

## EQUITY DISTRIBUTION AGREEMENT

December 23, 2022

**Algernon Pharmaceuticals Inc.**  
400 – 601 West Broadway  
Vancouver, BC  
V5Z 4C2  
Attention: Christopher Moreau, Chief Executive Officer

Dear Ladies and Gentlemen:

Algernon Pharmaceuticals Inc., a corporation existing under the *Business Corporations Act* (British Columbia) (“**Algernon**” or the “**Company**”) proposes, subject to the terms and conditions stated herein, to issue and sell from time to time through or to Research Capital Corporation (“**RCC**” or the “**Agent**”) as exclusive sales agent and/or principal (as applicable), Class A common shares of the Company (each, a “**Common Share**” and, collectively, the “**Common Shares**”) having an aggregate offering price of up to \$5,000,000 (the “**Offering**”) on the terms and conditions set forth in this agreement (this “**Agreement**”).

### **SECTION 1 DEFINITIONS AND CERTAIN RULES OF INTERPRETATION**

- (a) Certain Definitions. For purposes of this Agreement, in addition to the terms defined elsewhere in this Agreement, the following capitalized terms used herein shall have the following respective meanings:

“**Affiliate**” of a person means another person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first-mentioned person. The term “control” (including the terms “controlling,” “controlled by” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise.

“**Agency Period**” means the period commencing on the date of this Agreement and expiring on the earliest to occur of (x) the date on which the Agent shall have placed the Maximum Program Amount pursuant to this Agreement, (y) the date this Agreement is terminated pursuant to Section 7, and (z) June 5, 2023.

“**Applicable Healthcare Laws**” means all statutes, regulations, statutory rules, orders, by-laws, codes, ordinances, decrees, the terms and conditions of any grant of approval, permission, authority or licence, or any judgment, order, decision, ruling, award, policy or guideline, of any Governmental Authority, applicable to the development, testing, manufacturing, market authorization, packaging, labeling, advertising, importation, storage, post-market monitoring, distribution or sale of the Products.

“**Applicable Laws**” means collectively any applicable Canadian, U.S. or foreign federal, state, provincial, territorial or local statute, law (including common law) or ordinance, or any judgment, decree, rule, regulation, order or injunction.

“**Applicable Time**” has the meaning ascribed thereto in Section 2(e).

“**Base Prospectus**” has the meaning ascribed thereto in Section 2(a).

“**Canadian Securities Laws**” means collectively the securities laws of each of the Qualifying Jurisdictions and the respective rules and regulations under such laws, together with applicable published national, multilateral and local policy statements, instruments, notices and blanket orders of the Securities Commissions.

“**Charter Documents**” has the meaning ascribed thereto in Section 2(z).

“**Company Financial Statements**” has the meaning ascribed thereto in Section 2(o).

“**Debt Repayment Triggering Event**” has the meaning ascribed thereto in Section 2(z).

“**Designated News Release**” means a news release disseminated by the Company in respect of previously undisclosed information that, in the Company’s reasonable determination, constitutes a “material fact” (as such term is defined in Canadian Securities Laws) and is identified by the Company as a “designated news release” in writing on the face page of such news release as filed by the Company on SEDAR.

“**Disclosure Record**” means the Company’s prospectuses, annual reports, annual and interim financial statements, annual information forms, business acquisition reports, management discussion and analysis of financial condition and results of operations, information circulars, material change reports, listing statements, press releases and all other information or documents required to be filed or otherwise filed by the Company under Canadian Securities Laws which have been publicly filed or otherwise publicly disseminated by the Company.

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

“**Documents Incorporated by Reference**” means, collectively, the documents specified in the Prospectus as being incorporated therein by reference and the documents which are deemed to be incorporated therein by reference pursuant to Canadian Securities Laws.

“**Employee Plans**” has the meaning ascribed thereto in Section 2(xx).

“**Exchange**” means the Canadian Securities Exchange or, as applicable, such other stock exchange in Canada on which the Common Shares are listed.

“**Existing Instrument**” has the meaning ascribed thereto in Section 2(z).

“**Governmental Authority**” has the meaning ascribed thereto in Section 2(z).

“**Governmental Licenses**” has the meaning ascribed there to in Section 2(aaa).

“**IFRS**” has the meaning ascribed thereto in Section 2(o).

“**Intellectual Property**” means all of the following owned or purported to be owned by the Company and any of its Subsidiaries, or used or held for use relating to the conduct of the business of the Company and the Subsidiaries as presently conducted or as proposed to be conducted (i) patent rights, issued patents, patent applications, patent disclosures, and registrations, inventions, discoveries, developments, concepts, ideas, improvements, processes and methods, whether or not such inventions, discoveries, developments, concepts, ideas, improvements, processes, or methods are patentable or registrable, anywhere in the world, (ii) copyrights (including performance rights)

to any original works of art or authorship, including source code and graphics, which are fixed in any medium of expression, including copyright registrations and applications therefor, anywhere in the world, whether or not registered or registrable, (iii) any and all common law or registered trade-mark rights, trade names, business names, trade-marks, proposed trade-marks, certification marks, service marks, distinguishing marks and guises, logos, slogans, domain names and any registrations and applications therefor, anywhere in the world, whether or not registered or registrable, and all goodwill attaching thereto, (iv) know-how, show-how, confidential information, trade secrets, (v) any and all industrial design rights, industrial designs, design patents, industrial design or design patent registrations and applications therefor, anywhere in the world, whether or not registered or registrable, (vi) any and all integrated circuit topography rights, integrated circuit topographies and integrated circuit topography applications, anywhere in the world, whether or not registered or registrable, (vii) any reissues, re-examinations, divisions, continuations, continuations-in-part, renewals, improvements, translations, derivatives, modifications and extensions of any of the foregoing, (viii) any other industrial, proprietary or intellectual property rights, anywhere in the world, and (ix) computer software (including but not limited to data, data bases and documentation);

**“Issuance Amount”** means the aggregate Sales Price of the Shares to be sold by the Agent pursuant to any Issuance Notice.

**“Issuance Notice”** means a written notice delivered to the Agent by the Company in accordance with this Agreement in the form attached hereto as Schedule “A” that is executed by the Chief Executive Officer or Chief Financial Officer of the Company.

**“Issuance Notice Date”** means any Trading Day during the Agency Period that an Issuance Notice is delivered pursuant to Section 3(b)(ii).

**“Issuance Price”** means (i) the Sales Price less (ii) the aggregate of the Selling Commission and any GST/HST, if then applicable, on the Selling Commission.

**“IT Systems and Data”** has the meaning ascribed thereto in Section 2(hhh).

**“Licensed IP”** means the Intellectual Property that is used or held for use relating to the conduct of the business of the Company and the Subsidiaries as presently conducted or as proposed to be conducted and that is owned by any person other than the Company or any Subsidiary.

**“Material Adverse Effect”** means any change (including a decision to implement such a change made by the board of directors or by senior management of the Company who believe that confirmation of the decision by the board of directors is probable), fact, event, violation, inaccuracy, circumstance, state of being or effect that (a) is materially adverse (actually or anticipated, whether financial or otherwise) to the business, assets (including intangible assets), affairs, operations, prospects, liabilities (contingent or otherwise), capital, properties, condition (financial or otherwise), results of operations or control of the Company and the Subsidiaries, on a consolidated basis or (b) results or could reasonably be expected to result in the Prospectus Supplement containing a material misrepresentation.

**“material change”** has the meaning ascribed thereto under Canadian Securities Laws.

**“material fact”** has the meaning ascribed thereto under Canadian Securities Laws.

“**Maximum Program Amount**” means the aggregate dollar amount of Common Shares qualified for distribution pursuant to the Prospectus Supplement.

“**misrepresentation**” has the meaning ascribed thereto under Canadian Securities Laws.

“**NI 44-101**” has the meaning ascribed thereto in Section 2(a).

“**NI 44-102**” has the meaning ascribed thereto in Section 2(a).

“**NI 51-102**” has the meaning ascribed thereto in Section 2(e).

“**NP 11-202**” has the meaning ascribed thereto in Section 2(a).

“**Passport System**” means the passport system procedures provided for under NP 11-202.

“**person**” means an individual or a corporation, partnership, limited liability company, trust, incorporated or unincorporated association, joint venture, joint stock company, Governmental Authority (as hereinafter defined) or other entity of any kind.

“**Personal Data**” has the meaning ascribed thereto in Section 2(hhh).

“**Personnel**” has the meaning ascribed thereto in Section 6(a).

“**Preliminary Prospectus**” has the meaning ascribed thereto in Section 2(a).

“**Products**” means the pharmaceutical products under development, manufactured and/or marketed by the Company or which are or will be undergoing testing, pre-clinical trials and/or clinical trials.

“**Prospectus**” has the meaning ascribed thereto in Section 2(c).

“**Prospectus Supplement**” has the meaning ascribed thereto in Section 2(c).

“**Qualifying Jurisdictions**” means each of the provinces of Canada.

“**Receipt**” has the meaning ascribed thereto in Section 2(b).

“**Representation Date**” has the meaning ascribed thereto in Section 2.

“**Reviewing Authority**” has the meaning ascribed thereto in Section 2(a).

“**Sales Price**” means the actual sale execution price per Share placed by the Agent pursuant to this Agreement.

“**Sanctions**” has the meaning ascribed thereto in Section 2(ggg).

“**Securities Commissions**” has the meaning ascribed thereto in Section 2(a).

“**SEDAR**” means the System for Electronic Document Analysis and Retrieval.

“**Selling Commission**” means 2.5% of the gross proceeds of any Share sold pursuant to this Agreement, or such other percentage or amount as may be agreed to in writing by the Company and the Agent with respect to any Share sold pursuant to this Agreement.

“**Settlement Date**” means the second business day following each Trading Day during the period set forth in the Issuance Notice on which any Shares are sold pursuant to this Agreement, when the Company shall deliver to the Agent the amount of Shares sold on such Trading Day and the Agent shall deliver to the Company the Issuance Price for the sales of such Shares.

“**Shares**” shall mean the Common Shares issued or issuable pursuant to this Agreement.

“**Shelf Information**” has the meaning ascribed thereto in Section 2(c).

“**Shelf Procedures**” has the meaning ascribed thereto in Section 2(a).

“**Shelf Securities**” has the meaning ascribed thereto in Section 2(a).

“**SR&ED**” has the meaning ascribed thereto in Section 2(tt).

“**Subsidiary**” means those entities that would be a “subsidiary” of the Company pursuant to the Canadian Securities Laws of the Province of British Columbia and includes (i) Nash Pharmaceuticals Inc., (ii) Algernon Research PTY Ltd., and (iii) Algernon NeuroScience Inc.;

“**Tax**” or “**Taxes**” has the meaning ascribed thereto in Section 2(ss).

“**Time of Sale**” has the meaning ascribed thereto in Section 3(b)(vi).

“**Trading Day**” means any day on which the Exchange is open for trading.

“**Triggering Event Date**” has the meaning ascribed thereto in Section 4(j).

“**U.S. Securities Act**” means the United States Securities Act of 1933.

(b) Certain Rules of Interpretation. In this Agreement, unless otherwise specified:

- (i) Headings, etc. The table of contents, the division of this Agreement into Sections and the insertion of headings are for convenient reference only and do not affect the construction or interpretation of this Agreement.
- (ii) Currency. All references to “dollars” or to “\$” are references to Canadian dollars, unless otherwise specified.
- (iii) Singular, Plural and Gender. Where the context so requires, words importing the singular include the plural and vice versa, and words importing gender shall include the masculine, feminine and neuter genders.
- (iv) Certain Phrases and References, etc. The words “including”, “includes” and “include” mean “including without limitation”. Unless stated otherwise, “Section” and “Schedule” followed by a number or letter mean and refer to the specified Section of or Schedule to this Agreement.
- (v) Capitalized Terms. All capitalized terms used in any Schedule hereto have the meanings ascribed to them in this Agreement.

- (vi) Knowledge. Where any representation or warranty contained in this Agreement or any Ancillary Document is expressly qualified by reference to the “**knowledge**” of the Company or “**the best of the Company’s knowledge**”, or where any other reference is made herein to the “**knowledge**” of the Company, it shall be deemed to refer to the actual knowledge of (i) Christopher Moreau, the Chief Executive Officer, and (ii) James Kinley, the Chief Financial Officer, of the facts or circumstances to which such phrase relates, after having made reasonable inquiries and investigations in connection with such facts and circumstances that would ordinarily be made by officers of similar sized companies.
- (vii) Statutes. Any reference to a statute refers to such statute and all rules and regulations made under it, as it or they may from time to time be amended or re-enacted, unless stated otherwise.
- (viii) Time References. References to time are to the local time in Toronto, Ontario.

## SECTION 2 REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to, and agrees with, the Agent that as of (1) the date of this Agreement, (2) each Issuance Notice Date, (3) each Settlement Date, (4) each Triggering Event Date and (5) as of the day on which each Time of Sale occurs (each of the days referenced above is referred to herein as a “**Representation Date**”), except as may be disclosed in the Prospectus (including any Documents Incorporated by Reference therein and any supplements thereto) on or before the applicable Representation Date:

- (a) Base Prospectus. The Company has prepared and filed with the British Columbia Securities Commission (the “**Reviewing Authority**”) (in its capacity as principal regulator of the Company under the Passport System) and with each of the securities commissions or similar regulatory authorities in each of the Qualifying Jurisdictions (collectively, the “**Securities Commissions**”), using the short form prospectus distribution system as provided in National Policy 11-202 - *Process for Prospectus Reviews in Multiple Jurisdictions* (“**NP 11-202**”), National Instrument 44-101 - *Short Form Prospectus Distributions* (“**NI 44-101**”) and National Instrument 44-102 - *Shelf Distributions* (“**NI 44-102**” and together with NI 44-101, the “**Shelf Procedures**”), a preliminary short form base shelf prospectus dated February 4, 2021 (together with any Documents Incorporated by Reference therein, and any amendments thereto or amendments and restatements thereof, the “**Preliminary Prospectus**”) and a (final) short form base shelf prospectus dated May 5, 2021 (together with any Documents Incorporated by Reference therein, and any amendments thereto or amendments and restatements thereof, the “**Base Prospectus**”), in each of the Qualifying Jurisdictions, in each case qualifying the distribution of an aggregate of up to \$50,000,000 of certain securities of the Company including Common Shares (collectively, the “**Shelf Securities**”) in accordance with Canadian Securities Laws.
- (b) Receipt. The Company has obtained from the Reviewing Authority a receipt for the Base Prospectus dated May 6, 2021 (the “**Receipt**”) under the Passport System, which also evidences that a receipt has been issued or is deemed to have been issued for the Base Prospectus by each of the Securities Commissions of the other Qualifying Jurisdictions and has otherwise fulfilled all legal requirements to qualify the Shelf Securities for distribution to the public in the Qualifying Jurisdictions through the Agent or any other registered dealer in the applicable Qualifying Jurisdictions. The Receipt is still in full force and has not been rescinded, repealed, revoked or otherwise nullified by any Securities Commissions or other Governmental Authority.

- (c) Prospectus Supplement. The Company has prepared and filed with the Securities Commissions on the date of this Agreement a shelf prospectus supplement dated the date hereof setting forth the Shelf Information (as hereinafter defined) in accordance with Shelf Procedures and Canadian Securities Laws (together with any Documents Incorporated by Reference therein, and any supplements or any amendments thereto or amendments and restatements thereof, the “**Prospectus Supplement**”) for the Offering. The Prospectus Supplement provides that any and all Designated News Releases are and shall be deemed to be incorporated by reference into the Base Prospectus. “**Shelf Information**” means the information, if any, included in the Prospectus Supplement that is omitted from the Base Prospectus but that is deemed under the Shelf Procedures or Canadian Securities Laws to be incorporated by reference into the Base Prospectus, and “**Prospectus**” means, collectively, the Base Prospectus, as supplemented by the Prospectus Supplement (and any additional, amended and/or amended and restated prospectus supplement prepared in accordance with the provisions of this Agreement and filed with the Securities Commissions, all in accordance with Canadian Securities Laws) relating to the Offering, including, in each case, the Documents Incorporated by Reference therein.
- (d) Due Diligence. During the course of the Offering, the Company will allow the Agent (and its counsel) to conduct all due diligence investigations which the Agent may require in order to fulfil its obligations as agent pursuant to applicable Canadian Securities Laws and the Company will use its commercially reasonable efforts to make available its directors, senior management, auditors and legal counsel to answer any questions which the Agent may reasonably have and to participate in one or more oral due diligence sessions to be held on or prior to each Triggering Event Date if reasonably requested by the Agent. The Company has not withheld and will not withhold from the Agent any material facts relating to the Company or the Offering, and the information supplied by the Company to the Agent and its counsel in connection with the due diligence conducted by the Agent (or its counsel) including information provided at due diligence sessions, was and will be true and accurate in all material respects and not misleading and all expressions of opinion and expectation therein contained are and will be honestly and fairly based and such replies were and will be prepared or approved by persons having appropriate knowledge and responsibility to enable them properly to provide such replies and all such replies were and will be given in good faith.
- (e) Compliance with Canadian Securities Laws. The Company meets the general eligibility requirements under Canadian Securities Laws for the use of the Shelf Procedures and for the use of a short form base shelf prospectus under Canadian Securities Laws with respect to a distribution of securities. Subsequent to the issuance of the Receipt for the Base Prospectus, no other document with respect to the Base Prospectus has heretofore been filed with the Securities Commissions, except for any document filed with the Securities Commissions subsequent to the date of such Receipt in the form heretofore delivered to the Agent or made available to the Agent on SEDAR. The Prospectus, at the time of filing thereof with the Securities Commissions, complied and, as amended, amended and restated or supplemented, if applicable, will comply in all material respects with Canadian Securities Laws. The Prospectus, as amended, amended and restated or supplemented, as of its date, did not, and, as of each Applicable Time and as of each Settlement Date, if any, will not contain a misrepresentation, as defined under Canadian Securities Laws and provides and will provide full, true and plain disclosure of all material facts relating to the Company and the Subsidiaries (on a consolidated basis), the Offering and the Shares. The Company has filed a current annual information form in the form prescribed by National Instrument 51-102 – *Continuous Disclosure Obligations* (“**NI 51-102**”) in each of the Qualifying Jurisdictions on or prior to the date of this Agreement and the Company is as of the date hereof and will be at each Applicable Time an “Eligible Issuer” (within the meaning set out in NI 44-101) in the Qualifying Jurisdictions and, on the dates of and upon filing of the Preliminary Prospectus and the Prospectus, there were no and will not be any documents required to be filed under the Canadian Securities

Laws in connection with the Offering that have not been filed as required as at those respective dates. For the purposes of this Agreement, the “**Applicable Time**” means, with respect to any Shares, the time of sale of such Shares pursuant to this Agreement.

- (f) Incorporated Documents. The Documents Incorporated by Reference, at the time they were or hereafter are filed with the Securities Commissions, complied and will comply in all material respects with the requirements of Canadian Securities Laws and do not and will not contain a misrepresentation.
- (g) Forward Looking Statements and Future-Oriented Financial Information. With respect to forward-looking information and statements, and future-oriented financial information and financial outlook, of the Company contained or incorporated by reference in the Prospectus and the assumptions underlying such information and statements and financial information and financial outlook: (i) the Company had a reasonable basis for the forward-looking information and statements and future-oriented financial information and financial outlook at the time the disclosure was made; (ii) all forward-looking information and statements and future-oriented financial information and financial outlook is identified as such; (iii) all such documents caution users that actual results may vary from the forward-looking information and statements and future-oriented financial information and financial outlook; (iv) forward-looking information and statements and all future-oriented financial information and financial outlook: (A) presents fully, fairly and correctly in all material respects the then-expected results of operations, sources of funds and uses of funds for the periods covered thereby, as applicable; and (B) is based on assumptions that are reasonable in the circumstances; and (v) is limited, in the Company’s reasonable judgment, to a period for which the information in the future-oriented financial information or financial outlook can be reasonably estimated.
- (h) Statistical and Market-Related Data. The statistical, demographic and market-related data included in the Prospectus are based on or derived from sources that the Company believes to be reliable and accurate in all material respects or represent the Company’s good faith estimates that are made on the basis of data derived from such sources.
- (i) Internal Control Over Financial Reporting. The Company maintains a system of internal control over financial reporting that has been designed by the Company’s management to enable the preparation of the Company’s financial statements such that they are free from material misstatement, whether due to fraud or error.
- (j) Corporate Authority. This Agreement has been duly authorized, executed and delivered by, and is a valid and binding agreement of, the Company, enforceable in accordance with its terms, provided that enforcement hereof may be limited by laws affecting creditors’ rights generally, that specific performance and other equitable remedies may only be granted in the discretion of a court of competent jurisdiction and that the provisions relating to indemnity, contribution, severability and waiver of contribution may be limited under Applicable Law. Each of the execution and delivery of this Agreement by the Company, the performance by the Company of its obligations hereunder, the Offering and the consummation of the transactions contemplated in this Agreement, do not and will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, whether after notice or lapse of time or both: (A) any Applicable Laws applicable to the Company, including Canadian Securities Laws; (B) the constating documents, by-laws or resolutions of the Company; (C) any material mortgage, note, indenture, contract, agreement, joint venture, partnership, instrument, lease or other document to which the Company is a party or by which it is bound; (D) any judgment, decree or order binding the Company or its assets and properties; or (E) the rights, duties and obligations of any parties to any indenture,

agreement or instrument to which the Company is a party, nor give a party the right to terminate any such indenture, agreement or instrument by virtue of the application of terms, provisions or conditions in such indenture, agreement or instrument, except as would not, individually or in the aggregate, have a Material Adverse Effect.

- (k) Authorization of the Shares. The authorized capital of the Company consists of an unlimited number of Common Shares. There were 2,385,332 Common Shares issued and outstanding as of the close of business on December 23, 2022. All statements made in the Prospectus describing the Common Shares and the respective attributes thereof are complete and accurate in all material respects. All of the issued and outstanding Common Shares have been duly authorized and validly issued, are fully paid and non-assessable and have been issued in compliance with the *Business Corporations Act* (British Columbia). The outstanding Common Shares and any other outstanding capital stock of the Company have been, and the Shares when issued and delivered by the Company pursuant to this Agreement will be, duly authorized, validly issued, fully paid and non-assessable and will not be subject to, or issued in violation of, any pre-emptive rights, rights of first refusal, or other similar rights to subscribe for or purchase securities of the Company. There are no authorized or outstanding options, warrants, pre-emptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any shares of the Company other than those described in the Prospectus. The description, if any, of the Company's stock option plan and any other share incentive plan, and the options or other rights granted thereunder, set forth in the Prospectus contains no misrepresentation and fairly present in all material respects the information required to be shown with respect to such plans, options and rights. The Company's agreement with Ladenburg Thalmann & Co. Inc. ("**Ladenburg**") has expired or been terminated, and no amounts shall be paid or will be payable by the Company to Ladenberg in connection with or as a result of the Offering.
- (l) No Applicable Registration or Other Similar Rights. There are no persons with any registration or other similar rights to have any equity or debt securities registered for sale under the Prospectus or included in the Offering contemplated by this Agreement.
- (m) No Material Adverse Effect. Subsequent to the respective dates as of which information is contained in the Prospectus, except as disclosed in the Prospectus: (i) the Company has not incurred any liabilities, direct or contingent, including any losses or interference with its business from fire, explosion, flood, earthquakes, accident or other calamity, whether or not covered by insurance, or from any strike, labour dispute or court or governmental action, order or decree, that are material, individually or in the aggregate, to the Company or the Subsidiaries, other than in the ordinary course of business; (ii) the Company has not entered into any transactions that are material, individually or in the aggregate, to the Company's or the Subsidiaries' business and operations that are not in the ordinary course of business; (iii) there has not been any material decrease in the capital stock or any material increase in any short-term or long-term indebtedness of the Company or any Subsidiary, or any payment of or declaration to pay any dividends or any other distribution with respect to the Company; and (iv) there has not been any Material Adverse Effect, or any development that could reasonably be expected to have a Material Adverse Effect.
- (n) Independent Accountants. Smythe LLP, who audited the Company Financial Statements, are independent public accountants with respect to the Company as required under applicable Canadian Securities Laws. There has never been any "disagreement" or "reportable event" (within the respective meanings set out in NI 51-102) between the Company and its auditors, Smythe LLP. The responsibilities and composition of the audit committee of the Company's board of directors (the "**Audit Committee**") comply with, and the Audit Committee operates in accordance with, National Instrument 52-110 - *Audit Committees*.

- (o) Preparation of the Financial Statements. The financial statements and related notes of the Company contained or incorporated by reference in the Prospectus (the “**Company Financial Statements**”): (i) have been prepared in accordance with International Financial Reporting Standards as issued by the International Accounting Standards Board (“**IFRS**”), applied on a consistent basis throughout the periods involved, except as may be expressly stated in the notes thereto; (ii) contain no misrepresentations and present fairly, in all material respects, the financial position and condition of the Company, as at such dates and the results of its operations and its cash flows and statements of changes in equity for the periods then ended; (iii) contain and reflect adequate provisions or allowance for all reasonably anticipated liabilities, expenses and losses of the Company that are required to be disclosed in such financial statements in accordance with IFRS; and (iv) have been audited (in the case of the annual financial statements comprising the Company Financial Statements) or have been reviewed (in the case of the interim financial statements comprising the Company Financial Statements) by the time of the filing of thereof by independent public accountants within the meaning of Canadian Securities Laws and the rules of the Chartered Professional Accountants of Canada. There has been no change in accounting policies or practices of the Company since August 31, 2021 other than as required under IFRS and/or disclosed in the Prospectus, including, for certainty, the Company Financial Statements. Other than the Company Financial Statements, no other financial statements or supporting schedules are required to be included in the Prospectus under Canadian Securities Laws, including National Instrument 52-107 – *Acceptable Accounting Principles and Auditing Standards* and NI 51-102.
- (p) No Off-Balance Sheet Transactions. There are no off-balance sheet transactions, arrangements, obligations (including contingent obligations) or other relationships of the Company with unconsolidated entities or other persons which individually or in the aggregate are material to the Company.
- (q) Disclosure Obligations. The Company is in compliance with its timely and continuous disclosure obligations under Canadian Securities Laws and the policies, rules and regulations of the Exchange and has filed all documents required to be filed by it with the Securities Commissions under applicable Canadian Securities Laws and under the policies, rules and regulations of the Exchange, and without limiting the generality of the foregoing, there are no material facts and there has not occurred any material change in the Company, since September 1, 2020 which has not been set forth in the Prospectus or otherwise publicly disclosed on a non-confidential basis, and the Company has not filed any confidential material change report which remains confidential. None of the documents filed in accordance with applicable Canadian Securities Laws contains a misrepresentation which has not otherwise been corrected and superseded by a document subsequently filed by the Company in accordance with applicable Canadian Securities Laws and which is publicly available.
- (r) Incorporation and Good Standing. The Company and each Subsidiary: (i) has been duly organized or formed, as the case may be, is validly existing and is in good standing under the laws of its jurisdiction of organization; (ii) has all requisite power, capacity and authority to carry on its business as now conducted in each of the jurisdictions it carries on business and to own, lease and operate its assets and properties; (iii) has all requisite power, capacity and authority to carry out its obligations hereunder; and (iv) is duly qualified or licensed to do business and is in good standing as a corporation, partnership or other entity, as the case may be, authorized to do business in each jurisdiction in which the nature of such businesses or the ownership or leasing of its properties requires such qualification.

- (s) Dissolution. Neither the Company nor any Subsidiary nor, to the knowledge of the Company, any other person, has taken any steps or proceedings, voluntary or otherwise, requiring or authorizing the dissolution or winding-up of the Company or any Subsidiary.
- (t) Subsidiary. Other than the Subsidiaries, the Company has no subsidiaries and no investment in any person which is or would be material to the business and affairs of the Company. The Subsidiaries are the only subsidiaries of the Company. The Company is the direct or indirect registered and beneficial owner of all of the issued and outstanding shares and other voting securities of each Subsidiary, in each case free and clear of all liens, charges and encumbrances, and no person, firm, corporation or entity has any agreement, option, right or privilege (whether pre-emptive or contractual) capable of becoming an agreement or option, for the purchase from the Company or any Subsidiary of any of the shares or other securities of any Subsidiary.
- (u) Minute Books and Records. Copies of the minute books and records of the Company made available to the Agent (and its counsel) in connection with the due diligence investigations of the Company are all of the minute books of the Company and contain copies of all material proceedings (or certified copies thereof or drafts thereof pending approval) of the shareholders, the directors and all committees of directors of the Company to the date hereof, and there have been no other material meetings, resolutions or proceedings of the shareholders, directors or any committees of the directors of the Company not reflected in such minute books, other than minutes and/or resolutions relating to the Offering.
- (v) Voting Control Agreements. There is no agreement in force or effect which in any manner affects the voting or control of any of the securities of the Company.
- (w) Canadian Reporting Issuer. The Company is a reporting issuer (or equivalent thereof) in each Qualifying Jurisdiction. The Company is not in default in any material respect of any requirements of Canadian Securities Laws. The Company is not on the list of defaulting reporting issuers maintained by the Securities Commissions that maintains such a list. The Company has filed all documents forming the Disclosure Record on a timely basis in accordance with the requirements of Canadian Securities Laws and, since September 1, 2020 each document comprising the Disclosure Record required to be filed by the Company under Canadian Securities Laws was, as of the date of filing, in compliance in all material respects with all applicable requirements under Canadian Securities Laws and none of documents comprising the Disclosure Record, as of their respective filing dates, contained any misrepresentation other than any misrepresentation that was corrected and superseded by a subsequent document comprising the Disclosure Record.
- (x) Stock Exchange Listing. The Common Shares are currently listed and posted for trading on the Exchange under the symbol “AGN” and on the Frankfurt Stock Exchange under the symbol “AGW0”, and quoted on the OTCQB under the symbol “AGNPF”. The Company has taken no action designed to, or reasonably likely to have the effect of, terminating the registration of the Common Shares or delisting the Common Shares from the Exchange, the Frankfurt Stock Exchange or the OTCQB, nor has the Company received any written notification that any Securities Commission or the Exchange, the Frankfurt Stock Exchange or the OTCQB is contemplating terminating such registration or listing. No order, ruling or determination having the effect of suspending the sale or ceasing the trading of the Common Shares or any other securities of the Company has been issued or made by any Securities Commission, any other securities commission, stock exchange or any other Governmental Authority and is continuing in effect and no proceedings for that purpose have been instituted or are pending or, to the knowledge of the Company, are contemplated or threatened by any such authority or under any Canadian Securities Laws, and any request made to the Company on the part of any Securities Commission, any other securities

commission, stock exchange or other Governmental Authority for additional information has been complied with.

- (y) No Consents, Authorizations or Approvals Required. There are no third-party consents required to be obtained in order for the Company to complete the Offering. No consent, approval, authorization, order, filing, qualification or registration of or with any Governmental Authority, Securities Commission or other third party is required of the Company in connection with the execution, delivery or performance by the Company of its obligations under this Agreement or the consummation of the sale of the Shares hereunder, except (i) those that have been granted or made, as the case may be, that are in full force and effect and (ii) as may be required under the Canadian Securities Laws in connection with Offering hereunder including any post-closing filings with Securities Commissions and the Exchange.
- (z) Non-Contravention of Existing Instruments. Neither the Company nor any Subsidiary is: (i) in violation of its articles of incorporation, by-laws or other organizational documents (the “**Charter Documents**”); (ii) in violation of any Applicable Laws of any federal, state, provincial, territorial, local or other governmental or regulatory authority in Canada or the United States or any comparable federal, provincial, territorial, state, municipal, local or foreign governmental bodies in any other country, in each case with jurisdiction over the Company or any Subsidiary or any of their respective properties (each, a “**Governmental Authority**”); or (iii) not in breach of or default under any bond, debenture, note, loan or other evidence of indebtedness, indenture, mortgage, deed of trust, lease or any other agreement or instrument to which it is a party or by which its property is bound (collectively, the “**Existing Instruments**”), except for such violations, breaches or defaults that would not, individually or in the aggregate, have a Material Adverse Effect. All Existing Instruments are in full force and effect and are legal, valid and binding obligations of the Company and the Subsidiaries, as applicable. There exists no condition that, with the giving of notice or lapse of time or both, would constitute (A) a violation of such Charter Documents or in any material respect Applicable Laws, or (B) a material breach of, or default or a “**Debt Repayment Triggering Event**” (as hereinafter defined) under, any Existing Instruments. As used herein, a “**Debt Repayment Triggering Event**” means any event or condition that gives, or with the giving of notice or lapse of time or both would give, the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder’s behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any Subsidiary. Neither the execution, delivery or performance of this Agreement nor the consummation of the sales of the Shares hereunder (including the use of proceeds from the sale of the Shares as described in the Prospectus Supplement under the caption “Use of Proceeds”) will conflict with, violate, constitute a breach of or a default (with the giving of notice or the lapse of time or both) under, or result in the imposition of a lien on any material assets of the Company of any Subsidiary, or the imposition of any material penalty under or pursuant to the Charter Documents, any Existing Instrument, any Applicable Laws or any order, writ, judgment, injunction, decree, determination or award binding upon or affecting the Company or any Subsidiary, or result in a Debt Repayment Triggering Event. The Company has not received any sanctions or fines from any Governmental Authority.
- (aa) No Material Actions or Proceedings. There are no legal or governmental actions, judgements, investigations, suits or proceedings pending or, to the Company’s knowledge, threatened: (i) against or affecting the Company or any Subsidiary; (ii) which have as the subject thereof any officer or director of, or property owned or leased by, the Company or any Subsidiary; or (iii) relating to environmental or discrimination matters, where in any such case (A) there is a reasonable possibility that such action, suit or proceeding might be determined adversely to the Company, or such officer or director, (B) any such action, suit or proceeding, if so determined adversely, would,

individually or in the aggregate, have a Material Adverse Effect or adversely affect the consummation of the transactions contemplated by this Agreement or (C) any such action, suit or proceeding is or could be material in the context of the sale of Shares.

- (bb) No Defaults. No default exists under and no event has occurred which, after notice or lapse of time or both, or otherwise, constitutes a default under or breach, by the Company or any Subsidiary, or any other person, of any material obligation, agreement, covenant or condition contained in any material contract to which the Company or any Subsidiary is a party or by which it or any of its material assets or properties may be bound, and all such material contracts are in good standing and in full force and effect. The Company is not aware of any intention of any key supplier, distributor or customer to terminate its relationship with the Company or any Subsidiary.
- (cc) Indemnification Agreements. The Company is not a party to or bound by any agreement of guarantee, indemnification (other than an indemnification of directors and officers in accordance with the by-laws of the Company and Applicable Laws, and indemnification agreements or covenants that are entered into arising in the ordinary course of business) or any other like commitment of the obligations, liabilities (contingent or otherwise) of indebtedness of any other person other than the Company.
- (dd) Intellectual Property Rights.
  - (i) The Company and/or the Subsidiaries own, or have obtained valid and enforceable licenses for, or other rights to use, the Intellectual Property including, for greater certainty, the Intellectual Property described in the Disclosure Record; the Company has no knowledge that the Company or any Subsidiary lacks or will be unable to obtain any rights or licenses to use all Intellectual Property (including for the commercialization of the Company's products and services present or proposed) as described in the Prospectus; no third parties have rights to any Intellectual Property of the Company or any Subsidiary, except for the ownership rights of the owners of the Licensed IP or except for any licenses of use granted by the Company and/or any Subsidiary therein; there is no pending or, to the best of the Company's knowledge, threatened action, suit, proceeding or claim by others challenging the validity or enforceability of any Intellectual Property or the Company's or any Subsidiary's rights in or to any Intellectual Property or suggesting that any other person has any claim of legal or beneficial ownership or other claim or interest with respect thereto, the Company has no knowledge of any facts which form a reasonable basis for any such claim, and to the best of the Company's knowledge, there has been no finding of unenforceability or invalidity of the Intellectual Property; to the best of the Company's knowledge, there is no patent or published patent application that contains claims that interfere with the issued or pending claims of any of the Intellectual Property of the Company or any Subsidiary; and to the best of the Company's knowledge, there is no prior art that necessarily renders any patent application owned by the Company or any Subsidiary unpatentable that has not been disclosed to the US Patent and Trademark Office or any similar office in Canada or any other jurisdiction;
  - (ii) other than Licensed IP, the Company and/or the Subsidiaries are the legal and beneficial owners of, have good and marketable title to, and own all right, title and interest in and to all Intellectual Property free and clear of all Encumbrances or adverse interests whatsoever, covenants, conditions, options to purchase and restrictions or other adverse claims of any kind or nature; no consent of any person

is necessary to make, use, reproduce, license, sell, modify, update, enhance or otherwise exploit any Intellectual Property and none of the Intellectual Property of the Company or any Subsidiary comprises an improvement to Licensed IP that would give any person any rights to any such Intellectual Property, including, without limitation, rights to license any such Intellectual Property;

- (iii) the Company and its Subsidiaries have used commercially reasonable efforts to maintain and protect the Intellectual Property owned by the Company and/or any Subsidiary; the Company and its Subsidiaries have, unless otherwise specified, making filings and payments of registration, maintenance, renewal or similar fees and to obtain ownership of such Intellectual Property developed for the Company and/or any Subsidiary by its employees, consultants and contractors; the Company and its Subsidiaries has secured written assignment agreements from all former and current employees, consultants and contractors that assign to the Company and/or a Subsidiary all rights, title and interest in and to any such Intellectual Property, and including with respect to all copyrightable Intellectual Property, securing from such employees, consultants and/or contractors waivers of moral rights in writing in favour of the Company, the Subsidiaries and their successors, assignees or licensees; there are no oppositions, cancellations, invalidity proceedings, interferences or re-examination proceedings pending with respect to any Intellectual Property owned by the Company and/or any Subsidiary or, to the best of the Company's knowledge, threatened; all applications for registration of any Intellectual Property owned by the Company and/or any Subsidiary have been properly filed and have been pursued by the Company and the Subsidiaries in the ordinary course of business, and neither the Company nor any of the Subsidiaries has received any notice (whether written, oral or otherwise) indicating that any application for registration of the Intellectual Property owned by the Company and/or any Subsidiary has been finally rejected or denied by the applicable reviewing authority, except for any rejection or denial that would not, individually or in the aggregate, have a Material Adverse Effect;
- (iv) to the best of the Company's knowledge, the conduct of the business of the Company and the Subsidiaries (including, without limitation, the sale of their respective products and services, or the use or other exploitation of the Intellectual Property by the Company, the Subsidiaries or any customers, distributors or other licensees thereof) has not infringed, violated, misappropriated or otherwise conflicted with (and does not infringe, violate, misappropriate or otherwise conflict with) any Intellectual Property right of any person; there is no pending or threatened action, suit, proceeding or claim by others alleging that any current or proposed conduct of their respective businesses (including, without limitation, the sale of their respective products and services, or use or other exploitation of any Intellectual Property by the Company, the Subsidiaries or any customers, distributors or other licensees) infringes, violates, misappropriates or otherwise conflicts with (or would infringe, violate, misappropriate or otherwise conflict with) any Intellectual Property of others, and the Company has no knowledge of any facts which form a reasonable basis for any such claim;
- (v) to the best of the Company's knowledge, no person has infringed or misappropriated, or is infringing or misappropriating, any rights of the Company and/or any Subsidiary in or to the Intellectual Property;

- (vi) the Company has entered into valid and enforceable written agreements pursuant to which the Company has been granted all licenses and permissions to use, reproduce, sub-license, sell, modify, update, enhance or otherwise exploit the Licensed IP to the extent required for the conduct of the business of the Company and the Subsidiaries as currently conducted or as proposed to be conducted (including, if required, the right to incorporate such Licensed IP into the Intellectual Property). All license agreements in respect of Licensed IP are in full force and effect and none of the Company, any of the Subsidiaries or to the best of the Company's knowledge, any other person, is in default of its obligations thereunder; and
  - (vii) to the extent that any of the Intellectual Property is licensed or disclosed to any person or any person has access to such Intellectual Property (including but not limited to any employee, officer, shareholder, consultant, systems-integrator, distributor, Contract counterparty, or other customer of the Company or any of the Subsidiaries), the Company has entered into a valid and enforceable written agreement which contains terms and conditions prohibiting the unauthorized use, reproduction, disclosure or transfer of such Intellectual Property by such person. Other than such agreements that have expired in accordance with their respective terms, all such agreements are in full force and effect and none of the Company, any of the Subsidiaries or, to the best of the Company's knowledge, any other person, is in default of its obligations thereunder except for any default which is immaterial.
- (ee) All Necessary Permits, etc. The Company possesses such valid and current certificates, authorizations or permits issued by the appropriate federal, provincial, territorial, state or foreign regulatory agencies or bodies necessary to conduct its business, and the Company has not received any notice of proceedings relating to the revocation or modification of, or non-compliance with, any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, could result in a Material Adverse Effect.
- (ff) Title to Properties. The Company and each Subsidiary is the absolute legal and beneficial owner, and has good and valid title to, all of the material property or assets thereof as described in the Prospectus free and clear of all liens, charges and encumbrances and defects of title, except as disclosed in the Prospectus or which would not, individually or in the aggregate, have a Material Adverse Effect, and (A) no other material property or assets are necessary for the conduct of the business of the Company or any Subsidiary as currently conducted, (B) the Company has no knowledge of any claim or the basis for any claim that might or could materially and adversely affect the right of the Company or any Subsidiary to use, transfer or otherwise exploit such property or assets, and (C) neither the Company nor the Subsidiary has any responsibility or obligation to pay any commission, royalty, licence fee or similar payment to any person with respect to the property and assets thereof. Neither the Company nor the Subsidiaries own real property. With respect to each premises which is material to the Company or any Subsidiary and which the Company or any Subsidiary occupies as tenant (the "**Leased Premises**"), the Company or the Subsidiary (as applicable) occupies the Leased Premises and has the exclusive right to occupy and use the Leased Premises and neither the Company nor any Subsidiary is in breach or violation of or in default under any of the leases pursuant to which the Company or the Subsidiary (as applicable) occupies the Leased Premises and to the best of the Company's knowledge, such leases are valid, in good standing and in full force and effect and are enforceable against the respective lessors thereof.

- (gg) Products. All Products and services provided to customers, in whole or in part, by the Company or any Subsidiary and all component parts which are supplied to the Company or any Subsidiary are, to the best of the Company's knowledge, manufactured or provided in full compliance with Applicable Laws and meet industry specific standards set by all organizations which pertain to the business of the Company and each Subsidiary and the Company's and each Subsidiary's Products and services have met and satisfied all product safety standards necessary to permit the sale of the Company's and each Subsidiary's Products and services in the jurisdictions in which they are sold. None of the Company or any of its Subsidiaries has voluntarily or involuntarily initiated, conducted or issued, or caused to be initiated, conducted or issued, any recalls, market withdraws, safety alerts or other notice of material action relating to an actual or potential lack of safety, efficacy or the non-compliance with Applicable Healthcare Laws of any Product.
- (hh) No Default. Any and all of the agreements and other documents and instruments pursuant to which the Company or any Subsidiary holds the property and assets thereof are valid and subsisting agreements, documents or instruments in full force and effect, enforceable in accordance with the terms thereof; the Company and the Subsidiaries are not in default of any of the material provisions of any such agreements, documents or instruments nor, to the Company's knowledge, has any such default been alleged, and such properties and assets of the Company and the Subsidiaries are in good standing under the Applicable Laws of the jurisdictions in which they are situated; all leases, licences and claims pursuant to which the Company or any Subsidiary derives the interests thereof in such property and assets are in good standing and there has been no material default under any such lease, licence or claim, and all Taxes required to be paid with respect to such properties and assets to the date hereof have been paid.
- (ii) Industry Practice. Any and all operations of the Company and the Subsidiaries, and to the best of the Company's knowledge, any and all operations by predecessors, on or in respect of the assets and properties of the Company have been conducted substantially in accordance with good industry practices in the jurisdiction of operation and in material compliance with Applicable Laws and orders, judgments, decrees and directions of Governmental Authorities and other competent authorities.
- (jj) Tax Law Compliance. Except as would be immaterial to the Company and the Subsidiaries (on a consolidated basis), all Tax (as hereinafter defined) returns, declarations, remittances and filings required to be filed by the Company or any Subsidiary have been filed with all appropriate Governmental Authorities on a timely basis and all such returns, declarations, remittances and filings are complete and accurate in all material respects and no material fact or facts have been omitted therefrom which would make any of them misleading. Except as disclosed in the Prospectus or except as would be immaterial to the Company and the Subsidiaries (on a consolidated basis), all Taxes due and payable or required to be collected or withheld and remitted, by the Company or any Subsidiary have been paid, collected, withheld and remitted, other than those (i) currently payable without penalty or interest or (ii) being contested in good faith and by appropriate proceedings and for which adequate accruals have been established in accordance with IFRS, applied on a consistent basis throughout the periods involved. To the knowledge of the Company, there are no issues or disputes outstanding with any Governmental Authority respecting any Tax return or filing, or any Taxes that have been paid or may be payable, by the Company or any Subsidiary. There are no actual or proposed Tax audits, assessments, or reassessments against the Company or any Subsidiary. There are no agreements, waivers or other arrangements with any taxation authority providing for an extension of time for any assessment or reassessment of Taxes with respect to the Company or any Subsidiary. The accruals on the books and records of the Company in respect of any material Tax liability for any period not finally determined are adequate to meet any assessments of Tax for any such period. For purposes of this Agreement, the term

“Tax” and “Taxes” shall mean all Canadian, U.S. and foreign federal, provincial, territorial, state, and local taxes, and other assessments of a similar nature (whether imposed directly or through withholding), including income tax, capital tax, payroll taxes, sales taxes, value-added taxes, employer health tax, workers’ compensation payments, property taxes and land transfer taxes, duties, royalties, levies, imposts, assessments, deductions, charges or withholdings and all liabilities with respect thereto including any interest, additions to tax or penalties applicable thereto. The Company and each Subsidiary has established on its books and records reserves that are adequate for the payment of all Taxes not yet due and payable and there are no liens, charges or encumbrances for Taxes on the assets and properties of the Company or any Subsidiary (other than liens for Taxes that are not yet due and payable or that are being contested in good faith), and, to the knowledge of the Company, there are no audits pending of the Tax returns of the Company or any Subsidiary (whether federal, provincial, territorial, state, local or foreign) and there are no claims which have been asserted relating to any such Tax returns, which audits and claims, if determined adversely, would result in the assertion by any Governmental Authority of any material deficiency.

- (kk) Scientific Research and Experimental Development. All scientific research and experimental development (“SR&ED”) Tax incentives, or similar incentives in jurisdictions outside of Canada (including Australia and the Netherlands), applied for by the Company or any Subsidiary have been claimed in accordance with the *Income Tax Act* (Canada) or other Applicable Laws and the Company has no knowledge that Canada Revenue Agency or any other Governmental Authority intends to, or has threatened to, disallow, reassess or reduce any SR&ED incentives applied for by or previously granted to the Company or any Subsidiary and all SR&ED Tax incentives or similar incentives applied for by the Company or any Subsidiary to Governmental Authorities were claimed in accordance with the Applicable Laws and the Company has no knowledge that Canada Revenue Agency or any other Governmental Authority intends to, or has threatened to, disallow, reassess or reduce any such incentives applied for by or previously granted to the Company or any Subsidiary.
- (ll) Insurance. The Company and the Subsidiaries are insured against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged. All policies of insurance insuring the Company or any Subsidiary or its business, assets, employees, officers and directors are, in full force and effect and neither the Company nor any Subsidiary is in default in any respect with respect to the payment of any premium or compliance with any of the provisions contained in any such insurance policy. The Company and each Subsidiary is in compliance with the terms of such policies and instruments in all material respects, and there are no claims by the Company or any Subsidiary under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause. The Company has no reason to believe that it or any Subsidiary will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not, individually or in the aggregate, have a Material Adverse Effect. To the knowledge of the Company, there are no circumstances under which the Company or any Subsidiary would be required to or, in order to maintain its coverage, should give any notice to the insurers under any such insurance policy which has not been given. Neither the Company nor any Subsidiary has received notice from any of the insurers regarding cancellation of such insurance policy.
- (mm) No Price Stabilization or Manipulation. The Company has not taken, directly or indirectly, any action designed to or that might be reasonably expected to cause or result in stabilization or manipulation of the price of the Common Shares or any other “reference security” (as defined in

Canadian Securities Laws) whether to facilitate the sale or resale of the Shares or otherwise, and has taken no action which would directly or indirectly violate Canadian Securities Laws.

- (nn) Compliance with Environmental Laws. Except in compliance with Applicable Laws, neither the Company nor any Subsidiary has used any of its property or facilities to generate, manufacture, process, distribute, use, treat, store, dispose of, transport or handle any pollutants, contaminants, chemicals or industrial toxic or hazardous waste or substances (“**Hazardous Substances**”); except in compliance with Applicable Laws, neither the Company nor any Subsidiary has caused or permitted the release, in any manner whatsoever, of any Hazardous Substances on or from any of its properties or assets or any such release on or from a facility owned or operated by third parties but with respect to which the Company or a Subsidiary is or may reasonably be alleged to have material liability or has received any notice that it is potentially responsible for a federal, provincial, territorial, state, municipal or local clean-up site or corrective action under any Applicable Laws, statutes, ordinances, by-laws, regulations or any orders, directions or decisions rendered by any ministry, department or administrative regulatory agency relating to the protection of the environment, occupational health and safety or otherwise relating to or dealing with Hazardous Substances in a manner that could, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.
- (oo) Employee Plans. All material agreements, plans or practices relating to the payment of any management, consulting, service or other fees or any bonuses, pensions, share of profits or retirement allowance, insurance, health or other employee benefits or any plan for retirement, stock purchase, profit sharing, stock option, deferred compensation, severance or termination pay, insurance, medical, hospital, dental, vision care, drug, sick leave, disability, salary continuation, legal benefits, unemployment benefits, vacation, incentive or otherwise of the Company or any Subsidiary for the benefit of any current or former director, officer, employee or consultant of the Company or any Subsidiary (collectively, “**Employee Plans**”) have been, if required under Canadian Securities Laws, disclosed in the Prospectus. The Company has made available to the Agent (or its counsel) true and complete copies of documents, contracts and arrangements relating to the Employee Plans. The Employee Plans have been established, operated in the ordinary course and administered in all material respects in accordance with their terms and the requirements prescribed by any and all Applicable Laws that are applicable to such Employee Plans and there are no arrears or unfunded obligations, or material defaults, of the Company under any of the Employee Plans.
- (pp) Labour Distribution and Disputes. There has not been and there is not currently any labour disruption that would, individually or in the aggregate, have a Material Adverse Effect. No material labour dispute with the employees of the Company or any Subsidiary, or to the Company’s knowledge, with the employees of any principal supplier, manufacturer, customer or contractor of the Company or any Subsidiary, exists or is threatened or imminent, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.
- (qq) Brokers. Other than the Agent, there is no person acting or purporting to act at the request or on behalf of the Company that is entitled to receive from the Company any brokerage or finder’s fee or other compensation in connection with the transactions contemplated by this Agreement. Other than pursuant to this Agreement, the Company is not party to any contract, agreement or understanding with any person (other than this Agreement) that would reasonably be expected to give rise to a valid claim for a brokerage commission, finder’s fee or like payment in connection with the Offering.

- (rr) Governmental Licenses. (A) The Company and each of the Subsidiaries possesses such permits, certificates, licences, approvals, registrations, qualifications, consents and other authorizations issued by Governmental Authorities (collectively, “**Governmental Licences**”), as are necessary to conduct the business now operated by it in all jurisdictions in which it carries on business (as such business is currently conducted); (B) the Company and each Subsidiary is in material compliance with the terms and conditions of all such Governmental Licences; (C) all of such Governmental Licences are in good standing, valid and in full force and effect; (D) neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation, suspension, termination or modification of any such Governmental Licences, and there are no facts or circumstances, including without limitation facts or circumstances relating to the revocation, suspension, modification or termination of any Governmental Licenses held by others, known to the Company, that could lead to the revocation, suspension, modification or termination of any such Governmental Licenses if the subject of an unfavourable decision, ruling or finding, except where such revocation, suspension, modification or termination is not in respect of a material Governmental Licence or where such revocation, suspension, modification or termination would not, individually or in the aggregate, have a Material Adverse Effect; (E) neither the Company nor any Subsidiary is in material default with respect to filings to be effected or conditions to be fulfilled in order to maintain such Governmental Licenses in good standing; (F) none of such Governmental Licenses contains any term, provision, condition or limitation which has or would reasonably be expected to affect or restrict in any material respect the operations or the business of the Company or any Subsidiary as now carried on or proposed to be carried on; and (G) neither the Company nor any Subsidiary has reason to believe that any party granting any such Governmental Licenses is considering limiting, suspending, modifying, withdrawing or revoking the same in any material respect.
- (ss) Healthcare Laws. All clinical and pre-clinical studies related to the development of the Products have been conducted, and to the extent they are still pending are currently being conducted, in accordance with accepted medical, scientific and ethical research procedures and all Applicable Laws. None of the Company or any of its Subsidiaries is subject to any obligation arising under an administrative or regulatory action, inspection, warning letter, notice of violation letter, or other written notice, response or commitment made to or with the United States Food and Drug Administration, Health Canada or any other Governmental Authority, and to Company’s knowledge, no such proceedings have been threatened. None of the Company or any of its Subsidiaries, and to the Company’s knowledge none of its or its Subsidiaries’ officers, directors, and employees (i) are or have been a party to, or bound by, any order, individual integrity agreement, corporate integrity agreement, compliance undertaking or other formal agreement or settlement with any Governmental Authority concerning compliance with Applicable Laws; (ii) have made any filings in the United States pursuant to the OIG or CMS self-disclosure protocol; (iii) have been a defendant in any action, or received a threat of any action, brought under a United States federal or state whistleblower statute, including without limitation the False Claims Act (31 U.S.C. § 3729 et seq.); or (iv) have been served with or received any written search warrant, subpoena (other than those related to actions against third parties), civil investigative demand or contact letter from a Governmental Authority.
- (tt) Due Diligence Responses. (i) The responses given by the Company and its officers at all oral due diligence sessions conducted by the Agent in connection with the Offering, as they relate to matters of fact, have been and shall continue to be true and correct in all material respects as at the time such responses have been or are given, as the case may be, and such responses taken as a whole have not and shall not omit any fact or information necessary to make any of the responses not misleading in light of the circumstances in which such responses were given or shall be given, as the case may be; and (ii) where the responses reflect the opinion or view of the Company or its

officers (including responses or portions of such responses which are forward-looking or otherwise relate to projections, forecasts, or estimates of future performance or results (operating, financial or otherwise)), such opinions or views have been and will be honestly held and believed to be reasonable at the time they are given.

- (uu) Compliance with Laws. The Company and each Subsidiary (i) has conducted and has been conducting its business in compliance in all material respects with all Applicable Laws of each jurisdiction in which its business is carried on or in which its services are provided and has not received a notice of non-compliance, nor knows of, nor has reasonable grounds to know of, any facts that could give rise to a notice of non-compliance with any such Applicable Laws, (ii) is not in breach or violation of any judgment, order or decree of any Governmental Authority or court having jurisdiction over the Company or any Subsidiary, as applicable, (iii) holds all, and are not in breach of any, material Governmental Licenses that enable its business to be carried on as now conducted in each of the jurisdictions it carries on business and enable it to own, lease or operate its assets and properties, and none of the Subsidiaries nor, to the knowledge of the Company, any other person, has taken any steps or proceedings, voluntary or otherwise, requiring or authorizing such Subsidiaries' dissolution or winding up.
  
- (vv) Anti-Corruption Compliance. The Company and the Subsidiaries and their directors, officers, employees and other representatives are familiar with and have conducted all transactions, negotiations, discussions and dealings in full compliance with anti-bribery and anti-corruption laws and regulations applicable in any jurisdiction in which they are located or conducting business. Neither the Company nor any Subsidiary has made any offer, payment, promise to pay, or authorization of payment of money or anything of value to any government official, or any other person while having reasonable grounds to believe that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to a government official, for the purpose of (i) assisting the parties in obtaining, retaining or directing business; (ii) influencing any act or decision of a government official in his or its official capacity; (iii) inducing a government official to do or omit to do any act in violation of his or its lawful duty, or to use his or its influence with a government or instrumentality thereof to affect or influence any act or decision of such government or department, agency, instrumentality or entity thereof; or (iv) securing any improper advantage.
  
- (ww) Anti-Money Laundering Compliance. The operations of the Company and the Subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Authority (collectively, the “**Applicable Anti-Money Laundering Laws**”) and no action, suit or proceeding by or before any Governmental Authority involving the Company or any Subsidiary with respect to Applicable Anti-Money Laundering Laws is, to the knowledge of the Company, pending or threatened.
  
- (xx) Sanctions. Neither Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or Affiliate of the Company is currently subject to any sanctions administered or enforced by the U.S. government (including the U.S. Treasury Department Office of Foreign Assets Control or the U.S. Department of State and including the designation as a “specially designated national” or “blocked person”), Canadian government (including the Office of the Superintendent of Financial Institutions (Canada) pursuant to the *Special Economic Measures Act* (Canada)), the United Nations Security Council, the European Union, Her Majesty's Treasury, or other relevant sanctions authority (collectively, “**Sanctions**”); and the Company will not directly or indirectly use the proceeds from the sale of the Shares, or lend, contribute or

otherwise make available such proceeds to any Subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of or business with any person, or in any country or territory, that currently is the subject to any Sanctions or in any other manner that will result in a violation by any person (including any person participating in the transaction whether as initial purchaser, advisor, investor or otherwise) of Sanctions.

- (yy) Cybersecurity. The Company's and the Subsidiary's information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "**IT Systems and Data**") are adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company and the Subsidiaries as currently conducted, to the knowledge of the Company, free and clear of all material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants, except as would not, individually or in the aggregate, have a Material Adverse Effect. The Company and each Subsidiary has implemented and maintains commercially reasonable physical, technical and administrative controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and Data, including Personal Data (as hereinafter defined), used in connection with their businesses. There have been no breaches, violations, outages or unauthorized uses of or accesses to same, except for those that have been or could be remedied without material cost or liability or the duty to notify any other person, nor any incidents under internal review or investigations relating to the same. The Company and each Subsidiary has taken commercially reasonable steps (including implementing and monitoring compliance with respect to technical and physical security) consistent with industry standards, to ensure that the Personal Data are protected against damage, loss and against unauthorized access, use, modification, disclosure or other misuse, including for the purpose of protecting the Company systems from infection by any disabling codes or instructions or any "back door", "time bomb", "Trojan horse", "worm", "drop dead device", "virus" or other software routines or hardware components that permit unauthorized access or the unauthorized disablement or erasure of the Company's technology or information systems, access by unauthorized persons, or access by authorized persons that exceeds the person's authorization), performing and documenting its risk assessment and management procedures, and conforming with industry standards pertaining to secure programming techniques. The Company's and the Subsidiaries' information security practices conform in all material respects to all requirements of Applicable Laws regarding privacy and protection of personal information. To the knowledge of the Company, there is no outstanding material complaint to, or any material proceeding or claim against, the Company initiated by any private Person or any Governmental Authority, with respect to any Personal Data. To the knowledge of the Company, there has been no unauthorized access to or other misuse of information technology assets or Personal Data. "**Personal Data**" means (i) a natural person's name, street address, telephone number, e-mail address, photograph, social security number or tax identification number, driver's license number, passport number, credit card number, bank information, or customer or account number, (ii) any information which would qualify as "personally identifying information" under the Federal Trade Commission Act, (iii) "personal data" as defined by the European Union General Data Protection Regulation, (iv) any information contemplated under any of the *Personal Information Protection and Electronic Documents Act* (Canada), the *Personal Health Information Protection Act, 2004* (Ontario), the *Personal Information Protection Act* (Alberta); the *Personal Information Protection Act* (British Columbia); and *An Act Respecting the Protection of Personal Information in the Private Sector* (Quebec), and (v) any information which would qualify as "protected health information" under the Health Insurance Portability and Accountability Act of 1996 by the Health Information Technology for Economic and Clinical Health Act, and (v) any other piece of information that allows the identification of such natural person, or his or her family, or permits the collection or analysis of any data related to an identified person's health or sexual orientation.

- (zz) Related Party Transactions. No relationship, direct or indirect, exists between or among any of the Company or any Subsidiary, on the one hand, and any insider of the Company or any Subsidiary, on the other hand, which is required by Canadian Securities Laws to be disclosed by the Company under Applicable Laws, which is not so disclosed. Except as disclosed in the Prospectus, there are no outstanding material loans, advances (except advances for business expenses in the ordinary course of business) or guarantees of indebtedness by the Company or any Subsidiary to or for the benefit of any of the officers or directors of the Company or any Subsidiary or any of their respective family members. Other than wages, salaries, advances and other compensation and expense-related payments in the ordinary course, except as disclosed in the Prospectus, neither the Company nor any Subsidiary is indebted to: (i) any director, officer or, to the knowledge of the Company, significant shareholder of the Company; (ii) any individual related to any of the foregoing by blood, marriage or adoption; or (iii) any corporation controlled, directly or indirectly, by any one or more of the foregoing. Except as disclosed in the Prospectus, none of those foregoing persons outlined in (i) to (iii) above are indebted to the Company or any Subsidiary. Neither the Company nor any Subsidiary is a party to any material contract, agreement or understanding with any officer, director, employee, significant shareholder or any other person not dealing at arm's length with the Company, other than those contracts, agreements or understandings, including employment agreements, entered into by the Company or any Subsidiary in the ordinary course of business or as disclosed in the Prospectus. Except as disclosed in the Prospectus, none of the directors, officers or employees of the Company, or any associate or Affiliate of any of the foregoing has any interest, direct or indirect, in any transaction with the Company that materially affects, is material to or would reasonably be expected to materially affect the Company.
- (aaa) Labor Matters. (i) The Company and the Subsidiaries are not party to or bound by any collective agreement and are not currently conducting negotiations with any labour union or employee association; (ii) there is no union representation question existing with respect to the employees of the Company or any Subsidiary, and, to the knowledge of the Company, no union organizing activities are taking place that would, individually or in the aggregate, have a Material Adverse Effect; (iii) to the knowledge of the Company, no union organizing or decertification efforts are underway or threatened against the Company or any Subsidiary; (iv) no labour strike, work stoppage, slowdown or other material labour dispute is pending against the Company or any Subsidiary, or, to the Company's knowledge, threatened against the Company or any Subsidiary; (v) there is no worker's compensation liability, experience or matter that would, individually or in the aggregate, have a Material Adverse Effect; and (vi) there is no human rights or employment-related charge, complaint, grievance, investigation, unfair labour practice claim or inquiry of any kind, pending before any Governmental Authority against the Company or any Subsidiary; (vii) the Company and the Subsidiaries are in compliance in all respects with all Applicable Laws respecting employment and employment practices, terms and conditions of employment, pay equity and wages and have not and is not engaged in any unfair labour practice; and (viii) to the knowledge of the Company, no employee or agent of the Company or any Subsidiary has committed any act or omission giving rise to liability for any violation identified in subsection (v) and (vi) above.
- (bbb) Material Transactions. Except as disclosed in the Prospectus, neither the Company nor any Subsidiary is party to any agreement in respect of: (i) the purchase of any material property or assets or the sale, transfer or other disposition of any material property or assets currently owned, directly or indirectly, by the Company or any Subsidiary whether by asset sale, transfer of shares or otherwise; or (ii) the change of control of the Company or any Subsidiary (whether by sale or transfer of shares or sale of all or substantially all of the property and assets of the Company or otherwise).

- (ccc) Significant Acquisitions. The Company (i) has not made any significant acquisitions as such term is defined in Part 8 of NI 51-102 in its current financial year or prior financial years in respect of which historical and/or pro forma financial statements or other information would be required to be included or incorporated by reference into the Prospectus or the Prospectus Supplement and for which a business acquisition report has not been filed under NI 51-102, (ii) has not entered into any agreement or arrangement in respect of a transaction that would be a significant acquisition for purposes of Part 8 of NI 51-102, and (iii) there are no proposed acquisitions by the Company that have progressed to the state where a reasonable person would believe that the likelihood of the Company completing the acquisition is high and would be a significant acquisition for the purposes of Part 8 of NI 51-102 if completed as of the date of the Prospectus Supplement. The Company has not filed a confidential material change report in respect of a change, fact or other information which has not been subsequently disclosed. The Company has not withheld from the Agent any adverse material facts relating to the Company, any of the Subsidiaries or the Offering.
- (ddd) Prior Distributions. The Company has, prior to the filing of the Prospectus Supplement, distributed Securities under the Base Shelf Prospectus in the aggregate amount of \$2,000,000. Assuming sales of Shares in the Maximum Program Amount under the Prospectus, the Company will have distributed Securities under the Base Shelf Prospectus in the aggregate amount of less than \$50,000,000.
- (eee) Prospectus Disclosure. All statements made in the Prospectus describing the Common Shares and the respective attributes thereof are complete and accurate in all material respects. The description of the regulations applicable to the Company, its Subsidiaries and their respective operations, as set forth in the Prospectus and the Documents Incorporated by Reference, is a reasonable, fair and accurate summary of the laws and regulations applicable to the Company and its Subsidiaries and their respective operations in the jurisdictions in which they operate, and was reviewed and approved by legal counsel in each of those jurisdictions mentioned therein.
- (fff) As of date of this Agreement, to the knowledge of the Company, the Company will have working capital and sources of funds sufficient to fund the operations of the Company for at least 6 months from such date.
- (ggg) Pandemic. Other than as disclosed in the Prospectus or arising in the ordinary course of business, the impact of the novel coronavirus (COVID-19) pandemic has not (i) resulted in any material decline in the consolidated revenues or increase in the consolidated liabilities of the Company and the Subsidiaries, taken as a whole, (ii) materially adversely impacted the workforce of the Company and the Subsidiaries, (iii) created any material disruptions in the supply chain or distribution infrastructure of the Company and the Subsidiaries, or (iv) otherwise resulted in a Material Adverse Effect.
- (hhh) Foreign Private Issuer. The Company is a “Foreign Private Issuer” as such term is defined in Rule 405 promulgated under the U.S. Securities Act, and reasonably believes that there is no Substantial U.S. Market Interest as such term is defined under Regulation S of the U.S. Securities Act with respect to any class of securities of the Company to be offered, sold or issued hereto.

Any certificate signed by any officer or representative of the Company and delivered to the Agent or counsel for the Agent in connection with an issuance of Shares shall be deemed a representation and warranty by the Company to the Agent as to the matters covered thereby as of the date of such certificate.

### SECTION 3 ISSUANCE AND SALE OF COMMON SHARES

- (a) Sale of Securities. On the basis of the representations, warranties and agreements herein contained, but subject to the terms and conditions herein set forth, the Company and the Agent agrees that the Company may from time to time seek to sell Shares through the Agent, acting as sales agent, or directly to the Agent, acting as principal, in accordance with this Section 3, with an aggregate Sales Price of up to the Maximum Program Amount, based on and in accordance with Issuance Notices that the Company from time to time delivers to the Agent, during the Agency Period. The Company's appointment of the Agent under this Agreement shall be on an exclusive basis during the term of this Agreement, and the Company agrees that, during the term of this Agreement, it will not appoint any other person to act as the Company's agent with respect to sales of Shares pursuant to the Offering.
- (b) Mechanics of Issuances.
- (i) Issued to Lead Agent. Each Issuance Notice under this Agreement shall only be given by the Company to RCC.
- (ii) Issuance Notice. Upon the terms and subject to the conditions set forth herein, on any Trading Day during the Agency Period on which the conditions set forth in Section 5(a) and Section 5(b) shall have been satisfied, the Company may exercise its right to request an issuance of Shares by delivering to RCC an Issuance Notice; *provided, however,* that: (A) in no event may the Company deliver an Issuance Notice to the extent that the sum of (x) the requested Issuance Amount, plus (y) the aggregate Sales Price of all Shares issued under all previous Issuance Notices effected pursuant to this Agreement, would exceed the Maximum Program Amount; and (B) prior to delivery of any Issuance Notice, the period set forth for any previous Issuance Notice shall have expired or the prior Issuance Notice shall have been terminated in writing by the Company giving written notice to RCC. An Issuance Notice shall be considered delivered on the Trading Day that it is received by e-mail to the persons set forth in Schedule "B" hereto and confirmed by the Company by telephone (including a voicemail message to the persons so identified), with the understanding that, with adequate prior written notice, RCC may modify the list of such persons from time to time.
- (iii) Agent Efforts. Upon the terms and subject to the conditions set forth in this Agreement, upon the receipt of an Issuance Notice, the Agent will use its commercially reasonable efforts, consistent with its normal sales and trading practices and in compliance with Canadian Securities Laws to place the Shares with respect to which the Agent has agreed to act as sales agent, subject to, and in accordance with the information specified in, the Issuance Notice, unless the sale of the Shares described therein has been suspended, cancelled or otherwise terminated in accordance with the terms of this Agreement. For the avoidance of doubt, the Company and RCC may modify an Issuance Notice at any time provided they both agree in writing to any such modification. The Agent covenants and agrees that the Agent will not (nor will any Affiliate thereof or person acting jointly or in concert therewith) over-allot Shares in connection with the distribution of Shares in an "at-the-market distribution" (as defined in NI 44-102) or effect any other transactions that are intended to stabilize or maintain the market price of the Shares in connection with such distribution.
- (iv) Method of Offer and Sale. The Shares may be offered and sold: (A) in privately negotiated transactions with the consent of the Company and, if required, by the Exchange; (B) as

block transactions; (C) by the Agent, on the Exchange or on any other “marketplace” (as such term is defined in NI 21-101 – *Marketplace Operation*) in Canada; or (D) by any method permitted by law that constitutes an “at-the-market distribution” under NI 44-102. Nothing in this Agreement shall be deemed to require either party to agree to the method of offer and sale specified in the preceding sentence, and (except as specified in clauses (A) and (B) above, if agreed to in writing by the Agent) the method of placement of any Shares by the Agent shall be at the Agent’s discretion.

- (v) Confirmation to the Company. RCC will provide written confirmation to the Company no later than the opening of the Trading Day next following the Trading Day on which the Shares have been placed hereunder setting forth the number of Shares sold on such Trading Day, the corresponding Sales Price(s) of such Shares and the Issuance Price payable to the Company in respect thereof.
- (vi) Settlement. Each issuance of Shares will be settled on the applicable Settlement Date for such issuance of Shares and, subject to the provisions of Section 5, on or before each Settlement Date, the Company will, or will cause its transfer agent to, electronically transfer the Shares being sold by crediting RCC or its designee’s account at CDS Clearing and Depository Services Inc. through its CDSX system for Shares sold in Canada, or by such other means of delivery as may be mutually agreed upon by the parties hereto and, upon receipt of such Shares, which in all cases shall be freely tradable, transferable, registered Shares in good deliverable form, the Agent will deliver, by wire transfer of immediately available funds, the related Issuance Price in same day funds delivered to an account designated by the Company prior to the Settlement Date. The Company may sell Shares to the Agent as principal, if agreed upon by the Agent, including at a price agreed upon at each relevant time Shares are so sold pursuant to this Agreement (each, a “**Time of Sale**”).
- (vii) Suspension or Termination of Sales. Consistent with standard market settlement practices, the Company or RCC may, upon notice to the other party hereto in writing or by telephone (confirmed immediately by verifiable email), suspend any sale of Shares, and the period set forth in an Issuance Notice shall immediately terminate; *provided, however*, that (A) such suspension and termination shall not affect or impair either party’s obligations with respect to any Shares placed or sold hereunder prior to the receipt of such notice; (B) if the Company suspends or terminates any sale of Shares after RCC confirms such sale to the Company, the Company shall still be obligated to comply with Section 3(b)(vi) with respect to such Shares; and (C) if the Company defaults in its obligation to deliver Shares on a Settlement Date, the Company agrees that it will hold RCC fully harmless against any loss, claim, damage or expense (including penalties, interest and reasonable legal fees and expenses), as incurred, arising out of or in connection with such default by the Company. The parties hereto acknowledge and agree that, in performing its obligations under this Agreement, the Agent may borrow Common Shares from stock lenders in the event that the Company has not delivered Shares to settle sales as required by Section 3(b)(vi) above, and may use the Shares delivered to it by the Company to settle or close out such borrowings. The Company agrees that no such notice shall be effective against the Agent unless it is made to the persons identified in writing by the Agent pursuant to Section 3(b)(ii).
- (viii) No Guarantee of Placement, Etc. The Company acknowledges and agrees that (A) there can be no assurance that the Agent will be successful in placing any Shares; (B) the Agent will incur no liability or obligation to the Company or any other person if such Agent does

not sell Shares; and (C) the Agent shall be under no obligation to purchase Shares on a principal basis pursuant to this Agreement, except as otherwise specifically agreed in writing by the Agent and the Company.

- (ix) Material Non-Public Information. Notwithstanding any other provision of this Agreement, the Company and the Agent agree that the Company shall not deliver any Issuance Notice to RCC, and the Agent shall not be obligated to place any Shares, during any period in which the Company is in possession of material non-public information or when the Company is in a trading “black out” period. If any issuance notice has been given by the Company to RCC pursuant to which the Agent may still sell Shares, the Company shall promptly advise RCC in writing to suspend sales of Shares at any time when the Company is in possession of material non-public information or if the Company is in a trading “black out” period and will advise the Agent in writing once such material non-public information has been disclosed or no longer exists, and to resume the sale of Shares.
- (c) Fees. As compensation for services rendered, the Company shall pay to RCC, on the applicable Settlement Date, the Selling Commission for the applicable Issuance Amount (including with respect to any suspended or terminated sale pursuant to Section 3(b)(vii)) respecting each issuance of Shares for which the Agent acted as sales agent under this Agreement, by deducting (and the Company hereby authorizes RCC to deduct) the Selling Commission from the applicable Issuance Amount.
- (d) GST/HST. RCC shall also be able to deduct (and the Company hereby authorizes RCC to deduct) from the applicable Issuance Amount any GST/HST, if then applicable, to any Selling Commission.
- (e) Expenses. The Company agrees to pay all costs, fees and expenses incurred in connection with the performance of its obligations hereunder and in connection with the transactions contemplated hereby, including: (i) all expenses of or incidental to the creation, issuance, sale, distribution and delivery of the Shares (including all printing and engraving costs); (ii) all fees and expenses of the registrar and transfer agent of the Shares; (iii) all necessary issue, transfer and other stamp taxes in connection with the issuance and sale of the Shares; (iv) all fees and expenses of the Company’s legal counsel, independent public or certified public accountants and other advisors; (v) all costs and expenses incurred in connection with the preparation, printing, filing, shipping and distribution of the Prospectus and all amendments and supplements thereto, and this Agreement; (vi) the fees and expenses associated with listing the Shares on the Exchange; and (vii) the out-of-pocket expenses and fees of the Agent with prior approval of the Company for any expense (other than the Agent’s legal counsel fees and disbursements) in excess of \$5,000, including the reasonable expenses and fees of the Agent’s legal counsel which shall not exceed \$50,000, plus taxes and disbursements, of which \$25,000, plus taxes and disbursements, shall be paid by the Company on the date hereof and the remainder shall be paid by the Company within 30 days of the date of this Agreement. Except as set out in the prior sentence, all reasonable fees and expenses (plus applicable taxes) incurred by the Agent or on its behalf shall be payable by the Company immediately upon receiving an invoice therefor from the Agent and shall be payable whether or not the Offering is completed. At the option of RCC, such fees and expenses (plus applicable taxes) must either be paid by the Company at the time of filing the Prospectus Supplement in the Qualifying Jurisdictions or may otherwise be deducted from the proceeds payable to the Company hereunder pursuant to the sales of Shares under the Offering.
- (f) Exemption. The decision of the *Autorité des marchés financiers* (“AMF”) dated January 20, 2021, whereby the Company was granted a permanent exemption from the requirement to translate into French the Prospectus is still in full force and has not been rescinded, repealed, revoked or

otherwise nullified by the AMF or any other Governmental Authority and applies to the Prospectus Supplement, including the Offering and the distribution of the Shares under the Prospectus.

- (g) Share Subdivision, Consolidation, Etc. In the event that the Company subdivides, consolidates, reclassifies or otherwise changes the Common Shares during the Agency Period, after such subdivision, consolidation, reclassification or other change become effective, all references in the Agreement to the Common Shares will thereafter refer to the Common Shares after giving effect to such subdivision, consolidation, reclassification or other change.

#### **SECTION 4 ADDITIONAL COVENANTS**

The Company covenants and agrees with the Agent as follows, in addition to any other covenants and agreements made elsewhere in this Agreement:

- (a) Canadian Securities Laws Compliance. During the Agency Period, the Company shall file, on a timely basis, with the Securities Commissions all reports and documents required to be filed pursuant to applicable Canadian Securities Laws, as appropriate, including as prescribed by NI 44-102. The Company will use its commercially reasonable efforts to comply with all requirements imposed upon it by the Canadian Securities Laws as from time to time in force, so far as necessary to permit the continuance of sales of, or dealings in, the Shares as contemplated by the provisions hereof, and under the Prospectus, and will promptly notify the Agent in writing should it cease to comply with such requirements of Canadian Securities Laws.
- (b) Securities Compliance. After the date of this Agreement, the Company shall promptly advise the Agent in writing: (i) of the receipt of any comments of, or requests for additional or supplemental information from, the Securities Commissions in relation to the Prospectus; (ii) of the time and date of any filing of any amendment, amendment and restatement or supplement to the Prospectus; and (iii) of the issuance by the Securities Commissions of any stop order suspending the effectiveness of any amendment, amendment and restatement or supplement to the Prospectus or of any order preventing or suspending the use of the Prospectus, or of any proceedings to remove, suspend or terminate from listing or quotation the Common Shares from any securities exchange upon which they are listed for trading or included or designated for quotation, or of the threatening or initiation of any proceedings for any of such purposes. If the Securities Commissions shall enter any such stop order at any time, the Company will use its best efforts to obtain the lifting of such order at the earliest possible moment.
- (c) Amendments and Supplements to the Prospectus and Other Securities Matters. If any event shall occur or condition exist as a result of which it is necessary to amend, amend and restate or supplement the Prospectus such that the Prospectus does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances when the Prospectus is delivered to a purchaser, not misleading, or if in the reasonable opinion of the Agent or counsel for the Agent it is otherwise necessary to amend, amend and restate or supplement the Prospectus to comply with Canadian Securities Laws and the Company agrees (subject to Section 4(d) and Section 4(f)) that it will cause each amendment, amendment and restatement or supplement to the Prospectus to be filed with the Securities Commissions as required pursuant to Shelf Procedures or, in the case of any document to be incorporated therein by reference, to be filed with the Securities Commissions as required pursuant to the Canadian Securities Laws, within the time period prescribed, such that the statements in the Prospectus as so amended or supplemented will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances as amended, amended and restated or supplemented, not misleading, and will

otherwise comply with Canadian Securities Laws. The Agent's consent to, or delivery of, any such amendment or supplement shall not constitute a waiver of any of the Company's obligations under Section 4(d) and Section 4(f).

- (d) Agent's Review of Proposed Amendments and Supplements. Prior to amending, amending and restating or supplementing the Prospectus, the Company shall furnish to the Agent for review, a reasonable amount of time prior to the proposed time of filing or use thereof, a copy of each such proposed amendment, amendment and restatement or supplement, and the Company shall not file or use any such proposed amendment, amendment and restatement or supplement without the Agent's prior consent (such consent not to be unreasonably withheld, delayed or conditioned), and to file with the Securities Commissions, as applicable, within the applicable period specified under applicable Canadian Securities Laws, any prospectus required to be filed thereunder.
- (e) Marketing Material. The Company has not provided, and will not provide, any "marketing materials" (as such term is defined in National Instrument 41-101 – *General Prospectus Requirements*) to any potential investors in the Common Shares.
- (f) Copies of the Prospectus. After the date of this Agreement through the last time that a prospectus is required to be delivered in connection with sales of the Shares, the Company agrees to furnish the Agent with copies (which may be electronic copies) of the Prospectus and each amendment, amendment and restatement or supplement thereto in the form in which it is filed with the Securities Commissions, in such quantities as the Agent may reasonably request from time to time; and if at any time any event has occurred as a result of which the Prospectus as then amended, amended and restated or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus are delivered, not misleading, or, if for any other reason it is necessary during such same period to amend, amend and restate or supplement the Prospectus or to file under Canadian Securities Laws any Document Incorporated by Reference in order to comply with the Canadian Securities Laws, to promptly notify the Agent and to request in writing that the Agent suspends offers to sell Shares (and, if so notified, the Agent shall cease such offers as soon as practicable); and if the Company decides to amend, amend and restate or supplement the Prospectus as then amended, amended and restated or supplemented, to advise the Agent promptly by telephone (with confirmation in writing) and to prepare and cause to be filed promptly with, if necessary, the Securities Commissions, an amendment, amendment and restatement or supplement to the Prospectus as then amended, amended and restated or supplemented that will correct such statement or omission or effect such compliance; provided, however, that if during such same period the Agent is required to deliver a prospectus in respect of transactions in the Shares, the Company shall promptly prepare and file with the Securities Commissions, such an amendment, amendment and restatement or supplement. Notwithstanding the foregoing, the Company shall not be required to furnish any documents to the Agent that are available on SEDAR.
- (g) Listing; Reservation of Shares. The Company will: (i) use commercially reasonable efforts to maintain the listing of the Common Shares on the Exchange ; (ii) obtain Exchange approval for the listing of the Shares issuable pursuant to the Offering; and (iii) reserve and keep available at all times Shares for the purpose of enabling the Company to satisfy its obligations under this Agreement.
- (h) Transfer Agent. The Company shall maintain, at its expense, a duly qualified registrar and transfer agent for the Shares.

(i) Representations and Warranties. The Company acknowledges that each delivery of an Issuance Notice and each delivery of Shares on a Settlement Date shall be deemed to be: (i) an affirmation to the Agent that the representations and warranties of the Company contained in or made pursuant to this Agreement are true and correct as of the date of such Issuance Notice or of such Settlement Date, as the case may be, as though made at and as of each such date, except as may be disclosed in the Prospectus; and (ii) an undertaking that the Company will advise the Agent if any of such representations and warranties will not be true and correct as of the Settlement Date for the Shares relating to such Issuance Notice, as though made at and as of each such date.

(j) Deliverables at Triggering Event Dates; Certificates. The Company agrees that on or prior to the date of the first Issuance Notice and, during the term of this Agreement after the date of the first Issuance Notice, upon:

(i) the filing by the Company of an amendment, amendment and restatement or supplement of any Prospectus; or

(ii) the filing by the Company of any annual or quarterly financial information or statements (including any such filings that contain amended financial information or a material amendment to the previously filed annual or quarterly financial information or statements) of the Company with the Securities Commissions under Canadian Securities Laws; or

(iii) the filing by the Company of any annual information form pursuant to NI 51-102;

(any such event, a “**Triggering Event Date**”), the Company shall furnish to the Agent with a certificate as of the Triggering Event Date, in the form and substance satisfactory to the Agent and its counsel, with the Triggering Event Date certificates delivered following the first Issuance Notice being substantially similar to the form of certificate previously provided to the Agent and its counsel, modified, as necessary, to relate to the Prospectus as amended, amended and restated or supplemented, (A) confirming that the representations and warranties of the Company contained in this Agreement are true and correct, (B) that the Company has performed all of its obligations hereunder to be performed on or prior to the date of such certificate and as to the matters set forth in Section 5(a)(i) hereof, and (C) containing any other certification that the Agent shall reasonably request. The requirement to provide a certificate under this Section 4(j) shall be waived for any Triggering Event Date occurring at a time when no Issuance Notice is pending or has been delivered to the Agent pursuant to which the sale of Shares is ongoing or a suspension of the sale of Shares hereunder is then in effect, which waiver shall continue until the earlier to occur of the date the Company next delivers instructions for the sale of Shares hereunder and the next occurring Triggering Event Date. Notwithstanding the foregoing, if the Company subsequently decides to sell Shares following a Triggering Event Date when a suspension was in effect and the Company did not provide the Agent with a certificate under this Section 4(j), then before the Company delivers the instructions for the sale of Shares or the Agent sells any Shares pursuant to such instructions, the Company shall provide the Agent with a certificate in conformity with this Section 4(j) dated as of the date that the instructions for the sale of Shares are issued.

(k) Legal Opinions. On or prior to the date of the first Issuance Notice and within five (5) Trading Days of each Triggering Event Date with respect to which the Company is obligated to deliver a certificate pursuant to Section 4(j) for which no waiver is applicable and excluding the date of this Agreement, the Company shall furnish to the Agent a written legal opinion of McMillan LLP, Canadian counsel to the Company, dated the date of delivery, in form and substance reasonably satisfactory to the Agent and its counsel, with each opinion delivered following the first Issuance Notice being substantially similar to the form of legal opinion previously provided to the Agent

and its counsel, modified, as necessary, to relate to the Prospectus as then amended, amended and restated or supplemented, provided, however, that the Company shall be required to furnish to the Agent no more than one opinion hereunder per calendar quarter. At such same times if reasonably requested by the Agent, the Agent shall also have received opinion(s), in form and substance satisfactory to the Agent, that each Subsidiary is duly incorporated, validly existing and in good standing in the jurisdiction of its incorporation, as to its authorized and issued capital and the ownership thereof. In lieu of such opinions for subsequent periodic filings, in the discretion of the Agent (acting reasonably), the Company may furnish a reliance letter from such counsel to the Agent, permitting the Agent to rely on a previously delivered legal opinion letter, modified as appropriate for any passage of time or the Triggering Event Date (except that statements in such prior opinion shall be deemed to relate to the Prospectus as amended, amended and restated or supplemented as of such Triggering Event Date).

- (l) Comfort Letter. On or prior to the date of the first Issuance Notice and within five (5) Trading Days of each Triggering Event Date with respect to which the Company is obligated to deliver a certificate pursuant to Section 4(j) for which no waiver is applicable and excluding the date of this Agreement, the Company shall cause Smythe LLP, the independent registered public accounting firm who has audited the Company Financial Statements, to furnish to the Agent a comfort letter, dated the date of delivery, in form and substance reasonably satisfactory to the Agent and its counsel; provided, however, that any such comfort letter will only be required on the Triggering Event Date specified to the extent that it contains consolidated financial statements or financial information filed with the Securities Commissions that constitute Documents Incorporated by Reference.
- (m) Secretary's Certificate. On or prior to the date of the first Issuance Notice and within five (5) Trading Days of each Triggering Event Date, the Company shall furnish to the Agent a certificate executed by the Secretary of the Company, signing in such capacity, dated the date of delivery (i) certifying that attached thereto are true and complete copies of the resolutions duly adopted by the board of directors of the Company authorizing the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby (including the issuance of the Shares pursuant to this Agreement), which authorization shall be in full force and effect on and as of the date of such certificate, (ii) certifying and attesting to the office, incumbency, due authority and specimen signatures of each person who executed this Agreement for or on behalf of the Company, (iii) certifying that attached thereto are true and complete copies of the articles and by-laws of the Company, and (iv) containing any other certification that the Agent shall reasonably request.
- (n) CFO Certificate. On or prior to the date of the first Issuance Notice and within five (5) Trading Days of each Triggering Event Date, if requested by the Agent, acting reasonably, the Company shall furnish to the Agent a certificate of the Chief Financial Officer of the Company with respect to certain financial information contained in the Prospectus that is not being comforted by the auditors, in a form reasonably satisfactory to the Agent.
- (o) Agent's Own Account; Clients' Account. The Company consents to the Agent trading, in compliance with Applicable Laws, in the Common Shares for the Agent's own account and for the account of the Agent's clients at the same time as sales of the Shares occur pursuant to this Agreement.
- (p) Market Activities. The Company will not take, directly or indirectly, any action designed to or that might be reasonably expected to cause or result in stabilization or manipulation of the price of the Shares or any other reference security on the Exchange or on any other stock exchange or marketplace or otherwise, whether to facilitate the sale or resale of the Shares or otherwise, and the

Company will, and shall cause each of its Affiliates to, comply with all applicable provisions under Canadian Securities Laws and all other applicable securities laws.

- (q) Notice of Other Sale. Without the written consent of the Agent, the Company will not, directly or indirectly, offer to sell, sell, issue, pledge, contract to sell, grant any option to sell, announce an intention to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise lend, transfer or dispose of any Common Shares or securities convertible into or exchangeable for Common Shares (other than Shares hereunder), warrants or any rights to purchase or acquire Common Shares, during the period beginning on the third Trading Day immediately prior to the date on which any Issuance Notice is delivered to RCC hereunder and ending on the third Trading Day immediately following the Settlement Date with respect to Shares sold pursuant to such Issuance Notice; provided, however, that such restriction will not apply in connection with the Company's: (i) issuance or sale of Common Shares in connection with the exercise of any currently outstanding options or warrants of the Company or the issuance of Common Shares from currently outstanding restricted share units; (ii) the issuance of options to acquire Common Shares or the issuance of restricted share units pursuant to the Company's share incentive plan(s), and the issuance of Common Shares in connection with the exercise of any such options or the issuance of Common Shares from restricted share units; and (iii) any equity securities which may be issued from time to time as agreed to in employee compensation agreements, such consent shall not be unreasonably withheld by RCC. If notice of a proposed transaction is provided by the Company, then RCC may suspend activity of the transactions contemplated by this Agreement for such period of time as may be requested by the Company or as may be deemed appropriate by RCC. For clarity, the foregoing shall not apply to any issuance of securities by a Subsidiary.

## SECTION 5 CONDITIONS TO DELIVERY OF ISSUANCE NOTICES AND TO SETTLEMENT

- (a) Conditions Precedent to the Right of the Company to Deliver an Issuance Notice. The right of the Company to deliver an Issuance Notice hereunder is subject to the satisfaction, on the date of delivery of such Issuance Notice, and the obligation of the Agent to use its commercially reasonable efforts to place Shares during the applicable period set forth in the Issuance Notice is subject to the satisfaction, on each Trading Day during the applicable period set forth in the Issuance Notice, of each of the following conditions:
- (i) Accuracy of the Company's Representations and Warranties; Performance by the Company. The Company shall have delivered the certificate required to be delivered pursuant to Section 4(j) on or before the date on which delivery of such certificate is required pursuant to Section 4(j). The Company shall have performed, satisfied and complied with all covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Company at or prior to such date.
- (ii) No Injunction. No statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by any court or Governmental Authority of competent jurisdiction or any self-regulatory organization having authority over the matters contemplated hereby that prohibits or directly and materially adversely affects any of the transactions contemplated by this Agreement, and no proceeding shall have been commenced that may have the effect of prohibiting or materially adversely affecting any of the transactions contemplated by this Agreement.

- (iii) Material Adverse Effect. In the judgment of the Agent, acting reasonably, there shall not have occurred any Material Adverse Effect.
  - (iv) No Suspension of Trading in or Delisting of Common Shares; Other Events. The trading of the Common Shares (including the Shares) shall not have been suspended by the Securities Commissions or the Exchange (unless the Common Shares are listed on at least one other stock exchange in Canada), and the Common Shares (including the Shares) shall have been approved for listing or quotation on and shall not have been delisted from the Exchange. There shall not have occurred (and be continuing in the case of occurrences under clauses (i) and (ii) below) any of the following: (i) trading or quotation in any of the Company's securities shall have been suspended or limited by the Exchange or trading in securities generally on the Exchange, including each of their constituent markets, shall have been suspended or limited, or minimum or maximum prices shall have been generally established on any of such stock exchanges by the Securities Commissions or by the Investment Industry Regulatory Authority of Canada; (ii) a general banking moratorium shall have been declared by any of United States or Canadian authorities; or (iii) there shall have occurred any outbreak or escalation of national or international hostilities or any crisis or calamity including pandemic or epidemic (including with respect to the ongoing COVID-19 pandemic or the ongoing hostilities in Ukraine to the extent there are material adverse impacts related thereto after the date of this Agreement), or any change in the United States, Canadian or international financial markets, or any substantial change or development involving a prospective substantial change in United States', Canada's or international political, financial or economic conditions, as in the judgment of the Agent, acting reasonably, is material and adverse and makes it impracticable to market the Shares in the manner and on the terms described in the Prospectus or to enforce contracts for the sale of securities.
  - (v) Approval for Listing. The Shares shall have been approved for listing on the Exchange, subject only to notice of issuance and customary filings.
- (b) Documents Required to be Delivered on each Issuance Notice Date. The Agent's obligation to use commercially reasonable efforts to place Shares hereunder shall additionally be conditioned upon the delivery to RCC on or before the Issuance Notice Date of a certificate in form and substance reasonably satisfactory to RCC, executed by the Chief Executive Officer or Chief Financial Officer of the Company, to the effect that all conditions to the delivery of such Issuance Notice shall have been satisfied as at the date of such certificate (which certificate shall not be required if the foregoing representations shall be set forth in the Issuance Notice).
  - (c) No Misstatement or Material Omission. The Agent shall not have advised the Company that the Prospectus, or any amendment, amendment and restatement or supplement thereto, contains an untrue statement of fact that in the Agent's reasonable opinion is material, or omits to state a fact that in the Agent's reasonable opinion is material and is required to be stated therein or is necessary to make the statements therein not misleading.

## SECTION 6 INDEMNIFICATION AND CONTRIBUTION

- (a) Indemnification of the Agent. The Company hereby agrees to indemnify and hold the Agent, each of its subsidiaries and Affiliates, and each of its respective directors, officers, employees, advisors, unitholders and agents, and each other person, if any, controlling the Agent or its Affiliates (collectively, the "**Personnel**") harmless from and against any and all expenses, losses (other than loss of profits), fees, claims, actions (including shareholder actions, derivative actions or

otherwise), damages, obligations, or liabilities, whether joint or several, and the reasonable fees and expenses of its counsel and all taxes on any of the foregoing, that may be incurred in advising with respect to and/or defending any actual or threatened claims, actions, suits, investigations or proceedings to which the Agent and/or the Personnel may become subject or otherwise involved in any capacity under any statute or common law, or otherwise insofar as such expenses, losses, fees, claims, damages, obligations, liabilities or actions relate to, are caused by, result from, arise out of, or are in connection with, directly or indirectly, the performance or professional services rendered to the Company by the Agent and any Personnel hereunder, or otherwise in connection with the matters referred to in this Agreement (including the aggregate amount paid in reasonable settlement of any such actions, suits, investigations, proceedings or claims that may be made against the Agent and/or the Personnel). Without limiting the generality of the foregoing, the Company shall indemnify the Agent and the Personnel in accordance with the foregoing sentence in connection with:

- (i) any information or statement (except any information or statement relating solely to the Agent and furnished in writing by the Agent to the Company for use therein) in the Prospectus (including, for greater certainty, the Documents Incorporated by Reference) containing or being alleged to contain a misrepresentation or being or being alleged to be untrue, or based upon any omission or alleged omission to state in the Prospectus any material fact required to be stated in the Prospectus or necessary to make any of the statements therein not misleading in light of the circumstances in which they were made;
- (ii) the non-compliance by the Company with any Canadian Securities Laws or other regulatory requirements or the rules of the Exchange including the Company's non-compliance with any statutory requirement to make any document available for inspection;
- (iii) any statement contained in the Disclosure Record which at the time and in the light of the circumstances under which it was made, contained or is alleged to have contained a misrepresentation or untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make any statement therein not misleading in light of the circumstances in which they were made;
- (iv) the omission or alleged omission to state in this Agreement any fact required to be stated herein or necessary to make any statement herein not misleading in light of the circumstances under which it was made;
- (v) any misrepresentation or alleged misrepresentation by or on behalf of the Company (other than by the Agent) relating to the Offering, whether oral or written and whether made during and in connection with the Offering, where such misrepresentation may give or gives rise to any other liability under any Applicable Laws in any jurisdiction which is in force on the date of this Agreement;
- (vi) any failure or alleged failure to make timely disclosure of a material change by the Company, where such failure or alleged failure occurs during the Offering or during the period of distribution of the Shares or where such failure relates to the Offering or the Shares, and may give or gives rise to any liability under any statute in any jurisdiction which is in force on the date of this Agreement; or
- (vii) any breach of any representation or warranty of the Company contained herein or the failure of the Company to comply with any of its covenants or other obligations contained

herein or to satisfy any conditions contained herein required to be satisfied by the Company.

Without limiting the generality of the foregoing, this indemnity shall apply to all expenses (including legal expenses), losses, claims and liabilities that the Agent and/or the Personnel may incur as a result of any action or litigation that may be threatened or brought against the Agent and/or the Personnel.

Notwithstanding the foregoing, the indemnity in this Section 6(a) shall not apply to the extent that a court of competent jurisdiction in a final judgment that has become non-appealable shall determine that:

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

For greater certainty, the Company and the Agent agree that they do not intend that any failure by the Agent to conduct such reasonable investigation as necessary to provide the Agent with reasonable grounds for believing the Prospectus contained no misrepresentation shall constitute “gross negligence”, “wilful misconduct” or “fraud” for purposes of this Section 6(a) or otherwise disentitle the Agent from indemnification hereunder.

- (b) If for any reason (other than the occurrence of any of the events itemized in Section 6(a)(vi)(A) and Section 6(a)(vi)(B) above), the foregoing indemnification is unavailable to the Agent or any Personnel or insufficient to hold the Agent or any Personnel harmless for such expense, loss, claim, damage or liability, the Company, the Agent and such Personnel shall contribute to such expense, loss, claim, damage or liability in such proportion as is appropriate to reflect not only the relative benefits received by the Company on the one hand and the Agent and/or any Personnel on the other hand but also the relative fault of the Company and the Agent and/or any Personnel, as well as any relevant equitable considerations; provided that the Company shall in any event contribute to the amount paid or payable by the Agent and/or any Personnel as a result of such expense, loss, claim, damage or liability any excess of such amount over the amount of Selling Commission actually received by the Agent under this Agreement and further provided that the Agent shall not in any event be liable to contribute, in the aggregate, any amount in excess of such total Selling Commission or any portion thereof actually received by the Agent.

The relative benefits received by the Company, on the one hand, and the Agent and the Personnel, on the other hand, shall be deemed to be in the same ratio as the total proceeds from the sale of the Shares (net of the Selling Commission payable to the Agent but before deducting expenses) received by the Company is to the Selling Commission actually received by the Agent. The relative fault of the Company, on the one hand, and of the Agent, on the other hand, shall be determined by reference to, among other things, whether the matters or things referred to in Section 6(a) which resulted in such claims and/or expenses, losses, claims, damages or liabilities relate to information supplied by or steps or actions taken or done or not taken or not done by or on behalf of the Company or to information supplied by or steps or actions taken or done or not taken or not done by or on behalf of the Agent and the relative intent, knowledge, access to information and opportunity to correct or prevent such statement, omission or misrepresentation, or other matter or thing referred to in Section 6(a). The parties to this Agreement agree that it would not be just and

equitable if contribution pursuant to this Section 6(b) were determined by any method of allocation which does not take into account the equitable considerations referred to in this Section 6(b).

- (c) The Company agrees that in case any legal proceeding shall be brought against the Company, the Agent and/or any of the Personnel by any Governmental Authority or any stock exchange or other entity having regulatory authority, either domestic or foreign, or any such entity shall investigate the Company, the Agent and/or any Personnel, if the Agent and/or any Personnel shall be required to testify in connection therewith or shall be required to respond to procedures designed to discover information regarding, in connection with, or by reason of the performance of professional services rendered to the Company by the Agent, the Agent shall have the right to employ its own counsel in connection therewith provided the Agent acts reasonably in selecting such counsel, and the reasonable fees and expenses of such counsel as well as the reasonable costs (including an amount to reimburse the Agent for time spent by the Agent or the Personnel in connection therewith) and out-of-pocket expenses incurred by the Agent or the Personnel in connection therewith shall be promptly paid by the Company as they occur. The Company agrees to reimburse the Agent for the time spent by the Agent or the Personnel in connection with any proceeding or investigation at their normal per diem rates.
- (d) Promptly after receipt of notice of the commencement of any legal proceeding against the Agent or any of the Personnel or after receipt of notice of the commencement of any investigation, which is based, directly or indirectly, upon any matter in respect of which indemnification may be sought from the Company, the Agent shall notify the Company in writing of the commencement thereof, and throughout the course thereof, shall provide copies of all relevant documentation to the Company, shall keep the Company advised of the progress thereof and shall discuss with the Company all significant actions proposed. However, the failure by the Agent to notify the Company shall not relieve the Company of its obligations to indemnify the Agent and/or any Personnel. The Company shall on behalf of itself the Agent and/or any Personnel, as applicable, be entitled (but not required) to assume the defence of any suit brought to enforce such legal proceeding; provided, however, that the defence shall be conducted through legal counsel acceptable to the Agent and/or any Personnel, as applicable, acting reasonably, that no settlement of any such legal proceeding may be made by the Company without the prior written consent of the Agent and/or any Personnel, as applicable, and none of the Agent and/or any Personnel, as applicable, shall be liable for any settlement of any such legal proceeding unless it has consented in writing to such settlement, such consent not to be unreasonably withheld. The Agent and the Personnel shall have the right to appoint its or their own separate counsel at the Company's cost provided the Agent acts reasonably in selecting such counsel.
- (e) The Company hereby acknowledges and agrees that, with respect to Section 6 hereof, the Agent is contracting on its own behalf and as Agent for the Personnel (collectively, the "**Beneficiaries**"). In this regard, the Agent shall act as trustee for the Beneficiaries of the covenants of the Company under Section 6 hereof with respect to the Beneficiaries and accepts these trusts and shall hold and enforce such covenants on behalf of the Beneficiaries.
- (f) The Company hereby waives any right it may have of first requiring the Agent or any Personnel to proceed against or enforce any other right, power, remedy or security or claim payment from any other person before claiming under this indemnity.
- (g) The rights to indemnification and contribution provided in this Section 6 shall be in addition to and not in derogation of any other rights which the Agent and the Personnel may have by statute or otherwise at law, shall extend upon the same terms and conditions to the Personnel of the Agent

and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Company, the Agent and the Personnel.

## SECTION 7 TERMINATION & SURVIVAL

- (a) Term. Subject to the provisions of this Section 7, the term of this Agreement shall continue from the date of this Agreement until the end of the Agency Period, unless earlier terminated pursuant to this Section 7.
- (b) Termination; Survival Following Termination.
  - (i) The Company shall have the right to terminate this Agreement in its sole discretion prior to the end of the Agency Period, by giving written notice as required by this Agreement, upon two (2) Trading Days' notice to the Agent.
  - (ii) The Agent shall have the right to terminate its obligations under this Agreement in its sole discretion prior to the end of the Agency Period, by giving written notice as required by this Agreement, upon two (2) Trading Days' notice to the Company. In addition, the Agent shall have the right to immediately terminate its obligations under this Agreement in its sole discretion prior to the end of the Agency Period, by giving written notice as required by this Agreement, if:
    - (A) there has occurred a Material Adverse Effect, or any event, matter, circumstance, development or change in fact or law has arisen, occurred or come into effect or existence that, in the opinion of such Agent, has had or may reasonably be expected to have a Material Adverse Effect;
    - (B) the Company is in breach of, default under or non-compliance with any material covenant, agreement, representation, warranty, term or condition contained in this Agreement or in any certificate or document delivered pursuant hereto;
    - (C) there shall be announced or there shall develop, occur or come into effect or existence any: (w) event, action, state, condition or major financial occurrence of national or international consequence; (x) outbreak or escalation of hostilities, declaration by the United States or Canada (or any other country of relevance to the Company, any Subsidiary or any of the property in which any of them has a direct or indirect economic interest) of a national emergency or war, terrorism or other calamity or crisis including in respect of a pandemic; (y) change or development involving a prospective change in national or international political, financial or economic conditions including in relation to a pandemic; or (z) governmental action or Applicable Law, regulation or policy of a Governmental Authority or any change of Applicable Law, or the interpretation or administration thereof, the effect of which on financial markets in any such case makes it, in the sole judgment of the Agent, acting reasonably, impractical or inadvisable to proceed with the Offering, sale or delivery of the Shares;
    - (D) any inquiry, investigation, legal action or other proceeding (whether formal or informal) by or before a Governmental Authority in respect of

the Company or any Subsidiary thereof has commenced or been announced or threatened, or any order, ruling or direction of a Governmental Authority has been issued, which make it, in the sole judgment of the Agent, acting reasonably, impractical or inadvisable to proceed with the offering, sale or delivery of the Shares; or

- (E) any suspension or limitation of trading in the Common Shares or in securities generally on the Exchange or any other marketplace on which the Common Shares are listed at the time, or in respect of the settlement or clearance thereof, has occurred.
- (iii) If the Agent terminates its obligations under this Agreement after the Agent confirms to the Company any sale of Shares, the Company shall remain obligated to comply with Section 3(b)(vi) respect to such Shares and Section 2, Section 6, Section 7 and Section 8 shall survive termination of this Agreement. If termination shall occur prior to the Settlement Date for any sale of Shares, such sale shall nevertheless settle in accordance with the terms of this Agreement. In addition to the foregoing sentence, the respective indemnities, agreements, representations, warranties and other statements of the Company, of its officers and of the Agent set forth in or made pursuant to this Agreement shall survive and remain in full force and effect after any delivery of and payment for the Shares sold hereunder and any termination of this Agreement.

## SECTION 8 MISCELLANEOUS

- (a) Press Releases and Disclosure. The Company shall issue a press release describing the material terms of the transactions contemplated hereby as soon as practicable following the date of this Agreement, and the Company shall consult with the Agent prior to making such disclosures, and the parties hereto shall use all commercially reasonable efforts, acting in good faith, to agree upon a text for such disclosures that is reasonably satisfactory to all parties hereto. No party hereto shall issue thereafter any press release or like public statement related to this Agreement or any of the transactions contemplated hereby without the prior written approval of the other party hereto, except as may be necessary or appropriate in the reasonable opinion of the party seeking to make disclosure to comply with the requirements of Applicable Laws or stock exchange rules. If any such press release or like public statement is so required, the party making such disclosure shall consult with the other party prior to making such disclosure, and the parties shall use all commercially reasonable efforts, acting in good faith, to agree upon a text for such disclosure that is reasonably satisfactory to all parties hereto.
- (b) No Advisory or Fiduciary Relationship. In connection with the services described herein, the Agent shall act as independent contractor, and any duties of the Agent arising out of this Agreement shall be owed solely to the Company. The Company acknowledges that the Agent is a securities firm that is engaged in securities trading and brokerage activities, as well as providing investment banking and financial advisory services, which may involve services provided to other companies engaged in businesses similar or competitive to the business of the Company and that the Agent shall have no obligation to disclose such activities and services to the Company. The Company acknowledges and agrees that in connection with all aspects of the engagement contemplated hereby, and any communications in connection therewith, the Company, on the one hand, and the Agent and any of its affiliates through which they may be acting, on the other hand, will have a business relationship that does not create, by implication or otherwise, any fiduciary duty on the

part of the Agent or such affiliates, and each party hereto agrees that no such duty will be deemed to have arisen in connection with any such transactions or communications. The Company acknowledges and agrees that it waives, to the fullest extent permitted by law, any claims the Company and its affiliates may have against the Agent for breach of fiduciary duty or alleged breach of fiduciary duty and agrees that the Agent shall have no liability (whether direct or indirect) to the Company or any of its Affiliates in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Company, including stockholders, employees or creditors of the Company. Information which is held elsewhere within the Agent, but of which none of the individuals in the investment banking department or division of the Agent involved in providing the services contemplated by this Agreement actually has knowledge (or without breach of internal procedures can properly obtain) will not for any purpose be taken into account in determining any of the responsibilities of the Agent to the Company under this Agreement.

- (c) Research Analyst Independence. The Company acknowledges that the Agent's research analysts and research departments are required to and should be independent from their respective investment banking divisions and are subject to certain regulations and internal policies, and as such the Agent's research analysts may hold views and make statements or investment recommendations and/or publish research reports with respect to the Company or the Offering that differ from the views of their respective investment banking divisions. The Company understands that the Agent is a full service securities firm and as such from time to time, subject to applicable securities laws, may effect transactions for its own account or the account of its customers and hold long or short positions in debt or equity securities of the companies that may be the subject of the transactions contemplated by this Agreement.
- (d) Notices. Any notice under this Agreement shall be given in writing and either delivered or emailed to the party to receive such notice at the address or email numbers indicated below:

If to the Agent:

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

Email: dkeating@researchcapital.com  
Attention: David Keating

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

Fasken Martineau DuMoulin LLP  
333 Bay Street, Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, Ontario  
M5H 2T6

Attention: John Sabetti  
Electronic Mail: jsabetti@fasken.com

If to the Company:

Algernon Pharmaceuticals Inc.  
400 – 601 West Broadway  
Vancouver, BC  
V5Z 4C2  
Email: chris@algernonpharmaceuticals.com  
Attention: Christopher Moreau, Chief Executive Officer

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

McMillan LLP  
Royal Centre, Suite 1500  
1055 West Georgia Street, PO Box 11117  
Vancouver, British Columbia, V6E 4N7

Email: barbara.collins@mcmillan.ca  
Attention: Barbara Collins

If a notice is delivered, it shall be effective from the date of delivery, provided that if such day is not a business day then the notice, request or other communication shall be deemed to have been given and received on the first business day following such day. Notice transmitted by email shall be deemed given on the day of transmission. Any party hereto may change the address for receipt of communications by giving written notice to the others in accordance with this Section 8(d).

- (e) Future Services. To the extent that the Company requires additional services which the Agent is capable of providing as a financial advisor or a Canadian investment dealer, the Company may request that the Agent provide such services, and in such event, the terms and conditions relating to such services shall be outlined in a separate agreement with the fees for such services to be in addition to fees payable hereunder. Any such agreement shall be negotiated in good faith and be consistent with then prevailing industry practice. The Company hereby acknowledges, confirms and agrees that the right of first refusal granted by the Company to RCC pursuant to section 20 the agency agreement dated June 28, 2022 between the Company and RCC continues in full force and effect in accordance with its terms and that nothing contained in this Agreement affects the ongoing operation and application of the right of first refusal of RCC therein.
- (f) Successors. This Agreement will inure to the benefit of and be binding upon the parties hereto, and to the benefit of the employees, officers and directors and controlling persons referred to in Section 6, and in each case their respective successors, and no other person will have any right or obligation hereunder. The term “successors” shall not include any purchaser of the Shares as such from the Agent merely by reason of such purchase.
- (g) Adjustment for Share Splits. The parties acknowledge and agree that all share-related numbers contained in this Agreement shall be adjusted to take into account any share split, share consolidation, share dividend or similar event with respect to the Shares.
- (h) Partial Unenforceability. The invalidity or unenforceability of any Section, paragraph or provision of this Agreement shall not affect the validity or enforceability of any other Section, paragraph or provision hereof. If any Section, paragraph or provision of this Agreement is for any reason determined to be invalid or unenforceable, there shall be deemed to be made such minor changes (and only such minor changes) as are necessary to make it valid and enforceable.

- (i) Governing Law; Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the internal laws of the Province of British Columbia and the federal laws of Canada applicable therein applicable to agreements made and to be performed in such province. Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in a British Columbia Court, and each party irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail to such party's address set forth above shall be effective service of process for any suit, action or other proceeding brought in any such court. To the extent that the Company has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, it hereby irrevocably waives such immunity in respect of its obligations under the above-referenced documents, to the extent permitted by law. The provisions of this Section 8(i) shall survive any termination of this Agreement, in whole or in part.
- (j) General Provisions. This Agreement constitutes the entire agreement of the parties to this Agreement and supersedes all prior written or oral and all contemporaneous oral agreements, understandings and negotiations with respect to the subject matter hereof. This Agreement may be executed in counterparts, each one of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument, and may be delivered by facsimile transmission or by electronic delivery of a portable document format (PDF) file. This Agreement may not be amended or modified unless in writing by all of the parties hereto, and no condition herein (express or implied) may be waived unless waived in writing by each party whom the condition is meant to benefit.

*[Signature Pages Immediately Follow]*

If the foregoing is in accordance with your understanding of our agreement and accurately reflects the terms of the transaction which we are to enter into and is agreed to by you, please communicate your acceptance by executing and returning to the Agent the enclosed copies hereof, whereupon this instrument, along with all counterparts hereof, shall become a binding agreement among us in accordance with its terms.

Very truly yours,

**RESEARCH CAPITAL CORPORATION**

Per: "David Keating"

Authorized Signing Officer

Name: David Keating

Title: Managing Director, Head of Equity  
Capital Markets, Co-Head Capital Markets

The foregoing Agreement is hereby confirmed, accepted and agreed to by the undersigned as of the date first above written.

**ALGERNON PHARMACEUTICALS INC.**

Per: "Christopher Moreau"  
Authorized Signing Officer  
Name: Christopher Moreau  
Title: Chief Executive Officer

**SCHEDULE "A"**  
**ISSUANCE NOTICE**

[Date]

To: [the Agent]

Attn: [\_\_\_\_\_]

Reference is made to the Equity Distribution Agreement between Algernon Pharmaceuticals Inc. (the "**Company**") and Research Capital Corporation, dated as of December [●], 2022. The Company confirms that all conditions to the delivery of this Issuance Notice are satisfied as of the date hereof.

Date of Delivery of Issuance Notice (determined pursuant to Section 3(b)(ii)):

\_\_\_\_\_

Issuance Amount (equal to the total Sales Price for such Shares):

CAD\$ \_\_\_\_\_

Number of days in selling period:

\_\_\_\_\_

First date of selling period:

\_\_\_\_\_

Last date of selling period:

\_\_\_\_\_

Settlement Date(s) if other than standard T+2 settlement:

\_\_\_\_\_

Floor Price Limitation: CAD\$\_\_\_\_\_ per share

Maximum Number of Shares that can be sold:

\_\_\_\_\_

Comments:

\_\_\_\_\_

**ALGERNON PHARMACEUTICALS INC.**

Per: \_\_\_\_\_

Authorized Signing Officer

Name:

Title:

**SCHEDULE “B”  
NOTICE PARTIES**

**Algernon Pharmaceuticals Inc.**

The Authorized Representatives of the Company are as follows:

<b>Name / Title</b>	<b>E-mail Address</b>	<b>Telephone Numbers</b>
<b>Christopher J. Moreau</b> Executive Chairman and Chief Executive Officer	<a href="mailto:chris@algernonpharmaceuticals.com">chris@algernonpharmaceuticals.com</a>	(604)-398-4175
<b>James Kinley</b> Chief Financial Officer	<a href="mailto:james@algernonpharmaceuticals.com">james@algernonpharmaceuticals.com</a>	

**Research Capital Corporation**

The Authorized Representatives of the Agent are as follows:

<b>Name / Title</b>	<b>E-mail Address</b>	<b>Telephone Numbers</b>
<b>David Keating</b> Managing Director, Head of Equity Capital Markets, Co-Head of Capital Markets	<a href="mailto:dkeating@researchcapital.com">dkeating@researchcapital.com</a>	(416)-860-8643