

**FORM 8**

**NOTICE OF PROPOSED PROSPECTUS OFFERING**

Please complete the following:

Name of Listed Issuer: Perk Labs Inc. (the "Issuer").

Trading Symbol: PERK

Date: February 17, 2021

Is this an updating or amending Notice: No

If yes provide date(s) of prior Notices: \_\_\_\_\_.

Issued and Outstanding Securities of Issuer Prior to Proposed Prospectus Offering:  
169,548,204

Date of News Release Announcing Proposed Prospectus Offering: February 17, 2021 .  
(or provide explanation if news release not disseminated yet and expected date or circumstances that are expected to trigger news release dissemination)

**1. Prospectus Offering**

1. Description of securities to be issued:

- (a) Class Common shares .
- (b) Number Up to \$4 million .
- (c) Price per security Not fixed .
- (d) Voting rights One vote per common share. .

2. Provide details of the net proceeds to the Issuer as follows:

- (a) Per security: Not fixed .
- (b) Aggregate proceeds: Up to \$4 million. .

3. Provide description of any Warrants (or options) including:
- (a) Number N/A .
  - (b) Number of securities eligible to be purchased on exercise of Warrants (or options) N/A .
  - (c) Exercise price N/A .
  - (d) Expiry date N/A .
  - (e) Other significant terms N/A .
4. Provide the following information if debt securities are to be issued:
- (a) Aggregate principal amount N/A .
  - (b) Maturity date N/A .
  - (c) Interest rate N/A .
  - (d) Conversion terms N/A .
  - (e) Default provisions N/A .
5. Details of currently issued and outstanding shares of each class of shares of the Issuer: There are 169,548,204 common shares currently issued and outstanding.
6. Describe any unusual particulars of the offering (i.e. tax “flow through” shares, special warrants, etc.).
- The offering will be an “at-the-market” offering on the Canadian Securities Exchange or other marketplace in Canada .
7. Provide details of the use of the proceeds: The net proceeds will be used for investment in sales and marketing initiatives to attract and sign up new merchants and users to the Perk Hero App, to continue development of the Perk Hero App through a series of build-measure-learn iterations and for general working capital purposes.

8. Provide particulars of any proceeds of the offering which are to be paid to Related Persons of the Issuer: N/A
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9. Provide details of the amounts and sources of any other funds that will be available to the Issuer prior to or concurrently with the completion of the offering: None.
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10. Provide the following information for any agent's fee, commission, bonus or finder's fee, or other compensation paid or to be paid in connection with the offering (including warrants, options, etc.):
- (a) Details of any dealer, agent, broker, finder or other person receiving compensation in connection with the offering (name, address, beneficial ownership where applicable) Echelon Wealth Partners Inc. 1 Adelaide St. East, Suite 2100, Toronto, ON M5C 2V9.
  - (b) Cash Up to \$120,000 (3% of the gross proceeds of the Offering)
  - (c) Securities None.
  - (d) Other None.
  - (e) Expiry date of any options, warrants etc. N/A
  - (f) Exercise price of any options, warrants etc. N/A
11. State whether the sales agent, broker, dealer, finder, or other person receiving compensation in connection with the offering is a Related Person of the Issuer with details of the relationship: No.
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12. Provide details of the manner in which the securities being offered are to be distributed. Include details of agency agreements and sub-agency agreements outstanding or proposed to be made including any assignments or proposed assignments of any such agreements and any rights of first refusal on future offerings: The securities are to be distributed in an "at-the-market" distribution being conducted pursuant to an equity distribution agreement dated February 17, 2021 between Echelon Wealth Partners Inc. and the Issuer.

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13. Attach any term sheet, engagement letter or other document setting out terms, conditions or features of the proposed offering.

[see attached]

## Certificate Of Compliance

The undersigned hereby certifies that:

1. The undersigned is a director and/or senior officer of the Issuer and has been duly authorized by a resolution of the board of directors of the Issuer to sign this Certificate of Compliance on behalf of the Issuer.
2. As of the date hereof there is no material information concerning the Issuer which has not been publicly disclosed.
3. The undersigned hereby certifies to the Exchange that the Issuer is in compliance with the requirements of applicable securities legislation (as such term is defined in National Instrument 14-101) and all Exchange Requirements (as defined in CNSX Policy 1).
4. All of the information in this Form 8 Notice of Proposed Prospectus Offering is true.

Dated February 17, 2021.

Jonathan Hoyles

Name of Director or Senior  
Officer



Signature

Chief Executive Officer

Official Capacity

**EQUITY DISTRIBUTION AGREEMENT**

February 17, 2021

Perk Labs Inc.  
555 Burrard Street, Suite 1755  
Vancouver, British Columbia, Canada  
V7X 1M9

Attention: Jonathan Hoyles  
Chief Executive Officer

Ladies and Gentlemen:

**Re: Echelon Wealth Partner's ATM Distribution Plan**

Echelon Wealth Partners Inc. (the "**Agent**") understands that Perk Labs Inc. (the "**Issuer**") has filed a Short Form Base Shelf Prospectus dated July 17, 2020 (in each of the provinces and territories of Canada) (the "**Base Shelf Prospectus**"), relating to the issue and sale of up to an aggregate initial offering price of \$30,000,000 of securities of the Issuer, including the Offered Shares (as defined herein), and has received a final receipt pursuant to the Passport System (as defined herein) evidencing that a final receipt for the Base Shelf Prospectus has been issued, or deemed to have been issued, by the regulators in each of the Qualifying Jurisdictions (as defined herein). The Agent further understands that, in filing the Base Shelf Prospectus, the Issuer has selected the British Columbia Securities Commission as the principal regulator under Part 3 of NP 11-202 (as defined herein).

Pursuant to the terms and conditions hereof, the Agent confirms that it is prepared to act as the sole and exclusive agent of the Issuer to offer Common Shares (as defined herein) having an aggregate offering price of up to \$4,000,000 (the "**Offered Shares**") for sale to the public from time to time under the Base Shelf Prospectus, as supplemented by a Prospectus Supplement (as defined herein), pursuant to "at-the-market distributions" within the meaning of NI 44-102 (as defined herein) under the Agent's ATM Distribution plan during the period in which the Base Shelf Prospectus is effective, subject to earlier termination hereunder.

The following are the terms and conditions of this Agreement:

**1. DEFINITIONS AND INTERPRETATION**

1.1 Definitions. In this Agreement (including the Schedules hereto), unless the context otherwise requires:

"**Acquired Business**" means any entity or business (other than the Issuer) whose financial statements are included or incorporated by reference in the Prospectus;

"**Acquired Business Financial Statements**" means, collectively, the audited and any unaudited financial statements of any Acquired Business that are included or incorporated (or deemed to be incorporated) by reference in the Prospectus, together with the notes thereto and, in the case of audited financial statements, the auditor's report thereon;

“**affiliate**” has the meaning given thereto in NI 51-102;

“**Agent**” has the meaning given thereto in the first paragraph on the first page of this Agreement;

“**Agent’s Fee**” has the meaning given thereto in Section 2.4;

“**Agreement**” means and refers to this equity distribution agreement between the Issuer and the Agent resulting from the mutual execution and delivery of this letter, and does not refer to any particular section, paragraph or other part of this equity distribution agreement;

“**ATM Distribution**” means a distribution of Offered Shares that constitutes an “at-the-market distribution” within the meaning of NI 44-102;

“**Auditors**” means Saturna Group Chartered Professional Accountants LLP, or any other auditors of the Issuer from time to time;

“**Authorizations**” means any current and active regulatory licences, approvals, permits, consents, certificates, registrations, filings or other authorizations of or issued by any Governmental Authority under the Laws.

“**Authorized Representatives**” means, for a Party, the Designated Representatives of that Party who are identified in Schedule A hereto (as such Schedule A may be amended from time to time by either Party by notice to the other Party as provided herein, which amendment shall be effective upon both Parties mutually agreeing in writing to an amended and restated form of Schedule A) as being Authorized Representatives of that Party;

“**Base Shelf Prospectus**” has the meaning given thereto in the first paragraph on the first page of this Agreement;

“**BCSA**” means the *Securities Act* (British Columbia);

“**Best of the Issuer’s Knowledge**” means to the actual knowledge of Jonathan Hoyles and the acting Chief Financial Officer of the Issuer, in their capacity as officers of the Issuer, after having made reasonable inquiries in the circumstances;

“**Bringdown Certificates**” has the meaning given thereto in Section 9.3;

“**Business**” means the business of the Issuer as described in the Prospectus.

“**Business Assets**” means all tangible and intangible property and assets owned (either directly or indirectly), leased, licensed, loaned, operated or used, including all Intellectual Property, real property, fixed assets, facilities, equipment, inventories and accounts receivable, by the Issuer, the Subsidiaries and the JV Entities, as the case may be, in connection with the Business;

“**Business Day**” means any day on which the CSE and commercial banks in Vancouver, British Columbia, are open for business;

“**IFRS**” means international financial reporting standards as set by the Chartered Professional Accountants of Canada and as permitted by National Instrument 52-107 – *Acceptable Accounting Principles and Auditing Standards*, for the preparation of financial statements;

“**CSE**” means the Canadian Securities Exchange;

“**Common Shares**” means common shares in the capital of the Issuer;

“**Debt Instrument**” means any and all other loans, bonds, notes, debentures, indentures, promissory notes, mortgages, guarantees, security agreements or other instruments evidencing indebtedness (demand or otherwise) for borrowed money or other liability to which the Issuer, the Subsidiaries or JV Entities are a party or to which their property or assets are otherwise bound;

“**Designated News Releases**” means a news release disseminated by the Issuer in respect of previously undisclosed information that, in the Issuer’s determination, constitutes a “material fact” (as such term is defined in the BCSA) and identified by the Issuer as a “designated news release” for the purposes of the Prospectus in writing on the face page of the version of such news release that is filed by the Issuer on SEDAR;

“**Designated Representatives**” means, for a Party, the individuals from that Party identified as such in Schedule A hereto (as such Schedule A may be amended from time to time by either Party by notice to the other Party as provided herein, which amendment shall be effective upon both Parties mutually agreeing in writing to an amended and restated form of Schedule A);

“**Directed Selling Efforts**” means “directed selling efforts” as defined in Regulation S and, without limiting the foregoing, but for greater clarity, means, subject to the exclusions from the definition of directed selling efforts contained in Regulation S, any activity undertaken for the purpose of, or that could reasonably be expected to have the effect of, conditioning the market in the United States for the Offered Shares and includes the placement of any advertisement in a publication with a general circulation in the United States that refers to the offering of any of the Offered Shares;

“**Environmental Laws**” means all applicable Laws relating to the environment or environmental issues (including air, surface, water and stratospheric matters), pollution or protection of human health and safety, including without limitation relating to the release, threatened release, manufacture, processing, blending, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials;

“**Filing Date**” means the date on which the Prospectus Supplement is first filed with the Qualifying Authorities in accordance with Section 9.1(b);

“**Financial Services**” means any debt, quasi-debt, equity or quasi-equity financing, the provision of a formal valuation or fairness opinion, and any financial advisory assistance with respect to any acquisition, joint venture, divestiture or business combination proposal, or otherwise, where the Issuer requires such assistance.

“**Force Majeure**” has the meaning given thereto in Section 19.2;



**“French Translation Exemption”** means the exemptive relief decision dated June 9, 2020 obtained by the Issuer from the Autorité des marchés financiers;

**“General Solicitation”** and **“General Advertising”** means “general solicitation” and “general advertising”, respectively, as used in Rule 502(c) of Regulation D, including any advertisement, article, notice or other communications published in any newspaper, magazine or similar media or broadcast over the internet, radio or television, or any seminar or meeting whose attendees had been invited by general solicitation or general advertising or in any other manner involving a public offering within the meaning of Section 4(a)(2) of the U.S. Securities Act;

**“Governmental Authority”** means any governmental, regulatory or administrative authority, department, agency, commission, board, bureau, branch, official, panel, tribunal or other instrumentality, any Crown corporation, any court or private arbitrator or arbitral tribunal and any other Person exercising any legislative, judicial, quasi-judicial, administrative, executive, investigative (including police), regulatory, licensing or taxing authority or power, whether domestic or foreign;

**“Hazardous Materials”** means chemicals, fluids, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products;

**“IIROC”** means the Investment Industry Regulatory Organization of Canada (or any successor regulatory authority);

**“Initial Acquisition Comfort Letter”** has the meaning given thereto in Section 9.2(c);

**“Initial Issuer Comfort Letter”** has the meaning given thereto in Section 9.2(b);

**“Intellectual Property”** means intellectual property rights, including: (i) all patents, patent rights, inventions, industrial designs and licenses; (ii) registered and unregistered trademarks, service marks, trade dress, trade names, functional business names, corporate names, logos, slogans and internet domain names, applications and social media accounts, together with all goodwill associated with each of the foregoing; (iii) copyrights and copyrightable works in whatever form or medium; (iv) registrations, applications and renewals for any of the foregoing; (v) proprietary computer software (including but not limited to data, data bases and documentation); and (vi) trade secrets, confidential information and know-how (including but not limited to formulations and processes);

**“Issuer”** has the meaning given thereto in the first paragraph on the first page of this Agreement;

**“Issuer Financial Statements”** means, collectively, the audited annual financial statements and unaudited interim financial statements of the Issuer that are filed on the Public Record and are included or incorporated (or deemed to be incorporated) by reference in the Prospectus, together with the notes thereto and, in the case of the audited annual financial statements, the auditor’s report thereon;

**“Issuer IP”** means the Intellectual Property that has been developed by or for, or is being developed by or for, the Issuer or that is being used or is owned by the Issuer, other than Licensed IP;

**“Issuer’s Counsel”** means Borden Ladner Gervais LLP, counsel to the Issuer, or any other counsel of the Issuer from time to time;

**“JV Entities”** means any corporations or entities in which the Issuer or any of its Subsidiaries directly owns 20% or more of the outstanding shares or equity interests and which is not otherwise a Subsidiary (and for greater certainty, includes Converge MobiSolutions Inc.);

**“Laws”** means any and all applicable multinational, federal, provincial, state, territorial, municipal, local or other laws, including all statutes, common law, codes, ordinances, decrees, rules, regulations, municipal by-laws, any judicial or administrative interpretation of the foregoing, any judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards, or policies or guidelines of (or issued by) any Governmental Authority, or licences or permits binding on or affecting the person referred to in the context in which the word is used;

**“Licensed IP”** means the Intellectual Property owned by any person other than the Issuer and to which the Issuer has a license which has not expired or been terminated;

**“Marketplace”** means any recognized Canadian “marketplace” as that term is defined in National Instrument 21-101 — *Market Operation* upon which the Common Shares are listed, quoted or otherwise traded in a Qualifying Jurisdiction;

**“Material Adverse Effect”** means a material adverse effect on: (i) the business, affairs, operations, condition (financial or otherwise), earnings, assets, liabilities (absolute, accrued, contingent or otherwise), capital or business prospects of the Issuer, the Subsidiaries and the JV Entities taken as a whole, whether or not arising in the ordinary course of business; (ii) the transactions contemplated by this Agreement; and (iii) the ability of the Issuer to perform its obligations under this Agreement;

**“material change”, “material fact” and “misrepresentation”** with respect to circumstances in which the Securities Laws of a particular jurisdiction are applicable, as each of such terms is defined under the Securities Laws of that jurisdiction, and if not so defined, or in circumstances in which the laws of no particular jurisdiction is applicable, as each of such term is defined under the BCSA;

**“Material Contracts”** means any “material contract” required to be filed on SEDAR by the Issuer pursuant to NI 51-102 and for greater certainty, means the following agreements:

- (a) amended and restated license agreement between the Issuer and The Yield Growth Corp. dated November 2, 2018;
- (b) license agreement between the Issuer and Fobisuite Technologies Inc. dated May 3, 2019;
- (c) license agreement between the Issuer and Loop Insights Inc. dated November 5, 2018; and
- (d) license agreement between the Issuer and Euro Asia Pay Holdings Inc. dated October 14, 2017, as amended on September 30, 2018;

“**MI 11-102**” means Multilateral Instrument 11-102 — *Passport System*;

“**Net Proceeds**” has the meaning given thereto in Section 7.2;

“**NI 44-101**” means National Instrument 44-101 — *Short Form Prospectus Distributions*;

“**NI 44-102**” means National Instrument 44-102 — *Shelf Distributions*;

“**NI 51-102**” means National Instrument 51-102 — *Continuous Disclosure Obligations*;

“**No Trade Period**” has the meaning given thereto in Section 4.7;

“**NP 11-202**” means National Policy 11-202 — *Process for Prospectus Reviews in Multiple Jurisdictions*;

“**Offered Shares**” has the meaning given thereto in the second paragraph on the first page of this Agreement;

“**Parties**” means the Issuer and the Agent, and “**Party**” means either of them;

“**Passport Procedures**” means the procedures described under MI 11-102 and NP 11-202;

“**Passport System**” means the system and procedures for the filing of prospectuses and related materials in one or more Canadian jurisdictions pursuant to MI 11-102 adopted by the Qualifying Authorities (other than the Ontario Securities Commission) and NP 11-202;

“**pending**” means, with respect to a Placement Notice, the period beginning on the issuance of the written notice contemplated by Section 4.7 and ending on the earlier of: (i) the issuance of the Placement Notice with respect to the intended or expected sale of Offered Shares relating to such written notice; and (ii) delivery of written notice from the Issuer to the Agent indicating that the Issuer no longer intends or expects to initiate the sale of such Offered Shares;

“**Person**” includes an individual, a corporation, a partnership, a trust, a trustee, a joint venture, a syndicate, a sole proprietorship, other bodies corporate, an unincorporated organization, a union, a regulatory body or any agency thereof, a government or any department or agency thereof and the heirs, executors, administrators or other legal representatives of an individual;

“**Placement**” means an issuance and sale of Offered Shares hereunder by the Issuer, acting through the Agent as its agent, pursuant to an ATM Distribution;

“**Placement Notice**” has the meaning given thereto in Section 4.1;

“**Placement Shares**” has the meaning given thereto in Section 4.1;

“**Placement Time**” means each time at which Placement Shares are sold pursuant to a Placement Notice;

“**Prospectus**” means the Base Shelf Prospectus as supplemented by the Prospectus Supplement and any Supplementary Material;

“**Prospectus Supplement**” means the shelf prospectus supplement to be filed in accordance with NI 44-102 and the French Translation Exemption in respect of the distribution of the Offered Shares pursuant to the Shelf Procedures, the Passport Procedures and the provisions of this Agreement, and includes, from and after the Filing Date, any subsequent amendments thereto or amended, re-filed or amended and restated forms thereof;

“**Public Record**” means the Issuer’s prospectuses, prospectus supplements, annual reports, financial statements, annual information forms, business acquisition reports, management’s discussion and analysis, information circulars, material change reports, press releases and all other information or documents filed or otherwise publicly disseminated by the Issuer;

“**Qualifying Authorities**” means, collectively, the securities commissions or similar securities regulatory authorities in the Qualifying Jurisdictions;

“**Qualifying Jurisdictions**” means each of the provinces and territories of Canada;

“**Regulation D**” means Regulation D under the U.S. Securities Act;

“**Regulation S**” means Regulation S under the U.S. Securities Act;

“**Repayment Event**” means any event or condition which gives the holder of any Debt Instrument (or any person acting on such holder’s behalf) the right to require the repurchase, redemption or repayment of all or a material portion of such indebtedness by the Issuer, the Subsidiaries or the JV Entities;

“**Representation Date**” has the meaning given thereto in Section 9.3;

“**Securities Laws**” means, collectively, the securities acts or similar statutes of each of the Qualifying Jurisdictions and the respective regulations, rules, instruments, policies and blanket orders made or adopted thereunder, together with all applicable published notices, orders and rulings of the Qualifying Authorities;

“**SEDAR**” means the System for Electronic Data Analysis and Retrieval established under National Instrument 13-101 — *System for Electronic Document Analysis and Retrieval*;

“**Settlement Date**” has the meaning given thereto in Section 7.1;

“**Settlement Procedures**” means those procedures relating to the issuance and delivery of Placement Shares and the payment of the Net Proceeds from the sale of such Placement Shares on each Settlement Date as mutually agreed to in writing by the Parties from time to time during the term of this Agreement;

“**Shelf Procedures**” means the rules and procedures for shelf prospectuses established under NI 44-102;

“**Subsidiaries**” means Perk Hero Software Inc., Perk Hero USA Inc., Glance Coin Inc., and “**Subsidiary**” means any one of them, as applicable;

**“Supplementary Material”** means, collectively, (i) any amendment (including both an amendment that does not fully restate the original text and an amendment and restatement) to, and any documents or information incorporated by reference in, the Base Shelf Prospectus, and (ii) all supplemental, additional or ancillary material, information, reports, applications, statements or documents related to the Base Shelf Prospectus or the Prospectus Supplement, including but not limited to, all Designated News Releases which are incorporated by reference in the Prospectus, and which are filed by or on behalf of the Issuer with any Qualifying Authority and accessible by the public on SEDAR from and after the Filing Date;

**“Tax Act”** means the *Income Tax Act* (Canada);

**“Trading Day”** means any day on which securities are purchased and sold on the CSE; and

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

- 1.2 The division of this Agreement into sections, paragraphs and clauses and the provision of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless something in the subject matter or context is inconsistent therewith, references herein to sections, paragraphs or clauses are to sections, paragraphs or clauses of this Agreement.
- 1.3 Words importing the singular number include the plural and vice versa; words importing gender shall include all genders.
- 1.4 References herein to any statute shall extend to and include orders-in-council or regulations passed under and pursuant to such statute, any amendment or re-enactment of such statute, orders-in-council or regulations, and any statute, orders-in-council or regulations substantially in replacement thereof.
- 1.5 Any reference herein to the Prospectus shall be deemed to refer to and include the documents incorporated, or deemed under Securities Laws to be incorporated, by reference therein as of the applicable date.
- 1.6 Wherever used herein, the word “including”, when following any statement, term or list, is not to be construed as limiting the statement, term or list to the specific items or matters set forth immediately following such word or to similar items or matters, and shall be construed as “including, without limitation”.
- 1.7 The words “hereto”, “herein”, “hereby”, “hereunder”, “hereof” and similar expressions mean and refer to this Agreement as a whole and not to any particular section, paragraph or other part of this Agreement.
- 1.8 Except as expressly set out in this Agreement, the computation of any period of time referred to in this Agreement shall exclude the first day and include the last day of such period. If the time limited for the performance or completion of any matter under this Agreement expires or falls on a day that is not a Business Day, the time so limited shall extend to the next following Business Day.

1.9 Appended hereto are the following schedules (which are incorporated into this Agreement by reference and are deemed to be a part hereof):

- Schedule A – Designated Representatives and Authorized Representatives
- Schedule B – Placement Notice
- Schedule C – Representations and Warranties of the Issuer
- Schedule D – Form of Officer’s Certificate
- Schedule E – Matters to be Addressed in Opinion of Issuer’s Counsel
- Schedule F – Indemnification and Contribution
- Schedule G – Issuer IP and Licensed IP

## **2. APPOINTMENT OF AGENT**

2.1 The Issuer hereby appoints the Agent to act as its sole and exclusive agent with respect to the sale of the Offered Shares through the facilities of the CSE or any other Marketplace pursuant to an ATM Distribution as provided herein, and the Agent hereby accepts such appointment on the terms and conditions contained herein. Such appointment shall be on an exclusive basis during the term hereof, and the Issuer agrees that, during the term hereof, it will not appoint any other Person to act as the Issuer’s agent with respect to sales of the Offered Shares through the facilities of the CSE or any other Marketplace pursuant to an ATM Distribution. Nothing contained herein shall otherwise prohibit or restrict the Issuer from issuing securities or raising money in any manner other than through an ATM Distribution.

2.2 The Issuer acknowledges and agrees that the Agent and its affiliates may, to the extent permitted under Securities Laws and the rules of the CSE and any other applicable Marketplace, purchase and sell securities of the Issuer for their own account while this Agreement is in effect, provided that: (i) the Issuer shall not be deemed to have authorized or consented to any such purchase or sale by the Agent or any of its affiliates; (ii) the Agent shall not, and no Person acting jointly or in concert with the Agent shall, over-allot Offered Shares in connection with the distribution of Offered Shares under an ATM Distribution or effect any other transactions that are intended to stabilize or maintain the market price of the Offered Shares in connection with such distribution; and (iii) the Agent and its affiliates shall not purchase and sell Offered Shares for their own account under an ATM Distribution in a manner which could directly or indirectly result in a sale with lower Net Proceeds to the Issuer than otherwise available through the CSE or any other Marketplace.

2.3 The Agent covenants and agrees that it will comply with all laws (including Securities Laws) and requirements of the CSE and any other applicable Marketplace applicable to it and necessary to be complied with by the Agent in connection with the performance of its obligations hereunder, including the representations, terms and conditions of the French Translation Exemption that are applicable to the Agent. Neither the Agent nor any of its affiliates or any Person acting on their behalf will engage in any Directed Selling Efforts or in any form of General Solicitation or General Advertising in the United States with respect to the Offered Shares. The Issuer and the Agent agree that no “marketing materials” or “standard term sheet” (both within the meaning of National Instrument 41-

101 – *General Prospectus Requirements*) shall be provided to any purchaser or prospective purchaser of Offered Shares in connection with a Placement or proposed Placement.

- 2.4 In consideration for its services hereunder, including the incidental service of acting as financial advisor to the Issuer with respect to the terms of any sale of Offered Shares pursuant to an ATM Distribution hereunder, the Agent shall be entitled to receive, and the Issuer agrees to pay, a fee calculated in an amount up to 3% of the gross proceeds from any sales of Offered Shares made hereunder (the “**Agent’s Fee**”), or such other percentage as may be agreed to by the Issuer and the Agent in a Placement Notice, plus GST/HST (if applicable).

### **3. PERIODIC OFFERING OF SECURITIES**

- 3.1 Pursuant to the terms and conditions hereof and from time to time during the term hereof, the Issuer may, acting through the Agent, as agent of the Issuer, issue and sell the Offered Shares through the facilities of the CSE or any other Marketplace in one or more transactions that constitute ATM Distributions.
- 3.2 The issuance and sale of the Offered Shares on the CSE or other Marketplace pursuant to ATM Distributions will be made pursuant to the Prospectus filed with the Qualifying Authorities and the French Translation Exemption.
- 3.3 The Issuer hereby consents to the use by the Agent of copies of the Prospectus in connection with the offering and sale to the public of the Offered Shares on the CSE or other Marketplace pursuant to ATM Distributions.

### **4. INITIATING A PLACEMENT**

- 4.1 Each time that the Issuer wishes to effect a Placement, the Issuer will deliver to the Agent a notice (a “**Placement Notice**”) that: (a) requests that the Agent sell up to a specified dollar amount or a specified number of Offered Shares (the “**Placement Shares**”) pursuant to the terms and conditions hereof; and (b) specifies any parameters in accordance with which the Issuer requires that the Placement Shares be sold (such as, for example, a minimum market price per Placement Share, the time period in which sales are to be made and/or specific dates on which the Placement Shares may not be sold). A Placement Notice shall also contain any updates, as the case may be, as provided in Section 8.1.
- 4.2 The form of Placement Notice shall be in the form set out in Schedule B hereto, as may be amended in writing by the Parties from time to time during the term of this Agreement. From and after such agreement being made, all Placement Notices shall be delivered in the agreed form until such time as the Parties may agree in writing to an amended or replacement form.
- 4.3 A Placement Notice shall:
- (a) be signed by an Authorized Representative of the Issuer;

- (b) be addressed and sent by electronic mail (or such other method mutually agreed to in writing by the Parties) to each Designated Representative of the Agent; and
  - (c) be effective upon receipt by the Agent until the earlier of: (i) the Agent advising the Issuer, by electronic mail (or such other method mutually agreed to in writing by the Parties) addressed and sent to each of the Designated Representatives of the Issuer, that it declines to accept the terms of sale set forth in the Placement Notice; (ii) the entire amount of the Placement Shares specified therein having been sold and all such sales having settled in accordance with the terms and conditions hereof; (iii) the Issuer or the Agent suspending the sale (or further sale, as applicable) of the Placement Shares in accordance with Section 6; (iv) the Agent receiving from the Issuer a subsequent Placement Notice with parameters that expressly supersede those contained in the earlier dated Placement Notice; or (v) this Agreement being terminated pursuant to Section 13.
- 4.4 On receiving a Placement Notice, an Authorized Representative of the Agent shall promptly acknowledge receipt thereof (or notify the Issuer that the Agent declines to accept the Placement Notice pursuant to Section 4.3(c)(i)) by notifying the Designated Representatives of the Issuer by electronic mail (or such other method mutually agreed to in writing by the Parties) addressed and sent to each of the Designated Representatives of the Issuer. For all purposes hereof, and notwithstanding any other provision hereof, the Agent shall be deemed not to have received a Placement Notice unless receipt thereof shall have been so acknowledged by an Authorized Representative of the Agent.
- 4.5 The Parties acknowledge and agree that neither the Issuer nor the Agent shall have any obligation with respect to a Placement or any Placement Shares unless and until the Issuer delivers and the Agent acknowledges receipt of a Placement Notice pursuant to the terms set forth above, and then only upon the terms specified therein and herein.
- 4.6 A Placement Notice shall not contain any parameters that conflict with the provisions of this Agreement or that subject or purport to impose upon or subject the Agent to any obligations in addition to the Agent's obligations contained in this Agreement. In the event of a conflict between the terms of this Agreement and the terms of a Placement Notice with respect to an issuance and sale of Placement Shares, the terms of this Agreement shall prevail.
- 4.7 The Issuer covenants and agrees that: (a) each Placement Notice delivered by or on behalf of the Issuer to the Agent shall be deemed to be an affirmation that (i) the representations and warranties made by the Issuer in this Agreement and in any certificates provided pursuant hereto are true and correct as at the time the Placement Notice is issued and all such representations and warranties shall be deemed to have been made as at such time, except only to the extent that any such representation and warranty is, by its express terms, limited to a specific date, or otherwise qualified or clarified in the Placement Notice and (ii) the Issuer has complied with all covenants and agreements to be performed, and satisfied all conditions to be satisfied, by or on the part of the Issuer hereunder at or prior to the time the Placement Notice is issued; and (b) the Issuer shall not, during the time period (the "**No Trade Period**") in which the Issuer has knowledge of a "material change" or "material fact" with respect to the Issuer which has not been



generally disclosed, issue a Placement Notice until such No Trade Period ends either through a change in circumstances or a public announcement of such material change or material fact being made. At any time while a Placement Notice is pending or effective (and not currently suspended), the Issuer shall promptly notify the Agent of the commencement of a No Trade Period and suspend any further sale of Placement Shares under the Placement Notice in accordance with Section 6.1 until the end of the No Trade Period.

## **5. SALE OF PLACEMENT SHARES BY AGENT**

- 5.1 Subject to the terms and conditions set forth herein, upon the Issuer's delivery and the Agent's acknowledgment of receipt of a Placement Notice, and unless the sale of the Placement Shares described therein has been declined by the Agent, suspended by the Issuer or the Agent (for as long as such suspension is in place) or otherwise terminated in accordance with the provisions hereof, the Agent, for the period(s) specified in the Placement Notice (subject to any No Trade Periods or other date specified in the Placement Notice on which Placement Shares may not be sold), will use its commercially reasonable efforts, consistent with its normal trading and sales practices, and in compliance with all applicable laws (including Securities Laws), all applicable IROC dealer member rules and Universal Market Integrity Rules (including section 5.1 thereof), the terms of the French Translation Exemption applicable to the Agent, and the applicable rules of the CSE and any other applicable Marketplace, and upon the terms and conditions set forth in this Agreement and the Prospectus Supplement and the French Translation Exemption applicable to the Agent, to sell such Placement Shares up to the amount specified and otherwise in accordance with parameters set forth in the Placement Notice.
- 5.2 It is understood and agreed that the Agent shall act as the agent of the Issuer with respect to the sale of Offered Shares in accordance with the terms and conditions hereof, and is and will be under no obligation to purchase any such Offered Shares that may be offered for sale by the Issuer hereunder.
- 5.3 After consultation with the Issuer and subject to the terms of a Placement Notice and the French Translation Exemption, the Agent may sell the Placement Shares specified in the Placement Notice through the facilities of the CSE or any other Marketplace by any method permitted by law and constituting an ATM Distribution, including sales made directly on the CSE through a dealer that is a CSE participating organization and sales made on any other Marketplace through a Marketplace participant.
- 5.4 The Agent will send by electronic mail (or such other method mutually agreed to in writing by the Parties) to the Designated Representatives of the Issuer, not later than 2:00 p.m. (Toronto time) on the Trading Day immediately following each Trading Day on which any sales of Placement Shares have been made hereunder, confirmation of the following information:
- (a) the number of Placement Shares sold on such day;
  - (b) the average price at which the Placement Shares were sold on such day;

- (c) the aggregate gross proceeds from the sales of Placement Shares on such day;
- (d) the total Agent's Fee payable in respect of such sales; and
- (e) the Net Proceeds payable to the Issuer.

5.5 In each annual and interim financial statements and management discussion and analysis filed on SEDAR by the Issuer in respect of any quarter in which sales of Placement Shares were made by the Agent under this Agreement, the Issuer shall set forth with regard to such quarter the number of Placement Shares distributed pursuant to this Agreement during such financial period on the CSE or such other Marketplace together with such information as specified in Section 5.4 calculated on an aggregate basis for such financial period. For so long as the Offered Shares are listed on the CSE, the Issuer will provide the CSE with all information it requires with respect to the Offered Shares within the timelines prescribed by the CSE.

5.6 The Agent will deliver to the Issuer, for each month during which Offered Shares are sold through the Agent or distributed pursuant to this Agreement, and otherwise as reasonably requested by the Issuer to enable the Issuer to meet its reporting requirements under Securities Laws or any applicable requirements of the CSE or any other Marketplace, within three Business Days (or such lesser number of days as agreed to by the Parties) after the end of the month, a report stating the number of Offered Shares distributed pursuant to this Agreement during such month on the CSE or such other Marketplace together with such information as specified in Section 5.4 calculated on an aggregate monthly basis. Unless Securities Laws, the applicable requirements of the CSE or such other Marketplace otherwise require, the Parties agree that the Agent's report referred to in this Section 5.6 shall state the aggregate number of Offered Shares issued on all Settlement Dates occurring during the month together with such information as specified in Section 5.4 on an aggregate monthly basis.

5.7 Notwithstanding anything to the contrary set forth in this Agreement or a Placement Notice, the Issuer acknowledges and agrees that (i) there can be no assurance that the Agent will be successful in selling any Placement Shares or as to the price at which any Placement Shares are sold, if at all, and (ii) the Agent will incur no liability or obligation to the Issuer or any other person or entity if it does not sell Placement Shares for any reason other than a failure by the Agent to use its commercially reasonable efforts consistent with its normal trading and sales practices, applicable laws, the terms of the French Translation Exemption applicable to the Agent and the applicable rules of the CSE or any other Marketplace, to sell on behalf of the Issuer and as agent such Placement Shares as provided under this Section 5.

## **6. SUSPENSION OF SALES**

6.1 At any time while a Placement Notice is pending or effective (and not already suspended), the Issuer or the Agent may, and upon commencement of a No Trade Period the Issuer shall, by written notice to the other Party addressed and sent by electronic mail (or such other method mutually agreed to in writing by the Parties) to its Designated Representatives, temporarily or indefinitely suspend any sale or further sale of Placement

Shares under a Placement Notice, which notice shall be effective immediately, unless otherwise specified in the notice provided, however, that any such suspension shall not affect any Party's obligations with respect to any Placement Shares sold hereunder prior to the receipt of such notice. Any such notice shall set out the duration of such suspension or provide that such suspension is indefinite until further notice is provided by such Party. For greater certainty, in the event that the Agent is informed by the Issuer of the occurrence of one or more of the events described in Section 9.1(d), the Agent shall have the right to immediately suspend the sale of any Placement Shares. For greater certainty, a Placement Notice may specify a period or periods during which Placement Shares may not be sold, and in such case, the sale of Placement Shares under such Placement Notice shall be suspended during any such periods identified, and the Placement Notice itself shall constitute notice of the suspension(s) as contemplated above.

- 6.2 Without limiting the generality of the foregoing, any sale of Placement Shares made but not yet settled before a notice of suspension is given pursuant to Section 6.1 shall be settled in accordance with the provisions of Section 7, and the obligations of the Parties with respect to settling any such sale shall not be affected by the suspension.
- 6.3 Any notice of suspension provided pursuant to Section 6.1, including the reason for such notice of suspension, will be kept strictly confidential by the Agent and its affiliates and any Person acting on its behalf, unless: (i) such information is or becomes generally available to the public other than as a result of a disclosure by the Agent in violation of this Agreement; (ii) the disclosure of such information is expressly permitted, in writing, by the Issuer; or (iii) the disclosure of such information is required by applicable Securities Laws or by order of a Governmental Authority and pursuant to which the Agent is required to disclose such information.

## **7. SETTLEMENT AND DELIVERY OF PLACEMENT SHARES**

- 7.1 Settlement for any sale of Placement Shares on the CSE or any other Marketplace shall occur on the second Trading Day (or such earlier day as is then current industry practice for regular-way trading) following the date on which the sale is made (each such Trading Day being a "**Settlement Date**").
- 7.2 The amount of proceeds to be delivered to the Issuer on a Settlement Date (the "**Net Proceeds**"), payable against receipt by the Agent of the Placement Shares sold as provided herein, shall be equal to the aggregate sales price received by the Agent at which such Placement Shares were sold, less the Agent's Fee payable by the Issuer in respect of such sales.
- 7.3 On each Settlement Date, the Issuer will issue and deliver (or cause to be issued and delivered) to the Agent the Placement Shares sold by the Agent against delivery by the Agent to the Issuer of the Net Proceeds from the sale of such Placement Shares, all in accordance with the Settlement Procedures.

- 7.4 If the Issuer defaults in its obligation to issue and deliver (or cause to be issued and delivered) the Placement Shares on a Settlement Date, the Issuer agrees that:
- (a) in the event the Agent has delivered to the Issuer the Net Proceeds from the sales of the Placement Shares on the applicable Settlement Date in accordance with the Settlement Procedures prior to the occurrence of such default, the Issuer will immediately return the full amount of such Net Proceeds to the Agent; and
  - (b) in the event that the Net Proceeds from sales of the Placement Shares are returned to the Agent pursuant to Section 7.4(a), provided that the Agent has delivered the Placement Shares on the applicable Settlement Date by way of an alternative settlement method, the Issuer will use its commercially reasonable efforts to issue and deliver (or cause to be issued and delivered) to the Agent an equivalent number of Offered Shares equal to the Placement Shares promptly in accordance with the Settlement Procedures, and the Agent will promptly thereafter deliver to the Issuer the amount of the Net Proceeds from such sales less the amount of any costs directly incurred by the Agent arising out of or in connection with the late delivery of such Placement Shares (including, reasonable legal fees and expenses in accordance with Section 10.1(e) and any Agent's Fee, discount or other compensation to which it would otherwise be entitled absent such default), together with reasonable particulars of any such costs, or, at the election of the Agent, such costs may be separately invoiced to the Issuer.
- 7.5 The Agent covenants and agrees to copy or otherwise include the Issuer on all correspondence between the Agent and the transfer agent of the Issuer, in connection with or relating to the settlement (electronic or otherwise) of any sale of Placement Shares hereunder, and further, shall be responsible for taking all actions required to be taken by it within the applicable time periods to ensure that all sales of Placement Shares hereunder are settled without default in accordance with existing industry practice for regular-way trading.

## **8. REPRESENTATIONS AND WARRANTIES OF THE ISSUER**

- 8.1 The Issuer represents and warrants to, and covenants and agrees with, the Agent that each of the matters set forth in Schedule C are and shall be true and correct (except only to the extent that any such representation is, by its express terms, limited to a specific date or, with respect to any such representation made or deemed to be made after the date hereof, as otherwise updated and expressly disclosed in a Placement Notice) as of: (a) the date of this Agreement; (b) the Filing Date; (c) each Representation Date on which the Bringdown Certificates are required to be delivered pursuant to Section 9.3; (d) each time a Placement Notice is delivered to the Agent or a suspended Placement Notice ceases to be suspended; (e) each Placement Time; and (f) each Settlement Date, and acknowledges that the Agent is relying upon these representations and warranties in connection with entering into this Agreement and performing its obligations hereunder.
- 8.2 Notwithstanding any other provision hereof, the Issuer acknowledges and agrees that all of its representations and warranties contained herein or in certificates delivered pursuant hereto shall survive, as of their respective dates, regardless of, and without mitigation,

diminishment or restriction because of: (a) any investigation made by or on behalf of the Agent, the Agent's counsel or any directors, officers, employees, control persons, representatives or advisors of the Agent, (b) delivery and acceptance of the Placement Shares and payment therefor; or (c) any termination of this Agreement.

## 9. COVENANTS OF THE ISSUER

9.1 General. The Issuer covenants and agrees with the Agent that the Issuer will:

- (a) prepare, and allow the Agent to participate in the preparation and approve the form of, the Prospectus Supplement and all other documentation required to be filed, delivered or disseminated under Securities Laws for any Placement of the Offered Shares;
- (b) file the Prospectus Supplement with the Qualifying Authorities in accordance with the Shelf Procedures and the Passport Procedures on or before the third Business Day following execution and delivery of this Agreement;
- (c) fulfill all legal and regulatory requirements (including pursuant to NI 44-102 and the French Translation Exemption) to be fulfilled by the Issuer necessary to enable the Offered Shares to be offered for sale and distributed to the public through the facilities of the CSE or any other Marketplace pursuant to ATM Distributions through a dealer duly registered under the Securities Laws, such that the Offered Shares so distributed will not be subject to any restrictions on resale pursuant to Securities Laws (except where such restrictions apply because the holder is a "control person" within the meaning of Securities Laws or is restricted from trading Common Shares by virtue of having knowledge of material undisclosed information concerning the Issuer) provided, however, that if the fulfillment of any such requirements would (or would reasonably be expected to) result in the Agent becoming subject to additional responsibilities or liabilities, then the Issuer shall first consult with the Agent as to the particulars of its proposed conduct or course of action (it being acknowledged and agreed, however, that for greater certainty, except as otherwise provided herein the Issuer shall have no obligation to confer with the Agent as to the content of documents prepared and filed or disseminated pursuant to its ongoing continuous disclosure requirements under Securities Laws which includes those types of documents incorporated by reference in the Base Shelf Prospectus or Prospectus Supplement);
- (d) throughout any period during which a Placement Notice is pending or effective (and not suspended) and prior to the delivery of a new Placement Notice or a suspended Placement Notice ceasing to be suspended, promptly notify the Agent, in writing, with full particulars, of:
  - (i) any change (actual, contemplated or threatened) in the business, affairs, operations, assets, liabilities (contingent or otherwise) or capital of the Issuer, the Subsidiaries or the JV Entities, taken as a whole;

- (ii) any change in any fact covered by a statement (other than a statement furnished by or relating solely to the Agent) contained or referred to in the Prospectus (as the same exists at the time); or
- (iii) any fact, event, matter or circumstance which has been discovered but has not been disclosed in the Prospectus;

which is, or may be, of such a nature as to render the Prospectus (as the same exists at the time) misleading or untrue in any material respect or which would result in the Prospectus (as the same exists at the time) containing a misrepresentation (including, for greater certainty, an omission to state a material fact that is required to be stated, or that is necessary to be stated in order for an included statement not to be misleading) or which would result in the Prospectus (as the same exists at the time) not complying with any of the laws, regulations or policy statements of any Qualifying Authority or which would reasonably be expected to have a significant effect on the market price or value of the Common Shares. In addition, during such period, the Issuer shall in good faith discuss with the Agent and counsel to the Agent any change in circumstances (actual or anticipated) relating to the business, affairs, operations, assets, liabilities (contingent or otherwise) or capital of the Issuer, the Subsidiaries or the JV Entities, if any, which is of such a nature that there is or could be reasonable doubt as to whether any notice needs to be given to the Agent pursuant to this Section 9.1(d) and, in any event, prior to filing any Supplementary Material;

- (e) for as long as access to or the delivery of a prospectus is required under Securities Laws in connection with the offering or sale of Offered Shares, if there is a change or occurrence of a nature referred to in any of clauses (i) through (iii) of Section 9.1(d) or if it is otherwise necessary for any other reason to amend or supplement the Prospectus in order to comply with Securities Laws, promptly prepare and, subject to Section 9.1(f), file with the Qualifying Authorities such Supplementary Material as may be necessary in the judgment of the Issuer (and the Issuer's counsel), acting reasonably, to remedy the deficiency occasioned by the change or occurrence or to otherwise comply with Securities Laws;
- (f) throughout any period during which a Placement Notice is pending or effective:
  - (i) give the Agent notice of its intention to file or prepare any Supplementary Material;
  - (ii) furnish the Agent with a copy of the Supplementary Material within a reasonable amount of time prior to the proposed filing of same;
  - (iii) unless the Supplementary Material is required to be filed pursuant to the Issuer's continuous disclosure requirements under Securities Laws (which includes those types of documents incorporated by reference or deemed to be incorporated by reference in the Base Shelf Prospectus or Prospectus Supplement), not file or use any Supplementary Material to which the Agent or counsel to the Agent reasonably objects; and
  - (iv) promptly advise the Agent of the filing of (and, if applicable, granting of a receipt for) the Supplementary Material, and furnish the Agent with true and complete copies thereof;

- (g) promptly furnish to the Agent copies of any statements, reports, circulars or other records or communications (including any such materials that constitute Supplementary Material) that: (i) the Issuer sends to its securityholders or may from time to time publish or publicly disseminate; and (ii) are not available to the public on the SEDAR website at [www.sedar.com](http://www.sedar.com);
- (h) allow the Agent and its representatives to conduct all “due diligence” inquiries and investigations that the Agent may reasonably require, and to obtain satisfactory responses and results therefrom, in order for the Agent to fulfill its obligations as an “underwriter” within the meaning of Securities Laws and to enable the Agent to responsibly sign any certificate required to be signed by the Agent in the Prospectus Supplement;
- (i) without limiting the generality of Section 9.1(h) or the scope of the inquiries and investigations that the Agent may conduct for the purposes set forth therein, from time to time during the term hereof in connection with the sale of Offered Shares hereunder:
  - (i) provide or arrange for reasonable access by the Agent and its representatives to the management personnel, properties and records of the Issuer (including the Subsidiaries) for the purposes of viewing, interviewing or reviewing the same; and
  - (ii) make available such of its senior officers and audit committee representatives as the Agent may reasonably request, and use its commercially reasonable efforts to make available representatives of the Auditors, and the auditors of any Acquired Business Financial Statements included or incorporated by reference in the Prospectus, to answer any questions the Agent may have and to participate in one or more due diligence sessions, provided that if less than three months have elapsed since the last due diligence session, such due diligence session shall be in the nature of a “bring down” due diligence session, unless, in the sole judgment of the Agent, acting reasonably, a “full” due diligence session is required to answer the questions that the Agent has.
- (j) comply with all Securities Laws so as to permit Placements as contemplated in this Agreement and the Prospectus Supplement;
- (k) throughout any period during which a Placement Notice is pending or effective, not take, directly or indirectly, any action designed to cause or result in, or that has constituted or might reasonably be expected to constitute, the stabilization, maintenance or manipulation of the price of the Common Shares;
- (l) file or deliver, within the time limits prescribed by and otherwise in accordance with Securities Laws, all statements, reports, circulars or other records required to be filed or delivered by the Issuer with or to any of the Qualifying Authorities pursuant to Securities Laws;

- (m) throughout any period during which a Placement Notice is pending or effective (and not suspended) and prior to the delivery of a new Placement Notice or a suspended Placement Notice ceasing to be suspended, promptly inform the Agent of: (i) any request by a Qualifying Authority or any other Governmental Authority for any Supplementary Material or any revision to any record forming part of the Public Record or for any additional information concerning this Agreement or the transactions contemplated hereby; (ii) the issuance by any Qualifying Authority or other Governmental Authority of any order, ruling or direction to cease, suspend or otherwise restrict the trading of the Common Shares or any other securities of the Issuer, or preventing, suspending or otherwise restricting the use of the Prospectus or any other prospectus or qualifying document relating to the distribution of the Offered Shares, or suspending the qualification of such Offered Shares for offering, distribution or resale in any jurisdiction, or of the initiation or, to the Best of the Issuer's Knowledge, threat of any proceeding for any such purpose; and (iii) the receipt of any communication from any Qualifying Authority or other Governmental Authority relating to the Prospectus, the Public Record or the distribution of the Offered Shares;
- (n) in the event of the issuance of any order, ruling or direction contemplated in paragraph (m) above, promptly use its commercially reasonable efforts to obtain the termination or withdrawal of such order, ruling or direction;
- (o) not purchase Common Shares, and not permit any of its affiliates or any Person acting on its behalf to purchase Common Shares, under a normal course issuer bid throughout (i) any period during which a Placement Notice is pending or effective, and (ii) during the period beginning on the second Business Day immediately prior to the date on which any Placement Notice is delivered to the Agent hereunder and ending on the second Business Day immediately following the final Settlement Date with respect to the Offered Shares sold pursuant to such Placement Notice, without having first agreed with the Agent, acting reasonably, as to the appropriate adjustments, if any, to be made to the parameters set forth in such Placement Notice;
- (p) apply the Net Proceeds from the sale of the Offered Shares as set forth in the Prospectus Supplement under the heading "Use of Proceeds";
- (q) comply with the terms and conditions of its listing agreement with the CSE and any other applicable Marketplace and maintain the listing of the Common Shares in good standing on the CSE and such other Marketplace or Marketplaces;
- (r) maintain a transfer agent for the Common Shares in accordance with the rules of the CSE and any other Marketplace on which the Common Shares are listed or quoted;
- (s) comply with the representations, terms and conditions of the French Translation Exemption that are applicable to the Issuer;



- (t) not engage in, and not permit any of its affiliates or any Person acting on its behalf to engage in any Directed Selling Efforts or in any form of General Solicitation or General Advertising in the United States with respect to the Offered Shares; and
- (u) use its commercially reasonable efforts to ensure that the terms of any underwriting agreement, agency agreement or similar agreement relating to the distribution or sale of the securities of the Issuer that is executed after the date of this Agreement does not limit or restrict the Issuer's ability to issue or sell Placement Shares in accordance with the terms of this Agreement.

9.2 Initial Opinions and Comfort Letters. The Issuer shall deliver, or cause to be delivered, to the Agent, on the Filing Date, the following documents:

- (a) written opinions, addressed and in form and substance satisfactory to the Agent and the Agent's counsel, from the Issuer's Counsel (or such other counsel, including local counsel as to matters involving the application of laws of jurisdictions other than those jurisdictions for which Issuer's Counsel is qualified to practice law, determined by the Issuer and acceptable to the Agent, acting reasonably) concerning the matters set forth in Schedule E and as to such legal matters, including compliance with Securities Laws in any way connected with the issuance, sale and delivery of the Offered Shares, as the Agent may reasonably request, it being understood that in rendering such opinion Issuer's Counsel may rely on, as to relevant matters of fact, certificates of officers of the Issuer, public officials and agencies, and the Issuer's registrar and transfer agent;
- (b) a "comfort letter" from the Auditors (the "**Initial Issuer Comfort Letter**"), having a cut-off date of not more than two Business Days prior to the Filing Date, in form and substance satisfactory to the Agent and the Agent's counsel, acting reasonably:
  - (i) confirming that at all material times they were independent of the Issuer within the meaning of Securities Laws; and
  - (ii) expressing, as of such date, the conclusions and findings of the Auditors with respect to the financial information and other matters ordinarily covered by accountants' "comfort letters" to underwriters in connection with public offerings to the effect that the Auditors have carried out certain procedures performed for the purposes of comparing certain specified financial information and percentages appearing in the Prospectus (including, for greater certainty, the documents incorporated by reference therein) with indicated amounts in the financial statements or accounting records of the Issuer, and have found such information and percentages to be in agreement;
- (c) if Acquired Business Financial Statements are included or incorporated by reference in the Prospectus, a "comfort letter" (the "**Initial Acquisition Comfort Letter**") from the auditors of the Acquired Business Financial Statements, having

a cut-off date of not more than two Business Days prior to the Filing Date, in form and substance satisfactory to the Agent and the Agent's counsel, acting reasonably:

- (i) confirming that at all material times they were independent of the Acquired Business within the meaning of Securities Laws; and
- (ii) expressing, as of such date, the conclusions and findings of such auditors with respect to the financial information and other matters ordinarily covered by accountants' "comfort letters" to underwriters in connection with public offerings to the effect that such auditors have carried out certain procedures performed for the purposes of comparing certain specified financial information and percentages appearing in the Prospectus (including, for greater certainty, the documents incorporated by reference therein) with indicated amounts in the financial statements or accounting records of the Acquired Business, and have found such information and percentages to be in agreement.

9.3 Bringdown Certificates. Without limiting Section 4.7, during the term of this Agreement, each time the Issuer files:

- (a) an amendment (including an amendment that does not fully restate the original text and an amendment and restatement) to the Base Shelf Prospectus;
- (b) Acquired Business Financial Statements;
- (c) audited annual financial statements (or any amendment thereto or an amended, re-filed or amended and restated form thereof); and
- (d) interim financial statements (or any amendment thereto or an amended, re-filed or amended and restated form thereof);

(each date of filing of one or more of the documents referred to in paragraphs (a) through (d) above being a "**Representation Date**"), the Issuer shall deliver to the Agent certificates, in the form attached hereto as Schedule D (the "**Bringdown Certificates**") provided, however, that the requirement to provide the certificates under this Section 9.3 shall be deemed to be waived for any Representation Date occurring at a time at which no Placement Notice is pending or effective (including where a Placement Notice is suspended), which waiver shall continue until the earlier to occur of the date the Issuer delivers a Placement Notice hereunder or the suspension of a Placement Notice ceases (which for such calendar quarter shall be considered to be a Representation Date) and the next occurring Representation Date.

9.4 Bringdown Opinions. Upon the execution of this Agreement and within three Trading Days after each Representation Date with respect to which the Issuer is obligated to deliver the Bringdown Certificates for which no waiver is applicable, the Issuer will furnish or cause to be furnished to the Agent and to counsel to the Agent, the written opinions of the Issuer's Counsel and other local counsel as required, such opinions to be

substantially similar to the form attached hereto as Schedule E, or, in lieu of such opinion, counsel last furnishing such opinion to the Agent may furnish the Agent with a letter to the effect that the Agent may rely on such last opinion to the same extent as though it was dated the date of such letter authorizing reliance (except that statements in such last opinion shall be deemed to relate to the Prospectus as amended and supplemented to the time of delivery of such letter authorizing reliance).

- 9.5 Further Comfort Letters. Within five Trading Days after each Representation Date with respect to which the Issuer is obligated to deliver the Bringdown Certificates and for which no waiver is applicable pursuant to Section 9.3, the Issuer shall cause to be delivered to the Agent a “comfort letter” dated as of the Representation Date from the Auditors and, if applicable, the auditors of each Acquired Business Financial Statements which are included or incorporated by reference in the Prospectus as at the Representation Date, having a cut-off date of not more than two Business Days prior to such date, in form and substance satisfactory to the Agent and the Agent’s counsel, acting reasonably:
- (a) confirming that at all material times they were independent of the Issuer or the Acquired Business, as applicable, within the meaning of Securities Laws; and
  - (b) with respect to financial information concerning:
    - (i) the Issuer, other than in respect of Acquired Business Financial Statements, updating the Initial Issuer Comfort Letter with any information that would have been included in the Initial Issuer Comfort Letter had such initial letter been given as of such Representation Date and modified as necessary to contemplate any Supplementary Material (other than any Supplementary Material superseded by a subsequently filed document);
    - (ii) an Acquired Business for which an Initial Acquisition Comfort Letter was previously delivered hereunder, updating the Initial Acquisition Comfort Letter with any information that would have been included in the Initial Acquisition Comfort Letter had such initial letter been given as of such Representation Date and modified as necessary to contemplate any Supplementary Material; and
    - (iii) an Acquired Business for which an Initial Acquisition Comfort Letter was not previously delivered hereunder, expressing, as of such Representation Date, the conclusions and findings of such audit firm with respect to the financial information and other matters ordinarily covered by accountants’ “comfort letters” to underwriters in connection with public offerings to the effect that such auditors have carried out certain procedures performed for the purposes of comparing certain specified financial information and percentages appearing in the Prospectus (including, for greater certainty, the documents incorporated by reference therein) with indicated amounts in the financial statements or accounting records of the Acquired Business, and have found such information and percentages to be in agreement.

- 9.6 Time of Further Deliveries. Notwithstanding Sections 9.3 and 9.4, if the Issuer decides to complete a Placement following a Representation Date in respect of which the waiver provided in Section 9.3 applied, then, prior to or concurrently with delivering the Placement Notice to the Agent or an existing Placement Notice ceasing to be suspended, the Issuer shall deliver or cause to be delivered to the Agent, as applicable, the Bringdown Certificates contemplated in Section 9.3, any opinions as contemplated in Section 9.4 and “comfort letters” as contemplated in Section 9.5, in each case dated as of the date of the Placement Notice or the date the existing Placement Notice ceases to be suspended and otherwise substituting the date of the Placement Notice or the date the existing Placement Notice ceases to be suspended for the “Representation Date” as that term is used in Section 9.3.

## **10. EXPENSES**

- 10.1 The Issuer agrees, whether or not the transactions contemplated hereunder are consummated or this Agreement is terminated in accordance with Section 13, to pay and be responsible for all expenses of or incidental to the performance of its obligations hereunder, including, but not limited to, expenses relating to:
- (a) the preparation, filing and delivery of the Prospectus (including any Supplementary Material), including any filing fees payable to Qualifying Authorities or any other Governmental Authorities;
  - (b) the preparation, issuance and delivery of the Offered Shares;
  - (c) the printing and delivery of any documents required hereunder to be delivered to or as directed by the Agent;
  - (d) the fees, disbursements and expenses of the Issuer’s Counsel and of the Issuer’s registrar and transfer agent, Auditors (including any auditors of any Acquired Business Financial Statements) and other advisors;
  - (e) the reasonable fees, disbursements and expenses of counsel to the Agent up to a maximum of \$40,000 (plus disbursements and taxes) and all other reasonable out-of-pocket expenses of the Agent, excluding expenses of counsel to the Agent, in relation to the Agreement and to the matters and transactions contemplated by the Agreement; and
  - (f) the fees and expenses incurred in connection with the listing of the Offered Shares for trading on the CSE and any other Marketplace on which the Common Shares are listed or quoted.

## **11. CONDITIONS TO AGENT’S OBLIGATIONS**

- 11.1 The obligations of the Agent hereunder with respect to any sale of Placement Shares (other than the obligations in Section 2.3) shall be subject to the completion by the Agent of a due diligence review satisfactory to the Agent in its sole and reasonable judgment,

and to the continuing satisfaction (or waiver by the Agent, in its sole and unfettered discretion) of the following additional conditions:

- (a) the Prospectus Supplement shall have been filed with the Qualifying Authorities under the Shelf Procedures and the Passport Procedures within the applicable time period prescribed for such filing and in accordance with Section 9.1(b) hereof and all requests for additional information on the part of the Qualifying Authorities shall have been complied with to the satisfaction of the Agent and the Agent's counsel, acting reasonably;
- (b) no Supplementary Material (other than documents incorporated by reference and required to be filed pursuant to NI 51-102) shall have been filed to which the Agent, acting reasonably, objects;
- (c) at the Placement Time and at the Settlement Date for such Placement Shares, no order, ruling or direction of any Qualifying Authority or other Governmental Authority shall have been issued that has the effect of:
  - (i) ceasing, suspending or otherwise restricting the trading of such Placement Shares or any other securities of the Issuer, or
  - (ii) preventing, suspending or otherwise restricting the use of the Prospectus or any other prospectus or qualifying document relating to the distribution of such Placement Shares, or
  - (iii) suspending the qualification of such Placement Shares for offering, distribution or resale in any jurisdiction,and no proceedings for any such purpose shall have been initiated, announced or threatened;
- (d) all representations and warranties of the Issuer contained herein and in any certificates delivered pursuant hereto shall be true and correct, with the same force and effect as if then made, except to the extent that any such representation or warranty is limited to a specified date, and the Issuer shall have complied with all agreements and all conditions on its part theretofore to be performed or satisfied hereunder;
- (e) the Agent shall have received all documents required to be delivered or furnished to the Agent pursuant to Section 9, in each case on or before the date on which delivery of such document is required pursuant to this Agreement;
- (f) the Offered Shares shall have been conditionally approved for listing on the CSE, and the Agent shall have received evidence of the same in form and substance satisfactory to the Agent, acting reasonably;
- (g) the Issuer shall have delivered or caused to be delivered to the Agent and the Agent's counsel such other certificates or other documents as they may reasonably request for the purpose of enabling them to pass upon the issuance and

sale of the Placement Shares as herein contemplated, or in order to evidence or confirm: (i) the accuracy of any of the representations or warranties contained herein; (ii) the fulfillment of any of the conditions contained herein; or (iii) the accuracy and completeness of any information contained in the Prospectus;

- (h) the French Translation Exemption shall remain in full force and effect, without amendment adverse to the Issuer or the Agent; and
- (i) there shall not have occurred any event, matter or circumstance that would permit the Agent to terminate this Agreement pursuant to Section 13.1.

## **12. INDEMNIFICATION AND CONTRIBUTION**

The Parties acknowledge the provisions concerning indemnification and contribution set forth in Schedule F, which forms an integral part of this Agreement, and agree to the matters set forth therein.

## **13. TERMINATION**

13.1 In addition to any other remedies that may be available to the Agent, the Agent shall be entitled, at its option and at any time, on notice to the Issuer as provided in Section 14, without liability on its part, to terminate and cancel its participation in this Agreement and its obligations hereunder if:

- (a) there has occurred a Material Adverse Effect, or any event, matter, circumstance, development or change in fact or law has arisen, occurred or come into effect or existence that, in the opinion of the Agent, has had or may reasonably be expected to have a Material Adverse Effect;
- (b) the Issuer shall be in breach of, default under or non-compliance with any material covenant, agreement, representation, warranty, term or condition contained in this Agreement or in any certificate or document delivered pursuant hereto;
- (c) any condition to the Agent's obligations hereunder is not fulfilled in any material respect;
- (d) the Agent is not satisfied, in its sole discretion, acting reasonably, with the results of its "due diligence" review as contemplated herein;
- (e) there shall be announced or there shall develop, occur or come into effect or existence any: (i) event, action, state, condition or major financial occurrence of national or international consequence; (ii) outbreak or escalation of hostilities, declaration by the United States or Canada of a national emergency or war, or other calamity or crisis; (iii) change or development involving a prospective change in national or international political, financial or economic conditions; or (iv) governmental action or law, regulation or policy of a Governmental Authority, the effect of which on financial markets in any such case makes it, in

the sole judgment of the Agent, acting reasonably, impractical or inadvisable to proceed with the offering, sale or delivery of the Placement Shares;

- (f) any inquiry, investigation, legal action or other proceeding (whether formal or informal) by or before a Governmental Authority in respect of the Issuer (including the Subsidiaries and the JV Entities) shall have commenced or been announced or threatened, or any order, ruling or direction of a Governmental Authority shall have been issued, which make it, in the sole judgment of the Agent, acting reasonably, impractical or inadvisable to proceed with the offering, sale or delivery of the Placement Shares; or
- (g) any suspension or limitation of trading in the Common Shares or in securities generally on the CSE or any other Marketplace on which the Common Shares are listed at the time, or in respect of the settlement or clearance thereof, shall have occurred.

13.2 In addition to any other remedies that may be available to the Issuer, the Issuer shall be entitled, at its option and at any time, on notice to the Agent as provided in Section 14, without liability on its part, to terminate and cancel its participation in this Agreement and its obligations hereunder if the Agent shall be in breach of, default under or non-compliance with any material covenant, agreement, representation, warranty, term or condition contained in this Agreement or in any certificate or document delivered pursuant hereto.

13.3 The Issuer, on the one hand, and the Agent, on the other hand, shall have the right, by giving 15 days prior written notice to the other Party, to terminate this Agreement at any time in its sole discretion.

13.4 Any termination pursuant to Section 13.1, Section 13.2 or Section 13.3 shall be:

- (a) effective at the close of business on the later of: (i) the date of receipt by the non-terminating Party of the notice of termination or, in the case of Section 13.3, the 15th day following receipt of any notice of termination; and (ii) the Settlement Date for any sale of Placement Shares made before the date of receipt of notice of termination that has not settled (in which case, for greater certainty, such sale of Placement Shares shall settle in accordance with the provisions of this Agreement); and
- (b) without liability of any Party to any other Party,

provided that no termination of this Agreement shall relieve any Party from liability for any breach by it of this Agreement that has occurred prior to the date of termination.

13.5 Unless earlier terminated pursuant to Section 13.1, Section 13.2 or Section 13.3 or otherwise by mutual agreement of the Parties, this Agreement shall automatically terminate upon the earlier of the date on which:

- (a) the issuance and sale of all of the Offered Shares through the Agent on the terms and conditions set forth herein is completed; and

(b) the receipt issued for the Base Shelf Prospectus ceases to be effective in accordance with Securities Laws.

13.6 Notwithstanding any other provision hereof, and despite anything to the contrary contained herein (express or implied), the provisions of Section 8, Section 10, Section 12, Section 14, Section 16 and this Section 13.6 shall remain in full force and effect notwithstanding termination of this Agreement, and any mutual agreement to terminate shall be deemed to so provide.

## 14. NOTICES

14.1 Unless otherwise provided herein, all notices or other communications required or permitted to be given by either Party to the other Party pursuant hereto shall be in writing and personally delivered or transmitted by electronic mail addressed to the recipient as follows:

If to the Issuer, to:

Perk Labs Inc.  
555 Burrard Street, Suite 1755  
Vancouver, British Columbia, Canada  
V7X 1M9

Attention: Jonathan Hoyles, Chief Executive Officer  
Electronic Mail: [Redacted]

and with a copy to Issuer's Counsel:

Borden Ladner Gervais LLP  
Waterfront Centre, 200 Burrard Street, Suite 1200  
Vancouver, BC V7X 1T2

Attention: Salvador Pimentel  
Electronic Mail: [Redacted]

If to the Agent, to:

Echelon Wealth Partners Inc.  
1 Adelaide St. East, Suite 2100  
Toronto, ON M5C 2V9

Attention: Christine Young, Managing Director, Head of Origination  
Electronic Mail: [Redacted]



with a copy to the Agent's counsel:

Goodmans LLP  
333 Bay Street, Suite 3400  
Toronto, ON M5H 2S7

Attention: Stephen Pincus / David Coll-Black  
Electronic Mail: [Redacted] / [Redacted]

or to such other address for delivery, facsimile number or electronic mail address as a Party may otherwise designate by giving notice to the other Party as provided herein.

- 14.2 Any such notice or other communication delivered personally in accordance with Section 14.1 shall be deemed to have been given and received by the addressee: (i) when actually delivered, if so delivered during the addressee's normal business hours on any Business Day; or (ii) at the commencement of the first Business Day following the actual time of delivery, if not so delivered on a Business Day or during the addressee's normal business hours.
- 14.3 Any such notice or other communication transmitted by facsimile or electronic mail in accordance with Section 14.1 shall be deemed to have been given and received by the addressee: (i) when transmitted by the transmitting Party, if so transmitted during the addressee's normal business hours on any Business Day; or (ii) at the commencement of the first Business Day following the time of transmission, if not so transmitted on a Business Day or during the addressee's normal business hours provided, however, that, in the case of a transmission by electronic mail, the addressee shall have confirmed receipt by return electronic mail transmission, which the Parties hereto agree to do so as soon as is reasonably practicable upon receipt of any notice or other communication by electronic mail.

## **15. SUCCESSORS AND ASSIGNS**

- 15.1 This Agreement shall enure to the benefit of and be binding upon the Issuer and the Agent and their respective successors and permitted assigns, and with respect to rights of indemnity and contribution as provided in Schedule F, the Indemnified Parties contemplated therein.
- 15.2 References herein to any of the Parties named in this Agreement shall be deemed to include the successors and permitted assigns of such Party.
- 15.3 Except as expressly provided in Schedule F, nothing in this Agreement (express or implied) is intended to confer upon any Person other than the Parties and their respective successors and permitted assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement.
- 15.4 No Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party.

**16. GOVERNING LAW, ETC.**

- 16.1 This Agreement shall be governed by, and construed in accordance with, the laws of the Province of British Columbia applicable to contracts made and to be performed within the Province of British Columbia.
- 16.2 For the purpose of all legal proceedings, this Agreement shall be deemed to have been performed in the Province of British Columbia and the courts of the Province of British Columbia shall have jurisdiction to entertain any action arising hereunder. Each Party hereby irrevocably submits to the exclusive jurisdiction of the courts of the Province of British Columbia for the adjudication of any dispute arising hereunder or in connection herewith or with any transaction contemplated hereby, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper.
- 16.3 Each Party hereby irrevocably waives any right it may have to a trial by jury in respect of any claim based upon or arising out of this Agreement or any transaction contemplated hereby.

**17. ADJUSTMENTS FOR STOCK SPLITS**

- 17.1 The Parties acknowledge and agree that all share related numbers contained in this Agreement shall be adjusted to take into account any stock split, stock dividend or similar event effected with respect to the Offered Shares.

**18. RELATIONSHIP BETWEEN THE PARTIES**

- 18.1 The Issuer acknowledges and agrees that, subject to Section 2.2:
- (a) the Agent has been retained solely to act as underwriter (as that term is defined in the BCSA), as agent and not as principal, in connection with the sale of the Offered Shares, and that no fiduciary relationship between the Issuer and the Agent has been created in respect of any of the transactions contemplated by this Agreement, irrespective of whether the Agent has advised or is advising the Issuer on other matters;
  - (b) the Issuer is capable of evaluating and understanding and does understand and accept the terms, risks and conditions of the transactions contemplated by this Agreement;
  - (c) the Issuer has been advised that the Agent and its affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Issuer, and that the Agent has no obligation to disclose such interests and transactions to the Issuer by virtue of any fiduciary relationship; and
  - (d) it waives, to the fullest extent permitted by law, any claims it may have against the Agent for breach of fiduciary duty or alleged breach of fiduciary duty, and

agrees that the Agent shall not have liability (whether direct or indirect) to it in respect of any such claim or to any Person asserting a fiduciary duty claim on behalf of or in right of the Issuer, including securityholders, employees or creditors of the Issuer.

- 18.2 This Agreement is not intended to create, and shall not be construed or deemed to create, a partnership or joint venture between the Parties.

## **19. FORCE MAJEURE**

- 19.1 No Party shall be liable to any of the others, or held in breach of this Agreement, if prevented, hindered or delayed in the performance or observance of any provision contained herein by reason of an act of a Force Majeure. Performance times under this Agreement shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section 19.

- 19.2 For the purposes of this Agreement, “**Force Majeure**” shall mean an event, condition or circumstance (and the effect thereof including mechanical, electronic or communication interruptions, disruptions or failures resulting from any of the foregoing) that is not within the reasonable control of the Party claiming a Force Majeure and which, notwithstanding the exercise of commercially reasonable efforts to prevent such event, condition or circumstance or mitigate the effect thereof (which each Party hereby covenants to exercise), the Party claiming a Force Majeure is unable to prevent or mitigate the effect thereof, and which thus causes a delay or disruption in the performance of any obligation imposed on such Party hereunder. Subject to the foregoing, such events of Force Majeure shall include strikes, lock-outs, work stoppages, work slow-downs, industrial disturbances, storms, fires, floods, landslides, snowslides, earthquakes, explosions, lightning, tempest, accidents, epidemics, acts of war (whether declared or undeclared), threats of war, actions of terrorists, blockades, riots, insurrections, civil commotions, public demonstrations, revolution, sabotage or vandalism, acts of God, any laws, rules, regulations, orders, directives, restraints or other actions issued, imposed or taken by any Governmental Authority following the execution and delivery of this Agreement, and inability to obtain, maintain or renew or delay in obtaining, maintaining or renewing necessary permits or approvals (after using reasonable commercial efforts to do so) following the execution and delivery of this Agreement, or any cause similar to any of the foregoing provided, however, that a Party’s own lack of funds or other financial problems shall in no event constitute Force Majeure in respect of such Party. For greater certainty, matters caused by, related to or resulting from the COVID-19 pandemic, or the escalation thereof, to the extent that there is any material adverse development related thereto, shall constitute a Force Majeure.

## **20. GENERAL**

- 20.1 Except as required by law or the rules of the CSE (which the Parties acknowledge will, among other things, require this Agreement to be filed on SEDAR and a press release regarding this Agreement), no public announcement or press release concerning this Agreement or the subject matter hereof may be made by a Party without the prior consent

- and approval of the other Party, which consent and approval shall not be unreasonably withheld.
- 20.2 This Agreement (including all schedules attached hereto), any Placement Notices issued pursuant hereto and any Settlement Procedures agreed to by the Parties constitutes the entire agreement between the Parties concerning the subject matter hereof, and supersedes all other prior and contemporaneous agreements, understandings, negotiations and undertakings (both written and oral) between the Parties concerning the subject matter hereof.
- 20.3 No amendment to this Agreement shall be valid or binding unless set forth in writing and executed by the Parties. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.
- 20.4 If any one or more of the provisions hereof, or the application thereof in any circumstance, is held invalid, illegal or unenforceable as determined by a court of competent jurisdiction, then such provision shall be given full force and effect to the fullest possible extent that it is valid, legal and enforceable, and the remainder of the provisions hereof shall be construed as if such invalid, illegal or unenforceable provision was not and had never been contained herein, but only to the extent that giving effect to such provision and the remainder of the terms and provisions hereof shall be in accordance with the intent of the Parties as reflected in this Agreement.
- 20.5 Without limiting Section 20.4, if one or more of the provisions hereof conflicts with any legal or regulatory requirement to which this Agreement and the relationship of the Parties hereunder are properly subject, then such legal or regulatory requirement shall prevail and the Parties shall forthwith meet and negotiate in good faith the manner in which this Agreement shall be deemed to be amended to the extent required to eliminate any such conflict.
- 20.6 If, prior to August [15], 2022, the Issuer requires additional Financial Services, the Issuer will offer to engage the Agent as lead manager, lead underwriter or lead agent and sole book-runner (as applicable) in connection with such Financial Services, which right will supersede and replace any and all rights of first refusal granted to the Agent prior to the date of this Agreement. The terms and conditions relating to any such Financial Services will be outlined in a separate engagement letter, underwriting agreement, agency agreement or other agreement as applicable and the fees for such services will be in addition to the fees payable under this Agreement. The fees for such Financial Services will be negotiated separately and in good faith and be consistent with fees paid to investment dealers in Canada for similar services in comparable situations. If the Agent does not accept the terms and conditions contained in the Issuer's offer, the Issuer may engage any other Person, provided that the terms and conditions of any such engagement shall be no more favourable to such other Person as the terms and conditions offered by the Issuer to the Agent.
- 20.7 The rights and remedies of the Parties hereunder are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity or

otherwise. No single or partial exercise by a Party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that Party shall be entitled.

- 20.8 Each Party shall from time to time execute and deliver all such further documents and instruments and do all acts and things as the other Party may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.
- 20.9 Time shall be of the essence of this Agreement.
- 20.10 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed Agreement by one Party to the other may be made by electronic transmission.

[Remainder of page intentionally left blank]

If the foregoing correctly sets forth the understanding between the Issuer and the Agent, please confirm your acceptance and agreement by executing a copy of this letter in the space provided below for that purpose and delivering the same to the Agent, whereupon this letter shall constitute a binding agreement between the Issuer and the Agent.

Yours truly,

**ECHELON WEALTH PARTNERS INC.**

By: “Christine Young”

Name: Christine Young

Title: Managing Director, Head of  
Origination

THE FOREGOING IS ACCEPTED AND AGREED as of the date first above written.

**PERK LABS INC.**

By: “Jonathan Hoyles”

Name: Jonathan Hoyles

Title: Chief Executive Officer

## SCHEDULE A

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### DESIGNATED REPRESENTATIVES AND AUTHORIZED REPRESENTATIVES

The Designated Representatives and Authorized Representatives of the Issuer are as follows:

<b>Name and Office/Title</b>	<b>Email Address</b>	<b>Telephone Number</b>
<b>Jonathan Hoyles</b> Chief Executive Officer	[Redacted]	[Redacted]
<b>Norman Tan</b> Chief Financial Officer	[Redacted]	[Redacted]

The Designated Representatives and Authorized Representatives of the Agent are as follows:

<b>Name and Office/Title</b>	<b>Email Address</b>	<b>Telephone Number</b>
<b>Beth Shaw</b> Head of Equity, Capital Markets	[Redacted]	[Redacted]
<b>Christine Young</b> Managing Director, Head of Origination	[Redacted]	[Redacted]
<b>Steven Sirbovan</b> Vice President, Investment Banking	[Redacted]	[Redacted]

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**SCHEDULE B**

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**FORM OF PLACEMENT NOTICE**

FROM: Perk Labs Inc. – [Name / Title of Authorized Representative]  
TO: Echelon Wealth Partners - [Name / Title of Authorized Representative(s)]  
DATE: \_\_\_\_\_  
SUBJECT: Placement Notice No. \_\_\_\_\_

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Reference is made herein to the Equity Distribution Agreement dated February 17, 2021 (the “**Equity Distribution Agreement**”) between the Issuer and the Agent. Unless otherwise defined herein, all capitalized terms referred to in this Placement Notice shall have the meanings attributed to them in the Equity Distribution Agreement.

**Trading Instructions**

Pursuant to the terms and subject to the conditions contained in the Equity Distribution Agreement, the undersigned hereby requests, as a duly appointed Authorized Representative of the Issuer, that the Agent sell Placement Shares, as agent of the Issuer, in accordance with the following trading instructions (if any of the following trading instructions are not applicable, specify “N/A”):

Maximum number of Placement Shares to be sold (A) \_\_\_\_\_

Total number of Common Shares outstanding on the date of this Placement Notice (B) \_\_\_\_\_

Maximum number of Placement Shares to be sold expressed as a percentage of the total number of Common Shares outstanding on the date of this Placement Notice ( $A \div B \times 100$ ) \_\_\_\_\_

Minimum market price per Placement Share to be sold \_\_\_\_\_

Maximum number of Placement Shares that may be sold on any one Trading Day \_\_\_\_\_

First permitted Trading Day of trading \_\_\_\_\_

Last permitted Trading Day of trading \_\_\_\_\_

Specific dates on which Placement Shares may not be sold: \_\_\_\_\_

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Other trading instructions:

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### **Other Terms Applicable to this Placement Notice**

Upon receiving this Placement Notice, an Authorized Representative of the Agent will acknowledge receipt hereof by notifying the Designated Representatives of the Issuer via electronic mail. For all purposes hereof, the Agent will be deemed not to have received this Placement Notice unless receipt hereof shall have been so acknowledged by an Authorized Representative of the Agent.

This Placement Notice is effective upon receipt by the Agent until the earlier of: (i) the Agent advising the Issuer, by electronic mail addressed and sent to the Designated Representatives of the Issuer, that it declines to accept the terms of sale set forth in this Placement Notice; (ii) the entire amount of the Placement Shares specified herein having been sold and all such sales having settled in accordance with the terms and conditions of the Equity Distribution Agreement; (iii) the Issuer or the Agent suspending the sale (or further sale, as applicable) of the Placement Shares in accordance with Section 6 of the Equity Distribution Agreement; (iv) the Agent receiving from the Issuer a subsequent Placement Notice with parameters that expressly supersede those contained in this Placement Notice; or (v) the Equity Distribution Agreement being terminated pursuant to Section 13 of the Equity Distribution Agreement.

This Placement Notice shall not contain any parameters that conflict with the provisions of the Equity Distribution Agreement or that subject or purport to impose upon or subject the Agent to any obligations in addition to the Agent's obligations contained in the Equity Distribution Agreement. In the event of a conflict between the terms of the Equity Distribution Agreement and the terms of this Placement Notice with respect to an issuance and sale of Placement Shares, the terms of the Equity Distribution Agreement shall prevail.

The Issuer covenants and agrees that the delivery of this Placement Notice by or on behalf of the Issuer to the Agent shall be deemed to be an affirmation that: (i) the representations and warranties made by the Issuer in the Equity Distribution Agreement and in any certificates provided pursuant thereto are true and correct as at the time this Placement Notice is issued, except only to the extent that any such representation and warranty is, by its express terms, limited to a specific date, or as expressly disclosed in an appendix to this Placement Notice; and (ii) the Issuer has complied with all covenants and agreements to be performed, and satisfied all conditions to be satisfied, by or on the part of the Issuer under the Equity Distribution Agreement at or prior to the time this Placement Notice is issued.

[Remainder of page intentionally blank]

**PERK LABS INC.**

Per:

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Name of Authorized Representative  
(Please Print)

\_\_\_\_\_  
Title of Authorized Representative

\_\_\_\_\_  
E-mail Address of Authorized  
Representative (Please Print)

\_\_\_\_\_  
Direct Office Telephone Number (and  
Extension, if applicable)

\_\_\_\_\_  
Telephone Number (Cell)

## SCHEDULE C

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### REPRESENTATIONS AND WARRANTIES

The Issuer represents and warrants to, and covenants with, the Agent (and acknowledges that the Agent is relying on such representations, warranties and covenants) as follows:

- (a) **Good Standing of the Issuer.** The Issuer: (i) is a corporation existing under the laws of British Columbia and is and will at the Filing Date be current and up-to-date with all material filings required to be made and in good standing under the *Business Corporations Act* (British Columbia); (ii) has all requisite corporate power and capacity to own, lease and operate its properties and assets and to conduct its business as now carried on by it or proposed to be carried on by it as described in the Prospectus; and (iii) has all requisite corporate power and authority to issue and sell the Offered Shares, and to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby. The Issuer had the necessary corporate power and authority to execute and deliver the Base Shelf Prospectus and has the necessary corporate power and authority to execute and deliver the Prospectus Supplement and, if applicable, will have the necessary corporate power and authority to execute and deliver any amendment to the Prospectus prior to the filing thereof, and all necessary corporate action has been taken by the Issuer to authorize the execution and delivery by it of each of the Base Shelf Prospectus and Prospectus Supplement and the filing thereof, as the case may be, in each of the Qualifying Jurisdictions under the Securities Laws.
- (b) **Good Standing of Subsidiaries and JV Entities.** Each of the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, is a validly subsisting corporation governed under the laws of British Columbia except for Perk Hero USA Inc., which is a validly subsisting corporation governed under the laws of the U.S. state of Nevada, and each of the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, has all requisite capacity, power and authority to conduct its activities as currently conducted. Each of the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, is current and up-to-date with all material filings required to be made and has all requisite corporate power and capacity to own, lease and operate its properties and assets, and to conduct its business as is now carried on by it or proposed to be carried on by it as described in the Prospectus, and is duly qualified to transact business and is in good standing in each jurisdiction in which such qualification is required. All of the issued and outstanding shares in the capital of each of the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, have been duly authorized and validly issued, are fully paid and are directly or indirectly owned by the Issuer free and clear of any liens, and none of the outstanding securities of the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, were issued in violation of a pre-emptive or similar right of any security holder of any Subsidiary or JV Entities. There exists no options, warrants, purchase rights, or other contracts or commitments that could require the Issuer to sell, transfer or otherwise dispose of any securities of the Subsidiaries or JV Entities. Each of the

Issuer and the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, is current with all filings required to be made by it under all jurisdictions in which it exists or carries on any business or activities and has all necessary certificates, licences, authorizations and other approvals necessary to permit it to conduct its proposed business and activities, except where the failure to make any filing or obtain any certificate, licence, authorization or other approval would not individually or in the aggregate have a Material Adverse Effect, and all such certificates, licences, authorizations and other approvals are in full force and effect in accordance with their terms except where the failure to maintain such certificates, licences, authorizations or other approvals would not have a Material Adverse Effect. Other than the Subsidiaries and JV Entities, the Issuer has no subsidiaries, it is not affiliates with or a "holding corporation" of any other body corporate (within the meaning of those terms in the *Canada Business Corporations Act*), nor is it a partner of any partnerships (other than participating in industry partnerships in the ordinary course of business) or limited partnerships and the Issuer has no shareholdings in any other corporation or business organization, except Better Plant Sciences (formerly Yield Growth Corp.), Active Pay Distribution Inc. and Euro Asia Pay Holdings Inc.

- (c) **No Proceedings for Dissolution.** No act or proceeding has been taken by or against the Issuer or the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, in connection with their liquidation, winding-up or bankruptcy, or to the Best of the Issuer's Knowledge are pending.
- (d) **Share Capital of the Issuer.** The authorized and issued share capital of the Issuer consists of an unlimited number of Common Shares of which 169,548,204 Common Shares are issued and outstanding as at the close of business on February 16, 2021. The description of the attributes of the authorized and issued share capital of the Issuer as set out under the heading "Description of Securities Being Distributed" in the Prospectus is true and correct. The attributes and characteristics of the Offered Shares conform in all material respects to the attributes and characteristics thereof described in the Prospectus. Neither the Issuer nor the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, are party to any agreement, nor is the Issuer aware of any agreement, which in any manner affects the voting control of any securities of the Issuer, the Subsidiaries or JV Entities. At each Placement Time, the Placement Shares will be duly and validly authorized, allotted and reserved for issuance.
- (e) **Form of Share Certificates.** The form of certificates for the Common Shares are in due and proper form under the laws governing the Issuer, in accordance with the provisions of the *Business Corporations Act* (British Columbia) and in compliance with the requirements of the CSE and does not conflict with the constating documents of the Issuer.
- (f) **Common Shares are Listed.** The Common Shares are listed and posted for trading on the CSE and neither the Issuer nor the Subsidiaries or JV Entities has taken any action which would reasonably be expected to result in the delisting or suspension of the Common Shares on or from the CSE.

- (g) **CSE Compliance.** The Issuer is in compliance in all material respects with the by-laws, policies, rules and regulations of the CSE.
- (h) **No Cease Trade Orders.** No order ceasing or suspending trading in the securities of the Issuer or prohibiting the sale of securities by the Issuer has been issued by an exchange or securities regulatory authority, and no proceedings for this purpose have been instituted, or are, to the Best of the Issuer's Knowledge, pending, contemplated or threatened.
- (i) **Reporting Issuer Status.** The Issuer is a "reporting issuer" in each of the Qualifying Jurisdictions, within the meaning of Securities Laws in such jurisdictions and to the Best of the Issuer's Knowledge is not currently in default of any requirement of the Securities Laws of such jurisdictions and the Issuer is not included on any public list of defaulting reporting issuers maintained by any of the Qualifying Authorities.
- (j) **Qualified Investments.** Subject to the qualifications and limitations described under "Eligibility for Investment" in the Prospectus, the Offered Shares will be qualified investments under the Tax Act and the regulations thereunder for trusts governed by registered retirement savings plans, registered retirement income funds, registered education savings plans, deferred profit sharing plans, a registered disability savings plan and tax free savings accounts.
- (k) **Transfer Agent.** Computershare Investor Services Inc. at its principal offices in Vancouver, British Columbia and Toronto, Ontario has been duly appointed as the transfer agent and registrar for the Common Shares.
- (l) **Absence of Rights.** Except as disclosed in the Prospectus, no person has any right, agreement or option, present or future, contingent or absolute, or any right capable of becoming a right, agreement or option, for the issue or allotment of any unissued shares of the Issuer or any other agreement or option, for the issue or allotment of any unissued shares of the Issuer or any other security convertible into or exchangeable for any such shares or to require the Issuer to purchase, redeem or otherwise acquire any of the issued and outstanding shares of the Issuer.
- (m) **Corporate Actions.** The Issuer has taken, or will have taken prior to the Filing Date, all necessary corporate action: (i) to authorize the execution, delivery and performance of this Agreement and the Material Contracts to which it is a party; and (ii) to validly offer, issue and sell the Offered Shares. Upon receipt of the purchase price therefor, the Offered Shares will be duly issued as fully paid and non-assessable and will not be issued in violation of or subject to any pre-emptive rights or contractual rights to purchase securities issued by the Issuer.
- (n) **Valid and Binding Documents.** This Agreement has been duly authorized and when executed and delivered by the Issuer, will constitute a legal, valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms, provided that enforcement thereof may be limited by laws affecting

creditors' rights generally, that specific performance and other equitable remedies may only be granted in the discretion of a court of competent jurisdiction, and that the provisions relating to indemnity, contribution and waiver of contribution may be unenforceable and that enforceability is subject to the provisions of the *Limitation Act* (British Columbia).

- (o) **No Consents, Approvals etc.** The execution and delivery of this Agreement and the fulfilment of the terms hereof by the Issuer and the issuance, sale and delivery of the Offered Shares to be issued and sold by the Issuer, do not and will not require the consent, approval, authorization, registration or qualification of or with any Governmental Authority, stock exchange or other third party (including under the terms of any Material Contracts or Debt Instrument), except: (i) those which have been obtained or those which may be required and will be obtained prior to the Filing Date under the Securities Laws or the rules of the CSE, including in compliance with the Securities Laws regarding the distribution of the Offered Shares; and (ii) such customary post-closing notices or filings required to be submitted within the applicable time frame pursuant to Securities Laws in connection with the ATM Distribution.
- (p) **Continuous Disclosure.** The Issuer is in compliance in all material respects with its timely and continuous disclosure obligations under Securities Laws, including insider reporting obligations, and, without limiting the generality of the foregoing, there has been no material fact or material change relating to the Issuer which has not been publicly disclosed and the information and statements in the Public Record were true and correct as of the respective dates of such information and statements and at the time such documents were filed on SEDAR, do not contain any misrepresentations and no material facts have been omitted therefrom which would make such information materially misleading, and the Issuer has not filed any confidential material change reports which remain confidential as at the date hereof. There are no circumstances presently existing under which liability is or would reasonably be expected to be incurred under Part 16.1 of the BCSA and analogous provisions under Securities Laws in the other Qualifying Jurisdictions.
- (q) **Forward-Looking Information.** With respect to forward-looking information contained in the Issuer's public disclosure documents, including for certainty the documents incorporated by reference, or deemed under Securities Laws to be incorporated, by reference:
  - (i) the Issuer has a reasonable basis for the forward-looking information;
  - (ii) all material forward-looking information is identified as such, and all such documents cautions users of forward-looking information that actual results may vary from the forward-looking information and identifies material risk factors that could cause actual results to differ materially from the forward-looking information; and
  - (iii) accurately states the material factors or assumptions used to develop forward-looking information.

- (r) **Financial Statements.** The Issuer Financial Statements:
  - (i) present fairly, in all material respects, the financial position of the Issuer on a consolidated basis and the statements of operations, retained earnings, cash flow from operations and changes in financial information of the Issuer on a consolidated basis for the periods specified in such Issuer Financial Statements;
  - (ii) have been prepared in accordance with IFRS, applied on a consistent basis throughout the periods involved; and
  - (iii) do not contain any misrepresentations, with respect to the period covered by the Issuer Financial Statements.
- (s) **Off-Balance Sheet Transactions.** There are no off-balance sheet transactions, arrangements, obligations or liabilities of the Issuer or the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, whether direct, indirect, absolute, contingent or otherwise.
- (t) **Accounting Policies.** There has been no change in accounting policies or practices of the Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, since November 30, 2016, other than as disclosed in the Issuer Financial Statements.
- (u) **Liabilities.** None of the Issuer, or any of the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, has any liabilities, obligations, indebtedness or commitments, whether accrued, absolute, contingent or otherwise, which are not disclosed or referred to in the Issuer Financial Statements, other than liabilities, obligations, or indebtedness or commitments: (i) incurred in the normal course of business; or (ii) which would not, individually or in the aggregate, have a Material Adverse Effect.
- (v) **Independent Auditors.** The Auditors have confirmed to the Issuer that they are independent with respect to the Issuer within the meaning of Securities Laws and there has never been a "reportable event" (within the meaning of NI 51-102) with the current, or to the Best of the Issuer's Knowledge, any predecessor, auditors of the Issuer during the last three years.
- (w) **Accounting Controls.** The Issuer maintains, and will 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 IFRS and to maintain asset accountability; (iii) access to monies and investments 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.

- (x) **Purchases and Sales.** Except as disclosed in the Prospectus, none of the Issuer, or any of the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, has approved, has entered into any agreement in respect of, or has any knowledge, as the case may be, of:
- (i) the purchase of any Business Assets or any interest therein, or the sale, transfer or other disposition of any Business Assets or any interest therein currently owned, directly or indirectly, by the Issuer, any Subsidiary or JV Entities whether by asset sale, transfer of shares, or otherwise, other than as disclosed in the Prospectus;
  - (ii) a transaction which would result in the change of control (by sale or transfer of Common Shares or sale of all or substantially all of the assets of the Issuer, the Subsidiaries, JV Entities or otherwise) of the Issuer or any Subsidiary; or
  - (iii) a proposed or planned disposition of Common Shares by any shareholder who owns, directly or indirectly, 10% or more of the outstanding Common Shares or common shares of any Subsidiary or JV Entities.
- (y) **Title to Business Assets.** The Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, have good, valid and marketable title to and have all necessary rights in respect of all of their material Business Assets as owned, leased, licensed, loaned, operated or used by them or over which they have rights, free and clear of liens, and no other rights are necessary for the conduct of the Business as currently conducted or as proposed to be conducted. The Issuer knows of no claim or basis for any claim that might or could have a Material Adverse Effect on the rights of the Issuer, the Subsidiaries or JV Entities to use, transfer, lease, license, operate, sell or otherwise exploit such Business Assets and neither the Issuer nor the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, have any obligation to pay any commission, license fee or similar payment to any person in respect thereof, other than as disclosed in the Prospectus and there are no outstanding rights of first refusal or other pre-emptive rights of purchase which entitle any person to acquire any of the rights, title or interests in the Business Assets.
- (z) **Compliance with Laws, Regulatory Approvals and Authorizations.** All operations of the Issuer, the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, in respect of or in connection with the Business Assets have been and continue to be conducted materially in accordance with best industry practices and in material compliance with all applicable Laws. The Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, have obtained and are in material compliance with all Authorizations to permit them to conduct their Business as currently conducted or proposed to be conducted. All of the Authorizations issued to date are valid and in full force and effect and none of the Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, has received any correspondence or notice from any Governmental Authority alleging or asserting material non-compliance with any



applicable Laws or Authorizations. Except as has been disclosed to the Agent in writing, none of the Issuer, the Subsidiaries or JV Entities have received any notice of proceedings or actions relating to the revocation, suspension, limitation or modification of any Authorizations or any notice advising of the refusal to grant any Authorization that has been applied for or is in process of being granted and has no knowledge or reason to believe that any such Governmental Authority is considering taking or would have reasonable ground to take any such action.

- (aa) **Business Relationships.** All agreements with third parties in connection with the Business have been entered into and are being performed by the Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities and all other third parties thereto, in compliance with their terms, in all material respects. There exists no actual or, to the Best of the Issuer's Knowledge, threatened termination, cancellation or limitation of, or any material adverse modification or material change in, the business relationship of the Issuer, the Subsidiaries or JV Entities with any supplier, distributor, or customer, or any group of suppliers, distributors or customers whose business with or whose purchases or inventories/components provided to the business of the Issuer, the Subsidiaries or to the Best of the Issuer's Knowledge, the JV Entities, are individually or in the aggregate material to the assets, business, properties, operations or financial condition of the Issuer, the Subsidiaries or JV Entities.
- (bb) **Privacy Protection.** Each of the Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, has security measures and safeguards in place, consistent with generally accepted industry practice and in compliance with applicable Laws, to protect personal information it collects from registered customers, users of its technology and other parties from illegal or unauthorized access or use by its personnel or third parties or access or use by its personnel or third parties in a manner that violates the privacy rights of third parties. The Issuer, the Subsidiaries and the JV Entities have complied, in all material respects, with all applicable privacy and consumer protection legislation and neither has collected, received, stored, disclosed, transferred, used, misused or permitted unauthorized access to any information protected by privacy laws, whether collected directly or from third parties, in an unlawful manner. The Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, have taken reasonable steps to protect personal information against loss or theft and against unauthorized access, copying, use, modification, disclosure or other misuse.
- (cc) **Intellectual Property.** The Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, is the owner of all right, title, and interest in and to the Intellectual Property, free and clear of all liens, security interests, charges, encumbrances, and other adverse claims, and has the right to use all of the Intellectual Property, including all patents, trademarks, trademark registrations, service marks, service mark registrations, trade names, copyrights, licenses, inventions, trade secrets and rights necessary for the conduct of their respective businesses, and, to the Best of the Issuer's Knowledge, there has not been any

claim to the contrary or any challenge by any other person to the rights of the Issuer, the Subsidiaries or JV Entities with respect to the foregoing. To the Best of the Issuer's Knowledge, and except as has been disclosed to the Agent in writing, the Issuer's business, including that of the Subsidiaries and JV Entities, as now conducted does not, and as currently proposed to be conducted will not, infringe or conflict with in any material respect patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses or other intellectual property or franchise right of any person. No claim has been made against the Issuer, the Subsidiaries or JV Entities alleging the infringement by the Issuer, the Subsidiaries or JV Entities of any patent, trademark, service mark, trade name, copyright, trade secret, license in or other intellectual property right or franchise right of any person. All former and current employees, contractors and consultants of the Issuer have executed written contracts, agreements or other undertakings with the Issuer that assign all rights to any Intellectual Property (including the waiver of any moral rights), inventions, improvements, discoveries, or information relating to the business of the Issuer to the Issuer. No current or former employee, director, officer, shareholder, consultant or contractor of the Issuer owns directly or indirectly in whole or in part, any Intellectual Property which the Issuer is presently using or which is necessary for the conduct of its business as presently conducted and as proposed to be conducted.

- (dd) **Issuer IP.** Schedule G sets out a full, complete, accurate and true list of the material Issuer IP including that which is the subject of a pending application or registration. Such Intellectual Property is the only Intellectual Property necessary for and material to the operation of the business as contemplated by and described in the Prospectus. The Intellectual Property identified in Schedule G is valid, subsisting and enforceable. The Issuer is the sole legal and beneficial owner of, has good and marketable title to, and owns all right, title and interest in and to all Issuer IP free and clear of all encumbrances, charges, covenants, conditions, options to purchase and restrictions or other adverse claims or interest of any kind of nature. All applications for registration of any Issuer IP are in good standing, are recorded in the name of the Issuer and all such registrations have been filed in a timely manner in the appropriate offices to preserve the rights thereto and, in the case of a provisional application, the Issuer confirms that all right, title and interest in and to the invention(s) disclosed in such application(s) have been assigned in writing (without any express right to revoke such assignment) to the Issuer. To the Best of the Issuer's Knowledge, no person has interfered with, infringed upon, misappropriated, illegally exported or violated any of the Issuer's rights in the Issuer IP. The Issuer has taken all actions that are contractually obligated to be taken and all actions that are customary and commercially reasonable to protect the confidentiality of the Issuer IP. Any and all fees or payments required to keep the Issuer IP in force or in effect have been paid.
- (ee) **Licensed IP.** Schedule G sets out a full, complete, and accurate and true list of the material Licensed IP, other than normal and routine off-the-shelf software license agreements. The Issuer has entered into valid and enforceable written agreements pursuant to which the Issuer has been granted all licenses and permissions to use,

reproduce, sub license, sell, modify, update, enhance or otherwise exploit the Licensed IP to the extent required to operate all material aspects of the business as contemplated by and described in the Prospectus (including, if required, the right to incorporate such Licensed IP into the Issuer IP). All license agreements in respect of the Licensed IP are in full force and effect, and neither the Issuer nor, to the Best of the Issuer's Knowledge, any other person is in default of its obligations thereunder. Any and all fees or payments required to keep the Licensed IP in force or in effect have been paid.

- (ff) **Licenses.** Except as disclosed in the Public Record, the Issuer has not assigned, or granted any licenses to use, any Intellectual Property or trade secrets, and no person other than the Issuer, the Subsidiaries and the JV Entities has any right, title or interest in or to the Intellectual Property or trade secrets.
- (gg) **Trade Secrets.** The Issuer has taken reasonable precautions to protect the secrecy, confidentiality, and value of its trade secrets. The Issuer has good title and an absolute right to use the trade secrets. The trade secrets are not part of the public knowledge or literature, and to the Best of the Issuer's Knowledge, have not been used, divulged, or appropriated either for the benefit of any person or entity or to the detriment of the Issuer. No trade secret is subject to any adverse claim or has been challenged or threatened in any way.
- (hh) **Royalties.** Except as disclosed in the Public Record, the Issuer does not have any responsibility or obligation to pay any commission, royalty, license fee or similar payment to any person with respect to any Intellectual Property, trade secrets or any other assets of the Issuer.
- (ii) **Restrictions on Use.** Except as has been disclosed to the Agent, the Issuer is not aware of any reason as a result of which it is not entitled to make use of and commercially exploit its Intellectual Property.
- (jj) **No Violations.** The Issuer has received no communication alleging that it has violated or, by conducting its business as proposed, would violate any of the patents, trademarks, service marks, trade names, copyrights or trade secrets or other proprietary rights of any other person or entity.
- (kk) **Restrictions on Business.** There is no non-competition, exclusivity or other similar agreement, commitment or understanding in place to which the Issuer is a party or by which the Issuer is otherwise bound that would now or hereafter in any way limit the business or operations of the Issuer in a particular manner or to a particular locality or geographic region or for a specified period of time.
- (ll) **Leased Premises.** With respect to each premises which the Issuer or any Subsidiary occupies as tenant (the "**Leased Premises**"), the Issuer or the Subsidiaries have the exclusive right to occupy and use the Leased Premises and each of the leases pursuant to which the Issuer or the Subsidiaries occupy the Leased Premises is in good standing and in full force and effect. The performance of obligations pursuant to and in compliance with the terms of this Agreement,

and the completion of the transactions described herein by the Issuer, will not afford any of the parties to such leases or any other person the right to terminate such lease or result in any additional or more onerous obligations under such leases.

- (mm) **Environmental and Workplace Laws.** Each of the Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, is currently in compliance, in all material respects, with all Environmental Laws, including all reporting and monitoring requirements thereunder, and there are no pending or, to the Best of the Issuer's Knowledge, any threatened, administrative, regulatory or judicial actions, suits, demands, claims, liens, notices of non-compliance or violation, investigation or proceedings relating to any Environmental Laws. Neither the Issuer, the Subsidiaries nor the JV Entities have ever received any notice of any non-compliance in respect of Environmental Laws, there are no events or circumstances that might reasonably be expected to form the basis of an order for clean up or remediation under Environmental Laws or relating to any Hazardous Materials and there are no permits required under Environmental Laws for the conduct of the Business. The facilities and operations of the Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, are currently being conducted, and to Best of the Issuer's Knowledge, have been conducted, in all material respects in accordance with all applicable workers' compensation and health and safety and workplace laws, regulations and policies.
- (nn) **Insurance.** The Issuer, the Subsidiaries and the JV Entities maintain insurance by insurers of recognized financial responsibility, against such losses, risks and damages to their Business Assets in such amounts that are customary for the business in which they are engaged and on a basis consistent with reasonably prudent persons in comparable businesses, and all of the policies in respect of such insurance coverage, fidelity or surety bonds insuring the Issuer, the Subsidiaries, the JV Entities and their respective directors, officers and employees, and the Business Assets, are in good standing and in full force and effect in all respects, and not in default. Each of the Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, is in compliance with the terms of such policies and instruments in all material respects and there are no material claims by the Issuer, the Subsidiaries or the JV Entities under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause; the Issuer has no reason to believe that it will not be able to renew such existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue the Business at a cost that would not have a Material Adverse Effect, and neither the Issuer, the Subsidiaries nor the JV Entities has failed to promptly give any notice of any material claim thereunder.
- (oo) **Material Contracts and Debt Instruments.** All Material Contracts and Debt Instruments have been described or disclosed in the Prospectus and each Material Contract and Debt Instrument is valid, subsisting, in good standing and in full force and effect, enforceable in accordance with the terms thereof. The Issuer, the

Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, have, in all material respects, performed all obligations in a timely manner under, and are in compliance, in all material respects, with all terms and conditions (including any financial covenants) contained in each Material Contracts and Debt Instrument. None of the Issuer or any of the Subsidiaries or JV Entities are in material breach, violation or default nor has they received any notification from any party claiming that the Issuer, the Subsidiaries or JV Entities are in material breach, violation or default under any Material Contract or Debt Instrument and no other party, to the Best of the Issuer's Knowledge, is in material breach, violation or default of any term under any Material Contract or Debt Instrument. The Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, is not in breach or violation of any of the terms or provisions of, or in default under (whether after notice or lapse of time or both): (i) any of the Material Contracts to which it is a party; (ii) any Debt Instrument, including any indenture, mortgage, deed of trust, loan agreement or other agreement (written or oral) to which it is a party or by which it is bound or to which any of its property or assets is subject; (iii) its constating documents; or (iv) any Law or any order, rule or regulation of any court or governmental agency or body having jurisdiction over it or any of its property where such breach, violation or default could reasonably be expected to have a Material Adverse Effect.

- (pp) **No Material Changes.** Other than as disclosed in the Prospectus or disclosed in the Public Record: (i) there has been no material change in the assets, liabilities, obligations (absolute, accrued, contingent or otherwise) business, condition (financial or otherwise), properties, capital or results of operations of the Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, considered as one enterprise; and (ii) there have been no transactions entered into by the Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, other than those in the ordinary course of business, which are material with respect to the Issuer, the Subsidiaries and JV Entities considered as one enterprise which is not currently publicly available as part of the Public Record.
- (qq) **Absence of Proceedings.** Other than as disclosed in the Prospectus, there is no action, suit, claim, proceeding, inquiry or investigation before or brought by any Governmental Authority, domestic or foreign, now pending or, to the Best of the Issuer's Knowledge, threatened against or affecting the Issuer, any Subsidiary, JV Entities or the Business Assets (including in respect of any product liability claims) which if determined adversely, would reasonably be expected to have a Material Adverse Effect, or would reasonably be expected to materially and adversely affect the consummation of the transactions contemplated in this Agreement or the performance by the Issuer of its obligations hereunder. The aggregate of all pending legal or governmental proceedings to which the Issuer, any Subsidiary or JV Entities is a party or of which any of their respective property or assets is subject, which are not described in the Prospectus would not reasonably be expected to result in a Material Adverse Effect.

- (rr) **Absence of Defaults and Conflicts.** None of the Issuer, any of the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, are in violation, default or breach of, and the execution, delivery and performance of this Agreement, the Prospectus and the consummation of the transactions and compliance by the Issuer with its obligations hereunder and thereunder, the sale of the Offered Shares, do not and will not, whether with or without the giving of notice or passage of time, or both, result in a violation, default or breach of, or conflict with, or result in a Repayment Event or the creation or imposition of any lien upon any property or assets of the Issuer, including the Business Assets, or the Subsidiaries and JV Entities under the terms or provisions of: (i) any Material Contracts or Debt Instruments; (ii) the articles or by-laws or other constating documents or resolutions of the directors or shareholders of the Issuer, the Subsidiaries, or JV Entities; (iii) any existing applicable Laws, including Securities Laws; or (iv) any judgment, order, writ or decree of any government, government instrumentality or court, domestic or foreign, having jurisdiction over the Issuer, the Subsidiaries or JV Entities or any of their assets, properties or operations, other than, in each of the cases in clauses (i) to (iv), those that would not individually or in the aggregate have a Material Adverse Effect.
- (ss) **Labour Matters.** No material work stoppage, strike, lock-out, labour disruption, dispute grievance, arbitration, proceeding or other conflict with the employees of the Issuer, the Subsidiaries or to the Best of the Issuer's Knowledge, the JV Entities, currently exists or, to the Best of the Issuer's Knowledge, is imminent or pending and the Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, are in material compliance with all provisions of all federal, national, regional, provincial, state and local laws and regulations respecting employment and employment practices, terms and conditions of employment and wages and hours.
- (tt) **Employment Standards.** There are no material complaints against the Issuer, the Subsidiaries or to the Best of the Issuer's Knowledge, the JV Entities, before any employment standards branch or tribunal or human rights tribunal, nor to the Best of the Issuer's Knowledge any occurrence which would reasonably be expected to lead to a complaint under any human rights legislation or employment standards legislation that would be material to the Issuer. There are no outstanding decisions or settlements or pending settlements under applicable employment standards legislation which place any material obligation upon the Issuer, the Subsidiaries or JV Entities to do or refrain from doing any act. The Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, are currently in material compliance with all workers' compensation, occupational health and safety and similar legislation, including payment in full of all amounts owing thereunder, and to the Best of the Issuer's Knowledge there are no pending claims or outstanding orders of a material nature against either of them under applicable workers' compensation legislation, occupational health and safety or similar legislation nor has any event occurred which may give rise to any such material claim.

- (uu) **Employment.** The Issuer is in material compliance with all Laws respecting employment and employment practices, terms and conditions of employment, pay equity and wages and has not and is not engaged in any unfair labour practices.
- (vv) **Collective Bargaining Agreements.** None of the Issuer or any of the Subsidiaries or JV Entities are party to any collective bargaining agreements with unionized employees. To the Best of the Issuer's Knowledge, no action has been taken or is being contemplated to organize or unionize any other employees of the Issuer, the Subsidiaries or JV Entities that would reasonably be expected to have a Material Adverse Effect.
- (ww) **Employee Plans.** The Prospectus discloses, to the extent required by applicable Securities Laws, each material plan for retirement, bonus, stock purchase, profit sharing, stock option, deferred compensation, severance or termination pay, insurance, medical, hospital, dental, vision care, drug, sick leave, disability, salary continuation, legal benefits, unemployment benefits, vacation, incentive or otherwise contributed to, or required to be contributed to, by the Issuer for the benefit of any current or former director, officer, employee or consultant of the Issuer (the "**Employee Plans**"), each of which has been maintained in all material respects with its terms and with the requirements prescribed by any and all statutes, orders, rules and regulations that are applicable to such Employee Plans.
- (xx) **Taxes.** All tax returns, reports, elections, remittances and payments of the Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, required by applicable law to have been filed or made in any applicable jurisdiction, have been filed or made (as the case may be) and are true, complete and correct except where the failure to make such filing, election, or remittance and payment would not constitute a Material Adverse Effect, and all taxes and other assessments of a similar nature (whether imposed directly or through withholding) of the Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, including any interest, additions to tax or penalties applicable thereto, due or claimed to be due, have been paid or accrued in the Issuer's Financial Statements (except as any extension may have been requested or granted and in any case in which the failure to file, pay or accrue such taxes would not result in a Material Adverse Effect). There is no tax deficiency which has been asserted against the Issuer, the Subsidiaries, and to the Best of the Issuer's Knowledge, the JV Entities, which would have a Material Adverse Effect. Other than as previously disclosed to the Agent, to the Best of the Issuer's Knowledge there are no investigations or examinations of any tax return of the Issuer, the Subsidiaries or JV Entities threatened or currently in progress and there are no issues or disputes outstanding with any Governmental Authority respecting any taxes that have been paid, or may be payable, by the Issuer, the Subsidiaries or JV Entities.
- (yy) **Anti-Bribery Laws.** Neither the Issuer, the Subsidiaries nor, to the Best of the Issuer's Knowledge, the JV Entities and any director, officer, employee, consultant, representative or agent of the foregoing, has: (i) violated any anti-bribery or anti-corruption laws applicable to the Issuer, Subsidiaries, and JV

Entities including but not limited to Canada's Corruption of Foreign Public Officials Act; or (ii) offered, paid, promised to pay, or authorized the payment of any money, or offered, given, promised to give, or authorized the giving of anything of value, that goes beyond what is reasonable and customary and/or of modest value to: (A) any government official, whether directly or through any other person, for the purpose of: (1) influencing any act or decision of a government official in his or her official capacity; (2) inducing a government official to do or omit to do any act in violation of his or her lawful duties; (3) securing any improper advantage; (4) inducing a government official to influence or affect any act or decision of any Governmental Authority; or (5) assisting any representative of the Issuer, Subsidiaries or to the Best of the Issuer's Knowledge, the JV Entities in obtaining or retaining business for or with, or directing business to, any person; or (B) any person in a manner which would constitute or have the purpose or effect of public or commercial bribery, or the acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business or any improper advantage. Neither the Issuer, the Subsidiaries nor, to the Best of the Issuer's Knowledge, the JV Entities and any director, officer, employee, consultant, representative or agent of foregoing, has: (i) conducted or initiated any review, audit, or internal investigation that concluded the Issuer, a subsidiary or any director, officer, employee, consultant, representative or agent of the foregoing violated such laws or committed any material wrongdoing; or (ii) made a voluntary, directed, or involuntary disclosure to any Governmental Authority responsible for enforcing anti-bribery or anti-corruption laws, in each case with respect to any alleged act or omission arising under or relating to non-compliance with any such laws, or received any notice, request, or citation from any person alleging non-compliance with any such laws.

- (zz) **Anti-Money Laundering.** The operations of the Issuer, the Subsidiaries and to the Best of the Issuer's Knowledge, the JV Entities, are and have been conducted at all times in compliance with, in each case to the extent applicable, the financial recordkeeping and reporting requirements of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), the anti-money laundering statutes of all jurisdictions in which the Issuer, the Subsidiaries and JV Entities operates, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "**Anti-Money Laundering Laws**"), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Issuer with respect to the Anti-Money Laundering Laws is pending or, to the Best of the Issuer's Knowledge, threatened.
- (aaa) **No Significant Acquisitions.** The Issuer has not completed any "significant acquisition" nor is it proposing any "probable acquisitions" (within the meaning of such terms under NI 51-102) that would require the inclusion or incorporation by reference of any additional financial statements or pro forma financial statements in the Prospectus or the filing of a business acquisition report pursuant to Securities Laws.



- (bbb) **Previous Acquisitions.** All material acquisitions completed by the Issuer, the Subsidiaries or JV Entities have been properly disclosed in the Public Record, were completed in material compliance with all applicable corporate and Securities Laws and all material corporate and regulatory approvals, consents, authorizations, registrations, and filings required in connection therewith were obtained and complied with.
- (ccc) **Short Form Eligible.** The Issuer is eligible to file with each of the Qualifying Jurisdictions a prospectus in the form of a short form prospectus under NI 44-102 and a short form prospectus in the form of a base shelf prospectus under NI 44-102, and to otherwise avail itself of the Shelf Procedures with respect to the distribution of the Offered Shares.
- (ddd) **Prospectus.** The Base Shelf Prospectus complies with, and the Prospectus Supplement and Supplementary material will, as of their respective dates, comply in all material respects with, all applicable requirements of Securities Laws, including NI 44-101 and NI 44-102 and will provide full, true and plain disclosure of all material facts relating to the Issuer and the Offered Shares and will not contain any misrepresentation. The Base Shelf Prospectus and, prior thereto, a preliminary short form base shelf prospectus regarding the issuance and sale of Common Shares, debt securities, securities convertible into or exchangeable for Common Shares and/or other securities, warrants to purchase Common Shares or debt securities, subscription receipts and units of the Issuer, have been filed with each of the Qualifying Authorities, and receipts therefor have been issued by or on behalf of each of the Qualifying Authorities, which receipts continue to be effective.
- (eee) **Compliance with Laws.** The Issuer has complied, or will have complied, in all material respects with all relevant statutory and regulatory requirements required to be complied with, including all applicable requirements of Securities Laws, prior to the Filing Date in connection with the ATM Distribution. The Issuer is not aware of any legislation or proposed legislation, which it reasonably anticipates will have a Material Adverse Effect.
- (fff) **No Loans.** Except as disclosed in the Issuer's Financial Statements, neither the Issuer nor the Subsidiaries or JV Entities have made any material loans to or guaranteed the material obligations of any person.
- (ggg) **Directors and Officers.** To the Best of the Issuer's Knowledge none of the directors or officers of the Issuer are now, or have ever been, subject to an order or ruling of any securities regulatory authority or stock exchange prohibiting such individual from acting as a director or officer of a public company or of a company listed on a particular stock exchange.
- (hhh) **Minute Books and Records.** The minute books and records of the Issuer and the Subsidiaries made available to counsel for the Agent in connection with their due diligence investigation of the Issuer for the periods requested to the date hereof are all of the minute books and material records of the Issuer and the Subsidiaries

and contain copies of all material proceedings (or certified copies thereof or drafts thereof pending approval) of the shareholders, the directors and all committees of directors of the Issuer and the Subsidiaries, as the case may be, to the date of review of such corporate records and minute books and there have been no other meetings, resolutions or proceedings of the shareholders, directors or any committees of the directors of the Issuer and the Subsidiaries to the date hereof not reflected in such minute books and other records, other than those which have been disclosed to the Agent or which are not material in the context of the Issuer and the Subsidiaries.

- (iii) **No Dividends.** During the previous 12 months, the Issuer has not, directly or indirectly, declared or paid any dividend or declared or made any other distribution on any of its shares or securities of any class, or, directly or indirectly, redeemed, purchased or otherwise acquired any of its Common Shares or securities or agreed to do any of the foregoing. There are no restrictions upon or impediment to, the declaration or payment of dividends by the directors of the Issuer or the payment of dividends by the Issuer in the constating documents or in any Material Contracts or Debt Instruments.
- (jjj) **Fees and Commissions.** Other than the Agent (and their selling group members) pursuant to this Agreement, there is no other person acting at the request of the Issuer, or to the Best of the Issuer's Knowledge, purporting to act who is entitled to any brokerage, agency or other fiscal advisory or similar fee in connection with the ATM Distribution or transactions contemplated herein.
- (kkk) **Entitlement to Proceeds.** Other than the Issuer, there is no person that is or will be entitled to demand any of the Net Proceeds of the ATM Distribution.
- (III) **Related Parties.** Except as described or disclosed in the Prospectus, none of the directors, officers or employees of the Issuer, any known holder of more than 10% of any class of securities of the Issuer or securities of any person exchangeable for more than 10% of any class of securities of the Issuer, or any known associate or affiliate of any of the foregoing persons or companies (as such terms are defined in the Securities Act), has had any material interest, direct or indirect, in any material transaction within the previous two years or any proposed material transaction which, as the case may be, materially affected or is reasonably expected to materially affect the Issuer, the Subsidiaries and JV Entities, on a consolidated basis. Neither the Issuer, the Subsidiaries nor, to the Best of the Issuer's Knowledge, the JV Entities, have any material loans or other indebtedness outstanding which has been made to any of its shareholders, officers, directors or employees, past or present, or any person not dealing at "arm's length" (within the meaning of the Tax Act) with them.

**SCHEDULE D**

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**FORM OF OFFICER'S CERTIFICATE**

TO: ECHELON WEALTH PARTNERS INC.

This certificate is delivered to you today pursuant to Section 9.3 of the Equity Distribution Agreement dated February 17, 2021 (the “**Agreement**”) between Perk Labs Inc. (the “**Issuer**”) and Echelon Wealth Partners Inc.

The undersigned, being the duly appointed ● and ●, respectively, of the Issuer, hereby certify, for and on behalf of the Issuer and not in the respective personal capacities of the undersigned and without personal liability, that to the knowledge of the undersigned:

- (a) the representations and warranties of the Issuer contained in the Agreement are true and correct on and as of the date hereof, except for those representations and warranties that speak solely as of a specific date and which were true and correct as of such date, with the same force and effect as if expressly made on and as of the date hereof; and
- (b) the Issuer has complied with all agreements and satisfied all conditions on its part to be complied with or satisfied pursuant to the Agreement at or prior to the date hereof.

DATED:

**PERK LABS INC.**

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

Name:

Title:

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

Name:

Title:

## **SCHEDULE E**

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### **MATTERS TO BE ADDRESSED IN OPINION OF ISSUER'S COUNSEL**

Following are the matters to be addressed in the opinion of Issuer's Counsel to be delivered pursuant to Section 9.2(a) of the Agreement:

1. as to the incorporation and existence of the Issuer and Perk Hero Software Inc. under the laws of its governing jurisdiction, and as to the power and capacity of the Issuer and Perk Hero Software Inc. to carry on its business and activities as described in the Prospectus and to own and lease its property and assets, and to enter into and to carry out its obligations under this Agreement and the other Material Contracts, and the requisite power and capacity of the Issuer to offer, issue and sell the Offered Shares as contemplated by this Agreement;
2. as to the authorized and issued capital of the Issuer and Perk Hero Software Inc.;
3. the Issuer has the necessary power and authority to execute and deliver the Base Shelf Prospectus and the Prospectus Supplement and all necessary corporate action has been taken on behalf of the Issuer to authorize the execution and delivery by it of the Base Shelf Prospectus and the Prospectus Supplement and the filing of such documents, as applicable, in each of the Qualifying Jurisdictions under the Securities Laws;
4. the Issuer has the necessary corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder and to carry out the transactions contemplated hereby and this Agreement has been duly authorized, executed and delivered by or on behalf of the Issuer and is a legal, valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms (subject to reasonable opinion qualifications);
5. all necessary corporate action has been taken by and on behalf of the Issuer to authorize the sale and delivery by the Issuer at the Placement Time of the Placement Shares;
6. the attributes of the Offered Shares are consistent in all material respects with the descriptions thereof in the Prospectus;
7. the Offered Shares have been duly authorized and validly allotted and issued and upon receipt by the Issuer of the consideration therefor, will be issued as fully paid and non-assessable Common Shares;
8. all of the issued and outstanding shares of Perk Hero Software Inc. have been validly issued and are outstanding as fully paid and non-assessable shares, none of which was issued in violation of any pre-emptive rights of any person. The Issuer is the registered holder of such shares;
9. the execution and delivery by the Issuer of this Agreement, the fulfilment of the terms hereof by the Issuer, and the sale and delivery by the Issuer at the Placement Time of the Placement Shares, do not and will not result in a breach (whether after notice or lapse of time or both), default or violation of any of the terms, conditions or provisions of the

constating documents of the Issuer or any resolution of the directors (or any committee thereof) or shareholders of the Issuer, the Material Contracts to which the Issuer or Perk Hero Software Inc. is a party or any applicable corporate or securities laws of the Province of British Columbia or the federal laws of Canada applicable therein;

10. the Offered Shares will, when issued, be qualified investments under the Tax Act for trusts governed by registered retirement savings plans, registered retirement income funds, registered education savings plans, registered disability savings plans, tax-free savings accounts and deferred profit sharing plans;
11. Computershare Investor Services Inc. at its principal office in Vancouver, British Columbia has been duly appointed as the transfer agent and registrar for the Common Shares.
12. all necessary documents have been filed by the Issuer and all requisite proceedings have been taken by the Issuer, all necessary approvals, permits, consents and authorizations of the appropriate regulatory authorities under the Securities Laws have been obtained by the Issuer to qualify the distribution of the Offered Shares in each of the Qualifying Jurisdictions through investment dealers or brokers registered under applicable securities legislation of the Qualifying Jurisdictions who have complied with the relevant provisions of such legislation;
13. all necessary filings have been made by the Issuer with the CSE for approval for listing by the CSE, subject only to the satisfaction by the Issuer of such customary and standard post-closing conditions imposed by the CSE in similar circumstances;
14. the summary under the heading "Certain Canadian Federal Income Tax Considerations" in the Prospectus Supplement is a fair and adequate summary of the principal Canadian federal income tax considerations generally applicable to the acquisition, holding and disposition of the Offered Shares, subject to the qualifications, assumptions, limitations and understandings set out in such summary and confirming the statements under the heading "Eligibility for Investment" in the Prospectus Supplement; and
15. The Issuer is a "reporting issuer", or its equivalent, in each of the Qualifying Jurisdictions and it is not listed as in default of any requirement of the Securities Laws in any of the Qualifying Jurisdictions which maintain such a list.

## SCHEDULE F

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### INDEMNIFICATION AND CONTRIBUTION

#### 1. INDEMNIFICATION

1.1 **Indemnification of Agent.** The Issuer (the “**Indemnifying Party**”) agrees to indemnify and hold harmless the Agent, the directors, officers, partners, employees and agents of the Agent and each Person, if any, who (i) controls the Agent within the meaning of the BCSA, or (ii) is controlled by or is under common control with the Agent (collectively, the “**Indemnified Parties**” and individually, an “**Indemnified Party**”) as follows:

(a) against any and all loss (other than loss of profit of an Indemnified Party or similar economic loss of an Indemnified Party), liability, claim, damage and expense whatsoever, as incurred, arising out of or based, directly or indirectly: on (i) any untrue statement or alleged untrue statement of a material fact contained in the Prospectus, or in any other material or document filed under any Securities Laws or delivered by or on behalf of the Issuer pursuant to this Agreement; (ii) the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; or (iii) any misrepresentation or alleged misrepresentation contained therein;

(b) against any and all loss (other than loss of profit of an Indemnified Party or similar economic loss of an Indemnified Party), liability, claim, damage and expense whatsoever, as incurred, arising out of or based, directly or indirectly, on: (i) any breach by the Issuer of any of its covenants or agreements contained in this Agreement or in the French Translation Exemption including, without limiting the generality of the foregoing, any default by the Issuer of its obligation to issue and deliver to the Agent any Placement Shares on the applicable Settlement Date in accordance with the Settlement Procedures; or (ii) any inaccuracy or misrepresentation in any representation or warranty of the Issuer set forth in Schedule C of the Agreement or in any certificate of the Issuer delivered pursuant to this Agreement;

(c) against any and all loss (other than loss of profit of an Indemnified Party or similar economic loss of an Indemnified Party), liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any Governmental Authority, commenced or threatened, or of any claim whatsoever based upon: (i) any such untrue statement, omission or misrepresentation, or any such alleged untrue statement, omission or misrepresentation; or (ii) any of the matters referred to in paragraph (b) above, provided that in each case and subject to Section 1.3 of this Schedule F, any such settlement is effected with the written consent of the Issuer; and

(d) against any and all expenses whatsoever reasonably incurred, as incurred (including the reasonable fees and disbursements of counsel chosen by the Agent), in investigating, preparing or defending against any litigation, or any investigation or proceeding by any Governmental Authority, commenced or threatened or any claim whatsoever based upon: (i) any such untrue statement, omission or misrepresentation, or any such alleged untrue statement, omission or misrepresentation; or (ii) any of the

matters referred to in paragraph (b) above, in each case to the extent that any such expense is not paid under paragraphs (a), (b) or (c) above provided, however, that the indemnity in this Section 1.1 of Schedule F shall not apply to any loss, liability, claim, damage or expense to the extent arising from the sale of the Placement Shares pursuant to this Agreement and arising out of or based, directly or indirectly, on any untrue statement, omission or misrepresentation, or any alleged untrue statement, omission or misrepresentation, made in reliance upon and in conformity with written information relating to the Agent and furnished in writing to the Issuer by the Agent expressly for use in the Prospectus, or in any other material or document filed under any Securities Laws or delivered by or on behalf of the Issuer pursuant to this Agreement, or in the event and to the extent that a court of competent jurisdiction in a final judgment from which no appeal can be made or a regulatory authority in a final ruling from which no appeal can be made shall determine that such loss, liability, claim, damage or expense resulted from the fraud, willful misconduct or gross negligence of the Indemnified Party claiming indemnity. This indemnity agreement shall be in addition to any liability that the Issuer might otherwise have.

**1.2 Actions Against Parties; Notification.** Each Indemnified Party shall give notice as promptly as reasonably practicable to the Indemnifying Party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify the Indemnifying Party shall not relieve such Indemnifying Party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. If any such action is brought against any Indemnified Party and it notifies the Indemnifying Party of its commencement, the Indemnifying Party shall be entitled to participate in and, to the extent that it elects by delivering written notice to the Indemnified Party promptly after receiving notice of the commencement of the action from the Indemnified Party, to assume the defense of the action, with counsel reasonably satisfactory to the Indemnified Party, and after notice from the Indemnifying Party to the Indemnified Party of its election to assume the defense, the Indemnifying Party shall not be liable to the Indemnified Party for any legal or other expenses except as provided below and except for the reasonable costs of investigation subsequently incurred by the Indemnified Party in connection with the defense. The Indemnified Party shall have the right to employ its own counsel in any such action, but the fees, expenses and other charges of such counsel shall be at the expense of such Indemnified Party unless: (a) the employment of counsel by the Indemnified Party has been authorized in writing by the Indemnifying Party; (b) the Indemnified Party has reasonably concluded (based on advice of counsel to the Indemnified Party) that there may be legal defenses available to it or other Indemnified Parties that are different from or in addition to those available to the Indemnifying Party; (c) a conflict or potential conflict exists (based on written advice of counsel to the Indemnified Party) between the Indemnified Party and the Indemnifying Party (in which case the Indemnifying Party shall not have the right to direct the defense of such action on behalf of the Indemnified Party); or (d) the Indemnifying Party has not in fact employed counsel, reasonably satisfactory to the Indemnified Party, to assume the defense of such action within a reasonable time after receiving notice of the commencement of the action, in each of which cases the reasonable fees and expenses of counsel shall be at the expense of the Indemnifying Party. All such fees and expenses shall be reimbursed by the Indemnifying Party promptly as they are incurred. In no event shall the Indemnifying Party be liable for fees and expenses of more than

one counsel (in addition to any local or special counsel) separate from their own counsel for all Indemnified Parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances. Neither the Indemnifying Party nor any of the Indemnified Parties shall, without the prior written consent of the Indemnifying Party and the Indemnified Parties, such consent not to be unreasonably withheld, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 1 or Section 2 of this Schedule F (whether or not the Indemnified Parties are actual or potential parties thereto), provided that the Indemnifying Party may consent to any such settlement, compromise or consent, without the consent of the Indemnified Parties, where such settlement, compromise or consent (y) includes an unconditional release of each Indemnified Party from all liability arising out of such litigation, investigation, proceeding or claim and (z) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party.

1.3 If any legal proceedings shall be instituted against the Issuer or if any regulatory authority or stock exchange shall carry out an investigation of the Issuer and, in either case, any Indemnified Party is required to testify, or respond to procedures designed to discover information, in connection with or by reason of the services performed by the Agent hereunder, then the Indemnified Parties may employ their own legal counsel and the Issuer shall pay and reimburse the Indemnified Parties for the reasonable fees, charges and disbursements (on a full indemnity basis) of such legal counsel, the other expenses reasonably incurred by the Indemnified Parties in connection with such proceedings or investigation and a fee at the normal per diem rate for any director, officer or employee of the Agent involved in the preparation for or attendance at such proceedings or investigation. However, the Issuer shall not, in connection with any such proceeding or separate but substantially similar or related proceedings arising out of the same general allegations or circumstances, be liable for the fees or expenses of more than one separate law firm in respect of all such Indemnified Parties.

## **2. CONTRIBUTION**

2.1 If the indemnification provided for in Section 1 of this Schedule F is for any reason unavailable to or insufficient to hold harmless an Indemnified Party in respect of any losses, liabilities, claims, damages or expenses referred to therein, then each Indemnifying Party in respect of which indemnity has been sought shall contribute to the aggregate amount of such losses, liabilities, claims, damages and expenses incurred by such Indemnified Party, as incurred, (a) in such proportion as is appropriate to reflect the relative benefits received by the Issuer on the one hand and the Agent on the other hand from the offering of the Offered Shares pursuant to this Agreement or (b) if the allocation provided by clause (a) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (a) above but also the relative fault of the Issuer on the one hand and of the Agent on the other hand in connection with the statement, omission or misrepresentation or the matters referred to in Section 1.1(b) of this Schedule F, which resulted in such losses, liabilities, claims, damages or expenses, as well as any other relevant equitable considerations.

2.2 The relative benefits received by the Issuer on the one hand and the Agent on the other hand in connection with the offering of the Offered Shares pursuant to this Agreement shall be



deemed to be in the same proportion as the total Net Proceeds from the sale of the Offered Shares pursuant to this Agreement (before deducting expenses) received by the Issuer bear to the total compensation (before deducting expenses) received by the Agent from the sale of the Offered Shares on behalf of the Issuer.

2.3 The relative fault of the Issuer on the one hand and the Agent on the other hand shall be determined by reference to, among other things, whether any untrue or alleged untrue statement of a material fact, omission or alleged omission to state a material fact or misrepresentation or alleged misrepresentation relates to information supplied or which ought to have been supplied by the Issuer or by the Agent and the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement, omission or misrepresentation.

2.4 The Issuer and the Agent agree that it would not be just and equitable if contribution pursuant to this Section 2 of this Schedule F were determined by *pro rata* allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 2 of this Schedule F. The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an Indemnified Party and referred to above in this Section 2 of this Schedule F shall be deemed to include any legal or other expenses reasonably incurred by such Indemnified Party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any Governmental Authority, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement, omission or alleged omission or misrepresentation or alleged misrepresentation. The rights to contribution provided in this Section 2 of this Schedule F shall be in addition to and without prejudice to any other right to contribution which the Agent may have.

2.5 Notwithstanding the provisions of this Section 2 of this Schedule F, the Agent shall not be required to contribute any amount in excess of the Agent's Fee received by it in respect of the sale of Offered Shares on behalf of the Issuer.

2.6 For purposes of this Section 2 of this Schedule F, each Person, if any, who controls the Agent and each affiliate of the Agent, and any directors, officers, partners, employees or agents of the Agent, shall have the same rights to contribution as the Agent, subject in each case to the provisions of this Section 2 of this Schedule F.

2.7 Any party entitled to contribution, promptly after receipt of notice of commencement of any action against such party in respect of which a claim for contribution may be made under this Section 2 of this Schedule F, will notify any such party or parties from whom contribution may be sought, but the omission to so notify will not relieve that party or parties from whom contribution may be sought from any other obligation it or they may have under this Section 2 of this Schedule F except to the extent that the failure to so notify such other party or parties materially prejudiced the substantive rights or defenses of the party or parties from whom contribution is sought. Except for a settlement entered into pursuant to Section 1.3 of this Schedule F, no party will be liable for contribution with respect to any action or claim settled without its written consent if such consent is required pursuant to Section 1.3 of this Schedule F.

### **3. THIRD PARTY BENEFICIARIES**

It is the intention of the parties hereto that the directors, officers, partners, employees and agents of the Agent and the affiliates of the Agent (the “**Agent Beneficiaries**”) shall be entitled to the benefit of the covenants of the Issuer under Section 1 or Section 2 of this Schedule F, and for this purpose the Issuer hereby: (a) appoint the Agent, and the Agent hereby accepts such appointment, as trustee of the covenants of the Issuer under Section 1 or Section 2 of this Schedule F for the benefit of the Agent Beneficiaries; and (b) acknowledges and agrees that the Agent shall be entitled to enforce such covenants on behalf of the Agent Beneficiaries notwithstanding that none of the Agent Beneficiaries is a direct party to this Agreement.

## SCHEDULE G

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### ISSUER IP AND LICENSED IP

On March 31, 2016, the Issuer filed a first provisional patent application in the U.S. directed to the Issuer's wireless electronic transaction system. On March 28, 2017, the Issuer filed a non-provisional patent application for this invention in the U.S., and on March 30, 2017, the Issuer filed a patent application for this invention in Canada, both of which claim the provisional patent priority date of March 31, 2016. The U.S. non-provisional patent application has since been abandoned. The Canadian patent application remains pending.

On March 16, 2017, the Issuer filed a second provisional patent application in the U.S. directed to the Issuer's wireless system for bill payment using short distance positioning systems. An international Patent Cooperation Treaty ("PCT") application claiming priority to the second provisional patent application was filed March 12, 2018. The PCT application has now been converted into national/regional patent applications in the U.S., Canada, Australia and Europe (before the European Patent Office), thereby establishing rights in key jurisdictions throughout the world, and is intended to provide significant commercial protection for the Issuer's technologies. The U.S., Canadian, Australian and European patent applications remain pending.

On September 18, 2017, the Issuer filed a third provisional patent application in the U.S. directed to an invention which allows orders and payments initiated from traditional websites on any platform to be secured via mobile devices utilizing anti-fraud technology. A PCT application claiming priority to the third provisional patent application was filed September 18, 2018. The PCT application has now been converted into national/regional patent applications in the U.S. and Canada, thereby establishing rights in key jurisdictions throughout the world, and is intended to provide significant commercial protection for the Issuer's technologies. The U.S. and Canadian patent applications remain pending.

In December 2018, the Issuer filed a fourth provisional patent application in the U.S. for Blockchain technology, directed at methods, systems and techniques for cryptographic token transfers. This patent application is for a foundational technology to lower costs and improve speed and efficiency of cryptocurrency transactions, even where the value of the transaction may be relatively small, as well as to facilitate converting between cryptocurrencies whose transactions are recorded on different blockchains. It also facilitates storing information of different sensitivity levels on differently permissioned blockchains, which can be useful when privacy is important.

On September 21, 2016, the Issuer filed a trademark application in Canada for the mark "GLANCE PAY®". On March 8, 2019, the GLANCE PAY® trademark was registered in Canada.

Pursuant to an amended and restated agreement with Fobisuite Technologies Inc. ("Fobisuite") dated May 6, 2019, the Issuer was granted a non-exclusive licence to use Fobisuite's technology which allows for the digitization of receipts for data collection and the ability to customize and append receipts with advertisements, deals and coupons for merchants in the hospitality industry. The licence is for an initial term of ten years, with perpetual subsequent one-year renewal terms.

On June 6, 2019, the Issuer filed a PCT application claiming priority to the fourth provisional patent application.

On December 12, 2019, the Issuer filed the application for the mark “PERKHERO” in Canada, and on May 4, 2020 the application for the mark “PERKHERO” was filed in the U.S.

On March 21, 2020, the Issuer filed an application to register the mark “PERK LABS” in Canada, and on July 30, 2020 an application to register the mark “PERK LABS” was filed in the U.S.