EXECUTION VERSION

ARRANGEMENT AGREEMENT

SEARCHLIGHT PHARMA INC.

– and –

NUVO PHARMACEUTICALS INC. D/B/A MIRAVO HEALTHCARE

December 22, 2022

TABLE OF CONTENTS

ARRANGEMENT AGREEMENT

THIS AGREEMENT is made as of the 22nd day of December, 2022,

A M O N G :

SEARCHLIGHT PHARMA INC.,
a corporation existing under the laws of Canada

(the "**Purchaser**")

- and -

NUVO PHARMACEUTICALS INC. D/B/A MIRAVO HEALTHCARE,
a corporation existing under the laws of the Province of Ontario

(the "**Company**")

WHEREAS the Purchaser wishes to acquire all of the issued and outstanding Company Shares in exchange for the Arrangement Consideration;

AND WHEREAS the Company Board, after receiving financial and legal advice, has determined that the Arrangement is fair and reasonable to the Company Shareholders and in the best interests of the Company, and has resolved to recommend that the Company Shareholders vote in favour of the Arrangement;

AND WHEREAS the Parties intend to carry out the transactions contemplated herein by way of a plan of arrangement under the provisions of the *Business Corporations Act* (Ontario);

AND WHEREAS the Parties have entered into this Agreement to provide for the matters referred to in the foregoing recitals and for other matters related to the transactions herein provided for;

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

ARTICLE 1
INTERPRETATION

1.1 Defined Terms

As used in this Agreement, the following terms have the following meanings:

"**Acquisition Proposal**" means, other than the transactions contemplated by this Agreement and other than any transaction involving only the Company and/or one or more of its wholly-owned Subsidiaries, any inquiry, proposal or offer (whether written or oral) made on or after the date of this Agreement from any Person or group of Persons "acting jointly or in concert" (within the meaning of National Instrument 62-104 – *Take-Over Bids and Issuer Bids*) other than the Purchaser or one or more of its affiliates, relating to:

(a) any direct or indirect sale, disposition or any lease, long-term supply agreement or other arrangement having the same economic effect as a sale, in a single transaction or a series of related transactions involving: (i) 20% or more of any class of voting or equity securities of the Company (including securities convertible into or exercisable or exchangeable for voting or equity securities); or (ii) assets (including shares of Subsidiaries of the Company) representing 20% or more of the consolidated assets, or contributing 20% or more of the consolidated revenue, of the Company and its Subsidiaries (based on the most recent annual consolidated financial statements of the Company filed as part of the Company Filings as at the time the Acquisition Proposal is made);

(b) any direct or indirect take-over bid, tender offer, exchange offer, treasury issuance or other transaction, in a single transaction or a series of related transactions, that, if consummated, would result in such Person or group of Persons beneficially owning, or exercising control or direction over, 20% or more of any class of voting or equity securities (including securities convertible into or exercisable or exchangeable for voting or equity securities) of the Company or any of its Subsidiaries whose assets represent 20% or more of the consolidated assets, or contribute 20% or more of the consolidated revenue, of the Company and its Subsidiaries (based on the most recent annual consolidated financial statements of the Company filed as part of the Company Filings as at the time the Acquisition Proposal is made);

(c) any arrangement, merger, amalgamation, consolidation, security exchange, business combination, reorganization, recapitalization, liquidation, dissolution, winding up, exclusive license or similar transaction, in a single transaction or a series of related transactions, involving the Company or any of its Subsidiaries whose assets represent 20% or more of the consolidated assets, or contribute 20% or more of the consolidated revenue, of the Company and its Subsidiaries (based on the most recent annual consolidated financial statements of the Company filed as part of the Company Filings as at the time the Acquisition Proposal is made); or

(d) any other transaction or series of related transactions similar to the any of the foregoing involving the Company or any of its Subsidiaries.

"**affiliate**" means, with respect to any specified Person, any other Person directly or indirectly controlling, controlled by or under common control with such specified Person, and, for purposes of this Agreement, "**control**" shall include the possession, directly or indirectly, of the power to direct or cause the direction of the policies, management and affairs of the Person, whether through the ownership of voting securities, by contract or otherwise, including with respect to any general partner of another Person with the power to direct the policies, management and affairs of such Person.

"**Agreement**" means this arrangement agreement, including all schedules annexed hereto, including, for greater certainty, the Company Disclosure Letter, as may be amended, supplemented or otherwise modified from time to time in accordance with its terms.

"**Arrangement**" means an arrangement under section 182 of the OBCA on the terms and subject to the conditions set forth in the Plan of Arrangement, subject to any amendments or variations to the Plan of Arrangement made in accordance with the terms of this Agreement or made at the direction of the Court in either the Interim Order or the Final Order with the prior written consent of the Company and the Purchaser, each acting reasonably.

"**Arrangement Consideration**" means the consideration to be received by the Company Shareholders pursuant to the Plan of Arrangement, being $1.35 in cash per Company Share on a fully-diluted basis.

"**Arrangement Resolution**" means the special resolution approving the Plan of Arrangement to be considered at the Company Meeting by Company Shareholders entitled to vote thereon, substantially in the form of Schedule B.

"**Articles of Arrangement**" means the articles of arrangement of the Company in respect of the Arrangement, required by section 183(1) of the OBCA to be sent to the Director after the Final Order is made, which shall include the Plan of Arrangement and otherwise be in a form satisfactory to the Company and the Purchaser, each acting reasonably.

"**Authorization**" means, with respect to any Person, any Order, permit, approval, consent, waiver, license or similar authorization of any Governmental Entity having jurisdiction over the Person.

"**Breaching Party**" has the meaning specified in Section 7.3.

"**Business Day**" means any day of the year, other than a Saturday, Sunday or any day on which major banks are closed for business in Montreal, Quebec, Dublin, Ireland or Toronto, Ontario.

"**Canadian Securities Authorities**" means the Ontario Securities Commission and any other applicable securities commission or securities regulatory authority of a province or territory of Canada.

"**Canadian Securities Laws**" means the *Securities Act* (Ontario) and any other applicable Canadian provincial and territorial securities Laws, rules and regulations and published policies thereunder.

"**Certificate of Arrangement**" means the certificate or proof of filing to be issued by the Director pursuant to section 183(2) of the OBCA in respect of the Articles of Arrangement giving effect to the Arrangement.

"**Change in Recommendation**" has the meaning specified in Section 7.2(a)(iv)(B).

"**Commitment Letters**" means, collectively, the Debt Commitment Letters and the Equity Commitment Letter.

"**Company**" has the meaning specified in the preamble.

"**Company Assets**" means all of the assets, properties (real or personal), permits, rights, licenses or other privileges (whether contractual or otherwise) owned, leased or otherwise used or held by the Company and its Subsidiaries.

"**Company Board**" means the board of directors of the Company as constituted from time to time.

"**Company Board Recommendation**" has the meaning specified in Section 2.4(b)(iv).

"**Company Circular**" means the notice of the Company Meeting and accompanying management information circular, including all schedules, appendices and exhibits to, and information incorporated by reference in, such management information circular, to be sent to, among others,

the Company Shareholders in connection with the Company Meeting, as amended, supplemented or otherwise modified from time to time in accordance with the terms of this Agreement.

"**Company Credit Facility**" means the facility agreement dated as of December 31, 2018 between, among others, the Company, as Canadian parent borrower, Nuvo Pharmaceuticals (Ireland) Designated Activity Company (f/k/a Nuvo Pharmaceuticals (Ireland) Limited), as Irish borrower, the other loan parties party thereto, Deerfield, as agent, the lenders party thereto and Alter Domus (f/k/a Cortland Capital Market Services LLC), as paying agent for the Irish borrower, as amended by the first amendment to facility agreement dated March 31, 2019 and the second amendment to facility agreement dated June 25, 2019, and as further amended, restated, supplemented or otherwise modified from time to time.

"**Company Disclosure Letter**" means the disclosure letter dated the date of this Agreement, including all schedules, exhibits and appendices thereto, delivered by the Company to the Purchaser with this Agreement.

"**Company DSU Plan**" means the Deferred Share Unit Plan For Directors of the Company, as described in the Company Filings.

"**Company DSUs**" means the outstanding deferred share units issued pursuant to the Company DSU Plan.

"**Company Employees**" means all officers and employees of the Company and its Subsidiaries, including part-time, full-time, active and inactive employees.

"**Company Equity Awards**" means the Company Options, Company SARs and Company DSUs issued pursuant to the Company Share Incentive Plan, the Company SAR Plan and the Company DSU Plan, as applicable.

"**Company Filings**" means all forms, reports, schedules, statements and other documents which are publicly filed or furnished by the Company pursuant to applicable Canadian Securities Laws since January 1, 2021 and prior to the date hereof.

"**Company Meeting**" means the special meeting of Company Shareholders, including any adjournment or postponement of such special meeting in accordance with the terms of this Agreement, to be called and held in accordance with the Interim Order to consider the Arrangement Resolution and for any other purpose as may be set out in the Company Circular and agreed to in writing by the Purchaser.

"**Company Options**" means the outstanding options to purchase Company Shares issued pursuant to the Company Share Incentive Plan.

"**Company SARs**" means the outstanding share appreciation rights issued pursuant to the Company SAR Plan.

"**Company SAR Plan**" means the Share Appreciation Rights Plan as described in the Company Filings.

"**Company Shareholders**" means the registered and/or beneficial holders of the Company Shares, as the context requires.

"**Company Shares**" means the common shares in the capital of the Company.

"**Company Share Incentive Plan**" means the Third Amended and Restated Share Incentive Plan of the Company, as described in the Company Filings.

"**Confidentiality Agreement**" means the confidentiality agreement dated July 14, 2022 between the Company and the Purchaser.

"**Constating Documents**" means, with respect to a Person, (a) if such Person is a corporation, its's articles of incorporation, amalgamation, arrangement or continuation (as applicable), together with its by-laws (or equivalent documents) and any unanimous shareholders agreement, and (b) if such Person is a partnership, its partnership agreement (including, in each case, all amendments to such articles, partnership agreements, unanimous shareholders agreements or by-laws (or equivalent documents)).

"**Contract**" means any written or oral legally binding agreement, commitment, engagement, contract, franchise, licence, lease, sublease, occupancy agreement, obligation, indenture, mortgage, arrangement or undertaking, together with any amendments and modifications thereto, to which any Party or any of its Subsidiaries is a party or by which it or any of its Subsidiaries is bound or to which any of their respective properties or assets is subject.

"**Corrupt Practices Legislation**" has the meaning specified in paragraph 36 of Schedule C.

"**Court**" means the Ontario Superior Court of Justice (Commercial List), or other court as applicable.

"**COVID-19**" means the coronavirus disease 2019 (dubbed as COVID-19), caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and/or any other virus or disease developing from or arising as a result of SARS-CoV-2 and/or COVID-19 (including any derivations, evolutions or mutations thereof).

"**COVID-19 Measures**" means commercially reasonable actions for a Party or any of its Subsidiaries to take or refrain from taking in the operation of their business as a result of COVID-19 in order to comply with the provisions of any health, quarantine, social distancing, shutdown, safety or similar Law, guideline or recommendation promulgated by any Governmental Entity in connection with COVID-19.

"**COVID-19 Subsidy**" means the Canada Emergency Rent Subsidy, the Canada Emergency Wage Subsidiary, and any other COVID-19 related direct or indirect wage, rent or other subsidy or loan offered by a federal, provincial, territorial, state, local or foreign Governmental Entity.

"**Data Room**" means the material contained in the virtual data rooms established by the Company, as of 9:00 a.m. on the date of this Agreement.

"**Debt Commitment Letters**" means the two executed debt commitment letters between the Purchaser and each of the Debt Financing Sources party thereto, dated December 19, 2022 and December 22, 2022, as applicable, copies of which were provided to the Company on or about the date hereof, including all related exhibits, schedules, annexes, supplements and term sheets attached thereto, and the related fee letters, in each case, as amended, restated, supplemented, replaced and/or modified in accordance with the terms hereof and thereof, to the extent permitted hereunder.

"**Debt Financing"** means the financing contemplated under the Debt Commitment Letters, the proceeds of which will be used by the Purchaser to partially satisfy the financing of the transactions contemplated by this Agreement.

"**Debt Financing Sources**" means (a) the Persons that have committed to provide or arrange or otherwise have entered into agreements in connection with all or any part of the Debt Financing or any other debt financings in connection with the transactions contemplated by this Agreement (including the parties to the Debt Commitment Letters and any other commitment letters, engagement letters, joinder agreements, or definitive documentation related thereto) and their respective successors and assigns, upon and in accordance with the terms and conditions of this Agreement and the Debt Commitment Letters and (b) any affiliates of any Person contemplated by clause (a) above, and their, and their respective affiliates', officers, directors, employees, agents, shareholders, partners (general or limited), managers, members, controlling parties, Representatives, funding sources and other representatives of each of the foregoing; provided that, notwithstanding anything to the contrary in the foregoing, the Purchaser, the Equity Investors and any of their respective affiliates shall not be Debt Financing Sources for the purpose of this Agreement.

"**Debt Repayment Steps**" has the meaning specified in Section 2.10.

"**Deerfield**" means Deerfield Private Design Fund III, L.P. and its affiliates.

"**Deerfield Notes**" mean the 6-year, convertible notes issued by the Company to Deerfield in the amount of US$52,500,000 with an interest rate of 3.5% per annum, initially convertible into 19,444,444 Company Shares at a conversion price of US$2.70 as described in the Company Filings.

"**Deerfield Support Agreement**" means the lender consent and support agreement dated the date hereof between, among other parties, the Purchaser, the Company and Deerfield.

"**Deerfield Warrants**" mean the 25,555,556 warrants issued by the Company to Deerfield, each initially exercisable for one Company Share for a period of six years from the date of issuance at an exercise price of $3.53 per share as described in the Company Filings.

"**Depositary**" means such Person as the Company may appoint to act as depositary in respect of the Arrangement, with the approval of the Purchaser, acting reasonably.

"**Director**" means the Director duly appointed pursuant to section 278 of the OBCA.

"**Dissent Rights**" means the rights of dissent in respect of the Arrangement described in the Plan of Arrangement.

"**Effective Date**" means the date shown on the Certificate of Arrangement giving effect to the Arrangement.

"**Effective Time**" means 12:01 a.m. on the Effective Date, or such other time as the Parties agree to in writing before the Effective Date.

"**Employee Plans**" means all health, welfare, retiree benefit, supplemental unemployment benefit, fringe benefits, bonus, profit sharing, option, share appreciation, savings, insurance, incentive, incentive compensation, deferred compensation, death benefits, termination, retention, change in control, severance share purchase, share compensation or any other share or equity-based compensation, disability, pension, retirement or supplemental retirement plans and other employee

or director compensation or benefit plans, policies, trusts, funds, agreements or arrangements for the benefit of directors or former directors of the Company or any of its Subsidiaries, Company Employees or former Company Employees, or any dependants or beneficiaries of such directors, Company Employees or former Company Employees, registered, unregistered, funded or unfunded, insured or self-insured which are maintained by or binding upon the Company or any of its Subsidiaries or in respect of which the Company or any of its Subsidiaries has any actual, contingent or inchoate liability or obligations; provided that, notwithstanding the foregoing, "Employee Plans" shall not include any Statutory Plans.

"**Environmental Laws**" means all Laws relating to worker health and safety arising from exposure to Hazardous Substances, pollution, protection of the natural environment or any species that might make use of it or the generation, production, import, export, use, storage, treatment, transportation, disposal or Release of Hazardous Substances, including under common law, and all Authorizations issued pursuant to such Laws (each an "**Environmental Authorization**").

"**Equity Commitment Letter**" means the executed equity commitment letter between the Purchaser and the Equity Investors dated as of the date hereof, including all related exhibits, schedules, annexes, supplements and term sheets attached thereto, in each case, as amended, restated, supplemented, replaced and/or modified in accordance with the terms hereof and thereof, to the extent permitted hereunder.

"**Equity Financing**" means the agreement of the Equity Investors to (directly or indirectly) invest or cause to be invested in the Purchaser, subject to the terms and conditions of the Equity Commitment Letter, the amounts set forth in the Equity Commitment Letter, which will be used by the Purchaser for purposes of partially financing the transactions contemplated by this Agreement.

"**Equity Investors**" means the investor under the Equity Commitment Letter as of the date hereof, and any other Person (other than the Purchaser) who becomes a party to the Equity Commitment Letter in accordance with the terms hereof and thereof, and each of their respective successors.

"**executive officer**" has the meaning specified in National Instrument 51-102 – *Continuous Disclosure Obligations*.

"**Fairness Opinion**" means the opinion of the Financial Advisor to the effect that, as of the date of such opinion, the Arrangement Consideration to be received by Company Shareholders is fair, from a financial point of view, to such holders.

"**FDA**" means the United States Food and Drug Administration and any successor agency thereto.

"**Final Order**" means the final order of the Court made pursuant to section 182(5) of the OBCA in a form acceptable to the Company and the Purchaser, each acting reasonably, approving the Arrangement, as such order may be amended by the Court (with the consent of both the Company and the Purchaser, each acting reasonably) at any time prior to the Effective Date or, if appealed, then, unless such appeal is withdrawn or denied, as affirmed or as amended (provided that any such amendment is acceptable to both the Company and the Purchaser, each acting reasonably) on appeal.

"**Financial Advisor**" means Bloom Burton Securities Inc.

"**Financing Sources**" has the meaning specified in Section 4.9(a)(i).

"**Financing Materials**" has the meaning specified in Section 4.9(a)(ii).

"**Financings**" means, collectively, the Debt Financing and the Equity Financing, and "**Financing**" means either of them.

"**Governmental Entity**" means: (a) any international, multinational, national, federal, provincial, territorial, state, regional, municipal, local or other government, governmental or public body, authority or department, central bank, court, tribunal, arbitral or adjudicative body, commission, board, bureau, commissioner, ministry, governor-in-council, agency or instrumentality, domestic or foreign, (b) any subdivision or authority of any of the above, (c) any quasi-governmental, administrative or private body, including any tribunal, commission, committee, regulatory agency or self-regulatory organization, exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing (including the FDA and any branch, department, or office thereof, Health Canada and any branch, department, or office thereof, and any similar foreign agencies), or (d) any stock exchange (including the TSX).

"**Hazardous Substances**" means any substance that is (a) regulated or prohibited or (b) classified as dangerous, hazardous, radioactive, explosive or toxic or deemed to be a pollutant or a contaminant, under or pursuant to any applicable Environmental Laws.

"**Health Canada**" means the Canadian health authority known as Health Canada and any successor agency having similar jurisdiction.

"**Health Product Regulatory Law**" means all Laws applicable to the researching, testing, development, clinical trial or other investigation, manufacture, storage, packaging, marketing, sale, distribution, provision, wholesale, advertising, labelling, pricing, listing on a formulary, import or export of a drug product, natural health product, medical device, or other health product, including the *Food and Drugs Act* (Canada) and its associated regulations (including the Food and Drug Regulations, the *Competition Act* (Canada) and its associated regulations, the Natural Health Products Regulations, and the Medical Devices Regulations), the *Consumer Packaging and Labelling Act* (Canada) and its associated regulations, the *Controlled Drugs and Substances Act* (Canada) and its associated regulations, all good manufacturing practices, good clinical practices, good laboratory practices, good pharmacovigilance practices, all rules, policies, and guidelines of Health Canada and any branch, department, or office thereof (including the Therapeutic Products Directorate, the Natural and Non-prescription Health Products Directorate, and the Medical Devices Directorate), all federal and provincial laws governing formulary drug products (including the pricing, listing and sale of such products), all applicable industry standards, and all other federal, provincial, state or local laws, rules, regulations and guidelines of a Governmental Entity, and applicable foreign rules and regulations, including those of the FDA.

"**IFRS**" means International Financial Reporting Standards as issued by the International Accounting Standards Board that are applicable to public issuers in Canada.

"**Indemnified Persons**" has the meaning specified in Section 4.7(b).

"**Intellectual Property**" means all intellectual property and all domestic and foreign intellectual property rights including: (a) patents, applications for patents and reissues, divisions, continuations, renewals, extensions and continuations-in-part of patents or patent applications; (b) proprietary and non-public business information, including inventions (whether patentable or not), invention disclosures, improvements, discoveries, trade secrets, confidential information, know-how, methods, processes, designs, technology, technical data, schematics, formulae and customer lists, and documentation relating to any of the foregoing; (c) copyrights, copyright registrations and applications for copyright registration and any works of authorship; (d) mask works, mask work registrations and applications for mask work registrations; (e) designs, design registrations, design

registration applications and integrated circuit topographies; (f) trade names, business names, corporate names, domain names, website names and world wide web addresses, social media accounts, common law trade-marks, trade-mark registrations, trade mark applications, trade dress and logos, and the goodwill associated with any of the foregoing; (g) Software; and (h) any other intellectual property and industrial property.

"**Interim Order**" means the interim order of the Court made pursuant to section 182(5) of the OBCA in a form acceptable to the Company and the Purchaser, each acting reasonably, providing for, among other things, the calling and holding of the Company Meeting, as such order may be amended by the Court with the consent of the Company and the Purchaser, each acting reasonably.

"**Inventory**" means all inventory of the Company and its Subsidiaries, including inventory of works in process, raw materials, packaging components and finished products or bulk products and testers, products to be received under outstanding purchase orders and samples of finished products.

"**Law**" means, with respect to any Person, any and all applicable law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, decision, injunction, notice, judgment, decree, ruling or other similar requirement, whether domestic or foreign, enacted, adopted, promulgated or applied by a Governmental Entity that is binding upon or applicable to such Person or its business, undertaking, property or securities (including, for certainty, Canadian Securities Laws), and to the extent that they have the force of law, policies, guidelines, notices and protocols of any Governmental Entity, as amended unless expressly specified otherwise.

"**Leased Premises**" means all real property that is leased, subleased, licensed or otherwise occupied by the Company or any of its Subsidiaries pursuant to a Real Property Lease.

"**Lien**" means any mortgage, charge, pledge, hypothec, security interest, lien (statutory or otherwise), or adverse right or claim, or other third party interest or encumbrance in property (real or personal) of any kind, in each case, howsoever created or arising, whether fixed or floating, perfected or not, contingent or absolute.

"**Matching Period**" has the meaning specified in Section 5.4(a)(iv).

"**Material Adverse Effect**" means any change, event, occurrence, effect, state of facts, or circumstance that, individually or in the aggregate with other such changes, events, occurrences, effects, state of facts or circumstances, is or would reasonably be expected to be material and adverse to the business, operations, assets, properties, results of operations, condition (financial or otherwise) or liabilities (contingent or otherwise) of the Company and its Subsidiaries, taken as a whole, except any such change, event, occurrence, effect, state of facts or circumstance resulting from or arising in connection with:

(a) any change, event or development generally affecting the industries or segments in which the Company and/or any of its Subsidiaries operate or carry on their business;

(b) any change or development in, or relating to, currency exchange, interest or inflation rates or any change, development or condition in, or relating to, general economic, business, regulatory, political or market conditions or in financial, securities or capital markets in Canada, the United States or in global financial or capital markets;

(c) any hurricane, flood, tornado, earthquake or other natural disaster or man-made disaster, or the commencement or continuation of war, armed hostilities, including the escalation or worsening thereof, or acts of terrorism;

(d) any general outbreak of illness, pandemic (including COVID-19), epidemic or similar event or the worsening thereof;

(e) any adoption, proposal, implementation or change in Law or any interpretation, application or non-application of Law by any Governmental Entity, including any change in IFRS or changes in applicable regulatory accounting requirements;

(f) any change in the market price or trading volume of any securities of the Company (provided, however, that the causes underlying such change may be considered to determine whether such change constitutes a Material Adverse Effect unless otherwise excluded from this definition of Material Adverse Effect), or any suspension of trading in securities generally on any securities exchange on which any securities of the Company trade;

(g) the failure of the Company to meet any internal or published projections, forecasts, guidance or estimates of revenues, earnings or cash flow for any period ending on or after the date of this Agreement (provided, however, that the causes underlying such failure may be considered to determine whether such failure constitutes a Material Adverse Effect unless otherwise excluded from this definition of Material Adverse Effect);

(h) any matter expressly disclosed in the Company Disclosure Letter or in the Company Filings prior to the date hereof;

(i) any change or announcement of a potential change in the credit ratings in respect of the Company or a change in any analysts' recommendation or rating with respect to the Company (provided, however, that the causes underlying such change may be considered to determine whether such failure constitutes a Material Adverse Effect unless otherwise excluded from this definition of Material Adverse Effect);

(j) the announcement, execution or implementation of this Agreement or the transactions contemplated hereby, including any loss or threatened loss of, or adverse change or threatened adverse change in, the relationship of the Company or any of its Subsidiaries with any of its current or prospective employees, independent contractors, customers, clients, shareholders, financing sources, manufacturers, distributors, suppliers, wholesalers, licensors, counterparties, regulators, insurance underwriters, or partners; or

(k) any action taken (or omitted to be taken) by the Company or any of its Subsidiaries which is expressly required to be taken (or omitted to be taken) pursuant to (i) this Agreement or that is consented to by the Purchaser in writing, or (ii) applicable Law (including COVID-19 Measures),

provided, however, (i) if any change, event, occurrence, effect, state of facts, or circumstance referred to in clauses (a) through (c) above has a materially disproportionate effect on the Company and its Subsidiaries, taken as a whole, relative to other comparable companies and entities operating in the industries in which the Company or any of its Subsidiaries operate, such effect may be taken into account in determining whether a Material Adverse Effect has occurred; and (ii) that references in this Agreement to dollar amounts are not intended to be and shall not be deemed to be illustrative or interpretative for purposes of determining whether a Material Adverse Effect has occurred.

"**Material Contract**" means any Contract:

(a) which, if terminated or modified or if it ceased to be in effect, would have a Material Adverse Effect;

(b) providing for the establishment, investment in, organization or formation of any joint venture, co-ownership, partnership, alliance, revenue sharing or similar arrangements which is material to the Company and its Subsidiaries (taken as a whole);

(c) relating to indebtedness for borrowed money or the guarantee of any indebtedness for borrowed money (whether incurred, assumed, guaranteed or secured by any asset) in excess of $250,000 or relating to the guarantee of any liabilities or obligations in excess of $250,000 of a Person other than the Company or any of its Subsidiaries, in each case excluding any indebtedness or guarantee or intercompany liabilities or obligations between two or more wholly-owned Subsidiaries of the Company or between the Company and one or more of its wholly-owned Subsidiaries;

(d) that (i) limits or restricts in any material respect the ability of the Company or any Subsidiary to engage in any line of business or carry on business in any geographic area or the scope of Persons to whom the Company or any of its Subsidiaries may sell products or deliver services, (ii) contains any material exclusivity or similar provision, or (iii) grants a third party a "most favoured nation" right or a right of first offer or refusal in respect of material Company Assets;

(e) under which the Company or any of its Subsidiaries (i) have received payments in excess of $500,000 since January 1, 2022 or reasonably expect to receive payments in in excess of $500,000 during the fiscal year ended December 31, 2022, or (ii) have made payments in excess of $500,000 since January 1, 2022 or reasonably expects to make payments in excess of $500,000 during the fiscal year ended December 31, 2022;

(a) providing, outside of the Ordinary Course, for the purchase, sale or exchange of, or option to purchase, sell or exchange, any property or asset where the purchase or sale price or agreed value or fair market value of such property or asset exceeds $250,000;

(b) any Contract (other than Contracts referred to in (a) through (e) above) that, as of the date hereof, is still in force and which has been or would be required by Canadian Securities Laws to be filed by the Company with the Canadian Securities Authorities.

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

"**Misrepresentation**" means an untrue statement of a material fact or an omission to state a material fact required or necessary to make the statements contained therein not misleading in light of the circumstances in which they are made.

"**Money Laundering Laws**" has the meaning specified in paragraph 37 of Schedule C.

"**Notice**" has the meaning specified in Section 8.4.

"**OBCA**" means the *Business Corporations Act* (Ontario) and the regulations made thereunder.

"**Orders**" means all applicable judgments, orders, writs, injunctions, rulings, decisions, assessments and binding directives, protocols, policies and guidelines having the force of law rendered by any Governmental Entity.

"**Ordinary Course**" means, with respect to an action taken by the Company or its Subsidiaries, that such action is consistent with the past practices of such Party or such Subsidiary and is taken in the ordinary course of the normal day-to-day operations of the business of the Company or such Subsidiary provided that any action taken or omitted to be taken that (a) is commercially reasonable and taken in good faith by the Company as a result of or in response to natural disasters, calamities, emergencies or crises or (b) is a COVID-19 Measure shall be deemed to be Ordinary Course for the purpose of this Agreement.

"**Outside Date**" means June 30, 2023, or such later date as may be agreed in writing by the Parties; provided however that if the Outside Date shall occur on a day that is not a Business Day, the Outside Date shall be deemed to occur on the next Business Day.

"**Owned Real Property**" means the real property owned by the Company or any of its Subsidiaries, together with all buildings, structures, improvements, and appurtenances thereon and thereto.

"**Parties**" means, collectively, the Company and the Purchaser, and "**Party**" means any one of them.

"**Permitted Liens**" means, in respect of the Company or any of its Subsidiaries, any one or more of the following:

(a) Liens or deposits for Taxes or charges for electricity, gas, power, water and other utilities, in either case, which are not yet due or delinquent or which are being contested in good faith by appropriate proceedings;

(b) inchoate or statutory Liens of contractors, subcontractors, mechanics, workers, suppliers, materialmen, carriers and others in respect of the construction, maintenance, repair or operation of the Company Assets, provided that such Liens are related to obligations not yet due or delinquent, are not registered against title to any Company Assets and in respect of which adequate holdbacks are being maintained as required by applicable Law;

(c) municipal by-laws, regulations, ordinances, zoning law, building or land use restrictions and other limitations imposed by any Governmental Entity having jurisdiction over real property and any other restrictions affecting or controlling the use, marketability or development of real property imposed by any Governmental Entity having jurisdiction over real property;

(d) customary rights of general application reserved to or vested in any Governmental Entity to control or regulate any interest in the facilities in which the Company or any of its Subsidiaries conduct their business, provided that such Liens, encumbrances, exceptions, agreements, restrictions, limitations, contracts and rights (i) were not incurred in connection with any indebtedness, and (ii) do not, individually or in the aggregate, have a material adverse effect on the use of the subject property in the Ordinary Course as it is being used on the date of this Agreement;

(e) agreements affecting real property with any public utility, municipality or Governmental Entity in connection with operations conducted with respect to the Company Assets in the Ordinary Course;

(f) any minor encroachments by any structure located on the Real Property onto any adjoining lands and any minor encroachment by any structure located on adjoining lands onto the Real Property that do not materially adversely impact the use in the Ordinary Course of the Company Assets affected thereby as they are being used on the date of this Agreement;

(g) easements, rights of way, restrictions, restrictive covenants, servitudes and similar rights in land including rights of way and servitudes for highways and other roads, railways, sewers, drains, gas and oil pipelines, gas and water mains, electric light, power, telephone, telegraph or cable television conduits, poles, wires and cables, whether registered or unregistered, that do not materially adversely impact the use in the Ordinary Course of the Company Assets affected thereby as they are being used on the date of this Agreement;

(h) any reservations, exceptions, limitations, provisos and conditions contained in the original Crown grant or patent (including the reservation of any mines and minerals in the Crown or in any other Person), as same may be varied by statute;

(i) any Liens (i) pursuant to capitalized leases or purchase money obligations of such Person permitted in accordance with Section 4.1(b)(xv) in the Ordinary Course; (ii) pursuant to any conditional sales agreement, leases for equipment, vehicles or any other personal property and assets in or over the property and assets so purchased or leased in the Ordinary Course; (iii) registered, as of the date hereof, against the Company Assets in a public personal property registry, or similar registry systems; or (iv) registered as of the date hereof against title to the Real Property comprising Company Assets in the applicable land registry offices;

(j) minor imperfections or irregularities of title to Real Property that do not, individually or in the aggregate, materially adversely impact the use of the Real Property in the Ordinary Course of the Company Assets affected thereby as they are being used on the date of this Agreement;

(k) all registrations on title to the Real Property as of the date of this Agreement, save and except for financial Liens in respect of the Company Credit Facility; and

(l) Liens listed and described in Schedule 1.1 of the Company Disclosure Letter.

"**Person**" includes any individual, partnership, association, body corporate, trust, organization, estate, trustee, executor, administrator, legal representative, government (including Governmental Entity), syndicate or other entity, whether or not having legal status.

"**Plan of Arrangement**" means the plan of arrangement, substantially in the form of Schedule A, subject to any amendments or variations thereto made in accordance with Section 8.1 or made at the direction of the Court in the Final Order with the prior written consent of the Company and the Purchaser, each acting reasonably.

"**Privacy and Security Laws**" means all applicable Laws regarding (i) processing, collecting, accessing, using, disclosing, electronically transmitting, securing, sharing, retaining, destroying, transferring and storing personally identifiable information and (ii) data breach notification.

"**Purchaser**" has the meaning specified in the preamble.

"**Real Property**" means the Owned Real Property and the Leased Premises.

"**Real Property Lease**" means any lease, sublease, license, occupancy agreement or other agreement with respect to any real property leased, subleased, licensed or otherwise occupied by the Company or any of its Subsidiaries (except the Owned Real Property) and all lease guaranties, subleases, and all amendments, terminations and modifications thereof.

"**Registration Rights Agreement**" means the registration rights agreement dated December 31, 2018 between the Company and Deerfield, pursuant to which the Company has agreed to provide Deerfield with certain demand registration rights and piggy-back registration rights, as described in the Company Filings.

"**Release**" includes any sudden, intermittent or gradual release, spill, leak, pumping, addition, pouring, emission, emptying, discharge, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage, placement or introduction of a Hazardous Substance, whether accidental or intentional, into the environment, or words of similar import set out under applicable Environmental Laws.

"**Representative**" means, with respect to a Party, such Party's directors, officers, trustees, employees, representatives (including any legal financial or other advisor) or agent of such Party or of any of its Subsidiaries and, in the case of the Purchaser, includes the Debt Financing Sources and Equity Investors and their respective advisors.

"**Required Amount**" has the meaning specified in paragraph 7 of Schedule D.

"**Required Shareholder Approval**" has the meaning specified in Section 2.2(b).

"**Reverse Termination Amount**" has the meaning specified in Section 8.2(e).

"**Reverse Termination Amount Event**" has the meaning specified in Section 8.2(e).

"**Sanctions**" has the meaning specified in paragraph 35 of Schedule C.

"**SEDAR**" means the System for Electronic Document Analysis and Retrieval maintained on behalf of the Canadian Securities Authorities.

"**Senior Management**" means the members of the senior leadership team of the Company, which is currently comprised of (i) the President & Chief Executive Officer; (ii) the Vice President & Chief Financial Officer; (iii) the Vice President, Sales & Marketing Aralez Pharmaceuticals Canada Inc.; (iv) the Vice President Operations & Chief Scientific Officer; and (v) the Vice President, Secretary & General Counsel.

"**Share Purchase Plan**" means the share purchase plan of the Company and participating affiliates as set out in the Company Share Incentive Plan.

"**Software**" means computer software and programs (both source code and object code form), all proprietary rights in the computer software and programs and all documentation and other materials related to the computer software and programs.

"**Statutory Plans**" means statutory benefit plans which the Company or its Subsidiaries, as applicable, are required to participate in or comply with, including any benefit plan administered by any federal or provincial government and any benefit plans administered pursuant to applicable pension, health, tax, workplace safety insurance, and employment insurance legislation.

"**Subsidiary**" means a Person that is controlled directly or indirectly by another Person and includes a Subsidiary of that Subsidiary.

"**Superior Proposal**" means any *bona fide* written Acquisition Proposal made after the date of this Agreement from a Person or group of Persons "acting jointly or in concert" (within the meaning of National Instrument 62-104 – *Take-Over Bids and Issuer Bids*) to acquire not less than all of the outstanding Company Shares or all or substantially all of the assets of the Company on a consolidated basis (based on the most recent annual consolidated financial statements of the Company filed as part of the Company Filings as at the time such Acquisition Proposal is made) that:

(a) complies with applicable Law and did not result from or involve a breach of Article 5;

(b) the Company Board has determined in good faith, after receiving the advice of its outside legal and financial advisors, is reasonably capable of being completed without undue delay relative to the Arrangement, taking into account all financial, legal, regulatory and other aspects of such Acquisition Proposal and the Person or group of Persons making such Acquisition Proposal and their respective affiliates;

(c) is not subject to a financing condition and in respect of which it has been demonstrated to the satisfaction of the Company Board, acting in good faith judgment, after receiving the advice of its outside legal and financial advisors, that adequate arrangements have been made in respect of any financing required to complete such Acquisition Proposal;

(d) is not subject to any due diligence or access condition; and

(e) the Company Board determines, in its good faith judgment, after receiving the advice of its outside legal and financial advisors and after taking into account all the terms and conditions of the Acquisition Proposal and other factors deemed relevant by the Company Board (including the Person or group of Persons making such Acquisition Proposal and their affiliates), would, if consummated in accordance with its terms (but without assuming away any risk of non-completion), result in a transaction which is more favourable, from a financial point of view, to the Company Shareholders than the Arrangement (including any amendments to the terms and conditions of the Arrangement proposed by the Purchaser pursuant to Section 5.4(b)).

"**Superior Proposal Notice**" has the meaning specified in Section 5.4(a)(ii).

"**Tax Act**" means the *Income Tax Act* (Canada).

"**Tax Returns**" means any and all returns, reports, declarations, elections, notices, forms, designations, filings, and statements (including estimated tax returns and reports, withholding tax returns and reports, and information returns and reports) filed or required to be filed in respect of Taxes.

"**Taxes**" means (a) any and all taxes, duties, fees, excises, premiums, assessments, imposts, levies and other charges or assessments of any kind whatsoever imposed by any Governmental Entity, whether computed on a separate, consolidated, unitary, combined or other basis, including those levied on, or measured by, or described with respect to, income, gross receipts, profits, gains, windfalls, capital, share capital, production, recapture, transfer, land transfer, license, gift, occupation, wealth, environment, net worth, indebtedness, surplus, sales, goods and services, harmonized sales, provincial sales, use, value-added, excise, special assessment, stamp,

withholding, business, franchising, real or personal property, health, employee health, payroll, workers' compensation, employment or unemployment, severance, social services, social security, education, utility, surtaxes, customs, import or export, and including all license and registration fees and all employment insurance, health insurance and government pension plan premiums or contributions; (b) all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Entity on or in respect of amounts of the type described in clause (a) above or this clause (b); (c) any liability for the payment of any amounts of the type described in clauses (a) or (b) as a result of being a member of an affiliated, consolidated, combined or unitary group for any period; and (d) any liability for the payment of any amounts of the type described in clauses (a) or (b) as a result of any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any party, and in each case, whether disputed or not.

"**Terminating Party**" has the meaning specified in Section 7.3.

"**Termination Amount**" has the meaning specified in Section 8.2(b).

"**Termination Amount Event**" has the meaning specified in Section 8.2(b).

"**Termination Notice**" has the meaning specified in Section 7.3.

"**Third Party Beneficiaries**" has the meaning specified in Section 8.6(a).

"**TSX**" means the Toronto Stock Exchange.

"**Voting Support Agreements**" means the voting support agreements dated the date hereof among the Purchaser and each of (i) the directors of the Company and members of Senior Management that own Company Shares and (ii) Red Oak Partners, LLC.

"**wilful breach**" means a material breach of this Agreement that is a consequence of any act or failure to act by the breaching party with the actual knowledge that the taking of such act or the failure to take such act would, or would be reasonably expected to, cause a material breach of this Agreement.

1.2 Certain Rules of Interpretation

In this Agreement, unless otherwise specified:

(a) **Headings, etc**. The provision of a Table of Contents, the division of this Agreement into Articles and Sections and the insertion of headings are for convenient reference only and do not affect the construction or interpretation of this Agreement.

(b) **Currency**. All references to dollars or to $ are references to Canadian dollars and all references to US$ are references to United States dollars, unless otherwise specified. In the event that any amounts are required to be converted from a foreign currency to Canadian dollars or vice versa, such amounts shall be converted using the most recent closing exchange rate of The Bank of Canada available before the relevant calculation date.

(c) **Gender and Number**. Any reference to gender includes all genders. Words importing the singular number only include the plural and vice versa.

(d) **Certain Phrases and References, etc**.

(i) The words "including", "includes" and "include" mean "including (or includes or include) without limitation," and "the aggregate of", "the total of", "the sum of", or a phrase of similar meaning means "the aggregate (or total or sum), without duplication, of".

(ii) Unless stated otherwise, "Article", "Section", "paragraph" and "Schedule" followed by a number or letter mean and refer to the specified Article, Section or paragraph of or Schedule to this Agreement.

(iii) The term "Agreement" and any reference in this Agreement to this Agreement or any other agreement or document includes, and is a reference to, this Agreement or such other agreement or document as it may have been, or may from time to time be, amended, restated, replaced, supplemented or novated and includes all schedules to it.

(iv) The term "made available" means (A) copies of the subject materials were included in the Data Room, or (B) the subject material was listed in the Company Disclosure Letter and copies were provided to the Purchaser or its Representatives.

(e) **Capitalized Terms**. All capitalized terms used in any Schedule or in the Company Disclosure Letter have the meanings ascribed to them in this Agreement.

(f) **Knowledge**.

(i) Where any representation or warranty is expressly qualified by reference to the knowledge of the Company, it is deemed to refer to the actual knowledge of Jesse Ledger, President & Chief Executive Officer, Mary-Jane Burkett, Vice President & Chief Financial Officer, Luigi Berardelli, Vice President, Sales & Marketing Aralez Pharmaceuticals Canada Inc., Dr. Bernard Chiasson, Vice President Operations & Chief Scientific Officer, and Tina K. Loucaides, Vice President, Secretary & General Counsel, after reasonable inquiry (which shall be deemed to be limited to inquiries of Company Employees who had knowledge of the transactions contemplated by this Agreement at least two Business Days prior to the date hereof).

(ii) Where any representation or warranty is expressly qualified by reference to the knowledge of the Purchaser, it is deemed to refer to the actual knowledge of Mark Nawacki, Geri-Lynn Kushneryk Robert Vinson, after reasonable inquiry (which shall be deemed to be limited to inquiries of employees of the Purchaser who had knowledge of the transactions contemplated by this Agreement at least two Business Days prior to the date hereof).

(g) **Accounting Terms**. Unless otherwise specified herein, all accounting terms are to be interpreted in accordance with IFRS and all determinations of an accounting nature in respect of the Company required to be made shall be made in a manner consistent with IFRS.

(h) **Statutes**. Any reference to a statute refers to such statute and all rules and regulations made under it, as it or they may have been or may from time to time be amended or re-enacted, unless stated otherwise.

(i) **Computation of Time**. A period of time is to be computed as beginning on the day following the event that began the period and ending at 4:30 p.m. on the last day of the period, if the last day of the period is a Business Day, or at 4:30 p.m. on the next Business Day if the last day of the period is not a Business Day. If the date on which any action is required or permitted to be taken under this Agreement by a Person is not a Business Day, such action shall be required or permitted to be taken on the next succeeding day which is a Business Day.

(j) **Time References**. References to days means calendar days, unless stated otherwise. References to time are to local time in Toronto, Ontario unless otherwise stated.

(k) **Consent**. If any provision requires approval or consent of a Party and such approval or consent is not delivered within the specified time limit, the Party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.

1.3 Schedules

The schedules attached to this Agreement form an integral part of this Agreement for all purposes of it.

1.4 Company Disclosure Letter

The Company Disclosure Letter itself and all information contained in it is confidential information and is subject to the terms and conditions of the Confidentiality Agreement.

ARTICLE 2
THE ARRANGEMENT

2.1 Arrangement

The Company and the Purchaser agree that the Arrangement will be implemented in accordance with and subject to the terms and conditions of this Agreement and the Plan of Arrangement.

2.2 Interim Order

As soon as reasonably practicable after the date of this Agreement, the Company shall apply in a manner reasonably acceptable to the Purchaser pursuant to section 182 of the OBCA and, in cooperation with the Purchaser, prepare, file and diligently pursue an application for the Interim Order, which shall provide, among other things:

(a) for the classes of Persons to whom notice is to be provided in respect of the Arrangement and the Company Meeting and for the manner in which such notice is to be provided;

(b) that the required level of approval (the "**Required Shareholder Approval**") for the Arrangement Resolution shall be:

(i) two-thirds of the votes cast on the Arrangement Resolution by Company Shareholders present in person or by proxy at the Company Meeting;

(ii) if, and to the extent required, a simple majority of the votes cast on the Arrangement Resolution by Company Shareholders present in person or by proxy at the Company Meeting, excluding for this purpose votes attached to Company

Shares held by Persons described in items (a) through (d) of Section 8.1(2) of MI 61-101; and

(iii) if and to the extent required by the Court, such other approval of securityholders of the Company as may be required by the Court;

(c) that, subject to the discretion of the Court, the Company Meeting may be held as a virtual-only or hybrid shareholder meeting and that Company Shareholders that participate in the Company Meeting by virtual means will be deemed to be present at the Company Meeting;

(d) for the grant of the Dissent Rights only to those Company Shareholders who are registered Company Shareholders as contemplated in the Plan of Arrangement;

(e) for the notice requirements with respect to the presentation of the application to the Court for the Final Order;

(f) that the Company Meeting may be adjourned or postponed from time to time by the Company in accordance with the terms of this Agreement or as otherwise agreed to by the Parties without the need for additional approval of the Court;

(g) confirmation of the record date for the purposes of determining the Company Shareholders entitled to notice of and to vote at the Company Meeting in accordance with the Interim Order;

(h) that the record date for the Company Shareholders entitled to notice of and to vote at the Company Meeting will not change in respect of any adjournment(s) of the Company Meeting, unless required by the Court;

(i) that, subject to the foregoing and in all other respects, other than as ordered by the Court, the terms, restrictions and conditions of the Company's Constating Documents, including quorum requirements and all other matters, shall apply in respect of the Company Meeting; and

(j) for such other matters as the Purchaser or the Company may reasonably require, subject to obtaining the prior consent of the other, such consent not to be unreasonably withheld, conditioned or delayed.

2.3 The Company Meeting

Subject to the receipt of the Interim Order and the terms and conditions of thereof (other than Section 2.3(a)) and of this Agreement, the Company shall:

(a) in consultation with the Purchaser, fix and publish a record date for the purposes of determining the Company Shareholders entitled to receive notice of and vote at the Company Meeting;

(b) not propose or submit for consideration at the Company Meeting any business other than the Arrangement Resolution;

(c) convene and conduct the Company Meeting (including by virtual means) in accordance with the Interim Order, the Company's Constating Documents and Law as soon as reasonably practicable, and in any event on or before March 31, 2023 (it being

acknowledged that the foregoing date may be extended by the same number of days as contemplated by Section 2.2(f) to the extent applicable), and not adjourn, postpone or cancel (or propose the adjournment, postponement or cancellation of) the Company Meeting without the prior written consent of the Purchaser, except:

(i) as required for quorum purposes (in which case the Company Meeting shall be adjourned and not cancelled), by applicable Law, by a Governmental Entity;

(ii) for adjournments or postponements of not more than fifteen (15) Business Days in the aggregate for the purpose of attempting to solicit proxies to obtain the requisite approval for the Arrangement Resolution where such requisite approval will not be, or would not reasonably be expected to be, obtained by the date of the Company Meeting; or

(iii) as otherwise expressly provided in Section 7.3 or Section 5.4(e);

(d) solicit proxies in favour of the approval of the Arrangement Resolution and against any resolution submitted by any Company Shareholder that is inconsistent with the Arrangement Resolution and the completion of any of the transactions contemplated by this Agreement;

(e) if so requested by the Purchaser, acting reasonably, using proxy solicitation services firms, acceptable to and at the expense of the Purchaser, to solicit proxies in favour of the approval of the Arrangement Resolution, and against any resolution submitted by any Person that is inconsistent with the Arrangement Resolution, provided that the Company shall not be required to continue to do so if there has been a Change in Recommendation in accordance with Section 5.4;

(f) provide the Purchaser with copies of or access to information regarding the Company Meeting generated by the Company's transfer agent or any proxy solicitation services firm, as reasonably requested from time to time by the Purchaser;

(g) permit the Purchaser to, at the Purchaser's expense, directly or through a proxy solicitation services firm of its choice, actively solicit proxies in favour of the Arrangement and against any resolution submitted by any Person that is inconsistent with the Arrangement Resolution in compliance with Law and the Company shall disclose in the Company Circular that the Purchaser may make such solicitations;

(h) give notice to the Purchaser of the Company Meeting and allow the Purchaser's Representatives to attend the Company Meeting (including by virtual means);

(i) promptly advise the Purchaser, at such times as the Purchaser may reasonably request and at least on a daily basis on each of the last ten Business Days prior to the date of the Company Meeting, as to the aggregate tally of the proxies received by the Company in respect of the Arrangement Resolution;

(j) promptly advise the Purchaser of receipt of any written communication or material verbal communication from any Person in opposition to the Arrangement (except for non-substantive communications) and/or relating to the exercise or purported exercise or withdrawal of Dissent Rights and, subject to Law, provide the Purchaser with an opportunity to review and comment upon any written communication sent by or on behalf

of the Company to any such Person and to participate in any discussions, negotiations or proceedings with or including any such Person;

(k) not settle, compromise or make any payment with respect to, or agree to settle, compromise or make any payment with respect to, any exercise or purported exercise of Dissent Rights without the prior written consent of the Purchaser;

(l) not change the record date for the Company Shareholders entitled to vote at the Company Meeting in connection with any adjournment or postponement of the Company Meeting (unless required by Law or the Interim Order, or if the Purchaser's written consent is provided);

(m) not waive any failure by any holder of Company Shares to timely deliver a notice of exercise of Dissent Rights without the prior written consent of the Purchaser; and

(n) at the reasonable request of the Purchaser from time to time, promptly provide the Purchaser with a list (in both written and electronic form) of: (i) the registered Company Shareholders, together with their addresses and respective holdings of Company Shares, as applicable; (ii) the names, addresses and holdings of all Persons having rights issued by the Company to acquire Company Shares (including holders of Company Equity Awards); and (iii) participants in book-based systems and non-objecting beneficial owners of Company Shares, together with their addresses and respective holdings of Company Shares, as applicable. The Company shall from time to time require that its registrar and transfer agent furnish the Purchaser with such additional information, including updated or additional lists of Company Shareholders and lists of holdings and other assistance as the Purchaser may reasonably request.

2.4 The Company Circular

(a) Subject to the Purchaser's compliance with Section 2.4(d), the Company shall promptly prepare and complete, in consultation with the Purchaser, the Company Circular together with any other documents required by Law in connection with the Company Meeting and the Arrangement or that may be necessary in connection with obtaining the Required Shareholder Approval, and the Company shall, promptly after obtaining the Interim Order, cause the Company Circular and such other documents to be filed and sent to each Company Shareholder and other Person as required by the Interim Order and Law, in each case using commercially reasonable efforts so as to permit the Company Meeting to be held in accordance with Section 2.3(c) (as may be extended by such provision).

(b) On the date of mailing thereof, the Company shall ensure that the Company Circular complies in material respects with Law and the Interim Order, does not contain any Misrepresentation (except that the Company shall not be responsible for any information included in the Company Circular relating to the Purchaser, its affiliates, the Equity Investors and the Financings, that was furnished or approved by the Purchaser for inclusion in the Company Circular pursuant to Section 2.4(d)) and provides the Company Shareholders with sufficient information to permit them to form a reasoned judgement concerning the matters to be placed before the Company Meeting. Without limiting the generality of the foregoing, the Company Circular shall include:

(i) a copy of the Interim Order;

(ii) a copy of the Fairness Opinion;

(iii) a summary of the Voting Support Agreements;

(iv) unless the Company Board has made a Change in Recommendation in accordance with Section 5.4, a statement to the effect that the Company Board has received the Fairness Opinion and has, after receiving legal and financial advice, determined that the Arrangement is fair and reasonable to the Company Shareholders and in the best interests of the Company and recommends that Company Shareholders vote in favour of the Arrangement Resolution (the "**Company Board Recommendation**"); and

(v) a statement to the effect that, each director and member of Senior Management has agreed to vote all of such Person's Company Shares in favour of the Arrangement, subject to the terms and conditions of the applicable Voting Support Agreements.

(c) The Company shall give the Purchaser and its Representatives a reasonable opportunity to review and comment on drafts of the Company Circular and other related documents, and shall give reasonable consideration to any comments made by them, and agrees that all information relating solely to the Purchaser, its affiliates, the Equity Investors and the Financings included in the Company Circular must be in a form and content satisfactory to the Purchaser, acting reasonably. The Company shall provide the Purchaser with a final copy (with an electronic copy being sufficient) of the Company Circular prior to its mailing to the Company Shareholders.

(d) The Purchaser shall provide the Company with, on a timely basis, all necessary information regarding the Purchaser, its affiliates, the Equity Investors and the Financings as required by applicable Laws for inclusion in the Company Circular or in any amendments or supplements to such Company Circular. The Purchaser shall ensure that such information does not contain any Misrepresentation. The Purchaser hereby agrees to indemnify and save harmless the Company, its Subsidiaries and their respective Representatives from and against any and all liabilities, claims, demands, losses, costs, damages and expenses to which the Company, any of its Subsidiaries or any of their respective Representatives may be subject or may suffer as a result of, or arising from, any Misrepresentation or alleged Misrepresentation contained in any written information included in the Company Circular that was provided in writing by or on behalf of the Purchaser or its representatives for inclusion in the Company Circular concerning the Purchaser and its affiliates, any Debt Financing Source or Equity Investors and the Financings, including as a result of any order made, or any inquiry, investigation or proceeding instituted by any Governmental Entity based on such a Misrepresentation or alleged Misrepresentation.

(e) The Company shall promptly advise the Purchaser of any communication received by the Company from the TSX, the Canadian Securities Authorities or any other Governmental Entity in connection with the Company Circular.

(f) Each Party shall promptly notify the other Party if it becomes aware that the Company Circular contains a Misrepresentation, or otherwise requires an amendment or supplement. The Parties shall cooperate in the preparation of any such amendment or supplement as required or appropriate, and the Company shall promptly mail, file or otherwise publicly disseminate any such amendment or supplement to the Company Shareholders and, if required by the Court or by Law, file the same with the Canadian Securities Authorities or any other Governmental Entity as required.

2.5 Final Order

If the Interim Order is obtained and the Arrangement Resolution is approved at the Company Meeting in accordance with the terms of the Interim Order, the Company shall take all steps necessary to submit the Arrangement to the Court and diligently pursue an application for the Final Order pursuant to section 182 of the OBCA as soon as reasonably practicable (and in any event, but subject to

availability of the Court, not later than three Business Days after the Arrangement Resolution is passed at the Company Meeting as provided for in the Interim Order).

2.6 Court Proceedings

(a) The Purchaser shall cooperate with and assist the Company in, and consent to the Company, seeking the Interim Order and the Final Order, including by providing the Company on a timely basis any information regarding the Purchaser, its affiliates, the Equity Investors and the Financings as reasonably requested by the Company or as required by Law to be supplied by the Purchaser in connection therewith.

(b) In connection with all Court proceedings relating to obtaining the Interim Order and the Final Order, and in each case subject to Law, the Company shall:

(i) diligently pursue, and cooperate with the Purchaser in diligently pursuing, the Interim Order and the Final Order;

(ii) provide the Purchaser and its outside legal counsel with a reasonable opportunity to review and comment upon drafts of all material to be filed with the Court in connection with the Arrangement, including drafts of the motion for Interim Order and Final Order, affidavits, the Interim Order and the Final Order, and give reasonable consideration to all such comments, and the Company agrees that all information relating solely to the Purchaser, its affiliates, the Equity Investors and the Financings included in all such materials must be in a form and content satisfactory to the Purchaser, acting reasonably;

(iii) promptly provide outside legal counsel to the Purchaser with copies of any notice of appearance, evidence or other documents served on the Company or its outside legal counsel in respect of the application for the Interim Order or the Final Order or any appeal from them, and any notice, written or oral, indicating the intention of any Person to appeal, or oppose the granting of, the Interim Order or the Final Order;

(iv) not object to outside legal counsel to the Purchaser making such submissions on the hearing of the motion for the Interim Order and the application for the Final Order as such counsel considers appropriate, provided that (A) the Purchaser advises the Company of the nature of any such submissions and provides copies to the Company of any notice of appearance, motions or other documents supporting such submissions, in each case, on a timely basis prior to the hearing, and (B) such submissions are consistent in all material respects with this Agreement and the Plan of Arrangement;

(v) ensure that all material filed with the Court in connection with the Arrangement is consistent in all material respects with this Agreement and the Plan of Arrangement;

(vi) oppose any proposal from any party that the Final Order contain any provision inconsistent with this Agreement;

(vii) if at any time after the issuance of the Final Order and prior to the Effective Date, the Company is required by the terms of the Final Order or by Law to return to

Court with respect to the Final Order, it shall do so after notice to, and in consultation and cooperation with, the Purchaser; and

(viii) not file any material with the Court in connection with the Arrangement or serve any such material, or agree to modify or amend any material so filed or served, except as contemplated by this Agreement or with the Purchaser's prior written consent, which consent may not be unreasonably withheld, conditioned or delayed, provided that the Purchaser may, in its sole discretion, withhold its consent with respect to any increase in or variation in the form of the Arrangement Consideration or other modification or amendment to such filed or served materials that expands or increases the Purchaser's obligations or diminishes or limits the Purchaser's rights set forth in any such filed or served materials or under this Agreement, the Arrangement and the Voting Support Agreements.

2.7 Company Equity Awards

The Parties acknowledge and agree that the outstanding Company Equity Awards shall be treated in accordance with the provisions of the Plan of Arrangement.

2.8 Share Purchase Plan

The Parties acknowledge and agree that all Company Shares that are subject to the Share Purchase Plan shall be subject to the Plan of Arrangement and the holders thereof shall be entitled to receive the Arrangement Consideration in respect of such Company Shares at the same time and on the same conditions as the Company Shareholders pursuant to the Arrangement. The Company will take all actions (including obtaining any necessary determinations and/or resolutions of the Company Board or a committee thereof and, if appropriate, amending the terms of the Share Purchase Plan) that may be necessary or required under the Share Purchase Plan to ensure that subject to the Arrangement becoming effective, the Share Purchase Plan will terminate in its entirety at or immediately prior to the Effective Time and the Purchaser acknowledges and agrees that the Company shall maintain in full force and effect the Share Purchase Plan until such time.

2.9 Articles of Arrangement and Effective Date

(a) The Company shall file the Articles of Arrangement with the Director, and the Effective Date shall occur as soon as reasonably practicable after (and in any event not later than three Business Days after) the date on which all conditions set forth in Section 6.1, Section 6.2 and Section 6.3 have been satisfied or waived (excluding conditions that, by their terms, cannot be satisfied until the Effective Time, but subject to the satisfaction or, where not prohibited, the waiver by the applicable Party or Parties in whose favour the condition is stipulated, of those conditions as of the Effective Time), unless another time or date is agreed to in writing by the Parties; provided that if on the date the Company would otherwise be required to file the Articles of Arrangement pursuant to this Section 2.9(a), a Party has delivered a Termination Notice pursuant to Section 7.3, the Company shall not file the Articles of Arrangement until the Breaching Party has cured the breaches of representations, warranties, covenants or other matters specified in the Termination Notice. From and after the Effective Time, the Arrangement will have all of the effects provided by applicable Law, including the OBCA.

(b) The closing of the Arrangement will take place via electronic document exchange on the Effective Date, or at such other date and time as may be agreed upon by the Parties.

2.10 Payment

(a) The Purchaser shall, following receipt of the Final Order and prior to the filing by the Company of the Articles of Arrangement with the Director in accordance with Section 2.9(a), (i) irrevocably deposit in escrow with the Depositary (the terms and conditions of such escrow to be consistent with Section 2.10(b) and otherwise satisfactory to the Parties, acting reasonably) sufficient funds to satisfy the aggregate Arrangement Consideration payable to Company Shareholders pursuant to the Plan of Arrangement and (ii) if requested by the Company, make such other payments as provided for in the Plan of Arrangement, such amounts to be provided in the form of a loan or equity contribution to the Company and/or its Subsidiaries by the Purchaser and/or an advance to the Company and/or its Subsidiaries by the Debt Financing Sources under the Debt Financing, as the Purchaser may in its discretion determine, and the Company and/or its Subsidiaries shall use such funds to make such payments in accordance with the Plan of Arrangement. The Purchaser and the Company shall (i) effect all of the transactions set out in Schedule 2.10 of the Company Disclosure Letter in the manner, and at the times, described therein (collectively, the "**Debt Repayment Steps**"), (ii) work co-operatively with respect to the Debt Repayment Steps and prepare, prior to the Effective Time, all documentation necessary and do such other acts and things as are necessary to give effect to the Debt Repayment Steps.

(b) Upon completion of the Arrangement, the Depositary shall apply the funds deposited with the Depositary as contemplated in Section 2.10(a) in accordance with the Plan of Arrangement.

2.11 Withholding Taxes

The Purchaser, the Company, the Depositary and any other Person that makes a payment hereunder, as applicable, shall be entitled to deduct or withhold (or cause to be deducted or withheld) from the amount payable or otherwise deliverable to any Person pursuant to the Arrangement or this Agreement, including Company Shareholders exercising Dissent Rights, and from all dividends, other distributions or other amounts otherwise payable to any former Company Shareholders or holders of Company Options, Company SARs or Company DSUs, such Taxes or other amounts as the Purchaser, the Company, the Depositary or other Persons are or may be required, entitled or permitted to deduct or withhold with respect to such payment under the Tax Act, or any other provisions of any applicable Laws. To the extent that Taxes or other amounts are so deducted or withheld, such deducted or withheld Taxes or other amounts shall be treated for all purposes under this Agreement as having been paid to the Person in respect of which such deduction or withholding was made, provided that such deducted or withheld Taxes or other amounts are actually remitted to the appropriate Governmental Entity.

2.12 Taxation of Company Options

The Parties acknowledge that no deduction will be claimed in any taxation year by the Company (or any Person not dealing at arm's length (for purposes of the Tax Act) with the Company), in computing its income under the Tax Act, in respect of any payment made to or for the benefit of a holder of Company Options in exchange for the surrender of Company Options pursuant to the Plan of Arrangement who (a) is a resident of Canada or who is (or, following the grant of such Company Options, was) employed in Canada (both within the meaning of the Tax Act) and (b) would, if the election and other actions contemplated by this Section 2.12 were made or taken (as the case may be), be entitled to a deduction pursuant to paragraph 110(1)(d) of the Tax Act in respect of such payment, and the Purchaser shall cause the Company to: (a) where applicable, make and timely file an election pursuant to subsection 110(1.1) of the Tax Act in respect of each such payment, and (b) provide evidence in writing of such election to each such holder.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Company

(a) Except as set forth in the correspondingly numbered section, subsection, paragraph or subparagraph of the Company Disclosure Letter (it being expressly understood and agreed that the disclosure of any fact or item in any section of the Company Disclosure Letter shall also be deemed to be an exception to (or, as applicable, disclosure for the purposes of) any other sections of this Agreement, including Schedule C, and any other representations and warranties of the Company contained in this Agreement, to the extent that its relevance to such other section, representation or warranty is reasonably apparent on its face), or, other than in the case of the representations and warranties of the Company set forth in paragraphs 1 [*Organization and Qualification*], 2 [*Corporate Authorization*], 3 [*Execution and Binding Obligation*], 4 [*Governmental Authorization*], 5 [*Non-Contravention*], 6 [*Capitalization*], 7 [*Shareholders and Similar Agreements*], 8 [*Subsidiaries*], 18 [*No Collateral Benefit*], 33 [*Opinion of Financial Advisor*], 34 [*Brokers*] and 38 [*Board Approval*] of Schedule C, in the Company Filings made prior to the date hereof (excluding any disclosures in the Company Filings under the headings "Forward-Looking Information" or "Risk Factors" and any other disclosures contained therein that are predictive, cautionary or forward-looking in nature), the Company represents and warrants to the Purchaser that the representations and warranties set forth in Schedule C are true and correct as of the date hereof, and acknowledges and agrees that the Purchaser is relying upon such representations and warranties in connection with entering into and performing this Agreement.

(b) The representations and warranties of the Company contained in this Agreement shall not survive the completion of the Arrangement and shall expire and be terminated on the earlier of the Effective Time and the date on which this Agreement is terminated in accordance with its terms.

(c) Except for the representations and warranties made by the Company pursuant to Section 3.1(a): (i) neither the Company nor any other Person makes or has made any other express or implied representation and warranty, whether written or oral, on behalf of the Company, and (ii) neither the Company nor any other Person makes or has made any representation or warranty to the Purchaser or any of its Representatives, with respect to (A) any financial projection, forecast, guidance, estimates of revenues, earnings or cash flows, budget or prospective information relating to the Company or any of its Subsidiaries or their respective businesses or operations, individually or in the aggregate, or (B) the accuracy or completeness of any information furnished or made available to the Purchaser or any of its Representatives in connection with the transactions contemplated hereby, and any such other representations or warranties are expressly disclaimed.

3.2 Representations and Warranties of the Purchaser

(a) The Purchaser represents and warrants to the Company that the representations and warranties set forth in Schedule D are true and correct as of the date hereof and acknowledge and agree that the Company is relying upon such representations and warranties in connection with entering into and performing this Agreement.

(b) The representations and warranties of the Purchaser contained in this Agreement shall not survive the completion of the Arrangement and shall expire and be terminated on the earlier of the Effective Time and the date on which this Agreement is terminated in accordance with its terms.

(c) Except for the representations and warranties made by the Purchaser pursuant to Section 3.2(a), neither the Purchaser nor any other Person makes or has made any other express or implied representation and warranty, whether written or oral, on behalf of the Purchaser.

ARTICLE 4
COVENANTS

4.1 Conduct of Business of the Company

(a) The Company covenants and agrees that, during the period from the date of this Agreement until the earlier of the Effective Time and the time that this Agreement is terminated in accordance with its terms, except (i) with the express prior written consent of the Purchaser (such consent not to be unreasonably withheld, conditioned or delayed), (ii) as expressly required or permitted by this Agreement or the Plan of Arrangement, (iii) in connection with any COVID-19 Measures undertaken by the Company or its Subsidiaries, (iv) as required by Law or a Governmental Entity, or (v) as set out in Schedule 4.1(a) of the Company Disclosure Letter, the Company shall, and shall cause its Subsidiaries to, use their commercially reasonable efforts to conduct their business in the Ordinary Course and, in accordance with applicable Laws in all material respects, and the Company shall use commercially reasonable efforts to maintain and preserve in all material respects its and its Subsidiaries' business organization, operations, assets, properties, employees (as a group), goodwill and relationships with customers, suppliers, manufacturers, distributors, wholesalers, partners and other Persons with which the Company or any of its Subsidiaries have material business relations in the Ordinary Course.

(b) Without limiting the generality of Section 4.1(a), the Company covenants and agrees that, during the period from the date of this Agreement until the earlier of the Effective Time and the time that this Agreement is terminated in accordance with its terms, except (1) with the express prior written consent of the Purchaser (such consent not to be unreasonably withheld, conditioned or delayed), (2) as expressly required or permitted by this Agreement or the Plan of Arrangement, (3) in connection with any COVID-19 Measures undertaken by the Company or its Subsidiaries, (4) as required by Law or a Governmental Entity, or (5) as set out in Schedule 4.1(a) of the Company Disclosure Letter, the Company shall not, and the Company shall not permit any of its Subsidiaries to, directly or indirectly:

(i) amend the Company's or any of its Subsidiary's Constating Documents or similar organizational documents;

(ii) create any Subsidiary;

(iii) other than in accordance with Schedule 4.1(b)(iii) of the Company Disclosure Letter, enter into any new line of business or discontinue any existing line of business (it being understood that selling new products or selling existing products through different sales channels shall not constitute entering into a new line of business);

(iv) other than in accordance with Schedule 4.1(b)(iv) of the Company Disclosure Letter, split, combine or reclassify any shares of its share capital or amend or modify any term of any outstanding debt security;

(v) declare, set aside or pay any dividend or other distribution on the Company Shares, whether in shares, property or any combination thereof (it being acknowledged and agreed by the Purchaser, for the avoidance of doubt, that the Company shall be entitled to make interest and other required payments on the Company Credit Facility and Deerfield Notes in accordance with their terms);

(vi) redeem, repurchase, or otherwise acquire or offer to redeem, repurchase or otherwise acquire any shares of its share capital or any of its other outstanding securities, other than (A) in connection with the settlement of outstanding

Company Equity Awards in accordance with the terms thereof, or (B) the issuance of Common Shares pursuant to the Share Purchase Plan;

(vii) other than in accordance with Schedule 4.1(b)(vii) of the Company Disclosure Letter, issue, grant, deliver, sell, pledge or otherwise encumber (other than Permitted Liens), or authorize the issuance, granting, delivery, sale, pledge or other encumbrance (other than Permitted Liens) of, any shares of the Company's or any of its Subsidiary's share capital or other equity or voting interests, or any options, warrants or similar rights exercisable or exchangeable for or convertible into such share capital or other equity or voting interests or any share appreciation rights, phantom share awards or other rights that are linked to the price or the value of the Company Shares, except for: (A) the issuance of Company Equity Awards in accordance with Schedule 4.1(b)(vii) of the Company Disclosure Letter; (B) the issuance of Common Shares issuable upon the exercise of the currently outstanding Company Equity Awards; (C) the issuance of Common Shares pursuant to the Share Purchase Plan; or (D) transactions between two or more Persons each of whom is a wholly-owned Subsidiary of the Company, or between the Company and one or more Persons each of whom is a wholly-owned Subsidiary of the Company;

(viii) reduce its stated capital or restructure, amalgamate or merge the Company or any of its Subsidiaries, other than any such reorganization, arrangement, restructuring, amalgamation or merger involving only wholly-owned Subsidiaries of the Company;

(ix) other than in accordance with Schedule 4.1(b)(ix) of the Company Disclosure Letter, adopt a plan of complete or partial liquidation, consolidation, winding-up or resolutions providing for the liquidation or dissolution of the Company or any of its Subsidiaries or any of its respective assets, or file a petition in bankruptcy under any applicable Law on behalf of the Company or any of its Subsidiaries or consent to the filing of any bankruptcy petition against the Company or any of its Subsidiaries under any applicable Law;

(x) acquire (by merger, consolidation, exchange, acquisition of securities, acquisitions, lease, or license of assets, contributions to capital or otherwise), directly or indirectly, in one transaction or in a series of related transactions, an interest in any Person, assets, properties, securities, interests or businesses, other than:

(A) assets (including Inventory) for use in Ordinary Course business operations;

(B) acquisitions for consideration less than $50,000 on a per transaction basis or $100,000 in the aggregate for all such transactions; or

(C) expenditures or commitments required pursuant to any other Contract disclosed in the Company Disclosure Letter;

(xi) other than in accordance with Schedule 4.1(b)(xi) of the Company Disclosure Letter, sell, pledge, lease, license, encumber (other than a Permitted Lien) or otherwise dispose of or transfer any assets or any interest in any assets other than:

(A) dispositions of assets for consideration less than $50,000 on a per transaction basis or $100,000 in the aggregate for all such transactions;

(B) in relation to internal transactions solely involving the Company and its wholly-owned Subsidiaries or solely among such wholly-owned Subsidiaries; or

(C) assets (including Inventory) sold in the Ordinary Course;

(xii) make any capital expenditure or commitment to do so which, in any fiscal year, would exceed $250,000;

(xiii) other than in accordance with Schedule 4.1(b)(xiii) of the Company Disclosure Letter, amend or modify in any material respect, or terminate, cancel or waive or fail to exercise any material right under, any Material Contract, or enter into any Contract that would be a Material Contract if such Contract were in effect on the date hereof;

(xiv) enter into any interest rate, currency, equity or commodity swaps, hedges, derivatives, forward sales contracts or similar financial instruments;

(xv) other than in accordance with Schedule 4.1(b)(xv) of the Company Disclosure Letter, prepay any long-term indebtedness for borrowed money before its scheduled maturity, other than:

(A) repayments under the Company Credit Facility in the Ordinary Course;

(B) in connection with actions otherwise permitted by Section 4.1;

(C) indebtedness owing by one wholly-owned Subsidiary of the Company to the Company or another wholly-owned Subsidiary of the Company, or indebtedness of the Company owing to a wholly-owned Subsidiary of the Company;

(xvi) increase, create, incur, assume or otherwise become liable for any indebtedness for borrowed money or guarantees thereof, other than:

(A) indebtedness or guarantees thereof in an amount, on a per transaction or series of related transactions basis, in excess of $250,000 in the aggregate;

(B) indebtedness owing by one wholly-owned Subsidiary of the Company to the Company or another wholly-owned Subsidiary of the Company, or of the Company to a wholly-owned Subsidiary of the Company;

(C) any indebtedness incurred to replace, renew, extend, refinance or refund any existing indebtedness of the Company or its Subsidiaries, including indebtedness incurred to repay or refinance related fees, expenses, premiums and accrued interest; or

(D) indebtedness incurred in the Ordinary Course;

(xvii) enter into any Contract with respect to the voting rights of any Company Shares;

(xviii) make any loan or advance to any Person (other than a wholly-owned Subsidiary of the Company or in respect of accounts payable to trade creditors or accrued liabilities incurred in the Ordinary Course);

(xix) make any material change in the Company's methods of accounting, except as required by concurrent changes in IFRS;

(xx) except as required by applicable Law: (A) make, change or rescind any material Tax election, information schedule, return or designation, (B) settle or compromise any material Tax claim, assessment, reassessment, liability, action, suit, proceeding, hearing or controversy, file any materially amended Tax Return, (C) enter into any material agreement with a Governmental Entity with respect to Taxes, (D) enter into or change any material Tax sharing, Tax advance pricing agreement, Tax allocation or Tax indemnification agreement that is binding on the Company or its Subsidiaries, (E) surrender any right to claim material Tax abatement, reduction, deduction, exemption, credit or refund, (F) consent to the extension or waiver of the limitation period applicable to any material Tax matter, (G) make a request for a material Tax ruling to any Governmental Entity or (H) materially amend or change any of its methods for reporting income, deductions or accounting for income Tax purposes;

(xxi) other than as required by the terms of any Employee Plan or applicable Law, and except for annual increases in compensation levels of the Company Employees, taken as a whole, that do not exceed 3% in the aggregate relative to such compensation levels in respect of the most recently completed fiscal year of the Company, grant any increase in the amount of wages, salaries, bonuses, incentives or other compensation payable to any Company Employees;

(xxii) enter into any collective agreement or union agreement;

(xxiii) other than as permitted by Section 4.1(b)(xxi) or as required by the terms of any Employee Plan or written employment agreement:

(A) make any bonus or profit sharing distribution or similar payment of any kind, or adopt or otherwise implement any employee or executive bonus or retention plan or program;

(B) increase any severance, change of control or termination pay or similar compensation or benefits payable to (or amend any existing Contract with) any Company Employee or any director or independent contractor of the Company or any of its Subsidiaries;

(C) enter into any employment, deferred compensation, independent contractor, consultant, or other similar Contract (or amend any such existing Contract) with any director or officer of the Company or, other than in the Ordinary Course, any Company Employee (other than a director or officer), independent contractor or consultant;

(D) loan or advance money or other property by the Company or its Subsidiaries to any of their present or former directors, officers or Company Employees (other than expense reimbursements, expense accounts and advances in the Ordinary Course);

(E) terminate any Employee Plan, amend or modify, in a material way, any Employee Plan, or adopt any plan, agreement, program, policy, trust, fund or other arrangement that would be an Employee Plan if it were in existence as of the date hereof;

(F) terminate without just cause the employment of any Company Employee set forth on Schedule 4.1(b)(xxiii) of the Company Disclosure Letter; or

(G) increase, or agree to increase, any funding obligation or accelerate, or agree to accelerate, the timing of any funding contribution or vesting under any Employee Plan;

(xxiv) other than in accordance with Schedule 4.1(b)(xxiv) of the Company Disclosure Letter, amend, modify, terminate, cancel or let lapse any material insurance (or re-insurance) policy of the Company or any Subsidiary in effect on the date of this Agreement unless simultaneously with such termination, cancellation or lapse, replacement policies underwritten by insurance and re-insurance companies of nationally recognized standing providing coverage equal to or greater than the coverage under the terminated, cancelled or lapsed policies for substantially similar premiums (other than any increase in premiums to reflect changes in prevailing market rates made available by insurance providers) are in full force and effect;

(xxv) other than in accordance with Schedule 4.1(b)(xxv) of the Company Disclosure Letter, release, compromise or settle any litigation, proceeding or governmental investigation affecting the Company or any of its Subsidiaries;

(xxvi) waive or release any material non-compete, non-solicit, nondisclosure, confidentiality or other restrictive covenant owed to the Company; or

(xxvii) authorize, agree, resolve or otherwise commit, whether or not in writing, to do any of the foregoing.

(c) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement (i) is intended to allow the Purchaser to exercise material influence over the operations of the Company prior to the Effective Time, or (ii) shall be interpreted in such a way as to place any Party in violation of applicable Law or Authorization.

4.2 Covenants of the Company Relating to the Arrangement

(a) Subject to the terms and conditions of this Agreement, the Company shall, and shall cause its Subsidiaries to, perform all obligations required to be performed by the Company or any of its Subsidiaries under this Agreement, cooperate with the Purchaser in connection therewith, and do all such other commercially reasonable acts and things as may be necessary or desirable to consummate and make effective, as soon as reasonably practicable, the Arrangement and, without limiting the generality of the foregoing, the Company shall and, where appropriate, shall cause its Subsidiaries to:

(i) use commercially reasonable efforts, upon reasonable consultation with the Purchaser, to oppose, lift or rescind any Order seeking to restrain, enjoin or otherwise prohibit or adversely affect the consummation of the Arrangement and defend, or cause to be defended, any lawsuits or proceedings to which it is a party or brought against it or its directors or officers challenging the Arrangement or this

Agreement, provided that neither the Company nor any of its Subsidiaries will consent to the entry of any judgment or settlement with respect to any such lawsuit or proceeding without the prior written approval of the Purchaser, not to be unreasonably withheld, conditioned or delayed;

(ii) use its commercially reasonable efforts to satisfy all conditions precedent in this Agreement and carry out the terms of the Interim Order and the Final Order applicable to it and comply promptly with all requirements imposed by Law on it or its Subsidiaries with respect to this Agreement or the Arrangement;

(iii) not take any action, or refrain from taking any commercially reasonable action, or permit any action to be taken or any commercially reasonable action not to be taken, which is inconsistent with this Agreement or which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the Arrangement;

(iv) use commercially reasonable efforts to obtain and maintain all third party or other consents, waivers, permits, exemptions, orders, approvals, agreements, amendments or confirmations that are (A) required under the Material Contracts in connection with the Arrangement, or (B) required in order to maintain the Material Contracts in full force and effect following completion of the Arrangement, in each case, on terms that are reasonably satisfactory to the Purchaser, and without paying, and without committing itself or the Purchaser to pay, any consideration or incur any liability or obligation without the prior written consent of the Purchaser (it being expressly agreed by the Purchaser that the receipt of any such consents, waivers, permits, exemptions, orders, approvals, agreements, amendments or confirmations is not a condition to the closing of Arrangement);

(v) use commercially reasonable efforts to effect all necessary registrations, filings and submissions of information required by Governmental Entities from the Company and its Subsidiaries relating to the Arrangement; and

(vi) use commercially reasonable efforts to assist in causing each member of the Company Board and the board of directors of each of the Company's wholly-owned Subsidiaries (in each case to the extent requested by the Purchaser) to be replaced by Persons designated or nominated, as applicable, by the Purchaser effective as of the Effective Time.

(b) The Company shall promptly notify the Purchaser in writing, of:

(i) any Material Adverse Effect after the date hereof;

(ii) any notice or other communication from any Person alleging that the consent (or waiver, permit, exemption, order, approval, agreement, amendment or confirmation) of such Person is or may be required in connection with this Agreement or the Arrangement;

(iii) unless prohibited by Law, any notice or other communication from any Governmental Entity in connection with this Agreement (and the Company shall contemporaneously provide a copy of any such written notice or communication to the Purchaser); or

(iv) any filing, actions, suits, claims, investigations or proceedings commenced or, to the knowledge of the Company, threatened against, relating to or involving or otherwise affecting the Company or its Subsidiaries in connection with this Agreement or the Arrangement.

4.3 Covenants of the Purchaser Relating to the Arrangement

(a) Subject to the terms and conditions of this Agreement, the Purchaser shall perform all obligations required to be performed by it under this Agreement, cooperate with the Company in connection therewith, and do all such other commercially reasonable acts and things as may be necessary or desirable in order to consummate and make effective, as soon as reasonably practicable, the Arrangement and, without limiting the generality of the foregoing, the Purchaser shall:

(i) use its commercially reasonable efforts, upon reasonable consultation with the Company, to oppose, lift or rescind any Order seeking to restrain, enjoin or otherwise prohibit or adversely affect the consummation of the Arrangement and defend, or cause to be defended, any proceedings to which it is a party or brought against it or its directors or officers challenging the Arrangement or this Agreement;

(ii) use commercially reasonable efforts to effect all necessary registrations, filings and submission of information required by Governmental Entities from it relating to the Arrangement;

(iii) use its commercially reasonable efforts to satisfy all conditions precedent in this Agreement and carry out the terms of the Interim Order and the Final Order applicable to it and comply promptly with all requirements imposed by Law on it or its Subsidiaries with respect to this Agreement or the Arrangement; and

(iv) not take any action, or refrain from taking any commercially reasonable action, or permit any action to be taken or any commercially reasonable action not to be taken, which is inconsistent with this Agreement or which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the Arrangement.

(b) The Purchaser shall promptly notify the Company in writing, of:

(i) any notice or other communication from any Person alleging that the consent (or waiver, permit, exemption, order, approval, agreement, amendment or confirmation) of such Person is required in connection with this Agreement or the Arrangement;

(ii) unless prohibited by Law, any notice or other communication from any Governmental Entity in connection with this Agreement (and the Purchaser shall contemporaneously provide a copy of any such written notice or communication to the Company); or

(iii) any filing, actions, suits, claims, investigations or proceedings commenced or, to the knowledge of the Purchaser, threatened against, relating to or involving or otherwise affecting the Purchaser or any of its Subsidiaries in connection with this Agreement or the Arrangement.

4.4 Access to Information; Confidentiality

(a) From the date hereof until the earlier of the Effective Time and the termination of this Agreement, subject to applicable Law and the terms of any existing Contracts, the Company shall (and shall cause its Subsidiaries to) afford the Purchaser and its Representatives reasonable access to its employees, properties, books, Contracts and records for the purpose of facilitating integration business planning; provided that (i) the Purchaser provides the Company with reasonable notice of any request under this Section 4.4(a), (ii) access to any materials contemplated in this Section 4.4(a) (other than the materials on the Data Room) shall be provided during the Company's normal business hours only and in such manner as does not interfere unreasonably with the conduct of the business of the Company or its Subsidiaries, and (ii) neither the Purchaser or any of its Representatives shall contact officers or employees of the Company or any of its Subsidiaries except after prior approval of the Chief Financial Officer of the Company, which approval shall not be unreasonably withheld. This Section 4.4 shall not require the Company or its Subsidiaries to permit any access, or to disclose any information that, in the reasonable, good faith judgment of the Company, after consultation with outside counsel, would reasonably be expected to result in the breach of any Contract, result in the disclosure of any trade secrets or similar information, result in any violation of any Law or cause any privilege (including attorney-client privilege) that the Company or its Subsidiaries would be entitled to assert to be waived with respect to such information; provided, the Parties hereto shall cooperate in seeking to find a way to allow disclosure of such privileged information to the extent doing so (i) would not (in the good faith judgment of the Company, after consultation with outside counsel) be reasonably likely to result in the breach of any Contract, any violation of any such Law or be likely to cause such privilege to be waived with respect to such information, or (ii) could reasonably (in the good faith judgment of the Company, after consultation with outside legal counsel) be managed through the use of customary "clean-room" arrangements.

(b) The Parties acknowledge that the Confidentiality Agreement continues to apply in accordance with its terms and any information provided under this Section 4.4 is Confidential Information (as defined in the Confidentiality Agreement) shall be subject to the terms of the Confidentiality Agreement.

4.5 Tax Matters

(a) The Company covenants and agrees that, until the Effective Date, the Company and its Subsidiaries shall (i) duly and timely file with the appropriate Governmental Entity, all material Tax Returns required by Law to be filed by any of them, which shall be correct and complete in all material respects, and (ii) pay, withhold, collect and remit to the appropriate Governmental Entity in a timely fashion all material amounts required to be so paid, withheld, collected or remitted. The Company shall keep the Purchaser reasonably informed of any material events, discussions, notices or changes with respect to any Tax audit or investigation by a Governmental Entity or any material action, suit, proceeding, or hearing involving the Company or any of its Subsidiaries (other than Ordinary Course communications which could not reasonably be expected to be material to the Company and the Subsidiaries on a consolidated basis).

(b) The Company covenants and agrees to make an election under subsection 256(9) of the Tax Act in respect of the acquisition of control of the Company resulting from the Purchaser's acquisition of Company Shares pursuant to the Arrangement.

4.6 Public Communications

(a) The Parties agree to jointly issue a press release with respect to (i) this Agreement as soon as practicable after its due execution and (ii) the completion of the Arrangement. The Parties shall reasonably cooperate in the development of a joint communication plan (including the preparation of presentations) with respect to the respective securityholders, customers, suppliers, manufacturers,

distributors, wholesalers, employees and other stakeholders of the Parties regarding the Arrangement and the transactions contemplated by this Agreement.

(b) A Party shall not issue any press release or make any other public statement or disclosure with respect to this Agreement or the Arrangement without the prior written consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed); provided that each Party shall be permitted to make any public disclosure required by applicable Law or to ensure compliance with the fiduciary duties of its board of directors, and if such disclosure is required the Party required to make such disclosure shall use its commercially reasonable efforts to give the other Party prior oral or written notice and a reasonable opportunity to review or comment on the disclosure (other than with respect to confidential information contained in such disclosure) and give reasonable consideration to any comments made by the other Party or their respective counsel (and if such prior notice is not possible, shall give such notice immediately following the making of such disclosure). Notwithstanding the foregoing, a Party (i) may make internal announcements to employees and have discussions with its shareholders, financial analysts and other stakeholders relating to this Agreement or the transactions contemplated hereby, and (ii) may make public announcements in the Ordinary Course that do not relate specifically to this Agreement or the Arrangement, provided that, in each case, such announcements or discussions, as applicable, are not inconsistent with (A) the most recent press release, public disclosures or public statements made by the Company or the Purchaser that were approved by both Parties prior to filing or release, as applicable, and (B) the joint communication plan referred to in Section 4.6(a); and provided further that, except as required by Article 5, the Company shall have no obligation to obtain the consent of, or consult with, the Purchaser in connection with any press release, public statement, disclosure or filing by the Company with respect to a Change in Recommendation. For the avoidance of doubt, the Parties agree that the provisions of this Section 4.6 shall not apply to filings or disclosures in connection with the Company Circular, the Interim Order and the Final Order, which shall be governed by other provisions of this Agreement.

(c) The Parties acknowledge that the Company will file this Agreement (with such redactions as may be mutually agreed upon between the Company and the Purchaser, each acting reasonably) and a material change report relating thereto on SEDAR.

4.7 Insurance and Indemnification

(a) Prior to the Effective Date, the Company shall purchase customary "tail" policies of directors' and officers' liability insurance providing protection no less favourable in the aggregate to the protection provided by the policies maintained by the Company and its Subsidiaries which are in effect immediately prior to the Effective Date and providing protection in respect of claims arising from facts or events which occurred on or prior to the Effective Date and the Purchaser shall, or shall cause the Company and its Subsidiaries to, maintain such tail policies in effect without any reduction in scope or coverage for six years from the Effective Date; provided that the Purchaser shall not be required to pay any amounts in respect of such coverage prior to the Effective Time and provided further that the cost of such policies shall not exceed 300% of the Company's current annual aggregate premium for policies currently maintained by the Company or its Subsidiaries.

(b) The Purchaser shall cause the Company and its Subsidiaries to honour all rights to indemnification or exculpation now existing under applicable Law, the Constating Documents of the Company or any of its Subsidiaries or under indemnification agreements entered into in the Ordinary Course in favour of present and former employees, officers and directors of the Company and its Subsidiaries (together with their respective heirs, executors or administrators, the "**Indemnified Persons**"), and acknowledges that such rights shall survive the completion of the Plan of Arrangement and shall continue in full force and effect in accordance with their terms without modification for a period of not less than six years from the Effective Date, and the Company and its Subsidiaries or any of their respective successors or assigns (including any corporation or other entity continuing following the amalgamation,

merger, consolidation or winding up of the Company or any of its Subsidiaries with or into one or more other entities (pursuant to a statutory procedure or otherwise)), as applicable, shall continue to honour such rights of indemnification and exculpation and indemnify such Indemnified Persons pursuant thereto, with respect to actions or omissions of such Indemnified Persons occurring prior to the Effective Time, for six years from the Effective Date.

(c) If the Company or any of its Subsidiaries or any of their respective successors or assigns (including any corporation or other entity continuing following the amalgamation, merger, consolidation or winding up of the Company or any of its Subsidiaries with or into one or more other entities (pursuant to a statutory procedure or otherwise)) (i) consolidates with or merges into any other Person and is not a continuing or surviving corporation or entity of such consolidation or merger, or (ii) transfers all or substantially all of its properties and assets to any Person, the Purchaser shall ensure that any such successor or assign (including, as applicable, any acquirer of substantially all of the properties and assets of the Company or its Subsidiaries) assumes all of the obligations set forth in this Section 4.7. The Purchaser shall ensure that it, the Company, and any of their respective successors or assigns have adequate financial resources to satisfy all of the obligations set forth in this Section 4.7.

(d) The Purchaser acknowledges to each Indemnified Person his or her direct rights against it under the provisions of this Section 4.7, which are intended for the benefit of, and shall be enforceable by, each Indemnified Person and, for such purpose, the Company hereby confirms that it is acting as agent and trustee on their behalf.

4.8 Purchaser Financings

(a) The Purchaser shall, and shall cause its affiliates to, use commercially reasonable efforts to take, or cause to be taken, and shall use commercially reasonable efforts to cause its Representatives to take, or cause to be taken, all actions and to do, or cause to be done, all things reasonably necessary, proper or advisable to arrange and consummate the Debt Financing on the terms and conditions described in the Debt Commitment Letters and to obtain the proceeds of the Debt Financing prior to the Effective Date, including using commercially reasonable efforts to:

(i) maintain in effect the Debt Commitment Letters in accordance with their terms (except for such amendments, supplements, modifications, full or partial replacements or waivers expressly permitted by Section 4.8(c) of this Agreement);

(ii) as promptly as practicable after the date hereof, negotiate and enter into the definitive agreements with respect to the Debt Financing on the terms and subject only to the express conditions (including after giving effect to any "market flex" provisions applicable thereto) contained in the Debt Commitment Letters as in effect on the date hereof, or on other terms not less favorable to Purchaser in any material respect than the terms and conditions (including any "market flex" provisions applicable thereto) contained in the Debt Commitment Letters, provided that such other terms and conditions (including after giving effect to any such "market flex" provisions) shall not impose new or additional conditions or contingencies or otherwise expand, amend, replace, supplement, alter, modify or waive any of the conditions or contingencies to the receipt of any portion of the Financings in a manner that would reasonably be expected to (A) prevent, impair, delay or make less likely the availability of the Financings when required pursuant to Section 2.9, or (B) adversely affect the ability of the Purchaser to timely consummate the transactions contemplated hereby;

(iii) satisfy on a timely basis (to the extent satisfaction thereof is within its control or direction) or obtain the waiver of all conditions to funding in the Debt Commitment Letters (or definitive documents entered into with respect to the Debt Financing) by no later than the Effective Time, except to the extent dependent on compliance by the Company with its obligations under this Agreement;

(iv) comply with its obligations under the Debt Commitment Letters;

(v) subject to the satisfaction or waiver of all conditions contained in the Debt Commitment Letters, consummate the Debt Financing contemplated by the Debt Commitment Letters prior to the Effective Time; and

(vi) enforce its rights under the Debt Commitment Letters, including in the event of a breach by any Debt Financing Source that would reasonably be expected to prevent or delay the consummation of the transactions contemplated by this Agreement,

provided that, subject to the other terms of this Agreement to the contrary, (1) nothing in this clause will limit the ability of the Purchaser to pursue the Debt Financing in any manner not otherwise prohibited by this Agreement and (2) in no event shall the Purchaser be required to pay any fees or any interest rates applicable to the Debt Financing in excess of those contemplated by the Debt Commitment Letters as in effect on the date hereof (taking into account any any flex provisions), or agree to any term (including any "market flex" term) less favorable to the Purchaser than such term contained in such Debt Commitment Letters as in effect on the date hereof.

(b) The Purchaser shall, and shall cause its affiliates to, use commercially reasonable efforts to take, or cause to be taken, and shall use commercially reasonable efforts to cause its Representatives to take, or cause to be taken, all actions, and do, or cause to be done, all things necessary, proper or advisable to arrange and obtain the proceeds of the Equity Financing prior to the Effective Date, including using its commercially reasonable efforts to:

(i) maintain in effect the Equity Commitment Letter in accordance with its terms (except for amendments, supplements, modifications, replacements or waivers expressly permitted by this Agreement);

(ii) satisfy on a timely basis (to the extent satisfaction thereof is within its control or direction) all conditions to funding in the Equity Commitment Letter (or definitive documents entered into with respect to the Equity Financing), except to the extent dependent on the compliance of the Company with its obligations under this Agreement;

(iii) subject to the satisfaction or waiver of all conditions contained in the Equity Commitment Letter, consummate the Equity Financing contemplated by the Equity Commitment Letter prior to the Effective Time;

(iv) comply with its obligations under the Equity Commitment Letter;

(v) in the event that all conditions to the Equity Financing have been satisfied or waived, cause the Equity Investors to fund their respective commitments in accordance with the Equity Financing required to consummate the transactions contemplated by this Agreement on or prior to the Effective Date; and

(vi) enforce its rights under the Equity Commitment Letter in the event of a breach by any party thereto.

(c) The Purchaser shall not amend, restate, supplement, terminate, replace or otherwise modify, or waive its rights under, any Commitment Letter or any definitive agreement or documentation referred to in Section 4.8(a) or Section 4.8(b); provided that:

(i) the Purchaser shall have the right to assign or reallocate a portion of the Equity Financing commitment by the Equity Investor as of the date hereof so long as such assignment or reallocation (A) does not result in any of the matters described in clauses (1), (2), (3) or (4) of Section 4.8(c)(ii)(B) and (B) complies with the terms and conditions of the Equity Commitment Letter in existence as at the date hereof (which, among other things, provides that the Equity Investor as of the date hereof will continue to be bound by all the obligations under the Equity Commitment Letter as if such assignment or reallocation had not occurred and to perform such obligations to the extent that any such Person to whom such rights were assigned or reallocated fails to do so); and

(ii) the Purchaser shall have the right to amend, restate, supplement, terminate, replace or otherwise modify, or waive its rights under, the Debt Commitment Letters or any definitive agreement or documentation referred to in Section 4.8(a) (including to reduce the available funding under or to terminate any such commitment letter or other documentation in order to obtain alternative sources of financing in lieu of all or a portion of the Financings), in each case, so long as the foregoing does not or would not:

(A) reduce (or have the effect of reducing) the aggregate amount of net proceeds available from the Financings (including, except as permitted by market flex provisions of any related fee letter, by changing the amount of fees to be paid or original issue discount of the Debt Financing) to an amount that, together with the Purchaser's cash on hand readily available to the Purchaser, would be less than the Required Amount; or

(B) impose new or additional conditions or contingencies or otherwise expand, amend, restate, supplement or modify any of the conditions or contingencies to the receipt of any portion of the Financings in a manner that would (1) reasonably be expected to prevent or impair or delay the availability of the Financings (or satisfaction of the conditions to obtaining the Financings) or make it less likely that the Financings will be funded at the Effective Time (as such time is contemplated by Section 2.9(a)), (2) make the funding of the Financings (or satisfaction of the conditions to obtaining the Financings) less likely to occur, (3) adversely impact the ability of Purchaser to enforce its rights against other parties to the Debt Commitment Letters or Equity Commitment Letter, or (4) otherwise adversely affect the ability of the Purchaser to consummate the transactions contemplated hereby within the time contemplated by Section 2.9(a);

provided that the foregoing shall not prohibit any amendment to the Debt Commitment Letters to reflect the application of any "market flex" terms or to add additional arrangers, bookrunners, agents, lenders or other Debt Financing Sources as party thereto or prohibit the assignment or reallocation of a portion of the Debt

Financing or Equity Financing commitments, in each case, to the extent such amendment does not result in any of the matters described in clauses (1), (2), (3) or (4) of Section 4.8(c)(ii)(B).

(d) The Purchaser shall promptly notify the Company in writing of (and such written notice shall include reasonable details related to, and reasons for, any of the following): (i) the expiration, breach, repudiation or termination (or anticipated, attempted, threatened or purported repudiation or termination, whether or not valid and whether or not in writing) of any of the Commitment Letters for any reason; (ii) receipt of written notice of the refusal of any Debt Financing Source or Equity Investor, as applicable, to provide, or of any stated intent by the Debt Financing Sources or Equity Investor, as applicable, to refuse to provide, the full Financing contemplated by the Commitment Letters, in each case, notwithstanding the efforts of the Purchaser to satisfy its obligations under Section 4.8(a), Section 4.8(b) or this Section 4.8(d); (iii) any notice or other communication received by the Purchaser with respect to any actual or threatened breach, default, termination or repudiation by any party to any Commitment Letter; or (iv) for any reason, all or any portion of the Financings becoming unavailable, or is expected, or would reasonably be expected to, become unavailable, on the terms and conditions contemplated in any Commitment Letters (including any fee letters related to the Debt Commitment Letters). In such event, the Purchaser shall, in consultation with the Company, use its commercially reasonable efforts to promptly arrange for the same or alternative financing (or for additional financing from the original Debt Financing Sources or any original Equity Investor) to replace the Financing contemplated by such expired, repudiated or terminated commitments or arrangements or for which such Debt Financing Source or Equity Investor, as applicable, has refused to provide, in each case, which alternative financing would not reasonably be expected to prevent, materially impair or delay the consummation of the Arrangement when required pursuant to Section 2.9(a).

(e) The Purchaser shall deliver correct and complete copies of any executed commitment letter or similar agreement reflecting any amendment, replacement, supplement or other modification or waiver of any of the Commitment Letters or any provision thereof (including any executed commitment letter or similar agreement for any replacement financing contemplated by Section 4.8(e) or any amendment, restatement, supplement, termination, replacement, modification, waiver or release contemplated by Sections 4.8(c) and 4.8(e)) to the Company as promptly as practicable following the execution thereof (provided, that the existence and/or amount of "market flex" provisions, fees, pricing terms and pricing caps and other economic terms set forth in any such agreement may be redacted). In the event that any Commitment Letter is amended, restated, amended and restated, supplemented, modified, or replaced, the term "Debt Commitment Letters" or "Equity Commitment Letter" (as applicable) as used herein shall be deemed to include the new, amended or supplemented commitment letters, fee letters or arrangements described in this Section 4.8(e) to the extent then in effect, the term "Debt Financing", "Equity Financing" and "Financings" as used herein shall be deemed to include the applicable financing contemplated by any such new, amended or supplemented commitment letters or arrangements, and the term "Debt Financing Sources" and "Equity Investors" as used herein shall be deemed to include the applicable lenders or sources of equity financing contemplated by any such new, amended or supplemented commitment letters, fee letters or arrangements.

(f) The Purchaser acknowledges and agrees that, prior to the Effective Time, except as provided in Section 4.9, none of the Company or any of its affiliates or Representatives shall have any obligations in respect of any financing that the Purchaser may raise in connection with the transactions contemplated hereby. The Purchaser also acknowledges and agrees that the Purchaser's obtaining financing (including, for certainty, the Financings) is not a condition to any of its obligations hereunder, regardless of the reasons why financing (including for certainty, the Financings) is not obtained or whether such reasons are within or beyond the control of the Purchaser.

(g) The Purchaser shall consult with and keep the Company informed in reasonable detail of the status of its efforts to arrange the Financings. None of Purchaser, the Equity Investors or any of their

respective affiliates shall take any action that could reasonably be expected to delay or prevent the consummation of the transactions contemplated hereby, including the Financings.

4.9 Financing Assistance

(a) Subject to Section 4.9(b), the Company shall use commercially reasonable efforts to provide and cause its Subsidiaries and its and their Representatives to provide such customary cooperation (including with respect to timeliness) to the Purchaser as the Purchaser may reasonably request in connection with the arrangements by the Purchaser to obtain the Debt Financing and Equity Financing, including using commercially reasonable efforts to:

(i) co-operate in respect of diligence efforts, presentations or meetings held by or on behalf of the Purchaser with the financial institutions identified in the Debt Commitment Letters, and with any other investor, agent, arranger, lender, underwriter or other Person that commits or proposes to provide or arrange, or enters into definitive agreements related to the Financings (collectively, the "**Financing Sources**"), including the participation of senior officers of the Company in a reasonable number of due diligence sessions and one-on-one sessions with prospective investors, and presentations to rating agencies, in each case, upon reasonable notice and at mutually agreeable dates and times;

(ii) make available to the Purchaser, its Representatives and the Financing Sources and their respective Representatives, such financial information or other information as the Purchaser may reasonably request in connection with the preparation of any customary materials reasonably (collectively, the "**Financing Materials**") required in connection with the Debt Financing and assist in the preparation of the Financing Materials, including providing customary authorization letters to the Financing Sources authorizing the distribution of information to prospective lenders and other financing sources (without limiting the confidentiality restrictions contained in this Agreement);

(iii) co-operate and provide information reasonably required by or for the benefit of the Financing Sources in the context of due diligence and verification, in compliance with applicable requirements or customary practice;

(iv) obtain from the Company's independent auditors and accountants, consistent with customary practice, comfort letters and consents customary for financings similar to the Debt Financing, and providing customary information and assistance reasonably necessary to assist the Purchaser and their counsel with obtaining the customary legal opinions required to be delivered in connection with the Debt Financing; and

(v) execute and deliver (or assist in the execution and delivery of), as of the Effective Time, any pledge and security documents, other definitive financing documents or other certificates (including a solvency certificate of the chief financial officer and factual back-up certificates for legal opinions) or documents as may be reasonably requested by the Purchaser, (including cooperation in connection with the payoff of existing indebtedness to the extent contemplated by this Agreement and the release of related Liens and termination of security interests).

(b) The Company or any of its Subsidiaries and their respective Representatives shall only be required to undertake the actions described in Section 4.9(a) provided that:

(i) such actions are requested on reasonable notice and do not unreasonably interfere with the ongoing business operations of the Company or its Subsidiaries;

(ii) the Company shall not be required to provide, or cause any of its Subsidiaries to provide, cooperation that involves any binding commitment or agreement (including the entry into any agreement or the execution of any certificate) by the Company or its Subsidiaries (or commitment or agreement which becomes effective prior to the Effective Time) which is not conditional on the completion of the Arrangement and does not terminate without liability to the Company and its Subsidiaries upon the termination of this Agreement;

(iii) neither the Company nor any of its Subsidiaries shall be required to take any action pursuant to any Contract, certificate or instrument that is not contingent upon the occurrence of the Effective Time or that would be effective prior to the Effective Time;

(iv) neither the Company's Board nor any of the Company's Subsidiaries' boards of directors (or equivalent bodies) shall be required to approve or adopt any Financing or Contracts related thereto (or any alternative financing) prior to the Effective Time;

(v) no employee, officer or director of the Company or any of its Subsidiaries shall be required to take any action which would result in such Person incurring any personal liability (as opposed to liability in his or her capacity as an officer) with respect to any matters related to the Debt Financing;

(vi) any participants in the Debt Financing or the Equity Financing acknowledge the confidentiality of Confidential Information (as defined in the Confidentiality Agreement) received by them (including through customary "click-through" confidentiality undertakings on electronic data sites);

(vii) neither the Company nor any of its Subsidiaries shall be responsible for any adjustments to any pro forma financial information required to be provided in accordance with the Debt Commitment Letters; and

(viii) any actions taken hereunder shall be, and shall deemed to be, taken in compliance with Section 4.1)

(c) Notwithstanding Section 4.9(a), neither the Company nor any of its Subsidiaries shall be required to: (i) pay any commitment, consent or other similar fee, incur any liability (other than the payment of reasonable and documented out-of-pocket costs related to such cooperation which shall be reimbursed by the Purchaser to the extent contemplated by Section 4.9(d)), or provide or agree to provide any indemnity in connection with any such financing prior to the Effective Time; (ii) contravene any applicable Law or its organizational or Constating documents; (iii) contravene any agreements that relate to the Company's or any of its Subsidiaries' indebtedness or any other Contract of the Company or any of its Subsidiaries; (iv) take any action capable of impairing or preventing the satisfaction of any condition set forth in Article 6; (v) cause any breach of this Agreement that is not irrevocably waived by the Purchaser; (vi) disclose any information that in the reasonable judgement of the Company would result in the disclosure of any trade secrets or similar information or violate any obligations of the Company, its Subsidiaries or any other

Person with respect to confidentiality; (vii) provide access to or disclose information that the Company reasonably determines could jeopardize any solicitor-client privilege of the Company or any of the Company's affiliates; or (viii) waive or amend any terms of this Agreement. Nothing in this Agreement will require any Representative of the Company or any of its Subsidiaries to deliver any certificate or opinion or take any other action pursuant to this Section 4.9 or any other provision of Section 4.9(a) that would or would reasonably be expected to result in personal liability to such Representative.

(d) The Purchaser shall, promptly upon request by the Company (and in any event following termination of this Agreement), reimburse the Company and its Subsidiaries for all reasonable and documented out-of-pocket costs (including reasonable and documented out-of-pocket legal fees) incurred by the Company or its Subsidiaries in connection with any of the actions contemplated by this Section 4.9, and shall indemnify and hold harmless the Company or its Subsidiaries and their respective Representatives from and against any and all losses, damages, claims, costs or expenses suffered or incurred by any of them in connection with the cooperation of the Company and its Subsidiaries contemplated by this Section 4.9 or in connection with the Financings.

4.10 Purchaser Debt

The Purchaser shall not incur or become liable for any additional debt if such incurrence or liability would result in the failure to satisfy any condition precedent contained in the Debt Commitment Letters.

ARTICLE 5
ADDITIONAL COVENANTS REGARDING NON-SOLICITATION

5.1 Non-Solicitation

(a) Except as expressly provided in this Article 5, the Company shall not, and shall cause its Subsidiaries not to, directly or indirectly, through any Representative of the Company or of any of its Subsidiaries:

(i) solicit, initiate, knowingly encourage or otherwise knowingly facilitate (including by way of furnishing or providing copies of, access to, or disclosure of, any confidential information, properties, facilities, books or records of the Company or any of its Subsidiaries) any inquiry, proposal or offer (whether public or otherwise) that constitutes or would reasonably be expected to constitute or lead to, an Acquisition Proposal;

(ii) enter into or otherwise engage, continue or participate in any discussions or negotiations with any Person (other than the Purchaser or any Person acting jointly or in concert with the Purchaser) regarding any Acquisition Proposal; provided that the Company may (A) provide a written response (with a copy to the Purchaser) to any Person for the purposes of clarifying the terms of any inquiry, proposal or offer made by such Person that constitutes or could reasonably be expected to constitute or lead to, an Acquisition Proposal, (B) advise any Person of the restrictions of this Agreement, and (C) advise any Person making an Acquisition Proposal that the Company Board has determined that such Acquisition Proposal does not constitute a Superior Proposal;

(iii) make a Change in Recommendation;

(iv) accept, approve, endorse or recommend, or publicly propose to accept, approve, endorse or recommend, any Acquisition Proposal (it being understood that

publicly taking no position or a neutral position with respect to an Acquisition Proposal for a period of no more than five Business Days following the formal announcement or public disclosure of such Acquisition Proposal or, in the event that the Company Meeting is scheduled to occur within such five Business Day period, prior to the third Business Day prior to the date of the Company Meeting will not be considered to be in violation of this Section 5.1, provided the Company Board has rejected such Acquisition Proposal and affirmed the Company Board Recommendation before the end of such period); or

(v) accept or enter into, or publicly propose to accept or enter into, any Contract in respect of an Acquisition Proposal (other than a confidentiality and standstill agreement permitted by Section 5.3).

(b) The Company shall, and shall cause its Subsidiaries and its Representatives to, immediately cease and terminate, and cause to be terminated, any solicitation, encouragement, discussion, negotiation or other activities commenced prior to the date of this Agreement with any Person (other than the Purchaser, the Debt Financing Sources and the Equity Investors) with respect to any inquiry, proposal or offer that constitutes, or would reasonably be expected to constitute or lead to, an Acquisition Proposal, and in connection with such termination shall:

(i) immediately discontinue access to and disclosure of all of its confidential information, if any, to any such Person (including through any data room access or through granting access to any of its properties, facilities, books and records); and

(ii) within two Business Days of the date hereof, promptly request, and exercise all rights it has to require, (A) the return or destruction of all copies of any confidential information regarding the Company or any of its Subsidiaries provided to any Person other than the Purchaser since January 1, 2022 in connection with any Acquisition Proposal, and (B) the destruction of all material including or incorporating or otherwise reflecting such confidential information regarding the Company or any of its Subsidiaries, to the extent that such information has not previously been returned or destroyed, in each case using its commercially reasonable efforts to ensure that such requests are fully complied with in accordance with the terms of such rights.

(c) The Company covenants and agrees that (i) the Company shall take commercially reasonable action to enforce each confidentiality, standstill or similar agreement or restriction to which the Company or any of its Subsidiaries is a party or may hereafter become a party in accordance with Section 5.3, and (ii) neither the Company, nor any of its Subsidiaries nor any of their respective Representatives will, without the prior written consent of the Purchaser (which consent may be withheld, conditioned or delayed in the Purchaser's sole and absolute discretion), release any Person from, or waive, amend, suspend or otherwise modify such Person's obligations with respect to the Company, or any of its Subsidiaries, under any confidentiality, standstill or similar agreement or restriction to which the Company or any of its Subsidiaries is a party (it being acknowledged by the Purchaser that the automatic termination or release of any standstill restrictions as a result of entering into and announcing this Agreement or otherwise in accordance with such restrictions shall not be a violation of this Section 5.1(c)).

5.2 Notification of Acquisition Proposals

If the Company or any of its Subsidiaries or any of their respective Representatives receives or otherwise becomes aware of (X) any inquiry, proposal or offer that constitutes or would reasonably be

expected to constitute or lead to an Acquisition Proposal, or (Y) any request for copies of, access to, or disclosure of, confidential information relating to the Company or any of its Subsidiaries (including information, access, or disclosure relating to the properties, facilities, books or records of the Company or any of its Subsidiaries), in each case, in connection with any inquiry, proposal or offer that constitutes or would reasonably be expected to constitute or lead to an Acquisition Proposal, the Company shall promptly notify the Purchaser, at first orally, and then as soon as practicable (and in any event within 24 hours of receipt thereof) in writing, of such Acquisition Proposal, inquiry, proposal, offer or request, including a description of its material terms and conditions, the identity of all Persons making the Acquisition Proposal, inquiry, proposal, offer or request and copies of all agreements, documents, correspondence or other material received in respect of, from or on behalf of such Person. The Company shall keep the Purchaser fully informed of the status of discussions and negotiations with respect to such Acquisition Proposal, inquiry, proposal, offer or request (to the extent permitted by this Article 5), and any material changes, modifications or other amendments to any such Acquisition Proposal, inquiry, proposal, offer or request.

5.3 Responding to an Acquisition Proposal

(a) Notwithstanding Section 5.1, if at any time, prior to obtaining the approval by the Company Shareholders of the Arrangement Resolution, the Company receives a *bona fide* written Acquisition Proposal from a Person, the Company may engage in or participate in discussions or negotiations with such Person regarding such Acquisition Proposal and provide copies of, access to or disclosure of confidential information, properties, facilities, books or records of the Company or its Subsidiaries, if and only if:

(i) the Company Board first determines in good faith, after consultation with its financial advisors and its outside legal counsel, that such Acquisition Proposal constitutes or could reasonably be expected to constitute or lead to a Superior Proposal;

(ii) such Person was not restricted from making such Acquisition Proposal pursuant to an existing standstill or similar restriction;

(iii) such Acquisition Proposal did not result from or involve a breach by the Company of its obligations under this Article 5;

(iv) prior to providing any such copies, access, or disclosure, (A) the Company enters into a confidentiality and standstill agreement with such Person on terms that are no less favourable in the aggregate to the Company than those of the Confidentiality Agreement and (B) any such copies, access or disclosure provided to such Person shall have already been (or shall concurrently be) provided to the Purchaser; and

(v) the Company provides the Purchaser with, prior to providing any such copies, access or disclosure, a true, complete and final executed copy of the confidentiality and standstill agreement contemplated by Section 5.3(a)(iv).

(b) Nothing contained in this Agreement shall prohibit the Company Board or the Company from making any disclosure to securityholders of the Company if the Company Board, acting in good faith and upon the advice of outside legal advisors, shall have first determined that the failure to make such disclosure would be inconsistent with the fiduciary duties of the Company Board or such disclosure is required by applicable Law, including in response to an Acquisition Proposal (including by responding to an Acquisition Proposal in a directors' circular), provided that the Company Board shall not be permitted to make a Change in Recommendation other than as permitted by Section 5.4, provided further that the Company shall provide the Purchaser and its outside legal counsel with a reasonable opportunity to review

the form and content of such disclosure and shall give reasonable consideration to any comments made by the Purchaser and its outside legal counsel. Nothing contained in this Agreement shall prohibit the Company or the Company Board from calling and/or holding a meeting of Company Shareholders requisitioned by Company Shareholders in accordance with the OBCA or taking any other action to the extent ordered or otherwise mandated by a Governmental Entity in accordance with applicable Laws.

5.4 Right to Match

(a) If the Company receives an Acquisition Proposal that constitutes a Superior Proposal prior to the approval of the Arrangement Resolution by the Company Shareholders, the Company Board may authorize the Company to enter into a definitive agreement with respect to such Superior Proposal or may make a Change in Recommendation, if and only if:

(i) the Person making the Superior Proposal was not restricted from making such Superior Proposal pursuant to an existing standstill or similar restriction;

(ii) the Company has delivered to the Purchaser a written notice of the determination of the Company Board that such Acquisition Proposal constitutes a Superior Proposal and of the intention of the Company Board to make a Change in Recommendation with respect to such Superior Proposal, including a notice as to the value in financial terms that the Company Board has, in consultation with its financial advisors, determined should be ascribed to any non-cash consideration offered under the Superior Proposal (collectively, the "**Superior Proposal Notice**");

(iii) the Company or its Representatives have provided to the Purchaser a copy of any proposed definitive agreement for the Superior Proposal;

(iv) at least five Business Days (the "**Matching Period**") have elapsed from the date that is the later of the date on which the Purchaser received the Superior Proposal Notice and the date on which the Purchaser received all of the material referred to in Section 5.4(a)(iii);

(v) after the Matching Period, the Company Board has determined in good faith, after consultation with the Company's outside legal counsel and financial advisers, that such Acquisition Proposal continues to constitute a Superior Proposal (and, if applicable, compared to the terms of the Arrangement as proposed to be amended by the Purchaser under Section 5.4(b)); and

(vi) prior to or concurrently with entering into such definitive agreement, the Company terminates this Agreement pursuant to Section 7.2(a)(iii)(B) and pays the Termination Amount pursuant to Section 8.2(c).

(b) During the Matching Period, or such longer period as the Company may approve in writing for such purpose: (i) the Purchaser shall have the opportunity (but not the obligation), to offer to amend this Agreement and the Arrangement in order for such Acquisition Proposal to cease to be a Superior Proposal, (ii) the Company Board shall review any such offer made by the Purchaser to amend the terms of this Agreement and the Arrangement in good faith, after consultation with outside legal counsel and financial advisors, in order to determine whether such proposal would, upon acceptance, result in the Acquisition Proposal previously constituting a Superior Proposal ceasing to constitute a Superior Proposal; and (iii) if the Company Board determines that such Acquisition Proposal would no longer constitute a Superior Proposal, the Company shall negotiate in good faith with the Purchaser to make such amendments to the

terms of this Agreement and the Arrangement as would enable the Purchaser to proceed with the transactions contemplated by this Agreement on such amended terms.

(c) Each successive amendment or modification to any Acquisition Proposal that results in an increase in, or a modification to, the consideration (or value of such consideration) to be received by Company Shareholders or other material terms or conditions thereof shall constitute a new Acquisition Proposal for the purposes of this Section 5.4, and the Purchaser shall be afforded an additional five Business Day Matching Period from the later of the date on which the Purchaser receives the Superior Proposal Notice and the date on which the Purchaser receives all of the materials referred to in Section 5.4(a)(iii) with respect to each new Superior Proposal from the Company.

(d) The Company Board shall promptly reaffirm the Company Board Recommendation by press release after any Acquisition Proposal which is not determined to constitute a Superior Proposal is publicly announced or the Company Board determines that a proposed amendment to the terms of this Agreement as contemplated under Section 5.4(b) would result in an Acquisition Proposal no longer constituting a Superior Proposal. The Company shall provide the Purchaser and its outside legal counsel with a reasonable opportunity to review the form and content of any such press release and shall make all reasonable amendments to such press release as requested by the Purchaser and its outside legal counsel.

(e) If the Company provides a Superior Proposal Notice to the Purchaser on a date that is less than 10 Business Days before the Company Meeting, the Company may, and shall at the request of Purchaser, adjourn or postpone the Company Meeting to a date that is not more than 15 Business Days after the scheduled date of the Company Meeting, provided, however, that the Company Meeting shall not be adjourned or postponed to a date later than the fifth Business Day prior to the Outside Date.

(f) Without limiting the generality of the foregoing, any violation of the restrictions set forth in this Article 5 by the Company, its Subsidiaries or its Representatives shall be deemed to be a breach of this Article 5 by the Company.

ARTICLE 6
CONDITIONS

6.1 Mutual Conditions Precedent

The Parties are not required to complete the Arrangement unless each of the following conditions is satisfied on or prior to the Effective Time, which conditions may only be waived, in whole or in part, by the mutual consent of each of the Parties:

(a) **Arrangement Resolution**. The Arrangement Resolution has been approved and adopted by the Company Shareholders at the Company Meeting in accordance with the Interim Order.

(b) **Interim and Final Order**. The Interim Order and the Final Order have each been obtained on terms consistent with this Agreement, and have not been set aside or modified in a manner unacceptable to either the Company or the Purchaser, each acting reasonably, on appeal or otherwise.

(c) **Illegality**. No Law is in effect that makes the consummation of the Arrangement illegal or otherwise prohibits or enjoins the Company or the Purchaser from consummating the Arrangement.

6.2 Additional Conditions Precedent to the Obligations of the Purchaser

The Purchaser is not required to complete the Arrangement unless each of the following conditions is satisfied on or prior to the Effective Time, which conditions are for the exclusive benefit of the Purchaser and may only be waived, in whole or in part, by the Purchaser in its sole discretion:

(a) **Representations and Warranties of the Company**. The representations and warranties of the Company set forth in: (i) paragraphs 1 [*Organization and Qualification*], 2 [*Corporate Authorization*], 3 [*Execution and Binding Obligation*] and 5(a) [*Non-Contravention*] of Schedule C shall be true and correct in all material respects as of the Effective Time, as if made at and as of such time (except that for any such representation and warranty that by its terms speaks specifically as of the date of this Agreement or another date, the accuracy of such representation and warranty shall be determined as of such specified date); (ii) the representations and warranties of the Company set forth in paragraphs 6 [*Capitalization*] and 34 [*Brokers*] of Schedule C shall be true and correct in all respects (except for *de minimis* inaccuracies and as a result of transactions, changes, conditions, events or circumstances permitted hereunder) as of the Effective Time as if made at and as of such time (except that for any such representation and warranty that by its terms speaks specifically as of the date of this Agreement or another date, the accuracy of such representation and warranty shall be determined as of such specified date); and (iii) this Agreement (other than those to which clause (i) or (ii) above applies) shall be true and correct in all respects as of the Effective Time, as if made at and as of such time (except that for any such representation and warranty that by its terms speaks specifically as of the date of this Agreement or another date, the accuracy of such representation and warranty shall be determined as of such specified date), except in the case of this Section 6.2(a)(iii) where the failure to be so true and correct in all respects, individually or in the aggregate, has not had or would not reasonably be expected to have a Material Adverse Effect (and, for the purpose of this Section 6.2(a)(iii), any materiality or Material Adverse Effect qualification contained in any such representation or warranty shall be ignored, other than in respect of the usage of (x) the term "Material Contract" and (y) the phrase "in all material respects" in clause (ii) of Section 11(a) of Schedule C); and the Company has delivered a certificate confirming same to the Purchaser, executed by two executive officers of the Company (in each case without personal liability) addressed to the Purchaser and dated the Effective Date.

(b) **Performance of Covenants by the Company**. The Company has fulfilled or complied in all material respects with each of the covenants of the Company contained in this Agreement to be fulfilled or complied with by it on or prior to the Effective Time, and has delivered a certificate confirming same to the Purchaser, executed by two executive officers of the Company (in each case without personal liability) addressed to the Purchaser and dated the Effective Date.

(c) **Material Adverse Effect**. Since the date of this Agreement, there has not occurred a Material Adverse Effect.

(d) **Dissent Rights**. Dissent Rights shall not have been exercised (and not withdrawn) with respect to more than 5% of the issued and outstanding Company Shares.

6.3 Additional Conditions Precedent to the Obligations of the Company

The Company is not required to complete the Arrangement unless each of the following conditions is satisfied on or prior to the Effective Time, which conditions are for the exclusive benefit of the Company and may only be waived, in whole or in part, by the Company in its sole discretion:

(a) **Representations and Warranties of the Purchaser**. The representations and warranties of the Purchaser set forth in this Agreement shall be true and correct in all respects as of the Effective Time, as if made at and as of such time (except that for any such representation and warranty that by its terms speaks specifically as of the date of this Agreement or another date, the accuracy of such representation and warranty shall be determined as of such specified date), except where the failure to be so true and correct in all respects, individually and in the aggregate, would not reasonably be expected to materially impede or delay the consummation of the Arrangement; and Purchaser has delivered a certificate confirming same to the Company, executed by two executive officers thereof (in each case without personal liability) addressed to the Company and dated the Effective Date.

(b) **Performance of Covenants by the Purchaser**. The Purchaser has fulfilled or complied in all material respects with each of its covenants contained in this Agreement to be fulfilled or complied with by it on or prior to the Effective Time; and the Purchaser has delivered a certificate confirming same to the Company, executed by two executive officers thereof (in each case without personal liability) addressed to the Company and dated the Effective Date.

(c) **Payment of Consideration**. The Purchaser shall have complied with its obligations under Section 2.10, the Depositary will have confirmed to the Company receipt from or on behalf of the Purchaser of the funds contemplated by Section 2.10.

6.4 Satisfaction of Conditions

The conditions precedent set out in Section 6.1, Section 6.2 and Section 6.3 will be conclusively deemed to have been satisfied, waived or released when the Certificate of Arrangement is issued by the Director. For greater certainty, and notwithstanding the terms of any escrow arrangement entered into between the Purchaser and the Depositary, all funds held in escrow by the Depositary pursuant to Section 2.10 hereof shall be released from escrow when the Certificate of Arrangement is issued without any further act or formality required on the part of any Person.

ARTICLE 7
TERM AND TERMINATION

7.1 Term

This Agreement shall be effective from the date hereof until the earlier of the Effective Time and the termination of this Agreement in accordance with its terms.

7.2 Termination

(a) This Agreement may be terminated prior to the Effective Time by:

(i) the mutual written agreement of the Parties;

(ii) either the Company or the Purchaser if:

(A) **Failure of Company Shareholders to Approve**. The Required Shareholder Approval is not obtained at the Company Meeting in accordance with the Interim Order, provided that a Party may not terminate this Agreement pursuant to this Section 7.2(a)(ii)(A) if the failure to obtain the Required Shareholder Approval has been caused by, or is a result of, a breach by such Party of any of its representations or warranties or the failure of such Party to perform any of its covenants or agreements under this Agreement;

(B) **Illegality**. After the date of this Agreement, any Law is enacted, made, enforced or amended, as applicable, that makes the consummation of the Arrangement illegal or otherwise prohibits or enjoins the Company or the Purchaser from consummating the Arrangement, and such Law has, if applicable, become final and non-appealable, provided that the Party seeking to terminate this Agreement pursuant to this Section 7.2(a)(ii)(B) has used its commercially reasonable efforts to appeal or overturn such Law or otherwise have it lifted or rendered non-applicable in respect of the Arrangement; and provided further that the enactment, making, enforcement or amendment of such Law was not caused by, or is a result of, a breach by such Party of any of its representations or warranties or the failure of such Party to perform any of its covenants or agreements under this Agreement; or

(C) **Occurrence of Outside Date**. The Effective Time does not occur on or prior to the Outside Date, provided that a Party may not terminate this Agreement pursuant to this Section 7.2(a)(ii)(C) if the failure of the Effective Time to so occur has been caused by, or is a result of, a breach by such Party of any of its representations or warranties or the failure of such Party to perform any of its covenants or agreements under this Agreement (including Section 2.10);

(iii) the Company if:

(A) **Breach of Representation or Warranty or Failure to Perform Covenants by the Purchaser**. A breach of any representation or warranty or failure to perform any covenant or agreement on the part of the Purchaser under this Agreement occurs that would cause any condition in Section 6.3(a) [*Purchaser Representations and Warranties Condition*] or Section 6.3(b) [*Purchaser Covenants Condition*] not to be satisfied, and such breach or failure is incapable of being cured or is not cured on or prior to the Outside Date; provided that the Company is not then in breach of this Agreement so as to cause any condition in Sections 6.1 [*Mutual Conditions Precedent*] or Section 6.2(a) [*Company Representations and Warranties Condition*] or Section 6.2(b) [*Company Covenants* Condition] not to be satisfied; or

(B) **Superior Proposal**. Prior to obtaining the approval by the Company Shareholders of the Arrangement Resolution, the Company Board authorizes the Company or any of its Subsidiaries, subject to complying with the terms of Article 5 and the prior payment of the Termination

Amount in accordance with Section 8.2, to enter into a definitive written agreement (other than a confidentiality and standstill agreement permitted by Section 5.3(a)(iv)) with respect to a Superior Proposal;

(C) **Failure to Fund**. (i) All conditions precedent contained in Section 6.1 and Section 6.2 have been satisfied or waived (other than conditions which, by their nature, are only capable of being satisfied as of the Effective Time), (ii) the Company has irrevocably given written notice to the Purchaser that it is ready, willing and able to complete the Arrangement, and (iii) at least five Business Days prior to such termination, the Company has given the Purchaser written notice stating its intention to terminate this Agreement pursuant to this Section 7.2(a)(iii)(C), and the Purchaser does not provide or advance (or cause to be provided or advanced) the funds contemplated by Section 2.10 (including the funds required to be provided to the Depositary pursuant to Section 2.10 and the funds required to make all other payments contemplated by the Plan of Arrangement); or

(iv) the Purchaser if:

(A) **Breach of Representation or Warranty or Failure to Perform Covenants by the Company**. A breach of any representation or warranty or failure to perform any covenant or agreement on the part of the Company under this Agreement occurs that would cause any condition in Section 6.2(a) [*Company Representations and Warranties Condition*] or Section 6.2(b) [*Company Covenants Condition*] not to be satisfied, and such breach or failure is incapable of being cured or is not cured on or prior to the Outside Date; provided that the Purchaser is not then in breach of this Agreement so as to cause any condition in Sections 6.1 [*Mutual Conditions Precedent*] or Section 6.3(a) [*Purchaser Representations and Warranties Condition*] or Section 6.3(b) [*Purchaser Covenants* Condition] not to be satisfied; or

(B) **Change in Recommendation**. Prior to the approval by the Company Shareholders of the Arrangement Resolution, (1) the Company Board fails to recommend the Arrangement Agreement or withdraws, amends, modifies or qualifies the Company Board Recommendation in a manner adverse to Purchaser or publicly proposes or states its intention to do any of the foregoing (it being understood that publicly taking no position or a neutral position with respect to a publicly announced, or otherwise publicly disclosed, Acquisition Proposal for a period of no more than five Business Days (or beyond the third Business Day prior to the date of the Company Meeting, if sooner) will not be considered to be an adverse withdrawal, amendment, modification or qualification, provided the Company Board has rejected such Acquisition Proposal and affirmed the Company Board Recommendation before the end of such five Business Day period), unless the Purchaser shall have breached a covenant or representation or warranty under this Agreement in such a manner that the Company would be entitled to terminate this Agreement in accordance with Section 7.2(a)(ii)(C) or Section 7.2(a)(iii)(A), (2) the Company Board accepts, approves, endorses or recommends, or publicly proposes to accept, approve, endorse or recommend an Acquisition Proposal (it being understood that publicly taking no position or a neutral position with

respect to a publicly announced, or otherwise publicly disclosed, Acquisition Proposal for a period of no more than five Business Days (or beyond the third Business Day prior to the date of the Company Meeting, if sooner) will not be considered to be an acceptance, approval, endorsement or recommendation of such Acquisition Proposal, provided the Company Board has rejected such Acquisition Proposal and affirmed the Company Board Recommendation before the end of such five Business Day period (or the third Business Day prior to the date of the Company Meeting, if sooner), (3) the Company Board accepts, approves, endorses, recommends or authorizes the Company or any of its Subsidiaries to execute or enter into, or publicly proposes to accept, approve, endorse, recommend or authorize the Company or any of its Subsidiaries to execute or enter into, any Contract in respect of an Acquisition Proposal (other than a confidentiality and standstill agreement permitted by Section 5.3(a)(iv)), or (4) the Company breaches Article 5 in any material respect; (any action set forth in clause (1), (2) or (3) above, a "**Change in Recommendation**"); or

(C) **Company Material Adverse Effect**. There has occurred a Material Adverse Effect which is incapable of being cured on or prior to the Outside Date.

(b) In addition to the notice requirements contemplated by Section 7.3 (if applicable), the Party desiring to terminate this Agreement pursuant to this Section 7.2 (other than pursuant to Section 7.2(a)(i)) shall give written notice of such termination to the other Party, specifying in reasonable detail the basis for such Party's exercise of its termination right.

7.3 Notice and Cure of Certain Termination Events

The Company may not elect to exercise its right to terminate this Agreement pursuant to Section 7.2(a)(iii)(A) [*Breach of Representation or Warranty or Failure to Perform Covenants by the Purchaser*] and the Purchaser may not elect to exercise its right to terminate this Agreement pursuant to Section 7.2(a)(iv)(A) [*Breach of Representation or Warranty or Failure to Perform Covenants by the Company*] or Section 7.2(a)(iv)(C) [Company *Material Adverse Effect*], unless the Party seeking to terminate the Agreement (the "**Terminating Party**") has delivered a written notice ("**Termination Notice**") to the other Party (the "**Breaching Party**") specifying in reasonable detail all breaches of covenants, representations and warranties or other matters which the Terminating Party asserts as the basis for termination. After delivering a Termination Notice, provided the Breaching Party is proceeding diligently to cure such matter and such matter is capable of being cured prior to the Outside Date, the Terminating Party may not exercise such termination right until the earlier of (a) the Outside Date, and (b) the date that is 15 Business Days following receipt of such Termination Notice by the Breaching Party, if the Breaching Party shall not have commenced good faith efforts to cure the applicable breach, provided that, for greater certainty, if any matter is not capable of being cured by the Outside Date, the Terminating Party may immediately exercise the applicable termination right. If the Terminating Party delivers a Termination Notice prior to the date of the Company Meeting, unless the Parties agree otherwise, the Company shall postpone or adjourn the Company Meeting to the earlier of (a) five Business Days prior to the Outside Date and (b) the date that is 15 Business Days following receipt of such Termination Notice by the Breaching Party.

7.4 Effect of Termination/Survival

If this Agreement is terminated pursuant to Section 7.1 or Section 7.2, this Agreement shall become void and of no further force or effect without liability of any Party (or any shareholder or Representative of such Party) to any other Party to this Agreement, except that: (a) in the event of termination under Section 7.1 as a result of the occurrence of the Effective Time, Section 4.7 shall survive for a period of six years following such termination; and (b) in the event of termination under Section 7.2, this Section 7.4, Section 2.4(d), Section 4.9(d) and Sections 8.2 through to and including Section 8.17 (and any related definitions contained in any such Sections or Article) shall survive, and provided further that, except as provided in Section 8.2(h), no Party shall be relieved of any liability for any willful breach by it of this Agreement.

ARTICLE 8
GENERAL PROVISIONS

8.1 Amendments

This Agreement and the Plan of Arrangement may, at any time and from time to time before or after the holding of the Company Meeting but not later than the Effective Time, be amended by mutual written agreement of the Parties, without further notice to or authorization on the part of the Company Shareholders and any such amendment may, subject to the Interim Order and the Final Order and Laws, without limitation:

(a) change the time for performance of any of the obligations or acts of the Parties;

(b) waive or modify, in whole or in part, any representation or warranty contained in this Agreement or in any document delivered pursuant to this Agreement;

(c) waive or modify, in whole or in part, any of the covenants contained in this Agreement and waive or modify performance of any of the obligations of the Parties; and/or

(d) waive or modify, in whole or in part, any mutual conditions contained in this Agreement.

(e) Notwithstanding anything set forth in this Agreement to the contrary, to the extent any amendment, modification or waiver of this Section 8.1, Section 8.6, Section 8.7(b), Section 8.18 or the definitions of "Debt Commitment Letters", "Debt Financing" or "Debt Financing Sources" (and any provision of this Agreement to the extent an amendment, supplement, modification or waiver of such provision would modify the substance of any of the foregoing provisions) is sought that is adverse to the interests of the Debt Financing Sources, the prior written consent of such adversely affected Debt Financing Source will be required before such amendment, modification or waiver is rendered effective.

8.2 Termination Amounts

(a) Despite any other provision in this Agreement relating to the payment of fees and expenses, including the payment of brokerage fees, if a Termination Amount Event occurs, the Company shall pay the Termination Amount to the Purchaser (or as the Purchaser may direct by notice in writing) in accordance with Section 8.2(c).

(b) For the purposes of this Agreement, "**Termination Amount**" means $1,537,880.00 and "**Termination Amount Event**" means the termination of this Agreement:

(i) by the Purchaser, pursuant to Section 7.2(a)(iv)(B) [*Change in Recommendation*];

(ii) by the Company, pursuant to Section 7.2(a)(iii)(B) [*Superior Proposal*]; and

(iii) by the Company or the Purchaser, as applicable, pursuant to Section 7.2(a)(ii)(A) [*Failure of Company Shareholders to Approve*], Section 7.2(a)(ii)(C) *[Occurrence of Outside Date]* or Section 7.2(a)(iv)(A) *[Breach of Representation or Warranty or Failure to Perform Covenants by the Company]* due to a wilful breach or fraud on the part of the Company, but only if:

(A) prior to such termination, an Acquisition Proposal is made or publicly announced or otherwise publicly disclosed by any Person (other than the Purchaser or any of its affiliates); and

(B) within 12 months following the date of such termination (1) an Acquisition Proposal (whether or not such Acquisition Proposal is the same Acquisition Proposal referred to in clause (A) above) is consummated or effected or (2) the Company and/or any of its Subsidiaries enters into a Contract (other than a confidentiality and standstill agreement permitted by Section 5.3(a)(iv)) in respect of an Acquisition Proposal (whether or not such Acquisition Proposal is the same Acquisition Proposal referred to in clause (A) above) and such Acquisition Proposal is later consummated (whether or not within 12 months after such termination).

For purposes of the foregoing, the term "Acquisition Proposal" shall have the meaning given to such term in Section 1.1 except that references to "20% or more" shall be deemed to be references to "50% or more".

(c) If a Termination Amount Event occurs due to a termination of this Agreement by the Company pursuant to Section 7.2(a)(iii)(B) [*Superior Proposal*], the Termination Amount shall be paid prior to or simultaneously with the occurrence of such Termination Amount Event. If a Termination Amount Event occurs due to a termination of this Agreement by the Purchaser pursuant to Section 7.2(a)(iv)(B) [*Change in Recommendation*], the Termination Amount shall be paid within two Business Days following such Termination Amount Event. If a Termination Amount Event occurs in the circumstances set out in Section 8.2(b)(iii) [*Acquisition Proposal Consummated Following Termination*], the Termination Amount shall be paid prior to or simultaneously with the consummation of the Acquisition Proposal referred to therein. Any Termination Amount shall be paid by the Company to the Purchaser (or as the Purchaser may direct by notice in writing) by wire transfer in immediately available funds to an account designated by the Purchaser.

(d) Despite any other provision in this Agreement relating to the payment of fees and expenses, if a Reverse Termination Amount Event occurs, the Purchaser shall pay the Reverse Termination Amount to the Company (or as the Company may direct by notice in writing) in accordance with Section 8.2(e).

(e) For purposes of this Agreement, "**Reverse Termination Amount**" means $3,075,761.00 and "**Reverse Termination Amount Event**" means the termination of this Agreement by the Company pursuant to Section 7.2(a)(iii)(A) [*Breach of Representation or Warranty or Failure to Perform Covenants by the Purchaser*] or Section 7.2(a)(iii)(C) [*Failure to Fund*]. If a Reverse Termination Amount Event occurs, the Reverse Termination Amount shall be paid as promptly as practicable (and in any event within two Business Days following such Reverse Termination Amount Event). Any Reverse Termination Amount shall be paid, or caused to be paid, by the Purchaser to the Company by wire transfer in immediately available funds to an account designated by the Company.

(f) For the avoidance of doubt, in no event shall the Company be obligated to pay the Termination Amount, or shall the Purchaser be obligated to pay the Reverse Termination Amount, on more than one occasion, in each case, whether or not the Termination Amount or the Reverse Termination Amount, as applicable, may be payable at different times or upon the occurrence of different events.

(g) The Parties acknowledge that the agreements contained in this Section 8.2 are an integral part of the transactions contemplated by this Agreement, and that without these agreements the Parties would not enter into this Agreement. The Parties further acknowledge that the payment amounts set forth in this Section 8.2 are payments in consideration for the disposition of the rights of the Party entitled to receive such payments under this Section 8.2 and that the amounts set out in this Section 8.2 are reasonable in light of the damages, including opportunity costs, which the affected Party will suffer or incur as a result of the event giving rise to such damages and resultant termination of this Agreement, and are not penalties. Each Party irrevocably waives any right it may have to raise as a defence that any such amounts are excessive or punitive. If the Company or the Purchaser, as the case may be, fails to timely pay any amount due pursuant to this Section 8.2, it shall also pay any costs and expenses incurred by the other Party in connection with a legal action to enforce this Agreement that results in a final judgment against the Company for the payment of the Termination Amount or a final judgment against the Purchaser for the payment of the Reverse Termination Amount (as applicable), together with interest on the amount of any unpaid fee, cost or expense at a rate equal to the prime rate of the Bank of Canada plus 5% from the date such fee, cost or expense was required to be paid to (but excluding) the payment date.

(h) Subject to the rights of the Parties to injunctive and other equitable relief or specific performance in accordance with Section 8.7, each Party agrees that the payment of the Termination Amount or the Reverse Termination Amount, as applicable, in the manner provided in this Section 8.2 is the sole and exclusive remedy of such Party in respect of the event giving rise to such payment and the termination of this Agreement, and following receipt of the Termination Amount or Reverse Termination Amount, as applicable, no Party shall be entitled to bring or maintain any claim, action or proceeding against the Party or any of its affiliates or any Debt Financing Source or the Equity Investors arising out of or in connection with this Agreement (or the termination thereof) or the transactions contemplated herein and neither Party nor any of its affiliates, or any Debt Financing Source or the Equity Investors, shall have any further liability with respect to this Agreement or the transactions contemplated hereby to the other Party or any of their respective affiliates; provided, however, that this limitation shall not apply in the event of fraud or a wilful breach by the Party of its representations, warranties, covenants or agreements set forth in this Agreement (which breach and liability therefore shall not be affected by termination of this Agreement or any payment of the Termination Amount or the Reverse Termination Amount, as applicable); and provided further that nothing in this Section 8.2(h) shall restrict or limit (a) the Company from bringing or maintaining, or receiving damages in, any action, suit or litigation proceeding against the Purchaser or any of its affiliates arising out of or in connection with the breach of the Confidentiality Agreement, (b) the Company or the Purchaser from seeking or obtaining costs, expenses or interest in accordance with Section 8.2(g), (c) the Company or an applicable Third Party Beneficiary from seeking or obtaining indemnification and/or reimbursement for any losses, damages, claims, costs or expenses in accordance with Section 4.9(d) and (d) the Company or an applicable Third Party Beneficiary from seeking or obtaining indemnification in accordance with Section 2.4(d). For greater certainty, should the Company have reason to terminate this Agreement but elect not to terminate this Agreement, the Company shall be free to pursue any and all remedies against the Purchaser, including injunctive relief, specific performance or other equitable remedy, arising from the facts entitling the Company to otherwise terminate this Agreement.

8.3 Expenses

Except as provided in Sections 2.3(e), 4.9(d) and 8.2, all out-of-pocket third party transaction expenses incurred in connection with this Agreement and the Plan of Arrangement, including all costs, expenses and fees of the Company incurred prior to or after the Effective Date in connection with,

or incidental to, the Plan of Arrangement, shall be paid by the Party incurring such expenses, whether or not the Arrangement is consummated.

8.4 Notices

Any notice, direction or other communication given pursuant to this Agreement (each a "**Notice**") must be in writing, sent by hand delivery, courier or email and is deemed to be given and received: (i) on the date of delivery by hand or courier if it is a Business Day and the delivery was made prior to 4:00 p.m. (local time in the place of receipt), and otherwise on the next Business Day; or (ii) if sent by email (with confirmation of transmission) on the date of transmission if it is a Business Day and transmission was made prior to 4:00 p.m. (local time in the place of receipt) and otherwise on the next Business Day, in each case to the Parties at the following addresses (or such other address for a Party as specified by like Notice):

(a) to the Company at:

Nuvo Pharmaceuticals Inc. d/b/a Miravo Healthcare
6733 Mississauga Road, Suite 800
Mississauga, Ontario, L5N 6J5

Attention: Jesse Ledger, President & Chief Executive Officer
Email: [redacted]

Attention: Mary-Jane Burkett, Vice President & Chief Financial Officer
Email: [redacted]

with a copy to:

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

Attention: Jamie van Diepen
Email: [redacted]

Attention: Chris Sunstrum
Email: [redacted]

(b) to Purchaser at:

Searchlight Pharma Inc.
1600 Notre-Dame Street West, Suite 312
Montreal, Quebec, H3J 1M1

Attention: Mark Nawacki, President & Chief Executive Officer
Email: [redacted]

Attention: Geri-Lynn Kushneryk, Vice President & Chief Financial Officer
Email: [redacted]

with a copy to:

McCarthy Tétrault LLP
66 Wellington Street West
Suite 5300, TD Bank Tower Box 48
Toronto, Ontario M5K 1E6

Attention: Clemens Mayr
Email: [redacted]

Attention: Deandra Schubert
Email: [redacted]

Rejection or other refusal to accept, inability to deliver because of changed address of which no Notice was given, shall be deemed to be receipt of the Notice as of the date of such rejection, refusal or inability to deliver. Sending a copy of a Notice to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the Notice to that Party. The failure to send a copy of a Notice to legal counsel does not invalidate delivery of that Notice to a Party.

8.5 Time of the Essence

Time is of the essence in this Agreement.

8.6 Third Party Beneficiaries

(a) Except for (i) the rights of the Persons set forth in Section 2.4(d), Section 4.7 and Section 4.9(d), which, without limiting their terms, are intended as stipulations for the irrevocable benefit of, and shall be directly enforceable by, the third Persons mentioned in such provisions (such third Persons referred to in this Section 8.6 as the "**Third Party Beneficiaries**"), and (ii) the benefits in favour of the Debt Financing Sources and Equity Financing Sources, to the extent applicable, set forth in Section 8.1(e), Section 8.2(h), this Section 8.6 and Section 8.7(b), the Company and the Purchaser intend that this Agreement will not benefit or create any right or cause of action in favour of any Person, other than the Parties and that no Person, other than the Parties, shall be entitled to rely on the provisions of this Agreement in any action, suit, proceeding, hearing or other forum.

(b) Despite Section 8.6(a), the Parties acknowledge

(i) to each of the Third Party Beneficiaries their direct rights against the applicable Party under Section 2.4(d), Section 4.7 and Section 4.9(d) of this Agreement, which are intended for the irrevocable benefit of, and shall be enforceable by, each Third Party Beneficiary, his or her heirs, executors, administrators and legal representatives, and for such purpose, the Company or the Purchaser, as applicable, confirms that it is acting as trustee on their behalf, and agrees to enforce such provisions on their behalf;

(ii) to each Debt Financing Source their respective rights against the Parties, as applicable, under each of Section 8.1(e), Section 8.2(h) and this Section 8.6, which are intended for the benefit of, and shall be enforceable by, each of the Debt Financing Sources; and

(iii) to each Equity Investor their respective rights against the Parties, as applicable, under Section 8.2(h) and this Section 8.6, which are intended for the benefit of, and shall be enforceable by, each Equity Investor.

(c) Subject to Section 8.1, prior to the Effective Time, the Parties reserve their right to vary or rescind the rights at any time and in any way whatsoever, if any, granted by or under this Agreement to any Person who is not a Party, without notice to or consent of that Person, including any Third Party Beneficiary.

8.7 Equitable Remedies

(a) The Parties agree that irreparable harm would occur for which money damages would not be an adequate remedy at Law in the event that any of the provisions of this Agreement were not performed by a Party in accordance with their specific terms or were otherwise breached by a Party. The Parties accordingly agree (and further agree not to take any contrary position in any litigation concerning this Agreement) that (i) each Party shall be entitled to injunctive and other equitable relief to prevent breaches or threatened breaches of this Agreement or the obligations of the Parties to consummate the Arrangement in accordance with the provisions of this Agreement, and to specifically enforce compliance with, or performance of, the terms of this Agreement against the other Party without any requirement for the securing or posting of any bond in connection with the obtaining of any such injunctive or other equitable relief, this being in addition to any other remedy to which a Party may be entitled at Law or in equity, (ii) the right of specific performance is an integral part of the transactions contemplated by this Agreement and, without such right, neither the Company nor the Purchaser would have entered into this Agreement, and (iii) the provisions set forth in Section 8.2 are not intended to and do not adequately compensate for the harm that would result from a breach of this Agreement and will not be construed to diminish or otherwise impair in any respect any Party's right to specific performance or other equitable relief.

(b) Notwithstanding anything to the contrary in this Agreement, it is hereby acknowledged and agreed that the Company shall be entitled to specific performance or injunctive relief with respect to the Purchaser's obligations to cause the Equity Financing to be funded and/or the Purchaser's obligation to consummate the transactions contemplated by this Agreement, but only in the event that each of the following conditions has been satisfied: (i) all of the conditions set forth in Section 6.1 and Section 6.2 have been satisfied (excluding conditions that, by their terms, are to be satisfied on the Effective Date and those conditions the failure of which to be satisfied is proximately caused by a breach by the Purchaser of this Agreement and but for such a breach the conditions would have been capable of being satisfied); (ii) the Purchaser fails to consummate the Arrangement on the date on which the Effective Date should have occurred pursuant Section 2.9(a); (iii) the Debt Financing (or any alternative financing to the Debt Financing contemplated by Section 4.8(a)) has been funded or is likely to be funded at or prior to the Effective Time in accordance with its terms if the Equity Financing is funded at or prior to the Effective Time in accordance with its terms; and (iv) the Company has irrevocably confirmed in writing to the Purchaser that other than Section 6.3(c), all of the conditions set forth in Section 6.3 are satisfied (excluding conditions that, by their terms, are to be satisfied on the Effective Date, but are reasonably capable of being satisfied on the Effective Date) or that it is willing to waive any unsatisfied conditions set forth in Section 6.3 (other than Section 6.3(c)), and that if specific performance is granted and the Equity Financing and Debt Financing (or any alternative thereto) are funded, it stands ready, willing and able to consummate the Arrangement.

(c) For the avoidance of doubt, and notwithstanding anything in this Agreement to the contrary, the Company may concurrently pursue both (i) a grant of specific performance or injunctive relief with respect to the Purchaser's obligations to cause the Equity Financing to be funded and/or the Purchaser's obligation to consummate the transactions contemplated by this Agreement, in each case, to the extent permitted by this Section 8.7(c) and (ii) the payment of the Reverse Termination Amount pursuant to Section 8.2(d) (and the payment of any amounts pursuant to Section 2.4(d), Section 4.9(d) or Section

8.2(g)); provided that under no circumstances shall the Company be entitled to receive both (a) a grant of specific performance or injunctive relief with respect to the Purchaser's obligations to cause the Equity Financing to be funded and/or the Purchaser's obligation to consummate the transactions contemplated by this Agreement, in each case, to the extent permitted by this Section 8.7(c) and (b) payment of the Reverse Termination Amount pursuant to Section 8.2(d) (and the payment of any amounts pursuant to Section 2.4(d), Section 4.9(d) or Section 8.2(g)).

8.8 Waiver

No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the Party to be bound by the waiver. A Party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a Party from any other or further exercise of that right or the exercise of any other right.

8.9 Entire Agreement

This Agreement, together with the Confidentiality Agreement, constitute the entire agreement between the Company and the Purchaser with respect to the transactions contemplated by this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, between the Company and the Purchaser. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the Company and the Purchaser in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. Neither the Company nor the Purchaser has relied or is relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement. The Confidentiality Agreement shall survive the termination of this Agreement in accordance with its terms.

8.10 Successors and Assigns

(a) This Agreement becomes effective only when executed by the Company or the Purchaser. After that time, it will be binding upon and enure to the benefit of the Company and the Purchaser and their respective successors and permitted assigns.

(b) Neither this Agreement nor any of the rights or obligations under this Agreement are assignable or transferable by any Party without the prior written consent of the other Party, provided however that the Purchaser (or any permitted assign of the Purchaser) may, at any time, assign its rights and obligations under this Agreement without such consent to a wholly-owned Subsidiary or an affiliate of the Purchaser if such assignee delivers an instrument in writing confirming that it is bound by and shall perform all of the obligations of the assigning party under this Agreement as if it were an original signatory and provided further that (i) the assigning party shall not be relieved of its obligations hereunder and (ii) such assignment shall not be permitted if it would delay or impair the consummation of the transactions contemplated hereby.

8.11 Severability

If any provision of this Agreement is determined to be illegal, invalid or unenforceable by an arbitrator or any court of competent jurisdiction, that provision will be severed from this Agreement and the remaining provisions shall remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

8.12 Governing Law

(a) This Agreement will be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

(b) Each Party irrevocably attorns and submits to the non-exclusive jurisdiction of the Ontario courts situated in the City of Toronto and waives objection to the venue of any proceeding in such court or that such court provides an inconvenient forum. Any legal proceedings arising out of this Agreement shall be conducted in the English language only.

8.13 Further Assurances

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

8.14 Rules of Construction

The Parties to this Agreement waive the application of any Law or rule of construction providing that ambiguities in any agreement or other document shall be construed against the party drafting such agreement or other document.

8.15 No Liability

No director or officer of the Purchaser, any Equity Investor or any of their Subsidiaries shall have any personal liability whatsoever to the Company under this Agreement or any other document delivered on behalf of the Purchaser under this Agreement. No director or officer of the Company or any of its Subsidiaries shall have any personal liability whatsoever to the Purchaser under this Agreement or any other document delivered on behalf of the Company or any of its Subsidiaries under this Agreement.

8.16 Language

The Parties expressly acknowledge that they have requested that this Agreement and all ancillary and related documents thereto be drafted in the English language only. *Les parties aux présentes reconnaissent avoir exigé que la présente entente et tous les documents qui y sont accessoires soient rédigés en anglais seulement*.

8.17 Counterparts

This Agreement may be executed in any number of counterparts (including counterparts by facsimile or other method of electronic communication) and all such counterparts taken together shall be deemed to constitute one and the same instrument. The Parties shall be entitled to rely upon delivery of an executed facsimile, PDF or similarly executed electronic copy of this Agreement, and such facsimile, PDF or similar executed electronic copy shall be legally effective to create a valid and binding agreement between the Parties.

8.18 Debt Financing Parties.

Without limiting the Purchaser's rights and remedies against the Debt Financing Sources under the Debt Commitment Letters or any definitive agreements with respect to the Debt Financing (and without derogating from the Company's right to seek specific performance to cause the Purchaser to enforce

the obligations of the Debt Financing Sources to fund the Debt Financing), (a) each of the Parties and their respective affiliates, Representatives or shareholders shall not have any rights or claims against (and this Agreement may not be enforced against) any of the Debt Financing Sources relating to this Agreement or any of the transactions contemplated by this Agreement, whether at law or equity, in Contract or in tort, or otherwise and (b) no Debt Financing Sources shall have any liability (whether at law or in equity, in contract or in tort, or otherwise) to any of the Parties hereto or any of their respective affiliates, Representatives or shareholders under this Agreement or for any claim based on, in respect of, or by reason of, the transactions contemplated hereby and (c) the Company, on behalf of itself and its affiliates, Representatives or shareholders, hereby waives any and all claims and causes of action (whether in Contract or in tort, in law or in equity) against the Debt Financing Sources that may be based upon, arise out of or relate to this Agreement, the Debt Commitment Letters or the transactions contemplated hereby or thereby (including the Debt Financing).

[Signature Page Follows.]

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

SEARCHLIGHT PHARMA INC.

Per: *"Mark Nawacki"*
Name: Mark Nawacki
Title: President and Chief Executive Officer

NUVO PHARMACEUTICALS INC. d/b/a MIRAVO HEALTHCARE

Per: *"Jesse Ledger"*
Name: Jesse Ledger
Title: President and Chief Executive Officer

SCHEDULE A
PLAN OF ARRANGEMENT

(See attached)

PLAN OF ARRANGEMENT

PLAN OF ARRANGEMENT UNDER SECTION 182 OF THE *BUSINESS CORPORATIONS ACT* (ONTARIO)

ARTICLE 1
INTERPRETATION

1.1 Definitions

Unless indicated otherwise, where used in this Plan of Arrangement, capitalized terms used but not defined shall have the meanings ascribed thereto in the Arrangement Agreement and the following terms shall have the following meanings (and grammatical variations of such terms shall have corresponding meanings):

"**Amalco**" has the meaning specified in Section 2.3(a);

"**Arrangement Agreement**" means the Arrangement Agreement made as of December 22, 2022 between the Purchaser and the Company (including the Schedules thereto) as it may be amended, modified or supplemented from time to time in accordance with its terms;

"**Canadian Subsidiary**" means Aralez Pharmaceuticals Canada Inc.;

"**Cash Consideration**" means $1.35;

"**Company**" means Nuvo Pharmaceuticals Inc. d/b/a Miravo Healthcare and, after the amalgamation in Section 2.3(a), Amalco;

"**Company Shares**" means the common shares in the capital of the Company and, after the amalgamation in Section 2.3(a), of Amalco;

"**Court**" means the Ontario Superior Court of Justice (Commercial List), or other court as applicable;

"**Depositary**" means TSX Trust Company, as depositary, or such other Person as the Company and the Purchaser mutually agree on, each acting reasonably;

"**Dissenting Shareholder**" means a holder of Company Shares as of the record date of the Company Meeting who: (a) has validly exercised its Dissent Rights in strict compliance with the Dissent Right provisions of this Plan of Arrangement; (b) has not withdrawn or been deemed to have withdrawn such exercise of Dissent Rights; and (c) is ultimately entitled to be paid the fair value for his, her or its Company Shares, but only in respect of the Company Shares in respect of which Dissent Rights are validly exercised by such holder of Company Shares;

"**Dissent Rights**" has the meaning specified in Section 3.1;

"**Effective Date**" means the date shown on the Certificate of Arrangement giving effect to the Arrangement;

"**Effective Time**" means 1:01 a.m. on the Effective Date, or such other time as the Parties agree to in writing before the Effective Date;

"**Equity Awards**" means the Company Options, Company SARs and Company DSUs;

"**Final Order**" means the final order of the Court pursuant to section 182(5) of the OBCA in a form acceptable to the Company and Purchaser, each acting reasonably, as contemplated by Section 2.5 of the Arrangement Agreement, approving the Arrangement, as such order may be amended, modified, supplemented or varied by the Court (with the consent of the Company and the Purchaser, each acting reasonably) at any time prior to the Effective Date or, if appealed, then, unless such appeal is withdrawn, abandoned or denied, as affirmed or as amended (provided that any such amendment is acceptable to the Company and the Purchaser, each acting reasonably) on appeal;

"**holders**" means: (a) when used with reference to the Company Shares, except where the context otherwise requires, the holders of the Company Shares shown from time to time in the registers maintained by or on behalf of the Company in respect of the Company Shares; and (b) when used with reference to Equity Awards, the holders of Equity Awards shown from time to time in the respective registers or accounts maintained by or on behalf of the Company;

"**Interim Order**" means the interim order of the Court pursuant to section 182(5) of the OBCA in a form acceptable to the Company and the Purchaser, each acting reasonably, as contemplated by Section 2.2 of the Arrangement Agreement, providing for, among other things, the calling and holding of the Company Meeting, as such order may be amended, modified, supplemented or varied by the Court with the consent of the Company and the Purchaser, each acting reasonably;

"**Letter of Transmittal**" means the letter of transmittal to be sent by the Company to holders of Company Shares for use in connection with the Arrangement;

"**Liens**" means any mortgage, charge, pledge, hypothec, security interest, lien (statutory or otherwise), or adverse right or claim, or other third party interest or encumbrance of any kind;

"**Plan of Arrangement**" means this plan of arrangement proposed under Section 182 of the OBCA, and any amendments or variations thereto made in accordance with the Arrangement Agreement or this Plan of Arrangement or made at the direction of the Court in the Final Order with the consent of the Company and Purchaser, each acting reasonably;

"**Purchaser**" means Searchlight Pharma Inc.; and

"**Purchaser Loan**" means one or more loans from the Purchaser to the Company denominated in Canadian or United States dollars in an aggregate principal amount not exceeding the aggregate amount of cash required by the Company to make the payments in Sections 2.3(d) and 2.3(e), which amount shall be provided by the Company to the Purchaser in writing prior to the Effective Time, and which shall be evidenced by way of one or more promissory notes granted by the Company in favour of the Purchaser.

1.2 Headings, References, etc.

The division of this Plan of Arrangement into Articles, sections, and other portions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Plan of Arrangement. Unless otherwise indicated, all references to an "Article" or "section" followed by a number and/or a letter refer to the specified Article or section of this Plan of Arrangement. The terms "hereof", "herein" and "hereunder" and similar expressions refer to this Plan of Arrangement and not to any particular Article, section or other portion hereof.

1.3 Rules of Construction

In this Plan of Arrangement, unless the context otherwise requires: (a) words importing the singular number include the plural and vice versa; (b) words importing any gender include all genders; and (c) "include", "includes" and "including" shall be deemed to be followed by the words "without limitation".

1.4 Currency

Unless otherwise stated, all references in this Plan of Arrangement to sums of money are expressed in lawful money of Canada and "$" refers to Canadian dollars. All references to US$ are references to United States dollars.

1.5 Date for Any Action

If the date on which any action is required or permitted to be taken hereunder by a Person is not a Business Day, such action shall be required or permitted to be taken on the next succeeding day which is a Business Day. In this Plan of Arrangement, references from or through any date mean, unless otherwise specified, from and including that date and/or through and including that date, respectively.

1.6 References to Dates, Statutes, etc.

In this Plan of Arrangement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute, regulation, direction or instrument is to that statute, regulation, direction or instrument as now enacted or as the same may from time to time be amended, re-enacted or replaced, and in the case of a reference to a statute, includes any regulations, rules, policies or directions made thereunder. Any reference in this Plan of Arrangement to a Person includes its heirs, administrators, executors, legal personal representatives, predecessors, successors and permitted assigns. References to any contract are to that agreement or contract as amended, modified or supplemented from time to time in accordance with its terms.

1.7 Time

Time shall be of the essence in every matter or action contemplated in this Plan of Arrangement. All times expressed herein are local time (Toronto, Ontario) unless otherwise stipulated herein.

ARTICLE 2
THE ARRANGEMENT

2.1 Arrangement Agreement

This Plan of Arrangement is made pursuant and subject to the provisions of the Arrangement Agreement.

2.2 Binding Effect

This Plan of Arrangement and the Arrangement, upon the filing of the Articles of Arrangement and the issuance of the Certificate of Arrangement, will become effective, and be binding on the Company, the Purchaser, all holders and beneficial owners of Company Shares, Company Options, Company SARs and Company DSUs, including Dissenting Holders, the registrar and transfer agent of the

Company, the Depositary and all other Persons, at and after the Effective Time without any further act or formality required on the part of any Person.

2.3 Arrangement

At the Effective Time, each of the following events shall occur and shall be deemed to occur sequentially as set out below, without further authorization, act or formality, in each case, in accordance with the transfer mechanics set out in Section 2.4 and unless stated otherwise, effective as at five minute intervals starting at the Effective Time:

(a) the stated capital of the issued and outstanding share of the Canadian Subsidiary shall be reduced to $1.00 without any distribution;

(b) the Company and the Canadian Subsidiary shall be amalgamated and continued as one corporation ("**Amalco**") under the OBCA in accordance with the following:

(i) **Name**. The name of Amalco shall be "Nuvo Pharmaceuticals Inc.";

(ii) **Registered Office**. The registered office of Amalco shall be located at the same registered office as the Company. The address of the registered office of Amalco shall be 6733 Mississauga Road, Suite 800, Mississauga, Ontario, L5N 6J5;

(iii) **Restrictions on Business and Powers**. There shall be no restrictions on the business Amalco may carry on or the powers Amalco may exercise;

(iv) **Authorized Capital**. The authorized capital of Amalco shall be the authorized capital of the Company and for greater certainty shall be comprised of an unlimited number of common shares, an unlimited number of first preference shares, issuable in series, and an unlimited number of second preference shares, issuable in series, and the rights, privileges, restrictions, and conditions attaching thereto shall be as set forth in Appendix A hereto;

(v) **Restrictions on Transfer**. There shall be no restrictions on the transfer of shares in the capital of Amalco;

(vi) **Other Provisions**. None;

(vii) **Number of Directors**. Amalco shall have a minimum of one (1) director and a maximum of twelve (12) directors, until changed in accordance with the OBCA. Until changed by the shareholders of Amalco, the number of directors of Amalco shall be set at seven (7);

(viii) **Directors**. The initial directors of Amalco shall be:

Name	Address	Resident Canadian
Daniel N. Chicoine	6733 Mississauga Road, Suite 800, Mississauga, Ontario, L5N 6J5	Yes

Name	Address	Resident Canadian
Anthony Dobranowski	6733 Mississauga Road, Suite 800, Mississauga, Ontario, L5N 6J5	Yes
Robert Harris	6733 Mississauga Road, Suite 800, Mississauga, Ontario, L5N 6J5	Yes
John London	6733 Mississauga Road, Suite 800, Mississauga, Ontario, L5N 6J5	Yes
Mary C. Ritchie	6733 Mississauga Road, Suite 800, Mississauga, Ontario, L5N 6J5	Yes
Dale MacCandlish Weil	6733 Mississauga Road, Suite 800, Mississauga, Ontario, L5N 6J5	Yes
Anthony Yung Snow	6733 Mississauga Road, Suite 800, Mississauga, Ontario, L5N 6J5	No

The aforementioned directors of Amalco shall hold office until the first annual meeting of shareholders of Amalco (or the signing of a written resolution in lieu thereof) or until their successors are elected or appointed;

(ix) **Securities**.

(A) The issued and outstanding Company Shares will not be redeemed, acquired or cancelled, in whole or in part, but shall continue to remain issued and outstanding as common shares of Amalco; and

(B) The issued and outstanding share of the Canadian Subsidiary, which shall be held by the Company immediately prior to the amalgamation, shall be, and shall be deemed to be, cancelled without any repayment of capital or any other consideration in respect thereof;

(x) **Stated Capital**. The stated capital in respect of the common shares of Amalco will be equal to the stated capital of the Company Shares immediately prior to the amalgamation;

(xi) **By-laws**. The by-laws of Amalco shall be the same as those of the Company, except that the references therein to the Company shall be changed to Amalco;

(xii) **Articles**. The Articles of Arrangement filed to give effect to the Arrangement shall be deemed to be the articles of amalgamation of Amalco and the Certificate of Arrangement issued in respect of such Articles of Arrangement by the Director under the OBCA shall be deemed to be the certificate of amalgamation of Amalco; and

(xiii) **Effect of Amalgamation**. The provisions of section 179 of the OBCA shall apply to the amalgamation with the result that, on the Effective Date:

(A) the amalgamation of the Company and the Canadian Subsidiary and their continuance as one corporation become effective;

(B) the property of the Company and the Canadian Subsidiary continues to be the property of Amalco;

(C) Amalco continues to be liable for the obligations of the Company and the Canadian Subsidiary (other than any obligation owing by the Company to the Canadian Subsidiary, or by the Canadian Subsidiary to the Company, which shall be settled on the amalgamation);

(D) an existing cause of action, claim or liability to prosecution of the Company or the Canadian Subsidiary is unaffected;

(E) a civil, criminal or administrative action or proceeding pending by or against the Company or the Canadian Subsidiary may be continued to be prosecuted by or against Amalco; and

(F) a conviction against, or ruling, order or judgment in favour of or against, the Company or the Canadian Subsidiary may be enforced by or against Amalco.

(c) the Purchaser shall make the Purchaser Loan to partially fund the payments in Sections 2.3(d) and 2.3(e);

(d) five minutes after the completion of the Debt Repayment Steps, each Company Option outstanding immediately prior to the Effective Time (whether vested or unvested), notwithstanding the terms of the Company Share Option Plan, shall be deemed to be unconditionally vested and exercisable, and such Company Option shall, without any further action by or on behalf of a holder of Company Options, be deemed to be assigned and transferred by such holder to the Company in exchange for a cash payment from the Company equal to the amount (if any) by which the Cash Consideration exceeds the exercise price of such Company Option, in each case, less applicable withholdings in accordance with Section 4.3, and each such Company Option shall immediately be cancelled and, for greater certainty, where such amount is nil or negative, neither the Company nor the Purchaser shall be obligated to pay the holder of such Company Option any amount in respect of such Company Option;

(e) each Company DSU outstanding immediately prior to the Effective Time (whether vested or unvested), notwithstanding the terms of the Company DSU Plan, shall, without any further action by or on behalf of a holder of Company DSUs, be deemed to be assigned and transferred by such holder to the Company in exchange for a cash payment from the Company equal to the Cash Consideration, less applicable withholdings in accordance with Section 4.3, and each such Company DSU shall immediately be cancelled;

(f) each Company SAR outstanding immediately prior to the Effective Time (whether vested or unvested), notwithstanding the terms of the Company SAR Plan, shall, without any further action by or on behalf of a holder of Company SARs, be deemed to be assigned and transferred by such holder to the Company for no consideration and each such Company SAR shall immediately be cancelled and, for greater certainty, neither the Company nor

the Purchaser shall be obligated to pay the holder of such Company SAR any amount in respect of such Company SAR;

(g) each of the Company Shares held by Dissenting Shareholders in respect of which Dissent Rights have been validly exercised shall be deemed to have been transferred (free and clear of any Liens), without any further act or formality, to the Purchaser, in consideration for a debt claim against the Purchaser for the amount determined under Article 3, and:

(i) such Dissenting Shareholders shall cease to be the holders of such Company Shares and to have any rights as holders of such Company Shares other than the right to be paid fair value for such Company Shares as set out in Section 3.1;

(ii) the name of each such Dissenting Shareholder shall be removed as the holder of such Company Shares from the registers of Company Shares maintained by or on behalf of the Company; and

(iii) the Purchaser shall be deemed to be the transferee of such Company Shares (free and clear of any Liens) and shall be entered in the registers of Company Shares maintained by or on behalf of the Company;

(h) contemporaneously with the step contemplated in Section 2.3(g), each outstanding Company Share (other than Company Shares held by Dissenting Shareholders) shall be transferred (free and clear of all Liens) to the Purchaser in consideration for the Cash Consideration.

2.4 Transfer Mechanics

(a) With respect to each Company Option, Company DSU and Company SAR deemed to be transferred and assigned in accordance with Sections 2.3(d), 2.3(e) and 2.3(f), the following shall be deemed to have occurred as of the time of such applicable transfer and assignment:

(i) each holder thereof shall cease to be a holder of such applicable Equity Award;

(ii) each holder's name shall be removed from the register of the applicable Equity Award maintained by or on behalf of the Company;

(iii) the Company Share Option Plan, the Company DSU Plan and the Company SAR Plan, and all agreements relating to the applicable Equity Awards, shall be terminated and shall be of no further force and effect; and

(iv) each holder shall thereafter have only the right to receive the consideration to which they are entitled pursuant to Sections 2.3(d), 2.3(e) and 2.3(f), as applicable, at the time and in the manner specified in Section 4.1.

2.5 Rounding of Cash Consideration

If the aggregate cash amount which a holder of Company Shares is entitled to receive pursuant to this Plan of Arrangement would otherwise include a fraction of $0.01, then the aggregate cash amount to which such holder shall be entitled to receive shall be rounded up to the nearest whole $0.01.

ARTICLE 3
RIGHTS OF DISSENT

3.1 Rights of Dissent

Registered holders of Company Shares as of the record date for the Company Meeting may exercise dissent rights with respect to the Company Shares held by such holder as of such date ("**Dissent Rights**") in connection with the Arrangement pursuant to and in the manner set forth in Section 185 of the OBCA, as modified by the Interim Order and this Section 3.1; provided that, notwithstanding Section 185(6) of the OBCA, the written objection to the Arrangement Resolution referred to in Section 185(6) of the OBCA must be received by the Company not later than 5:00 p.m. (Toronto Time) two Business Days immediately preceding the date of the Company Meeting (as it may be adjourned or postponed from time to time). Dissenting Shareholders who duly exercise their Dissent Rights shall be deemed to have transferred the Company Shares held by them and in respect of which Dissent Rights have been validly exercised to the Company free and clear of all Liens, as provided in Section 2.3(g), and if they:

(a) ultimately are entitled to be paid fair value for such Company Shares: (i) shall be deemed not to have participated in the transactions in Article 2 (other than Section 2.3(g)); (ii) will be entitled to be paid the fair value of such Company Shares, which fair value shall be determined as of the close of business on the day before the Arrangement Resolutions were adopted; and (iii) will not be entitled to any other payment or consideration, including any payment that would be payable under the Arrangement had such holders not exercised their Dissent Rights in respect of such Company Shares; or

(b) ultimately are not entitled, for any reason, to be paid fair value for such Company Shares, shall be deemed to have participated in the Arrangement as of the Effective Time on the same basis as a non-dissenting holder of Company Shares and shall be entitled to receive only the consideration contemplated in Section 2.3 that such holder of Company Shares would have received pursuant to the Arrangement if such holder of Company Shares had not exercised Dissent Rights.

3.2 Recognition of Dissenting Shareholders

(a) In no circumstances shall the Company, the Purchaser or any other Person be required to recognize a Person exercising Dissent Rights: (i) unless, as of the deadline for exercising Dissent Rights (as set forth in Section 3.1), such Person is a registered holder of the Company Shares in respect of which such Dissent Rights are sought to be exercised; (ii) if such Person has voted or instructed a proxyholder to vote such Company Shares in favour of the Arrangement Resolution; or (iii) unless such Person has strictly complied with the procedures for exercising Dissent Rights and does not withdraw such dissent prior to the Effective Time.

(b) For greater certainty, in no case shall the Company, the Purchaser, the registrar and transfer agent of the Company, the Depositary or any other Person be required to recognize Dissenting Shareholders as holders of Company Shares in respect of which Dissent Rights have been validly exercised after the completion of the transfer under Section 2.3(g), and the names of such Dissenting Shareholders shall be removed from the registers of holders of Company Shares in respect of which Dissent Rights have been validly exercised at the same time as the event described in Section 2.3(g) occurs.

(c) In addition to any other restrictions under Section 185 of the OBCA, none of the following shall be entitled to exercise Dissent Rights: (i) holders of Equity Awards; (ii) holders of Company Shares who vote or have instructed a proxyholder to vote such holder's Company Shares in favour of the Arrangement Resolution; (iii) any Person (including any beneficial owner of Company Shares) who is not a registered holder of Company Shares; and (iv) the Purchaser and its affiliates (as defined in the Arrangement Agreement).

ARTICLE 4
PAYMENTS AND CERTIFICATES

4.1 Payment of Consideration

(a) Following receipt of the Final Order and prior to the filing of the Articles of Arrangement the Purchaser shall deposit or cause to be deposited with the Depositary for the benefit of each holder of Company Shares entitled to receive cash pursuant to Section 2.3(h), with the amount per Company Share in respect of which Dissent Rights have been exercised being deemed to be the Cash Consideration, for the benefit of the holders of Company Shares. The cash deposited with the Depositary shall be held in an interest-bearing account, and any interest earned on such funds shall be for the account of the Purchaser.

(b) Upon the surrender to the Depositary for cancellation of a certificate which immediately prior to the Effective Time represented outstanding Company Shares that were transferred pursuant to Section 2.3(h), together with a duly completed and executed Letter of Transmittal, and such additional documents and instruments as the Depositary may reasonably require, each Company Share represented by such surrendered certificate shall be exchanged by the Depositary, and the Depositary shall deliver to the applicable holder of such Company Share as soon as practicable and in accordance with Sections 2.3(h), 4.1 and Section 4.2: a cheque, wire transfer or other form of immediately available funds, representing the cash amount that such holder of Company Shares is entitled to receive under the Arrangement.

(c) As soon as practicable after the Effective Time, the Company shall pay the amounts to be paid to holders of Equity Awards in accordance with Sections 2.3(d) and 2.3(e) either: (i) pursuant to the normal payroll practices and procedures of the Company; or (ii) in the event that payment pursuant to the normal payroll practices and procedures of the Company is not practicable for any such holder, by cheque, wire transfer or other form of immediately available funds (delivered to such holder of such Equity Awards, as applicable, as reflected on the register maintained by or on behalf of the Company in respect of such Equity Awards), or (iii) by such other means as the Company may elect or as otherwise may be reasonably requested by the Purchaser including with respect to the timing and manner of such delivery, in each case, less applicable withholdings in accordance with Section 4.3.

(d) Until surrendered as contemplated by this Section 4.1, each certificate that immediately prior to the Effective Time represented outstanding Company Shares shall be deemed, immediately after the completion of the transactions contemplated in Section 2.3(h), to represent only the right to receive upon such surrender cash in lieu of such certificate as contemplated in Section 2.3(h). Any such certificate formerly representing outstanding Company Shares not duly surrendered on or before the sixth anniversary of the Effective Date shall cease to represent a claim by or interest of any former holder of Company Shares of any kind or nature against or in the Company or Purchaser. On such date, all cash or securities to which such former holder was entitled shall be deemed to have been

surrendered to the Purchaser or the Company, as applicable, and shall be paid over by the Depositary to the Purchaser or as directed by the Purchaser.

(e) Any payment made by way of cheque by the Depositary (on behalf of the Purchaser) or the Company, if applicable, pursuant to the Arrangement that has not been deposited or has been returned to the Depositary (or the Company) or that otherwise remains unclaimed, in each case, on or before the sixth anniversary of the Effective Date, and any right or claim to payment hereunder that remains outstanding on the sixth anniversary of the Effective Date shall cease to represent a right or claim of any kind or nature and the right of any holder of Company Shares or Equity Awards to receive the applicable consideration for any Company Shares or Equity Awards pursuant to the Arrangement shall terminate and be deemed to be surrendered and forfeited to the Purchaser or the Company, as applicable, for no consideration.

(f) No holder of Company Shares or Equity Awards shall be entitled to receive any consideration with respect to such Company Shares or Equity Awards, other than the consideration to which such holder entitled to receive in accordance with Sections 2.3(d), 2.3(e), 2.3(f), 2.3(g), 2.3(h) and this Section 4.1 and, for greater certainty, no such holder shall be entitled to receive any interest, dividends, premium or other payment in connection therewith. No dividend or other distribution declared or made after the Effective Time with respect to Company Shares or Equity Awards with a record date on or after the Effective Date shall be delivered to the holder of any unsurrendered certificate which, immediately prior to the Effective Date, represented outstanding Company Shares or Equity Awards.

4.2 Lost Certificates

In the event any certificate which immediately prior to the Effective Time represented one or more outstanding Company Shares that were transferred pursuant to Section 2.3(h) shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such certificate to be lost, stolen or destroyed, the Depositary will issue, pay and deliver, in exchange for such lost, stolen or destroyed certificate, the cash amount which such holder is entitled to receive pursuant to this Plan of Arrangement. When authorizing such issuance, delivery or payment in exchange for any lost, stolen or destroyed certificate, the Person to whom such cash is to be delivered shall as a condition precedent to the issuance, delivery or payment thereof, give a bond satisfactory to the Company, the Purchaser and the Depositary, each acting reasonably, in such sum as the Purchaser may direct, or otherwise indemnify the Purchaser and the Company in a manner satisfactory to the Purchaser and the Company, each acting reasonably, against any claim that may be made against the Purchaser and the Company with respect to the certificate alleged to have been lost, stolen or destroyed.

4.3 Withholding Rights

The Purchaser, the Company and the Depositary, and any other Person that makes a payment hereunder, as applicable, shall be entitled to deduct or withhold (or cause to be deducted or withheld) from the amount payable or otherwise deliverable to any Person pursuant to the Arrangement or this Plan of Arrangement, including Company Shareholders exercising Dissent Rights, and from all dividends, other distributions or other amounts otherwise payable to any former Company Shareholders or holders of Company Options or Company DSUs, such Taxes or other amounts as the Purchaser, the Company, the Depositary or other Persons are or may be required or permitted to deduct or withhold with respect to such payment under the Tax Act, or any other provisions of any applicable Laws. To the extent that Taxes or other amounts are so deducted or withheld, such deducted or withheld Taxes or other amounts shall be treated for all purposes under this Agreement as having been paid to the Person in respect of which

such deduction or withholding was made, provided that such deducted or withheld Taxes or other amounts are actually remitted to the appropriate Governmental Entity.

4.4 No Liens

Any exchange or transfer of Company Shares or Equity Awards pursuant to this Plan of Arrangement shall be free and clear of any Liens or other claims of third parties of any kind.

4.5 Paramountcy

From and after the Effective Time: (a) this Plan of Arrangement shall take precedence and priority over any and all Company Shares and Equity Awards issued or outstanding prior to the Effective Time; (b) the rights and obligations of the holders of Company Shares and Equity Awards, the Company, the Purchaser, the Depositary and any transfer agent or other depositary therefor in relation thereto, shall be solely as provided for in this Plan of Arrangement; and (c) all actions, causes of action, claims or proceedings (actual or contingent and whether or not previously asserted) based on or in any way relating to any Company Shares and Equity Awards shall be deemed to have been settled, compromised, released and determined without liability except as set forth in this Plan of Arrangement.

ARTICLE 5
AMENDMENTS

5.1 Amendments to Plan of Arrangement

(a) The Company and the Purchaser may amend, modify or supplement this Plan of Arrangement at any time, and from time to time, prior to the Effective Time, provided that each such amendment, modification or supplement must: (i) be set out in writing; (ii) be approved by the Company and the Purchaser, each acting reasonably; (iii) filed with the Court and, if made following the Company Meeting, approved by the Court; and (iv) communicated to holders of Company Shares, if and as required by the Court.

(b) Any amendment, modification or supplement to this Plan of Arrangement may be proposed by either the Purchaser or the Company at any time prior to the Company Meeting (provided that the other Party shall have consented thereto) with or without any other prior notice or communication, and if so proposed and accepted by the Persons voting at the Company Meeting (other than as may be required under the Interim Order), shall become part of this Plan of Arrangement for all purposes.

(c) Any amendment, modification or supplement to this Plan of Arrangement that is approved or directed by the Court following the Company Meeting shall be effective only if: (i) it is consented to by each of the Company and the Purchaser (in each case, acting reasonably); and (ii) if required by the Court, it is consented to by holders of some or all of the Company Shares in the manner directed by the Court. Any amendment, modification or supplement to this Plan of Arrangement may be made following the granting of the Final Order without filing such amendment, modification or supplement with the Court or seeking Court approval, provided that (i) it concerns a matter which, in the reasonable opinion of the Parties, is of an administrative nature required to better give effect to the implementation of this Plan of Arrangement and is not adverse to the interest of any holder of Company Shares or (ii) is an amendment contemplated in Section 5.1(d) made following the Effective Date.

(d) Any amendment, modification or supplement to this Plan of Arrangement may be made following the Effective Date unilaterally by the Purchaser, without communication to the holders of the Company Shares, provided that it concerns a matter which, in the reasonable opinion of the Purchaser, is of an administrative nature required to better give effect to the implementation of this Plan of Arrangement and is not adverse to the economic interest of any former holder of Company Shares or Equity Awards.

5.2 Termination

This Plan of Arrangement may be withdrawn prior to the Effective Time in accordance with the terms of the Arrangement Agreement.

ARTICLE 6
FURTHER ASSURANCES

6.1 Notwithstanding

Notwithstanding that the transactions and events set out in this Plan of Arrangement shall occur and shall be deemed to occur in the order set out in this Plan of Arrangement without any further act or formality, each of the parties to the Arrangement Agreement shall make, do and execute, or cause to be made, done and executed, all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may reasonably be required by any of them in order further to document or evidence any of the transactions or events set out in this Plan of Arrangement.

APPENDIX A
SHARE PROVISIONS

ARTICLE 1
INTERPRETATION

1.01 References to "Act": In this schedule, as from time to time amended, unless there is something in the context inconsistent herewith, "Act" means the *Business Corporations Act* (Ontario), or its successor, as amended from time to time.

1.02 Headings, Gender, Number: This schedule as from time to time amended, shall be read without regard to paragraph headings, which are included for ease of reference only, and with all changes in gender and number required by the context.

ARTICLE 2
COMMON SHARES

The Common Shares shall have attached thereto the following rights, privileges, restrictions and conditions:

2.01 Votes: The holders of Common Shares are entitled to receive notice of, and to attend, all meetings of shareholders of the Corporation, except meetings at which only holders of another specified class or series of shares are entitled to vote. The holders of Common Shares are entitled to one vote for each one Common Share held on all polls taken at such meetings.

2.02 Dividends: Subject to the prior rights, privileges, restrictions and conditions attaching to the First Preference Shares and the Second Preference Shares, or any series thereof, respectively, and the shares of any other class ranking senior to the Common Shares, the holders of Common Shares shall be entitled to receive dividends as and when declared by the directors of the Corporation.

2.03 Liquidation: In the event of the liquidation, dissolution or winding up of the Corporation or other distribution of the property and assets of the Corporation for the purpose of winding up the affairs of the Corporation, holders of Common Shares shall, after payment to the holders of First Preference Shares, Second Preference Shares and shares of any other class ranking senior to the Common Shares of the amount payable to them, be entitled to receive the remaining property and assets of the Corporation.

2.04 Limitation: Subject to the provisions of the Act, the holders of Common Shares shall not be entitled to vote separately on, or to dissent in respect of, any proposal to amend the articles of the Corporation to:

(a) increase or decrease any maximum number of authorized Common Shares, or increase any maximum number of authorized shares of a class or series having rights or privileges equal or superior to the Common Shares;

(b) effect an exchange, reclassification or cancellation of all or part of the Common Shares; or

(c) create a new class of shares or series equal or superior to the Common Shares.

ARTICLE 3
FIRST PREFERENCE SHARES

The First Preference Shares shall have attached thereto, as a class, the following rights, privileges, restrictions and conditions:

3.01 Directors' Right to Issue in One or More Series: The First Preference Shares may at any time and from time to time be issued in one or more series. Prior to the issue of First Preference Shares of any series, the directors of the Corporation shall, subject to the rights, privileges, restrictions and conditions attached to the First Preference Shares as a class, the articles of the Corporation and the provisions of the Act, by resolution amend the articles of the Corporation to fix the number of First Preference Shares in such series and determine the designation of, and the rights, privileges, restrictions and conditions attached to, the First Preference Shares of such series including, without limitation:

(a) the rate, amount or method of calculation of any dividends and whether any dividends are subject to adjustment;

(b) whether any dividends are cumulative, partly cumulative or non-cumulative;

(c) the dates, manner and currency of payments of any dividends and the date from which any dividends accrue or become payable;

(d) if redeemable or purchasable (whether at the option of the Corporation or the holder or otherwise), the redemption or purchase prices and currency or currencies thereof and the terms and conditions of redemption or purchase, with or without any provision for sinking or similar funds;

(e) the voting rights, if any;

(f) any conversion, exchange or reclassification rights; and

(g) any other terms not inconsistent with these provisions;

the whole subject to receipt by the Director appointed under the Act of articles of amendment designating and fixing the number of First Preference Shares in such series and setting forth the rights, privileges, restrictions and conditions attached thereto and the issue by the Director of a certificate of amendment with respect thereto.

3.02 Ranking of First Preference Shares of Each Series: The First Preference Shares of each series shall, with respect to the payment of dividends and the distribution of the assets of the Corporation in the event of the liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary, or any other distribution of the assets of the Corporation for the purpose of winding-up its affairs, rank (a) on a parity with the First Preference Shares of every other series and (b) senior to, and shall be entitled to a preference over, the Second Preference Shares, the Common Shares, and the shares of any other class ranking junior to the First Preference Shares. The First Preference Shares of any series shall also be entitled to such other preferences, not inconsistent with these provisions, over the Second Preference Shares, the Common Shares, and the shares of any other class ranking junior to the First Preference Shares as may be fixed in accordance with 3.01 hereof.

3.03 Voting Rights: Except as hereinafter specifically provided, as required by the Act or in accordance with any voting rights which may be attached to any series of First Preference Shares, the holders of First Preference Shares shall not be entitled as such to receive notice of, or to attend, any meeting of shareholders of the Corporation and shall not be entitled to vote at any such meeting; provided however that the holders of First Preference Shares shall be entitled to receive notice of meetings of shareholders of the Corporation called for the purpose of authorizing the dissolution of the Corporation or the sale, lease or exchange of all or substantially all of the property of the Corporation other than in the ordinary course of business of the Corporation.

3.04 Amendment with Approval of Holders of First Preference Shares: The rights, privileges, restrictions and conditions attached to the First Preference Shares as a class may be added to, removed or changed only with the approval of the holders of First Preference Shares given in accordance with the requirements of the Act and the minimum requirement provided in 3.05 hereof.

3.05 Approval of Holders of First Preference Shares: The approval of the holders of First Preference Shares as a class to any matters referred to in these provisions may be given as specified below:

(a) Approval and Quorum: Any approval required to be given by the holders of First Preference Shares shall be deemed to have been sufficiently given if it shall have been given by a resolution signed by all of the holders of the then outstanding First Preference Shares or by a resolution passed by the affirmative vote of not less than two-thirds of the votes cast by holders of First Preference Shares who voted in respect of that resolution at a meeting of the holders of First Preference Shares called and held for such purpose in accordance with the by-laws of the Corporation at which holders of not less than one-tenth of the then outstanding First Preference Shares are present in person or represented by proxy; provided that, if at any such meeting a quorum is not present within one-half hour after the time appointed for such meeting, the meeting shall be adjourned to the same day in the next week at the same time and to such place as the chairman of the meeting may determine and, subject to the provisions of the Act, it shall not be necessary to give notice of such adjourned meeting. At such adjourned meeting the holders of First Preference Shares present in person or represented by proxy shall constitute a quorum and may transact the business for which the meeting was originally called and a resolution passed thereat by the affirmative vote of not less than two-thirds of the votes cast by holders of First Preference Shares at such meeting shall constitute the approval of the holders of First Preference Shares.

(b) Votes: On every poll taken at any meeting in respect of which only the holders of First Preference Shares of more than one series are entitled to vote, each holder of First Preference Shares shall be entitled to one vote in respect of the greater of (i) each $1.00 of stated capital added to the appropriate stated capital account of the Corporation in respect of the issue of each such share and (ii) each $1.00 of the liquidation preference or redemption preference (excluding any amount payable in respect of declared but unpaid or accrued but unpaid dividends) attached to each such share (and if the liquidation preference and redemption preference are not the same at the applicable time, then the greater of the two).

Subject to the foregoing, the formalities to be observed with respect to proxies, the giving or waiving of notice of any such meeting and the conduct thereof shall be those from time to time prescribed in the Act and the by-laws of the Corporation with respect to meetings of shareholders.

3.06 Shares Issued in Series with Identical Rights: Where First Preference Shares are issued in more than one series with identical rights, privileges, restrictions, conditions and designations attached thereto, all such series of First Preference Shares shall rank *pari passu* and participate equally and proportionately without discrimination or preference as if all such series of First Preference Shares had been issued simultaneously and all such series of First Preference Shares may be designated as one series.

3.07 Limitation: Subject to the provisions of the Act, the holders of First Preference Shares or any series thereof shall not, unless the rights, privileges, restrictions and conditions attached to the First Preference Shares as a class or to any particular series thereof provide to the contrary, be entitled to vote separately as a class or series on, or to dissent in respect of, any proposal to amend the articles of the Corporation to:

(a) increase or decrease any maximum number of authorized First Preference Shares or any series thereof, or increase any maximum number of authorized shares of a class or series having rights or privileges equal or superior to the First Preference Shares or any series thereof;

(b) effect an exchange, reclassification or cancellation of all or part of the First Preference Shares or any series thereof; or

(c) create a new class or series of shares equal or superior to the First Preference Shares or any series thereof.

ARTICLE 4
SECOND PREFERENCE SHARES

The Second Preference Shares shall have attached thereto, as a class, the following rights, privileges, restrictions and conditions:

4.01 Directors' Right to Issue in One or More Series: The Second Preference Shares may at any time and from time to time be issued in one or more series. Prior to the issue of Second Preference Shares of any series, the directors of the Corporation shall, subject to the rights, privileges, restrictions and conditions attached to the Second Preference Shares as a class, the articles of the Corporation and the provisions of the Act, by resolution amend the articles of the Corporation to fix the number of Second Preference Shares in such series and determine the designation of, and the rights, privileges, restrictions and conditions attached to, the Second Preference Shares of such series including, without limitation:

(a) the rate, amount or method of calculation of any dividends and whether any dividends are subject to adjustment;

(b) whether any dividends are cumulative, partly cumulative or non-cumulative;

(c) the dates, manner and currency of any payments of dividends and the date from which any dividends accrue or become payable;

(d) if redeemable or purchasable (whether at the option of the Corporation or the holder or otherwise), the redemption or purchase prices and currency or currencies thereof and the terms and conditions of redemption or purchase, with or without any provision for sinking or similar funds;

(e) the voting rights, if any;

(f) any conversion, exchange or reclassification rights; and

(g) any other terms not inconsistent with these provisions;

the whole subject to receipt by the Director appointed under the Act of articles of amendment designating and fixing the number of Second Preference Shares in such series and setting forth the rights, privileges, restrictions and conditions attached thereto and the issue by the Director of a certificate of amendment with respect thereto.

4.02 Ranking of Second Preference Shares of Each Series: The Second Preference Shares of each series shall, with respect to the payment of dividends and the distribution of the assets of the Corporation in the event of the liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary, or any other distribution of the assets of the Corporation for the purpose of winding-up its affairs, rank (a) junior and subordinate to the First Preference Shares, (b) on a parity with the Second Preference Shares of every other series and (c) senior to, and shall be entitled to a preference over, the Common Shares and the shares of any other class ranking junior to the Second Preference Shares. The Second Preference Shares of any series shall also be entitled to such other preferences, not inconsistent with these provisions, over the Common Shares, and the shares of any other class ranking junior to the Second Preference Shares as may be fixed in accordance with 4.01 hereof.

4.03 Voting Rights: Except as hereinafter specifically provided, as required by the Act or in accordance with any voting rights which may be attached to any series of Second Preference Shares, the holders of Second Preference Shares shall not be entitled as such to receive notice of, or to attend, any meeting of shareholders of the Corporation and shall not be entitled to vote at any such meeting; provided however that the holders of Second Preference Shares shall be entitled to receive notice of meetings of shareholders of the Corporation called for the purpose of authorizing the dissolution of the Corporation or the sale, lease or exchange of all or substantially all of the property of the Corporation other than in the ordinary course of business of the Corporation.

4.04 Amendment with Approval of Holders of Second Preference Shares: The rights, privileges, restrictions and conditions attached to the Second Preference Shares as a class may be added to, removed or changed only with the approval of the holders of Second Preference Shares given in accordance with the requirements of the Act and the minimum requirement provided in 4.05 hereof.

4.05 Approval of Holders of Second Preference Shares: The approval of the holders of Second Preference Shares as a class to any matters referred to in these provisions may be given as specified below:

(a) Approval and Quorum: Any approval required to be given by the holders of Second Preference Shares shall be deemed to have been sufficiently given if it shall have been given by a resolution signed by all of the holders of the then outstanding Second Preference Shares or by a resolution passed by the affirmative vote of not less than two-thirds of the votes cast by holders of Second Preference Shares who voted in respect of that resolution at a meeting of the holders of Second Preference Shares called and held for that purpose in accordance with the by-laws of the Corporation at which holders of not less than one-tenth of the then outstanding Second Preference Shares are present in person or represented by proxy; provided that, if at any such meeting a quorum is not present within one-half hour after the time appointed for such meeting, the meeting shall be adjourned to the same day in the next week at the same time and to such place as the chairman of the meeting may

determine and, subject to the provisions of the Act, it shall not be necessary to give notice of such adjourned meeting. At such adjourned meeting the holders of Second Preference Shares present in person or represented by proxy shall constitute a quorum and may transact the business for which the meeting was originally called and a resolution passed thereat by the affirmative vote of not less than two-thirds of the votes cast at such meeting shall constitute the approval of the holders of Second Preference Shares.

(b) Votes: On every poll taken at any meeting in respect of which only the holders of the Second Preference Shares of more than one series are entitled to vote, each holder of Second Preference Shares shall be entitled to one vote in respect of the greater of (i) each $1.00 of stated capital added to the appropriate stated capital account of the Corporation in respect of the issue of each such share and (ii) each $1.00 of the liquidation preference or redemption preference (excluding any amount payable in respect of declared but unpaid or accrued but unpaid dividends) attached to each such share (and if the liquidation preference and redemption preference are not the same at the applicable time, then the greater of the two).

Subject to the foregoing, the formalities to be observed with respect to proxies, the giving or waiving of notice of any such meeting and the conduct thereof shall be those from time to time prescribed in the Act and the by-laws of the Corporation with respect to meetings of shareholders.

4.06 Shares Issued in Series with Identical Rights: Where Second Preference Shares are issued in more than one series with identical rights, privileges, restrictions, conditions and designations attached thereto, all such series of Second Preference Shares shall rank *pari passu* and participate equally and proportionately without discrimination or preference as if all such series of Second Preference Shares had been issued simultaneously and all such series of Second Preference Shares may be designated as one series.

4.07 Limitation: Subject to the provisions of the Act, the holders of Second Preference Shares or any series thereof shall not, unless the rights, privileges, restrictions and conditions attached to the Second Preference Shares as a class or to any particular series thereof provide to the contrary, be entitled to vote separately as a class or series on, or to dissent in respect of, any proposal to amend the articles of the Corporation to:

(a) increase or decrease any maximum number of authorized Second Preference Shares or any series thereof, or increase any maximum number of authorized shares of a class or any series having rights or privileges equal or superior to the Second Preference Shares or any series thereof;

(b) effect an exchange, reclassification or cancellation of all or part of the Second Preference Shares or any series thereof; or

(c) create a new class or series of shares equal or superior to the Second Preference Shares or any series thereof.

SCHEDULE B
ARRANGEMENT RESOLUTION

BE IT RESOLVED THAT:

1. The arrangement (as may be amended, supplemented or varied, the "**Arrangement**") under section 182 of the *Business Corporations Act* (Ontario) involving Nuvo Pharmaceuticals Inc. d/b/a Miravo Healthcare (the "**Company**"), pursuant to the arrangement agreement between the Company and Searchlight Pharma Inc. dated December 22, 2022, as it may be amended, supplemented or otherwise modified from time to time in accordance with its terms (the "**Arrangement Agreement**"), as more particularly described and set forth in the management information circular of the Company dated _____, 2022 (the "**Circular**"), and all transactions contemplated thereby, are hereby authorized, approved and adopted.

2. The plan of arrangement, the full text of which is set out as Appendix ____ to the Circular, as it has been or may be amended, supplemented or varied in accordance with the Arrangement Agreement and its terms, involving the Company (the "**Plan of Arrangement**"), is hereby authorized, approved and adopted.

3. The (a) Arrangement Agreement and all the transactions contemplated therein, (b) the actions of the directors of the Company in approving the Arrangement and the Arrangement Agreement, (c) the actions of the directors and officers of the Company in executing and delivering the Arrangement Agreement and any amendments, supplements or modifications thereto, and (d) causing the performance by the Company of its obligations thereunder, are hereby ratified and approved.

4. Notwithstanding that this resolution has been passed (and the Arrangement adopted) by the Company Shareholders (as defined in the Arrangement Agreement) or that the Arrangement has been approved by the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), the directors of the Company are hereby authorized and empowered, at their discretion, without further notice to or approval of the Company Shareholders: (a) to amend, modify or supplement the Arrangement Agreement or the Plan of Arrangement to the extent permitted by their respective terms, and (b) subject to the terms of the Arrangement Agreement, not to proceed with the Arrangement and any related transactions.

5. The Company is hereby authorized to apply for a final order from the Court to approve the Arrangement in accordance with and subject to the terms and conditions set forth in the Arrangement Agreement and the Plan of Arrangement (as they may be, or may have been, amended, modified or supplemented).

6. Any officer or director of the Company is hereby authorized and directed, for and on behalf of the Company, to execute or cause to be executed and to deliver or cause to be delivered, all such other documents and instruments and to perform or cause to be performed all such other acts and things as, in such person's opinion, may be necessary or desirable to give full force and effect to the foregoing resolutions and the matters authorized thereby, such determination to be conclusively evidenced by the execution and delivery of such other document or instrument or the doing of any other such act or thing.

SCHEDULE C
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

1. **Organization and Qualification**. The Company and each of its Subsidiaries is a corporation or other entity duly incorporated or organized, as applicable, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation, as applicable, and has all requisite power and authority to own, lease and operate its assets and properties and conduct its business as now owned and conducted. The Company and each of its Subsidiaries is duly registered or otherwise authorized to carry on business and is in good standing in each jurisdiction in which the character of its assets and properties, whether owned, leased, licensed or otherwise held, or the nature of its activities make such qualification, licensing or registration or other authorization necessary, and has all Authorizations required to own, lease and operate its properties and assets and to conduct its business as now owned and conducted, except to the extent that any failure of the Company or any of its Subsidiaries to be so qualified, licensed or registered or to possess such Authorizations would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

2. **Corporate Authorization**. The Company has the requisite corporate power and authority to enter into and perform its obligations under this Agreement. The execution, delivery and performance by the Company of its obligations under this Agreement and the consummation of the Arrangement and the other transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of the Company and no other corporate proceedings on the part of the Company are necessary to authorize this Agreement or the consummation of the Arrangement and the other transactions contemplated hereby other than approval by the Company Shareholders in the manner required by the Interim Order and Law and approval by the Court.

3. **Execution and Binding Obligation**. This Agreement has been duly executed and, assuming that this Agreement has been duly and validly authorized, executed and delivered by the Purchaser, delivered by the Company, and constitutes a legal, valid and binding agreement of the Company enforceable against it in accordance with its terms subject only to any limitation under bankruptcy, insolvency or other Laws affecting the enforcement of creditors' rights generally and the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction.

4. **Governmental Authorization**. Assuming the truth and accuracy of the representations and warranties of the Purchaser set forth in Schedule D, the execution, delivery and performance by the Company of its obligations under this Agreement and the consummation of the Arrangement and the other transactions contemplated hereby do not require any Authorization or other action by or in respect of, or filing with, or notification to, any Governmental Entity by the Company or any of its Subsidiaries other than: (a) the Interim Order and any approvals required by the Interim Order; (b) the Final Order; (c) filings with the Director under the OBCA, (d) filings with the Securities Authorities or the TSX, and (e) actions, filings or notifications, the absence of which (i) if not taken or made, would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or (ii) would be required solely as a result of the identity or the legal or regulatory status of the Purchaser or the Equity Investors.

5. **Non-Contravention**. The execution and delivery of, and performance by the Company of its obligations under, this Agreement and the consummation of the Arrangement and the other transactions contemplated hereby do not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition):

(a) assuming compliance with the matters referred to in paragraph 4 above, contravene, conflict with, or result in any violation or breach of the Company's Constating Documents or the organizational documents of any of its Subsidiaries;

(b) assuming compliance with the matters referred to in paragraph 4 above, contravene, conflict with or result in a violation or breach of any Law applicable to the Company, any of its Subsidiaries or any of their respective properties or assets;

(c) except as disclosed in Schedule 3.1(5) of the Company Disclosure Letter, allow any Person to exercise any rights, require any consent or notice under or other action by any Person, or constitute a default under, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit to which the Company or any of its Subsidiaries is entitled (including by triggering any rights of first refusal or first offer, change in control provision or other restriction or limitation) under any Material Contract or any material Authorization to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound; or

(d) result in the creation or imposition of any Lien (other than a Permitted Lien) upon any of the Company Assets (excluding for greater certainty, any Lien created or imposed by the Debt Financing).

except, in the case of each of paragraphs (b), (c) and (d), as would not reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect.

6. **Capitalization**.

(a) The authorized capital of the Company consists of an unlimited number of Common Shares, an unlimited number of First Preference Shares, issuable in series, and an unlimited number of Second Preference Shares, issuable in series.

(b) As of the close of business on the Business Day prior to the date of this Agreement, there were:

(i) 11,388,282 Common Shares issued and outstanding;

(ii) no First Preference Shares issued and outstanding; and

(iii) no Second Preference Shares issued and outstanding.

(c) All outstanding Company Shares have been duly authorized and validly issued and are fully paid and non-assessable. All outstanding Company Equity Awards have been duly authorized and, upon issuance in accordance with their respective terms, will be validly issued and will be fully paid and non-assessable and will not be subject to or issued in violation of any pre-emptive rights. No Company Shares have been issued, and no Company Equity Awards have been granted, in violation of any Law or any pre-emptive or similar rights applicable to them.

(d) Schedule 3.1(6(d)) of the Company Disclosure Letter sets forth (i) the names and holdings of each Person who holds Company Equity Awards and the number of such Company Equity Awards, as indicated by type, held as of the close of business on the date that is one Business Day prior to the date of this Agreement, (ii) the exercise price of each Company

Option, and (iii) the aggregate amount payable to the holders of the Company Equity Awards applying the methodology set forth in the Plan of Arrangement.

(e) Except for (i) outstanding rights under the Company Share Incentive Plan, Company SAR Plan and Company DSU Plan, (ii) pursuant to the terms of the Company Shares, Deerfield Notes and Deerfield Warrants, or (iii) pursuant to the terms of the Registration Rights Agreement, there are no issued, outstanding or authorized securities, options, equity-based awards, warrants, calls, conversion, pre-emptive, redemption, repurchase, share appreciation or other rights, or any other agreements, arrangements, instruments or commitments of any kind (including any shareholder rights plan or poison pill) that obligate the Company or any of its Subsidiaries to, directly or indirectly, issue, sell or transfer any securities of the Company or any of its Subsidiaries, or give any Person a right to subscribe for or acquire, any securities of the Company or any of its Subsidiaries.

(f) Except for the Deerfield Notes and Deerfield Warrants, there are no bonds, debentures or other evidences of indebtedness of the Company or any of its Subsidiaries outstanding which have the right to vote (or that are convertible or exercisable for securities having the right to vote) with Company Shareholders on any matter.

(g) Except for the Deerfield Notes, Deerfield Warrants and Registration Rights Agreement, there are no issued, outstanding or authorized obligations on the part of the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any securities of the Company or its Subsidiaries, or qualify securities for public distribution in Canada or elsewhere, or with respect to the voting or disposition of any securities of the Company.

7. **Shareholders and Similar Agreements**.

(a) Other than the Company Shares, Company Options, Deerfield Notes and Deerfield Warrants, there are no securities or other instruments or obligations of the Company or any of its Subsidiaries that carry (or which is convertible into, or exchangeable or exercisable for, securities having) the right to vote generally with the holders of the Company Shares on any matter.

(b) All dividends or distributions on voting or equity securities of the Company that have been declared or authorized have been paid in full.

(c) Other than the Deerfield Notes and Deerfield Warrants, neither the Company nor any of its Subsidiaries is a party to any unanimous shareholders agreement, shareholder agreement, pooling, voting, or other similar arrangement or agreement relating to the ownership or voting of any securities of the Company or any of its Subsidiaries. To the knowledge of the Company, as of the date hereof, other than the Voting Support Agreements, there are no irrevocable proxies or voting Contracts with respect to any securities issued by the Company or any of its Subsidiaries.

8. **Subsidiaries**.

(a) The following information with respect to each Subsidiary of the Company is accurately set out in Schedule 3.1(8) of the Company Disclosure Letter: (i) its name; (ii) the percentage owned directly or indirectly by the Company, (iii) to the knowledge of the Company, the name of, and number, type and percentage owned, by registered holders of share capital or other equity interests if other than the Company and its Subsidiaries; and (iv) its jurisdiction of incorporation, organization, formation, or governance.

(b) Except as disclosed in Schedule 3.1(8) of the Company Disclosure Letter, the Company is, directly or indirectly, the registered and beneficial owner of all of the outstanding shares or other equity interests of each of its Subsidiaries, free and clear of any Liens, except for Permitted Liens, all such shares or other equity interests so owned by the Company have been validly issued and are fully paid and non-assessable, as the case may be, and no such shares or other equity interests have been issued in violation of any pre-emptive or similar rights. Except for the shares or other equity interests owned by the Company in any Subsidiary that are disclosed in Schedule 3.1(8) of the Company Disclosure Letter, the Company does not own, beneficially or of record, any equity interests of any kind in any other Person.

9. **Canadian Securities Law Matters and Stock Exchange Compliance**.

(a) The Company is a "reporting issuer" under Canadian Securities Laws in each of the provinces of Canada. The Common Shares are listed and posted for trading on the TSX. The Company is in compliance in all material respects with applicable Canadian Securities Laws and the applicable listing and corporate governance rules and regulations of the TSX.

(b) As of the date hereof, the Company has not taken any action to cease to be a reporting issuer in any province of Canada nor has the Company received notification from any Canadian Securities Authority seeking to revoke the reporting issuer status of the Company. No delisting, suspension of trading or cease trade or other order or restriction with respect to any securities of the Company is pending, in effect or, to the knowledge of the Company, has been threatened, or is expected to be implemented or undertaken (other than in connection with the transactions contemplated by this Agreement), and the Company is not subject to any formal or informal review, enquiry, investigation or other proceeding relating to any such order or restriction.

10. **Reports**.

(a) Since January 1, 2021, the Company has timely filed true and correct copies of the Company Filings that the Company is required to file under applicable Canadian Securities Laws, other than such Company Filings that the failure to file would, individually or in the aggregate, not have a Material Adverse Effect. The documents comprising the Company Filings (a) complied as filed in all material respects with Law, and (b) did not, as of the date filed (or, if amended or superseded by a subsequent filing prior to the date of this Agreement, on the date of such filing), contain any Misrepresentation.

(b) Any amendments to the Company Filings required to be made have been filed on a timely basis with the applicable Governmental Entity. The Company has not filed any confidential material change report with any Governmental Entity which at the date hereof remains confidential or any other confidential filings filed under applicable Canadian Securities Laws. There are no outstanding or unresolved comments in comments letters from any Governmental Entity with respect to any of the Company Filings and, to the knowledge of the Company, neither the Company nor any of the Company Filings is the subject of an ongoing audit, review, comment or investigation by any Governmental Entity.

11. **Financial Statements**.

(a) The Company's audited consolidated financial statements as at and for the fiscal years ended December 31, 2021, 2020 and 2019 or, if closing has not occurred prior to March 31, 2023, December 31, 2022, 2021 and 2020 (including any of the notes or schedules

thereto, the auditor's report thereon and related management's discussion and analysis) and the unaudited consolidated interim financial statements as at and for the three and nine months ended September 30, 2022 (including any of the notes or schedules thereto and related management's discussion and analysis), in each case, filed as part of the Company Filings: (i) were prepared in accordance with IFRS; and (ii) present fairly, in all material respects, the assets, liabilities (whether accrued, absolute, contingent or otherwise), the consolidated financial position, income, comprehensive income, changes in shareholders' equity and cash flows of the Company and its Subsidiaries for the respective periods covered by such financial statements (except as may be expressly indicated in the notes to such financial statements). The Company does not intend to correct or restate, nor, to the knowledge of the Company, is there any basis for any correction or restatement of, any aspect of any of the financial statements referred to in this Paragraph 11. Except as described in the notes to the Company's audited consolidated financial statements as at and for the fiscal years ended December 31, 2021, 2020 and 2019 or, if closing has not occurred prior to March 31, 2023, December 31, 2022, 2021 and 2020, there has been no material change in the Company's accounting methods, policies or practices since December 31, 2021. Except as disclosed in Schedule 3.1(11) of the Company Disclosure Letter, there are no, nor are there any commitments to become a party to, any off-balance sheet transactions, arrangements, obligations (including contingent obligations) or similar relationships of the Company or any of its Subsidiaries with unconsolidated entities or other Persons.

(b) The financial books, records and accounts of the Company and each of its Subsidiaries: (i) have been maintained since January 1, 2019, in all material respects, in accordance with IFRS; (ii) are stated in reasonable detail; (iii) accurately and fairly reflect all the material transactions, acquisitions and dispositions of the Company and its Subsidiaries; and (iv) accurately and fairly reflect the basis of the Company's financial statements.

12. **Disclosure Controls and Internal Control over Financial Reporting**.

(a) The Company has established and maintains a system of disclosure controls and procedures (as such term is defined in National Instrument 52-109 – *Certification of Disclosure in Issuer's Annual and Interim Filings*) that are designed to provide reasonable assurance that information required to be disclosed by the Company in its annual filings, interim filings or other reports filed or submitted by it under applicable Laws is recorded, processed, summarized and reported within the time periods specified in applicable Laws. Such disclosure controls and procedures include controls and procedures designed to ensure that information required to be disclosed by the Company in its annual filings, interim filings or other reports filed or submitted under applicable Laws are accumulated and communicated to the Company's management, including its chief executive officer and chief financial officer, as appropriate, to allow timely decisions regarding required disclosure.

(b) The Company has established and maintains a system of internal control over financial reporting (as such term is defined in National Instrument 52-109 – *Certification of Disclosure in Issuers' Annual and Interim Filings*) that is designed to provide reasonable assurance regarding the reliability of the Company's financial reporting and the preparation of financial statements for external purposes in accordance with IFRS.

(c) To the knowledge of the Company, there is no material weakness (as such term is defined in National Instrument 52-109 – *Certification of Disclosure in Issuers' Annual and Interim Filings*) relating to the design, implementation or maintenance of its internal control over financial reporting, or fraud, whether or not material, that involves management or other

employees who have a significant role in the internal control over financial reporting of the Company. To the knowledge of the Company, none of the Company, any of its Subsidiaries or any of their respective directors or officers, or the auditors, accountants or other representatives of the Company has received or otherwise obtained knowledge of any material complaint, allegation, assertion, or claim, whether written or oral, regarding accounting, internal accounting controls or auditing matters, including any material complaint, allegation, assertion, or claim that the Company or any of its Subsidiaries has engaged in questionable accounting or auditing practices, or any expression of concern from its employees regarding questionable accounting or auditing matters.

13. **Minute Books**. The corporate minute books of the Company and its Subsidiaries contain the minutes of all meetings and resolutions of their respective boards of directors and each committee thereof and have been maintained in accordance with applicable Laws in all material respects, and are complete and accurate in all material respects.

14. **Auditors**. The auditors of the Company are independent public accountants as required by applicable Laws and there is not now, and there has never been, any reportable event (as defined in National Instrument 51-102 – *Continuous Disclosure Obligations*) with the present or any former auditors of the Company.

15. **No Undisclosed Liabilities**. Except as disclosed in Schedule 3.1(15) of the Company Disclosure Letter, there are no material liabilities or obligations of the Company or of any of its Subsidiaries of any kind whatsoever, whether accrued, contingent or absolute, determined, determinable or otherwise, other than liabilities or obligations: (a) accrued or disclosed in the consolidated balance sheet of the Company and its Subsidiaries as at and for the three and nine months ended September 30, 2022; (b) incurred in the Ordinary Course since December 31, 2021; or (c) incurred in connection with this Agreement.

16. **Absence of Certain Changes**. Except as disclosed in Schedule 3.1(16) of the Company Disclosure Letter, since December 31, 2021 to the date of this Agreement, other than the transactions contemplated in this Agreement or as publicly disclosed in the Company Filings, the business of the Company and its Subsidiaries has been conducted in the Ordinary Course.

17. **Transactions with Directors, Officers, Employees, etc**. Neither the Company nor any of its Subsidiaries is indebted to any of its directors, officers, independent contractors or Company Employees or any of their respective associates or affiliates (except for amounts due in the Ordinary Course as salaries, bonuses and director's fees or the reimbursement of expenses or expense accounts in the Ordinary Course). There are no Contracts (other than in the Ordinary Course) with, or advances, loans, guarantees, liabilities or other obligations to, on behalf or for the benefit of, any shareholder, director, officer or Company Employee, or any of their respective affiliates or associates.

18. **No "Collateral Benefit"**. Except as disclosed in Schedule 3.1(18) of the Company Disclosure Letter, to the knowledge of the Company, no related party of the Company (within the meaning of MI 61-101), together with its associated entities, that beneficially owns or exercises control or direction over 1.0% or more of the outstanding Company Shares, will receive a "collateral benefit" (within the meaning of MI 61-101) as a consequence of the transactions contemplated by this Agreement.

19. **Compliance with Laws**. The Company and each of its Subsidiaries is, and since January 1, 2021 has been in material compliance with applicable Law (including any Privacy and Security Laws and any Health Product Regulatory Laws), and neither the Company nor any of its Subsidiaries is

under any investigation with respect to, has been convicted, charged or threatened to be charged with, or has received notice of, any violation or potential violation of any Law (including any Privacy and Security Law and any Health Product Regulatory Law) from any Governmental Entity, except for failures to comply or violations that have not had or would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

20. **Authorizations and Licenses**.

(a) The Company and its Subsidiaries, as applicable, own, possess or have obtained all Authorizations that are required by Law in connection with the operation of the business of the Company and each of its Subsidiaries as presently conducted, or in connection with the ownership, operation or use of the Company Assets, respectively, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) The Company and its Subsidiaries, as applicable, lawfully hold, own or use, and have complied with, all such Authorizations, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Each such Authorization is valid and in full force and effect, and is renewable by its terms or in the Ordinary Course. To the knowledge of the Company, (i) there are no facts, events or circumstances that may reasonably be expected to result in a failure to obtain or failure to be in compliance with all Authorizations as are necessary to conduct the business of the Company or its Subsidiaries, (ii) no event has occurred which, with the giving of notice, lapse of time or both, could constitute a default under, or in respect of, any Authorization, and (iii) to the knowledge of the Company, none of the Company and its Subsidiaries have received written notice of any actual or alleged breach of or default under such Authorizations, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) To the knowledge of the Company, no action, investigation or proceeding is pending in respect of or regarding any such Authorization and none of the Company or any of its Subsidiaries has received notice, whether written or oral, of revocation, non-renewal or material amendments of any such Authorization, or stating the intention of any Person to revoke, refuse to renew or materially amend any such Authorization.

21. **Material Contracts**. Except as disclosed in Schedule 3.1(21) of the Company Disclosure Letter, (a) each Material Contract is legal, valid, binding and in full force and effect and is enforceable by the Company or a Subsidiary of the Company (and, to the Company's knowledge, the counterparties thereto), as applicable, in accordance with its terms subject only to any limitation under bankruptcy, insolvency or other Law affecting the enforcement of creditors' rights generally and the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction, (b) none of the Company or its Subsidiaries is in breach or default under any Material Contract, nor does the Company have knowledge of any condition that with the passage of time or the giving of notice or both would result in such a breach or default, except in each case where any such breaches or defaults would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect, and (c) as of the date hereof, none of the Company or any of its Subsidiaries knows of, or has received any notice (whether written or oral) of, any breach or default, (except where any such breach or default would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect), cancelation, termination, or non-renewal under any Material Contract by any other party to any Material Contract. Schedule 3.1(21) of the Company Disclosure Letter sets out a list of all Material Contracts and true and complete copies of all of such Material Contracts have been made available in the Data Room.

22. **Title to Company Assets**. Except as disclosed in Schedule 3.1(22) of the Company Disclosure Letter, no Person has any right of first refusal, undertaking or commitment or any right or privilege capable of becoming such, to purchase any of the material Company Assets, or any material part thereof or material interest therein. Except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect, no part of the Company Assets has been taken, condemned or expropriated by any Governmental Entity nor has any written notice or proceeding in respect thereof been given or commenced nor, to the knowledge of the Company, does any Person have any intent or proposal to give such notice or commence any such proceedings. Except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect, all material tangible or corporeal Company Assets are, in all material respects, in good operating condition and repair having regard to their uses and ages, and are adequate and suitable for their respective uses.

23. **Real Property and Personal Property**.

(a) As of the date of this Agreement (i) Schedule 3.1(23) of the Company Disclosure Letter sets forth a complete list of all real property which constitutes Owned Real Property, including the legal description, street address, and the person that owns such property; (ii) the Company or its Subsidiaries, as applicable, have title to all of the Owned Real Property, free and clear of any Liens, except for Permitted Liens, and (iii) except as disclosed in Schedule 3.1(23) of the Company Disclosure Letter, there are no outstanding options or obligations to purchase or rights of first offer, refusal or opportunity to purchase, the Owned Real Property or any portion thereof or interest therein. Except as disclosed in Schedule 3.1(23) of the Company Disclosure Letter, neither the Company nor any of its Subsidiaries has granted any Person the right to use, lease or occupy any material portion of the Owned Real Property, taken as a whole.

(b) (i) Schedule 3.1(23) of the Company Disclosure Letter sets forth a complete list of all Real Property Leases in existence as of the date of this Agreement, including the street address of the Leased Premises; (ii) the Company has delivered to the Purchaser true, correct and complete copies of the Real Property Leases in all material respects, and each Real Property Lease is valid, legally binding, enforceable against the Company (and, to the Company's knowledge, the counterparty thereto), and in full force and effect, (ii) to the knowledge of the Company, neither the Company nor any of its Subsidiaries is in breach of, or default under, any Real Property Lease, and no event has occurred which, with notice, lapse of time or both, would constitute such a breach or default by the Company or any of its Subsidiaries or permit termination, modification or acceleration by any third party thereunder and except as set forth in Schedule 3.1(23) of the Company Disclosure Letter, the execution and delivery of this Agreement by the Company does not, and the consummation of the transactions contemplated hereby will not, result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or materially impair the rights of the Company or any of its Subsidiaries or alter the rights or obligations of the sublessor, lessor or licensor under, or give to others any rights of termination, amendment, acceleration or cancellation of any Real Property Lease, or otherwise adversely affect the continued use and possession of the Leased Premises for the conduct of business as presently conducted, and (iii) to the knowledge of the Company, no third party has repudiated or has the right to terminate or repudiate any Real Property Lease (except for the normal exercise of remedies in connection with a default thereunder or any termination rights set forth therein) or any provision thereof, and no third party is in material breach of or default under any Real Property Lease. Neither

the Company nor any of its Subsidiaries has granted any Person the right to use, sublease, or occupy of the Leased Premises.

(c) To the knowledge of the Company, the Leased Premises are in good operating condition and repair, reasonable wear and tear expected, is maintained by the Company in a manner consistent with the requirements of the relevant Real Property Lease, and is otherwise suitable for the conduct of the business of the Company or its Subsidiaries, as applicable.

(d) The Company and its Subsidiaries have valid, good and marketable title to all personal property owned by them, except as would not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect.

24. **Intellectual Property**.

(a) The Company and/or its Subsidiaries own, free and clear of any and all Liens other than Permitted Liens with respect to such owned Intellectual Property, or possess, or has a license to or otherwise has the right to use, all Intellectual Property which is material and necessary for the conduct of its business as presently conducted.

(b) Except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect, the Intellectual Property owned by the Company and/or its Subsidiaries are valid and enforceable subject only to any limitation under bankruptcy, insolvency or other Law affecting the enforcement of creditors' rights generally and the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction, and does not infringe in any material way upon the rights of others.

(c) Schedule 3.1(24) of the Company Disclosure Letter sets forth a complete list of all registrations, and applications for registration, of Intellectual Property owned by the Company and/or its Subsidiaries, and all such applications and registrations are in good administrative standing, and maintained and renewed in the name of the Company or its Subsidiaries, as applicable. Except as would not be reasonably expected to have, individually or in the aggregate, a Company Material Adverse Effect, the Company and/or its Subsidiaries has not taken any action or omitted to take any action that would prejudice the validity or enforceability of any Intellectual Property owned by the Company and/or its Subsidiaries.

(d) To the knowledge of the Company and except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect, no third party is infringing upon the Intellectual Property owned by the Company and/or its Subsidiaries.

(e) To the knowledge of the Company and except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect, neither the operation of the businesses by the Company and its Subsidiaries, nor the use of the Intellectual Property owned by them, whether alone or in combination with other Intellectual Property licensed by the Company and/or its Subsidiaries, infringe, misappropriate, or otherwise violate the Intellectual Property or other proprietary rights of any Person.

(f) All Intellectual Property developed internally and owned by the Company or its Subsidiaries was created or developed by an employee in the course of his or her employment, or by contractors or consultants under the provisions of written agreements pursuant to which such employee or contractor assign to the Company or the Subsidiary,

as applicable, all rights, title, and interests in and to such Intellectual Property and waive all moral rights such employee or contractor may have in and to such Intellectual Property.

(g) Except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect, the transactions contemplated by this Agreement will not affect the rights of the Company and its Subsidiaries in the Intellectual Property owned by them trigger any additional obligations or liabilities of the Company and its Subsidiaries, or otherwise detract from or adversely impact the full right and authority of the Company and its Subsidiaries to commercialize the Intellectual Property owned by the Company and its Subsidiaries without violating the rights of any third party.

25. **Regulatory Matters.**

(a) To the knowledge of the Company and except for non-compliance which would not reasonably be expected to have a Material Adverse Effect, all establishments of the Company and its Subsidiaries have been maintained and all products of the Company and its Subsidiaries have been developed, tested, manufactured, produced, fabricated, processed, handled, possessed, packaged, labelled, stored, transported, advertised, promoted, marketed, imported, exported, sold or distributed in material compliance with applicable Health Product Regulatory Laws and the material requirements of applicable Governmental Entities.

(b) Except for non-compliance which would not reasonably be expected to have a Material Adverse Effect, all reports, applications, documents, claims, permits and notifications required to be filed, maintained or furnished with each relevant Governmental Entity have been duly filed, maintained or furnished by the Company or its Subsidiaries, including all adverse event reports.

(c) Except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect, each of the Company and its Subsidiaries has not voluntarily or involuntarily initiated, conducted or issued, or caused to be initiated, conducted or issued, nor is there currently under consideration by the Company, its Subsidiaries or, to the knowledge of the Company, any Governmental Entity, any recall, market withdrawal or replacement, field corrections, safety alert, warning or other notice of action related to an alleged misbranding, adulteration, lack of safety, efficacy or regulatory compliance of any product or establishment of the Company or its Subsidiaries or any other form of product retrieval from the marketplace in respect of any such products or any revocation or suspension of an Authorization with respect to such products or establishments.

(d) To the knowledge of the Company and except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect, there are no facts or circumstances relating to the Company's business, products, establishments, or Authorizations that would reasonably be expected to result in (A) the recall, market withdrawal or replacement of any product sold or intended to be sold by the Company or its Subsidiaries, (B) a change in the marketing classification or a material change in the labelling of any products, or (C) a termination or suspension of the Authorizations for such products or establishments.

(e) There are no claims against or involving the Company or any of its Subsidiaries pursuant to any product warranty or with respect to any implied representation or warranty, or the production, distribution or sale of defective or inferior products or with respect to any warnings (or failure to warn) or instructions concerning such products, and, to the

knowledge of the Company, none has been threatened nor is there any valid basis for any such claim.

26. **Inventory.** The Inventory levels have been maintained at such amounts as are required for the operation of the business of the Company and each of its Subsidiaries in the Ordinary Course. Except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect, the items included in Inventory consist of a quality and quantity usable and, with respect to finished goods, saleable, in the Ordinary Course at normal prices except for obsolete items and items of below-standard quality, which have been written off or written down in the Company's financial statements or in the books and records of the Company or its Subsidiaries, as the case may be.

27. **Litigation**. Except as disclosed in Schedule 3.1(27) of the Company Disclosure Letter, there are no claims, actions, suits or arbitrations or inquiries, investigations or proceedings pending, or, to the knowledge of the Company threatened, against the Company or any of its Subsidiaries, or affecting any of their respective properties or assets, that if determined adverse to the interests of the Company or its Subsidiaries (a) would have, individually or in the aggregate, a Material Adverse Effect, or (b) would be reasonably expected to prevent or delay the consummation of the Arrangement or the transactions contemplated hereby. Neither the Company nor any of its Subsidiaries, nor any of their respective properties or assets is subject to any outstanding judgment, order, writ, injunction or decree that would have or would be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect or that would or would be reasonably expected to prevent or delay the consummation of the Arrangement or the transactions contemplated hereby. There is no bankruptcy, liquidation, winding-up or other similar proceeding pending or in progress, or, to the knowledge of the Company, threatened against or relating to the Company or any of its Subsidiaries before any Governmental Entity.

28. **Environmental Matters**. Except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect (a) no written notice, order, complaint or penalty has been received by the Company or any of its Subsidiaries alleging that the Company or any of its Subsidiaries is in violation of, or has any liability or potential liability under, any Environmental Law, and, to the knowledge of the Company, there are no claims pending or threatened against the Company or any of its Subsidiaries which allege a violation of, or any liability or potential liability under, any Environmental Laws, (b) the Company and each of its Subsidiaries has all Environmental Authorizations required to operate their respective businesses and to comply with all Environmental Laws and (c) the operations of the Company and each of its Subsidiaries are in compliance with Environmental Laws.

29. **Employees**

(a) Schedule 3.1(29) of the Company Disclosure Letter sets forth a complete list of all Company Employees employed by the Company as of the date hereof, including, for each Company Employee, the following information: (i) their location of work; (ii) their position or title; (iii) their status (i.e., full time, part time, temporary, casual, seasonal, co-op student); (iv) their total annual remuneration, including a breakdown of (A) hourly rate of pay or salary and (B) bonus or other incentive compensation, if any; (v) their age; (vi) their start date; and (vii) whether they are on any approved or statutory leave of absence, and, if so, the start date of such leave, the reason for such leave, the expected date of return and any known accommodations that may be required upon return.

(b) The Company and its Subsidiaries are in compliance with all terms and conditions of employment and all Laws respecting employment, including pay equity, wages, hours of

work, overtime, vacation, privacy, immigration, human rights, accessibility, worker classification, workers' compensation and work safety and health, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) All material amounts due or accrued due for all forms of compensation, including salary, wages, bonuses, incentive compensation, deferred compensation, commissions, vacation with pay, sick days and other similar accruals, have either been paid or are accrued and accurately reflected in all material respects in the books and records of the Company and its Subsidiaries.

(d) There are no material outstanding assessments, penalties, fines, Liens, charges, surcharges, or other amounts due or owing pursuant to any workers' compensation Laws owing by the Company or any of its Subsidiaries, and neither the Company nor any of its Subsidiaries has been assessed or reassessed in any material respect under such Laws during the past two years.

(e) Except as disclosed in Schedule 3.1(29) of the Company Disclosure Letter, there are no change of control payments, golden parachutes, severance payments, retention payments, Contracts or other agreements with current or former Company Employees or Employee Plans providing for cash or other compensation or benefits (including any increase in amount of compensation or benefit or the acceleration of time of payment or vesting of any compensation or benefit) upon the consummation of, or relating to, the Arrangement, including a change of control of the Company or of any of its Subsidiaries.

(f) Neither the Company nor any Subsidiary is (i) a party to, nor is engaged in any negotiations with respect to, any collective bargaining, voluntary recognition agreement, union agreement, employee association agreement, project labour agreement or similar Contract, or (ii) subject to any actual or, to the knowledge of the Company, threatened application for certification or bargaining rights or letter of understanding or related successor employer application.

(g) Except as disclosed in Schedule 3.1(29(g)) of the Company Disclosure Letter, to the knowledge of the Company, there are no threatened or pending union organizing or certification activities involving any Company Employees. There is no labour strike, dispute, work slowdown or stoppage pending or involving or, to the knowledge of the Company, threatened against, the Company or any of its Subsidiaries and no such event has occurred within the past two years.

30. **Employee Plans**.

(a) The Company has disclosed in the Data Room true, correct, complete and up-to-date copies of the Employee Plans, as amended, or written descriptions of the material terms thereof if unwritten, including to the extent applicable: (i) all related documentation including funding, trust, insurance and investment management agreements; (ii) the current employee booklets and any modifications thereto; (iii) the most recent annual financial, accountings and actuarial statements; and (iv) material communications between the Company and Governmental Entities.

(b) Except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect, all of the Employee Plans are and have been established, registered, funded, invested and administered in accordance with all Laws, and in accordance with their terms, the terms of the material documents that support such

Employee Plans and the terms of agreements between the Company and its Subsidiaries and Company Employees (present and former) who are members of, or beneficiaries under, the Employee Plans. To the knowledge of the Company, no fact or circumstances exists which could adversely affect the registered status of any such Employee Plan.

(c) To the knowledge of the Company, no event has occurred and no condition or circumstance exists that has resulted in or could reasonably be expected to result in any Employee Plan being ordered, or required to be, terminated or wound up in whole or in part, having its registration under applicable Laws refused or revoked, being placed under the administration of any trustee or receiver or Governmental Entity or being required to pay any material taxes, penalties, payments or levies under applicable Laws.

(d) All contributions or premiums required to be made, paid or remitted by the Company or any of its Subsidiaries as the case may be, under the terms of each Employee Plan or by Law have been substantially made in a timely fashion in accordance with Law and in accordance with the terms of the applicable Employee Plan.

(e) Except as expressly disclosed in the Employee Plans disclosed in the Data Room and Schedule 3.1(30(e)) of the Company Disclosure Letter, and other than as required by Law, none of the Employee Plans provide for post-termination welfare benefits to any individual for any reason and neither the Company nor any of its Subsidiaries has any Liability to provide post-termination or retiree welfare benefits to any individual or ever represented, promised or contracted to any individual that such individual would be provided with post-termination or retiree welfare benefits.

(f) No Employee Plan is a "registered pension plan", a "multi-employer pension plan", a "retirement compensation arrangement", contains a "defined benefit provision" within, in each case, the meaning of the Tax Act, or, is a "salary deferral arrangement" for purposes of section 248 of the Tax Act. Neither the Company nor any of its Subsidiaries or sponsors, maintains or contributes to, or is obligated to contribute to, or has, within the past three years, sponsored, maintained or contributed to an Employee Plan of the kind described in the preceding sentence.

(g) To the knowledge of the Company, no Employee Plan is subject to, or within the past three years, has been subject to, any material claims (other than routine claims for benefits) or actions initiated or reasonably expected to be initiated by any Governmental Entity, or by any other party.

(h) Only Company Employees, directors, and their respective beneficiaries, participate in the Employee Plans, and no entity other than the Company or its Subsidiaries is a participating employer under any Employee Plan. All Employee Plans are sponsored by the Company and/or its Subsidiaries.

(i) All data necessary to administer each Employee Plan is in the possession of the Company or an agent and is in a form which is sufficient for the proper administration of the Employee Plan in accordance with its terms and all applicable Laws and such data is complete and correct in all material respects.

31. **Insurance**. The Company and each of its Subsidiaries is, and has been continuously since January 1, 2021, insured by reputable third party insurers with reasonable and prudent policies appropriate and customary for the size and nature of the business of the Company, its Subsidiaries and their respective assets. The insurance policies of the Company and its Subsidiaries are in all material

respects in full force and effect in accordance with their terms and none of the Company or any of its Subsidiaries is in default in any material respect under the terms of any such policy. To the knowledge of the Company, there is no material claim pending under any insurance policy of the Company or its Subsidiaries that has been denied, rejected or disputed by any insurer, or as to which any insurer has refused to cover all or any material portion of such claim. To the knowledge of the Company, all material claims covered by any insurance policy of the Company or any of its Subsidiaries have been properly reported to and accepted by the applicable insurer.

32. **Taxes**.

(a) Each of the Company and its Subsidiaries has duly and timely filed all material Tax Returns required to be filed by it prior to the date hereof and all such Tax Returns are true, complete and correct in all material respects.

(b) Each of the Company and its Subsidiaries has paid on a timely basis all material Taxes which are due and payable by it on or before the date hereof (including instalments), other than those which are being or have been contested in good faith and in respect of which reserves have been provided in the most recently published consolidated financial statements of the Company in accordance with IFRS. Each of the Company and its Subsidiaries has provided accruals in accordance with IFRS in the most recently published consolidated financial statements of the Company for any Taxes of the Company and its Subsidiaries for the period covered by such financial statements that have not been paid whether or not shown as being due on any Tax Returns. Since such publication date, no material liability in respect of Taxes not reflected in such statements or otherwise provided for has been assessed, proposed to be assessed, incurred or accrued, other than in the Ordinary Course.

(c) Except as disclosed in Schedule 3.1(32(c)) of the Company Disclosure Letter, no material deficiencies, litigation, audits, claims, proceedings, investigations, proposed adjustments or matters in controversy exist or have been asserted with respect to Taxes of the Company or any of its Subsidiaries, and neither the Company, nor any of its Subsidiaries, is a party to any material action or proceeding for assessment or collection of Taxes and no such event has been asserted or, to the knowledge of the Company, threatened against the Company or any of its Subsidiaries, or any of their respective assets.

(d) No claim has been made by any Governmental Entity in a jurisdiction where the Company or any of its Subsidiaries does not file Tax Returns that the Company, or any of its Subsidiaries, is or may be subject to material Tax by that jurisdiction or is or may be required to file a tax return in that jurisdiction.

(e) There are no Liens (other than Permitted Liens) with respect to Taxes upon any of the assets of the Company or any of its Subsidiaries.

(f) Except as disclosed in Schedule 3.1(32(f)) of the Company Disclosure Letter, each of the Company and its Subsidiaries has withheld, deducted or collected all material amounts required by Law to be withheld, deducted or collected by it on account of Taxes and has remitted all such amounts to the appropriate Governmental Entity when required by Law to do so.

(g) There are no outstanding agreements, arrangements, elections, waivers or objections extending or waiving the statutory period of limitations applicable to (i) any material claim for, (ii) any election, designation or similar filing in respect of, or (iii) the period for the

collection or assessment or reassessment of, Taxes due from the Company or any of its Subsidiaries, for any taxable period and no request for any such waiver or extension is currently pending.

(h) Neither the Company nor any of its Subsidiaries have requested an advance tax ruling from the Canada Revenue Agency or comparable rulings from other Governmental Entities.

(i) The Company and each of its Subsidiaries has made available to the Purchaser true, correct and complete copies of all material Tax Returns, examination reports and statements of deficiencies for taxable periods, or transactions consummated, for which the applicable statutory periods of limitations have not expired.

(j) None of the Company or any of its Subsidiaries has, at any time, directly or indirectly transferred any property or supplied any services to, or acquired any property or services from, a Person with whom the Company or Subsidiary, as the case may be, was not dealing at arm's length (within the meaning of the Tax Act) for consideration other than consideration equal to the fair market value of such property or services at the time of transfer, supply or acquisition, as the case may be, nor has the Company or any of its Subsidiaries been deemed to have done so for purposes of the Tax Act.

(k) The Company and its Subsidiaries have complied in material respects with the transfer pricing (including any contemporaneous documentation) provisions of each applicable Law, including for greater certainty, under section 247 of the Tax Act (and the corresponding provisions of any applicable provincial Law).

(l) Neither the Company nor any of its subsidiaries has received any COVID-19 Subsidy amounts to which it was not entitled.

(m) Each of the Company and of its Subsidiaries has not received or claimed a refund or credit with respect to Taxes to which it is not entitled.

(n) There are no circumstances existing which could result in the material application of section 78 or sections 80 to 80.04 of the Tax Act, or any equivalent provision under provincial Law, to the Company or any of its Subsidiaries. Except as in accordance with past practices, the Company and its Subsidiaries have not claimed nor will they claim any reserve under any provision of the Tax Act or any equivalent provincial provision, if any material amount could be included in the income of the Company or its Subsidiaries for any period ending after the Effective Date.

(o) For the purposes of the Tax Act, any applicable Tax treaty and any other relevant Tax purposes (i) the Company is resident in, and is not a non-resident of, Canada, and is a ''taxable Canadian corporation"; and (ii) each of its Subsidiaries is resident in the jurisdiction in which it was formed, and is not resident in any other country and if resident in Canada and is a corporation, is a "taxable Canadian corporation".

33. **Opinion of Financial Advisor**. The Company Board has received the Fairness Opinion and such Fairness Opinion has not been withdrawn or modified as of the date hereof.

34. **Brokers**. Except for the engagement letter between the Company and the Financial Advisor and the fees payable under or in connection with such engagement, no investment banker, broker, finder, financial adviser or other intermediary has been retained by or is authorized to act on behalf of the Company or any of its Subsidiaries or is entitled to any fee, commission or other payment

from the Company or any of its Subsidiaries in connection with this Agreement or any other transaction contemplated by this Agreement. In Schedule 3.1(34) of the Company Disclosure Letter, the Company has disclosed to the Purchaser all fees, commissions or other payments that may be payable to the Financial Advisor in connection with this Agreement or any other transaction contemplated by this Agreement and a true and complete copy of the engagement letter between the Company and the Financial Advisor has been provided to the Purchaser's legal counsel.

35. **Anti-Terrorism Laws**. To the knowledge of the Company, neither the Company nor any of its Subsidiaries has been or is currently subject to any economic or financial sanctions or trade embargoes imposed, authorized, administered or enforced by any Governmental Entity (including the Government of Canada, the Office of Foreign Assets Control of the U.S. Treasury Department (including the designation as a "specially designated national or blocked person" thereunder), or any other applicable sanctions authority) or other similar Laws (collectively, "**Sanctions**"). To the knowledge of the Company, neither the Company nor any of its Subsidiaries has received any written notice alleging that the Company, any of its Subsidiaries or any of their respective Representatives has violated any Sanctions, and, to the knowledge of the Company, no condition or circumstances exist (including any ongoing action, suit, proceeding or hearing) that would form the basis of any such allegations.

36. **Corrupt Practices Legislation**. Except for non-compliance which would not reasonably be expected to have a Material Adverse Effect, neither the Company nor any of its Subsidiaries have, directly or indirectly, taken any action which is or would be otherwise inconsistent with or prohibited by the Corruption of Foreign Public Officials Act (Canada), the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada) or the anti-bribery corruption and corruption provisions of the Criminal Code (Canada) or any applicable Law of similar effect (collectively, the "**Corrupt Practices Legislation**"). To the knowledge of the Company, neither the Company nor any of its Subsidiaries has received any notice alleging that the Company or any of its Subsidiaries or any of their respective Representatives has violated any Corrupt Practices Legislation, and, to the knowledge of the Company, no condition or circumstances exist that would form the basis of any such allegations.

37. **Money Laundering**. Except for non-compliance which would not reasonably be expected to have a Material Adverse Effect, the operations of the Company and each of its Subsidiaries have been, since January 1, 2021 conducted in compliance in all material respects with applicable financial recordkeeping and reporting requirements and money laundering or similar Laws ("**Money Laundering Laws**"). To the knowledge of the Company, neither the Company nor any of its Subsidiaries has received any notice alleging that the Company, any of its Subsidiaries or any of their respective Representatives has violated any Money Laundering Laws, and, to the knowledge of the Company, no condition or circumstances exist (including any ongoing actions, suits, proceedings or hearings) that would form the basis of any such allegations.

38. **Board Approval**. The Company Board, after receiving financial and legal advice, has: (i) determined that the Arrangement is fair and reasonable to the Company Shareholders and in the best interests of the Company, (ii) resolved to recommend that Company Shareholders vote in favour of the Arrangement Resolution, and (iii) authorized the entering into of this Agreement and the performance by the Company of its obligations under this Agreement, and no action has been taken to amend, or supersede such determinations, resolutions, or authorizations.

SCHEDULE D
REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

1. **Organization and Qualification**. The Purchaser is a corporation duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation, and has all requisite power and authority to own, lease and operate its assets and properties and conduct its business as now owned and conducted.

2. **Corporate Authorization**. The Purchaser has the requisite corporate power and authority to enter into and perform its obligations under this Agreement. The execution, delivery and performance by the Purchaser of its obligations under this Agreement and the consummation of the Arrangement and the other transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of the Purchaser and no other corporate proceedings on the part of the Purchaser are necessary to authorize this Agreement or the consummation of the Arrangement and the other transactions contemplated hereby.

3. **Execution and Binding Obligation**. This Agreement has been duly executed and delivered by the Purchaser, and, assuming that this Agreement has been duly and validly authorized, executed and delivered by the Company, constitutes a legal, valid and binding agreement of the Purchaser enforceable against it in accordance with its terms subject only to any limitation under bankruptcy, insolvency or other Laws affecting the enforcement of creditors' rights generally and the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction.

4. **Governmental Authorization**. Assuming the truth and accuracy of the representations and warranties of the Company set forth in Schedule C, The execution, delivery and performance by the Purchaser of its obligations under this Agreement and the consummation of the Arrangement and the other transactions contemplated hereby do not require any Authorization or other action by or in respect of, or filing with, or notification to, any Governmental Entity by the Purchaser or any of its Subsidiaries other than: (a) the Interim Order and any approvals required by the Interim Order; (b) the Final Order; (c) filings with the Director under the OBCA; (d) filings with the Securities Authorities or the TSX; and (e) actions, filings or notifications, the absence of which if not taken or made, would not reasonably be expected to, individually or in the aggregate, materially impede the ability of the Purchaser to consummate the Arrangement and the transactions contemplated hereby.

5. **Non-Contravention**. The execution and delivery of, and performance by the Purchaser of its obligations under, this Agreement and the consummation of the Arrangement and the other transactions contemplated hereby (including the Financings or any other financings being entered into in connection therewith) do not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition):

   (a) assuming compliance with the matters referred to in paragraph 4 above, contravene, conflict with, or result in any violation or breach of the Purchaser's Constating Documents;

   (b) assuming compliance with the matters referred to in paragraph 4 above, contravene, conflict with or result in a violation of breach of any Law applicable to the Purchaser, any of its Subsidiaries or any of their respective properties or assets; or

   (c) constitute a breach of or default under, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit to which the Purchaser or any of its Subsidiaries is entitled under any Contract in respect of

indebtedness to which the Purchaser or any of its Subsidiaries is a party or by which the Purchaser or any of its Subsidiaries is bound,

except in the case of each of (b) and (c) as would not reasonably be expected to, individually or in the aggregate, materially impede the ability of the Purchaser to consummate the Arrangement and the transactions contemplated hereby.

6. **Litigation**. There are no claims, actions, suits or arbitrations or inquiries, investigations or proceedings pending, or, to the knowledge of the Purchaser, threatened, against the Purchaser or any of its Subsidiaries, or affecting any of their respective properties or assets, that if determined adverse to the interests of the Purchaser or its Subsidiaries, would, individually or in the aggregate, reasonably be expected to prevent or delay the consummation of the Arrangement or the transactions contemplated hereby. Neither the Purchaser nor any of its Subsidiaries, nor any of their respective properties or assets is subject to any outstanding judgment, order, writ, injunction or decree that would reasonably be expected to prevent or delay the consummation of the Arrangement or the transactions contemplated hereby.

7. **Funds Available**. Prior to the execution and delivery of this Agreement, the Purchaser has delivered to the Company (a) true and complete, fully-executed copies of the Debt Commitment Letters evidencing the availability of committed credit facilities in favour of the Purchaser, pursuant to which the Debt Financing Sources have agreed, subject to the terms and conditions set forth therein, to provide the Purchaser with the Debt Financing in the aggregate amount set forth therein (subject to the redaction provisions below with respect to the fee letters), and (b) a true and complete, fully-executed copy of the Equity Commitment Letter, pursuant to which the Equity Investors have agreed, subject to the terms and conditions set forth therein, to provide the Purchaser with funds in the aggregate amount set forth therein. Except for fee letters (complete copies of which have been provided to the Company, with only fee amounts, economic terms, "market flex" provisions and other customary threshold amounts redacted; provided that the Purchaser represents and warrants that the redacted provisions in such fee letters do not permit the imposition of any new conditions (or the expansion of any existing conditions) with respect to the Debt Financing or any reduction in the amount of the Debt Financing) and customary fee credit letters or engagement letters, in each case, with respect to the Debt Financing (none of which adversely affect the conditionality, enforceability, termination or availability of the Debt Financing or reduce the Debt Financing below the Required Amount, after taking into account the Equity Financing on the Effective Date), as of the date hereof, there are no other agreements, side letters or arrangements that would permit the Debt Financing Sources to reduce the amount of the Debt Financing or that could otherwise affect the availability of the Debt Financing. The Debt Commitment Letters and the Equity Commitment Letter and any related fee letter contain all of the conditions precedent to the obligations of the parties thereunder to make the Financings available to the Purchaser on the terms therein. As of the date hereof, each of the Debt Commitment Letters and the Equity Commitment Letter is in full force and effect, has not been amended, restated, modified, withdrawn or terminated, and, to the knowledge of the Purchaser, (i) no amendment, restatement, withdrawal or termination is contemplated and (ii) no event has occurred or circumstance exists, including the execution, delivery and performance of this Agreement or the consummation of the transactions contemplated hereby, which, with or without notice, lapse of time or both, would or would reasonably be expected to constitute a default or breach on the part of the Purchaser under either of the Debt Commitment Letters or the Equity Commitment Letter. To the knowledge of the Purchaser, each Equity Investor has the financial capacity to pay and perform its obligations under the Equity Commitment Letter. Each of the Debt Commitment Letters and the Equity Commitment Letter, is a legal, valid and binding obligation of the Purchaser and, to the knowledge of the Purchaser, the other parties thereto, in each case, except as may be limited by (A) bankruptcy,

insolvency, reorganization, moratorium, fraudulent conveyance or other similar Laws relating to creditors' rights generally, and (B) general principles of equity, whether such enforceability is considered in a proceeding in equity or at law. As of the date hereof, assuming satisfaction of the conditions precedent set forth in Section 6.1 and Section 6.2 (other than those conditions that by their nature are to be satisfied at the Effective Time, but subject to the satisfaction or waiver of those conditions at the Effective Time), the Purchaser has no reason to believe that any of the conditions to the financings contemplated by the Debt Commitment Letters and the Equity Commitment Letter will not be satisfied or that the Financings will not be made available to the Purchaser on the Effective Date, including any reason that would reasonably be expected to result in any of the conditions set forth in the Debt Commitment Letters and the Equity Commitment Letter not being satisfied; that would constitute a breach of any term or condition of the Debt Commitment Letters or the Equity Commitment Letter by any party thereto; or that would make the Purchaser unable to satisfy on a timely basis any condition of closing to be satisfied by it contained in the Debt Commitment Letters or the Equity Commitment Letter. All commitment and other fees or expenses required to be paid under or in connection with the Debt Commitment Letters and/or the Equity Commitment Letter on or prior to the date hereof have been paid. At the Effective Date, assuming the Financings contemplated in the Debt Commitment Letters and the Equity Commitment Letter are funded, the Purchaser will have sufficient funds available to satisfy the aggregate Arrangement Consideration plus any other amounts payable by the Purchaser under the terms of this Agreement (including the Plan of Arrangement) in accordance with the terms of this Agreement (the "**Required Amount**").

8. **Solvency**. Immediately after giving effect to the consummation of the transactions contemplated by this Agreement (including the Financings or any other financings being entered into in connection therewith):

   (a) the fair value of the assets of the Purchaser and its Subsidiaries, taken as a whole, shall be greater than the total amount of the liabilities of the Purchaser and its Subsidiaries (including all liabilities, whether or not reflected in a balance sheet prepared in accordance with IFRS, and whether direct or indirect, fixed or contingent, secured or unsecured, disputed or undisputed), taken as a whole;

   (b) the Purchaser and its Subsidiaries, taken as a whole, shall be able to pay their debts and obligations as they become due in the ordinary course of business; and

   (c) the Purchaser and its Subsidiaries, taken as a whole, shall have adequate capital to carry on their businesses and all businesses in which they are about to engage,

   and, for greater certainty, "Subsidiaries" shall include the Company and its Subsidiaries for the purposes of this paragraph 8.

9. **Security Ownership**. None of the Purchaser, any of its Subsidiaries, any Equity Investor, or any Person acting jointly or in concert with the Purchaser, beneficially owns or exercises control or direction over, any securities of the Company.

10. **Residency and Ownership Restrictions**.

   (a) The Purchaser is not a non-Canadian within the meaning of the *Investment Canada Act* (Canada).

(b) For the purposes of the Tax Act, any applicable Tax treaty and any other relevant Tax purposes, the Purchaser is resident in, and is not a non-resident of, Canada, and is a "taxable Canadian corporation".

(c) For the purposes of the Tax Act, any applicable Tax treaty and any other relevant Tax purposes, as applicable, the Purchaser (i) is not controlled by a non-resident of Canada or any group of non-resident persons not dealing with each other at arm's length, and no such non-resident or group has any rights which, if exercised, would give such non-resident or group control of the Purchaser, and (ii) is not a public corporation or a corporation controlled by a public corporation.