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# **AMALGAMATION AGREEMENT**

**AMONG**

**CULTIVATOR CATALYST CORP.**

**- AND -**

**ORCA TOUCHSCREEN TECHNOLOGIES LTD.**

**- AND -**

**1151856 B.C. LTD.**

**APRIL 25, 2018**

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## AMALGAMATION AGREEMENT

**THIS AMALGAMATION AGREEMENT** made and entered into as of April 25, 2018,

**AMONG:**

**CULTIVATOR CATALYST CORP.**, a body corporate existing under the laws of the Province of Ontario with its head office in the City of Toronto, in the Province of Ontario (hereinafter called "**CCC**")

AND

**ORCA TOUCHSCREEN TECHNOLOGIES LTD.**, a body corporate existing under the laws of the Province of British Columbia with its head office in the City of Vancouver, in the Province of British Columbia (hereinafter called "**Orca**")

AND

**1151856 B.C. Ltd.**, a body corporate existing under the laws of the Province of British Columbia with its head office in the City of Vancouver, in the Province of British Columbia (hereinafter called "**AcquisitionCo**")

**WHEREAS** upon the terms and subject to the conditions set out in this Agreement, the Parties intend to effect a business combination transaction whereby, among other things, (i) CCC and AcquisitionCo shall amalgamate and continue as one corporation in accordance with the terms and conditions hereof; (ii) all CCC Shares, CCC Special Shares and CCC Warrants shall be exchanged for Orca Shares, Orca Special Shares and Orca Warrants on the amalgamation of CCC and AcquisitionCo; and (iii) all Orca Shares shall be listed, including all Orca Shares issued to CCC Shareholders in exchange for their CCC Shares, on the facilities of the Exchange;

**AND WHEREAS** AcquisitionCo is a wholly-owned subsidiary of Orca and has not carried on active business and Orca desires that AcquisitionCo amalgamate with CCC in accordance with the terms and conditions hereof;

**AND WHEREAS** the transaction represents a change of business for Orca and constitutes a Fundamental Change under policy 8 of the Canadian Securities Exchange and is therefore subject to approval by a majority of the votes cast by Orca Shareholders (as defined herein) eligible to vote on the Orca Fundamental Change Resolution (as defined herein) at the Orca Meeting (as defined herein);

**AND WHEREAS** the board of directors of Orca has unanimously: (i) determined that the Amalgamation is in the best interests of Orca; (ii) approved this Agreement and the transactions contemplated hereby including, but not limited to, the creation of the Orca Special Shares; and (iii) determined to recommend that the Orca Shareholders vote in favour of the Amalgamation and the Orca Special Share Resolution;

**AND WHEREAS** the board of directors of CCC has unanimously: (i) determined that the Amalgamation is in the best interests of CCC; (ii) approved this Agreement and the transactions contemplated hereby including, but not limited to, the continuation of CCC into the Province of British Columbia for purposes of facilitating the Amalgamation; and (iii) determined to recommend that the CCC Shareholders vote in favour of the CCC Transaction Resolution;

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration of the respective covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties covenant and agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Agreement, including the recitals hereto, the following terms shall have the following meanings, respectively:

"**ACMPR**" means the *Access to Cannabis for Medical Purposes Regulations (Canada)* issued pursuant to the CDSA;

"**Acquisition Proposal**" means any inquiry or the making of any proposal to Orca or the Orca Shareholders from any Person which constitutes, or may reasonably be expected to lead to (in either case whether in one transaction or a series of transactions): (i) an acquisition from Orca or Orca Shareholders of any of the securities of Orca that, when taken together with the securities of Orca held by the proposed acquiror, and any Person acting jointly or in concert with the acquiror, would constitute 20% or more of the voting securities of Orca; (ii) any acquisition of a substantial amount of assets of Orca; (iii) an amalgamation, arrangement, merger, combination, or consolidation involving Orca; (iv) any take-over bid, issuer bid, exchange offer, recapitalization, liquidation, dissolution, reorganization or similar transaction involving Orca; or (v) any other transaction, the consummation of which would or could reasonably be expected to impede, interfere with, prevent or delay the transactions contemplated by this Agreement or the Amalgamation or which would or could reasonably be expected to materially reduce the benefits to CCC under this Agreement or the Amalgamation;

"**AcquisitionCo**" has the meaning set forth in the recitals of this Agreement;

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

"**affiliate**" has the meaning ascribed thereto in the *Securities Act* (British Columbia);

"**Agreement**", "**this Agreement**", "**herein**", "**hereto**", and "**hereof**" and similar expressions refer to this Amalgamation Agreement, as the same may be amended or supplemented from time to time, and where applicable, to the appropriate Appendix hereto;

"**Agreement Date**" means the date hereof;

"**Amalco**" means the corporation resulting from the Amalgamation;

"**Amalco Common Shares**" means common shares in the capital of Amalco provided for in the Amalgamation Application;

"**Amalgamation**" means the amalgamation of AcquisitionCo and CCC contemplated by this Agreement;

"**Amalgamation Application**" means the application for amalgamation in the form set out in Appendix A hereto;

"**Articles of Amalgamation**" means the articles of Amalco in the form set out in Appendix B hereto;

"**Assessment**" has the meaning ascribed thereto in Section 6.1(l);

"**associate**" has the meaning ascribed thereto in the *Securities Act* (British Columbia);

"**Back Home**" means The Back Home Medical Cannabis Corporation, a corporation incorporated under the laws of the Province of Newfoundland and Labrador;

"**BCBCA**" means the *Business Corporations Act*, S.B.C. 2002, c. 57 as now in effect and as it may be amended from time to time prior to the Effective Date;

"**Business Day**" means any day on which commercial banks are generally open for business in Vancouver, British Columbia other than a Saturday, a Sunday or a day observed as a holiday (i) in Vancouver under the laws of the Province of British Columbia; or (ii) under the federal laws of Canada;

"**CCC**" has the meaning set forth in the recitals of this Agreement, and where the context requires, includes any subsidiaries;

"**CCC Amalgamation Resolution**" means the special resolution of the CCC Shareholders in respect of the Amalgamation and the Amalgamation Agreement, to be considered by the CCC Shareholders at the CCC Meeting;

"**CCC Continuance Resolution**" means the special resolution of the CCC Shareholders in respect of the continuance of CCC into the Province of British Columbia in order to facilitate the Amalgamation to be considered by the CCC Shareholders at the CCC Meeting;

"**CCC Dissenting Shareholder**" means a CCC Shareholder, who, in connection with the CCC Continuance Resolution or the CCC Amalgamation Resolution, as applicable, has sent to CCC a written objection and a demand for payment within the time limits and in the manner prescribed by Section 185 of the OBCA with respect to the CCC Continuance Resolution or has sent to CCC a written objection and a demand for payment within the time limits and in the manner prescribed by Section 238 of the BCBCA with respect to the CCC Amalgamation Resolution, in each case with respect to such shareholder's CCC Shares and CCC Special Shares, as applicable;

"**CCC Financial Statements**" means the financial statements of CCC from the date of incorporation to the year ended December 31, 2017 together with the notes thereto;

"**CCC Governing Documents**" means the constating documents and the by-laws of CCC;

"**CCC Information**" means the information to be included in the CCC Information Circular and the Orca Information Circular describing, among other things, CCC and AcquisitionCo and their respective businesses, operations and affairs;

"**CCC Information Circular**" means the information circular of CCC to be sent by CCC to the CCC Shareholders in connection with the CCC Meeting;

"**CCC Meeting**" means the special meeting of the CCC Shareholders to be called to consider and vote upon the Transaction Resolution, any related matters and any adjournment(s) thereof;

"**CCC Non-Completion Fee**" has the meaning ascribed thereto in Section 11.3;

"**CCC Replacement Warrant Agreements**" has the meaning ascribed thereto in Section 2.7;

"**CCC Shareholders**" means the holders of CCC Shares and/or CCC Special Shares, as the context may require, and "**CCC Shareholder**" means any one of them;

"**CCC Shares**" means the common shares in the capital of CCC;

"**CCC Special Class B Shares**" means the special class B shares in the capital of CCC;

"**CCC Special Class C Shares**" means the special class C shares in the capital of CCC;

"**CCC Special Shares**" means, collectively, the CCC Special Class B Shares and the CCC Special Class C Shares;

"**CCC Transaction Resolution**" means the CCC Continuation Resolution and/or the CCC Amalgamation Resolution, as applicable;

"**CCC Warrantholders**" means the holders of CCC Warrants and "**CCC Warrantholder**" means any one of them;

"**CCC Warrants**" means common share purchase warrants to acquire CCC Shares;

"**CDSA**" means cannabidiol, an active cannabinoid identified in cannabis which is considered to have therapeutic applications;

"**Certificate of Amalgamation**" means a certificate of amalgamation issued by the Registrar under the BCBCA giving effect to the Amalgamation;

"**Certificate of Continuation**" means a certificate of continuation issued by the Registrar under the BCBCA giving effect to the Continuation;

"**Closing**" has the meaning ascribed thereto in Section 12.3;

"**Continuation**" means the continuation of CCC out of the Province of Ontario and into the Province of British Columbia to facilitate the Amalgamation;

"**Continuation Application**" means the application for authorization to continue in another jurisdiction on Form 7 to be filed with the Registrar under the OBCA to facilitate the Continuation out of the Province of Ontario and the continuation application on Form 16 to be filed with the Registrar under the BCBCA to facilitate the Continuation into the Province of British Columbia;

"**Debt**" means the sum of all the principal indebtedness of Orca or CCC, as the case may be, owing to any Person, together with any accrued and unpaid interest thereon;

"**Depository**" means Computershare Trust Company of Canada or such other depository as shall be designated by CCC for the purpose of receiving the deposit of certificates formerly representing CCC Shares and CCC Special Shares;

"**Dissent Rights**" means the right of dissent in respect of the CCC Continuation Resolution provided pursuant to the provisions of the OBCA and the right of dissent in respect of the CCC Amalgamation Resolution provided pursuant to the provisions of the BCBCA;

"**Effective Date**" means the date shown on the Certificate of Amalgamation;

"**Effective Time**" means 12:01 a.m. (Vancouver time) on the Effective Date;

"**Employee Amounts**" means: (i) any obligations or liabilities of Orca to pay any amount to its officers, directors, employees and consultants, other than for salary and directors fees in the ordinary course in each case in amounts consistent with historic practice; and (ii) obligations or liabilities in respect of insurance or indemnification contemplated by this Agreement or arising in the ordinary course of business and, without limiting the generality of the foregoing, Employee Amounts shall include the obligations of Orca to officers, employees and consultants for severance or termination payments on or in connection with a termination of employment or the change of control of Orca pursuant to any written agreements or a resolution of the board of directors of Orca, pension plans, severance, retention or other policies or otherwise in accordance with applicable law;

**"Exchange"** means the Canadian Securities Exchange;

**"Exchange Ratio"** has the meaning ascribed thereto in subsection 2.4(l);

**"Governmental Entity"** means any: (i) federal, provincial, state, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitral body, commission, board, bureau or agency, domestic or foreign; (ii) subdivision, agent, commission, board or authority of any of the foregoing; or (iii) quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing;

**"Highland Grow"** means Highland Grow Inc., a limited company incorporated under the laws of the Province of Nova Scotia;

**"IFRS"** means International Financial Reporting Standards, the collection of financial reporting standards issued by the International Accounting Standards Board, as adopted by the Accounting Standards Board of Canada at the relevant time;

**"Laws"** means all statutes, regulations, statutory rules, orders, judgements, decrees and terms and conditions of any grant of approval, permission, authority, permit or license of any court, Governmental Entity, statutory body or self-regulatory authority and the term **"applicable"** with respect of such Laws and in the context that refers to one or more Persons, means that such Laws apply to such Person or Persons or its or their business, undertaking, property or securities and emanate from a Governmental Entity having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities;

**"material"** means, where used in relation to Orca or CCC, as the case may be, except where the context otherwise requires, a fact, asset, liability, transaction or circumstance concerning the business, assets, rights, liabilities (absolute, accrued, contingent or otherwise), capitalization, operations, results of operations, prospects or condition (financial or otherwise) of Orca or CCC, as the case may be, considered as a whole, that: (i) would be reasonably likely to have a significant effect on the value of the CCC Shares or Orca Shares, as the case may be; or (ii) that would prevent or materially delay completion of the Amalgamation in accordance with this Agreement;

**"Material Adverse Change"** means any change (or any condition, event or development involving a prospective change) in the business, operations, results of operations, assets, capitalization, condition (financial or otherwise), licenses, permits, leases, concessions, rights, liabilities (absolute, accrued, contingent or otherwise), prospects or privileges, whether contractual or otherwise, of Orca or CCC, as the case may be, which is, or would reasonably be expected to be, materially adverse to the business of Orca or CCC, as the case may be, considered as a whole, or that would prevent or materially delay completion of the Amalgamation in accordance with this Agreement, other than a change that relates to or arises out of: (i) a matter that has been publicly disclosed or otherwise disclosed in writing to Orca or CCC, as applicable, prior to the date hereof; (ii) general economic, financial, currency exchange, securities or market conditions in Canada or elsewhere; or (iii) any agreement entered into by CCC in connection with a Potential Transaction as provided by Section 6.3 of this Agreement;

**"Material Adverse Effect"** in relation to any fact, transaction, occurrence, event or change, means an effect that is or would reasonably be expected to be materially adverse to the condition (financial or otherwise), operations, assets, capitalization, liabilities (absolute, accrued, contingent or otherwise), results of operation, business or industry of Orca or CCC, as the case may be, considered as a whole, or that would prevent or materially delay completion of the Amalgamation in accordance with this Agreement, provided that a Material Adverse Effect shall not include a material adverse effect that relates to or arises out of: (i) a matter that has been publicly disclosed or otherwise disclosed in writing to Orca or CCC, as applicable, prior to the date hereof; (ii) general economic, financial, currency exchange, securities or market conditions in Canada or elsewhere; or (iii) any agreement entered into by CCC in connection with a Potential Transaction as provided by Section 6.3 of this Agreement;



"**OBCA**" means the *Business Corporations Act*, R.S.O 1990, c. B. 16 as now in effect and as it may be amended from time to time prior to the Effective Date;

"**Orca**" has the meaning set forth in the recitals of this Agreement;

"**Orca Fundamental Change Resolution**" means the resolution of Orca Shareholders in respect of the Amalgamation and the Amalgamation Agreement, to be considered by the Orca Shareholders at the Orca Meeting;

"**Orca Disclosure Letter**" means the letter of even date herewith from Orca to CCC delivered concurrently with this Agreement;

"**Orca Exchange Share**" has the meaning ascribed thereto in paragraph 2.4(l)(i);

"**Orca Financial Statements**" means the audited consolidated financial statements of Orca as at and for the fiscal year ended December 31, 2017, together with the notes thereto and the reports of the auditors thereon;

"**Orca Governing Documents**" means the constating documents and the by-laws of Orca;

"**Orca Information**" means the information to be included in the CCC Information Circular and the Orca Information Circular describing, among other things, Orca and its business, operations and affairs;

"**Orca Information Circular**" means the information circular of Orca to be sent by Orca to the Orca Shareholders in connection with the Orca Meeting;

"**Orca Meeting**" means the special meeting of the Orca Shareholders to be called to consider and vote upon the Orca Fundamental Change Resolution, the Orca Special Share Resolution and all related matters in connection with the foregoing, and any adjournment(s) thereof;

"**Orca Non-Completion Fee**" has the meaning ascribed thereto in Section 11.4;

"**Orca Options**" means options to acquire Orca Shares;

"**Orca Shareholders**" means the holders of Orca Shares and "**Orca Shareholder**" means any one of them;

"**Orca Share Consolidation**" means the consolidation of the Orca Shares and the Orca Warrants, each as applicable, on the basis of one (1) post-consolidation Orca Share for every fifty (50) pre-consolidation Orca Shares and one (1) post-consolidation Orca Warrant for every fifty (50) pre-consolidation Orca Warrants;

"**Orca Shares**" means common shares in the capital of Orca;

"**Orca Special Class B Shares**" means the special class B shares to be created in the capital of Orca;

"**Orca Special Class C Shares**" means the special class C shares to be created in the capital of Orca;

"**Orca Special Share Resolution**" means the special resolution of Orca Shareholders to create the Orca Special Shares to be considered by the Orca Shareholders at the Orca Meeting;

"**Orca Special Shares**" means, collectively, the Orca Special Class B Shares and the Orca Special Class C Shares;

"**Orca Transaction Costs**" has the meaning ascribed thereto in Section 4.29;

"**Orca Warrant Exchange Share**" has the meaning ascribed thereto in Section 2.7;

"**Orca Warrants**" means common share purchase warrants to acquire Orca Shares;

"**Outside Date**" means August 31, 2018, or such other date as may be agreed to by the Parties;

"**P-209**" means P-209 Inc., a corporation incorporated under the laws of the Province of Ontario;

"**Parties**" means, collectively, Orca, AcquisitionCo and CCC, and "**Party**" means any one of them;

"**Person**" includes any individual, firm, partnership, joint venture, venture capital fund, limited liability company, unlimited liability company, association, trust, trustee, executor, administrator, legal personal representative, estate, group, body corporate, corporation, unincorporated association or organization, Governmental Entity, syndicate or other entity, whether or not having legal status;

"**Potential Transaction**" has the meaning ascribed thereto in Section 6.3;

"**Reference Date**" means December 31, 2016;

"**Registrar**" means the Registrar of Corporations appointed pursuant to the provisions of the OBCA and the Registrar of Companies appointed pursuant to the provisions of the BCBCA, as applicable;

"**Representatives**" means, in respect of either Orca or CCC, as the case may be, such Party's officers, directors, employees, advisors, consultants or agents;

"**Returns**" means all reports, estimates, declarations of estimated tax, elections, information statements and returns relating to, or required to be filed in connection with, any Taxes;

"**Securities Authorities**" means the appropriate securities commissions or similar regulatory authorities in Canada and each of the provinces and territories thereof;

"**Securities Laws**" means any applicable Canadian provincial securities laws and any other applicable securities law;

"**subsidiary**" has the meaning ascribed thereto in the *Securities Act* (British Columbia);

"**Tax Act**" means the *Income Tax Act* (Canada) and the regulations thereunder, each as amended from time to time;

"**Tax Authority**" means any Governmental Entity having jurisdiction over the assessment, determination, collection or imposition of any Tax;

"**Tax Returns**" means all returns, reports, declarations, claims for refunds, elections, notices, filings, forms, statements and other documents (whether in written, electronic or other form) and any amendments, schedules, attachments, supplements, appendices and exhibits thereto, which have been prepared or filed or are required to be prepared or filed in respect of Taxes; and

"**Taxes**" or "**Tax**" means all taxes, however denominated, including any interest, penalties or other additions that may become payable in respect thereof, imposed by any federal, provincial, state, local or foreign government or any agency or political subdivision of any such government, which taxes shall include, without limiting the generality of the foregoing, all income or profits taxes (including, but not limited to, federal income taxes and provincial income taxes), capital, payroll and employee withholding taxes, withholding taxes on amounts paid or credited to non-residents, labour taxes, employment insurance, social insurance taxes, sales and use taxes, *ad valorem* taxes, value added taxes, excise taxes, franchise taxes, gross receipts taxes, business license taxes, occupation taxes, real and personal

property taxes, stamp taxes, insurance taxes, environmental taxes, transfer taxes, workers' compensation and other governmental charges, and other obligations of the same or of a similar nature to any of the foregoing, which are required to be paid, withheld or collected, as applicable.

## **1.2 Number and Gender**

In this Agreement, unless the contrary intention appears, words importing the singular include the plural and vice versa; words importing gender shall include all genders; and words importing persons shall include a Person.

## **1.3 Deemed Currency**

Unless otherwise stated, all references in this Agreement to sums of money are expressed in lawful money of Canada.

## **1.4 Interpretation**

The division of this Agreement into Articles, Sections, subsections and paragraphs and the insertion of headings are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement. The Parties acknowledge that their respective legal counsel have reviewed and participated in settling the terms of this Agreement, and the Parties hereby agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting Party will not be applicable in the interpretation of this Agreement.

## **1.5 Article References**

Unless the contrary intention appears, references in this Agreement to an Article, Section, subsection, paragraph or Appendix by number or letter or both refer to the specified Article, Section, subsection, paragraph or Appendix, respectively, bearing that designation in this Agreement.

## **1.6 Date for any Action**

In the event that any date by or on which any action is required or permitted to be taken hereunder by any of the Parties is not a Business Day in the place where the action is required or permitted to be taken, such action shall be required to be taken by or on the next succeeding day which is a Business Day.

## **1.7 Governing Law**

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

## **1.8 Attornment**

The Parties hereby irrevocably and unconditionally consent to and submit to the jurisdiction of the courts of the Province of British Columbia for any actions, suits or proceedings arising out of or relating to this Agreement or the matters contemplated hereby (and agree not to commence any action, suit or proceeding relating thereto except in such courts) and further agree that service of any process, summons, notice or document by single registered mail to the addresses of the Parties set forth in this Agreement shall be effective service of process for any action, suit or proceeding brought against the Party in such court. The Parties hereby irrevocably and unconditionally waive any objection to the choosing of venue of any action, suit or proceeding arising out of this Agreement or the matters contemplated hereby in the courts of the Province of British Columbia and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding so brought has been brought in an inconvenient forum.

## **1.9 Knowledge**

In this Agreement, whenever a representation or warranty is made on the basis of the knowledge or awareness of a Party, such knowledge or awareness consists only of the actual collective knowledge or awareness, as of the Agreement Date, of the senior officers of such Party, but does not include the knowledge or awareness of any other individual or any constructive, implied or imputed knowledge; provided that the Party making the representation and warranty shall have conducted an actual investigation as to the subject matter relating thereto and the level of such investigation shall be that of a reasonably prudent person investigating a material consideration in the context of a material transaction and the use of such phrase shall constitute a representation and warranty by the Party making the representation and warranty in each case that such investigation has actually been made.

## **1.10 Accounting Matters**

Unless otherwise stated, all accounting terms used in this Agreement shall have the meanings attributable thereto under Canadian generally accepted accounting principles and all determinations of an accounting nature that are required to be made shall be made in a manner consistent with Canadian generally accepted accounting principles, and which incorporates International Financial Reporting Standards as adopted by the Canadian Accounting Standards Board for periods beginning on and after January 1, 2011.

## **1.11 Disclosure**

Where in this Agreement reference is made to disclosure in writing, or disclosed in writing, on or prior to the date hereof, such disclosure shall be made in writing in a separate memorandum, dated the date hereof and signed by an officer of Orca or CCC, as the case may be, and delivered to the other Party immediately prior to the execution of this Agreement. Such disclosure memoranda, if any, shall make specific reference to the applicable sections and paragraphs of this Agreement in respect of which such disclosure is made.

## **1.12 Incorporation of Appendices**

The following Appendices are annexed to this Agreement and are hereby incorporated by reference into the Agreement and form part hereof;

Appendix A	Form 13 – Amalgamation Application
Appendix B	Articles of Amalco
Appendix C	CCC Shareholders
Appendix D	CCC Warrantholders
Appendix E	CCC Capitalization

## **ARTICLE 2 THE AMALGAMATION**

### **2.1 General**

Subject to the terms and conditions of this Agreement, each of the Parties agrees to use its commercially reasonable efforts prior to the Effective Date to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or advisable to complete the transactions contemplated by this Agreement and the Amalgamation.

### **2.2 Steps to be taken by CCC**

- (a) CCC covenants in favour of Orca that it shall:

- (i) be in compliance with applicable Laws and the CCC Governing Documents, convene and hold the CCC Meeting for the purpose of considering the CCC Transaction Resolution as soon as reasonably practicable and in any event, on or before the Outside Date; and
  - (ii) except to the extent required by a Governmental Entity having jurisdiction, as required by applicable Laws or as specifically contemplated herein, not adjourn, postpone or cancel (or propose for adjournment, postponement or cancellation) the CCC Meeting without the prior written consent of Orca.
- (b) Subject to (a) the CCC Shareholders approving the CCC Transaction Resolution, (b) the Orca Shareholders approving the Orca Fundamental Change Resolution and the Orca Special Share Resolution, and (c) the satisfaction or waiver of the other conditions to completion of the Amalgamation set forth in this Agreement, CCC agrees that it shall, with the co-operation and participation of Orca, make such arrangements with the Registrar as may be necessary or desirable to permit: (i) the filing with the Registrar of the Continuance Application immediately following approval by the CCC Shareholders of the CCC Continuance Resolution; (ii) the obtaining of the Certificate of Continuance in that regard; (iii) the filing with the Registrar of the Articles of Amalgamation on the Effective Date (and in any event, on or before the Outside Date), and (ii) the obtaining of the Certificate of Amalgamation in that regard.

### **2.3 Steps to be taken by Orca**

- (a) Orca covenants in favour of CCC that Orca shall:
- (i) be in compliance with applicable Laws and the Orca Governing Documents, convene and hold the Orca Meeting for the purpose of considering the Orca Fundamental Change Resolution and the Orca Special Share Resolution (and for no other purpose unless approved in writing by CCC, as may be set out in the notice for such meeting) as soon as reasonably practicable and in any event, on or before the Outside Date;
  - (ii) except to the extent required by a Governmental Entity having jurisdiction, as required by applicable Laws or as specifically contemplated herein, not adjourn, postpone or cancel (or propose for adjournment, postponement or cancellation) the Orca Meeting without the prior written consent of CCC; and
  - (iii) complete the Orca Share Consolidation prior to the Effective Date in compliance with the Orca Governing Documents, applicable Laws and the policies of the Exchange, and for greater certainty, following completion of the Orca Share Consolidation and immediately prior to the Effective Time, an aggregate of 1,153,252 Orca Shares shall be issued and outstanding.
- (b) Subject to the CCC Shareholders approving the CCC Transaction Resolution in accordance with applicable Laws and the Orca Shareholders approving the Orca Fundamental Change Resolution and the Orca Special Share Resolution, Orca covenants in favour of CCC that Orca shall approve the Amalgamation, as sole shareholder of AcquisitionCo.
- (c) Subject to (a) the Orca Shareholders approving the Orca Fundamental Change Resolution and the Orca Special Share Resolution, (b) the CCC Shareholders approving the CCC Transaction Resolution and (c) the satisfaction or waiver of the other conditions to completion of the Amalgamation set forth in this Agreement, Orca agrees that it shall, with the co-operation and participation of CCC, make such arrangements with the Registrar as may be necessary or desirable to permit: (i) the filing with the Registrar of the Continuance Application immediately following approval by the CCC Shareholders of the CCC Continuance Resolution; (ii) the obtaining of the Certificate of Continuance in that regard; (iii) the filing with the Registrar of the

Articles of Amalgamation on the Effective Date (and in any event, on or before the Outside Date), and (ii) the obtaining of the Certificate of Amalgamation in that regard.

- (d) Orca agrees that, on the Effective Date, Orca shall deliver a treasury direction to the transfer agent in respect of the Orca Shares and the Orca Special Shares for the benefit of the holders of CCC Shares and CCC Special Shares who will receive Orca Shares and Orca Special Shares in connection with the Amalgamation and immediately following the Effective Time, the transfer agent in respect of the Orca Shares and Orca Special Shares shall deliver to each non-dissenting CCC Shareholder, a certificate representing that number of Orca Shares and Orca Special Shares which such CCC Shareholder has the right to receive.
- (e) In the event that there is a failure to obtain, or if Orca reasonably anticipates that there will be a failure to obtain, a consent, order or other approval of a Governmental Entity required in connection with the approval of the Amalgamation, then CCC shall, upon the request of Orca, use its commercially reasonable efforts to assist Orca to successfully implement and complete any alternative transaction structure that does not have material negative financial consequences for CCC. In the event that the transaction structure is modified as a result of any event contemplated pursuant to this subsection (e), the relevant provisions of this Agreement shall forthwith be deemed modified as necessary in order that it shall apply with full force and effect, *mutatis mutandis*, to reflect the revised transaction structure and the Parties shall, upon the reasonable request of any Party, execute and deliver an agreement in writing giving effect to and evidencing such amendments as may be reasonably required as a result of such modifications.

#### **2.4 Implementation of the Amalgamation**

- (a) *Name.* The name of Amalco shall be "Cultivator Catalyst Corp." or such other name as may be designated by CCC and as acceptable to the Registrar.
- (b) *Business.* There shall be no restrictions on the business that Amalco may carry on.
- (c) *Registered and Records Office.* The registered office of Amalco shall be located at 1800 – 510 West Georgia Street, Vancouver, BC V6B 0M3.
- (d) *Authorized Share Structure.* The authorized share structure of Amalco shall consist of an unlimited number of common shares without par value and without special rights and restrictions.
- (e) *Form 13 – Amalgamation Application.* The Form 13 – Amalgamation Application of Amalco shall be as set out in Appendix A hereto respectively.
- (f) *Articles.* The Articles of Amalco shall be as set out in Appendix B hereto, and will be kept at the records office of Amalco and have been signed by one of the first directors of Amalco referred to in Section 2.4(h) of this Agreement.
- (g) *Number of Directors.* The minimum number of directors of Amalco shall be one (1) and the maximum number of directors of Amalco shall be ten (10).
- (h) *First Directors and Officers.* The number of first directors of Amalco shall be two (2) and the first directors will hold office until they cease to hold office as specified in the BCBCA or in the Articles of Amalco. The first directors of Amalco shall be the persons whose names, prescribed addresses (as such term is defined in the BCBCA) and occupations are as follows:

<u>Full Name</u>	<u>Prescribed Address</u>	<u>Occupation</u>
George Smitherman	[REDACTED: Personal information – director address]	Principal and Chairman, G&G Global Solutions
Brett James	[REDACTED: Personal information – director address]	Principal, Sussex Strategy Group

The number of first officers of Amalco shall be one (1). The first officer of Amalco shall be the person whose name, prescribed address (as such term is defined in the BCBCA) and occupation is as follows:

<u>Full Name</u>	<u>Prescribed Address</u>	<u>Occupation</u>
Khurram Malik	[REDACTED: Personal information – officer address]	Interim President, CCC

- (i) *Assets and Liabilities.* Each of CCC and AcquisitionCo shall contribute to Amalco all of its assets, subject to its liabilities, as they exist immediately before the Amalgamation. Amalco shall possess all the property, rights, privileges and franchises as they exist immediately before the Amalgamation, and shall be subject to all the liabilities, contracts, disabilities and debts of each of CCC and AcquisitionCo, as they exist immediately before the Amalgamation. All rights of creditors against the property, assets, rights, privileges and franchises of each of CCC and AcquisitionCo. and all liens upon their property, rights and assets shall be unimpaired by the Amalgamation and all debts, contracts, liabilities and duties of each of CCC and AcquisitionCo. shall thenceforth attach to and may be enforced against Amalco. No action or proceeding by or against any of CCC and AcquisitionCo. shall abate or be affected by the Amalgamation but, for all purposes of such action or proceeding, the name of Amalco shall be substituted in such action or proceeding in the place of the name of either CCC or AcquisitionCo., as applicable.
- (j) *First Auditors.* The first auditors of Amalco shall be Manning Elliott LLP, Chartered Professional Accountants. The first auditors of Amalco shall hold office until the first annual meeting of Amalco following the Amalgamation or until their successors are elected or appointed.
- (k) *Registrar and Transfer Agent.* The Registrar and Transfer Agent for the securities of Amalco shall be Computershare Trust Company of Canada.
- (l) *Manner of Conversion of Issued Shares.* On the Amalgamation:
- (i) subject to paragraph 2.4(l)(iv) and subsection 2.4(o), each issued and outstanding CCC Share and CCC Special Share, held by a CCC Shareholder who is not a CCC Dissenting Shareholder, shall be cancelled and such CCC Shareholder's name shall be removed from the register of holders of CCC Shares and CCC Special Shares, as applicable, as of the Effective Date and in consideration therefor the CCC Shareholder shall receive five (5) (the "**Exchange Ratio**") fully paid and non-assessable Orca Shares (each an "**Orca Exchange Share**") in respect of each CCC Share so cancelled, one (1) fully paid and non-assessable Orca Special Class B Share (an "**Orca Exchange Special Class B Share**") in respect of each CCC Special Class B Share so cancelled and one (1) fully paid and non-assessable Orca Special Class C Share (an "**Orca Exchange Special Class C Share**" and together with the Orca Exchange Special Class B Shares, the "**Orca Exchange Special Shares**") in respect of each CCC Special Class C Share so cancelled;
- (ii) each issued and outstanding CCC Share and CCC Special Share, as applicable (and/or fraction thereof) held by each CCC Dissenting Shareholder, if any, shall be cancelled and become an entitlement to be paid the fair value of such CCC Share or CCC Special Share, as applicable (and/or fraction thereof) in accordance with the provisions of the OBCA and each CCC Dissenting Shareholder shall cease to have any rights as a CCC Shareholder other than the right to be paid the fair value in respect of their CCC Shares

or CCC Special Shares, as applicable, held by such CCC Dissenting Shareholder in accordance with the provisions of the OBCA;

- (iii) each issued and outstanding AcquisitionCo Common Share shall be cancelled and in consideration thereof Orca shall receive one fully paid and non-assessable Amalco Common Share in respect of each AcquisitionCo Common Share;
  - (iv) no certificates representing fractional Orca Exchange Shares or fractional Orca Exchange Special Shares shall be issued or otherwise provided to holders of CCC Shares or CCC Special Shares, as applicable. In lieu of any fractional Orca Exchange Shares or fractional Orca Exchange Special Shares, each holder entitled to a fractional interest in an Orca Exchange Share or Orca Exchange Special Share will receive the nearest whole number of Orca Exchange Shares or Orca Exchange Special Shares, as applicable. For greater certainty, where such fractional interest is greater than or equal to 0.5, the number of Orca Exchange Shares or Orca Exchange Special Shares to be issued will be rounded up to the nearest whole number and where such fractional interest is less than 0.5, the number of Orca Exchange Shares or Orca Exchange Special Shares to be issued will be rounded down to the nearest whole number;
  - (v) Orca shall add to the stated capital account maintained in respect of the Orca Shares and the Orca Special Shares, as applicable, an amount equal to the paid-up capital for the purposes of the Tax Act of the CCC Shares and the CCC Special Shares immediately prior to the Amalgamation less the amount of any paid-up capital for the purposes of the Tax Act of the CCC Shares and the CCC Special Shares that are cancelled on the Amalgamation pursuant to paragraph 2.4(l)(ii); and
  - (vi) the aggregate stated capital attributable to the Amalco Common Shares issued pursuant to the Amalgamation shall be the aggregate of the paid-up capital for the purposes of the Tax Act of the AcquisitionCo Common Shares and the CCC Shares and the CCC Special Shares immediately before the Amalgamation, less the amount of any paid-up capital for the purposes of the Tax Act of the CCC Shares and the CCC Special Shares that are cancelled on the Amalgamation pursuant to paragraph 2.4(l)(ii).
- (m) *Share Certificates, etc.* On the Effective Date:
- (i) subject to subsection 2.4(l), the registered holders of CCC Shares and CCC Special Shares shall cease to be holders of CCC Shares and CCC Special Shares and shall be deemed to be the registered holders of the Orca Exchange Shares and the Orca Exchange Special Shares to which they are entitled, calculated in accordance with the provisions hereof, and, subject to subsections 2.4(n) and 2.4(o), the holders of share certificates representing such CCC Shares and CCC Special Shares may surrender such certificates to the Depositary and, upon such surrender, shall be entitled to receive certificates representing the number of Orca Exchange Shares and Orca Exchange Special Shares to which they are so entitled;
  - (ii) Orca, as the registered holder of AcquisitionCo Common Shares shall be deemed to be the registered holder of Amalco Common Shares to which it is entitled, calculated in accordance with the provisions hereof, and may surrender the certificates representing such AcquisitionCo Common Shares to Amalco and, upon such surrender, shall be entitled to receive a share certificate representing the number of Amalco Common Shares to which it is entitled, calculated in accordance with the provisions hereof; and
  - (iii) Orca shall, subject to the satisfaction or waiver of the conditions herein contained in favour of Orca, provide to the Depositary the maximum number of Orca Exchange Shares and Orca Exchange Special Shares issuable pursuant to the Amalgamation so as



to permit the Depository to make all payments to CCC Shareholders as contemplated herein.

- (n) *Stale Certificates.* Subject to applicable Law, any certificate formerly representing CCC Shares or CCC Special Shares, as applicable, which is not deposited with the Depository on or prior to the day prior to the fifth (5th) anniversary of the Effective Date shall cease to represent a right or claim of any kind or nature whatsoever.
- (o) *CCC Dissenting Shareholders.* CCC Shares and CCC Special Shares which are held by a CCC Dissenting Shareholder shall not be converted as prescribed by subsection 2.4(l). However, if a CCC Dissenting Shareholder fails to perfect or effectively withdraws its claim under Section 185 of the OBCA or forfeits its right to make a claim under Section 185 of the OBCA or if its rights as a shareholder of CCC are otherwise reinstated, such CCC Shareholder's CCC Shares or CCC Special Shares, as applicable, shall thereupon be deemed to have been converted as of the Effective Date as prescribed by subsection 2.4(l).

## **2.5 Information Circular**

- (a) Each of CCC and Orca shall co-operate to:
  - (i) promptly prepare the CCC Information Circular (setting forth *inter alia* the recommendation of CCC's board of directors set forth in Section 2.6) and the Parties shall, on a timely basis, use their commercially reasonable efforts to co-operate in the preparation of all other documents and filings and the seeking and obtaining of all consents, orders and approvals, including regulatory and judicial orders and approvals and other matters reasonably determined by CCC and Orca to be necessary in connection with this Agreement and the Amalgamation;
  - (ii) ensure that the CCC Information Circular and other documents, filings, consents, orders and approvals contemplated by this subsection (a) are prepared in compliance with, made and/or obtained in accordance with applicable Laws and applicable Securities Laws;
  - (iii) ensure that the CCC Information Circular provides CCC Shareholders with information in sufficient detail to permit them to form a reasoned judgment concerning the matters before them, and will set out the Orca Information in the CCC Information Circular in the form approved by Orca; and
  - (iv) mail the CCC Information Circular to the CCC Shareholders and to all other Persons required by Law with respect to the CCC Meeting, all in accordance with applicable Laws, the CCC Governing Documents and the requirements of any other regulatory authority having jurisdiction. The term "**CCC Information Circular**" shall include such proxy or other required information statement or circular, as the case may be, and all related materials at the time required to be mailed to the CCC Shareholders in connection with the CCC Meeting and all amendments or supplements thereto, if any. CCC and Orca each shall use all commercially reasonable efforts to obtain and furnish the information required to be included in the CCC Information Circular. Each of CCC and Orca agree that the information to be provided by it for use in the CCC Information Circular shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they are made, not misleading and will comply in all material respects with all requirements of applicable Laws, and CCC and Orca each agree to correct promptly any such information provided by either of them for use in the CCC Information Circular which has ceased to meet such standard. In any such event, CCC and Orca shall co-operate to prepare a supplement or amendment to the CCC Information Circular or such application or other document, as required and as the case

may be, and, if required, shall cause the same to be distributed to CCC Shareholders and/or filed with the relevant securities regulatory authorities and/or other Governmental Entity.

- (b) Each of Orca and CCC shall co-operate to:
- (i) promptly prepare the Orca Information Circular and the Parties shall, on a timely basis, use their commercially reasonable efforts to co-operate in the preparation of all other documents and filings and the seeking and obtaining of all consents, orders and approvals, including regulatory and judicial orders and approvals and other matters reasonably determined by Orca and CCC to be necessary in connection with this Agreement and the Amalgamation;
  - (ii) ensure that the Orca Information Circular and other documents, filings, consents, orders and approvals contemplated by this subsection (b) are prepared in compliance with, made and/or obtained in accordance with applicable Laws;
  - (iii) ensure that the Orca Information Circular provides Orca Shareholders with information in sufficient detail to permit them to form a reasoned judgment concerning the matters before them and will set out the CCC Information in the Orca Information Circular in the form approved by CCC; and
  - (iv) mail the Orca Information Circular to the Orca Shareholders and to all other Persons required by Law with respect to the Orca Meeting, all in accordance with applicable Laws, the Orca Governing Documents, the rules, regulations and policies of the Exchange and the requirements of any other regulatory authority having jurisdiction. The term "**Orca Information Circular**" shall include such proxy or other required information statement or circular, as the case may be, and all related materials at the time required to be mailed to the Orca Shareholders in connection with the Orca Meeting and all amendments or supplements thereto, if any. The information to be included in the Orca Information Circular, on both the date the Orca Information Circular is first mailed to Orca Shareholders and on the date the Orca Meeting is held, shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they are made, not misleading and will comply in all material respects with all requirements of applicable Laws, and Orca agrees to correct promptly any such information in the Orca Information Circular which has ceased to meet such standard. In any such event, Orca shall prepare a supplement or amendment to the Orca Information Circular or such application or other document, as required and as the case may be, and, if required, shall cause the same to be distributed to Orca Shareholders and/or filed with the relevant securities regulatory authorities and/or other Governmental Entity.

## **2.6 Board Recommendation**

- (a) CCC represents that its board of directors has unanimously determined that:
- (i) the Amalgamation is in the best interests of CCC; and
  - (ii) CCC's board of directors will unanimously recommend that CCC Shareholders vote in favour of the Transaction Resolution, which recommendation may not be withdrawn, modified or changed in any manner except as set forth herein.
- (b) Orca represents that its board of directors has unanimously determined that:
- (i) the Amalgamation is in the best interests of Orca; and

- (ii) Orca's board of directors will unanimously recommend that Orca Shareholders vote in favour of the Orca Fundamental Change Resolution and the Orca Special Share Resolution, which recommendations may not be withdrawn, modified or changed in any manner except as set forth herein.

## **2.7 Outstanding CCC Warrants**

- (a) Orca acknowledges and agrees that in connection with the Amalgamation, CCC Warrantholders shall be entitled to receive, in replacement for their CCC Warrants, warrant agreements to be entered into between Orca and each CCC Warrantholder (the "**CCC Replacement Warrant Agreements**") evidencing the right to acquire that number of Orca Shares ("**Orca Warrant Exchange Share**") equal to the number of whole CCC Warrants subject to each such CCC Warrant immediately prior to the Effective Time multiplied by the Exchange Ratio, at an exercise price per share equal to the per share exercise price under the CCC Warrant divided by the Exchange Ratio (rounded to two decimal places).
- (b) CCC agrees to ensure that all outstanding CCC Warrants are exercised in accordance with their respective terms prior to the Effective Date or replaced in accordance with subsection 2.7(a) or otherwise dealt with in a manner satisfactory to CCC prior to the Effective Date, including with respect to withholding and remittance obligations.
- (c) CCC agrees that any amount required to be remitted and/or withheld in respect of the exercise or surrender of the CCC Warrants shall be paid by the holder thereof to CCC at the time of exercise or surrender.

## **2.8 Outstanding Orca Warrants**

- (a) CCC acknowledges and agrees that in connection with the Amalgamation, all outstanding Orca Warrants shall be amended in accordance with their terms and evidence the right of such Orca Warrantholder to acquire that number of Orca Shares equal to the number of whole Orca Warrants subject to each such Orca Warrant immediately after the Orca Share Consolidation but prior to the Effective Time at an exercise price per share equal to the per share exercise price under the Orca Warrant multiplied by 50 (rounded to two decimal places).
- (b) Orca agrees to ensure that all outstanding Orca Warrants are exercised in accordance with their respective terms prior to the Effective Date or replaced in accordance with subsection 2.8(a) or otherwise dealt with in a manner satisfactory to CCC prior to the Effective Date, including with respect to withholding and remittance obligations.
- (c) Orca agrees that any amount required to be remitted and/or withheld in respect of the exercise of the Orca Warrants shall be paid by the holder thereof to CCC at the time of exercise.

## **2.9 CCC Dissenting Shareholders**

Each CCC Shareholder may exercise Dissent Rights in connection with (i) the CCC Continuance Resolution pursuant to and in the manner set forth in Section 185 of the OBCA and (ii) the CCC Amalgamation Resolution pursuant to and in the manner set forth in Section 238 of the BCBCA. CCC shall give Orca prompt notice of any written notices of exercise of rights of dissent, withdrawals of such notices, and any other instruments served pursuant to the OBCA or the BCBCA, as applicable, and received by CCC.

## **ARTICLE 3 PUBLICITY**

### **3.1 Publicity**

- (a) Each of CCC and Orca shall advise, consult and co-operate with the other prior to issuing, or permitting any of its directors, officers, employees or agents to issue, any news release or other written public or private statement to the press with respect to this Agreement, the transactions contemplated hereby or any other matters, from the date hereof until the Effective Time. Neither CCC nor Orca shall issue any such news release or make any such written public or private statement prior to such consultation, except as may be required by applicable Law including, for greater certainty, in order to fulfil continuous disclosure obligations under applicable Laws or the fiduciary duties of the applicable board of directors and only after using its commercially reasonable efforts to consult the other taking into account the time constraints to which it is subject as a result of such law or obligation.
- (b) CCC and Orca agree that, in accordance with the rules, regulations and policies of the Exchange, a mutually agreed upon news release shall be issued by Orca following the execution of this Agreement.

## **ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF ORCA AND ACQUISITIONCO**

Orca and AcquisitionCo hereby represent and warrant to CCC as follows and acknowledge that CCC is relying upon these representations and warranties in connection with the entering into of this Agreement:

### **4.1 Organization and Qualification**

Each of Orca and AcquisitionCo is a corporation duly incorporated and organized and validly existing under the laws of the Province of British Columbia and has the requisite corporate power and authority to carry on its business as it is now being conducted. AcquisitionCo is a wholly-owned subsidiary of Orca. Orca is duly registered to do business and is in good standing in each jurisdiction in which the character of its properties, owned or leased, or the nature of its activities make such registration necessary, except where the failure to be so registered or in good standing would not have a Material Adverse Effect on Orca.

### **4.2 Authority Relative to this Agreement**

Each of Orca and AcquisitionCo has the requisite corporate authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement and the consummation by each of Orca and AcquisitionCo of the transactions contemplated hereby have been duly authorized by their respective board of directors and no other corporate proceedings on its part are or will be necessary to authorize this Agreement and the transactions contemplated hereby (other than obtaining the approval of Orca, as the sole shareholder of AcquisitionCo and the approval of the Orca Shareholders in respect of the Orca Fundamental Change Resolution and the Orca Special Share Resolution). This Agreement has been duly executed and delivered by each of Orca and AcquisitionCo and constitutes a legal, valid and binding obligation of each of Orca and AcquisitionCo enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and to general principles of equity.

#### **4.3 No Violations**

- (a) Neither the execution and delivery of this Agreement by each of Orca and AcquisitionCo, the consummation by it of the transactions contemplated hereby nor compliance by it with any of the provisions hereof will: (i) violate, conflict with, or result in a breach of any provision of, require any consent, approval or notice under, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) or result in a right of termination or acceleration under, or result in a creation of any lien, security interest, charge or encumbrance upon any of the properties or assets of Orca or AcquisitionCo under, any of the terms, conditions or provisions of (A) the Orca Governing Documents or the articles or by-laws of AcquisitionCo, or (B) any note, bond, mortgage, indenture, loan agreement, deed of trust, agreement, lien, contract or other instrument or obligation to which Orca or AcquisitionCo is a party or to which it, or any of its respective properties or assets, may be subject or by which Orca or AcquisitionCo is bound; (ii) subject to compliance with applicable Laws, violate any judgment, ruling, order, writ, injunction, determination, award, decree, statute, ordinance, rule or regulation applicable to Orca or AcquisitionCo (except, in the case of each of clauses (i) and (ii) above, for such violations, conflicts, breaches, defaults, terminations, accelerations which, or any consents, approvals or notices which if not given or received, would not have any Material Adverse Effect on Orca or AcquisitionCo and would not have a Material Adverse Effect on the ability of Orca or AcquisitionCo to consummate the transactions contemplated hereby); or (iii) cause a suspension or revocation of any authorization for any consent, approval or license currently in effect which would have a Material Adverse Effect on Orca or AcquisitionCo.
- (b) Other than in connection with or in compliance with the provisions of applicable Laws, (i) there is no legal impediment to the performance by Orca or AcquisitionCo of its obligations under this Agreement or to the execution and delivery of this Agreement by Orca or AcquisitionCo and (ii) no filing or registration with, or authorization, consent or approval of, any Governmental Entity is necessary by Orca or AcquisitionCo in connection with the making or the consummation of the Amalgamation, except for such filings or registrations which, if not made, or for such authorizations, consents or approvals, which, if not received, would not have a Material Adverse Effect on the ability of Orca or AcquisitionCo to consummate the transactions contemplated hereby.

#### **4.4 Capitalization**

- (a) As of the date hereof, the authorized share capital of Orca consists of an unlimited number of Orca Shares. As of the date hereof and as set forth in Section 4.4 of the Orca Disclosure Letter, an aggregate of 57,662,633 Orca Shares are issued and outstanding. As of the date hereof there are 7,264,533 Orca Warrants granted with a weighted average exercise price of \$0.42 per share and zero (0) Orca Options outstanding. Upon completion of the Orca Share Consolidation but immediately prior to the Effective Time, there will be an aggregate of 1,153,252 Orca Shares, 145,290 Orca Warrants with a weighted average exercise price of \$21.00 and zero (0) Orca Options issued and outstanding. Except as set forth above, there are no other securities of Orca outstanding and no options, warrants or other rights, agreements or commitments of any character whatsoever requiring the issuance, sale or transfer by Orca of any shares of Orca or any securities convertible into, or exchangeable or exercisable for, or otherwise evidencing a right to acquire, any shares of Orca, nor are there any outstanding stock appreciation rights, phantom equity or similar rights, agreements, arrangements or commitments based upon the book value, income or other attributes of Orca. All outstanding Orca Shares have been duly authorized and validly issued, are fully paid and non-assessable and are not subject to, nor were they issued in violation of, any pre-emptive rights.
- (b) The authorized share capital of AcquisitionCo consists of an unlimited number of AcquisitionCo Common Shares and an unlimited number of preferred shares, issuable in series. As the date hereof, an aggregate of one-hundred (100) AcquisitionCo Common Shares and zero preferred shares are issued and outstanding. There are no options, warrants or other rights, agreements or

commitments of any character whatsoever requiring the issuance, sale or transfer by AcquisitionCo of any securities of AcquisitionCo or any securities convertible into, or exchangeable or exercisable for, or otherwise evidencing a right to acquire, any shares of AcquisitionCo, nor are there any outstanding stock appreciation rights, phantom equity or similar rights, agreements, arrangements or commitments based upon the book value, income or other attribute of AcquisitionCo.

#### **4.5 No Material Adverse Change**

There has not been any Material Adverse Change in the assets, results of operations, capitalization, financial condition, liabilities or obligations (absolute, accrued, contingent or otherwise) of Orca from the position set forth in the Orca Financial Statements and there has not been any Material Adverse Change in respect of Orca since December 31, 2017 and since that date there have been no facts, transactions, events or occurrences which could have a Material Adverse Effect on Orca or that could materially adversely affect Orca's ability to consummate the transactions contemplated by this Agreement.

#### **4.6 Financial Statements**

The Orca Financial Statements fairly present, in accordance with IFRS, the financial position and condition of Orca at the dates thereof and the results of the operations of Orca for the period then ended and reflect all assets, liabilities and obligations (absolute, accrued, contingent or otherwise) of Orca as at the dates thereof.

#### **4.7 Compliance with Applicable Laws**

Orca has conducted and is conducting its business and operations in compliance in all material respects with all applicable Laws and in accordance with the rules, regulations and policies of the Exchange.

#### **4.8 Litigation, Etc.**

- (a) Except as set forth in Section 4.8 of the Orca Disclosure Letter, there are, at the date hereof, no actions, suits or proceedings outstanding, pending, or to the knowledge of Orca threatened, affecting Orca before or by any Governmental Entity, which action, suit or proceeding involves a possibility of any judgment against or liability of Orca which, if successful, would have a Material Adverse Effect on Orca, or on the ability of Orca to consummate the transactions contemplated hereby and Orca has no knowledge of facts or circumstances which may reasonably give rise to any such actions, cost or proceeding.
- (b) There are, at the date hereof, no actions, suits or proceedings outstanding, pending, or to the knowledge of AcquisitionCo threatened, affecting AcquisitionCo before or by any Governmental Entity, which action, suit or proceeding involves a possibility of any judgment against or liability of AcquisitionCo which, if successful, would have a Material Adverse Effect on AcquisitionCo, or on the ability of AcquisitionCo to consummate the transactions contemplated hereby and AcquisitionCo has no knowledge of facts or circumstances which may reasonably give rise to any such actions, cost or proceeding.

#### **4.9 Securities Matters**

- (a) Except as set forth in Section 4.9 of the Orca Disclosure Letter, no securities commission, similar regulatory authority or stock exchange in Canada or the United States has issued any order which is currently outstanding preventing or suspending trading in the securities of Orca or AcquisitionCo, no such proceeding is, to the knowledge of Orca, pending, contemplated or

threatened and neither Orca nor AcquisitionCo is in default of any requirement of any Laws applicable to Orca or AcquisitionCo or their respective securities.

- (b) Orca is a reporting issuer in good standing in the provinces of British Columbia, Alberta and Ontario, the Orca Shares are listed and posted for trading on the Exchange, the Frankfurt Stock Exchange and OTC Markets and Orca is in material compliance with the rules, regulations and policies of the Exchange, the Frankfurt Stock Exchange and OTC Markets.
- (c) The board of directors of Orca has reserved and allotted to holders of CCC Shares and, will reserve and allot to holders of CCC Special Shares, that approve the Amalgamation, a sufficient number of Orca Exchange Shares and Orca Exchange Special Shares (assuming Orca Shareholders approve the Orca Special Share Resolution) as are issuable pursuant to the Amalgamation (including, for greater certainty, a sufficient number of Orca Shares issuable upon exercise of the CCC Replacement Warrants) and, upon approval of the Amalgamation and exchange of CCC Shares, CCC Special Class B Shares and CCC Special Class C Shares for Orca Exchange Shares, Orca Exchange Special Class B Shares and Orca Exchange Special Class C Shares, respectively, such Orca Exchange Shares, Orca Exchange Special Class B Shares and Orca Exchange Special Class C Shares will be issued as fully paid and non-assessable securities.

#### **4.10 Books and Records**

The corporate records and minute books of Orca and AcquisitionCo have been maintained in accordance with all applicable Laws and prudent business practice and are complete and accurate in all material respects.

#### **4.11 Debts, Liabilities, Obligations**

Except as set forth in Section 4.11 of the Orca Disclosure Letter, neither Orca nor AcquisitionCo have any liabilities or obligations of any nature (whether absolute, accrued, contingent or otherwise).

#### **4.12 No Undisclosed Material Liabilities**

Except as set forth in Section 4.12 of the Orca Disclosure Letter and except: (a) as disclosed or reflected in the Orca Financial Statements; and (b) for liabilities and obligations (i) incurred in the ordinary and normal course of business; or (ii) pursuant to the terms of this Agreement, Orca has not incurred any liabilities of any nature, whether accrued, contingent or otherwise (or which would be required by IFRS to be reflected on the balance sheet of Orca) that have constituted or would be reasonably likely to constitute a Material Adverse Change in respect of Orca.

#### **4.13 Information**

- (a) Orca has disclosed to CCC any information in its possession of which it is aware regarding any event, circumstance or action taken which could reasonably be expected to have a Material Adverse Effect on Orca.
- (b) To the best of the knowledge of Orca, all material data and information in respect of Orca and its assets, liabilities, business and operations provided by Orca or its advisors to CCC and its Representatives is complete and true and correct in all material respects as at the respective dates thereof and Orca has not omitted to provide any material data or information necessary to make any data or information provided by Orca to CCC and its Representatives not misleading in any material respect as at the respective dates thereof.

#### **4.14 Issuances of Securities**

All offers and sales of securities in the capital of Orca from treasury or by Orca including, without limitation, the Orca Shares, the Orca Options and the Orca Warrants have been made in material compliance with all applicable Laws and, for greater certainty, all applicable Securities Laws and the rules, regulations and policies of the Exchange, the Frankfurt Exchange and the OTC Market.

#### **4.15 Subsidiaries**

Orca has no subsidiaries other than AcquisitionCo. Orca is the legal and beneficial owner of all of the outstanding securities of AcquisitionCo, with good title thereto free and clear of any and all encumbrances. There are no options, warrants or other rights, agreements or commitments of any character whatsoever requiring the issuance, sale or transfer of any securities of AcquisitionCo or any securities convertible into, or exchangeable or exercisable for, or otherwise evidencing a right to acquire, any securities of AcquisitionCo. All outstanding securities of AcquisitionCo have been duly authorized and validly issued, are fully paid and non-assessable and are not subject to, nor were they issued in violation of, any pre-emptive rights. Since its incorporation, AcquisitionCo has not carried on any business in any jurisdiction.

#### **4.16 Tax Matters**

- (a) Orca and each subsidiary of Orca has prepared and filed all Tax Returns required to be filed, within the prescribed period with the appropriate Tax Authority in accordance with applicable Laws. Orca and each subsidiary of Orca has reported all income and all other amounts and information required by applicable Law to be reported on each such Tax Return. Each such Tax Return is true, correct and complete in all material respects.
- (b) Orca and each subsidiary of Orca has paid, within the prescribed period, all Taxes and instalments of Taxes, which are required to be paid to any Tax Authority pursuant to applicable Law. Neither Orca nor any subsidiary of Orca has received notice of any deficiency with respect to the payment of any Taxes or Tax instalments having been asserted against Orca or any subsidiary of Orca by any Tax Authority. Since the Reference Date, Orca and each subsidiary of Orca has not (i) incurred any liability for Taxes, (ii) engaged in any transaction or event which would result in any liability for Taxes, or (iii) realized any income or gain for tax purposes, other than, in each case, in the ordinary course, and other than as disclosed to CCC in writing in Section 4.16 of the Orca Disclosure Letter. Adequate provision has been made in the Books and Records for all Taxes payable by Orca and each subsidiary or Orca for all taxable periods ending on or before the Effective Date, and where no taxable period ends or is deemed to end on or immediately prior to the date of Closing, for all Taxes in respect of any time or event prior to the Effective Date.
- (c) Orca and each subsidiary of Orca has duly and timely withheld and collected all Taxes required by applicable Law to be withheld or collected by Orca and each subsidiary of Orca and has duly and timely remitted to the appropriate Tax Authority all such Taxes as and when required by applicable Law.
- (d) There are no proceedings, investigations or audits pending or, to the knowledge of Orca, threatened against or affecting Orca or any subsidiary of Orca in respect of any Taxes. No event has occurred or circumstance exists which could reasonably be expected to give rise to or serve as a valid basis for the commencement of any such proceeding, investigation or audit. There are no matters under discussion, audit or appeal with any Tax Authority relating to Taxes. All Tax Returns of Orca and of each subsidiary of Orca for taxation years ending on or before December 31, 2017 have been assessed by the relevant Tax Authority.



- (e) Neither Orca nor any subsidiary of Orca has requested, entered into any agreement or other arrangement, or executed any waiver providing for, any extension of time within which;
  - (i) to file any Tax Return;
  - (ii) to file any elections, designations or similar filings relating to Taxes;
  - (iii) it is required to pay or remit any Taxes or amounts on account of Taxes; or
  - (iv) any Tax Authority may assess or collect Taxes.
- (f) Neither Orca nor any subsidiary of Orca has entered into any agreement with, or provided any undertaking to, any Person pursuant to which it has assumed liability for the payment of Taxes owing by such Person and is not a party to or bound by any Tax allocation or Tax sharing agreement or any other allocations to similar or equivalent effect.
- (g) Orca and each subsidiary of Orca has, at all relevant times, been and is a taxable Canadian corporation within the meaning of subsection 89(1) of the Tax Act. Neither Orca nor any subsidiary of Orca has ever been required to file any Tax Return with, and has never been liable to pay any Taxes to, any Tax Authority outside Canada. No request to file a Tax Return has ever been made to Orca or any subsidiary of Orca by a Tax Authority in a jurisdiction where Orca or such subsidiary does not file Tax Returns.
- (h) Orca has not claimed any reserve for tax purposes, if as a result of such claim any amount could be included in its income for a taxation year ending after the Effective Date. Orca has not made any payment, nor is it obligated to make any payment, and is not a party to any agreement under which it could be obligated to make any payment, which may not be deductible by virtue of Section 67 of the Tax Act.
- (i) Neither Orca nor any subsidiary of Orca has made any elections pursuant to any Law in respect of Taxes except as described in Section 4.16 of the Orca Disclosure Letter.
- (j) No Person has ever acquired or had the right to acquire control of Orca or any subsidiary of Orca for purposes of the Tax Act.
- (k) None of Sections 78, 80, 80.01, 80.02, 80.03 and 80.04 of the Tax Act, or any equivalent provision of the Laws of any other jurisdiction, has applied to Orca or any subsidiary of Orca.
- (l) Neither Orca nor any subsidiary of Orca has acquired property from a non-arm's length Person, within the meaning of the Tax Act, for consideration, the value of which is less than the fair market value of the property, in circumstances that may subject it to a liability under Section 160 of the Tax Act. The value of the consideration paid or received by Orca or any subsidiary of Orca for the acquisition, sale, transfer or provision of property (including intangibles) or the provision of services (including financial transactions) from or to a non-arm's length person is equal to the estimated fair market value of such property acquired, provided or sold or services purchased or provided.
- (m) Orca has not received from any Tax Authority any requirement pursuant to Section 224 of the Tax Act which remains unsatisfied in any respect.
- (n) Orca and each subsidiary of Orca has complied with subsection 89(14) of the Tax Act in respect of any dividend designated by Orca as an eligible dividend for the purposes of the Tax Act and has not at any time made an excessive eligible dividend designation for purposes of the Tax Act.

- (o) Orca and each subsidiary of Orca is, or has been, duly registered under Part IX of the *Excise Tax Act* (Canada) with respect to the goods and services tax and harmonized sales tax and its registration numbers are set forth in section 4.16 of the Orca Disclosure Letter.

#### **4.17 Insurance**

Policies of insurance in force as of the date hereof naming Orca as an insured adequately cover all risks reasonably and prudently foreseeable in the operation and conduct of the business of Orca. All such policies of insurance shall remain in force and effect and shall not be cancelled or otherwise terminated as a result of the transactions contemplated hereby or by the Amalgamation.

#### **4.18 Shareholder Rights Plan**

There is not in effect with respect to either Orca or AcquisitionCo, and prior to the Effective Date, neither Orca nor AcquisitionCo will not implement, a shareholder rights plan or any other form of plan, agreement, contract or instrument that will trigger any rights to acquire Orca Shares or other securities of Orca or rights, entitlements or privileges in favour of any Person upon the entering into of this Agreement or the making or consummation of the Amalgamation.

#### **4.19 No Unanimous Shareholder Agreement**

Neither Orca nor AcquisitionCo nor, to the best of Orca's knowledge, any of the Orca Shareholders, is a party to any unanimous shareholders agreement, pooling agreement, voting trust or other similar type of arrangement in respect of outstanding securities of Orca or AcquisitionCo.

#### **4.20 Restriction on Business**

The execution, delivery and performance of this Agreement does not and will not result in the restriction of Orca or AcquisitionCo from engaging in its business or from competing with any Person or in any geographical area and do not and will not result in a Material Adverse Effect on Orca or trigger or cause to arise any rights of any Person under any contract or arrangement to restrict Orca or AcquisitionCo from engaging in the business it currently or proposes to carry on.

#### **4.21 Outstanding Acquisitions or Dispositions**

Neither Orca nor AcquisitionCo has any rights to purchase any assets, properties or undertakings of third parties nor do they have any obligation to sell assets, properties or undertakings, in the aggregate, under any agreements to purchase or sell.

#### **4.22 No Loans**

Neither Orca nor AcquisitionCo has any loans or other indebtedness currently outstanding which have been made to or from any of its shareholders, officers, directors or employees or any other Person not dealing at arm's length with Orca or AcquisitionCo.

#### **4.23 Employee Amounts**

Orca has no amounts payable in respect of Employee Amounts.

#### **4.24 Employment Agreements**

Orca is not a party to any written employment or consulting agreement or any verbal employment or consulting agreement, which may not be terminated on one months' notice or which provides for a payment on a change of control of Orca or severance of employment.

#### **4.25 Employee Benefit Plans**

Orca has no employee benefit plans. Orca has made no promises with respect to increased benefits under such plans and all contributions (including premiums) required by law or contract to and including the date hereof have been paid or accrued, under or with respect to such plans, have been paid or accrued as at that date, as the case may be, except where failure to make any such contribution could not reasonably be expected to result in a Material Adverse Change.

#### **4.26 Public Record**

The information and statements filed by or on behalf of Orca with the Securities Authorities in the provinces of British Columbia, Alberta and Ontario, are in material compliance, or intended compliance, with applicable Securities Laws, were true, correct and complete, in all material respects, and did not contain any misrepresentation, as of the respective dates of such information or statements, and no material change has occurred in relation to Orca which has not been publicly disclosed, and Orca has not filed any confidential material change reports which continue to be confidential.

#### **4.27 Advisors**

Except as set forth in Section 4.27 of the Orca Disclosure Letter, neither Orca nor AcquisitionCo has retained nor will it retain any financial advisor, broker, agent or finder in connection with the transactions contemplated hereby, nor will either pay or agree to pay any financial advisor, broker, agent or finder any fee in connection with the transactions contemplated hereby.

#### **4.28 Material Contracts**

Except for this Agreement, there are no material contracts or agreements to which Orca or AcquisitionCo is a party or by which it is bound, all such contracts or agreements are valid and subsisting and Orca and AcquisitionCo is not in default or breach thereof. For the purposes of this subparagraph, any contract or agreement pursuant to which Orca or AcquisitionCo is required, or may reasonably be expected to be required to expend more than an aggregate of \$25,000 or receive or be entitled to receive payment of more than an aggregate of \$25,000, in either case in the next 12 months, or is out of the ordinary course of business of Orca, shall be considered to be material.

#### **4.29 Transaction Costs**

All transaction costs of Orca relating to the Amalgamation and the transactions contemplated hereby (the "**Orca Transaction Costs**"), including all Employee Amounts, legal, accounting, audit, meeting, transfer agent, printing or other expenses and fees payable to the Exchange, will not exceed \$80,000 (not including any sales taxes); and for greater certainty, any fees (including GST thereon) payable to any applicable securities commissions, CDS Clearing and Depository Services Inc. and any other regulatory authorities shall not be included in the Orca Transaction Costs.

#### **4.30 No Guarantees or Indemnities**

Orca is not a party to or bound by any agreement of guarantee, indemnification (other than a indemnification of directors and officers in accordance with applicable laws, and indemnities in support of Orca's obligations pursuant to agreements entered into in the ordinary course of business), or any other like commitment of the obligations, liabilities (absolute, accrued, contingent or otherwise) of indebtedness of any other Person.

#### **4.31 No Acquisition Proposal**

Orca has not negotiated any Acquisition Proposal with any Person who has not entered into a confidentiality agreement or provided access to the confidential information in respect of Orca in relation

to any proposed, possible or actual Acquisition Proposal to any Person who has not entered into a confidentiality agreement which contains "standstill" and other confidentiality provisions. Orca has not amended, modified or provided any consents under such confidentiality agreements or provided any release from, or relaxation of, the obligations under such confidentiality agreements to any of the other parties thereto. Orca has not waived the applicability of any "standstill" or other provisions of any confidentiality agreements entered into by Orca.

#### **4.32 Amalgamation**

The board of directors of Orca has approved the Amalgamation, approved this Agreement and has unanimously determined that the transactions contemplated herein, including but not limited to, the Amalgamation, are in the best interests of Orca.

### **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF CCC**

CCC represents and warrants to and in favour of Orca and AcquisitionCo as follows and acknowledges that Orca and AcquisitionCo are relying upon such representations and warranties in connection with the matters contemplated by this Agreement:

#### **5.1 Organization and Qualification**

CCC is a corporation duly incorporated and organized under the laws of the Province of Ontario and has the requisite corporate power and authority to carry on its business as it is now being conducted. CCC is duly registered to do business and is in good standing in each jurisdiction in which the character of its properties, owned or leased, or the nature of its activities make such registration necessary, except where the failure to be so registered or in good standing would not have a Material Adverse Effect on CCC.

#### **5.2 Authority Relative to this Agreement**

CCC has the requisite corporate authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement and the consummation by CCC of the transactions contemplated hereby have been duly authorized by its board of directors and no other corporate proceedings on its part are or will be necessary to authorize this Agreement and the transactions contemplated hereby (except for obtaining CCC Shareholder approval in respect of the CCC Transaction Resolution). This Agreement has been duly executed and delivered by CCC and constitutes a legal, valid and binding obligation of CCC enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and to general principles of equity.

#### **5.3 No Violations**

- (a) Neither the execution and delivery of this Agreement by CCC, the consummation by it of the transactions contemplated hereby nor compliance by it with any of the provisions hereof will: (i) violate, conflict with, or result in a breach of any provision of, require any consent, approval or notice under, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) or result in a right of termination or acceleration under, or result in a creation of any lien, security interest, charge or encumbrance upon any of the properties or assets of CCC under any of the terms, conditions or provisions of (A) the CCC Governing Documents, or (B) any note, bond, mortgage, indenture, loan agreement, deed of trust, agreement, lien, contract or other instrument or obligation to which CCC is a party or to which it, or any of its properties or assets, may be subject or by which CCC is bound; or (ii) subject to compliance with applicable Laws, violate any judgment, ruling, order, writ, injunction, determination, award, decree, statute, ordinance, rule or regulation applicable to CCC (except, in the case of each of clauses (i) and (ii)

above, for such violations, conflicts, breaches, defaults, terminations, accelerations, or any consents, approvals or notices which if not given or received, would not have any Material Adverse Effect on CCC and would not have a Material Adverse Effect on the ability of CCC to consummate the transactions contemplated hereby) or (iii) cause a suspension or revocation of any authorization for any consent, approval or license currently in effect which would have a Material Adverse Effect on CCC.

- (b) Other than in connection with or in compliance with the provisions of applicable Laws, (i) there is no legal impediment to the performance by CCC of its obligations under this Agreement or to the execution and delivery of this Agreement by CCC and (ii) no filing or registration with, or authorization, consent or approval of, any domestic or foreign public body or authority is necessary by CCC in connection with the making or the consummation of the Amalgamation, except for such filings or registrations which, if not made, or for such authorizations, consents or approvals, which, if not received, would not have a Material Adverse Effect on the ability of CCC to consummate the transactions contemplated hereby.

#### **5.4 Capitalization**

As of the date hereof, the authorized share capital of CCC consists of an unlimited number of CCC Shares, an unlimited number of special class A shares in the capital of CCC, an unlimited number of CCC Special Class B Shares and an unlimited number of CCC Special Class C Shares. As of the date hereof and as set forth in Appendix C of this Agreement (as such Appendix may be updated from time to time prior to the Effective Date), 19,998,815 CCC Shares and one (1) CCC Special Class C Share are issued and outstanding and an aggregate of 217,324 CCC Warrants have been granted, each whole CCC Warrant exercisable in accordance with its terms, for one (1) CCC Share. Except as set forth above, set forth in Appendix E and as otherwise stated in this Agreement, there are no securities of CCC outstanding and no options, warrants or other rights, agreements or commitments of any character whatsoever requiring the issuance, sale or transfer by CCC of any shares of CCC (including the CCC Shares and CCC Special Shares) or any securities convertible into, or exchangeable or exercisable for, or otherwise evidencing a right to acquire, any shares of CCC (including the CCC Shares and CCC Special Shares), nor are there any outstanding stock appreciation rights, phantom equity or similar rights, agreements, arrangements or commitments based upon the book value, income or other attributes of CCC. All outstanding CCC Shares and CCC Special Shares have been duly authorized and validly issued, are fully paid and non-assessable and are not subject to, nor were they issued in violation of, any pre-emptive rights, and all CCC Shares issuable upon exercise or conversion of outstanding CCC Warrants in accordance with their terms will be duly authorized and validly issued as fully paid and non-assessable shares and will not be subject to any pre-emptive rights.

#### **5.5 Financial Statements**

The CCC Financial Statements fairly present, in accordance with IFRS the financial position and condition of CCC at the dates thereof and the results of the operations of CCC for the periods then ended and reflect all assets, liabilities and obligations (absolute, accrued, contingent or otherwise) of CCC as at the dates thereof.

#### **5.6 Compliance with Applicable Laws**

CCC has conducted and is conducting its business in compliance in all material respects with all applicable Laws and, in particular, all applicable licensing legislation, regulations or by-laws or other lawful requirement of any Governmental Entity applicable to it of each jurisdiction in which it carries on its business (except to the extent that the failure to so comply would not have a Material Adverse Effect on CCC) and holds all licences, permits, approvals, consents, registrations and qualifications in all jurisdictions in which it carries on its business which are necessary to carry on the business of CCC (other than those that, the failure of which to so hold, would not have a Material Adverse Effect on CCC), as now conducted and as presently proposed to be conducted and all such licenses, permits, approvals, consents, registrations or qualifications are valid and existing and in good standing and none of such

licenses, permits, approvals, consents, registrations or qualifications contain any burdensome term, provision, condition or limitation which has or could reasonably be expected to have a Material Adverse Effect on CCC.

## **5.7 Litigation, Etc.**

There are, at the date hereof, no actions, suits or proceedings outstanding, pending, or to the knowledge of CCC threatened, affecting CCC (including, without limitation, before or by any Governmental Entity), which action, suit or proceeding involves a possibility of any judgment against or liability of CCC and CCC has no knowledge of facts or circumstances which may reasonably give rise to any such actions, cost or proceeding.

## **5.8 Subsidiaries**

CCC has three wholly-owned subsidiaries being Highland Grow, P-209 and Back Home. CCC is the legal and beneficial owner of all of the outstanding securities of Highland Grow, P-209 and Back Home, with good title thereto free and clear of any and all encumbrances. Highland Grow was granted a cultivation license from Health Canada pursuant to the ACMPR in respect of its facility in the Province of Nova Scotia on December 1, 2017 and, to the knowledge of CCC, such cultivation license is in good standing as of the date hereof. Each of P-209 and Back Home are in the late stages of applying for cultivation license from Health Canada pursuant to the provisions of the ACMPR.

## **5.9 Books and Records**

The corporate records and minute books of CCC have been maintained in accordance with all applicable Laws and are complete and accurate in all material respects.

## **5.10 Tax Matters**

- (a) CCC has prepared and filed all Tax Returns required to be filed, within the prescribed period with the appropriate Tax Authority in accordance with applicable Laws. CCC has reported all income and all other amounts and information required by applicable Law to be reported on each such Tax Return. Each such Tax Return is true, correct and complete in all material respects.
- (b) CCC has paid, within the prescribed period, all Taxes and instalments of Taxes, which are required to be paid to any Tax Authority pursuant to applicable Law. CCC has not received notice of any deficiency with respect to the payment of any Taxes or Tax instalments having been asserted against CCC by any Tax Authority. Since the Reference Date, CCC has not (i) incurred any liability for Taxes, (ii) engaged in any transaction or event which would result in any liability for Taxes, or (iii) realized any income or gain for tax purposes, other than, in each case, in the ordinary course. Adequate provision has been made in the Books and Records for all Taxes payable by CCC for all taxable periods ending on or before the Effective Date, and where no taxable period ends or is deemed to end on or immediately prior to the Effective Date, for all Taxes in respect of any time or event prior to the Effective Date.
- (c) CCC has duly and timely withheld and collected all Taxes required by applicable Law to be withheld or collected by CCC and has duly and timely remitted to the appropriate Tax Authority all such Taxes as and when required by applicable Law.
- (d) There are no proceedings, investigations or audits pending or, to the knowledge of CCC, threatened against or affecting CCC in respect of any Taxes. No event has occurred or circumstance exists which could reasonably be expected to give rise to or serve as a valid basis for the commencement of any such proceeding, investigation or audit. There are no matters under discussion, audit or appeal with any Tax Authority relating to Taxes. All Tax Returns of

CCC for taxation years ending on or before December 31, 2017, have been assessed by the relevant Tax Authority.

- (e) CCC is duly registered under Part IX of the *Excise Tax Act* (Canada) with respect to the goods and services tax and harmonized sales tax and its registration number is 749-847-520.

#### **5.11 Securities Matters**

CCC is not a reporting issuer in any province or territory of Canada and, to the knowledge of CCC, the CCC Shares and CCC Special Shares are not listed and posted on any stock exchange.

#### **5.12 Debt, Liabilities, Obligations**

As of the date hereof, CCC does not have any debts, liabilities or obligations in excess of \$50,000.

#### **5.13 Information**

- (a) CCC has disclosed to Orca any information in its possession of which it is aware regarding any event, circumstance or action taken which could reasonably be expected to have a Material Adverse Effect on CCC.
- (b) To the knowledge of CCC, all material data and information in respect of CCC and its assets, liabilities, business and operations provided by CCC to Orca and its Representatives is complete and true and correct in all material respects as at the respective dates thereof and CCC has not omitted to provide any material data or information necessary to make any data or information provided by CCC to Orca and its Representatives not misleading in any material respect as at the respective dates thereof.

#### **5.14 Shareholder Rights Plan**

There is not in effect with respect to CCC, and prior to the Effective Date, CCC will not implement, other than as permitted pursuant to the terms of this Agreement or as may be agreed to by Orca, acting reasonably, a shareholder rights plan or any other form of plan, agreement, contract or instrument that will trigger any rights to acquire CCC Shares, CCC Special Shares or other securities of CCC or rights, entitlements or privileges in favour of any Person upon the entering into of this Agreement or the making or consummation of the Amalgamation.

#### **5.15 No Unanimous Shareholder Agreement**

Other than as disclosed to Orca, neither CCC nor, to the knowledge of CCC, any of the CCC Shareholders is a party to any unanimous shareholders agreement, pooling agreement, voting trust or other similar type of arrangement in respect of outstanding securities of CCC.

#### **5.16 Issuances of Securities**

All offers and sales of securities in the capital of CCC from treasury or by CCC including, without limitation, the CCC Shares, the CCC Special Shares and the CCC Warrants, have been made in material compliance with all applicable Laws and, for greater certainty, all applicable Securities Laws.

#### **5.17 No Loans**

CCC does not have any loans or other indebtedness currently outstanding which have been made to or from any of its shareholders, officers, directors or employees or any other Person not dealing at arm's length with CCC.

## 5.18 Amalgamation

The board of directors of CCC has approved the Amalgamation, approved this Agreement and has unanimously determined that the Amalgamation is in the best interests of CCC.

## ARTICLE 6 CONDUCT OF BUSINESS

### 6.1 Conduct of Business by Orca

Orca agrees that during the period from the Agreement Date and ending on the earlier of the Effective Date or the termination of this Agreement, except as otherwise expressly permitted or specifically contemplated by this Agreement or as expressly consented to in writing by CCC, that:

- (a) the business of Orca shall be conducted only in, and Orca shall not take any action except in, the usual and ordinary course of business and consistent with past practice, and Orca shall use all commercially reasonable efforts to maintain and preserve its business organization, assets, employees and advantageous business relationships and Orca shall consult with CCC in respect of the ongoing business and affairs of Orca and keep CCC apprised of all material developments relating thereto;
- (b) Orca shall not directly or indirectly do or permit to occur any of the following: (i) amend the Orca Governing Documents; (ii) declare, set aside or pay any dividend or other distribution or payment (whether in cash, shares or property) in respect of its outstanding securities; (iii) issue, grant, sell or pledge or agree to issue, grant, sell or pledge any shares or other interest of Orca, or securities convertible into or exchangeable or exercisable for, or otherwise evidencing a right to acquire, shares of Orca, other than Orca Shares issuable pursuant to the terms of the Orca Warrants, the Orca Warrants issuable as a result of the Orca Share Consolidation, or as otherwise agreed to by CCC; (iv) redeem, purchase or otherwise acquire any of its outstanding shares or other securities other than as required by the Orca Governing Documents or as required by Law; (v) split, combine or reclassify any of its securities other than in connection with the Orca Share Consolidation; (vi) adopt a plan of liquidation or resolutions providing for the liquidation, dissolution, merger, consolidation or reorganization of Orca; or (vii) enter into or modify any contract, agreement, commitment or arrangement with respect to any of the foregoing, except as permitted above;
- (c) Orca shall not, without prior consultation with and the consent of CCC, such consent not to be unreasonably withheld, directly or indirectly do any of the following: (i) sell, pledge, dispose of or encumber any assets having a value in excess of \$10,000 individually or \$25,000 in the aggregate, other than in the ordinary course; (ii) acquire (by merger, amalgamation, consolidation or acquisition of shares or assets) any corporation, partnership or other business organization or division thereof, or make any investment either by purchase of shares or securities, contributions of capital or property transfer; (iii) acquire any assets with an acquisition cost which would exceed \$10,000 individually or \$25,000 in the aggregate; (iv) incur or commit to incur any indebtedness for borrowed money except as exists as of the Agreement Date, or any other material liability or obligation or issue any debt securities or assume, guarantee, endorse or otherwise as an accommodation become responsible for, the obligations of any other individual or entity, or make any loans or advances (including employee assistance loans) other than fees payable to legal advisors in the ordinary course and fees payable to legal advisors in respect of the Amalgamation; (v) authorize, recommend or propose any release or relinquishment of any material contract right; (vi) waive, release, grant or transfer any material rights of value or modify or change in any material respect any existing material license, lease, contract or other material document; (viii) enter into commitments of a capital expenditure nature or incur any contingent liability in excess of \$10,000 individually or \$25,000 in the aggregate; (ix) enter into any non-arm's length transactions including with any officers, directors or employees of Orca or transfer any property or assets of Orca to any employees; or (x) authorize or propose any of the foregoing, or



enter into or modify any contract, agreement, commitment or arrangement to do any of the foregoing except as may be necessary in the ordinary course of business;

- (d) Orca shall conduct itself so as to keep CCC reasonably informed as to its business affairs;
- (e) Orca shall not: (i) grant any officer, director, employee or consultant an increase in compensation in any form; (ii) grant any general salary increase to any employees; (iii) take any action with respect to the amendment or grant of any retention, severance or termination pay policies or arrangement for any directors, officers or employees; (iv) advance any loan to any officer, director or any other party not at arm's length to Orca; or (v) take any action with respect to the grant of any new, or any amendment to any existing, arrangements for severance, termination or retention pay with any officer or employee arising from the Amalgamation or a change of control of Orca or otherwise, or with respect to any increase of benefits payable under its current severance, termination or retention pay policies;
- (f) Orca shall not adopt or amend or make any contribution to any bonus, employee health benefit plan, profit sharing, deferred compensation, insurance, incentive compensation, other compensation or other similar plan, agreement, incentive or share purchase plan (including, without limitation, the Orca Options and Orca Warrants), fund, plan or arrangement for the benefit of employees, except as is necessary to comply with applicable Law or with respect to existing provisions of any such plans, programs, arrangement or agreements;
- (g) Orca shall use its commercially reasonable efforts to cause, effective at the Effective Time, the resignation of each of the directors and officers of Orca and to cause each of such directors and officers to provide releases in favour of Orca and CCC, conditional on closing of the Amalgamation and effective on the Effective Date, each in form and substance satisfactory to Orca and CCC, each acting reasonably, and to fill the resulting vacancies with designees of CCC and Orca shall cooperate with CCC to provide an orderly transition of control and management of Orca;
- (h) Orca shall use its commercially reasonable efforts to cause its current insurance (or re-insurance) policies not to be cancelled or terminated or any of the coverage thereunder to lapse, unless simultaneously with such termination, cancellation or lapse, replacement policies underwritten by insurance or re-insurance companies of nationally recognized standing providing coverage equal to or greater than the coverage under the cancelled, terminated or lapsed policies for substantially similar premiums are in full force and effect;
- (i) Orca shall not take any action, refrain from taking any action, permit any action to be taken or not taken, inconsistent with this Agreement, which might directly or indirectly interfere or negatively affect the consummation of the Amalgamation and the other transactions contemplated in this Agreement;
- (j) Orca shall not take any action, that would render, or may reasonably be expected to render, any representation or warranty made by it in this Agreement untrue in any material respect;
- (k) Orca shall cause each of its directors and senior officers to vote in favour of the Orca Fundamental Change Resolution and the Orca Special Share Resolution;
- (l) Orca will within two Business Days of Orca receiving any written audit inquiry, assessment, reassessment, confirmation or variation of an assessment, indication that tax assessment is being considered, request for filing of a waiver or extension of time or any other notice in writing relating to taxes, interest, penalties, losses or tax pools (an "**Assessment**"), deliver to CCC a copy thereof together with a statement setting out, to the extent then determinable, an estimate of the obligations, if any, of Orca on the assumption that such Assessment is valid and binding;

- (m) Orca shall use its commercially reasonable efforts to fulfill or cause the fulfillment of the conditions set forth in Sections 10.1 and 10.3 as soon as reasonably possible to the extent that the fulfillment of the same is within the control of Orca;
- (n) Orca shall make all necessary filings and applications under applicable Laws required to be made on the part of Orca in connection with the transactions contemplated herein and shall take all reasonable action necessary to be in compliance with such Laws; and
- (o) Orca will furnish promptly to CCC or CCC's counsel any requests from any Governmental Entity for any information in respect of the business, operations, financial condition or assets of Orca or any third party complaint, investigation or hearing (or investigations indicating the same may be contemplated) to the extent that it relates to or could affect Orca, its properties or assets in a material way or the consummation of the Amalgamation or the transactions contemplated under this Agreement.

## **6.2 Conduct of Business by CCC**

CCC agrees that during the period from the Agreement Date and ending on the earlier of the Effective Date or the termination of this Agreement, except as otherwise expressly permitted or specifically contemplated by this Agreement or as expressly consented to in writing by Orca:

- (a) the business of CCC shall be conducted only in, and CCC shall not take any action except in, the usual and ordinary course of business and consistent with past practice and CCC shall use all commercially reasonable efforts to maintain and preserve its business organization, assets, employees and advantageous business relationships and CCC shall consult with Orca in respect of the ongoing business and affairs of CCC;
- (b) CCC shall not directly or indirectly do or permit to occur any of the following: (i) issue, grant, sell or pledge or agree to issue, grant, sell or pledge any shares or other interest of CCC, or securities convertible into or exchangeable or exercisable for, or otherwise evidencing a right to acquire, shares of CCC, other than CCC Shares issuable pursuant to the terms of the CCC Warrants or CCC Special Shares; CCC Shares, CCC Special Shares or CCC Warrants issued in connection with one or more private placements provided the price per CCC Share or CCC Special Share, as applicable, is not less than \$1.00 per CCC Share or CCC Special Share; CCC Shares, CCC Special Shares or CCC Warrants issued in connection with one or more Potential Transactions; or other issuances of CCC Shares, CCC Special Shares and CCC Warrants as agreed to by Orca, acting reasonably; (ii) redeem, purchase or otherwise acquire any of its outstanding shares or other securities other than as required by the CCC Governing Documents, as required by Law or to facilitate completion of the transactions contemplated by this Agreement; (iii) split, combine or reclassify any of its securities; (iv) adopt a plan of liquidation or resolutions providing for the liquidation, dissolution, merger, consolidation or reorganization of CCC, but for greater certainty, not including the Amalgamation; or (v) enter into or modify any contract, agreement, commitment or arrangement with respect to any of the foregoing, except as permitted above;
- (c) CCC shall not take any action, refrain from taking any action, permit any action to be taken or not taken, inconsistent with this Agreement, which might directly or indirectly interfere or negatively affect the consummation of the Amalgamation or the other transactions contemplated by this Agreement;
- (d) CCC shall not take any action, that would render, or may reasonably be expected to render, any representation or warranty made by it in this Agreement untrue in any material respect;
- (e) CCC shall use its commercially reasonable efforts to fulfill or cause the fulfillment of the conditions set forth in Sections 10.1 and 10.2 as soon as reasonably possible to the extent that the fulfillment of the same is within the control of CCC;

- (f) CCC shall make all necessary filings and applications under applicable Laws required to be made on the part of CCC in connection with the transactions contemplated herein and shall take all reasonable action necessary to be in compliance with such Laws; and
- (g) CCC will furnish promptly to Orca or Orca's counsel any requests from any Governmental Entity for any information in respect of the business, operations, financial condition or assets of CCC or any third party complaint, investigation or hearing (or investigations indicating the same may be contemplated) to the extent that it relates to or could affect CCC or its properties or assets in a material way or the consummation of the Amalgamation or the transactions contemplated under this Agreement.

### **6.3 Future Acquisitions**

Orca acknowledges that CCC is pursuing and will continue to pursue corporate and asset acquisitions and other forms of business combinations and asset divestitures (a "**Potential Transaction**"), which could individually, or in the aggregate, be material to CCC and which may result in the issuance of CCC Shares, CCC Special Shares, CCC Warrants and/or other securities of CCC or securities convertible into securities of CCC. Orca agrees that nothing in this Agreement shall restrict or prevent CCC from entering into any confidentiality agreement, letter of intent, acquisition or disposition agreement or other agreement in connection with a Potential Transaction and in connection therewith, incur or assume indebtedness for borrowed money or issue CCC Shares, CCC Special Shares, CCC Warrants and/or other securities of CCC or securities convertible into securities of CCC. CCC will, subject to any applicable confidentiality obligation, provide Orca with notice of any Potential Transaction which represents a binding obligation on the part of CCC to consummate the Potential Transaction, and if required by applicable Law, to provide updated CCC Information in connection therewith for inclusion in the Orca Information Circular, or any supplement or amendment thereof, pursuant to Section 2.5.

## **ARTICLE 7 COVENANTS OF CCC**

### **7.1 CCC Meeting**

- (a) Subject to Orca satisfying its obligations hereunder in all material respects, CCC shall mail as soon as practicable and in any event on or before June 1, 2018 (or such other date as Orca and CCC may agree to) the CCC Information Circular to the CCC Shareholders and other Persons required.
- (b) Subject to Orca satisfying its obligations hereunder in all material respects, CCC shall, on or before June 1, 2018 (or such other date as Orca and CCC may agree to), convene the CCC Meeting.
- (c) CCC shall solicit proxies to be voted at the CCC Meeting in favour of the matters to be considered at such meeting, including, but not limited to, the CCC Transaction Resolution.
- (d) CCC shall provide notice to Orca of the CCC Meeting and allow Orca's Representatives to attend the CCC Meeting.
- (e) CCC shall provide to Orca upon request, information as to the results of proxies received in respect of voting at the CCC Meeting on the CCC Transaction Resolution.
- (f) CCC shall conduct the CCC Meeting in accordance with the CCC Governing Documents and any instrument governing such meeting, as applicable, and as otherwise required by applicable Laws.
- (g) Except for proxies and other non-substantive communications with CCC Shareholders, CCC will furnish promptly to Orca or Orca's counsel, a copy of each notice, report, schedule or other

document delivered, filed or received by CCC in connection with: (i) the Amalgamation; (ii) the CCC Meeting; (iii) any filings under applicable Laws; and (iv) any dealings with any Governmental Entity in connection with the transactions contemplated by this Agreement.

## **7.2 CCC Information and Indemnities**

- (a) CCC will co-operate with Orca in the preparation of the Orca Information Circular and provide to Orca, in a timely manner, all CCC Information required pursuant to applicable Laws with respect to CCC and its directors and officers for inclusion in the Orca Information Circular and any amendments or supplements thereto, in each case complying in all material respects with all applicable legal requirements on the date of issue thereof.
- (b) CCC shall indemnify and save harmless Orca and AcquisitionCo and their respective directors, officers and agents from and against any and all liabilities, claims, demands, losses, costs, damages and expenses (excluding any loss of profits or consequential damages) to which Orca, AcquisitionCo or any director, officer or agent thereof, may be subject or which Orca or AcquisitionCo, or any director, officer or agent thereof may suffer, whether under the provisions of any statute or otherwise, in any way caused by, or arising, directly or indirectly, from or in consequence of:
  - (i) any misrepresentation or alleged misrepresentation in the CCC Information Circular or in any material filed by CCC or on behalf of CCC in compliance or intended compliance with any applicable Laws (other than arising solely from or based solely upon any misrepresentation or alleged misrepresentation in the Orca Information contained in the CCC Information Circular);
  - (ii) any order made or any inquiry, investigation or proceeding by any Governmental Entity based upon any untrue statement or omission or alleged untrue statement or omission of a material fact or any misrepresentation or any alleged misrepresentation in the CCC Information Circular or in any material filed by or on behalf of CCC in compliance or intended compliance with applicable Laws, which prevents or restricts the trading in the CCC Shares (other than arising solely from or based solely upon any misrepresentation or alleged misrepresentation in the Orca Information contained in the CCC Information Circular); or
  - (iii) CCC not complying with any requirement of applicable Laws in connection with the transactions contemplated in this Agreement.

## **7.3 Notice of Material Change**

From the date hereof until the termination of this Agreement, CCC shall promptly notify Orca in writing of:

- (a) any material change (actual, anticipated or, to the knowledge of CCC, contemplated or threatened, financial or otherwise) in or on the business, operations, results of operations, affairs, assets, capitalization, financial condition, licenses, permits, concessions, prospects, rights, or liabilities, whether contractual or otherwise, of CCC (other than any change or effect that is excepted out of the definitions of Material Adverse Change or Material Adverse Effect in Section 1.1 hereof);
- (b) any change in the facts relating to any representation or warranty set forth in ARTICLE 5 which change is or may be of such a nature as to render any such representation or warranty misleading or untrue in a material respect as at the date hereof or as at any subsequent date; or

- (c) subject to Section 6.3, any material fact in respect of CCC or the CCC Shareholders which arises and which would have been required to be stated herein had the fact arisen on or prior to the date of this Agreement including, without limitation, any material fact that could reasonably be expected to result in any of the conditions to completion of the Amalgamation not being satisfied prior to the Outside Date.

CCC shall in good faith discuss with Orca any change in circumstances (actual, anticipated, contemplated or, to the knowledge of CCC, threatened, financial or otherwise) which is of such a nature that there may be a reasonable question as to whether notice need to be given to Orca pursuant to this Section 7.3.

#### **7.4 Financial Information**

CCC shall make available to Orca, and consents to the use of, all financial statements and other information of CCC which may be required to be disclosed in any Orca documents, including any proxy statement or business acquisition report of Orca and any amendments thereto, as required under applicable Laws. Such financial statements shall be prepared in accordance with IFRS. If required by applicable Laws, such financial statements shall be audited or reviewed, as the case may be, by CCC's auditors if requested by Orca. CCC shall use its commercially reasonable efforts to have its auditors, to the extent required by applicable Laws, provide the consent to the use of their reports and to the use of their name in connection with any disclosure by Orca of such financial statements.

#### **7.5 Other Covenants**

CCC covenants and agrees that, from and including the date hereof until the termination of this Agreement, unless Orca agrees otherwise in writing:

- (a) CCC shall use its commercially reasonable efforts to consummate the Amalgamation, subject only to the terms and conditions hereof and thereof; and
- (b) CCC shall use its commercially reasonable efforts to obtain all regulatory approvals, waivers and consents required.

### **ARTICLE 8 COVENANTS OF ORCA AND ACQUISITIONCO**

Orca and AcquisitionCo agree that during the period from the Agreement Date and ending on the earlier of the Effective Date or the termination of this Agreement, except as otherwise expressly permitted or specifically contemplated by this Agreement:

#### **8.1 Orca Meeting**

- (a) Subject to CCC satisfying its obligations hereunder in all material respects, Orca shall mail as soon as practicable and in any event on or before June 1, 2018 (or such other date as Orca and CCC may agree to) the Orca Information Circular to the Orca Shareholders and other Persons required.
- (b) Subject to CCC satisfying its obligations hereunder in all material respects, Orca shall, on or before June 1, 2018 (or such other date as Orca and CCC may agree to), convene the Orca Meeting.
- (c) Orca shall solicit proxies to be voted at the Orca Meeting in favour of the matters to be considered at such meeting, including, but not limited to, the Orca Fundamental Change Resolution and the Orca Special Share Resolution.

- (d) Orca shall provide notice to CCC of the Orca Meeting and allow officers and directors of CCC and CCC's Representatives to attend the Orca Meeting.
- (e) Orca shall provide to CCC upon request, information as to the results of proxies received in respect of voting at the Orca Meeting on the Orca Fundamental Change Resolution, the Orca Special Share Resolution and any other matters that may be considered at the Orca Meeting.
- (f) Orca shall conduct the Orca Meeting in accordance with the Orca Governing Documents and any instrument governing such meeting, as applicable, and as otherwise required by applicable Laws.
- (g) Except for proxies and other non-substantive communications with Orca Shareholders, Orca will furnish promptly to CCC or CCC's counsel, a copy of each notice, report, schedule or other document delivered, filed or received by Orca in connection with: (i) the Amalgamation; (ii) the Orca Meeting; (iii) any filings under applicable Laws; and (iv) any dealings with any Governmental Entity in connection with the transactions contemplated by this Agreement.

## **8.2 Orca Information and Indemnities**

- (a) Orca and AcquisitionCo will co-operate with CCC in the preparation of the CCC Information Circular and provide to CCC, in a timely manner, all Orca Information required pursuant to applicable Laws and the rules, regulations and policies of the Exchange with respect to Orca and AcquisitionCo and their respective directors and officers for inclusion in the CCC Information Circular and any amendments or supplements thereto, in each case complying in all material respects with all applicable legal requirements on the date of issue thereof.
- (b) Orca shall indemnify and save harmless CCC and their respective directors, officers and agents from and against any and all liabilities, claims, demands, losses, costs, damages and expenses (excluding any loss of profits or consequential damages) to which CCC or any director, officer or agent thereof, may be subject or which CCC or any director, officer or agent thereof may suffer, whether under the provisions of any statute or otherwise, in any way caused by, or arising, directly or indirectly, from or in consequence of:
  - (i) any misrepresentation or alleged misrepresentation in the Orca Information Circular or in any material filed by Orca or on behalf of Orca in compliance or intended compliance with any applicable Laws (other than arising solely from or based solely upon any misrepresentation or alleged misrepresentation in the CCC Information contained in the Orca Information Circular);
  - (ii) any order made or any inquiry, investigation or proceeding by any Governmental Entity based upon any untrue statement or omission or alleged untrue statement or omission of a material fact or any misrepresentation or any alleged misrepresentation in the Orca Information Circular or in any material filed by or on behalf of Orca in compliance or intended compliance with applicable Laws, which prevents or restricts the trading in the Orca Shares (other than arising solely from or based solely upon any misrepresentation or alleged misrepresentation in the CCC Information contained in the Orca Information Circular); or
  - (iii) Orca not complying with any requirement of applicable Laws in connection with the transactions contemplated in this Agreement.

## **8.3 Notice of Material Change**

From the date hereof until the termination of this Agreement, Orca and AcquisitionCo shall promptly notify CCC in writing of:

- (a) any material change (actual, anticipated or, to the knowledge of Orca, contemplated or threatened, financial or otherwise) in or on the business, operations, results of operations, affairs, assets, capitalization, financial condition, licenses, permits, concessions, prospects, rights, or liabilities, whether contractual or otherwise, of Orca (other than any change or effect that is excepted out of the definitions of Material Adverse Change or Material Adverse Effect in Section 1.1 hereof);
- (b) any change in the facts relating to any representation or warranty set forth in ARTICLE 4 which change is or may be of such a nature as to render any such representation or warranty misleading or untrue in a material respect as at the date hereof or as at any subsequent date; or
- (c) any material fact in respect of Orca or the Orca Shareholders which arises and which would have been required to be stated herein had the fact arisen on or prior to the date of this Agreement including, without limitation, any material fact that could reasonably be expected to result in any of the conditions to completion of the Amalgamation not being satisfied prior to the Outside Date.

#### **8.4 Financial Information**

Orca shall make available to CCC, and consents to the use of, all financial statements and other information of Orca which may be required to be disclosed in any CCC documents, including the CCC Information Circular, any proxy statement, business acquisition report or prospectus of CCC and any amendments thereto, as required under applicable Laws. Such financial statements shall be prepared in accordance with IFRS. If required by applicable Laws, such financial statements shall be audited or reviewed, as the case may be, by Orca's auditors if requested by CCC. Orca shall use its commercially reasonable efforts to have its auditors, to the extent required by applicable Laws, provide the consent to the use of their reports and to the use of their name in connection with any disclosure by CCC of such financial statements.

#### **8.5 Other Covenants**

Orca and AcquisitionCo covenant and agree that, from and including the date hereof until the termination of this Agreement, unless CCC agrees otherwise in writing:

- (a) each of Orca and AcquisitionCo shall use its commercially reasonable efforts to consummate the Amalgamation, subject only to the terms and conditions hereof and thereof;
- (b) Orca shall use its commercially reasonable efforts to obtain all Exchange and regulatory approvals, waivers and consents required; and
- (c) Orca shall use its commercially reasonable efforts to continue to be a "reporting issuer" (or similarly designated company) in the provinces of British Columbia, Alberta and Ontario, in material compliance with all applicable Securities Laws and shall use its commercially reasonable efforts to ensure that the Orca Shares will be and continue to be listed on the Exchange.

### **ARTICLE 9 MUTUAL COVENANTS**

From the Agreement Date hereof until the Effective Date, each of Orca, AcquisitionCo and CCC will use its commercially reasonable efforts to satisfy (or cause the satisfaction of) the conditions precedent to its obligations hereunder and to the extent the same is within its control, take, or cause to be taken, all other action and to do, or cause to be done, all other things necessary, proper or advisable under applicable Laws to complete the Amalgamation, including using reasonable efforts:

- (a) to obtain all necessary waivers, consents and approvals required to be obtained by it from other parties;

- (b) to obtain all necessary consents, approvals and authorizations that are required to be obtained by it under any applicable Laws and the rules, regulations and policies of the Exchange including preparing and filing a Listing Statement (as such term is defined by the Exchange), the mailing of the Orca Information Circular to the Orca Shareholders and the CCC Information Circular to the CCC Shareholders and the listing of the Orca Exchange Shares; and
- (c) to effect all necessary registrations and filings and submissions of information requested by any Governmental Entity and the Exchange required to be effected by it in connection with the Amalgamation,

and each of Orca, AcquisitionCo and CCC will use its commercially reasonable efforts to cooperate with the other in connection with the performance by the other of its obligations under this ARTICLE 9 including, without limitation, continuing to provide reasonable access to information and to maintain ongoing communications as between officers of CCC and Orca.

## **ARTICLE 10 CONDITIONS PRECEDENT**

### **10.1 Mutual Conditions Precedent**

The respective obligations of the Parties to consummate the transactions contemplated hereby, and in particular the Amalgamation, are subject to the satisfaction, on or before the Effective Date or such other time specified, of the following conditions, any of which may be waived by the mutual consent of such Parties without prejudice to their right to rely on any other of such conditions:

- (a) CCC shall have mailed the CCC Information Circular and other documentation required in connection with the CCC Meeting on or before June 1, 2018;
- (b) Orca shall have mailed the Orca Information Circular and other documentation required in connection with the Orca Meeting on or before June 1, 2018;
- (c) the CCC Transaction Resolution shall have been passed by the CCC Shareholders on or prior to the Outside Date, in form and substance satisfactory to each of CCC and Orca, acting reasonably, duly approving the CCC Transaction Resolution;
- (d) the Orca Fundamental Change Resolution and the Orca Special Share Resolution shall have each been passed by the Orca Shareholders on or prior to the Outside Date, in form and substance satisfactory to each of CCC and Orca, acting reasonably, duly approving the Orca Fundamental Change Resolution and the Orca Special Share Resolution;
- (e) the resolution of Orca, as the sole shareholder of AcquisitionCo, shall have been passed by Orca on or prior to the Outside Date, in form and substance satisfactory to each of CCC and Orca, acting reasonably, duly approving the Amalgamation;
- (f) the Articles of Amalgamation filed with the Registrar shall be in form and substance satisfactory to each of CCC and Orca, acting reasonably;
- (g) the Effective Date shall be on or prior to the Outside Date;
- (h) a Listing Statement (as such term is defined by the Exchange) and all supporting documents in connection therewith or as otherwise requested by the Exchange shall be delivered to the Exchange by Orca and CCC, as applicable, on or prior to the Outside Date if required or otherwise requested by the Exchange;



- (i) each of Orca, AcquisitionCo and CCC, as applicable and as required by the Exchange, shall have entered into an escrow agreement upon the terms and conditions imposed pursuant to the rules, regulations and policies of the Exchange;
- (j) all required regulatory, governmental and third party approvals, waivers and consents in respect of the completion of the Amalgamation shall have been obtained on terms and conditions satisfactory to CCC and Orca, each acting reasonably, including, without limitation, all applicable statutory and regulatory waiting periods shall have expired or have been terminated and no unresolved material objection or opposition shall have been filed, initiated or made during any applicable statutory regulatory period as well as the conditional acceptance by the Exchange of the transaction contemplated hereby; and
- (k) no material action or proceeding shall be pending or threatened by any Person or Governmental Entity, and there shall be no action taken under any existing applicable Law which is enacted, enforced, promulgated or issued by any court, department, commission, board, regulatory body, government or Governmental Entity, that:
  - (i) makes illegal or otherwise directly or indirectly restrains, enjoins or prohibits the Amalgamation or any other transactions contemplated in this Agreement; or
  - (ii) results in a judgment or assessment of material damages directly or indirectly relating to the transactions contemplated in this Agreement.

The foregoing conditions are for the mutual benefit of CCC on the one hand and Orca and AcquisitionCo on the other hand and may be asserted by CCC and by Orca and AcquisitionCo regardless of the circumstances and may be waived by CCC and Orca and AcquisitionCo in their sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which CCC, Orca or AcquisitionCo may have. If any of such conditions shall not be complied with or waived as aforesaid on or before the Outside Date or, if earlier, the date required for the performance thereof, then, subject to Section 10.4 hereof, a Party may rescind and terminate this Agreement by written notice to the other of them in circumstances where the failure to satisfy any such condition is not the result, directly or indirectly, of a material breach of this Agreement by such rescinding Party.

## **10.2 Conditions to Obligations of CCC**

The obligation of CCC to consummate the transactions contemplated hereby, and in particular the Amalgamation, is subject to the satisfaction, on or before the Effective Date or such other time specified, of the following conditions:

- (a) each of the covenants, acts and undertakings of Orca and AcquisitionCo to be performed on or before the Effective Date pursuant to the terms of this Agreement shall have been duly performed by Orca and AcquisitionCo in all material respects and CCC shall have received a certificate to that effect dated the Effective Date from the Chief Executive Officer of Orca or another senior officer thereof acceptable to CCC, acting reasonably, acting solely on behalf of Orca and not in his personal capacity, to the best of his information and belief having made reasonable inquiry and CCC shall have no knowledge to the contrary;
- (b) Orca shall have furnished CCC with:
  - (i) certified copies of the resolutions duly passed by the board of directors of Orca and AcquisitionCo approving this Agreement, the issuance of the Orca Shares, changing the name of Orca to a name to be designated by CCC and as acceptable to the Registrar and the consummation of the transactions contemplated hereby;

- (ii) certified copies of the resolution of Orca, as the sole shareholder of AcquisitionCo, approving the Amalgamation; and
  - (iii) certified copies of the Orca Fundamental Change Resolution and the Orca Special Share Resolution duly passed by the Orca Shareholders at the Orca Meeting;
- (c) except as affected by the transactions contemplated by or permitted by this Agreement, the representations and warranties made by Orca and AcquisitionCo in this Agreement shall be true and correct in all material respects as at the Effective Date with the same effect as though such representations and warranties had been made at and as of such time (except to the extent such representations and warranties speak as of an earlier date, in which event such representations and warranties shall be true and correct as of such earlier date) and CCC shall have received a certificate to that effect dated the Effective Date from the Chief Executive Officer of Orca or another senior officer thereof acceptable to CCC, acting reasonably, acting solely on behalf of Orca and not in his personal capacity, to the best of his information and belief having made reasonable inquiry and CCC shall have no knowledge to the contrary;
- (d) the Orca Share Consolidation shall be complete prior to the Effective Date and in accordance with the Orca Governing Documents, applicable Laws and the policies of the Exchange and for greater certainty, upon completion of the Orca Share Consolidation and immediately prior to the Effective Time, an aggregate of 1,153,252 Orca Shares and 145,290 Orca Warrants with a weighted average exercise price of \$21.00 shall be issued and outstanding;
- (e) the board of directors of Orca shall not have withdrawn, modified or changed any of its approvals, resolutions or determinations in respect of the Amalgamation in a manner materially adverse to CCC or the completion of the Amalgamation;
- (f) the boards of directors of Orca and AcquisitionCo shall have adopted all necessary resolutions and all other necessary corporate action shall have been taken by Orca and AcquisitionCo to permit the consummation of the Amalgamation;
- (g) each of the directors and officers of Orca shall have provided their resignations (in the case of directors, in a manner that allows for the orderly replacement of directors on the Effective Date) in favour of Orca, conditional on closing of the Amalgamation and effective on the Effective Date, each in form and substance and on such terms as are satisfactory to CCC, acting reasonably, and each of such directors and officers of Orca shall have provided releases prior to the Effective Time in form and substance and on such terms as are satisfactory to CCC, acting reasonably;
- (h) CCC shall be satisfied that upon completion of the Amalgamation no Person, other than Orca Warranholders, shall have any agreement, option or any right or privilege (whether by law, preemptive, by contract or otherwise) capable of becoming an agreement or option for the purchase, subscription, allotment or issuance of any issued or unissued, Orca Shares;
- (i) immediately prior to the Effective Time, CCC shall be satisfied that there shall not be more than 1,298,542 Orca Shares duly issued and outstanding on a fully-diluted basis (being comprised of 1,153,252 Orca Shares and 145,290 Orca Warrants with a weighted average exercise price of \$21.00);
- (j) no act, action, suit, proceeding, objection or opposition shall have been threatened or taken against or affecting Orca or AcquisitionCo before or by any Governmental Entity, whether or not having the force of law and no law, regulation, policy, judgment, decision, order, ruling or directive (whether or not having the force of law) shall have been proposed, enacted, promulgated, amended or applied, which in the sole judgment of CCC, acting reasonably, in either case has had or, if the Amalgamation was consummated, would result in a Material Adverse Change in the

affairs, operations or business of CCC, Orca or AcquisitionCo or would have a Material Adverse Effect on the ability of the Parties to complete the Amalgamation;

- (k) neither Orca nor AcquisitionCo shall be in material breach of their respective obligations under this Agreement;
- (l) the Orca Exchange Shares and Orca Exchange Special Shares that are issued as consideration for the CCC Shares and CCC Special Shares shall be issued as fully paid and non-assessable Orca Shares and Orca Special Shares in the capital of Orca, free and clear of any and all encumbrances, liens, charges and demands of whatsoever nature, except those imposed pursuant to escrow restrictions of the Exchange and any other applicable regulatory authorities;
- (m) the Exchange shall have conditionally approved the listing of the Orca Exchange Shares to be issued to CCC Shareholders in exchange for their CCC Shares; and
- (n) except as disclosed to CCC in writing prior to the Agreement Date or as publicly disclosed prior to the Agreement Date, there shall not have occurred any change after the Agreement Date, including, without limitation, a Potential Transaction, or prior to the Agreement Date (or any condition, event or development involving a prospective change, including, without limitation, a Potential Transaction) in the business, affairs, operations, assets, capitalization, financial condition, prospects, licenses, permits, rights, privileges or liabilities, whether contractual or otherwise, of Orca and which, in the judgment of CCC, acting reasonably, is or would reasonably be expected to cause a Material Adverse Change with respect to Orca on a consolidated basis or would have a Material Adverse Effect on Orca on a consolidated basis.

The conditions in this Section 10.2 are for the exclusive benefit of CCC and may be asserted by CCC regardless of the circumstances or may be waived by CCC in its sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which CCC may have. If any of such conditions shall not be complied with or waived by CCC on or before the Outside Date or the date required for the performance thereof, if earlier, then subject to Section 10.4 hereof, CCC may rescind and terminate this Agreement by written notice to Orca and AcquisitionCo in circumstances where the failure to satisfy any such condition is not the result, directly or indirectly, of a material breach of this Agreement by CCC.

### **10.3 Conditions to Obligations of Orca and AcquisitionCo**

The obligation of Orca and AcquisitionCo to consummate the transactions contemplated hereby, and in particular the issue of Orca Shares is subject to the satisfaction, on or before the Effective Date or such other time specified, of the following conditions:

- (a) each of the acts, covenants and undertakings of CCC to be performed on or before the Effective Date pursuant to the terms of this Agreement shall have been duly performed by CCC in all material respects and Orca shall have received a certificate to that effect dated the Effective Date from the President of CCC, acting solely on behalf of CCC and not in his personal capacity, to the best of his information and belief having made reasonable inquiry and Orca shall have no knowledge to the contrary;
- (b) CCC shall have furnished Orca with:
  - (i) certified copies of the resolutions duly passed by the board of directors of CCC approving this Agreement and the consummation of the transactions contemplated hereby and directing the submission of the Amalgamation for approval at the CCC Meeting and recommending that CCC Shareholders vote in favour of the Amalgamation; and

- (ii) certified copies of the CCC Transaction Resolution, duly passed at the CCC Meeting, approving the Amalgamation;
- (c) except as affected by the transactions contemplated by or permitted by this Agreement, the representations and warranties made by CCC in this Agreement shall be true and correct in all material respects as at the Effective Date with the same effect as though such representations and warranties had been made at and as of such time (except to the extent such representations and warranties speak as of an earlier date, in which event such representations and warranties shall be true and correct as of such earlier date) and Orca shall have received a certificate to that effect dated the Effective Date from the President of CCC, acting solely on behalf of CCC and not in his personal capacity, to the best of his information and belief having made reasonable inquiry and Orca shall have no knowledge to the contrary;
- (d) the board of directors of CCC shall not have withdrawn, modified or changed any of its recommendations, approvals, resolutions or determinations in respect of the Amalgamation in a manner materially adverse to Orca or AcquisitionCo or the completion of the Amalgamation;
- (e) holders of not greater than 5% of the outstanding CCC Shares shall have exercised Dissent Rights in respect of the CCC Continuance Resolution or the CCC Amalgamation Resolution, as applicable, that have not been withdrawn as at the Effective Date;
- (f) there shall not have occurred any Material Adverse Change in respect of CCC;
- (g) the board of directors of CCC shall have adopted all necessary resolutions and all other necessary corporate action shall have been taken by CCC to permit the consummation of the Amalgamation;
- (h) no act, action, suit, proceeding, objection or opposition shall have been threatened or taken against or affecting CCC before or by any Governmental Entity, whether or not having the force of law and no law, regulation, policy, judgment, decision, order, ruling or directive (whether or not having the force of law) shall have been proposed, enacted, promulgated, amended or applied, which in the sole judgment of Orca, acting reasonably, in either case has had or, if the Amalgamation was consummated, would result in a Material Adverse Change in the affairs, operations or business of CCC, Orca or AcquisitionCo or would have a Material Adverse Effect on the ability of the Parties to complete the Amalgamation;
- (i) CCC shall not be in material breach of its obligations under this Agreement; and
- (j) except as disclosed to Orca in writing prior to the Agreement Date or as publicly disclosed prior to the Agreement Date, there shall not have occurred any change after the Agreement Date or prior to the Agreement Date (or any condition, event or development involving a prospective change) in the business, affairs, operations, assets, capitalization, financial condition, prospects, licenses, permits, rights, privileges or liabilities, whether contractual or otherwise, of CCC and which, in the judgment of Orca, acting reasonably, is or would reasonably be expected to cause a Material Adverse Change with respect to CCC on a consolidated basis or would have a Material Adverse Effect on CCC on a consolidated basis.

The conditions described in this Section 10.3 are for the exclusive benefit of Orca and AcquisitionCo and may be asserted by Orca and AcquisitionCo regardless of the circumstances or may be waived by Orca and AcquisitionCo each in its sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which Orca or AcquisitionCo may have. If any of such conditions shall not be complied with or waived by Orca and AcquisitionCo on or before the Outside Date or, if earlier, the date required for the performance thereof, then, subject to Section 10.4 hereof, Orca and AcquisitionCo may rescind and terminate this Agreement by written notice to CCC in circumstances where the failure to

satisfy any such condition is not the result, directly or indirectly, of a material breach of this Agreement by Orca or AcquisitionCo.

#### **10.4 Notice and Effect of Failure to Comply with Conditions**

- (a) Each of CCC, on the one hand, and Orca and AcquisitionCo, on the other hand, shall give prompt notice to the other of the occurrence, or failure to occur, at any time from the Agreement Date to the Effective Date of any event or state of facts which occurrence or failure would, or would be likely to, (i) cause any of the representations or warranties of any Party contained herein to be untrue or inaccurate in any material respect, or (ii) result in the failure to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by any Party provided, however, that no such notification will affect the representations or warranties of the Parties or the conditions to the obligations of the Parties hereunder.
- (b) If any of the conditions precedents set forth in Sections 10.1, 10.2 or 10.3 hereof shall not be complied with or waived by the Party or Parties for whose benefit such conditions are provided on or before the date required for the performance thereof, then a Party for whose benefit the condition precedent is provided may, in addition to any other remedies they may have at law or equity, rescind and terminate this Agreement (as further provided for herein) provided that prior to the filing of the Articles of Amalgamation for the purpose of giving effect to the Amalgamation, the Party intending to rely thereon has delivered a written notice to the other Party or Parties, specifying in reasonable detail all breaches of covenants, representations and warranties or other matters which the Party delivering such notice is asserting as the basis for the non-fulfillment of the applicable conditions precedent and the Party in breach shall have failed to cure such breach within three Business Days of receipt of such written notice thereof (except that no cure period shall be provided for a breach which by its nature cannot be cured). More than one such notice may be delivered by a Party.

#### **10.5 Satisfaction of Conditions**

The conditions set out in this ARTICLE 10 are conclusively deemed to have been satisfied, waived or released when, with the agreement of the Parties, Articles of Amalgamation are filed under the BCBCA to give effect to the Amalgamation.

### **ARTICLE 11 AMENDMENT AND TERMINATION OF AGREEMENT**

#### **11.1 Amendment**

This Agreement may at any time and from time to time be amended by written agreement of the Parties without, subject to applicable Law, further notice to or authorization on the part of their respective securityholders and any such amendment may, without limitation:

- (a) change the time for performance of any of the obligations or acts of the Parties;
- (b) waive any inaccuracies or modify any representation or warranty contained herein or in any document delivered pursuant hereto;
- (c) waive compliance with or modify any of the covenants herein contained and waive or modify performance of any of the obligations of the Parties; or
- (d) waive compliance with or modify any other conditions precedent contained herein,

provided that no such amendment decreases the number of Orca Shares to be received by CCC Shareholders pursuant to the Amalgamation without approval by the CCC Shareholders given in the same manner as required for the approval of the Amalgamation.

## 11.2 Termination

- (a) This Agreement may, prior to the filing of the Articles of Amalgamation, be terminated by mutual written agreement of Orca, AcquisitionCo and CCC without further action on the part of their respective securityholders.
- (b) Notwithstanding any other rights contained herein, Orca may terminate this Agreement upon written notice to CCC if:
  - (i) the CCC Transaction Resolution is not approved by the CCC Shareholders on or before the Outside Date;
  - (ii) the Amalgamation has not become effective on or before the Outside Date;
  - (iii) CCC shall be in breach of any of its covenants, agreements or representations and warranties contained herein that would have a Material Adverse Effect on CCC or on the ability of CCC, Orca and AcquisitionCo to consummate the transactions contemplated hereby and CCC fails to cure such breach within three Business Days after receipt of written notice thereof from Orca or AcquisitionCo (except that no cure period shall be provided for a breach which by its nature cannot be cured); or
  - (iv) upon a right of termination of this Agreement by Orca and AcquisitionCo arising pursuant to Section 10.1 or 10.3 hereof,

except that the right to terminate this Agreement under this subsection (b) shall not be available to Orca if its failure to fulfill any of its obligations has been the cause of, or resulted in, the failure of the event to occur by the applicable date.

- (c) Notwithstanding any other rights contained herein, CCC may terminate this Agreement upon written notice to Orca and AcquisitionCo if:
  - (i) the Orca Fundamental Change Resolution and the Orca Special Share Resolution are not approved by the Orca Shareholders on or before the Outside Date;
  - (ii) the Amalgamation is not approved by Orca, as sole shareholder of AcquisitionCo, on or before the Outside Date;
  - (iii) the Amalgamation has not become effective on or before the Outside Date;
  - (iv) Orca or AcquisitionCo shall be in breach of any of its covenants, agreements or representations and warranties contained herein that would have a Material Adverse Effect on Orca or on the ability of Orca, AcquisitionCo and CCC to consummate the transactions contemplated hereby and Orca or AcquisitionCo fails to cure such breach within three Business Days after receipt of written notice thereof from CCC (except that no cure period shall be provided for a breach which by its nature cannot be cured); or
  - (v) upon a right of termination of this Agreement by CCC arising pursuant to Section 10.1 or 10.2 hereof,

except that the right to terminate this Agreement under this subsection (c) shall not be available to CCC if its failure to fulfill any of its obligations has been the cause of, or resulted in, the failure of the event to occur by the applicable date.

- (d) If this Agreement is terminated pursuant to any provision of this Agreement, the Parties shall return all materials and copies of all materials delivered to CCC or Orca, as the case may be, or their agents. Except for the obligations set forth in Sections 7.2, 8.2, 11.2, 11.3, 11.4 and 11.5 which shall survive any termination of this Agreement and continue in full force and effect, no Party shall have any further obligations to any other Party hereunder with respect to this Agreement.

### **11.3 CCC Non-Completion Fee**

If at any time after the Agreement Date (and provided there is no material breach or non-performance by Orca of a material provision of this Agreement in any respect) and prior to termination hereof, any of the following occur:

- (a) the CCC board of directors (i) fails to recommend that CCC Shareholders vote in favour of the CCC Transaction Resolution, (ii) withdraws, modifies or changes any of its recommendations, approvals, resolutions or determinations in respect of the Amalgamation in a manner adverse to the Amalgamation or to Orca, or shall have resolved to do so, or (iii) fails to promptly reaffirm any of its recommendations, approvals, resolutions or determinations in respect of the Amalgamation within 72 hours of the request of Orca to do so; or
- (b) CCC breaches any of its covenants, representations or warranties made in this Agreement (without giving effect to the materiality qualifiers contained therein) which breach individually or in the aggregate causes or would reasonably be expected to cause a Material Adverse Change in respect of CCC or materially impede the completion of the Amalgamation, and CCC fails to cure such breach within ten (10) Business Days after receipt of written notice thereof from Orca (except that no cure period shall be provided for a breach which by its nature cannot be cured and, in no event, shall any cure period extend beyond the Outside Date),

CCC shall pay an amount equal to \$50,000 (the "**CCC Non-Completion Fee**") in immediately available funds to or to an account designated by Orca within three (3) Business Days after the first to occur of one of the events described above. On the date of the earliest event described above in this Section 11.3, CCC shall be deemed to hold such sum in trust for Orca. For greater certainty, the CCC Non-Completion Fee shall only be required to be paid to Orca once pursuant to the foregoing provisions.

### **11.4 Orca Non-Completion Fee**

If at any time after the Agreement Date (and provided there is no material breach or non-performance by CCC of a material provision of this Agreement in any respect) and prior to termination hereof, any of the following occur:

- (a) the Orca board of directors (i) fails to recommend that Orca Shareholders vote in favour of the Orca Fundamental Change Resolution and the Orca Special Share Resolution, (ii) withdraws, modifies or changes any of its recommendations, approvals, resolutions or determinations in respect of the Amalgamation in a manner adverse to the Amalgamation or to CCC, or shall have resolved to do so, or (iii) fails to promptly reaffirm any of its recommendations, approvals, resolutions or determinations in respect of the Amalgamation within 72 hours of the request of CCC to do so;
- (b) (i) a *bona fide* Acquisition Proposal (or bona fide intention to make one) is publicly announced, proposed, offered or made to the Orca Shareholders or to Orca or any Person shall have publicly announced an intention to make a *bona fide* Acquisition Proposal prior to the termination of this

Agreement; (ii) after such Acquisition Proposal shall have been made known, made or announced, the Orca Shareholders do not approve the Amalgamation, the Amalgamation is not submitted for their approval or the Amalgamation is not otherwise completed in the manner contemplated in this Agreement; and (iii) within twelve months of the date the first Acquisition Proposal is publicly announced, proposed, offered or made a definitive agreement relating to any Acquisition Proposal is entered into or any Acquisition Proposal is consummated or effected;

- (c) Orca accepts, recommends, approves or enters into an agreement to implement an Acquisition Proposal or otherwise breaches any of its covenants or terminates this Agreement pursuant to Section 11.2; or
- (d) Orca or AcquisitionCo breaches any of its covenants, representations or warranties made in this Agreement (without giving effect to the materiality qualifiers contained therein) which breach individually or in the aggregate causes or would reasonably be expected to cause a Material Adverse Change in respect of Orca or AcquisitionCo or materially impede the completion of the Amalgamation, and Orca or AcquisitionCo, as applicable, fails to cure such breach within ten (10) Business Days after receipt of written notice thereof from CCC (except that no cure period shall be provided for a breach which by its nature cannot be cured and, in no event, shall any cure period extend beyond the Outside Date),

Orca shall pay an amount equal to \$50,000 (the "**Orca Non-Completion Fee**") in immediately available funds to or to an account designated by CCC within three (3) Business Days after the first to occur of one of the events described above. On the date of the earliest event described above in this Section 11.4, Orca shall be deemed to hold such sum in trust for CCC. For greater certainty, the Orca Non-Completion Fee shall only be required to be paid to CCC once pursuant to the foregoing provisions.

#### **11.5 Liquidated Damages**

Each Party acknowledges that the payment of the amount set out in Section 11.3 or 11.4 is payment of liquidated damages which is a genuine pre-estimate of the damages which Orca or CCC, as applicable, will suffer or incur as a result of the event giving rise to such damages and resultant termination of this Agreement and is not a penalty. Each Party irrevocably waives any right it may have to raise as a defence that any such liquidated damages are excessive or punitive. For greater certainty, each Party agrees that if the payment of any amounts pursuant to Section 11.3 or 11.4, as applicable, is made to such Party, such payment is the sole monetary remedy of such Party; provided, however, that this limitation shall not apply in the event of fraud or willful breach of this Agreement by the other Party. Nothing herein shall preclude either Party from seeking injunctive relief to restrain any breach or threatened breach of the covenants or agreements set forth in this Agreement or otherwise to obtain specific performance of any of such act, covenants or agreements, without the necessity of posting bond or security in connection therewith.

### **ARTICLE 12 CLOSING**

#### **12.1 Effective Date**

The Effective Date shall be the date selected by Orca, AcquisitionCo and CCC, which in any event shall be on or before the Outside Date, and on such date the Effective Date shall occur in accordance with Section 12.2 and 12.3.

#### **12.2 Effect of Closing**

On the Effective Date, as promptly as practicable after the satisfaction or, to the extent permitted hereunder, the waiver of the conditions set forth in ARTICLE 10, the Parties shall cause the



Amalgamation to be consummated by the filing of the Articles of Amalgamation and any other necessary documents prepared in accordance with the provisions of this Agreement.

### **12.3 Place of Closing**

Subject to the termination of this Agreement as provided in ARTICLE 11, the closing of the transactions contemplated by this Agreement (the "**Closing**") will take place at the offices of Norton Rose Fulbright Canada LLP, 400 – 3<sup>rd</sup> Avenue S.W., Suite 3700, Calgary, Alberta on the Effective Date.

### **12.4 Other Closing Matters**

In addition to the other matters required to be delivered under the terms and conditions of this Agreement, each of Orca, AcquisitionCo and CCC shall deliver, at the Closing, such customary certificates, resolutions and other closing documents as may be required by the other Party, acting reasonably.

## **ARTICLE 13 GENERAL PROVISIONS**

### **13.1 Standstill Agreement**

As long as this Agreement is in effect and except as contemplated herein, Orca (including its directors, officers and agents) will not solicit any discussions, expressions of interest, proposals or accept any offers from any Person relating to any Acquisition Proposal; provided however that the board of directors of Orca may take action or refrain from taking action as is appropriate to satisfy applicable fiduciary duties and none of the covenants of Orca contained herein shall prevent the board of directors of Orca from taking such action.

### **13.2 Disclosure of Alternative Transaction**

In the event Orca shall receive an unsolicited Acquisition Proposal in connection with any of those matters referred to in Section 13.1 hereof on or before the date of the termination of this Agreement, Orca shall notify CCC and shall provide details of such Acquisition Proposal to CCC.

### **13.3 Notices**

All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed to have been duly given or made as of the date delivered if delivered personally and as of the date received if sent by cable, telegram, telecopier, email, telex, mail or courier to the Parties at the following addresses (or at such other addresses as shall be specified by the Parties by like notice):

(a) to Orca or AcquisitionCo, addressed to:

Orca Touchscreen Technologies Ltd.  
6F – 535 Howe Street  
Vancouver, British Columbia V6C 2Z4  
Attention: Brian Gusko  
E-mail: **[REDACTED: Personal information – email address]**

(b) to CCC, addressed to:

Cultivator Catalyst Corp.  
480 University Avenue, Suite 1401

Toronto, Ontario M5G 1V2  
Attention: Khurram Malik  
E-mail: **[REDACTED: Personal information – email address]**

with a copy to:

Norton Rose Fulbright Canada LLP  
400 – 3<sup>rd</sup> Avenue S.W., Suite 3700  
Calgary, Alberta T2P 4H2  
Attention: Justin Pettigrew  
Facsimile: **[REDACTED: Personal information – facsimile address]**  
E-mail: **[REDACTED: Personal information – email address]**

#### **13.4 Time of Essence**

Time shall be of the essence in this Agreement.

#### **13.5 Entire Agreement**

This Agreement and any other subsequent written agreement between the Parties, constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, between the Parties with respect to the subject matter hereof.

#### **13.6 Assignment**

Except as expressly permitted by the terms hereof, neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the Parties without the prior written consent of the other Parties.

#### **13.7 Expenses**

The Parties agree that all out of pocket third party transaction expenses of the Amalgamation, including legal fees, regulatory filing fees, all fees and disbursements by advisors, printing and mailing costs, and all other costs and expenses relating to the Amalgamation shall be paid by the Party incurring such expenses.

#### **13.8 Binding Effect**

This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective successors and permitted assigns.

#### **13.9 Further Assurances**

Each Party shall, from time to time, and at all times hereafter, at the request of the other Parties, but without further consideration, do all such further acts and execute and deliver all such further documents and instruments as shall be reasonably required in order to fully perform and carry out the terms and intent hereof.

#### **13.10 Severability**

If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties

shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

### **13.11 Waiver**

No waiver by any Party shall be effective unless in writing and any waiver shall affect only the matter, and the occurrence thereof, specifically identified and shall not extend to any other matter or occurrence.

### **13.12 Counterpart Execution**

This Agreement may be executed by facsimile or other electronic means and in any number of counterparts and each such counterpart shall be deemed to be an original instrument but all such counterparts together shall constitute one and the same Agreement.

*[Remainder of page intentionally left blank.]*

**IN WITNESS WHEREOF**, Orca, AcquisitionCo and CCC have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

**ORCA TOUCHSCREEN TECHNOLOGIES LTD.**

Per: (signed) "Brian Gusko"  
Name: Brian Gusko  
Title: Chief Executive Officer

**CULTIVATOR CATALYST CORP.**

Per: (signed) "Khurram Malik"  
Name: Khurram Malik  
Title: President

**1151856 B.C. LTD.**

Per: (signed) "Brian Gusko"  
Name: Brian Gusko  
Title: Director

**APPENDIX A**  
**FORM 13 – AMALGAMATION APPLICATION**



**BRITISH COLUMBIA**  
The Best Place on Earth

**Ministry of Finance**  
BC Registry Services

Mailing Address:  
PO Box 9431 Stn Prov Govt  
Victoria, BC V8W 9V3  
Location:  
2nd Floor - 940 Blanshard Street  
Victoria BC  
[www.fin.gov.bc.ca/registries](http://www.fin.gov.bc.ca/registries)

**AMALGAMATION APPLICATION**  
**FORM 13 - BC COMPANY**  
Sections 275  
*Business Corporations Act*

Telephone: 250 356-8626

**DO NOT MAIL THIS FORM to the BC Registry Services unless you are instructed to do so by registry staff. The Regulation under the *Business Corporations Act* requires the electronic version of this form to be filed on the Internet at [www.corporateonline.gov.bc.ca](http://www.corporateonline.gov.bc.ca)**

***Freedom of Information and Protection of Privacy Act (FOIPPA):***  
Personal information provided on this form is collected, used and disclosed under the authority of the *FOIPPA* and the *Business Corporations Act* for the purposes of assessment. Questions regarding the collection, use and disclosure of personal information can be directed to the Executive Coordinator of the BC Registry Services at 250 356-1198, PO Box 9431 Stn Prov Govt, Victoria BC V8W 9V3.

**A. INITIAL INFORMATION** – *When the amalgamation is complete, your company will be a BC limited company.*

What kind of company(ies) will be involved in the amalgamation?  
(Check all applicable boxes.)

BC company

BC unlimited liability company

**B. NAME OF COMPANY** – *Choose one of the following:*

The name \_\_\_\_\_ is the name reserved for the amalgamated company. The name reservation number is: NR\_\_\_\_\_, OR

The company is to be amalgamated with a name created by adding “B.C. Ltd.” after the incorporation number, OR

The amalgamated company is to adopt, as its name, the name of one of the amalgamating companies.  
The name of the amalgamating company being adopted is: CULTIVATOR CATALYST CORP.

\_\_\_\_\_   
The continuation number of that company is: \_\_\_\_\_

*Please note: If you want the name of an amalgamating corporation that is a foreign corporation, you must obtain a name approval before completing this amalgamation application.*

**C. AMALGAMATION STATEMENT** – *Please indicate the statement applicable to the amalgamation.*

**With Court Approval:**  
This amalgamation has been approved by the court and a copy of the entered court order approving the amalgamation has been obtained and has been deposited in the records office of each of the amalgamating companies.

**OR**

**Without Court Approval:**  
This amalgamation has been effected without court approval. A copy of all of the required affidavits under section 277(1) have been obtained and the affidavit obtained from each amalgamating company has been deposited in that company’s records office.

**D. AMALGAMATION EFFECTIVE DATE** – Choose **one** of the following:

- The amalgamation is to take effect at the time that this application is filed with the registrar.
- The amalgamation is to take effect at 12:01 a.m. Pacific Time on \_\_\_\_\_ being a date that is not more than ten days after the date of the filing of this application.
- The amalgamation is to take effect at \_\_\_\_\_  a.m. or  p.m. Pacific Time on \_\_\_\_\_ being a date and time that is not more than ten days after the date of the filing of this application.

**E. AMALGAMATING CORPORATIONS**

Enter the name of each amalgamating corporation below. For each company, enter the incorporation number. If the amalgamating corporation is a foreign corporation, enter the foreign corporation's jurisdiction and if registered in BC as an extraprovincial company, enter the extraprovincial company's registration number. Attach an additional sheet if more space is required.

NAME OF AMALGAMATING CORPORATION	BC INCORPORATION NUMBER, OR EXTRAPROVINCIAL REGISTRATION NUMBER IN BC	FOREIGN CORPORATION'S JURISDICTION
1. CULTIVATOR CATALYST CORP.		
2. 1151856 B.C. LTD.	BC1151856	

**F. FORMALITIES TO AMALGAMATION**

If any amalgamating corporation is a foreign corporation, section 275 (1)(b) requires an authorization for the amalgamation from the foreign corporation's jurisdiction to be filed.

- This is to confirm that each authorization for the amalgamation required under section 275(1)(b) is being submitted for filing concurrently with this application.

**G. CERTIFIED CORRECT** – I have read this form and found it to be correct.

This form must be signed by an authorized signing authority for each of the amalgamating companies as set out in Item E.

NAME OF AUTHORIZED SIGNING AUTHORITY FOR THE AMALGAMATING CORPORATION	SIGNATURE OF AUTHORIZED SIGNING AUTHORITY FOR THE AMALGAMATING CORPORATION	DATE SIGNED (YYYY / MM / DD)
<b>1. KHURRAM MALIK</b>	(signed) " <i>Khurram Malik</i> "	
NAME OF AUTHORIZED SIGNING AUTHORITY FOR THE AMALGAMATING CORPORATION	SIGNATURE OF AUTHORIZED SIGNING AUTHORITY FOR THE AMALGAMATING CORPORATION	DATE SIGNED (YYYY / MM / DD)
<b>2. BRIAN GUSKO</b>	(signed) " <i>Brian Gusko</i> "	
NAME OF AUTHORIZED SIGNING AUTHORITY FOR THE AMALGAMATING CORPORATION	SIGNATURE OF AUTHORIZED SIGNING AUTHORITY FOR THE AMALGAMATING CORPORATION	DATE SIGNED (YYYY / MM / DD)

## NOTICE OF ARTICLES

### A. NAME OF COMPANY

Set out the name of the company as set out in Item B of the Amalgamation Application.

CULTIVATOR CATALYST CORP.

### B. TRANSLATION OF COMPANY NAME

Set out every translation of the company name that the company intends to use outside of Canada.

N/A

### C. DIRECTOR NAME(S) AND ADDRESS(ES)

Set out the full name, delivery address and mailing address (if different) of every director of the company. The director may select to provide either (a) the delivery address and, if different, the mailing address for the office at which the individual can usually be served with records between 9 a.m. and 4 p.m. on business days or (b) the delivery address and, if different, the mailing address of the individual's residence. The delivery address must not be a post office box. Attach an additional sheet if more space is required.

LAST NAME	FIRST NAME	MIDDLE NAME	DELIVERY ADDRESS INCLUDING PROVINCE/STATE, COUNTRY AND POSTAL/ZIP CODE	MAILING ADDRESS INCLUDING PROVINCE/STATE, COUNTRY AND POSTAL/ZIP CODE
SMITHERMAN, George			[REDACTED – Personal information: director address]	
JAMES, Brett			[REDACTED – Personal information: director address]	

### D. REGISTERED OFFICE ADDRESSES

DELIVERY ADDRESS OF THE COMPANY'S REGISTERED OFFICE (INCLUDING BC and POSTAL CODE)

1800 - 510 West Georgia Street, Vancouver, BC V6B 0M3

MAILING ADDRESS OF THE COMPANY'S REGISTERED OFFICE (INCLUDING BC and POSTAL CODE)

1800 - 510 West Georgia Street, Vancouver, BC V6B 0M3

### E. RECORDS OFFICE ADDRESSES

DELIVERY ADDRESS OF THE COMPANY'S RECORDS OFFICE (INCLUDING BC and POSTAL CODE)

1800 - 510 West Georgia Street, Vancouver, BC V6B 0M3

MAILING ADDRESS OF THE COMPANY'S RECORDS OFFICE (INCLUDING BC and POSTAL CODE)

1800 - 510 West Georgia Street, Vancouver, BC V6B 0M3

### F. AUTHORIZED SHARE STRUCTURE

Identifying name of class or series of shares	Maximum number of shares of this class or series of shares that the company is authorized to issue, or indicate there is no maximum number	Kind of shares of this class or series of shares		Are there special rights or restrictions attached to the shares of this class or series of shares?
	MAXIMUM NUMBER OF SHARES AUTHORIZED OR NO MAXIMUM NUMBER	PAR VALUE OR WITHOUT PAR VALUE	TYPE OF CURRENCY	YES/NO
Common	No maximum number	Without par value	N/A	No



**APPENDIX B  
ARTICLES OF AMALCO**

**CULTIVATOR CATALYST CORP.**  
(the “Company”)

The Company has as its articles the following articles.

Full name and signature of a director of the Company	Date of signing
Signature of director: (signed) “ <i>George Smitherman</i> ” Print full name: George Smitherman	_____, 2018

Amalgamation Certificate Number: \_\_\_\_\_

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**PROVINCE OF BRITISH COLUMBIA  
BUSINESS CORPORATIONS ACT  
ARTICLES OF  
CULTIVATOR CATALYST CORP.**

**1. INTERPRETATION**

**1.1 Definitions**

In these Articles, unless the context otherwise requires:

- (1) “board of directors”, “directors” and “board” mean the directors or sole director of the Company for the time being;
- (2) “*Business Corporations Act*” means the *Business Corporations Act* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act;
- (3) “legal personal representative” means the personal or other legal representative of the shareholder;
- (4) “registered address” of a shareholder means the shareholder’s address as recorded in the central securities register;
- (5) “seal” means the seal of the Company, if any.

**1.2 Business Corporations Act and Interpretation Act Definitions Applicable**

The definitions in the *Business Corporations Act* and the definitions and rules of construction in the *Interpretation Act*, with the necessary changes, so far as applicable, and unless the context requires otherwise, apply to these Articles as if they were an enactment. If there is a conflict between a definition in the *Business Corporations Act* and a definition or rule in the *Interpretation Act* relating to a term used in these Articles, the definition in the *Business Corporations Act* will prevail in relation to the use of the term in these Articles. If there is a conflict between these Articles and the *Business Corporations Act*, the *Business Corporations Act* will prevail.

**2. SHARES AND SHARE CERTIFICATES**

**2.1 Authorized Share Structure**

The authorized share structure of the Company consists of shares of the class or classes and series, if any, described in the Notice of Articles of the Company.

**2.2 Form of Share Certificate**

Each share certificate issued by the Company must comply with, and be signed as required by, the *Business Corporations Act*.

**2.3 Share Certificate or Acknowledgment**

Unless the directors, by resolution, provide otherwise each shareholder is entitled, without charge, to (a) one share certificate representing the shares of each class or series of shares registered in the shareholder’s name or (b) a non-transferable written acknowledgment of the shareholder’s right to



obtain such a share certificate, provided that in respect of a share held jointly by several persons, the Company is not bound to issue more than one share certificate and delivery of a share certificate for a share to one of several joint shareholders or to one of the shareholders' duly authorized agents will be sufficient delivery to all.

#### **2.4 Delivery by Mail**

Any share certificate or non-transferable written acknowledgment of a shareholder's right to obtain a share certificate may be sent to the shareholder by mail at the shareholder's registered address and neither the Company nor any director, officer or agent of the Company is liable for any loss to the shareholder because the share certificate or acknowledgement is lost in the mail or stolen.

#### **2.5 Replacement of Worn Out or Defaced Certificate or Acknowledgement**

If the directors are satisfied that a share certificate or a non-transferable written acknowledgment of the shareholder's right to obtain a share certificate is worn out or defaced, they must, on production to them of the share certificate or acknowledgment, as the case may be, and on such other terms, if any, as they think fit:

- (1) order the share certificate or acknowledgment, as the case may be, to be cancelled; and
- (2) issue a replacement share certificate or acknowledgment, as the case may be.

#### **2.6 Replacement of Lost, Stolen or Destroyed Certificate or Acknowledgment**

If a share certificate or a non-transferable written acknowledgment of a shareholder's right to obtain a share certificate is lost, stolen or destroyed, a replacement share certificate or acknowledgment, as the case may be, must be issued to the person entitled to that share certificate or acknowledgment, as the case may be, if the directors receive:

- (1) proof satisfactory to them that the share certificate or acknowledgment is lost, stolen or destroyed; and
- (2) any indemnity the directors consider adequate.

#### **2.7 Splitting Share Certificates**

If a shareholder surrenders a share certificate to the Company with a written request that the Company issue in the shareholder's name two or more share certificates, each representing a specified number of shares and in the aggregate representing the same number of shares as the share certificate so surrendered, the Company must cancel the surrendered share certificate and issue replacement share certificates in accordance with that request.

#### **2.8 Certificate Fee**

There must be paid to the Company, in relation to the issue of any share certificate under Articles 2.5, 2.6 or 2.7, the amount, if any and which must not exceed the amount prescribed under the *Business Corporations Act*, determined by the directors.

#### **2.9 Recognition of Trusts**

Except as required by law or statute or these Articles, no person will be recognized by the Company as holding any share upon any trust, and the Company is not bound by or compelled in any way to recognize (even when having notice thereof) any equitable, contingent, future or partial interest in any share or fraction of a share or (except as by law or statute or these Articles provided or as ordered by

a court of competent jurisdiction) any other rights in respect of any share except an absolute right to the entirety thereof in the shareholder.

### **3. ISSUE OF SHARES**

#### **3.1 Directors Authorized**

Subject to the *Business Corporations Act* and the rights of the holders of issued shares of the Company, the Company may issue, allot, sell or otherwise dispose of the unissued shares, and issued shares held by the Company, at the times, to the persons, including directors, in the manner, on the terms and conditions and for the issue prices (including any premium at which shares with par value may be issued) that the directors may determine. The issue price for a share with par value must be equal to or greater than the par value of the share.

#### **3.2 Commissions and Discounts**

The Company may at any time pay a reasonable commission or allow a reasonable discount to any person in consideration of that person purchasing or agreeing to purchase shares of the Company from the Company or any other person or procuring or agreeing to procure purchasers for shares of the Company.

#### **3.3 Brokerage**

The Company may pay such brokerage fee or other consideration as may be lawful for or in connection with the sale or placement of its securities.

#### **3.4 Conditions of Issue**

Except as provided for by the *Business Corporations Act*, no share may be issued until it is fully paid. A share is fully paid when:

- (1) consideration is provided to the Company for the issue of the share by one or more of the following:
  - (a) past services performed for the Company;
  - (b) property;
  - (c) money; and
  - (d) the value of the consideration received by the Company equals or exceeds the issue price set for the share under Article 3.1.

#### **3.5 Share Purchase Warrants and Rights**

Subject to the *Business Corporations Act*, the Company may issue share purchase warrants, options and rights upon such terms and conditions as the directors determine, which share purchase warrants, options and rights may be issued alone or in conjunction with debentures, debenture stock, bonds, shares or any other securities issued or created by the Company from time to time.

## **4. SHARE REGISTERS**

### **4.1 Central Securities Register**

As required by and subject to the *Business Corporations Act*, the Company must maintain in British Columbia a central securities register. The directors may, subject to the *Business Corporations Act*, appoint an agent to maintain the central securities register. The directors may also appoint one or more agents, including the agent which keeps the central securities register, as transfer agent for its shares or any class or series of its shares, as the case may be, and the same or another agent as registrar for its shares or such class or series of its shares, as the case may be. The directors may terminate such appointment of any agent at any time and may appoint another agent in its place.

### **4.2 Closing Register**

The Company must not at any time close its central securities register.

## **5. SHARE TRANSFERS**

### **5.1 Registering Transfers**

A transfer of a share of the Company must not be registered unless:

- (1) a duly signed instrument of transfer in respect of the share has been received by the Company;
- (2) if a share certificate has been issued by the Company in respect of the share to be transferred, that share certificate has been surrendered to the Company; and
- (3) if a non-transferable written acknowledgment of the shareholder's right to obtain a share certificate has been issued by the Company in respect of the share to be transferred, that acknowledgment has been surrendered to the Company.

### **5.2 Form of Instrument of Transfer**

The instrument of transfer in respect of any share of the Company must be either in the form, if any, on the back of the Company's share certificates or in any other form that may be acceptable to the directors from time to time.

### **5.3 Transferor Remains Shareholder**

Except to the extent that the *Business Corporations Act* otherwise provides, the transferor of shares is deemed to remain the holder of the shares until the name of the transferee is entered in a securities register of the Company in respect of the transfer.

### **5.4 Signing of Instrument of Transfer**

If a shareholder, or his or her duly authorized attorney, signs an instrument of transfer in respect of shares registered in the name of the shareholder, the signed instrument of transfer constitutes a complete and sufficient authority to the Company and its directors, officers and agents to register the number of shares specified in the instrument of transfer or specified in any other manner, or, if no number is specified, all the shares represented by the share certificates or set out in the written acknowledgments deposited with the instrument of transfer:

- (1) in the name of the person named as transferee in that instrument of transfer; or

- (2) if no person is named as transferee in that instrument of transfer, in the name of the person on whose behalf the instrument is deposited for the purpose of having the transfer registered.

### **5.5 Enquiry as to Title Not Required**

Neither the Company nor any director, officer or agent of the Company is bound to inquire into the title of the person named in the instrument of transfer as transferee or, if no person is named as transferee in the instrument of transfer, of the person on whose behalf the instrument is deposited for the purpose of having the transfer registered or is liable for any claim related to registering the transfer by the shareholder or by any intermediate owner or holder of the shares, of any interest in the shares, of any share certificate representing such shares or of any written acknowledgment of a right to obtain a share certificate for such shares.

### **5.6 Transfer Fee**

There must be paid to the Company, in relation to the registration of any transfer, the amount, if any, determined by the directors.

## **6. TRANSMISSION OF SHARES**

### **6.1 Legal Personal Representative Recognized on Death**

In case of the death of a shareholder, the legal personal representative, or if the shareholder was a joint holder, the surviving joint holder, will be the only person recognized by the Company as having any title to the shareholder's interest in the shares. Before recognizing a person as a legal personal representative, the directors may require proof of appointment by a court of competent jurisdiction, a grant of letters probate, letters of administration or such other evidence or documents as the directors consider appropriate.

### **6.2 Rights of Legal Personal Representative**

The legal personal representative has the same rights, privileges and obligations that attach to the shares held by the shareholder, including the right to transfer the shares in accordance with these Articles, provided the documents required by the *Business Corporations Act* and the directors have been deposited with the Company.

## **7. PURCHASE OF SHARES**

### **7.1 Company Authorized to Purchase Shares**

Subject to Article 7.2, the special rights and restrictions attached to the shares of any class or series and the *Business Corporations Act*, the Company may, if authorized by the directors, purchase or otherwise acquire any of its shares at the price and upon the terms specified in such resolution.

### **7.2 Purchase When Insolvent**

The Company must not make a payment or provide any other consideration to purchase or otherwise acquire any of its shares if there are reasonable grounds for believing that:

- (1) the Company is insolvent; or
- (2) making the payment or providing the consideration would render the Company insolvent.

### **7.3 Sale and Voting of Purchased Shares**

If the Company retains a share redeemed, purchased or otherwise acquired by it, the Company may sell, gift or otherwise dispose of the share, but, while such share is held by the Company, it:

- (1) is not entitled to vote the share at a meeting of its shareholders;
- (2) must not pay a dividend in respect of the share; and
- (3) must not make any other distribution in respect of the share.

## **8. BORROWING POWERS**

The Company, if authorized by the directors, may:

- (1) borrow money in the manner and amount, on the security, from the sources and on the terms and conditions that they consider appropriate;
- (2) issue bonds, debentures and other debt obligations either outright or as security for any liability or obligation of the Company or any other person and at such discounts or premiums and on such other terms as they consider appropriate;
- (3) guarantee the repayment of money by any other person or the performance of any obligation of any other person; and
- (4) mortgage, charge, whether by way of specific or floating charge, grant a security interest in, or give other security on, the whole or any part of the present and future assets and undertaking of the Company.

## **9. ALTERATIONS**

### **9.1 Alteration of Authorized Share Structure**

Subject to Article 9.2 and the *Business Corporations Act*, the Company may by special resolution:

- (1) create one or more classes or series of shares or, if none of the shares of a class or series of shares are allotted or issued, eliminate that class or series of shares;
- (2) increase, reduce or eliminate the maximum number of shares that the Company is authorized to issue out of any class or series of shares or establish a maximum number of shares that the Company is authorized to issue out of any class or series of shares for which no maximum is established;
- (3) subdivide or consolidate all or any of its unissued, or fully paid issued, shares;
- (4) if the Company is authorized to issue shares of a class of shares with par value:
  - (a) decrease the par value of those shares; or
  - (b) if none of the shares of that class of shares are allotted or issued, increase the par value of those shares;
- (5) change all or any of its unissued, or fully paid issued, shares with par value into shares without par value or any of its unissued shares without par value into shares with par value;

- (6) alter the identifying name of any of its shares; or
- (7) otherwise alter its shares or authorized share structure when required or permitted to do so by the *Business Corporations Act*.

## **9.2 Special Rights and Restrictions**

Subject to the *Business Corporations Act*, the Company may by special resolution:

- (1) create special rights or restrictions for, and attach those special rights or restrictions to, the shares of any class or series of shares, whether or not any or all of those shares have been issued; or
- (2) vary or delete any special rights or restrictions attached to the shares of any class or series of shares, whether or not any or all of those shares have been issued.

## **9.3 Change of Name**

The Company may by special resolution authorize an alteration of its Notice of Articles in order to change its name.

## **9.4 Other Alterations**

If the *Business Corporations Act* does not specify the type of resolution and these Articles do not specify another type of resolution, the Company may by special resolution alter these Articles.

# **10. MEETINGS OF SHAREHOLDERS**

## **10.1 Annual General Meetings**

Unless an annual general meeting is deferred or waived in accordance with the *Business Corporations Act*, the Company must hold its first annual general meeting within 18 months after the date on which it was incorporated or otherwise recognized, and after that must hold an annual general meeting at least once in each calendar year and not more than 15 months after the last annual reference date at such time and place as may be determined by the directors.

## **10.2 Resolution Instead of Annual General Meeting**

If all the shareholders who are entitled to vote at an annual general meeting consent by a unanimous resolution under the *Business Corporations Act* to all of the business that is required to be transacted at that annual general meeting, the annual general meeting is deemed to have been held on the date of the unanimous resolution. The shareholders must, in any unanimous resolution passed under this Article 10.2, select as the Company's annual reference date a date that would be appropriate for the holding of the applicable annual general meeting.

## **10.3 Calling of Meetings of Shareholders**

The directors may, whenever they think fit, call a meeting of shareholders.

## **10.4 Notice for Meetings of Shareholders**

The Company must send notice of the date, time and location of any meeting of shareholders, in the manner provided in these Articles, or in such other manner, if any, as may be prescribed by ordinary resolution (whether previous notice of the resolution has been given or not), to each shareholder

entitled to attend the meeting, to each director and to the auditor of the Company, unless these Articles otherwise provide, at least the following number of days before the meeting:

- (1) if and for so long as the Company is a public company, 21 days;
- (2) otherwise, 10 days.

#### **10.5 Record Date for Notice**

The directors may set a date as the record date for the purpose of determining shareholders entitled to notice of any meeting of shareholders. The record date must not precede the date on which the meeting is to be held by more than two months or, in the case of a general meeting requisitioned by shareholders under the *Business Corporations Act*, by more than four months. The record date must not precede the date on which the meeting is held by fewer than:

- (1) if and for so long as the Company is a public company, 21 days;
- (2) otherwise, 10 days.

If no record date is set, the record date is 5 p.m. on the day immediately preceding the first date on which the notice is sent or, if no notice is sent, the beginning of the meeting.

#### **10.6 Record Date for Voting**

The directors may set a date as the record date for the purpose of determining shareholders entitled to vote at any meeting of shareholders. The record date must not precede the date on which the meeting is to be held by more than two months or, in the case of a general meeting requisitioned by shareholders under the *Business Corporations Act*, by more than four months. If no record date is set, the record date is 5 p.m. on the day immediately preceding the first date on which the notice is sent or, if no notice is sent, the beginning of the meeting.

#### **10.7 Failure to Give Notice and Waiver of Notice**

The accidental omission to send notice of any meeting to, or the non-receipt of any notice by, any of the persons entitled to notice does not invalidate any proceedings at that meeting. Any person entitled to notice of a meeting of shareholders may, in writing or otherwise, waive or reduce the period of notice of such meeting.

#### **10.8 Notice of Special Business at Meetings of Shareholders**

If a meeting of shareholders is to consider special business within the meaning of Article 11.1, the notice of meeting must:

- (1) state the general nature of the special business; and
- (2) if the special business includes considering, approving, ratifying, adopting or authorizing any document or the signing of or giving of effect to any document, have attached to it a copy of the document or state that a copy of the document will be available for inspection by shareholders:
  - (a) at the Company's records office, or at such other reasonably accessible location in British Columbia as is specified in the notice; and
  - (b) during statutory business hours on any one or more specified days before the day set for the holding of the meeting.

## **11. PROCEEDINGS AT MEETINGS OF SHAREHOLDERS**

### **11.1 Special Business**

At a meeting of shareholders, the following business is special business:

- (1) at a meeting of shareholders that is not an annual general meeting, all business is special business except business relating to the conduct of or voting at the meeting;
- (2) at an annual general meeting, all business is special business except for the following:
  - (a) business relating to the conduct of or voting at the meeting;
  - (b) consideration of any financial statements of the Company presented to the meeting;
  - (c) consideration of any reports of the directors or auditor;
  - (d) the setting or changing of the number of directors;
  - (e) the election or appointment of directors;
  - (f) the appointment of an auditor;
  - (g) the setting of the remuneration of an auditor;
  - (h) business arising out of a report of the directors not requiring the passing of a special resolution or an exceptional resolution;
  - (i) any other business which, under these Articles or the *Business Corporations Act*, may be transacted at a meeting of shareholders without prior notice of the business being given to the shareholders.

### **11.2 Special Majority**

The majority of votes required for the Company to pass a special resolution at a meeting of shareholders is two-thirds of the votes cast on the resolution.

### **11.3 Quorum**

Subject to the special rights and restrictions attached to the shares of any class or series of shares, the quorum for the transaction of business at a meeting of shareholders is two persons who are, or who represent by proxy, shareholders who, in the aggregate, hold at least 5% of the issued shares entitled to be voted at the meeting.

### **11.4 One Shareholder May Constitute Quorum**

If there is only one shareholder entitled to vote at a meeting of shareholders:

- (1) the quorum is one person who is, or who represents by proxy, that shareholder, and
- (2) that shareholder, present in person or by proxy, may constitute the meeting.



### **11.5 Other Persons May Attend**

The directors, the president (if any), the secretary (if any), the assistant secretary (if any), any lawyer for the Company, the auditor of the Company and any other persons invited by the directors are entitled to attend any meeting of shareholders, but if any of those persons does attend a meeting of shareholders, that person is not to be counted in the quorum and is not entitled to vote at the meeting unless that person is a shareholder or proxy holder entitled to vote at the meeting.

### **11.6 Requirement of Quorum**

No business, other than the election of a chair of the meeting and the adjournment of the meeting, may be transacted at any meeting of shareholders unless a quorum of shareholders entitled to vote is present at the commencement of the meeting, but such quorum need not be present throughout the meeting.

### **11.7 Lack of Quorum**

If, within one-half hour from the time set for the holding of a meeting of shareholders, a quorum is not present:

- (1) in the case of a general meeting requisitioned by shareholders, the meeting is dissolved, and
- (2) in the case of any other meeting of shareholders, the meeting stands adjourned to the same day in the next week at the same time and place.

### **11.8 Lack of Quorum at Succeeding Meeting**

If, at the meeting to which the meeting referred to in Article 11.7(2) was adjourned, a quorum is not present within one-half hour from the time set for the holding of the meeting, the person or persons present and being, or representing by proxy, one or more shareholders entitled to attend and vote at the meeting constitute a quorum.

### **11.9 Chair**

The following individual is entitled to preside as chair at a meeting of shareholders:

- (1) the chair of the board, if any; or
- (2) if the chair of the board is absent or unwilling to act as chair of the meeting, the president, if any.

### **11.10 Selection of Alternate Chair**

If, at any meeting of shareholders, there is no chair of the board or president present within 15 minutes after the time set for holding the meeting, or if the chair of the board and the president are unwilling to act as chair of the meeting, or if the chair of the board and the president have advised the secretary, if any, or any director present at the meeting, that they will not be present at the meeting, the directors present must choose one of their number to be chair of the meeting or if all of the directors present decline to take the chair or fail to so choose or if no director is present, the shareholders entitled to vote at the meeting who are present in person or by proxy may choose any person present at the meeting to chair the meeting.

### **11.11 Adjournments**

The chair of a meeting of shareholders may, and if so directed by the meeting must, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

### **11.12 Notice of Adjourned Meeting**

It is not necessary to give any notice of an adjourned meeting or of the business to be transacted at an adjourned meeting of shareholders except that, when a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of the original meeting.

### **11.13 Decisions by Show of Hands or Poll**

Subject to the *Business Corporations Act*, every motion put to a vote at a meeting of shareholders will be decided on a show of hands unless a poll, before or on the declaration of the result of the vote by show of hands, is directed by the chair or demanded by at least one shareholder entitled to vote who is present in person or by proxy.

### **11.14 Declaration of Result**

The chair of a meeting of shareholders must declare to the meeting the decision on every question in accordance with the result of the show of hands or the poll, as the case may be, and that decision must be entered in the minutes of the meeting. A declaration of the chair that a resolution is carried by the necessary majority or is defeated is, unless a poll is directed by the chair or demanded under Article 11.13, conclusive evidence without proof of the number or proportion of the votes recorded in favour of or against the resolution.

### **11.15 Motion Need Not be Seconded**

No motion proposed at a meeting of shareholders need be seconded unless the chair of the meeting rules otherwise, and the chair of any meeting of shareholders is entitled to propose or second a motion.

### **11.16 Casting Vote**

In case of an equality of votes, the chair of a meeting of shareholders does not, either on a show of hands or on a poll, have a second or casting vote in addition to the vote or votes to which the chair may be entitled as a shareholder.

### **11.17 Manner of Taking Poll**

Subject to Article 11.18, if a poll is duly demanded at a meeting of shareholders:

- (1) the poll must be taken:
  - (a) at the meeting, or within seven days after the date of the meeting, as the chair of the meeting directs; and
  - (b) in the manner, at the time and at the place that the chair of the meeting directs;
- (2) the result of the poll is deemed to be the decision of the meeting at which the poll is demanded; and

(3) the demand for the poll may be withdrawn by the person who demanded it.

#### **11.18 Demand for Poll on Adjournment**

A poll demanded at a meeting of shareholders on a question of adjournment must be taken immediately at the meeting.

#### **11.19 Chair Must Resolve Dispute**

In the case of any dispute as to the admission or rejection of a vote given on a poll, the chair of the meeting must determine the dispute, and his or her determination made in good faith is final and conclusive.

#### **11.20 Casting of Votes**

On a poll, a shareholder entitled to more than one vote need not cast all the votes in the same way.

#### **11.21 Demand for Poll**

No poll may be demanded in respect of the vote by which a chair of a meeting of shareholders is elected.

#### **11.22 Demand for Poll Not to Prevent Continuance of Meeting**

The demand for a poll at a meeting of shareholders does not, unless the chair of the meeting so rules, prevent the continuation of a meeting for the transaction of any business other than the question on which a poll has been demanded.

#### **11.23 Retention of Ballots and Proxies**

The Company must, for at least three months after a meeting of shareholders, keep each ballot cast on a poll and each proxy voted at the meeting, and, during that period, make them available for inspection during normal business hours by any shareholder or proxyholder entitled to vote at the meeting. At the end of such three month period, the Company may destroy such ballots and proxies.

### **12. VOTES OF SHAREHOLDERS**

#### **12.1 Number of Votes by Shareholder or by Shares**

Subject to any special rights or restrictions attached to any shares and to the restrictions imposed on joint shareholders under Article 12.3:

- (1) on a vote by show of hands, every person present who is a shareholder or proxy holder and entitled to vote on the matter has one vote; and
- (2) on a poll, every shareholder entitled to vote on the matter has one vote in respect of each share entitled to be voted on the matter and held by that shareholder and may exercise that vote either in person or by proxy.

#### **12.2 Votes of Persons in Representative Capacity**

A person who is not a shareholder may vote at a meeting of shareholders, whether on a show of hands or on a poll, and may appoint a proxy holder to act at the meeting, if, before doing so, the person satisfies the chair of the meeting, or the directors, that the person is a legal personal representative or a trustee in bankruptcy for a shareholder who is entitled to vote at the meeting.

### **12.3 Votes by Joint Holders**

If there are joint shareholders registered in respect of any share:

- (1) any one of the joint shareholders may vote at any meeting, either personally or by proxy, in respect of the share as if that joint shareholder were solely entitled to it; or
- (2) if more than one of the joint shareholders is present at any meeting, personally or by proxy, and more than one of them votes in respect of that share, then only the vote of the joint shareholder present whose name stands first on the central securities register in respect of the share will be counted.

### **12.4 Legal Personal Representatives as Joint Shareholders**

Two or more legal personal representatives of a shareholder in whose sole name any share is registered are, for the purposes of Article 12.3, deemed to be joint shareholders.

### **12.5 Representative of a Corporate Shareholder**

If a corporation, that is not a subsidiary of the Company, is a shareholder, that corporation may appoint a person to act as its representative at any meeting of shareholders of the Company, and:

- (1) for that purpose, the instrument appointing a representative must:
  - (a) be received at the registered office of the Company or at any other place specified, in the notice calling the meeting, for the receipt of proxies, at least the number of business days specified in the notice for the receipt of proxies, or if no number of days is specified, two business days before the day set for the holding of the meeting; or
  - (b) be provided, at the meeting, to the chair of the meeting or to a person designated by the chair of the meeting;
- (2) if a representative is appointed under this Article 12.5:
  - (a) the representative is entitled to exercise in respect of and at that meeting the same rights on behalf of the corporation that the representative represents as that corporation could exercise if it were a shareholder who is an individual, including, without limitation, the right to appoint a proxy holder; and
  - (b) the representative, if present at the meeting, is to be counted for the purpose of forming a quorum and is deemed to be a shareholder present in person at the meeting.

Evidence of the appointment of any such representative may be sent to the Company by written instrument, fax or any other method of transmitting legibly recorded messages.

### **12.6 Proxy Provisions Do Not Apply to All Companies**

Articles 12.7 to 12.10 and Article 12.12 do not apply to the Company if and for so long as it is a public company.

### **12.7 Appointment of Proxy Holders**

Every shareholder of the Company, including a corporation that is a shareholder but not a subsidiary of the Company, entitled to vote at a meeting of shareholders of the Company may, by proxy, appoint

one or more (but not more than five) proxy holders to attend and act at the meeting in the manner, to the extent and with the powers conferred by the proxy.

### **12.8 Alternate Proxy Holders**

A shareholder may appoint one or more alternate proxy holders to act in the place of an absent proxy holder.

### **12.9 When Proxy Holder Need Not Be Shareholder**

A person must not be appointed as a proxy holder unless the person is a shareholder, although a person who is not a shareholder may be appointed as a proxy holder if:

- (1) the person appointing the proxy holder is a corporation or a representative of a corporation appointed under Article 12.5;
- (2) the Company has at the time of the meeting for which the proxy holder is to be appointed only one shareholder entitled to vote at the meeting; or
- (3) the shareholders present in person or by proxy at and entitled to vote at the meeting for which the proxy holder is to be appointed, by a resolution on which the proxy holder is not entitled to vote but in respect of which the proxy holder is to be counted in the quorum, permit the proxy holder to attend and vote at the meeting.

### **12.10 Deposit of Proxy**

A proxy for a meeting of shareholders must:

- (1) be received at the registered office of the Company or at any other place specified, in the notice calling the meeting, for the receipt of proxies, at least the number of business days specified in the notice, or if no number of days is specified, two business days before the day set for the holding of the meeting; or
- (2) unless the notice provides otherwise, be provided, at the meeting, to the chair of the meeting or to a person designated by the chair of the meeting.

A proxy may be sent to the Company by written instrument, fax or any other method of transmitting legibly recorded messages.

### **12.11 Validity of Proxy Vote**

A vote given in accordance with the terms of a proxy is valid notwithstanding the death or incapacity of the shareholder giving the proxy and despite the revocation of the proxy or the revocation of the authority under which the proxy is given, unless notice in writing of that death, incapacity or revocation is received:

- (1) at the registered office of the Company, at any time up to and including the last business day before the day set for the holding of the meeting at which the proxy is to be used; or
- (2) by the chair of the meeting, before the vote is taken.

### **12.12 Form of Proxy**

A proxy, whether for a specified meeting or otherwise, must be either in the following form or in any other form approved by the directors or the chair of the meeting:

*name of company*  
**(the "Company")**

The undersigned, being a shareholder of the Company, hereby appoints [name] or, failing that person, [name], as proxy holder for the undersigned to attend, act and vote for and on behalf of the undersigned at the meeting of shareholders of the Company to be held on [month, day, year] and at any adjournment of that meeting.

Number of shares in respect of which this proxy is given (if no number is specified, then this proxy is given in respect of all shares registered in the name of the shareholder):

\_\_\_\_\_

Signed [month, day, year]

\_\_\_\_\_  
[Signature of shareholder]

\_\_\_\_\_  
[Name of shareholder-printed]

\_\_\_\_\_

### **12.13 Revocation of Proxy**

Subject to Article 12.14, every proxy may be revoked by an instrument in writing that is:

- (1) received at the registered office of the Company at any time up to and including the last business day before the day set for the holding of the meeting at which the proxy is to be used; or
- (2) provided, at the meeting, to the chair of the meeting.

### **12.14 Revocation of Proxy Must Be Signed**

An instrument referred to in Article 12.13 must be signed as follows:

- (1) if the shareholder for whom the proxy holder is appointed is an individual, the instrument must be signed by the shareholder or his or her legal personal representative or trustee in bankruptcy;
- (2) if the shareholder for whom the proxy holder is appointed is a corporation, the instrument must be signed by the corporation or by a representative appointed for the corporation under Article 12.5.

### **12.15 Production of Evidence of Authority to Vote**

The chair of any meeting of shareholders may, but need not, inquire into the authority of any person to vote at the meeting and may, but need not, demand from that person production of evidence as to the existence of the authority to vote.

## **13. DIRECTORS**

### **13.1 First Directors; Number of Directors**

The first directors are the persons designated as directors of the Company in the Notice of Articles that applies to the Company when it is recognized under the *Business Corporations Act*. The number of directors, excluding additional directors appointed under Article 14.8, is set at:

- (1) subject to paragraphs (2) and (3), the number of directors that is equal to the number of the Company's first directors;
- (2) if the Company is a public company, the greater of three and the most recently set of:
  - (a) the number of directors set by ordinary resolution (whether or not previous notice of the resolution was given); and
  - (b) the number of directors set under Article 14.4;
- (3) if the Company is not a public company, the most recently set of:
  - (a) the number of directors set by ordinary resolution (whether or not previous notice of the resolution was given); and
  - (b) the number of directors set under Article 14.4.

### **13.2 Change in Number of Directors**

If the number of directors is set under Articles 13.1(2)(a) or 13.1(3)(a):

- (1) the shareholders may elect or appoint the directors needed to fill any vacancies in the board of directors up to that number;
- (2) if the shareholders do not elect or appoint the directors needed to fill any vacancies in the board of directors up to that number contemporaneously with the setting of that number, then the directors may appoint, or the shareholders may elect or appoint, directors to fill those vacancies.

### **13.3 Directors' Acts Valid Despite Vacancy**

An act or proceeding of the directors is not invalid merely because fewer than the number of directors set or otherwise required under these Articles is in office.

### **13.4 Qualifications of Directors**

A director is not required to hold a share in the capital of the Company as qualification for his or her office but must be qualified as required by the *Business Corporations Act* to become, act or continue to act as a director.

### **13.5 Remuneration of Directors**

The directors are entitled to the remuneration for acting as directors, if any, as the directors may from time to time determine. If the directors so decide, the remuneration of the directors, if any, will be determined by the shareholders. That remuneration may be in addition to any salary or other remuneration paid to any officer or employee of the Company as such, who is also a director.

### **13.6 Reimbursement of Expenses of Directors**

The Company must reimburse each director for the reasonable expenses that he or she may incur in and about the business of the Company.

### **13.7 Special Remuneration for Directors**

If any director performs any professional or other services for the Company that in the opinion of the directors are outside the ordinary duties of a director, or if any director is otherwise specially occupied in or about the Company's business, he or she may be paid remuneration fixed by the directors, or, at the option of that director, fixed by ordinary resolution, and such remuneration may be either in addition to, or in substitution for, any other remuneration that he or she may be entitled to receive.

### **13.8 Gratuity, Pension or Allowance on Retirement of Director**

Unless otherwise determined by ordinary resolution, the directors on behalf of the Company may pay a gratuity or pension or allowance on retirement to any director who has held any salaried office or place of profit with the Company or to his or her spouse or dependants and may make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance.

## **14. ELECTION AND REMOVAL OF DIRECTORS**

### **14.1 Election at Annual General Meeting**

At every annual general meeting and in every unanimous resolution contemplated by Article 10.2:

- (1) the shareholders entitled to vote at the annual general meeting for the election of directors must elect, or in the unanimous resolution appoint, a board of directors consisting of the number of directors for the time being set under these Articles; and
- (2) all the directors cease to hold office immediately before the election or appointment of directors under paragraph (1), but are eligible for re-election or re-appointment.

### **14.2 Consent to be a Director**

No election, appointment or designation of an individual as a director is valid unless:

- (1) that individual consents to be a director in the manner provided for in the *Business Corporations Act*,
- (2) that individual is elected or appointed at a meeting at which the individual is present and the individual does not refuse, at the meeting, to be a director; or
- (3) with respect to first directors, the designation is otherwise valid under the *Business Corporations Act*.

### **14.3 Failure to Elect or Appoint Directors**

If:

- (1) the Company fails to hold an annual general meeting, and all the shareholders who are entitled to vote at an annual general meeting fail to pass the unanimous resolution contemplated by Article 10.2, on or before the date by which the annual general meeting is required to be held under the *Business Corporations Act*; or



- (2) the shareholders fail, at the annual general meeting or in the unanimous resolution contemplated by Article 10.2, to elect or appoint any directors;

then each director then in office continues to hold office until the earlier of:

- (3) the date on which his or her successor is elected or appointed; and
- (4) the date on which he or she otherwise ceases to hold office under the *Business Corporations Act* or these Articles.

#### **14.4 Places of Retiring Directors Not Filled**

If, at any meeting of shareholders at which there should be an election of directors, the places of any of the retiring directors are not filled by that election, those retiring directors who are not re-elected and who are asked by the newly elected directors to continue in office will, if willing to do so, continue in office to complete the number of directors for the time being set pursuant to these Articles until further new directors are elected at a meeting of shareholders convened for that purpose. If any such election or continuance of directors does not result in the election or continuance of the number of directors for the time being set pursuant to these Articles, the number of directors of the Company is deemed to be set at the number of directors actually elected or continued in office.

#### **14.5 Directors May Fill Casual Vacancies**

Any casual vacancy occurring in the board of directors may be filled by the directors.

#### **14.6 Remaining Directors Power to Act**

The directors may act notwithstanding any vacancy in the board of directors, but if the Company has fewer directors in office than the number set pursuant to these Articles as the quorum of directors, the directors may only act for the purpose of appointing directors up to that number or of summoning a meeting of shareholders for the purpose of filling any vacancies on the board of directors or, subject to the *Business Corporations Act*, for any other purpose.

#### **14.7 Shareholders May Fill Vacancies**

If the Company has no directors or fewer directors in office than the number set pursuant to these Articles as the quorum of directors, the shareholders may elect or appoint directors to fill any vacancies on the board of directors.

#### **14.8 Additional Directors**

Notwithstanding Articles 13.1 and 13.2, between annual general meetings or unanimous resolutions contemplated by Article 10.2, the directors may appoint one or more additional directors, but the number of additional directors appointed under this Article 14.8 must not at any time exceed:

- (1) one-third of the number of first directors, if, at the time of the appointments, one or more of the first directors have not yet completed their first term of office; or
- (2) in any other case, one-third of the number of the current directors who were elected or appointed as directors other than under this Article 14.8.

Any director so appointed ceases to hold office immediately before the next election or appointment of directors under Article 14.1(1), but is eligible for re-election or re-appointment.

#### **14.9 Ceasing to be a Director**

A director ceases to be a director when:

- (1) the term of office of the director expires;
- (2) the director dies;
- (3) the director resigns as a director by notice in writing provided to the Company or a lawyer for the Company; or
- (4) the director is removed from office pursuant to Articles 14.10 or 14.11.

#### **14.10 Removal of Director by Shareholders**

The Company may remove any director before the expiration of his or her term of office by special resolution. In that event, the shareholders may elect, or appoint by ordinary resolution, a director to fill the resulting vacancy. If the shareholders do not elect or appoint a director to fill the resulting vacancy contemporaneously with the removal, then the directors may appoint or the shareholders may elect, or appoint by ordinary resolution, a director to fill that vacancy.

#### **14.11 Removal of Director by Directors**

The directors may remove any director before the expiration of his or her term of office if the director is convicted of an indictable offence, or if the director ceases to be qualified to act as a director of a company and does not promptly resign, and the directors may appoint a director to fill the resulting vacancy.

### **15. ALTERNATE DIRECTORS**

#### **15.1 Appointment of Alternate Director**

Any director (an "appointor") may by notice in writing received by the Company appoint any person (an "appointee") who is qualified to act as a director to be his or her alternate to act in his or her place at meetings of the directors or committees of the directors at which the appointor is not present unless (in the case of an appointee who is not a director) the directors have reasonably disapproved the appointment of such person as an alternate director and have given notice to that effect to his or her appointor within a reasonable time after the notice of appointment is received by the Company.

#### **15.2 Notice of Meetings**

Every alternate director so appointed is entitled to notice of meetings of the directors and of committees of the directors of which his or her appointor is a member and to attend and vote as a director at any such meetings at which his or her appointor is not present.

#### **15.3 Alternate for More Than One Director Attending Meetings**

A person may be appointed as an alternate director by more than one director, and an alternate director:

- (1) will be counted in determining the quorum for a meeting of directors once for each of his or her appointors and, in the case of an appointee who is also a director, once more in that capacity;
- (2) has a separate vote at a meeting of directors for each of his or her appointors and, in the case of an appointee who is also a director, an additional vote in that capacity;

- (3) will be counted in determining the quorum for a meeting of a committee of directors once for each of his or her appointors who is a member of that committee and, in the case of an appointee who is also a member of that committee as a director, once more in that capacity;
- (4) has a separate vote at a meeting of a committee of directors for each of his or her appointors who is a member of that committee and, in the case of an appointee who is also a member of that committee as a director, an additional vote in that capacity.

#### **15.4 Consent Resolutions**

Every alternate director, if authorized by the notice appointing him or her, may sign in place of his or her appointor any resolutions to be consented to in writing.

#### **15.5 Alternate Director Not an Agent**

Every alternate director is deemed not to be the agent of his or her appointor.

#### **15.6 Revocation of Appointment of Alternate Director**

An appointor may at any time, by notice in writing received by the Company, revoke the appointment of an alternate director appointed by him or her.

#### **15.7 Ceasing to be an Alternate Director**

The appointment of an alternate director ceases when:

- (1) his or her appointor ceases to be a director and is not promptly re-elected or re-appointed;
- (2) the alternate director dies;
- (3) the alternate director resigns as an alternate director by notice in writing provided to the Company or a lawyer for the Company;
- (4) the alternate director ceases to be qualified to act as a director; or
- (5) his or her appointor revokes the appointment of the alternate director.

#### **15.8 Remuneration and Expenses of Alternate Director**

The Company may reimburse an alternate director for the reasonable expenses that would be properly reimbursed if he or she were a director, and the alternate director is entitled to receive from the Company such proportion, if any, of the remuneration otherwise payable to the appointor as the appointor may from time to time direct.

### **16. POWERS AND DUTIES OF DIRECTORS**

#### **16.1 Powers of Management**

The directors must, subject to the *Business Corporations Act* and these Articles, manage or supervise the management of the business and affairs of the Company and have the authority to exercise all such powers of the Company as are not, by the *Business Corporations Act* or by these Articles, required to be exercised by the shareholders of the Company.

## **16.2 Appointment of Attorney of Company**

The directors may from time to time, by power of attorney or other instrument, under seal if so required by law, appoint any person to be the attorney of the Company for such purposes, and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under these Articles and excepting the power to fill vacancies in the board of directors, to remove a director, to change the membership of, or fill vacancies in, any committee of the directors, to appoint or remove officers appointed by the directors and to declare dividends) and for such period, and with such remuneration and subject to such conditions as the directors may think fit. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorney as the directors think fit. Any such attorney may be authorized by the directors to sub-delegate all or any of the powers, authorities and discretions for the time being vested in him or her.

## **16.3 Setting the Remuneration of Auditors**

The directors may from time to time set the remuneration of the auditors of the Company.

## **17. DISCLOSURE OF INTEREST OF DIRECTORS**

### **17.1 Obligation to Account for Profits**

A director or senior officer who holds a disclosable interest (as that term is used in the *Business Corporations Act*) in a contract or transaction into which the Company has entered or proposes to enter is liable to account to the Company for any profit that accrues to the director or senior officer under or as a result of the contract or transaction only if and to the extent provided in the *Business Corporations Act*.

### **17.2 Restrictions on Voting by Reason of Interest**

A director who holds a disclosable interest in a contract or transaction into which the Company has entered or proposes to enter is not entitled to vote on any directors' resolution to approve that contract or transaction, unless all the directors have a disclosable interest in that contract or transaction, in which case any or all of those directors may vote on such resolution.

### **17.3 Interested Director Counted in Quorum**

A director who holds a disclosable interest in a contract or transaction into which the Company has entered or proposes to enter and who is present at the meeting of directors at which the contract or transaction is considered for approval may be counted in the quorum at the meeting whether or not the director votes on any or all of the resolutions considered at the meeting.

### **17.4 Disclosure of Conflict of Interest or Property**

A director or senior officer who holds any office or possesses any property, right or interest that could result, directly or indirectly, in the creation of a duty or interest that materially conflicts with that individual's duty or interest as a director or senior officer, must disclose the nature and extent of the conflict as required by the *Business Corporations Act*.

### **17.5 Director Holding Other Office in the Company**

A director may hold any office or place of profit with the Company, other than the office of auditor of the Company, in addition to his or her office of director for the period and on the terms (as to remuneration or otherwise) that the directors may determine.

### **17.6 No Disqualification**

No director or intended director is disqualified by his or her office from contracting with the Company either with regard to the holding of any office or place of profit the director holds with the Company or as vendor, purchaser or otherwise, and no contract or transaction entered into by or on behalf of the Company in which a director is in any way interested is liable to be voided for that reason.

### **17.7 Professional Services by Director or Officer**

Subject to the *Business Corporations Act*, a director or officer, or any person in which a director or officer has an interest, may act in a professional capacity for the Company, except as auditor of the Company, and the director or officer or such person is entitled to remuneration for professional services as if that director or officer were not a director or officer.

### **17.8 Director or Officer in Other Corporations**

A director or officer may be or become a director, officer or employee of, or otherwise interested in, any person in which the Company may be interested as a shareholder or otherwise, and, subject to the *Business Corporations Act*, the director or officer is not accountable to the Company for any remuneration or other benefits received by him or her as director, officer or employee of, or from his or her interest in, such other person.

## **18. PROCEEDINGS OF DIRECTORS**

### **18.1 Meetings of Directors**

The directors may meet together for the conduct of business, adjourn and otherwise regulate their meetings as they think fit, and meetings of the directors held at regular intervals may be held at the place, at the time and on the notice, if any, as the directors may from time to time determine.

### **18.2 Voting at Meetings**

Questions arising at any meeting of directors are to be decided by a majority of votes and, in the case of an equality of votes, the chair of the meeting does not have a second or casting vote.

### **18.3 Chair of Meetings**

The following individual is entitled to preside as chair at a meeting of directors:

- (1) the chair of the board, if any;
- (2) in the absence of the chair of the board, the president, if any, if the president is a director; or
- (3) any other director chosen by the directors if:
  - (a) neither the chair of the board nor the president, if a director, is present at the meeting within 15 minutes after the time set for holding the meeting;
  - (b) neither the chair of the board nor the president, if a director, is willing to chair the meeting; or
  - (c) the chair of the board and the president, if a director, have advised the secretary, if any, or any other director, that they will not be present at the meeting.

**18.4 Meetings by Telephone or Other Communications Medium**

A director may participate in a meeting of the directors or of any committee of the directors in person or by telephone if all directors participating in the meeting, whether in person or by telephone or other communications medium, are able to communicate with each other. A director may participate in a meeting of the directors or of any committee of the directors by a communications medium other than telephone if all directors participating in the meeting, whether in person or by telephone or other communications medium, are able to communicate with each other and if all directors who wish to participate in the meeting agree to such participation. A director who participates in a meeting in a manner contemplated by this Article 18.4 is deemed for all purposes of the *Business Corporations Act* and these Articles to be present at the meeting and to have agreed to participate in that manner.

**18.5 Calling of Meetings**

A director may, and the secretary or an assistant secretary of the Company, if any, on the request of a director must, call a meeting of the directors at any time.

**18.6 Notice of Meetings**

Other than for meetings held at regular intervals as determined by the directors pursuant to Article 18.1, reasonable notice of each meeting of the directors, specifying the place, day and time of that meeting must be given to each of the directors and the alternate directors by any method set out in Article 24.1 or orally or by telephone.

**18.7 When Notice Not Required**

It is not necessary to give notice of a meeting of the directors to a director or an alternate director if:

- (1) the meeting is to be held immediately following a meeting of shareholders at which that director was elected or appointed, or is the meeting of the directors at which that director is appointed; or
- (2) the director or alternate director, as the case may be, has waived notice of the meeting.

**18.8 Meeting Valid Despite Failure to Give Notice**

The accidental omission to give notice of any meeting of directors to, or the non-receipt of any notice by, any director or alternate director, does not invalidate any proceedings at that meeting.

**18.9 Waiver of Notice of Meetings**

Any director or alternate director may send to the Company a document signed by him or her waiving notice of any past, present or future meeting or meetings of the directors and may at any time withdraw that waiver with respect to meetings held after that withdrawal. After sending a waiver with respect to all future meetings and until that waiver is withdrawn, no notice of any meeting of the directors need be given to that director and, unless the director otherwise requires by notice in writing to the Company, to his or her alternate director, and all meetings of the directors so held are deemed not to be improperly called or constituted by reason of notice not having been given to such director or alternate director.

**18.10 Quorum**

The quorum necessary for the transaction of the business of the directors may be set by the directors and, if not so set, is deemed to be set at two directors or, if the number of directors is set at one, is deemed to be set at one director, and that director may constitute a meeting.

### **18.11 Validity of Acts Where Appointment Defective**

Subject to the *Business Corporations Act*, an act of a director or officer is not invalid merely because of an irregularity in the election or appointment or a defect in the qualification of that director or officer.

### **18.12 Consent Resolutions in Writing**

A resolution of the directors or of any committee of the directors may be passed without a meeting:

- (1) in all cases, if each of the directors entitled to vote on the resolution consents to it in writing; or
- (2) in the case of a resolution to approve a contract or transaction in respect of which a director has disclosed that he or she has or may have a disclosable interest, if each of the other directors who are entitled to vote on the resolution consents to it in writing.

A consent in writing under this Article may be by signed document, fax, email or any other method of transmitting legibly recorded messages. A consent in writing may be in two or more counterparts which together are deemed to constitute one consent in writing. A resolution of the directors or of any committee of the directors passed in accordance with this Article 18.12 is effective on the date stated in the consent in writing or on the latest date stated on any counterpart and is deemed to be a proceeding at a meeting of directors or of the committee of the directors and to be as valid and effective as if it had been passed at a meeting of the directors or of the committee of the directors that satisfies all the requirements of the *Business Corporations Act* and all the requirements of these Articles relating to meetings of the directors or of a committee of the directors.

## **19. EXECUTIVE AND OTHER COMMITTEES**

### **19.1 Appointment and Powers of Executive Committee**

The directors may, by resolution, appoint an executive committee consisting of the director or directors that they consider appropriate, and this committee has, during the intervals between meetings of the board of directors, all of the directors' powers, except:

- (1) the power to fill vacancies in the board of directors;
- (2) the power to remove a director;
- (3) the power to change the membership of, or fill vacancies in, any committee of the directors; and
- (4) such other powers, if any, as may be set out in the resolution or any subsequent directors' resolution.

### **19.2 Appointment and Powers of Other Committees**

The directors may, by resolution:

- (1) appoint one or more committees (other than the executive committee) consisting of the director or directors that they consider appropriate;
- (2) delegate to a committee appointed under paragraph (1) any of the directors' powers, except:
  - (a) the power to fill vacancies in the board of directors;
  - (b) the power to remove a director;

- (c) the power to change the membership of, or fill vacancies in, any committee of the directors; and
  - (d) the power to appoint or remove officers appointed by the directors; and
- (3) make any delegation referred to in paragraph (2) subject to the conditions set out in the resolution or any subsequent directors' resolution.

### **19.3 Obligations of Committees**

Any committee appointed under Articles 19.1 or 19.2, in the exercise of the powers delegated to it, must:

- (1) conform to any rules that may from time to time be imposed on it by the directors; and
- (2) report every act or thing done in exercise of those powers at such times as the directors may require.

### **19.4 Powers of Board**

The directors may, at any time, with respect to a committee appointed under Articles 19.1 or 19.2:

- (1) revoke or alter the authority given to the committee, or override a decision made by the committee, except as to acts done before such revocation, alteration or overriding;
- (2) terminate the appointment of, or change the membership of, the committee; and
- (3) fill vacancies in the committee.

### **19.5 Committee Meetings**

Subject to Article 19.3(1) and unless the directors otherwise provide in the resolution appointing the committee or in any subsequent resolution, with respect to a committee appointed under Articles 19.1 or 19.2:

- (1) the committee may meet and adjourn as it thinks proper;
- (2) the committee may elect a chair of its meetings but, if no chair of a meeting is elected, or if at a meeting the chair of the meeting is not present within 15 minutes after the time set for holding the meeting, the directors present who are members of the committee may choose one of their number to chair the meeting;
- (3) a majority of the members of the committee constitutes a quorum of the committee; and
- (4) questions arising at any meeting of the committee are determined by a majority of votes of the members present, and in case of an equality of votes, the chair of the meeting does not have a second or casting vote.

## **20. OFFICERS**

### **20.1 Directors May Appoint Officers**

The directors may, from time to time, appoint such officers, if any, as the directors determine and the directors may, at any time, terminate any such appointment.



## **20.2 Functions, Duties and Powers of Officers**

The directors may, for each officer:

- (1) determine the functions and duties of the officer;
- (2) entrust to and confer on the officer any of the powers exercisable by the directors on such terms and conditions and with such restrictions as the directors think fit; and
- (3) revoke, withdraw, alter or vary all or any of the functions, duties and powers of the officer.

## **20.3 Qualifications**

No officer may be appointed unless that officer is qualified in accordance with the *Business Corporations Act*. One person may hold more than one position as an officer of the Company. Any person appointed as the chair of the board or as a managing director must be a director. Any other officer need not be a director.

## **20.4 Remuneration and Terms of Appointment**

All appointments of officers are to be made on the terms and conditions and at the remuneration (whether by way of salary, fee, commission, participation in profits or otherwise) that the directors thinks fit and are subject to termination at the pleasure of the directors, and an officer may in addition to such remuneration be entitled to receive, after he or she ceases to hold such office or leaves the employment of the Company, a pension or gratuity.

## **21. INDEMNIFICATION**

### **21.1 Definitions**

In this Article 21:

- (1) “eligible penalty” means a judgment, penalty or fine awarded or imposed in, or an amount paid in settlement of, an eligible proceeding;
- (2) “eligible proceeding” means a legal proceeding or investigative action, whether current, threatened, pending or completed, in which a director, former director or alternate director of the Company (an “eligible party”) or any of the heirs and legal personal representatives of the eligible party, by reason of the eligible party being or having been a director or alternate director of the Company:
  - (a) is or may be joined as a party; or
  - (b) is or may be liable for or in respect of a judgment, penalty or fine in, or expenses related to, the proceeding;
- (3) “expenses” has the meaning set out in the *Business Corporations Act*.

### **21.2 Mandatory Indemnification of Directors and Former Directors**

Subject to the *Business Corporations Act*, the Company must indemnify a director, former director or alternate director of the Company and his or her heirs and legal personal representatives against all eligible penalties to which such person is or may be liable, and the Company must, after the final disposition of an eligible proceeding, pay the expenses actually and reasonably incurred by such

person in respect of that proceeding. Each director and alternate director is deemed to have contracted with the Company on the terms of the indemnity contained in this Article 21.2.

### **21.3 Indemnification of Other Persons**

Subject to any restrictions in the *Business Corporations Act*, the Company may indemnify any person.

### **21.4 Non-Compliance with *Business Corporations Act***

The failure of a director, alternate director or officer of the Company to comply with the *Business Corporations Act* or these Articles does not invalidate any indemnity to which he or she is entitled under this Part.

### **21.5 Company May Purchase Insurance**

The Company may purchase and maintain insurance for the benefit of any person (or his or her heirs or legal personal representatives) who:

- (1) is or was a director, alternate director, officer, employee or agent of the Company;
- (2) is or was a director, alternate director, officer, employee or agent of a corporation at a time when the corporation is or was an affiliate of the Company;
- (3) at the request of the Company, is or was a director, alternate director, officer, employee or agent of a corporation or of a partnership, trust, joint venture or other unincorporated entity;
- (4) at the request of the Company, holds or held a position equivalent to that of a director, alternate director or officer of a partnership, trust, joint venture or other unincorporated entity;

against any liability incurred by him or her as such director, alternate director, officer, employee or agent or person who holds or held such equivalent position.

## **22. DIVIDENDS**

### **22.1 Payment of Dividends Subject to Special Rights**

The provisions of this Article 22 are subject to the rights, if any, of shareholders holding shares with special rights as to dividends.

### **22.2 Declaration of Dividends**

Subject to the *Business Corporations Act*, the directors may from time to time declare and authorize payment of such dividends as they may deem advisable.

### **22.3 No Notice Required**

The directors need not give notice to any shareholder of any declaration under Article 22.2.

### **22.4 Record Date**

The directors may set a date as the record date for the purpose of determining shareholders entitled to receive payment of a dividend. The record date must not precede the date on which the dividend is to be paid by more than two months. If no record date is set, the record date is 5 p.m. on the date on which the directors pass the resolution declaring the dividend.

**22.5 Manner of Paying Dividend**

A resolution declaring a dividend may direct payment of the dividend wholly or partly by the distribution of specific assets or of fully paid shares or of bonds, debentures or other securities of the Company, or in any one or more of those ways.

**22.6 Settlement of Difficulties**

If any difficulty arises in regard to a distribution under Article 22.5, the directors may settle the difficulty as they deem advisable, and, in particular, may:

- (1) set the value for distribution of specific assets;
- (2) determine that cash payments in substitution for all or any part of the specific assets to which any shareholders are entitled may be made to any shareholders on the basis of the value so fixed in order to adjust the rights of all parties; and
- (3) vest any such specific assets in trustees for the persons entitled to the dividend.

**22.7 When Dividend Payable**

Any dividend may be made payable on such date as is fixed by the directors.

**22.8 Dividends to be Paid in Accordance with Number of Shares**

All dividends on shares of any class or series of shares must be declared and paid according to the number of such shares held.

**22.9 Receipt by Joint Shareholders**

If several persons are joint shareholders of any share, any one of them may give an effective receipt for any dividend, bonus or other money payable in respect of the share.

**22.10 Dividend Bears No Interest**

No dividend bears interest against the Company.

**22.11 Fractional Dividends**

If a dividend to which a shareholder is entitled includes a fraction of the smallest monetary unit of the currency of the dividend, that fraction may be disregarded in making payment of the dividend and that payment represents full payment of the dividend.

**22.12 Payment of Dividends**

Any dividend or other distribution payable in cash in respect of shares may be paid by cheque, made payable to the order of the person to whom it is sent, and mailed to the address of the shareholder, or in the case of joint shareholders, to the address of the joint shareholder who is first named on the central securities register, or to the person and to the address the shareholder or joint shareholders may direct in writing. The mailing of such cheque will, to the extent of the sum represented by the cheque (plus the amount of the tax required by law to be deducted), discharge all liability for the dividend unless such cheque is not paid on presentation or the amount of tax so deducted is not paid to the appropriate taxing authority.

### **22.13 Capitalization of Surplus**

Notwithstanding anything contained in these Articles, the directors may from time to time capitalize any surplus of the Company and may from time to time issue, as fully paid, shares or any bonds, debentures or other securities of the Company as a dividend representing the surplus or any part of the surplus.

## **23. DOCUMENTS, RECORDS AND REPORTS**

### **23.1 Recording of Financial Affairs**

The directors must cause adequate accounting records to be kept to record properly the financial affairs and condition of the Company and to comply with the *Business Corporations Act*.

### **23.2 Inspection of Accounting Records**

Unless the directors determine otherwise, or unless otherwise determined by ordinary resolution, no shareholder of the Company is entitled to inspect or obtain a copy of any accounting records of the Company.

## **24. NOTICES**

### **24.1 Method of Giving Notice**

Unless the *Business Corporations Act* or these Articles provides otherwise, a notice, statement, report or other record required or permitted by the *Business Corporations Act* or these Articles to be sent by or to a person may be sent by any one of the following methods:

- (1) mail addressed to the person at the applicable address for that person as follows:
  - (a) for a record mailed to a shareholder, the shareholder's registered address;
  - (b) for a record mailed to a director or officer, the prescribed address for mailing shown for the director or officer in the records kept by the Company or the mailing address provided by the recipient for the sending of that record or records of that class;
  - (c) in any other case, the mailing address of the intended recipient;
- (2) delivery at the applicable address for that person as follows, addressed to the person:
  - (a) for a record delivered to a shareholder, the shareholder's registered address;
  - (b) for a record delivered to a director or officer, the prescribed address for delivery shown for the director or officer in the records kept by the Company or the delivery address provided by the recipient for the sending of that record or records of that class;
  - (c) in any other case, the delivery address of the intended recipient;
- (3) sending the record by fax to the fax number provided by the intended recipient for the sending of that record or records of that class;
- (4) sending the record by email to the email address provided by the intended recipient for the sending of that record or records of that class;

- (5) physical delivery to the intended recipient.

#### **24.2 Deemed Receipt of Mailing**

A record that is mailed to a person by ordinary mail to the applicable address for that person referred to in Article 24.1 is deemed to be received by the person to whom it was mailed on the day, Saturdays, Sundays and holidays excepted, following the date of mailing.

#### **24.3 Certificate of Sending**

A certificate signed by the secretary, if any, or other officer of the Company or of any other corporation acting in that behalf for the Company stating that a notice, statement, report or other record was addressed as required by Article 24.1, prepaid and mailed or otherwise sent as permitted by Article 24.1 is conclusive evidence of that fact.

#### **24.4 Notice to Joint Shareholders**

A notice, statement, report or other record may be provided by the Company to the joint shareholders of a share by providing the notice to the joint shareholder first named in the central securities register in respect of the share.

#### **24.5 Notice to Trustees**

A notice, statement, report or other record may be provided by the Company to the persons entitled to a share in consequence of the death, bankruptcy or incapacity of a shareholder by:

- (1) mailing the record, addressed to them:
  - (a) by name, by the title of the legal personal representative of the deceased or incapacitated shareholder, by the title of trustee of the bankrupt shareholder or by any similar description; and
  - (b) at the address, if any, supplied to the Company for that purpose by the persons claiming to be so entitled; or
- (2) if an address referred to in paragraph (1)(b) has not been supplied to the Company, by giving the notice in a manner in which it might have been given if the death, bankruptcy or incapacity had not occurred.

### **25. SEAL**

#### **25.1 Who May Attest Seal**

Except as provided in Articles 25.2 and 25.3, the Company's seal, if any, must not be impressed on any record except when that impression is attested by the signatures of:

- (1) any two directors;
- (2) any officer, together with any director;
- (3) if the Company only has one director, that director; or
- (4) any one or more directors or officers or persons as may be determined by the directors.

## 25.2 Sealing Copies

For the purpose of certifying under seal a certificate of incumbency of the directors or officers of the Company or a true copy of any resolution or other document, despite Article 25.1, the impression of the seal may be attested by the signature of any director or officer.

## 25.3 Mechanical Reproduction of Seal

The directors may authorize the seal to be impressed by third parties on share certificates or bonds, debentures or other securities of the Company as they may determine appropriate from time to time. To enable the seal to be impressed on any share certificates or bonds, debentures or other securities of the Company, whether in definitive or interim form, on which facsimiles of any of the signatures of the directors or officers of the Company are, in accordance with the *Business Corporations Act* or these Articles, printed or otherwise mechanically reproduced, there may be delivered to the person employed to engrave, lithograph or print such definitive or interim share certificates or bonds, debentures or other securities one or more unmounted dies reproducing the seal and the chair of the board or any senior officer together with the secretary, treasurer, secretary-treasurer, an assistant secretary, an assistant treasurer or an assistant secretary-treasurer may in writing authorize such person to cause the seal to be impressed on such definitive or interim share certificates or bonds, debentures or other securities by the use of such dies. Share certificates or bonds, debentures or other securities to which the seal has been so impressed are for all purposes deemed to be under and to bear the seal impressed on them.

## 26. PROHIBITIONS

### 26.1 Definitions

In this Article 26:

- (1) “designated security” means:
  - (a) a voting security of the Company;
  - (b) a security of the Company that is not a debt security and that carries a residual right to participate in the earnings of the Company or, on the liquidation or winding up of the Company, in its assets; or
  - (c) a security of the Company convertible, directly or indirectly, into a security described in paragraph (a) or (b);
- (2) “security” has the meaning assigned in the *Securities Act* (British Columbia);
- (3) “voting security” means a security of the Company that:
  - (a) is not a debt security, and
  - (b) carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing.

### 26.2 Application

Article 26.3 does not apply to the Company if and for so long as it is a public company or a pre-existing reporting company which has the Statutory Reporting Company Provisions as part of its Articles or to which the Statutory Reporting Company Provisions apply.

**26.3 Consent Required for Transfer of Shares or Designated Securities**

No share or designated security may be sold, transferred or otherwise disposed of without the consent of the directors and the directors are not required to give any reason for refusing to consent to any such sale, transfer or other disposition.

**APPENDIX C  
CCC SHAREHOLDERS**

(as at the date hereof)

**[REDACTED: Personal information – names of shareholders and numbers of shares held]**



**APPENDIX D  
CCC WARRANTHOLDERS**

(as at the date hereof)

**[REDACTED: Personal information – names of warrant holders and numbers of warrants held]**

## APPENDIX E CCC CAPITALIZATION

Pursuant to a share purchase agreement (the "**P-209 SPA**") dated March 5, 2018 among CCC, as buyer, P-209, as target, and Paul Arthur and Anh Ngoc Ly (collectively, the "**Sellers**"), CCC is obligated to pay and satisfy the purchase price as follows:

- (a) On the completion of a Going Public Transaction by CCC, an amount equal to **[\$[REDACTED: confidential competitive information]** to be satisfied by the issuance by CCC (or the successor thereof) to the Sellers of CCC Shares (or other securities) having an aggregate fair market value at the time of issuance equal to **[\$[REDACTED: confidential competitive information]** at a price per share equal to the Liquidity Price;
- (b) On achievement of the First Earn Out Milestone, an amount equal to **[\$[REDACTED: confidential competitive information]**, to be satisfied by CCC (or the successor thereof) issuing to the Sellers, CCC Shares (or other securities as applicable), having a fair market value at the time of issuance equal to **[\$[REDACTED: confidential competitive information]**, at a price per share that is equal to the Fair Market Value; and
- (c) On achievement of the Second Earn Out Milestone, an amount equal to **[\$[REDACTED: confidential competitive information]**, to be satisfied by CCC (or the successor thereof) issuing to the Sellers, CCC Shares (or other securities as applicable), having a fair market value at the time of issuance equal to **[\$[REDACTED: confidential competitive information]**, at a price per share that is equal to the Fair Market Value.

Pursuant to a share purchase agreement dated April 12, 2018 among CCC, as buyer, Back Home, as target, and David Callahan (the "**Seller**"), CCC is obligated to pay and satisfy the purchase price as follows:

- (a) On the date on which Back Home receives confirmation from Health Canada that its ACMPR Licence application has successfully passed through the enhanced security stage of the ACMPR Licence application process, CCC will issue to the Seller **[\$[REDACTED: confidential competitive information]** CCC Shares at a deemed price of **[\$[REDACTED: confidential competitive information]** per CCC Share for aggregate gross proceeds of **[\$[REDACTED: confidential competitive information]**.
- (b) On the date on which Back Home receives confirmation from the Province of Newfoundland and Labrador that it will enter into a wholesale distribution agreement with CCC, CCC will issue to the Seller CCC Shares with a value equal to **[\$[REDACTED: confidential competitive information]** such value to be equal to the Fair Market Value of such securities, at the time of issuance.
- (c) On the date on which Back Home receives an ACMPR Licence for its Newfoundland facility, CCC will issue to the Seller CCC Shares with a value equal to **[\$[REDACTED: confidential competitive information]** such value to be equal to the Fair Market Value of such securities, at the time of issuance.
- (d) On the date on which Back Home receives an ACMPR Sales Authorization for its Newfoundland facility, CCC will issue to the Seller CCC Shares with a value equal to **[\$[REDACTED: confidential competitive information]** such value to be equal to the Fair Market Value of such securities, at the time of issuance.

Capitalized terms used and not otherwise defined in this Appendix E – *CCC Capitalization* have the meanings set forth in the Agreement. As used in this Appendix E – *CCC Capitalization* the following terms shall have the following meanings:

“**ACMPR**” has the meaning ascribed to such term in this Agreement;

“**ACMPR Licence**” means a licence issued by Health Canada, in accordance with the provisions of the ACMPR, allowing the licensee to produce marijuana for the purposes permissible in accordance with the ACMPR;

“**ACMPR Sales Authorization**” means an authorization issued or otherwise granted by Health Canada, under an ACMPR License, allowing the licensee to sell marijuana, in accordance with applicable law, including the ACMPR;

“**First Earn Out Milestone**” means the date on which the Corporation receives an ACMPR Licence for its Ontario operations;

“**Liquidity Price**” means the price per share equal to the fair market value of the CCC Shares at the time of the Closing, as determined by reference to the purchase price payable per CCC Share, in connection with such Closing;

“**Fair Market Value**” means in respect of the CCC Shares,

- (i) if the Closing has not occurred, the lesser of:
  - (A) the fair market value of such shares as determined by the board of directors of CCC acting reasonably; or
  - (B) the most recent price per share determined in accordance with a bona fide transaction or series of transactions pursuant to which CCC issued or sold securities, completed not more than three months prior to the date of valuation;

or

- (ii) if the Closing has occurred, the greater of:
  - (A) the 30-day volume weighted average price of the CCC Shares (or such other securities, as applicable) as quoted by the Exchange; or
  - (B) the deemed price per share at which the CCC Shares were valued in connection with the Closing;

“**Second Earn Out Milestone**” means the date on which P-209 receives an ACMPR Sales Authorization for its Ontario operations.