



UNDUR TOLGOI MINERALS INC.

**NOTICE OF SPECIAL MEETING
OF SHAREHOLDERS
TO BE HELD ON WEDNESDAY, DECEMBER 18, 2013**

AND

INFORMATION CIRCULAR

NOVEMBER 20, 2013

This document requires immediate attention. If you are in doubt as to how to deal with the documents or matters referred to in this Information Circular, you should immediately contact your advisor.



Suite 900 – 595 Howe Street
Vancouver, British Columbia V6C 2T5

NOTICE OF SPECIAL MEETING OF SHAREHOLDERS

NOTICE IS HEREBY GIVEN that a special meeting (the “**Meeting**”) of the shareholders of *Undur Tolgoi Minerals Inc.* (the “**Company**”) will be held on **Wednesday, December 18, 2013** at the hour of 9:00 a.m. (Pacific time), at Suite 900 – 595 Howe Street, Vancouver, British Columbia for the following purposes:

1. to approve and adopt the special resolution (“**Continuance Resolution**”) authorizing the continuance (“**Continuance**”) of the Company from British Columbia to the British Virgin Islands (the “**BVI**”). The full text of the Continuance Resolution is set forth in the Information Circular accompanying this Notice of Special Meeting under the heading “Particulars of Matters to be Acted Upon”; and
2. to transact such other business as may properly come before the Meeting or any adjournments or postponements thereof.

The Board has by resolution fixed **Monday, November 18, 2013** as the record date, being the date for the determination of the registered holders of common shares of the Company entitled to receive notice of, and to vote at, the Meeting and at any adjournments or postponements thereof. Each registered shareholder at the close of business on that date is entitled to such notice and to vote at the Meeting in the circumstances set out in the accompanying Information Circular.

If you are a registered shareholder of the Company and unable to attend the Meeting in person, please complete, date and sign the accompanying form of proxy and deposit it with the Company’s transfer agent, *Equity Financial Trust Company* (the “**Transfer Agent**”), at their offices located at 200 University Avenue, Suite 300, Toronto, Ontario M5H 4H1, Attention: Proxy Department or by fax at (416) 595-9593 by 9:00 AM (Pacific time) on **Monday, December 16, 2013**, or at least 48 hours (excluding Saturdays, Sundays and holidays recognized in the Province of British Columbia or Ontario) before the time and date of any adjournment or postponement thereof.

If you are a non-registered shareholder of the Company and received this Notice of Special Meeting and accompanying materials through a broker, a financial institution, a participant, a trustee or administrator of a self-administered retirement savings plan, retirement income fund, education savings plan or other similar self administered savings or investment plan registered under the *Income Tax Act* (Canada), or a nominee of any of the foregoing or any other person that holds your security on your behalf (the “**Intermediary**”), please complete and return the materials in accordance with the instructions provided to you by your Intermediary.

The accompanying Information Circular provides additional detailed information relating to the matters to be dealt with at the Meeting and is supplemental to, and expressly made a part of, this Notice of Special Meeting. Additional information about the Company and its financial statements are also available on SEDAR (www.sedar.com).

At the Meeting, the shareholders of the Company will be asked to consider and, if thought appropriate, to pass the Continuance Resolution. The Company has no material assets in the Province of British Columbia or elsewhere in Canada. By continuing the Company under the *BVI Business Companies Act, 2004*, as amended from time to time (the “**BVI Act**”), the Company will reside in the same jurisdiction as two of its wholly-owned subsidiaries, Wishland Properties Limited and Jucca Holdings Limited, which will facilitate the administration of the Company and its subsidiaries. In addition, the Company will be able to take advantage of the favourable tax treatment accorded to companies under the BVI Act. The BVI has enjoyed a long history of political and economic stability. The BVI is a well-developed international business and financial centre. The BVI’s legal system is based on the English common law system. Upon, or as soon as practicable after, the Continuance, the Company proposes to change its name to “Khot Group Holdings Ltd.” or such other name as may be determined by the directors of the Company. For further details regarding the Continuance and the Continuance Resolution, please see the heading “Particulars of Matters to be Acted Upon” in the attached Information Circular.

Registered holders of common shares of the Company have the right to dissent in respect of the Continuance Resolution and, if the Continuance becomes effective, to be paid the fair value of such holder's securities in accordance with the provisions of Part 8, Division 2 of the *Business Corporations Act* (British Columbia) (the "BCBCA"). To exercise such dissent right with respect to the Continuance Resolution, the shareholder must comply with the provisions of Part 8, Division 2 of the BCBCA. The right to dissent is described in the Information Circular and the text of Part 8, Division 2 of the BCBCA is set forth in Schedule "C" to the Information Circular. **Failure to strictly comply with the requirements set forth in Part 8, Division 2 of the BCBCA may result in the loss of any right of dissent. Persons who are beneficial owners of common shares registered in the name of a broker, custodian, nominee or other intermediary who wish to dissent should be aware that only the registered holders of common shares are entitled to dissent. Accordingly, a beneficial owner of common shares desiring to exercise the right of dissent regarding the Continuation Resolution must make arrangements for the registered holder of such common shares to dissent on behalf of the holder in accordance with Part 8, Division 2 of the BCBCA or must make arrangements for the common shares beneficially owned to be registered in the beneficial holder's name prior to the time the written objection to the Continuance Resolution is required to be received by the Company.**

DATED at Vancouver, British Columbia this 20th day of November, 2013.

BY ORDER OF THE BOARD

(signed) *Donald Padgett*

Donald Padgett

President and Chief Executive Officer

UNDUR TOLGOI MINERALS INC.

Suite 900 – 595 Howe Street
Vancouver, British Columbia V6C 2T5

INFORMATION CIRCULAR

(Containing information as at November 20, 2013 unless otherwise noted)

MANAGEMENT SOLICITATION OF PROXIES

This information circular (“**Information Circular**”) is furnished to the shareholders (each a, “**Shareholder**”) of common shares (each, a “**Common Share**”) of **Undur Tolgoi Minerals Inc.** (the “**Company**”) in connection with the solicitation of proxies by the management of the Company for use at the special meeting of the Shareholders (and any adjournment thereof) (the “**Meeting**”) to be held on **Wednesday, December 18, 2013 at 9:00 a.m. (Pacific Time)** at **Suite 900 – 595 Howe Street, Vancouver, British Columbia**, for the purposes set out in the accompanying Notice of Special Meeting and any adjournment thereof. While it is expected that the solicitation will be primarily by mail, proxies may be solicited personally or by telephone without special compensation by officers, directors and the regular employees of the Company at nominal cost. No solicitation will be made by specifically engaged employees or soliciting agents. The Company does not reimburse Shareholders, nominees or agents for the costs incurred in obtaining from their principals authorization to execute instruments of proxy. All costs of solicitation by management will be borne by the Company.

THE CONTENTS AND THE SENDING OF THIS INFORMATION CIRCULAR HAVE BEEN APPROVED BY THE DIRECTORS OF THE COMPANY.

PROXY INSTRUCTIONS AND VOTING RIGHTS

Management Solicitation

No person has been authorized to give any information or to make any representation other than as contained in this Information Circular in connection with the solicitation of proxies. If given or made, such information or representations must not be relied on as having been authorized by the Company. The delivery of this Information Circular shall not create, under any circumstances, any implication that there has been no change in the information set forth herein since the date of this Information Circular. This Information Circular does not constitute the solicitation of a proxy by anyone in any jurisdiction in which such solicitation is not authorized, or in which the person making such solicitation is not qualified to do so, or to anyone to whom it is unlawful to make such an offer of solicitation.

Appointment of Proxies

The individuals named in the accompanying form of proxy are directors and/or officers of the Company. A SHAREHOLDER WISHING TO APPOINT SOME OTHER PERSON (WHO NEED NOT BE A SHAREHOLDER) TO REPRESENT HIM OR HER AT THE MEETING HAS THE RIGHT TO DO SO, EITHER BY STRIKING OUT THE NAMES OF THOSE PERSONS NAMED IN THE ACCOMPANYING FORM OF PROXY AND INSERTING THE DESIRED PERSON’S NAME IN THE BLANK SPACE PROVIDED IN THE FORM OF PROXY OR BY COMPLETING ANOTHER FORM OF PROXY. Such Shareholder should notify the nominee of the appointment, obtain the nominee’s consent to act as a proxy and should provide instructions to the nominee on how the Shareholder’s Common Shares should be voted. The nominee should bring personal identification to the Meeting.

A proxy will not be valid unless the completed form of proxy is received by the Company’s registrar and transfer agent, Equity Financial Trust Company (the “**Transfer Agent**”), at its offices located at 200 University Avenue, Suite 300, Toronto, Ontario M5H 4H1 by mail or by fax at (416) 595-9593 not less than 48 hours (excluding Saturdays, Sundays and holidays recognized in the Province of British Columbia or Ontario) before the scheduled time of the Meeting or any adjournment or postponement thereof, or delivered to the Chairman of the Meeting prior to the commencement of the Meeting.

Signing of Proxies

A proxy may not be valid unless it is dated and signed by the Shareholder who is giving it or by that Shareholder's attorney-in-fact duly authorized by that Shareholder in writing or, in the case of a corporation, dated and executed by a duly authorized officer, or attorney-in-fact, for the corporation. If a form of proxy is executed by an attorney-in-fact for an individual Shareholder or joint Shareholders or by an officer or attorney-in-fact for a corporate Shareholder, the instrument so empowering the officer or attorney-in-fact, as the case may be, or a notarially certified copy of that document, should accompany the form of proxy.

Revocation of Proxies

A Shareholder who has given a proxy may revoke it at any time, before it is exercised, by an instrument in writing; (a) executed by the Shareholder or by that Shareholder's attorney-in-fact authorized in writing or, where the Shareholder is a corporation, by a duly authorized officer of, or attorney-in-fact for, of the corporation; and (b) delivered either (i) to the Company at the address set forth above, at any time up to and including the last business day preceding the day of the Meeting, or, if adjourned or postponed, any reconvening of the Meeting; or (ii) to the Chairman of the Meeting prior to the vote on matters covered by the proxy on the day of the Meeting or, if adjourned or postponed any reconvening thereof; or (iii) in any other manner provided by law.

Also, a proxy will automatically be revoked by either: (i) attendance at the Meeting and participation in a poll (ballot) by a Shareholder, or (ii) submission of a subsequent proxy in accordance with the foregoing procedures. A revocation of a proxy does not affect any matter on which a vote has been taken prior to the revocation.

Voting of Proxies

Subject to the information below under the heading "Advice to Non-Registered (Beneficial) Shareholders", registered Shareholders are entitled to vote at the Meeting. A registered Shareholder is entitled to one vote for each Common Share that such Shareholder holds on November 18, 2013 (the "**Record Date**") on the resolutions to be voted upon at the Meeting.

A Shareholder may indicate the manner in which the designated persons named in the form of proxy is to vote with respect to a matter to be voted upon at the Meeting by marking the appropriate space. If the instructions as to voting indicated in the form of proxy are certain, the Common Shares represented by the proxy will be voted in accordance with the instructions given in the proxy. **The Common Shares represented by a proxy will be voted in accordance with the instructions of the Shareholder on any ballot that may be called for and if the Shareholder specifies a choice with respect to any matter to be acted upon, the Common Shares will be voted accordingly.**

IF NO CHOICE IS SPECIFIED IN THE PROXY WITH RESPECT TO A MATTER TO BE ACTED UPON, THE PROXY CONFERS DISCRETIONARY AUTHORITY WITH RESPECT TO THAT MATTER UPON THE DESIGNATED PERSONS NAMED IN THE FORM OF PROXY. IT IS INTENDED THAT THE DESIGNATED PERSONS WILL VOTE THE COMMON SHARES REPRESENTED BY THE PROXY IN FAVOUR OF EACH MATTER IDENTIFIED IN THE PROXY AND IN FAVOUR OF ALL OTHER MATTERS PROPOSED BY MANAGEMENT AT THE MEETING.

The enclosed form of proxy confers discretionary authority upon the persons named therein with respect to other matters which may properly come before the Meeting, including any amendments or variations to any matters identified in the Notice of Special Meeting. At the date of this Information Circular, management of the Company is not aware of any such amendments, variations, or other matters to come before the Meeting.

In the case of abstentions from, or withholding of, the voting of Common Shares on any matter, the Common Shares that are the subject of the abstention or withholding will be counted for determination of a quorum, but will not be counted as affirmative or negative on the matter to be voted upon.

Voting in Person

Any Shareholder attending the Meeting to vote personally shall be required to produce identification satisfactory to the Chairman of the Meeting establishing his or her identity. If a Shareholder is a corporation or an entity other than an individual, then the duly authorized officer or representative of the corporation or other entity must deliver to the Chairman of the Meeting the original or a notarial copy of the instrument empowering such person to attend the

Meeting and vote on behalf of the Shareholder. Such documentation shall be in a form acceptable to the Chairman of the Meeting in his or her discretion.

ADVICE TO NON-REGISTERED (BENEFICIAL) SHAREHOLDERS

Only Shareholders whose names appear on our records or validly appointed proxyholders are permitted to vote at the Meeting. Most of our Shareholders are “non-registered” shareholders because their Common Shares are registered in the name of a nominee, such as a brokerage firm, bank, trust company, trustee or administrator of a self-administered RRSP, RRIF, RESP or similar plan or a clearing agency such as CDS Clearing and Depository Services Inc. (a “**Nominee**”). If you purchased your Common Shares through a broker, you are likely a non-registered Shareholder.

Non-registered Shareholders who have not objected to their Nominee disclosing certain ownership information about themselves to us are referred to as “NOBOs”. Those non-registered Shareholders who have objected to their Nominee disclosing ownership information about themselves to us are referred to as “OBOs”.

In accordance with securities regulatory policy, we have distributed copies of the Meeting materials, being the Notice of Special Meeting, this Information Circular and the form of proxy, directly to the NOBOs and to the Nominees for onward distribution to our non-registered Shareholders.

The Company has not adopted the notice and access procedure described in National Instrument 54-101 – *Communication with Beneficial Owners of Securities of a Reporting Issuer* and National Instrument 51-102 – *Continuous Disclosure Obligations* to distribute its proxy related materials to all of the Registered Shareholders and the Beneficial Shareholders.

Nominees are required to forward the Meeting materials to each OBO unless the OBO has waived the right to receive them. Common Shares held by Nominees can only be voted in accordance with the instructions of the non-registered Shareholder. Meeting materials sent to non-registered holders who have not waived the right to receive Meeting materials are accompanied by a request for voting instructions (a “**VIF**”). By returning the VIF in accordance with the instructions noted on it, a non-registered Shareholder is able to instruct the registered Shareholder or Nominee how to vote on behalf of the non-registered Shareholder. VIFs, whether provided by the Company or by a Nominee, should be completed and returned in accordance with the specific instructions noted on the VIF.

In either case, the purpose of this procedure is to permit non-registered Shareholders to direct the voting of the Common Shares which they beneficially own. **If a non-registered holder of Common Shares who receives a VIF wishes to attend the Meeting or to have someone else attend on his, her or its behalf, the non-registered Shareholder may appoint a legal proxy as set forth in the VIF, which will give the non-registered Shareholder or his, her or its Nominee the right to attend and vote at the Meeting. Non-registered Shareholders must carefully follow the instructions set out in the VIF including those regarding when and where the VIF is to be delivered.**

VOTING SECURITIES AND PRINCIPAL HOLDERS OF VOTING SECURITIES

The authorized share capital of the Company consists of an unlimited number of Common Shares without par value. As of the Record Date, there were a total of 64,351,484 Common Shares issued and outstanding. Each Common Share outstanding on the Record Date carries the right to one vote at the Meeting.

Only registered Shareholders of Common Shares as of the Record Date are entitled to receive notice of, and to attend and vote at, the Meeting or any adjournment or postponement of the Meeting. On a show of hands, every Shareholder and proxy holder will have one vote and, on a poll, every Shareholder present in person or represented by proxy will have one vote for each Common Share held. In order to approve the Continuance Resolution (as defined below) at the Meeting, a majority of at least **two-thirds** of the votes cast will be required to pass the special resolution.

To the knowledge of the Company’s directors and executive officers, as of **November 20, 2013**, no person or company beneficially owns, directly or indirectly, or exercises control or direction over, Common Shares carrying more than 10% of the voting rights attached to the outstanding Common Shares, other than as set forth below:

Name ⁽¹⁾	Number of Common Shares	Percentage of Issued and Outstanding Common Shares ⁽²⁾
James Passin	32,169,608 ⁽³⁾	49.99%
SMDD Capital Ltd.	9,788,067	15.21%

Notes:

- (1) The above information is based upon information supplied by the Transfer Agent and the Company's management.
- (2) Based on 64,351,484 Common Shares issued and outstanding on the Record Date. The Company believes that all persons hold legal title and it has no knowledge of actual Common Share ownership.
- (3) Disclosed holding is controlled by James Passin, a director of the Company, who has direct control of 1,000,000 Common Shares and indirect control and direction of (i) 126,250 Common Shares held by Passin Management Limited Partnership, (ii) 15,187,580 Common Shares held by Firebird Mongolia Fund, Ltd., (iii) 530,749 Common Shares held by Firebird Global Master Fund, Ltd., (iv) 461,393 Common Shares held by Firebird Global Master Fund II, Ltd. and (v) 14,863,636 Common Shares held by Firebird New Mongolia Fund, LP.

INTEREST OF CERTAIN PERSONS IN MATTERS TO BE ACTED ON

No director or executive officer of the Company who was a director or executive officer at any time since the beginning of the Company's last financial year, or any associate or affiliates of any such directors or officers, has any material interest, direct or indirect, by way of beneficial ownership of securities or otherwise, in any matter to be acted upon at the Meeting.

PARTICULARS OF MATTERS TO BE ACTED UPON

Continuance of the Company in the British Virgin Islands

At the Meeting, the Shareholders will be asked to consider and, if thought appropriate, to pass a special resolution, the full text of which is set forth below (the "**Continuance Resolution**"), authorizing the Company's Board of Directors, in its sole discretion, to make an application for the continuance of the Company from the laws of the Province of British Columbia to the laws of the British Virgin Islands ("**BVI**"). In conjunction with the application for the Continuance, the Shareholders will be asked to approve the adoption of a new memorandum of association and articles of association of the Company (collectively, the "**Articles**") in compliance with the *BVI Business Companies Act, 2004*, as amended from time to time (the "**BVI Act**"). A copy of the proposed Articles substantially in the form to be adopted is attached as Schedule "A" to this Information Circular. If the Continuance is approved, the Company will adopt the new form of Articles in compliance with the BVI Act and the Articles will constitute the governing instrument of the continued corporation under the BVI. The existing Notice of Articles and articles of the Company will be repealed in connection with the Continuance. The Continuance will result in the Company being subject to the BVI Act as if it had been incorporated thereunder and the Company will no longer be treated as a company governed by the *Business Corporations Act (British Columbia)* (the "**BCBCA**"). A summary of certain differences between the BVI Act and the BCBCA is attached to this Information Circular as Schedule "B". Shareholders should consult their legal advisors regarding implications of the Continuance which may be of particular importance to them.

Reasons for Continuance

The Company has no material assets in the Province of British Columbia or elsewhere in Canada. By continuing the Company under the BVI Act, the Company will reside in the same jurisdiction as two of its wholly-owned subsidiaries, Wishland Properties Limited and Jucca Holdings Limited, which will facilitate the administration of the Company and its subsidiaries. In addition, the Company will be able to take advantage of the favourable tax treatment accorded to companies under the BVI Act. The BVI has enjoyed a long history of political and economic stability. The BVI is a well-developed international business and financial centre. The BVI's legal system is based on the English common law system.

BVI companies (provided that they do not operate or hold real property in the BVI) and all amounts paid by them to non-residents are exempt from all local taxes and stamp duty. All dividends, royalties, interest, fees and management fees paid or deemed to be paid by a company to a person resident outside the BVI are exempt from BVI tax and no amount is required to be withheld under the BVI's *Income Tax Act*. A company incorporated under the BVI Act is not liable for any tax in the BVI on the transfer of any securities or assets of the Company.

Proposed Name Change

Upon, or as soon as practicable after, the Continuance, the Company proposes to change its name to "Khot Group

Holdings Ltd.” or such other name as may be determined by the directors of the Company in order to have its name better reflect the new focus of the Company beyond mineral exploration. In addition to director approval, the proposed name change is subject to the approval of the BVI Registrar and the Canadian National Stock Exchange (the “**Exchange**”). Shareholder approval is not required in connection with the proposed name change under the BVI Act and the Articles.

Procedure for and Effect of the Continuance

In order for the Continuance to become effective:

- (a) The Shareholders must authorize by special resolution the application for the Continuance by the Company to the BVI Registrar, requesting that the Company be continued as if it had been incorporated under the BVI Act.
- (b) The Company must file an Application for Authorization to Continue Out with the Registrar (the “**BC Registrar**”) under the BCBCA.
- (c) The Continuance of the Company as a corporation under the BVI Act will not be approved by the BC Registrar unless those laws provide, in effect, that after the Continuance:
 - (i) the property, rights and interests of the Company continues to be the property, rights and interests of the continued corporation;
 - (ii) the continued corporation continues to be liable for the obligations of the Company;
 - (iii) an existing cause of action, claim or liability to prosecution is unaffected;
 - (iv) a legal proceeding being prosecuted or pending by or against the Company may be prosecuted or its prosecution may be continued, as the case may be, by or against the continued corporation; and
 - (v) a conviction against, or a ruling, order or judgment in favour of or against the Company may be enforced by or against the continued corporation.
- (d) When the above requirements are met, the BC Registrar will authorize the Company to continue out. The authorization will be valid for six months.
- (e) Subject to compliance with all the requirements of the BVI Registrar and the BVI Act (including, but not limited to, the delivery of all required documents to, and approval of, the BVI Registrar), the BVI Registrar will issue to the Company a certificate of Continuation (the “**Certificate of Continuation**”).
- (f) The issue of the Certificate of Continuation by the BVI Registrar is conclusive evidence that:
 - (i) all the requirements of the BVI Act as to the Continuation have been complied with; and
 - (ii) the Company is continued as a company incorporated under the BVI Act under the name designated in its memorandum of association on the date specified in the Certificate of Continuation.
- (g) Upon the Continuance of the Company under the BVI Act:
 - (i) the BVI Act will apply to the Company as if it had been incorporated under the BVI Act;
 - (ii) the Company will be capable of exercising all the powers of a company incorporated under the BVI Act;
 - (iii) the Company will no longer be treated as a company incorporated under the BCBCA; and
 - (iv) the memorandum and articles of association filed with the BVI Registrar will become the memorandum and articles of association of the Company.

- (h) The Continuance of the Company under the BVI Act does not affect:
 - (i) the continuity of the Company as a legal entity; or
 - (ii) the assets, rights, obligations or liabilities of the Company.
- (i) Without limiting paragraph (h) above,
 - (i) no conviction, judgment, ruling, order, claim, debt, liability or obligation due or to become due, and no cause of action existing, against the Company or against any Shareholder, director, officer or agent thereof, is released or impaired by its Continuance as a company under the BVI Act; and
 - (ii) no proceedings, whether civil or criminal, pending at the time of the issue by the BVI Registrar of the Certificate of Continuation by or against the Company, or against any Shareholder, director, officer or agent thereof, are abated or discontinued by its Continuance as a company under the BVI Act, but the proceedings may be enforced, prosecuted, settled or compromised by or against the Company or against the Shareholder, director, officer or agent thereof, as the case may be.
- (j) All Common Shares that were outstanding prior to the issue by the BVI Registrar of the Certificate of Continuation shall be deemed to have been issued in conformity with the BVI Act.
- (k) The Company must then file a copy of the Certificate of Continuation with the BC Registrar. The Company will cease to be a company under the BCBCA when it is continued under the BVI Act.

On the effective date of the Continuance, Shareholders will continue to hold one Common Share of the Company domiciled in BVI for each Common Share currently held. The existing share certificates representing Common Shares will not be cancelled. Holders of convertible securities of the Company on the effective date of the Continuance will continue to hold convertible securities to purchase, or otherwise acquire an identical number of Common Shares on substantially the same terms. Subject to the filing of all necessary documentation with the Exchange, the Common Shares will remain listed on the Exchange. The Common Shares will commence trading on the Exchange under the new name and trading symbol once the necessary documentation has been accepted by the Exchange.

By operation of law, as of the effective date of the Continuance, all of the assets, property, rights, liabilities and obligations of the Company immediately prior to the Continuance will continue to be the assets, property, rights, liabilities and obligations of the Company continued under the BVI Act.

If the Continuance Resolution is passed, then the directors of the Company, in their absolute discretion, will determine whether or not to proceed with the Continuance Resolution, the proposed change of name and the timing and filing of the necessary documents to effect the same.

The directors of the Company believe that the Continuance Resolution is in the Company's best interests and recommend that the Shareholders approve the Continuance Resolution.

Unless a Shareholder has specifically instructed in the enclosed form of proxy that the Common Shares represented by such proxy are to be voted against the Continuance Resolution, the persons named in the enclosed form of proxy will vote FOR the Continuance Resolution.

In order to be effected, the Continuance Resolution must be approved by two-thirds (2/3) of the votes cast at the Meeting in person or by proxy.

Notwithstanding the approval of the Shareholders, the Board may, in its discretion and without further Shareholder action, revoke the Continuance Resolution without further approval of the Shareholders.

Shareholders Approval of the Continuance Resolution

“BE IT RESOLVED as a special resolution that:

1. the continuance of the Company out of British Columbia and into the British Virgin Islands (“**BVI**”) under Part X of the *BVI Business Companies Act, 2004*, as amended from time to time (the “**BVI Act**”) is hereby authorized and approved subject to the right of the directors of the Company to abandon the continuance without further approval of the Shareholders;
2. pursuant to section 308 of the *Business Corporations Act* (British Columbia), the directors of the Company are hereby, authorized, directed and empowered to take all such steps as are necessary or desirable for it to become a company continued under the BVI Act, including without limitation making all filings required pursuant to sections 180 and 181 of the BVI Act (the “**Continuance**”);
3. effective on the date of the Continuance, subject to the issuance by the Registrar of Corporate Affairs for the BVI of the Certificate of Continuation and without affecting the validity of the Company and the existence of the Company by or under its charter documents and of any act done thereunder, the Company is authorized to adopt a new Memorandum of Association and Articles of Association substantially in the form attached as Schedule “A” hereto in substitution for and to the exclusion of the existing Certificate of Amalgamation, Notice of Articles and articles of the Company;
4. AMS Trustees Limited be and is hereby authorised to sign the memorandum of association and articles of association of the Company for and on behalf of the directors of the Company pursuant to section 181(4) of the BVI Act;
5. any director or officer of the Company and AMS Trustees Limited be and are hereby authorised and directed to take any and all actions which may be necessary or desirable to effect the continuation of the Company from British Columbia to the BVI, including, without limitation, filing all necessary documents with the Registrar of Companies in British Columbia and the Registrar of Corporate Affairs (BVI);
6. effective upon the continuance of the Company in the BVI the registered agent of the Company shall be AMS Trustees Limited, Sea Meadow House, P.O. Box 116, Road Town, Tortola, British Virgin Islands;
7. effective upon the continuance of the Company in the BVI the registered office of the Company be situated at Sea Meadow House, P.O. Box 116, Road Town, Tortola, British Virgin Islands;
8. AMS Trustees Limited be and is hereby authorised to file the requisite documents with the Registrar of Corporate Affairs in the BVI to effect the change authorised by these resolutions;
9. any director or officer of the Company be, and is hereby authorized for and on behalf of the Company, to execute or cause to be executed, deliver and file all such documents, whether under the corporate seal of the Company or otherwise, and to do all such acts or things as may be necessary or desirable to give effect to and carry out the intent of this resolution; and
10. notwithstanding that this special resolution has been duly passed by the Shareholders, the directors of the Company are authorized, at their discretion, to determine, at any time, to proceed or not to proceed with the Continuance and to abandon this resolution at any time prior to the implementation of the Continuance without further approval of the Shareholders and in such case, this resolution approving the Continuance shall be deemed to have been rescinded.”

RIGHTS OF DISSENTING SHAREHOLDERS

Note that registered Shareholders who dissent in respect of the Continuance in accordance with Section 242 of the BCBCA will be entitled to be paid the fair value of their Common Shares in accordance with Section 245 of the BCBCA. Strict compliance with the Sections 237 to 247 of the BCBCA will be required in order to exercise such rights of dissent. See Schedule “C” to this Information Circular for a description of the dissent rights and for the full text of Sections 237 to 247 of the BCBCA.

The following is a summary of the provisions of the BCBCA relating to a Shareholder’s dissent rights in respect of the Continuance Resolution, as noted in the Notice of the Meeting. Such summary is not a comprehensive statement of the procedures to be followed by a Shareholder who seeks such dissent rights and is qualified in its entirety by reference to the full text of Part 8, Division 2 of the BCBCA which is attached to this Information Circular as Schedule “C”.

The statutory provisions dealing with the right of dissent are technical and complex. Any Shareholders wishing to exercise their dissent rights should seek independent legal advice, as failure to comply strictly with the provisions of Sections 237 to 247 of the BCBCA may prejudice their right of dissent.

Only registered Shareholders are entitled to dissent rights. Any non-registered or beneficial Shareholder (“**Non-Registered Holder**”) who wishes to dissent should arrange to have his or her Common Shares registered in his or her name before the applicable deadline for exercising the dissent rights or should make arrangements with the registered holder of his or her Common Shares to exercise the dissent rights on his or her behalf.

Pursuant to Section 238 of the BCBCA, every registered Shareholder who dissents from the Continuance Resolution (referred to in this Information Circular as a “**Dissenting Shareholder**”) in compliance with Sections 237 to 247 of the BCBCA will be entitled to be paid by the Company the fair value of the Common Shares held by such Dissenting Shareholder determined as at the point in time immediately before the passing of the Continuance Resolution, excluding any appreciation or depreciation in anticipation of the vote (unless such exclusion would be inequitable).

A Dissenting Shareholder must dissent with respect to all Common Shares in which the holder owns a beneficial interest. A registered Shareholder who wishes to dissent must deliver written notice of dissent (a “**Notice of Dissent**”) to the Company at its office at Suite 900 – 595 Howe Street, Vancouver, BC V6C 2T5, Attention: Corporate Secretary and such Notice of Dissent must strictly comply with the requirements of Section 242 of the BCBCA. **The Notice of Dissent must be sent to the Company not later than 5:00 p.m. (Vancouver time) on the last business day that is two business days before the date of the Meeting.** Any failure by a Shareholder to fully comply may result in the loss of that holder’s dissent rights. Non-Registered Holders who wish to exercise dissent rights must arrange for the registered Shareholder holding their Common Shares to deliver the Notice of Dissent.

The delivery of a Notice of Dissent does not deprive a Dissenting Shareholder of the right to vote at the Meeting on the Continuance Resolution; however, a Dissenting Shareholder is not entitled to exercise the dissent rights with respect to any of his or her Common Shares if the Dissenting Shareholder votes in favour of the Continuance Resolution. A vote against the Continuance Resolution, whether in person or by proxy, does not constitute a Notice of Dissent.

A Dissenting Shareholder must prepare a separate Notice of Dissent for him or herself, if dissenting on his or her own behalf, and for each other person who beneficially owns Common Shares registered in the Dissenting Shareholder’s name and on whose behalf the Dissenting Shareholder is dissenting; and must dissent with respect to all of the Common Shares registered in his or her name beneficially owned by the Non-Registered Holder on whose behalf he or she is dissenting. The Notice of Dissent must set out the number of Common Shares in respect of which the Notice of Dissent is to be sent (the “**Notice Shares**”) and: (a) if such shares constitute all of the shares of which the Dissenting Shareholder is the registered and beneficial owner, a statement to that effect; (b) if such shares constitute all of the shares of which the Dissenting Shareholder is both the registered and beneficial owner but the Dissenting Shareholder owns additional shares beneficially, a statement to that effect and the names of the registered shareholders, the number of shares held by such registered owners and a statement that written Notices of Dissent has or will be sent with respect to such shares; or (c) if the dissent rights are being exercised by a registered owner who is not the beneficial owner of such shares, a statement to that effect and the name of the beneficial owner and a statement that the registered owner is dissenting with respect to all shares of the beneficial owner registered in such registered owner’s name.

If the Continuance Resolution is approved by the Shareholders and if the Company notifies the Dissenting Shareholders of its intention to act upon the Continuance Resolution, the Dissenting Shareholder is then required within one month after the Company gives such notice, to send to the Company, the certificates representing the Notice Shares and a written statement that requires the Company to purchase all of the Notice Shares. If the dissent right is being exercised by the Dissenting Shareholder on behalf of a Non-Registered Holder who is not the Dissenting Shareholder, a statement signed by the beneficial owner is required which sets out whether the beneficial owner is the beneficial owner of other Common Shares and if so, (i) the names of the registered owners of such Common Shares; (ii) the number of such Common Shares; and (iii) that dissent is being exercised in respect of all of such shares. Upon delivery of these documents, the Dissenting Shareholder is deemed to have sold the Common Shares and the Company is deemed to have purchased them. Once the Dissenting Shareholder has done this, the Dissenting Shareholder may not vote, exercise or assert any shareholder rights in respect of the Notice Shares.

The Dissenting Shareholder and the Company may agree on the payout value of the Notice Shares; otherwise, either party may apply to the court to determine the fair value of the Notice Shares or apply for an order that value be established by arbitration or by reference to the registrar or a referee of the court. After a determination of the payout value of the Notice Shares, the Company must then promptly pay that amount to the Dissenting Shareholder.

A Dissenting Shareholder loses his or her Dissent Right if, before full payment is made for the Notice Shares, the Company abandons the corporate action that has given rise to the dissent right (namely the Continuation), a court permanently enjoins the action, or the Dissenting Shareholder withdraws the Notice of Dissent with the Company's consent. When these events occur, the Company must return the share certificates to the Dissenting Shareholder and the Dissenting Shareholder regains the ability to vote and exercise shareholder rights.

The discussion above is only a summary of the dissent rights, which are technical and complex. A Shareholder who intends to exercise dissent rights should carefully consider and comply with the provisions of Sections 237 to 247 of the BCBCA. Persons who are Non-Registered Holders of Common Shares registered in the name of an intermediary such as a broker, custodian, nominee, other intermediary, or in some other name, who wish to dissent should be aware that only the registered owner of such Common Shares is entitled to dissent.

Any Shareholder wishing to avail himself or herself of the dissent rights should seek his or her own legal advice as failure to comply strictly with the applicable provisions of the BCBCA may prejudice the availability of such dissent rights. Dissenting Shareholders should note that the exercise of dissent rights can be a complex, time-consuming and expensive process.

OTHER MATTERS

The management of the Company knows of no other matters to come before the Meeting other than as set forth in the Notice of Special Meeting. However, if other matters which are not known to management should properly come before the Meeting, the accompanying instrument of proxy will be voted on such matters in accordance with the best judgment of the person or persons voting the proxy.

ADDITIONAL INFORMATION

Additional Information relating to the Company is available on SEDAR at www.sedar.com or the Company's web site www.undurtolgoi.com.

Shareholders may contact the Company at its office by mail at the address set out below to request copies of the Company's financial statements and the related Management's Discussion and Analysis (the "MD&A") which will be sent to the Shareholder without charge upon request. Financial information is provided in the Company's comparative financial statements and MD&A for its financial years ended December 31, 2012.

Undur Tolgoi Minerals Inc.
Suite 900 – 595 Howe Street
Vancouver, BC V6C 2T5
Telephone: (604) 689-1515
Fax: (604) 687-8678 • E-mail: info@undurtolgoi.com

APPROVAL OF THE BOARD OF DIRECTORS

The contents of this Information Circular have been approved, and the delivery of it to each Shareholder entitled thereto and to the appropriate regulatory agencies has been authorized by the Board.

DATED at Vancouver, British Columbia, on the 20th day of November, 2013.

BY ORDER OF THE BOARD

(signed) *Donald Padgett*
President and Chief Executive Officer

SCHEDULE "A"

BVI MEMORANDUM OF ASSOCIATION AND ARTICLES OF ASSOCIATION



**TERRITORY OF THE BRITISH VIRGIN ISLANDS
THE BVI BUSINESS COMPANIES ACT, 2004**

MEMORANDUM OF ASSOCIATION

AND

ARTICLES OF ASSOCIATION

OF

UNDUR TOLGOI MINERALS INC.

Continued into the British Virgin Islands on the [date], 2013

AMS Trustees Limited
Sea Meadow House
P.O. Box 116
Road Town
Tortola
British Virgin Islands

TERRITORY OF THE BRITISH VIRGIN ISLANDS

BVI BUSINESS COMPANIES ACT, 2004 (the “Act”)

MEMORANDUM OF ASSOCIATION

OF

UNDUR TOLGOI MINERALS INC.

1. NAME

The name of the company is Undur Tolgoi Minerals Inc. (the “Company”).

The directors may from time to time change the Company’s name by Resolution of Directors. The directors shall give notice of such resolution to the registered agent of the Company, for the registered agent to file an application for change of name with the Registrar, and any such change will take effect from the date of the certificate of change of name is issued by the Registrar.

A change of name of the Company shall constitute an amendment of this Memorandum and Articles and, in the event of a resolution being passed to change the name of the Company, the provisions below in respect of amendments to this Memorandum and Articles must be complied with.

2. STATUS

The Company is a company limited by shares. The company was amalgamated in the Province of British Columbia, Canada on November 14, 2011 under the name Undur Tolgoi Minerals Inc. and continued as a company incorporated under the Act on the date specified in its certificate of continuation.

3. REGISTERED OFFICE AND REGISTERED AGENT

The first registered office of the Company is Sea Meadow House, P.O. Box 116, Road Town, Tortola, British Virgin Islands.

The first registered agent of the Company is AMS Trustees Limited of Sea Meadow House, P.O. Box 116, Road Town, Tortola, British Virgin Islands.

4. CAPACITY AND POWERS

Subject to the Act and any other British Virgin Islands legislation, the Company has, irrespective of corporate benefit:

(a) full capacity to carry on or undertake any business or activity, do any act or enter into any transaction; and

(b) for the purposes of subparagraph (a), full rights, powers and privileges.

5. NUMBER AND CLASSES OF SHARES

The Company is authorised to issue an unlimited number of shares of a single class and single series with no par value.

6. RIGHTS ATTACHING TO SHARES

Subject to the Articles, the terms of the issue of any share, or any Resolution of Members to the contrary (and, for greater clarity, without prejudice to any special rights conferred thereby on the holders of any other shares), a share of the Company confers on the holder:

- (a) the right to one vote at a meeting of the Members or on any Resolution of Members;
- (b) the right to an equal share in any Distribution paid by the Company; and
- (c) the right to an equal share in the distribution of the surplus assets of the Company on a winding up.

7. VARIATION OF CLASS RIGHTS

The rights attached to any class or series of shares (unless otherwise provided by the terms of issue of the shares of that class or series), whether or not the Company is being wound-up, may be varied with the consent in writing of all the holders of the issued shares of that class or series or with the sanction of a resolution passed by a majority of the votes cast at a separate meeting of the holders of the shares of the class or series.

8. RIGHTS NOT VARIED BY THE ISSUE OF SHARES PARI PASSU

Rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking pari passu therewith.

9. REGISTERED SHARES

The Company shall issue registered shares only, and such shares may be in full or fractional form. The Company is not authorised to issue bearer shares, convert registered shares to bearer shares, or exchange registered shares for bearer shares.

10. AMENDMENT OF MEMORANDUM AND ARTICLES OF ASSOCIATION

Subject to Clauses 1 and 7, the Company may amend its Memorandum or Articles by a Special Resolution or if the amendment is (in the determination of the Board) required in connection with an application for the shares to be listed on a stock exchange, by a Resolution of Directors, save that no amendment may be made by a Resolution of Directors:

- (a) to restrict the rights or powers of the Members to amend the Memorandum or Articles;
- (b) to change the percentage of Members required to pass a Resolution of Members to amend the Memorandum or Articles;
- (c) in circumstances where the Memorandum or Articles cannot be amended by the Members; or
- (d) to clauses 6, 7, 8 or this clause 10.

11. DEFINITIONS

The meanings of words in this Memorandum are as defined in the Articles annexed hereto.

We, AMS TRUSTEES LIMITED, registered agent of the Company, of Sea Meadow House, P.O. Box 116, Road Town, Tortola, British Virgin Islands for the purpose of continuing the Company as a BVI Business Company under the laws of the British Virgin Islands hereby sign this Memorandum of Association on behalf of the directors of the Company who have approved same on the [date], 2013:

AMS TRUSTEES LIMITED

Per:
For and on behalf of
AMS Trustees Limited

TERRITORY OF THE BRITISH VIRGIN ISLANDS

BVI BUSINESS COMPANIES ACT, 2004

ARTICLES OF ASSOCIATION

OF

UNDUR TOLGOI MINERALS INC.

(a company limited by shares)

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INTERPRETATION

1. Definitions

1.1 In these Articles, the following words and expressions shall, where not inconsistent with the context, have the following meanings, respectively:

Act	BVI Business Companies Act, 2004, as from time to time amended or restated;
Articles	these Articles of Association as originally registered or as from time to time amended or restated;
Board	the board of directors appointed or elected pursuant to these Articles and acting by Resolution of Directors;
Company	Undur Tolgoi Minerals Inc.;
Distribution	(a) the direct or indirect transfer of an asset, other than the Company's own shares, to or for the benefit of a Member; or (b) the incurring of a debt to or for the benefit of a Member; in relation to shares held by a Member and whether by means of the purchase of an asset, the purchase, redemption or other acquisition of shares, a transfer of indebtedness or otherwise, and includes a dividend;
Member	a person whose name is entered in the register of members as the holder of one or more shares, or fractional shares, in the Company;
Memorandum	the Memorandum of Association of the Company as originally registered or as from time to time amended or restated;
Resolution of Directors	(a) a resolution approved at a duly constituted meeting of directors or of a committee of directors of the Company by the affirmative vote of a simple majority of the directors present who voted and did not abstain; or (b) a resolution consented to in writing by all of the directors or all of the members of the committee, as the case maybe, entitled to vote thereon;
Resolution of Members	(a) a resolution approved at a duly constituted meeting of Members by the affirmative vote of a simple majority of the votes of those Members entitled to vote and voting on the resolution; or (b) a resolution consented to in writing by a simple majority of the Members entitled to vote thereon;
Seal	the common seal of the Company;
Secretary	the person appointed to perform any or all of the duties

	of secretary of the Company and includes any deputy or assistant secretary and any person appointed by the Board to perform any of the duties of the Secretary; and
Special Resolution	a resolution: (a) passed by at least two-thirds of such Members as being entitled to vote and voting on the resolution; or (b) approved in writing by all of the Members entitled to vote on the resolution in accordance with this Memorandum and the Articles.
Treasury Share	a share of the Company that was previously issued but was repurchased, redeemed or otherwise acquired by the Company and not cancelled.

1.2 In these Articles, where not inconsistent with the context:

- (a) words denoting the plural number include the singular number and vice versa;
- (b) words denoting the masculine gender include the feminine and neuter genders;
- (c) words importing persons include companies, associations or bodies of persons whether corporate or not;
- (d) a reference to voting in relation to shares shall be construed as a reference to voting by Members holding the shares, except that it is the votes allocated to the shares that shall be counted and not the number of Members who actually voted and a reference to shares being present at a meeting shall be given a corresponding construction;
- (e) a reference to money is unless otherwise stated a reference to the currency in which shares of the Company shall be issued;
- (f) the words:
 - (i) “may” shall be construed as permissive; and
 - (ii) “shall” shall be construed as imperative; and
- (g) unless otherwise provided herein, words or expressions defined in the Act shall bear the same meaning in these Articles.

1.3 In these Articles, expressions referring to writing or its cognates shall, unless the contrary intention appears, include facsimile, printing, lithography, photography, electronic mail and other modes of representing words in visible form.

1.4 Headings used in these Articles are for convenience only and are not to be used or relied upon in the construction hereof.

SHARES

2. Power to Issue Shares

Subject to the provisions of the Memorandum and any Special Resolution to the contrary, the unissued shares of the Company shall be at the disposal of the Board which may, without prejudice to any rights previously conferred on the holders of any existing shares or class or series of shares, offer, allot, grant options over or otherwise dispose of the shares to such persons, at such times and upon such terms and conditions as the Company may by Resolution of Directors determine. The pre-emption rights set out in section 46 of the Act shall not apply to the Company.

3. Power of the Company to Purchase its Shares

Subject to these Articles, the Company may by Resolution of Directors, purchase, redeem or otherwise acquire and hold its own shares. Sections 60, 61 and 62 of the Act shall not apply to the Company.

4. No Treasury Shares - Treatment of Purchased, Redeemed or Acquired Shares

Shares that the Company purchases, redeems or otherwise acquires shall be cancelled immediately.

5. Consideration

5.1 No share may be issued until the consideration in respect of the share is fully paid, and when issued, the share is for all purposes fully paid and non-assessable.

5.2 Subject to Article 5.1, a share may be issued for consideration in the form of money real property or personal property (including goodwill and know-how) or services already rendered; provided that a share may not be issued for promissory notes or services to be rendered.

5.3 No share may be issued for a consideration other than money unless the Board passes a resolution stating:

- (a) the amount to be credited for the issue of the share;
- (b) its determination of the reasonable present cash value of the non-money consideration for the issue; and
- (c) that, in its opinion, the present cash value of the non-money consideration for the issue is not less than the amount to be credited for the issue of the share.

5.4 No share may be issued by the Company that:

- (a) increases the liability of a person to the Company; or
- (b) imposes a new liability on a person to the Company,

unless that person, or an authorised agent of that person, agrees in writing to becoming the holder of the share.

5.5 The consideration for a share with par value shall not be less than the par value of the share.

5.6 Any director who votes for or consents to a resolution authorizing the issue of a share for consideration other than money is jointly and severally liable to the Company to make good any amount by which the consideration received is less than the fair market value of the money that the Company would have received if the share had been issued for money on the date of the resolution.

6. No Forfeiture of Shares

Only shares that are fully paid and non-assessable shall be available for issue (*per Article 5.1, Consideration*) and as such, no issued shares shall be subject to forfeiture.

7. Share Certificates

7.1 The Company shall not be required to issue certificates in respect of its shares to a Member, but may elect to do so by the determination of any one director or the Secretary in his sole discretion, upon the request and at the expense of the Member.

7.2 If the Company issues share certificates, the certificates shall be signed by at least one director or such other person who may be authorised by Resolution of Directors to sign share certificates, or shall be under the common seal of the Company, with or without the signature of any director, and the signatures and common seal may be facsimiles.

7.3 Any Member receiving a share certificate for registered shares shall indemnify and hold the Company and its directors and officers harmless from any loss or liability which it or they may incur by reason of wrongful or fraudulent use or representation made by any person by virtue of the possession thereof. If a share certificate for registered shares is worn out or lost it may be renewed on production of the worn out certificate or on satisfactory proof of its loss together with such indemnity as may be required by a Resolution of Directors.

8. Fractional Shares

The Company may issue fractional shares and a fractional share shall have the corresponding fractional rights, obligations and liabilities of a whole share of the same class or series of shares.

REGISTRATION OF SHARES

9. Register of Members

9.1 The Board shall cause there to be kept a register of members in which there shall be recorded the name and address of each Member, the number of each class and series of shares held by each Member, the date on which the name of each Member was entered in the register of members and the date upon which any person ceased to be a Member.

9.2 The register of members may be in such form as the Board may approve, but if it is in magnetic, electronic or other data storage form, the Company must be able to produce legible evidence of its contents. Unless the Board otherwise determines, the magnetic, electronic or other data storage form shall be the original register of members.

10. Registered Holder Absolute Owner

10.1 The entry of the name of a person in the register of members as a holder of a share in the Company is *prima facie* evidence that legal title in the share vests in that person.

10.2 The Company may treat the holder of a registered share as the only person entitled to:

- (a) exercise any voting rights attaching to the share;
- (b) receive notices;
- (c) receive a Distribution in respect of the share; and
- (d) exercise other rights and powers attaching to the share.

11. Transfer of Registered Shares

- 11.1** Registered shares in the Company shall only be transferred by a written instrument of transfer signed by the transferor and containing the name and address of the transferee.
- 11.2** The instrument of transfer shall also be signed by the transferee if registration as a holder of the share imposes a liability to the Company on the transferee.
- 11.3** The instrument of transfer shall be sent to the Company for registration.
- 11.4** The Company shall, on receipt of an instrument of transfer, enter the name and address of the transferee of the share in the register of members unless the Board resolves to refuse or delay the registration of the transfer for reasons that shall be specified in the resolution.
- 11.5** The Board is permitted to pass a Resolution of Directors refusing or delaying the registration of a transfer where it reasonably determines that it is in the best interest of the Company to do so.
- 11.6** Where the Board passes a resolution to refuse or delay the registration of a transfer, the Company shall, as soon as practicable, send the transferor and the transferee a notice of the refusal or delay.
- 11.7** The transfer of a share is effective when the name of the transferee is entered in the register of members and the Company shall not be required to treat a transferee of a share in the Company as a Member until the transferee's name has been entered in the register of members.
- 11.8** If the Board is satisfied that an instrument of transfer has been signed but that the instrument has been lost or destroyed, it may resolve:
 - (a) to accept such evidence of the transfer of the shares as they consider appropriate; and
 - (b) that the transfer of shares be recorded, including by the entry of the transferee's name in the register of members.

12. Transmission of Registered Shares

- 12.1** The executor or administrator of the estate of a deceased Member, the guardian of an incompetent Member, the liquidator of an insolvent Member or the trustee of a bankrupt Member shall be the only person recognised by the Company as having any title to the Member's share.
- 12.2** Any person becoming entitled by operation of law or otherwise to a share in consequence of the death, incompetence or bankruptcy of any Member may be registered as a Member upon such evidence being produced as may reasonably be required by the Board. An application by any such person to be registered as a Member shall for all purposes be deemed to be a transfer of the share of the deceased, incompetent or bankrupt Member and the directors shall treat it as such.
- 12.3** Any person who has become entitled to a share or shares in consequence of the death, incompetence or bankruptcy of any Member may, instead of being registered himself, request in writing that some person to be named by him be registered as the transferee of such share and such request shall likewise be treated as if it were a transfer.

ALTERATION OF SHARES

13. Power to Alter Shares

- 13.1** The Company may, by Special Resolution, amend the Memorandum to increase or reduce the maximum number of shares that the Company is authorised to issue.
- 13.2** Subject to the Memorandum and these Articles, the Company may, by Special Resolution:

- (a) divide its shares, including issued shares, into a larger number of shares; or
- (b) combine its shares, including issued shares, into a smaller number of shares;

provided that, where shares are divided or combined, the aggregate par value (if any) of the new shares must be equal to the aggregate par value (if any) of the original shares.

- 13.3** A division or combination of shares, including issued shares, of a class or series shall be for a larger or smaller number, as the case may be, of shares in the same class or series.

14. Restrictions on the Division of Shares

The Company shall not divide its shares if it would cause the maximum number of shares that the Company is authorised to issue to be exceeded.

DISTRIBUTIONS

15. Distributions

- 15.1** The Board may, by Resolution of Directors, authorise a Distribution by the Company to Members at such time and of such an amount as it thinks fit and if it is satisfied, on reasonable grounds, that immediately after the Distribution, the value of the Company's assets exceeds its liabilities and the Company is able to pay its debts as they fall due. The resolution shall include a statement to that effect.

- 15.2** Notice of any Distribution that may have been authorised shall be given to each Member entitled to the Distribution in the manner provided in Article 24 and all Distributions unclaimed for three years after having been authorised may be forfeited by Resolution of Directors for the benefit of the Company.

- 15.3** No Distribution shall bear interest as against the Company.

- 15.4** The Board may not issue bonus shares.

16. Power to Set Aside Profits

The Board may, before authorising any Distribution, set aside out of the profits of the Company such sum as it thinks proper as a reserve fund, and may invest the sum so set apart as a reserve fund upon such securities as they may select.

17. Unauthorised Distributions

- 17.1** If, after a Distribution is authorised and before it is made, the Board ceases to be satisfied on reasonable grounds that immediately after the Distribution the value of the Company's assets exceeds its liabilities and the Company is able to pay its debts as they fall due, such Distribution is deemed not to have been authorised.

- 17.2** A Distribution made to a Member at a time when, immediately after the Distribution, the value of the Company's assets did not exceed its liabilities and the Company was not able to pay its debts as they fell due, is subject to recovery in accordance with the provisions of the Act.

18. Distributions to Joint Holders of Shares

If several persons are registered as joint holders of any shares, any one of such persons may give an effectual receipt for any Distribution payable in respect of such shares.

MEETINGS OF MEMBERS

19. General Meetings

The Board, by Resolution of Directors, shall convene a meeting of the Members of the Company at such times and in such manner as the Board considers necessary or desirable, but the Board shall call a meeting of the Members designated as an “annual meeting” not later than eighteen months after the Company’s incorporation under the laws of the British Virgin Islands and subsequently not later than fifteen months after holding the last preceding annual meeting, and no later than six months after the end of the Company’s preceding financial year.

20. Location

Any meeting of the Members may be held in such place within or outside the British Virgin Islands as the Board considers appropriate.

21. Requisitioned General Meetings

21.1 The Board shall call a meeting of the Members if requested in writing to do so by Members entitled to exercise at least thirty percent of the voting rights in respect of the matter for which the meeting is being requested specifying the objects of the meeting for a date no later than twenty-one days from the date of deposit of the requisition signed by the requisitionists, and if the Board does not convene such meeting for a date not later than forty-five days after the date of such deposit, the requisitionists themselves may convene the Members’ meeting in the same manner, as nearly as possible, as that in which Members’ meetings may be convened by the Board, and all reasonable expenses incurred by the requisitionists as a result of the failure of the Board to convene the Members’ meeting shall be reimbursed to them by the Company. Notwithstanding this Article 21.1, the requisitionists are not entitled to be reimbursed by the Company for reasonable expenses incurred by them in connection with convening a Members’ meeting if:

- (a) it clearly appears to the Board that the primary purpose of the requisition is to enforce a personal claim or redress a personal grievance against the Company or its Board, officers or security holders;
- (b) it clearly appears to the Board that the requisition does not relate in a significant way to the business or affairs of the Company;
- (c) not more than two years before the receipt of the requisition, a person failed to present, in person or by proxy, at a meeting of Members, a proposal that, at the person’s request, had been included in a management information circular relating to the meeting; or
- (d) substantially the same proposal was submitted to Members in a management information circular or a dissident’s information circular relating to a meeting of Members held within two years preceding the receipt of the Member’s requisition and the proposal was defeated.

21.2 If at any time there are no directors, any two Members (or if there is only one Member then that Member) entitled to vote at meetings of the Members of the Company may convene a Members’ meeting in the same manner as nearly as possible as that in which Members’ meetings may be convened by the Board.

22. Notice

- 22.1** The Board shall give not less than twenty-one days notice (and not more than sixty days notice) of meetings of Members to those persons whose names, on the date the notice is given, appear as Members in the register of members of the Company and are entitled to vote at the meeting.
- 22.2** The Board may fix as the record date for determining those Members that are entitled to vote at the meeting as being the date notice is given of the meeting and may also, as an alternative, fix in advance a date as the record date for determining those shares that are entitled to vote at the meeting but the record date shall not precede by more than 60 days or by less than 21 days the date on which the meeting is to be held.
- 22.3** A meeting of Members held in contravention of the requirement in Article 22.1 is valid if Members holding a ninety percent majority of the total voting rights on all the matters to be considered at the meeting have waived notice of the meeting and, for this purpose, the presence of a Member at the meeting shall be deemed to constitute waiver on his part.
- 22.4** The inadvertent failure of the Board to give notice of a meeting to a Member, or the fact that a Member has not received notice, does not invalidate the meeting.

23. Giving Notice

- 23.1** A notice may be given by the Company to any Member either by delivering it to such Member in person or by sending it to such Member's address in the register of members or to such other address given for the purpose. Notice may be sent by mail, courier service, cable, telex, telecopier, facsimile or other mode of representing words in a legible form.
- 23.2** Any notice required to be given to a Member shall, with respect to any shares held jointly by two or more persons, be given to whichever of such persons is named first in the register of members and notice so given shall be sufficient notice to all the holders of such shares.

24. Service of Notice

Any notice shall be deemed to have been served at the time when the same would be delivered in the ordinary course of transmission and, in proving such service, it shall be sufficient to prove that the notice was properly addressed and prepaid, if posted, and the time when it was posted, delivered to the courier or to the cable company or transmitted by telex, facsimile or other method as the case may be.

25. Participating in Meetings by Telephone

A Member shall be deemed to be present at a meeting of Members if he participates by telephone or other electronic means if approved by the Board and all Members participating in the meeting are able to hear each other.

26. Quorum at General Meetings

- 26.1** A meeting of Members is properly constituted if at the commencement of the meeting there are present in person or by proxy not less than two or more Members entitled to vote on Resolutions of Members to be considered at the meeting.
- 26.2** If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case it shall stand adjourned to the same business day in the next week at the same time and place or to such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, those present and entitled to vote shall constitute a quorum but otherwise the meeting shall be dissolved.

26.3 If a quorum is present, notwithstanding the fact that such quorum may be represented by only one person then such person may resolve any matter and a certificate signed by such person accompanied where such person be a proxy by a copy of the proxy form shall constitute a valid Resolution of Members.

27. Chairman to Preside

At every meeting of Members, the chairman of the Board shall preside as chairman of the meeting. If there is no chairman of the Board or if the chairman of the Board is not present at the meeting within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, any director or person nominated by the directors shall preside as chairman, failing which the Members present shall choose someone of their number to be the chairman. If the Members are unable to choose a chairman for any reason, then the person representing the greatest number of voting shares present in person or by proxy at the meeting shall preside as chairman.

28. Voting on Resolutions

At any meeting of the Members the chairman shall be responsible for deciding in such manner as he shall consider appropriate whether any resolution has been carried or not and the result of his decision shall be announced to the meeting and recorded in the minutes thereof.

29. Power to Demand a Vote on a Poll

29.1 At any meeting of members a resolution put to the vote of the meeting shall, in the first instance, be voted upon by a show of hands and, subject to any rights or restrictions for the time being lawfully attached to any class of shares and subject to the provisions of these Articles, every Member present in person and every person holding a valid proxy at such meeting shall be entitled to one vote and shall cast such vote by raising his hand.

29.2 If the chairman shall have any doubt as to the outcome of any resolution put to the vote, he shall cause a poll to be taken of all votes cast upon such resolution, but if the chairman shall fail to take a poll then any Member present in person or by proxy who disputes the announcement by the chairman of the result of any vote may immediately following such announcement demand that a poll be taken and the chairman shall thereupon cause a poll to be taken. If a poll is taken at any meeting, the result thereof shall be duly recorded in the minutes of that meeting by the chairman.

30. Voting by Joint Holders of Shares

The following shall apply where shares are jointly owned: (a) if two or more persons hold shares jointly each of them may be present in person or by proxy at a meeting of Members and may speak as a Member; (b) if only one of the joint owners is present in person or by proxy he may vote on behalf of all of them; and (c) if two or more of the joint owners are present in person or by proxy they must vote as one.

31. Instrument of Proxy

31.1 A Member may be represented at a meeting of Members by a proxy (who need not be a Member) who may speak and vote on behalf of the Member.

31.2 An instrument appointing a proxy shall be in such form as the Board may from time to time determine or such other form as the chairman of the meeting shall accept as properly evidencing the wishes of the Member appointing the proxy.

31.3 The chairman of any meeting at which a vote is cast by proxy or on behalf of any person other than an individual may call for a notarially certified copy of such proxy or authority which shall be produced within seven days of being so requested or the votes cast by such proxy or on behalf of such person shall be disregarded.

31.4 The instrument appointing a proxy shall be produced at the place appointed for the meeting before the time for holding the meeting at which the person named in such instrument proposes to vote.

32. Representation of Members

32.1 Any person other than an individual which is a Member may by resolution in writing (certified or signed by a duly authorised person) of its directors or other governing body authorise such person as it thinks fit to act as its representative (in this Article, "Representative") at any meeting of the Members or at the meeting of the Members of any class or series of shares and the Representative shall be entitled to exercise the same powers on behalf of the Member which he represents as that Member could exercise if it were an individual.

32.2 The right of a Representative shall be determined by the law of the jurisdiction where, and by the documents by which, the Member is constituted or derives its existence. In case of doubt, the Board may in good faith seek legal advice from any qualified person and unless and until a court of competent jurisdiction shall otherwise rule, the Board may rely and act upon such advice without incurring any liability to any Member.

33. Adjournment of General Meetings

The chairman may, with the consent of the meeting, adjourn any meeting from time to time, and from place to place.

34. Business at Adjourned Meetings

No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

35. Directors Attendance at General Meetings

Directors of the Company may attend and speak at any meeting of Members of the Company and at any separate meeting of the holders of any class or series of shares in the Company.

36. Reserved Matters

Any amalgamation, consolidation, merger or continuation of the Company, requires approval by a Special Resolution and the Company shall not undertake any such actions without such approval by a Special Resolution. For the avoidance of any doubt once such an action has been approved by a Special Resolution, then no Resolution of Directors is required in relation thereto except where the Act requires such a Resolution of Directors in relation thereto. Section 175 of the Act shall not apply to the Company.

DIRECTORS AND OFFICERS

37. Election of Directors

37.1 The first registered agent of the Company shall, within six months of the date of incorporation of the Company, appoint one or more persons as the first director or directors of the Company. The first director or directors may at the first meeting of directors elect any number of additional directors as it or they may determine up to the maximum number set by Article 38. Thereafter, the directors shall be elected by the Members on an annual basis at the annual meeting of the Members.

37.2 No person shall be appointed as a director or nominated as a reserve director unless he has consented in writing to act as a director or to be nominated as a reserve director.

37.3 A director shall not require a share qualification, and may be an individual or a company. The following are disqualified from appointment as a director:

- (a) an individual who is under eighteen years of age;
- (b) a person who is a disqualified person within the meaning of section 260(4) of the Insolvency Act (or any successor provision);
- (c) a person who is a restricted person within the meaning of section 409 of the Insolvency Act (or any successor provision);
- (d) a person who is not an individual;
- (e) an undischarged bankrupt; and
- (f) any other person disqualified by the Memorandum and these Articles.

37.4 Any director which is a body corporate may appoint any person its duly authorised representative for the purpose of representing it at meetings of the Board or with respect to unanimous written consents.

38. Number of Directors

The maximum number of directors shall be fixed by the first director or directors of the Company, and thereafter by a Resolution of Members.

39. Term of Office of Directors

Each director shall hold office from the date of appointment until the next annual meeting of Members. Where the term of office of a director is extended or otherwise renewed at an annual meeting of Members, then such director shall (in respect of the relevant period of time) be deemed to have continued in office as a director (and he shall not be treated as having ceased to be a director and then reappointed as a director). The term of office of a director shall terminate on the director's death, resignation or removal. The bankruptcy of a director shall terminate the term of office of such director.

40. Alternate and Reserve Directors

40.1 No Director may appoint another person to be his alternate.

40.2 Where the Company has only one Member who is an individual and that Member is also the sole director, the sole member/director may, by instrument in writing, nominate a person who is not disqualified from being a director under the Act as a reserve director in the event of his death.

40.3 The nomination of a person as a reserve director ceases to have effect if: (a) before the death of the sole Member/director who nominated him he resigns as reserve director, or the sole Member/director revokes the nomination in writing, or (b) the sole Member/director who nominated him ceases to be the sole Member/director for any reason other than his death.

41. Removal of Directors

41.1 A director may be removed from office, with or without cause:

- (a) by a Resolution of Members at a meeting of the Members called for the purpose of removing the director or for purposes including the removal of the director; or
- (b) by a Resolution of Members consented to in writing by all of the Members entitled to vote thereon.

41.2 Notice of a meeting called under Article 41.1(a) shall state that the purpose of the meeting is, or the purposes of the meeting include, the removal of a director.

- 41.3** Advance notice is required in connection with director nominations made by Members as follows:
- (a) Subject to Article 41.3(b), nominations of persons for election as directors at a meeting of Members may be made only:
 - (i) by or at the direction of the Board;
 - (ii) pursuant to a proposal (as defined in the Act) or a requisition of a meeting of Members, in each case made in accordance with the Act; or
 - (iii) by a Nominating Member who delivers a Nomination Notice to the Company within the Nomination Window by personal delivery to the Company's registered office addressed to the Chief Executive Officer or by fax or email (at the fax number or email address as stipulated from time to time by the Company under its profile on SEDAR at www.sedar.com).
 - (b) The Board may, prior to any meeting of Members, in its sole discretion, waive any requirement in this Article 41.3 unless waived by the Board, a Nomination Window will not be changed by any adjournment or postponement of a meeting of Members, or the announcement of any adjournment or postponement.
 - (c) For the purposes this Article 41.3, the following terms have the following meanings:
 - (i) “**Local Time**” means the local time at the Company’s registered office.
 - (ii) “**Meeting Announcement Date**”, in respect of a meeting of Members, means the date of the first public filing or announcement of the date of that meeting.
 - (iii) “**Nomination Notice**” means a written notice that sets out:
 - (1) all information that would be required to be disclosed, under the Act and applicable securities laws, in a dissident proxy circular in connection with solicitations of proxies for the election of directors relating to a Nominating Member (as if that Nominating Member were a dissident soliciting proxies) and each person whom that Nominating Member proposes to nominate for election as a director;
 - (2) the class and number of shares of the Company held, directly or indirectly, by or on behalf of that Nominating Member;
 - (3) confirmation that the proposed nominees meet the qualifications of directors set out in the Act;
 - (4) information on the residency of each proposed nominee, for the purposes of determining whether the residency requirements set out in the Act will be met; and
 - (5) confirmation as to whether each proposed nominee is independent for the purposes of National Instrument 52-110 *Audit Committees*.
 - (iv) “**Nominating Member**”, in respect of a meeting of Members, means a person who is a registered or beneficial holder of one or more shares of the Company carrying the right to vote on the election of directors at that meeting as of:
 - (1) the record date for notice for that meeting; and
 - (2) the date on which the Nomination Notice is delivered to the Company.

(v) “**Nomination Window**”, in respect of a meeting of Members, means:

(1) in the case of an annual meeting:

(a) if that meeting is called for a date that is fewer than 50 days following the Meeting Announcement Date, the period starting at 9:00 a.m. (Local Time) on the Meeting Announcement Date and ending at 5:00 p.m. (Local Time) on the 10th day following the Meeting Announcement Date; and

(b) otherwise, the period starting at 9:00 a.m. (Local Time) on the date that is 65 days prior to the date of that meeting and ending at 5:00 p.m. (Local Time) on the date that is 30 days prior to the date of that meeting; or

(2) in the case of a special meeting (which is not also an annual meeting) called for the purpose of electing directors (whether or not called for other purposes), the period starting at 9:00 a.m. (Local Time) on the Meeting Announcement Date and ending at 5:00 p.m. (Local Time) on the 15th day following the Meeting Announcement Date.

42. Vacancy in the Office of Director

42.1 Notwithstanding Article 37, the Board may appoint one or more directors to fill a vacancy on the Board.

42.2 For the purposes of this Article, there is a vacancy on the Board if a director dies or otherwise ceases to hold office as a director prior to the expiration of his term of office or there is otherwise a vacancy in the number of directors as fixed pursuant to Article 38.

42.3 The term of any appointment under this Article may not exceed the term that remained when the person who has ceased to be a director left or otherwise ceased to hold office.

43. Remuneration of Directors

The remuneration of directors may be determined by a Resolution of Members or by a Resolution of Directors.

44. Resignation of directors

A director may resign his office by giving written notice of his resignation to the Company and the resignation shall have effect from the date the notice is received by the Company or from such later date as may be specified in the notice.

45. Directors to Manage Business

45.1 The business and affairs of the Company shall be managed by, or under the direction or supervision of, the Board.

45.2 The Board has all the powers necessary for managing, and for directing and supervising, the business and affairs of the Company.

45.3 The Board may authorise the payment of all expenses incurred preliminary to and in connection with the formation and registration of the Company and may exercise all such powers of the Company as are not by the Act or by the Memorandum or these Articles required to be exercised by the Members of the Company, subject to any delegation of such powers as may be authorised by these Articles and to such requirements as may be prescribed by a Resolution of Members; but no requirement made by a Resolution of Members shall prevail if it is inconsistent with these

Articles nor shall such requirement invalidate any prior act of the directors which would have been valid if such requirement had not been made.

- 45.4** Subject to the provisions of the Act, all cheques, promissory notes, draft, bills of exchange and other negotiable instruments and all receipts for moneys paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as shall from time to time be determined by Resolution of Directors.

46. Committees of Directors

- 46.1** The Board may, by a Resolution of Directors, designate one or more committees of directors, each consisting of one or more directors.

- 46.2** Each committee of directors has such powers and authorities of the Board, including the power and authority to affix the Seal, as are set forth in these Articles or the Resolution of Directors establishing the committee, except that the Board has no power to delegate the following powers to a committee of directors:

- (a) to amend the Memorandum or these Articles;
- (b) to designate committees of directors;
- (c) to delegate powers to a committee of directors;
- (d) to appoint or remove directors;
- (e) to appoint or remove an agent;
- (f) to approve a plan of merger, consolidation or arrangement;
- (g) to make a declaration of solvency or approve a liquidation plan; or
- (h) to make a determination that the Company will, immediately after a proposed Distribution, meet the solvency test set out in the Act.

- 46.3** A committee of directors, where authorised by the Board, may appoint a sub-committee.

- 46.4** The meetings and proceedings of each committee of directors consisting of two or more directors shall be governed *mutatis mutandis* by the provisions of these Articles regulating the proceedings of directors so far as the same are not superseded by any provisions in the resolution establishing the committee.

47. Officers and Agents

- 47.1** The Board may, by a Resolution of Directors, appoint any person, including a person who is a director, to be an officer or agent of the Company. Such officers may consist of a chairman of the Board, a vice chairman of the Board, a president and one or more vice presidents, secretaries and treasurers and such other officers as may from time to time be deemed desirable. Any number of offices may be held by the same person.

- 47.2** Each officer or agent has such powers and authorities of the Board, including the power and authority to affix the Seal, as are set forth in these Articles or the Resolution of Directors appointing the officer or agent, except that no officer or agent has any power or authority with respect to the following:

- (a) to amend the Memorandum or these Articles;
- (b) to change the registered office or agent;

- (c) to designate committees of directors;
- (d) to delegate powers to a committee of directors;
- (e) to appoint or remove directors;
- (f) to appoint or remove an agent;
- (g) to fix emoluments of directors;
- (h) to approve a plan of merger, consolidation or arrangement;
- (i) to make a declaration of solvency or approve a liquidation plan;
- (j) to make a determination that the Company will, immediately after a proposed Distribution, meet the solvency test set out in the Act; or
- (k) to authorise the Company to continue as a company incorporated under the laws of a jurisdiction outside the British Virgin Islands.

48. Removal of Officers and Agents

The officers and agents of the Company shall hold office until their successors are duly elected and qualified, but any officer or agent elected or appointed by the Board may be removed at any time, with or without cause, by Resolution of Directors. Any vacancy occurring in any office of the Company may be filled by Resolution of Directors.

49. Duties of Officers

In the absence of any specific allocation of duties it shall be the responsibility of the chairman of the Board to preside at meetings of directors and Members, the vice chairman to act in the absence of the chairman, the president to manage the day to day affairs of the Company, the vice presidents to act in order of seniority in the absence of the president but otherwise to perform such duties as may be delegated to them by the president, the Secretary to maintain the register of members, register of directors, minute books, records (other than financial records) of the Company, and Seal and to ensure compliance with all procedural requirements imposed on the Company by applicable law, and the treasurer to be responsible for the financial affairs of the Company.

50. Remuneration of Officers

The emoluments of all officers shall be fixed by Resolution of Directors.

51. Standard of Care

51.1 A director, when exercising powers or performing duties as a director, shall exercise the care, diligence, and skill that a reasonable director would exercise in the same circumstances taking into account, but without limitation, (a) the nature of the Company, (b) the nature of the decision, and (c) the position of the director and the nature of the responsibilities undertaken by him.

51.2 Notwithstanding the foregoing:

- (a) where the Company is a wholly owned subsidiary, the directors may, when exercising their powers or performing their duties as directors, act in a manner which they believe to be in the best interests of the Company's parent, even though it may not be in the best interests of the Company;
- (b) where the Company is a subsidiary, but not a wholly-owned subsidiary, the directors may, when exercising their powers or performing their duties as directors, and with the

prior agreement of the Members, other than its parent, act in a manner which they believe to be in the best interests of the Company's parent, even though it may not be in the best interests of the Company; and

- (c) where the Members are carrying out a joint venture, the directors may, when exercising their powers or performing their duties in connection with the carrying out of the joint venture, act in a manner which they believe to be in the best interests of a Member or Member, even though it may not be in the best interests of the Company.

52. Conflicts of Interest

- 52.1** A director shall, forthwith after becoming aware of the fact that he is interested in a transaction entered into or to be entered into by the Company, disclose the interest to the Board, unless the transaction or proposed transaction (a) is between the director and the Company and (b) is to be entered into in the ordinary course of the Company's business and on usual terms and conditions.
- 52.2** A transaction entered into by the Company in respect of which a director is interested is voidable by the Company unless the director complies with Article 52.1 or (a) the material facts of the interest of the director in the transaction are known by the Members entitled to vote at a meeting of Members and the transaction is approved or ratified by a Resolution of Members or (b) the Company received fair value for the transaction.
- 52.3** For the purposes of this Article, a disclosure is not made to the Board unless it is made or brought to the attention of every director on the Board.
- 52.4** A director who is interested in a transaction entered into or to be entered into by the Company may vote on a matter relating to the transaction, attend a meeting of directors at which a matter relating to the transaction arises and be included among the directors present at the meeting for the purposes of a quorum and sign a document on behalf of the Company, or do any other thing in his capacity as director that relates to the transaction.

53. Indemnification and Exculpation

- 53.1** Subject to Article 53.2 the Company shall indemnify against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred in connection with legal, administrative or investigative proceedings any person who:
 - (a) is or was a party or is threatened to be made a party to any threatened, pending or completed proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a director, an officer or a liquidator of the Company; or
 - (b) is or was, at the request of the Company, serving as a director, officer or liquidator of, or in any other capacity is or was acting for, another body corporate or a partnership, joint venture, trust or other enterprise.
- 53.2** Article 53.1 does not apply to a person referred to in that Article unless the person acted honestly and in good faith and in what he believed to be the best interests of the Company and, in the case of criminal proceedings, the person had no reasonable cause to believe that his conduct was unlawful.
- 53.3** The decision of the Board as to whether the person acted honestly and in good faith and in what he believed to be the best interests of the Company and as to whether the person had no reasonable cause to believe that his conduct was unlawful is, in the absence of fraud, sufficient for the purposes of these Articles, unless a question of law is involved.
- 53.4** The termination of any proceedings by any judgment, order, settlement, conviction or the entering of a *nolle prosequi* does not, by itself, create a presumption that the person did not act honestly

and in good faith and with a view to the best interests of the Company or that the person had reasonable cause to believe that his conduct was unlawful.

- 53.5** If a person referred to in this Article has been successful in defence of any proceedings referred to therein, the person is entitled to be indemnified against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred by the person in connection with the proceedings.
- 53.6** Expenses, including legal fees, incurred by a director (or former director) in defending any legal, administrative or investigative proceedings may be paid by the Company in advance of the final disposition of such proceedings upon receipt of an undertaking by or on behalf of the director (or former director, as the case may be) to repay the amount if it shall ultimately be determined that the director (or former director, as the case may be) is not entitled to be indemnified by the Company.
- 53.7** The indemnification and advancement of expenses provided by, or granted under these Articles are not exclusive of any other rights to which the person seeking indemnification or advancement of expenses may be entitled under any agreement, Resolution of Members, resolution of disinterested directors or otherwise, both as to acting in the person's official capacity and as to acting in another capacity while serving as a director of the Company.
- 53.8** The Company may purchase and maintain insurance in relation to any person who is or was a director, an officer or a liquidator of the Company, or who at the request of the Company is or was serving as a director, an officer or a liquidator of, or in any other capacity is or was acting for, another body corporate or a partnership, joint venture, trust or other enterprise, against any liability asserted against the person and incurred by the person in that capacity, whether or not the Company has or would have had the power to indemnify the person against the liability under Article 53.1.

MEETINGS OF THE BOARD OF DIRECTORS

54. Board Meetings

The Board or any committee thereof may meet at such times and in such manner and places within or outside the British Virgin Islands as it may determine to be necessary or desirable. Any director or the Secretary of the Company may call a meeting of directors.

55. Notice of Board Meetings

A director shall be given reasonable notice of a meeting of directors, but a meeting of directors held without reasonable notice having been given to all directors shall be valid if all the directors entitled to vote at the meeting waive notice of the meeting, and for this purpose, the presence of a director at the meeting shall be deemed to constitute waiver on his part (except where a director attends a meeting for the express purpose of objecting to the transaction of business on the grounds that the meeting is not properly called). The inadvertent failure to give notice of a meeting to a director, or the fact that a director has not received the notice, does not invalidate the meeting.

56. Participation in Meetings by Telephone

A director shall be deemed to be present at a meeting of directors if he participates by telephone or other electronic means and all directors participating in the meeting are able to hear each other.

57. Quorum at Board Meetings

The quorum necessary for the transaction of business at a meeting of directors shall be a majority of the directors then appointed.

58. Board to Continue in the Event of Vacancy

The continuing directors may act notwithstanding any vacancy in their body, save that if their number is reduced below the number fixed by or pursuant to these Articles as the necessary quorum for a meeting of the Board, the continuing directors or director may act only for the purpose of appointing directors to fill any vacancy that has arisen or summoning a meeting of Members.

59. Chairman to Preside

At every meeting of the Board the chairman of the Board shall preside as chairman of the meeting. If there is not a chairman of the Board or if the chairman of the Board is not present at the meeting, the vice chairman of the Board shall preside. If there is no vice chairman of the Board or if the vice chairman of the Board is not present at the meeting, the directors present shall choose someone of their number to be chairman of the meeting.

60. Powers of Sole Director

If the Company shall have only one director the provisions herein contained for Board meetings shall not apply but such sole director shall have full power to represent and act for the Company in all matters as are not by the Act or the Memorandum or these Articles required to be exercised by the Members of the Company.

61. Proceedings if One Director

If the Company shall have only one director, in lieu of minutes of a meeting the director shall record in writing and sign a note or memorandum (or adopt a resolution in writing) concerning all matters requiring a Resolution of Directors and such note, memorandum or resolution in writing shall be kept in the minute book. Such a note, memorandum or resolution in writing shall constitute sufficient evidence of such resolution for all purposes.

CORPORATE RECORDS

62. Documents to be Kept

62.1 The Company shall keep the following documents at the office of its registered agent:

- (a) the Memorandum and these Articles;
- (b) the register of members or a copy of the register of members;
- (c) the register of directors or a copy of the register of directors;
- (d) the register of charges or a copy of the register of charges;
- (e) copies of all notices and other documents filed by the Company in the previous ten years.

62.2 Where the Company keeps a copy of its register of members or register of directors at the office of its registered agent, it shall within 15 days of any change in the register, notify the registered agent, in writing, of the change, and it shall provide the registered agent with a written record of the physical address of the place or places at which the original register of members or the original register of directors is kept.

62.3 Where the place at which the original register of members or the original register of directors is changed, the Company shall provide the registered agent with the physical address of the new location of the records within 14 days of the change of location.

62.4 The Company shall keep the following records at the office of its registered agent or at such other place or places, within or outside the British Virgin Islands, as the Board may determine:

- (a) the minutes of meetings and Resolutions of Members and of classes of Members; and
- (b) the minutes of meetings and Resolutions of Directors and committees of directors.

62.5 Where any of the minutes or resolutions described in the previous article are kept at a place other than at the office of the Company's registered agent, the Company shall provide the registered agent with a written record of the physical address of the place or places at which the records are kept.

62.6 Where the place at which any of the records described in Article 62.4 is changed, the Company shall provide the registered agent with the physical address of the new location of the records within 14 days of the change of location.

62.7 The Company's records shall be kept in written form or either wholly or partly as electronic records.

63. Form and Use of Seal

The Board shall provide for the safe custody of the Seal. An imprint thereof shall be kept at the office of the registered agent of the Company. The Seal when affixed to any written instrument shall be witnessed by any one director, the Secretary or Assistant Secretary, or by any person or persons so authorised from time to time by Resolution of Directors.

ACCOUNTS

64. Books of Account

The Company shall keep records and underlying documentation that:

- (a) are sufficient to show and explain the Company's transactions; and
- (b) will, at any time, enable the financial position of the Company to be determined with reasonable accuracy.

65. Form of Records

65.1 The records required to be kept by the Company under the Act, the Mutual Legal Assistance (Tax Matters Act), 2003, the Memorandum or these Articles shall be kept in written form or either wholly or partly as electronic records complying with the requirements of the Electronic Transactions Act (British Virgin Islands).

65.2 The records and underlying documentation shall be kept for a period of at least five years from the date of completion of the relevant transaction or the company terminates the business relationship to which the records and underlying documentation relate.

66. Financial Statements

66.1 If required by a Resolution of Members, the Board shall cause to be made out and served on the Members or laid before a meeting of Members a profit and loss account and balance sheet of the Company for such period and on such recurring basis as the Members think fit.

66.2 The Company's profit and loss account and balance sheet shall be drawn up so as to give respectively a true and fair view of the profit or loss of the Company for that financial period, and a true and fair view of the state of affairs of the Company as at the end of that financial period.

67. Distribution of Accounts

A copy of such profit and loss account and balance sheet shall be served on every Member in the manner and with similar notice to that prescribed herein for calling a meeting of Members or upon such shorter notice as the Members may agree to accept.

AUDITS

68. Audit

The Company may by Resolution of Members call for the accounts to be examined by an auditor.

69. Appointment of Auditor

69.1 The first auditor shall be appointed by Resolution of Directors; subsequent auditors shall be appointed by a Resolution of Members.

69.2 The auditor may be a Member of the Company but no director or other officer shall be eligible to be an auditor of the Company during his continuance in office.

70. Remuneration of Auditor

The remuneration of the auditor of the Company:

- (a) in the case of an auditor appointed by the Board, may be fixed by Resolution of Directors; and
- (b) subject to the foregoing, shall be fixed by Resolution of Members or in such manner as the Company may by Resolution of Members determine.

71. Duties of Auditor

The auditor shall examine each profit and loss account and balance sheet required to be served on every Member of the Company or laid before a meeting of the Members of the Company and shall state in a written report whether or not:

- (a) in its opinion the profit and loss account and balance sheet give a true and fair view respectively of the profit and loss for the period covered by the accounts, and of the state of affairs of the Company at the end of that period; and
- (b) all the information and explanations required by the auditor have been obtained.

72. Access to Records

Every auditor of the Company shall have right of access at all times to the books of account of the Company, and shall be entitled to require from the directors and officers of the Company such information and explanations as he thinks necessary for the performance of the duties of the auditor.

73. Auditor Entitled to Notice

The auditor of the Company shall be entitled to receive notice of, and to attend any meetings of Members of the Company at which the Company's profit and loss account and balance sheet are to be presented.

VOLUNTARY LIQUIDATION

74. Liquidation

The Company may be liquidated in accordance with the Act only if (a) it has no liabilities; or (b) it is able to pay its debts as they fall due and the value of its assets equals or exceeds its liabilities. The Board shall be permitted to pass a Resolution of Directors for the appointment of an eligible individual as a voluntary liquidator (or two or more eligible individuals as joint voluntary liquidators) of the Company if the Members have, by a Resolution of Members, approved the liquidation plan in accordance with the Act.

FUNDAMENTAL CHANGES

75. Changes

Subject to Article 36, notwithstanding section 175 of the Act, the Board may sell, transfer, lease, exchange or otherwise dispose of the assets of the Company without the sale, transfer, lease, exchange or other disposition being authorised by a Resolution of Members.

76. Continuation under Foreign Law

Subject to Article 36, the Company may by Resolution of Members or by Resolution of Directors continue as a company incorporated under the laws of a jurisdiction outside the British Virgin Islands in the manner provided under those laws.

77. Disclosure

77.1 If the Company's shares are listed or quoted on a recognized stock exchange or quotation system in Canada:

- (a) any other person, upon payment of a reasonable fee (as determined by the directors); and
- (b) any Member, beneficial owner of shares and creditor of the Company and their agents and legal representatives,

(each of the foregoing called an **"applicant"** in this Article 77) upon sending to the Company or its transfer agent the statutory declaration referred to below, may require the Company or its transfer agent to furnish a basic list setting out the names of the registered holders of shares of the Company, the number of shares owned by each registered holder and the address of each of them, all as shown on the records of the Company. The basic list shall be furnished to the applicant as soon as is practicable and, when furnished, shall be as current as is practicable having regard to the form in which the Register of Members of the Company is maintained, but, in any case, shall be furnished not more than ten days following the receipt by the Company or its transfer agent of the statutory declaration referred to below and shall be made up to a date not more than ten days before the date on which it is actually furnished.

77.2 The aforementioned statutory declaration shall state and undertake:

- (a) the name and address including the street and number, if any, of the applicant and whether the applicant is a registered holder, beneficial owner, creditor or any other person referred to in this Article 77;
- (b) the name and address including street and number, if any, for service of the body corporate if the applicant is a body corporate; and
- (c) that the basic list and any supplemental lists shall be used only in connection with:
 - (i) an effort to influence the voting by registered holders of the shares of the Company;

- (ii) an offer to acquire shares of the Company; or
- (iii) any other matter relating to the affairs of the Company.

For the purposes of this Article 77 (i) a “**recognized stock exchange or quotation system**” means a stock exchange or quotation system which is recognized pursuant to the Income Tax Act of Canada and the regulations thereunder; (ii) “**other person**” means persons other than Members, beneficial owners of shares and creditors of the Company and their agents and legal representatives; and (iii) “**transfer agent**” means the person who keeps and maintains the Company’s register of members.

We, AMS TRUSTEES LIMITED, registered agent of the Company, of Sea Meadow House, P.O. Box 116, Road Town, Tortola, British Virgin Islands for the purpose of continuing the Company a BVI Business Company under the laws of the British Virgin Islands hereby sign these Articles of Association on behalf of the directors of the Company who have approved same on the [date], 2013:

AMS TRUSTEES LIMITED

Per:
For and on behalf of
AMS Trustees Limited

SCHEDULE “B”

COMPARISON BETWEEN BRITISH COLUMBIA AND BVI CORPORATE LAW

The following is a summary of certain differences between the BVI Act, the statute that will govern the corporate affairs of the Company upon the Continuance, and the BCBCA, the statute which currently governs the corporate affairs of the Company. As a number of the BVI company law provisions summarized below are capable of being qualified by the memorandum and articles of association of a company, it is important that this summary be read in conjunction with the Articles proposed to be adopted by the Company, which are attached to the Information Circular as Schedule “A”.

Notwithstanding the alteration of shareholders' rights and obligations under the BVI Act and the proposed Continuance, the Company will still be bound by the rules and policies of the Exchange and the Ontario Securities Commission, as well as any other applicable securities legislation.

Nothing that follows should be construed as legal advice to any particular Shareholder, all of whom are advised to consult their own legal advisors respecting all of the implications of the Continuance. The summary below does not purport to contain all applicable qualifications and exceptions or to be a complete review of all matters of BVI company law, which may differ from equivalent provisions in the BCBCA. The summary does, however, outline the material differences between the BCBCA and the BVI Act that may affect the rights of the Shareholders.

Articles

A company incorporated or continued under the BVI Act has Articles which consist of (collectively, the “**Articles**”):

- (a) “*memorandum of association*”, which must include the Company's name, whether the Company is limited by shares or by guarantee or is an unlimited company, the address of the Company's first registered office, the name of the Company's first registered agent, the maximum number of shares that the Company is authorized to issue (the Company can specify that the number is unlimited), the classes of shares, the rights, privileges, restrictions and conditions attaching to each class of shares (if the Company is authorized to issue two or more classes of shares), confirmation that the Company is a segregated portfolio company or restricted purpose company (if either is the case), and a statement as to whether or not the Company is authorized to issue bearer shares, and if so on what terms; and
- (b) “*articles of association*” which regulate the corporate business and affairs of the Company.

The Articles, and any amendments thereto, are filed with the BVI Registrar. The proposed form of Articles to be adopted are substantially in the form attached to the Information Circular as Schedule “A”.

Under the BCBCA, a company has a “Notice of Articles”, which sets forth, amongst other things, the name of the Company and the amount and type of authorised capital, and “articles” which govern the management and certain other administrative matters with respect to the Company. The Notice of Articles is filed with the BC Registrar and the articles are maintained at the Company's registered and records office.

Upon completion of the Continuance under the BVI Act, the Company will have authorized shares consisting of an unlimited number of Common Shares with no par value which is the same as the authorized shares of the Company prior to completion of the Continuance. The Continuance under the BVI Act will not result in any material changes to the constitution, powers or management of the Company, except as described below.

Shareholder Voting Rights

Under the BVI Act and the Articles, when a vote is taken at a meeting of shareholders, each shareholder is entitled to vote the number of votes attaching to the total number of shares held by such shareholder. The BVI Act and the Articles currently allow for a vote by show of hands except where a ballot is demanded.

Under the BCBCA, holders of common shares are entitled to one vote per common share, either in person or by proxy, on each matter to be voted on at shareholder meetings. Under the BCBCA, unless the articles otherwise provide, voting at a meeting of shareholders shall be by a show of hands except where a ballot is demanded, either before or on the declaration of the result of any vote by show of hands.

Under the BVI Act, the quorum for a meeting of shareholders for the purpose of a resolution of shareholders is that fixed by the memorandum and articles of association of a company; where no quorum is so fixed, a meeting of shareholders is properly constituted for all purposes if at the commencement of the meeting there are present in person or by proxy shareholders entitled to exercise at least fifty percent (50%) of the votes. The Articles provide that a quorum for any meeting of shareholders is two or more shareholders of the Company entitled to vote at the meeting, present in person or by proxy.

Under the BCBCA, unless the articles otherwise provide, two shareholders entitled to vote at a meeting of shareholders, whether present in person or by proxy, constitute a quorum. The quorum requirement in the articles currently provides that a quorum for the transaction of business at any meeting of shareholders is two persons present in person, each being a shareholder entitled to vote thereat or a duly appointed proxyholder or representative for a shareholder so entitled, and together holding or representing shares of the Company having not less than ten percent (10%) of the outstanding votes entitled to be cast at the meeting.

Under the BVI Act, a company's directors may convene a meeting of shareholders, as may such person or persons as may be authorised by the memorandum and articles of association to call, a meeting of shareholders. The Articles provide that notice of all meetings of shareholders must be sent not less than twenty-one (21) days prior to a meeting of shareholders and not more than sixty (60) days to all shareholders whose names appear on the register of members of the Company.

Under the BCBCA, a meeting of shareholders may be called by the directors or by a requisition (as described below under "Requisition of Meetings"). Under the BCBCA, and the regulations thereunder, for so long as the Company is a public company, notice of all meetings of shareholders of a company must be sent not less than twenty-one (21) days and not more than two (2) months before the meeting to each shareholder entitled to vote at the meeting, to each director and to the auditor of the Company. Under the current articles, the directors may specify in a notice calling a meeting of shareholders a time specified in the notice (or if no time is specified, not exceeding forty-eight (48) hours, excluding Saturdays and holidays) preceding any meeting or adjourned meeting of shareholders before which time proxies to be used at such meeting must be deposited.

Under the BVI Act, in addition to the election of directors, the approval of the shareholders of a company is required for the following matters: (i) a merger or consolidation and (ii) the approval of a liquidation plan and the appointment of a voluntary liquidator.

Under the BCBCA, the vote of shareholders required to pass a resolution is typically a majority or two-thirds of the votes cast on the resolution, depending upon the action being voted upon. A 'special resolution' is a resolution passed by a majority of not less than two-thirds of the votes cast by the shareholders who voted in respect of that resolution at a meeting, or signed by all the shareholders entitled to vote on that resolution. The articles contain substantially the same voting requirements to pass a resolution of shareholders as is required under the BCBCA.

Proposals of Shareholders

Under the BCBCA, a registered holder of shares entitled to vote at an annual meeting of shareholders, or a beneficial owner of shares, may submit to the Company notice of any proposal to be raised at the meeting. If the Company solicits proxies in connection with the meeting, the Company shall set out the proposal in the management information circular for the meeting provided that it was submitted at least three (3) months before the anniversary of the date of the previous annual meeting. The Board need not process a proposal if, among other things, substantially the same proposal was submitted in the last five (5) years and did not receive sufficient support, or the right to submit a proposal is being used to enforce a personal claim or redress a personal grievance. A proposal must be signed by registered holders and beneficial owners that in the aggregate constitute at least 1/100 of the issued voting shares of the Company.

Requisition of Meetings

Under the BVI Act, shareholders meetings must be convened by the directors on the written request of shareholders holding more than thirty percent (30%) of the outstanding voting shares, or such lesser percentage specified in the memorandum or articles of association. Not less than seven (7) days' notice of general meetings must be given. Subject to the memorandum and articles of association, a meeting of the shareholders of a company may be held at such time and in such place, within or outside the BVI, as the persons convening the meeting consider appropriate.

The BVI High Court (the “**BVI Court**”) may order a meeting of shareholders to be held and to be conducted in such manner as the BVI Court orders if it is of the opinion that:

- (a) it is impracticable to call or conduct a meeting of the shareholders of a company in the manner specified in the BVI Act or in the memorandum and articles of association of the Company; or
- (b) it is in the interests of the shareholders of the Company that a meeting of shareholders be held.

An application for the order described above may be made by a shareholder or director of the Company. The BVI Court may make an order on such terms, including as to costs of conducting the meeting and as to the provision of security for those costs, as it considers appropriate.

The BCBCA has substantially the same requirements; however, the BCBCA provides that one or more shareholders of a company holding at least 1/20 of the issued voting shares of the Company may give notice to the directors requiring them to call and hold a meeting of shareholders. On receiving the requisition, the directors must call a meeting of shareholders to transact the business stated in the requisition, unless the directors have called a meeting of shareholders and given notice thereof, or the business of the meeting as stated in the requisition covers matters that are exempted by the BCBCA, such as where it clearly appears that the business stated in the requisition does not relate in a significant way to the business or affairs of the Company.

Form of Proxy and Information Circular for Reporting Companies

BVI companies must comply with the BVI Act requirements relating to notice of meetings. Subject to a requirement in the memorandum or articles of association of a company to give longer notice, a person or persons convening a meeting of the shareholders of a company shall give not less than seven days notice of the meeting to those persons whose names, on the date the notice is given, appear as shareholders in the register of members and are entitled to vote at the meeting. A shareholder may be represented at a meeting of shareholders by a proxy who may speak and vote on behalf of the shareholder.

Under the Articles, any action that may be taken by the shareholders in a meeting may also be taken by a resolution of shareholders consented to in writing by the same number of shareholders required to pass the resolution at a meeting without the need for any notice.

The requirement for reporting issuers to provide a notice of a general meeting, a form of proxy and an information circular containing prescribed information regarding the matters to be dealt with at, and the conduct of the general meeting is governed by securities legislation and is not governed by the BCBCA.

Place of Meetings

The BVI Act provides that a meeting of the shareholders of a company may be held at such time and in such place, within or outside the BVI, as the persons convening the meeting consider appropriate.

The BCBCA provides that meetings of shareholders may be held outside British Columbia where the Company's articles so provide. The Company's articles currently permit meetings to be held at such place in or outside British Columbia as determined by a resolution of the directors.

Inspection Rights

Under the BVI Act, a shareholder of a company is entitled, on giving written notice to the company, to inspect the memorandum and articles of association of a company, the register of members, the register of directors and minutes of meetings and resolutions of shareholders, and to make copies of or extracts from such documents and records. The directors may, if they are satisfied that it would be contrary to the company's interests to allow a shareholder to inspect any document, or part of a document, refuse to permit the shareholder to inspect the document or limit the inspection of the document, including limiting the making of copies or the taking of extracts from the records. The directors shall, as soon as reasonably practicable, notify a shareholder of any exercise of these powers. Where a company fails or refuses to permit a shareholder to inspect a document or permits a shareholder to inspect a document subject to limitations, that shareholder may apply to the BVI Court for an order that he should be permitted to inspect the document or to inspect the document without limitation. On an application, the BVI Court may make such order as it considers just.

Under the BCBCA, a shareholder of a company has the right to inspect and request copies of the following during the usual business hours of the company: (i) the Notice of Articles and articles of the company, including any amendments, (ii) minutes of meetings and resolutions of shareholders, (iii) the register of directors in which are set out the names and addresses (while directors) of all persons who are or have been directors of the company, (iv) the central securities register, (v) copies of the financial statements and reports of the company's auditors and other financial information required by the BCBCA, and (vi) disclosures made by directors and officers of their interests in material contracts or proposed material contracts with the company. A shareholder has the right to obtain, free of charge, one copy of the Notice of Articles and articles of a company, including amendments. A person may request that a company furnish a shareholder list to the applicant upon payment of a reasonable fee and delivery of an affidavit as to the name and address of the applicant and to the effect that such list will not be used except in connection with an effort to influence voting by shareholders of the company, to acquire or sell securities of the company, effect an amalgamation involving or a reorganization of the company, call a meeting, or identify the shareholders of an unlimited liability company.

In addition, under the BCBCA, shareholders of a company that hold in aggregate at least 1/5 of the issued shares of the company may apply to the Supreme Court of British Columbia (the “**BC Court**”) for an order directing that an investigation be made of a company.

Pre-emptive Rights

While under the BVI Act, there are statutory pre-emptive rights with respect to the issuance of shares, the rights only apply to a company if the company expressly provides in its memorandum or articles of association that such rights are applicable to it but not otherwise. The Articles expressly provide that the statutory pre-emptive rights are not applicable to the company.

Under the BCBCA and the current articles, there are no pre-emptive rights.

Dividends and Repurchases of Shares

Under the BVI Act and subject to the memorandum and articles of association of a company, the directors of a company may, by resolution, authorise a distribution by the company to shareholders at such time and of such an amount, as they think fit if they are satisfied, on reasonable grounds, that the company will, immediately after the distribution, satisfy the solvency test. A distribution means the direct or indirect transfer of an asset, other than company's own shares, to or for the benefit of the shareholder, or the incurring of a debt to or for the benefit of a shareholder, in relation to shares held by the shareholder, and whether by means of the purchase of an asset, the purchase, redemption or other acquisition of shares, a transfer of indebtedness or otherwise, and includes a dividend. A company satisfies the solvency test if the value of the company's assets exceeds its liabilities, and the company is able to pay its debts as they fall due. A resolution of directors shall contain a statement that, in the opinion of the directors, the company will, immediately after the distribution, satisfy the solvency test. If, after a distribution is authorised and before it is made, the directors cease to be satisfied on reasonable grounds that the company will, immediately after the distribution is made, satisfy the solvency test, any distribution made by the company is deemed not to have been authorised.

Under the BCBCA, a company may declare and pay a dividend by issuing shares or warrants of the company and, subject to the solvency test described in the following sentence, a company may pay a dividend in money or property. The company is able to declare and pay a dividend unless there are reasonable grounds for believing that the company is or, after the payment would be, unable to pay its debts as they become due in the ordinary course of its business. The BCBCA also permits a company, if authorised by its articles, to purchase or otherwise acquire any of its issued shares, unless there are reasonable grounds for believing that the company is or, after the payment would be, unable to pay its debts as they become due in the ordinary course of its business.

Under the BCBCA, a company may, subject to its articles and to the solvency test mentioned below, redeem any redeemable shares issued by it on the terms set out in the articles. However, a company may not make any payment to redeem any redeemable shares issued by it if there are reasonable grounds for believing that the company is or, after the payment, would be unable to pay its debts as they become due in the ordinary course of its business.

Amendments to the Articles of the Company

The shareholders of a company incorporated or continued under the BVI Act may, by resolution, amend the memorandum or articles of association of the company. The memorandum of a company may include a provision:

- (a) that specified provisions of the memorandum or articles of association may not be amended;
- (b) that a resolution passed by a specified majority of shareholders, greater than fifty percent (50%), is required to amend the memorandum or articles of association or specified provisions of the memorandum or articles of association; and
- (c) that the memorandum or articles of association, or specified provisions of the memorandum or articles of association, may be amended only if certain specified conditions are met.

The memorandum of association of a company may authorise the directors (as is the case with the Articles), by resolution, to amend the memorandum or articles of association of the company. Where a resolution is passed to amend the memorandum or articles of association of a company, the company must file for registration:

- (a) a notice of amendment in the approved form; or
- (b) a restated memorandum or articles of association incorporating the amendment made.

An amendment to the memorandum or articles of association has effect from the date that the notice of amendment, or restated memorandum or articles of association incorporating the amendment, is registered by the BVI Registrar.

Under the BCBCA, a company must not alter its Notice of Articles unless:

- (a) the company does so in the manner required or permitted by the BCBCA;
- (b) the company has been authorised to make the alteration by court order, or if not authorized by court order,
 - (i) by the type of resolution specified by the BCBCA,
 - (ii) if the BCBCA does not specify the type of resolution, by the type of resolution specified by the company's articles, or
 - (iii) if neither the BCBCA nor the articles specify the type of resolution, by a special resolution.

Under the BCBCA, a company may resolve to alter its articles:

- (a) by the type of resolution specified by the BCBCA,
- (b) if the BCBCA does not specify the type of resolution, by the type of resolution specified by the company's articles, or
- (c) if neither the BCBCA nor the articles specify the type of resolution, by a special resolution.

The BCBCA provides that a company may alter its articles to specify or change the majority of votes that is required to pass a special resolution, which majority must be at least 2/3 and not more than 3/4 of the votes cast on the resolution, if the shareholders resolve, by a special resolution, to make the alteration.

Reorganisations, Arrangements, Extraordinary Transactions

Under the Articles, a special resolution of the shareholders of the Company is required for (i) mergers or consolidations, and (iii) the approval of a liquidation plan and the appointment of a voluntary liquidator. The vote of shareholders required to pass resolutions approving such matters is a majority of not less than two-thirds of the votes cast by the shareholders who voted in respect of that resolution at a meeting or a written resolution consented in writing signed by shareholders of two-thirds of the issued and outstanding shares.

The BCBCA provides that certain extraordinary corporate actions, such as certain amalgamations, any continuance, sales, leases or exchanges of all or substantially all of the property of a company other than in the ordinary course of business, liquidations, dissolutions and arrangements, are to be approved by special resolution. In certain cases, a special resolution to approve an extraordinary corporate action is also required to be approved separately by the holders of a class or a series of shares.

Matters such as take-over bids, issuer bids, going-private transactions and transactions with directors, officers, significant shareholders and other related parties to which the Company is a party are subject to regulation by Canadian provincial securities legislation and administrative policies and rules of Canadian securities administrators. Such legislation and administrative policies and rules will apply to the Company after the Continuance. Such legislation and administrative policies and rules may impose shareholder approval requirements in addition to the foregoing.

Return of Capital on Winding-Up, Liquidation or Dissolution of the Company

Under the BVI Act, a share of a company confers on the holder the right to an equal share in the distribution of the surplus assets of the company provided that a company may issue shares in more than one class of shares and may issue shares subject to terms that negate, modify or add to this right. Under the BCBCA, the holders of Common Shares have the right to receive the remaining property of the Company on dissolution.

Directors

The BVI Act provides that a company must have at least one director. The BVI Act does not contain any residency requirements for directors.

The BCBCA provides that every company must have at least one director, except that a public company must have at least 3 directors.

Term of the Board of Directors

The BVI Act does not require that the directors be elected every year or for different terms. However, the Articles provide that the directors shall hold office from the date of appointment until the next annual meeting of shareholders.

The BCBCA does not specify the term for which directors may be elected. Under the current articles, each director may be elected for a term of office of one or more years of office as may be specified by ordinary resolution at the time he is elected. In the absence of any such ordinary resolution, a director's term of office shall expire immediately before the election of directors at such annual general meeting, or any the time of any unanimous resolution in lieu thereof. No director shall be elected for a term of office exceeding three years of office. The shareholders may, by resolution of not less than 3/4 of the votes cast on the resolution, vary the term of office of any director.

Removal of Directors

Under the BVI Act and subject to any limitation in a company's memorandum or articles of association, a director may be removed from office by a resolution of shareholders. Such resolution may only be passed at a meeting of the shareholders called for the purpose of removing the director or for purposes including the removal of the director, or by a written resolution passed by at least seventy-five percent (75%) of the votes of the shareholders of the Company entitled to vote. The notice of a meeting of shareholders called for this purpose shall state that the purpose of the meeting is, or the purposes of the meeting include, the removal of a director. Where permitted by the memorandum or articles of association of a company, a director of the Company may be removed from office by a resolution of the directors.

Under the BCBCA, unless the articles provide for a different majority or a different method, the shareholders of a company may by special resolution at an annual or special meeting remove any director or directors from office. Where the holders of any class or series of shares of a company have an exclusive right to elect one or more directors, a director so elected may only be removed by a special separate resolution at a meeting of the shareholders of that class or series (or by such other resolution or method as is specified in the articles).

Under the current articles, the Company may remove any director before the expiration of his or her term of office by an ordinary resolution. Under the current articles, the directors may remove any director before the expiration of his or her term of office if the director is convicted of an indictable offence, or if the director ceases to be qualified to act as a director of a company and does not promptly resign.

Vacancies on the Board of Directors

Under the BVI Act and unless the memorandum or articles of association of a company provide otherwise, the directors of a company may appoint one or more directors to fill a vacancy on the board. There is a vacancy on the board if a director dies, or in the case of a director that is not an individual, ceases to exist, or otherwise ceases to hold office as a director prior to the expiration of his term of office, and the directors may not appoint a person for a term exceeding the term that remained when the person who has ceased to be a director left or otherwise ceased to hold office. The Articles provide that a vacancy may be filled by the board. The directors may also appoint additional persons to the board so long as the total number of directors does not exceed the maximum number fixed by the Articles.

Under the BCBCA, subject to the articles, the remaining directors may fill a casual vacancy among the directors. A vacancy resulting from the removal of a director is to be filled by the shareholders. If the articles so provide, the directors may appoint additional directors, subject to the limits in the BCBCA. Under the Company's current articles, the directors may appoint one or more additional directors between annual general meetings of the Company, but the number of additional directors so appointed by the directors must not at any time exceed one-third of the number of the current directors who were elected or appointed as directors other than pursuant to the directors' power to appoint additional directors.

Fiduciary Duties of Directors

Directors of companies incorporated or organised under the BCBCA and of BVI companies have fiduciary obligations to the Company. Pursuant to these fiduciary obligations, the directors must act in accordance with the so-called duties of 'due care' and 'loyalty'.

The BVI Act provides that every director of a company incorporated or continued under the BVI Act in exercising his powers or performing his duties, shall act honestly and in what the director believes to be in the best interests of the Company and that a director shall exercise his powers as a director for a proper purpose and shall not act, or agree to the Company acting, in a manner that contravenes the BVI Act or the memorandum or articles of association of the Company. The BVI Act provides that a director of a company, when exercising powers or performing duties as a director, shall exercise the care, diligence and skill that a reasonable director would exercise in the same circumstances taking into account, but without limitation, the nature of the Company, the nature of the decision, and the position of the director and the nature of the responsibilities undertaken by him. Common law duties also apply to directors of BVI companies.

The BCBCA provides that every director and officer of a company governed by the BCBCA, when exercising the powers and performing the functions of the role, shall act honestly and in good faith with a view to the best interests of the Company, and exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances. Every director and officer of a company governed by the BCBCA must comply with the provisions of the BCBCA, the regulations thereunder, and the articles. No provision in a contract or the articles relieves a director or officer from the duty to act in accordance with the BCBCA or the regulations thereunder, or liability that would otherwise attach in respect of any negligence, default, breach of duty or breach of trust of which the director or officer may be guilty in relation to the Company.

Conflict of Interest of Directors and Officers

A director of a company incorporated or continued under the BVI Act shall, forthwith after becoming aware of the fact that he is interested in a transaction entered into or to be entered into by the Company, disclose the interest to the board of the Company, provided that a director is not required to disclose the interest if the transaction or proposed transaction is between the director and the Company, and the transaction or proposed transaction is or is to be entered into in the ordinary course of the Company's business and on usual terms and conditions. Subject to the following sentence, the failure of a director to disclose the interest does not affect the validity of a transaction entered into by the director or the Company. Notwithstanding the previous sentence, under the BVI Act, a

transaction entered into by a company in respect of which a director is interested is voidable by the Company unless (i) the interest was disclosed to the board prior to the Company entering into the transaction, (ii) the interest was not required to be disclosed to the board, (iii) the material facts of the interest of the director in the transaction are known by the shareholders entitled to vote at a meeting of shareholders and the transaction is approved or ratified by resolution of shareholders, or (iv) the Company received fair value for the transaction.

Subject to certain specified exceptions, the BCBCA restricts interested directors from voting on any material transactions in which such director has a material interest. Interested directors and officers must disclose their interest and such disclosure referred must be evidenced in a consent resolution, the minutes of a meeting or any other record deposited in the company's records office. A general statement in writing provided to the company by a director or senior officer of the company is a sufficient disclosure of a disclosable interest in relation to any contract or transaction that the company has entered into or proposes to enter into with a person if the statement declares that the director or senior officer is a director or senior officer of, or has a material interest in, the person with whom the company has entered, or proposes to enter, into the contract or transaction.

Indemnification of Directors, Officers and Others

Under the BVI Act, a company may indemnify against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred in connection with legal, administrative or investigative proceedings any person who: (i) is or was a party or is threatened to be made a party to any threatened, pending or completed proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a director of the Company; or (ii) is or was, at the request of the Company, serving as a director of, or in any other capacity is or was acting for, another body corporate or a partnership, joint venture, trust or other enterprise.

The foregoing paragraph only applies to a person referred to in that paragraph if the person acted honestly and in good faith in what he believed to be the best interests of the Company and, in the case of criminal proceedings, the person has no reasonable cause to believe that his conduct was unlawful. The termination of any proceedings by any judgment, order, settlement, conviction or the entering of a nolle prosequi does not, by itself, create a presumption that the person did not act honestly and in good faith and with a view to the best interests of the Company or that the person had reasonable cause to believe that his conduct was unlawful.

The BCBCA permits indemnification of a director or officer, a former director or officer or a person who acts or acted as a director or officer of another corporation at the Company's request or while that corporation was an affiliate of the Company, and his or her heirs and legal representatives, against all costs, charges and expenses in respect of, and any judgment, penalty, fine or amount paid in settlement of, any civil, criminal or administrative action or proceeding to which he or she is made a party by reason of being or having been a director or officer of the Company or corporation. Indemnification is prohibited if the person did not act honestly and in good faith with a view to the best interests of the Company, or in the case of a proceeding other than a civil proceeding, he or she did not have reasonable grounds for believing that his or her conduct was lawful.

Director Liability

A director who ceased, after authorisation but before the making of the distribution, to be satisfied on reasonable grounds for believing that the Company would satisfy the solvency test immediately after the distribution is made and failed to take reasonable steps to prevent the distribution being made is personally liable to the Company to repay to the Company so much of the distribution as it is not able to be recovered from shareholders. There is no provision in the BVI Act providing for the liability of directors for the issue of shares of a company or for any losses suffered by a company as a result of the Company issuing shares for consideration other than money.

Under the BCBCA, directors who vote for or consent to a resolution authorising the issue of a share of the company at an issue price less than the par value of the share or for consideration other than past services, property and money, are jointly and severally liable to compensate the company or a shareholder or beneficial owner of shares, for any losses sustained as a result by the company, shareholder or beneficial owner. A director is not liable pursuant to the foregoing if he proves he did not know and could not reasonably have known that the value of the consideration was less than the issue price set for the share. In addition, directors who vote or consent to certain resolutions involving payments or distributions by the Company contrary to the BCBCA are jointly and severally liable to restore to the Company any amount paid or distributed and not otherwise recovered by the Company. The

BCBCA does not otherwise permit the substantive limitation of a director's liability for breach of fiduciary obligations to the Company, whether through a provision in a contract, the articles or otherwise.

Issuance of Securities

Subject to the BVI Act and to the memorandum and articles of association of the Company, shares in a BVI company may be issued, and options to acquire shares in a company may be granted, at such times, to such persons, for such consideration and on such terms as the directors may determine.

Under the BCBCA, shares of a company may be issued at the times and to the persons that the directors determine, subject to the Notice of Articles and articles of the Company and to the provisions of the BCBCA.

Transferability of Shares

Subject to any limitations or restrictions on the transfer of shares in the memorandum or articles of association, registered shares of a company incorporated or continued under the BVI Act may be transferred by a written instrument of transfer signed by the transferor and containing the name and address of the transferee. The instrument of transfer of a registered share is required to be sent to the Company for registration. If the directors are satisfied that an instrument transfer has been signed but that the instrument has been lost or destroyed, they may resolve to accept such evidence of the transfer of the shares as they consider appropriate and that the transferee's name should be entered in the register of members, notwithstanding the absence of the instrument of transfer.

Unless the articles of a company contain a restriction on the transfer of shares, under the BCBCA, shares are presumed to be freely transferable unless marked otherwise. Under Canadian provincial securities laws, certain shares issued on a private placement basis may be subject to statutory hold periods and transferability may be restricted.

Dissent and Appraisal Rights

Under the BVI Act, a shareholder of a company may dissent from certain transactions and be entitled to the payment of the fair value of his shares. Shareholders may dissent from the following actions:

- (a) a merger, unless the Company is the surviving company and the shareholder continues to hold the same or similar shares;
- (b) a consolidation;
- (c) any sale, transfer, lease, exchange or other disposition of more than fifty percent (50%) in value of the assets or business of the Company, if not made in the usual or regular course of the business carried on by the Company (other than a disposition pursuant to an order of the BVI Court having jurisdiction in the matter, a disposition for money on terms requiring all or substantially all net proceeds to be distributed to the shareholders in accordance with their respective interests within one year after the date of disposition, and a transfer pursuant to the power described in section 28(2) of the BVI Act);
- (d) an arrangement, if permitted by the BVI Court; and
- (e) a compulsory redemption of shares by a company (as described below under the subheading 'Compulsory Acquisition').

Section 179 of the BVI Act sets forth a detailed procedure for exercising the right to dissent (including timing deadlines) and for determination of fair value for the dissenter's shares.

Generally, under the BVI Act, where a shareholder has given proper notice of his election to dissent the Company must make a written offer to each dissenting shareholder to purchase his shares at a specified price that the Company determines to be their fair value; and if within thirty (30) days immediately following the date on which the offer is made, the Company making the offer and the dissenting shareholder agree upon the price to be paid for the shares, the Company shall pay to the shareholder the amount in money upon the surrender of the certificates representing his shares. If the Company and dissenting shareholder fail, within the aforementioned period of thirty (30) days, to

agree on the price to be paid for the shares owned by the shareholder, within twenty (20) days immediately following the date on which the period of thirty (30) days expires, the following applies:

- (a) the Company and the dissenting shareholder shall each designate an appraiser;
- (b) the two (2) designated appraisers together shall designate a third appraiser;
- (c) the three (3) appraisers shall fix the value of the shares owned by the dissenting shareholder as of the close of business on the day prior to the date on which the vote of the shareholders authorising the action was taken or the date on which written consent of shareholders without a meeting was obtained, excluding any appreciation or depreciation directly or indirectly by the action or its proposal, and that value is binding on the Company and the dissenting shareholder for all purposes; and
- (d) the Company shall pay to the shareholder the amount in money upon the surrender by him of the certificates representing his shares.

The BCBCA provides that shareholders may, in connection with certain matters, exercise a right of dissent and require the Company to purchase the shares held by shareholders at the fair value of such shares. The dissent right is applicable where the Company proposes to:

- (a) alter its articles to alter restrictions on the powers of the Company or on the business it is permitted to carry on;
- (b) adopt an amalgamation agreement;
- (c) amalgamate under Division 4 of Part 9 of the BCBCA (an amalgamation into a foreign jurisdiction);
- (d) approve an arrangement, the terms of which arrangement permit dissent;
- (e) sell, lease or dispose of all or substantially all of its undertaking
- (f) continue into a jurisdiction other than British Columbia;
- (g) in respect of any other resolution, if dissent is authorized by the resolution; or
- (h) in respect of any court order that permits dissent.

Under the BCBCA, a shareholder may also be entitled to elect to receive the appraised value of his or her shares in connection with certain compulsory acquisitions, as described below under the heading 'Compulsory Acquisition'.

Compulsory Acquisition

Under the BVI Act, subject to any limitations in a company's memorandum or articles of association, shareholders holding ninety percent (90%) of the votes of the outstanding shares entitled to vote, and shareholders holding ninety percent (90%) of the votes of the outstanding shares of each class of shares entitled to vote as a class may give a written instruction to the Company directing the Company to redeem the shares held by the remaining shareholders. Upon receipt of such written instruction, the Company shall redeem the shares specified in the written instruction, irrespective of whether or not the shares are by their terms redeemable. The Company shall give written notice to each shareholder whose shares are to be redeemed stating the redemption price and the manner in which the redemption is to be effected. A shareholder whose shares are to be so redeemed is entitled to dissent from such redemption, and to be paid the fair value of his shares, as described above under the subheading 'Dissent and Appraisal Rights'.

Under the BCBCA, where over ninety percent (90%) of the shares of a corporation (other than shares held at the date of the bid by or on behalf of the bidder or an affiliate or nominee of the bidder) which are subject to a take-over bid or issuer bid are acquired pursuant to such take-over bid or issuer bid, the bidder, by complying with the provisions of the BCBCA, can force the non-tendering shareholders to either sell their shares on the same terms as the tendering shareholders, or to demand payment from the Company of the fair value of their securities in exchange for the surrender of their securities to the Company.

Oppression Remedies

A shareholder of a company incorporated or continued under the BVI Act who considers that the affairs of the Company have been, are being or are likely to be, conducted in a manner that is, or any acts of the Company have been, or are, likely to be oppressive, unfairly discriminatory, or unfairly prejudicial to him in that capacity, may apply to the BVI Court for an order and, if the BVI Court considers that it is just and equitable to do so, it may make such order as it thinks fit, including, without limitation, one or more of the following orders:

- (a) in the case of a shareholder, requiring the Company or any other person to acquire the shareholder's shares;
- (b) requiring the Company or any other person to pay compensation to the shareholder;
- (c) regulating the future conduct of the Company's affairs;
- (d) amending the memorandum or articles of association of the Company;
- (e) appointing a receiver of the Company;
- (f) appointing a liquidator of the Company under section 159(1) of the Insolvency Act, 2003 (British Virgin Islands);
- (g) directing the rectification of the records of the Company; and
- (h) setting aside any decision made or action taken by the Company or its directors in breach of the BVI Act or the Company's memorandum and articles of association.

Under the BCBCA, a shareholder of a company or any other person whom the BC Court considers to be an appropriate person to seek an oppression remedy, may apply to the BC Court for an order to remedy or bring to an end the matters complained of on the ground that the affairs of the Company are being or have been conducted, or that the powers of the directors are being or have been exercised, in a manner oppressive to one or more shareholders, including the applicant, or that some act of the Company has been done or threatened, or that some resolution of the shareholders or of the shareholders holding shares of a class or series of shares has been passed or is proposed, that is unfairly prejudicial to one or more of the shareholders, including the applicant.

Shareholder Derivative Actions

A BVI Court may, on the application of a shareholder of a company, grant leave to that shareholder to:

- (a) bring proceedings in the name and on behalf of that company; or
- (b) intervene in proceedings to which the Company is a party for the purpose of continuing, defending or discontinuing the proceedings on behalf of the Company.

Under the BCBCA, a shareholder or director of a company or any other person whom the BC Court considers to be an appropriate person to make such an application, may apply to the BC Court for leave to prosecute a legal proceeding in the name and on behalf of a company to enforce a right, duty or obligation owed to the Company that could be enforced by the Company itself, or to obtain damages for any breach of such right, duty or obligation referred to in the foregoing. With leave of the BC Court, an applicant may also, in the name and on behalf of a company, defend a legal proceeding brought against the Company.

The BC Court may grant leave to the applicant if:

- (a) the applicant has made reasonable efforts to cause the directors of the Company to prosecute or defend the legal proceeding;
- (b) notice of the application for leave has been given to the Company and to any other person the BC Court may order;

- (c) the applicant is acting in good faith; and
- (d) it appears to the BC Court that it is in the best interests of the Company for the legal proceeding to be prosecuted or defended.

Capacity and Powers, and Giving Financial Assistance

Subject to the BVI Act, any other enactment in the BVI and the Company's memorandum and articles of association, a company has, irrespective of corporate benefit full capacity to carry on or undertake any business or activity, do any act or enter into any transaction, and full rights, powers and privileges for these purposes. The powers of a company include the power to do the following:

- (a) unless it is a company limited by guarantee or an unlimited company that in either case is not authorized to issue shares:
 - (i) issue and cancel shares and hold treasury shares,
 - (ii) grant options over unissued shares in the Company and treasury shares,
 - (iii) issue securities that are convertible into shares, and
 - (iv) give financial assistance to any person in connection with the acquisition of its own shares;
- (b) issue debt obligations of every kind and grant options, warrants and rights to acquire debt obligations;
- (c) guarantee a liability or obligation of any person and secure any of its obligations by mortgage, pledge or other charge, of any of its assets for that purpose; and
- (d) protect the assets of the Company for the benefit of the Company, its creditors and its shareholder and, at the discretion of the directors, for any person having a direct or indirect interest in the Company.

The BVI Act does not limit the circumstances in which a company can give financial assistance.

The BCBCA does not limit the circumstances in which a company can give financial assistance; however, it does require the company to disclose material financial assistance given to certain affiliated persons or to be used to purchase shares issued by the company.

SCHEDULE “C”

DISSENT PROVISIONS

Pursuant to the BCBCA, Shareholders have the right to dissent in respect of the Continuance. Such right of dissent is described in the Information Circular. The full text of Part 8, Division 2 the BCBCA is set forth below.

PART 8, DIVISION 2 OF THE BUSINESS CORPORATIONS ACT (BRITISH COLUMBIA)

Division 2 — Dissent Proceedings

Definitions and application

237 (1) In this Division:

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

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

“**payout value**” means,

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

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

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

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

Right to dissent

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

- (a) under section 260, in respect of a resolution to alter the articles
 - (i) to alter restrictions on the powers of the company or on the business the company is permitted to carry on; or
 - (ii) without limiting subparagraph (i), in the case of a community contribution company, to alter any of the company’s community purposes within the meaning of section 51.91;

- (b) under section 272, in respect of a resolution to adopt an amalgamation agreement;
- (c) under section 287, in respect of a resolution to approve an amalgamation under Division 4 of Part 9;
- (d) in respect of a resolution to approve an arrangement, the terms of which arrangement permit dissent;
- (e) under section 301 (5), in respect of a resolution to authorize or ratify the sale, lease or other disposition of all or substantially all of the company's undertaking;
- (f) under section 309, in respect of a resolution to authorize the continuation of the company into a jurisdiction other than British Columbia;
- (g) in respect of any other resolution, if dissent is authorized by the resolution;
- (h) in respect of any court order that permits dissent.

(2) A shareholder wishing to dissent must

- (a) prepare a separate notice of dissent under section 242 for
 - (i) the shareholder, if the shareholder is dissenting on the shareholder's own behalf, and
 - (ii) each other person who beneficially owns shares registered in the shareholder's name and on whose behalf the shareholder is dissenting,
- (b) identify in each notice of dissent, in accordance with section 242 (4), the person on whose behalf dissent is being exercised in that notice of dissent, and
- (c) dissent with respect to all of the shares, registered in the shareholder's name, of which the person identified under paragraph (b) of this subsection is the beneficial owner.

(3) Without limiting subsection (2), a person who wishes to have dissent exercised with respect to shares of which the person is the beneficial owner must

- (a) dissent with respect to all of the shares, if any, of which the person is both the registered owner and the beneficial owner, and
- (b) cause each shareholder who is a registered owner of any other shares of which the person is the beneficial owner to dissent with respect to all of those shares.

Waiver of right to dissent

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

(2) A shareholder wishing to waive a right of dissent with respect to a particular corporate action must

- (a) provide to the company a separate waiver for
 - (i) the shareholder, if the shareholder is providing a waiver on the shareholder's own behalf, and
 - (ii) each other person who beneficially owns shares registered in the shareholder's name and on whose behalf the shareholder is providing a waiver, and
- (b) identify in each waiver the person on whose behalf the waiver is made.

(3) If a shareholder waives a right of dissent with respect to a particular corporate action and indicates in the waiver that the right to dissent is being waived on the shareholder's own behalf, the shareholder's right to dissent with

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

- (a) the shareholder in respect of the shares of which the shareholder is both the registered owner and the beneficial owner, and
- (b) any other shareholders, who are registered owners of shares beneficially owned by the first mentioned shareholder, in respect of the shares that are beneficially owned by the first mentioned shareholder.

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

Notice of resolution

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

- (a) a copy of the proposed resolution, and
- (b) a notice of the meeting that specifies the date of the meeting, and contains a statement advising of the right to send a notice of dissent.

(2) If a resolution in respect of which a shareholder is entitled to dissent is to be passed as a consent resolution of shareholders or as a resolution of directors and the earliest date on which that resolution can be passed is specified in the resolution or in the statement referred to in paragraph (b), the company may, at least 21 days before that specified date, send to each of its shareholders, whether or not their shares carry the right to vote,

- (a) a copy of the proposed resolution, and
- (b) a statement advising of the right to send a notice of dissent.

(3) If a resolution in respect of which a shareholder is entitled to dissent was or is to be passed as a resolution of shareholders without the company complying with subsection (1) or (2), or was or is to be passed as a directors' resolution without the company complying with subsection (2), the company must, before or within 14 days after the passing of the resolution, send to each of its shareholders who has not, on behalf of every person who beneficially owns shares registered in the name of the shareholder, consented to the resolution or voted in favour of the resolution, whether or not their shares carry the right to vote,

- (a) a copy of the resolution,
- (b) a statement advising of the right to send a notice of dissent, and
- (c) if the resolution has passed, notification of that fact and the date on which it was passed.

(4) Nothing in subsection (1), (2) or (3) gives a shareholder a right to vote in a meeting at which, or on a resolution on which, the shareholder would not otherwise be entitled to vote.

Notice of court orders

241 If a court order provides for a right of dissent, the company must, not later than 14 days after the date on which the company receives a copy of the entered order, send to each shareholder who is entitled to exercise that right of dissent

- (a) a copy of the entered order, and

- (b) a statement advising of the right to send a notice of dissent.

Notice of dissent

242 (1) A shareholder intending to dissent in respect of a resolution referred to in section 238 (1) (a), (b), (c), (d), (e) or (f) must,

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

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

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

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

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

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

- (a) if the notice shares constitute all of the shares of which the shareholder is both the registered owner and beneficial owner and the shareholder owns no other shares of the company as beneficial owner, a statement to that effect;
- (b) if the notice shares constitute all of the shares of which the shareholder is both the registered owner and beneficial owner but the shareholder owns other shares of the company as beneficial owner, a statement to that effect and
 - (i) the names of the registered owners of those other shares,
 - (ii) the number, and the class and series, if applicable, of those other shares that are held by each of those registered owners, and
 - (iii) a statement that notices of dissent are being, or have been, sent in respect of all of those other shares;
- (c) if dissent is being exercised by the shareholder on behalf of a beneficial owner who is not the dissenting shareholder, a statement to that effect and

- (i) the name and address of the beneficial owner, and
- (ii) a statement that the shareholder is dissenting in relation to all of the shares beneficially owned by the beneficial owner that are registered in the shareholder's name.

(5) The right of a shareholder to dissent on behalf of a beneficial owner of shares, including the shareholder, terminates and this Division ceases to apply to the shareholder in respect of that beneficial owner if subsections (1) to (4) of this section, as those subsections pertain to that beneficial owner, are not complied with.

Notice of intention to proceed

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

- (a) if the company intends to act on the authority of the resolution or court order in respect of which the notice of dissent was sent, send a notice to the dissenter promptly after the later of
 - (i) the date on which the company forms the intention to proceed, and
 - (ii) the date on which the notice of dissent was received, or
- (b) if the company has acted on the authority of that resolution or court order, promptly send a notice to the dissenter.

(2) A notice sent under subsection (1) (a) or (b) of this section must

- (a) be dated not earlier than the date on which the notice is sent,
- (b) state that the company intends to act, or has acted, as the case may be, on the authority of the resolution or court order, and
- (c) advise the dissenter of the manner in which dissent is to be completed under section 244.

Completion of dissent

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

- (a) a written statement that the dissenter requires the company to purchase all of the notice shares,
- (b) the certificates, if any, representing the notice shares, and
- (c) if section 242 (4) (c) applies, a written statement that complies with subsection (2) of this section.

(2) The written statement referred to in subsection (1) (c) must

- (a) be signed by the beneficial owner on whose behalf dissent is being exercised, and
- (b) set out whether or not the beneficial owner is the beneficial owner of other shares of the company and, if so, set out
 - (i) the names of the registered owners of those other shares,
 - (ii) the number, and the class and series, if applicable, of those other shares that are held by each of those registered owners, and
 - (iii) that dissent is being exercised in respect of all of those other shares.

(3) After the dissenter has complied with subsection (1),

- (a) the dissenter is deemed to have sold to the company the notice shares, and
- (b) the company is deemed to have purchased those shares, and must comply with section 245, whether or not it is authorized to do so by, and despite any restriction in, its memorandum or articles.

(4) Unless the court orders otherwise, if the dissenter fails to comply with subsection (1) of this section in relation to notice shares, the right of the dissenter to dissent with respect to those notice shares terminates and this Division, other than section 247, ceases to apply to the dissenter with respect to those notice shares.

(5) Unless the court orders otherwise, if a person on whose behalf dissent is being exercised in relation to a particular corporate action fails to ensure that every shareholder who is a registered owner of any of the shares beneficially owned by that person complies with subsection (1) of this section, the right of shareholders who are registered owners of shares beneficially owned by that person to dissent on behalf of that person with respect to that corporate action terminates and this Division, other than section 247, ceases to apply to those shareholders in respect of the shares that are beneficially owned by that person.

(6) A dissenter who has complied with subsection (1) of this section may not vote, or exercise or assert any rights of a shareholder, in respect of the notice shares, other than under this Division.

Payment for notice shares

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

- (a) promptly pay that amount to the dissenter, or
- (b) if subsection (5) of this section applies, promptly send a notice to the dissenter that the company is unable lawfully to pay dissenters for their shares.

(2) A dissenter who has not entered into an agreement with the company under subsection (1) or the company may apply to the court and the court may

- (a) determine the payout value of the notice shares of those dissenters who have not entered into an agreement with the company under subsection (1), or order that the payout value of those notice shares be established by arbitration or by reference to the registrar, or a referee, of the court,
- (b) join in the application each dissenter, other than a dissenter who has entered into an agreement with the company under subsection (1), who has complied with section 244 (1), and
- (c) make consequential orders and give directions it considers appropriate.

(3) Promptly after a determination of the payout value for notice shares has been made under subsection (2) (a) of this section, the company must

- (a) pay to each dissenter who has complied with section 244 (1) in relation to those notice shares, other than a dissenter who has entered into an agreement with the company under subsection (1) of this section, the payout value applicable to that dissenter's notice shares, or
- (b) if subsection (5) applies, promptly send a notice to the dissenter that the company is unable lawfully to pay dissenters for their shares.

(4) If a dissenter receives a notice under subsection (1) (b) or (3) (b),

- (a) the dissenter may, within 30 days after receipt, withdraw the dissenter's notice of dissent, in which case the company is deemed to consent to the withdrawal and this Division, other than section 247, ceases to apply to the dissenter with respect to the notice shares, or

- (b) if the dissenter does not withdraw the notice of dissent in accordance with paragraph (a) of this subsection, the dissenter retains a status as a claimant against the company, to be paid as soon as the company is lawfully able to do so or, in a liquidation, to be ranked subordinate to the rights of creditors of the company but in priority to its shareholders.

(5) A company must not make a payment to a dissenter under this section if there are reasonable grounds for believing that

- (a) the company is insolvent, or
- (b) the payment would render the company insolvent.

Loss of right to dissent

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

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

Shareholders entitled to return of shares and rights

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

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