

# **SUBSCRIPTION AGREEMENT**

**Western Potash Holdings Corp.**

**- and -**

**Western Resources Corp.**

**- and -**

**Western Potash Corp.**

**- and -**

**Vantage Chance Limited**

**February 16, 2022**

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## SUBSCRIPTION AGREEMENT

THIS AGREEMENT was made the 16th day of February, 2022,

BETWEEN:

**VANTAGE CHANCE LIMITED.**, a corporation existing under the laws of the British Virgin Islands,

(hereinafter referred to as the "**Investor**"),

- and

**Western Potash Holdings Corp.**, a corporation existing under the laws of the Province of British Columbia,

(hereinafter referred to as the "**Company**"),

- and

**WESTERN RESOURCES CORP.**, a corporation existing under the laws of the Province of British Columbia,

(hereinafter referred to as the "**Parent**" or "**WRX**"),

- and

**WESTERN POTASH CORP.**, a corporation existing under the laws of the Province of Saskatchewan,

(hereinafter referred to as the "**WPC**").

WHEREAS

- A. The Company has been incorporated for the purpose of the transactions contemplated by this Agreement. As of the date hereof, the Company and WPC are wholly-owned subsidiaries of the Parent, a company listed on the Toronto Stock Exchange under the ticker "WRX".
- B. Upon the approval of the WRX Shareholders under Section 5.2(a) and prior to the completion of the transactions contemplated by this Agreement, WRX will transfer its 100% equity interest in WPC to the Company, resulting in WPC becoming a wholly-owned subsidiary of the Company and the Company beneficially owning all of the outstanding shares of WPC.
- C. The Parties desire to enter into this Agreement pursuant to which the Investor agrees to invest an aggregate of \$80,000,000 into the Company and thereby become the holder of 54% of the outstanding shares of the Company, in reliance upon the representations, warranties, conditions and covenants of the Company, WPC and the Parent contained herein.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the premises and the respective covenants and agreements of the Parties hereinafter contained and for other good

and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each Party), the Parties agree as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Defined Terms**

For the purposes of this Agreement (including the recitals and the Schedules and Exhibits attached hereto), unless the context otherwise requires, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:

**"Act"** means the *Business Corporations Act* (British Columbia);

**"Affiliate"** has the meaning ascribed to such term in the Act, as in effect on the date of this Agreement;

**"Applicable IP"** has the meaning given in Section 3.1(y)(ii);

**"arm's length"** has the meaning given to that term in the Tax Act, as in effect on the date of this Agreement;

**Approval Threshold" has the meaning given in Section 5.2(a);**

**"Associate"** has the meaning ascribed to such term in the Act, as in effect on the date of this Agreement;

**"Benchmark Date"** means September 30, 2021, being the last day of WPC's 2021 fiscal year end;

**"BC Subsidiary"** means 0907414 B.C. Ltd., a company incorporated under the Act;

**"Board"** means the board of directors of the Company;

**"Business"** means the mining and exploration business of WPC as described in the Public Disclosure Documents;

**"Budget"** means the detailed estimate of the projected costs, expenses and other financial requirements of the Business for the 24-month period following the date hereof which are necessary in order to advance the Milestone Property, a copy of which is attached hereto as Schedule "A".

**"Business Day"** means any day, other than (a) a Saturday, Sunday or statutory holiday in the Province of British Columbia or the British Virgin Islands, or (b) a day on which banks are generally closed in the Province of British Columbia or the British Virgin Islands;

**"Claim"** means any claim or liability of any nature whatsoever, including any demand, obligation, liability, debt, cause of action, suit, proceeding, judgment, award, assessment or reassessment, including any appeal or application for review;

**"Claim Notice"** has the meaning given in Section 6.3(b);

**"Closing"** means the closing of the purchase and sale of the Subscription Shares as further described in Section 5.1;

**"Closing Date"** has the meaning given in Section 5.1;

**"Collective Agreement"** means collective agreements or similar agreements relating to employment matters (including expired collective agreements which have not been renewed) and related documents including benefit agreements, letters of understanding, letters of intent and other written communications (including arbitration awards) by which the Company or any of its Subsidiaries is bound or which impose any obligations upon the Company and its Subsidiaries or set out the understanding of the parties or an interpretation with respect to the meaning of any provisions of such collective agreements;

**"Commercial Production"** means the commercial exploitation of potassium chloride (excluding bulk sampling, pilot plant or test operations), which shall be deemed to have commenced on the first day of the month following the first period of thirty (30) consecutive days during which 50% of the mining production target of 146,000 tonnes per year of K62 product is met;

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

**"Contract"** means any agreement, indenture, contract, lease, deed of trust, licence, option, instrument, arrangement, understanding or other commitment, whether written or oral;

**"Convertible Securities"** means any agreement, option, warrant, note, instrument, right or other security or conversion privilege issued or granted by the Company or any of their Affiliates that is exercisable or convertible into, or exchangeable for, or otherwise carries the right of the holder to purchase or otherwise acquire Common Shares of the Company or the Subsidiaries, including pursuant to one or more multiple exercises, conversions and/or exchanges;

**"Damages"** means any damages (available at law or in equity), losses, Liabilities, Claims, demands, obligations, debts, interest, charges, fines, Taxes of any kind, penalties, assessments, reassessments, awards, judgments, costs or expenses, including the costs and expenses of any Claims or any Order, settlement or compromise relating thereto (including the costs, fees and expenses of legal counsel on a substantial indemnity basis without reduction for tariff rates or similar reductions) and all reasonable costs of investigation;

**"Direct Claim"** has the meaning given in Section 6.3(b);

**"Disclosure Letter"** means the letter of disclosure dated as of the date of this Agreement, signed by an authorized officer of each of the Company and WPC and delivered by the Company and WPC to the Investor on or prior to the date of this Agreement;

**"Employee Plan"** means all benefit, bonus, incentive, profit sharing, termination, change of control, pension, retirement, savings, stock option, stock purchase, stock appreciation, phantom stock, health, welfare, medical, dental, disability, life insurance and similar plans, programs, arrangements or practices relating to the current or former employees, officers or directors of the Company or any of its Subsidiaries, sponsored or funded by the Company or any of its Subsidiaries, under which the Company or any of its Subsidiaries has any Liability, contingent or otherwise, other than benefit plans established pursuant to statute;

**"Environment"** means the natural environment (including soil, land surface or subsurface strata, surface water, groundwater, sediment, ambient air (including all layers of the atmosphere), organic and inorganic matter and living organisms, including public health) and all sewer systems;

**"Environmental Approvals"** means all Governmental Authorizations issued or required to be issued pursuant to any Environmental Law;

**"Environmental Laws"** means all applicable Laws relating to the protection of the Environment, natural resources, wild life and human health and safety, the processing, distribution, use, handling, release, transport, management, treatment, storage, disposal or control of, or exposure to, Hazardous Substances, the assessment of environmental and social impacts or the rehabilitation, restoration, reclamation and closure of lands used in connection with the Business;

**"Financial Statements"** has the meaning given in Section 3.1(n);

**"Governmental Authorization"** means any lease, license, permit, consent, certificate, decree, order, classification, exemption, registration, agreement, waives and other authorization and approval of or from any Governmental Entity;

**"Governmental Entity"** means any domestic or foreign federal, provincial, regional, state, municipal or other government, governmental department, agency, authority or body (whether administrative, legislative, executive or otherwise), court, tribunal, commission or commissioner, bureau, minister or ministry, board, or other regulatory authority, including any securities regulatory authorities and the TSX or any other stock exchange), exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing and any domestic, foreign or international judicial, quasi-judicial or administrative court, tribunal, commission, board, panel or arbitrator acting under the authority of any of the foregoing;

**"Hazardous Substances"** means any substance, material or waste that is defined, regulated, listed, defined, designated, classified or prohibited by Environmental Laws, including pollutants, contaminants, chemicals, deleterious substances, dangerous goods, hazardous or industrial toxic wastes or substances, tailings, wasterock, radioactive materials, flammable substances, explosives, petroleum and petroleum products, polychlorinated biphenyls, chlorinated solvents and asbestos;

**"Investment Canada Clearance"** means that either: (a) the Investor shall not have received a notice under either subsection 25.2(1) or subsection 25.3(2) of the Investment Canada Act within the prescribed time period; or (b) if the Investor has received a notice referred to in clause (a) above, then the Investor shall have subsequently received one of the following notices: (i) a notice under paragraph 25.2(4)(a) of the Investment Canada Act indicating that no order for the review of the transactions contemplated by this Agreement will be made under subsection 25.3(1) of the Investment Canada Act; (ii) a notice under paragraph 25.3(6)(b) of the Investment Canada Act indicating that no further action will be taken in respect of the transactions contemplated by this Agreement; or (iii) a notice under subsection 25.4(1)(b) of the Investment Canada Act that the Governor in Council authorizes the completion of the transactions contemplated by this Agreement on terms satisfactory to the Investor, acting reasonably;

**"ICA Notification"** means a notification of the transactions contemplated hereby, in the prescribed form, filed by Investor under Part III of the Investment Canada Act;

**"IFRS"** means International Financial Reporting Standards as incorporated in the Handbook of the Canadian Institute of Chartered Accountants, at the relevant time applied on a consistent basis;

**"Interim Period"** means the period in time from the date of execution of this Agreement to the Closing Date;

**"Investment Canada Act"** means the *Investment Canada Act* (Canada), as amended, and includes the regulations promulgated thereunder;

**"Investment Proceeds"** has the meaning given in Section 2.1;

**"Investments"** means with respect to any Person, all advances, loans or extensions of credit to any other Person, all purchases or commitments to purchase any shares, stock, bonds, notes, debentures or other securities of any other Person, and any other investment in any other Person, including partnerships or joint ventures (whether by capital contribution or otherwise) or other similar arrangement (whether written or oral) with any Person, including but not limited to arrangements in which (i) the Person shares profits and losses, (ii) any such other Person has the right to obligate or bind the Person to any third party, or (iii) the Person may be wholly or partially liable for the debts or obligations of such partnership, joint venture or other arrangement;

**"Investor's Nominees"** has the meaning given in Section 4.3(a);

**"Investor's Percentage"** means the percentage of Common Shares owned beneficially by the Investor and its Affiliates, collectively, at any given time and is calculated by multiplying 100 by a fraction, the numerator of which is the aggregate number of Common Shares owned beneficially by the Investor and its Affiliates, collectively, and the denominator of which is the aggregate number of issued and outstanding Common Shares;

**"Laws"** means any and all federal, provincial, regional, local, municipal or other law, statute, constitution, principle of common law, resolution, ordinance, proclamation, directive, code, edict, Order, rule, regulation, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Entity and any legal requirements arising under the common law or principles of law or equity, and the term "applicable" with respect to such Laws and, in the context that refers to any person, means such Laws as are applicable at the relevant time or times to such person or its business, undertaking, property or securities and emanate from a Governmental Entity having jurisdiction over such person or its business, undertaking, property or securities;

**"Legal Proceeding"** means any litigation, action, suit, investigation, hearing, Claim, complaint, grievance, arbitration proceeding or other proceeding and includes any appeal or review and any application for same;

**"Liability"** means any debts, liabilities and obligations, whether accrued, absolute or contingent, matured or unmatured or determined or determinable;

**"Lien"** means any encumbrance, lien, charge, hypothec, pledge, mortgage, title retention agreement, easement or security interest of any nature, any matter capable of registration against title, option, right of pre-emption, privilege other third party interest in respect of an asset, or any Contract to create any of the foregoing;



**"Material Adverse Effect"** means any result, fact, change, effect, event, circumstance, occurrence or development that individually or when taken together in the aggregate with all other results, facts, changes, effects, events, circumstances, occurrences or developments:

- (a) has or could reasonably be expected to have a material and adverse effect on (i) the Business, results of operations, capitalization, assets, Liabilities or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole; or (ii) the ability of the Company, WPC and the Parent to consummate the transactions contemplated hereby on a timely basis; or
- (b) creates or could reasonably be expected to create:
  - (i) a Liability;
  - (ii) damage to the Company and the Subsidiaries; or
  - (iii) losses of the Company and the Subsidiaries,

in each case of this clause (b) having a value of \$2,000,000 or more, other than any result, fact, change, effect, event, circumstance, occurrence or development (A) in or relating to general political, economic or financial conditions in Canada, (B) in or relating to financial or capital market conditions in Canada, including any reduction in Canadian market indices, (C) in or relating to currency exchange, interest rates or the price of commodities, including potash, (D) in or relating to the fertilizer or potash industry in general, (E) in or relating to a change in IFRS or regulatory accounting requirements after the date of this Agreement, (F) in or relating to any change in any Laws or any interpretation announced or implemented, application or non-application thereof by any Governmental Entity, or (G) the commencement or continuation of any war, armed hostilities or acts of terrorism, or (H) relating to the change in the market trading price of the common shares of the Parent relating to this Agreement, the transactions contemplated thereunder or the announcement thereof; provided, however, that such effect referred to in subsections (A) to (G) above does not disproportionately adversely affect the Company or the Subsidiaries, taken as a whole, compared to other companies operating in the potash industry;

**"Material Contract"** means, collectively, each Contract that is either, (i) material to the Business, being a Contract that involves the potential expenditure of more than \$1,000,000 in the aggregate; or (ii) any Contract of the Company or its Subsidiaries:

- (a) that creates or results in the investment in, or that may lead to the creation of or investment in, a joint venture, partnership, strategic arrangement or similar arrangement;
- (b) with one or more of its Shareholders, or as a shareholder of another person, relating to the voting or disposition of securities;
- (c) granting any royalty, streaming or similar arrangement or economically equivalent interest in any real property or mineral rights or production or proceeds therefrom;

- (d) which is a mining concession, lease or claim in respect of the Milestone Property, or an earn-in, farm-in, back-in, right of first offer or refusal, or option to acquire any interest in respect of the Milestone Property;
- (e) relating to the sale of potash, salt or other minerals by the Subsidiaries, including sales agreements or off-take arrangements;
- (f) that is material to the operation of, or the exploitation, extraction, development or production of potash from, the Milestone Property;
- (g) with a Related Party of WPC, the Company and the Subsidiaries;
- (h) guaranteeing, assuming or acting as a surety in respect of any liabilities or obligations of another Person;
- (i) under which indebtedness of the Company or any of its Subsidiaries for borrowed money is outstanding or may be incurred or pursuant to which any property or asset of the Company or any of its Subsidiaries is mortgaged, pledged or otherwise subject to a Lien securing indebtedness;
- (j) restricting the incurrence of indebtedness by the Company or any of its Subsidiaries (including by requiring the granting of an equal and rateable Lien or the incurrence of any Liens on any properties or assets of the Company or any of its Subsidiaries, or restricting the payment of dividends by the Company or any of its Subsidiaries);
- (k) relating to the supply of power or water in respect of the Milestone Property;
- (l) with any Governmental Entity in respect of the Milestone Property;
- (m) containing change of control provisions or could be terminated by one or more parties to the Contract as a result of the transactions contemplated by this Agreement;
- (n) that contains any non-competition obligations, any area of mutual interest, rights or first refusal, rights of first offer, exclusivity provisions or otherwise restricts in any material way the business, or the geographic area in which business can be conducted, of WPC or a Subsidiary of WPC;
- (o) that creates an exclusive dealing arrangement or right of first offer or refusal or similar rights or terms to any Person;
- (p) that is a standstill or similar Contract which restricts the ability of the Company or any of its Subsidiaries to offer to purchase or purchase the assets or equity securities of another Person;
- (q) creates any obligation or Liability, contingent or otherwise, or agreement to pay or reimburse any broker, finder, financial adviser or investment banker, for any brokerage, finder's, advisory or other fee or commission, or for the reimbursement of expenses as a result of the transactions contemplated by this Agreement;

- (r) pursuant to which the Company or the Subsidiaries will receive, receives or has received financial advisory or investment advisory services;
- (s) giving an indemnity to any Person or the assumption of any Tax, environmental, or other Liability of any Person, other than those provided to officers and directors of the Company and the Subsidiaries pursuant their respective constating documents;
- (t) relating to any issuance or potential issuance of any securities of the Company or the Subsidiaries, including Convertible Securities or Repurchase Rights;
- (u) relating to prior or contemplated business combinations, acquisitions, mergers or asset purchases or divestitures under which the Company or any of its Subsidiaries has any remaining outstanding obligations;
- (v) having a length of term greater than 2 years;
- (w) that is made out of the ordinary course of business; and
- (x) which, if terminated or modified, could reasonably be expected to have a Material Adverse Effect;

**"MI 61-101"** means Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions*;

**"Milestone Property"** means WPC's Milestone potash property located in southern Saskatchewan, approximately 35 kilometers (km) southeast of Regina; for greater certainty, **"Milestone Property"** includes all future improvements thereto, including all plant, operating equipment and other fixtures, as well as all supporting roads, pipelines, tailings management areas, waste-rock disposal site, water pumping, treatment and sewage, electricity and natural gas, buildings and other infrastructure;

**"Mining Claims"** has the meaning given in Section 3.1(ff)(i);

**"Minister"** means the Minister of Innovation, Science and Industry and/or other Ministers responsible for the Investment Canada Act;

**"Money Laundering Laws"** has the meaning given in Section 3.1(v);

**"NI 31-103"** means National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

**"NI 43-101"** means National Instrument 43-101 - *Standards of Disclosure for Mineral Projects*;

**"Order"** means any judgment, decision, decree, injunction, ruling, writ, assessment or order of any Governmental Entity that is binding on any Person or its property under applicable Law;

**"ordinary course of business"** when used in relation to the taking of any action by the Company or its Subsidiaries means that the action:

- (i) is consistent in nature, scope and magnitude with the past practices of the Business and is taken in the ordinary course of normal day-to-day operations of the Business;
- (ii) is similar in nature, scope and magnitude to actions customarily taken in the ordinary course of the normal day-to-day operations of other Persons that are in the same line of Business as the Company and its Subsidiaries; and
- (iii) does not require the authorization of the shareholders of the Company or any other separate or special authorization of any nature.

**"Outside Date"** has the meaning given in Section 7.1(a)(iv);

**"Parent Meeting"** has the meaning given in Section 5.2(a);

**"Parent Shareholders"** means the shareholders of the Parent;

**"Parties"** means the Company, WPC, the Parent and the Investor collectively, and **"Party"** means any one of them;

**"Person"** means and includes any individual, company, limited partnership, general partnership, joint stock company, limited liability company, unlimited liability company, joint venture, association, company, trust, bank, trust company, pension fund, business trust or other organization, whether or not a legal entity and any Governmental Entity;

**"Properties"** means the properties, mining concessions, leases and claims comprising the Milestone Property, the complete list of which is accurately set out in the Disclosure Letter;

**"Public Disclosure Documents"** means, collectively, all of the documents which have been filed by or on behalf of the Parent prior to the Time of Closing with the relevant Securities Regulators pursuant to the requirements of Securities Laws, including all documents filed under the Parent's profile on [www.sedar.com](http://www.sedar.com);

**"Related Party"** means, with respect to any person (the **"first named person"**), any person that does not deal at arm's length with the first named person or is an Associate of the first named person and, in the case of the Company, means (a) any director, officer, employee or Associate of the Company, WPC and the Parent, (b) any person that does not deal at arm's length with the Company, WPC and the Parent, (c) any person that does not deal at arm's length with, or is an Associate of, a director, officer, employee or Associate of the Company, and (d) any person who beneficially owns shares representing more than 10% of the total number of issued and outstanding Common Shares of the Company or the issued and outstanding shares of the Parent;

**"Release"** means any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, disbursement, leaching or migration into the indoor or outdoor environment, including the movement of Hazardous Substances through ambient air, soil, surface water, groundwater, wetlands, land or subsurface strata;

**"Remediate"** or **"Remediation"** means any containment, clean up, Response, treatment, removal, mitigation, abatement, elimination, or control of any Hazardous Substances;

**"Repurchase Rights"** means any agreement, option, warrant, right or other security issued or granted by the Company, its Subsidiaries or any of their Affiliates that when exercised, will

require the Company, its Subsidiaries or any of their Affiliates to purchase, redeem or otherwise acquire any of the Company's or its Subsidiaries' issued and outstanding securities;

**"Response"** means action required under Environmental Laws or by a Governmental Entity to Remediate, prevent, monitor, or investigate the Release of Hazardous Substances;

**"Securities Laws"** means all applicable Canadian securities Laws and the respective regulations made thereunder, together with applicable published fee schedules, prescribed forms, policy statements, notices, orders, blanket rulings and other regulatory instruments of the Securities Regulators in such provinces and all rules and policies of the TSX;

**"Securities Regulators"** means the British Columbia Securities Commission and any other applicable securities commissions or securities regulatory authority of a province or territory of Canada;

**"Shareholders"** means holders of Common Shares;

**"SPV Reorganization"** means the steps and transactions described in Schedule "B" attached hereto;

**"Subscription Shares"** has the meaning given in Section 2.1;

**"Subsidiaries"** means the direct and indirect subsidiary companies of the Company. For purposes of the definition of "Subsidiaries" in this "Agreement", both WPC and the BC Subsidiary are both deemed to be a Subsidiary of the Company as of the date of this Agreement (notwithstanding the fact that the SPV Reorganization has not been completed as of the date of this Agreement);

**"Tax" or "Taxes"** means (a) any and all taxes, dues, duties, rates, imposts, fees, levies, other assessments, tariffs, charges or obligations of the same or similar nature, however denominated, imposed, assessed or collected by any Governmental Entity, including all income taxes, including any tax on or based on net income, gross income, income as specifically defined, earnings, gross receipts, capital gains, profits, business royalty or selected items of income, earnings or profits, and specifically including any federal, provincial, state, territorial, county, municipal, local or foreign taxes, state profit share taxes, windfall or excess profit taxes, capital taxes, royalty taxes, production taxes, payroll taxes, health taxes, employment taxes, withholding taxes, sales taxes, use taxes, goods and services taxes, custom duties, value added taxes, ad valorem taxes, excise taxes, alternative or add-on minimum taxes, franchise taxes, gross receipts taxes, licence taxes, occupation taxes, real and personal property taxes, stamp taxes, anti-dumping taxes, countervailing taxes, occupation taxes, environment taxes, transfer taxes, and employment or unemployment insurance premiums, social insurance premiums and worker's compensation premiums and pension (including Canada Pension Plan) payments, and other taxes, fees, imposts, assessments or charges of any kind whatsoever; (b) any interest, penalties, additional taxes, fines and other charges and additions that may become payable on or in respect of amounts of the type described in clause (a) above or this clause (b); (c) any liability for the payment of any amounts of the type described in clauses (a) or (b) as a result of being a member of an affiliated, consolidated, combined or unitary group for any period; and (d) any liability for the payment of any amounts of the type described in clauses (a) or (b) as a result of any express or implied obligation to indemnify any other person or as a result of being a transferee or successor in interest to any party;

**"Tax Act"** means the *Income Tax Act* (Canada) and the regulations promulgated thereunder, as amended;

**"Tax Return"** means any return, report, declaration, designation, election, notice, filing, form, claim for refund, information return or other document (including any related or supporting schedule, statement or information) filed or required to be filed in connection with the determination, assessment or collection of any Tax or the administration of any Laws, regulations or administrative requirements relating to any Tax;

**"Third Party Claim"** has the meaning given in Section 6.3.;

**"Time of Closing"** means 9:00 a.m. PST on the Closing Date;

**"TSX"** means the Toronto Stock Exchange or any successor thereto;

**"United States"** means the United States of America as defined in Regulation S under the U.S. Securities Act;

**"U.S. Person"** means a "U.S. Person" as defined in Rule 902(k) of the U.S. Securities Act; and

**"U.S. Securities Act"** means the *United States Securities Act of 1933*, as amended.

## **1.2 Rules of Construction**

In this Agreement:

- (a) the terms "**Agreement**", "**this Agreement**", "**the Agreement**", "**hereto**", "**hereof**", "**herein**", "**hereby**", "**hereunder**" and similar expressions refer to this Agreement in its entirety and not to any particular provision hereof;
- (b) references to an "**Article**", "**Section**" or "**Schedule**" followed by a number or letter refer to the specified Article or Section of or Schedule to this Agreement;
- (c) the division of this Agreement 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 Agreement;
- (d) words importing the singular number only shall include the plural and vice versa and words importing the use of any gender shall include all genders;
- (e) the word "**including**" is deemed to mean "**including without limitation**";
- (f) any reference to this Agreement means this Agreement as amended, modified, replaced or supplemented from time to time;
- (g) any reference to a statute, regulation or rule shall be construed to be a reference thereto as the same may from time to time be amended, re-enacted or replaced, and any reference to a statute shall include any regulations or rules made thereunder;

- (h) all dollar amounts refer to Canadian dollars;
- (i) any time period within which a payment is to be made or any other action is to be taken hereunder shall be calculated excluding the day on which the period commences and including the day on which the period ends; and
- (j) whenever any action is required to be taken or period of time is to expire on a day other than a Business Day, such action shall be taken or period shall expire on the next following Business Day.

### **1.3 Time of Essence**

Time shall be of the essence of this Agreement.

### **1.4 Governing Law**

This Agreement shall be interpreted and enforced in accordance with, and the respective rights and obligations of the Parties shall be governed by, the Laws of the Province of British Columbia and the federal Laws of Canada applicable in that province.

### **1.5 Severability**

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, all other provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby are not affected in any manner materially adverse to any party hereto. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties hereto as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

### **1.6 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as provided herein.

### **1.7 Accounting Principles**

Any reference in this Agreement to generally accepted accounting principles refers to accounting principles which have been established as generally accepted in Canada for financial reporting, applied on a consistent basis, including those principles recommended from time to time in the Handbook of the Canadian Institute of Chartered Accountants or any successor body thereto, and which are applicable in the circumstances as of the date in question. Accounting principles are applied on a "consistent basis" when the accounting principles applied in a current period are comparable in all material respects to those accounting principles applied in a preceding period.

### **1.8 Knowledge**

Where any representation or warranty is expressly qualified by reference to "the knowledge of the Company", "the knowledge of the Parent" or similar words, it refers to knowledge and information of

the senior management of the Parent after making due and diligent inquiry regarding the relevant matter.

## **ARTICLE 2 INVESTMENT**

### **2.1 Investment in Company**

On the terms and subject to the conditions of this Agreement, on the Closing Date, the Investor shall purchase from the Company, and the Company agrees to issue 157,325,071 Common Shares representing 54% of the number of outstanding Common Shares as at the Closing Date (the "**Subscription Shares**"), for total proceeds of \$80,000,000.00 (the "**Investment Proceeds**").

### **2.2 Investment Usage**

The Company, Parent, and WPC guarantee that all the Investment Proceeds will be used solely for the purposes of the development and construction of the Milestone Potash Project. Upon signing of this Agreement, WPC will provide the Investor with a detailed budget and schedule of usage of the Investment Proceeds, which would be approved at the first meeting of the Board convened following the completion of the transactions contemplated under this Agreement.

### **2.3 Satisfaction of the Investment Proceeds**

The Investor shall pay, or cause to be paid, the Investment Proceeds to the Company (or as directed by the Company), on or before the Time of Closing, by payment of \$80,000,000 on the Closing Date by way of wire transfer in immediately available funds or on any other date and in any other manner agreed upon by the Parties:

## **ARTICLE 3 REPRESENTATIONS AND WARRANTIES**

### **3.1 Representations and Warranties Relating to the Company and its Subsidiaries**

Except as disclosed in the Disclosure Letter (which shall make reference to the applicable Section in respect of which such qualification is being made), each of the Company, the Parent and WPC jointly and severally represents and warrants to the Investor as of the date hereof and as of the Closing Date as follows and acknowledges that the Investor is relying on such representations and warranties in entering into this Agreement:

(a) **Corporate Existence and Organization**

The Company and its Subsidiaries are corporations duly formed, validly existing and in good standing under the corporate Laws of the jurisdictions in which they are domiciled, and have all corporate powers required to carry on their business as now conducted. The Company and its Subsidiaries are duly qualified to do business and are in good standing in each jurisdiction where the character of the property owned or leased by them or the nature of their activities makes such qualification necessary. The information set out in Section 3.1(a) of the Disclosure Letter concerning the name and jurisdiction of incorporation, the authorized, issued and outstanding shares and the directors and officers of the Company and its Subsidiaries is true and complete. WPC has never conducted



the Business under any name other than its current corporate names. The Company has provided the Investor with complete and correct copies of the constating documents of the Company and its Subsidiaries, as may have been amended prior to the date of this Agreement.

(b) Corporate Authorization

- (i) The Company and WPC each has the corporate power, authority and capacity to execute and deliver this Agreement and all other agreements and instruments to be executed by the Company and WPC as contemplated herein and to perform their respective obligations hereunder and under all such other agreements and instruments, as applicable.
- (ii) The execution, delivery and performance of this Agreement and all other agreements and instruments to be executed by the Company and WPC, and the consummation of the transactions contemplated hereby (including, but not limited to, the sale and delivery of the Subscription Shares) have been duly authorized by all necessary corporate action on the part of the Company and WPC, and no additional corporate action is required for the approval of this Agreement and the completion of the transactions contemplated herein.

(c) Enforceability of Obligations

This Agreement constitutes a valid and binding obligation of the Company and WPC enforceable against each of the Company and WPC in accordance with its terms, subject only to any limitation under applicable Laws relating to: (i) bankruptcy, winding-up, insolvency, arrangement and other Laws of general application affecting the enforcement of creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction.. There is no Legal Proceeding in progress, pending, or threatened against or affecting the Company or WPC, and there are no grounds on which any such Legal Proceeding might be commenced and there is no Order outstanding against or affecting the Company or WPC which, in any such case, affects adversely or might affect adversely the ability of the Company or WPC to enter into this Agreement or to perform their obligations hereunder.

(d) Subsidiaries and Investments

The Company and WPC each has no Subsidiaries or Investments other than as disclosed in Section 3.1(d) the Disclosure Letter. Following the completion of the SPV Reorganization, but prior to the issuance of the Subscription Shares, (i) the Parent is the sole shareholder of the Company; (ii) the Company is the sole shareholder of WPC; and (iii) WPC is the sole shareholder of the BC Subsidiary.

(e) Shareholder and Similar Agreements

Except for this Agreement, none of the Company or any of its Subsidiaries is a party to any shareholder, partnership, policy, voting trust, pooling arrangements or similar agreement relating to any of the issued and outstanding securities or equity interests of the Company or any of its Subsidiaries.

(f) Proceeds

Other than the Company, there is no Person that is or will be entitled to any portion of the Investment Proceeds under the terms of any note, loan, bond, debenture, promissory note or other instrument or document (written or unwritten).

(g) Regulatory or Third Party Consents and Approvals

Except as otherwise specifically contemplated in this Agreement and except as described in Section 3.1(g) of the Disclosure Letter, the execution, delivery and performance by the Company and WPC of this Agreement, or the consummation of the transactions contemplated hereby by the Company and WPC, or the ability of the Company to conduct operations at the MileStone Properties following completion of the transaction contemplated herein, in each case, require no consent, approval, Order or authorization of, or declaration or filing with, any Governmental Entity or any other third party.

(h) Non-Contravention

The execution, delivery and performance by the Company and WPC of this Agreement and the consummation by the Company and WPC of the transactions contemplated hereby (including the issuance of the Subscription Shares) do not and will not:

- (i) violate, contravene, conflict with, constitute a default or require any consent to be obtained under any provisions of: (A) any resolutions of the Board or the board of directors of the Parent (or any committee thereof) or the shareholders of the Company or the Parent, (B) the constating documents of the Parent, the Company or any of its Subsidiaries, (C) any shareholders' agreement or rights plan, (D) any other agreement or understanding with any Person holding an ownership interest in the Company or any of its Subsidiaries, or (E) any Material Contract;
  - (ii) subject to obtaining the other Governmental Authorizations specifically contemplated in this Agreement, contravene or conflict with or constitute a violation of any provision of any Law or Order binding upon or applicable to the Parent, the Company or any of its Subsidiaries;
  - (iii) constitute a default (or would constitute a default with notice or lapse of time or both) under or give rise to a right of termination, cancellation or acceleration or loss of any benefit under any Material Contract or under any material license, franchise, permit or other similar authorization held by the Company or any of its Subsidiaries;
  - (iv) result in a contravention, breach, violation or default under any Law applicable to the Company or any of its Subsidiaries or any of their properties or assets (including, the Milestone Property); or
  - (v) result in the creation or imposition of any Lien on any asset of the Company or any of its Subsidiaries.
- (i) Corporate Books and Records

The minute books and records of the Company and its Subsidiaries for the period from inception to the date of this Agreement are all of the minute books and all of the records of the Company and its Subsidiaries for such period. The minute books and records of the Company and its Subsidiaries have been maintained in material compliance with applicable Laws, rules and regulations, and contain substantially complete and accurate records of all meetings and other corporate actions of the Board, committees of the Board, incorporators and shareholders of the Subsidiaries.

(j) Capitalization

WPC's Share Capital is \$134,017,653 as at the Benchmark Date, which comes from the Parent's investment. The authorized capital of the Company consists of an unlimited number of Common Shares. The authorized capital of WPC consists of an unlimited number of common shares. As at February 15th, 2022, there were (i) 134,017,653 Common Shares issued and outstanding all of which have been duly authorized and validly issued and are fully paid and non-assessable, and (ii) 134,017,653 common shares issued and outstanding in the share capital of WPC, all of which have been duly authorized and validly issued and are fully paid and non-assessable.

(k) Rights

Except for this Agreement:

- (i) there are no outstanding (a) Convertible Securities or securities, notes or instruments convertible into or exercisable for any equity interests of the Company or its Subsidiaries; (b) options, warrants, subscriptions or other rights to acquire capital stock or other equity interests of the Company or its Subsidiaries, and (c) commitments, agreements or understandings of any kind, including employee benefit arrangements, relating to the issuance or repurchase by the Company or its Subsidiaries of any common shares or other equity interests of the Company or its Subsidiaries, any such securities or instruments convertible or exercisable for securities or any such options, warrants or rights;
- (ii) none of the Company or its Subsidiaries has granted anti-dilution rights to any Person or entity in connection with any outstanding option, warrant, subscription or any other instrument convertible or exercisable for the securities of the Company or any of its Subsidiaries; and
- (iii) there are no outstanding rights which permit the holder thereof to cause the Company or the Subsidiaries to file a prospectus or registration statement under Securities Laws or which permit the holder thereof to include securities of the Company or any of its Subsidiaries in a prospectus or registration statement filed by the Company or any of its Subsidiaries under Securities Laws, and there are no outstanding agreements or other commitments which otherwise relate to the registration or qualification of any securities of the Company or any of its Subsidiaries for sale or distribution in any jurisdiction.

(l) Accounting Controls

To the extent required by Securities Laws, the Company and its Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with applicable generally accepted accounting principles and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(m) Solvency

Neither the Company nor any of its Subsidiaries:

- (i) is an "insolvent person" within the meaning of the *Bankruptcy and Insolvency Act* (Canada), R.S.C., 1985, c.B-3;
- (ii) has made an assignment in favour of its creditors nor a proposal in bankruptcy to their creditors or any class thereof nor had any petition for a receiving order presented in respect of it; or
- (iii) has initiated proceedings with respect to a compromise or arrangement with their creditors or for their winding up, liquidation or dissolution;
- (iv) No receiver has been appointed in respect of the Company or its Subsidiaries, or any of their property or assets and no execution or distress has been levied upon any of the property or assets of the Company or its Subsidiaries. Neither the Company or its Subsidiaries, nor any of their respective properties or assets, are subject to any outstanding judgment, order, writ, injunction or decree that involves or may involve, or restricts or may restrict, the right or ability of the Company or its Subsidiaries to conduct its business in all material respects as it has been carried on prior to the date hereof, or that has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or would reasonably be expected to prevent or significantly impede or materially delay the completion of the transactions contemplated herein.

(n) Financial Statements

Each of the Parent's audited consolidated statement of financial position as at September 30, 2021 and related consolidated statements of loss and comprehensive loss, consolidated statements of cash flows and statements of consolidated changes in shareholders' equity (including the related notes) as of the year ended September 30, 2021, all as contained in the Public Disclosure Documents; and, each of WPC's unaudited consolidated balance sheet and related consolidated statements of loss and comprehensive loss as at September 30, 2021, (collectively, the "Financial Statements"): (a) present fairly in all material respects the financial position of the Subsidiaries on a consolidated basis as of the dates thereof and the results of operations, cash flows and shareholders' equity as of and for each of the periods then ended, and (b) were prepared in accordance with IFRS in effect from time to time applied on a consistent basis throughout the periods involved, in each case, except, in the

case of any unaudited Financial Statements, for the absence of normal period end adjustments, none of which are material, individually or in the aggregate. The Parent does not intend to correct or restate, nor, to the knowledge of the Parent, is there any basis for any correction or restatement of, any aspect of any of the Financial Statements.

(o) Liabilities and Indebtedness

Except to the extent reflected or disclosed in the Financial Statements or in Section 3.1(o) of the Disclosure Letter, none of the Company or any of its Subsidiaries has any material Liabilities of any nature (whether accrued, absolute, contingent or otherwise), or any obligation to issue any debt securities, or guarantee, endorse or otherwise become responsible for, the obligations of any other Person required to be reflected or disclosed therein. In addition, except to the extent reflected or disclosed in the Financial Statements or in Section 3.1(o) of the Disclosure Letter, none of the Company or its Subsidiaries has any Contract still in force under each of which the Company or (as the case may be) any of its Subsidiaries has an obligation to pay (whether before or after Closing) in excess of \$100,000, whether in cash or in kind, and whether in the form of economic Liability (arising from a Claim) or otherwise.

(p) No Undisclosed Liabilities

Except for: (i) liabilities, obligations, commitments and contingencies that are specifically presented in Financial Statements; and (ii) liabilities and obligations incurred in the ordinary course of business consistent with past practice September 30, 2021 and which have all be disclosed in Section 3.1(p) of the Disclosure Letter, the Company and its Subsidiaries have not incurred any liabilities or obligations of any nature, whether or not accrued, contingent or otherwise and are not party to or bound by any suretyship, guarantee, indemnification or assumption agreement, or endorsement of, or any other similar Contract with respect to the obligations, liabilities or indebtedness of any Person.

(q) Financial Books and Records

The financial books, records and accounts of the Company and each of the Subsidiaries, in all material respects: (a) have been maintained in accordance with good business practices and in accordance with accounting principles generally accepted in the country of domicile of each such entity on a basis consistent with prior years; (b) are stated in reasonable detail and accurately and fairly reflect the material transactions and dispositions of the assets of the Company and its Subsidiaries; and (c) accurately and fairly reflect the basis for the Financial Statements.

(r) Legal Proceeding

- (i) Other than as disclosed in Section 3.1(r) of the Disclosure Letter, there is no Legal Proceeding pending or in progress or, to the knowledge of the Company, threatened against or affecting the Company or its Subsidiaries or any of their officers or directors in their capacity as such, or any of their properties or assets or title thereto, and to the knowledge of the Company, there is no basis for the assertion of any of the foregoing.

- (ii) Other than as disclosed in Section 3.1(r) of the Disclosure Letter, there is no Order outstanding against or affecting the Company or its Subsidiaries or any of their properties or assets.
- (s) Taxes
- (i) All Tax Returns and Tax reports required to be filed with respect to the income, operations, business or assets of the Company and its Subsidiaries have been filed with the appropriate Governmental Entity in all jurisdictions in which such returns and reports are required to be filed, and all of the foregoing as filed are, in all material respects, correct, complete and reflect accurately all Liability for Taxes of the Company and its Subsidiaries for the periods to which such returns relate, and all amounts shown as owing thereon have been paid. There are no currently effective elections, agreements or waivers extending the statutory period or providing for an extension of time with respect to the assessment or reassessment of any Taxes, the filing of any Tax Return or any payment of Taxes by the Company or its Subsidiaries. The Company and its Subsidiaries have not made, prepared and/or filed any elections, designations or similar filings relating to Taxes or entered into any agreement or other arrangement in respect of Taxes or Tax Returns that could, in and of itself, require a material amount to be included in the income of the Company or its Subsidiaries for any period ending after the Closing Date.
  - (ii) The Company and its Subsidiaries have made provision in the Financial Statements for appropriate amounts in respect of any Taxes that are reasonably likely to be assessed in accordance with IFRS, withheld and collected all Taxes required to be withheld and collected by them and remitted such Taxes to the appropriate Government Entity, and paid and discharged all obligations incidental to any statutory lien or deemed trust imposed upon it by applicable Law which if unpaid, might become a Lien on any of its assets. The Company and its Subsidiaries has remitted all Canada Pension Plan contributions, provincial pension plan contributions, employment insurance premiums, employer health taxes, payroll taxes and other Taxes payable by it in respect of its employees, agents and consultants, as applicable, and has remitted such amounts to the appropriate Governmental Entity within the time required under applicable Laws. The Company has, to the extent required under applicable Laws, duly charged, collected and remitted on a timely basis all Taxes on any sale, supply or delivery whatsoever, made by it.
  - (iii) None of the Company or its Subsidiaries have received any written indication from any Governmental Entity that an audit, assessment or reassessment of the Corporation is proposed, or, to the knowledge of the Company, threatened in respect of any Taxes, regardless of its merits. The Corporation has not executed or filed with any Governmental Entity any agreement or waiver extending the period for assessment, reassessment or collection of any Taxes. To the knowledge of the Company, no Tax Return of the Company and its Subsidiaries is under investigation, review, audit or examination by any taxing authority with respect to any Taxes, and no written notice of any investigation, review, audit or examination by any taxing authority has been received by the Company or its Subsidiaries with respect to any Taxes. There are no rulings or closing agreements relating to the

Company or its Subsidiaries which may affect the Company's or any of its Subsidiaries' Liability for Taxes for any taxable period commencing after the Closing Date.

- (iv) For all transactions between the Company or its Subsidiaries, on the one hand, and any person who is not resident in Canada for purposes of the Tax Act with whom the Company or its Subsidiaries was not dealing at arm's length for purposes of the Tax Act, on the other hand, the Company or its Subsidiaries has made or obtained records or documents that meet the requirements of paragraphs 247(4)(a) to (c) of the Tax Act (or comparable provisions of any other applicable legislation).
  - (v) No circumstances exist or may reasonably be expected to arise as a result of matters existing before the Closing Date that may result in the Company or its Subsidiaries being subject to Section 160 of the Tax Act (or comparable provisions of any other applicable legislation).
  - (vi) None of Sections 78 or 80 to 80.04 of the Tax Act (or comparable provisions of any other applicable legislation) have applied to the Company or its Subsidiaries and there are no circumstances existing which could reasonably be expected to result in the application of Sections 78 or 80 to 80.04 of the Tax Act (or comparable provisions of any other applicable legislation) to the Company or its Subsidiaries.
  - (vii) There are no circumstances which exist and would result in, or which have existed and resulted in, Section 17 of the Tax Act applying to the Company or its Subsidiaries.
  - (viii) Each of the Company and its Subsidiaries is a "Taxable Canadian Corporation", as that term is defined in subsection 89(1) of the Tax Act.
  - (ix) The Company and its Subsidiaries have maintained and continue to maintain at their place of business in Canada all records and books of account required to be maintained under the Tax Act, the *Excise Tax Act* (Canada) and any comparable Law of any province or territory in Canada, including Laws relating to sales and use taxes.
- (t) Interests of Officers, Directors and Other Affiliates

The description of any interest held, directly or indirectly, by any officer, director or other Affiliate of the Company or any of its Subsidiaries (other than the interests of the Company and its Subsidiaries in such assets) in any property, real or personal, tangible or intangible, used in or pertaining to the Business, is true and complete, and no officer, director or other Affiliate of the Company or any of its Subsidiaries has any interest in any property, real or personal, tangible or intangible, used in or pertaining to the Business or any other parties located within 20 kilometres of any Properties.

(u) Related Party Transactions

- (i) As of the Benchmark Date, the principal amount of the Parent's loan to WPC is \$82,276,823.19, and the principal amount of the loan to WPC from Tairui Mining Inc., the controlling shareholder of the Parent, is \$35,000,000.

- (ii) Other than as disclosed in Section 3.1(u) of the Disclosure Letter, neither the Company nor any of its Subsidiaries is indebted to any director, officer, employee or agent of the Parent, the Company or any of its Subsidiaries, or any holder of record or, to the knowledge of the Company, beneficial owner or 5% or more of the outstanding shares of the Parent, the Company or any of its Subsidiaries, or any Affiliate or Associate of any of them (except for ordinary course salaries, bonuses and benefits).
  - (iii) Other than as disclosed in Section 3.1(u) of the Disclosure Letter, neither the Company nor any of its Subsidiaries is a party to any Contracts between the Company or its Subsidiaries, on the one hand, and (A) the Parent; (B) any director, officer, employee or agent of the Parent, the Company or any of its Subsidiaries; (C) any holder of record or, to the knowledge of the Company, beneficial owner or 5% or more of the outstanding shares of the Parent, the Company or any of its Subsidiaries; or (D) any Affiliate or Associate of any of them, on the other hand.
- (v) Compliance with Law
- (i) The Company and its Subsidiaries are in material compliance and have conducted the Business so as to comply with all Laws and Orders of any court, administrative agency, commission, regulatory authority or other Governmental Entity or instrumentality, domestic or foreign, applicable to their operations. To the knowledge of the Company, there are no Orders (whether rendered by a court or administrative agency or by arbitration) against the Company or its Subsidiaries or against any of their properties or assets;
  - (ii) Neither the Company or any of its Subsidiaries, nor any of the Company's directors, officers, supervisors, managers, employees, or agents has: (A) violated any applicable anti-corruption, anti-bribery, export control, and economic sanctions Laws, including the *Corruption of Foreign Public Officials Act* (Canada) and the United States' *Foreign Corrupt Practices Act*, (B) made or authorized any direct or indirect contribution, payment or gift of funds, property or anything else of value to any official, employee or agent of any Governmental Entity, authority or instrumentality in Canada or any other jurisdiction other than in accordance with applicable Laws, (C) used any corporate funds, or made any direct or indirect unlawful payment from corporate funds, to any foreign or domestic government official or employee or for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; or (D) violated or is in violation of any provision of the *Criminal Code* (Canada) relating to foreign corrupt practices, including making any contribution to any candidate for public office, in either case, where either the payment or gift or the purpose of such contribution payment or gift was or is prohibited under the foregoing or any other applicable Law of any locality;
  - (iii) The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial record-keeping and reporting requirements of the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Entity (collectively, the "**Money Laundering Laws**") and no



action, suit or proceeding by or before any court or Governmental Entity or any arbitrator non-Governmental Entity involving the Company and its Subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(w) No Defaults

The Company and its Subsidiaries are not, nor have they received notice that they would be with the passage of time, giving of notice, or both, (i) in violation of any provision of their constating documents, or (ii) in default or violation of any term, condition or provision of (A) any Law or Order applicable to the Company or any of its Subsidiaries, or (B) any Material Contract, permit or concession to which the Company or any of its Subsidiaries is a party or by which the Company or its Subsidiaries or their properties or assets may be bound. No circumstances exist which would entitle a party to any Material Contract to terminate such as a result of such Company or its Subsidiaries having failed to meet any material provision thereof.

(x) Material Contracts

- (i) Section 3.1(x) of the Disclosure Letter is a complete and accurate list of every Material Contract to which the Company or a Subsidiary is a party to or by which any of them or their respective properties or assets are bound. The Company has made available to the Investor for inspection true and complete copies of all Material Contracts to which the Company or a Subsidiary is a party and no such Material Contract has been modified, rescinded, or terminated.
- (ii) All Material Contracts are legal, valid, binding and in full force and effect and are enforceable by the Company and its Subsidiaries in accordance with their respective terms and are the product of arm's length negotiations between the parties thereto.
- (iii) The Company and the Subsidiaries have performed in all material respects all respective obligations required to be performed by them to date under the Material Contracts and are not alleged to be (with or without the lapse of time or the giving of notice, or both), in breach or default in any material respect thereunder, nor, to the Company's knowledge, is any counterparty thereto in breach or default in any material respect thereunder. To the knowledge of the Company, there exists no state of facts which after notice or lapse of time or both would constitute a default under or material breach of any Material Contract or the inability of a party to any Material Contract to perform its obligations thereunder. Neither the Company nor any of its Subsidiaries has received any notice (whether written or oral), that any party to a Material Contract intends to cancel, terminate or otherwise modify or not renew its relationship with the Company or its Subsidiaries, and to the knowledge of the Company, no such action has been threatened.
- (iv) Neither the entering into of this Agreement, nor the consummation of the transactions contemplated by this Agreement will trigger any change of control or similar provisions in any of the Material Contracts.

(y) Intellectual Property

Except in each case to the extent that it could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect:

the Company and its Subsidiaries own, or are validly licensed or otherwise have the right to use, all patents, patent rights, trademarks, trade names, service marks, copyrights, know how and other proprietary intellectual property rights that are used in their respective businesses;

- (i) the use by the Company and its Subsidiaries of its registered trademarks, service marks, copyrights, industrial designs, patents, design patents and all applications therefor ("**Applicable IP**"), does not infringe upon or breach the industrial or intellectual property rights of any other Person; and
- (ii) none of the Company or any of its Subsidiaries have commenced legal proceedings against any Person relating to an infringement by such Person of any Applicable IP.

(z) Absence of Certain Changes

Since September 30, 2021, except in connection with the transaction contemplated by this Agreement, or disclosed in the Public Disclosure Documents or the Disclosure Letter, the Company and its Subsidiaries have conducted the Business only in the ordinary course of business and there has been no:

- (i) event, occurrence, development or state of circumstances or facts that has had or would be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect;
- (ii) amendments or changes in the constating documents of the Company or any of its Subsidiaries;
- (iii) any material damage, destruction or loss, involving the properties and assets of the Company and its Subsidiaries, whether or not covered by insurance;
- (iv) incurrence, assumption or guarantee by the Company or its Subsidiaries of any debt for borrowed money;
- (v) issuance or sale of any shares, bonds, Convertible Securities, or other securities in the share capital of the Company or any of its Subsidiaries;
- (vi) discharge or satisfaction of any material Lien, other than current Liabilities incurred since September 30, 2021 in the ordinary course of business;
- (vii) declaration or making of any payment or distribution or return of capital in respect of the shares of the Company or any of its Subsidiaries, or purchase or redemption of any shares, Convertible Securities or other securities in the share capital of the Company or any of its Subsidiaries;

- (viii) split, division, consolidation, combination or reclassification of the issued and outstanding shares or other securities in the share capital of the Company or any of its Subsidiaries;
  - (ix) acquisition or sale, assignment, license, lease, transfer or other disposition or encumbrance, by the Company or any of its Subsidiaries of any interest in the Properties or any other material assets;
  - (x) expenditure, or commitment to expend, by the Company or any of its Subsidiaries with respect to capital expenses in excess of \$100,000 in the aggregate;
  - (xi) waiver of any right of substantial value whether or not in the ordinary course of business;
  - (xii) satisfaction or settlement of any material claim, Liability or obligation of the Company or any of its Subsidiaries;
  - (xiii) material increase in or modification of the compensation payable to or to become payable by the Company or any of its Subsidiaries to any director, officer, employee or agent, except as may be required by Contract;
  - (xiv) material change in the accounting policies, principles, methods, practices or procedures of the Company or any of its Subsidiaries except as required by applicable Laws or under IFRS;
  - (xv) entering into, adoption, or materially amendment of, any collective bargaining agreement, bonus, pension, profit sharing, change of control, stock purchase, stock option, Employee Plan or other benefit plan or agreement;
  - (xvi) creation, sufferance or assumption by the Company or any of its Subsidiaries of any Lien on the interest in the Properties or any other material assets (other than Liens existing on the date hereof, arising in the ordinary course of business or in connection with equipment leases or working capital lines of credit);
  - (xvii) making by the Company or any of its Subsidiaries of any loan, advance or capital contribution to or material investment in any other Person;
  - (xviii) entry into, amendment of, relinquishment, termination or non-renewal by the Company or any of its Subsidiaries of any Material Contract, license, permit, lease, transaction, commitment or other right or obligation, other than in the ordinary course of business; or
  - (xix) other commitment (contingent or otherwise), announcement or resolution to do any of the foregoing.
- (aa) Restrictions on Business Activities

Other than as set forth in the Public Disclosure Documents, there is no non-competition agreement, any non-solicitation agreement or any other agreement or Order binding upon, the Company or its Subsidiaries which has or could reasonably be expected to have the effect of prohibiting or materially impairing

any business practice of the Company or its Subsidiaries, prohibiting any acquisition or disposition of property by the Company or its Subsidiaries or limiting the conduct of business by the Company or its Subsidiaries as currently conducted or as currently proposed to be conducted by the Company or its Subsidiaries.

(bb) Insurance

All insurance policies of the Company and its Subsidiaries are disclosed in Section 3.1(bb) of the Disclosure Letter. The insurance policies providing insurance coverage to the Company and its Subsidiaries are adequate for the business conducted by the Company and its Subsidiaries and are sufficient for compliance by the Company and its Subsidiaries with all requirements of applicable Laws and all material agreements to which the Company and its Subsidiaries is a party or by which any of their assets are bound. All of such policies are in full force and effect and are valid and enforceable in accordance with their terms, and the Company and its Subsidiaries have complied with all material terms and conditions of such policies, including premium payments. All of such policies shall remain in full force and effect and shall not be cancelled or terminated as a result of this Agreement. None of the insurance carriers has indicated to the the Company and its Subsidiaries an intention to cancel any such policy or deny any claim made thereunder. There has been no denial by any insurer of material claims nor material claims disputed by the Company or its Subsidiaries.

(cc) Employees, Employment Agreements and Employee Benefit Plans

- (i) Neither the Company nor any of its Subsidiaries is a party to or bound or governed by, or subject to:
- (ii) any employment, consulting, retention, termination, or change of control agreement with, or any written or oral agreement, arrangement or understanding providing for retention, change of control, length of termination notice, or severance or termination payments to any director, officer, employee, contractor or agent of the Company or its Subsidiaries;
- (iii) any Collective Agreement or similar agreements;
- (iv) any threatened or, to the knowledge of the Company, pending union organizing activities involving any of the employees of the Company or its Subsidiaries and no such activities have been undertaken within the last three (3) years;
- (v) any trade union, council of trade unions, employee bargaining agency, affiliated bargaining agent, employee association or similar entity that holds bargaining rights with respect to any employees of the Company or its Subsidiaries by way of certification, interim certification, voluntary recognition, or succession rights, and no such person has applied, or to the knowledge of the Company, threatened to apply to be certified as the bargaining agent of any employees of the Company or its Subsidiaries in any jurisdiction in which the Company or its Subsidiaries carries on business;

- (vi) any unfair labour practice complaint, grievance or arbitration proceeding, or any labour dispute, strike or lock-out relating to or involving any employees of the Company or its Subsidiaries and no such event has occurred within the last five (5) years;
- (vii) any claim for wrongful dismissal, constructive dismissal or any other claim, complaint or litigation relating to employment, discrimination or termination of employment of employees of the Company or its Subsidiaries or former employees or relating to any failure to hire a candidate for employment; or
- (viii) any allegations of sexual or other unlawful harassment or discrimination have been made against (i) any director or officer of the Company or its Subsidiaries, or (ii) any present or former employees of the Company or its Subsidiaries;
- (ix) Section 3.1(cc) of the Disclosure Letter sets forth a complete and accurate list of the officers, employees, contractors or agents of the Company or its Subsidiaries, together with their position or function, date of hire or engagement, annual base salary or fees, as applicable, any incentive or bonus arrangement, benefit enrollments, any banked time or vacation pay entitlement, whether any employee is on a layoff or leave of absence and, for any leave of absence, the type of leave and expected date of return to work, if known. True, complete and correct copies of the agreements, arrangements and understandings with the officers, employees, contractors or agents referred to in this Section 3.1(cc)(ix), if any, have been provided to the Investor;
- (x) No current or former employees of the Company or its Subsidiaries are or have been, during employment with the Company or its Subsidiaries, an illegal or undocumented worker. All current and former employees, contractors and agents of the Company or its Subsidiaries have and had all work permits, visas, authorizations or status, as the case may be, required to perform work or provide services in Canada or in the jurisdiction in which services are performed;
- (xi) There are no outstanding assessments, penalties, fines, Liens, charges, surcharges, or other amounts due or owing pursuant to any workers' compensation legislation in respect of the Company or its Subsidiaries and the Company and its Subsidiaries have not been reassessed in any material respect under such legislation during the past three years and no audit of the Company or its Subsidiaries is currently being performed pursuant to any applicable workers' compensation legislation. There are no Claims or, to the knowledge of the Company, potential Claims which may materially adversely affect the Company's accident cost experience. All orders and inspection reports, if any, under applicable occupational health and safety legislation ("**OHSA**") relating to the Company or its Subsidiaries have been provided to Investor. There are no charges pending under OHSA in respect of the Company or its Subsidiaries. The Company and its Subsidiaries have complied in all material respects with any orders issued under OHSA and there are no appeals of any orders under OHSA currently outstanding;

- (xii) The Company and its Subsidiaries have investigated, and is investigating, all reported occupational health and safety issues related to the COVID-19 pandemic. With respect to each such issue, the Company and its Subsidiaries have taken, and is taking, all required and other reasonable corrective action in accordance with all Governmental Entity and public health recommendations to reduce the spread of COVID-19 within the applicable workplace;
- (xiii) The Company and its Subsidiaries have operated in all material respects in compliance with all terms and conditions of employment applicable to employees and all applicable Laws with respect to employment and labour, including employment and labour standards, vacation and paid time off, discrimination, harassment, retaliation, wages, classification, hours of work, overtime, immigration, occupational health and safety, employment equity, pay equity, workers' compensation, human rights, labour relations and privacy, and there are no current, pending, or to the knowledge of the Company, threatened Claims, complaints, investigations or orders under any such Laws and, to the knowledge of the Company, no basis for any such Claims;
- (xiv) All amounts due or accrued for all salary, wages, bonuses, commissions, vacation with pay, sick days and benefits, including under any Employee Plans and other similar accruals have either been paid or are accurately reflected in the books and/or records of the Company and its Subsidiaries;
- (xv) Except as disclosed in Section 3.1(cc) of the Company Disclosure Letter, no person will, as a result of any of the transactions contemplated herein, including a change of control of the Company become entitled to (i) any retirement, severance, termination, retention, bonus or other similar payment from the Company, (ii) the acceleration of the vesting or the time to exercise of any outstanding stock option or employee or director awards of the Company, (iii) the forgiveness or postponement of payment of any indebtedness owing by such person to the Company, or (iv) receive any additional payments or compensation under or in respect of any employee or director benefits or incentive or other compensation plans or arrangements from the Company;
- (xvi) Except as disclosed in Section 3.1(cc) of the Disclosure Letter, no person will, as a result of any of the transactions contemplated herein, including a change of control of the Company become entitled to (i) any retirement, severance, termination, retention, bonus or other similar payment from the Company or its Subsidiaries (ii) the acceleration of the vesting or the time to exercise of any outstanding stock option or employee or director awards of the Company or its Subsidiaries, (iii) the forgiveness or postponement of payment of any indebtedness owing by such person to the Company or its Subsidiaries, or (iv) receive any additional payments or compensation under or in respect of any employee or director benefits or incentive or other compensation plans or arrangements from the Company or its Subsidiaries;
- (xvii) All Employee Plans are listed in Section 3.1(cc) of the Disclosure Letter. The Company and its Subsidiaries have complied with all the terms of, and all applicable Laws in respect of, the Employee Plans. All contributions, and

premiums owing under the Employee Plans have been paid when due in accordance with the terms of the Employees Plans and applicable Laws. All Employee Plans that provide group benefits are established through a Contract of insurance, and no retroactive increase in premiums is permitted thereunder. No Employee Plan is a “registered pension plan” or “retirement compensation arrangement” as such term is defined in the Tax Act or provides benefits following the retirement or (except where required by statute) termination of employment of any employee of the Company or its Subsidiaries;

- (xviii) Each of the contractors and agents of the Company or its Subsidiaries has been properly classified by the Company or its Subsidiaries as an independent contractor and the Company and its Subsidiaries have not received any notification from any Governmental Entity challenging the classification of such contractor or agent;

(dd) Absence of Certain Business Practices

Neither the Company nor any of its Subsidiaries, nor any their Affiliates, nor to the knowledge of the Company, any agent or employee of the Company or any of its Subsidiaries, any other Person acting on behalf of or associated with the Company or its Subsidiaries, or any individual related to any of the foregoing Persons, acting alone or jointly, has:

- (i) received, directly or indirectly, any rebates, payments, commissions, promotional allowances or any other economic benefits, regardless of their nature or type, from any customer, supplier, trading company, shipping company, governmental employee or other Person with whom the Subsidiaries has done business directly or indirectly; or
- (ii) directly or indirectly, given or agreed to give any gift or similar benefit to any customer, supplier, trading company, shipping company, governmental employee or other Person who is or may be in a position to help or hinder the business of the Company or any of its Subsidiaries (or assist the Company or any of its Subsidiaries in connection with any actual or proposed transaction) which (i) may subject the Company or any of its Subsidiaries to any damage or penalty in any civil, criminal or governmental litigation or proceeding, (ii) if not given in the past, may have had a Material Adverse Effect or (iii) if not continued in the future, may have a Material Adverse Effect or subject the Company or any of its Subsidiaries to suit or penalty in any private or governmental litigation or proceeding.

(ee) Licenses; Compliance with Regulatory Requirements

- (i) Each of the Company and its Subsidiaries has identified, obtained, acquired or entered into in its respective name all Governmental Authorizations required under applicable Law for the operation of the business of the Company and its Subsidiaries as currently operated, and as may be required to commence Commercial Production or development or construction work necessary to achieve Commercial Production. Further, the Company and its Subsidiaries are not aware of any impediments which may delay or otherwise affect the commencement of the above-noted construction work;

- (ii) all of such Governmental Authorizations have been duly issued or obtained and are valid and subsisting and in full force and effect, enforceable in accordance with terms thereof, and the Company and its Subsidiaries are in material compliance with the terms of all such Governmental Authorizations (including any interest in, or right to earn an interest in, any mineral property). All such Governmental Authorizations are in good standing and there has been no material default under any such Governmental Authorizations, are renewable by their terms or in the ordinary course of business, and all fees and other amounts required to be paid with respect to such Governmental Authorizations to the date hereof have been paid;
  - (iii) There are no Legal Proceedings, pending, or to the knowledge of the Company, threatened, against the Company or its Subsidiaries that could reasonably be expected to result in the suspension, loss or revocation of any such Governmental Authorizations. The Company and its Subsidiaries have not engaged in any activity that, to the knowledge of the Company, could cause revocation or suspension of any such Governmental Authorizations;
  - (iv) the Company has no knowledge of any facts which could reasonably be expected to cause the Company to believe that such Governmental Authorizations will not be renewed by the appropriate Governmental Entities in the ordinary course; and
  - (v) neither the execution, delivery nor performance of this Agreement by the Company or its Subsidiaries would adversely affect the status of any of such Governmental Authorizations.
- (ff) Mineral Interests and Title
- (i) The material mining licenses, mining claims, mining concessions, mining permits, mining leases and all other property rights, in each case, either existing under Contract, by operations of Laws or otherwise, of the Company and its Subsidiaries relating in any manner whatsoever to the interest in, or exploration for minerals on the Properties are accurately and completely set forth in Section 3.1(ff) of the Disclosure Letter ("**Mining Claims**"). All Mining Claims are in good standing and valid and enforceable, and the Company or its Subsidiaries, as applicable, has good, valid and sufficient right, title and interest thereto, free and clear of any title defect or Liens and no royalty is payable in respect of any of them, except as set out in Section 3.1(ff) of the Disclosure Letter. Except as set out in the Public Disclosure Documents or in Section 3.1(ff) of the Disclosure Letter, no other property rights are necessary for the operation of the business of the Company and its Subsidiaries as currently operated, and as may be required to commence Commercial Production or development or construction work necessary to achieve Commercial Production, and there are no material restrictions on the ability of the Company or its Subsidiaries to use, transfer or otherwise exploit any such property rights except as required by applicable Law. Except as disclosed in the Public Disclosure Documents or in Section 3.1(ff) of the Disclosure Letter, the Company or a Subsidiary possesses or has obtained in its name, and is in compliance with, the Mining Claims necessary for the operation of the business of the Company and its Subsidiaries as currently operated, and as may be required to commence Commercial Production or development or construction work necessary to achieve Commercial Production.



- (ii) Section 3.1(ff) of the Disclosure Letter sets forth an accurate and complete description of all Properties owned by the Company and its Subsidiaries (the "**Owned Properties**"). The Company or a Subsidiary is in exclusive possession of the Owned Properties and has good, valid and sufficient right, title and interest thereto, free and clear of any title defect or Liens and no royalty is payable in respect of any of them, except as set out in Section 3.1(ff) of the Disclosure Letter.
  
- (iii) Except as disclosed in Section 3.1(ff) of the Disclosure Letter:
  - A. other than the Owned Properties and the Mining Claims set out in the Disclosure Letter, neither the Company nor its Subsidiaries owns or has any interest in any material real property or any material mineral interests and rights;
  - B. The Company or a Subsidiary, as applicable, is the sole legal registered and recorded owner and beneficial owner, or the licensee or lessee, of all right, title and interest in and to the Owned Properties and the Mining Claims;
  - C. All of the Mining Claims have been duly, validly and timely registered, located and recorded and otherwise granted in compliance with applicable Laws;
  - D. To the knowledge of the Company, all work required to be performed and filed in respect of the Owned Properties and the Mining Claims has been performed and filed, all Taxes, rentals, fees, expenditures and other payments required to be made in respect thereof have been paid or incurred and all filings in respect thereof have been made. As of the date hereof, there are no outstanding debts in relation to the Mining Claims;
  - E. There is no material adverse claim against or challenge to the title to or ownership of the Owned Properties or any of the Mining Claims;
  - F. neither the Company nor its Subsidiaries has received any notice of default of any of the terms or provisions of the Mining Claims applicable thereto;
  - G. Neither the Company nor the Subsidiaries has received any notice, whether written or oral, from any Governmental Entity of any revocation or intention to revoke any interest of the Company or the Subsidiaries in any of the Owned Properties or any of the Mining Claims;
  - H. The Company and the Subsidiaries have all surface rights, including fee simple estates, leases, easements, rights of way and permits or licences operations from landowners or Governmental Entities permitting the use of land by the Company and the Subsidiaries, and other interests that are required to exploit the Mining Claims based on current operations and, to the knowledge of the Company, no third party or group holds any such rights that would be required by the

Company to develop the Owned Properties or any of the Mining Claims;

- I. To the knowledge of the Company, all agreements required to be entered into or secured in respect of the Owned Properties or as required by the Mining Claims have been duly, validly and timely entered into or secured by the Company or the Subsidiaries, including but not limited to all required agreements with the real property owners and persons who have lawful possession of the real property.
- (iv) Except as disclosed in Section 3.1(ff) of the Disclosure Letter: (i) the Company or its Subsidiaries have the exclusive right to deal with each of the Properties; (ii) no person or entity of any nature whatsoever other than the Company or its Subsidiaries has any interest in any of the Properties or any right to acquire or otherwise obtain any such interest; (iii) there are no earn-in rights, back-in rights, rights of first refusal, royalty rights, streaming rights, or other rights of any nature whatsoever which would affect the Company's or its Subsidiaries' interests in such Properties; (iv) the Company and its Subsidiaries have not received any notice, whether written or oral, from any Governmental Entity or any other person of any revocation or intention to revoke, diminish or challenge its interest in the any of the Properties; and (v) in all material respects, each Property is in good standing under and complies with all Laws and all work required to be performed has been performed and all Taxes, fees, expenditures and all other payments in respect thereof have been paid or incurred and all filings in respect thereof have been made.
  - (v) There are no adverse claims or Legal Proceedings that have been commenced or are pending or, to the knowledge of the Company, that are threatened, affecting or which could affect the Company's or its Subsidiaries' right, title or interest in any Property or the ability of the Company or its Subsidiaries to explore or develop any Property, including the title to or ownership by the Company of the foregoing, or which might involve the possibility of any judgement or Liability affecting any Property.
  - (vi) Other than the Owned Properties and Leased Properties, the Company does not own or have any interest in any real property.
- (gg) Aboriginal Claims
- There are no claims with respect to aboriginal rights or title currently pending or, to the knowledge of the Company, threatened with respect to the Properties of the Company or any of its Subsidiaries.
- (hh) Technical Report
- (i) The NI 43-101 technical report prepared by March Consulting Associates Inc. that has an effective date of November 30, 2021 in respect of the Milestone Property (the "**Technical Report**") complied in all material respects with the requirements of NI 43-101, including Form 43-101F1, at the time of filing thereof and reasonably presented the quantity of mineral reserves and mineral resources attributable to the properties evaluated therein as at the

date stated therein based upon information available at the time the report was prepared. The Company does not have knowledge of a material adverse change in any production, cost, price, mineral reserves, mineral resources or other relevant information provided since the date such information was provided.

- (ii) All of the material assumptions underlying the mineral reserve estimates and mineral resource estimates in the Technical Report is reasonable and appropriate. The estimates of mineral reserves and mineral resources as described in the Public Disclosure Documents comply in all material respects with NI 43-101. The information set forth in the Public Disclosure Documents relating to the mineral reserves and mineral resources required to be disclosed therein pursuant to NI 43-101 has been prepared by the Parent and its consultants in accordance with methods generally applied in the mining industry and conforms to the requirements of NI 43-101 and Securities Laws; and
  - (iii) There has been no change of which the Company is or should be aware that would disaffirm, misrepresent or change any material aspect of the Technical Report or that would require the filing of a new technical report under NI 43-101.
- (ii) Environmental Matters
- (i) The Milestone Property and the other material properties of the Company and the Subsidiaries are in material compliance with all Environmental Laws, and (ii) the Subsidiaries and, to the knowledge of the Company, the predecessors of the Subsidiaries, have complied in all material respects with all Environmental Laws. The Company has no basis to expect, nor has it received any actual, or to the knowledge of the Company, threatened, written or oral Order, notice, report or other communication from any Governmental Entity or other Person of any actual, potential or alleged violation of or failure of the properties and assets of the Company and its Subsidiaries to comply with any Environmental Law.
  - (ii) The Company and its Subsidiaries have obtained and complied with, and is in compliance with, all Governmental Authorizations that are required pursuant to any Environmental Laws for operations, and the occupation of, the properties of the Company and its Subsidiaries.
  - (iii) In connection with the Company's and its Subsidiaries' treatment, storage, disposal, transportation, handling, manufacturing and distribution of Hazardous Substances, neither the Subsidiaries nor, to the knowledge of the Company, any predecessors of the Subsidiaries, with respect to the Subsidiaries' properties, assets and operations, has any current or future material Liabilities, including any Liability for fines, penalties, corrective action costs, personal injury, property damage, natural resource damages or attorney's fees, pursuant to any Environmental Laws, and (ii) to the knowledge of the Company, none of the properties and assets of the Company or its Subsidiaries are contaminated by any Hazardous Substances.

- (iv) To the knowledge of the Company and the Parent, no facts, events or conditions relating to the operations or the property and assets of the Company or its Subsidiaries, will prevent, hinder or limit continued compliance with Environmental Laws, or give rise to any proceedings against the Company or its Subsidiaries or any Remediation obligations or Liabilities.
- (v) There are no outstanding bonds, or other surety or security arrangements issued or entered into in connection with the properties and assets or the operations of the Company or its Subsidiaries for Remediation or otherwise. No other bond, surety or security arrangement is required to satisfy the requirements of any Environmental Laws or other Laws applicable to the Company or its Subsidiaries with respect to their respective assets and operations.
- (vi) The Company and its Subsidiaries have not assumed or retained any material liability or obligation pertaining to Environmental matters as a result of the acquisition or disposition of any assets or real property.
- (vii) All reports and material documents relating to environmental matters affecting the Company and its Subsidiaries, their business or the Properties have been provided to the Investor.

(jj) Budget

To the knowledge of the Company, the Budget as disclosed in Section 3.1 (jj) of the Disclosure Letter is an accurate projection of the financial requirements of WPC necessary to advance the Milestone Property for the 24-month period following the date hereof, has been prepared based on all currently known liabilities and expected expenditures, and has been prepared on a prudent basis consistent with the practices of other mineral exploration companies at a similar stage of development for a similar sized project.

(kk) Operational Matters

- (i) Any and all operations of the Company and its Subsidiaries and, to the knowledge of the Company, any and all operations by third parties, on or in respect of the Properties, have been conducted in compliance with reasonable and prudent international mining industry practices and applicable Laws.
- (ii) All rentals, royalties, overriding royalty interests, production payments, net profits, interest burdens, payments and obligations due and payable, or performable, as the case may be, on or prior to the date hereof under, with respect to, or on account of, any direct or indirect assets of the Company or its Subsidiaries, have been: (A) duly paid; (B) duly performed; or (C) provided for prior to the date hereof.
- (iii) All costs, expenses, and liabilities payable on or prior to the date hereof under the terms of any Contracts to which the Company is directly or indirectly bound have been properly and timely paid, except for such expenses that are being currently paid prior to delinquency in the ordinary course of business.

(ll) Long Term and Derivative Transactions

The Company and its Subsidiaries do not have any material obligations or liabilities, direct or indirect, vested or contingent in respect of any streaming transactions, rate swap transactions, basis swaps, forward rate transactions, commodity swap, commodity options, equity or equity index swaps, equity or equity index options, bond options, interest rate options, foreign exchange transactions, cross—currency rate swap transactions or currency options or other similar transactions (including any option with respect to any such transactions) or any combination of such transactions.

(mm) Completion of the SPV Reorganization

Prior to the Closing Date, the Parent, the Company and Subsidiaries will complete the SPV Reorganization in accordance with the steps and transactions described in Schedule “B”.

(nn) Issuance of Subscription Shares

The Subscription Shares issuable to the Investor at the Time of Closing have been reserved and allotted for issuance by the Company. The Subscription Shares issuable to the Investor at the Time of Closing will be duly and validly authorized at the Time of Closing and, if and when issued pursuant to the terms of this Agreement, will be issued as full paid and non-assessable, free of any Lien, right of first refusal, pre-emptive right, subscription right or other similar right with respect thereto.

(oo) Financial Advisors or Brokers

Neither the Company nor its Subsidiaries has incurred any obligation or Liability, contingent or otherwise, or agreed to pay or reimburse any broker, finder, financial adviser or investment banker, for any brokerage, finder’s, advisory or other fee or commission, or for the reimbursement of expenses, in connection with this Agreement or the transactions contemplated hereby.

(pp) Full Disclosure

The Company has made available to the Investor certain information, including financial, marketing, sales and operational information relating to the Company and the Subsidiaries. All information provided to the Investor in relation to the Investor’s due diligence requests relating to the Company and the Subsidiaries provided to the Investor and prepared by or on behalf of the Company, is true and correct in all material respects and no material fact or facts have been omitted from that information which would make such information misleading at the time it was made.

### **3.2 Representations and Warranties Relating to the Parent**

Except as disclosed in the Disclosure Letter (which shall make reference to the applicable Section in respect of which such qualification is being made), each of the Company, the Parent and WPC jointly and severally represents and warrants to the Investor as of the date hereof and as of the Closing Date as follows and acknowledges that the Investor is relying on such representations and warranties in entering into this Agreement:

(a) Corporate Existence and Organization

The Parent is a corporation duly formed, validly existing and in good standing under the corporate Laws of the jurisdiction in which it is domiciled, and has all corporate powers required to carry on their business as now conducted.

(b) Corporate Authorization

- (i) The Parent has the corporate power, authority and capacity to execute and deliver this Agreement and all other agreements and instruments to be executed by Parent as contemplated herein and to perform its obligations hereunder and under all such other agreements and instruments, as applicable.
- (ii) The execution, delivery and performance of this Agreement and all other agreements and instruments to be executed by the Parent, and the consummation of the transactions contemplated hereby, have been duly authorized by all necessary corporate action on the part of the Parent, and no additional corporate action is required for the approval of this Agreement and the completion of the transactions contemplated herein.

(c) Enforceability of Obligations

This Agreement constitutes a valid and binding obligation of the Parent enforceable against the Parent in accordance with its terms, subject only to any limitation under applicable Laws relating to: (i) bankruptcy, winding-up, insolvency, arrangement and other Laws of general application affecting the enforcement of creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction. There is no Legal Proceeding in progress, pending, or threatened against or affecting the Parent, and there are no grounds on which any such Legal Proceeding might be commenced and there is no Order outstanding against or affecting the Parent which, in any such case, affects adversely or might affect adversely the ability of the Parent to enter into this Agreement or to perform their obligations hereunder.

(d) Regulatory or Third Party Consents and Approvals

Except as otherwise specifically contemplated in this Agreement, the execution, delivery and performance by the Parent of this Agreement, or the consummation of the transactions contemplated hereby by Parent, in each case, require no consent, approval, Order or authorization of, or declaration or filing with, any Governmental Entity or any other third party.

(e) Non-Contravention

The execution, delivery and performance by the Parent of this Agreement and the consummation by the Parent of the transactions contemplated hereby do not and will not:

- (i) violate, contravene, conflict with, constitute a default or require any consent to be obtained under any provisions of: (A) any resolutions of the board of

directors of the Parent (or any committee thereof) or shareholders of the Parent, or (B) the constating documents of the Parent;

- (ii) subject to obtaining the other Governmental Authorizations specifically contemplated in this Agreement, contravene or conflict with or constitute a violation of any provision of any Law or Order binding upon or applicable to the Parent; or
  - (iii) constitute a default (or would constitute a default with notice or lapse of time or both) under or give rise to a right of termination, cancellation or acceleration or loss of any benefit under any material Contract of the Parent.
- (f) Legal Proceedings

Other than as disclosed in Section 3.2(f) of the Disclosure Letter, there is no Legal Proceeding pending or in progress or, to the knowledge of the Parent, threatened against or affecting the Parent or any of their officers or directors in their capacity as such which prohibits, restricts or seeks to enjoin the completion of the transactions contemplated by this Agreement, and to the knowledge of the Parent, there is no basis for the assertion of any of the foregoing.

- (g) Public Disclosure Record

The Parent has filed all documents required to be filed by it in accordance with applicable Securities Laws and the rules and policies of the TSX. The documents and information comprising the Public Disclosure Documents, as at the respective dates they were filed, were in compliance in all material respects with applicable Securities Laws and, where applicable, the rules and policies of the TSX and did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The Parent has not filed any confidential material change report that at the date hereof remains confidential or any other confidential filings (including redacted filings) filed to or furnished with, as applicable, any securities commissions or similar regulatory authority. There are no outstanding or unresolved comments in comment letters from any securities commission or other similar regulatory authority with respect to any of the documents and information comprising the Public Disclosure Documents and neither the Parent nor any such documents or information is subject of ongoing audit, review or comment by any securities commission or other similar regulatory authority or the TSX.

### **3.3 Representations and Warranties of the Investor**

The Investor hereby represents and warrants to the Company and the Parent as of the date hereof and as of the Closing Date as follows and acknowledges that the Company and the Parent are relying on such representations and warranties in entering into this Agreement:

- (a) Corporate Existence and Organization

The Investor is a corporation duly incorporated, validly existing and in good standing under the corporate Laws of the jurisdiction in which it is domiciled, and has all corporate powers required to carry on its business as now conducted.

(b) Corporate Authorization

- (i) The Investor has the corporate power, authority and capacity to execute and deliver this Agreement and all other agreements and instruments to be executed by Investor as contemplated herein and to perform its obligations hereunder and under all such other agreements and instruments, as applicable.
- (ii) The execution, delivery and performance of this Agreement and all other agreements and instruments to be executed by the Investor, and the consummation of the transactions contemplated hereby, have been duly authorized by all necessary corporate action on the part of the Investor, and no additional corporate action is required for the approval of this Agreement and the completion of the transactions contemplated herein.

(c) Enforceability of Obligations

This Agreement constitutes a valid and binding obligation of the Investor enforceable against the Investor in accordance with its terms, subject only to any limitation under applicable Laws relating to: (i) bankruptcy, winding-up, insolvency, arrangement and other Laws of general application affecting the enforcement of creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction. There is no Legal Proceeding in progress, pending, or threatened against or affecting the Investor, and there are no grounds on which any such Legal Proceeding might be commenced and there is no Order outstanding against or affecting the Investor which, in any such case, affects adversely or might affect adversely the ability of the Investor to enter into this Agreement or to perform their obligations hereunder.

(d) Regulatory or Third Party Consents or Approvals

Except as otherwise specifically contemplated in this Agreement and Investment Canada Clearance, the execution, delivery and performance by the Investor of this Agreement, or the consummation of the transactions contemplated hereby by the Investor, in each case, require no consent, approval, Order or authorization of, or declaration or filing with, any Governmental Entity or any other third party.

(e) Non-Contravention

The execution, delivery and performance by the Investor of this Agreement and the consummation by the Investor of the transactions contemplated hereby do not and will not:

- (i) violate, contravene, conflict with, constitute a default or require any consent to be obtained under any provisions of: (A) any resolutions of the board of directors of the Investor (or any committee thereof) or shareholders of the Investor, or (B) the constating documents of the Investor;
- (ii) contravene or conflict with or constitute a violation of any provision of any Law or Order binding upon or applicable to the Investor; or



- (iii) constitute a default (or would constitute a default with notice or lapse of time or both) under or give rise to a right of termination, cancellation or acceleration or loss of any benefit under any material Contract of the Investor.

(f) Investment

The Investor is investing into the Company for its own account as principal and not for the benefit of any other person, for investment purposes only and not with a view to, or for sale in connection with, any distribution thereof, nor with the intention of distributing or reselling the same, and no other person has or will have a direct or indirect beneficial interest in the Subscription Shares.

(g) Not in the Business of Trading

The Investor is not (a) engaged in the business of trading in securities or exchange Contracts as a principal or agent, and (b) does not hold itself out as engaging in the business of trading in securities or exchange Contracts as a principal or agent, or is otherwise exempt from any requirements to be registered as a dealer under NI 31-103.

(h) Limited Remedies and Rights

The Investor acknowledges that no prospectus has been filed by the Company with any securities commissions or any similar regulatory authority in connection with the issuance of the Subscription Shares, such issuance is exempted from the requirements to provide the Investor with a prospectus and to sell securities through a Person registered under Securities Laws and that:

- (i) the Investor is restricted from using most of the civil remedies available under Securities Laws;
- (ii) the Investor may not receive information that would otherwise be required to be provided to the Investor under Securities Laws; and
- (iii) the Company is relieved from certain obligations that would otherwise apply under Securities Laws.

(i) Absence of Regulatory Review

The Investor acknowledges that:

- (i) no securities commission or similar regulatory authority has reviewed or passed on the merits of the Subscription Shares;
- (ii) there is no government or other insurance covering the Subscription Shares; and
- (iii) there are risks associated with the purchase of the Subscription Shares.

(j) No Representations as to Resale

The Investor acknowledges that no person has made any written or oral representations:

- (i) that any Person will resell or repurchase the Subscription Shares;
- (ii) that any Person will refund the Investment Proceeds of the Subscription Shares; or
- (iii) as to the future price or value of the Subscription Shares.

(k) Limited Remedies and Rights

The Investor acknowledges that there are risks associated with the purchase of and investment in the Subscription Shares, and the Investor is knowledgeable, sophisticated and experienced in business and financial matters and is capable of evaluating the merits and risks of an investment in the Subscription Shares, fully understands the restrictions on resale of the Subscription Shares, and is able to bear the economic risk of an investment in the Subscription Shares.

(l) General Solicitation

The Investor is not purchasing the Subscription Shares as a result of any advertisement, article, notice or other communication regarding the securities published in any newspaper, magazine or similar media or broadcast over television or radio or presented at any seminar or any other general solicitation or general advertisement.

(m) Residency

The Investor is resident in the British Virgin Islands, and is not resident in any other jurisdiction. The Investor was not created and is not used solely for the purpose of purchasing or holding the Subscription Shares in reliance on the "accredited investor" exemption provided in Section 2.3 of National Instrument 45-106.

(n) Not a U.S. Person

The Investor is neither a U.S. Person nor subscribing for the Subscription Shares for the account of a U.S. Person or for resale in the United States and the Investor confirms that the Subscription Shares have not been offered to the Investor in the United States and that this Agreement has not been signed in the United States.

(o) No Previous Ownership of Common Shares

As of the date of this Agreement, and before giving effect to the purchase by the Investor of any Common Shares hereunder, the Investor and its Affiliates do not beneficially own, or exercise control or direction over, any Common Shares.

(p) Filings

If required by Securities Laws or the TSX, the Investor will execute, deliver and file or assist the Company in filing such reports, undertakings and other documents with respect to the purchase and sale of the Subscription Shares as may be required by any securities commission, the TSX or other Governmental Entity.

(q) Foreign Corrupt Practices Acts

Neither the Investor, nor any of the Investor's directors, officers, supervisors, managers, employees, or agents has: (A) violated any applicable anti-corruption, anti-bribery, export control, and economic sanctions Laws, including the *Corruption of Foreign Public Officials Act* (Canada) and the United States' *Foreign Corrupt Practices Act*, (B) made or authorized any direct or indirect contribution, payment or gift of funds, property or anything else of value to any official, employee or agent of any Governmental Entity, authority or instrumentality in Canada or any other jurisdiction other than in accordance with applicable Laws, (C) used any corporate funds, or made any direct or indirect unlawful payment from corporate funds, to any foreign or domestic government official or employee or for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; or (D) violated or is in violation of any provision of the *Criminal Code* (Canada) relating to foreign corrupt practices, including making any contribution to any candidate for public office, in either case, where either the payment or gift or the purpose of such contribution payment or gift was or is prohibited under the foregoing or any other applicable Law of any locality.

(r) Absence of Certain Business Practices

Neither the Investor, nor to the knowledge of the Investor, any of its Affiliates or any agent or employee of the Investor or any of its Affiliates, any other Person acting on behalf of or associated with the Investor or any of its Affiliates, or any individual related to any of the foregoing Persons, acting alone or together, has:

- (i) received, directly or indirectly, any rebates, payments, commissions, promotional allowances or any other economic benefits, regardless of their nature or type, from any customer, supplier, trading company, shipping company, governmental employee or other Person with whom the Investor or any of its Affiliates has done business directly or indirectly; or
- (ii) directly or indirectly, given or agreed to give any gift or similar benefit to any customer, supplier, trading company, shipping company, governmental employee or other Person who is or may be in a position to help or hinder the business or activities of the Investor or any of its Affiliates (or assist the Investor or any of its Affiliates in connection with any actual or proposed transaction) which (i) may subject the Investor or any of its Affiliates to any damage or penalty in any civil, criminal or governmental litigation or proceeding, (ii) if not given in the past, may have had an adverse effect on the Investor or any of its Affiliates or (iii) if not continued in the future, may have an adverse effect on the assets, business, operations, activities or prospects of the Investor or any of its Affiliates, or subject the Investor or any of its Affiliates to suit or penalty in any private or governmental litigation or proceeding.

### **3.4 Survival of Representations, Warranties and Covenants**

The representations and warranties and covenants of each Party contained in this Agreement and in any other agreement, certificate or instrument delivered pursuant to this Agreement shall not merge on Closing but shall survive the execution, delivery and performance of this Agreement and the Closing and continue in full force and effect as set out in Section 6.2.

## **ARTICLE 4 ADDITIONAL COVENANTS**

### **4.1 Interim Period Covenants**

- (a) The Company, shall not, directly or indirectly through any the Subsidiaries, do or permit to occur any of the following during the Interim Period without the prior written consent of the Investor:
  - (i) take any action, refrain from taking any action, or permit any action to be taken or not taken, which is inconsistent with this Agreement or which would reasonably be expected to impede the completion of the transactions contemplated by this Agreement;
  - (ii) enter into, renew or modify in any material respect any Material Contract, which it is a party or by which it or its properties or assets are bound, except in the ordinary course of business and insofar as may be necessary to permit or provide for the completion of the transactions contemplated by this Agreement;
  - (iii) waive, release, grant, transfer, dispose, exercise, or modify or amend in any material respect, any existing contractual rights in respect of any of the Properties or any other material assets of the Company or its Subsidiaries;
  - (iv) make any change or amendment to its insurance policies in effect as at the date of this Agreement, or purchase or enter into any new insurance policies;
  - (v) make any capital expenditure, or commit to a new capital expendituresm in excess of \$125,000 in the aggregate;
  - (vi) incur any indebtedness or any other Liabilities (including, for the avoidance of doubt, any obligations, agreements, arrangements or payment obligations) in excess of \$125,000, or fail to pay any material Liabilities as they become due (unless being contested in good faith);
  - (vii) alter or amend the articles, charter, by-laws or other constating documents of the Company or any of its Subsidiaries;
  - (viii) declare, set aside or pay any dividend or other distribution or payment in respect of any of its issued and outstanding shares, or redeem, purchase or otherwise acquire any of its outstanding securities, or split, combine or reclassify any of its issued and outstanding shares, or adopt resolutions;

- (ix) reorganize, amalgamate or merge with any other person, or enter into any agreement providing for an amalgamation, merger, consolidation, reorganization or liquidation, or adopt any plan or liquidation or dissolution or wind-up (other than in connection with the transactions contemplated by this Agreement);
- (x) issue, sell, dispose of any securities of, or any Convertible Securities or similar rights of any kind to acquire any securities of, Company or any of the Subsidiaries;
- (xi) sell, pledge, lease, dispose of or otherwise encumber all or any portion of the Milestone Property;
- (xii) redeem or purchase or offer to redeem or purchase any of the Company's or any of the Subsidiaries' outstanding securities;
- (xiii) pay, settle, discharge, satisfy or vary the terms of any material claims, litigation, liabilities or obligations, other than liabilities reflected or reserved against in the Financial Statements;
- (xiv) make any loan, advance or capital contribution to or material investment in any other Person;
- (xv) create any subsidiary or enter into any agreements or other arrangements regarding the control or management of the operations of the Company, or any of its Subsidiaries, or the appointment of governing bodies or enter into any joint ventures;
- (xvi) make any material changes to any of its accounting policies, principles, methods, practices or procedures (including by adopting any material new accounting policies, principles, methods, practices or procedures), except as required by applicable Laws or under IFRS;
- (xvii) enter into any interest rate, currency, equity or commodity swaps, hedges, derivatives, forward sales Contracts, off-take, royalty or similar financial instruments including any streaming transactions;
- (xviii) except as contemplated by this Agreement, materially amend or alter or enter into or terminate any employment or consulting agreement or materially alter the pay, benefits or other terms and conditions of employment or service of any employees or consultants, other than in the ordinary course of business, or make or commit to make any severance payments or termination payments to any Person, including, without limitation, its consultants, directors, officers, employees or agents, or amend any agreements, arrangements or transactions with any "related party" (within the meaning of MI 61-101); or
- (xix) announce an intention, enter into any formal or informal agreement, or otherwise make a commitment to do any of the things prohibited by any of the foregoing subsections.

- (b) The Company shall, and shall cause the Subsidiaries to, do the following during the Interim Period:
- (i) allow the Investor and any of its representatives, advisors or agents, providing in each case reasonable prior notice has been given to the Company, free and unrestricted access to the premises of the Company and the Subsidiaries and their property and assets, including access to the Corporate Books and Records, all Contracts and the senior employees, to make such investigations of the Business and the property and assets of the Company and the Subsidiaries (including their legal, financial and tax condition and their compliance with applicable Laws) as the Investor deems necessary or desirable, it being understood that those investigations will be carried out during normal business hours and without undue interference with the operations of the Company and the Subsidiaries, and the Company shall co-operate fully in facilitating those investigations and furnish copies of all documents and materials relating to those matters as may be reasonably requested by or on behalf of the Investor;
  - (ii) principally focus the Company's business and operations on the development of the Milestone Property and otherwise conduct the Business and cause, its Subsidiaries to conduct their businesses, only in the ordinary course of business and in compliance with applicable Laws and perform its obligations under all Material Contracts, Orders and Permits; and to preserve intact its business organizations and goodwill, to maintain satisfactory relationships with customers, suppliers, agents, tenants, co-owners, landlords, officers, employees and others having business relationships with the Subsidiaries;
  - (iii) as soon as reasonably practicable, it shall use its commercially reasonable efforts to satisfy (or cause the satisfaction of) the conditions precedent to its obligations hereunder (including obtaining, at or prior to the Time of Closing, the consents, approvals, Orders or authorizations described in Section 3.1(g) of the Disclosure Letter, on terms satisfactory to the Investor acting reasonably) 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 all applicable Laws to complete the transactions contemplated by this Agreement;
  - (iv) conduct its affairs so that all of its representations and warranties contained herein shall be true and correct in all material respects on the Closing Date as if made on such date;
  - (v) retain the services of the present executives, employees, consultants and advisors of or to the Company or the Subsidiaries

#### **4.2 Performance of Company and its Subsidiaries**

The Parent hereby unconditionally and irrevocably guarantees, and covenants and agrees to be jointly and severally liable with the Company and WPC, as principal obligor, for the due and punctual performance of each and every obligation of the Company and WPC under or relating to this Agreement and the transactions contemplated by this Agreement which are to be completed on or prior to the Closing Date, including, without limitation, (i) ensuring the Company issues the Subscription Shares to the Investor at Closing, and (ii) any other amounts required to be paid by the Company and WPC under this Agreement and the transactions contemplated by this Agreement, and all related fees and expenses and the amount of any judgment or award made against the Company

and WPC for the benefit of the Investor. The Parent shall cause the Company and WPC to comply with, observe and perform all of the Company's and WPC's covenants, agreements and obligations in or under this Agreement and the transactions contemplated by this Agreement.

#### **4.3 Board Representation**

- (a) Following the Closing Date, the Company's Board shall consist of three (3) to seven (7) directors.
- (b) Following the Closing Date, if the Investor, alone or acting jointly or in concert with another Person, is the largest shareholder of the Company which holds the greatest number of Common Shares of the Company, the Investor shall be entitled to designate such number of individuals (each, an "Investor's Nominee", and collectively, the "Investor's Nominees") which represent more than half of the seats on the Board, to be nominated and, if elected, to serve for a term expiring not earlier than the Company's next annual meeting of Shareholders at which directors of the Company are to be elected, provided that each Investor's Nominee consents in writing to serve as a director, is eligible under the Act to serve as a director. The Parent shall be entitled to nominate the remaining members of the Board.
- (c) The Parent and the Company agree that one of the Investor's Nominees, as nominated and elected pursuant to Section 4.3(b) above, shall be appointed to the position of Chairman of the Board;
- (d) The Company shall take all steps as may be necessary to appoint each Investor's Nominee to the Board;
- (e) The Company's Chief Executive Officer and Chief Financial Officer shall be appointed by the Board;
- (f) At the first annual meeting of shareholders of the Company following the end of the term of the Investor's Nominees at which directors of the Company are to be elected, and at each meeting of Shareholders thereafter at which directors are to be elected, the Company shall cause the Investor's Nominees to be included in the slate of nominees proposed by the Company to the Shareholders for election as directors;
- (g) The Company shall use commercially reasonable efforts to cause the election of the Investor's Nominees, including soliciting proxies in favour of the election of the Investor's Nominees. The Company agrees, at the request of the Investor, to call a special meeting of Shareholders for the purpose of electing any Investor's Nominee;
- (h) The Parent agrees to vote their Common Shares at all meetings of Shareholders and to execute any written consent resolution required in order to ensure that each Investor's Nominee is elected or appointed and maintained in office as a Director in accordance with this Section 4.3. Upon the written request of the Investor to remove an Investor's Nominee from the Board, the Parent agrees to take all necessary shareholder action to remove such director.
- (i) The Company shall notify the Investor in writing as soon as practicable upon determining the date of any meeting of the Shareholders at which directors of the Company are to be elected and the Investor shall advise the Company and the Board of the names of the Investor's Nominees within ten (10) Business Days after receiving such notice;

- (j) If the Investor does not advise the Company and the Board of the Investor's Nominees within the time set forth in Section 4.3(h), then the Investor will be deemed to have designated its incumbent nominees for nomination for election at the relevant meeting of the Shareholders;
- (k) If any Investor's Nominee ceases to hold office as a director of the Company for any reason, only the Investor shall be entitled to nominate an individual to replace him or her and the Company shall promptly take all steps, consistent with the Act, as may be necessary to appoint such individuals to the Board to replace any Investor's Nominees who have ceased to hold office;
- (l) Neither the Board nor the Company will be entitled to remove any Investor's Nominee unless such removal is directed or approved by the affirmative vote of the Investor or the Investor is no longer so entitled to designate or approve such director, pursuant to this Section 4.3;
- (m) Any vacancies created by the resignation, removal or death of a Investor's Nominee will be filled pursuant to the provisions of this Section 4.3. Until such vacancy is filled, the Board shall not transact any business or exercise any of its powers or functions, save and except as may be necessary to elect or appoint the new director and preserve the Business and assets of the Company and its Subsidiaries. If a replacement director is not elected by the Investor within ten (10) Business Days of such vacancy occurring because of the failure of the Investor to do so, the directors then in office shall be entitled to transact business and exercise all of the powers and functions of the Board.
- (n) A quorum for meetings of the Board consists of a majority of the members of the Board, of whom at least one director shall be a Investor's Nominee. At least 48 hours' prior written notice of any meeting of the Board must be given unless all of the directors of the Board waive such notice. If, at a meeting of the Board, quorum is not present within 30 minutes after the time fixed for holding the meeting, the meeting stands adjourned to a day and time determined by the directors present at the meeting, and at least 48 hours' prior written notice must be given of the reconvened meeting. If a quorum is not present at the reconvened meeting within 30 minutes after the time fixed for holding the adjourned meeting, the quorum at the reconvened meeting is a majority of the members of the Board (and no particular directors need be present).
- (o) The Company shall pay all reasonable expenses incurred by the Investor's Nominees in the performance of their duties for or on behalf of the Company incurred as a result of the Investor's Nominees attending Board meetings, including travel and accommodation expenses.
- (p) The Company shall maintain director and officer indemnifications and liability insurance in respect of the Investor's Nominees of the same kind and type provided for the Company's other director and officers;

#### **4.4 Matters Requiring Prior Investor Consent**

If the Investor's Percentage falls below 50% but is equal to or above 10% at any time following the Closing Date, the taking of any of the following decisions or actions or the implementation of any of the following matters by the Company and its Subsidiaries shall, in addition to any other approval required by Law, require the written approval of the Investor:



### ***Corporate Changes***

- (a) the amendment, alteration or revocation of any constating documents of the Company or its Subsidiaries, except for a change of the registered office within Canada of the Company or its Subsidiaries;

### ***Share Capital***

- (b) the allotment, reservation, setting aside or issue of any Common Shares or other securities of the Company, or common shares or other securities of the Subsidiaries, or the granting of any rights, warrants or options to purchase, acquire or otherwise obtain any unissued Common Shares or other securities of the Company, or any unissued common shares or other securities of the Subsidiaries;
- (c) the declaration or payment of any dividend or other distribution or payment on or in respect of any Common Shares or other securities of the Company;
- (d) the purchase, redemption or acquisition by the Company of any Common Shares or other securities of the Company;
- (e) any payment or distribution out of any stated capital account of the Company or any reduction of any stated capital account of the Company;

### ***Debt Financing***

- (f) the incurring of (i) any Liabilities by the Company other than in the ordinary course of business and on normal commercial terms; (ii) any obligation on behalf of any Person pursuant to any agreement, commitment or understanding, direct or indirect, contingent or otherwise, the practical effect of which is to assure in any way the payment or performance (or payment of damages in the event of non performance) of any part or all of any Liability of such Person for borrowed money;
- (g) the repayment of any indebtedness owing by the Company to any Shareholder (other than the Investor) or any Associate or Affiliate of the Company or the Parent;
- (h) the granting of any Lien over the assets of the Company or its Subsidiaries, other than in the ordinary course of business and on normal commercial terms;

### ***Financial Matters***

- (i) the (i) sale, lease or exchange of any assets of the Company or its Subsidiaries out of the ordinary course of the business, (ii) the making of any investment, loan, or advance, or (iii) the purchase, lease or acquisition of any property from any Person; in each case for aggregate proceeds in excess of \$500,000 dollars in any one transaction or series of related transactions or for aggregate proceeds in excess of \$500,000 dollars in any financial year;
- (j) a change in the auditors of the Company

### ***Fundamental Changes***

- (k) the taking of any act, step or proceeding including any sale or disposition of any property or assets of the Company or its Subsidiaries for the purpose of, or leading to, the liquidation, dissolution or winding-up of the Company or a Subsidiary;
- (l) the sale, lease, exchange or other disposition of all or substantially all of the assets of the Company or its Subsidiaries; or
- (m) the acknowledging of the insolvency of the Company or its Subsidiaries, the making of a voluntary assignment under the *Bankruptcy and Insolvency Act* (Canada), or the consenting to the appointment of a receiver, receiver-manager or other Person acting in a similar capacity by any secured creditor of the Company or its Subsidiaries.

***Other Matters***

- (n) make or enter into any commitment or agreement to do any of the foregoing.

**4.5 Information Rights**

For as long as the Investor's Percentage is equal to or greater than 10% following the Closing Date, the Company will provide the Investor with:

- (a) interim, unaudited consolidated financial statements of the Company and its Subsidiaries on or before the 60th day after the end of each of the Company's completed quarterly interim periods;
- (b) audited, consolidated comparative annual financial statements of the Company and its Subsidiaries on or before the 90th day after the end of each of the Company's completed financial years; and
- (a) such other information relating to the financial condition, business prospects or corporate affairs of the Company and its Subsidiaries promptly as the Investor may from time to time reasonably request.

In addition, for so long as the Investor is the single largest Shareholder, the Investor shall have the right (but not an obligation) to consolidate the financial results of the Company into those of the Investor' for purposes of the Investor's financial statements and for such purposes, the Company shall provide to the Investor all such information (including but not limited to financial information) and such assistance as is reasonably required by the Investor.

**4.6 Insurance**

The Company shall, and shall cause its Subsidiaries, from time to time upon the written request of the Investor, promptly furnish or cause to be furnished to the Investor evidence, in form and substance reasonably satisfactory to the Investor, of the maintenance of all insurance maintained by the Company or its Subsidiaries for loss or damage by fire and other hazards, damage or injury to persons and property, including from product liability, and under workers' compensation Laws.

**4.7 Licenses**

The Company shall, and shall cause its Subsidiaries to, maintain at all times all material Permits necessary to the conduct of their respective businesses and as required by any Governmental Entity or instrumentality thereof.

#### **4.8 Taxes and Claims**

- (a) During the Interim Period, the Company shall, and shall cause its Subsidiaries to:
- (i) duly pay, within the prescribed time, all Taxes that become due and payable on or before the Closing Date;
  - (ii) makes adequate provision in the Corporate Books and Records for the Taxes that relate to any period ending on or before the Closing Date (including as a consequence of the Closing) but that are not yet due and payable and for which Tax Returns are not yet required to be filed;
  - (iii) withhold from each payment made by it the amount of all Taxes and other deductions required under any applicable Tax Laws to be withheld therefrom and pay all those amounts to the relevant Governmental Entity within the time prescribed under any applicable Tax Laws;
  - (iv) refrain from entering into any arrangements to provide for an extension of time with respect to any assessment or reassessment of Tax, the filing of any Tax Return or the payment of any Tax by it, without the prior written consent of the Investor; and
  - (v) except as may be required by IFRS or applicable Laws, not make any material change in the Tax, financial or accounting policies or practices applied in the preparation of the Financial Statements, including any material change in credit, collection or payment policies, procedures or practices or the method of determining reserves.
- (b) The Company shall, and shall cause its Subsidiaries to, duly pay and discharge (a) all material Taxes, assessments and governmental charges upon or against the Company, its Subsidiaries or their properties or assets prior to the date on which penalties attach thereto, unless and to the extent that such Taxes are being diligently contested in good faith and by appropriate proceedings, and appropriate reserves therefore have been established, and (b) all material lawful claims, whether for labour, materials, supplies, services or anything else which might or could, if unpaid, become a Lien or charge upon the properties or assets of the Company or its Subsidiaries unless and to the extent only that the same are being diligently contested in good faith and by appropriate proceedings and appropriate reserves therefore have been established.

#### **4.9 Press Releases; Filings**

- (a) No Party, nor any of their Affiliates or Associates, shall make any press release or other public disclosure about the terms of this Agreement or the transactions contemplated herein without the prior written approval of the other Parties, unless otherwise required by Securities Laws or other Laws (including, in the case of the shareholders of the Investor, the rules of the Hong Kong Stock Exchange). Each Party shall provide the other Party with two Business Days to review and comment on all such press releases or public statements prior to release thereof.
- (b) Each of the Parties agrees to issue jointly or concurrently with the other Parties a press release with respect to execution of this Agreement as soon as practicable, in a form acceptable to each Party. Each of the Parties agrees not to make any public

statement that is inconsistent with such press release (other than to the extent superseded by a subsequent press release or public filing), unless otherwise required by Securities Laws or other Laws.

- (c) The Parent and the Company will use reasonable commercial efforts to (i) co-operate and assist the Investor in the making of all such filings and submissions and the obtaining of any related consents, approvals or waivers required by applicable Laws or by Contract with respect to this Agreement and the transactions contemplated herein; and (ii) assist the Investor in any discussions which the Investor may wish to have with any Governmental Entity or other party from whom any of the consents, approvals or waivers described in item (i) above are required, and upon the reasonable request of the Investor, promptly provide all commercially reasonable assistance and furnish all commercially reasonably available information to the Investor to defend, rebut or otherwise challenge any claims seeking to prevent, delay or interfere with this Agreement or the transactions contemplated herein. The Parent and the Company shall not make any filing with any Governmental Entity (subject in each case to the Parent's or the Company's overriding obligations to make any disclosure or filing required by applicable Laws) with respect to this Agreement or the transactions contemplated herein without the consent of the Investor (which consent shall not be unreasonably withheld, conditioned or delayed).
- (d) Each of the Parties agrees to take all necessary actions to cause their respective Affiliates, Associates, directors, officers, agents, employees, or otherwise related parties, to abide by the provisions of this Section 4.9.

#### **4.10 Parent Meeting**

The Parent will act expeditiously and in good faith to:

- (a) convene and conduct the Parent Meeting scheduled to be on March 28, 2022 for the purpose of considering and approving the transactions contemplated by this Agreement, in accordance with the requirements of applicable Securities Laws and the Parent's constating documents;
- (b) expeditiously prepare the notice and management information circular (the "Company Circular") for the Parent Meeting, which information circular will include the recommendation of the board of directors of the Parent that WRX Shareholders vote in favour of the transactions contemplated by this Agreement;
- (c) ensure that the Company Circular complies in all material respects with applicable Laws, does not contain any misrepresentation and provides the Parent Shareholders with sufficient information to permit them to form a reasoned judgement concerning the matters to be placed before the Parent Meeting;
- (d) give the Investor and its legal counsel a reasonable opportunity to review and comment on drafts of the Company Circular and other related documents, and shall give reasonable consideration to any comments made by the Investor and its legal counsel, and agrees that all information relating solely to the Investor and its Affiliates included in the Company Circular and any information describing the terms of this Agreement and the transactions contemplated by this Agreement must be in a form and content satisfactory to the Investor, acting reasonably;

- (e) solicit proxies in favour of the approval of the transactions contemplated by this Agreement, and against any resolution submitted by any Person that is inconsistent with, or which seeks to hinder or delay the transactions contemplated by this Agreement;
- (f) provide the Investor with copies of or access to information regarding the Parent Meeting generated by any dealer, proxy advisory firm or proxy solicitation firm, as may be reasonably requested by the Investor from time to time;
- (g) permit the Investor at its expense to, on behalf of the management of the Parent, directly or through a soliciting dealer, actively solicit proxies in favour of the transactions contemplated by this Agreement on behalf of management of the Parent in compliance with applicable Securities Laws and disclose in the Company Circular that the Investor may make such solicitations; and
- (h) advise the Investor as the Investor may reasonably request, and at least on a daily basis on each of the last ten (10) Business Days prior to the date of the Parent Meeting, as to the tally of the proxies received by the Company in respect of the resolutions to be voted on at the Parent Meeting.

#### **4.11 Investment Canada Notification and Clearance**

- (a) The Investor shall as promptly as possible, prepare and file all necessary documents, notices, registrations, statements, petitions, filings and applications for Investment Canada Clearance and shall use commercially reasonable efforts to make or obtain Investment Canada Clearance, in a timely manner so as to enable the Closing to occur as soon as reasonably practicable and, in any event, by no later than the Outside Date, including without limitation promptly responding to any information requests made by any Governmental Entity.
- (b) Without limiting the generality of Section 4.11(a), within ten Business Days after the date of this Agreement or by such other date as the Parties may reasonably agree, the Investor shall prepare and file with the responsible Minister the ICA Notification in respect of the transactions contemplated by this Agreement.
- (c) Each of the Company, WPC and the Parent shall make available its representatives, on the reasonable request of the Investor and its counsel, to assist the Investor in obtaining the Investment Canada Clearance, including by providing input, including on any materials prepared for obtaining the Investment Canada Clearance, and responding promptly to requests for support (including attendance at meetings), documents, information, comments or input where reasonably requested by the Investor in connection with the Investment Canada Clearance.
- (d) If any objections or concerns are asserted with respect to Investment Canada Clearance or the Investor is advised that Investment Canada Clearance is unlikely to be obtained on the terms and conditions filed, the Parties shall make commercially reasonable efforts to resolve such objections or concerns in a timely and expeditious manner, including consenting to any reasonable extension of any review period.

- (e) The Parties shall use their respective commercially reasonable efforts to take or cause to be taken all actions necessary or advisable on their respective parts to consummate the transactions contemplated by this Agreement as promptly as practicable after the date of this Agreement but in any event prior to the Outside Date, including to obtain the Investment Canada Clearance.

#### **4.12 Mutual Covenants**

During the Interim Period, each of the Parties shall work cooperatively and use reasonable commercial efforts to prepare prior to the Closing Date all documentation necessary, and do such other acts and things as are necessary, to give effect to this Agreement.

#### **4.13 Performance of Covenants**

Each Party shall duly comply with all the terms and covenants contained herein and in each of the instruments and documents given to the other Parties in connection with or pursuant to this Agreement, all at the times and places and in the manner set forth herein or therein.

### **ARTICLE 5 CLOSING**

#### **5.1 Closing**

The closing of the investment, confirmation of the Investor's share holdings in the Company and the other transactions contemplated in this Agreement (the "**Closing**") shall be held at the offices of Dentons Canada LLP, at the Closing Time on the later of: (i) date that is ten (10) Business Days following the date on which all of the conditions set forth in Sections 5.2, 5.3 and 5.4 have been satisfied or waived (other than those conditions which, by their nature, cannot be satisfied until the Closing Time, but subject to the satisfaction or waiver of such conditions at the Closing), (ii) May 31, 2022, or (iii) such other date and time as the Parties hereto agree but in any case, on or prior to the Outside Date (the "**Closing Date**").

#### **5.2 Mutual Closing Conditions**

The Parties acknowledge that the Closing is subject to, among other things, the following conditions being fulfilled or performed on or before the Closing Date, which conditions are for the mutual benefit of the Parties and may be waived, in whole or in part, by the mutual agreement of the Parties:

- (a) not less than 66-2/3% (the "Approval Threshold") of the Common Shares present (in person or by proxy) and voted at the special meeting of the Parent Shareholders (the "Parent Meeting") are voted in favour of the transactions contemplated herein);
- (b) the consents, approvals, Orders or authorizations described in Section 3.1(g) of the Disclosure Letter shall have been obtained or received on terms satisfactory to the Investor acting reasonably and remain in full force and effect;
- (c) no Claim, Lien or other Legal Proceeding have been commenced, threatened or continuing against any of the Parties for the purpose, or which would have the effect, of enjoining, preventing or restraining the purchase and sale of the Subscription Shares and the other transaction contemplated by this Agreement;

- (d) Investment Canada Clearance has been obtained on terms acceptable to the Investor and the Company, each acting reasonably, and such Investment Canada Clearance is in force and has not been modified in any material respect.
- (e) no provision of any applicable Laws shall prohibit or make illegal the Closing, and no Governmental Entity shall have instituted or threatened a proceeding seeking to impose any such restraint or prohibition; and

### **5.3 Company Closing Conditions**

The Investor acknowledges that the Closing is subject to, among other things, the following conditions being fulfilled or performed on or before the Closing Date, which conditions are for the exclusive benefit of the Parent and the Company and may be waived, in whole or in part, by the Company in its sole discretion in writing:

- (a) the representations and warranties of the Investor in Section 3.3 shall be true and correct as of the date hereof and at the Closing with the same force and effect as if such representations and warranties were made on and as of such date; provided, however that if a representation and warranty speaks only as of a specific date it only needs to be true and correct as of that date;
- (b) the Investor shall have complied in all material respects with all covenants and agreements herein agreed to be performed or caused to be performed by it on or before the Closing Date; and
- (c) the Investor having delivered and the Company having received all of the deliveries contemplated in Section 5.6.

### **5.4 Investor Closing Conditions**

The Company acknowledges that the Closing is subject to, among other things, the following conditions being fulfilled or performed on or before the Closing Date, which conditions are for the exclusive benefit of the Investor and may be waived, in whole or in part, by the Investor in its sole discretion in writing:

- (a) the representations and warranties of the Company and its Subsidiaries in Section 3.1 shall be true and correct as of the date hereof and at the Closing with the same force and effect as if such representations and warranties were made on and as of such date; provided, however that if a representation and warranty speaks only as of a specific date it only needs to be true and correct as of that date;
- (b) the representations and warranties of the Parent in Section 3.2 shall be true and correct as of the date hereof and at the Closing with the same force and effect as if such representations and warranties were made on and as of such date; provided, however that if a representation and warranty speaks only as of a specific date it only needs to be true and correct as of that date;
- (c) the Company and WPC shall have complied in all material respects with all covenants and agreements herein agreed to be performed or caused to be performed by them on or before the Closing Date;

- (d) the Parent shall have complied in all material respects with all covenants and agreements herein agreed to be performed or caused to be performed by them on or before the Closing Date;
- (e) the Parent and the Company shall have taken all actions required to appoint the Investor's Nominees to the Board as of the Closing Date, which appointments shall take effect as of the Closing Date;
- (f) since the date of this Agreement, no Material Adverse Effect shall have occurred, which shall include, but not limited to: (i) no material technique risks identified in the Investor's engineering and operational due diligence; (ii) in the Investor's financial diligence, no identified material risks to complete the Milestone Project construction due to fund insufficiency resulting from repayment of existing accounts payable; (iii) in the Investor's legal due diligence, no material risks are identified which would result in a Material Adverse Effect; or (iv) no other Material Adverse Effect;
- (g) the Investor shall have received evidence satisfactory to the Investor, acting reasonably, that there are no rights of first refusal triggered by, or fees or other amounts payable to any broker, finder, financial adviser or investment or any other Person upon the consummation of the transactions contemplated by this Agreement; and
- (h) the Parent, the Company and WPC having delivered, and the Investor having received all of the deliveries contemplated in Section 5.5.

## **5.5 Company and Parent Closing Deliveries**

At or prior to the Closing, the Company and the Parent shall deliver or cause to be delivered to the Investor, the following, all of which shall be in form and substance satisfactory to the Investor, acting reasonably:

- (a) certificates of good standing with respect to the Parent, the Company and WPC issued by the applicable corporate registrar of the jurisdiction in which they are domiciled as at the day prior to the Closing Date;
- (b) a certificate from a duly authorized officer of the Company certifying: (A) the constating documents of the Company, (B) the incumbency of certain officers of the Company; and (C) the resolutions of the Board approving the issuance of the Subscription Shares, the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereunder;
- (c) a certificate from a duly authorized officer of WPC certifying: (A) the constating documents of WPC, (B) the incumbency of certain officers of WPC; and (C) the resolutions of the board of directors of WPC approving the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereunder;
- (d) a certificate from a duly authorized officer of the Parent certifying: (A) the constating documents of the Parent, (B) the incumbency of certain officers of the Parent; and (C) the resolutions of the board of directors of the Parent approving the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereunder;



- (e) a certificate from a duly authorized officer of the Company dated as of the Closing Date, certifying the matters set forth in Sections 5.4(a), 5.4(b), 5.4(c) and 5.4(f);
- (f) a certificate from a duly authorized officer of the Parent dated as of the Closing Date, certifying the matters set forth in Sections 5.4(a), 5.4(b) and 5.4(d);
- (g) a share certificate representing the Subscription Shares, representing 54% of the Common Shares issued and outstanding as at Closing in accordance with Section 2.1, duly executed and issued by the Company and registered in the share register of the Company in the name of the Investor (or as the Investor may direct);
- (h) a certified copy of the Company Shareholders resolution signed by the Parent appointing the Investor's Nominees as directors of the Company as of the Closing Date, as contemplated by Section 4.3;
- (i) a legal opinion addressed to the Investor in form and substance satisfactory to the Investor and its counsel, acting reasonably, dated as of the Closing Date from Canadian counsel to the Company and the Parent;
- (j) a legal opinion addressed to the Investor in form and substance satisfactory to the Investor and its counsel, acting reasonably, dated as of the Closing Date with respect to the title to the Owned Properties and Mining Claims confirming the minerals rights in the Milestone Property; and
- (k) all such other assurances, consents, agreements, documents and instruments as may be reasonably required by the Investor to complete the transactions provided for in this Agreement.

## **5.6 Investor Closing Deliveries**

At or prior to Closing, the Investor shall deliver or cause to be delivered to the Company, the following, all of which shall be in form and substance satisfactory to the Company, acting reasonably:

- (a) Written confirmation of registration instructions for the Subscription Shares;
- (b) payment of \$80,000,000, representing the Investment Proceeds, in accordance with Section 2.2;
- (c) consent from each Investor's Nominee to the Board to be appointed as a director of the Company;
- (d) a certificate from a duly authorized officer of the Investor certifying: (A) the constating documents of the Investor, (B) the incumbency of certain officers of the Investor; and (C) the resolutions of the board of directors of the Investor approving the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereunder;
- (e) a certificate from a duly authorized officer of the Investor dated as of the Closing Date, certifying the matters set forth in Sections 5.3(a) and 5.3(b); and

- (f) all such other assurances, consents, agreements, documents and instruments as may be reasonably required by the Company to complete the transactions provided for in this Agreement.

## **5.7 Notice and Cure Provisions**

Each Party will give prompt written notice to the other Parties of the occurrence, or failure to occur, at any time during the Interim Period, of any event or state of facts which occurrence or failure would, or would reasonably be likely to:

- (a) cause any of the representations or warranties of such Party contained herein to be untrue or inaccurate in any material respect on the date thereof or on Closing, as applicable;
- (b) result in the failure to comply with or satisfy any covenant or agreement to be complied with or satisfied by such Party prior to Closing; or
- (c) result in the failure to satisfy any of the conditions precedent in its favour contained in Sections 5.2, 5.3 or 5.4, as the case may be.

Delivery of any notice pursuant to this Section 5.7 shall not limit or otherwise affect any remedies available to any Party and the Investor's receipt of information under this Section 5.7 shall not operate as a waiver or otherwise affect any representation, warranty or agreement given or made by the Company, WPC and the Parent in this Agreement and shall not be deemed to amend or supplement the Disclosure Letter. A Party may elect not to complete the transactions contemplated hereby pursuant to the conditions precedent in its favour contained in Sections 5.2, 5.3 or 5.4, as applicable, or exercise any termination right arising therefrom; provided, however, that: (A) the Party intending to rely thereon has delivered a written notice to the other Parties specifying in reasonable detail all breaches of covenants, representations and warranties or other matters which the Party delivering such notice is asserting as the basis for the non-fulfilment of the applicable condition precedent or termination right, as the case may be, and (B) if any such notice is delivered, if such matter is capable of being cured, such Party may not terminate this Agreement until the earlier of (a) the Outside Date, or (b) the expiration of a period of fifteen (15) days from such notice.

## **ARTICLE 6 INDEMNIFICATION**

### **6.1 Indemnification**

- (a) Subject to the provisions of this Article 6, the Parent, the Company and WPC agrees to jointly and severally indemnify and hold harmless the Investor, its Affiliates, each of their officers, directors, employees and agents and their respective successors and assigns (collectively, the "**Investor Indemnified Parties**"), from and against any Damages which are caused by, in connection with, arise out of or related in any manner whatsoever to:
  - (i) any breach or default in the performance by the Parent, the Company and WPC of any covenant or agreement made by the Parent, the Company and WPC in this Agreement or in any certificate or instrument executed and delivered pursuant to this Agreement;

- (ii) any breach or inaccuracy in any warranty or representation of the Parent, the Company and its Subsidiaries in this Agreement or in any certificate or instrument executed and delivered pursuant to this Agreement;
  - (iii) any third party Legal Proceeding to which the Company or its Subsidiaries is a party at any time on or prior to the Closing Date, or to which it becomes a party after the Closing Date arising from facts or circumstances that existed at any time on or prior to the Closing Date; and
  - (iv) any Taxes required to be paid by the Company or any of its Subsidiaries relating to any taxation period ending on or before the Closing Date and the portion of any Taxes relating to any taxation period ending after the Closing Date that is attributable to the portion of that period ending on the Closing Date.
- (b) Subject to the provisions of this Article 6, the Investor agrees to indemnify and hold harmless the Parent, the Company and WPC, its Affiliates, each of their officers, directors, employees and agents and their respective successors and assigns (collectively, the "**Company Indemnified Parties**"), from and against any Damages which are caused by, in connection with, arise out of or related in any manner whatsoever to:
- (i) any breach or default in the performance by the Investor of any covenant or agreement made by the Investor in this Agreement or in any certificate or instrument executed and delivered pursuant to this Agreement, and
- any breach or inaccuracy of any warranty or representation made by the Investor in this Agreement or in any certificate or instrument executed and delivered pursuant to this Agreement.

## **6.2 Time Limits for Claim Notice for Breach of Representations and Warranties**

- (a) No Damages may be recovered from the Parent, the Company and WPC (as applicable) pursuant to Section 6.1(a)(ii) unless (subject to the fraud exception below) a Claim Notice is delivered by the Investor in accordance with the timing set out below:
- (i) with respect to the representations and warranties in Sections 3.1(a), 3.1(b), 3.1(c), 3.1(d), 3.1(h), 3.1(j), 3.1(k), 3.1(nn) and 3.1(oo) at any time after Closing;
  - (ii) with respect to the representations and warranties in Section 3.1(s), at any time until the expiry of the period during which any Tax assessment may be issued by a Governmental Entity plus an additional 60 days; and
  - (iii) with respect to all other representations and warranties, on or before the date that is two (2) years after Closing.

provided, however, that in the event of fraud relating to a representation and warranty of the Parent, the Company and its Subsidiaries in this Agreement, then notwithstanding the foregoing time limitations, the Investor Indemnified Parties shall be entitled to deliver a Claim Notice ce at any time for purposes of such a claim.

- (b) No Damages may be recovered from the Investor pursuant to Section 0 unless a Claim Notice is delivered by the Company on or before date that is 2 years after Closing, provided, however, that in the event of fraud relating to a representation and warranty of the Investor in this Agreement, then notwithstanding the foregoing time limitation, the Company Indemnified Parties shall be entitled to deliver a Claim Notice at any time for purposes of such a claim.

### 6.3 Indemnity Procedure

- (a) A Party agreeing to be responsible for or to indemnify against any matter pursuant to this Agreement is referred to herein as the "**Indemnifying Party**" and the other Party claiming indemnity is referred to as the "**Indemnified Party**."
- (b) If an Indemnified Party becomes aware of any act, omission or state of facts that may give rise to Damages in respect of which a right of indemnification is provided for under this Article 6, the Indemnified Party shall promptly, and in any event within twenty (20) days, give written notice thereof (a "**Claim Notice**") to the Indemnifying Party. The Claim Notice shall specify whether the potential Damages arise as a result of a claim by a third party against the Indemnified Party (a "**Third Party Claim**") or whether the potential Damages arise as a result of a claim directly by the Indemnified Party against the Indemnifying Party (a "**Direct Claim**"), and shall also specify with reasonable particularity (to the extent that the information is available):
  - (i) the factual basis for the Direct Claim or Third Party Claim, as the case may be; and
  - (ii) the amount of the potential Damages arising therefrom, if known.

If, through the fault of the Indemnified Party, the Indemnifying Party does not receive a Claim Notice in time to effectively to contest the determination of any Liability susceptible of being contested or to assert a right to recover an amount under applicable insurance coverage, then the Liability of the Indemnifying Party to the Indemnified Party under this Article 6 shall be reduced only to the extent that Damages are actually incurred by the Indemnifying Party resulting from the Indemnified Party's failure to give the Claim Notice on a timely basis.

- (c) Direct Claims

In the case of a Direct Claim, the Indemnifying Party shall have 60 days from receipt of a Claim Notice in respect thereof within which to make such investigation as the Indemnifying Party considers necessary or desirable. For the purpose of such investigation, the Indemnified Party shall make available to the Indemnifying Party the information relied upon by the Indemnified Party to substantiate its right to be indemnified under this Article 6, together with all such other information as the Indemnifying Party may reasonably request. If the Indemnifying Party disputes the validity or amount of the Direct Claim, the Indemnifying Party shall provide written notice of the dispute of the Indemnified Party within 60 days of receipt of the Claim Notice. During this 60 day period, the Indemnifying Party and the Indemnified Party shall attempt in good faith to resolve the dispute. If the Parties fail to agree at or before the expiration of such 60 day period (or any mutually agreed upon extension thereof), the Indemnified Party shall be free to pursue such remedies as may be available to it, subject to this Agreement.

(d) Third Party Claims

In the event a Claim Notice is delivered with respect to a Third Party Claim, the Indemnifying Party shall have the right, at its election, to take over the defense or settlement of such claim by giving written notice to the Indemnified Party at least ten (10) days prior to the time when an answer or other responsive pleading or notice with respect thereto is required. If the Indemnifying Party makes such election, it may conduct the defense of such claim through legal counsel of its choosing (subject to the Indemnified Party's approval of such counsel, which approval shall not be unreasonably withheld), shall be solely responsible for the expenses of such defense and shall be bound by the results of its defense or settlement of the claim. In connection therewith, the Indemnified Party will reasonably cooperate with the Indemnifying Party should the Indemnifying Party elect to take over the defense of any such claim. The Indemnifying Party shall not settle any such claim without prior notice to and consultation with the Indemnified Party, and no such settlement involving any equitable relief or which might have an adverse effect on the Indemnified Party may be agreed to without the written consent of the Indemnified Party (which consent shall not be unreasonably withheld). So long as the Indemnifying Party is diligently contesting any such claim in good faith, the Indemnified Party may appoint separate legal counsel only at its own expense and the Indemnifying Party will not be responsible for the fees of separate legal counsel to the Indemnified Party, unless representation of both Parties by the same counsel would be inappropriate due to conflicts of interest. If the Indemnifying Party does not make such election, or having made such election does not, in the reasonable opinion of the Indemnified Party proceed diligently to defend such claim, then the Indemnified Party may (after written notice to the Indemnifying Party), at the expense of the Indemnifying Party, elect to take over the defense of and proceed to handle such claim and the Indemnifying Party shall be responsible for paying the reasonable legal fees and disbursements and other costs related to such defense. In connection therewith, the Indemnifying Party will fully cooperate with the Indemnified Party should the Indemnified Party elect to take over the defense of any such claim. The Parties agree to cooperate in defending such Third Party Claims and the Indemnified Party shall provide such cooperation and such access to its books, records and properties as the Indemnifying Party shall reasonably request with respect to any matter for which indemnification is sought hereunder; and the Parties agree to cooperate with each other in order to ensure the proper and adequate defense thereof.

With regard to Third Party Claims for which indemnification is payable hereunder, such indemnification shall be paid by the Indemnifying Party upon the earlier to occur of: (i) the entry of a judgment against the Indemnified Party and the expiration of any applicable appeal period, or if earlier, five (5) days prior to the date that the judgment creditor has the right to execute the judgment; (ii) the entry of an unappealable judgment or final appellate decision against the Indemnified Party; or (iii) a settlement of the claim. Notwithstanding the foregoing, the reasonable expenses of counsel to the Indemnified Party shall be reimbursed on a current basis by the Indemnifying Party. With regard to other claims for which indemnification is payable hereunder, such indemnification shall be paid promptly by the Indemnifying Party upon demand by the Indemnified Party.

## ARTICLE 7 TERMINATION

### 7.1 Termination

- (a) This Agreement may be terminated under the following circumstances:
  - (i) upon the mutual written agreement of the Parties;
  - (ii) subject to Section 5.7, by the Investor, upon written notice to the other Parties, if there has been a material violation, breach or inaccuracy of any representation, warranty or covenant of the Parent, the Company or WPC contained in this Agreement, which violation, breach or inaccuracy would cause any of the conditions set forth in Section 5.2 or 5.4 not to be satisfied, and such violation, breach or inaccuracy is incapable of being cured within a period of fifteen (15) days from the date of receipt of the aforementioned written notice;
  - (iii) subject to Section 5.7, by the Company, upon written notice to the Investor, if there has been a material violation, breach or inaccuracy of any representation, warranty or covenant of the Investor contained in this Agreement, which violation, breach or inaccuracy would cause any of the conditions set forth in Section 5.2 or 5.3 not to be satisfied, and such violation, breach or inaccuracy is incapable of being cured within a period of fifteen (15) days from the date of receipt of the aforementioned written notice;
  - (iv) by either the Investor or the Company, upon written notice to the other Parties, if the Closing shall not have occurred within 180 calendar days from the date of this Agreement (the "**Outside Date**"); or
  - (v) by either the Investor or the Company, upon written notice to the other Parties, if any of the mutual closing conditions described in Section 5.2 are not satisfied, or if a court of competent jurisdiction or any other Governmental Entity shall have issued a final, non-appealable Order preventing or otherwise prohibiting the transactions contemplated by this Agreement.
- (b) If this Agreement is terminated in accordance with Section 7.1, this Agreement shall become void and of no further force or effect; except that the provisions of Section 4.9, Article 8 and this Section 7.1(b) shall survive termination of this Agreement and that nothing herein shall relieve any party from any liability for fraud or any willful material breach of the provisions of this Agreement prior to such termination.

## ARTICLE 8 GENERAL PROVISIONS

### 8.1 Notices

- (a) Any notice or other communication that is required or permitted to be given hereunder shall be in writing and shall be validly given if delivered in person (including by courier service) or transmitted by fax or electronic transmission to such party, as follows:

(i) in the case of the Investor:  
Investor: Vantage Chance Ltd

Attention:

Email:

with a copy to:

Dentons Canada LLP  
20th Floor, 250 Howe Street  
Vancouver, BC V6C 3R8

Attention: [REDACTED]  
Tel. No.: [REDACTED]  
Facsimile No.: [REDACTED]  
E mail: [wei.shao@dentons.com](mailto:wei.shao@dentons.com)

(ii) in the case of the Company:

Western Potash Corp.

Attention: Managing Director

Email:

(iii) in the case of the Parent Company:

Western Reoureces Corp.

Attention: President and CEO

Email:

with a copy to:

Bennett Jones LLP  
3400 One First Canadian Place  
Toronto, ON M5X 1A4

Attention: [REDACTED]  
Tel. No.: [REDACTED]  
Facsimile No.: [REDACTED]  
E mail: [REDACTED]

- (b) Any such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a Business Day or if delivery or transmission is made on a Business Day after 5:00 p.m. (Vancouver time) at the place of receipt, then on the next following Business Day).
- (c) Any party may at any time change its address for service from time to time by giving notice to the other parties in accordance with this Section 8.1.

## **8.2 Further Cooperation**

Each Party agrees to cooperate fully with the other Parties and to execute such further instruments, documents and agreements and to give such further written assurances as may be reasonably requested by the other Parties to better evidence and reflect the transactions described herein and contemplated hereby and to carry into effect the intents and purposes of this Agreement, and further agrees to use its commercially reasonable efforts to take promptly, or cause to be taken, all actions, and to do promptly, or cause to be done, all things necessary, proper or advisable under applicable Law to consummate and make effective the transactions contemplated hereby, to obtain all necessary waivers, consents and approvals, to effect all necessary registrations and filings, and to remove any injunctions or other impediments or delays, legal or otherwise, in order to consummate and make effective the transactions contemplated by this Agreement for the purpose of securing to the Parties the benefits contemplated by this Agreement.

## **8.3 Amendments**

No amendment or waiver of any provision of this Agreement shall be binding on any Party unless consented to in writing by such Party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

## **8.4 Assignment**

No Party may assign any of its rights or benefits under this Agreement, or delegate any of its duties or obligations, except with the prior written consent of the other Parties. Notwithstanding the foregoing, the Investor may assign this Agreement to an Affiliate which shall be a special purpose vehicle (the "**SPV Affiliate**") to purchase and hold the Subscription Shares. The SPV Affiliate shall be managed by the Investor and the Investor will exercise control and direction over the Subscription Shares; and for the avoidance of doubt, any such assignment shall not affect or impact the rights, obligations and the liabilities of the Investor under this Agreement, and the Investor shall guarantee the performance of the SPV Affiliate hereunder.

## **8.5 Successors and Assigns**

This Agreement shall enure to the benefit of and shall be binding on and enforceable by and against the Parties and their respective successors or heirs, executors, administrators and other legal personal representatives, and permitted assigns.

## **8.6 No Partnership**

Nothing in this Agreement or in the relationship of the Parties shall be construed as in any sense creating a partnership among the Parties or as giving to any Party any of the rights or subjecting any Party to any of the creditors of the other Parties.



### **8.7 Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be an original as against a party whose signature appears thereon and all of which together shall constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of the Parties reflected hereon as signatories. In the event that any signature is delivered by facsimile transmission, electronic mail or other means producing a printout of a hand-written signature, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or otherwise printed signature page were an original thereof.

### **8.8 Language**

Where there is any difference between the English language version and Chinese language version of this Agreement, the English language version shall prevail.

### **8.9 Expenses**

Each party shall be responsible for their own fees and expenses incurred in furtherance of the transactions contemplated in this Agreement.

**[The remainder of this page has been intentionally left blank.]**

IN WITNESS WHEREOF this Agreement has been executed by the parties.

**WESTERN RESOURCES CORP.**

By: *Wenye Xue*

Name: Wenye Xue  
Title: President & CEO

**WESTERN POTASH HOLDINGS CORP.**

By: *Wenye Xue*

Name: Wenye Xue  
Title: Director

**WESTERN POTASH CORP.**

By: *Wenye Xue*

Name: Wenye Xue  
Title: Director

**VANTAGE CHANCE LIMITED**

By: *Jian Xing*

Name: Jian Xing  
Title: Director

**SCHEDULE "A"**

**BUDGET**



## **SCHEDULE "B"**

### **SPV REORGANIZATION**

For the purpose of satisfying the conditions of achieving the SPV structure agreed among the Parties to the Subscription Agreement, the Parent incorporated the Company as a SPV entity named "Western Potash Holdings Corp.", with Business Number of 754288405BC0001. The Company was incorporated in the Province of British Columbia on January 13, 2022, having full authorities to perform businesses in the Province of British Columbia. As of the date of the Subscription Agreement, the Company is a wholly owned subsidiary of the Parent.

Upon obtaining the approval of the Parent Shareholders pursuant to Section 5.2(a) of the Subscription Agreement and prior to the completion of the transactions contemplated by the Subscription Agreement, the Parent will transfer its 100% equity interest in WPC (being 134,017,653 common shares in the share capital of WPC) to the Company in exchange for the Company issuing to the Parent an aggregate of 134,017,653 Common Shares in the capital of the Company. As a result of the aforementioned share exchange, WPC will become a wholly owned subsidiary of the Company and the Company will beneficially own all of the outstanding shares of WPC.

Immediately following the completion of aforementioned share exchange, the Parent will hold 134,017,653 Common Shares in the capital of the Company. Thereafter, the Investor would invest an aggregate of C\$80,000,000 into the Company in return for the issuance by the Company of an aggregate of 157,325,071 Common Shares and thereby becoming the holder of 54% of the outstanding shares of the Company pursuant to the terms of the Subscription Agreement.