

## ARRANGEMENT AGREEMENT

**THIS AMENDED AND RESTATED ARRANGEMENT AGREEMENT** (the “**Agreement**”) is dated as of the 21<sup>st</sup> day of February, 2017.

### **BETWEEN:**

**CAPTIVA VERDE INDUSTRIES LTD.**, a corporation incorporated under the laws of the Province of British Columbia (“**Captiva**”)

and

**CAPTIVA VERDE LAND CORP.**, formerly Just Baseball Limited, a corporation incorporated under the laws of the Province of British Columbia (“**Spinco**”)

(together, “the **Parties**” and individually, a “**Party**”)

### **RECITALS**

- A.** Captiva and Spinco entered into an arrangement agreement dated February 16, 2017 (the “**Original Agreement**”) and the parties wish to replace and supersede the Original Agreement with this Agreement;
- B.** Captiva has entered into an arrangement agreement, wherein it is contemplated that Captiva will transfer its Assets (as such term is defined in this Agreement) to its wholly-owned subsidiary Spinco;
- C.** The Parties intend to carry out the transactions contemplated herein by way of an arrangement under the provisions of the *Business Corporations Act* (British Columbia); and
- D.** The Parties have entered into this Agreement to provide for the matters referred to in the foregoing recital and for other matters relating to such arrangement.

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

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions**

In this Agreement, unless there is something in the context or subject matter inconsistent therewith, the following defined terms have the meanings hereinafter set forth:

- (a) “**Agreement**”, “**herein**”, “**hereof**”, “**hereto**”, “**hereunder**” and similar expressions mean and refer to this arrangement agreement (including the

schedules hereto) as supplemented, modified or amended, and not to any particular article, section, schedule or other portion hereof;

- (b) “**Applicable Laws**” means all applicable corporate laws, rules of applicable stock exchanges and applicable securities laws, including the rules, regulations, notices, instruments, blanket orders and policies of the securities regulatory authorities in Canada;
- (c) “**Arrangement**” means the arrangement pursuant to Section 288 of the *BCBCA* set forth in the Plan of Arrangement;
- (d) “**Arrangement Provisions**” means Part 9, Division 5 of the *BCBCA*;
- (e) “**Arrangement Resolution**” means the special resolution in respect to the Arrangement and other related matters to be considered at the Captiva Meeting;
- (f) “**Assets**” means the assets of Captiva to be transferred to Spinco pursuant to the Arrangement, as more particularly described in Schedule “B” attached hereto and forming part of this Agreement;
- (g) “**BCBCA**” means the Business Corporations Act, S.B.C. 2002, c. 57, as amended, including the regulations promulgated thereunder;
- (h) “**Business Day**” means a day other than a Saturday, Sunday or other than a day when banks in the City of Vancouver, British Columbia are not generally open for business;
- (i) “**Captiva Board**” means the board of directors of Captiva;
- (j) “**Captiva Class A Shares**” means the renamed and re-designated Captiva Shares as described in §3.1 of the Plan of Arrangement;
- (k) “**Captiva Class A Preferred Shares**” means the Class “A” preferred shares without par value which Captiva will create and issue pursuant to §3.1 of the Plan of Arrangement;
- (l) “**Captiva Meeting**” means the special meeting of the Captiva Shareholders to be held on March 15, 2017, and any adjournment(s) or postponement(s) thereof;
- (m) “**Captiva Shares**” means the common shares without par value in the authorized share capital of Captiva, as constituted on the date of this Agreement;
- (n) “**Captiva Shareholders**” means the holders from time to time of Captiva Shares;
- (o) “**Computershare**” means Computershare Trust Company of Canada;
- (p) “**Court**” means the Supreme Court of British Columbia;

- (q) “**Dissent Rights**” means the rights of dissent in respect of the Arrangement Resolution;
- (r) “**Dissenting Shareholder**” means a Captiva Shareholder who validly exercises rights of dissent under the Arrangement and who will be entitled to be paid fair value for his, her or its Captiva Shares in accordance with the Interim Order and the Plan of Arrangement;
- (s) “**Dissenting Shares**” means the Captiva Shares in respect of which Dissenting Shareholders have exercised a right of dissent;
- (t) “**Effective Date**” means either (i) the date of the Final Order or (ii) such other date as the directors of Captiva may determine for each separate subsidiary of the Company, which election is made when the Captiva Board have done so by resolution;
- (u) “**Final Order**” means the order of the Court approving the Arrangement, as such order may be affirmed, amended or modified by any court of competent jurisdiction;
- (v) “**GAAP**” means generally accepted accounting principles in effect in Canada at the relevant time, including the accounting recommendations in the Handbook of the Canadian Institute of Chartered Accountants, including as applicable, International Financial Reporting Standards;
- (w) “**Information Circular**” means the management proxy circular of Captiva to be sent by Captiva to the Captiva Shareholders in connection with the Captiva Meeting;
- (x) “**Interim Order**” means an interim order of the Court concerning the Arrangement in respect of Captiva, containing declarations and directions with respect to the Arrangement and the holding of the Captiva Meeting, as such order may be affirmed, amended or modified by any court of competent jurisdiction;
- (y) “**New Shares**” means the new class of common shares without par value which Captiva will create pursuant to §3.1 of the Plan of Arrangement and which, immediately after the Effective Date, will be identical in every relevant respect to the Captiva Shares;
- (z) “**Notice of Meeting**” means the notice of special meeting of the Captiva Shareholders in respect of the Captiva Meeting;
- (aa) “**Parties**” means Captiva and Spinco; and “**Party**” means any one of them;
- (bb) “**Person**” means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal representative;

- (cc) “**Plan of Arrangement**” means the plan of arrangement substantially in the form set out in Schedule “A” to this Agreement, as amended or supplemented from time to time in accordance with Article 6 thereof and Article 6 hereof;
- (dd) “**Registrar**” means the Registrar of Companies for the Province of British Columbia duly appointed under the *BCBCA*;
- (ee) “**Registered Shareholder**” means a registered holder of Captiva Shares as recorded in the shareholder register of Captiva maintained by Computershare;
- (ff) “**Share Distribution Record Date**” means the record date for the Captiva Meeting or such other date as determined by the Captiva Board, which date establishes the Captiva Shareholders who will be entitled to receive Spinco Shares pursuant to this Arrangement;
- (gg) “**Spinco**” means Captiva Verde Land Corp., a private company incorporated under the *BCBCA*;
- (hh) “**Spinco Shareholder**” means a holder of Spinco Shares;
- (ii) “**Spinco Shares**” means the common shares without par value in the authorized share structure of Spinco, as constituted on the date of this Agreement;
- (jj) “**Tax Act**” means the *Income Tax Act* (Canada) and the regulations thereunder, all as amended from time to time.

## 1.2 Interpretation Not Affected by Headings, etc.

The division of this Agreement into articles, sections and subsections is for convenience of reference only and does not affect the construction or interpretation of this Agreement. The terms “this Agreement”, “hereof”, “herein” and “hereunder” and similar expressions refer to this Agreement (including Schedules “A” to “B” hereto) and not to any particular article, section or other portion hereof and include any agreement or instrument supplementary or ancillary hereto.

## 1.3 Number, etc.

Words importing the singular number include the plural and vice versa, words importing the use of any gender include all genders, and words importing persons include firms and corporations and vice versa.

## 1.4 Date for Any Action

If any date on which any action is required to be taken hereunder by any of the Parties is not a Business Day and a business day in the place where an action is required to be taken, such action is required to be taken on the next succeeding day which is a Business Day and a business day, as applicable, in such place.

## **1.5 Entire Agreement**

This Agreement, together with the agreements and documents herein and therein referred to, constitute the entire agreement among the Parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, among the Parties with respect to the subject matter hereof.

## **1.6 Currency**

All sums of money which are referred to in this Agreement are expressed in lawful money of Canada.

## **1.7 Accounting Matters**

Unless otherwise stated, all accounting terms used in this Agreement shall have the meanings attributable thereto under GAAP and all determinations of an accounting nature are required to be made shall be made in a manner consistent with GAAP.

## **1.8 References to Legislation**

References in this Agreement to any statute or sections thereof shall include such statute as amended or substituted and any regulations promulgated thereunder from time to time in effect.

## **1.9 Enforceability**

All representations, warranties, covenants and opinions in or contemplated by this Agreement as to the enforceability of any covenant, agreement or document are subject to enforceability being limited by applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws relating to or affecting creditors' rights generally, and the discretionary nature of certain remedies (including specific performance and injunctive relief and general principles of equity).

## **1.10 Schedules**

The following schedules attached hereto are incorporated into and form an integral part of this Agreement:

“A” – Plan of Arrangement

“B” – Assets

## **ARTICLE 2 THE ARRANGEMENT**

### **2.1 Plan of Arrangement**

The Parties will forthwith jointly file, proceed with and diligently prosecute an application for an Interim Order providing for, among other things, the calling and holding of the Captiva Meeting for the purpose of considering and, if deemed advisable, approving the Arrangement Resolution

and upon receipt thereof, the Parties will forthwith carry out the terms of the Interim Order to the extent applicable to it. Provided all necessary approvals for the Arrangement Resolution are obtained from the Captiva Shareholders, the Parties shall jointly submit the Arrangement to the Court and apply for the Final Order. Upon issuance of the Final Order and subject to the conditions precedent in Article 5, Captiva shall forthwith proceed to file the Articles of Arrangement, the Final Order and such other documents as may be required to give effect to the Arrangement with the Registrar pursuant to the Arrangement Provisions, whereupon the transactions comprising the Arrangement shall occur and shall be deemed to have occurred in the order set out therein without any act or formality.

## **2.2 Interim Order**

The Interim Order shall provide that:

### **Captiva**

- (a) the securities of Captiva for which holders shall be entitled to vote on the Arrangement Resolution shall be the Captiva Shares;
- (b) the Captiva Shareholders shall be entitled to vote on the Arrangement Resolution, with each Captiva Shareholder being entitled to one vote for each Captiva Share held by such holder;
- (c) the requisite majority for the approval of the Arrangement Resolution shall be:
  - (i) two-thirds of the votes cast by the Captiva Shareholders present in person or by proxy at the Captiva Meeting.

## **2.3 Information Circular and Meetings**

As promptly as practical following the execution of this Agreement and in compliance with the Interim Order and Applicable Laws:

- (a) Captiva shall:
  - (i) prepare the Information Circular and cause such circular to be mailed to the Captiva Shareholders and filed with applicable regulatory authorities and other governmental authorities in all jurisdictions where the same are required to be mailed and filed; and
  - (ii) convene the Captiva Meeting.

## **2.4 Effective Date**

The Arrangement shall become effective in accordance with the terms of the Plan of Arrangement on the Effective Date for each subsidiary as the Captiva Board determines.

### ARTICLE 3 COVENANTS

#### 3.1 Covenants Regarding the Arrangement

From the date hereof until the Effective Date, the Parties will use all reasonable efforts to satisfy (or cause the satisfaction of) the conditions precedent to its obligations hereunder and to take, or cause to be taken, all other action and to do, or cause to be done, all other things necessary, proper or advisable under Applicable Laws to complete the Arrangement, including using reasonable efforts:

- (a) to obtain all necessary waivers, consents and approvals required to be obtained by it from other parties to loan agreements, leases and other contracts;
- (b) to obtain all necessary consents, assignments, waivers and amendments to or terminations of any instruments and take such measures as may be appropriate to fulfill its obligations hereunder and to carry out the transactions contemplated hereby; and
- (c) to effect all necessary registrations and filings and submissions of information requested by governmental authorities required to be effected by it in connection with the Arrangement.

#### 3.2 Covenants Regarding Execution of Documents

- (a) The Parties will perform all such acts and things, and execute and deliver all such agreements, notices and other documents and instruments as may reasonably be required to facilitate the carrying out of the intent and purpose of this Agreement.

#### 3.3 Giving Effect to the Arrangement

The Arrangement shall be effected in the following manner:

- (a) The Parties shall proceed forthwith to apply for the Interim Order providing for, among other things, the calling and holding of the Captiva Meeting for the purpose of, among other things, considering and, if deemed advisable, approving and adopting the Arrangement;
- (b) The Spinco Shareholder shall approve the Arrangement by a consent resolution;
- (c) Upon obtaining the Interim Order, Captiva shall call the Captiva Meeting and mail the Information Circular and related Notice of Meeting and form of Proxy to the Captiva Shareholders;
- (d) If the Captiva Shareholders approve the Arrangement Captiva shall thereafter (subject to the exercise of any discretionary authority granted to Captiva's directors by the Captiva Shareholders) take the necessary actions to submit the Arrangement to the Court for approval and grant of the Final Order; and

- (e) Upon receipt of the Final Order, Captiva shall, subject to compliance with any of the other conditions provided for in Article 5 hereof and to the rights of termination contained in Article 7 hereof, file the required material with the Registrar in accordance with the terms of the Plan of Arrangement.

## **ARTICLE 4 REPRESENTATIONS AND WARRANTIES**

### **4.1 Representations and Warranties**

Each of the Parties hereby represents and warrants to the other that:

- (a) It is a corporation duly incorporated and validly subsisting under the laws of its jurisdiction of existence, and has full capacity and authority to enter into this Agreement and to perform its covenants and obligations hereunder;
- (b) It has taken all corporate actions necessary to authorize the execution and delivery of this Agreement and this Agreement has been duly executed and delivered by it;
- (c) Neither the execution and delivery of this Agreement nor the performance of any of its covenants and obligations hereunder will constitute a material default under, or be in any material contravention or breach of: (i) any provision of its constituting or governing corporate documents, (ii) any judgment, decree, order, law, statute, rule or regulation applicable to it or (iii) any agreement or instrument to which it is a party or by which it is bound; and
- (d) No dissolution, winding up, bankruptcy, liquidation or similar proceedings have been commenced or are pending or proposed in respect of it.

## **ARTICLE 5 CONDITIONS PRECEDENT**

### **5.1 Mutual Conditions Precedent**

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

- (a) the Interim Order shall have been granted in form and substance satisfactory to the Parties, acting reasonably, and such order shall not have been set aside or modified in a manner unacceptable to the Parties, acting reasonably, on appeal or otherwise;
- (b) the Arrangement Resolution shall have been passed by the Captiva Shareholders at the Captiva Meeting in accordance with the Arrangement Provisions, the



constating documents of Captiva, the Interim Order and the requirements of any applicable regulatory authorities;

- (c) the Arrangement and this Agreement, with or without amendment, shall have been approved by the Spinco Shareholder(s) to the extent required by, and in accordance with, the Arrangement Provisions and the constating documents of Spinco.
- (d) the Final Order shall have been granted in form and substance satisfactory to the Parties, acting reasonably;
- (e) all other consents, orders, regulations and approvals, including regulatory and judicial approvals and orders required or necessary or desirable for the completion of the transactions provided for in this Agreement and the Plan of Arrangement shall have been obtained or received from the persons, authorities or bodies having jurisdiction in the circumstances, each in form acceptable to the Parties;
- (f) there shall not be in force any order or decree restraining or enjoining the consummation of the transactions contemplated by this Agreement and the Arrangement;
- (g) no more than 0.5% of the Captiva Shareholders shall have exercised dissent rights; and
- (h) this Agreement shall not have been terminated under Article 7.

Except for the conditions set forth in this §5.1 which, by their nature, may not be waived, any of the other conditions in this §5.1 may be waived, either in whole or in part, by any of the Parties, as the case may be, at its discretion.

## 5.2 Closing

Unless this Agreement is terminated earlier pursuant to the provisions hereof, the Parties shall meet at the registered and records offices of Captiva, Suite 1500 – 1055 West Georgia Street, Vancouver, BC, at 10:00 a.m. (Vancouver time) on such date as they may mutually agree (the “**Closing Date**”), and each of them shall deliver to the other of them:

- (a) the documents required to be delivered by it hereunder to complete the transactions contemplated hereby, provided that each such document required to be dated the Effective Date shall be dated as of, or become effective on, the Effective Date and shall be held in escrow to be released upon the occurrence of the Effective Date; and
- (b) written confirmation as to the satisfaction or waiver by it of the conditions in its favour contained in this Agreement.

### **5.3 Merger of Conditions**

The conditions set out in §5.1 hereof shall be conclusively deemed to have been satisfied, waived or released upon the occurrence of the Effective Date.

### **5.4 Merger of Representations and Warranties**

The representations and warranties in §4.1 shall be conclusively deemed to be correct as of the Effective Date and each shall accordingly merge in and not survive the effectiveness of the Arrangement.

## **ARTICLE 6 AMENDMENT**

### **6.1 Amendment**

This Agreement may at any time and from time to time before or after the holding of the Captiva Meeting be amended by written agreement of the Parties without, subject to Applicable Laws, further notice to or authorization on the part of their respective securityholders and any such amendment may, without limitation:

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

provided that no such amendment reduces or materially adversely affects the consideration to be received by a Captiva Shareholder without approval by the Captiva Shareholders, given in the same manner as required for the approval of the Arrangement or as may be ordered by the Court.

## **ARTICLE 7 TERMINATION**

### **7.1 Termination**

Subject to §7.2, this Agreement may at any time before or after the holding of the Captiva Meeting, and before or after the granting of the Final Order, but in each case prior to the Effective Date, be terminated by direction of the board of directors of Captiva without further action on the part of the Captiva Shareholders, or by the respective board of directors of Spinco, without further action on the part of the respective Spinco Shareholder(s), and nothing expressed or implied herein or in the Plan of Arrangement shall be construed as fettering the absolute discretion by the board of directors of Captiva and Spinco respectively, to elect to terminate this

Agreement and discontinue efforts to effect the Arrangement for whatever reasons it may consider appropriate.

## **7.2 Cessation of Right**

The right of any of the Parties or any other party to amend or terminate the Plan of Arrangement pursuant to §6.1 and §7.1 shall be extinguished upon the occurrence of the Effective Date.

## **ARTICLE 8 NOTICES**

### **8.1 Notices**

All notices which may or are required to be given pursuant to any provision of this Agreement shall be given or made in writing and shall be deemed to be validly given if served personally or by electronic transmission, in each case to the attention of the senior officer at the following addresses or at such other address as shall be specified by a Party by like notice:

**CAPTIVA VERDE INDUSTRIES LTD.**, addressed to:

c/o Suite 1500 – 1055 West Georgia Street  
Vancouver, BC V6E 4N7

Attention: CEO of Captiva Verde Industries Ltd.

**CAPTIVA VERDE LAND CORP** addressed to:

c/o Suite 1500 – 1055 West Georgia Street  
Vancouver, BC V6E 4N7.

Attention: CEO of Captiva Verde Land Corp.

or such other address as the Parties may, from time to time, advise to the other Parties by notice in writing. Any notice that is delivered to such address shall be deemed to be delivered on the date of delivery if delivered on a Business Day prior to 4:00 p.m. (local time at the place of receipt) or on the next Business Day if delivered after 4:00 p.m. or on a non-Business Day. Any notice delivered by facsimile transmission shall be deemed to be delivered on the date of transmission if delivered on a Business Day prior to 4:00 p.m. (local time at the place of receipt) or on the next Business Day if delivered after 4:00 p.m. or on a non-Business Day.

## **ARTICLE 9 GENERAL**

### **9.1 Assignment and Enurement**

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and assigns. This Agreement may not be assigned by any party hereto without the prior consent of the other Parties.

## **9.2 Disclosure**

Each Party shall receive the prior consent, not to be unreasonably withheld, of the other Parties prior to issuing or permitting any director, officer, employee or agent to issue, any press release or other written statement with respect to this Agreement or the transactions contemplated hereby. Notwithstanding the foregoing, if any Party is required by law or administrative regulation to make any disclosure relating to the transactions contemplated herein, such disclosure may be made, but that Party will consult with the other Parties as to the wording of such disclosure prior to its being made.

## **9.3 Costs**

Except as contemplated in the Arrangement and herein, each Party hereto covenants and agrees to bear its own costs and expenses in connection with the transactions contemplated hereby.

## **9.4 Severability**

If any one or more of the provisions or parts thereof contained in this Agreement should be or become invalid, illegal or unenforceable in any respect in any jurisdiction, the remaining provisions or parts thereof contained herein shall be and shall be conclusively deemed to be, as to such jurisdiction, severable therefrom and:

- (a) the validity, legality or enforceability of such remaining provisions or parts thereof shall not in any way be affected or impaired by the severance of the provisions or parts thereof severed; and
- (b) the invalidity, illegality or unenforceability of any provision or part thereof contained in this Agreement in any jurisdiction shall not affect or impair such provision or part thereof or any other provisions of this Agreement in any other jurisdiction.

## **9.5 Further Assurances**

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

## **9.6 Time of Essence**

Time shall be of the essence of this Agreement.

## **9.7 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein and the Parties irrevocably attorn to the jurisdiction of the courts of the Province of British Columbia. Each of the Parties hereby irrevocably and unconditionally consents to and submits to the jurisdiction of the courts of the

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

#### **9.8 Waiver**

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

#### **9.9 Original Agreement**

The parties acknowledge and agree that the Original Agreement is terminated and is concurrently replaced and superseded with the terms and conditions contained herein.

#### **9.10 Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together constitute one and the same instrument. Execution of this Agreement electronically or manually, and the electronic delivery of this Agreement in counterparts shall constitute valid delivery of the same.

**[Signature Page Follow, Space Intentionally Left Blank]**

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the date first above written.

**CAPTIVA VERDE INDUSTRIES LTD.**

By: (signed) "*Mike Boyd*"

\_\_\_\_\_  
Mike Boyd, Director and Authorized  
Signatory

**CAPTIVA VERDE LAND CORP.**

By: (signed) "*Jeffery J. Ciachurski*"

\_\_\_\_\_  
Jeffery J. Ciachurski, Director and  
Authorized Signatory

**SCHEDULE “A” TO THE ARRANGEMENT AGREEMENT**  
**PLAN OF ARRANGEMENT UNDER DIVISION 5 OF PART 9**  
**OF THE**  
**BUSINESS CORPORATIONS ACT (BRITISH COLUMBIA)**  
**S.B.C. 2002, c. 57**

**ARTICLE 1**  
**INTERPRETATION**

**1.1** In this Plan of Arrangement, the following terms have the following meanings:

“**Arrangement**”, “**herein**”, “**hereof**”, “**hereto**”, “**hereunder**” and similar expressions mean and refer to the proposed arrangement involving Captiva Shareholders and the Spinco Shareholders, pursuant to the Arrangement Provisions on the terms and conditions set forth in this Plan of Arrangement as supplemented, modified or amended, and not to any particular article, section or other portion hereof;

“**Arrangement Agreement**” means the amended and restated arrangement agreement dated effective February 21, 2017, between the Parties with respect to the Arrangement, and all amendments thereto;

“**Arrangement Provisions**” means Division 5 of Part 9 of the *BCBCA*;

“**Assets**” means the assets of Captiva described in Schedule “B” to the Arrangement Agreement;

“**BCBCA**” means the Business Corporations Act (British Columbia), S.B.C. 2002, c. 57, as may be amended or replaced from time to time;

“**Business Day**” means a day, other than a Saturday, Sunday or statutory holiday, when banks are generally open in the City of Vancouver, in the Province of British Columbia, for the transaction of banking business;

“**Captiva**” means Captiva Verde Industries Ltd., a company existing under the *BCBCA*;

“**Captiva Class A Shares**” means the renamed and re-designated Captiva Shares, as described in §3.1 of this Plan of Arrangement;

“**Captiva Class A Preferred Shares**” means the Class “A” preferred shares without par value which Captiva will create and issue pursuant to §3.1 of this Plan of Arrangement;

“**Captiva Meeting**” means the special meeting of Captiva Shareholders to be held to consider the Arrangement Resolution and related matters, and any adjournments thereof;

“**Captiva Shares**” means the common shares without par value in the authorized share capital of Captiva, as constituted on the date of this Agreement;

“**Captiva Shareholder**” means the holders from time to time of Captiva Shares;

“**Court**” means the Supreme Court of British Columbia;

“**Distributed Spinco Shares**” means the Spinco Shares that are to be distributed to the Captiva Shareholders pursuant to §3.1;

“**Effective Date**” means either (i) the date of the Final Order or (ii) such other date as the directors of Captiva may determine for each separate subsidiary of the Company, which election is made when the Captiva directors have done so by resolution of the directors;

“**Final Order**” means the final order of the Court approving the Arrangement, as such order may be affirmed, amended or modified by any court of competent jurisdiction;

“**Information Circular**” means the management information circular to be sent to the Captiva Shareholders in connection with the Captiva Meeting;

“**Interim Order**” means the interim order of the Court concerning the Arrangement under the *BCBCA* in respect of the Parties, containing declarations and directions with respect to the Arrangement and the holding of the Meetings, as such order may be affirmed, amended or modified by any court of competent jurisdiction;

“**New Shares**” means the new class of common shares without par value which Captiva will create pursuant to §3.1 of this Plan of Arrangement and which, immediately after the Effective Date, will be identical in every relevant aspect to the Captiva Shares;

“**Parties**” means, collectively, Captiva and Spinco; and “**Party**” means any one of them;

“**Plan**” or “**Plan of Arrangement**” means this plan of arrangement as amended or supplemented from time to time in accordance with the terms hereof and Article 7 of the Arrangement Agreement;

“**Registrar**” means the Registrar of Companies duly appointed under the *BCBCA*;

“**Share Distribution Record Date**” means the record date for the Captiva Meeting or such other date as determined by the Captiva Board, which date establishes the Captiva Shareholders who will be entitled to receive Spinco Shares pursuant to this Plan of Arrangement;

“**Spinco**” means Captive Verde Land Corp., a private company incorporated under the *BCBCA*;

“**Spinco Shareholder**” means a holder of Spinco Shares;

“**Spinco Shares**” means the common shares without par value in the authorized share structure of Spinco, as constituted on the date of this Agreement;

“**Tax Act**” means the *Income Tax Act* (Canada), as amended; and



“**Transfer Agent**” means Computershare Trust Company of Canada at its principal office in Vancouver, British Columbia.

- 1.2 The division of this Plan of Arrangement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Plan of Arrangement.
- 1.3 Unless reference is specifically made to some other document or instrument, all references herein to articles and sections are to articles and sections of this Plan of Arrangement.
- 1.4 Unless the context otherwise requires, words importing the singular number shall include the plural and vice versa; words importing any gender shall include all genders; and words importing persons shall include individuals, partnerships, associations, corporations, funds, unincorporated organizations, governments, regulatory authorities, and other entities.
- 1.5 In the event that the date on which any action is required to be taken hereunder by any of the Parties is not a Business Day in the place where the action is required to be taken, such action shall be required to be taken on the next succeeding day which is a Business Day in such place.
- 1.6 References in this Plan of Arrangement to any statute or sections thereof shall include such statute as amended or substituted and any regulations promulgated thereunder from time to time in effect.

## ARTICLE 2 ARRANGEMENT AGREEMENT

- 2.1 This Plan of Arrangement is made pursuant and subject to the provisions of, and forms part of, the Arrangement Agreement.
- 2.2 This Plan of Arrangement will become effective in accordance with its terms and be binding on the Effective Date on the Captiva Shareholders.

## ARTICLE 3 ARRANGEMENT

- 3.1 On the Effective Date (as determined by the Captiva directors), the following shall occur and be deemed to occur in the following chronological order without further act or formality, notwithstanding anything contained in the provisions attaching to any of the Parties, but subject to the provisions of Article 6:
  - (a) Captiva will transfer the Assets to Spinco in consideration for 63,465,871 shares from Spinco in accordance with Section 3.1(e) (the “**Distributed Spinco Shares**”) so that Captiva shall receive from Spinco in consideration for the Assets, the number of shares equal to the issued and outstanding Captiva Shares as of the Share Distribution Record Date. Thereafter, Captiva will be added to the

central securities register of Spinco in respect of such Spinco Shares;

- (b) The authorized share capital of Captiva will be changed by:
  - (i) Altering the identifying name of the Captiva Shares to class "A" common shares without par value, being the Captiva Class A Shares;
  - (ii) Creating a class consisting of an unlimited number of common shares without par value (the "**New Shares**"); and
  - (iii) Creating a class consisting of an unlimited number of class "A" preferred shares without par value, having the rights and restrictions described in Schedule "A" to the Plan of Arrangement, being the Captiva Class A Preferred Shares;
- (c) Each issued Captiva Class A Share will be exchanged for one New Share and one Captiva Class A Preferred Share and, subject to the exercise of a right of dissent, the holders of the Captiva Class A Shares will be deemed to have been removed from the central securities register of Captiva and will be deemed to have been added to the central securities register as the holders of the number of New Shares and Captiva Class A Preferred Shares that they have received on the exchange;
- (d) All of the issued Captiva Class A Shares will be cancelled with the appropriate entries being deemed to have been made in the central securities register of Captiva and the aggregate paid up capital (as that term is used for purposes of the Tax Act) of the Captiva Class A Shares immediately prior to the Effective Date will be allocated between the New Shares and the Captiva Class A Preferred Shares so that the aggregate paid up capital of the Captiva Class A Preferred Shares is, as far as possible, equal to the aggregate fair market value of the Distributed Spinco Shares as of the Effective Date or as is soon thereafter as is practicable, and each Captiva Class A Preferred Share so issued will be issued by Captiva at an issue price equal to the aggregate fair market value of the Distributed Spinco Shares as of the Effective Date, divided by the number of issued Captiva Class A Preferred Shares, such aggregate fair market value of the Distributed Spinco Shares to be determined as at the Effective Date by resolution of the board of directors of Captiva;
- (e) Captiva will redeem the issued Captiva Class A Preferred Shares for consideration consisting solely of the Distributed Spinco Shares such that each holder of Captiva Class A Preferred Shares will, subject to the rounding of fractions and the exercise of rights of dissent, receive that number of Spinco Shares that is equal to the number of Captiva Class A Preferred Shares held by such holder;
- (f) The name of each holder of Captiva Class A Preferred Shares will be deemed to have been removed as such from the central securities register of Captiva, and all of the issued Captiva Class A Preferred Shares will be cancelled with the appropriate entries being deemed to have been made in the central securities

register of Captiva;

- (g) The Distributed Spinco Shares transferred to the holders of the Captiva Class A Preferred Shares pursuant to step §(e) above will be registered in the names of the former holders of Captiva Class A Preferred Shares and appropriate entries will be made in the central securities registers of Spinco, on such date as the Captiva directors may determine;
  - (h) The Captiva Class A Shares and the Captiva Class A Preferred Shares issued under the Arrangement, none of which will be allotted or issued until the steps referred to in steps §(c) and §(e) above are completed, will be cancelled and the authorized share structure of Captiva will be changed by eliminating, if the Captiva Board so chooses, the Captiva Class A Shares and the Captiva Class A Preferred Shares therefrom; and
  - (i) The Notice of Articles and Articles of Captiva will be amended to reflect the changes to its authorized share structure made pursuant to this Plan of Arrangement.
- 3.2** Notwithstanding §3.1(e) and §3.1(i) no fractional Spinco Shares shall be distributed to the Captiva Shareholders, as a result all fractional share amounts arising under such sections shall be rounded down to the nearest whole number. Any Distributed Spinco Shares not distributed as a result of this rounding down shall be dealt with as determined by the board of directors of Captiva in its absolute discretion.
- 3.3** The holders of the Captiva Class A Shares and the holders of New Shares and Captiva Class A Preferred Shares referred to in §3.1(c), and the holders of the Captiva Class A Preferred Shares referred to in §3.1(e), §3.1(f) and §3.1(g), shall mean in all cases those persons who are Captiva Shareholders at the close of business on the Share Distribution Record Date, subject to Article 5.
- 3.4** In addition to the chronological order in which the transactions and events set out in §3.1 shall occur and shall be deemed to occur, the time on the Effective Date for the redemption of the Captiva Class A Preferred Shares set out in 3.1(e) shall occur, and shall be deemed to occur, on the Effective Date.
- 3.5** All New Shares, Captiva Class A Preferred Shares, and Spinco Shares issued pursuant to this Plan of Arrangement shall be deemed to be validly issued and outstanding as fully paid and non-assessable shares for all purposes of the *BCBCA*.
- 3.6** The Arrangement shall become final and conclusively binding on the Captiva Shareholders and the Spinco Shareholders, and the Parties on the Effective Date.
- 3.7** Notwithstanding that the transactions and events set out in §3.1 shall occur and shall be deemed to occur in the chronological order therein set out without any act or formality, each of the Parties shall be required to make, do and execute or cause and procure to be made, done and executed all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may be required to give effect to, or further document or

evidence, any of the transactions or events set out in §3.1 including, without limitation, any resolutions of directors authorizing the issue, transfer or redemption of shares, any share transfer powers evidencing the transfer of shares and any receipt therefore, and any necessary additions to or deletions from share registers.

#### **ARTICLE 4 CERTIFICATES**

- 4.1** Recognizing that the Captiva Shares shall be redeemed and re-designated as Captiva Class A Shares pursuant to §3.1(b)(i) and that the Captiva Class A Shares shall be exchanged partially for New Shares pursuant to §3.1(c), Captiva shall not issue replacement share certificates representing the Captiva Class A Shares.
- 4.2** Recognizing that the Distributed Spinco Shares shall be transferred to the Captiva Shareholders as consideration for the redemption of the Captiva Class A Preferred Shares pursuant to §3.1(e), Spinco shall issue one share certificate representing all of the respective Distributed Spinco Shares registered in the name of Captiva, which share certificate shall be held by Captiva until the Distributed Spinco Shares are transferred to the Captiva Shareholders and such certificate shall then be cancelled by Captiva. To facilitate the transfer of the Distributed Spinco Shares to the Captiva Shareholders as of the Share Distribution Record Date, Captiva shall execute and deliver to the Transfer Agent an irrevocable power of attorney or direction, authorizing them to distribute and transfer the Distributed Spinco Shares to such Captiva Shareholders in accordance with the terms of this Plan of Arrangement and Spinco shall deliver a treasury order or such other direction on the Effective Date for the aforementioned Captiva Subsidiary to effect such issuance to the Transfer Agent as requested by it.
- 4.3** Recognizing that all of the Captiva Class A Preferred Shares issued to the Captiva Shareholders pursuant to §3.1(c) will be redeemed by Captiva as consideration for the distribution and transfer of the Distributed Spinco Shares (such distribution for the Captiva Subsidiary to occur at the Effective Date for such subsidiary) under §3.1(e), Captiva shall be deemed to issue one share certificate representing all of the Captiva Class A Preferred Shares issued pursuant to §3.1(c) and §3.1(e), for the benefit of the Captiva Shareholders until such Captiva Class A Preferred Shares are redeemed, and such certificate shall then be deemed to be cancelled.
- 4.4** As soon as practicable after the Effective Date for the Captiva Subsidiary, Spinco (as applicable) shall cause (through the Transfer Agent) to be issued to the registered holders of Captiva Shares as of the Share Distribution Record Date, share certificates representing the respective Spinco Shares to which they are entitled pursuant to this Plan of Arrangement and shall cause such share certificates (or DRS) to be mailed to such registered holders.
- 4.5** From and after the Effective Date, share certificates representing Captiva Shares immediately before the Effective Date, except for those deemed to have been cancelled pursuant to Article 5, shall for all purposes be deemed to be share certificates representing New Shares, and no new share certificates shall be issued with respect to the

New Shares issued in connection with the Arrangement.

- 4.6 Captiva Shares traded, if any, after the Share Distribution Record Date and prior to the Effective Date shall represent New Shares, and shall not carry any right to receive a portion of the Distributed Spinco Shares.

## ARTICLE 5 DISSENTING SHAREHOLDERS

- 5.1 Notwithstanding §3.1 hereof, holders of Captiva Shares may exercise rights of dissent (the “**Dissent Right**”) in connection with the Arrangement pursuant to the Interim Order and in the manner set forth in sections 237 – 247 of the *BCBCA* (collectively, the “**Dissent Procedures**”).
- 5.2 Captiva Shareholders who duly exercise Dissent Rights with respect to their Captiva Shares (“**Dissenting Shares**”) and who:
- (a) are ultimately entitled to be paid fair value for their Dissenting Shares, shall be deemed to have transferred their Dissenting Shares to Captiva for cancellation immediately before the Effective Date; or
  - (b) for any reason are ultimately not entitled to be paid fair value for their Dissenting Shares, shall be deemed to have participated in the Arrangement on the same basis as a non-dissenting Captiva Shareholder and shall receive New Shares and Spinco Shares on the same basis as every other non-dissenting Captiva Shareholder, and in no case shall Captiva be required to recognize such person as holding Captiva Shares on or after the Effective Date.
- 5.3 If a Captiva Shareholder exercises the Dissent Right, Captiva shall on the Effective Date set aside and not distribute that portion of the Distributed Spinco Shares that is attributable to the Captiva Shares for which the Dissent Right has been exercised. If the dissenting Captiva Shareholder is ultimately not entitled to be paid for their Dissenting Shares, Captiva shall distribute to such Captiva Shareholder his, her or its pro-rata portion of the respective Distributed Spinco Shares. If a Captiva Shareholder duly complies with the Dissent Procedures and is ultimately entitled to be paid for their Dissenting Shares, then Captiva shall retain the portion of Distributed Spinco Shares attributable to such Captiva Shareholder (collectively, the “**Non-Distributed Shares**”), and the Non-Distributed Shares shall be dealt with as determined by the board of directors of Captiva in its absolute discretion.

## ARTICLE 6 AMENDMENTS

- 6.1 The Parties may amend, modify and/or supplement this Plan of Arrangement at any time and from time to time prior to the Effective Date, provided that each such amendment, modification and/or supplement must be:
- (i) set out in writing;

- (ii) filed with the Court and, if made following the Captiva Meeting, approved by the Court; and
  - (iii) communicated to holders of Captiva Shares, or Spinco Shares, as the case may be, if and as required by the Court.
- 6.2** Any amendment, modification or supplement to this Plan of Arrangement may be proposed by Captiva at any time prior to the Captiva Meeting with or without any other prior notice or communication, and if so proposed and accepted by the persons voting at the Captiva Meeting (other than as may be required under the Interim Order), shall become part of this Plan of Arrangement for all purposes.
- 6.3** Captiva, with the consent of the other parties, may amend, modify and/or supplement this Plan of Arrangement at any time and from time to time after the Captiva Meeting and prior to the Effective Date with the approval of the Court.
- 6.4** Any amendment, modification or supplement to this Plan of Arrangement may be made following the Effective Date but shall only be effective if it is consented to by the Parties, provided that such amendment, modification or supplement concerns a matter which, in the reasonable opinion of the Parties, is of an administrative nature required to better give effect to the implementation of this Plan of Arrangement and is not adverse to the financial or economic interests of any of the Parties or any former holder of Captiva Shares, or Spinco Shares, as the case may be.

#### **ARTICLE 7 REFERENCE DATE**

- 7.1** This plan of arrangement is dated for reference the 21<sup>st</sup> day of February, 2017.

## SCHEDULE "A" TO THE PLAN OF ARRANGEMENT

### SPECIAL RIGHTS AND RESTRICTIONS FOR CLASS A PREFERRED SHARES

The class A preferred shares as a class has or shall have attached to them the following special rights and restrictions:

#### Definitions

- (1) In these Special Rights and Restrictions,
  - (a) "**Arrangement**" means the arrangement pursuant to Division 5 of Part 9 of the Business Corporations Act (British Columbia) S.B.C 2002, c.57 as contemplated by the Arrangement Agreement,
  - (b) "**Arrangement Agreement**" means the Amended and Restated Arrangement Agreement dated as of February 21, 2017 between Captiva Verde Industries Ltd. (the "**Company**"), and Captiva Verde Land Corp.,
  - (c) "**Old Common Shares**" means the common shares in the authorized share structure of the Company that have been re-designated as class A common shares without par value pursuant to the Plan of Arrangement,
  - (d) "**Effective Date**" means the date upon which the Arrangement becomes effective,
  - (e) "**New Shares**" means the common shares without par value created in the authorized share structure of the Company pursuant to the Plan of Arrangement, and
  - (f) "**Plan of Arrangement**" means the Plan of Arrangement attached as Schedule "A" to the Arrangement Agreement.
- (2) The holders of the class A preferred shares are not as such entitled to receive notice of, nor to attend or vote at, any general meeting of the shareholders of the Company.
- (3) Class A preferred shares shall only be issued on the exchange of Old Common Shares for New Shares and class A preferred shares pursuant to and in accordance with the Plan of Arrangement.
- (4) The capital to be allocated to the class A preferred shares shall be the amount determined in accordance with §3.1(d) of the Plan of Arrangement.
- (5) The class A preferred shares shall be redeemable by the Company pursuant to and in accordance with the Plan of Arrangement.
- (6) Any class A preferred share that is or is deemed to be redeemed pursuant to and in accordance with the Plan of Arrangement shall be cancelled and may not be reissued.

[End of Schedule "A"]

## **SCHEDULE “B”**

### **CAPTIVA ASSETS TO BE TRANSFERRED TO CAPTIVA VERDE LAND CORP.**

- Letter of Intent between Greenbriar Capital (U.S.) LLC and Captiva Verde Industries Ltd. dated February 14, 2017 (the “**LOI**”). A copy of the LOI is attached as Exhibit “A” to this Schedule “B”.



**EXHIBIT "A" TO SCHEDULE "B"**

**LETTER OF INTENT**

[See Next Page]

**LETTER OF INTENT FOR PURCHASE AND SALE OF  
REAL PROPERTY AND ESCROW INSTRUCTIONS**

(Tehachapi Land 161+/- Acres, located east of the intersection of Cummings Valley Boulevard and Curry Street, Tehachapi, California)

This **LETTER OF INTENT FOR PURCHASE AND SALE OF REAL PROPERTY AND ESCROW INSTRUCTIONS** (the "Agreement") is made and entered into as of February 14, 2017, by and between GREENBRIAR CAPITAL (U.S.) LLC, a California limited liability company (the "Seller") and Captiva Verde Industries Ltd (the "Buyer").

1. **LETTER OF INTENT.** Buyer and Seller hereby acknowledge and agree that this Agreement is subject to a definitive agreement by and between the parties hereto. This definitive agreement, along with the initial deposit as below described, shall be deposited with Chicago Title Company ("Escrow Holder"), 1054 Valley Boulevard, Suite A, Tehachapi, CA 93561. Seller agrees to sell and Buyer agrees to buy in accordance with and upon the terms, provisions and conditions set forth herein, that certain real property ("Property") owned by Seller described as 161+/- acres in the City of Tehachapi, CA, referred to as County of Kern Assessor's Parcel Numbers 417-012-001, 014, 025, 027 and 028. As used herein, the term "Property" shall include the real property and all of Seller's rights, title and interest in and to all entitlements, easements, rights, mineral rights, oil and gas rights, water, water rights, air rights, development rights and privileges appurtenant thereto and all improvements located thereon.
2. **PURCHASE PRICE.** The Purchase Price to be paid by Buyer to Seller for a 50% undivided interest in and to the Property shall be: Two Million Five Hundred Thousand and 00/100 Dollars Canadian (\$2,500,000.00), 5% cash at close and 95% in common shares of the Buyer. Escrow Holder to prepare the Deed of Trust.
3. **EARNEST MONEY DEPOSIT.** Buyer shall make a deposit of Ten Thousand and 00/100 Dollars (\$10,000.00) in the form of a check into Escrow within three (3) business days of the Opening of Escrow (the "Earnest Money Deposit"). If the Earnest Money Deposit is not timely made with Escrow Holder, then this Agreement shall terminate, and neither party shall have any further obligations under this Agreement. The Earnest Money Deposit shall be refundable during the Due Diligence Period. After the Due Diligence Period the Earnest Money Deposit shall be non-refundable to Buyer, immediately released to the Seller and shall be applicable to the Purchase Price. All deposits placed in Escrow by Buyer shall be in an interest bearing account, and all interest shall be added to and be included as a part of the Earnest Money Deposit. The party receiving the Earnest Money Deposit or receiving the benefit of the Earnest Money Deposit (e.g., Buyer at the Close of Escrow) under the terms of this Agreement shall include all interest earned on the Earnest Money Deposit.
4. **ESCROW.**
  - A. **OPENING OF ESCROW.** For purposes of this Agreement, the Escrow shall be deemed opened on the date Escrow Holder shall have received a fully executed Agreement, which shall be deemed to occur not later than three (3) business days before the date in which the Seller makes an application to have its common shares listed on the TSX Venture Exchange. ("Opening of Escrow"). Escrow Holder shall notify Buyer and Seller, in writing, of the date Escrow is opened and the Closing Date, as defined in Paragraph 4(B) below. In addition, Buyer and Seller agree to execute, deliver and be bound by any reasonable or customary supplemental escrow instructions of Escrow Holder or other instruments as may reasonably be required by Escrow Holder in order to consummate the transaction contemplated by this Agreement. Any such supplemental instructions shall not conflict with, amend or supersede any portions of this Agreement. If there is any inconsistency between such supplemental instructions and this Agreement, this Agreement shall control.

- B. **DUE DILIGENCE PERIOD.** Buyer shall have the greater of 30 days; or until the day of listing of the Seller's common shares on the TSX Venture Exchange, to complete all due diligence, after which time Buyer's deposit shall become non-refundable.
  - C. **CLOSE OF ESCROW.** Close of Escrow shall be on the day of listing of the Seller's common shares on the TSX Venture Exchange ("Close of Escrow").
5. **TITLE REPORT.** Within three (3) days from the Opening of Escrow, Escrow Holder shall deliver, at Buyer's expense, to Buyer a current preliminary title report (the "Title Report") showing the conditions of title to the Property, together with legible copies of all instruments and documents referred to in the Title Report. Buyer agrees to accept title "as is" as long as it is free of all liens, encumbrances and judgments except pro-rated ad valorem taxes and assessments.
6. **CONVEYANCE OF TITLE.** At Close of Escrow, Seller shall convey to Buyer or Buyer's assignee free and clear title to the Property by a Grant, Bargain, and Sale Deed (the "Deed"), subject only to the following approved conditions of title (the "Approved Condition of Title"):
- A. A lien to secure payment of real estate taxes not delinquent;
  - B. Matters affecting the Approved Conditions of Title created by or with the written consent of Buyer; and
  - C. Exceptions that are disclosed by the Title Report described in Paragraph 5 hereof and which are approved or deemed approved by Buyer in accordance with Paragraph 5 hereof.

Seller covenants and agrees that during the term of this Escrow, it will not cause or permit title to the Property to differ from the Approved Condition of Title described in this Paragraph 6 without Buyer's prior written consent, which will not be unreasonably withheld, delayed or conditioned.

Subject to subsection 21(G) below, Buyer will designate vesting at the Close of Escrow. Subject to subsection 21(G) below, Seller consents to Buyer's assignment to a qualified 1031 intermediary if it so chooses.

7. **TITLE POLICY.** Title shall be evidenced by Title Company's issuance of its CLTA Coverage Owner's Form Policy of Title Insurance ("Title Policy") in the amount of the Purchase Price showing title to the Property vested in Buyer subject only to the Approved Conditions of Title. Buyer shall be obligated to pay for the additional costs associated with an ALTA policy and all endorsements above and beyond that of the CLTA policy, if required by Buyer. Seller and Buyer shall share equally in the payment of the CLTA portion of the policy.
8. **TRANSFER TO SUBSIDIARY.** The Buyer may transfer or assign this Letter of Intent or the definitive agreement to any of its subsidiaries at any such time after the date above set forth.
9. **COSTS AND EXPENSES.** The cost and expense of the Title Policy shall be paid as detailed in Paragraph 7, above. Buyer shall share equally in the payment of all of the other Escrow Holder's customary fees, including escrow charges and fees, filing fees, and recording fees.
10. **DEPOSITS BY SELLER.** At least one (1) business day prior to the Close of Escrow, Seller shall deposit or cause to be deposited with Escrow Holder the Grant, Bargain, and Sale Deed.
11. **SELLER'S REPRESENTATIONS.** In consideration of Buyer entering into this Agreement and as an inducement to Buyer to purchase the Property, Seller makes the following representations, each of which is material and is being relied upon by Buyer (and the continued truth and accuracy of which shall constitute a condition precedent to Buyer's obligations hereunder):
- A. **Authority.** Seller has the full power and authority to sell the Property.

- B. **Pending Litigation.** Without any independent investigation, Seller is not aware of any actions, suits proceedings, or governmental investigations, pending or threatened against or affecting the Property in law or equity.
  - C. **Continual Representation.** The representations of Seller set forth in this paragraph 11 shall be true on and as of the Close of Escrow as if those representations were made on and as of such time; provided, that, all representations of Seller shall merge into the Grant, Bargain, Sale Deed and shall not survive the Close of Escrow.
12. **BUYERS REPRESENTATION.** In consideration of Seller entering into this Agreement and as inducement to Seller to sell the Property to Buyer, Buyer makes the following representations, each of which is material and is being relied upon by Seller (the continued truth and accuracy of which shall constitute a condition precedent to Seller's obligations hereunder):
- A. **Legal Authority.** Buyer has the legal right, power and authority to enter into this Agreement and to consummate the transaction contemplated hereby. Moreover, the Buyer's execution, delivery and performance of this Agreement have been duly authorized and no other action by Buyer is requisite to the valid and binding execution, delivery and performance of this Agreement, except as otherwise expressly set forth herein.
  - B. **Continual Representation.** The representations of Buyer set forth in this Agreement shall be true on and as of the Close of Escrow as if those representations were made on and as of such time.
13. **DAMAGE OR DESTRUCTION.** In the event of any damage or other loss to the Property prior to the Close of Escrow, by any means whatsoever, including but not limited to damage by earthquake, fire, or release of or exposure to any Hazardous Substances, Buyer may at his discretion terminate this Agreement; Buyer may still purchase the Property provided that Seller shall assign to Buyer at the Close of Escrow all monies to be paid by Seller's insurer, if any, in connection with the damage or loss, and all claims for monies payable from Seller's insurer in connection with the damage or loss.
14. **CONDEMNATION.** If any portion of the Property is taken by condemnation or eminent domain or is the subject of a threatened or pending condemnation or eminent domain proceeding that has not been consummated prior to the Close of Escrow resulting in a decrease in the value of the Property, Buyer may elect either to terminate this Agreement upon written notice to Seller and Escrow Agent within ten (10) days of Buyer's notice of the threatened or pending taking, if Buyer reasonably believes that the portion of the Property subject to being taken would materially and adversely affect Buyer's intended use of the Property. Alternatively, Buyer may elect to consummate this Agreement, in which event Seller shall assign to Buyer Seller's rights to all awards for the condemnation or taking. Upon termination, neither party shall have any further obligations under this Agreement except as otherwise provided in this Agreement.
15. **SELLER'S DISCLAIMER OF REPRESENTATIONS AND WARRANTIES.**
- A. **Limitations on Representation and Warranties.** There are no representations, agreements, arrangements, or circumstances, oral or written, between the parties relating to the subject matter contained in this Agreement that are not fully expressed in this Agreement, and Seller has not made and does not make any representation or warranty concerning any matter or thing affecting or relating to the Property not expressed in this Agreement.
  - B. **"As Is" Condition.** Buyer has examined the Property and will be given a full opportunity to examine the Property during the Review Period, is familiar with its condition, and accepts the Property in an "as is" condition and without any warranties, expressed or implied by Seller. Seller has not made and does not make any representations as to the physical condition of the Property. Buyer will rely solely on Buyer's own investigation of the Property and all other matters relating to the Property, and not on any information provided by Seller or Seller's agent. Buyer further

acknowledges and agrees that to the maximum extent permitted by law, the sale of the Property as provided for herein is made on an "as is" and with all faults condition and basis as of the Close of Escrow and Seller has no obligation to make repairs, replacements or improvements, whether before or after the Close of Escrow. Buyer hereby fully and forever releases, acquits and discharges Seller of and from any and all claims, causes of action, suits, proceedings, demands, rights, damages, costs, expenses or other compensation whatsoever, whether known or unknown, direct or indirect, foreseeable or unforeseeable, absolute or contingent, that Buyer now has or may have or which may arise, directly or indirectly or in any way connected with the Property, including without limitation:

- i. Any condition of environmental contamination or pollution of any soils, subsoil media, surface water or underground water at the Property, however and whenever occurring at the Property.
- ii. The prior or present or further existence, release or discharge, or threatened release, of any hazardous materials at the Property, however or whenever occurring.
- iii. The violation of, or non-compliance with, any applicable law now or hereafter in effect, however and whenever occurring.
- iv. The condition of any improvements including, without limitation, the structural integrity and seismic compliance of such improvements, and any matters based on Seller's knowledge.

C. **Independent Investigation.** Buyer has conducted or will conduct an independent investigation with respect to zoning and subdivision laws, ordinances, resolutions, and regulations of all governmental authorities having jurisdiction over the Property, and the use and improvement of the Property, and Seller has not made representations to Buyer on any of these matters.

16. **TAX FREE EXCHANGE.** Buyer and Seller may use this transaction for an I.R.S. Section 1031 exchange. Buyer and Seller will cooperate with each other in this regard to the best of his ability, and at no expense to the other party.
17. **ACCEPTANCE.** This Agreement shall be null and void if not signed by both Buyer and Seller on or before February 14<sup>th</sup>, 2017
18. **BROKERS.** n/a
19. **LIQUIDATED DAMAGES, COSTS AND EXPENSES.** In the event the Close of Escrow does not occur as provided by reason of any default of Buyer, Buyer and Seller agree herein it would be impractical and extremely difficult to estimate the damages that Seller may suffer. Therefore, Buyer and Seller hereby agree that a reasonable estimate of the total net detriment Seller would suffer in the event Buyer defaults and fails to complete the purchase of the Property is and shall be, as Seller's sole and exclusive remedy (whether at law or in equity), an amount equal to the Earnest Money Deposit, extension fees and all interest accrued thereon. In the event the sale of the Property is not consummated due to Seller's failure or refusal to convey title to the Property in accordance with this Agreement, Buyer may either (a) specifically enforce this Agreement, or (b) terminate this Agreement, obtain the immediate refund of the Earnest Money Deposit and seek reimbursement from Seller of its actual out-of-pocket expenses incurred as a result of this Agreement not to exceed \$10,000. In no event may Buyer receive, and Buyer expressly waives its right to receive, any special or consequential damages as a result of Seller's default. In the event the Close of Escrow does not occur, as provided herein, through no fault of either party, either party may terminate this Agreement, and upon such termination the Earnest Money Deposit, any extension fees, and all accrued interest thereon, shall be immediately refunded to Buyer. In the event any dispute between Buyer and Seller relating to this contract should result in litigation or arbitration, the prevailing party shall be entitled to all costs and reasonable attorney fees. Nothing prevents Seller from accepting back-up offer(s) from a third party.

20. **NOTICES:** Whenever it shall be required or permitted that notice and demand be given or served by either party to or on the other, such notice or demand shall be given or served and shall not be deemed to have been duly given or served unless in writing and forwarded by (a) certified mail, return receipt requested, (b) facsimile, or (c) any reliable overnight courier, addressed as follows:

Buyer: Captiva Verde Industries Ltd  
Attn: Mike Boyd, Director  
632 Foster Avenue  
Coquitlam, BC  
Canada V3J 2L7  
520-275-0979  
Email: [azmboyds@aol.com](mailto:azmboyds@aol.com)

Seller: Greenbriar Capital (U.S.) LLC  
Attn: Jeff Ciachurski, CEO  
9 Landport  
Newport Beach, CA 92660  
Tel: 949-903-5906  
Email: [westernwind@shaw.cam](mailto:westernwind@shaw.cam)

Escrow Holder: Shauna Rushing  
Chicago Title Company  
1054 Valley Boulevard, Suite A  
Tehachapi, CA 93561  
Tel: 661.822.2010  
Fax: 661.822.8651  
Email: [rushings@CTT.com](mailto:rushings@CTT.com)

The notice date shall be deemed to be the date notice was (a) deposited in the US mail, (b) sent via facsimile during regular business hours, (c) deposited with any overnight courier service, or (d) via email. Either party may change such address by written notice to the other.

21. **MISCELLANEOUS.**

- A. **Required Actions of Buyer and Seller.** Buyer and Seller agree to execute such instruments and documents and to diligently undertake such actions as may be reasonably required in order to consummate the purchase and sale herein contemplated and shall use their good faith efforts to accomplish the Close of Escrow in accordance with the provisions hereof.
- B. **Time of Essence.** Time is of the essence of each and every term, condition, obligations and provisions hereof.
- C. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together, shall constitute one and the same instrument.
- D. **Facsimile or Email.** A facsimile or email signed copy shall be valid and binding as if an original signature had been obtained.
- E. **Amendment to this Agreement.** The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.
- F. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- G. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto. Buyer shall be entitled to assign all of its right, title and interest in and to this Agreement to an entity which Buyer or the principals or officers so chooses.

- H. **Captions.** Any captions to, or headings of, the paragraphs or subparagraphs of this Agreement are solely for the convenience of the parties hereto and are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.
- I. **No Obligation to Third Parties.** Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not to be deemed to confer any rights upon, or obligate any of the parties thereto, to any person or entity other than the parties hereto.
- J. **Exhibits.** The Exhibits attached hereto are hereby incorporated herein by this reference.
- K. **Waiver.** The waiver of failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.
- L. **Complete Agreement.** This Agreement constitutes the sole and complete agreement between the parties with respect to the purchase and sale of the Property and supersedes and replaces in their entirety any and all other agreements or understandings whatsoever between the parties, whether oral or written. No amendment or modification of this Agreement shall be effective unless in writing and signed by each signatory of this Agreement.

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

BUYER:

Captiva Verde Industries Ltd

*"Mike Boyd"*

\_\_\_\_\_  
Mike Boyd, Director

SELLER:

Greenbriar Capital (U.S.) LLC, a California limited liability company

*"Jeff Ciachurski"*

\_\_\_\_\_  
Jeff Ciachurski, CEO

EXHIBIT "A"

Property Description and Map

The Property is comprised of five (5) parcels. The legal description of each parcel is as follows:

Parcel 1 APN 417-012-01 (approx. 32.97 acres)

Parcel 2 APN 417-012-28 (approx. 60 acres)

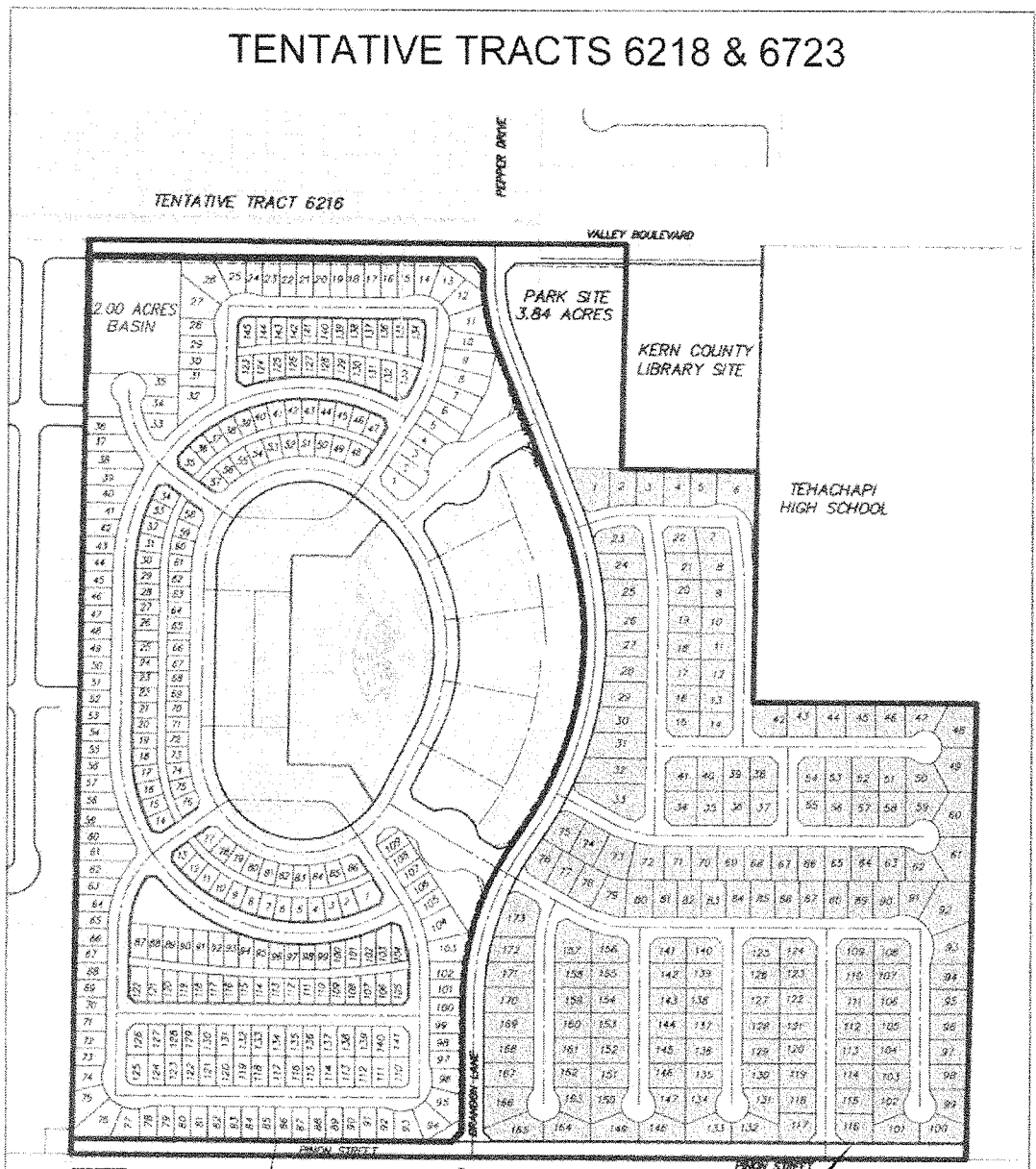
Parcel 3 APN 417-012-27 (approx. 20 acres)

Parcel 4 APN 417-012-25 (approx. 19.16 acres)

Parcel 5 APN 417-012-14 (approx. 28.75 acres)



# TENTATIVE TRACTS 6218 & 6723



TENTATIVE TRACT 6218

141 - 4,500's conventional  
145 - 3,150's with paseos & alleys

TENTATIVE TRACT 6723



<b>FORMA ENGINEERING INC.</b> 9110 Independence Canyon Road, Ste. B, Chatsworth, CA 91311 Phone: 818-498-1174 • Fax: 818-498-1244	Drawing No. <b>PRELIMINARY LOT LAYOUT</b>	Sheet No. 15 of 25
	Prepared by EMPRES LAND LLC 7740 ELIZABETH LANE, SUITE 100 PRINCETON, CA 95354 PH: (925) 253-9000	Checked by All

**SCHEDULE "C"**

**INTERIM COURT ORDER, PETITION TO COURT AND  
NOTICE OF HEARING OF PETITION**

**[See Next Page]**



No. S171457  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF PART 9, DIVISION 5, SECTION 291 OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF A PROPOSED PLAN OF ARRANGEMENT AMONG  
CAPTIVA VERDE INDUSTRIES LTD., ITS SHAREHOLDERS, and  
CAPTIVA VERDE LAND CORP.

**CAPTIVA VERDE INDUSTRIES LTD.**

PETITIONER

**ORDER MADE AFTER APPLICATION**

BEFORE MASTER TAYLOR )  
 ) TUESDAY the 21<sup>ST</sup> DAY of  
 ) FEBRUARY, 2017  
 )

ON THE APPLICATION of the Petitioner, Captiva Verde Industries Ltd. (“Captiva”), without notice, coming on for hearing at 800 Smithe Street, Vancouver, British Columbia on February 21, 2017 and on hearing Katherine A. Reilly, counsel for Captiva Verde Land Corp., appearing on behalf of counsel for the Petitioner, and on reading Affidavit #1 of Jeffrey Ciachurski sworn February 16, 2017;

**THIS COURT ORDERS THAT:**

**THE MEETING**

1. The Petitioner, Captiva, is authorized and directed to call, hold and conduct a special meeting (the “Meeting”) of the holders as at the Record Date (as defined below) of

common shares of Captiva (the "Shareholders"), to be held at the offices of McMillan LLP, 1500 – 1055 West Georgia Street, Vancouver, British Columbia on March 15, 2017 at 10:00 a.m. (Pacific time), or at such other time and location to be determined by Captiva provided that the Shareholders have due notice of same.

2. At the Meeting, the Shareholders will, *inter alia*, consider, and if deemed advisable, approve one or more special resolutions (the "Arrangement Resolution"), in the form attached as Schedule "A" to the management information circular of Captiva prepared in connection with the Meeting (the "Information Circular"), a copy of which is attached as Exhibit "B" to Affidavit #1 of Jeffrey Ciachurski, sworn on February 16, 2017, and filed herein, adopting, with or without amendment, the arrangement (the "Arrangement") involving Captiva, the Shareholders and Captiva Verde Land Corp. ("CV Land Corp."), as set forth in the plan of arrangement (the "Plan of Arrangement"), a copy of which is attached to the arrangement agreement dated February 16, 2017 between CV Land Corp. and Captiva (the "Arrangement Agreement") which is attached as Schedule "C" to the Information Circular.
3. At the Meeting, Captiva may also transact such other business as is contemplated by the Information Circular or as otherwise may be properly brought before the Meeting.
4. The Meeting will be called, held and conducted in accordance with the Notice of Special Meeting of Shareholders (the "Notice") to be delivered in substantially the form attached to and forming part of the Information Circular, and in accordance with the applicable provisions of the BCBCA, the *Securities Act* (British Columbia), R.S.B.C. 1996, c. 418, as amended (the "Securities Act"), and related rules and policies, the terms of this Interim Order (the "Interim Order") and any further Order of this Court, the rulings and directions of the Chairman of the Meeting, and, in accordance with the terms, restriction and conditions of the Articles of Captiva, including quorum requirements and all other matters. To the extent of any inconsistency or discrepancy between this Interim Order and the terms of any of the foregoing, this Interim Order will govern.

### **RECORD DATE FOR NOTICE**

5. The record date for determination of the Shareholders entitled to receive the Notice of the Meeting, Information Circular, this Interim Order, and a form of proxy or voting instruction form (together, the "Meeting Materials") is the close of business on February 9, 2017 (the "Record Date"), a notice of which was previously filed with the applicable regulatory authorities by the Petitioner, or such other date as the directors of Captiva may determine in accordance with the Articles of Captiva, the BCBCA and the Securities Act, and disclosed in the Meeting Materials.

### **NOTICE OF MEETING**

6. The Meeting Materials, with such amendments or additional documents as counsel for Captiva may advise are necessary or desirable, and that are not inconsistent with the terms of this Interim Order, will be sent at least 21 clear days before the date of the Meeting, excluding the date of mailing or delivery, to the Shareholders who are registered Shareholders on the Record Date and to beneficial Shareholders as of the Record Date, where applicable, by providing in accordance with National Instrument 54-101, the requisite number of copies of the Meeting Materials to intermediaries and registered nominees.
7. The Meeting Materials will be sent by prepaid ordinary mail addressed to each Shareholder at his, her or its address as appearing in the central securities register of Captiva, or by delivery of same by personal delivery courier service or by electronic transmission to any such Shareholder who identifies himself or herself to the satisfaction of Captiva and who requests or accepts such electronic transmission.
8. The Meeting Materials will be sent by prepaid ordinary mail addressed to each Captiva director and Captiva's auditor at his, her or its address as it appears on the records of Captiva or by delivery of same by personal delivery courier service or by electronic transmission to any such director or auditor who identifies himself, herself or itself to the satisfaction of Captiva and who requests or accepts such electronic transmission.

9. Substantial compliance with paragraphs 6 to 8 above will constitute good and sufficient notice of the Meeting and delivery of the Meeting Materials.
10. The accidental failure or omission by Captiva to give notice of the Meeting or non-receipt of such notice shall not constitute a breach of the Interim Order or a defect in the calling of the Meeting and shall not invalidate any resolution passed or taken at the Meeting provided that the Meeting meets Captiva's quorum requirements.
11. The Meeting Materials are hereby deemed to represent sufficient and adequate disclosure and Captiva shall not be required to send to the Shareholders any other or additional information.

#### **DEEMED RECEIPT OF MEETING MATERIALS**

12. The Meeting Materials will be deemed, for the purposes of this Interim Order, to have been received by the Shareholders:
  - (a) in the case of mailing or courier delivery, two days after delivery thereof to the post office or acceptance by the courier service, respectively; and
  - (b) in the case of delivery by electronic transmission, the business day after such delivery or transmission of same.
13. Notice of any amendments, modifications, updates or supplements to any of the information provided in the Meeting Materials may be communicated, at any time prior to the meeting, to the Shareholders by press release, news release, newspaper advertisement, in which case such notice will be deemed to have been received at the time of publication, or by notice sent by any of the means set forth in paragraph 12, as determined to be the most appropriate method of communication by the Petitioner.

#### **PERMITTED ATTENDEES**

14. The persons entitled to attend the Meeting will be the Shareholders, the officers, directors, and advisors of Captiva, representatives and advisors of CV Land Corp. and such other persons who receive the consent of the Chairman of the Meeting.

## **QUORUM & VOTING AT THE MEETING**

15. The quorum required at the Meeting shall be at least two persons who are, or who represent by proxy, Shareholders.
16. The only persons permitted to vote at the Meeting will be registered Shareholders appearing on the records of Captiva as of the close of business on the Record Date and their valid proxy holders as described in the Information Circular and as determined by the Chairman of the Meeting upon consultation with the Scrutineer (as hereinafter defined) and legal counsel to Captiva.
17. The required level of approval on the Arrangement Resolution taken at the Meeting will be: (a) at least two thirds of the votes cast by Shareholders present in person or represented by proxy and entitled to vote at the Meeting. Each Shareholder will be entitled to one vote on the Arrangement Resolution for each common share of Captiva owned of record as of the Record Date.
18. In all other respects, the terms, restrictions and conditions of the constating documents of Captiva, including quorum requirements and other matters, will apply in respect of the Meeting.

## **ADJOURNMENT OF MEETING**

19. Subject to the terms of the Arrangement Agreement, if Captiva deems advisable and notwithstanding the provision of the BCBCA or the articles of Captiva, Captiva is specifically authorized to adjourn or postpone the Meeting on one or more occasions without the necessity of first convening the Meeting or first obtaining any vote of the Shareholders respecting the adjournment or postponement and without the need for approval of the Court, provided that the Shareholders have due notice given by press release prior to the time called for the start of the Meeting.
20. The Record Date for Shareholders entitled to notice of and to vote at the Meeting will not change in respect of adjournments or postponements of the Meeting.

## **AMENDMENTS**

21. Captiva is authorized to make such amendments, revisions or supplements to the Plan of Arrangement as it may determine, provided it has obtained any required consents under the Arrangement Agreement or otherwise, and the Plan of Arrangement as so amended, revised or supplemented will be the Plan of Arrangement which is submitted to the Meeting and which will thereby become the subject of the Arrangement Resolution.

## **SCRUTINEER**

22. A representative of Computershare Trust Company of Canada or such other person as may be designated by Captiva, will be authorized to act as scrutineer for the Meeting (the "Scrutineer").

## **PROXY SOLICITATION**

23. Captiva is authorized to permit the Shareholders to vote by proxy using a form or forms of proxy that comply with the articles of Captiva and the provisions of the BCBCA relating to the form and content of proxies, and Captiva may in its discretion waive generally the time limits for deposit of proxies by the Shareholders if Captiva deems it reasonable to do so.
24. The procedures for the use of proxies at the Meeting shall be as set out in the Meeting Materials.

## **DISSENT RIGHTS**

25. The Shareholders will, as set out in the Plan of Arrangement, be permitted to dissent from the Arrangement Resolution in accordance with the dissent procedures set forth in Division 2 of Part 8 of the BCBCA, strictly applied as modified by the Interim Order, the Final Order and the Plan of Arrangement provided that the written notice (the "Dissent Notice") setting forth the objection of such registered Shareholder to the Arrangement and exercise of Dissent Rights must be received by Captiva not later than 10:00 a.m. (Vancouver time) on March 13, 2017, or two business days immediately preceding any date to which the Meeting may be postponed or adjourned at the following address:



Captiva Verde Industries Ltd., c/o McMillan LLP, attention: Katherine A. Reilly, 1500 – 1055 West Georgia Street, Vancouver, B.C., V6E 4N7.

26. Notice to the Shareholders of their right of dissent with respect to the Arrangement Resolution and to receive, subject to the provisions of the BCBCA and the Plan of Arrangement, the fair value of their common shares of Captiva, shall be given by including information with respect to this right in the Information Circular to be sent to Shareholders in accordance with this Order.
27. Neither Captiva nor CV Land Corp., nor any other person, will be required to recognize a Shareholder who has validly dissented as a registered or beneficial shareholder of common shares of Captiva at or after the Effective Time, and at the Effective Time, the names of such registered Shareholders will be deleted from the central securities register of Captiva.

#### **DELIVERY OF COURT MATERIALS**

28. Captiva will include in the Meeting Materials a copy of this Interim Order and the Notice of Hearing of Petition for Final Order (the "Court Materials") and will make available to any Shareholders requesting same, a copy of each of the Petition herein and the accompanying Affidavit #1 of Jeffrey Ciachurski.
29. Delivery of the Court Materials with the Meeting Materials in accordance with this Interim Order will constitute good and sufficient service or delivery of such Court Materials upon all persons who are entitled to receive the Court Materials pursuant to this Interim Order and no other form of service or delivery need be made and no other material need to be served on or delivered to such persons in respect of these proceedings.

#### **FINAL APPROVAL HEARING**

30. Upon the approval, with or without variation, by the Shareholders of the Arrangement in the manner set forth in this Interim Order, Captiva may set the Petition down for hearing and apply for an order of this Court (i) approving the Plan of Arrangement pursuant to

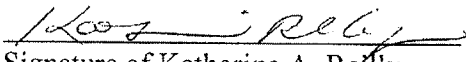
Section 291(4)(a) of the BCBCA and (ii) determining that the Arrangement is fair and reasonable to the Shareholders pursuant to section 291(4)(c) of the BCBCA (collectively, the "Final Order"), at 9:45 a.m. on March 20, 2017, or such later date as counsel may be heard or the Court may direct.

31. Any Shareholder or other interested party has the right to appear (either in person or by counsel) and make submissions at the hearing of the Petition provided that such Shareholder or interested party shall file a Response, in the form prescribed by the British Columbia *Supreme Court Civil Rules*, with this Court and deliver a copy of the filed Response together with a copy of all materials on which such Shareholder or interested party intends to rely at the hearing of the Petition, including an outline of such Shareholder's or interested party's proposed submissions to the Petitioner, c/o McMillan LLP, attention: Katherine A. Reilly, 1500 – 1055 West Georgia Street, Vancouver, B.C., V6E 4N7, at or before 4:00 p.m. on March 16, 2017, subject to the direction of the Court.
32. If the application for the Final Order is adjourned, only those persons who have filed and delivered a Response, in accordance with the preceding paragraph of this Interim Order, need to be served with notice of the adjourned date.
33. The Final Order, if granted, will provide the basis for CV Land Corp. to rely on the exemption from registration requirements provided under Section 3(a)(10) of the *United States Securities Act of 1933* and applicable exemptions under relevant state laws to implement the transactions contemplated by the Arrangement Agreement and to issue CV Land Corp. Shares pursuant to the Arrangement to those Shareholders who are resident in the United States.
34. The Petitioner shall not be required to comply with Rules 8-1 and 16-1 of the *Supreme Court Civil Rules* in relation to the hearing of the Petition for the Final Order approving the Plan of Arrangement, and any materials to be filed by Captiva in support of the application for the Final Order may be filed up to two business days prior to the hearing of the application for the Final Order without further order of this Court.

**VARIANCE**

35. Captiva and CV Land Corp. are at liberty to apply to this Honourable Court to vary the Interim Order or for advice and direction with respect to the Plan of Arrangement or any of the matters related to the Interim Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

  
Signature of Katherine A. Reilly,  
counsel for Captiva Verde Industries Ltd.



By the Court.

  
Registrar



No. S171457  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF PART 9, DIVISION 5, SECTION 291 OF THE *BUSINESS  
CORPORATIONS ACT*, S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF A PROPOSED PLAN OF ARRANGEMENT AMONG  
CAPTIVA VERDE INDUSTRIES LTD., ITS SHAREHOLDERS, and  
CAPTIVA VERDE LAND CORP.

**CAPTIVA VERDE INDUSTRIES LTD.**

PETITIONER

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**ORDER MADE AFTER APPLICATION**

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**Katherine A. Reilly**  
McMillan LLP  
1500 – 1055 W. Georgia Street  
Box 11117  
Vancouver, B.C. V6E 4N7  
(604) 689-9111

File No. 248852

FEB 17 2017

No. 11-0017  
VANCOUVER REGISTRY



**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF PART 9, DIVISION 5, SECTION 291 OF THE *BUSINESS  
CORPORATIONS ACT*, S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF A PROPOSED PLAN OF ARRANGEMENT AMONG  
CAPTIVA VERDE INDUSTRIES LTD., ITS SHAREHOLDERS, and  
CAPTIVA VERDE LAND CORP.

**CAPTIVA VERDE INDUSTRIES LTD.**

PETITIONER

**PETITION TO THE COURT**

THIS IS THE PETITION OF:

CAPTIVA VERDE INDUSTRIES LTD.

c/o McMillan LLP  
1500 – 1055 West Georgia Street  
Vancouver, B.C.  
V6E 4N7

ON NOTICE TO:

IT IS NOT INTENDED TO GIVE NOTICE OF THIS PETITION TO ANY PERSON,  
EXCEPT AS MAY BE DIRECTED BY THE COURT.

**This proceeding has been started by the Petitioner for the relief set out in Part 1 below.**

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner(s)

- (i) 2 copies of the filed response to petition, and
- (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

**Orders, including orders granting relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.**

**Time for response to petition**

A response to petition must be filed and served on the Petitioner,

- (a) if you reside anywhere within Canada, within 21 days after the date on which a copy of the filed petition was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed petition was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed petition was served on you, or
- (d) if the time for response has been set by order of the court, within that time.

<p>(1) The address of the registry is:</p> <p>The Law Courts 800 Smithe Street Vancouver, British Columbia V6Z 2E1</p>
<p>(2) The ADDRESS FOR SERVICE of the petitioner is:</p> <p>Captiva Verde Industries Ltd. c/o McMillan LLP 1500 – 1055 West Georgia Street Vancouver, B.C. V6E 4N7</p> <p>Telephone: (604) 689-9111 Attention: Katherine A. Reilly</p> <p>Fax number for delivery (if any): (604) 685-7084 E-mail address for service (if any): n/a</p>
<p>(3) The name and office address of the petitioner's lawyer is:</p> <p>Same as above</p>

## CLAIM OF THE PETITIONER

### Part 1: ORDERS SOUGHT

The Petitioner applies to this Court for a Final Order pursuant to Sections 288 and 291 of the *Business Corporations Act* (British Columbia), S.B.C. 2002, c. 57, as amended (the "BCBCA") and Rule 16-1 of the *Supreme Court Civil Rules* that:

### FINAL ORDER

1. The arrangement involving Captiva Verde Industries Ltd. ("Captiva"), the holders of record of common shares ("Shares") of Captiva ("Captiva Shareholders"), and Captiva Verde Land Corp. ("CV Land Corp.") (the "Arrangement"), set forth in the plan of arrangement (the "Plan of Arrangement"), a copy of which is attached to Affidavit #1 of Jeffrey Ciachurski sworn February 16, 2017, filed herein, including the terms and conditions thereof, is fair and reasonable to the Captiva Shareholders;
2. The Arrangement proposed by Captiva as provided in the Plan of Arrangement be and the same is hereby approved pursuant to the provisions of s. 291(4) of the BCBCA;
3. The Final Order will provide the basis for CV Land Corp. to rely on the exemption from registration provided in Section 3(a)(10) of the United States Securities Act of 1933 with respect to the issuance of the CV Land Corp. shares pursuant to the Arrangement; and
4. The Arrangement will be binding on Captiva, the Captiva Shareholders, and CV Land Corp. as of the Effective Time as defined in the Plan of Arrangement.

### VARIANCE

5. Captiva and CV Land Corp. are at liberty to apply to this Honourable Court to vary the Final Order or for advice and direction with respect to the Plan of Arrangement or any other matter related to the Interim Order or Final Order.

## **Part 2: FACTUAL BASIS**

### The Parties

1. The Petitioner, Captiva, is a corporation governed by the BCBCA. Its registered and records office is located at 1500 – 1055 West Georgia Street, Vancouver, British Columbia. Captiva is a commercial organic farming company, engaged in the business of growing and selling USDA certified organic greens and other organic produce. Captiva is currently delisted but was previously a publicly listed company on the Canadian Securities Exchange (“CSE”) under the trading symbol VEG. Captiva is a reporting issuer in British Columbia, Alberta and Ontario.
2. CV Land Corp. is a corporation governed by the BCBCA. CV Land Corp is a private company and a wholly owned subsidiary of Captiva. Its registered and records office is located at 1500 – 1055 West Georgia Street, Vancouver, British Columbia.

### The Arrangement

3. The purpose of the Arrangement is to “spin out” the private entity known as CV Land Corp. which is a wholly owned subsidiary of Captiva. CV Land Corp. will become a new public entity in which the Shareholders will maintain the same level of shareholdings as they currently hold in Captiva.
4. As a result of the Arrangement, the assets of Captiva will be separated between it and CV Land Corp. Captiva will assign to CV Land Corp. the rights its holds pursuant to a Letter of Intent (the “LOI”) that it entered into with a company called Greenbriar Capital (U.S.) LLC (“Greenbriar”). Pursuant to the LOI, CV Land Corp. and Greenbriar will, subject to the completion of the Arrangement, negotiate a definitive agreement pertaining to the acquisition by CV Land Corp. of certain real property located in Tehachapi, California, USA.
5. On February 16, 2017, Captiva and CV Land Corp. entered into an arrangement agreement (the “Arrangement Agreement”), pursuant to which Captiva will transfer the LOI to CV Land Corp. in exchange for shares in CV Land Corp. As a result of the



Arrangement, each Captiva Shareholder will receive shares in CV Land Corp. in an amount which corresponds, on a pro-rata basis, to their shareholdings in Captiva.

6. The required level of approval for the resolution approving the Arrangement (the "Arrangement Resolution") is not less than two thirds of the votes cast at the special meeting of Captiva Shareholders to be held on March 15, 2017 (the "Captiva Meeting") in person or by proxy by Captiva Shareholders.
7. Captiva is not insolvent and the Arrangement does not in any way represent a compromise, arrangement or settlement between Captiva and its creditors.
8. A copy of the proposed Plan of Arrangement is attached as Schedule "B" to the draft Notice of Special Meeting and Management Information Circular for the Captiva Meeting (the "Information Circular"), which is found at Exhibit "A" to Affidavit #1 of Jeffrey Ciachurski, sworn on February 16, 2017.
9. In deciding to approve the Arrangement Agreement and unanimously recommend that Captiva Shareholders vote in favour of the Arrangement, the board of directors of Captiva (the "Board") considered various factors in determining that the Arrangement is fair from a financial perspective and in the best interests of the Captiva Shareholders, which factors are set out in detail in the Information Circular, including but not limited to the following:
  - (a) the Arrangement will facilitate the reorganization of Captiva's LOI to its subsidiary, CV Land Corp.
  - (b) Captiva's primary focus has been in the organic farming business. Separating one of Captiva's assets out into an new public entity (CV Land Corp.) will allow the Captiva Shareholders to retain a direct interest in the LOI moving forward;
  - (c) following the Arrangement, the board of directors and management of CV Land Corp. will be free to focus on developing the LOI;
  - (d) Captiva was delisted from the CSE for failure to satisfy listing standards pertaining to having a board of directors composed of at least three directors, and has significant financial liabilities which are

disclosed in the Company's financial statements. Captiva's current liquidity position raises issues regarding its ability to continue as a going concern and CV Land Corp. provides the Captiva Shareholders an opportunity to participate in a new corporate vehicle which can proceed without the financial liabilities associated with Captiva;

- (e) as a separate entity, CV Land Corp. will have direct access to public and private capital markets and will be able to issue debt and equity to fund implementation and development of the LOI and to finance the acquisition and development of any other projects that CV Land Corp. may acquire on a priority basis;
- (f) as a separate company, CV Land Corp. will be able to establish equity based compensation programs to enable it to better attract, motivate and retain directors, officers and key employees, thereby better aligning management and employee incentives with the interests of shareholders;
- (g) the dissent rights provided to the Captiva Shareholders, in accordance with Division 2, Part 8 of the BCBCA;
- (h) the requirement that the Captiva Arrangement Resolution will be approved by at least two thirds of the votes cast by Captiva Shareholders; and
- (i) as a result of the Arrangement, each non-dissenting Captiva Shareholder will hold one Captiva Share and its pro-rata share of CV Land Corp. for each Captiva Share currently held.

**Part 3: LEGAL BASIS**

1. The Petitioner relies on Part 9, Division 5 of the BCBCA as the legal basis for the relief sought herein.
2. The Petitioner also relies on Rules 16-1 and 8-1 of the *Supreme Court Civil Rules*.

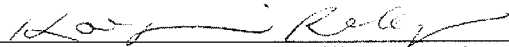
**Part 4: MATERIAL TO BE RELIED UPON**

1. Affidavit #1 of Jeffrey Ciachurski, sworn February 16, 2017; and

- 2. such further and other affidavits as may be required in support of the application for the Final Order.

The Petitioner estimates that the hearing of the petition will take 15 minutes.

Date: February 17, 2017

  
 Signature of Katherine A. Reilly, counsel  
 for Captiva Verde Land Corp.

**To be completed by the court only:**

Order made

in the terms requested in paragraphs ..... of Part 1 of this petition

with the following variations and additional terms:

.....  
 .....  
 .....

Date: .....[dd/mmm/yyyy].....

Signature of  Judge  Master

No. \_\_\_\_\_  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF PART 9, DIVISION 5, SECTION 291 OF  
THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, c. 57, AS  
AMENDED

AND

IN THE MATTER OF A PROPOSED PLAN OF  
ARRANGEMENT AMONG  
CAPTIVA VERDE INDUSTRIES LTD., ITS SHAREHOLDERS,  
and  
CAPTIVA VERDE LAND CORP.

**CAPTIVA VERDE INDUSTRIES LTD.**

PETITIONER

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**PETITION TO THE COURT**

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**Katherine A. Reilly**  
McMillan LLP  
1500 – 1055 W. Georgia Street  
Box 11117  
Vancouver, B.C. V6E 4N7  
(604) 689-9111

File No. 248852

No. S171457  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF PART 9, DIVISION 5, SECTION 291 OF THE *BUSINESS  
CORPORATIONS ACT*, S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF A PROPOSED PLAN OF ARRANGEMENT AMONG  
CAPTIVA VERDE INDUSTRIES LTD., ITS SHAREHOLDERS, and  
CAPTIVA VERDE LAND CORP.

**CAPTIVA VERDE INDUSTRIES LTD.**

PETITIONER


**NOTICE OF HEARING OF PETITION**

TAKE NOTICE that the application of the Petitioner dated February 17, 2017, for the Final Order will be heard in chambers at the Courthouse at 800 Smithe Street, in the City of Vancouver, Province of British Columbia, on March 20, 2017 at the hour of 9:45 a.m.

The Petitioner estimates that the hearing will take 15 minutes.

This matter is not within the jurisdiction of a Master because a final order is sought.

Dated: February 22, 2017

  
Katherine A. Reilly,  
Counsel for Captiva Verde Industries Ltd.

This Notice of Hearing is filed by Katherine A. Reilly of the firm of McMillan LLP, whose place of business and address for delivery is 1500 – 1055 West Georgia Street, Vancouver, B.C., V6E 4N7, Tel: (604) 689-9111;  
Fax: (604) 685-7084

## **SCHEDULE “D”**

### **DISSENT PROCEDURES**

Pursuant to the Interim Order, Shareholders have the right to dissent to the Arrangement. Such right of dissent is described in the Circular. See “Rights of Dissent” for details of the right to dissent and the procedure for compliance with the right of dissent. The full text of Sections 237 to 247 of the BCA is set forth below. Note that certain provisions of Sections 237 to 247 have been modified by the Interim Order.

#### **SECTIONS 237 TO 247 OF THE BUSINESS CORPORATIONS ACT (BRITISH COLUMBIA)**

##### **Definitions and application**

237 (1) In this Division:

“dissenter” means a shareholder who, being entitled to do so, sends written notice of dissent when and as required by section 242;

“notice shares” means, in relation to a notice of dissent, the shares in respect of which dissent is being exercised under the notice of dissent;

“payout value” means,

- (a) in the case of a dissent in respect of a resolution, the fair value that the notice shares had immediately before the passing of the resolution,
- (b) in the case of a dissent in respect of an arrangement approved by a court order made under section 291 (2) (c) that permits dissent, the fair value that the notice shares had immediately before the passing of the resolution adopting the arrangement, or
- (c) in the case of a dissent in respect of a matter approved or authorized by any other court order that permits dissent, the fair value that the notice shares had at the time specified by the court order,

excluding any appreciation or depreciation in anticipation of the corporate action approved or authorized by the resolution or court order unless exclusion would be inequitable.

(2) This Division applies to any right of dissent exercisable by a shareholder except to the extent that

- (a) the court orders otherwise, or
- (b) in the case of a right of dissent authorized by a resolution referred to in section 238 (1) (g), the court orders otherwise or the resolution provides otherwise.

##### **Right to dissent**

238 (1) A shareholder of a company, whether or not the shareholder’s shares carry the right to vote, is entitled to dissent as follows:

- (a) under section 260, in respect of a resolution to alter the articles to alter restrictions on the powers of the company or on the business it is permitted to carry on;
- (b) under section 272, in respect of a resolution to adopt an amalgamation agreement;
- (c) under section 287, in respect of a resolution to approve an amalgamation under Division 4 of Part 9;

- (d) in respect of a resolution to approve an arrangement, the terms of which arrangement permit dissent;
  - (e) under section 301 (5), in respect of a resolution to authorize or ratify the sale, lease or other disposition of all or substantially all of the company's undertaking;
  - (f) under section 309, in respect of a resolution to authorize the continuation of the company into a jurisdiction other than British Columbia;
  - (g) in respect of any other resolution, if dissent is authorized by the resolution; (h) in respect of any court order that permits dissent.
- (2) A shareholder wishing to dissent must
- (a) prepare a separate notice of dissent under section 242 for
    - (i) the shareholder, if the shareholder is dissenting on the shareholder's own behalf, and
    - (ii) each other person who beneficially owns shares registered in the shareholder's name and on whose behalf the shareholder is dissenting,
  - (b) identify in each notice of dissent, in accordance with section 242 (4), the person on whose behalf dissent is being exercised in that notice of dissent, and
  - (c) dissent with respect to all of the shares, registered in the shareholder's name, of which the person identified under paragraph (b) of this subsection is the beneficial owner.
- (3) Without limiting subsection (2), a person who wishes to have dissent exercised with respect to shares of which the person is the beneficial owner must
- (a) dissent with respect to all of the shares, if any, of which the person is both the registered owner and the beneficial owner, and
  - (b) cause each shareholder who is a registered owner of any other shares of which the person is the beneficial owner to dissent with respect to all of those shares.

**Waiver of right to dissent**

239 (1) A shareholder may not waive generally a right to dissent but may, in writing, waive the right to dissent with respect to a particular corporate action.

- (2) A shareholder wishing to waive a right of dissent with respect to a particular corporate action must
- (a) provide to the company a separate waiver for
    - (i) the shareholder, if the shareholder is providing a waiver on the shareholder's own behalf, and
    - (ii) each other person who beneficially owns shares registered in the shareholder's name and on whose behalf the shareholder is providing a waiver, and
  - (b) identify in each waiver the person on whose behalf the waiver is made.
- (3) If a shareholder waives a right of dissent with respect to a particular corporate action and indicates in the waiver that the right to dissent is being waived on the shareholder's own behalf, the shareholder's right to dissent with respect to the particular corporate action

terminates in respect of the shares of which the shareholder is both the registered owner and the beneficial owner, and this Division ceases to apply to

- (a) the shareholder in respect of the shares of which the shareholder is both the registered owner and the beneficial owner, and
  - (b) any other shareholders, who are registered owners of shares beneficially owned by the first mentioned shareholder, in respect of the shares that are beneficially owned by the first mentioned shareholder.
- (4) If a shareholder waives a right of dissent with respect to a particular corporate action and indicates in the waiver that the right to dissent is being waived on behalf of a specified person who beneficially owns shares registered in the name of the shareholder, the right of shareholders who are registered owners of shares beneficially owned by that specified person to dissent on behalf of that specified person with respect to the particular corporate action terminates and this Division ceases to apply to those shareholders in respect of the shares that are beneficially owned by that specified person.

### **Notice of resolution**

240 (1) If a resolution in respect of which a shareholder is entitled to dissent is to be considered at a meeting of shareholders, the company must, at least the prescribed number of days before the date of the proposed meeting, send to each of its shareholders, whether or not their shares carry the right to vote,

- (a) a copy of the proposed resolution, and
  - (b) a notice of the meeting that specifies the date of the meeting, and contains a statement advising of the right to send a notice of dissent.
- (2) If a resolution in respect of which a shareholder is entitled to dissent is to be passed as a consent resolution of shareholders or as a resolution of directors and the earliest date on which that resolution can be passed is specified in the resolution or in the statement referred to in paragraph (b), the company may, at least 21 days before that specified date, send to each of its shareholders, whether or not their shares carry the right to vote,
- (a) a copy of the proposed resolution, and
  - (b) a statement advising of the right to send a notice of dissent.
- (3) If a resolution in respect of which a shareholder is entitled to dissent was or is to be passed as a resolution of shareholders without the company complying with subsection (1) or (2), or was or is to be passed as a directors' resolution without the company complying with subsection (2), the company must, before or within 14 days after the passing of the resolution, send to each of its shareholders who has not, on behalf of every person who beneficially owns shares registered in the name of the shareholder, consented to the resolution or voted in favour of the resolution, whether or not their shares carry the right to vote,
- (a) a copy of the resolution,
  - (b) a statement advising of the right to send a notice of dissent, and
  - (c) if the resolution has passed, notification of that fact and the date on which it was passed.
- (4) Nothing in subsection (1), (2) or (3) gives a shareholder a right to vote in a meeting at which, or on a resolution on which, the shareholder would not otherwise be entitled to vote.



### Notice of court orders

241 If a court order provides for a right of dissent, the company must, not later than

14 days after the date on which the company receives a copy of the entered order, send to each shareholder who is entitled to exercise that right of dissent

- (a) a copy of the entered order, and
- (b) a statement advising of the right to send a notice of dissent. Notice of dissent

242 (1) A shareholder intending to dissent in respect of a resolution referred to in section 238 (1)

(a), (b), (c), (d), (e) or (f) must,

- (a) if the company has complied with section 240 (1) or (2), send written notice of dissent to the company at least 2 days before the date on which the resolution is to be passed or can be passed, as the case may be,
- (b) if the company has complied with section 240 (3), send written notice of dissent to the company not more than 14 days after receiving the records referred to in that section, or
- (c) if the company has not complied with section 240 (1), (2) or (3), send written notice of dissent to the company not more than 14 days after the later of
  - (i) the date on which the shareholder learns that the resolution was passed, and
  - (ii) the date on which the shareholder learns that the shareholder is entitled to dissent.

(2) A shareholder intending to dissent in respect of a resolution referred to in section 238 (1) (g) must send written notice of dissent to the company

- (a) on or before the date specified by the resolution or in the statement referred to in section 240 (2) (b) or (3) (b) as the last date by which notice of dissent must be sent, or
- (b) if the resolution or statement does not specify a date, in accordance with subsection (1) of this section.

(3) A shareholder intending to dissent under section 238 (1) (h) in respect of a court order that permits dissent must send written notice of dissent to the company

- (a) within the number of days, specified by the court order, after the shareholder receives the records referred to in section 241, or
- (b) if the court order does not specify the number of days referred to in paragraph (a) of this subsection, within 14 days after the shareholder receives the records referred to in section 241.

(4) A notice of dissent sent under this section must set out the number, and the class and series, if applicable, of the notice shares, and must set out whichever of the following is applicable:

- (a) if the notice shares constitute all of the shares of which the shareholder is both the registered owner and beneficial owner and the shareholder owns no other shares of the company as beneficial owner, a statement to that effect;

- (b) if the notice shares constitute all of the shares of which the shareholder is both the registered owner and beneficial owner but the shareholder owns other shares of the company as beneficial owner, a statement to that effect and
  - (i) the names of the registered owners of those other shares,
  - (ii) the number, and the class and series, if applicable, of those other shares that are held by each of those registered owners, and
  - (iii) a statement that notices of dissent are being, or have been, sent in respect of all of those other shares;
- (c) if dissent is being exercised by the shareholder on behalf of a beneficial owner who is not the dissenting shareholder, a statement to that effect and
  - (i) the name and address of the beneficial owner, and
  - (ii) a statement that the shareholder is dissenting in relation to all of the shares beneficially owned by the beneficial owner that are registered in the shareholder's name.
- (5) The right of a shareholder to dissent on behalf of a beneficial owner of shares, including the shareholder, terminates and this Division ceases to apply to the shareholder in respect of that beneficial owner if subsections (1) to (4) of this section, as those subsections pertain to that beneficial owner, are not complied with.

#### **Notice of intention to proceed**

243 (1) A company that receives a notice of dissent under section 242 from a dissenter must,

- (a) if the company intends to act on the authority of the resolution or court order in respect of which the notice of dissent was sent, send a notice to the dissenter promptly after the later of
  - (i) the date on which the company forms the intention to proceed, and
  - (ii) the date on which the notice of dissent was received, or
- (b) if the company has acted on the authority of that resolution or court order, promptly send a notice to the dissenter.
- (2) A notice sent under subsection (1) (a) or (b) of this section must
  - (a) be dated not earlier than the date on which the notice is sent,
  - (b) state that the company intends to act, or has acted, as the case may be, on the authority of the resolution or court order, and
- (c) advise the dissenter of the manner in which dissent is to be completed under section 244.

#### **Completion of dissent**

244 (1) A dissenter who receives a notice under section 243 must, if the dissenter wishes to proceed with the dissent, send to the company or its transfer agent for the notice shares, within one month after the date of the notice,

- (a) a written statement that the dissenter requires the company to purchase all of the notice shares,

- (b) the certificates, if any, representing the notice shares, and
  - (c) if section 242 (4) (c) applies, a written statement that complies with subsection (2) of this section.
- (2) The written statement referred to in subsection (1) (c) must
- (a) be signed by the beneficial owner on whose behalf dissent is being exercised, and
  - (b) set out whether or not the beneficial owner is the beneficial owner of other shares of the company and, if so, set out
    - (i) the names of the registered owners of those other shares,
    - (ii) the number, and the class and series, if applicable, of those other shares that are held by each of those registered owners, and
    - (iii) that dissent is being exercised in respect of all of those other shares. (3) After the dissenter has complied with subsection (1),
  - (a) the dissenter is deemed to have sold to the company the notice shares, and
  - (b) the company is deemed to have purchased those shares, and must comply with section 245, whether or not it is authorized to do so by, and despite any restriction in, its memorandum or articles.
- (4) Unless the court orders otherwise, if the dissenter fails to comply with subsection (1) of this section in relation to notice shares, the right of the dissenter to dissent with respect to those notice shares terminates and this Division, other than section 247, ceases to apply to the dissenter with respect to those notice shares.
- (5) Unless the court orders otherwise, if a person on whose behalf dissent is being exercised in relation to a particular corporate action fails to ensure that every shareholder who is a registered owner of any of the shares beneficially owned by that person complies with subsection (1) of this section, the right of shareholders who are registered owners of shares beneficially owned by that person to dissent on behalf of that person with respect to that corporate action terminates and this Division, other than section 247, ceases to apply to those shareholders in respect of the shares that are beneficially owned by that person.
- (6) A dissenter who has complied with subsection (1) of this section may not vote, or exercise or assert any rights of a shareholder, in respect of the notice shares, other than under this Division.

#### **Payment for notice shares**

245 (1) A company and a dissenter who has complied with section 244 (1) may agree on the amount of the payout value of the notice shares and, in that event, the company must

- (a) promptly pay that amount to the dissenter, or
  - (b) if subsection (5) of this section applies, promptly send a notice to the dissenter that the company is unable lawfully to pay dissenters for their shares.
- (2) A dissenter who has not entered into an agreement with the company under subsection (1) or the company may apply to the court and the court may

- (a) determine the payout value of the notice shares of those dissenters who have not entered into an agreement with the company under subsection (1), or order that the payout value of those notice shares be established by arbitration or by reference to the registrar, or a referee, of the court,
  - (b) join in the application each dissenter, other than a dissenter who has entered into an agreement with the company under subsection (1), who has complied with section 244 (1), and
  - (c) make consequential orders and give directions it considers appropriate.
- (3) Promptly after a determination of the payout value for notice shares has been made under subsection (2) (a) of this section, the company must
- (a) pay to each dissenter who has complied with section 244 (1) in relation to those notice shares, other than a dissenter who has entered into an agreement with the company under subsection (1) of this section, the payout value applicable to that dissenter's notice shares, or
  - (b) if subsection (5) applies, promptly send a notice to the dissenter that the company is unable lawfully to pay dissenters for their shares.
- (4) If a dissenter receives a notice under subsection (1) (b) or (3) (b),
- (a) the dissenter may, within 30 days after receipt, withdraw the dissenter's notice of dissent, in which case the company is deemed to consent to the withdrawal and this Division, other than section 247, ceases to apply to the dissenter with respect to the notice shares, or
  - (b) if the dissenter does not withdraw the notice of dissent in accordance with paragraph (a) of this subsection, the dissenter retains a status as a claimant against the company, to be paid as soon as the company is lawfully able to do so or, in a liquidation, to be ranked subordinate to the rights of creditors of the company but in priority to its shareholders.
- (5) A company must not make a payment to a dissenter under this section if there are reasonable grounds for believing that
- (a) the company is insolvent, or
  - (b) the payment would render the company insolvent.

#### **Loss of right to dissent**

246 The right of a dissenter to dissent with respect to notice shares terminates and this Division, other than section 247, ceases to apply to the dissenter with respect to those notice shares, if, before payment is made to the dissenter of the full amount of money to which the dissenter is entitled under section 245 in relation to those notice shares, any of the following events occur:

- (a) the corporate action approved or authorized, or to be approved or authorized, by the resolution or court order in respect of which the notice of dissent was sent is abandoned;
- (b) the resolution in respect of which the notice of dissent was sent does not pass;
- (c) the resolution in respect of which the notice of dissent was sent is revoked before the corporate action approved or authorized by that resolution is taken;

- (d) the notice of dissent was sent in respect of a resolution adopting an amalgamation agreement and the amalgamation is abandoned or, by the terms of the agreement, will not proceed;
- (e) the arrangement in respect of which the notice of dissent was sent is abandoned or by its terms will not proceed;
- (f) a court permanently enjoins or sets aside the corporate action approved or authorized by the resolution or court order in respect of which the notice of dissent was sent;
- (g) with respect to the notice shares, the dissenter consents to, or votes in favour of, the resolution in respect of which the notice of dissent was sent;
- (h) the notice of dissent is withdrawn with the written consent of the company;
- (i) the court determines that the dissenter is not entitled to dissent under this Division or that the dissenter is not entitled to dissent with respect to the notice shares under this Division.

**Shareholders entitled to return of shares and rights**

247 If, under section 244 (4) or (5), 245 (4) (a) or 246, this Division, other than this section, ceases to apply to a dissenter with respect to notice shares,

- (a) the company must return to the dissenter each of the applicable share certificates, if any, sent under section 244 (1) (b) or, if those share certificates are unavailable, replacements for those share certificates,
- (b) the dissenter regains any ability lost under section 244 (6) to vote, or exercise or assert any rights of a shareholder, in respect of the notice shares, and
- (c) the dissenter must return any money that the company paid to the dissenter in respect of the notice shares under, or in purported compliance with, this Division.