans of arrangement, relief or protection of debtors under the Bankruptcy and Insolvency Act (Canada), the Companies' Creditors Arrangement Act (Canada) or a similar Law of any applicable jurisdiction, seeking (w) to have an order for relief entered with respect to it, or (x) to adjudicate it as bankrupt or insolvent, or (y) reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (z) administrator, liquidator, manager, receiver, custodian or other similar official for it or for all or any substantial part of its assets;
- or

except for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger or consolidation (i) on terms approved by the Investor or (ii) in the case of a Subsidiary of the Company, not arising out of the insolvency of such Subsidiary and under which all or substantially all of its assets are transferred to another member or members of the Group or to a transferee or transferees which immediately upon such transfer become(s) a Subsidiary of the Company.

(D)

- (1) An administrator, liquidator, manager, receiver, custodian or other similar official is duly appointed, an order is made by a competent court or a resolution is proposed or passed or other proceeding is commenced for the winding-up or dissolution or judicial management or administration of the Company or any Subsidiary of the Company, or the Company or any Subsidiary of the Company suspends, ceases or threatens to suspend or cease to carry on all or substantially all of its business or operations, or
- (2) the Company or any Subsidiary of the Company sells or disposes of all or a substantial part of its assets or business whether as a single transaction or a number of transactions, related or not, other than a disposal of assets or business on arm's length terms of the Company or such Subsidiary as the case may be,

except, in any such case, for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger, consolidation or other similar arrangement (i) on terms previously approved in writing by the Investor, or (ii) in the case of a Subsidiary of the Company, not arising out of the insolvency of such Subsidiary and under which all or substantially all of its assets are transferred to another member or members of the Group or to a transferee or transferees which immediately upon such transfer become(s) a Subsidiary of the Company.

- (D) An application or order is made, a case, proceeding or other action is commenced, a resolution is passed or proposed in a notice of meeting, or an application to a court or other steps are taken, seeking (1) to adjudicate it as bankrupt or insolvent, (2) the reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (3) the appointment of an administrator, liquidator, manager, receiver, custodian or other similar official for it or for all or any substantial part of its assets

- (E) A distress, attachment or execution is levied against, or an encumbrancer takes possession of all or a substantial part of the property or assets of the Company or all or a substantial part of the property or assets of any Subsidiary of the Company.

- (E) A Group Company is served with a demand under applicable bankruptcy, insolvency or similar statutes.
- (F) The Company or any of its Subsidiaries takes action to reduce its capital under the Corporations Act.
- (G) Any Investor's Shares are not listed and posted for trading on the CSE by the second Trading Day immediately following the date of their issue.
- (H) A suspension of trading of the Shares on the CSE or a delisting of the Shares from the CSE is requested by the Company or requested or imposed by the CSE, any Canadian Securities Commission or another Governmental Authority or there exists any fact or circumstance which may have any such result, or trading in the Shares on the CSE is halted for more than seventy two hours under the Listing Rules.
- (I) A temporary or permanent cease trade order is issued or threatened to be issued against the Company, a temporary or permanent management cease trade order is issued or threatened to be issued in relation to any director or officer of the Company.
- (J) The Company ceases to be, or the Company requests or applies to be cease to be, a "reporting issuer" under any Canadian Securities Laws, or becomes a "reporting issuer in default" or a "cease trading reporting issuer" under any Canadian Securities Laws.
- (K) Any Investor's Shares are not, or would not be, freely tradeable on the CSE (disregarding, solely for purposes of this subclause (K), the Canadian Securities Laws Legend at any time prior to the expiration of the Statutory Hold Period applicable to such Investor's Shares).
- (L) A Transaction Document or a Contemplated Transaction has become, or is claimed (other than in a vexatious or frivolous proceeding by a third party) by any person other than the Investor or any of its Affiliates to be, wholly void, voidable or unenforceable or partly void, voidable or unenforceable in any material respect.
- (M) Any person commences any action, investigation or proceeding against any person or otherwise asserts any claim which seeks to restrain, challenge, deny, enjoin, limit, modify, dispute or delay the right of the Investor or the Company to enter into any Transaction Documents or to undertake any of the Contemplated Transactions (other than in a vexatious or frivolous proceeding by a third party).
- (F) The Company challenges, disputes or denies the right of the Investor to receive any of the Securities under this Agreement in accordance with its terms, or otherwise dishonours or rejects any action taken, or document delivered, in furtherance of the Investor's right to receive such Securities under this Agreement in accordance with its terms (provided that the Company is permitted to challenge the Investor's actions which the Investor is in fact not entitled to take under this Agreement).
- (N) A Security Interest over an asset of a Group Company is enforced.
- (O) An order ceasing or suspending trading in the Shares or any other securities of the Company is issued, or a proceeding for such purposes is initiated or threatened.

- (P) The CSE objects to any of the Contemplated Transactions or any terms thereof, or takes any action that could, in the reasonable opinion of the Investor, result in the suspension from trading or delisting of the Shares on the CSE or the Company's breach or violation of the Listing Rules.
- (Q) Any present or future liabilities, including contingent liabilities, of any Group Company for an amount or amounts totalling more than C\$50,000 (or its equivalent in any other currency) are not satisfied on time, or become prematurely payable.
- (R) A Group Company is in default under a document or agreement (including a Governmental Authorisation) binding on it or its assets which relates to financial indebtedness or is otherwise material.
- (S) In the event the Company delivers a Cash Payment Notice to the Investor, the Company fails to pay the entire Cash Payment Amount on the Cash Payment Date.
- (T) A Material Adverse Effect occurs, or an event occurs or a circumstance comes to subsist which would in the reasonable opinion of the Investor be likely to have a Material Adverse Effect.
- (U) Any consolidation of the share capital of the Company that is required to occur pursuant to the provisions of Section 10.11(D) or Section 10.11(E) has not occurred within the applicable time-frame set out therein.

## 12.2 Investor's right to investigate

If in the Investor's reasonable opinion, an Event of Default or Potential Event of Default has occurred:

- (A) the Investor may investigate such purported Event of Default or Potential Event of Default;
- (B) the Company must co-operate with the Investor in such investigation;
- (C) the Company must comply with all reasonable requests made by the Investor of the Company in connection with any investigation by the Investor; and
- (D) the Company must pay all reasonable costs in connection with any investigation by the Investor.

## 12.3 Notification by Company

- (A) The Company must notify the Investor immediately, giving full details, upon the occurrence or likely occurrence of any Event of Default or Potential Event of Default.
- (B) The Company must, immediately following the Investor providing it with a request for such a certificate, provide the Investor with a certificate substantially in the form of Annex C executed on behalf of the Company by its Chief Executive Officer confirming the number of Shares available for issuance on the date specified by the Investor in such request free from pre-emptive or other preferential rights or restrictions (whether by constating document, contract, statute or otherwise) by the board of directors of the Company.



#### **12.4 Certification by Company**

At the Investor's request, the Company must provide the Investor with a certificate signed by two of any of the Company's directors or its Chief Executive Officer, stating whether:

- (A) any event or circumstance that has or is likely to have a Material Adverse Effect; or
  - (B) any other Event of Default or Potential Event of Default,
- has occurred and/or is continuing.

#### **12.5 Rights of the Investor upon default**

If any Event of Default occurs, the Investor may:

- (A) declare, by notice to the Company, the Amount Outstanding and all other amounts payable by the Company under any Transaction Document to be, whereupon they shall become, immediately due and payable by the Company to the Investor, and/or
- (B) terminate this Agreement, by notice to the Company, effective as of the date set out in the Investor's notice; and/or
- (C) exercise any other right, power or remedy granted to it by the Transaction Documents and/or otherwise permitted to it by Law, including by suit in equity and/or by action at Law (and such termination does not prejudice any accrued right, power or remedy of the Investor under this Agreement as at the date of termination, including its right for specific performance and/or to recover damages from the Company in relation to any breach of this Agreement).

#### **12.6 Interest**

If an Event of Default occurs, interest shall be payable on demand on the Amount Outstanding at a rate per annum of 15%, which interest shall accrue and shall be compounded daily, from the First Closing Date until the Company discharges such outstanding amount in full.

#### **12.7 Postponement**

Upon the occurrence of an Event of Default or Potential Event of Default, the Investor may, by notice to the Company, postpone any subsequent Closing, End Date, and/or Settlement, for such time as the Event of Default or Potential Event of Default continues or until the Investor otherwise notifies the Company (in each case, without limiting the application of any of the Investor's rights, including those under Section 12.5 at any time prior to or subsequently to such postponement).

#### **12.8 Specific Performance**

The Company hereby covenants with the Investor duly to perform and observe the obligations contained in this Agreement and imposed on the Company, and the Investor may sue for the performance or observance of such provisions.

13. **Change of Law**

13.1 **Law and change in Law**

If at any time during the term of this Agreement:

- (A) any applicable Law, any proposed applicable Law, the interpretation or administration of any applicable Law by any Governmental Authority, or a change or proposed change in the interpretation or administration of any applicable Law by any Governmental Authority, does or, if it comes into force, will:
- (1) render (directly or indirectly) compliance by the Investor or the Company with the Transaction Documents or the undertaking of the Contemplated Transactions or transactions of similar kind (including any issuance, acquisition and/or disposition, at a time of the Investor's choosing, of any Securities) by either of them illegal, unlawful, void, voidable, contrary to or in breach of any Law, impossible or impracticable;
  - (2) materially vary the duties, obligations or liabilities of the Company or the Investor in connection with any Transaction Document or Contemplated Transaction so that the Investor's rights, powers, benefits, remedies or economic burden (including any tax treatment in the hands of the Investor but disregarding any Excluded Tax) are materially adversely affected (including by way of material delay or postponement);
  - (3) otherwise materially adversely affect the rights, powers, benefits, remedies or the economic burden of the Investor (including by way of material delay or postponement); or
  - (4) otherwise make it materially impracticable for the Investor to undertake any of the Contemplated Transactions; or
- (B) any of the following has occurred:
- (1) trading in securities generally in Canada or the United States has been suspended or limited for a period exceeding two consecutive Toronto Business Days or New York Business Days (as the case may be);
  - (2) a banking moratorium has been declared by a Canadian Governmental Authority or a United States Governmental Authority;
  - (3) any Governmental Authority has declared that any day that would otherwise be a Trading Day, a Toronto Business Day not to be such or to be a public holiday;
  - (4) any state of emergency has been declared in Canada (for whatever reason) (other than, with respect to any state of emergency declared prior to the Execution Date and still in effect on the date immediately prior to the Execution Date, such state of emergency as in effect on the date immediately prior to the Execution Date, subject to any extension or replacement thereof) or any other event has occurred (including, without limitation, acts of God, flood, drought, earthquake or other natural disasters, or epidemics or pandemics (including coronavirus COVID-19 or any evolution thereof)), and/or any action has been taken by any Governmental

Authority, in each case which makes it impracticable for the Investor to effect a Closing or a Settlement or accept Placement Shares or Make-Whole Shares or for the Company to comply with its obligations under this Agreement; or

- (5) there is a material outbreak or escalation of hostilities or another national or international calamity of such magnitude in its effect on, or adverse change in, the United States or the Canadian financial market, which makes it impracticable for the Investor to effect a Closing or a Settlement or accept Placement Shares or Make-Whole Shares.

then, without limiting the Company's obligations under Section 12, the Investor may, by notice to the Company, postpone any Closing Date, postpone any Settlement, suspend its unperformed obligations under this Agreement and/or terminate this Agreement and require the Company to repay to the Investor the Amount Outstanding (without any penalty) in full on the date specified by the Investor in its notice, which must not be earlier than five calendar days after the date on which the Investor gives the notice, or any earlier date required by the applicable Law.

### **13.2 Payment of Amount Outstanding**

If the Investor gives a notice under Section 13.1, the Company must on the date determined under Section 13.1 pay to the Investor the Amount Outstanding in full (without penalty).

## **14. Termination**

### **14.1 Events of Termination**

This Agreement may be terminated by agreement of the Parties at any time and otherwise:

- (A) by either Party, by notice to the other, effective immediately, if the First Closing has not occurred within 15 Toronto Business Days of the Execution Date or such later date as the Parties agree in writing, however this right is not available to any Party that is in material breach of or default under this Agreement;
- (B) by either Party, by notice to the other Party, effective immediately, at any time after the later of (i) the date as of which no further Settlements could occur under this Agreement and (ii) the date that is the second Trading Day after the date that falls eighteen months after the Execution Date;
- (C) by the Investor, by notice to the Company, effective as of the date stipulated by the Investor in such notice, if the Company has made, or has become required to make, a cash payment to the Investor for any reason (and, for the avoidance of doubt, such right of termination is not deemed to have been waived in connection with subsequent payments, if not exercised in connection with any earlier payment required); or
- (D) by the Investor under any of Sections 10.9(D), 12.5 or 13.1.

### **14.2 Effect of Termination**

- (A) The termination of this Agreement shall not affect any Closing that occurred prior to the effectiveness of such termination, any Share Subscription Instrument issued at any such prior Closing (including, for clarity, any Subscription Amount arising at any such prior

Closing), any issuance of Placement Shares or Make-Whole Shares or payment of Make-Whole Amounts in connection with any Settlement of any Subscription Amount, or any other Investor's rights under this Agreement under the provisions that survive the termination of this Agreement.

- (B) A Party's right of termination under Section 14.1 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination is not an election of remedies.
- (C) Nothing in this Agreement releases the Company from any liability for any breach by the Company of this Agreement or impairs the right of the Investor to compel specific performance by the Company of its obligations under this Agreement.

## 15. Survival and Indemnification

### 15.1 Survival

- (A) Each of (1) the Company's representations and warranties given pursuant to Section 7, and (2) the provisions of Sections 1, 2.6, and 3 to 16 of this Agreement, shall survive and continue in full force and effect, notwithstanding the execution of this Agreement, the consummation of any of the Contemplated Transactions, and the termination of this Agreement or another Transaction Document or any related provision. No term of this Agreement merges on completion of any Contemplated Transaction.
- (B) The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the provisions themselves do not expressly provide for this.

### 15.2 Revival

To the extent that any Settlement or any payment by the Company is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to any person, then to such extent, any Amount Outstanding satisfied by such Settlement or payment is immediately revived and continues, and the Company must take such action as may be reasonably requested by the Investor to effect such reinstatement; unless such revival and continuation are waived by the Investor.

### 15.3 Exculpation and Indemnification

- (A) No Relevant Person is liable to the Company or any other person, and the Company must indemnify, defend and hold harmless each Relevant Person from and against any and all Losses, whether or not involving any action, investigation or proceeding by any third party, that arise out of, are based on, relate to, or are incurred in connection with, (1) any inaccuracy in or breach of any of the representations or warranties set forth in any of the Transaction Documents or any breach of any of the obligations or agreements of the Company set forth in any of the Transaction Documents (including, for clarity, a delay in the Investor's receipt of any parcel of Investor's Shares or a delay in the Investor's ability to, or the Investor's inability to, dispose of any of the Investor's Shares, in each case in connection with any such inaccuracy or breach (including as to the issuance, listing and posting to trading of any Investor's Shares) and/or (2) any action,

claim, proceeding, suit or investigation brought, made, commenced or threatened at any time by or on behalf of any third party (including any Governmental Authority) against a Relevant Person, in connection with the entry by the Parties into this Agreement or the Contemplated Transactions; provided, however, that the Company is not liable to indemnify the Investor from, or hold the Investor harmless against, any Losses that result solely from:

- (i) the Investor's breach of any representation or warranty contained in this Agreement; or
  - (ii) the Investor's fraud, gross negligence or wilful default in performing its obligations under this Agreement.
- (B) To the extent that the Company's undertaking in this Section 15.3 may be unenforceable for any reason, the Company must make the maximum contribution to the payment and satisfaction of all Losses that is permissible under applicable Law.
- (C) The Investor or any other Relevant Person is not required to incur any expense or make any payment before enforcing any indemnity under this Agreement.
- (D) The Company acknowledges that the indemnity given under this Section 15.3 is directly enforceable against it by any Relevant Person.
- (E) The Company hereby constitutes the Investor as trustee for each of the other Relevant Parties of the Company's covenants under this indemnity with respect to such persons and the Investor agrees to accept such trust and to hold and enforce such covenants on behalf of such persons.

#### 15.4 **Indemnities generally**

Each indemnity in this Agreement:

- (A) is a continuing obligation, independent of the Company's other obligations under this Agreement;
- (B) continues notwithstanding any termination of this Agreement;
- (C) constitutes a liability of the Company separate and independent from any other liability under this Agreement and under any other agreement; and
- (D) survives, and continues in full force and effect, in accordance with Section 15.1.

#### 16. **Miscellaneous**

##### 16.1 **Time of the essence**

With regard to all dates and time periods set out or referred to in any Transaction Document, time is of the essence.

## **16.2 No partnership or advisory or fiduciary relationship**

Nothing in this Agreement creates a partnership between the Parties, or a fiduciary or an advisory relationship between the Investor or any of its Affiliates, on the one hand, and the Company or any Group Company on the other hand.

## **16.3 Certificates**

Each certificate or notice given by the Investor to the Company, including each certificate as to the occurrence of a Closing or a Settlement, is sufficient evidence of an amount or matter in connection with any Transaction Document or Contemplated Transaction, unless the content of such certificate or notice is proven to be incorrect.

## **16.4 Remedies and injunctive relief**

- (A) The rights and remedies of the Investor set out in this Agreement and the other Transaction Documents are in addition to all other rights and remedies given to the Investor by Law or otherwise.
- (B) The Company acknowledges that:
- (1) monetary damages alone would not be adequate compensation to the Investor for a breach by the Company of a Transaction Document (including where the Company has not issued Securities in accordance with this Agreement);
  - (2) the Investor may seek an injunction or an order for specific performance from a court of competent jurisdiction if:
    - (a) the Company fails to comply or threatens not to comply with a Transaction Document; or
    - (b) the Investor has reason to believe that the Company will not comply with a Transaction Document; and
  - (3) the Investor may suffer additional losses by reason of the Company's failure to issue Securities in accordance with this Agreement notwithstanding whether specific performance has been ordered by a court of competent jurisdiction.
- (C) If the Investor seeks an order for specific performance in connection with a failure by the Company to issue Securities in accordance with this Agreement, the Company:
- (1) agrees that it will not oppose the order on the basis that monetary damages are adequate compensation to the Investor;
  - (2) acknowledges that, even where specific performance is ordered in respect of the obligation on the Company to issue Securities in accordance with this Agreement, the Investor may suffer additional losses by reason of the Company's failure to issue Securities in accordance with this Agreement; and
  - (3) agrees that it will not oppose any additional order for monetary compensation in respect of the losses referred to in Section 16.4(C)(2) on the basis that the Investor

has sought an order for specific performance of the Company's obligations to issue Securities in accordance with this Agreement.

#### **16.5 Successors, assigns and third party beneficiaries**

- (A) The rights and obligations of the Parties under this Agreement are personal and may not be assigned to any other person or assumed by any other person, except as expressly provided in this Section 16.5.
- (B) Neither this Agreement nor any of the Company's rights and obligations under this Agreement may be assigned by the Company without the prior written consent of the Investor.
- (C) The Investor may assign this Agreement and/or any of its rights and obligations under this Agreement to any of its Affiliates or any other third party, on two calendar days' prior notice to the Company.
- (D) Nothing in this Section 16.5 prevents the Investor from selling, assigning, transferring, encumbering or otherwise dealing with its rights under, or in connection with, the Securities without the consent of any person.
- (E) The provisions of this Agreement inure to the benefit of, and are binding upon, the respective permitted successors and assignees, of the Parties.
- (F) Except as set out in Section 15.3, this Agreement is intended for the benefit of the Parties and their respective successors and permitted assignees only, and does not benefit or create any right, obligation to, or cause of action in or on behalf of, any other person, and no other person may enforce any provision of this Agreement.

#### **16.6 Counterparts and execution**

- (A) This Agreement may be executed in any number of counterparts, each of which is deemed an original, and all of which together constitute one and the same instrument.
- (B) Such counterparts may be delivered by one party to the other by electronic means, and such counterparts are valid for all purposes.

#### **16.7 Notices**

- (A) Except as otherwise expressly agreed, all communications in connection with any Transaction Document must be by notice in writing and must be delivered by a courier or hand, or sent by e-mail, to a Party at the address, or e-mail address of the Party specified in Section 16.7(E) (in the case of the Company), Section 16.7(F) (in the case of the Investor) or as otherwise specified by the Party by notice to the other Party.
- (B) When delivered by a courier or hand in Canada, a notice is deemed given:
  - (1) when delivered, if received during business hours in the place of delivery; or
  - (2) otherwise, at 9.00 a.m. (Pacific time) on the New York Business Day immediately following the date of such delivery.

- (C) When delivered by a courier or hand-delivery outside Canada, a notice is deemed given:
- (1) when delivered, if received during business hours in the place of delivery; or
  - (2) otherwise, at 9.00 a.m. (Eastern Time) on the New York Business Day immediately following the date of such delivery.
- (D) When sent by e-mail transmission, a notice is deemed given:
- (1) one hour after the time at which such transmission was sent (the "E-mail Time"), if such time falls within business hours in the place of delivery;
  - (2) otherwise, at 9.00 a.m. (Eastern Time) on the New York Business Day immediately following the date of the E-mail Time,
- unless the sender receives an automated message that the email has not been delivered.
- (E) The Company's address and e-mail address is as follows:
- Attention: Frederick Peis, Chief Executive Officer
- GAIA Grow Corp.  
Suite 303, 750 West Pender Street  
Vancouver, British Columbia  
V6C 2T7  
Canada  
E-mail address: [Redacted]
- (F) The Investor's address and e-mail address is set forth in Schedule 5.
- (G) Any notice provided for in this Agreement may be waived in writing by the Party entitled to receive such notice, either before or after the event.

#### 16.8 Amendments and waivers

- (A) Any term of this Agreement may be amended, supplemented, or modified, only by an instrument in writing signed by each Party.
- (B) Any obligation of a Party under this Agreement may be extended or waived only by an instrument in writing signed by the other Party.
- (C) No waiver of any default with respect to any provision of this Agreement is deemed to be a continuing waiver in the future or a waiver of any subsequent default, or a waiver of any other provision nor does any delay or omission of any Party to exercise any right under this Agreement in any manner impair the subsequent exercise of any such right.

#### 16.9 Legal Costs

The Parties acknowledge that the Company has made a non-refundable prepayment of C\$5,000 towards the Investor's legal costs in connection with this Agreement and the Contemplated Transactions. The Company shall reimburse the Investor upon demand for the



Investor's actual legal costs in connection with this Agreement and the Contemplated Transactions, up to a maximum of C\$9,000 (inclusive of the non-refundable prepayment).

#### **16.10 Additional expenses**

The Company must reimburse the Investor upon demand for all reasonable out-of-pocket expenses incurred by the Investor in connection with any amendment, modification or waiver of any Transaction Document (whether proposed or completed), and preparation of any other agreement to which the Investor and the Company, or the Investor and any Affiliates of the Company, are or would be parties, including, without limitation, reimbursement of legal fees and disbursements.

#### **16.11 Severability and supervening legislation**

- (A) Every provision of this Agreement is intended to be severable, and any provision of this Agreement that is or becomes illegal, invalid, prohibited or unenforceable in any relevant jurisdiction (each, a "Deficiency", and "Deficient" shall be construed accordingly) shall be, as to such jurisdiction, ineffective to the extent of such Deficiency, but the provision must be interpreted as if it were written so as to be enforceable to the maximum extent permitted by applicable Law, and any such Deficiency does not affect the legality, validity, permissibility or enforceability of the remainder of this Agreement in that jurisdiction, or render Deficient such or any other provision of this Agreement in any other jurisdiction.
- (B) To the extent not prohibited by applicable Law, the Parties waive and exclude any provision of Law, current or future, which renders any provision of this Agreement Deficient in any respect.
- (C) Sections 16.11(A) and 16.11(B) shall be of no force or effect to the extent that the consequence of enforcing the remainder of this Agreement without the Deficient provision would be to cause either Party to lose a material benefit of its economic bargain.
- (D) To the extent not prohibited by applicable Law, the Parties waive and exclude any provision of Law, current or future, which operates to vary the duties, obligations or liabilities of the Company or the Investor in connection with any Transaction Document so that the Investor's rights, powers, benefits, economic benefit, economic burden or remedies are adversely affected (including by way of delay or postponement).

#### **16.12 Entire Agreement**

- (A) This Agreement and the Warrant Instrument supersede all prior agreements, understandings, negotiations and discussions, both oral and written, between the Parties, their Affiliates and persons acting on their behalf with respect to the subject matter thereof and constitute the entire agreement among the Parties with respect to the subject matter thereto.
- (B) Except as specifically set out in this Agreement, neither the Company nor the Investor makes any representation, warranty, covenant or undertaking with respect to the subject matter of this Agreement.

**16.13 Governing Law and Jurisdiction**

- (A) THIS AGREEMENT AND ANY NON-CONTRACTUAL OBLIGATIONS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE PROVINCE OF BRITISH COLUMBIA AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREUNDER.
- (B) WITH RESPECT TO ANY LEGAL ACTION OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER, EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE SUPREME COURT OF THE PROVINCE OF BRITISH COLUMBIA IN THE CITY OF VANCOUVER, AND EACH PARTY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY HAVE AT ANY TIME TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING HERETO BROUGHT IN ANY SUCH COURTS, IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN ANY INCONVENIENT FORUM AND FURTHER IRREVOCABLY WAIVES THE RIGHT TO OBJECT, WITH RESPECT TO SUCH CLAIM, SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT, THAT SUCH COURT DOES NOT HAVE JURISDICTION OVER SUCH PARTY, PROVIDED THAT SERVICE OF PROCESS HAS BEEN MADE BY ANY LAWFUL MEANS.
- (C) Other than in relation to Section 15.3, no third party shall have any right to enforce any term or condition of this Agreement.

*[Remainder of this page left intentionally blank]*

**IN WITNESS WHEREOF** this Agreement has been executed and delivered on the date stated at the beginning.

**GAIA GROW CORP.**

By: \_\_\_\_\_ *(Signed)*

**NEW LIFE SCIENCES CAPITAL, LLC**

By: \_\_\_\_\_ *(Signed)*