

This is the 1st Affidavit of Hadi Davarinia in this case and was made on March 11, 2025.

No. VLC-S-S-228113
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**MICHAEL DEMMER, RODNEY BRUNK,
TIM KEMPTER and WILLIAM WILLIAMSON**

PLAINTIFFS

AND:

**TREVALI MINING CORPORATION,
RICUS GRIMBEEK, BRENDAN CREANEY, JILL GARDINER,
RUSSELL BALL, ALINE COTE, NICK POPOVIC,
JEANE HULL, DAN ISSEROW and RICHARD WILLIAMS**

DEFENDANTS

Brought under the *Class Proceedings Act*, RSBC 1996, c. 50

**AFFIDAVIT OF HADI DAVARINIA
(Affirmed on March 11, 2025)**

I, HADI DAVARINIA, RESIDING IN TORONTO, ONTARIO, **AFFIRM THAT:**

1. I am a lawyer with the law firm of KND Complex Litigation, which is Representative Counsel to the shareholders of Trevali Mining Corporation in this proceeding and pursuant to this Court's representation order dated March 29, 2023, which was granted within a related proceeding involving Trevali Mining Corporation under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 ("**CCAA**" and "**CCAA Proceedings**").

2. I have knowledge of the matters to which I depose herein. Where my knowledge is based on information I have obtained from others, I have identified the source of that information, and believe it to be true.
3. When I use the term “we” and its derivatives, I refer to myself and the other lawyers within KND Complex Litigation, who are involved in this matter (hereinafter, “**Class Counsel**”).
4. No portion of this affidavit is intended to waive, nor should it be construed as a waiver of, attorney-client, litigation or other privilege.

A. Introduction

5. On March 11, 2025, the parties executed a Settlement Agreement in relation to the shareholders claim advanced in these CCAA Proceedings (“**Proposed Settlement**”). A copy of the Settlement Agreement is attached hereto as **Exhibit A**.
6. The Proposed Settlement is the result of extensive, hard-fought, arms-length negotiations between our clients (hereinafter, the “**Ad Hoc Committee of Shareholders**”) in their capacity as Representative Shareholders, and Trevali and its Directors over the course of nearly 2 years.
7. For the reasons outlined herein, Class Counsel are of the view that the Proposed Settlement is fair and appropriate to the investors of Trevali who are covered by it, and that it is also consistent with the spirit and goals of the CCAA as well as the *Class Proceedings Act*, RSBC 1996, c 50 (“**CPA**”).
8. On this application, the Ad Hoc Committee of Shareholders seeks, *inter alia*, certification of their claims under Part 2 of the *CPA* for settlement purposes and approval of certain ancillary matters including a notice of proposed settlement and establishing the opt-out procedure. Should this Court grant the within application, Class Counsel expects that the Ad Hoc Committee will bring an

application for final approval of the Proposed Settlement in late-May or early-June.

B. Procedural Background

9. At the relevant time, Trevali was a publicly traded mining company incorporated under the *Business Corporations Act*, SBC 2002, c 5 (“**Business Corporations Act**”), and headquartered in Vancouver, British Columbia. Trevali was a reporting issuer whose securities traded on the Toronto Stock Exchange, the United States OTC market, the Frankfurt Stock Exchange, and the Lima Stock Exchange.
10. At the relevant time, Trevali focused on production of zinc and lead concentrate from three operating assets:
 - i. the Perkoa Mine in Burkina Faso, in which Trevali had a 90% interest;
 - ii. the Rosh Pinah Mine in Namibia, in which Trevali had a 90% interest; and
 - iii. the Caribou Mine in New Brunswick, which was wholly owned by Trevali.
11. In April 2022, Trevali experienced a major flooding event at its Perkoa Mine, as a result of which 8 mine workers were trapped in the underground mine and tragically lost their lives. Furthermore, as a result of the flooding event, all operations at the Perkoa Mine were suspended.
12. At the same time, Trevali’s other operating asset, the Caribou Mine, experienced major operational and financial challenges.
13. On August 19, 2022, Trevali sought and obtained from this Honourable Court an Initial Order pursuant to the CCAA, and commenced the CCAA Proceedings. A copy of the Court’s Initial Order is attached hereto as **Exhibit B**.
14. As part of the Initial Order, this Court appointed FTI Consulting Canada Inc. as the Monitor in the CCAA Proceedings (“**Monitor**”).

15. As part of the Initial Order, this Court granted a stay of proceedings with respect to Trevali and its directors and officers. The stay of proceeding has been extended from time to time, and it remains in place as of the date of this affidavit.
16. As Trevali commenced the CCAA Proceedings, the Ad Hoc Committee of Shareholders actively engaged in discussions with the Monitor and Trevali, through their respective Counsel, with a view to preserve and address the claims of the shareholders of Trevali.
17. On October 7, 2022, on notice to the Monitor, Trevali and this Honourable Court, the Ad Hoc Committee of Shareholders filed a Notice of Civil Claim before this Court in order to assert the shareholders' claim and preserve it against the running of certain applicable limitation periods. A copy of the Notice of Civil Claim is attached hereto as **Exhibit C**.
18. On March 29, 2023, in the context of Trevali's application for a Claims Process Order, the Ad Hoc Committee of Shareholders sought and obtained from this Honourable Court a Shareholder Representation Order, a copy of which is attached hereto as **Exhibit D**.
19. Pursuant to the Shareholder Representation Order, the Ad Hoc Committee of Shareholders were appointed as Representative Shareholders and KND was appointed as Representative Counsel in the CCAA Proceedings on behalf of a class of Securities Claimants, defined as follows:

all persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired the common shares of Trevali in the primary market and/or in the secondary market during the period from October 9, 2020 through to August 15, 2022, inclusive, and held some or all of such common shares as of the close of trading on April 14, 2022 and/or August 15, 2022, except certain Excluded Persons

(hereinafter, "**Securities Claimants**").

20. Amongst other things, the Shareholder Representation Order mandated the Representative Shareholders and Representative Counsel to represent the

interests of the Securities Claimants in the CCAA Proceedings with respect to any claims against Trevali and/or its current and/or former directors and officers arising out of or relating to their transactions in the common shares of Trevali, including in relation to, and for all purposes of, the filing of any claims, proofs of claims, participation in negotiations or mediations with respect to the settlement of any part or the whole of the Securities Claimants' claims, and further matters relevant to the conduct of the CCAA Proceedings.

21. Pursuant to the Shareholder Representation Order, notices were also issued and the persons and entities who qualified as Securities Claimants were provided with a 90-day period to opt out from the scope of the Representation Order. No Securities Claimants opted out within the prescribed time frame. To date, no Securities Claimants has indicated that they wish to be excluded from the scope of the Shareholder Representation Order.

22. On April 19, 2024, pursuant to this Court's Claims Process Order, the Ad Hoc Committee of Shareholders, in their capacity as Representative Shareholders, filed a claims package with the Monitor ("**Shareholders' Claim**"). A copy of the Claims Package of the Ad Hoc Committee of Shareholders is attached hereto as **Exhibit E**.

23. The Shareholders' Claim is comprised of four distinct, but overlapping, claims filed under the authority of the Claims Process Order, which are summarized as follows:

Claim	Claim Made Against	Basis	Amount
Claim Form 1: Securities Act Claim	Trevali Mining Corporation	Sections 131, 140.3 & 140.5 of <i>Securities Act</i> , RSBC 1996, c 418	C\$56 million
Claim Form 2: Oppression Claim	Trevali Mining Corporation	Section 227 of the <i>Business Corporations Act</i> , SBC 2002, c 57	C\$56 million
Claim Form 3: Securities Act Claim	D&Os of Trevali Mining Corporation	Sections 131, 140.3 & 140.5 of <i>Securities Act</i> , RSBC 1996, c 418	C\$11,362,678.00
Claim Form 4: Oppression Claim	D&Os of Trevali Mining Corporation	Section 227 of the <i>Business Corporations Act</i> , SBC 2002, c 57	C\$56 million

24. Each of the above-identified claims is an unsecured, insured, equity claim.
25. Since the filing of the Shareholders' Claim, the Ad Hoc Committee of Shareholders engaged in significant discussions with the Monitor and Trevali, through their respective Counsel, to address the Shareholders' Claim. The Monitor extended the time to respond to the Shareholders' Claim several times between April 2023 and March 2024.
26. During this period, the parties had significant discussions regarding the adjudicative process and the path forward, which resulted in two conclusions: first that the Monitor would not be addressing the Shareholders' Claim in accordance with the procedure outlined in the Court's Claims Process Order. However, second, the Monitor was of the view that the claim ought to be addressed summarily within the CCAA Proceedings. In the circumstances, the Monitor referred the Shareholders' Claim to the Court by way of a Notice of Referral, dated April 19, 2024, a copy of which is attached hereto as **Exhibit F**.
27. Following the referral of the Shareholders' Claim to this Court, and on the parties' consent, this Honourable Court granted a Shareholders' Claim Order, dated April 26, 2024, a copy of which is attached hereto as **Exhibit G**. The Shareholders' Claim Order provided that the Shareholders' Claim will be adjudicated through an alternative procedure providing for, in the first instance, a mediation, and if the mediation were to be unsuccessful, the parties would be seeking directions from the Court with respect to the appropriate process for the adjudication of the Shareholders' Claim.
28. Following the granting of the Shareholders' Claim, the parties engaged in extensive discussions, negotiation and related work in relation to the mediation process, which were assisted by the Monitor from time to time. The mediation was held in person in Toronto on December 10, 2024 ("**Mediation**").
29. The Mediation was presided over by Mr. Joel Wiesenfeld, who is an extremely experienced mediator and has significant expertise in class actions generally and

securities class actions in particular, including securities claims asserted and litigated as part of proceedings under the CCAA.

30. The Mediation was not immediately successful. As a result, the parties turned their minds to the procedure for the adjudication of the Shareholders' Claim.

31. However, at the same time, negotiations continued with the assistance of Mr. Wiesenfeld. Those negotiations resulted in the Proposed Settlement.

C. Overview of Shareholders' Claim

32. In pith and substance, the Shareholders' Claim arises from the allegation that the directors of Trevali failed to exercise care and oversight over core, mission-critical risk management and compliance affairs of Trevali with respect to three significant governance areas:

- i. Health and safety;
- ii. Corporate governance and risk management; and
- iii. Internal control systems and disclosure controls and procedures.

33. In light of these allegations, the Ad Hoc Committee of Shareholders allege that certain specific statements and representations contained in Trevali's core disclosure documents released between October 9, 2020 and August 15, 2022 constituted a "misrepresentation" within the meaning and for the purposes of the *Securities Act*, RSBC 1996, c 418 ("**Securities Act**").

34. The Ad Hoc Committee of Shareholders further allege that the misrepresentation was corrected on April 16, 2022, when Trevali disclosed the flooding event at its Perkoa Mine, and on August 15, 2022, when Trevali disclosed that due to severe financial challenges, it would be unable to continue to operate.

35. The Ad Hoc Committee of Shareholders accordingly assert two types of claims.

36. **First**, claims for liability for misrepresentation in the primary market and in the secondary market pursuant to, respectively, sections 131 and 140.3 of the *Securities Act*. The claim under section 131 of the *Securities Act* is not subject to leave of the Court. The claim pursuant to section 140.3 of the *Securities Act* is subject to leave of the Court.
37. **Second**, the oppression claim pursuant to section 227 of the *Business Corporations Act*. This claim is also not subject to leave of the Court.
38. The Ad Hoc Committee of Shareholders estimate the Securities Claimants' damages at \$56 million, which is the aggregate amount indicated on the Shareholders' Claim.

D. The Rationale for the Proposed Settlement

39. Class Counsel's view that the Proposed Settlement is a fair and appropriate resolution of the Shareholders' Claim in the CCAA Proceedings is informed by the following overarching considerations.

a) Trevali's insolvency

40. Trevali's insolvency has imposed challenges from three major perspectives.
41. **First, procedural challenges.** Given the stay of proceedings, which has been and continues to be in place, the Shareholders' Claim has faced procedural challenges. As a result of these circumstances, the Shareholders' Claim has not meaningfully advanced towards adjudication on the merits.
42. **Second, risks with respect to the ultimate viability of the Shareholders' Claim.** The Shareholders' Claim is a contingent equity claim. The Ad Hoc Committee of Shareholders has to date dedicated significant efforts to ensure that this claim is preserved within the CCAA Proceedings, has successfully sustained it through the Court-sanctioned claims process, and remains committed to continue its efforts to preserve and adjudicate the Shareholders' Claim. Nonetheless, the fact of the matter is that it is possible that the

Shareholders' Claim be wiped out by way of a Plan of Compromise or Arrangement, or similar documents or orders of the Court under the CCAA.

43. **Third, risks with respect to recoverability of a monetary award.** It is a fact of the matter that Trevali is insolvent, and its assets have been either sold within the CCAA Proceedings or liquidated. Consequently, it does not have sufficient resources to answer to all claims asserted against it, including that of the creditors who rank ahead of the Securities Claimants. In the circumstances, practically, the only source for a future recovery would be the available Director and Officer insurance coverage, which is subject to specific coverage terms and limits, imposing further risks regarding the ultimate recoverability of the claim.

b) The Risks Pertaining to Litigation of the Shareholders' Claim

44. The Shareholders' Claim is a highly complex securities claim brought under specific parameters of the *Securities Act* and the *Business Corporations Act*.
45. The litigation of this type of claim is risky. Trevali and its directors and officers strenuously dispute the allegation that they made a misrepresentation, or that they engaged in oppressive or unfairly prejudicial conduct.
46. In the circumstances, the outcome of the litigation, if the Shareholders' Claim were to be adjudicated on its merit, is uncertain at this time.

c) Damages Considerations

47. The Ad Hoc Committee of Shareholders estimates that the Securities Claimants' damages would be \$56 million. This estimation is based on the statutory formulae provided at section 140.5 of the *Securities Act*, and on a consideration of the information concerning the trading activity in the common shares of Trevali during the period from October 9, 2020 through to August 15, 2022.
48. Three types of damages are engaged: (a) damages sought under the oppression remedy, which are uncapped; (b) damages sought under section 131 of the *Securities Act* for primary market liability, which are also uncapped; and (c)

damages for secondary market liability under section 140.3 of the *Securities Act*, which are subject to liability limits prescribed under the *Securities Act*, which in a nutshell would be as follows:

- i. with respect to Trevali, 5% of its market capitalization prior to the making of the misrepresentation;
 - ii. with respect to the directors and officers, 50% of their remuneration.
49. Considering these concepts, the Ad Hoc Committee of Shareholders estimates that the damages cap would be between approximately \$5 million and \$13.5 million depending on the interpretation that the Court may ultimately accept.
50. As a result of these circumstances, and depending on the claims that may ultimately succeed, the ultimate monetary award that may be granted by the Court, would be uncertain.

d) Generally Comparable Settlements

51. While every case is designed, litigated and resolved on its own merits and in its particular circumstances, Class Counsel have been informed by the following generally comparable settlements.
52. **First, Imperial Metals securities class action.** This class action was filed in August 2014 in the Ontario Superior Court of Justice after Imperial Metals Corporation suffered a major failure of the tailings storage facility of its Mount Polley Mine, located in British Columbia. The allegations similarly revolved around alleged misrepresentations with respect to the design and safety of the tailings storage facility of Mount Polley. After approximately 9 years of active litigation, this class action settled in January 2023 for \$6 million. The settlement agreement in this matter is attached as **Exhibit H**.
53. **Second, Xebec Adsorption securities class action.** This class action was commenced in March 2021 in the Superior Court of Quebec after Xebec Adsorption Inc. announced that it was unable to achieve the revenue targets

previously announced with respect to its fiscal year 2020. In September 2020, as the class action was ongoing, Xebec Adsorption sought and obtained an initial order under the CCAA, as a result of which the class action was stayed. The parties subsequently engaged in active discussions, and settled the claim within the authority of the CCAA and the class action provisions in Quebec for \$5 million in May 2023. The settlement agreement in this matter is attached as **Exhibit I**.

54. **Third, Northern Dynasty securities class action.** This class action was commenced in December 2020 in the Supreme Court of British Columbia after allegations arose that Northern Dynasty Minerals Ltd had provided inaccurate information to the public and regulators in the United States with respect to the permitting process of its Pebble Project in Alaska. There was parallel litigation in Canada and the United States which concurrently settled in August 2023 for, respectively, US\$2.125 million and US\$6.375 million. This class action was judicially managed by the Honourable Mr. Justice Kirchner. A copy of Justice Kirchner's order granting, *inter alia*, certification for settlement purposes only is attached as **Exhibit J**; a copy of Justice Kirchner's final approval order is attached as **Exhibit K**; and a copy of Justice Kirchner's order approving the distribution protocol and plan of notice with respect to the claims process is attached as **Exhibit L**.

e) Other Considerations

55. The Shareholders' Claim was filed into the CCAA Proceedings within the authority of the Court's Initial Order and the Claims Process Order and, generally, the CCAA. Therefore, the overarching principles guiding and governing a proceeding under the CCAA have been front and centre in the conduct of the Shareholders' Claim.
56. Specifically, the Ad Hoc Committee of Shareholders has been consistently cognizant of the imperatives of the CCAA Proceedings, including the requirement to cooperate with the other stakeholders with a view to maximize the value within Trevali for the benefit of its various stakeholders.

57. Furthermore, the Ad Hoc Committee of Shareholders recognize that the trying to promote and achieve reasonable compromises is a necessary element of a proceeding under the CCAA.
58. Consequently, the Ad Hoc Committee of Shareholders approached its extensive, arms' length discussions with the Trevali with a view to achieve a fair and reasonable compromise that is justified and warranted also considering the broader scope of the CCAA Proceedings. Those discussions were assisted with by the Monitor, which further ensured that the conduct of the Shareholders' Claim remained consistent with the spirit and goals of the CCAA generally, and the CCAA Proceedings involving Trevali specifically.
59. Class Counsel understands that the Monitor expects to comment on the Proposed Settlement at the appropriate time to further assist the Court in considering the fairness and propriety of the Proposed Settlement.

f) Representative Counsel Are Highly Skilled and Experienced

60. KND is a boutique class action firm that focuses on investor and consumer class actions and complex litigation. Members of KND have extensive experience in the conduct of securities class actions, including securities claims litigated in conjunction with proceedings under the CCAA.
61. The main members of KND who are responsible for this matter are as follows.
62. **Sage Nematollahi.** Mr. Nematollahi is a founding partner of KND. Mr. Nematollahi is a highly experienced class action and complex litigation lawyer. Mr. Nematollahi holds Master of Laws degrees from Harvard Law School (2010) and McGill University, Faculty of Law (2009). Mr. Nematollahi is called to the bar in British Columbia, Ontario and New York State, and has special authorization to act as counsel in the Yukon Territories. Mr. Nematollahi has acted as Counsel to plaintiffs in numerous class actions, including the following:

- a. *In re Valeant Pharmaceuticals International Inc.*, a national securities class action that resulted in a settlement in the aggregate amount of \$127 million;
 - b. *In re Sino-Forest Corporation Securities Litigation*, a national securities class action that resulted in settlements in the aggregate amount of more than \$160 million;
 - c. *In re Poseidon Concepts Corporation Securities Litigation*, a national class action that resulted in a settlement in excess of \$34.5 million;
 - d. *In re Imperial Metals Securities Litigation*, a securities class action on behalf of a global class of investors, which resulted in a \$6 million settlement;
 - e. *In re Xebec Adsorption Securities Litigation*, a securities class action on behalf of a global class of investors, which resulted in a \$5 million settlement;
 - f. *In re Northern Dynasty Securities Litigation*, a securities class action that resulted in a US\$2.15 million settlement on behalf of the Canadian Class (US\$8.5 million on a global basis);
 - g. *In re Canadian Solar Securities Litigation*, a national class action that resulted in a settlement in the amount of US\$13 million; and
 - h. *In re Victoria Gold Securities Litigation*, a class action on behalf of global investors, which resulted in a \$925,000 settlement.
63. **Eli Karp.** Mr. Karp is a founding partner and the managing partner of KND. Mr. Karp is a highly experienced commercial litigation and class actions lawyer. Mr. Karp obtained his law degree from Osgoode Hall Law School, and he is called to the bar in British Columbia and Ontario. Mr. Karp also has special authorization to act as counsel in the Province of Quebec. Mr. Karp has acted as Co-Counsel to plaintiffs in numerous class actions, including the following notable class proceedings:
- i. *Catucci c. Valeant Pharmaceuticals International Inc.*, [2017 QCCS 3870](#), a national securities class action that resulted in a settlement in the aggregate amount of \$127 million;
 - ii. *Rosen v. BMO Nesbitt Burns Inc.*, [2013 ONSC 2144](#), an Ontario class action for unpaid overtime that achieved a \$12.5 million settlement;
 - iii. *Derome c. Stars Group Inc.*, [2020 QCCS 2316](#), a Quebec securities class action that resulted in a \$30 million settlement;

- iv. *LBP Holdings Ltd. v. Hycroft Gold Corporation*, [2020 ONSC 59](#), an Ontario securities class action resulting in a \$4.375 million settlement;
- v. *Wellman and Corless v. TELUS and Bell*, [2014 ONSC 3318](#), two national consumer class actions that were certified, which certifications were later upheld on appeal; and
- vi. *Magill v. Expedia, Inc.*, [2013 ONSC 683](#), a national consumer class action that secured certification.

64. **Taek Soo Shin.** Mr. Shin is currently an associate lawyer at KND. Mr. Shin obtained his law degree from the University of Texas School of Law, and is called to the bar in the Province of Ontario, and the States of Texas and New York. During his tenure at KND first as an articling student and then as an associate, Mr. Shin involved himself in various privacy, consumer, and securities class proceedings in different provinces, including British Columbia, Ontario, and Quebec.

65. For the reasons outlined herein, Representative Counsel view the Proposed Settlement to be fair and appropriate in the circumstances, and would respectfully request that this Honourable Court approve it.

E. The Terms of the Proposed Settlement

66. The terms of the Proposed Settlement are generally consistent with comparable precedents, including the settlements achieved in Imperial Metals securities class action, the Xebec Adsorption Securities class action, and the Northern Dynasty securities class action, which was approved by Justice Kirchner of this Court.

67. The Proposed Settlement provides for the payment of \$2.8 million in full and final satisfaction of the Shareholders' Claim, inclusive of legal fees, expenses, administration fees, and applicable taxes.

68. The Proposed Settlement provides for full and final releases, which are consistent with the releases provided to the defendants in this type of litigation.

69. The Proposed Settlement provides for the form and the manner of distribution of the First Notice of the Proposed Settlement, consistent with those approved by the Courts in this type of litigation.
70. The Proposed Settlement provides that each Securities Claimant who wishes to opt out may do so by submitting a valid Opt-Out Form, in the form attached as Schedule "C" to the Settlement Agreement within 30 days from the publication of the First Notice of the Proposed Settlement.

F. The Proposed Plan of Allocation

71. Class Counsel have prepared a proposed Plan of Allocation, which is consistent with the plans of allocation approved by the Courts in this type of litigation. A copy of the proposed Plan of Allocation is attached hereto as **Exhibit M**.
72. The Proposed Plan of Allocation in this matter has been prepared based on the Plan of Allocation approved by the Court in the Xebec securities litigation matter, a copy of which is attached hereto as **Exhibit N**. Class Counsel used the Plan of Allocation in Xebec due to the substantive similarities between the two cases, including:
 - i. Both cases were resolved within proceedings under the CCAA;
 - ii. The securities claimants in both matters involved various categories, representing different levels of strengths and risks associated with the claims, which would necessitate a different treatment amongst the securities claimants; and
 - iii. Class Counsel also acted for the class in the Xebec matter, and Counsel to Trevali and D&Os acted for the issuer and its directors in the Xebec matter. This fact facilitated the discussions amongst the parties in formulating the structural parameters of the settlement approval and distribution process.
73. The Proposed Plan of Allocation provides for mathematical and objective criteria for the calculation of the payouts to be allocated to each Securities Claimant who

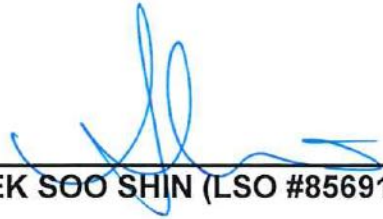
will submit a valid Claim Form in accordance with the procedure to be established by the Court, should the Court approve the Proposed Settlement.

74. The formulae for the calculation of the losses are in general conformity with those provided in section 140.5 of the *Securities Act*, and they have been developed based on the trading data in relation to the trading in the securities of Trevali on the Toronto Stock Exchange.

G. The Path Forward

75. Assuming this Honourable Court grants the within application, the First Notice of the Proposed Settlement will be issued, and the eligible investors will be afforded the opportunity to opt-out or otherwise comment on the Proposed Settlement should they wish to do so.
76. Subsequently, the Ad Hoc Committee expect to bring an application to seek an order finally approving the Proposed Settlement, seeking the following relief:
- i. an order approving the Proposed Settlement as fair and reasonable;
 - ii. an order approving the Proposed Plan of Allocation;
 - iii. an order appointing an administrator with respect to the claims process and the distribution of the settlement fund. Class Counsel are currently engaged in discussions Concilia Services Inc., whose profile is attached as **Exhibit O**;
 - iv. an order approving the notice and the plan of notice with respect to the claims process;
 - v. an order approving honorarium payments to the members of the Ad Hoc Committee of Shareholders in recognition of their time and effort to represent the best interests of the shareholders of Trevali in these highly complex and demanding CCAA Proceedings, in the amount of \$2,500 per person; and

THIS IS **EXHIBIT "A"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025

A handwritten signature in blue ink, consisting of several loops and a horizontal stroke at the end, positioned above a solid black horizontal line.

TAEK SOO SHIN (LSO #85691Q)

SETTLEMENT AGREEMENT

made as of March 11, 2025

between

**MICHAEL DEMMER, RODNEY BRUNK, TIM KEMPTER,
and WILLIAM WILLIAMSON**

(Michael Demmer, Rodney Brunk, Tim Kempter and William Williamson
collectively, the “**Plaintiffs**”)

and

**TREVALI MINING CORPORATION (“Trevali”),
RICUS GRIMBEEK, BRENDAN CREANEY, JILL GARDINER, RUSSELL BALL, ALINE
COTE, NICK POPOVIC, JEANE HULL, DAN ISSEROW,
and RICHARD WILLIAMS**

(Ricus Grimbeek, Brendan Creaney, Jill Gardiner, Russell Ball, Aline Cote,
Nick Popovic, Jeane Hull, Dan Isserow and Richard Williams collectively, the “**D&O Defendants**”,
and together with Trevali, the “**Defendants**”)

RECITALS:

WHEREAS on August 19, 2022, the CCAA Court issued an Initial Order pursuant to the CCAA, which resulted in the stay of all proceedings involving Trevali and its former and current directors and officers;

WHEREAS on October 7, 2022 the Plaintiffs commenced the Class Proceeding, a proposed class action for, *inter alia*; damages for alleged misrepresentations under Parts 16 and 16.1 of the BCSA and section 227 of the BCBCA, which was stayed as a result of the CCAA Proceeding.

WHEREAS on March 29, 2023, the Plaintiffs were appointed as class representatives in the CCAA Proceeding;

WHEREAS the Defendants deny all of the Plaintiffs’ allegations and do not admit, through the execution of this Settlement Agreement or otherwise, any unlawful conduct, liability, wrongdoing, or fault of any kind by the Defendants, as alleged in the Class Proceeding or otherwise;

WHEREAS despite the Defendants’ belief that the allegations advanced in the Class Proceeding are unfounded and that they have good and reasonable defences both to certification and on the merits, the Defendants have agreed to enter into this Settlement Agreement to achieve a final nation-wide resolution of all claims asserted, or which could have been asserted against them by the Plaintiffs in the Class Proceeding, and to avoid further expense, inconvenience and the distraction of protracted litigation;

WHEREAS the Parties intend by this Settlement Agreement to resolve all past, present and future claims of the Plaintiffs and Class Members arising out of or relating to the allegations pleaded in the Class Proceeding or otherwise arising from the Securities, without admission or prejudice whatsoever;

WHEREAS the Parties, with counsel, engaged in arms-length settlement discussions and negotiations that resulted in this Settlement Agreement, which includes all of the terms and conditions of the Settlement between the Defendants and the Plaintiffs, both individually and on behalf of the Class Members the Plaintiffs seek to represent, subject to the approval of the Court;

WHEREAS the Plaintiffs and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, and having regard to the burden and expense of litigating the Class Proceeding, including the risks and uncertainties associated with leave, certification, trials and appeals, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable, and in the best interests of the Plaintiffs and Class Members;

NOW THEREFORE in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that all claims of the Plaintiffs and Class Members in the Class Proceeding be settled and dismissed with prejudice and without costs, subject to the approval of the Class Action Court, on the following terms and conditions:

Section 1 Definitions

1.1 For the purposes of this Settlement Agreement, including the Recitals and Schedules hereto:

- (a) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiffs, Class Counsel, the Claims Administrator or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of notices and claims administration, but not Class Counsel Fees;
- (b) **BCBCA** means the Business Corporations Act, SBC 2002, c 57;
- (c) **BCSA** means the *Securities Act*, RSBC 1996, c 418;
- (d) **CCAA** means the Companies' Creditors Arrangement Act, RSC 1985, c C-36;
- (e) **CCAA Court** means the Supreme Court of British Columbia or any other court seized of, or having jurisdiction in, the CCAA Proceeding;
- (f) **CCAA Proceeding** means *In the Matter of the Companies' Creditors Arrangement Act, RSC 1985, c C-36 as amended and In the Matter of the Business Corporations Act, SBC 2002, c 57 and the Business Corporations Act, SNB 1981, c B-9.1, as amended and In the Matter of a Plan of Compromise and Arrangement of Trevali Mining Corporation and Trevali Mining (New Brunswick) Ltd., SCBC Vancouver Registry No. VLC S-S-226670;*

- (g) **Certification** means certification of a class proceeding pursuant to section 4 of the *Class Proceedings Act*, RSBC 1996, c 50;
- (h) **Claims Administrator** means KND Complex Litigation and any employees of KND Complex Litigation, or a third-party professional firm and any employees of such firm, appointed by the Class Action Court to administer:
 - (i) this Settlement Agreement;
 - (ii) the program whereby Class Members can exclude themselves from the Action; and
 - (iii) the Distribution Protocol;
- (i) **Class Claims Bar Deadline** means the date by which each Settlement Class Member must file a claim form and all required supporting documentation with the Claims Administrator, which date shall be set out in the Second Notice and which shall be at least one hundred twenty (120) days after the date on which the Second Notice is first published;
- (j) **Class or Class Member** means, other than the Excluded Persons, all persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired the common shares of Trevali in the primary market and/or in the secondary market during the Class Period, and held some or all of such common shares as of the close of trading on April 14, 2022 and/or August 15, 2022;
- (k) **Class Action Court** means the Supreme Court of British Columbia, or any other court seized of, or having jurisdiction in, the Class Proceeding;
- (l) **Class Counsel** means KND Complex Litigation;
- (m) **Class Counsel Fees** includes all of the fees and disbursements of Class Counsel, and any applicable taxes thereon;
- (n) **Class Period** means October 9, 2020 through to August 15, 2022 inclusive;
- (o) **Class Proceeding** means *Demmer et al. v. Trevali Mining Corporation et al.*, SCBC Vancouver Registry No. VLC-S-S-228113;
- (p) **Collateral Agreement** means the agreement executed contemporaneously with this Settlement Agreement, which sets the Opt-Out Threshold, the terms of which shall be kept confidential unless a Court requires disclosure thereof;
- (q) **Contributing Party** means the Defendants' insurer, as will be identified in the Letter of Undertaking, but only in their capacity as insurer of the Defendants.
- (r) **Defence Counsel** means Osler, Hoskin & Harcourt LLP;

- (s) ***Distribution Protocol*** means the procedures for the administration and distribution of the Settlement Amount as established by Class Counsel and approved by the Class Action Court;
- (t) ***Effective Date*** means the date when the Settlement Approval Order issued by the Class Action Court approving this Settlement Agreement becomes a Final Approval Order;
- (u) ***Escrow Account*** means an interest-bearing escrow account at a Canadian Schedule 1 bank under the control of KND Complex Litigation or the Claims Administrator for the benefit of the Settlement Class Members;
- (v) ***Excluded Persons*** means the following entities and persons:
 - (i) Trevali and its current or former directors, officers, subsidiaries, partners, affiliates, legal representatives, predecessors, successors and assigns;
 - (ii) the D&O Defendants;
 - (iii) Glencore plc, Glencore International AG, Glencore AG and Glencore Canada Corporation (collectively, “**Glencore Entities**”), and their directors, officers, subsidiaries, partners, affiliates, legal representatives, predecessors, successors and assigns;
 - (iv) any judge of a court who has heard or will hear any motion, application or appeal in respect of the Class Proceeding;
- (w) ***Execution Date*** means the date on the execution pages as of which the Parties have fully executed this Settlement Agreement;
- (x) ***Final Approval Order*** means the later of a final judgment pronounced by the Class Action Court approving this Settlement Agreement in accordance with its terms, once the time to appeal such judgment has expired without any appeal being taken; or once there has been an affirmation of the approval of this Settlement Agreement in accordance with its terms, upon a final disposition of all appeals;
- (y) ***Final Lift Stay Order*** means the later of a final judgment entered by the CCAA Court granting the Lift Stay Order, the time to appeal such judgment having expired without any appeal being taken, and if an appeal lies, the lifting of the Stay of Proceedings upon a final disposition of all appeals;
- (z) ***First Application*** means the applications or motions brought before the Class Action Court, for orders:
 - (i) granting Certification and Leave for settlement purposes only;
 - (ii) setting the date for the hearing of the Second Application;
 - (iii) approving the form of the First Notice;

- (iv) approving and authorizing the publication and dissemination of the First Notice;
 - (v) appointing the Claims Administrator; and
 - (vi) appointing Class Counsel to control the Escrow Account subject to the terms of this Settlement Agreement;
- (aa) **First Notice** means the form or forms of notice to the Class, as agreed to by the Plaintiffs and Trevali, and approved by the Class Action Court, which shall substantially be in accordance with the notices at Schedule “B” and a French translation thereof, which inform(s) the Class Members of: (i) the date and location of the Settlement Approval Hearing; (ii) the principal elements of the Settlement Agreement; (iii) the process by which Class Members may object to or opt out of the Settlement; and (iv) Class Counsel Fees requested by Class Counsel;
 - (bb) **Honorarium** means any payment awarded individually to the Plaintiffs in the Proceeding in consideration of the Plaintiffs’ time, effort, and result obtained for Class Members, as approved by the Class Action Court;
 - (cc) **Leave** means leave to commence a secondary market securities claim under section 140.8 of the BCSA;
 - (dd) **Letter of Undertaking** means the agreement executed contemporaneously with this Settlement Agreement, which sets the contribution of the Contributing Party, the terms of which shall be kept confidential unless a Court requires disclosure thereof;
 - (ee) **Lift Stay Order** means the order of the CCAA Court to be requested by the Defendants, with consent of the Plaintiffs, lifting the Stay of Proceedings with respect to Trevali and the D&O Defendants for the sole purpose of allowing the Plaintiffs to apply for: (i) Certification for settlement purposes, and (ii) the Settlement Approval Order;
 - (ff) **Opt-Out Deadline** means 30 (thirty) days from the first publication of the First Notice;
 - (gg) **Opt-Out Parties** means collectively, all persons who would otherwise be Class Members who validly opt out of the Class Proceeding, each individually being an “Opt-Out Party”;
 - (hh) **Opt-Out Threshold** means the total number of Trevali outstanding shares required to be held by all Opt-Out Parties in order to trigger the Defendants’ right to terminate this Settlement Agreement in accordance with Section 9.6 hereof, as particularized in the Collateral Agreement;
 - (ii) **Parties** means the Plaintiffs and the Defendants;
 - (jj) **Released Claims** means any and all manner of claims, demands, actions, suits, debts, judgments, losses, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages of any kind (including compensatory,

punitive or other damages) whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, Administration Expenses, penalties, and lawyers' fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity, or that may be created or recognized in the future by statute, regulation, judicial decision, or in any other manner, relating in any way to any conduct anywhere related to, arising from, or described in the pleadings filed in the Class Proceeding (or which could have been alleged in the Class Proceeding) or otherwise arising from the Securities including, without limitation, any and all claims which have been, might have been, are now, or could have been asserted by any Plaintiff or any Class Member in an individual or representative capacity, directly or indirectly, whether in Canada or elsewhere, arising out of, based upon, or related to, in whole or in part, the alleged facts and circumstances underlying the claims and causes of action set forth in (or that could have been raised in) the Class Proceeding;

- (kk) **Releasees** means, jointly and severally, individually and collectively, the Defendants and all of their present and former direct and indirect parents, owners, subsidiaries, divisions, affiliates, associates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, shareholders, lawyers, attorneys, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators, assigns, beneficiaries and *ayants-droits* of each of the foregoing;
- (ll) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members and their respective parents, subsidiaries, affiliates, predecessors, successors, heirs, executors, administrators, insurers, assigns, beneficiaries and *ayants-droits*;
- (mm) **Second Application** means the applications or motions brought before the Class Action Court for orders:
 - (i) approving the Settlement Agreement;
 - (ii) approving the Second Notice;
 - (iii) approving the Distribution Protocol;
 - (iv) approving the Claim Form;
 - (v) approving the Class Claims Bar Deadline; and
 - (vi) approving the Class Counsel Fees and any Honorariums;
- (nn) **Second Notice** means the form or forms of notice to the Class to be prepared by Class Counsel and approved by Defence Counsel and the Class Action Court, and a French translation thereof, which inform(s) the Settlement Class of *inter alia* the granting of the Settlement Approval Order and the process to submit a claim for a portion of the net Settlement Amount;

- (oo) *Securities* means the securities issued by Trevali, including, without limitation, common shares and subscription receipts;
- (pp) *Settlement* means the settlement provided for in this Settlement Agreement;
- (qq) *Settlement Agreement* means this agreement, including recitals and schedules;
- (rr) *Settlement Approval Hearing* means the hearing for the Class Action Court's approval of the Settlement;
- (ss) *Settlement Approval Order* means the order of the Class Action Court granting final approval of this Settlement Agreement and directing its consummation pursuant to its terms and conditions, approving the Release, and dismissing the claims asserted in the Class Proceeding with prejudice and without costs to any party. The Parties agree to submit a mutually agreed proposed Settlement Approval Order for the Class Action Court's consideration in connection with the Plaintiff's application for settlement approval;
- (tt) *Settlement Class or Settlement Class Members* means, other than the Excluded Persons and any person who validly opted out of the Class Proceeding:
 - (i) all persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired the common shares of Trevali in the primary market and/or in the secondary market during the Class Period, and held some or all of such common shares as of the close of trading on April 14, 2022 and/or August 15, 2022;
- (uu) *Stay of Proceedings* means the stay of proceedings ordered by the CCAA Court, as part of the CCAA Proceeding, with respect to all proceedings against or in respect of, inter alia, Trevali and its former and current directors and officers, as per the terms of the Initial Order dated August 19, 2022, as subsequently amended, restated, and extended by the CCAA Court from time to time.

Section 2 Settlement Amount

- 2.1 Contingent on the approval of the Settlement Agreement by the Court, the Defendants have agreed to pay the settlement amount of CDN \$2,800,000 (two million and eight hundred thousand dollars) (the "**Settlement Amount**") on behalf of the Defendants, without any admission of liability, in accordance with this Settlement Agreement.
- 2.2 Subject to Section 9, within 60 (sixty) days of the granting of the orders in the First Application, the Contributing Party, pursuant to the Letter of Undertaking, shall, on behalf of the Defendants, pay the Settlement Amount as directed by Class Counsel for deposit into the Escrow Account, unless otherwise ordered by the Class Action Court.
- 2.3 The Settlement Amount shall be paid in full satisfaction of the Released Claims against the Releasees.

- 2.4 The Settlement Amount shall be inclusive of all Administration Expenses, Class Counsel Fees, Honorariums, interest, costs, and any other expense incurred by Class Counsel.
- 2.5 The Defendants shall have no obligation to pay to the Plaintiffs or the Settlement Class Members any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement or the Class Proceeding.
- 2.6 Upon payment of the Settlement Amount to Class Counsel after the Effective Date, the Claims Administrator shall distribute the Settlement Amount as follows, subject to the approval of the Court:
- (a) As set out in Section 4, to Class Counsel on account of Class Counsel Fees inclusive of all disbursements and applicable taxes;
 - (b) As set out in Section 5, to Class Counsel, in trust, for the benefit of the Plaintiffs in respect of any Honorariums;
 - (c) The funds remaining will be distributed in accordance with the Distribution Protocol.
- 2.7 Except as expressly provided herein, all interest earned on the Settlement Amount in the Escrow Account shall accrue to the benefit of the Settlement Class and shall become and remain part of the amount held in escrow pursuant to this Settlement Agreement (together with the Settlement Amount, the “**Escrow Amount**”).
- 2.8 Subject to section 2.9, all taxes payable on any interest which accrues on or otherwise in relation to the Escrow Amount shall be paid from the Escrow Account. KND Complex Litigation or the Claims Administrator, as may later be appropriate, shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Escrow Amount, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Escrow Amount shall be paid from the Escrow Account.
- 2.9 The Defendants shall have no responsibility in any way related to the Escrow Account including but not limited to, making any filings relating to the Escrow Account, paying taxes on any income earned by the Escrow Amount, or paying any taxes on the monies in the Escrow Account, unless this Settlement Agreement is terminated as provided for herein, in which case any interest earned on the Escrow Amount shall be paid to Trevali who, in such case, shall be responsible for the payment of any taxes on such interest not previously paid by KND Complex Litigation or the Claims Administrator.
- 2.10 The Parties agree that they are in no way liable for any taxes any Settlement Class Members may be required to pay as a result of receiving any benefits under this Settlement Agreement. No opinion concerning the tax consequences of this Settlement Agreement to any Settlement Class Member is given or will be given by the Parties or their respective counsel, nor are they providing any representation or guarantee respecting the tax consequences of this Settlement Agreement as to any Settlement Class Member. Each Settlement Class Member is responsible for their tax reporting and other obligations respecting this Settlement Agreement, if any.

Section 3 Settlement Approval

- 3.1 The Parties will use their best efforts to implement this Settlement Agreement, obtain approval of this Settlement Agreement from the Class Action Court, and secure the prompt, complete and final disposition of the Class Proceeding.
- 3.2 The Parties will jointly request that the presiding judge of the CCAA Proceedings be seized of the Class Proceeding and hear the First and Second Applications as the Class Action Court.
- 3.3 Settlement approval shall be sought in the following way, subject to the availability of the Class Action Court:
 - (a) As soon as practicable after the Execution Date and in any event no later than twenty (21) business days thereafter or as agreed to by the Parties, the Defendants shall file an application for the Lift Stay Order and the Plaintiffs shall bring the First Application.
 - (b) As soon as practicable after obtaining the Lift Stay Order and the orders sought on the First Application, the Plaintiffs shall bring the Second Application.
 - (c) The Defendants will approve any submissions made to the Court for the First and Second Applications.
 - (d) The Settlement Approval Order shall be substantially in the form attached as Schedule D.

Section 4 Class Counsel Fees

- 4.1 Class Counsel Fees will be awarded at the discretion of the Class Action Court.
- 4.2 The Defendants will not make submissions in relation to Class Counsel Fees.
- 4.3 The approval of Class Counsel Fees is not a material term of this Settlement Agreement, and this Settlement Agreement shall not be contingent upon Class Action Court approval of Class Counsel Fees. A separate order will be taken out dealing with Class Counsel Fees and any Honorariums.
- 4.4 Class Counsel Fees may only be paid out of the Settlement Amount after the Effective Date.
- 4.5 The Defendants shall not be liable for any fees, disbursements, or taxes of any of Class Counsel or the Plaintiffs' or Settlement Class Members' respective lawyers, experts, advisors, agents or representatives.

Section 5 Honorariums for Plaintiffs

- 5.1 Any Honorariums will be awarded at the discretion of the Court.
- 5.2 The Defendants will not make submissions in relation to any Honorariums.
- 5.3 The approval of any Honorariums is not a material term of this Settlement Agreement and this Settlement Agreement shall not be contingent upon court approval of any Honorariums.

- 5.4 Any Honorariums may only be paid out of the Settlement Amount after the Effective Date.
- 5.5 The Defendants shall not be liable to the Plaintiffs for any Honorariums, if awarded by the Court.

Section 6 Distribution of Settlement Amount

- 6.1 The formula for distribution of the Settlement Amount to Settlement Class Members shall be contained in the Distribution Protocol.
- 6.2 The Defendants shall take no position on the Class Action Court's approval of the Distribution Protocol, and shall not make any submissions to the Class Action Court about the Distribution Protocol, unless requested by the Class Action Court.

Section 7 Releases, Withdrawals and Dismissals

- 7.1 As of the Effective Date, and in consideration of payment of the Settlement Amount and for other valuable consideration set forth in this Settlement Agreement, the Releasers will fully, finally, forever and absolutely release, relinquish, acquit, and discharge the Releasees from and for the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, and shall not now or hereafter institute, maintain, or assert on their own behalf, on behalf of the Class, or on behalf of any other person or entity, any Released Claims.
- 7.2 Within 30 days of the Effective Date, the Plaintiffs, in their capacity as shareholder representatives, will withdraw their claims in the CCAA Proceeding.
- 7.3 Within 30 days of the Effective Date, the D&O Defendants will withdraw their claims for indemnification in the CCAA Proceeding in excess of the retention. For clarity, the withdrawal of claims by the D&O Defendants in the CCAA Proceeding does not include any claims for retention made by or on behalf of insurers of the D&O Defendants.
- 7.4 Without limiting any other provisions herein, each Releaser will be deemed by the Settlement Agreement completely and unconditionally to have released and forever discharged the Releasees from any and all Released Claims, including all claims, actions, causes of action, suits, debts, duties, accounts, bonds, covenants, contracts, and demands whatsoever, whether known or unknown, that were asserted or could have been asserted in the Proceedings that is the subject of this Settlement Agreement or in relation to any of the facts alleged therein, or in relation to the Securities.
- 7.5 The Plaintiffs and Settlement Class Members acknowledge that they may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those they now know or believe to be true concerning the subject matter of the Class Proceeding, the facts and circumstances alleged in the Class Proceeding, or the release herein. Nevertheless, without limiting any other provisions herein, it is the intention of the Plaintiffs and Settlement Class Members in executing this Settlement Agreement to fully, finally and forever settle, release, discharge, and hold harmless all such matters, and all claims which exist, hereafter may exist, or may have existed (whether or not previously or currently asserted in any action

or proceeding) relating in any way to the subject matter of the Class Proceeding or in relation to any of the facts and circumstances alleged therein, or otherwise arising from the Securities.

- 7.6 Upon the Effective Date, each Releasor will be forever barred and enjoined from continuing, commencing, instituting, maintaining, asserting or prosecuting, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum, or any other forum, against any Releasee or any other person or third party who may claim contribution or indemnity or claim over other relief from any Releasee, whether pursuant to the *Negligence Act*, RSBC 1996, c 333 or other legislation or at common law or equity, in respect of any Released Claims. For greater certainty and without limiting the foregoing, the Releasors shall not assert or pursue a Released Claim against any Releasee under the laws of any foreign jurisdiction.
- 7.7 Upon the Effective Date, the Parties consent to the dismissal of the Class Proceedings, with prejudice, as against the Defendants and without costs to the Parties, which dismissal will be effective upon pronouncement of the Settlement Approval Order.
- 7.8 Upon the Effective Date, each Settlement Class Member shall be deemed irrevocably to consent to the dismissal, with prejudice, of any other action or proceeding relating to the Released Claims against the Releasees and all such actions or proceedings shall be dismissed, with prejudice.

Section 8 No Admission of Liability

- 8.1 The Parties agree that, whether or not this Settlement Agreement is finally approved or is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute, regulation or law, or of any wrongdoing or liability by the Defendants, or of the truth of any of the claims or allegations made in the Class Proceeding, or in any other pleading filed by the Plaintiffs or Class Members related to the subject matter of the Class Proceeding or the facts or circumstances alleged therein.
- 8.2 The Parties further agree that, whether or not this Settlement Agreement is finally approved or is terminated, this Settlement Agreement, and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to seek court approval of this Settlement Agreement, to give effect to and enforce the provisions of this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise permitted by law.

Section 9 Termination of Settlement Agreement

Right of Termination

- 9.1 The Parties expressly reserve all their respective rights and may terminate this Settlement Agreement in the event that:
- (a) the CCAA Court declines to grant the Lift Stay Order as contemplated by section 3.3;
 - (b) the Lift Stay Order does not become a Final Lift Stay Order;
 - (c) the Class Action Court declines to certify the Class Proceeding for the purposes of settlement, or any such certification is reversed or altered on appeal;
 - (d) the Class Action Court declines to approve this Settlement Agreement or any material part thereof or approves this Settlement Agreement in a materially modified form, or any such approval is reversed or altered on appeal;
 - (e) any court issues an order approving the Settlement that is not substantially in the form attached to this Settlement Agreement as Schedule D;
 - (f) the CCAA Court fails or declines to issue any approval or other order necessary, if any, for the execution or implementation of the Settlement; or
 - (g) the Settlement Approval Order does not become a Final Approval Order.
- 9.2 In the event that the Opt-Out Threshold is exceeded as provided for in section 9.5 of this Settlement Agreement, the Defendants shall have the right, but not the obligation, to terminate this Settlement Agreement in accordance with the terms of section 9.5.
- 9.3 Any order, ruling or determination with respect to Class Counsel Fees, Honorariums or the Distribution Protocol shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not constitute any basis for the termination of this Settlement Agreement.
- 9.4 If material parts of the Settlement Agreement are not approved, or if approval of any material portion or provision of the Settlement Agreement is reversed or altered on appeal, or if terminated in accordance with section 9.1, then:
- (a) this Settlement Agreement shall become null and void and shall have no further force or effect except as provided for in section 9.13;
 - (b) the Parties shall be restored to their respective positions in the Class Proceeding immediately prior to reaching the Settlement;
 - (c) any order by the Class Action Court certifying the Class Proceeding for the purposes of settlement or approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and shall be without prejudice to any position of any of the Parties on any issue in the Class Proceeding, the CCAA Proceeding or any other proceeding; and

- (d) documents or communications related to the Settlement (including the minutes of settlement and this Settlement Agreement) shall have no force or effect, with all applicable privilege protections maintained, and shall not be admissible in evidence for any purpose in the Class Proceeding, the CCAA Proceeding or in any other action or proceeding whatsoever.

Effect of Exceeding the Opt-Out Threshold

- 9.5 Notwithstanding any other provision in the Settlement Agreement, the Defendants, in their sole discretion, may elect to terminate the Settlement Agreement if the Opt-Out Threshold is exceeded provided its election is made by delivering a written notice in accordance with subsection 13.12 within thirty (30) business days of receiving notice from Class Counsel notifying it of the number of opt-outs received and showing the Opt-Out Threshold being exceeded. If the Defendants do not elect to terminate the Settlement Agreement within this period, their right to terminate the Settlement Agreement pursuant to the provisions of this section will expire.
- 9.6 If the Opt-Out Threshold is not exceeded, the Defendants' right to terminate the Settlement Agreement pursuant to the provisions of this section is inoperative.
- 9.7 The Opt-Out Threshold shall be stated in the Collateral Agreement signed contemporaneously with the execution of this Settlement Agreement. The Opt-Out Threshold shall be kept confidential by the Parties and their respective counsel, and may be confidentially shown to the Class Action Court solely for the purposes of seeking the Settlement Approval Order, unless disclosure is ordered by the CCAA Court or Class Action Court, or if the Defendants and Plaintiffs provide prior written consent to disclosure.

Steps Required on Termination

- 9.8 If this Settlement Agreement is terminated, either the Defendants or the Plaintiffs shall, within thirty (30) days after termination, apply to the Class Action Court, on notice to the Parties, for an order:
 - (a) declaring this Settlement Agreement null and void and of no force or effect except for the provisions of those sections listed in Section 9.12;
 - (b) setting aside and declaring null and void and of no force or effect, *nunc pro tunc*, all prior orders or judgments entered by a court in accordance with the terms of this Settlement Agreement; and
 - (c) authorizing the payment to Trevali of the Escrow Amount, after deductions made of all already incurred and/or paid costs, fees, disbursements or taxes of the Claims Administrator and/or relating to any notices.
- 9.9 Subject to Section 9.13, the Plaintiffs shall consent to the orders sought in any application made by the Defendants under Section 9.8 and the Defendants shall consent to the orders sought in any application made by the Plaintiffs under Section 9.8.

Notice of Termination

9.10 If this Settlement Agreement is terminated, a notice of the termination will be given to the Settlement Class. Class Counsel will cause the notice of termination, in a form approved by the Class Action Court, to be published and disseminated as the Class Action Court directs, the whole to be paid from the Escrow Account.

Effect of Termination

9.11 In the event this Settlement Agreement is terminated as provided for herein or otherwise fails to take effect for any reason:

- (a) the Parties will be restored to their respective positions prior to the execution of this Settlement Agreement, except as expressly provided for herein;
- (b) no application for Certification for settlement purposes or application to approve this Settlement Agreement which has not been decided shall proceed;
- (c) the Parties will cooperate in seeking to have all prior orders or judgments entered by a court in accordance with the terms of this Settlement Agreement set aside and declared null and void and of no force or effect, and any of the Plaintiffs and Defendants shall be estopped from asserting otherwise;
- (d) Class Counsel shall, within thirty (30) business days of the issuance of the order contemplated by 10.9(c), return to Trevali the Escrow Amount, after deductions made of all already incurred and/or paid costs, fees, disbursements or taxes of the Claims Administrator and/or relating to any notices;
- (e) this Settlement Agreement will have no further force or effect and no effect on the rights of the Parties except as specifically provided for herein;
- (f) this Settlement Agreement will not be introduced into evidence or otherwise referred to in any litigation against Trevali, the Individual Defendants or the Underwriter Defendants.

9.12 Notwithstanding the provisions of Section 9.5, if this Settlement Agreement is terminated, the provisions of Sections 2.8, 2.9, 8.1, 8.2, 9.4, 9.7, 9.8, 9.9, 9.10, 9.11, 9.12, 13.5, 13.6, 13.10, 13.11, 13.12, 13.13, 13.14 and the definitions and recitals applicable thereto (but only for the limited purpose of the interpretation of those sections), shall survive termination and shall continue in full force and effect. All other provisions of this Settlement Agreement and all other obligations pursuant to it shall cease immediately.

Disputes Relating to Termination

9.13 If there is a dispute about the termination of this Settlement Agreement, the Parties agree that the Class Action Court shall determine the dispute on an application made by the Defendants or the Plaintiffs on notice to the Parties.

Section 10 Administration

- 10.1 The Class Action Court will appoint KND Complex Litigation or a third-party firm as Claims Administrator to serve until further order of the Court, to implement this Settlement Agreement, the opt-out program and the Distribution Protocol, on the terms and conditions and with the powers, rights, duties and responsibilities set out in the Settlement Agreement and in the Distribution Protocol.
- 10.2 All Administration Expenses shall be paid from the Settlement Amount, subject to approval of the Class Action Court.
- 10.3 The Claims Administrator will be responsible for the following, including all associated costs:
 - (a) disseminating the First Notice and the Second Notice;
 - (b) responding to inquiries from Class Members;
 - (c) receiving and maintaining any Class Member correspondence regarding opting out of the Class Proceeding and objections to the Settlement, and providing Defence Counsel with a list of all individuals who have opted out;
 - (d) posting the First Notice and the Second Notice on Class Counsel's website;
 - (e) distributing the Settlement Amount in accordance with the Distribution Protocol.

Section 11 Notice

- 11.1 The First Notice shall be disseminated within thirty (30) days (unless otherwise specified) following the pronouncement of the orders sought on the First Application or as soon as reasonably possible thereafter.
- 11.2 The Second Notice shall be disseminated within thirty (30) days (unless otherwise specified) following the pronouncement of the orders sought on the Second Application or as soon as reasonably possible thereafter.
- 11.3 The First Notice and the Second Notice shall be disseminated in the following manner, unless otherwise ordered by the Class Action Court:
 - (a) sent by email by Class Counsel to any Class Member that has registered with them regarding the Class Proceeding;
 - (b) by the Claims Administrator placing the notice online on websites such as Stockhouse.com and CEO.ca in abbreviated form with a URL leading to more information on a number of websites for a period of 45 days;
 - (c) by the Claims Administrator disseminating the notice once through Canada NewsWire in English and French; and
 - (d) posted on Class Counsel's website;

or in such form or manner as approved or ordered by the Class Action Court.

- 11.4 All costs associated with the publication of the First Notice and the Second Notice shall be paid from the Settlement Amount.
- 11.5 If any court requires that additional notice be published, the Parties agree that the costs shall be paid from the Settlement Amount and the terms of payment shall be the same as for the Notice of the settlement approval hearing.
- 11.6 The Defendants shall not have any responsibility for the costs of the First Notice, the Second Notice or any additional notice required by any court.

Section 12 Opt-Outs

- 12.1 Persons who want to opt out of the Class Proceeding must do so by sending a written election to opt out (“**Election**”) by pre-paid mail, courier or email to Class Counsel at an address identified in the First Notice. An Election to opt out will only be valid if it is received by Class Counsel at the designated address on or before the Opt-Out Deadline.
- 12.2 In order to be valid, the Election must be signed by the person who wishes to opt out and either (i) in the form attached as Schedule C or (ii) contain the following information:
- (a) the person’s full name, current address and telephone number;
 - (b) proof of class membership in the form of a share certificate or other documented proof of shareholding in Trevali purchased or acquired during the Class Period, and held as of the close of trading on April 14, 2022 and/or August 15, 2022;
 - (c) a statement to the effect that the person wishes to be excluded from the Class Proceeding.
- 12.3 Opt-out forms or documents that purport to opt out multiple Class Members, or so-called “mass” or “class” opt-outs, shall not be permitted.
- 12.4 Class Counsel shall provide Defence Counsel with copies of all Elections or opt-out forms received by Class Counsel within five (5) business days of the Opt-Out Deadline.
- 12.5 Upon the Settlement Approval Order becoming a Final Order, any Class Member who has not opted out of the Class Proceeding shall be bound by the terms of the Settlement Agreement.
- 12.6 With respect to any potential Class Member who validly opts out from the Class Proceeding, the Defendants reserve all of their legal rights and defences.

Section 13 Miscellaneous

- 13.1 The Recitals set out herein are incorporated with and form part of this Settlement Agreement.
- 13.2 The Schedules annexed hereto form part of this Settlement Agreement.
- 13.3 Class Counsel or Defence Counsel may apply to the Class Action Court for directions in respect of the implementation and administration of this Settlement Agreement. All applications contemplated by this Settlement Agreement, including applications to the Class Action Court for directions, shall be on notice to counsel for the Parties.

- 13.4 Except as otherwise provided herein, the Parties shall bear their own respective costs of the Class Proceeding, the CCAA Proceeding and the approval and implementation of the Settlement Agreement. The Defendants have no liability with respect to the administration of the Settlement Amount.
- 13.5 This Settlement Agreement shall be governed by, construed, and interpreted solely in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.
- 13.6 The Settlement Agreement constitutes the entire agreement among the Parties, and supersedes any and all prior and contemporaneous understandings, undertakings, negotiations, representations, communications, promises, agreements, agreements in principle, and memoranda of understanding in connection herewith. The Parties agree that they have not received or relied on any agreements, representations, or promises other than as contained in the Settlement Agreement. None of the Parties shall be bound by any prior obligations, conditions, or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.
- 13.7 This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto.
- 13.8 This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Class Members, the Defendants, the Releasors, the Releasees and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made by the Plaintiffs shall be binding upon all Releasors and each and every covenant and agreement made by the Defendants shall be binding upon all of the Releasees.
- 13.9 This Settlement Agreement has been the subject of negotiations and discussions among the Parties, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.
- 13.10 Each of the undersigned represents that they are fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement.
- 13.11 This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or electronically transmitted signature shall be deemed an original signature for purposes of executing this Settlement Agreement. This Settlement Agreement may be delivered and is fully enforceable in either original or electronic form provided that it is duly executed.
- 13.12 Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication, or document shall be provided by email, or letter by overnight delivery to the representatives for the Party to whom notice is being provided, as identified below:

For the Plaintiffs and for Class Counsel:

Attn: Eli Karp / Sage Nematollahi
KND Complex Litigation
401 – 2300 Yonge Street Toronto, ON
M4P 1E4
ek@knd.law / sn@knd.law

For the Defendants:

Attn: Mary Buttery, KC / Lindsay Burgess / Brodie Noga
Osler, Hoskin & Harcourt LLP 1055 Dunsmuir Street
Suite 3000, Bentall Four Vancouver, BC V7X 1K8
muttery@osler.com / lbουργess@oslers.com / bnoga@osler.com

- 13.13 The Parties have executed this Settlement Agreement as of the date on the cover page.
- 13.14 It is the express wish of the parties that this Settlement Agreement be drawn up in the English language only. Il est la volonté expresse des parties que cette convention et tous les documents s’y rattachant, y compris les avis et les autres communications, soient rédigés et signés seulement en anglais.

[Remainder of page intentionally left blank]

FOR THE PLAINTIFFS AND FOR CLASS COUNSEL:



Name: Sage Nematollahi

KND Complex Litigation
Solicitor for Michael Demmer, Rodney Brunk, Tim Kempter and William Williamson

FOR THE DEFENDANTS:



Name: Mary Buttery, KC

Osler, Hoskin & Harcourt LLP
Solicitor for Trevali Mining Corporation, Ricus Grimbeek, Brendan Creaney, Jill Gardiner, Russell Ball, Aline Cote, Nick Popovic, Dan Isserow, and Richard Williams

SCHEDULE A

NO. S-228113
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL DEMMER, RODNEY BRUNK, TIM KEMPTER and WILLIAM WILLIAMSON

PLAINTIFFS

AND:

TREVALI MINING CORPORATION, RICUS GRIMBEEK, BRENDAN CREANEY,
JILL GARDINER, RUSSELL BALL, ALINE COTE, NICK POPOVIC, JEANNE HULL,
DAN ISSEROW and RICHARD WILLIAMS

DEFENDANTS

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

BEFORE } THE HONOURABLE JUSTICE ♦ } ____ / ♦ /2025

ORDER MADE AFTER APPLICATION

ON THE APPLICATION of the Plaintiffs coming on for hearing before the Honourable Justice ♦ at the courthouse at 800 Smithe Street, Vancouver, B.C., on ♦, 2025; on reading the materials filed, including the settlement agreement dated ♦ (“**Settlement Agreement**”), and on hearing ♦ the Plaintiffs, and ♦ for the Defendants, and on being advised that the Plaintiffs and the Defendants consent to this order;

THIS COURT ORDERS that:

1. Except where otherwise indicated, all capitalized terms in this order have the same meanings as are ascribed to them in the Settlement Agreement attached as **Schedule “A”** to this order;

2. This action is certified as a class proceeding for settlement purposes only, pursuant to the *Class Proceedings Act*, RSBC 1996, c 50, as amended;
3. The class is defined as: all persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired the common shares of Trevali in the primary market and/or in the secondary market between October 9, 2020 through to August 15, 2022 inclusive, and held some or all of such common shares as of the close of trading on April 14, 2022 and/or August 15, 2022 (the “**Class**”);
4. Michael Demmer, Rodney Brunk, Tim Kempter and William Williamson are appointed as the representative plaintiffs for the Class;
5. The following questions are certified as a common issue for settlement purposes only:
 - (a) Did disclosure documents issued by Trevali between October 9, 2020 through to August 15, 2022 and described in the Notice of Civil Claim contain misrepresentations concerning Trevali’s corporate governance practices?
 - (b) Did the Defendants engage in oppressive conduct by failing to exercise care and oversight to ensure Trevali had, maintained or implemented effective policies and procedures to manage matters concerning health and safety, corporate governance and risk management, and internal control systems, disclosure controls and procedures?
6. Any person who is a putative member of the Class who wishes to opt-out must do so by delivering a written election to Class Counsel by [DATE] by pre-paid mail, courier or email at the address specified in the long form notice of settlement approval attached as Schedule B to the Settlement Agreement (“**Long Form Notice**”). The written election to opt-out must either be in the form attached as Schedule C to the Settlement Agreement, or include the information specified in the Long Form Notice;
7. The short form (publication) notice and long form notice are hereby approved substantially in the forms attached as Schedule B to the Settlement Agreement;
8. The plan for disseminating the Notice as provided for in section 12 of the Settlement Agreement is approved.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER

Signature of Sage Nematollahi

Lawyer for the Plaintiffs

By the Court:

Signature of Mary Buttery, KC

Lawyer for the Defendants

Registrar

SCHEDULE A

[Settlement Agreement]

SCHEDULE B

[Short-Form Notice]

PROPOSED CLASS ACTION SETTLEMENT

NOTICE OF PROPOSED SETTLEMENT AND SETTLEMENT APPROVAL HEARING

DID YOU ACQUIRE COMMON SHARES OF TREVALI MINING CORPORATION IN THE PRIMARY MARKET AND/OR THE SECONDARY MARKET BETWEEN OCTOBER 9, 2020 AND AUGUST 15, 2022 INCLUSIVE, AND HOLD SOME OR ALL OF SUCH COMMON SHARES AS OF THE CLOSE OF TRADING ON APRIL 14, 2022 AND/OR AUGUST 15, 2022?

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS

A class action settlement has been reached in *Demmer et al. v. Trevali Mining Corporation et al.*, SCBC S-228113. The action was certified by the Supreme Court of British Columbia.

The settlement is a compromise and is not an admission of liability or wrongdoing or fault by the Defendants. The proposed settlement is subject to court approval. Capitalized terms used herein but not defined have the same meanings as are ascribed to them in the Settlement Agreement.

The class action has been certified on behalf of all persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired the common shares of Trevali in the primary market and/or in the secondary market between October 9, 2020 through to August 15, 2022 inclusive, and held some or all of such common shares as of the close of trading on April 14, 2022 and/or August 15, 2022.

For the payment of \$2,800,000 by the Defendants, the Class will release the Defendants from all claims. The settlement funds, after payment of Class Counsel's fees, expenses, and any honorariums to the plaintiffs, will be distributed to the class in accordance with the Distribution Protocol.

The representative plaintiffs have entered into a contingency fee agreement with class counsel providing for a maximum fee of 30%. Class Counsel will seek approval of their fees at or after the settlement approval hearing. The Court will determine the amount to be paid to Class Counsel for legal fees and disbursements.

You are automatically included in the Class, and will be bound by the Settlement if approved by the Court, unless you opt out. If you do not want to be part of the lawsuit, you must opt out of the proceeding by delivering an opt out form to Class Counsel by no later than **◆, 2025**.

For members of the Class that wish to object to the Settlement, Distribution Protocol, Class Counsel Fees or the plaintiffs' honorariums, you must notify Class Counsel no later than **◆, 2025**, in the manner set out in the long form notice.

Class Counsel are KND Complex Litigation. More information on the settlement (including the opt-out form and Settlement Agreement) is available at [INSERT LINK HERE].

This notice has been authorized by the Supreme Court of British Columbia

[Long-Form Notice]

NOTICE OF PROPOSED SETTLEMENT AND SETTLEMENT APPROVAL HEARING

DID YOU ACQUIRE COMMON SHARES OF TREVALI MINING CORPORATION IN THE PRIMARY MARKET AND/OR THE SECONDARY MARKET BETWEEN OCTOBER 9, 2020 AND AUGUST 15, 2022 INCLUSIVE, AND HOLD SOME OR ALL OF SUCH COMMON SHARES AS OF THE CLOSE OF TRADING ON APRIL 14, 2022 AND/OR AUGUST 15, 2022?

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS

A class action settlement has been reached between the parties in *Demmer et al. v. Trevali Mining Corporation et al.*, SCBC Vancouver Registry No. VLC-S-S-228113. Capitalized terms used herein but not defined have the same meanings as are ascribed to them in the Settlement Agreement.

The Supreme Court of British Columbia has certified the class action for the purposes of implementing the proposed settlement. The proposed settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault by the Defendants. The settlement is subject to the approval of the Court.

The Defendants are Trevali Mining Corporation, Ricus Grimbeek, Brendan Creaney, Jill Gardiner, Russell Ball, Aline Cote, Nick Popovic, Jeane Hull, Dan Isserow and Richard Williams.

What is the proceeding about?

The claim alleges, among other things, that certain disclosure documents issued by Trevali Mining Corporation between between October 9, 2020 through to August 15, 2022 contained misrepresentations concerning Trevali's corporate governance practices. The plaintiffs sought to recover damages for Class Members for alleged losses as a result of this conduct. The Defendants deny all of the allegations.

Who are in the Class and affected by the settlement?

The Class consists of "all persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired the common shares of Trevali in the primary market and/or in the secondary market between October 9, 2020 through to August 15, 2022 inclusive, and held some or all of such common shares as of the close of trading on April 14, 2022 and/or August 15, 2022".

The court has appointed Michael Demmer, Rodney Brunk, Tim Kempter and William Williamson as representatives on behalf of the Class. Class Counsel are KND Complex Litigation.

What are the terms of the settlement?

The Settlement provides for the payment of CDN \$2,800,000 (two million and eight hundred thousand dollars) by the Defendants in exchange for a full release of all claims against them by the Class. The payment of the Settlement Amount is not an admission of liability, wrongdoing or fault by the Defendants.

A further hearing will be held on [DATE] to seek approval of the Settlement Agreement by the Court. The hearing will take place in at 800 Smithe Street, Vancouver, B.C., before the Honourable Justice ◆.

If approved, the Settlement will be binding on all members of the Class who do not opt out of the proceeding.

The full settlement terms and court documents are available at [INSERT LINK HERE].

How do I participate?

If you want to be a member of this class action and participate in the settlement, you do not need to do anything. You are automatically included as a member of the Class unless you opt out of the applicable proceeding.

What if I do NOT want to participate?

If you do **not** want to participate in the class action, you may exclude yourself (“opt out”).

In order to opt out, you must complete and sign an opt-out form and deliver it to Class Counsel by mail, courier, or email no later than ◆, 2025. The opt-out form is available at [INSERT LINK HERE].

Details on how to submit the opt-out form can be found in section 12 of the settlement agreement and the opt-out form.

The opt-out form must be emailed to ◆, or mailed or couriered to:

KND Complex Litigation
401 – 2300 Yonge Street Toronto, ON M4P 1E4

Attn: Eli Karp / Sage Nematollahi

Will I receive compensation from this settlement?

Yes. The Settlement Amount, after payment of any fees to Class Counsel and any honorariums to the representative plaintiffs, will be paid to class members in accordance with the Distribution Protocol.

What are the fee arrangements?

Under the terms of their retainer agreement with the representative plaintiffs, Class Counsel will seek approval of a fee of up to 30% of the settlement amount, plus disbursements and applicable taxes. Class Counsel will also seek payment of up to \$[amount] as honorarium for each of the representative plaintiffs.

Class Counsel Fees, disbursements and any payments to the representative plaintiffs are subject to court approval.

Objections

All members of the Class have the right to let the court know of any objection they have to the approval of the Settlement Agreement, Distribution Protocol, Class Counsel fees or honorarium to the representative plaintiffs by delivering a letter or written objection to Class Counsel on or before ◆, 2025.

If a class member wishes to object, the following information must be included in the letter or written objection delivered to Class Counsel:

- (a) the objector's full name, current mailing address, telephone number and email address;
- (b) a brief statement of the nature and reasons for the objection;
- (c) that the objector is a member of the Class in the proof of class membership in the form of a share certificate or other documented proof of shareholding in Trevali purchased or acquired between October 9, 2020 through to August 15, 2022 inclusive and held as of the close of trading on April 14, 2022 and/or August 15, 2022;
- (d) whether the objector intends to appear at the court hearing on their own behalf or through a lawyer, and if by a lawyer, the name, address, telephone number and email address of the lawyer; and
- (e) a statement that the foregoing information is true and correct.

For more information or a copy of the Settlement Agreement, go to [INSERT LINK HERE].

You may also contact Class Counsel at ◆ or ◆ (toll free) or via mail at the address above.

This notice has been authorized by order of the Supreme Court of British Columbia.

SCHEDULE C

[Opt-out Form]

Demmer et al. v. Trevali Mining Corporation et al., SCBC Vancouver Registry No. VLC-S-S-228113 [*Demmer*].

By completing this form, you are choosing not to participate in this proceeding or to receive any benefit from it.

If you opt out, you should be aware that there are strictly enforced time limits within which you must take formal legal action to pursue your own claim. By opting out, you will take full responsibility for taking all necessary legal steps to protect your claim.

If you wish to opt out, you must complete, sign, and deliver this opt-out form to Class Counsel by mail, courier, or email no later than ◆, 2025, along with proof of class membership in the form of a share certificate or other documented proof of shareholding in Trevali Mining Corporation purchased or acquired between October 9, 2020 through to August 15, 2022 inclusive and held as of the close of trading on April 14, 2022 and/or August 15, 2022.

To deliver your opt-out form to Class Counsel, you must email it to ◆, or mail or courier it to:

KND Complex Litigation
401 – 2300 Yonge Street Toronto, ON M4P 1E4

Attn: Eli Karp / Sage Nematollahi

I, _____, (full name) hereby exercise my right to opt out of the class certified in *Demmer*. I confirm my understanding that I will not receive any benefits under the settlement reached in these proceedings, that I am not represented by Class Counsel, and that I will be responsible for protecting my own interests in relation to the claims asserted in those proceedings.

Date: _____, 202_____

Contact information

Address: _____

City: _____

Province: _____

Postal code: _____

Phone number: _____

Email: _____

SCHEDULE D

NO. S-228113
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL DEMMER, RODNEY BRUNK, TIM KEMPTER and WILLIAM WILLIAMSON

PLAINTIFFS

AND:

TREVALI MINING CORPORATION, RICUS GRIMBEEK, BRENDAN CREANEY,
JILL GARDINER, RUSSELL BALL, ALINE COTE, NICK POPOVIC, JEANNE HULL,
DAN ISSEROW and RICHARD WILLIAMS

DEFENDANTS

DEFENDANTS

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

BEFORE } THE HONOURABLE JUSTICE ♦ } ___/___/2025

ORDER MADE AFTER APPLICATION

ON THE APPLICATION of the Plaintiffs coming on for hearing before the Honourable Justice Fitzpatrick at the Courthouse at 800 Smithe Street, Vancouver, B.C., on ♦, 2025; on reading the materials filed, including the settlement agreement dated ♦ (“**Settlement Agreement**”); and on hearing ♦ for the Plaintiffs, and ♦ for the Defendants, and on being advised that the Plaintiffs and Defendants consent to this order:

THIS COURT ORDERS that:

1. All capitalized terms in this order have the same meaning as in the Settlement Agreement attached as **Schedule “A”** to this order;

2. The Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class;
3. The Settlement Agreement is approved pursuant to section 35 of the *Class Proceedings Act*, RSBC 1996, c 50, and shall be implemented and enforced in accordance with its terms;
4. This order, including the Settlement Agreement, is binding upon all Settlement Class Members, including those persons who are minors or mentally incapable;
5. This action be and is hereby dismissed with prejudice and without costs as against any party;
6. Each Settlement Class Member shall be deemed to irrevocably consent to the dismissal, with prejudice, of any action or proceeding relating to the Released Claims against the Releasees and all such actions or proceedings shall be dismissed, with prejudice;
7. Each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims, as set out in the Settlement Agreement;
8. Each Releasor shall not now or hereafter continue, commence, institute, maintain, assert, or prosecute, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim litigation, investigation, or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum, or any other forum, against any Releasee or any other person or third party who may claim contribution or indemnity, or claim over other relief, from any Releasee, whether pursuant to the *Negligence Act*, RSBC 1996, c 333 or other legislation or at common law or equity, including under the laws of any foreign jurisdiction, in respect of any Released Claim; and
9. For purposes of administration and enforcement of the Settlement Agreement and this Order, this Court retains an ongoing supervisory role and jurisdiction to administer,

supervise, construe and enforce the Settlement Agreement and this Order, subject to the terms and conditions set out in the Settlement Agreement and this Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER

Signature of Sage Nematollahi
Lawyer for the Plaintiffs

By the Court:

Signature of Mary Buttery, KC
Lawyer for the Defendants

THIS IS **EXHIBIT "B"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025



TAEK SOO SHIN (LSO #85691Q)



No. S-226670
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, C. C-36, AS AMENDED

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, C. 57, AS AMENDED AND THE *BUSINESS
CORPORATIONS ACT*, S.N.B. 1981, C. B-9.1, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF TREVALI MINING
CORPORATION AND TREVALI MINING (NEW BRUNSWICK) LTD.

PETITIONERS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE)
MADAM JUSTICE FITZPATRICK) August 19, 2022

THE APPLICATION of the Petitioners coming on for hearing at Vancouver, British Columbia, on the 19th day of August, 2022 (the "**Order Date**"); AND ON HEARING Peter L. Rubin, Peter Bychawski, and Alison Burns, counsel for the Petitioners, and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the First Affidavit of Brendan Creaney, sworn August 19, 2022 (the "**Creaney Affidavit**") and the consent of FTI Consulting Canada Inc. to act as Monitor; AND on notice to the Bank of Nova Scotia, in its capacity as the RCF Administrative Agent (as defined in the Creaney Affidavit); AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended (the "**CCAA**"), the *British Columbia Supreme Court Civil Rules*, BC Reg 168/2009 and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

JURISDICTION

1. The Petitioners are companies to which the CCAA applies.

SUBSEQUENT HEARING DATE

2. The hearing of the Petitioners' application for an extension of the Stay Period (as defined in paragraph 16 of this Order) and for any ancillary relief shall be held at the Courthouse at 800 Smithe Street, Vancouver, British Columbia at 10:00 a.m. on , the 29th day of August, 2022 or such other date as this Court may order.

PLAN OF ARRANGEMENT

3. The Petitioners shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

4. Subject to this Order and any further Order of this Court, the Petitioners shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), and continue to carry on their business (the "**Business**") in the ordinary course and in a manner consistent with the preservation of the Business and the Property. The Petitioners shall be authorized and empowered to continue to retain and employ the employees, consultants, agents; experts, accountants, counsel and such other persons (collectively, "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for carrying out the terms of this Order.

5. The Petitioners shall be entitled to continue to utilize the central cash management system currently in place as described in the Creaney Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation

whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Petitioners of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Petitioners, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. The Petitioners shall be entitled, but not required, to pay the following expenses which may have been incurred prior to the Order Date:

- (a) all outstanding wages, salaries, employee and pension benefits (including long and short-term disability payments), vacation pay and expenses (but excluding severance pay) payable before or after the Order Date, in each case incurred in the ordinary course of business and consistent with the relevant compensation policies and arrangements existing at the time incurred (collectively "**Wages**");
- (b) the fees and disbursements of any Assistants retained or employed by the Petitioners which are related to the Petitioners' restructuring, at their standard rates and charges, including payment of the fees and disbursements of legal counsel retained by the Petitioners and independent counsel to the Petitioners' board of directors, whenever and wherever incurred, in respect of:
 - (i) these proceedings or any other similar proceedings in other jurisdictions in which the Petitioners or any subsidiaries or affiliated companies of the Petitioners are domiciled;
 - (ii) any litigation in which the Petitioners are named as a party or is otherwise involved, whether commenced before or after the Order Date; and
 - (iii) any related corporate matters; and

- (c) with the consent of the Monitor, amounts owing for goods or services actually supplied to the Petitioners prior to the date of this Order by third party suppliers up to a maximum amount of \$1,000,000, if, in the opinion of the Monitor:
 - (i) the supplier or service provider is critical to the Business and ongoing operations of the Petitioners and the payment is required to ensure ongoing supply;
 - (ii) making such payment will preserve, protect or enhance the value of the Property or the Business; or
 - (iii) making such payment is required to address any environmental concerns.

7. Except as otherwise provided herein, the Petitioners shall be entitled to pay all expenses reasonably incurred by the Petitioners in carrying on the Business in the ordinary course following the Order Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably incurred and which are necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services, provided that any capital expenditure exceeding \$250,000 shall be approved by the Monitor;
- (b) all obligations incurred by the Petitioners after the Order Date, including without limitation, with respect to goods and services actually supplied to the Petitioners following the Order Date (including those under purchase orders outstanding at the Order Date but excluding any interest on the Petitioners' obligations incurred prior to the Order Date); and
- (c) fees and disbursements of the kind referred to in paragraph 6(b) which may be incurred after the Order Date.

8. The Petitioners are authorized to remit, in accordance with legal requirements, or pay:
- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from Wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes or any such claims which are to be paid pursuant to Section 6(3) of the CCAA;
 - (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Petitioners in connection with the sale of goods and services by the Petitioners, but only where such Sales Taxes accrue or are collected after the Order Date, or where such Sales Taxes accrued or were collected prior to the Order Date but not required to be remitted until on or after the Order Date; and
 - (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal property taxes, municipal business taxes or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors.
9. Until such time as a real property lease is disclaimed in accordance with the CCAA, the Petitioners shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated between the Petitioners and the landlord from time to time ("**Rent**"), for the period commencing from and including the Order Date, twice-monthly in equal payments on the first and fifteenth day of the month in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the Order Date shall also be paid.

10. Except as specifically permitted herein, the Petitioners are hereby directed, until further Order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Petitioners to any of their creditors as of the Order Date except as authorized by this Order, provided, however, that the Petitioners are authorized to pay the fees and disbursements of any Assistants retained or employed by the RCF Administrative Agent under the Petitioner's senior secured revolving credit facility dated as of August 6, 2020, amended (the "**RC Facility**");
- (b) to make no payments in respect of any financing leases which create security interests;
- (c) to grant no security interests, trust, mortgages, liens, charges or encumbrances upon or in respect of any of their Property, nor become a guarantor or surety, nor otherwise become liable in any manner with respect to any other person or entity except as authorized by this Order;
- (d) to not grant credit except in the ordinary course of the Business only to its customers for goods and services actually supplied to those customers, provided such customers agree that there is no right of set-off in respect of amounts owing for such goods and services against any debt owing by the Petitioners to such customers as of the Order Date; and
- (e) to not incur liabilities except in the ordinary course of Business.

11. The Petitioners are, with the consent of the Monitor, authorized to continue on and after the date of this Order, to: (a) enter into transactions, including, without limitation intercompany funding transactions among the Petitioners and their subsidiaries, (b) buy and sell goods and services, including, without limitation, head office and shared services; and (c) allocate to, collect from and pay costs, expenses and other amounts of each other and their subsidiaries (collectively, the "**Intercompany Transactions**") in the ordinary course of business. All ordinary course Intercompany Transactions shall continue on terms consistent with existing arrangements or past practice, subject to such changes thereto, or to such governing principles, policies or procedures

that the Monitor approves, or subject to further Order of this Court. Either Petitioner making an advance approved by the Monitor from and after the date of this Order with respect to intercompany funding to the other Petitioner (collectively, the "**Intercompany Advances**") shall be entitled to the benefit of and is hereby granted a charge and security as against the applicable Property of such Petitioner receiving such Intercompany Advance (the "**Intercompany Advances Charge**"), which shall have the priority set out in paragraphs 35 and 37 of this Order.

RESTRUCTURING

12. Subject to such requirements as are imposed by the CCAA, the Petitioners shall have the right to:

- (a) permanently or temporarily cease, downsize or shut down all or any part of their Business or operations and commence marketing efforts in respect of any of their redundant or non-material assets and to dispose of redundant or non-material assets not exceeding \$500,000 in any one transaction or \$2,000,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily or indefinitely lay off such of their employees as it deems appropriate, and Trevali Mining (New Brunswick) Ltd. is authorized to make severance and termination payments to those of its employees whose employment is terminated during these CCAA proceedings (the "**Authorized Termination Payments**"); and
- (c) pursue all avenues of refinancing for their Business or Property, in whole or part;
- (d) all of the foregoing to permit the Petitioners to proceed with an orderly restructuring of the Business (the "**Restructuring**").

13. The Petitioners shall provide each of the relevant landlords with notice of the Petitioners' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Petitioners' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors who

claim a security interest in the fixtures, such landlord and the Petitioners, or by further Order of this Court upon application by the Petitioners, the landlord or the applicable secured creditors on at least two (2) clear days' notice to the other parties. If the Petitioners disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any dispute concerning such fixtures (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Petitioners' claim to the fixtures in dispute.

14. If a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then: (a) during the period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours on giving the Petitioners and the Monitor 24 hours' prior written notice; and (b) at the effective time of the disclaimer, the landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims the landlord may have against the Petitioners, or any other rights the landlord might have, in respect of such lease or leased premises and the landlord shall be entitled to notify the Petitioners of the basis on which it is taking possession and gain possession of and re-lease such leased premises to any third party or parties on such terms as the landlord considers advisable, provided that nothing herein shall relieve the landlord of its obligation to mitigate any damages claimed in connection therewith.

15. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronics Documents Act*, S.C. 2000, c. 5 and Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, and any regulations promulgated under the authority of either Act or any equivalent enactments of the Province of New Brunswick, as applicable (the "**Relevant Enactment**"), the Petitioners, in the course of these proceedings, are permitted to, and hereby shall, disclose personal information of identifiable individuals in its possession or control to stakeholders, their advisors, prospective investors, financiers, buyers or strategic partners (collectively, "**Third Parties**"), but only to the extent desirable or required to negotiate and complete the Restructuring or to prepare and implement the Plan or transactions for that purpose; provided that the Third Parties to whom such personal information is disclosed enter into confidentiality agreements with the Petitioners binding them in the same manner and to the same extent with respect to the collection, use and disclosure of that information as if they were an organization as defined under the Relevant Enactment, and limiting the use of such information to the extent desirable or required to negotiate or complete the Restructuring or to prepare and

implement the Plan or transactions for that purpose, and attorning to the jurisdiction of this Court for the purposes of that agreement. Upon the completion of the use of personal information for the limited purposes set out herein, the Third Parties shall return the personal information to the Petitioners or destroy it. If the Third Parties acquire personal information as part of the Restructuring or the preparation and implementation of the Plan or transactions in furtherance thereof, such Third Parties may, subject to this paragraph and any Relevant Enactment, continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Petitioners.

STAY OF PROCEEDINGS, RIGHTS AND REMEDIES

16. Until and including August 29, 2022, or such later date as this Court may order (the "**Stay Period**"), no action, suit or proceeding in any court or tribunal (each, a "**Proceeding**") against or in respect of the Petitioners or the Monitor, or affecting the Business or the Property, shall be commenced or continued except with the written consent of the Petitioners and the Monitor or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Petitioners or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

17. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Petitioners or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Petitioners and the Monitor or leave of this Court.

18. Nothing in this Order, including paragraphs 16 and 17, shall: (i) empower the Petitioners to carry on any business which the Petitioners are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest (subject to the provisions of Section 39 of the CCAA relating to the priority of statutory Crown securities); or (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Petitioners.

NO INTERFERENCE WITH RIGHTS

19. During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Petitioners, except with the written consent of the Petitioners and the Monitor or leave of this Court.

CONTINUATION OF SERVICES

20. During the Stay Period, all Persons having oral or written agreements with the Petitioners or mandates under an enactment for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Petitioners, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, or terminating the supply of such goods or services as may be required by the Petitioners, and that the Petitioners shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the Order Date are paid by the Petitioners in accordance with normal payment practices of the Petitioners or such other practices as may be agreed upon by the supplier or service provider and the Petitioners and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

21. Notwithstanding any provision in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the Order Date, nor shall any Person be under any obligation to advance or re-advance any monies or otherwise extend any credit to the Petitioners on or after the Order Date. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against the directors or officers of the Petitioners with respect to any claim against the directors or officers that arose before the date hereof and

that relates to any obligations of the Petitioners whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Petitioners, if one is filed, is sanctioned by this Court or is refused by the creditors of the Petitioners or this Court. Nothing in this Order, including in this paragraph, shall prevent the commencement of a Proceeding to preserve any claim against a director or officer of the Petitioners that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such Proceeding except for service of the initiating documentation on the applicable director or officer.

DIRECTORS AND OFFICERS INDEMNIFICATION AND CHARGE

23. The Petitioners shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Petitioners after the commencement of the within proceedings, except to the extent that, with respect to any director or officer, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

24. The directors and officers of the Petitioners shall be entitled to the benefit of and are hereby granted a charge (the "**D&O Charge**") on the Property, which charge shall not exceed an aggregate amount of \$2,000,000, as security for the indemnity provided in paragraph 23 of this Order. The D&O Charge shall have the priority set out in paragraphs 35 and 37 herein. The amount of the D&O Charge shall be reduced by the amount of any Authorized Termination Payments made pursuant to this Order; provided, however, that the amount of the D&O Charge shall not be reduced on account of Authorized Termination Payments by more than \$1,000,000.

25. Notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the D&O Charge, and (b) the Petitioners' directors and officers shall only be entitled to the benefit of the D&O Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 23 of this Order.

APPOINTMENT OF MONITOR

26. FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Petitioners with the powers and obligations set out in the CCAA or set forth herein, and that the Petitioners and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Petitioners pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

27. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Petitioners' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Petitioners, to the extent required by the Petitioners, in their dissemination to the RCF Administrative Agent, and its Assistants, financial and other information as agreed to between the Petitioners and the Agent which may be used in these proceedings including reporting on a basis to be agreed with the RCF Administrative Agent and, without limiting the foregoing, the information and reporting requirements as provided for the RC Facility;
- (d) advise the Petitioners in their preparation of the Petitioners' cash flow statements and reporting as reasonably required by the RCF Administrative Agent;
- (e) advise the Petitioners in their development of the Plan and any amendments to the Plan;
- (f) assist the Petitioners, to the extent required by the Petitioners, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Petitioners, to the extent that is necessary to adequately assess the Petitioners' business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

28. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Monitor being an employer or a successor employer, within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

29. Nothing herein contained shall require or allow the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, 1999, S.C. 1999, c. 33 and the *Fisheries Act*, R.S.C. 1985, c. F-14 (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. For greater certainty, the Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

30. The Monitor shall provide any creditor of the Petitioners with information provided by the Petitioners in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Petitioners is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Petitioners may agree.

31. In addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the rights and protections afforded the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

32. The Monitor, counsel to the Monitor, if any, independent counsel to the Petitioners' board of directors, and counsel to the Petitioners shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Petitioners as part of the cost of these proceedings. The Petitioners are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor, independent counsel to the Petitioners' board of directors, and counsel to the Petitioners on a periodic basis and, in addition, the retainers paid or to be paid by the Petitioners to the Monitor, counsel to the Monitor, independent counsel to the Petitioners' board of directors, and counsel to the Petitioners, are hereby authorized in the amounts of \$150,000, \$75,000, \$25,000, and \$200,000 respectively to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

33. The Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the British Columbia Supreme Court who may determine the manner in which such accounts are to be passed, including by hearing the matter on a summary basis or referring the matter to a Registrar of this Court.

34. The Monitor, counsel to the Monitor, if any, independent counsel to the Petitioners' board of directors, and counsel to the Petitioners shall be entitled to the benefit of and are hereby

granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their respective fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order which are related to the Petitioners' restructuring. The Administration Charge shall have the priority set out in paragraphs 35 and 37 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

35. The priorities of the Administration Charge, the D&O Charge, and the Intercompany Advances Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$500,000);

Second – D&O Charge (to the maximum amount of \$2,000,000); and

Third - Intercompany Advances Charge.

36. Any security documentation evidencing, or the filing, registration or perfection of, the Administration Charge, the D&O Charge, and the Intercompany Advances Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be effective as against the Property and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the Charges coming into existence, notwithstanding any failure to file, register or perfect any such Charges.

37. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**"), in favour of any Person, save and except those claims contemplated by section 11.8(8) of the CCAA.

38. Except as otherwise expressly provided herein, or as may be approved by this Court, the Petitioners shall not grant or suffer to exist any Encumbrances over any Property that rank in priority to, or *pari passu* with the Charges, unless the Petitioners obtains the prior written consent of the Monitor, and the beneficiaries of the applicable Charges sought to be primed.

39. The Administration Charge, the Director's Charge and the Intercompany Advances Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 ("**BIA**"), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Petitioners; and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Petitioners of any Agreement to which they are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Petitioners pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

40. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Petitioners' interest in such real property leases.

ALLOCATION

41. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Administration Charge and the D&O Charge amongst the various assets comprising the Property.

SERVICE AND NOTICE

42. The Monitor shall (i) without delay, publish in *The Globe and Mail* and *The Northern Miner* a notice containing the information prescribed under the CCAA, (ii) within five days after Order Date, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Petitioners of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

43. The Petitioners and the Monitor are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Petitioners' creditors or other interested parties at their respective addresses as last shown on the records of the Petitioners and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

44. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to a service list (the "**Service List**") to be maintained by the Monitor. The Monitor shall post and maintain an up to date form of the Service List on its website at: <http://cfcanada.fticonsulting.com/trevali> (the "**Website**").

45. Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on the Website.

46. Notwithstanding paragraphs 43 and 45 of this Order, service of the Petition, the Notice of Hearing of Petition, any affidavits filed in support of the Petition and this Order shall be made on the Federal, British Columbia and New Brunswick Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, and regulations thereto, in respect of the Federal Crown, the *Crown Proceeding Act*, R.S.B.C. 1996, c. 89, in respect of the British Columbia Crown,

and the *Proceedings Against the Crown Act*, R.S.N.B. 1973, c. P-18 in respect of the New Brunswick Crown.

GENERAL

47. The Petitioners or the Monitor may from time to time apply to this Court for directions in the discharge of their powers and duties hereunder.

48. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Petitioners, the Business or the Property.

49. THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, Burkina Faso and Namibia to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Petitioners and the Monitor and their respective agents in carrying out the terms of this Order.

50. Each of the Petitioners and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada, including acting as a foreign representative of the Petitioners.

51. The Petitioners may (subject to the provisions of the CCAA and the BIA) at any time file a voluntary assignment in bankruptcy or a proposal pursuant to the commercial reorganization provisions of the BIA if and when the Petitioners determine that such a filing is appropriate.

52. The Petitioners are hereby at liberty to apply for such further interim or interlocutory relief as they deem advisable within the time limited for Persons to file and serve Responses to the Petition.

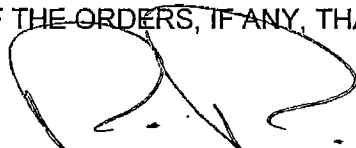
53. Leave is hereby granted to hear any application in these proceedings on two (2) clear days' notice after delivery to all parties on the Service List of such Notice of Application and all affidavits in support, subject to the Court in its discretion further abridging or extending the time for service.

54. Any interested party (including the Petitioners and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to all parties on the Service List and to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

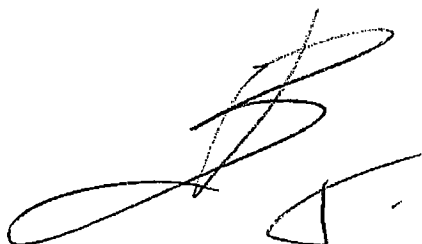
55. Endorsement of this Order by counsel appearing on this application is hereby dispensed with.

56. This Order and all of its provisions are effective as of 12:01 a.m. local Vancouver time on the Order Date.

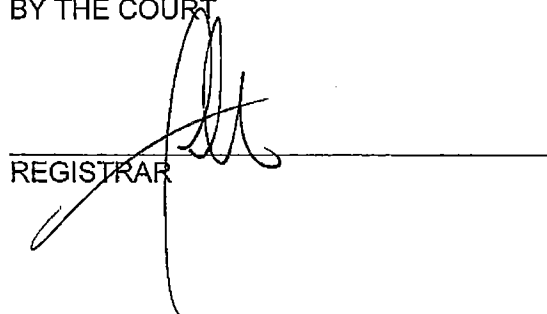
THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



Signature of Peter L. Rubin
Lawyer for the Petitioners



BY THE COURT



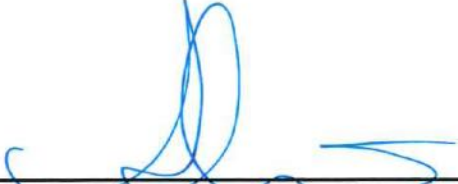
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FORM
CHECKED
Dgm

Schedule "A"

COUNSEL NAME	PARTY REPRESENTED
John Sandrelli	FTI Consulting Canada Inc., the proposed Monitor
Stuart Brotman and Thomas Meagher	Bank of Nova Scotia, in its capacity as RCF Administrative Agent

THIS IS **EXHIBIT "C"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025



TAEK SOO SHIN (LSO #85691Q)

OCT 07 2022



NO.
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL DEMMER, RODNEY BRUNK,
TIM KEMPTER and WILLIAM WILLIAMSON

PLAINTIFFS

AND:

TREVALI MINING CORPORATION,
RICUS GRIMBEEK, BRENDAN CREANEY, JILL GARDINER,
RUSSELL BALL, ALINE COTE, NICK POPOVIC,
JEANE HULL, DAN ISSEROW and RICHARD WILLIAMS

DEFENDANTS

Brought under the *Class Proceedings Act*, RSBC 1996, c. 50

NOTICE OF CIVIL CLAIM

This action has been started by the Plaintiffs for the relief set out in Part 3 below.

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

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiffs.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the Plaintiffs,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

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CLAIM OF THE PLAINTIFFS AND THE CLASS

PART 1: OVERVIEW OF THE ACTION

1. This is a proposed, multi-jurisdictional securities class proceeding. It arises out of the misrepresentations in the disclosure documents of the Defendant Trevali Mining Corporation (“**Trevali**”), issued between October 9, 2020 through to August 15, 2022, inclusive (“**Class Period**”).
2. At the relevant time, Trevali was a base-metal mining company focused on the production of zinc and lead concentrate from three operational assets:
 - a) the Perkoa Mine in Burkina Faso, in which Trevali has a 90% interest;
 - b) the Rosh Pinah Mine in Namibia, in which Trevali has a 90% interest; and
 - c) the Caribou Mine in New Brunswick, which is wholly owned by Trevali.
3. In 2022, Trevali’s operations were materially and negatively impacted as a result of a series of adverse events that were the result of Trevali’s senior management and directors’ failure to comply with their oversight duties in relation to Trevali’s core, mission critical risk management and compliance activities and affairs.
4. On April 16, 2022, Trevali’s Perkoa Mine experienced a major flooding event, which resulted in a significant damage to the mine and the loss of the lives of eight mine workers. Consequently, Trevali suspended operations at Perkoa in April 2022. The flood and subsequent shutdown of Perkoa caused serious financial damages to Trevali, both in terms of lost revenue as well as significant remediation costs, amongst other costs and expenses.
5. Additionally, in the aftermath of the flooding event, Perkoa’s mine manager and its contractor were placed on trial in Burkina Faso, in which it was alleged, amongst other things, that mining activities at Perkoa were carried out in excess of or without authorization, or in violation of health and safety laws and regulations.

6. During the trial, witnesses testified, amongst other things, that:
 - a) The Perkoa Mine had exceeded the designed depth of the mine, as the structure of the mine's underground pit had been modified from 520 meters to a depth of 710 meters, even though the mine had been originally designed to be operated up to 550 meters of depth;
 - b) In the underground mine, between levels 610 and 710, there were no emergency exits and the operating activities had not been developed; and
 - c) Water flooded into the mine as the mine's safety berm had not been rehabilitated.
7. The eight mine workers who lost their lives were trapped in the deep area of the mine that had not been properly developed.
8. The trial found the mine's manager and contractor guilty of involuntary manslaughter. Subsequently, Trevali announced that it would shut down the Perkoa Mine, as the funds available would not be sufficient to complete the rehabilitation of the mine.
9. The flooding event at Perkoa and its catastrophic consequences on Trevali and its stakeholders were a result of the failure of Trevali's senior management and directors to exercise care and oversight over core, mission-critical risk management and compliance affairs of Trevali.
10. In the aftermath of Perkoa's flooding event, Trevali's financial problems were exacerbated due to operational and production issues at Trevali's other material mineral project, the Caribou Mine.
11. According to Trevali, the operations at the Caribou Mine have been negatively impacted due to what Trevali describes as "low equipment availability and productivity rates with the mining contractors, among other factors."

12. Caribou Mine's operations furthermore became unsustainable due to its operating losses. In January 2021, Trevali entered into a fixed-pricing arrangement with Glencore plc under which Trevali is obligated to deliver 80% of Caribou Mine's zinc concentrate production to Glencore at the fixed price of US\$1.25 per pound, which is below the market price of zinc and Trevali's all-in sustaining costs of production of zinc. The arrangement was intended to apply through December 2022.
13. The persistent operational problems at the Caribou Mine, and the fact that it is forced to operate at a loss due to the fixed-pricing arrangement with Glencore, are the result of the failure of Trevali's senior management and directors to exercise care and oversight over core, mission-critical risk management and compliance affairs of Trevali.
14. Furthermore, the fixed-pricing arrangement with Glencore was not substantively or procedurally fair, was not in the best interests of Trevali, and it was tainted by conflicts of interests.
15. The fixed pricing arrangement with Glencore was one of the causes that contributed to Trevali's financial and operational collapse in 2022.
16. On August 19, 2022, Trevali filed for protection under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 ("**CCAA**"). Subsequently, the trading in Trevali's common shares was halted. On September 6, 2022, Trevali announced that its common shares would be delisted from the Toronto Stock Exchange effective close of market on October 3, 2022.
17. In this action, the Plaintiffs allege that Trevali's core disclosure documents issued during the Class Period, including several prospectuses, annual information forms and management information circulars, contained a misrepresentation with respect to Trevali's corporate governance practices.
18. As elaborated herein, specific statements contained in Trevali's core disclosure documents constituted a misrepresentation as Trevali's senior management and

directors failed to exercise care and oversight to ensure that Trevali had, maintained or implemented effective policies and procedures to manage core, mission-critical aspects of Trevali's business concerning:

- a. Health and safety;
- b. Corporate governance and risk management; and
- c. Internal control systems and disclosure controls and procedures.

19. This proposed securities class proceeding has been brought on behalf of:

All persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired the common shares of Trevali in the primary market and/or in the secondary market during the Class Period, and held some or all of such common shares as of the close of trading on April 14, 2022 and/or August 15, 2022, except the Excluded Persons;

(hereinafter, the "**Class**" or "**Class Members**").

20. The **Excluded Persons** are:

- a) Trevali and its current or former directors, officers, subsidiaries, partners, affiliates, legal representatives, predecessors, successors and assigns;
- b) Ricus Grimbeek, Brendan Creaney, Jill Gardiner, Russell Ball, Aline Cote, Nick Popovic, Jeane Hull, Dan Isserow and Richard Williams (collectively, "**D&O Defendants**"); and
- c) Glencore plc, Glencore International AG, Glencore AG and Glencore Canada Corporation (collectively, "**Glencore Entities**"), and their directors, officers, subsidiaries, partners, affiliates, legal representatives, predecessors, successors and assigns.

21. As against the Defendants, the Plaintiffs assert the following causes of action:

- a) on behalf of the Class Members who purchased or acquired Trevali's common shares pursuant to the Prospectus Supplement dated November 25, 2020 to a Short Form Base Shelf Prospectus dated November 19, 2020, the statutory right of action for misrepresentation in a prospectus pursuant to section 131 of the *Securities Act*, RSB 1996, c 418, as amended ("**Securities Act**") and, if necessary, the concordant provisions of the securities legislation of the other Canadian jurisdictions;
 - b) on behalf of the Class Members who purchased or acquired Trevali's common shares in the secondary market, the statutory right of action for misrepresentation in the secondary market pursuant to sections 140.3(1) and 140.5 of the *Securities Act* and, if necessary, the concordant provisions of the securities legislation of the other Canadian jurisdictions; and
 - c) on behalf of all Class Members, an oppression claim pursuant to section 227 of the *Business Corporations Act*, SBC 2002, c 57 ("**Business Corporations Act**").
22. On behalf of themselves and the other Class Members, the Plaintiffs seek to recover compensation in the amount of \$56 million for the damages and losses they and the other Class Members have incurred in their investments in the securities of Trevali.

PART 2: STATEMENT OF FACTS

A. The Plaintiffs

2. The Plaintiff Michael Demmer is a retail investor who resides in New Brunswick. Mr. Demmer acquired Trevali's common shares in the secondary market during the Class Period, and has incurred damages and losses on his investment in those securities.
3. The Plaintiff Rodney Brunk is a retail investor who resides in North Dakota, United States of America. Mr. Brunk acquired Trevali's common shares in the secondary

market during the Class Period, and has incurred damages and losses on his investment in those securities.

4. The Plaintiff Tim Kempter is a retail investor who resides in Zürich, Switzerland. Mr. Kempter acquired Trevali's common shares in the secondary market during the Class Period, and has incurred damages and losses on his investment in those securities.
5. The Plaintiff William Williamson is a retail investor who resides in British Columbia. Mr. Williamson acquired Trevali's common shares in the secondary market during the Class Period, and has incurred damages and losses on his investment in those securities.
6. The Plaintiffs are the members of an Ad Hoc Committee of Trevali's shareholders, which seeks to represent the Class Members in the proceedings pursuant to the CCAA involving Trevali and its subsidiary, Trevali Mining (New Brunswick) Ltd. ("**CCAA Proceeding**").
7. The Plaintiffs seek to be appointed as representatives for the Class in the CCAA Proceeding pursuant to:
 - a. section 11 of the CCAA; and/or
 - b. Supreme Court Civil Rule 20-3(6).
8. If the claims asserted herein are allowed to proceed outside of the CCAA Proceeding and/or in a joint proceeding under the *Class Proceedings Act*, RSBC 1996, c 50 ("**Class Proceedings Act**"), the Plaintiffs seek to be appointed as representatives for the Class under:
 - a. Section 2 generally, or 2(4) specifically, of the *Class Proceedings Act*, and/or
 - b. section 4.1 of the *Class Proceedings Act*.

B. The Defendants

a) Trevali

9. At the relevant time, Trevali was a publicly traded mining company incorporated under the *Business Corporations Act*, and headquartered in Vancouver, B.C.
10. At the relevant time, Trevali was a reporting issuer in British Columbia and in all other Canadian Provinces and Territories.
11. At the relevant time, Trevali's main securities regulator was the British Columbia Securities Commission.
12. At the relevant time, Trevali's common shares traded on the Toronto Stock Exchange, the United States OTC market, the Frankfurt Stock Exchange, and the Lima Stock Exchange.
13. On August 19, 2022, following the events described herein as giving rise to this action, Trevali filed for protection under the CCAA. Trading in the common shares of Trevali was halted on August 22, 2022. Trevali's common shares are set to be delisted from the Toronto Stock Exchange effective October 3, 2022.
14. At the relevant time, the Glencore Entities were Trevali's largest shareholder, beneficially owning approximately 26% of Trevali's issued and outstanding common shares.
15. At the relevant time, the Glencore Entities were the provider of a junior secured lending facility to Trevali.
16. At the relevant time, the Glencore Entities were the sole and exclusive purchaser of one hundred percent of the concentrates produced from Trevali's then-current operations pursuant to "offtake" and related agreements.

17. At the relevant time, the Glencore Entities had a right of first refusal for future concentrate sales produces from any additional properties or assets that Trevali may acquire in the future.

b) D&O Defendants

18. At the relevant time, Ricus Grimbeek was President, a director and Chief Executive Officer of Trevali. Mr. Grimbeek is an experienced mine operator with three decades of progressive experience in the mining industry. Mr. Grimbeek holds a Bachelor of Engineering (Mining) degree from the University of Pretoria, has completed the Management Development Program at the University of Orange Free State, and holds an Advanced Certificate in Mining Ventilation from the Chamber of Mines. Mr. Grimbeek resides in British Columbia.
19. At the relevant time, Brendan Creaney was Chief Financial Officer of Trevali. In that role, Mr. Creaney contributed to the execution of the overall strategic direction of Trevali. Mr. Creaney was accountable for ensuring long-term financial viability of Trevali through proper planning, risk assessment, development of appropriate policies, programs and controls. He was also responsible for leading Trevali's corporate development activities, including seeking out new markets and opportunities and participating directly in national and international marketing sales and activities. Mr. Creaney resides in British Columbia.
20. At the relevant time, Jill Gardiner was a director and Chair of Trevali's Board of Directors. Ms. Gardiner is a professional corporate director with over 20 years of experience in the investment banking industry. Ms. Gardiner holds Bachelor of Science and Master of Business Administration degrees from Queen's University. Ms. Gardiner resides in British Columbia.
21. At the relevant time, Russell Ball was a director of Trevali. Mr. Ball has significant experience working in various roles and capacities with publicly traded mining companies. Mr. Ball is qualified as both a Chartered Accountant from the Institute

of Chartered Accountants of South Africa and a Certified Public Accountant in the USA. Mr. Ball resides in British Columbia.

22. At the relevant time, Aline Cote was a director of Trevali. Ms. Cote has extensive mining and technical experience and expertise. Ms. Cote is an officer or employee of the Glencore Entities. She was a nominee director and one of the two directors of Trevali who were appointed to the Board of Directors by the Glencore Entities. Ms. Cote holds a Bachelor of Science degree in geology from Laurentian University and a Master of Business Administration degree from the University of Quebec. Ms. Cote resigned from her position as a director of Trevali on or about August 22, 2022. Ms. Cote resides in Quebec.
23. At the relevant time, Nick Popovic was a director of Trevali. Mr. Popovic is an officer or employee of the Glencore Entities. He was a nominee director and one of the two directors of Trevali who were appointed to the Board of Directors by the Glencore Entities. Mr. Popovic resigned from his position as a director of Trevali on or about August 22, 2022. Mr. Popovic resides in Switzerland.
24. At the relevant time, Jeane Hull was a director of Trevali. Ms. Hull was appointed a director of Trevali as of February 1, 2021. Ms. Hull has over 35 years of operational leadership and engineering experience. Ms. Hull holds a Bachelor of Science degree (Civil Engineering) from South Dakota School of Mines and Technology and a Master of Business Administration degree from Nova Southeastern University. Ms. Hull resides in South Dakota, USA.
25. At the relevant time, Dan Isserow was a director of Trevali. Mr. Isserow has financial and business operations leadership experience. Mr. Isserow holds the Chartered Accountant designation from the Institute of Chartered Accountants of South Africa, and he has completed the ICD Directors' Education Program. Mr. Isserow resides in British Columbia.
26. At the relevant time, Richard Williams was a director of Trevali. Mr. Williams has many years of experience in various executive and directorial roles with publicly

traded mining companies. Mr. Williams holds a Master of Business Administration degree from Cranfield University, a Master's degree in Security Studies from Kings College London, and a Bachelor of Science degree in Economics from University College London.

C. The D&O Defendants' Oversight Duties, Which They Violated

a) Composition, Mandate and Duties of Trevali's Board of Directors

27. At all material times relevant to this action, the Defendants Grimbeek, Ball, Cote, Popovic, Hull (since February 2021), Isserow and Williams were the directors of Trevali.
28. Pursuant to section 142(1)(b) of the *Business Corporations Act*, these Defendants had a duty to exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances.
29. Pursuant to Trevali's Board of Directors Charter, these Defendants had stated responsibilities to:
 - a. supervise the management of the business and affairs of Trevali;
 - b. act with a view to the best interests of Trevali; and
 - c. exercise the care, diligence and skill that reasonably prudent individuals would exercise in comparable circumstances.
30. Trevali's Board of Directors may, and it does, delegate certain of its functions to its Committees, as described below. Nonetheless, the overarching duty of care and oversight described above applied to each director.

b) Composition, Mandate and Duties of the Corporate Governance and Nominating Committee

31. The purpose of Trevali's Board's Corporate Governance and Nominating Committee is to provide a focus on corporate governance that will enhance

corporate performance and ensure, on behalf of the Board of Directors, that the Company's corporate governance system is effective in the discharge of its obligations to the Company's stakeholders.

32. At the relevant time, the Defendants Isserow (Chair), Gardiner, and Williams were the members of the Corporate Governance and Nominating Committee.

33. Pursuant to the Charter of the Corporate Governance and Nominating Committee, these Defendants had stated duties, *inter alia*, to:

a. with the assistance of management, develop the Company's overall approach to corporate governance issues and, subject to approval by the Board, implement and monitor a system of corporate governance which reflects high standards of corporate governance practices;

b. undertake an annual review of corporate governance issues and practices as they affect the Company and make a comprehensive set of recommendations to the Board during each calendar year;

c. advise the Board or any committees of the Board of corporate governance issues which the Committee determines ought to be considered by the Board or any such committee; and

d. with the assistance of management, oversee the creation of an enterprise risk management register and ensure that risks are allocated to appropriate committees of the Board for monitoring and reporting to the Board.

c) Composition, Mandate and Duties of the Health, Safety, Environment and Community Committee

34. The purpose of Trevali's Board's Health, Safety, Environment and Community Committee is to assist the Board of Directors in fulfilling its oversight responsibilities with respect to the effectiveness of the Company's health, safety, security, environmental, community relations and corporate social responsibility policies and practices.

35. At the relevant time, the Defendants Williams (Chair), Grimbeek, Ball and Hull were members of the Health, Safety, Environment and Community Committee.
36. Pursuant to the Charter of the Health, Safety, Environment and Community Committee, its members' primary duties and responsibilities are, *inter alia*, to:
- a. discuss the principal health, safety and security risks in the Company's business activities and provide oversight of appropriate systems to manage such risks;
 - b. review and monitor the health, safety and security policies and activities of the Company on behalf of the Board to ensure compliance with applicable laws, legislation and policies as they relate to health, safety and security issues through the receipt of regular reports on the same by management and/or consultants;
 - c. receive and review reports from management on any non-compliance with the health, safety and security policies of the Company or any material non-compliance with any applicable regulatory requirement; and
 - d. report on a timely basis, and in any event following each Committee meeting, to the Board on health, safety and security issues and on the state of compliance with applicable laws and legislation and adherence to the policies of the Company.

d) Composition, Mandate and Duties of the Exploration and Technical Committee

37. The purpose of Trevali's Board's Exploration and Technical Committee is to assist the Board in fulfilling its oversight responsibilities on specific technical matters, including:
- a. technical, exploration, development, and similarly related aspects, including policies, practices and controls with regard to the Company's mining operations and its development, exploration programs and projects;

- b. technical studies and evaluations of the Company's mineral properties;
 - c. management's preparation of mineral resource and reserve statements for the Company's mineral properties;
 - d. changes to laws and regulations that may impact the Company's mining operations and development and exploration programs and management's response to any such changes; and
 - e. external reporting in relation to the foregoing matters (in conjunction with the Disclosure Committee).
38. The Exploration and Technical Committee was established in August 2021.
39. At the relevant time, the members of the Exploration and Technical Committee were the Defendants Cote (Chair), Grimbeek and Hull.
40. The stated duties of the members of the Exploration and Technical Committee are, *inter alia*:
- a. reviewing management's overall approach to establishing objectives relating to mining operations, development and exploration programs, including construction activities, permitting, budgeting, allocation of resources, steps to be implemented and timing for completion, with a view to advising management about appropriate solutions, actions and risk mitigants;
 - b. receiving regular updates from management on growth initiatives, including reviewing technical-economic studies, including those prepared in accordance with National Instrument 43-101 – Standards of Disclosure for Mineral Projects ("NI 43-101") prepared to support a management request for Board approval;
 - c. reviewing the management of dams;

- d. reviewing life-of-mine plans and annual operating plans prepared by management for the Company's existing mining operations and development and exploration programs with a view to satisfying itself that the assumptions underlying these plans are reasonable;
 - e. reviewing management's assessment of the Company's major operational risk exposure, including a regular review of the top technical risks identified by management, including exploration, geological, mining, geotechnical, metallurgical and other technical issues of concern, and the policies and practices adopted by the Company to mitigate those risks; and
 - f. ensuring that the Company implements best-in-class property development and operating practices and reviewing management's assessment of the Company's operational and exploration performance to:
 - i. assess the technical, cost and overall effectiveness of mine plans, exploration programs, special projects, and make recommendations for improvement, where appropriate;
 - ii. determine if any issues that may be identified as a result of such review are of significance to report to the Board; and
 - iii. review the scope of potential liabilities and the adequacy of the management systems to manage these liabilities.
41. The focus of the Exploration and Technical Committee is revenue generating activities, although its stated responsibilities overlap with that of the Health, Safety, Security and Community Committee.
42. At all material times, the Defendant Cote was Chair and a member of the Exploration and Technical Committee. As a non-independent director and a nominee director on behalf of the Glencore Entities (the junior secured lender, the sole customer and the largest shareholder of Trevali), the Defendant Cote had a conflict of interests in serving in that capacity.

43. At all material times, the Defendant Grimbeek was a member of the Exploration and Technical Committee. As President, Chief Executive Officer and a non-independent director, the Defendant Grimbeek had a conflict of interests in serving in that capacity.

e) CEO and CFO's Duties to Design, Maintain and Evaluate the Effectiveness of Trevali's Disclosure Controls and Procedures

44. As senior officers of Trevali, the Defendants Grimbeek and Creaney had obligations to design Trevali's disclosure controls and procedures, or to cause them to be designed, to provide reasonable assurance that:
- a. material information relating to Trevali was made known to Trevali's senior management and directors; and
 - b. information required to be disclosed by Trevali in its annual filings, interim filings or other reports filed or submitted by it under securities legislation was recorded, processed, summarized and reported within the time periods specified in securities legislation.
45. Additionally, the Defendants Grimbeek and Creaney had duties to evaluate the effectiveness of Trevali's disclosure controls and procedures.
46. At all materials times relevant to this action, the Defendants Grimbeek and Creaney represented and certified that they had designed, or caused to be designed, Trevali's disclosure controls and procedures in accordance with the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). They, furthermore, certified that they had evaluated Trevali's disclosure controls and procedures in accordance with the COSO standards, and determined that those controls and procedures were effective.

D. The D&O Defendants Violated Their Oversight Duties

a) The D&O Defendants failed to exercise care and oversight necessary to ensure the effectiveness of Trevali's health, safety and security policies and practices

47. On Saturday, April 16, 2022, Trevali reported that following heavy rainfall, a major flooding event had occurred at its Perkoa Mine. Eight mine workers were reported missing underground. As a result, mining and milling operations at the Perkoa Mine were suspended.
48. On April 21, 2022, Trevali provided further updates in relation to the flooding event at the Perkoa Mine, reporting that the rainfall had resulted in a flash flood that breached purportedly protective berms surrounding the mine's open pit. Trevali, furthermore, reported that the eight missing mine workers remained unaccounted for. Mining and milling operations at Perkoa remained suspended and they were expected to remain suspended for the foreseeable future. Trevali also reported that following these events, Trevali's senior executives had travelled to the Perkoa Mine site to conduct site and area inspections, amongst other efforts in the aftermath of the incident.
49. On May 25, 2022, Trevali reported that it had discovered the bodies of four of the missing mine workers. On June 20, 2022, Trevali reported that it had discovered the bodies of the remaining missing mine workers that had been unaccounted for.
50. On August 15, 2022, Trevali reported that, as a result of an investigation into the flooding event, Trevali was taking several actions to minimize the impacts of future weather events at Perkoa, and prevent any future flooding of the underground operations, including:
 - a. it raised the flood protection berm along the existing berm alignment to protect the open pit against flooding;

- b. it installed an early warning system that provides updated weather reporting, real-time weather and rain monitoring and real-time stream water level indication with automatic triggers when there is a potential flood risk; and
 - c. it improved emergency management plans with the inclusion of predictive triggers such as: predictive alerting and smart IOT sensors that detect changes in water levels and various weather parameters (wind, rain, lightning, pressure) to trigger an evacuation in advance of a significant weather event impacting the site.
51. In its August 15, 2022 news release, Trevali furthermore reported that it is “also reviewing its design infrastructure at its other mine sites and will consider implementing similar measures if deemed appropriate.”
52. Trevali ought to have adopted and implemented these measures at its operating mines before the flooding event at the Perkoa Mine. Trevali created an unsafe working site at the Perkoa Mine by its failure to adopt these security measures, including by failing to rehabilitate or raise the safety berm.
53. On August 22, 2022, Trevali confirmed media reports that a manager of the Perkoa Mine as well as a manager of Trevali’s mining contractor, Byrncut, had been detained by authorities near the mine site in west-central Burkina Faso pending a trial on charges relating to the April 16, 2022 flooding event.
54. The charges were being brought against Nantou Mining (Burkina Faso) S.A., Trevali’s 90% owned subsidiary and the operator of Perkoa, and they included the allegation that Perkoa Mine engaged in mining activities in excess of or without legal authorization, and/or that it violated health and safety regulations.
55. During the trial, witnesses testified, amongst other things, that:
- a. The Perkoa Mine had exceeded the designed depth of the mine, as the structure of the mine’s underground pit had been modified from 520 meters

to a depth of 710 meters, even though the mine had been originally designed to be operated up to 550 meters of depth;

- b. In the underground mine, between levels 610 and 710, there were no emergency exits and the operating activities had not been developed; and
 - c. Water flooded into the mine as the mine's safety berm had not been rehabilitated.
56. The eight mine workers who lost their lives were trapped in the depth of the mine that had not been properly developed, including at the areas around the 640 level and the 670 level.
57. On September 14, 2022, the mine's manager and contractor were found guilty of involuntary manslaughter.
58. On September 24, 2022, Trevali announced that it would shut down the Perkoa Mine, as the funds available would not be sufficient to complete the rehabilitation of the mine.
59. At the relevant time, Trevali's health and safety policies, measures and/or practices were not effective. The D&O Defendants had a duty to exercise appropriate care and oversight to ensure that Trevali's health, safety and security policies and practices were and remained effective. That duty concerned central, mission-critical risk management and compliance matters relating to the core of Trevali's business and operations. The D&O Defendants violated that duty.
- b) The D&O Defendants failed to exercise care and oversight necessary to ensure that Trevali maintained proper and effective corporate governance and risk management policies and practices**
60. Trevali contends that its financial problems were exacerbated due to ongoing challenges with the mine contractors relative to equipment availability and low production rates at the Caribou Mine. To the extent that Caribou Mine's operations were adversely impacted by ongoing equipment, production or

contractor issues, those problems were caused as a result of the D&O Defendants' failure to exercise care and oversight to ensure that the mine properly operated.

61. Trevali's financial problems were also exacerbated as a result of the fact that Caribou Mine operated at a loss due to a fixed pricing arrangements between Trevali and the Glencore Entities, discussed below.
62. On January 15, 2021, Trevali announced that it was restarting the operations at the Caribou Mine following a 9-month care and maintenance period.
63. According to Trevali, to improve the economics of the mine operations, and to reduce Trevali's exposure to commodity price fluctuations, it had entered into a 21-month fixed pricing arrangement with the Glencore Entities. According to Trevali, this arrangement provided that 115 million pounds of payable zinc, representing 80% of Caribou Mine's forecasted zinc production, would be sold to Glencore plc at an average price of US\$1.25 per pound. These arrangements are for the period from March 2021 to December 2022.
64. The below chart demonstrates the reported price of zinc over the past 5 years.



65. The fixed pricing arrangement represents a loss compared to the market price of zinc, as well as Trevali's average all-in sustaining costs of production of zinc.

66. The fixed pricing arrangement constituted a significant, known risk to Trevali's operation that ought to have been properly managed by the D&O Defendants. Trevali's annual information form for fiscal year ended December 31, 2021, filed on March 31, 2022, acknowledged as follows:

The use of derivative instruments involves certain inherent risks including credit risk, market liquidity risk and unrealized mark-to-market risk.

The Company has entered into hedging contracts in respect of a material amount of its forecasted zinc production. The Company uses these contracts to manage the risks associated with, among other things, mineral price volatility. The use of these contracts involves certain inherent risks including: (a) the risk of default on amounts owing to the Company by the counterparties with which the Company has entered into such transactions; and (b) the risk that, in respect of certain derivative products, an adverse change in market prices for commodities will result in the Company incurring an unrealized mark-to-market loss in respect of such contracts. In the event that such any such risks materialize, the Company's future cash flows, profitability, results of operations and financial condition could be materially and adversely affected.

67. The D&O Defendants had a duty to properly manage this risk, which they failed to do.
68. Furthermore, the fixed pricing arrangement with the Glencore Entities was not in the best interests of Trevali, and it was tainted by conflicts of interests.
69. Trevali's disclosure documents suggest that Trevali's entire Board of Directors was involved in the events and in the making of the decisions leading to the re-opening of the Caribou Mine, including the fixed pricing arrangement with the Glencore Entities. The members of the Board at the time included Glencore's

nominee directors, the Defendants Cote and Popovic, both of whom are stated to be members of the senior management team of Glencore plc and/or its related entities.

70. Trevali's disclosure documents indicate that Trevali's Board of Directors failed to establish a special committee in relation to entering into the fixed-pricing arrangement.
71. Trevali's disclosure documents indicate that Trevali's Board of Directors failed to consult with independent financial and/or legal advisors in relation to the fixed pricing arrangement.
72. The conflicts of interests arising out of two nominee directors of Glencore sitting on Trevali's Board of Directors represented a significant, known risk. Trevali's annual information form for fiscal year ended December 31, 2021, filed on March 31, 2022, acknowledged as follows:

The Company's directors and officers may have interests that conflict with the Company's interests.

[...]

As of the date hereof, Aline Cote and Nick Popovic, directors of the Company, are members of the senior management team at Glencore International AG (for the purposes of this paragraph, "Glencore"). Glencore is a significant shareholder of the Company, owning approximately 26% of the Company's issued and outstanding Common Shares. Glencore is also a lender to the Company pursuant to the Glencore Facility (as described above under the heading "Three-Year History – Significant Developments – 2020"). In addition, through off-take agreements, Glencore has agreed to purchase all the concentrates from Caribou, Rosh Pinah and Perkoa and has entered into an Investor Rights and Governance Agreement with the Company that provides Glencore

with certain board nomination rights, anti-dilution rights and enhanced consultation rights relating to the business of the Company. As a result, Ms. Cote and Mr. Popovic have a conflict of interest with respect to the Company's contracts and other dealings with Glencore, which, with respect to matters considered by the Board regarding its contracts and dealings with Glencore, will generally require them to disclose such conflict of interest and abstain from voting on such matters.

73. The D&O Defendants had a duty to properly manage this risk, which they failed to do.

74. At the relevant time, Trevali's corporate governance and risk management policies and practices were not effective. The D&O Defendants had a duty to exercise care and oversight to ensure that Trevali maintained proper and effective corporate governance and risk management policies and practices. That duty concerned central, mission-critical risk management and compliance matters relative to the core of Trevali's business and operations. The D&O Defendants violated that duty.

c) The D&O Defendants failed to exercise care and oversight necessary to ensure that Trevali maintained proper and effective internal control systems and disclosure controls and procedures

75. Due to the circumstances outlined above, at the relevant time, Trevali's internal control systems and disclosure controls and procedures were not effective.

76. The D&O Defendants had a duty to exercise care and oversight to ensure that Trevali maintained proper and effective internal control systems and disclosure controls and procedures. That duty concerned central, mission-critical risk management and compliance matters relative to the core of Trevali's business and operations. The D&O Defendants violated that duty.

E. The Misrepresentations

a) The Impugned Documents

77. The Plaintiffs allege that the following disclosure documents of Trevali contained a misrepresentation:

- a. The Prospectus Supplement dated November 25, 2020 to a Short Form Base Shelf Prospectus dated November 19, 2020, together with the prospectus draft dated November 24, 2020 and the Preliminary Short Form Prospectus dated October 9, 2020 (collectively, the “**Prospectuses**”), including the following documents which were incorporated therein by reference:
 - i. the management information circular of Trevali dated August 6, 2020 regarding the annual general meeting of Trevali’s shareholders to be held on September 16, 2020; and
 - ii. the annual information form for the fiscal year ended December 31, 2019, dated as of March 30, 2020;
- b. the annual information form for the fiscal year ended December 31, 2020, dated as of March 31, 2021;
- c. the management information circular dated April 1, 2021 with respect to the annual and general meeting of Trevali’s shareholders to be held on May 11, 2021;
- d. the annual information form for the fiscal year ended December 31, 2021, dated as of March 31, 2022;
- e. the management information circular dated May 18, 2021 with respect to the annual and general meeting of Trevali’s shareholders to be held on June 29, 2022; and

- f. The Certifications of Annual Filings on Forms 52-109F1 issued and filed by Defendants Grimbeek and Creaney on March 31, 2021 (with respect to fiscal year 2020 annual disclosures) and March 31, 2022 (with respect to fiscal year 2021 annual disclosures).

b) Misrepresentations Contained in Impugned Documents that are Management Information Circulars

78. Trevali's management information circulars purported to provide information regarding Trevali's corporate governance practices, according to the Defendants.
79. The management information circulars contained a section titled "Trevali's Leading Corporate Governance Practices," touting Trevali's corporate governance practices which the Defendants represented to be proper and effective. In that section, the management information circulars contained a statement substantially as follows:

Board Oversight of Strategy and Risk Management: The Board oversees management, strategic and corporate planning and risk management. The Board and its committees receive regular reporting from management on the implementation of the Company's approved strategy, and plans are in place to monitor, manage and report on the principal business risks. The Health, Safety, Environment and Community ("HSEC") Committee has specific responsibility for oversight of environmental and stakeholder risk management.

80. The statements produced above constituted a misrepresentation as the D&O Defendants failed to exercise care and oversight to ensure that Trevali had, maintained or implemented effective policies and procedures to manage core, mission-critical risks relative to its business and operations concerning:
 - a. Health and safety;

- b. Corporate governance and risk management; and
- c. Internal control systems and disclosure controls and procedures.

c) Misrepresentations Contained in Impugned Documents that are Annual Information Forms

81. Trevali's annual information forms contained a section titled "Corporate Governance," which included representations substantially as follows:

Corporate Governance

Many of the Company's directors and executive officers have significant experience conducting business in Canada, Peru, Burkina Faso, and Namibia, gained through their years of service to the Company in their respective roles or principal occupations, as applicable. Certain directors and executive officers have also travelled to Canada, Peru, Burkina Faso, and Namibia on several occasions for various purposes related to the Company's business, including meeting with government officials and representatives from banking and investment firms. Directors and executive officers of the Company visit the Company's operations as they deem to be necessary, often several times a year, to properly manage the Company's business and meet with local management.

As a part of carrying out the responsibilities of their respective offices, it is necessary for the directors and executive officers of the Company to familiarize themselves with the laws, requirements and roles of governments, local business culture and practices, and any differences in banking systems and controls in and between jurisdictions in relation to the Company's foreign operations. Directors and executive officers become aware of these matters on an on-going basis through their skills, experience, education, knowledge, and a combination of written materials, meetings, site

visits, legal and other professional advice, and other briefings and training, as appropriate.

Information is typically communicated to the Company's head office from its other locations of business through typical methods in the English language. There are, however, circumstances where communications and documents relating to the Company's business in foreign jurisdictions are received by the Company in the local language, typically Spanish in Peru, Afrikaans in Namibia, and French in Burkina Faso. Items that are deemed material, including legal documents and communications from government officials, are translated into the English language.

82. These statements constituted a misrepresentation as the D&O Defendants failed to exercise care and oversight to ensure that Trevali had, maintained or implemented effective policies and procedures to manage core, mission-critical risks relative to its business and operations concerning:

- a. Health and safety;
- b. Corporate governance and risk management; and
- c. Internal control systems and disclosure controls and procedures.

d) Misrepresentations Contained in Forms 52-109F1 Certificates of Annual Filings

83. In these Impugned Documents, the Defendants Grimbeek and Creaney certified and represented that Trevali's disclosure documents disclosed all material facts, and that Trevali's internal controls had been designed properly and were effective. That representation was false.

e) Misrepresentations Contained in the Prospectuses

84. Each of the Prospectuses incorporated by reference the following documents, and it contained the misrepresentation alleged herein to have been contained in those documents:
- a. the management information circular of Trevali dated August 6, 2020 regarding the annual general meeting of Trevali's shareholders to be held on September 16, 2020; and
 - b. the annual information form for the fiscal year ended December 31, 2019, dated as of March 30, 2020.
85. Each of the Prospectuses included a statutory Certificate of the Company, which was signed by the Defendants Grimbeek, Creaney, Gardiner and Ball. The Certificate included a representation substantially as follows:
- This short form prospectus, together with the documents incorporated in this prospectus by reference, will, as of the date of a particular distribution of securities under the prospectus, constitute full, true and plain disclosure of all material facts relating to the securities offered by this prospectus and the supplement as required by the securities legislation of all of the provinces and territories of Canada.
86. The Prospectus certifications were false, as the Prospectus did not disclose that the D&O Defendants failed to exercise care and oversight to ensure that Trevali had, maintained or implemented effective policies and procedures to manage core, mission-critical risks relative to its business and operations concerning:
- a. Health and safety;
 - b. Corporate governance and risk management; and
 - c. Internal control systems and disclosure controls and procedures.

F. Corrective Disclosures

a) April 16, 2022

87. On Saturday, April 16, 2022, Trevali issued a news release titled “Trevali Reports Flooding Event at its Perkoa Mine.” In this news release, Trevali reported that its Perkoa Mine had experienced a flooding event, and that eight mine workers were missing underground and unaccounted for.
88. This disclosure partially revealed to the market that Trevali failed to maintain or implement effective policies and procedures with respect to its core, mission-critical risk management and compliance affairs, specifically in relation to its health and safety measures.
89. On Monday, April 18, 2022, the price of Trevali’s common shares on the Toronto Stock Exchange plummeted to close at \$1.36, compared to \$1.89 as of the close of trading on the preceding trading day, April 14, 2022, representing a 28% decline.

b) August 15, 2022

90. After the close of trading on August 15, 2022, Trevali issued a news release in regard to the results of the second quarter of fiscal year 2022 (“**Q2 2022**”) announcing, among other things, that:
 - a. it had experienced production challenges and/or suspension of its operations at its major mining properties, the Perkoa mine and the Caribou mine;
 - b. its Q2 2022 revenue had declined 44% on a year-over-year basis
 - c. it was taking a non-cash, after-tax impairment of \$23.7 million against the Perkoa and Caribou operations and/or assets; and

- d. it would be unable to make a mandatory prepayment of approximately \$7.5 million on its revolving credit facility.
91. Trevali's August 15, 2022 disclosures, furthermore, reported that as a result of an investigation into the flooding event at Perkoa, Trevali would enhance its health, safety and security measures at Perkoa, and that it would review its measures and procedures at its further mines.
92. This disclosure revealed to the market that the D&O Defendants had failed in managing core, mission-critical risks to Trevali's enterprise both operationally and financially.
93. On August 16, 2022, the price of Trevali's common shares on the Toronto Stock Exchange plummeted to close at \$0.22, compared to \$0.46 as of the close of trading on August 15, 2022, representing a 52% decline.

G. Subsequent Events

94. On August 19, 2022, Trevali issued a news release titled "Trevali Receives Initial Order for CCAA Protection and Provides Operations Update," reporting that it had sought and secured protection from its creditors under the CCAA.
95. On August 22, 2022, Trevali issued a news release titled "Trevali Announces Trading Halt for Common Shares and Provides Corporate Update," reporting that the trading in its common shares had been halted on the Toronto Stock Exchange, and expected to be halted on the other securities exchanges in which it trades. Trevali furthermore reported that:
 - a. it expected that its common shares would be delisted from trading on the Toronto Stock Exchange and elsewhere;
 - b. the Defendants Cote and Popovic had resigned from the Board of Directors;
and

- c. a manager of Perkoa Mine and a contractor had been detained by authorities in Burkina Faso pending trial on charges relating to the flooding event in April 2022.
96. On August 29, 2022, Trevali filed a material change report in relation to the foregoing events.
97. On September 6, 2022, Trevali reported that following a delisting review by the Toronto Stock Exchange, its common shares would be delisted effective close of market on October 3, 2022.

H. The Plaintiffs' and the Class's Damages

98. At all material times, Trevali's common shares traded in an efficient market that incorporated the publicly available information about the company into the price of those securities.
99. The Defendants knew and intended that the market price of Trevali's common shares would reflect the information that they communicated to the market, including the misrepresentations alleged herein.
100. The Plaintiffs and the Class suffered damages and losses as a result of the Defendants' misrepresentations and improper conduct alleged herein, as they purchased or acquired Trevali's common shares at artificially inflated prices.

PART 3: RELIEF SOUGHT

1. On behalf of themselves and the other Class Members, the Plaintiffs seek:
- a. an Order of this Honourable Court appointing them as representatives for the Class pursuant to:
 - i. section 11 of the CCAA and/or Supreme Court Civil Rule 20-3(6); and/or

- ii. pursuant to section 2, 2(4) and/or 4.1 of the *Class Proceedings Act*, furthermore certifying this action as a class proceeding under the *Class Proceedings Act*;
- b. an order granting leave of the Court under section 140.8 of the *Securities Act* and, if necessary, the concordant provisions of the securities legislation of the other Canadian provinces and territories, to proceed with statutory liability claims against the Defendants;
- c. a declaration that the Impugned Documents contained a misrepresentation;
- d. a declaration that the Defendant Trevali is vicariously liable for the acts and omissions of the D&O Defendants, and of its other directors and officers;
- e. a declaration that the Defendants engaged in oppressive conduct, and that the Plaintiffs and the Class are entitled to relief, including monetary compensation and otherwise, pursuant to subsections 227(3)(c), (d), (f), (g), (h), (i), (j), (k), (m), (o), (p), (q) and/or (r) of the *Business Corporations Act*;
- f. damages to the Plaintiffs and the Class, to the extent possible on an aggregated basis pursuant to Part 4, Division 2 of the *CPA*, in the amount of \$56 million;
- g. an order directing a reference or giving such other directions as may be necessary to determine issues not determined at the trial of the common issues;
- h. pre-judgment and post-judgment interest pursuant to the *Court Order Interest Act*, RSBC 1996, c.79, as amended, and the costs of notice and administration of judgment; and
- i. such further and other relief as this Honourable Court may deem just.

PART 4: LEGAL BASIS

A. Statutory claim for damages under section 131 of the Securities Act (Primary Market Prospectus Liability)

1. Pursuant to the Prospectus Supplement dated November 25, 2020, Trevali undertook a primary market offering of its securities whereby it issued and sold effectively 18,653,000 Units of its securities, at an effective price of \$1.85 per Unit (“**Offering**”).¹ Each Unit was comprised of one common share and one-half of one common share purchase warrant.
2. The Offering was closed on December 2, 2020, for gross proceeds of \$34.5 million.
3. The Offering was conducted pursuant to an underwriting agreement between Trevali and certain financial institutions acting as underwriters, dated November 25, 2020. The underwriting agreement is governed by and to be construed in accordance with the laws in force in the Province of British Columbia and the federal laws of Canada applicable therein.
4. The warrants that were issued and sold in the Offering were issued pursuant to a Warrant Indenture dated December 2, 2020, which provides as follows:

This Indenture, the Warrants, the Warrant Certificates (including all documents relating thereto, which by common accord have been and will be drafted in English) shall be construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein and shall be treated in all respects as British Columbia contracts. Each of the parties hereto, which shall include the Warrantholders, irrevocably attorns to the exclusive jurisdiction of the courts of the Province of British Columbia with

¹ Pursuant to the Prospectus, Trevali issued and sold 186,530,000 Units at a selling price of \$0.185. On December 3, 2021, Trevali completed a consolidation of its common shares, whereby it consolidated 10 pre-consolidation common shares to 1 post-consolidation common shares.

respect to all matters arising out of this Indenture and the transactions contemplated herein.

5. Pursuant to the terms of the Warrant Indenture, which is specifically mentioned and referred to in the Prospectus Supplement dated November 25, 2020, each Class Member who acquired Trevali's securities in the Offering has attorned to the exclusive jurisdiction of the court of British Columbia in relation to the matters arising out of the Offering, either in whole or in relation to the portion of the Offering that concerned the issuance, sale and distribution of the warrants.
6. On behalf the Class Members who purchased or acquired Trevali's securities pursuant to the Prospectus Supplement dated November 25, 2020, the Plaintiffs asserts a claim for damages under section 131 of the *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Provinces and Territories of Canada.
7. The Prospectus Supplement dated November 25, 2020 contained a misrepresentation, as pleaded herein.
8. This cause of action is being asserted against each of the Defendants, except the Defendant Hull.

B. Statutory claim for damages under section 140.3(1) of the Securities Act (Secondary Market Liability)

9. On behalf of themselves and the other Class Members who acquired Trevali's securities in the secondary market, the Plaintiffs assert a claim under section 140.3(1) of the *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Provinces and Territories of Canada.
10. Trevali's Impugned Documents contained a misrepresentation, as pleaded herein.
11. This claim is being asserted against each of the Defendants:

- a. Trevali is the responsible issuer;
 - b. the Defendants Grimbeek, Gardiner, Ball, Cote, Popovic, Hull, Isserow and Williams were directors of Trevali at the relevant time; and
 - c. the Defendant Creaney was, at the relevant time, an officer of Trevali. He signed the Prospectuses and authorized the release of the other Impugned Documents.
12. The Plaintiffs will seek leave of the Court to proceed with this statutory claim in accordance with section 140.8 of the *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Provinces and Territories of Canada.

C. The Oppression Remedy

13. On behalf of themselves and the other Class Members, the Plaintiffs assert a claim for oppression remedy under section 227 of the *Business Corporations Act*.
14. The Defendants engaged in oppressive conduct by failing to exercise care and oversight necessary to ensure that Trevali's policies and processes relative to its core, mission-critical risks and regulatory compliance were effective.
15. The Plaintiffs and the Class Members had a reasonable expectation that the D&O Defendants exercise care and supervision over Trevali's core, mission-critical business and affairs in accordance with a standard expected of a prudent person acting in comparable circumstances. The D&O Defendants violated those reasonable expectations.
16. The Plaintiffs plead the remedies prescribed in subsections 227(3)(c), (d), (f), (g), (h), (i), (j), (k), (m), (o), (p), (q) and/or (r) of the *Business Corporations Act*.

D. Vicarious Liability

17. In addition to its direct liability, Trevali is vicariously liable for the acts and omissions of the D&O Defendants, and of its other directors and officers.

E. Real and Substantial Connection with British Columbia

18. This proceeding and the claims of the Plaintiffs and each Class Member have a real and substantial connection with the Province of British Columbia. The claims of the Plaintiffs and the Class Members arise out of investment in securities of Trevali, which is incorporated under the laws of British Columbia, is headquartered in British Columbia, carries on business in British Columbia, and is regulated by the British Columbia Securities Commission.
19. If necessary, this Notice of Civil Claim may be served outside British Columbia without leave because this proceeding concerns a business carried on in British Columbia, a tort committed in British Columbia and contractual obligations which, to a substantial extent, were to be performed in British Columbia.

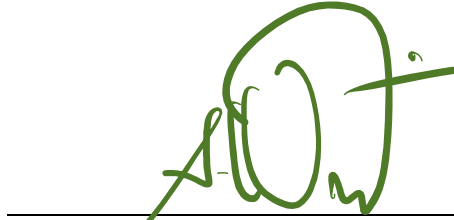
Plaintiffs' address for service:

Eli Karp / Sage Nematollahi
KND Complex Litigation
1186 Eglinton Ave West
Toronto, ON M6C 2E3
(416) 537-3529
ek@knd.law / sn@knd.law

Place of trial: Vancouver, British Columbia.

The address of the registry is: 800 Smithe Street, Vancouver, BC V6Z 2E1.

October 7, 2022

A handwritten signature in green ink, appearing to be 'Eli Karp', is written over a horizontal line.

KND Complex Litigation

1186 Eglinton Ave West
Toronto, ON M6C 2E3
(416) 537-3529

Eli Karp (he/him)

ek@knd.law

Sage Nematollahi (he/him)

sn@knd.law

Counsel to the Plaintiffs

Rule 7-1(1) of *the Supreme Court Civil Rules* states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial,
and

(b) serve the list on all parties of record.

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION
FOR SERVICE OUTSIDE BRITISH COLUMBIA**

There is a real and substantial connection between British Columbia and the facts alleged in this proceeding. On behalf of itself and the other Class Members, the Plaintiff pleads and relies upon the *Court Jurisdiction and Proceedings Transfer Act*, RSBC 2003, c.28 (the "*CJPTA*") in respect of the Defendants. Without limiting the foregoing, a real and substantial connection between British Columbia and the facts alleged in this proceeding exists pursuant to section 10 of the *CJPTA* because this proceeding:

(e) concerns contractual obligations, and

(i) the contractual obligations, to a substantial extent, were to be performed in British Columbia;

(g) concerns a tort committed in British Columbia; and

(h) concerns a business carried on in British Columbia.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

This proposed securities class proceeding arises out of the Defendants' misrepresentation in the disclosure documents of Trevali Mining Corporation issued between October 9, 2020 and August 15, 2022, inclusive. The action alleges that the Defendants made a misrepresentation concerning Trevali's corporate governance practices. This proposed class proceeding seeks to recover compensation for the damages of the Plaintiffs and the other Class Members.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- the provision of goods or services or other general commercial matters
- investment losses
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- a class action
- maritime law
- aboriginal law

- constitutional law
- conflict of laws
- none of the above
- do not know

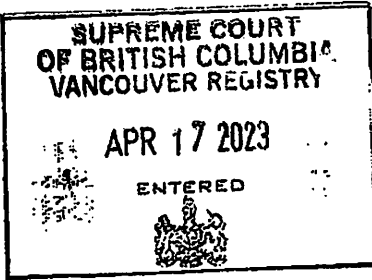
Part 4: ENACTMENTS RELIED ON:

1. *Class Proceedings Act*, RSBC 1996, c. 50, as amended
2. *Business Corporations Act*, SBC 2002, c 57, as amended
3. *Securities Act*, RSBC 1996, c 418, as amended
4. *Securities Act*, RSO 1990, c S 5, as amended
5. *Securities Act*, RSA 2000, c S-4, as amended
6. *Securities Act*, CQLR c V-1.1, as amended
7. *The Securities Act*, CCSM c S50, as amended
8. *Securities Act*, SNB 2004, c S-5.5, as amended
9. *Securities Act*, RSNL 1990, c S-13, as amended
10. *Securities Act*, SNWT 2008, c 10, as amended;
11. *Securities Act*, RSNS 1989, c 418, as amended
12. *Securities Act*, SNu 2008, c 12, as amended
13. *Securities Act*, RSPEI 1988, c S-3.1, as amended
14. *The Securities Act, 1988*, SS 1988-89, c S-42.2, as amended;
15. *Securities Act*, SY 2007, c 16, as amended
16. *Court Jurisdiction and Proceedings Transfer Act*, RSBC 2003, c.28, as amended
17. *Court Order Interest Act*, RSBC 1996, c.79, as amended

THIS IS **EXHIBIT "D"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025



TAEK SOO SHIN (LSO #85691Q)



No. S-226670
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT
ACT,
RSC 1985, C C-36, AS AMENDED**

AND

**IN THE MATTER OF THE BUSINESS CORPORATIONS ACT, SBC
2002, C 57, AS AMENDED AND THE BUSINESS CORPORATIONS
ACT, SNB 1981, C B-9.1, AS AMENDED**

AND

**IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT
OF TREVALI MINING CORPORATION AND TREVALI MINING (NEW
BRUNSWICK) LTD.**

PETITIONERS

**ORDER MADE AFTER APPLICATION
(CCAA SHAREHOLDER REPRESENTATION ORDER)**

BEFORE THE HONOURABLE
MADAM JUSTICE FITZPATRICK

)
)
)

29, MARCH, 2023

THE APPLICATION of Michael Demmer, Rodney Brunk, Tim Kempter and William Williamson ("Ad Hoc Committee of Trevali Shareholders") coming for a hearing at Vancouver, British Columbia, on 29th day of March, 2023; ON HEARING Sage Nematollahi, Counsel to the Ad Hoc Committee of Trevali Shareholders; UPON READING the materials filed, including Affidavit No. 1 of Michael Demmer and Affidavits Nos. 1 & 2 of Hadi Davarinia; AND pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended, the British Columbia *Supreme Court Civil Rules*, BC Reg 168/2009 and the inherent jurisdiction of this Honourable Court; AND UPON BEING ADVISED that the Monitor, the Petitioners and the Directors

and Officers of Trevali Mining Corporation (“Trevali”) either consent, or otherwise do not object, to this Order.

THIS COURT ORDERS AND DECLARES THAT:

NOTICE

1. This Court declares that notice of this application has been provided to affected persons in compliance with this Court’s Initial Order dated August 19, 2022, as amended, and is hereby deemed proper, adequate and sufficient, and hereby dispenses with further notice thereof.

APPOINTMENT OF SHAREHOLDER REPRESENTATIVES AND SHAREHOLDER REPRESENTATIVE COUNSEL

2. This Court orders that, subject to paragraphs 9-11 hereof, members of the Ad Hoc Committee of Trevali Shareholders (hereinafter, “**Shareholder Representatives**”) are hereby appointed to represent the interests of the Securities Claimants (as defined in **Schedule “A”** to this Order) in these CCAA Proceedings with respect to any claims against Trevali and/or its current and/or former directors and officers arising out of or relating to their transactions in the common shares of Trevali (“**Securities Claims**”), including in relation to, and for all purposes of, the filing of any claims, proofs of claims, participation in negotiations or mediations with respect to the settlement of any part or the whole of the Securities Claims, and the development, drafting, preparation and execution of the Plan of Compromise and Arrangement, if any, and any similar or related definitive documentation (“**Mandate**”).
3. This Court orders that, subject to paragraphs 9-11 hereof, the law firm of KND Complex Litigation (“**KND**”) is hereby appointed as Counsel to the Shareholder Representatives in these CCAA Proceedings in relation to, and for all purposes of, carrying out the terms of this Order, including the Shareholder Representatives’ Mandate.

4. This Court orders that KND is hereby authorized to collaborate with other Counsel, wherever they may be located, as necessary or desirable to give effect to this Order and in carrying out the terms of this Order, including the Shareholder Representatives' Mandate (collectively, "**Shareholder Representative Counsel**").
5. This Court orders that the Shareholder Representatives and the Shareholder Representative Counsel are authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including the Shareholder Representatives' Mandate, including dealing with any other Court, regulatory body and government ministry, department or agency, and to take all such steps as are necessary or incidental thereto.
6. The Shareholder Representatives and the Shareholder Representative Counsel are hereby authorized and empowered to apply to this Court for advice and directions as necessary or desirable to give effect to this Order, and in carrying out the terms of this Order, including the Shareholder Representatives' Mandate.

NOTICE PROCEDURE

7. This Court orders that notice of the granting of this Order shall be provided, within 5 business days from the date of this Order, as follows:
 - a. the Shareholder Representative Counsel shall issue electronically, through the facilities of Canada Newswire or a similar service provider, a press release substantially in the form set out in **Schedule "B"** of this Order with such modifications as may be agreed upon between the Shareholder Representative Counsel and the Monitor;
 - b. a copy of this Order shall be posted by Shareholder Representative Counsel on its website at <https://www.knd.law/class-actions/trevali-mining-corp/>

- c. a copy of this Order shall be provided by Shareholder Representative Counsel to any person who requests it;
 - d. a copy of this Order shall be posted on the Monitor's website; and
 - e. the Monitor shall provide a link to the Shareholder Representative Counsel's website on its own website.
8. The Monitor shall refer any inquiries that it may receive from the Securities Claimants to the Shareholder Representative Counsel.

EXCLUSION FROM THE DEFINITION OF SECURITIES CLAIMANTS

9. This Court orders that the following persons and entities are excluded from the definition of the Securities Claimants:
- a. Trevali and any of its subsidiaries, partners, affiliates, legal representatives, predecessors, successors and assigns;
 - b. Trevali's current or former directors and officers, and any entity in which they hold a controlling interest;
 - c. Glencore plc, Glencore International AG, Glencore AG and Glencore Canada Corporation, and their officers, directors, affiliates, subsidiaries, partners, successors and assigns; and
 - d. any person who opts to exclude themselves in accordance with the procedure set out in paragraph 10 hereof.
10. Any person who wishes to be excluded from the definition of the Securities Claimants must send a written request to Shareholder Representative Counsel by email at sn@knd.law by no later than 90 calendar days from the date of the publication of the press release described in paragraph 7(a) hereof.

11. This Court orders that, notwithstanding paragraphs 9 and 10 hereof, the treatment of the Securities Claims of the excluded persons pursuant to any Plan of Compromise and Arrangement or similar or related definitive document is not changed, limited or otherwise affected by their status as Excluded Persons.

PROTECTIONS

12. This Court orders that the Shareholder Representatives and the Shareholder Representative Counsel shall have no liability as a result of their appointment or the fulfilment of their duties in carrying out the provisions of this Order or any further Order of the Court in these CCAA Proceedings, save and except for any gross negligence or wilful misconduct on their part.
13. This Court orders that the appointment of Shareholder Representative Counsel pursuant to this Order shall not prevent any of the individual lawyers from Shareholder Representative Counsel from acting as trustee(s) of any trust that may be established for the benefit of the Securities Claimants pursuant to a Plan of Compromise and Arrangement or similar or related definitive document.

MISCELLANEOUS

14. This Court orders that this Order shall have full force and effect in all provinces and territories of Canada and outside Canada, and against all persons against whom it may be enforceable.
15. This Court orders that this Order is effective from the date that it is made, and is enforceable without any need for entry and filing.
16. This Court orders that the Petitioners, the Monitor, the Shareholder Representatives and the Shareholder Representative Counsel are hereby authorized to collect, use and disclose personal information of the Securities

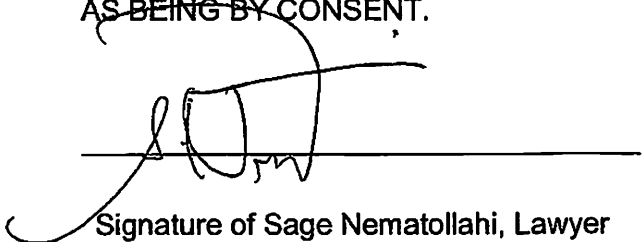
Claimants amongst one another, but to the extent necessary or desirable to give effect to this Order, or in carrying out the terms of this Order, including the Shareholder Representatives' Mandate. The personal information to be as such collected shall be treated in accordance with the terms of paragraph 15 of this Court's Initial Order made on August 19, 2022, as amended.

17. This Court declares that this Order shall be without prejudice to any argument that any of the defendants in the proceeding styled *Demmer et al v Trevali Mining Corp et al*, S-228113 ("Class Action") may raise in the event that the Class Action proceeds towards an application for certification under the *Class Proceedings Act*, RSBC 1996, c 50 ("CPA"), and its existence would not be binding, relied upon or be deemed informative in determining whether any of the criteria under the CPA are met.
18. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, or elsewhere, to give effect to this Order and to assist the Petitioners, the Monitor, the Shareholder Representatives and the Shareholder Representative Counsel in carrying out the terms of this Order, including the Shareholder Representatives' Mandate. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners, the Monitor, the Shareholder Representatives and the Shareholder Representative Counsel as may be necessary or desirable to give effect to this Order, or to assist the Petitioners, the Monitor, the Shareholder Representatives and the Shareholder Representative Counsel in carrying out the terms of this Order.
19. This Court orders that each of the Petitioners, the Monitor, the Shareholder Representatives and the Shareholder Representative Counsel shall be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the

recognition of this Order and for assistance in carrying out the terms of this Order.

- 20. Endorsement of this Order by Counsel appearing on this application is hereby dispensed with.
- 21. There shall be no costs to any party in relation to this application.

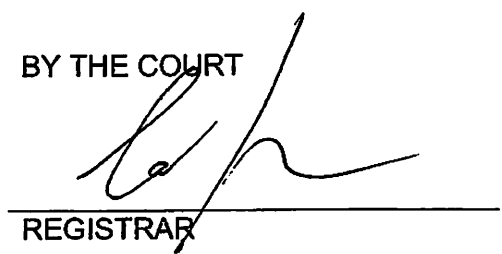
THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT.

A handwritten signature in black ink, appearing to be 'S. Nematollahi', written over a horizontal line.

Signature of Sage Nematollahi, Lawyer
for the Ad Hoc Committee of Trevali
Shareholders

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

BY THE COURT

A handwritten signature in black ink, appearing to be 'C. P.', written over a horizontal line.

REGISTRAR

SCHEDULE "A"

Definition of Securities Claimants

The term "**Securities Claimants**" is defined as follows:

All persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired the common shares of Trevali in the primary market and/or in the secondary market during the Class Period, and held some or all of such common shares as of the close of trading on April 14, 2022 and/or August 15, 2022, except the Excluded Persons;

The term "**Class Period**" is defined as follows:

The period from October 9, 2020 through to August 15, 2022, inclusive.

The term "**Excluded Persons**" shall include the persons and entities identified in paragraphs 9-10 of this CCAA Shareholder Representation Order.

SCHEDULE "B"

**Trevali Mining Corporation: Supreme Court of British Columbia Appoints
Shareholder Representatives and Representative Counsel**

VANCOUVER, BC and TORONTO, ON, _____, 2023 – The Supreme Court of British Columbia has granted a CCAA Shareholder Representation Order subject to proceedings under Canada's *Companies' Creditors Arrangement Act* ("CCAA") in the matter of Trevali Mining Corporation.

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT
ACT,
RSC 1985, C C-36, AS AMENDED**

AND

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, SBC
2002, C 57, AS AMENDED AND THE *BUSINESS CORPORATIONS
ACT*, SNB 1981, C B-9.1, AS AMENDED**

AND

**IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT
OF TREVALI MINING CORPORATION AND TREVALI MINING (NEW
BRUNSWICK) LTD.**

NOTICE OF CCAA SHAREHOLDER REPRESENTATION ORDER

TAKE NOTICE THAT, on _____, 2023, the Supreme Court of British Columbia granted the CCAA Shareholder Representation Order, pursuant to which, subject to certain limited exceptions:

1. Members of an Ad Hoc Committee of Trevali Shareholders have been appointed as the Shareholder Representatives on behalf of a group of persons and entities who purchased or acquired the common shares of Trevali Mining Corporation

between October 9, 2020 and August 15, 2022, and held some or all of such common shares as of the close of trading on April 14, 2022 and/or August 15, 2022 (“Securities Claimants”).


2. KND Complex Litigation has been appointed as Shareholder Representative Counsel.
3. The Shareholder Representatives and the Shareholder Representative Counsel are authorized and empowered to act in relation to, and for all purposes of, the filing of any claims, proofs of claims, participation in negotiations or mediations with respect to the settlement of any part or the whole of the Securities Claims, and the development, drafting, preparation and execution of the Plan of Compromise and Arrangement, if any, and any related or similar definitive documentation.
4. Any person who wishes to be excluded from the definition of Securities Claimants must submit a written request to Shareholder Representative Counsel by email at sn@knd.law by no later than _____, 2023.

Information concerning these proceedings is available on the website of the Shareholder Representative Counsel at <https://www.knd.law/class-actions/trevali-mining-corp/> and on Monitor’s website at <http://cfcanada.fticonsulting.com/trevali/>.

Inquiries:

Taek Soo Shin
KND Complex Litigation
ts@knd.law

THIS IS **EXHIBIT "E"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end.

TAEK SOO SHIN (LSO #85691Q)

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
RSC 1985, C C-36, AS AMENDED**

AND

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, SBC 2002, C 57, AS
AMENDED AND THE *BUSINESS CORPORATIONS ACT*, SNB 1981, C B-9.1, AS
AMENDED**

AND

**IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF
TREVALI MINING CORPORATION AND TREVALI MINING (NEW BRUNSWICK)
LTD.**

PETITIONERS

**CLAIMS PACKAGE OF THE AD HOC COMMITTEE
OF SHAREHOLDERS OF TREVALI MINING CORPORATION**

DATE: APRIL 19, 2023

KND COMPLEX LITIGATION
1186 Eglinton Ave West
Toronto, Ontario
Canada M6C 2E3
T: (416) 537-3529

Eli Karp (he/him)
ek@knd.law

Sage Nematollahi (he/him)
sn@knd.law

Taek Soo Shin (he/him)
ts@knd.law

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TAB A

PROOF OF CLAIM FORM

OF THE AD HOC COMMITTEE OF SHAREHOLDERS OF TREVALI MINING CORPORATION, IN ITS CAPACITY AS SHAREHOLDER REPRESENTATIVES FOR THE SECURITIES CLAIMANTS

CLAIM FORM 1: SECURITIES ACT CLAIM AGAINST TREVALI MINING CORPORATION,

Claim made pursuant to:

(a) section 131 of *Securities Act*, RSBC 1996, c 418; and

(b) sections 140.3 & 140.5 of *Securities Act*, RSBC 1996, c 418

This Proof of Claim Form must be read together with the Claims Process Order (the “Claims Process Order”) of the Supreme Court of British Columbia granted on March 29, 2023. A copy of the Claims Process Order is available at <http://cfcanada.fticonsulting.com/trevali>. All capitalized terms not otherwise defined herein have the same meanings as are given to them in Schedule “B” of the Claims Process Order.

You only need to complete this Proof of Claim Form if:

- (a) you have received a Claims Notice as part of your Claims Package and wish to dispute any Claim against Trevali Mining Corporation (“**Trevali Corp.**”) and/or Trevali Mining (New Brunswick) Ltd. (“**Trevali NB**”) set forth in the Claims Notice sent to you; or
- (b) you have not received a Claims Notice as part of your Claims Package and wish to assert a Claim against Trevali Corp. and/or Trevali NB; or
- (c) you have not received a Claims Package and wish to assert a Claim against Trevali Corp. and/or Trevali NB.

In the case of (a), (b) and (c) above, you MUST complete this Proof of Claim Form.

Additionally, if you wish to assert a Director/Officer Claim against the Director(s) or Officer(s) of Trevali Corp. or Trevali NB, you MUST also complete a Director/Officer Claim Form.

1. Claim Particulars

A) Please complete the following *[The name and contact information should be of the original Creditor, regardless of whether all or any portion of the Claim has been transferred]*

Full Legal Name of Creditor:	Ad Hoc Committee of Shareholders of Trevali Mining Corporation, in its capacity as Shareholder Representatives for Securities Claimants
Full Mailing Address:	c/o KND Complex Litigation 1186 Eglinton Ave W., Toronto, ON Canada M6C 2E3

Telephone Number:	416 537 3529
Facsimile Number:	N/A
E-mail address:	sn@knd.law
Attention (Contact Person):	Sage Nematollahi

B) Has all or part of the Claim been transferred by the Creditor to another party?

Yes:

No:

C) Particulars of Transferee(s) (If any)

N/A

D) Dispute of Claim *[To be completed if you received a Claims Notice as part of your Claims Package and wish to dispute the Claim as set out in the Claims Notice]*

N/A

E) Proof of Claim *[To be completed if you DID NOT receive a Claims Notice]*

Please complete the following

I, Sage Nematollahi, Esq., of the City of Toronto (the “**Claimant**”) do hereby certify that:

I am a Creditor; **or**

I am the Shareholder Representative Counsel to the Securities Claimants, who are Creditors; I have knowledge of all the circumstances connected with the Claim referred to below; the Securities Claimants have a Claim against Trevali Corp. as follows:

CLAIM (as at August 19, 2022):

C\$56 million *[insert amount of Claim]*

RESTRUCTURING CLAIM:

\$NIL [insert amount of Claim resulting from the disclaimer, rescission, or termination, after the Filing Date, of any contract including any lease or other agreement or arrangement of any nature whatsoever, whether written or oral];

TOTAL CLAIM(S)

C\$56 million

F) Nature of Claim *[To be completed if you DID NOT receive a Claims Notice]*

[Check and complete appropriate category]

A. UNSECURED, INSURED, EQUITY CLAIM OF C\$56 million, against Trevali Corp. That in respect of this debt, no assets of Trevali Corp. or Trevali NB are pledged or held as security.

B. SECURED CLAIM OF \$NIL, against Trevali Corp. or Trevali NB:_____. That in respect of this debt, assets of Trevali Corp. or Trevali NB consisting of: _____ and being valued at _____ are pledged to or held by me as security, particulars of which are as follows:

[Give full particulars of the security, including the date on which the security was obtained, and attach a copy of any security documents.]

G) Supporting Documentation

ENCLOSED.


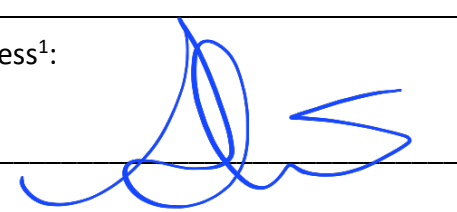
Please attach details concerning the particulars of the Creditor’s Claims or Restructuring Claims, as well as any security held by the Creditor.

If you received a Claims Notice as part of your Claims Package, please describe the reasons and basis for your dispute of the amount or characterization of your Claim as set out in your Claims Notice.

The particulars provided must support the value of the Claim as stated by you in item D or E, above.

[Provide all particulars of the Claims and supporting documentation, including the amount, description of transaction(s) or agreement(s) giving rise to the Claims, name of any guarantor which has guaranteed the Claims, amounts of invoices, particulars of all credits, discounts, etc.

claimed, description of the security, if any, granted by Trevali Corp. or Trevali NB to the Creditor or asserted by the Creditor and estimated value of such security.]

<p>6. Certification</p> <p>I hereby certify that:</p> <ol style="list-style-type: none"> 1. I am the Claimant or an authorized representative of the Claimant. 2. I have knowledge of all the circumstances connected with this Claim. 3. The Claimant asserts this Proof of Claim Form as set out above. 4. All available documentation in support of this Proof of Claim Form is attached. 	
<p>All information submitted in this Proof of Claim Form must be true, accurate and complete. Filing a false Proof of Claim Form may result in your Claim being disallowed in whole or in part and may result in further penalties.</p>	
<p>Signature: </p> <p>Name: <u> Sage Nematollahi </u></p> <p>Title: <u> Lawyer for the Creditor </u></p>	<p>Witness¹: </p> <p>(signature)</p> <p><u> Taek Soo Shin </u></p> <p>(print)</p>
<p>Dated at <u> Toronto, ON </u> this <u> 19th </u> day of <u> April </u>, 2023.</p>	

Your complete Proof of Claim Form must be delivered to Trevali Corp.'s court-appointed Monitor by the Claims Bar Date or the Restructuring Claims Bar Date, as applicable, at:

FTI Consulting Canada Inc.
 In its capacity as Monitor of
 Trevali Mining Corp. and
 Trevali Mining (New Brunswick) Ltd.

701 West Georgia Street
 Suite 1450, PO Box 10089
 Vancouver, BC V7Y 1B6
 Attn: Huw Parks
 Telephone: 1-877-294-8998
 Fax: 403-232-6116
 Email: trevali@fticonsulting.com

The Claims Bar Date is 4:00 p.m. (Vancouver time) on April 21, 2023 or such other date as may be ordered by the Court.

The Restructuring Claims Bar Date is the later of: (a) the Claims Bar Date; and (b) 4:00 p.m. on the day that is fifteen calendar days after the date that an applicable Notice of Disclaimer or Resiliation is sent to a Creditor, or such other date as may be ordered by the Court.

¹Witnesses are required if an individual is submitting this Proof of Claim Form by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission, or email.

IN ACCORDANCE WITH THE TERMS OF THE CLAIMS PROCESS ORDER, IF YOU FAIL TO COMPLETE AND SUBMIT A PROOF OF CLAIM FORM BY THE CLAIMS BAR DATE OR THE RESTRUCTURING CLAIMS BAR DATE, AS APPLICABLE, EITHER (AS APPLICABLE):

A. YOU WILL BE DEEMED TO HAVE ACCEPTED THE CLAIM AMOUNT(S) SET FORTH IN THE NOTICE OF CLAIM YOU RECEIVED AND YOUR CLAIM FOR SUCH AMOUNT(S) WILL BE A PROVEN CLAIM AND ANY FURTHER CLAIMS AGAINST TREVALI CORP. OR TREVALI NB, AS APPLICABLE, WILL BE FOREVER BARRED AND EXTINGUISHED, AND YOU WILL BE PROHIBITED FROM MAKING OR ENFORCING ANY FURTHER CLAIMS AGAINST TREVALI MINING CORPORATION, TREVALI MINING (NEW BRUNSWICK) LTD., OR SUCH ENTITIES' DIRECTORS AND OFFICERS; OR

B. YOUR CLAIMS WILL BE FOREVER BARRED AND EXTINGUISHED, AND YOU WILL BE PROHIBITED FROM MAKING OR ENFORCING A CLAIM AGAINST TREVALI MINING CORPORATION, TREVALI MINING (NEW BRUNSWICK) LTD., OR SUCH ENTITIES' DIRECTORS AND OFFICERS.

TAB B

PROOF OF CLAIM FORM

**OF THE AD HOC COMMITTEE OF SHAREHOLDERS OF TREVALI MINING CORPORATION, IN ITS
CAPACITY AS SHAREHOLDER REPRESENTATIVES FOR THE SECURITIES CLAIMANTS**

**CLAIM FORM 2: OPPRESSION CLAIM AGAINST TREVALI MINING CORPORATION,
Claim made pursuant to section 227 of *Business Corporations Act, SBC 2002, c 57***

This Proof of Claim Form must be read together with the Claims Process Order (the “Claims **Process Order**”) of the Supreme Court of British Columbia granted on March 29, 2023. A copy of the Claims Process Order is available at <http://cfcanada.fticonsulting.com/trevali>. All capitalized terms not otherwise defined herein have the same meanings as are given to them in Schedule “B” of the Claims Process Order.

You only need to complete this Proof of Claim Form if:

- (a) you have received a Claims Notice as part of your Claims Package and wish to dispute any Claim against Trevali Mining Corporation (“**Trevali Corp.**”) and/or Trevali Mining (New Brunswick) Ltd. (“**Trevali NB**”) set forth in the Claims Notice sent to you; or
- (b) you have not received a Claims Notice as part of your Claims Package and wish to assert a Claim against Trevali Corp. and/or Trevali NB; or
- (c) (c) you have not received a Claims Package and wish to assert a Claim against Trevali Corp. and/or Trevali NB.

In the case of (a), (b) and (c) above, you **MUST** complete this Proof of Claim Form.

Additionally, if you wish to assert a Director/Officer Claim against the Director(s) or Officer(s) of Trevali Corp. or Trevali NB, you **MUST** also complete a Director/Officer Claim Form.

1. Claim Particulars

A) Please complete the following [*The name and contact information should be of the original Creditor, regardless of whether all or any portion of the Claim has been transferred*]

Full Legal Name of Creditor:	Ad Hoc Committee of Shareholders of Trevali Mining Corporation, in its capacity as Shareholder Representatives for Securities Claimants
Full Mailing Address:	c/o KND Complex Litigation 1186 Eglinton Ave W., Toronto, ON Canada M6C 2E3
Telephone Number:	416 537 3529

Facsimile Number:	N/A
E-mail address:	sn@knd.law
Attention (Contact Person):	Sage Nematollahi

B) Has all or part of the Claim been transferred by the Creditor to another party?

Yes:

No:

C) Particulars of Transferee(s) (If any)

N/A

D) Dispute of Claim *[To be completed if you received a Claims Notice as part of your Claims Package and wish to dispute the Claim as set out in the Claims Notice]*

N/A

E) Proof of Claim *[To be completed if you DID NOT receive a Claims Notice]*

Please complete the following

I, Sage Nematollahi, Esq., of the City of Toronto (the “**Claimant**”) do hereby certify that:

I am a Creditor; or

I am the Shareholder Representative Counsel to the Securities Claimants, who are Creditors; I have knowledge of all the circumstances connected with the Claim referred to below; the Securities Claimants have a Claim against Trevali Corp. as follows:

CLAIM (as at August 19, 2022):

C\$56 million *[insert amount of Claim]*

RESTRUCTURING CLAIM:

\$NIL [insert amount of Claim resulting from the disclaimer, resiliation, or termination, after the Filing Date, of any contract including any lease or other agreement or arrangement of any nature whatsoever, whether written or oral];

TOTAL CLAIM(S)

C\$56 million

F) Nature of Claim *[To be completed if you DID NOT receive a Claims Notice]*

[Check and complete appropriate category]

A. UNSECURED, INSURED, EQUITY CLAIM OF C\$56 million, against Trevali Corp. That in respect of this debt, no assets of Trevali Corp. or Trevali NB are pledged or held as security.

B. SECURED CLAIM OF \$NIL, against Trevali Corp. or Trevali NB:_____. That in respect of this debt, assets of Trevali Corp. or Trevali NB consisting of: _____ and being valued at _____ are pledged to or held by me as security, particulars of which are as follows:

[Give full particulars of the security, including the date on which the security was obtained, and attach a copy of any security documents.]

G) Supporting Documentation

ENCLOSED.


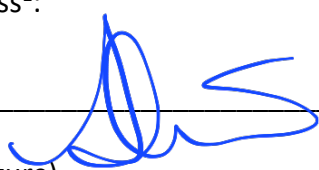
Please attach details concerning the particulars of the Creditor’s Claims or Restructuring Claims, as well as any security held by the Creditor.

If you received a Claims Notice as part of your Claims Package, please describe the reasons and basis for your dispute of the amount or characterization of your Claim as set out in your Claims Notice.

The particulars provided must support the value of the Claim as stated by you in item D or E, above.

[Provide all particulars of the Claims and supporting documentation, including the amount, description of transaction(s) or agreement(s) giving rise to the Claims, name of any guarantor which has guaranteed the Claims, amounts of invoices, particulars of all credits, discounts, etc.

claimed, description of the security, if any, granted by Trevali Corp. or Trevali NB to the Creditor or asserted by the Creditor and estimated value of such security.]

<p>6. Certification</p> <p>I hereby certify that:</p> <ol style="list-style-type: none"> 1. I am the Claimant or an authorized representative of the Claimant. 2. I have knowledge of all the circumstances connected with this Claim. 3. The Claimant asserts this Proof of Claim Form as set out above. 4. All available documentation in support of this Proof of Claim Form is attached. 	
<p>All information submitted in this Proof of Claim Form must be true, accurate and complete. Filing a false Proof of Claim Form may result in your Claim being disallowed in whole or in part and may result in further penalties.</p>	
<p>Signature: </p> <p>Name: <u>Sage Nematollahi</u></p> <p>Title: <u>Lawyer for the Creditor</u></p>	<p>Witness¹:</p> <p></p> <p>(signature)</p> <p><u>Taek Soo Shin</u></p> <p>(print)</p>
<p>Dated at <u>Toronto, ON</u> this <u>19th</u> day of <u>April</u>, 2023.</p>	

Your complete Proof of Claim Form must be delivered to Trevali Corp.'s court-appointed Monitor by the Claims Bar Date or the Restructuring Claims Bar Date, as applicable, at:

FTI Consulting Canada Inc.
 In its capacity as Monitor of
 Trevali Mining Corp. and
 Trevali Mining (New Brunswick) Ltd.

701 West Georgia Street
 Suite 1450, PO Box 10089
 Vancouver, BC V7Y 1B6
 Attn: Huw Parks
 Telephone: 1-877-294-8998
 Fax: 403-232-6116
 Email: trevali@fticonsulting.com

The Claims Bar Date is 4:00 p.m. (Vancouver time) on April 21, 2023 or such other date as may be ordered by the Court.

The Restructuring Claims Bar Date is the later of: (a) the Claims Bar Date; and (b) 4:00 p.m. on the day that is fifteen calendar days after the date that an applicable Notice of Disclaimer or Resiliation is sent to a Creditor, or such other date as may be ordered by the Court.

¹Witnesses are required if an individual is submitting this Proof of Claim Form by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission, or email.

IN ACCORDANCE WITH THE TERMS OF THE CLAIMS PROCESS ORDER, IF YOU FAIL TO COMPLETE AND SUBMIT A PROOF OF CLAIM FORM BY THE CLAIMS BAR DATE OR THE RESTRUCTURING CLAIMS BAR DATE, AS APPLICABLE, EITHER (AS APPLICABLE):

A. YOU WILL BE DEEMED TO HAVE ACCEPTED THE CLAIM AMOUNT(S) SET FORTH IN THE NOTICE OF CLAIM YOU RECEIVED AND YOUR CLAIM FOR SUCH AMOUNT(S) WILL BE A PROVEN CLAIM AND ANY FURTHER CLAIMS AGAINST TREVALI CORP. OR TREVALI NB, AS APPLICABLE, WILL BE FOREVER BARRED AND EXTINGUISHED, AND YOU WILL BE PROHIBITED FROM MAKING OR ENFORCING ANY FURTHER CLAIMS AGAINST TREVALI MINING CORPORATION, TREVALI MINING (NEW BRUNSWICK) LTD., OR SUCH ENTITIES' DIRECTORS AND OFFICERS; OR

B. YOUR CLAIMS WILL BE FOREVER BARRED AND EXTINGUISHED, AND YOU WILL BE PROHIBITED FROM MAKING OR ENFORCING A CLAIM AGAINST TREVALI MINING CORPORATION, TREVALI MINING (NEW BRUNSWICK) LTD., OR SUCH ENTITIES' DIRECTORS AND OFFICERS.

TAB C

DIRECTOR/OFFICER CLAIM FORM

**OF THE AD HOC COMMITTEE OF SHAREHOLDERS OF TREVALI MINING CORPORATION, IN ITS
CAPACITY AS SHAREHOLDER REPRESENTATIVES FOR THE SECURITIES CLAIMANTS**

CLAIM FORM 3: SECURITIES ACT CLAIM AGAINST D&OS OF TREVALI MINING CORPORATION,

Claim made pursuant to:

(a) section 131 of *Securities Act*, RSBC 1996, c 418; and

(b) sections 140.3 & 140.5 of *Securities Act*, RSBC 1996, c 418

This Director/Officer Claim Form must be read together with the Claims Process order (the “**Claims Process Order**”) of the Supreme Court of British Columbia granted on March 29, 2023 and the Claims Process Instruction Letter. Copies of the Claims Process Order and the Claims Process Instruction Letter are enclosed in the Claims Package you have received and are also available at <http://cfcanda.fticonsulting.com/trevali>. All capitalized terms not otherwise defined herein have the same meanings as are given to them in Schedule B” of the Claims Process Order.

This form is to be used only by Creditors asserting a Director/Officer Claim against any Director(s) or Officer(s) of Trevali Mining Corporation (“**Trevali Corp.**”) or Trevali Mining (New Brunswick) Ltd. (“**Trevali NB**”). If you wish to assert a Claim against Trevali Corp. or Trevali NB you have to submit a Proof of Claim Form, or, if you have received a Claims Notice, you have to complete a Proof of Claim Form in the Claims Package sent to you if you wish to dispute your Claim.

1. Name(s) and Position(s) and company of Officer(s) and/or Director(s) the Claim is being made against:

Ricus Grimbeek, Brendan Creaney, Jill Gardiner, Russell Ball, Aline Cote, Nick Popovic, Jeane Hull, Dan Isserow and Richard Williams, who are former or current directors and/or officers of Trevali Mining Corporation.

2A. Original Claimant (the “Claimant”)

Legal Name of Claimant:

Ad Hoc Committee of Shareholders of
Trevali Mining Corporation, in its capacity
as Shareholder Representatives to
Securities Claimants

Name of Contact: Sage Nematollahi

Address: 1186 Eglinton Ave W., Toronto,
Ontario, Canada M6C 2E3

Title: Shareholder Representative Counsel
Phone #: 416 537 3529
Fax # N/A

Email: sn@knd.law

2B. Has all or part of the Director/Officer Claim been transferred by the Creditor to another party?

Yes:

No:

2C. Particulars of Transferee(s) (If any)

N/A

3. Amount and Type of Director/Officer Claim

The Claimant claims **C\$11,362,678.00**, which is an insured, equity claim, and which is comprised of (a) \$7,834,260.00 under section 131 of *Securities Act*, RSBC 1996, c 418 and; (b) C\$3,528,418.00 under sections 140.3 & 140.5 of *Securities Act*, RSBC 1996, c 418, jointly and severally against the identified D&Os.


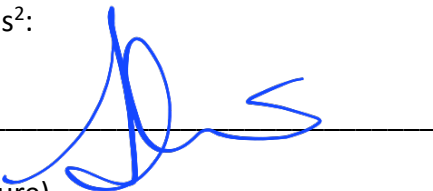
The Director(s) and/or Officer(s) listed below were and still is/are indebted to the Claimant as follows:

NAME(S) OF DIRECTOR(S) AND/OR OFFICER(S)	CLAIM AMOUNT
Ricus Grimbeek	C\$11,362,678.00, jointly and severally
Brendan Creaney	C\$11,362,678.00, jointly and severally
Jill Gardiner	C\$11,362,678.00, jointly and severally
Russell Ball	C\$11,362,678.00, jointly and severally
Aline Cote	C\$11,362,678.00, jointly and severally
Nick Popovic	C\$11,362,678.00, jointly and severally
Jeane Hull	C\$11,362,678.00, jointly and severally
Dan Isserow	C\$11,362,678.00, jointly and severally
Richard Williams	C\$11,362,678.00, jointly and severally

4. Documentation

ENCLOSED.

Provide all particulars of the Director/Officer Claim and all available supporting documentation, including amount and description of transaction(s) or agreement(s), and the legal basis for the Director/Officer Claim against the specific Directors or Officers at issue.

<p>5. Certification</p> <p>I hereby certify that:</p> <ol style="list-style-type: none"> 1. I am the Claimant or an authorized representative of the Claimant. 2. I have knowledge of all the circumstances connected with this Claim. 3. The Claimant asserts this Proof of Claim Form as set out above. 4. All available documentation in support of this Proof of Claim Form is attached. 	
<p>All information submitted in this Director/Officer Claim Form must be true, accurate and complete. Filing a false Director/Officer Claim Form may result in your Director/Officer Claim being disallowed in whole or in part and may result in further penalties.</p>	
<p>Signature: </p> <p>Name: <u>Sage Nematollahi</u></p> <p>Title: <u>Lawyer for the Creditor</u></p>	<p>Witness²: </p> <p>(signature)</p> <p style="text-align: center;"><u>Taek Soo Shin</u></p> <p>(print)</p>
<p>Dated at <u>Toronto, ON</u> this <u>19th</u> day of <u>April</u>, 2023.</p>	

Your completed Director/Officer Claims Form must be delivered to Trevali Corp.'s Court Appointed Monitor by the Claims Bar Date at:

FTI Consulting Canada Inc.
 In its capacity as Monitor of
 Trevali Mining Corp. and
 Trevali Mining (New Brunswick) Ltd.

701 West Georgia Street
Suite 1450, PO Box 10089
Vancouver, BC V7Y 1B6
Attn: Huw Parks
Telephone: 1-877-294-8998
Fax: 403-232-6116
Email: trevali@fticonsulting.com

The Claims Bar Date is 4:00 p.m. (Vancouver time) on April 21, 2023 or such other date as may be ordered by the Court.

²Witnesses are required if an individual is submitting this Proof of Claim Form by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission, or email.

IN ACCORDANCE WITH THE TERMS OF THE CLAIMS PROCESS ORDER, IF YOU FAIL TO COMPLETE AND SUBMIT A DIRECTOR/OFFICER CLAIMS FORM IN ACCORDANCE WITH THE CLAIMS PROCESS ORDER BY THE CLAIMS BAR DATE ANY DIRECTOR/OFFICER CLAIMS THAT YOU MAY HAVE AGAINST ANY OF TREVALI CORP.'S OR TREVALI NB'S DIRECTORS OR OFFICERS WILL BE FOREVER BARRED AND EXTINGUISHED, AND YOU WILL BE PROHIBITED FROM MAKING OR ENFORCING ANY FURTHER CLAIMS AGAINST ANY OF TREVALI CORP.'S DIRECTORS AND OFFICERS OR TREVALI NB'S DIRECTORS AND OFFICERS

TAB D

DIRECTOR/OFFICER CLAIM FORM

**OF THE AD HOC COMMITTEE OF SHAREHOLDERS OF TREVALI MINING CORPORATION, IN ITS
CAPACITY AS SHAREHOLDER REPRESENTATIVES FOR THE SECURITIES CLAIMANTS**

**CLAIM FORM 4: OPPRESSION CLAIM AGAINST D&OS OF TREVALI MINING CORPORATION,
Claim made pursuant to section 227 of *Business Corporations Act*, SBC 2002, c 57**

This Director/Officer Claim Form must be read together with the Claims Process order (the “**Claims Process Order**”) of the Supreme Court of British Columbia granted on March 29, 2023 and the Claims Process Instruction Letter. Copies of the Claims Process Order and the Claims Process Instruction Letter are enclosed in the Claims Package you have received and are also available at <http://cfcanada.fticonsulting.com/trevali>. All capitalized terms not otherwise defined herein have the same meanings as are given to them in Schedule B” of the Claims Process Order.

This form is to be used only by Creditors asserting a Director/Officer Claim against any Director(s) or Officer(s) of Trevali Mining Corporation (“**Trevali Corp.**”) or Trevali Mining (New Brunswick) Ltd. (“**Trevali NB**”). If you wish to assert a Claim against Trevali Corp. or Trevali NB you have to submit a Proof of Claim Form, or, if you have received a Claims Notice, you have to complete a Proof of Claim Form in the Claims Package sent to you if you wish to dispute your Claim.

1. Name(s) and Position(s) and company of Officer(s) and/or Director(s) the Claim is being made against:

Ricus Grimbeek, Brendan Creaney, Jill Gardiner, Russell Ball, Aline Cote, Nick Popovic, Jeane Hull, Dan Isserow and Richard Williams, who are former or current directors and/or officers of Trevali Mining Corporation.

2A. Original Claimant (the “Claimant”)

Legal Name of Claimant:

Name of Contact: Sage Nematollahi

Ad Hoc Committee of Shareholders of
Trevali Mining Corporation, in its capacity
as Shareholder Representatives to
Securities Claimants

Address: 1186 Eglinton Ave W., Toronto,
Ontario, Canada M6C 2E3

Title: Shareholder Representative Counsel
Phone #: 416 537 3529
Fax # N/A

Email: sn@knd.law

2B. Has all or part of the Director/Officer Claim been transferred by the Creditor to another party?

Yes:

No:

2C. Particulars of Transferee(s) (If any)

N/A

3. Amount and Type of Director/Officer Claim

The Claimant claims **C\$56 million**, which is an insured, equity claim, jointly and severally against the identified D&Os.


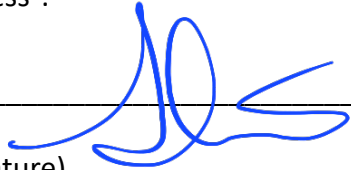
The Director(s) and/or Officer(s) listed below were and still is/are indebted to the Claimant as follows:

NAME(S) OF DIRECTOR(S) AND/OR OFFICER(S)	CLAIM AMOUNT
Ricus Grimbeek	C\$56 million, jointly and severally
Brendan Creaney	C\$56 million, jointly and severally
Jill Gardiner	C\$56 million, jointly and severally
Russell Ball	C\$56 million, jointly and severally
Aline Cote	C\$56 million, jointly and severally
Nick Popovic	C\$56 million, jointly and severally
Jeane Hull	C\$56 million, jointly and severally
Dan Isserow	C\$56 million, jointly and severally
Richard Williams	C\$56 million, jointly and severally

4. Documentation

ENCLOSED.

Provide all particulars of the Director/Officer Claim and all available supporting documentation, including amount and description of transaction(s) or agreement(s), and the legal basis for the Director/Officer Claim against the specific Directors or Officers at issue.

<p>5. Certification</p> <p>I hereby certify that:</p> <ol style="list-style-type: none"> 1. I am the Claimant or an authorized representative of the Claimant. 2. I have knowledge of all the circumstances connected with this Claim. 3. The Claimant asserts this Proof of Claim Form as set out above. 4. All available documentation in support of this Proof of Claim Form is attached. 	
<p>All information submitted in this Director/Officer Claim Form must be true, accurate and complete. Filing a false Director/Officer Claim Form may result in your Director/Officer Claim being disallowed in whole or in part and may result in further penalties.</p>	
<p>Signature: </p> <p>Name: <u>Sage Nematollahi</u></p> <p>Title: <u>Lawyer for the Creditor</u></p>	<p>Witness²: </p> <p>(signature)</p> <p style="text-align: center;"><u>Taek Soo Shin</u></p> <p>(print)</p>
<p>Dated at <u>Toronto, ON</u> this <u>19th</u> day of <u>April</u>, 2023.</p>	

Your completed Director/Officer Claims Form must be delivered to Trevali Corp.'s Court Appointed Monitor by the Claims Bar Date at:

FTI Consulting Canada Inc.
 In its capacity as Monitor of
 Trevali Mining Corp. and
 Trevali Mining (New Brunswick) Ltd.

701 West Georgia Street
 Suite 1450, PO Box 10089
 Vancouver, BC V7Y 1B6
 Attn: Huw Parks

Telephone: 1-877-294-8998
Fax: 403-232-6116
Email: trevali@fticonsulting.com

The Claims Bar Date is 4:00 p.m. (Vancouver time) on April 21, 2023 or such other date as may be ordered by the Court.

²Witnesses are required if an individual is submitting this Proof of Claim Form by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission, or email.

IN ACCORDANCE WITH THE TERMS OF THE CLAIMS PROCESS ORDER, IF YOU FAIL TO COMPLETE AND SUBMIT A DIRECTOR/OFFICER CLAIMS FORM IN ACCORDANCE WITH THE CLAIMS PROCESS ORDER BY THE CLAIMS BAR DATE ANY DIRECTOR/OFFICER CLAIMS THAT YOU MAY HAVE AGAINST ANY OF TREVALI CORP.'S OR TREVALI NB'S DIRECTORS OR OFFICERS WILL BE FOREVER BARRED AND EXTINGUISHED, AND YOU WILL BE PROHIBITED FROM MAKING OR ENFORCING ANY FURTHER CLAIMS AGAINST ANY OF TREVALI CORP.'S DIRECTORS AND OFFICERS OR TREVALI NB'S DIRECTORS AND OFFICERS

TAB E

In the Matter of the *Companies' Creditors Arrangement Act*, RSC 1985, C C-36, as Amended, and in the Matter of the *Business Corporations Act*, SBC 2002, C 57, as Amended and the *Business Corporations Act*, SNB 1981, C B-9.1, as Amended,

And the Matter of a Plan of Compromise and Arrangement of Trevali Mining Corporation and Trevali Mining (New Brunswick) Ltd.

PROOFS OF CLAIMS OF THE AD HOC COMMITTEE OF SHAREHOLDERS OF TREVALI MINING CORPORATION, IN ITS CAPACITY AS SHAREHOLDER REPRESENTATIVES

DOCUMENTATION

A. Summary of the Claims

Court-appointed Shareholder Representatives, acting through Court-appointed Shareholder Representative Counsel, hereby file four (4) Claims, as summarized below:

Claim	Claim Made Against	Basis	Amount
Claim Form 1: Securities Act Claim	Trevali Mining Corporation	Sections 131, 140.3 & 140.5 of <i>Securities Act</i> , RSBC 1996, c 418	C\$56 million
Claim Form 2: Oppression Claim	Trevali Mining Corporation	Section 227 of the <i>Business Corporations Act</i> , SBC 2002, c 57	C\$56 million
Claim Form 3: Securities Act Claim	D&Os of Trevali Mining Corporation	Sections 131, 140.3 & 140.5 of <i>Securities Act</i> , RSBC 1996, c 418	C\$11,362,678.00
Claim Form 4: Oppression Claim	D&Os of Trevali Mining Corporation	Section 227 of the <i>Business Corporations Act</i> , SBC 2002, c 57	C\$56 million

Each of the foregoing claims is an unsecured, insured, equity claim.

B. Basis of the Claims

The Claims and their particulars are pleaded in the Notice of Civil Claim in the matter styled *Demmer et al v Trevali Mining Corporation et al*, Supreme Court of British Columbia at Vancouver No. S-228113, which is enclosed at **Tab E(1)**.

The claims stem from the allegation that D&Os of Trevali Mining Corporation (“**Trevali**”) failed to exercise care and oversight over core, mission-critical risk management and compliance affairs of Trevali with respect to:

1. Health and safety
2. Corporate governance and risk management
3. Internal control systems and disclosure controls and procedures

In light of the D&Os’ failure to exercise care and oversight over the mission critical aspects of Trevali’s business and compliance affairs, specific statements made in Trevali’s core disclosure documents filed between October 9, 2020 and August 15, 2022 constituted a misrepresentation within the meaning of the *Securities Act*.

C. Legal Basis

A claim for damages has been asserted against Trevali and the D&Os for misrepresentation in prospectuses, which is the subject of section 131 of the *Securities Act*.

A claim for damages has been asserted against Trevali and the D&Os for misrepresentation in the secondary market, which is the subject of sections 140.3 and 140.5 of the *Securities Act*.

A claim for compensation and other relief to rectify the effect of oppressive conduct has been asserted against Trevali and the D&Os for: (a) failing to conduct their duties which are the subject of section 142 of the *Business Corporations Act*, SBC 2002, c 57; and (b) acting on conflicts of interests.

D. Evidence

Without prejudice to any further or other evidence that may become available in the course of this litigation, including discovery, for the purposes of this Claims Process, the Ad Hoc Committee relies on the evidence identified below.

	Document	Reference
1.	Expert opinion of Jannice Moore, MHSA, GSP	Tab E(2)
2.	Affidavit No 1 of Brendan Creaney made on August 19, 2022	Tab E(3)
3.	The minutes and materials in relation to the 15 meetings of the Board of Directors of Trevali during fiscal year 2020.	These documents are exclusively in the possession, power and custody of the Petitioners and/or the Monitor, and are known to them.

	Document	Reference
4.	The minutes and materials in relation to the 4 meetings of the Corporate Governance and Nominations Committee of the Board of Directors of Trevali during fiscal year 2020.	These documents are exclusively in the possession, power and custody of the Petitioners and/or the Monitor, and are known to them.
5.	The minutes and materials in relation to the 3 meetings of the Health, Safety, Environment and Community Committee of the Board of Directors of Trevali during fiscal year 2020.	These documents are exclusively in the possession, power and custody of the Petitioners and/or the Monitor, and are known to them.
6.	The minutes and materials in relation to the 11 meetings of the Board of Directors of Trevali during fiscal year 2021.	These documents are exclusively in the possession, power and custody of the Petitioners and/or the Monitor, and are known to them.
7.	The minutes and materials in relation to the 4 meetings of the Corporate Governance and Nominations Committee of the Board of Directors of Trevali during fiscal year 2021.	These documents are exclusively in the possession, power and custody of the Petitioners and/or the Monitor, and are known to them.
8.	The minutes and materials in relation to the 4 meetings of the Health, Safety, Environment and Community Committee of the Board of Directors of Trevali during fiscal year 2021.	These documents are exclusively in the possession, power and custody of the Petitioners and/or the Monitor, and are known to them.
9.	The minutes and materials in relation to the 1 meeting of the Exploration and Technical Committee held in fiscal year 2021.	These documents are exclusively in the possession, power and custody of the Petitioners and/or the Monitor, and are known to them.
10.	The minutes and materials in relation to the meetings of the Board of Directors of Trevali held between January 1 and August 15, 2022.	These documents are exclusively in the possession, power and custody of the Petitioners and/or the Monitor, and are known to them.
11.	The minutes and materials in relation to the meetings of the Corporate Governance and Nominations Committee of the Board of Directors of Trevali held between January 1 and August 15, 2022.	These documents are exclusively in the possession, power and custody of the Petitioners and/or the Monitor, and are known to them.

	Document	Reference
12.	The minutes and materials in relation to the meetings of the Health, Safety, Environment and Community Committee of the Board of Directors of Trevali held between January 1 and August 15, 2022.	These documents are exclusively in the possession, power and custody of the Petitioners and/or the Monitor, and are known to them.
13.	The minutes and materials in relation to the meetings of the Exploration and Technical Committee held between January 1 and August 15, 2022.	These documents are exclusively in the possession, power and custody of the Petitioners and/or the Monitor, and are known to them.
14.	The records producible for inspection pursuant to section 46 of the <i>Business Corporations Act</i> , SBC 2002, c 57.	The Ad Hoc Committee has made a request to the Petitioners that these records be made available for inspection; <i>see Tab E(4)</i> . These documents are exclusively in the possession, power and custody of the Petitioners and/or the Monitor, and are known to them.

TAB E(1)

S 228 113

OCT 07 2022

NO.

VANCOUVER REGISTRY



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL DEMMER, RODNEY BRUNK,
TIM KEMPTER and WILLIAM WILLIAMSON

PLAINTIFFS

AND:

TREVALI MINING CORPORATION,
RICUS GRIMBEEK, BRENDAN CREANEY, JILL GARDINER,
RUSSELL BALL, ALINE COTE, NICK POPOVIC,
JEANE HULL, DAN ISSEROW and RICHARD WILLIAMS

DEFENDANTS

Brought under the *Class Proceedings Act*, RSBC 1996, c. 50

NOTICE OF CIVIL CLAIM

This action has been started by the Plaintiffs for the relief set out in Part 3 below.

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

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiffs.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the Plaintiffs,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

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CLAIM OF THE PLAINTIFFS AND THE CLASS

PART 1: OVERVIEW OF THE ACTION

1. This is a proposed, multi-jurisdictional securities class proceeding. It arises out of the misrepresentations in the disclosure documents of the Defendant Trevali Mining Corporation (“**Trevali**”), issued between October 9, 2020 through to August 15, 2022, inclusive (“**Class Period**”).
2. At the relevant time, Trevali was a base-metal mining company focused on the production of zinc and lead concentrate from three operational assets:
 - a) the Perkoa Mine in Burkina Faso, in which Trevali has a 90% interest;
 - b) the Rosh Pinah Mine in Namibia, in which Trevali has a 90% interest; and
 - c) the Caribou Mine in New Brunswick, which is wholly owned by Trevali.
3. In 2022, Trevali’s operations were materially and negatively impacted as a result of a series of adverse events that were the result of Trevali’s senior management and directors’ failure to comply with their oversight duties in relation to Trevali’s core, mission critical risk management and compliance activities and affairs.
4. On April 16, 2022, Trevali’s Perkoa Mine experienced a major flooding event, which resulted in a significant damage to the mine and the loss of the lives of eight mine workers. Consequently, Trevali suspended operations at Perkoa in April 2022. The flood and subsequent shutdown of Perkoa caused serious financial damages to Trevali, both in terms of lost revenue as well as significant remediation costs, amongst other costs and expenses.
5. Additionally, in the aftermath of the flooding event, Perkoa’s mine manager and its contractor were placed on trial in Burkina Faso, in which it was alleged, amongst other things, that mining activities at Perkoa were carried out in excess of or without authorization, or in violation of health and safety laws and regulations.

6. During the trial, witnesses testified, amongst other things, that:
 - a) The Perkoa Mine had exceeded the designed depth of the mine, as the structure of the mine's underground pit had been modified from 520 meters to a depth of 710 meters, even though the mine had been originally designed to be operated up to 550 meters of depth;
 - b) In the underground mine, between levels 610 and 710, there were no emergency exits and the operating activities had not been developed; and
 - c) Water flooded into the mine as the mine's safety berm had not been rehabilitated.
7. The eight mine workers who lost their lives were trapped in the deep area of the mine that had not been properly developed.
8. The trial found the mine's manager and contractor guilty of involuntary manslaughter. Subsequently, Trevali announced that it would shut down the Perkoa Mine, as the funds available would not be sufficient to complete the rehabilitation of the mine.
9. The flooding event at Perkoa and its catastrophic consequences on Trevali and its stakeholders were a result of the failure of Trevali's senior management and directors to exercise care and oversight over core, mission-critical risk management and compliance affairs of Trevali.
10. In the aftermath of Perkoa's flooding event, Trevali's financial problems were exacerbated due to operational and production issues at Trevali's other material mineral project, the Caribou Mine.
11. According to Trevali, the operations at the Caribou Mine have been negatively impacted due to what Trevali describes as "low equipment availability and productivity rates with the mining contractors, among other factors."

12. Caribou Mine's operations furthermore became unsustainable due to its operating losses. In January 2021, Trevali entered into a fixed-pricing arrangement with Glencore plc under which Trevali is obligated to deliver 80% of Caribou Mine's zinc concentrate production to Glencore at the fixed price of US\$1.25 per pound, which is below the market price of zinc and Trevali's all-in sustaining costs of production of zinc. The arrangement was intended to apply through December 2022.
13. The persistent operational problems at the Caribou Mine, and the fact that it is forced to operate at a loss due to the fixed-pricing arrangement with Glencore, are the result of the failure of Trevali's senior management and directors to exercise care and oversight over core, mission-critical risk management and compliance affairs of Trevali.
14. Furthermore, the fixed-pricing arrangement with Glencore was not substantively or procedurally fair, was not in the best interests of Trevali, and it was tainted by conflicts of interests.
15. The fixed pricing arrangement with Glencore was one of the causes that contributed to Trevali's financial and operational collapse in 2022.
16. On August 19, 2022, Trevali filed for protection under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 ("**CCAA**"). Subsequently, the trading in Trevali's common shares was halted. On September 6, 2022, Trevali announced that its common shares would be delisted from the Toronto Stock Exchange effective close of market on October 3, 2022.
17. In this action, the Plaintiffs allege that Trevali's core disclosure documents issued during the Class Period, including several prospectuses, annual information forms and management information circulars, contained a misrepresentation with respect to Trevali's corporate governance practices.
18. As elaborated herein, specific statements contained in Trevali's core disclosure documents constituted a misrepresentation as Trevali's senior management and

directors failed to exercise care and oversight to ensure that Trevali had, maintained or implemented effective policies and procedures to manage core, mission-critical aspects of Trevali's business concerning:

- a. Health and safety;
- b. Corporate governance and risk management; and
- c. Internal control systems and disclosure controls and procedures.

19. This proposed securities class proceeding has been brought on behalf of:

All persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired the common shares of Trevali in the primary market and/or in the secondary market during the Class Period, and held some or all of such common shares as of the close of trading on April 14, 2022 and/or August 15, 2022, except the Excluded Persons;

(hereinafter, the "**Class**" or "**Class Members**").

20. The **Excluded Persons** are:

- a) Trevali and its current or former directors, officers, subsidiaries, partners, affiliates, legal representatives, predecessors, successors and assigns;
- b) Ricus Grimbeek, Brendan Creaney, Jill Gardiner, Russell Ball, Aline Cote, Nick Popovic, Jeane Hull, Dan Isserow and Richard Williams (collectively, "**D&O Defendants**"); and
- c) Glencore plc, Glencore International AG, Glencore AG and Glencore Canada Corporation (collectively, "**Glencore Entities**"), and their directors, officers, subsidiaries, partners, affiliates, legal representatives, predecessors, successors and assigns.

21. As against the Defendants, the Plaintiffs assert the following causes of action:

- a) on behalf of the Class Members who purchased or acquired Trevali's common shares pursuant to the Prospectus Supplement dated November 25, 2020 to a Short Form Base Shelf Prospectus dated November 19, 2020, the statutory right of action for misrepresentation in a prospectus pursuant to section 131 of the *Securities Act*, RSC 1996, c 418, as amended ("**Securities Act**") and, if necessary, the concordant provisions of the securities legislation of the other Canadian jurisdictions;
 - b) on behalf of the Class Members who purchased or acquired Trevali's common shares in the secondary market, the statutory right of action for misrepresentation in the secondary market pursuant to sections 140.3(1) and 140.5 of the *Securities Act* and, if necessary, the concordant provisions of the securities legislation of the other Canadian jurisdictions; and
 - c) on behalf of all Class Members, an oppression claim pursuant to section 227 of the *Business Corporations Act*, SBC 2002, c 57 ("**Business Corporations Act**").
22. On behalf of themselves and the other Class Members, the Plaintiffs seek to recover compensation in the amount of \$56 million for the damages and losses they and the other Class Members have incurred in their investments in the securities of Trevali.

PART 2: STATEMENT OF FACTS

A. The Plaintiffs

2. The Plaintiff Michael Demmer is a retail investor who resides in New Brunswick. Mr. Demmer acquired Trevali's common shares in the secondary market during the Class Period, and has incurred damages and losses on his investment in those securities.
3. The Plaintiff Rodney Brunk is a retail investor who resides in North Dakota, United States of America. Mr. Brunk acquired Trevali's common shares in the secondary

market during the Class Period, and has incurred damages and losses on his investment in those securities.

4. The Plaintiff Tim Kempter is a retail investor who resides in Zürich, Switzerland. Mr. Kempter acquired Trevali's common shares in the secondary market during the Class Period, and has incurred damages and losses on his investment in those securities.
5. The Plaintiff William Williamson is a retail investor who resides in British Columbia. Mr. Williamson acquired Trevali's common shares in the secondary market during the Class Period, and has incurred damages and losses on his investment in those securities.
6. The Plaintiffs are the members of an Ad Hoc Committee of Trevali's shareholders, which seeks to represent the Class Members in the proceedings pursuant to the CCAA involving Trevali and its subsidiary, Trevali Mining (New Brunswick) Ltd. ("**CCAA Proceeding**").
7. The Plaintiffs seek to be appointed as representatives for the Class in the CCAA Proceeding pursuant to:
 - a. section 11 of the CCAA; and/or
 - b. Supreme Court Civil Rule 20-3(6).
8. If the claims asserted herein are allowed to proceed outside of the CCAA Proceeding and/or in a joint proceeding under the *Class Proceedings Act*, RSBC 1996, c 50 ("**Class Proceedings Act**"), the Plaintiffs seek to be appointed as representatives for the Class under:
 - a. Section 2 generally, or 2(4) specifically, of the *Class Proceedings Act*, and/or
 - b. section 4.1 of the *Class Proceedings Act*.

B. The Defendants

a) Trevali

9. At the relevant time, Trevali was a publicly traded mining company incorporated under the *Business Corporations Act*, and headquartered in Vancouver, B.C.
10. At the relevant time, Trevali was a reporting issuer in British Columbia and in all other Canadian Provinces and Territories.
11. At the relevant time, Trevali's main securities regulator was the British Columbia Securities Commission.
12. At the relevant time, Trevali's common shares traded on the Toronto Stock Exchange, the United States OTC market, the Frankfurt Stock Exchange, and the Lima Stock Exchange.
13. On August 19, 2022, following the events described herein as giving rise to this action, Trevali filed for protection under the CCAA. Trading in the common shares of Trevali was halted on August 22, 2022. Trevali's common shares are set to be delisted from the Toronto Stock Exchange effective October 3, 2022.
14. At the relevant time, the Glencore Entities were Trevali's largest shareholder, beneficially owning approximately 26% of Trevali's issued and outstanding common shares.
15. At the relevant time, the Glencore Entities were the provider of a junior secured lending facility to Trevali.
16. At the relevant time, the Glencore Entities were the sole and exclusive purchaser of one hundred percent of the concentrates produced from Trevali's then-current operations pursuant to "offtake" and related agreements.

17. At the relevant time, the Glencore Entities had a right of first refusal for future concentrate sales produces from any additional properties or assets that Trevali may acquire in the future.

b) D&O Defendants

18. At the relevant time, Ricus Grimbeek was President, a director and Chief Executive Officer of Trevali. Mr. Grimbeek is an experienced mine operator with three decades of progressive experience in the mining industry. Mr. Grimbeek holds a Bachelor of Engineering (Mining) degree from the University of Pretoria, has completed the Management Development Program at the University of Orange Free State, and holds an Advanced Certificate in Mining Ventilation from the Chamber of Mines. Mr. Grimbeek resides in British Columbia.
19. At the relevant time, Brendan Creaney was Chief Financial Officer of Trevali. In that role, Mr. Creaney contributed to the execution of the overall strategic direction of Trevali. Mr. Creaney was accountable for ensuring long-term financial viability of Trevali through proper planning, risk assessment, development of appropriate policies, programs and controls. He was also responsible for leading Trevali's corporate development activities, including seeking out new markets and opportunities and participating directly in national and international marketing sales and activities. Mr. Creaney resides in British Columbia.
20. At the relevant time, Jill Gardiner was a director and Chair of Trevali's Board of Directors. Ms. Gardiner is a professional corporate director with over 20 years of experience in the investment banking industry. Ms. Gardiner holds Bachelor of Science and Master of Business Administration degrees from Queen's University. Ms. Gardiner resides in British Columbia.
21. At the relevant time, Russell Ball was a director of Trevali. Mr. Ball has significant experience working in various roles and capacities with publicly traded mining companies. Mr. Ball is qualified as both a Chartered Accountant from the Institute

of Chartered Accountants of South Africa and a Certified Public Accountant in the USA. Mr. Ball resides in British Columbia.

22. At the relevant time, Aline Cote was a director of Trevali. Ms. Cote has extensive mining and technical experience and expertise. Ms. Cote is an officer or employee of the Glencore Entities. She was a nominee director and one of the two directors of Trevali who were appointed to the Board of Directors by the Glencore Entities. Ms. Cote holds a Bachelor of Science degree in geology from Laurentian University and a Master of Business Administration degree from the University of Quebec. Ms. Cote resigned from her position as a director of Trevali on or about August 22, 2022. Ms. Cote resides in Quebec.
23. At the relevant time, Nick Popovic was a director of Trevali. Mr. Popovic is an officer or employee of the Glencore Entities. He was a nominee director and one of the two directors of Trevali who were appointed to the Board of Directors by the Glencore Entities. Mr. Popovic resigned from his position as a director of Trevali on or about August 22, 2022. Mr. Popovic resides in Switzerland.
24. At the relevant time, Jeane Hull was a director of Trevali. Ms. Hull was appointed a director of Trevali as of February 1, 2021. Ms. Hull has over 35 years of operational leadership and engineering experience. Ms. Hull holds a Bachelor of Science degree (Civil Engineering) from South Dakota School of Mines and Technology and a Master of Business Administration degree from Nova Southeastern University. Ms. Hull resides in South Dakota, USA.
25. At the relevant time, Dan Isserow was a director of Trevali. Mr. Isserow has financial and business operations leadership experience. Mr. Isserow holds the Chartered Accountant designation from the Institute of Chartered Accountants of South Africa, and he has completed the ICD Directors' Education Program. Mr. Isserow resides in British Columbia.
26. At the relevant time, Richard Williams was a director of Trevali. Mr. Williams has many years of experience in various executive and directorial roles with publicly

traded mining companies. Mr. Williams holds a Master of Business Administration degree from Cranfield University, a Master's degree in Security Studies from Kings College London, and a Bachelor of Science degree in Economics from University College London.

C. The D&O Defendants' Oversight Duties, Which They Violated

a) Composition, Mandate and Duties of Trevali's Board of Directors

27. At all material times relevant to this action, the Defendants Grimbeek, Ball, Cote, Popovic, Hull (since February 2021), Isserow and Williams were the directors of Trevali.
28. Pursuant to section 142(1)(b) of the *Business Corporations Act*, these Defendants had a duty to exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances.
29. Pursuant to Trevali's Board of Directors Charter, these Defendants had stated responsibilities to:
 - a. supervise the management of the business and affairs of Trevali;
 - b. act with a view to the best interests of Trevali; and
 - c. exercise the care, diligence and skill that reasonably prudent individuals would exercise in comparable circumstances.
30. Trevali's Board of Directors may, and it does, delegate certain of its functions to its Committees, as described below. Nonetheless, the overarching duty of care and oversight described above applied to each director.

b) Composition, Mandate and Duties of the Corporate Governance and Nominating Committee

31. The purpose of Trevali's Board's Corporate Governance and Nominating Committee is to provide a focus on corporate governance that will enhance

corporate performance and ensure, on behalf of the Board of Directors, that the Company's corporate governance system is effective in the discharge of its obligations to the Company's stakeholders.

32. At the relevant time, the Defendants Isserow (Chair), Gardiner, and Williams were the members of the Corporate Governance and Nominating Committee.

33. Pursuant to the Charter of the Corporate Governance and Nominating Committee, these Defendants had stated duties, *inter alia*, to:

a. with the assistance of management, develop the Company's overall approach to corporate governance issues and, subject to approval by the Board, implement and monitor a system of corporate governance which reflects high standards of corporate governance practices;

b. undertake an annual review of corporate governance issues and practices as they affect the Company and make a comprehensive set of recommendations to the Board during each calendar year;

c. advise the Board or any committees of the Board of corporate governance issues which the Committee determines ought to be considered by the Board or any such committee; and

d. with the assistance of management, oversee the creation of an enterprise risk management register and ensure that risks are allocated to appropriate committees of the Board for monitoring and reporting to the Board.

c) Composition, Mandate and Duties of the Health, Safety, Environment and Community Committee

34. The purpose of Trevali's Board's Health, Safety, Environment and Community Committee is to assist the Board of Directors in fulfilling its oversight responsibilities with respect to the effectiveness of the Company's health, safety, security, environmental, community relations and corporate social responsibility policies and practices.

35. At the relevant time, the Defendants Williams (Chair), Grimbeek, Ball and Hull were members of the Health, Safety, Environment and Community Committee.
36. Pursuant to the Charter of the Health, Safety, Environment and Community Committee, its members' primary duties and responsibilities are, *inter alia*, to:
- a. discuss the principal health, safety and security risks in the Company's business activities and provide oversight of appropriate systems to manage such risks;
 - b. review and monitor the health, safety and security policies and activities of the Company on behalf of the Board to ensure compliance with applicable laws, legislation and policies as they relate to health, safety and security issues through the receipt of regular reports on the same by management and/or consultants;
 - c. receive and review reports from management on any non-compliance with the health, safety and security policies of the Company or any material non-compliance with any applicable regulatory requirement; and
 - d. report on a timely basis, and in any event following each Committee meeting, to the Board on health, safety and security issues and on the state of compliance with applicable laws and legislation and adherence to the policies of the Company.

d) Composition, Mandate and Duties of the Exploration and Technical Committee

37. The purpose of Trevali's Board's Exploration and Technical Committee is to assist the Board in fulfilling its oversight responsibilities on specific technical matters, including:
- a. technical, exploration, development, and similarly related aspects, including policies, practices and controls with regard to the Company's mining operations and its development, exploration programs and projects;

- b. technical studies and evaluations of the Company's mineral properties;
 - c. management's preparation of mineral resource and reserve statements for the Company's mineral properties;
 - d. changes to laws and regulations that may impact the Company's mining operations and development and exploration programs and management's response to any such changes; and
 - e. external reporting in relation to the foregoing matters (in conjunction with the Disclosure Committee).
38. The Exploration and Technical Committee was established in August 2021.
39. At the relevant time, the members of the Exploration and Technical Committee were the Defendants Cote (Chair), Grimbeek and Hull.
40. The stated duties of the members of the Exploration and Technical Committee are, *inter alia*:
- a. reviewing management's overall approach to establishing objectives relating to mining operations, development and exploration programs, including construction activities, permitting, budgeting, allocation of resources, steps to be implemented and timing for completion, with a view to advising management about appropriate solutions, actions and risk mitigants;
 - b. receiving regular updates from management on growth initiatives, including reviewing technical-economic studies, including those prepared in accordance with National Instrument 43-101 – Standards of Disclosure for Mineral Projects ("NI 43-101") prepared to support a management request for Board approval;
 - c. reviewing the management of dams;

- d. reviewing life-of-mine plans and annual operating plans prepared by management for the Company's existing mining operations and development and exploration programs with a view to satisfying itself that the assumptions underlying these plans are reasonable;
 - e. reviewing management's assessment of the Company's major operational risk exposure, including a regular review of the top technical risks identified by management, including exploration, geological, mining, geotechnical, metallurgical and other technical issues of concern, and the policies and practices adopted by the Company to mitigate those risks; and
 - f. ensuring that the Company implements best-in-class property development and operating practices and reviewing management's assessment of the Company's operational and exploration performance to:
 - i. assess the technical, cost and overall effectiveness of mine plans, exploration programs, special projects, and make recommendations for improvement, where appropriate;
 - ii. determine if any issues that may be identified as a result of such review are of significance to report to the Board; and
 - iii. review the scope of potential liabilities and the adequacy of the management systems to manage these liabilities.
41. The focus of the Exploration and Technical Committee is revenue generating activities, although its stated responsibilities overlap with that of the Health, Safety, Security and Community Committee.
42. At all material times, the Defendant Cote was Chair and a member of the Exploration and Technical Committee. As a non-independent director and a nominee director on behalf of the Glencore Entities (the junior secured lender, the sole customer and the largest shareholder of Trevali), the Defendant Cote had a conflict of interests in serving in that capacity.

43. At all material times, the Defendant Grimbeek was a member of the Exploration and Technical Committee. As President, Chief Executive Officer and a non-independent director, the Defendant Grimbeek had a conflict of interests in serving in that capacity.

e) CEO and CFO's Duties to Design, Maintain and Evaluate the Effectiveness of Trevali's Disclosure Controls and Procedures

44. As senior officers of Trevali, the Defendants Grimbeek and Creaney had obligations to design Trevali's disclosure controls and procedures, or to cause them to be designed, to provide reasonable assurance that:
- a. material information relating to Trevali was made known to Trevali's senior management and directors; and
 - b. information required to be disclosed by Trevali in its annual filings, interim filings or other reports filed or submitted by it under securities legislation was recorded, processed, summarized and reported within the time periods specified in securities legislation.
45. Additionally, the Defendants Grimbeek and Creaney had duties to evaluate the effectiveness of Trevali's disclosure controls and procedures.
46. At all materials times relevant to this action, the Defendants Grimbeek and Creaney represented and certified that they had designed, or caused to be designed, Trevali's disclosure controls and procedures in accordance with the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). They, furthermore, certified that they had evaluated Trevali's disclosure controls and procedures in accordance with the COSO standards, and determined that those controls and procedures were effective.

D. The D&O Defendants Violated Their Oversight Duties

a) The D&O Defendants failed to exercise care and oversight necessary to ensure the effectiveness of Trevali's health, safety and security policies and practices

47. On Saturday, April 16, 2022, Trevali reported that following heavy rainfall, a major flooding event had occurred at its Perkoa Mine. Eight mine workers were reported missing underground. As a result, mining and milling operations at the Perkoa Mine were suspended.
48. On April 21, 2022, Trevali provided further updates in relation to the flooding event at the Perkoa Mine, reporting that the rainfall had resulted in a flash flood that breached purportedly protective berms surrounding the mine's open pit. Trevali, furthermore, reported that the eight missing mine workers remained unaccounted for. Mining and milling operations at Perkoa remained suspended and they were expected to remain suspended for the foreseeable future. Trevali also reported that following these events, Trevali's senior executives had travelled to the Perkoa Mine site to conduct site and area inspections, amongst other efforts in the aftermath of the incident.
49. On May 25, 2022, Trevali reported that it had discovered the bodies of four of the missing mine workers. On June 20, 2022, Trevali reported that it had discovered the bodies of the remaining missing mine workers that had been unaccounted for.
50. On August 15, 2022, Trevali reported that, as a result of an investigation into the flooding event, Trevali was taking several actions to minimize the impacts of future weather events at Perkoa, and prevent any future flooding of the underground operations, including:
 - a. it raised the flood protection berm along the existing berm alignment to protect the open pit against flooding;

- b. it installed an early warning system that provides updated weather reporting, real-time weather and rain monitoring and real-time stream water level indication with automatic triggers when there is a potential flood risk; and
 - c. it improved emergency management plans with the inclusion of predictive triggers such as: predictive alerting and smart IOT sensors that detect changes in water levels and various weather parameters (wind, rain, lightning, pressure) to trigger an evacuation in advance of a significant weather event impacting the site.
51. In its August 15, 2022 news release, Trevali furthermore reported that it is “also reviewing its design infrastructure at its other mine sites and will consider implementing similar measures if deemed appropriate.”
52. Trevali ought to have adopted and implemented these measures at its operating mines before the flooding event at the Perkoa Mine. Trevali created an unsafe working site at the Perkoa Mine by its failure to adopt these security measures, including by failing to rehabilitate or raise the safety berm.
53. On August 22, 2022, Trevali confirmed media reports that a manager of the Perkoa Mine as well as a manager of Trevali’s mining contractor, Byrncut, had been detained by authorities near the mine site in west-central Burkina Faso pending a trial on charges relating to the April 16, 2022 flooding event.
54. The charges were being brought against Nantou Mining (Burkina Faso) S.A., Trevali’s 90% owned subsidiary and the operator of Perkoa, and they included the allegation that Perkoa Mine engaged in mining activities in excess of or without legal authorization, and/or that it violated health and safety regulations.
55. During the trial, witnesses testified, amongst other things, that:
- a. The Perkoa Mine had exceeded the designed depth of the mine, as the structure of the mine’s underground pit had been modified from 520 meters

to a depth of 710 meters, even though the mine had been originally designed to be operated up to 550 meters of depth;

- b. In the underground mine, between levels 610 and 710, there were no emergency exits and the operating activities had not been developed; and
 - c. Water flooded into the mine as the mine's safety berm had not been rehabilitated.
56. The eight mine workers who lost their lives were trapped in the depth of the mine that had not been properly developed, including at the areas around the 640 level and the 670 level.
57. On September 14, 2022, the mine's manager and contractor were found guilty of involuntary manslaughter.
58. On September 24, 2022, Trevali announced that it would shut down the Perkoa Mine, as the funds available would not be sufficient to complete the rehabilitation of the mine.
59. At the relevant time, Trevali's health and safety policies, measures and/or practices were not effective. The D&O Defendants had a duty to exercise appropriate care and oversight to ensure that Trevali's health, safety and security policies and practices were and remained effective. That duty concerned central, mission-critical risk management and compliance matters relating to the core of Trevali's business and operations. The D&O Defendants violated that duty.
- b) The D&O Defendants failed to exercise care and oversight necessary to ensure that Trevali maintained proper and effective corporate governance and risk management policies and practices**
60. Trevali contends that its financial problems were exacerbated due to ongoing challenges with the mine contractors relative to equipment availability and low production rates at the Caribou Mine. To the extent that Caribou Mine's operations were adversely impacted by ongoing equipment, production or

contractor issues, those problems were caused as a result of the D&O Defendants' failure to exercise care and oversight to ensure that the mine properly operated.

- 61. Trevali's financial problems were also exacerbated as a result of the fact that Caribou Mine operated at a loss due to a fixed pricing arrangements between Trevali and the Glencore Entities, discussed below.
- 62. On January 15, 2021, Trevali announced that it was restarting the operations at the Caribou Mine following a 9-month care and maintenance period.
- 63. According to Trevali, to improve the economics of the mine operations, and to reduce Trevali's exposure to commodity price fluctuations, it had entered into a 21-month fixed pricing arrangement with the Glencore Entities. According to Trevali, this arrangement provided that 115 million pounds of payable zinc, representing 80% of Caribou Mine's forecasted zinc production, would be sold to Glencore plc at an average price of US\$1.25 per pound. These arrangements are for the period from March 2021 to December 2022.
- 64. The below chart demonstrates the reported price of zinc over the past 5 years.



- 65. The fixed pricing arrangement represents a loss compared to the market price of zinc, as well as Trevali's average all-in sustaining costs of production of zinc.

66. The fixed pricing arrangement constituted a significant, known risk to Trevali's operation that ought to have been properly managed by the D&O Defendants. Trevali's annual information form for fiscal year ended December 31, 2021, filed on March 31, 2022, acknowledged as follows:

The use of derivative instruments involves certain inherent risks including credit risk, market liquidity risk and unrealized mark-to-market risk.

The Company has entered into hedging contracts in respect of a material amount of its forecasted zinc production. The Company uses these contracts to manage the risks associated with, among other things, mineral price volatility. The use of these contracts involves certain inherent risks including: (a) the risk of default on amounts owing to the Company by the counterparties with which the Company has entered into such transactions; and (b) the risk that, in respect of certain derivative products, an adverse change in market prices for commodities will result in the Company incurring an unrealized mark-to-market loss in respect of such contracts. In the event that such any such risks materialize, the Company's future cash flows, profitability, results of operations and financial condition could be materially and adversely affected.

67. The D&O Defendants had a duty to properly manage this risk, which they failed to do.
68. Furthermore, the fixed pricing arrangement with the Glencore Entities was not in the best interests of Trevali, and it was tainted by conflicts of interests.
69. Trevali's disclosure documents suggest that Trevali's entire Board of Directors was involved in the events and in the making of the decisions leading to the re-opening of the Caribou Mine, including the fixed pricing arrangement with the Glencore Entities. The members of the Board at the time included Glencore's

nominee directors, the Defendants Cote and Popovic, both of whom are stated to be members of the senior management team of Glencore plc and/or its related entities.

70. Trevali's disclosure documents indicate that Trevali's Board of Directors failed to establish a special committee in relation to entering into the fixed-pricing arrangement.
71. Trevali's disclosure documents indicate that Trevali's Board of Directors failed to consult with independent financial and/or legal advisors in relation to the fixed pricing arrangement.
72. The conflicts of interests arising out of two nominee directors of Glencore sitting on Trevali's Board of Directors represented a significant, known risk. Trevali's annual information form for fiscal year ended December 31, 2021, filed on March 31, 2022, acknowledged as follows:

The Company's directors and officers may have interests that conflict with the Company's interests.

[...]

As of the date hereof, Aline Cote and Nick Popovic, directors of the Company, are members of the senior management team at Glencore International AG (for the purposes of this paragraph, "Glencore"). Glencore is a significant shareholder of the Company, owning approximately 26% of the Company's issued and outstanding Common Shares. Glencore is also a lender to the Company pursuant to the Glencore Facility (as described above under the heading "Three-Year History – Significant Developments – 2020"). In addition, through off-take agreements, Glencore has agreed to purchase all the concentrates from Caribou, Rosh Pinah and Perkoa and has entered into an Investor Rights and Governance Agreement with the Company that provides Glencore

with certain board nomination rights, anti-dilution rights and enhanced consultation rights relating to the business of the Company. As a result, Ms. Cote and Mr. Popovic have a conflict of interest with respect to the Company's contracts and other dealings with Glencore, which, with respect to matters considered by the Board regarding its contracts and dealings with Glencore, will generally require them to disclose such conflict of interest and abstain from voting on such matters.

73. The D&O Defendants had a duty to properly manage this risk, which they failed to do.
74. At the relevant time, Trevali's corporate governance and risk management policies and practices were not effective. The D&O Defendants had a duty to exercise care and oversight to ensure that Trevali maintained proper and effective corporate governance and risk management policies and practices. That duty concerned central, mission-critical risk management and compliance matters relative to the core of Trevali's business and operations. The D&O Defendants violated that duty.

c) The D&O Defendants failed to exercise care and oversight necessary to ensure that Trevali maintained proper and effective internal control systems and disclosure controls and procedures

75. Due to the circumstances outlined above, at the relevant time, Trevali's internal control systems and disclosure controls and procedures were not effective.
76. The D&O Defendants had a duty to exercise care and oversight to ensure that Trevali maintained proper and effective internal control systems and disclosure controls and procedures. That duty concerned central, mission-critical risk management and compliance matters relative to the core of Trevali's business and operations. The D&O Defendants violated that duty.

E. The Misrepresentations

a) The Impugned Documents

77. The Plaintiffs allege that the following disclosure documents of Trevali contained a misrepresentation:

- a. The Prospectus Supplement dated November 25, 2020 to a Short Form Base Shelf Prospectus dated November 19, 2020, together with the prospectus draft dated November 24, 2020 and the Preliminary Short Form Prospectus dated October 9, 2020 (collectively, the “**Prospectuses**”), including the following documents which were incorporated therein by reference:
 - i. the management information circular of Trevali dated August 6, 2020 regarding the annual general meeting of Trevali’s shareholders to be held on September 16, 2020; and
 - ii. the annual information form for the fiscal year ended December 31, 2019, dated as of March 30, 2020;
- b. the annual information form for the fiscal year ended December 31, 2020, dated as of March 31, 2021;
- c. the management information circular dated April 1, 2021 with respect to the annual and general meeting of Trevali’s shareholders to be held on May 11, 2021;
- d. the annual information form for the fiscal year ended December 31, 2021, dated as of March 31, 2022;
- e. the management information circular dated May 18, 2021 with respect to the annual and general meeting of Trevali’s shareholders to be held on June 29, 2022; and

- f. The Certifications of Annual Filings on Forms 52-109F1 issued and filed by Defendants Grimbeek and Creaney on March 31, 2021 (with respect to fiscal year 2020 annual disclosures) and March 31, 2022 (with respect to fiscal year 2021 annual disclosures).

b) Misrepresentations Contained in Impugned Documents that are Management Information Circulars

78. Trevali's management information circulars purported to provide information regarding Trevali's corporate governance practices, according to the Defendants.
79. The management information circulars contained a section titled "Trevali's Leading Corporate Governance Practices," touting Trevali's corporate governance practices which the Defendants represented to be proper and effective. In that section, the management information circulars contained a statement substantially as follows:

Board Oversight of Strategy and Risk Management: The Board oversees management, strategic and corporate planning and risk management. The Board and its committees receive regular reporting from management on the implementation of the Company's approved strategy, and plans are in place to monitor, manage and report on the principal business risks. The Health, Safety, Environment and Community ("HSEC") Committee has specific responsibility for oversight of environmental and stakeholder risk management.

80. The statements produced above constituted a misrepresentation as the D&O Defendants failed to exercise care and oversight to ensure that Trevali had, maintained or implemented effective policies and procedures to manage core, mission-critical risks relative to its business and operations concerning:
 - a. Health and safety;

- b. Corporate governance and risk management; and
- c. Internal control systems and disclosure controls and procedures.

c) Misrepresentations Contained in Impugned Documents that are Annual Information Forms

81. Trevali's annual information forms contained a section titled "Corporate Governance," which included representations substantially as follows:

Corporate Governance

Many of the Company's directors and executive officers have significant experience conducting business in Canada, Peru, Burkina Faso, and Namibia, gained through their years of service to the Company in their respective roles or principal occupations, as applicable. Certain directors and executive officers have also travelled to Canada, Peru, Burkina Faso, and Namibia on several occasions for various purposes related to the Company's business, including meeting with government officials and representatives from banking and investment firms. Directors and executive officers of the Company visit the Company's operations as they deem to be necessary, often several times a year, to properly manage the Company's business and meet with local management.

As a part of carrying out the responsibilities of their respective offices, it is necessary for the directors and executive officers of the Company to familiarize themselves with the laws, requirements and roles of governments, local business culture and practices, and any differences in banking systems and controls in and between jurisdictions in relation to the Company's foreign operations. Directors and executive officers become aware of these matters on an on-going basis through their skills, experience, education, knowledge, and a combination of written materials, meetings, site

visits, legal and other professional advice, and other briefings and training, as appropriate.

Information is typically communicated to the Company's head office from its other locations of business through typical methods in the English language. There are, however, circumstances where communications and documents relating to the Company's business in foreign jurisdictions are received by the Company in the local language, typically Spanish in Peru, Afrikaans in Namibia, and French in Burkina Faso. Items that are deemed material, including legal documents and communications from government officials, are translated into the English language.

82. These statements constituted a misrepresentation as the D&O Defendants failed to exercise care and oversight to ensure that Trevali had, maintained or implemented effective policies and procedures to manage core, mission-critical risks relative to its business and operations concerning:

- a. Health and safety;
- b. Corporate governance and risk management; and
- c. Internal control systems and disclosure controls and procedures.

d) Misrepresentations Contained in Forms 52-109F1 Certificates of Annual Filings

83. In these Impugned Documents, the Defendants Grimbeek and Creaney certified and represented that Trevali's disclosure documents disclosed all material facts, and that Trevali's internal controls had been designed properly and were effective. That representation was false.

e) Misrepresentations Contained in the Prospectuses

84. Each of the Prospectuses incorporated by reference the following documents, and it contained the misrepresentation alleged herein to have been contained in those documents:
- a. the management information circular of Trevali dated August 6, 2020 regarding the annual general meeting of Trevali's shareholders to be held on September 16, 2020; and
 - b. the annual information form for the fiscal year ended December 31, 2019, dated as of March 30, 2020.
85. Each of the Prospectuses included a statutory Certificate of the Company, which was signed by the Defendants Grimbeek, Creaney, Gardiner and Ball. The Certificate included a representation substantially as follows:
- This short form prospectus, together with the documents incorporated in this prospectus by reference, will, as of the date of a particular distribution of securities under the prospectus, constitute full, true and plain disclosure of all material facts relating to the securities offered by this prospectus and the supplement as required by the securities legislation of all of the provinces and territories of Canada.
86. The Prospectus certifications were false, as the Prospectus did not disclose that the D&O Defendants failed to exercise care and oversight to ensure that Trevali had, maintained or implemented effective policies and procedures to manage core, mission-critical risks relative to its business and operations concerning:
- a. Health and safety;
 - b. Corporate governance and risk management; and
 - c. Internal control systems and disclosure controls and procedures.

F. Corrective Disclosures

a) April 16, 2022

87. On Saturday, April 16, 2022, Trevali issued a news release titled “Trevali Reports Flooding Event at its Perkoa Mine.” In this news release, Trevali reported that its Perkoa Mine had experienced a flooding event, and that eight mine workers were missing underground and unaccounted for.
88. This disclosure partially revealed to the market that Trevali failed to maintain or implement effective policies and procedures with respect to its core, mission-critical risk management and compliance affairs, specifically in relation to its health and safety measures.
89. On Monday, April 18, 2022, the price of Trevali’s common shares on the Toronto Stock Exchange plummeted to close at \$1.36, compared to \$1.89 as of the close of trading on the preceding trading day, April 14, 2022, representing a 28% decline.

b) August 15, 2022

90. After the close of trading on August 15, 2022, Trevali issued a news release in regard to the results of the second quarter of fiscal year 2022 (“**Q2 2022**”) announcing, among other things, that:
 - a. it had experienced production challenges and/or suspension of its operations at its major mining properties, the Perkoa mine and the Caribou mine;
 - b. its Q2 2022 revenue had declined 44% on a year-over-year basis
 - c. it was taking a non-cash, after-tax impairment of \$23.7 million against the Perkoa and Caribou operations and/or assets; and

- d. it would be unable to make a mandatory prepayment of approximately \$7.5 million on its revolving credit facility.
91. Trevali's August 15, 2022 disclosures, furthermore, reported that as a result of an investigation into the flooding event at Perkoa, Trevali would enhance its health, safety and security measures at Perkoa, and that it would review its measures and procedures at its further mines.
92. This disclosure revealed to the market that the D&O Defendants had failed in managing core, mission-critical risks to Trevali's enterprise both operationally and financially.
93. On August 16, 2022, the price of Trevali's common shares on the Toronto Stock Exchange plummeted to close at \$0.22, compared to \$0.46 as of the close of trading on August 15, 2022, representing a 52% decline.

G. Subsequent Events

94. On August 19, 2022, Trevali issued a news release titled "Trevali Receives Initial Order for CCAA Protection and Provides Operations Update," reporting that it had sought and secured protection from its creditors under the CCAA.
95. On August 22, 2022, Trevali issued a news release titled "Trevali Announces Trading Halt for Common Shares and Provides Corporate Update," reporting that the trading in its common shares had been halted on the Toronto Stock Exchange, and expected to be halted on the other securities exchanges in which it trades. Trevali furthermore reported that:
- a. it expected that its common shares would be delisted from trading on the Toronto Stock Exchange and elsewhere;
 - b. the Defendants Cote and Popovic had resigned from the Board of Directors; and

- c. a manager of Perkoa Mine and a contractor had been detained by authorities in Burkina Faso pending trial on charges relating to the flooding event in April 2022.
96. On August 29, 2022, Trevali filed a material change report in relation to the foregoing events.
97. On September 6, 2022, Trevali reported that following a delisting review by the Toronto Stock Exchange, its common shares would be delisted effective close of market on October 3, 2022.

H. The Plaintiffs' and the Class's Damages

98. At all material times, Trevali's common shares traded in an efficient market that incorporated the publicly available information about the company into the price of those securities.
99. The Defendants knew and intended that the market price of Trevali's common shares would reflect the information that they communicated to the market, including the misrepresentations alleged herein.
100. The Plaintiffs and the Class suffered damages and losses as a result of the Defendants' misrepresentations and improper conduct alleged herein, as they purchased or acquired Trevali's common shares at artificially inflated prices.

PART 3: RELIEF SOUGHT

1. On behalf of themselves and the other Class Members, the Plaintiffs seek:
- a. an Order of this Honourable Court appointing them as representatives for the Class pursuant to:
 - i. section 11 of the CCAA and/or Supreme Court Civil Rule 20-3(6); and/or

- ii. pursuant to section 2, 2(4) and/or 4.1 of the *Class Proceedings Act*, furthermore certifying this action as a class proceeding under the *Class Proceedings Act*;
- b. an order granting leave of the Court under section 140.8 of the *Securities Act* and, if necessary, the concordant provisions of the securities legislation of the other Canadian provinces and territories, to proceed with statutory liability claims against the Defendants;
- c. a declaration that the Impugned Documents contained a misrepresentation;
- d. a declaration that the Defendant Trevali is vicariously liable for the acts and omissions of the D&O Defendants, and of its other directors and officers;
- e. a declaration that the Defendants engaged in oppressive conduct, and that the Plaintiffs and the Class are entitled to relief, including monetary compensation and otherwise, pursuant to subsections 227(3)(c), (d), (f), (g), (h), (i), (j), (k), (m), (o), (p), (q) and/or (r) of the *Business Corporations Act*;
- f. damages to the Plaintiffs and the Class, to the extent possible on an aggregated basis pursuant to Part 4, Division 2 of the *CPA*, in the amount of \$56 million;
- g. an order directing a reference or giving such other directions as may be necessary to determine issues not determined at the trial of the common issues;
- h. pre-judgment and post-judgment interest pursuant to the *Court Order Interest Act*, RSBC 1996, c.79, as amended, and the costs of notice and administration of judgment; and
- i. such further and other relief as this Honourable Court may deem just.

PART 4: LEGAL BASIS

A. Statutory claim for damages under section 131 of the Securities Act (Primary Market Prospectus Liability)

1. Pursuant to the Prospectus Supplement dated November 25, 2020, Trevali undertook a primary market offering of its securities whereby it issued and sold effectively 18,653,000 Units of its securities, at an effective price of \$1.85 per Unit (“Offering”).¹ Each Unit was comprised of one common share and one-half of one common share purchase warrant.
2. The Offering was closed on December 2, 2020, for gross proceeds of \$34.5 million.
3. The Offering was conducted pursuant to an underwriting agreement between Trevali and certain financial institutions acting as underwriters, dated November 25, 2020. The underwriting agreement is governed by and to be construed in accordance with the laws in force in the Province of British Columbia and the federal laws of Canada applicable therein.
4. The warrants that were issued and sold in the Offering were issued pursuant to a Warrant Indenture dated December 2, 2020, which provides as follows:

This Indenture, the Warrants, the Warrant Certificates (including all documents relating thereto, which by common accord have been and will be drafted in English) shall be construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein and shall be treated in all respects as British Columbia contracts. Each of the parties hereto, which shall include the Warrantholders, irrevocably attorns to the exclusive jurisdiction of the courts of the Province of British Columbia with

¹ Pursuant to the Prospectus, Trevali issued and sold 186,530,000 Units at a selling price of \$0.185. On December 3, 2021, Trevali completed a consolidation of its common shares, whereby it consolidated 10 pre-consolidation common shares to 1 post-consolidation common shares.

respect to all matters arising out of this Indenture and the transactions contemplated herein.

5. Pursuant to the terms of the Warrant Indenture, which is specifically mentioned and referred to in the Prospectus Supplement dated November 25, 2020, each Class Member who acquired Trevali's securities in the Offering has attorned to the exclusive jurisdiction of the court of British Columbia in relation to the matters arising out of the Offering, either in whole or in relation to the portion of the Offering that concerned the issuance, sale and distribution of the warrants.
6. On behalf the Class Members who purchased or acquired Trevali's securities pursuant to the Prospectus Supplement dated November 25, 2020, the Plaintiffs asserts a claim for damages under section 131 of the *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Provinces and Territories of Canada.
7. The Prospectus Supplement dated November 25, 2020 contained a misrepresentation, as pleaded herein.
8. This cause of action is being asserted against each of the Defendants, except the Defendant Hull.

B. Statutory claim for damages under section 140.3(1) of the Securities Act (Secondary Market Liability)

9. On behalf of themselves and the other Class Members who acquired Trevali's securities in the secondary market, the Plaintiffs assert a claim under section 140.3(1) of the *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Provinces and Territories of Canada.
10. Trevali's Impugned Documents contained a misrepresentation, as pleaded herein.
11. This claim is being asserted against each of the Defendants:

- a. Trevali is the responsible issuer;
 - b. the Defendants Grimbeek, Gardiner, Ball, Cote, Popovic, Hull, Isserow and Williams were directors of Trevali at the relevant time; and
 - c. the Defendant Creaney was, at the relevant time, an officer of Trevali. He signed the Prospectuses and authorized the release of the other Impugned Documents.
12. The Plaintiffs will seek leave of the Court to proceed with this statutory claim in accordance with section 140.8 of the *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Provinces and Territories of Canada.

C. The Oppression Remedy

13. On behalf of themselves and the other Class Members, the Plaintiffs assert a claim for oppression remedy under section 227 of the *Business Corporations Act*.
14. The Defendants engaged in oppressive conduct by failing to exercise care and oversight necessary to ensure that Trevali's policies and processes relative to its core, mission-critical risks and regulatory compliance were effective.
15. The Plaintiffs and the Class Members had a reasonable expectation that the D&O Defendants exercise care and supervision over Trevali's core, mission-critical business and affairs in accordance with a standard expected of a prudent person acting in comparable circumstances. The D&O Defendants violated those reasonable expectations.
16. The Plaintiffs plead the remedies prescribed in subsections 227(3)(c), (d), (f), (g), (h), (i), (j), (k), (m), (o), (p), (q) and/or (r) of the *Business Corporations Act*.

D. Vicarious Liability

17. In addition to its direct liability, Trevali is vicariously liable for the acts and omissions of the D&O Defendants, and of its other directors and officers.

E. Real and Substantial Connection with British Columbia

18. This proceeding and the claims of the Plaintiffs and each Class Member have a real and substantial connection with the Province of British Columbia. The claims of the Plaintiffs and the Class Members arise out of investment in securities of Trevali, which is incorporated under the laws of British Columbia, is headquartered in British Columbia, carries on business in British Columbia, and is regulated by the British Columbia Securities Commission.
19. If necessary, this Notice of Civil Claim may be served outside British Columbia without leave because this proceeding concerns a business carried on in British Columbia, a tort committed in British Columbia and contractual obligations which, to a substantial extent, were to be performed in British Columbia.

Plaintiffs' address for service:

Eli Karp / Sage Nematollahi
KND Complex Litigation
1186 Eglinton Ave West
Toronto, ON M6C 2E3
(416) 537-3529
ek@knd.law / sn@knd.law

Place of trial: Vancouver, British Columbia.

The address of the registry is: 800 Smithe Street, Vancouver, BC V6Z 2E1.

October 7, 2022

A handwritten signature in green ink, appearing to be 'Eli Karp', is written over a horizontal line. The signature is stylized and cursive.

KND Complex Litigation

1186 Eglinton Ave West
Toronto, ON M6C 2E3
(416) 537-3529

Eli Karp (he/him)

ek@knd.law

Sage Nematollahi (he/him)

sn@knd.law

Counsel to the Plaintiffs

Rule 7-1(1) of *the Supreme Court Civil Rules* states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial,
and

(b) serve the list on all parties of record.

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION
FOR SERVICE OUTSIDE BRITISH COLUMBIA**

There is a real and substantial connection between British Columbia and the facts alleged in this proceeding. On behalf of itself and the other Class Members, the Plaintiff pleads and relies upon the *Court Jurisdiction and Proceedings Transfer Act*, RSBC 2003, c.28 (the "*CJPTA*") in respect of the Defendants. Without limiting the foregoing, a real and substantial connection between British Columbia and the facts alleged in this proceeding exists pursuant to section 10 of the *CJPTA* because this proceeding:

(e) concerns contractual obligations, and

(i) the contractual obligations, to a substantial extent, were to be performed in British Columbia;

(g) concerns a tort committed in British Columbia; and

(h) concerns a business carried on in British Columbia.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

This proposed securities class proceeding arises out of the Defendants' misrepresentation in the disclosure documents of Trevali Mining Corporation issued between October 9, 2020 and August 15, 2022, inclusive. The action alleges that the Defendants made a misrepresentation concerning Trevali's corporate governance practices. This proposed class proceeding seeks to recover compensation for the damages of the Plaintiffs and the other Class Members.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- the provision of goods or services or other general commercial matters
- investment losses
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- a class action
- maritime law
- aboriginal law

- constitutional law
- conflict of laws
- none of the above
- do not know

Part 4: ENACTMENTS RELIED ON:

1. *Class Proceedings Act*, RSBC 1996, c. 50, as amended
2. *Business Corporations Act*, SBC 2002, c 57, as amended
3. *Securities Act*, RSBC 1996, c 418, as amended
4. *Securities Act*, RSO 1990, c S 5, as amended
5. *Securities Act*, RSA 2000, c S-4, as amended
6. *Securities Act*, CQLR c V-1.1, as amended
7. *The Securities Act*, CCSM c S50, as amended
8. *Securities Act*, SNB 2004, c S-5.5, as amended
9. *Securities Act*, RSNL 1990, c S-13, as amended
10. *Securities Act*, SNWT 2008, c 10, as amended;
11. *Securities Act*, RSNS 1989, c 418, as amended
12. *Securities Act*, SNu 2008, c 12, as amended
13. *Securities Act*, RSPEI 1988, c S-3.1, as amended
14. *The Securities Act, 1988*, SS 1988-89, c S-42.2, as amended;
15. *Securities Act*, SY 2007, c 16, as amended
16. *Court Jurisdiction and Proceedings Transfer Act*, RSBC 2003, c.28, as amended
17. *Court Order Interest Act*, RSBC 1996, c.79, as amended

TAB E(2)

PRELIMINARY OPINION IN THE MATTER OF PROCEEDINGS RELATED TO TREVALI MINING CORPORATION

QUALIFICATIONS OF JANNICE MOORE, MHSA, GSP

- Governance Systems Professional (GSP) denoting completion of accredited Policy Governance Proficiency Program offered by the international organization Govern for Impact, commitment to professional Code of Ethics, and maintenance of required professional development
- Founder of The Governance Coach™ consulting business and over 30 years of governance consulting experience
- Qualified as an expert witness on governance at Court of Queen's Bench, Alberta 2007
- Founding member and former Board Chair, International Policy Governance Association
- MHSA and Certified Health Executive, Canadian College of Health Leaders
- Regular author of articles in *Board Leadership*, published by Jossey-Bass
- Author of *Governance for Health System Trustees* and *Governing Membership Associations*, and Co-author of *A Tale of Two School Boards*
- Contributor to *The Policy Governance Fieldbook*, published by Jossey-Bass
- Invited speaker at governance conferences and seminars in Canada, the USA and Europe
- Past Board Chair, Wycliffe Canada
- International Policy Governance® Association Distinguished Service Award, June 2014

SUMMARY OF FACTS OR ASSUMPTIONS RELIED UPON IN THIS OPINION

Abbreviations: Throughout this document, the following short forms are used:

- Trevali Mining Corporation (Trevali)
- Glencore International AG (Glencore)

FACTS:

1. In the Perkoa Mine event, the company's mine manager was found guilty of involuntary manslaughter.
2. "Off-take" agreements between Trevali and Glencore pledged 80% of Caribou's zinc production to Glencore at a fixed price of US\$1.25 per pound, which has been below the market price or value of zinc and Trevali's production costs at all material times since the agreement was made.
3. Trevali derives its revenues from the Perkoa, Rosh Pinah and Caribou Mines from a single customer, Glencore. (Article 11 of Affidavit of Brendan Creaney, Trevali Chief Financial Officer, to Supreme Court of British Columbia, August 19, 2022.)
4. Glencore has a 26% equity interest in Trevali, making it the largest single shareholder, as well as being a lender to Trevali of approximately \$13.0 million. (Article 12 of above Affidavit.)

5. Caribou Mine has historically depended on intercompany funding from Trevali to sustain its operations. (Article 18 of above Affidavit.)
6. Glencore had two nominees on the board of Trevali, both of which are members of the senior management team at Glencore.
7. In Trevali's 2020 Annual Information Form, Trevali acknowledged that "the directors and officers of the Company are aware of the existence of laws governing the accountability of directors and officers for corporate opportunity and requiring disclosure by the directors of conflicts of interests and the Company will rely upon such laws in respect of any directors' and officers' conflicts of interest or in respect of any breaches of duty by any of its directors and executive officers." (page 78)
8. Further, in the same 2020 Annual Information Form the company acknowledges that in the event of a conflict of interest "the directors of the Company are required by law to act honestly and in good faith with a view to the best interests of the Company and to abstain from voting on such matters." (page 78)
9. In the Notice of Annual General and Special Meeting of Shareholders and Management Information Circular, dated May 18, 2022, it is stated that "...Ms. Cote and Mr. Popovic have a conflict of interest with respect to the Company's contracts and other dealings with Glencore, which, with respect to matters considered by the Board regarding its contracts and dealings with Glencore, will generally require them to disclose such conflict of interest and abstain from voting on such matters." (page 30)

ASSUMPTIONS

I have been asked to assume the following:

1. The Perkoa Mine had not been properly developed, it did not have a proper protection berm to keep water away, and it did not have proper structural development in the deep area to allow for the mine workers to safely escape the flood.
2. In entering into the off-take agreement with Glencore, Trevali failed to establish a special committee, failed to retain independent counsel and/or failed to retain independent financial advisor.

GOVERNANCE PRINCIPLES ON WHICH THIS OPINION IS BASED¹

1. The fiduciary duty of a board and its directors and officers requires directors to act honestly and in good faith with a view to the best interests of the corporation. This includes an obligation to prefer the interests of the corporation to those of any other person, including shareholders who may have appointed a director to the board.

2. Directors' duty of care requires them to spend the time necessary, consider information critically, and ask the questions necessary of management and outside advisors to ensure they have exercised the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.
3. Directors must disclose in writing or by requesting it be entered in the minutes of a directors' or committee meeting, any interest they may have in a material transaction if they are a director or officer, or acting in a similar capacity, of a party to the transaction, and they shall not vote on any resolution to approve the transaction.
4. Directors may rely on information, analysis, advice and opinions they have received "in good faith" from management and appropriately qualified outside advisors, if the advisors have been provided with the necessary information and context to give appropriate advice. Reliance on such advice must be documented in the minutes to establish the board's due diligence.
5. The board as a whole has ultimate authority over and accountability for, the corporation, subject to legal and regulatory constraints, as well as any restrictions placed by shareholders. As such, it is incumbent on the board to ensure there are written governance policies in place clarifying expectations of management, including any limitations on management's prerogatives, and to ensure there is a system in place by which the board can regularly assess management's compliance with those policies, including the requirement of reasonable proof of compliance.
6. A board may choose to establish Special Committees for specific purposes. Those committees have only the authority delegated to them by the board, and the board retains the responsibility to exercise oversight over the committees.

¹These principles are derived from my thirty-plus years of experience and the following sources:

Canada Business Corporations Act, R.S.C., 1985, c. C-44

Carver, John with Oliver, Caroline. *Corporate Boards That Create Value*. Jossey-Bass: San Francisco, 2002.

Hansell, Carol. *What Directors Need to Know: Corporate Governance*. Thomson Carswell: Toronto. 2003.

PRELIMINARY OPINION

This opinion is qualified, based on access only to currently publicly available information. To provide an unqualified opinion, I would require access to:

- Governance level policies
- Reports from management to the board providing reasonable proof of compliance with relevant policies related to safety and finance, and documentation of the board's assessment or acceptance of such reports
- Minutes of Board of Director's meetings
- Minutes of the Health, Safety, Environment and Community Committee meetings.

Perkoa Mine

Based on the publicly available materials related to the Perkoa Mine disaster, there was at minimum a failure to adhere to the regulatory requirements related to the authorized depth of the mine, going beyond the authorized depth since 2019. The board should have (a) had policy in place regarding its expectations related to lawful behaviour, (b) been made aware of this non-compliance through reporting from management, and (c) required appropriate remedial action. In the absence of access to board minutes, given the work beyond the authorized depth had continued for several years, I have to assume the board either was not advised, or did nothing about it. If that assumption is correct, oversight was inadequate. Adequate oversight should have required, at minimum, management to report non-compliance with the lawful authorized depth of the mine, and the board to have made a decision as to whether it was prepared to accept the risk incurred by going beyond the authorized depth, or to request authorization for further depth and/or require other remedial action.

Based on the currently available documents, going beyond this point in determining whether there was a further failure of oversight related to safety would only be speculation. Examination of the missing documents noted above would provide what is necessary for a further opinion. The Charter of the Health, Safety, Environment and Community Committee (2021) available on Trevali's website addresses the key elements I would expect in such a charter, but it is one thing to put expectations in writing, and another to actually fulfill them. Without access to the Committee minutes and/or the Committee's reports to the board, it is impossible to know whether the Committee actually *fulfilled* the expectations of the charter or whether the board was advised of relevant issues.

Off-Take Agreement with Glencore

Trevali's own public documents acknowledge that the two Directors appointed to the board by Glencore had a conflict of interest related to Glencore. Based on the Information Forms noted in the "Facts" section preceding, it appears to have been the practice for Trevali to publicly report the formation of Special Committees in these forms. There is an absence of such reporting in the case of the Off-Take Agreement with Glencore. While the formation of a Special Committee of independent directors is customary, it is not required. What *is* necessary, at minimum, is that the Directors with a conflict of



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interest should have declared it in relation to this particular decision, should not have voted on the matter, and the minutes of the Directors meeting should so indicate. If the board consulted independent external advisors related to the significant risk incurred, that should also be noted in the board minutes. Without access to these documents, I cannot definitely state whether there was either a conflict of interest or a lack of oversight.

APPENDIX A

Jannice Moore Curriculum Vitae

MAJOR ACCOMPLISHMENTS & SKILLS

Governance Consulting

- ◆ Coach to over 200 boards in introducing and implementing **Policy Governance**® (Carver) Model
- ◆ Over 30 years' experience specifically with Policy Governance®
- ◆ Facilitated numerous board retreats, committees, and planning sessions
- ◆ Author of the book, *Governing Membership Associations*, 2015
- ◆ Author of the book, *Governance for Health System Trustees*, Ottawa: CHA Press, 2004
- ◆ Regular author of articles on consulting experience in applying Policy Governance® in *Board Leadership* newsletter published by Jossey-Bass
- ◆ Author of *Policy Governance*® Toolkit Series: *Meaningful Monitoring*, *Board Self-Evaluation*, *Connect! A Guide to Ownership Linkage*, and *Future-Focused Agendas*
- ◆ Invited speaker at North American and international conferences, including International Association of Fairs and Exhibitions, 2004; International Policy Governance® Association Conference, 2004 through 2018; Govern for Impact annual conferences 2019-2021, McMaster University *World Congress on Corporate Governance*, 2004; Wilton Park Conference (UK) *Making Corporate Governance a Reality*, 2004; Queen's University (Belfast) *Governing the Corporation* Conference, 2004; International Policy Governance® Symposia, 1996 through 2005; and Conference Board of Canada Western Corporate Governance Conference., 2005.
- ◆ Qualified as an expert witness on governance at Court of Queen's Bench, Alberta 2007

Professional Development for Boards and Management

- ◆ Designed and coordinated board development programs
- ◆ Initiated innovative educational methods for professionals
- ◆ Designed and coordinated award-winning conferences and seminars

Management Consulting

- ◆ Thirteen years of consulting experience in the public sector
- ◆ Conducted organization-wide operational reviews, pre-accreditation surveys, needs assessments, functional plans

Writing and Presentation Skills

- ◆ Author of several governance books; Contributed chapters to several books
- ◆ Published journal articles, and authored numerous reports and monographs
- ◆ Excellent facilitator

CAREER HISTORY

Founder, The Governance Coach™	Calgary, Alberta	2022-
<ul style="list-style-type: none"> • Selected coaching and consultation, and mentoring associate consultants 		
President, The Governance Coach®	Calgary, Alberta	1994-2022
<ul style="list-style-type: none"> • Consultation to governing boards in health, education, municipal government, professional and membership associations, trade associations, business, credit unions and voluntary organizations regarding the implementation and use of Policy Governance® 		

SELECTED PUBLICATIONS, REPORTS, AND PRESENTATIONS

Books

- A Tale of Two School Boards: The Next Chapter*, Calgary, The Governance Coach, 2018 (co-author with Andrew Bergen)
- A Tale of Two School Boards*, Calgary, The Governance Coach, 2017 (co-author with Andrew Bergen)
- Governing Membership Associations*, Calgary, The Governance Coach, 2015.
- Policy Governance® Toolkits: Volume 4, Future-Focused Agendas*. Calgary: The Governance Coach™, 2011.
- Policy Governance® Toolkits: Volume 3, Connect! A Guide to Ownership Linkage*. Calgary: The Governance Coach™, 2008.
- Policy Governance® Toolkits: Volume 2, Board Self-Evaluation*. Edmonton: The Governance Coach™, 2006; 2nd edition, 2008.
- Policy Governance® Toolkits: Volume 1, Meaningful Monitoring*. Calgary: The Governance Coach™, 2005; 2nd edition, 2007, 3rd edition, revised 2022.
- Governance for Health System Trustees*. Ottawa: CHA Press, 2004.
- The Policy Governance Fieldbook* [contributor]. General Editor Caroline Oliver. San Francisco: Jossey-Bass, 1999.

Articles

- "Three Levers for Exemplary Governance." *Board Leadership*, No. 185, Jan.-Feb. 2023, San Francisco, Jossey-Bass.
- "Finding Freedom in Discipline." *Board Leadership*, No. 171, Sept.-Oct. 2020, San Francisco, Jossey-Bass.
- "Are You Measuring What Matters?" *Board Leadership*, No. 164, July-Aug. 2019, San Francisco, Jossey-Bass.
- "Hands-on or Heads-up? Strategic Foresight as the Heart of the Board's Work." *Board Leadership*, No. 159, Sept.-Oct. 2018, San Francisco, Jossey-Bass.
- "For Your Bookshelf . . . Review of The Handbook of Board Governance." *Board Leadership*, No. 148, Nov.-Dec. 2016, San Francisco, Jossey-Bass.
- "For Your Bookshelf . . . Review of *Owning Up: The 14 Questions Every Board Member Needs to Ask*." *Board Leadership*, No. 138, Mar.-Apr. 2015, San Francisco, Jossey-Bass.
- "What Color is Your Board Agenda? Using Your Agenda as a Future-Focusing Tool." *Board Leadership*, No. 111, Sept.-Oct. 2010, San Francisco, Jossey-Bass.
- "Board Recruitment: By Design or By Default?" *Board Leadership*, No. 108, Mar.-Apr. 2010. San Francisco, Jossey-Bass.
- "Untangling Strategic Planning and Ends: Challenging Conventional Wisdom." *Board Leadership*, No. 106, Nov.-Dec. 2009. San Francisco, Jossey-Bass.
- "How to Eat an Elephant: Linking with Owners." *Board Leadership*, No. 101, Jan.-Feb. 2009. San Francisco, Jossey-Bass.
- "What Makes a Good Board Great?" *Board Leadership*, No. 99, Sept.-Oct. 2008. San Francisco, Jossey-Bass.
- "Policy Governance® as an Enabler of Wisdom: From Data to Wisdom." *Board Leadership*, No. 91, May-June 2007. San Francisco, Jossey-Bass.
- "Using Policy Governance® to Manage Risk Effectively." *Board Leadership*, No. 89, Jan.-Feb., 2007. San Francisco, Jossey-Bass.
- "Enriching the Dimensions of Board Decision-Making." *Board Leadership*, No. 85, May-June 2006. San Francisco: Jossey-Bass.
- "On Scurvy, Elephants, and Governance Vitamins." *Fairs and Expos*, Oct. 2004, International Association of Fairs and Expositions.

Articles (continued)

- "Board Self-Evaluation." *Fairs and Expos*, July 2004, International Association of Fairs and Expositions.
- "Rethinking Governance: An Operating System for Boards." *Board Room*, Volume 12, No. 3, May/June 2004, Accountability Research Corporation.
- "On Scurvy, Elephants, and Governance Vitamins." *Board Leadership*, No. 82, March-April 2004. San Francisco: Jossey-Bass.
- "Value Investing: A Governance Information System." *Board Leadership*, No. 62, July-August 2002, Jossey-Bass.
- "Value Investing: A Governance Action Plan." *Board Leadership*, No. 61, May-June 2002, Jossey-Bass.
- "Policy Governance as a Value Investment: Succession Planning." *Board Leadership*, No. 60, March-April 2002, Jossey-Bass.
- "Meaningful Monitoring: The Board's View." *Board Leadership*, No. 54, Mar.-Apr., 2001, Jossey-Bass.
- "Meaningful Monitoring." *Board Leadership*, No. 53, Jan.-Feb. 2001, Jossey-Bass.
- "Linking With Owners: The Dos and Don'ts." *Board Leadership*, No. 46, Nov.-Dec. 1999, Jossey-Bass.

Other Learning Materials and Practical Tools

- Board Orientation Manual*. The Governance Coach™: 2016
- Quick-Start Guide to Assessing Monitoring Reports*. The Governance Coach™: 2016
- PINGO™*. A quick game to reinforce Policy Governance principles. The Governance Coach™: 2015
- The Best-Fit Board Builder™*. Interview questions for assessing board candidates. The Governance Coach™: 2010.
- The Best-Fit Board Member Matrix™*. A board recruitment tool. The Governance Coach™: 2010.
- REALBoard Online Learning™*. Interactive web-based modules on Policy Governance® basics. The Governance Coach™: 2008.
- PGIQ™*. An interactive game to enhance Policy Governance® learning. The Governance Coach™: 2007.

Presentations

- Individual presentations to several hundred governing boards throughout North America*, 1994- present
- Sustaining Policy Governance at Your Organization in Turbulent Times and for the Long Haul*. Govern for Impact Advanced Practice Forum, 2022
- Interpreting Impact: How is Success Measured?* Govern for Impact Virtual Conference, June 2021.
- Deep Dive into the Board/CEO Relationship*. Govern for Impact Advanced Webinar, Dec. 2020.
- Sustaining Policy Governance Integrity*. Govern for Impact Virtual Forum, 2019.
- Sustaining Policy Governance: Does Turnover Have to Mean Turmoil?* International Policy Governance® Association Conference, Savannah, GA. June 2018.
- Monitoring and Evaluation: The Board Perspective*. International Policy Governance® Association Conference, San Diego, CA. June 2017.
- The Nuts and Bolts of Monitoring*. International Policy Governance® Association Conference, Toronto, ON. June 2016.
- Forging the Ownership Connection: Defining and Engaging with Owners*. [With Kathleen Wootton and Joane Routhier.] International Policy Governance® Association Conference, Toronto, ON. June 2016.
- Change the Conversation, Change the Future: Ownership Linkage Matters*. [With Dee Inconorato.] International Policy Governance® Association Conference, Vancouver, BC. June 2015.

Presentations (continued)

- Connecting with Owners to Create Powerful Ends.* International Policy Governance® Association Conference, Minneapolis, MN, June 2014.
- Governance Succession: By Design or By Default?* International Policy Governance® Association Conference, Minneapolis, MN, June 2014.
- Introduction to Policy Governance.* [With Richard Stringham.] International Policy Governance® Association Conference, Minneapolis, MN, June 2014.
- Speaking “Owner-ese” – Practical Approaches to Connecting with Owners.* International Policy Governance® Association Conference, Toronto, ON, June 2013.
- Applying Policy Governance in Faith-Based Organizations as a Platform to Enable Mission.* International Policy Governance® Association Conference, Toronto, ON, June 2013.
- Applying Policy Governance® in Higher Education Organizations.* [With Vince Vravek] International Policy Governance® Association Conference, Toronto, ON, June 2013.
- Creating the Future Through Perpetual Agenda Planning.* [With Kathleen Wooten.] International Policy Governance® Association Conference, Detroit, MI, June 2012.
- Sustainable Use of Policy Governance for Governance Success.* [With Brenda Walker.] International Policy Governance® Association Conference, Detroit, MI, June 2012.
- Introduction to Policy Governance.* [With Richard Stringham and Rose Mercier.] International Policy Governance® Association Conference, Detroit, MI, June 2012.
- Assessing Monitoring Reports.* International Policy Governance® Association Conference, Calgary, Alberta, June 2011.
- Crafting Board Culture Towards Seamless Transition.* [With Kandice Hennenfent.] International Policy Governance® Association Conference, Calgary, Alberta, June 2011.
- AIA and Policy Governance: Unleashing Creative Energy.* [With David Lloyd.] International Policy Governance® Association Conference, Calgary, Alberta, June 2011.
- Monitoring: Practical Approaches to Accountable Freedom.* International Policy Governance® Association Conference, Las Vegas, Nevada, July 2010
- Future-Focused Agendas: Maximizing the Potential of Your Board’s Time.* International Policy Governance® Association Conference, Las Vegas, Nevada, July 2010
- The Power of Monitoring.* International Policy Governance® Association Conference, Montreal, Quebec, July 2009.
- Connect with Owners to Create Powerful Ends®.* International Policy Governance® Association Conference, Montreal, Quebec, July 2009.
- Putting the Pants on Policy Governance®.* International Policy Governance® Association Conference, Vail, CO, May 2008.
- Policy Governance® Fundamentals, [With Richard Stringham.] International Policy Governance® Association Pre-conference Workshop, Alexandria, Virginia, June 2007.*
- Sustainability Habits for Policy Governance®.* International Policy Governance® Association Conference, Alexandria, Virginia, June 2007.
- The PGIQ Quiz Show.* International Policy Governance® Association Conference, Alexandria, Virginia, June 2007.
- The Board as an Effective “Community Connector.”* Leadership Conference. The Governance Institute. Naples, Florida, January 2007.
- Building and Enhancing Board Leadership.* Principal Lecturer for Federated Press Healthcare Governance Course. Calgary, Alberta, November 2006.

Presentations (continued)

- Designing Future-Focused Agendas.* International Policy Governance® Association Conference, San Antonio, Texas, June 2006.
- How to Eat an Elephant- Ownership Linkage.* International Policy Governance® Association' Conference, San Antonio, Texas, June 2006.
- Meaningful Monitoring.* International Policy Governance® Association Conference, San Antonio, Texas, June 2006.
- Future-Focused Board Meetings.* 7th International Carver Policy Governance Symposium, Toronto, Ontario, Dec. 2005.
- Using Policy Governance to Shape Risk Culture.* International Policy Governance® Association Conference, Scottsdale, Arizona, June 2005.
- How to Eat an Elephant- Ownership Linkage.* International Policy Governance® Association Conference, Scottsdale, Arizona, June 2005.
- Using the Policy Governance® Model to Shape a Company's Risk Culture.* Conference Board of Canada Western Corporate Governance Conference. Calgary, Alberta, April 2005.
- Adding Value as a Board.* International Association of Fairs and Exhibitions Convention. Las Vegas, NV, Nov. 2004
- A Governance "Operating System" for a Culture of Accountability.* Governing the Corporation Conference, Queen's University, Belfast, Northern Ireland, Sept. 2004.
- Meaningful Monitoring.* International Policy Governance® Association s Conference, Chicago, Illinois, June 2004.
- Servant-Leadership Applied in the Policy Governance Model.* International Policy Governance® Association Conference, Chicago, Illinois, June 2004.
- A Model Process for Accountable Corporate Governance.* Making Corporate Governance A Reality: 746th Wilton Park Conference, Wilton Park, UK, May 2004.
- Maximizing the Effectiveness of the Board-CEO Team.* International Association of Fairs and Exhibitions Management Conference, Calgary, Alberta, May 2004.
- Developing a Culture of Governance Accountability.* First World Congress on Corporate Governance. McMaster University, Hamilton, Ontario, January 2004.
- Ends - We've Got Them – Now What Do We Do With Them?* Sixth International Policy Governance® Symposium, Toronto, Ontario, Oct. 2003
- Governance for Leadership.* American Camping Association Annual Conference. Indianapolis, IN. Feb 2002.
- Maximizing Your Board's Effectiveness.* Saskatchewan School Trustees Association Convention. Saskatoon, Saskatchewan, November 2001.
- Policy Governance® as a Value Investment.* Fifth International Policy Governance® Symposium, Toronto, Ontario, June 2001.
- Becoming a High Performance Commission Member.* Western Canada Real Estate Regulatory Agencies Conference, Banff, Alberta, May, 2001.
- Adding Value as a Board:* SaskCulture Inc. 2000 Conference. Saskatoon, Saskatchewan, October 2000.
- Monitoring: Two Perspectives.* Fourth International Policy Governance® Symposium, Toronto, Ontario, June 2000.
- Pitfalls, Challenges and the Glimmer of Success in Linking with "Public" Owners.* Third International Policy Governance Symposium, Toronto, Ontario, May 1999.
- Structuring Boards to Make a Difference and A Fresh Look at Governance.* Manitoba Association of School Trustees Trustee Forum, Winnipeg, Manitoba, Dec. 1998.
- Board Development and Governance.* Tourism Saskatchewan Annual Meeting and Conference, Regina, Saskatchewan, Dec. 1998

Presentations (continued)

- How to Eat an Elephant (Policy Governance® in the Health Sector).* Second International Policy Governance® Symposium, Toronto, Ontario, May 1998.
- Adding Value as a Board.* Manitoba Health Organizations Annual Convention, Winnipeg, Manitoba, February 1997.
- Learning & Working Together.* Canadian College of Health Service Executives CEO-Board Leadership Conference, Toronto, Ontario, September 1996.
- Boards That Get Results.* Saskatchewan Association of Health Organizations Trustee Institute, Saskatoon, Saskatchewan., January 1996.
- Learning, Working Together.* Canadian College of Health Service Executives CEO-Board Leadership Conference, Edmonton, Alberta, November 1995.
- The AHA's Role in Regionalization.* Alberta Pharmacy Managers Conference, Banff, Alberta, October 1994.
- Alternative Governance Structures for AHA.* AHA Southern, Northeastern and Central Regional Conferences, 1994.
- Governing Board Self-Evaluation.* AHA Southern Regional Conference, Lethbridge, Alberta, 1990.
- Medical Records in a Multi-Disciplinary Rehabilitation Setting and Provincial Home Care Records for Nurses.* 8th International Congress on Health Records, The Hague, Netherlands, April 1980.
- Analysis of Need: A Methodology.* 11th Annual Conference of Hospital Management Systems Society, Orlando, Florida, February 1980.
- Medical Records and Patient Scheduling in Rehabilitation.* 11th Annual Conference of Society for Advanced Medical Systems, Denver, Colorado, October 1979.
- Invitational paper: *Planning for Community Health Nursing in Alberta: The First Step.* Pan American Health Organization Health Planning Methods Workshop, New Orleans, Louisiana, April 1978.

SELECTED CONTINUING EDUCATION

Govern for Impact Annual Conference (2019-2023)	
International Policy Governance® Association annual Conference (annually 2004 - 2018)	Various
International Policy Governance® Symposium (1996, 1998 - 2001, 2003, 2005 - 2008)	Atlanta
Policy Governance® Consultants' Forum. International Policy Governance® Association (annually 2014 - 2019)	Orlando
Intensive private seminar on Strategic Foresight with Ruben Nelson. Foresight Canada (2014)	Orlando
Intensive private seminar with Miriam Carver. Carver Consulting (2013)	Atlanta
Policy Governance® Academy SM (Observer for IPGA) (2006)	Atlanta
Western Corporate Governance Conference. Conference Board of Canada (2006)	Calgary
Western Corporate Governance Conference. Conference Board of Canada (2005)	Calgary
Western Governance Forum. Conference Board of Canada (2004)	Calgary
<i>Intention at the Top: Corporate Governance Conference</i> , Conference Board of Canada (2003)	Calgary
Policy Governance Advanced Seminar for Academy Graduates (2002)	Atlanta
Strategic Coach (2001 to present, quarterly)	Toronto
Management Implications of Policy Governance, Dr. John Carver (1999)	Atlanta
Greenleaf Center for Servant Leadership Conference (1998)	Indianapolis
Leading Groups - Compression Planning (McNellis Company, 1996)	Ohio
Policy Governance Academy® - Dr. John Carver (1995) Atlanta	
International Seminar in Jurisprudence and Human Rights (Luten College, 1994)	Strasbourg
Planning Forum Annual Conference (The Planning Forum, 1993)	Chicago



EXPERT COACHING. PRACTICAL RESOURCES.

World Futures Society Conference (World Futures Society, 1993)	Washington
Creative Planning Process Facilitation (Jim Pryor, 1993)	Alberta
AHA Institute on Administration (Alberta Healthcare Association, 1978-1993)	Alberta
AHA Institute on Governance (Alberta Healthcare Association, 1984-1993)	Alberta
Cultivating Company Culture Through Original Thinking (Michael Vance and Associates 1992)	
Creative Training Techniques (Michael Vance and Associates, 1991)	Las Vegas
Think on Your Feet (McLuhan and Davies Communication Inc., 1988)	Toronto
Power and Systems Lab (Barry Oshrey and Associates, 1985)	Boston
Senior Project Management (American Management Association, 1982)	Edmonton

SELECTED AWARDS

International Policy Governance® Association Distinguished Service Award (2014)	IPGA
Foster G. McGaw Scholarship in Health Services Administration (1977)	University of Alberta
Health Services Administration Award for exceptional achievement (1976)	University of Alberta
National Health Student Fellowship Award (1975-1976)	Government of Canada
Kathleen Ellis Prize for most distinguished nursing graduate (1970)	University of Saskatchewan

PROFESSIONAL ACTIVITIES

Chair, Wycliffe Canada Board (2011 - 2017)
Vice-Chair, Wycliffe Canada Board (2009 – 2011; 2017)
Member, Wycliffe Canada Board (2007- 2008)
Chair, International Policy Governance® Association (2004 -2008)
Member, Founding Board, International Policy Governance Association, (2000 - 2004)
Chair, Founding Board, Greenleaf Canada Institute (2002 - 2008)
Reviewer for competencies, Canadian College of Health Service Executives, (1993)
President, Allied Association Educators, affiliated with American Hospital Association (1990)

PROFESSIONAL MEMBERSHIPS

Govern for Impact (formerly International Policy Governance® Association) (2000 -)
Certified Health Executive, Canadian College of Health Service Executives (1982 -)
Robert K. Greenleaf Center for Servant Leadership (1993-)
World Futures Society (1993 -)
Strategic Leadership Forum (1992 -1997)
Creative Thinking Association of America (1991-1993)
American Society of Association Executives (1987 -1994)

COMMUNITY ACTIVITIES

Chair, Canadian Anglican Cursillo Secretariat (1997 -2000)
Lay Director, Anglican Diocese of Edmonton, Cursillo Movement (1991-1994)
Church Organist/Pianist (1980 -)



Sage Nematollahi
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Toronto, ON M6C 2E3
416 537 3529, ext. 2
sn@knd.law

CONFIDENTIAL

April 7, 2023

DELIVERED BY EMAIL

Jannice Moore
Founder, The Governance Coach
Calgary, Alberta
jannice@governancecoach.com

Dear Ms. Moore:

Re: In the Matter of the CCAA and a Plan of Compromise or Arrangement concerning Trevali Mining Corporation et al, Supreme Court of British Columbia, Vancouver Registry No. S-226670

And in the Matter of the Proposed Class Proceeding Styled *Demmer et al v Trevali Mining Corporation et al*, Supreme Court of British Columbia, Vancouver Registry No. S-228113

KND Complex Litigation (hereinafter, “**Class Counsel**” or “**we**”) is counsel to a class of investors who acquired the securities of Trevali Mining Corporation (“**Trevali**”) between October 9, 2020 and August 15, 2022.

We have enclosed a copy of the Notice of Civil Claim dated October 7, 2022 issued in the matter of *Demmer et al v Trevali Mining Corporation et al*, at **Exhibit 1**. The Notice of Civil Claim outlines the claims asserted against Trevali and certain of its former or current directors and/or senior officers, namely Ricus Grimbeek, Brendan Creaney, Jill Gardiner, Russell Ball, Aline Cote, Nick Popovic, Jeane Hull, Dan Isserow and Richard Williams (collectively, the “**D&Os**”).

1. Mandate

We hereby retain you as an independent expert to provide opinion evidence on matters relevant to this action that are within your area of expertise, in response to the specific questions outlined below.

2. No Conflicts of Interests

You have confirmed to us that you have no conflicts of interests against any of the Defendants that would prevent you from acting in relation to this matter.

3. Your Duties as an Expert

In carrying out this engagement, please have regard to your obligations as expert under Supreme Court Civil Rule 11-2, which provides as follows:

Rule 11-2 — Duty of Expert Witnesses

Duty of expert witness

(1) In giving an opinion to the court, an expert appointed under this Part by one or more parties or by the court has a duty to assist the court and is not to be an advocate for any party.

Advice and certification

(2) If an expert is appointed under this Part by one or more parties or by the court, the expert must, in any report he or she prepares under this Part, certify that he or she

- (a) is aware of the duty referred to in subrule (1),
- (b) has made the report in conformity with that duty, and
- (c) will, if called on to give oral or written testimony, give that testimony in conformity with that duty.

4. Fees and Expenses

Class Counsel will pay for your expert services on an hourly basis at your customary rate for matters of this nature, and will reimburse you for reasonable out-of-pocket expenses incurred in connection with this engagement. Please direct your invoices to my attention.

5. Confidentiality and Privilege

All of your files in connection with this matter are subject to litigation privilege, and they must be kept confidential, subject to our instructions on behalf of the plaintiff.

6. Instructions

A. Background

Trevali was formerly a publicly-traded Canadian mining company based in Vancouver, B.C., whose securities traded on the Toronto Stock Exchange and certain overseas exchanges.

At the relevant time, Trevali's operations focused on production of zinc from three mines: (a) Perkoa Mine, which is located in Burkina Faso; (b) Rosh Pinah Mine, which is located in Namibia; and (c) Caribou Mine, which is located in New Brunswick.

In April 2022, Trevali's Perkoa Mine experienced a major flooding event, which resulted in damages to the mine and loss of human lives. Following that tragic incident, production was suspended, and the company incurred significant damages and losses as a result of loss of revenue, as well as costs of dealing with the consequences of the flood, including a trial where the company's mine manager was found guilty of involuntary manslaughter. At the trial, witnesses testified that the deep areas of the mine had not been properly developed; 8 mine workers were trapped in those areas, and lost their lives (*see Exhibit 2¹ & Exhibit 3²*). In the aftermath of the flood, Trevali announced that it was taking steps to improve the structural safety and protection of the mine, and that it would carry out a review of the safety and security measures at its other mines (*see Exhibit 4 & Exhibit 5*, at page 4 of PDF).

As Trevali suspended operations of Perkoa, its financial position substantially deteriorated due to what it describes as "operational and financial challenges facing Caribou [Mine]." (*See* Affidavit of Trevali's Chief Financial Officer, Brendan Creaney, dated August 19, 2022, at paragraphs 14-26, **Exhibit 6**). As alluded to in the Affidavit of Mr. Creaney, we believe based on the information currently available that the operational and financial challenges facing the Caribou Mine were due to the "off-take" agreements between Trevali and Glencore, a major shareholder and a lender to the company, who had two nominee directors on the board of Trevali (Aline Cote and Nick Popovic; *see* Trevali's Annual Information Form for year ended 2020, **Exhibit 7** at pages

¹ The original version of this article is in French, and it can be found at: <https://metafrigue.net/proces-de-lalfaire-de-perkoa-le-dg-de-la-mine-plaide-non-coupable/>

² The original version of this article is in French, and it can be found at: <https://lefaso.net/spip.php?article115635>

68 under the heading “The Company’s directors and officers may have interests that conflict with the Company’s interests” and 78 under the heading “Conflict of Interests”). Pursuant to the off-take agreement, which was made in January 2021, 80% of Caribou’s zinc production had been pledged to Glencore at a price of US\$1.25 per pound, which has been below the market price or value of zinc and Trevali’s production costs at all material times since the agreement was made.

Our client shareholders of Trevali allege that the D&Os failed to exercise care and oversight over mission-critical aspects of Trevali’s business and compliance affairs. Specifically, it is alleged that the disastrous consequences of the flood at Perkoa were due to the board’s failure to ensure compliance with health and safety requirements. And that once the operations at Perkoa were suspended, Trevali’s financial position quickly and substantially deteriorated as its other major asset Caribou operated at a loss. These circumstances resulted in the financial collapse of Trevali in 2022.

In August 2022, Trevali filed for protection from its creditors under the *CCAA*. A Court-supervised sale of assets process has been undertaken, during which only the Rosh Pinah Mine has been sold. Perkoa Mine was written off from Trevali’s books, and it has been liquidated by local authorities. Caribou Mine has been put in receivership in collaboration with the Government of New Brunswick in order to manage the environmental risks posed by the mine, as we understand.

B. Assumptions

In carrying out this assignment, we would ask that you assume as true the following factual allegations:

- 1) The Perkoa Mine had not been properly developed, it did not have a proper protection berm to keep water away, and it did not have proper structural development in the deep area to allow for the mine workers to safely escape the flood.³
- 2) In entering into the off-take agreement with Glencore, Trevali failed to establish a special committee, failed to retain independent counsel and/or failed to retain independent financial advisor. This assumption is based on our review of Trevali’s

³ This assumption is based on information currently available based on reports of testimonies given at the trial in Burkina Faso, as well as Trevali’s own press release from August 2022, reporting on the steps it was taking to review its safety and securities measures and practices.

disclosure filings with Canadian securities regulators, which do not contain any reference to a special committee with respect to the off-take agreements.⁴

C. Question

Based on the above assumptions, please provide a preliminary written opinion as to whether it appears from the information available at this time that the D&Os failed to exercise appropriate care and oversight over mission critical aspects of Trevali's business, risk management and compliance affairs.

D. Limitations

We have advised you that we have not had the opportunity to conduct discovery in this matter, therefore your opinion is intrinsically preliminary and based solely on the information available at this time. We understand that you reserve the right to revisit these issues as more information may become available in the course of discovery or otherwise.

7. Structure of Your Written Opinion

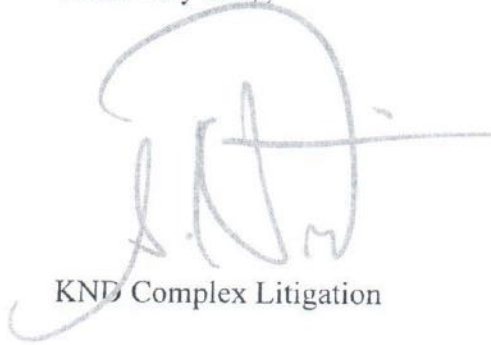
We would suggest that your written opinion should include: (a) a brief discussion of your qualifications and background; (b) a summary of the facts or assumptions you have relied upon; and (c) your opinion in responding to the question outlined above. Please attach as appendices to the report: (a) a copy of your current *curriculum vitae*; and (b) a copy of this instruction letter.

[the balance of this page has been intentionally left blank]

⁴ We would expect public companies to disclose if a special committee is established to deal with a transaction that is subject to conflicts of interests, and Trevali's records indeed show that the formation of special committees have been disclosed. For instance, in 2021, Trevali established a special committee in relation to financing transactions with respect to a contemplated expansion of the Rosh Pinah project; see **Exhibit 8** at page 30. Similarly, in April 2020, Trevali formed a special committee to oversee a financing transaction carried out in connection with a strategic review, and that the special committee's mandate completed in summer of 2020; see **Exhibit 9** at page 67. We accordingly would have expected that Trevali disclose if its board established a special committee with respect to, and to examine, the off-take agreements. The record indicates that it did not.

If these terms are satisfactory, kindly execute where indicated below and return a copy of this engagement letter at your convenience.

Yours very truly,



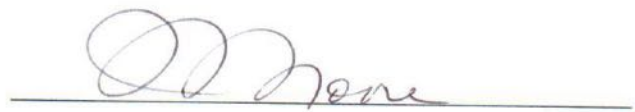
KND Complex Litigation

per:

Sage Nematollahi

Agreed to and accepted by Jannice Moore:

Date: April 10, 2023



Jannice Moore

Enclosures.

cc. Eli Karp & Taek Soo Shin (KND Complex Litigation)

TAB E(3)



This is the 1st affidavit of Brendan Creaney in this case and was made on August 19, 2022

No. **S-226670**
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, C. C-36, AS AMENDED

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, C. 57, AS AMENDED AND THE *BUSINESS
CORPORATIONS ACT*, S.N.B. 1981, C. B-9.1, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF TREVALI MINING
CORPORATION AND TREVALI MINING (NEW BRUNSWICK) LTD.

PETITIONERS

AFFIDAVIT

I, Brendan Creaney, of 1900 – 999 West Hastings Street, Vancouver, British Columbia, AFFIRM THAT:

I. INTRODUCTION

1. I am the Chief Financial Officer of Trevali Mining Corporation ("**Trevali Corp.**"), a petitioner in this proceeding and the one hundred (100) percent owner of the other petitioner in this proceeding, Trevali Mining (New Brunswick) Ltd. ("**Trevali NB**"). As such, I have personal knowledge of the matters deposed to in this affidavit except where I depose to a matter based on information from an informant I identify, in which case I believe that both the information from the informant and the resulting statement are true.

2. This affidavit is made in support of an application by Trevali Corp. and Trevali NB (collectively, the “**Applicants**”) for an initial order under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c C-36 (the “**CCAA**”) substantially in the form attached as Schedule “A” to the petition to be filed with this Court concurrently with my affidavit.

3. In addition to its one hundred (100) percent ownership interest in Trevali NB, Trevali Corp. is the ultimate “parent” company of several other corporate entities incorporated in Canada, the United Kingdom, Namibia, Burkina Faso, and Bermuda. In this affidavit I will refer to Trevali Corp. together with its direct and indirect subsidiaries, including Trevali NB, as “**Trevali**”, consistent with the company’s financial reporting practices. An organizational chart of the Trevali group of companies is provided at paragraph 32 of my affidavit.

4. As a public company, and a reporting issuer in all the provinces and territories of Canada, with shares listed on the Toronto Stock Exchange (symbol “TV”) in addition to the OTCQX in the United States (symbol “TREV”), the Lima Stock Exchange (symbol “TV”), and the Frankfurt Stock Exchange (symbol “4TI”), Trevali Corp. posts detailed financial and other information on its business operations on the System for Electronic Document Analysis and Retrieval (“**SEDAR**”) at www.sedar.com.

5. A copy of Trevali Corp.’s most recent Management Discussion and Analysis, for the three months and six months ended June 30, 2022, as filed on SEDAR, is attached as **Exhibit “A”** to my affidavit.

6. A copy of Trevali Corp.’s Annual Information Form, for the year ended December 31, 2021, as filed on SEDAR, is attached as **Exhibit “B”** to my affidavit.

7. All references to monetary amounts in this affidavit are in United States dollars, Trevali’s functional currency, unless otherwise stated.

II. OVERVIEW

8. Trevali is a global public base-metals mining company focused on the exploration, development, operation, and optimization of mining properties in Canada, Burkina Faso, and Namibia. The company’s principal product is zinc, which generates approximately 90% of Trevali’s revenue, but the company’s operations also produce lead and silver.

9. The bulk of Trevali’s revenue is generated from three mines:

Mining Property	Location	Trevali Ownership Interest
“Perkoa Mine”	Burkina Faso, West Africa	90%
“Rosh Pinah Mine”	Namibia, South Africa	90%
“Caribou Mine”	New Brunswick, Canada	100%

10. Each of the Perkoa and Rosh Pinah Mines are producing mines with long histories of operation and have historically been profitable. The Caribou Mine also has a long history of operation, though production has recently been suspended considering the current economic situation facing the mine, as discussed below. Revenues from concentrate sales at the Perkoa, Rosh Pinah, and Caribou Mines (as well as the previously owned Santander Mine in Peru, which was disposed of in December 2021) (after smelting and refining costs) for the year ended December 31, 2021 totalled \$343.6 million.

11. Trevali derives its revenues from the Perkoa, Rosh Pinah, and Caribou Mines from a single customer, Glencore International AG (“**Glencore AG**”), who either directly or through affiliated entities (collectively with Glencore AG, “**Glencore**”) is the sole and exclusive purchaser of one hundred (100) percent of the concentrates produced from Trevali’s current operations pursuant to “offtake” agreements. Pursuant to an Investor Rights and Governance Agreement (the “**Investor Rights Agreement**”) between Trevali and Glencore AG, Glencore also has a right of first refusal for future concentrate sales produced from any additional properties or assets that Trevali may acquire in the future.

12. In addition to its rights to purchase production from Trevali’s mining operations, Glencore, as discussed further below, (a) has a twenty-six (26) percent equity interest in Trevali Corp., making Glencore the largest single shareholder of Trevali Corp., (b) holds the right to appoint two (2) directors to Trevali Corp.’s board of directors, and to nominate an additional two (2) directors to the board, who must be independent of Trevali Corp. under applicable securities law, and (c) is owed approximately \$13.0 million by Trevali Corp. as of August 18, 2022 in connection with a junior secured lending facility defined below as the “**Glencore Facility**” (which debt is guaranteed by Trevali NB, among other members of the Trevali group). Trevali Corp.’s indebtedness under the Glencore Facility is secured by second-ranking charges established

pursuant to general security agreements with respect to all the personal property of each of Trevali Corp. and Trevali NB as well as a second-ranking real property debenture and mortgage granted by Trevali NB, among other security throughout the Trevali organizational structure (as described below).

13. In addition to revenues from its offtake agreements, equity raises, and lending arrangements with Glencore, Trevali has historically financed its operations through draws under a secured revolving credit facility defined below as the “**RC Facility**”. As of August 18, 2022 Trevali’s indebtedness under the RC Facility is approximately \$84.5 million. The RC Facility matures on September 18, 2022, with a mandatory prepayment of approximately \$7.5 million that was due on August 17, 2022 but has not been paid. Trevali Corp.’s indebtedness under the RC Facility is secured by first-ranking charges established pursuant to general security agreements with respect to all the personal property of each of Trevali Corp. and Trevali NB as well as a first-ranking real property debenture and mortgage granted by Trevali NB, among other security throughout the Trevali organizational structure (as described below).

14. Although the performance of the Rosh Pinah Mine continues to be consistent, Trevali has seen a drastic and disruptive deterioration of its financial situation in 2022 primarily because of a tragic flooding event at its Perkoa Mine in Burkina Faso and material challenges at the Caribou Mine.

15. Intense and unseasonal rainfall on April 16, 2022, near Trevali’s Perkoa Mine, created a flash flood that entered the mine site and breached the mine’s safety controls, flooding the underground mine and preventing eight (8) workers from evacuating the mine. The resulting impacts on Trevali’s workforce and the mine were catastrophic. Most tragically, the bodies of all eight (8) workers who were trapped in the mine were recovered in May and June after extensive search and recovery efforts.

16. Apart from the tragic loss of human life, which is irreparable, and significant physical impacts at the Perkoa Mine site, requiring the removal of more than 165 million litres of water and more than 9,000 cubic metres of solids from the mine, the Perkoa Mine flood has had a significantly negative impact on Trevali’s financial health in the second quarter of 2022, including:

- (a) the need to incur more than \$15 million of direct and indirect costs between April 16 and June 30, 2022, related to dewatering efforts, infrastructure refurbishment,

and construction linked to repairs and rehabilitation at the Perkoa Mine. Estimated additional costs of more than \$10 million related to the flooding event have been incurred after June 30, 2022, and continue to be incurred;

- (b) the cessation of all operations at the Perkoa Mine for more than four (4) months starting on April 16, 2022 and a corresponding second quarter decrease in payable zinc production from the Perkoa Mine of over eighty (80) percent compared to the prior quarter;
- (c) a forty-four (44) percent decrease in Trevali's revenues at the Perkoa Mine compared to the prior quarter; and
- (d) a seventy-eight (78) percent decrease in Trevali's earnings before interest, taxes, depreciation, and amortization (EBITDA) attributable to the Perkoa Mine compared to the prior quarter.

17. As of the date of my affidavit, site operations and operating cost and production guidance at the Perkoa Mine remain suspended because of the April 2022 flood event.

18. The financial and operating stress that the flood at the Perkoa Mine has placed on Trevali has also indirectly limited the company's ability to address recent operational and financial challenges facing the Caribou Mine, which has historically depended on intercompany funding from Trevali Corp. to sustain its operations.

19. In addition to challenges caused by global inflationary impacts facing the mining industry, the production performance at the Caribou Mine has been significantly and negatively impacted following continued operational issues due to low equipment availability and productivity rates with the mining contractor, among other factors, resulting in lower production results and higher costs.

20. Adjusted EBITDA for Trevali NB (the direct owner of the Caribou Mine) in the second quarter of 2022 decreased by one hundred and eighteen (118) percent compared to the prior quarter due to an increase in mine operating costs related to higher mining and maintenance, consultant costs, and the inflationary impact on fuel, power, and other logistics costs. For reference, the cost to produce one pound of payable zinc concentrate at the Caribou Mine plus the capital sustaining costs to maintain the mine and mill was \$1.01 in the second quarter of 2021, and by the second quarter of 2022 had increased to \$2.20.

21. The Caribou Mine, which as noted above has historically depended on funding from Trevali Corp. to address its operational needs, is presently operating at a loss given its obligations to deliver zinc concentrate produced from the Caribou Mine at the fixed price of \$1.25 per pound.

22. Given its present operational status, and absent financial support from Trevali Corp., which the company is not in a situation to provide in its present circumstances absent relief under the CCAA, Trevali NB presently has no means of meeting its liabilities at the Caribou Mine generally as they become due, including the approximately \$15 million in accounts payable plus accruals currently owing to Redpath Canada Limited ("**Redpath**"), the mining contractor at the Caribou Mine, and other creditors and critical service providers.

23. On August 8, 2022, Redpath issued a notice of default under its mine operation contract with Trevali NB in which it advised that if overdue invoices issued by Redpath totalling approximately CDN \$3.5 million were not settled on or before August 17, 2022, Redpath reserved its right to draw on letters of credit in the amount of \$2.5 million that were issued under the RC Facility and provided as security for Trevali NB's obligations, terminate the contract pursuant to which it is responsible for the operation of the Caribou Mine, and take other steps that may be available to it under applicable law. As discussed below, the amounts claimed by Redpath have not been paid.

24. Trevali NB has also received indications from a number of critical suppliers (e.g., tire, reagent, explosives, etc. suppliers) regarding their reluctance to continue to supply under these circumstances without some reduction in outstanding accounts. As a result of this and the other factors noted above, Trevali NB's full-year production and cost guidance for the Caribou Mine has been suspended. Effective August 15, 2022, in light of a payment dispute with Redpath and an inability to safely operate the underground workings of the mine due to a shortage of necessary supplies, Trevali NB suspended production work at the Caribou Mine and the mine is currently under review, which may include a return to a care and maintenance program.

25. Due to the circumstances described above, while the company's operations at the Rosh Pinah Mine have remained consistent, Trevali is facing significant financial and liquidity challenges attributable primarily to the suspension of operations at the Perkoa Mine and the Caribou Mine's operational underperformance. Trevali's 2022 second quarter revenues have decreased forty-four (44) percent over the prior quarter. Trevali's net loss of income for the second

quarter of 2022 was approximately \$62 million compared to a positive net income in the corresponding period of 2021. Trevali's market capitalization has reduced by more than seventy-five (75) percent from approximately CDN \$187 million on April 14, 2022 (immediately prior to the Perkoa Mine flood) to CDN \$20.4 million as of August 18, 2022.

26. Given their present financial circumstances, as described above, the Applicants have not been able to make the mandatory prepayment of approximately \$7.5 million that was due under the RC Facility on August 17, 2022 and are currently not able to (i) meet their financial obligations to Redpath and the other creditors of Trevali NB, or (ii) meet their obligations to pay out the RC Facility and/or the Glencore Facility when they mature in September 2022.

27. There is a risk and indeed likelihood that if the RCF Lenders and/or Redpath, or other creditors of the Applicants, including but not limited to Glencore, take steps to enforce their rights as a result of the Applicants' insolvency, then Trevali's other stakeholders in Canada and other jurisdictions will lose confidence in Trevali's ability to continue as a going concern and take steps that would be highly prejudicial to Trevali's ability to continue its operations. Trevali accordingly requires urgent protection under the CCAA to maintain the status quo as Trevali considers restructuring options for the benefit of its stakeholders.

28. Notwithstanding the Applicants' present challenges, Trevali's management believes that the company has a viable business whose value can be stabilized and maximized with the benefit of the protections afforded by the CCAA.

29. In particular, while the damage and disruption attributable to the recent tragedy at the Perkoa Mine has been devastating, Trevali has in recent months made significant progress towards stabilizing operations at the Perkoa Mine. The Perkoa Mine is now dewatered to the lowest mine level, all damaged equipment has been recovered, and all areas of the mine are fully accessible. A significant amount of mine rehabilitation work is already complete, including re-establishing the electrical and communication systems, ventilation, egress and entrapment infrastructure, backfilling of voids, inspecting the adequacy of ground support after the flooding event and ensuring that there are no underground stability concerns. Subject to approval by the Burkina Faso authorities, Trevali is now undertaking precursory activities to ensure operational readiness at the Perkoa Mine to enable a potential restart. Even if such a restart is ultimately approved, there are significant operating and capital costs that will be required, and which Trevali

is not currently able to finance, to safely restart and operate the Perkoa Mine until the mine begins generating revenue from sales of zinc concentrate.

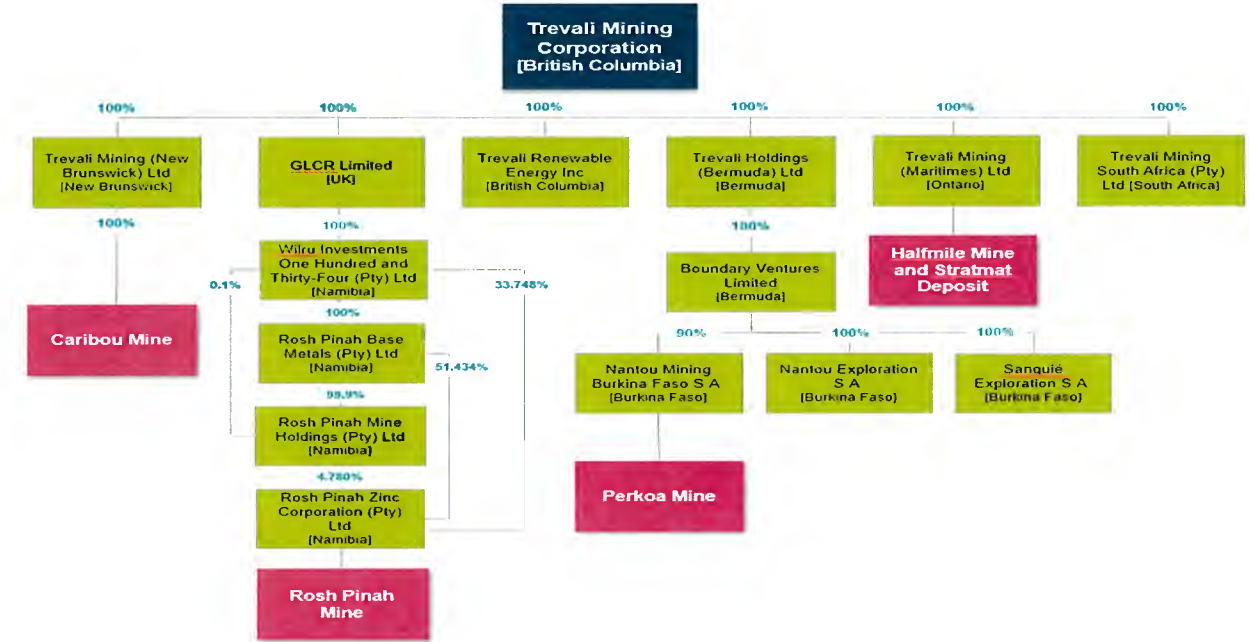
30. The challenges faced by Trevali in connection with the Perkoa Mine are not yet resolved. In recent days the Perkoa Mine manager as well as a manager from Byrnegut, Trevali's mining contractor at the Perkoa Mine, are being detained by authorities near the mine site in Burkina Faso. Much more work needs to be done before the company may be able to restart operations at the Perkoa Mine. Similarly, the operational and financial challenges facing the Caribou Mine are significant.

31. However, given the stability that would be provided to Trevali by a stay of proceedings and other protections afforded by the CCAA, and given a reasonable time to advance the company's restructuring efforts, as described below, Trevali's management is optimistic that the company will be able to make further progress in stabilizing its operations at the Perkoa and Caribou Mines, and its business more generally. The overall value of the Applicants' business will likely be enhanced to the benefit of its stakeholders through a restructuring under the CCAA as compared to a forced liquidation scenario.

III. BUSINESS ORGANIZATION AND MANAGEMENT

A. CORPORATE STRUCTURE

32. The following diagram sets forth the Applicants' intercorporate relationships with the other members of the Trevali group of companies, including the relevant jurisdictions of incorporation or organization, and the direct and indirect voting interest in each entity as of March 31, 2022:



B. EMPLOYEES AND MANAGEMENT

33. Trevali's operations at the Perkoa, Rosh Pinah, and Caribou Mines are supported by the following number of employees and contractors:

Location	Employees	Contractors
Head Office (Vancouver)	44 (including some personnel in Stellenbosch, South Africa, as noted below)	2
Caribou Mine (New Brunswick)	121	165
Perkoa Mine (Burkina Faso)	313	360
Rosh Pinah Mine (Namibia)	404	238
TOTAL	882	765

34. With respect to the employees at the Caribou Mine in particular, approximately sixty four (64) of Trevali NB's total of one hundred and twenty one (121) employees are unionized pursuant to a Collective Agreement between Trevali NB and Local 7676 (United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, United Steel Workers, being Appendix 1 to a Memorandum of Settlement dated for reference October 23, 2017) entered into with respect to the Caribou Mine. One hundred and thirty four (134) of the one hundred and sixty five (165) contractors that are recorded as working at the Caribou Mine had been contracted through Redpath.

35. While Trevali's business in New Brunswick, Burkina Faso, and Namibia is in part carried out through locally based subsidiaries of Trevali Corp., primarily for reasons having to do with local laws, Trevali operates its business on an integrated basis with Trevali Corp.'s Vancouver office serving as the corporate "nerve centre" for Trevali as a whole.

36. All key head office functions for each Trevali entity, including key operational, strategic, and legal decision-making, cash-management, human resources, sales and pricing determinations, and related functions, as well as oversight of local payroll and accounting functions, are conducted for and on behalf of each member of the Trevali group primarily from the group's Vancouver headquarters (with some operating and technology functions also being based in the company's operations centre in Stellenbosch, South Africa). The sole director of Trevali NB is based in Vancouver. As noted above, Trevali Corp. is the borrower under both the RC Facility and the Glencore Facility. It is the centralized entity through which the Trevali group's cash needs are managed.

IV. OVERVIEW OF MINING OPERATIONS AND PROJECTS

A. PERKOA MINE

37. The Perkoa Mine and the 2,000 tonne per day milling operation is based in the Sanguie Province of Burkina Faso, approximately 120 kilometers west of the capital city of Ouagadougou, Burkina Faso. A visual depiction of the Perkoa Mine location is as follows:



38. Trevali acquired its indirect ninety (90) percent ownership interest in the share capital of Nantou Mining Burkina Faso S.A. (“**Nantou Mining**”), the entity that owns the Perkoa Mine, in 2017. The government of Burkina Faso holds the other ten (10) percent ownership interest in Nantou Mining in accordance with the 2003 Burkina Faso Mining Code.

39. The Perkoa Mine has been in commercial operation since 2013 and produces a zinc concentrate through underground mining operations. Trevali’s mining contractor at the Perkoa Mine is Byrnect, a contract mining company based in Australia. Existing surface and underground infrastructure at the Perkoa Mine include a 2,000 tonne per day process plant, a decline and a series of ramp-connected levels, a laboratory, a tailing storage facility, various administrative, workshop, and warehouse buildings, and a camp for non-local personnel. Zinc concentrates from the Perkoa Mine are trucked 1,200 kilometers to the port of Abidjan, Cote d’Ivoire, for shipping under a life of mine off-take agreement with Glencore.

40. The Perkoa Mining Convention between Nantou Mining and the government of Burkina Faso sets out the fiscal and legal terms with respect to the operation of the Perkoa Mine, including taxation rates applicable to the project as per the 2003 Burkina Faso Mining Code. The government also collects various taxes and duties on the imports of fuels, supplies, equipment, and outside services related to the operation of the Perkoa Mine. In addition, there is a three (3) percent net smelter royalty payable to the government on all base metal production in Burkina Faso, as well as a one (1) percent levy to a Local Development Mining Fund.

41. Trevali's operations at the Perkoa Mine involve a high level of stakeholder engagement. The company's efforts in this regard are managed through a tripartite committee, comprised of representatives from Nantou Mining, the local communities, and the local administrative authorities.

42. Trevali's community engagement with respect to its operations at the Perkoa Mine includes (a) commitments to use local unskilled labour and the favouring of local labour, (b) the provision of financial support for the completion of traditional annual sacrifices in the fourteen (14) villages that exist around the mine, (c) the making of funding contributions to the Local Development Mining Fund and the rehabilitation fund account held with the Central Bank of Burkina Faso, and (d) the construction and/or funding of a youth centre, two grammar schools in the Perkoa and Pao villages, an equipped literacy centre, housing with piped potable water, the Perkoa Health and Social Promotion Centre, and water boreholes for community use, among other efforts.

43. As noted above, Trevali's operations at the Perkoa Mine have been disrupted by the April 2022 flooding event. The investigation of the flooding event has resulted in Trevali taking several actions to minimize the impacts of future weather events at the Perkoa Mine, and prevent any future flooding of the underground operations, including:

- (a) raising the flood protection berm along the existing berm alignment to protect the open pit against flooding for a 1:10,000-year event. The guidance to raise the berm follows expert hydrologic modelling conclusions that indicated that the flooding event occurred following an intense rainfall over a period of approximately 45 minutes, which corresponds with a return period of approximately 300 to 500 years;
- (b) installing an early warning system that provides updated weather reporting, real-time weather and rain monitoring and real-time stream water level indication with automatic triggers when there is a potential flood risk; and
- (c) Improving emergency management plans with the inclusion of predictive triggers, such as predictive alerting and smart IOT sensors that detect changes in water levels and various weather parameters (wind, rain, lightning, pressure) to trigger an evacuation in advance of a significant weather event impacting the site.

44. Insurance claims have been filed related to dewatering, rehabilitation, and the replacement of mining, electrical, ventilation, and other equipment damaged from the mine flood. The actual quantum and timing of receipts under applicable property and liability insurance policies is uncertain.

B. ROSH PINAH MINE

45. The Rosh Pinah Mine and the 2,000 tonne per day milling operation is located in southwestern Namibia, approximately 800 kilometers south of Windhoek and 20 kilometers north of the Orange River, at the edge of the Namib Desert. A visual depiction of the Rosh Pinah Mine location is as follows:



46. The Rosh Pinah Mine is owned by Rosh Pinah Zinc Corporation (Pty) Ltd. (“**RPZC**”). Trevali owns a ninety (90) percent interest in RPZC and is operationally responsible for the management of RPZC, with the remainder held by PE Minerals (Namibia) (Proprietary) Limited (“**PE Minerals**”), Jaguar Investments Four (Proprietary) Limited, and an Employee Empowerment Participation Scheme.

47. The Rosh Pinah Mine has been in operation since 1969 and presently operates as an underground zinc-lead-silver mine. Existing surface and underground infrastructure include access ramps with a primary crusher and surface ventilation, 2,000 tonne per day ball mill with various flotation circuits comprises the process plant, a tailing storage facility, and a water storage dam. Engineering workshops, administration offices, a supply chain warehouse, and a laboratory to service the mine operations are all within the accessory works area. Final zinc and lead concentrate produced from the Rosh Pinah Mine are driven to the Namibian port of Lüderitz for

shipping under two separate life-of-mine off-take agreements (one for zinc concentrates and one for lead concentrates) with Glencore.

48. Production from the Rosh Pinah Mine is subject to royalties at three (3) percent of net market value payable to the Namibian government and three (3) percent of net market value payable to PE Minerals, the current holder of the mining license for the Rosh Pinah Mine.

49. As with its operations at the Perkoa Mine, Trevali's operations at the Rosh Pinah Mine involve a high level of stakeholder engagement.

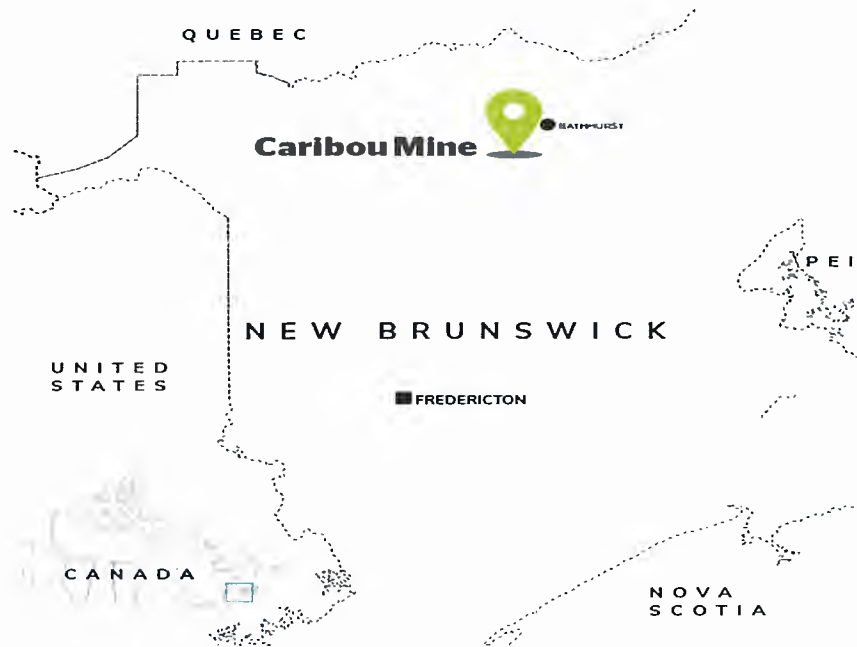
50. The Rosh Pinah town, where employees of the Rosh Pinah mine reside, is primarily a mining community built for employees. A 50/50 joint-venture company called "**RoshSkor**" was established in 2001 by RPZC and the owners of the Skorpion Zinc mine (an unaffiliated mining operation near the Rosh Pinah Mine) to manage and operate the town as a private municipality. The Tutungeni township is also supported by RoshSkor and is located outside the Rosh Pinah town. Any profits made by RoshSkor are reinvested into the community.

51. RoshSkor is responsible for the implementation of the municipal services and includes required infrastructure projects, such as providing sewage treatment, electricity, potable water, waste removal, and waste segregation, which are funded by both mines. Community development projects are led by OBIB, a local non-for-profit organization, with board members including RPZC, RoshSkor, and Skorpion Zinc, and a representative from the local business community. OBIB provides programs that include training and participation in needlework, leather works, weaving carpets, and other sustainability projects.

52. RPZC, Skorpion Zinc, and parent representatives sit on the school board that includes the management of both the pre-primary, primary and secondary education within the community. The Sidadi Clinic is also managed by a joint venture entity, Rosh Pinah Health Care, with members including RPZC and Skorpion Zinc and is currently providing medical, occupational health and general physician services to a broader clientele enabling a more self-sustainable medical clinic business.

C. CARIBOU MINE

53. The Caribou Mine is in Restigouche County in the province of New Brunswick, approximately 55 kilometers west of the coastal community of Bathurst. A visual depiction of the Caribou Mine location is as follows:



54. Production at the Caribou Mine commenced in 1970 and is comprised of (a) Mineral Claim 1773 (also known as Woodside Brook); (b) Mining Lease No. ML-246 issued by the Crown in Right of New Brunswick; (c) Freehold lands located in the Province of New Brunswick, known as PID 50072032; and (d) Industrial Surface Lease No. SIML2271 (also referred to as Crown Lands Lease #415060027) issued by the Crown in Right of New Brunswick over the lands identified as PID 50237924.

55. Existing infrastructure at the Caribou Mine includes access ramp portals, a shaft for services, surface ventilation equipment, a 3,000 tonne per day nameplate capacity mill, flotation circuits, a mine water treatment plant, sludge ponds, a tailing storage facility, and various office and workshop buildings. Trevali has formal surface access agreements in place, and the Caribou Mine site is a fully permitted facility that allows for mining and milling. Concentrate production is stockpiled onsite prior to shipping and sale to Glencore.

56. Trevali obtained its current one hundred (100) percent interest in the Caribou Mine in 2012.

57. In January 2013, Trevali entered into a Limited Environmental Liability Agreement (the "LELA") with the province of New Brunswick, whereby the province would accept the environmental liability associated with historic operations at the Caribou Mine. Pursuant to the LELA, approximately two-thirds of the environmental liability at the Caribou Mine is held by the

province of New Brunswick, with Trevali NB being liable for the remaining one-third. The cash security on file with the New Brunswick Department of Energy and Natural Resources totalled \$3.9 million by December 31, 2021. Additionally, \$5.2 in reclamation bonds and \$2.5 million of letters of credit with respect to reclamation obligations have been posted with the New Brunswick Ministry of Energy & Natural Resources and the New Brunswick Department of Environment, respectively.

58. In 2017, Trevali signed a Cooperation Agreement with the Mi'kmaq First Nation bands in relation to the Caribou Mine. In entering into this agreement, Trevali assumed accountability for a May 2011 Cooperation Agreement signed by the previous owners of the "Half Mile" deposit (also owned by Trevali as described below) with the Mi'kmaq First Nation bands. Pursuant to these arrangements, a full-time Indigenous Benefits Coordinator role was funded, which provides a conduit between the Mi'kmaq First Nation bands and facilitates opportunities including training, scholarships and purchasing and supply opportunities for members of the Mi'kmaq First Nations.

59. The deterioration in the global zinc market, exacerbated by the continued challenges presented by COVID-19 and combined with high concentrate treatment charges, led to a decision to place the Caribou Mine on a care and maintenance program on March 26, 2020, in order to preserve the value of the mineral resource and mine assets.

60. On January 15, 2021, Trevali announced its planned restart of operations at the Caribou Mine with an initial two-year mine plan to the end of 2022, with operations subsequently resuming in February 2021 and the first payable production being delivered in March 2021. As part of its restart plan, Trevali NB entered into a mining services agreement (the "**Caribou Mining Contract**") with Redpath, pursuant to which it would serve as the company's underground mining contractor. Trevali also entered into a fixed pricing arrangement with Glencore under the zinc offtake agreement, pursuant to which Trevali agreed to sell an aggregate of 115 million pounds of zinc to Glencore at a price of \$1.25/lb during the period from March 2021 to December 2022. This represented approximately eighty (80) percent of the forecasted zinc production over the initial two-year restart period.

61. As noted above, on August 8, 2022, Redpath delivered to Trevali NB a notice of default in respect of overdue payment for services under the Caribou Mining Contract claiming an overdue amount of CDN \$3,483,040.51 reflecting three invoices for the period from June 1 to July

15, 2022, with a further CDN \$1,251,997.09 submitted for review (for a total amount claimed as of August 8, 2022 of approximately CDN \$4.7 million). It is Trevali's view that the production performance at the Caribou Mine has been significantly and negatively impacted during and prior to Redpath's invoicing period because of continued operational issues due to low equipment availability and productivity rates with Redpath, among other factors, resulting in lower production results and higher costs.

62. The Caribou Mining Contract provides that the default must be remedied, or remedial steps agreed, within seven (7) business days following receipt of the default notice, failing which Redpath is entitled to take certain enforcement action, including suspending performance under, or terminating the Caribou Mining Contract, and drawing upon funds under the security provisions of the Caribou Mining Contract, including against the \$2.5 million letter of credit provided under the RC Facility. As noted above, Redpath had advised that if the matter was not resolved and the overdue invoices paid by August 17, 2022, it intended to suspend services as of the end of that day and take available enforcement actions (including drawing on the letter of credit). As noted earlier, the payment to Redpath has not been made.

63. Trevali NB's current accounts payable plus accruals position is approximately \$15 million, of which approximately \$9 million is beyond normal payment terms, though the company is continuing to work to better understand and verify the state of accounts.

64. Additionally, Trevali has incurred the accumulation of a deficit of 27.2 million pounds of payable zinc under hedge obligation to Glencore as at July 31, 2022. This deficit has been rolled forward on a continuous basis to be settled with future production, which is now no longer expected to be achieved given the uncertain status of the Caribou Mine as described elsewhere in this affidavit. Based on the spot price of zinc as of August 15, 2022 at \$1.64 per pounds as posted by the London Metals Exchange, Trevali estimates that it would cost approximately \$10.6 million dollars to financially settle the current deficit under the fixed price arrangement. The future production obligation committed to be delivered from August 1 – December 31, 2022 is 26.5 million pounds of payable zinc which is also no longer expected to be achieved. Using the same spot price as referenced above, it would cost approximately \$20.9 million dollars to financially settle the current and future anticipated deficit. In addition, Trevali has incurred an additional obligation to Glencore relating to the fixed pricing arrangement in an aggregate amount of \$2.7 million in respect of fees to roll forward the deficit, and expects that it

would incur a further \$2.0 million in fees if the deficit were to be rolled forward to December 31, 2022 (the end of the contractual hedge period).

65. Trevali NB has only approximately \$3.2 million in cash on hand as of the date of my affidavit.

66. Caribou is subject to two royalties or royalty-type taxes with differing methods of calculation.

67. First, a two (2) percent provincial royalty of the annual net revenue generated by the mining operation, which is equal to the gross revenue derived from mine output and commodity hedging less allowable transportation, costs for outputs sold, refining, smelting, and milling costs, and processing allowances.

68. Second, a sixteen (16) percent provincial net profits tax on annual net profits exceeding CDN \$100,000. Net profit is calculated as the mine's gross revenues less allowable costs, specified allowances for depreciation, financing expenses, processing, eligible exploration expenditures, as well as the two (2) percent provincial royalty paid. The net profits tax may be further reduced by tax credits related to eligible process research expenditures and exploration expenditures using advanced exploration technologies.

69. As noted above, effective August 15, 2022, in light of a payment dispute with Redpath and a general inability to safely operate the underground workings of the mine due to a shortage of necessary supplies, Trevali NB suspended production work at the Caribou Mine, intends to transition toward a care and maintenance program.

D. OTHER PROPERTIES AND INTERESTS

70. Trevali has an effective forty-four (44) percent interest in Gergarub Exploration and Mining (Pty) Ltd (the "**Gergarub Project**"), a joint venture with the Vedanta Resources-owned Skorpion Zinc mine which has a 51% interest. The Gergarub Project is located approximately 15 kilometers north-west of the company's Rosh Pinah Mine in southern Namibia.

71. In 2017 Trevali commissioned a preliminary economic assessment led by SRK Consulting (Canada) Inc. reviewing the development potential for its wholly owned Halfmile-Stratmat sulphide zinc-lead-silver deposits in the Bathurst mining camp of New Brunswick. This economic assessment follows a trial underground mining/production in 2012 of over 100,000

tonnes of mineralized material providing metallurgical/recovery data. This project is held by Trevali Mining (Maritimes) Ltd. and is comprised of Mineral Claim 1681, Mineral Claim 6049, Mining Lease No. 261, The Halfmile Lake Central Mineral Claim, and the Halfmile Lake Mining Lease (held in the name of Trevali Mining (New Brunswick) Ltd.).

72. Trevali is undertaking a conceptual mine design for underground development of its one hundred (100) percent owned interest in the formerly producing Restigouche zinc-lead-silver mine located approximately 27 kilometers west-southwest of Trevali's Caribou Mine in the Bathurst Mining Camp of New Brunswick. This project is held by Trevali Mining (New Brunswick) Ltd. and is comprised of Mineral Claim 7403, Mining Lease No. ML-255, and Industrial Surface Lease referred to as Crown Lands Lease #415040158 over the lands identified as PID 50252766.

73. Ruttan is a copper-zinc massive sulphide deposit located approximately 21 kilometers east of the village of Leaf Rapids, which in turn is approximately 750 kilometers north-northwest of Winnipeg, Manitoba. Trevali (and predecessor Kria Resources) completed an option to acquire 100% of Ruttan and Bill 5025 claims, subject to a combined four (4) percent net smelter royalty (NSR) (two (2) percent NSRs held by two separate parties). Acquisition terms included combined cash payments of \$780,000 (paid) and 200,000 shares of Kria (issued). The work commitment on the property has been satisfied. Half of each two (2) percent NSR royalty can be purchased back by Trevali after payments of \$2 million and \$1.5 million, respectively.

V. FINANCING OF TREVALI'S BUSINESS OPERATIONS

A. THE RC FACILITY

74. Pursuant to a second amended and restated credit agreement dated as of August 6, 2020, as amended by a first amending agreement dated December 29, 2020, a second amending agreement dated May 5, 2021, a third amending agreement dated September 28, 2021 and a fourth amending agreement dated November 19, 2021 (as further amended, restated, modified and supplemented from time to time, the "**RCF Credit Agreement**"), among Trevali Corp., as borrower, the lenders party thereto from time to time (the "**RCF Lenders**"), as lenders and The Bank of Nova Scotia, as the administrative agent for the benefit of the RCF Lenders (the "**RCF Administrative Agent**"), the RCF Lenders agreed to extend a \$150,000,000 revolving loan to Trevali Corp. on a senior secured basis (the "**RC Facility**").

75. The RCF Credit Agreement was amended and supplemented multiple times. The RC Facility was permanently reduced to \$111.9 million as at December 31, 2021, through

mandatory repayments of \$16.3 million in 2021 and \$5.1 million in 2022. The RC Facility bears interest at a rate of LIBOR plus 5.5%, with commitment fees for the undrawn portion of the facility at 1.3%.

76. RC Facility draws totaling approximately \$84.5 million have been received by Trevali Corp., with a further \$4.4 million having been utilized for the purposes of obtaining letters of credit.

77. The RC Facility matures on September 18, 2022, with a mandatory prepayment of approximately \$7.5 million having been due on August 17, 2022 that was not paid, as noted above.

78. To secure Trevali Corp.'s obligations under the RCF Credit Agreement, Trevali Corp. and certain of its subsidiaries, including Trevali NB, granted a comprehensive security package that includes the grant of:

- (a) a first ranking security interest in all Trevali Corp.'s and Trevali NB's present and future personal property pursuant to various general security agreements, debentures, and fixed and floating charges; and
- (b) a first ranking security interest in certain of Trevali NB's real property pursuant to a mortgage.

79. Additionally, guarantees and share pledge agreements, and other security instruments have been granted by Trevali Holdings Bermuda Ltd. ("**Trevali Bermuda**"), Boundary Ventures Limited, ("**Boundary**"), GLCR Limited ("**GLCR**"), Wilru Investments One Hundred and Thirty Four (Proprietary) Limited ("**Wilru**"), Rosh Pinah Base Metals (Proprietary) Limited ("**Pinah Base**") and Rosh Pinah Mine Holdings (Proprietary) Limited ("**Pinah Holdings**"), among other security.

B. THE GLENCORE FACILITY, OFF-TAKE AGREEMENTS, AND RELATED COMMERCIAL ARRANGEMENTS

80. As noted above, Glencore is party to off-take agreements with respect to each of the Perkoa, Rosh Pinah, and Caribou Mines. While the pricing, payment terms, and delivery requirements of each of the offtake arrangements for each of Trevali's mines are unique, they collectively make Glencore the sole and exclusive purchaser of one hundred (100) percent of the concentrates produced from Trevali's current operations. Pursuant to the Investor Rights

Agreement, Glencore also currently has a right of first refusal for future concentrate sales produced from any additional properties or assets that Trevali may acquire in the future.

81. On August 6, 2020, the company entered into a second lien secured facility agreement with Glencore Canada Corporation (“**Glencore CC**”) up to a maximum of \$20.0 million (the “**Glencore Facility**”). Under the terms of the agreement, Glencore would advance to Trevali Corp. amounts equal to the volume of dry metric tonnes of zinc concentrate delivered to Glencore each month, up to December 2020, multiplied by the difference between the annual benchmark treatment charge (“**TC**”) and the average monthly spot TC. Advances under the Glencore Facility were applicable to deliveries of zinc concentrate between June 2020 and December 2020.

82. The Glencore Facility was reduced by \$7.0 million in December 2020, because of the proceeds from Glencore’s participation in an equity offering of Trevali Corp. being allocated to repay indebtedness under the Glencore Facility in accordance with the terms thereof. The amount available to Trevali under the Glencore Facility is nil as the full \$13.0 million limit under the agreement has been drawn. The Glencore Facility has a maturity date of September 18, 2022. Amounts outstanding under the Glencore Facility bear interest at the same rate as the RC Facility.

83. To secure Trevali Corp.’s obligations under the Glencore Facility, Trevali Corp. and certain of its subsidiaries, including Trevali NB, granted a comprehensive security package that substantially mirrors the security in place with respect to the RC Facility and includes the grant of:

- (a) a second ranking security interest in all Trevali Corp’s and Trevali NB’s present and future personal property pursuant to various general security agreements, debentures, and fixed and floating charges; and
- (b) a second ranking security interest in certain of Trevali NB’s real property pursuant to a mortgage.

84. Additionally, subordinated guarantees and share pledge agreements and other security instruments have been granted by Trevali Holdings Bermuda, Boundary, GLCR, Wilru, Pinah Base, and Pinah Holdings, among other security.

85. Pursuant to an intercreditor agreement between the RCF Administrative Agent and Glencore, among other parties, the RCF Administrative Agent and Glencore agreed that the

obligations under the RCF Credit Agreement would have priority over and be senior in all respects and prior to any lien on the shared collateral securing the obligations under the Glencore Facility.

86. In addition to its off-take arrangements and Glencore Facility arrangements with Trevali, Glencore is Trevali's largest shareholder, owning a twenty-six (26) percent interest in Trevali Corp.

87. Trevali and Glencore are party to the Investor Rights Agreement that provides Glencore with certain board nomination rights, including the right to appoint two (2) directors to Trevali Corp.'s board of directors and to nominate an additional two (2) directors to the board, who must be independent of Trevali Corp. under applicable securities law, anti-dilution rights, and enhanced consultation rights relating to Trevali's business, and a right of first refusal for future concentrate sales produced from any additional properties or assets that Trevali may acquire in the future as described above. These rights are in each case subject to the Investor Rights Agreement, which is only in place as long as Glencore owns more than 9.9% of Trevali's equity.

VI. PAST RESTRUCTURING EFFORTS AND THE NEED FOR CREDITOR PROTECTION

88. In September 2021, Trevali appointed Endeavour Financial to advise the company with the objective of providing a competitive non-equity financing solution for Trevali's proposed expansion of operations at the Rosh Pinah Mine (referred to as the "RP2.0" project) and the refinancing of both the RC Facility and the Glencore Facility which mature in September 2022.

89. In January 2022, Trevali formally announced through a press release that it was working toward securing project financing for the RP2.0 and that, in parallel, an early works program had commenced for RP2.0.

90. In March 2022, Trevali formed a "Special Committee" consisting entirely of independent directors unaffiliated with Glencore to examine the financing transactions contemplated by RP2.0 project (the "RP2.0 Financing"), which at the time were contemplated to include a comprehensive financing package totalling approximately \$200 million and consisting of project financing, a stream agreement, an investor rights agreement with a prospective purchaser of equity in Trevali, a revised or replaced revolving credit facility, and a convertible debenture to be negotiated with one or more third parties as well as a loan agreement with Glencore AG or an affiliate thereof. The requirement for the Special Committee arose from the

involvement of Glencore AG in the proposed RP2.0 Financing, given Glencore's representation on Trevali's board of directors.

91. Because of the flooding event at the Perkoa Mine on April 16, 2022, the amount of the RP2.0 Financing package and timing of completion became subject to a higher level of uncertainty, and the \$200 million target amount could no longer be relied upon. Notwithstanding these challenges and uncertainties, Trevali continued to work on the RP2.0 Financing and was ultimately able to secure and execute a mandate agreement with the Standard Bank of Namibia Limited and the Standard Bank of South Africa Limited ("**Standard Bank**") to arrange a senior secured project finance facility of up to \$110 million (the "**Mandate Agreement**"). The Mandate Agreement sets out an exclusive arrangement with Standard Bank describing the activities needed to arrange a senior secured financing facility (the "**RP2.0 Loan Facility**") for the RP2.0 project. On August 16, 2022, Standard Bank delivered a letter confirming that internal credit approval had been obtained for the project finance facility.

92. In addition to the Mandate Agreement, Trevali received non-binding expressions of interest from streaming and royalty companies in the order of \$40 million to \$50 million, and mining-focused alternative lenders, as well as from Glencore. Glencore specifically indicated its support for the RP2.0 project by proposing an aggregate \$33 million financing package, which could include an extension to the existing Glencore Facility of \$13 million, subordinated to traditional project finance debt and contingent on the remainder of the required financing package being secured as well as negotiation of satisfactory terms and conditions.

93. In May 2022, following the flooding event at the Perkoa Mine and the subsequent suspension of operations, Trevali engaged a leading Canadian investment bank to assist the company in the undertaking of a strategic review process to solicit proposals for a broad range of transaction alternatives, including a potential investment in Trevali and the potential sale of all or part of the business and assets of Trevali (the "**Strategic Review Process**").

94. Ultimately, notwithstanding Trevali's receipt of credit approval from the Standard Bank for the \$110 million RP2.0 Loan Facility, the RP2.0 Financing has not sufficiently advanced in a manner that will allow for the refinancing to be completed prior to the maturity of the RC Facility and Glencore Facilities. Additionally, as noted above, because of the flooding event at the Perkoa Mine, the previously announced targeted financing amount of \$200 million could no longer be relied upon and the total financing target was suspended as of May 16, 2022. In addition, as

noted above, operations at the Caribou Mine are under review. Accordingly, the financing requirement is expected to exceed the previously targeted financing amount of \$200 million.

95. Similarly, notwithstanding the receipt of expressions of interest through the Strategic Review Process, there can be no assurance that the Strategic Review Process will progress in a fashion that will allow for the culmination of a transaction in a timely manner or of sufficient value to refinance the RCF and Glencore Facilities.

96. In the circumstances, given their present financial and liquidity challenges, the Applicants urgently require a stay of proceedings under the CCAA to maintain the status quo and obtain the “breathing room” required to consider strategic restructuring alternatives and pursue and implement a restructuring strategy.

97. It is imperative for the success of any such strategy that current and potential actions against the Applicants be stayed, that their current customer and supplier contracts and arrangements be preserved, and that the Applicants be given authorizations under the CCAA relating to intercompany funding arrangements given their present liquidity position.

98. With the benefit of the protection afforded by the CCAA, the Applicants will be able to maintain the value of the Applicants’ assets, and generally stabilize their business operations for the continued benefit of their stakeholders as restructuring alternatives are considered by Trevali.

99. In the absence of the imposition of a stay of proceedings and the granting of other relief afforded by the CCAA, there is the risk that the Applicants’ significant and complex operations in Canada and Africa would be disrupted. The potential effects of such disruption could put at risk the well-being of the environment surrounding Trevali’s mining operations and the local communities that directly or indirectly depend on their continued operations.

100. To protect against such negative effects and to address the company’s current financial difficulties and liquidity challenges, the Applicants’ current plan while under CCAA protection involves, among other things, efforts to:

- (a) use the “breathing room” provided by the stay of proceedings against the Applicants to focus the company’s efforts on the stabilization of Trevali’s mining operations, including in Africa;
- (b) provide comfort to Trevali’s stakeholders in Canada and in Africa of the company’s ability to continue operating as a going concern or otherwise preserve value;
- (c) consider, evaluate, and potentially pursue the Strategic Review Process;
- (d) manage the Applicants’ liquidity challenges and explore potential cost-cutting measures;
- (e) undertake a sale and investment solicitation process, or other process, to maximize the value of the Applicants’ business and property for the benefit of stakeholders; and
- (f) consult with key stakeholders.

101. While the Applicants are currently in a challenging financial position, Trevali’s management believes that taking steps to preserve the going concern value of the Applicants’ business under the protection of the CCAA as restructuring options are pursued will likely achieve a better long-term result for the Applicants’ stakeholders than a forced liquidation of the Applicants’ assets.

VII. RESTRUCTURING MATTERS

A. FINANCIAL STATEMENTS

102. A copy of Trevali Corp.’s condensed interim consolidated financial statements for the three and six months ended June 30, 2022 and 2021 are attached as **Exhibit “C”**. A copy of Trevali Corp.’s consolidated financial statements for the years ended December 31, 2021 and 2020 are attached as **Exhibit “D”**.

103. A copy of Trevali NB’s unaudited financial statements for the year ended December 31, 2021 is attached as **Exhibit “E”**.

B. SUMMARY OF ASSETS AND LIABILITIES

104. As at December 31, 2021, Trevali Corp. had total assets with a book value of approximately \$533 million on a consolidated basis, consisting of current assets with a book value

of approximately \$122 million and non-current assets with a book value of approximately \$411.1 million.

105. As at December 31, 2021, Trevali Corp. had total liabilities with a book value of approximately \$298.1 million on a consolidated, consisting of current liabilities with a book value of approximately \$157.8 million and non-current liabilities of approximately \$140.3 million.

106. As noted above, Trevali was unable to make the mandatory prepayment of approximately \$7.5 million on its RC Facility when such payment was due on August 17, 2022. The failure to make this payment constituted an event of default under certain of Trevali's loan and security documents applicable to the RC Facility and the Glencore Facility, which will in turn gives the RCF Lenders and Glencore the right to take steps to enforce against Trevali's assets.

107. As at December 31, 2021, Trevali NB had total assets with a book value of approximately \$63 million, consisting of current assets with a book value of approximately \$15.8 million and non-current assets of approximately \$47.2 million.

108. As at December 31, 2021, Trevali NB had total liabilities with a book value of approximately \$177.2 million, consisting of current liabilities with a book value of approximately \$16.9 million and non-current liabilities of approximately \$160.3 million (approximately \$131.4 million of which is intercompany liabilities).

109. Trevali NB's most pressing liability is its approximately \$13 million in accounts payable with respect to the ongoing operation of the Caribou Mine including amounts owing to its mining contractor, Redpath.

C. PAYMENTS DURING CCAA PROCEEDINGS

110. During these CCAA proceedings, Trevali intends to make payments for goods and services supplied to Trevali post-filing as set out in the cash flow projections referred to below and as permitted by the proposed form of initial CCAA order.

111. Additionally, Trevali seeks the Court's approval to make payment of certain pre-filing amounts or to honor cheques issued to providers of goods and services prior to the date of filing that Trevali, in consultation with the proposed monitor, believes are necessary to facilitate Trevali's ongoing operations and to preserve value in these CCAA proceedings. Such payments would only be made with the consent of the monitor.

112. At this time Trevali anticipates making payments with respect to pre-filing amounts to only those suppliers and service providers who are determined, in consultation with the Monitor, to be critical to stabilizing the Caribou Mine and thereby protecting the health and safety of its employees who remain actively employed in such operations, safeguarding the environment, and preserving the Caribou Mine in compliance with applicable environmental permits and licensing requirements.

113. The ability of Trevali to make payments to the above-mentioned suppliers is accordingly critical and necessary to maintaining the stability of Trevali's business and assets during the CCAA proceedings and to allow Trevali to advance its restructuring efforts for the benefit of its stakeholders.

D. CASH MANAGEMENT

114. As noted above, Trevali manages its Canadian corporate and New Brunswick operational financial affairs on an integrated basis given the interwoven nature of these segments of the business and uses a centralized system (the "**Cash Management System**") through Scotiabank and its ScotiaConnect online banking system to deal with cash management, collections, disbursements, and intercompany payments and receipts.

115. To facilitate the Cash Management System, Trevali Mining Corp., Trevali Mining NB, and an affiliate, Trevali Mining Maritimes Ltd., each have a CAD and USD bank account with Scotiabank, and all managed through the ScotiaConnect platform.

116. The Trevali subsidiaries operating the Perkoa and Rosh Pinah Mines hold their own bank accounts and at times when possible and appropriate repatriate funds back to Canada as excess cash flow that is available through the Cash Management System to service intercompany loans and related party management fees.

117. It is anticipated that the Applicants will continue to use their existing Cash Management System and will continue to maintain their bank accounts and arrangements already in place during the CCAA proceedings. This approach will minimize any disruption to business operations as the Applicants seek to restructure. The Cash Management System includes the necessary accounting controls to enable the Applicants, the proposed monitor, and this Court to trace funds through the system and ensure that all transactions are adequately documented and readily ascertainable.

118. The Applicants seek the authority to continue to use the existing Cash Management System and to maintain the funding and banking arrangements already in place.

E. CASH-FLOW PROJECTIONS

119. Trevali recently retained FTI Consulting Canada Inc. (“FTI”) as the proposed monitor in these CCAA proceedings and to assist Trevali with the preparation of cash-flow projections as required by the CCAA. Trevali’s management has worked with FTI to prepare the cash-flow projections attached and marked as **Exhibit “F”** hereto for the thirteen (13) week period ending November 15, 2022 (the “**Cash-flow Projections**”). Based on the Cash-flow Projections, Trevali should have enough cash to operate through the Cash-flow Projections period.

120. Based on my knowledge of Trevali’s financial position and the assumptions set out in the Cash-flow Projections, I believe that the Cash-flow Projections are accurate and reasonable, noting that:

- (a) the hypothetical assumptions set out in the Cash-flow Projections are reasonable and consistent with the purpose of the projections described in the Cash-flow Projections. The probable assumptions are suitably supported and consistent with Trevali’s plans and provide a reasonable basis for the projections. All such assumptions are disclosed in the notes to the Cash-flow Projections;
- (b) since the projections are based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material; and
- (c) the projections have been prepared solely for the purpose described in the notes to the Cash-flow Projections, using the probable and hypothetical assumptions set out in the notes to the Cash-flow Projections. Consequently, readers of the Cash-flow Projections are cautioned that they may not be appropriate for other purposes.

F. THE MONITOR

121. Subject to court approval, FTI is prepared to act as monitor of Trevali in these CCAA proceedings on the terms set out in Trevali’s proposed initial CCAA order. Attached as **Exhibit “G”** to my affidavit is a copy of the signed FTI consent to act as Trevali’s monitor. I believe that FTI is qualified and competent to act as Trevali’s monitor in these proceedings.

G. COURT ORDERED CHARGES

(1) Intercompany Advances Charge

122. As noted above, Trevali's operations have historically been funded through intercompany advances in accordance with the company's centralized cash management practices. The Applicants will continue to need to provide some level of intercompany funding from time-to-time to their operating entities to preserve the value of their businesses pending the Applicants' restructuring. It is intended that such intercompany funding would occur with the approval of the proposed monitor and be consistent with the Applicants' CCAA cash flow projections.

123. In order to protect the interests of their separate stakeholder constituencies, the Applicants seek the granting of a charge to secure intercompany advances made in the course of the CCAA process (the "**Intercompany Advances Charge**"). The Intercompany Advances Charge would only apply to funding provided after the commencement of these CCAA proceedings.

124. The Applicants are of the view that such a charge is necessary and reasonable in the context of these CCAA proceedings.

(2) Administration Charge

125. As noted above, FTI has consented to act as monitor (in such capacity, the "**Monitor**") in these proceedings to provide supervision, monitoring and to generally assist the Applicants with their restructuring efforts, including the potential preparation of a CCAA plan to be put to their creditors.

126. The Monitor, counsel for the Monitor, and the Applicants' counsel will be essential to the Applicants' restructuring efforts. They are prepared to provide or continue to provide professional services to the Applicants if they are protected by a first-ranking priority charge (the "**Administration Charge**") over the Applicants' assets.

127. The Applicants believe that an Administration Charge in the amount of CDN \$500,000 is fair and reasonable and will provide the level of appropriate protection for the payment of the Applicants' essential professional services given the size and complexity of the Applicants' business as described in this affidavit.

(3) D&O Charge

128. It is contemplated that Trevali's directors and officers would be granted a second-ranking priority charge (the "**D&O Charge**") on the assets, property, and undertakings of the Applicants' assets up to the maximum amount of CDN \$2 million, which amount may be reduced by the amount of severance and termination payments made by Trevali NB to those of its employees whose employment is terminated during these CCAA proceedings; provided, however, that the amount of the D&O Charge shall not be reduced on account of such payments by more than CDN \$1 million.

129. The Applicants believe that the D&O Charge is fair and reasonable in the circumstances.

130. A successful restructuring of the Applicants' business will only be possible with the continued participation of the Applicants' directors and officers. In particular, many of the Applicants' directors and executive officers have significant experience conducting business in Canada, Burkina Faso, and Namibia, gained through their years of service to Trevali in their respective roles or principal occupations, as applicable. Certain directors and executive officers have also travelled to Canada, Burkina Faso, and Namibia on several occasions for various purposes related to Trevali's business, including meeting with government officials and representatives from banking and investment firms. Directors and executive officers of Trevali visit the company's operations as they deem to be necessary, often several times a year, to properly manage the company's business and meet with local management. In short, these individuals have specialized expertise and relationships with the Applicants' stakeholders that cannot be replicated or replaced.

131. The Applicants' directors and officers have the benefit of directors' and officers' liability insurance coverage (the "**D&O Coverage**"). The D&O Coverage is designed to provide:

- (a) Side A: dedicated cover to individuals, at no deductible, for losses including losses not indemnified by the company;
- (b) Side B: cover of losses where the company has indemnified its directors and officers; and
- (c) Side C: cover of losses from securities claims brought by one or more security holders or any securities commissions.

132. The total loss limit under Sides A – C of the D&O Coverage is \$35 million. Trevali also maintains a separate employment practices liability policy as part of the D&O Coverage that provides for \$25.2 million in coverage. The D&O Coverage policies currently expire in November 2022.


133. Although the D&O Coverage provides insurance to the Applicants’ directors and officers for certain claims that could be brought against them in their capacities as directors and/or officers, the D&O Coverage is provided on an enterprise-wide basis and is subject to conventional exclusions and limitations. Accordingly, there is a potential for insufficient coverage in respect of potential director and officer liabilities incurred in connection with these CCAA proceedings. The directors and officers of the Applicants’ have expressed their desire for certainty with respect to their potential personal liability if they continue in their current capacities in the context of these CCAA proceedings.

134. The D&O Charge is vital to encouraging the continued participation of the directors and officers in these CCAA proceedings. The Applicants’ directors and officers will provide necessary experience and stability to the Applicants’ business and guide the Applicants’ restructuring efforts. It is critical that a level of continuity be maintained within the Applicants to ensure focus on achieving a restructuring plan that will benefit the Applicants’ stakeholders.

VIII. CONCLUSION

135. For the above reasons, the Applicants request that this Court grant them protection under the CCAA on the terms sought in the Petition filed concurrently with my affidavit.

AFFIRMED BEFORE ME AT
VANCOUVER, BRITISH COLUMBIA ON
AUGUST 19, 2022



A Commissioner for taking Affidavits for
British Columbia

PETER BYCHAWSKI
Barrister & Solicitor
BLAKE, CASSELS & GRAYDON LLP
Suite 2600, Three Bentall Centre
595 Burrard St., P.O. Box 49314
Vancouver, B.C. V7X 1L3
(604) 631-4218



Brendan Creaney

TAB E(4)



Sage Nematollahi
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Toronto, ON M6C 2E3
416 537 3529, ext. 2
sn@knd.law

DELIVERED BY EMAIL

February 22, 2023

Trevali Mining Corporation
c/o Peter Rubin
Blake, Cassels & Graydon LLP
595 Burrard Street, Suite 2600
Vancouver BC V7X 1L3

Dear Counsel:

Re: *In re Trevali Mining Corporation*
Request to Inspect Corporate Records Pursuant to s 46 of the
Business Corporations Act, SBC 2002, c 57

As you know, we are Counsel to the Ad Hoc Committee of Shareholders of Trevali Mining Corporation (“**Trevali**”). On behalf of our clients, pursuant to section 46(3)&(4) of the *Business Corporations Act, SBC 2002, c 57* (“**BCBCA**”), we request that the following records be made available to us for inspection:

1. Pursuant to section 42(1)(a) of the *BCBCA*, the Articles of the Company of Trevali, as referred to and identified in Trevali’s Notice of Annual General and Special Meeting of Shareholders and Management Information Circular dated May 18, 2022, at page 23.
2. Pursuant to section 42(1)(e) of the *BCBCA*, the register of directors of Trevali.
3. Pursuant to section 42(1)(f) of the *BCBCA*, a copy of each consent to act as a director received by Trevali, with respect to:
 - a. Mr. Ricus Grimbeek;
 - b. Ms. Jill Gardiner;
 - c. Mr. Russell Ball;

- d. Ms. Aline Cote;
- e. Mr. Nick Popovic;
- f. Ms. Jeane Hull;
- g. Mr. Dan Isserow; and
- h. Mr. Richard Williams;

in whatever format, including emails or any other document by way of which they expressed the consent to act as a director of Trevali, if any.

- 4. Pursuant to section 42(1)(g) of the *BCBCA*, a copy of each written resignation with respect to:
 - a. Mr. Ricus Grimbeek;
 - b. Ms. Jill Gardiner;
 - c. Mr. Russell Ball, if applicable;
 - d. Ms. Aline Cote;
 - e. Mr. Nick Popovic;
 - f. Ms. Jeane Hull;
 - g. Mr. Dan Isserow; and
 - h. Mr. Richard Williams;

in whatever format, including emails or any other document by way of which they were asked to resign by or on behalf of Trevali and/or they communicated their intention to resign to Trevali or persons acting on behalf of Trevali, if any.

- 5. Pursuant to section 42(1)(i) of the *BCBCA*, the minutes of every meeting of shareholders held in 2020, 2021 and 2022.
- 6. Pursuant to section 42(1)(k)(i) of the *BCBCA*, the complete text of any resolution passed at the meetings of shareholders held in 2020, 2021 and 2022.
- 7. Pursuant to section 42(1)(k)(ii) of the *BCBCA*, a copy of each written record referred to in sections 148(3) or (4) of the *BCBCA*, including any consent resolution, minutes of a meeting or any other record deposited in Trevali's records office, by way of which such written record was evidenced.

8. Pursuant to section 42(1)(k)(ii) of the *BCBCA*, a copy of each written record referred to in section 153 of the *BCBCA*, including any consent resolution, minutes of a meeting or any other record deposited in Trevali's records office, by way of which such written record was evidenced.

We would be pleased to meet and confer regarding this request.

Sincerely,

A handwritten signature in green ink, appearing to read 'Sage Nematollahi', with a long horizontal stroke extending to the right.


Sage Nematollahi (he/him)
KND Complex Litigation
Counsel to the Ad Hoc Committee of
Shareholders of Trevali Mining Corporation

cc. Eli Karp & Taek Soo Shin (KND Complex Litigation)

Mary Buttery, K.C. (Osler, Counsel to the directors of Trevali Mining Corporation)

John Sandrelli (Dentons, Counsel to the Court-appointed Monitor, FTI Consulting)

THIS IS **EXHIBIT "F"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025



TAEK SOO SHIN (LSO #85691Q)

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF
TREVALI MINING CORPORATION AND TREVALI MINING (NEW BRUNSWICK) LTD.

NOTICE OF REFERRAL TO THE COURT

This Notice of Referral to the Court must be read together with the Claims Process Order (the “**Claims Process Order**”) of the Supreme Court of British Columbia granted on March 29, 2023. A copy of the Claims Process Order is available at <http://cfcanada.fticonsulting.com/trevali>. All capitalized terms not otherwise defined herein have the same meanings as are given to them in Schedule “B” to the Claims Process Order.

Full Legal Name of Creditor: **Ad Hoc Committee of Shareholders of Trevali Mining Corporation**

Claim Reference Number: **322**

Pursuant to paragraph 30(a) of the Claims Process Order, the Monitor hereby gives you notice that the Monitor is referring your Claim to the Court for all purposes as such a referral is preferable or necessary for the resolution of your Claim.

As a result of the herein referral to the Court, the time periods set out in the Claims Process Order no longer apply and the Monitor will not adjudicate your Claim under the Claims Process Order. Specifically, the Monitor hereby gives you notice that the requirement set out in paragraph 16 of the Claims Process Order for the delivery by the Monitor of a Notice of Revision or Disallowance to you, as a Creditor, is no longer applicable.

As a result of the above noted referral, and for greater certainty, your Claim is not a Proven Claim pursuant to paragraph 16 of the Claims Process Order notwithstanding the fact that the Monitor has not and will not deliver a Notice of Revision or Disallowance to you, as a Creditor. The status of your Claim must be determined by the Court as a result of the referral set out herein.

The foregoing referral is without prejudice to the Monitor’s ability apply to the Court for further direction related to the adjudication and resolution of your Claim.

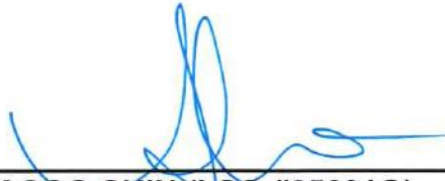
Dated at Vancouver, British Columbia, this 19th day of April, 2024.

FTI CONSULTING CANADA INC.

In its capacity as the Court-appointed Monitor of
Trevali Mining Corporation and Trevali Mining (New Brunswick) Ltd.

Per: 
Name: Tom Powell
Title: Senior Managing Director

THIS IS **EXHIBIT "G"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end.

TAEK SOO SHIN (LSO #85691Q)



No. S-226670
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, C. C-36, AS AMENDED

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, C. 57, AS AMENDED AND THE *BUSINESS
CORPORATIONS ACT*, S.N.B. 1981, C. B-9.1, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF
TREVALI MINING CORPORATION AND TREVALI MINING (NEW BRUNSWICK) LTD.

PETITIONERS

ORDER MADE AFTER APPLICATION

))
BEFORE) THE HONOURABLE MADAM) 26/APR/2024
) JUSTICE FITZPATRICK)

ON THE APPLICATION of FTI Consulting Canada Inc., in its capacity as court-appointed monitor of Trevali Mining Corporation (in such capacity, the "**Monitor**"), coming on for hearing at Vancouver, British Columbia, on the 26th day of April, 2024; AND ON HEARING John Sandrelli and Eamonn Watson, counsel for the Monitor, and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the Sixteenth Report of the Monitor dated April 22, 2024; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended, the British Columbia *Supreme Court Civil Rules*, and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS that:

Service

1. The time for service of the Notice of Application and supporting materials is hereby abridged such that the Notice of Application is properly returnable today and service thereof upon any interested party other than those parties on the Service List (as defined

in the Amended and Restated Initial Order of this Court dated August 29, 2022) maintained by the Monitor for these proceedings is hereby dispensed with.

Shareholders' Claim

2. The proof of claim submitted by the Ad Hoc Committee of Shareholders of Trevali Mining Corporation (the "**Shareholders' Claim**") is not subject to the Claim Process Order of this Court dated March 29, 2023.

3. The Shareholders' Claim will be adjudicated through an alternative procedure as follows:

- (a) the parties to the Shareholders' Claim will participate in a mediation; and
- (b) if the mediation is not successful any interested party to the Shareholders' Claim may apply to this Court for directions from this Court with respect to the adjudication of the Shareholders' Claim.

General

4. THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, Burkina Faso, Namibia and South Africa to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to Trevali Mining Corporation and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist Trevali Mining Corporation and the Monitor and their respective agents in carrying out the terms of this Order.

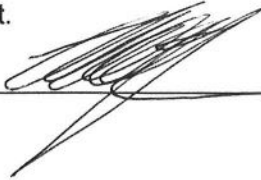
5. Endorsement of this Order by counsel appearing on this application other than counsel for the Monitor is hereby dispensed with.

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



Signature of John Sandrelli
Lawyer for the Monitor

By the Court.



Registrar

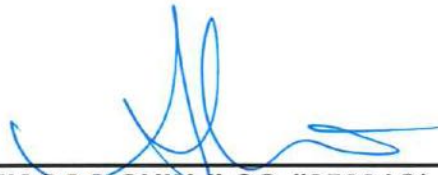


SCHEDULE "A"

LIST OF COUNSEL

Counsel Name	Party Represented
John Sandrelli and Eamonn Watson	FTI Consulting Canada Inc., in its capacity as court-appointed monitor of Trevali Mining Corporation
Sage Nematollahi	Counsel to an ad hoc committee of Trevali Mining Corporation shareholders
Mary Buttery and Brodie Noga	Counsel for the Directors of Trevali Mining Corporation
Tevia Jeffries	His Majesty the King in Right of the Province of New Brunswick, as represented by the Department of Natural Resources and Energy Development
Roderic McLauchlan	Counsel for Beazley Canada Limited

THIS IS **EXHIBIT "H"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end.

TAEK SOO SHIN (LSO #85691Q)

Court File No.: CV-14-5059885-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CLAIRE BALDWIN

Plaintiff

and

IMPERIAL METALS CORPORATION, J. BRIAN KYNOCH, ANDRE DEEPWELL,
LARRY G. MOELLER, LAURIE PARE, N. MURRAY EDWARDS,
EDCO FINANCIAL HOLDINGS LTD. and EDCO CAPITAL CORPORATION

Defendants

Proceeding under the *Class Proceedings Act, 1992*

SETTLEMENT AGREEMENT

Made as of the 31st day of January, 2023

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SETTLEMENT AGREEMENT

SECTION 1 – RECITALS

1.1 WHEREAS:

A. The Plaintiff commenced this Action and alleged that Imperial Metals Corporation (“**Imperial**”)’s continuous disclosure documents contained misrepresentations at law and within the meaning of Part XXIII.1 of the *OSA* and, if necessary, the other Securities Legislation during the Class Period by failing to disclose the adverse conditions at Imperial’s tailings storage facility at the Mount Polley mine;

B. The Ontario Superior Court of Justice dismissed the Plaintiff’s motion for leave under section 138.3(1) of the *OSA* by Order of Justice Belobaba dated September 23, 2020;

C. The Ontario Court of Appeal reversed the Order of Justice Belobaba dated September 23, 2020, and returned the leave motion to the Superior Court of Justice for consideration, in a Decision dated November 25, 2021;

D. The Plaintiff and the defendants Imperial Metals Corporation, J. Bryan Kynoch, Andree Deepwell, Larry G. Moller, and Laurie Pare (the “**Imperial Defendants**”) have negotiated a Settlement of the Action that is subject to and conditional upon approval of the Court;

E. The Defendants deny liability in respect of the claims alleged in this Action and vigorously deny any wrongdoing or liability of any kind whatsoever;

F. The Imperial Defendants state that they would have actively and deliberately pursued affirmative defences at the leave/certification motions and trial had this Action not been settled;

G. The Plaintiff and the Imperial Defendants, through counsel, have engaged in hard-fought and extensive arm’s-length settlement discussions and negotiations in respect of this Settlement through a mediation with Joel Wiesenfeld, mediator;

H. As a result of these settlement discussions and negotiations, the Plaintiff and the Imperial Defendants have entered into this Agreement, which embodies all of the terms and conditions of the Settlement among the Imperial Defendants and the Plaintiff, both individually and on behalf of the Class and subject to approval of the Court;

I. The Imperial Defendants and the Plaintiff have negotiated and entered into this Agreement to fully, definitively and permanently resolve, settle and release and discharge all claims asserted, or which could have been asserted against the Defendants and related entities and individuals by the Plaintiff on her own behalf and/or on behalf of the Class or by a third party for contribution and indemnity in respect of a claim asserted against them by the Plaintiff, and to avoid the further expense, inconvenience, and burden of this litigation and avoid the risks inherent in uncertain, complex and protracted litigation, and thereby to put to rest this controversy;

J. The Plaintiff has agreed to accept this Settlement, in part, because of the Settlement Amount to be provided by the Contributing Parties under this Agreement, as well as the attendant risks of litigation in light of the potential defences that may have been asserted at trial by the Defendants;

K. The Defendants do not admit, through the execution of the Agreement, any of the conduct alleged in this Action and expressly deny any and all allegations of wrongdoing;

L. The Plaintiff and Class Counsel confirm that neither the Agreement, nor any statement made in the negotiation thereof, shall be deemed or construed to be an admission by or evidence against the Defendants or evidence of the truth of any of the Plaintiff's allegations against the Defendants;

M. The Plaintiff and Class Counsel have reviewed and fully understand the terms of the Agreement and, based on their analyses of the facts and law applicable to the Plaintiff, and having regard to the burdens and expense in prosecuting this Action, including the risks and uncertainties associated with trials and appeals, have concluded that this Settlement is fair, reasonable and in the best interests of the Plaintiff and the Class. The Plaintiff and the Imperial Defendants therefore wish to, and hereby do, finally resolve, without admission of liability, this Action; and

N. For the purposes of settlement only and contingent on the conditions described herein, the Plaintiff has consented to a dismissal of this Action without costs and with prejudice.

NOW THEREFORE, in consideration of the covenants, agreements, promises and releases set forth herein and for other good and valuable consideration, the receipt and

sufficiency of which is hereby acknowledged, it is agreed by the Plaintiff and the Imperial Defendants that this Action be settled on the merits, subject to the approval of the Settlement by the Court, and that all Released Claims against the Defendants which any Releasor shall or may have or assert against any of the Defendants and related entities and individuals be forever extinguished and released on the following terms and conditions:

SECTION 2 – DEFINITIONS

2.1 Definitions

For the purposes of the Agreement, including the Recitals and Schedules hereto:

- (1) **Action** means *Claire Baldwin v Imperial Metals Corporation, et al*, brought in the Ontario Superior Court of Justice under Court File No. CV-14-509885-00CP.
- (2) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable relating to approval, implementation and administration of the Settlement including the costs of disseminating notices and the fees, disbursements and taxes paid to the Administrator, the person appointed to receive and report on objections to the Settlement to the Court, and any other expenses approved by the Court which shall all be paid from the Settlement Amount. For greater certainty, Administration Expenses do not include Class Counsel Fees.
- (3) **Administrator** means the third-party firm appointed by the Court to administer the Agreement, and any employees of such firm.
- (4) **Agreement** means this settlement agreement, including the Recitals and Schedules.
- (5) **Authorized Claimant** means any Class Member who has been approved for compensation by the Administrator.
- (6) **Claim Form** means the form or forms which, when completed and submitted in a timely manner to the Administrator, enables a Class Member to apply for compensation pursuant to the Agreement.
- (7) **Claims Bar Deadline** means the date by which each Class Member must file a Claim Form and all required supporting documentation with the Administrator which date shall be set

out in the Second Notice and which shall be at least one hundred twenty days (120) days after the date on which the Second Notice is last disseminated.

(8) **Class or Class Members** means all persons and entities, wherever they may reside or be domiciled, who acquired Imperial's Securities during the Class Period and continued to hold some or all of those Securities as of August 5, 2014, other than the Excluded Persons.

(9) **Class Counsel** means Siskinds LLP and Groia & Company Professional Corporation.

(10) **Class Counsel Fees** means the fees, disbursements, and any applicable taxes and a *pro rata* share of all interest earned on the Settlement Amount to the date of payment, as approved by the Court.

(11) **Class Period** means the period from August 15, 2011 through to August 4, 2014, inclusive.

(12) **Contributing Parties** means Imperial Metals Corporation, J. Bryan Kynoch, Andre Deepwell, Larry G. Moller, and Laurie Pare and their insurers who have or will fund the Settlement.

(13) **Court** means the Ontario Superior Court of Justice.

(14) **CPA** means the *Class Proceedings Act, 1992*, SO 1992, c 6, as amended.

(15) **Defendants** means Imperial Metals Corporation, J. Brian Kynoch, Andre Deepwell, Larry G. Moeller, Laurie Pare, N. Murray Edwards, Edco Financial Holdings Ltd. and Edco Capital Corporation.

(16) **Effective Date** means either: (i) the date on which the Second Order has become a final order and the time for any appeals has expired; or (ii) if an appeal is taken from the Second Order, relating only to Class Counsel Fees, then thirty (30) days after the issuance of the Second Order.

(17) **Escrow Account** means the interest-bearing Canadian currency trust account with one of the Canadian Schedule 1 banks or a liquid money market account or equivalent security with a rating equivalent to, or better than, that of an interest bearing account in a Canadian Schedule 1 bank in Ontario, initially under the control of Siskinds LLP and then transferred to the control of the Administrator once the Settlement is final.

(18) ***Escrow Settlement Amount*** means the Settlement Amount plus any interest accruing thereon as a result of investment thereof after payment of Class Counsel Fees and any Administration Expenses.

(19) ***Excluded Persons*** means

- (a) J. Brian Kynoch, Andre Deepwell, Larry G. Moeller, Laurie Pare and N. Murray Edwards;
- (b) Imperial Metals Corporation, Edco Financial Holdings Ltd and Edco Capital Corporation and their past or present subsidiaries, affiliates, legal representatives, General Counsel, predecessors, successors and assigns;
- (c) any person who was an officer or director of Imperial Metals Corporation, Edco Financial Holdings Ltd and Edco Capital Corporation during the Class Period;
- (d) any immediate member of the Individual Defendants' families; and
- (e) all persons who opted out of the Action.

(20) ***First Motion*** means the motion brought before the Court, for an order:

- (a) setting the date for the hearing of the Second Motion;
- (b) certifying the Action as a class proceeding;
- (c) approving the form of the First Notice;
- (d) approving and authorizing publication and dissemination of the First Notice pursuant to the Plan of Notice;
- (e) approving the Opt-Out Deadline and process for opting out of the Action; and
- (f) appointing the Administrator to receive and report on objections to the Settlement, if any, to receive and report on person opting out of the class action, if any, and assist in the dissemination of First Notice.

(21) ***First Notice*** means notice to the Class in a form to be approved by the Court, which shall substantially be in accordance with the notice at Schedule "B".

- (22) **First Order** means the order made by the Court granting the relief sought on the First Motion, substantially in the form of the order at Schedule “A”.
- (23) **Imperial Defendants** means Imperial Metals Corporation, J. Brian Kynoch, Andre Deepwell, Larry G. Moeller and Laurie Pare.
- (24) **Individual Defendants** means J. Brian Kynoch, Andre Deepwell, Larry G. Moeller, Laurie Pare and N. Murray Edwards.
- (25) **Notes** means Imperial Metals Corporation’s 7% Senior Unsecured Notes due March 2019.
- (26) **OSA** means *Securities Act*, R.S.O. 1990, c. S.5.
- (27) **Plaintiff** means Claire Baldwin.
- (28) **Plan of Allocation** means the plan, as approved by the Court, which shall substantially be in accordance with the plan at Schedule “F”.
- (29) **Plan of Notice** means the plan for disseminating the First Notice and the Second Notice to the Class, as approved by the Court, which shall substantially be in accordance with the plan attached as Schedule “C”.
- (30) **Released Claims** (or **Released Claim** in the singular) means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages whenever and wherever incurred, and rights and liabilities of any nature whatsoever, including interest, costs, expenses, administration expenses, penalties, Class Counsel Fees and lawyers’ fees, known or unknown, suspected or unsuspected, in law, under statute or in equity or at common law, that the Releasers, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have as against the Releasees relating or connected in any way to trading in Securities during the Class Period.
- (31) **Releasees** means the Defendants and their respective past and present affiliates, and subsidiaries, and each of their respective insurers, reinsurers, directors, officers, partners, employees, agents, trustees, servants, parents, consultants, underwriters, lenders, advisors,

lawyers, representatives, successors, predecessors, assigns and each of their respective heirs, executors, attorneys, administrators, guardians, estates, trustees, successors and assigns.

(32) **Releasors** means, jointly and severally, the Plaintiff, the Class Members and their respective past and present predecessors, affiliates, subsidiaries, directors, officers, employees, partners, parents, agents, trustees, servants, consultants, underwriters, lenders, shareholders, advisors, representatives, lawyers, heirs, executors, attorneys, administrators, guardians, estate trustees, successors and assigns, as the case may be.

(33) **Second Motion** means the motion brought in the Court for an order:

- (a) approving the Settlement;
- (b) appointing the Administrator;
- (c) approving the Second Notice;
- (d) approving the Plan of Allocation;
- (e) dismissing this Action without costs and with prejudice; and
- (f) approving Class Counsel Fees.

(34) **Second Notice** means notice to the Class in a form to be approved by the Court, which shall substantially be in accordance with the notice at Schedule “E”.

(35) **Second Order** means the order made by the Court granting the relief sought on the Second Motion, substantially in the form of the order at Schedule “D”.

(36) **Securities** means Imperial Metals Corporation’s common shares, Notes, or such other securities as defined in the Securities Legislation.

(37) **Securities Legislation** means, collectively, the *OSA*, the *Securities Act*, RSBC 1996, c 418, the *Securities Act*, RSA 2000, c S-4, as amended; the *Securities Act*, CCSM c S50, as amended; the *Securities Act*, SNB 2004, c S-5.5, as amended; the *Securities Act*, RSNL 1990, c S-13, as amended; the *Securities Act*, SNWT 2008, c 10, as amended; the *Securities Act*, RSNS 1989, c 418, as amended; the *Securities Act*, S Nu 2008, c 12, as amended; the *Securities Act*, RSPEI 1988, c S-3.1, as amended; the *Securities Act*, CQLR c V-1.1, as amended; the *Securities Act*, 1988, SS 1988-89, c S-42.2, as amended; and the *Securities Act*, SY 2007, c 16, as amended;

(38) **Settlement** means the settlement provided for in the Agreement.

(39) **Settlement Amount** means \$6,000,000, inclusive of the Administration Expenses, Class Counsel Fees, interest, taxes and any other costs or expenses related to the Action or the Settlement.

SECTION 3 – THE MOTIONS

3.1 Nature of Motions

(1) The Plaintiff and the Imperial Defendants shall use their best efforts to implement the Agreement and to secure the prompt, complete and final resolution of the Action, including a final dismissal of this Action, without costs and with prejudice.

(2) The First Motion shall be brought as soon as is reasonably possible following the execution of the Agreement. The Imperial Defendants shall have an opportunity to review and comment on the First Motion materials prior to filing. The Imperial Defendants shall consent to the First Order.

(3) Following the determination of the First Motion, the First Notice shall be disseminated in accordance with section 8.1 of the Agreement.

(4) Following the determination of the First Motion, the Second Motion will be brought and the Imperial Defendants shall consent to the Second Order except for the parts of that Order dealing with Class Counsel Fees and the Plan of Allocation. The Imperial Defendants shall have an opportunity to review and comment on the Second Motion materials prior to filing.

(5) Following the determination of the Second Motion, provided that the Settlement is approved by the Court, the Second Notice shall be disseminated in accordance with section 8.2 of the Agreement.

SECTION 4 – THE SETTLEMENT AMOUNT

4.1 Payment of Escrow Settlement Amount

(1) The Contributing Parties, or some of them, on behalf of the Imperial Defendants, shall pay an amount required to reimburse the reasonable expenses incurred for the fees,

disbursements, and taxes of the administrator, in seeking Court approval of the proposed settlement, up to a maximum amount of \$200,000 (the “**Advanced Payment**”). In the event that the proposed settlement is not approved by the Court, the full amount of the Advanced Payment shall be repaid in full by the representative Plaintiff, and counsel for the representative Plaintiff shall guarantee the obligation of the representative Plaintiff to repay the full amount of the Advanced Payment.

(2) The Contributing Parties, or some of them, on behalf of the Imperial Defendants, shall pay the Settlement Amount to Siskinds LLP, in trust, within 30 days of the Court order approving the Settlement Agreement. Siskinds LLP shall deposit the Settlement Amount in an interest-bearing trust account which shall be held to the order of the Contributing Parties and shall be paid out to Siskinds LLP upon the Settlement becoming final.

4.2 Interim Investment of Escrow Account

Siskinds LLP, and then the Administrator after the Settlement becomes final, shall hold the Settlement Amount in the Escrow Account and shall invest the Settlement Amount in a liquid money market account or equivalent security with a rating equivalent to, or better than that of an interest-bearing account in a Canadian Schedule 1 bank and shall not pay out any amount from the Escrow Account, except in accordance with the terms of the Agreement.

4.3 Taxes on Interest

(1) Except as provided in section 4.3(2), all taxes payable on any interest which accrues in relation to the Settlement Amount, shall be solely the Class’ responsibility and shall be paid by Class Counsel or the Administrator, as appropriate, from the Escrow Settlement Amount, or by the Class as the Administrator considers appropriate, and the Contributing Parties shall have no liability for any taxes payable on the interest.

(2) If the Administrator or Class Counsel returns any portion of the Settlement Amount plus accrued interest to the Contributing Parties pursuant to the provisions of the Agreement, the taxes payable on the interest portion of the returned amount shall be the responsibility of the Contributing Parties to be allocated by agreement among themselves.

SECTION 5 – NO REVERSION

Unless the Agreement is terminated as provided herein or otherwise by the Court, the Contributing Parties shall not, under any circumstances, be entitled to the repayment of any portion of the Settlement Amount and then only to the extent of and in accordance with the terms provided herein.

SECTION 6 - DISTRIBUTION OF THE ESCROW SETTLEMENT AMOUNT

If the Settlement becomes final as contemplated by section 10, the Administrator shall distribute the monies in the Escrow Account in accordance with the following priorities:

- (a) to pay Class Counsel Fees;
- (b) to pay all of the costs and expenses, not otherwise covered by the Advanced Payment, incurred in connection with the provision of notices, not locating Class Members for the sole purpose of providing notice to them, and soliciting Class Members to submit a Claim Form. For greater certainty, the Defendants are specifically excluded from eligibility for any payment of costs and expenses under this subsection;
- (c) to pay all of the costs and expenses reasonably and actually incurred by the Administrator, relating to determining eligibility, the filing and processing of Claim Forms, resolving disputes arising from the processing of Claim Forms and administering and distributing the Settlement Amount;
- (d) to pay any taxes required by law to be paid to any governmental authority; and
- (e) to pay a *pro rata* share of the balance of in the Escrow Account to each Authorized Claimant in accordance with the Plan of Allocation.

SECTION 7 – EFFECT OF SETTLEMENT

7.1 No Admission of Liability

Neither the Agreement, nor anything contained herein, shall be interpreted as a concession or admission of wrongdoing or liability by the Defendants, or as a concession or

admission by the Defendants of the truthfulness or merit of any claim or allegation asserted in this Action. Neither the Agreement, nor anything contained herein, shall be used or construed as an admission by the Defendants of any fault, omission, liability or wrongdoing in connection with any oral or written statement, release or written document or financial report.

7.2 Agreement Not Evidence

(1) Whether or not the Agreement is terminated, the Plaintiff and the Imperial Defendants agree that neither the Agreement, nor anything contained herein, nor any of the negotiations or proceedings connected with it, nor any related document, nor any other action taken to carry out the Agreement shall be referred to, offered as evidence or received in evidence in any current or future civil, criminal, quasi-criminal, regulatory or administrative action or proceeding in any jurisdiction as any presumption, concession or admission:

- (a) of the validity of any claim that has been or could have been asserted in the Action by the Plaintiff against the Defendants, or the deficiency of any defence that has been or could have been asserted in this Action;
- (b) of wrongdoing, fault, neglect or liability by the Defendants; and
- (c) that the consideration to be given hereunder represents the amount that could be or would have been recovered in this Action after trial.

(2) Notwithstanding section 7.2(1), the Agreement may be referred to or offered as evidence in a proceeding to approve or enforce the Agreement, to defend against the assertion of Released Claims, or as otherwise required by law.

7.3 Best Efforts

The Plaintiff and the Imperial Defendants shall use their best efforts to implement the terms of the Agreement. The Plaintiff and the Imperial Defendants agree to hold in abeyance all steps in this Action, other than proceedings provided for in the Agreement, the First Motion, the Second Motion and such other proceedings required to implement the terms of the Agreement, until the date the Settlement becomes final or the termination of the Agreement.

SECTION 8 – NOTICE TO THE CLASS

8.1 First Notice

Class Counsel shall cause the First Notice to be disseminated in accordance with the Plan of Notice and the costs of doing so shall be paid from the Advance Payment as provided in section 4.1(1).

8.2 Second Notice

Class Counsel shall cause the Second Notice to be disseminated in accordance with the Plan of Notice and the costs of so doing shall be paid from the Advance Payment as provided in section 4.1(1).

8.3 Notice of Termination

If the Agreement is terminated, Class Counsel will cause the notice of termination, in a form approved by the Court, to be disseminated as directed by the Court.

SECTION 9 – TERMINATION OF THE AGREEMENT

9.1 General

- (1) The Plaintiff or the Contributing Parties may terminate this Agreement if, and only if:
 - (a) the Second Order (excluding paragraphs 1, 3(b)-(d), 4-5, 10-14 thereof) is not granted by the Court, substantially in accordance with the form at Schedule “D”;
or
 - (b) the Second Order is reversed on appeal and the reversal becomes final.
- (2) The failure of the Court to approve in full the request by Class Counsel for Class Counsel Fees shall not be grounds to terminate the Agreement.
- (3) Notice of termination of this Agreement by the Plaintiffs or the Defendants must be provided in writing to their respective undersigned counsel.
- (4) In the event the Agreement is terminated in accordance with its terms, or is not approved by the Court, or the Second Order is reversed, vacated or terminated by any appellate court and/or the Second Order does not become final:

- (a) the Plaintiff and the Defendants will be restored to their respective positions prior to the execution of the Agreement;
 - (b) the Agreement will have no further force and effect;
 - (c) the Settlement Amount will be returned to the Contributing Parties, and
 - (d) the Agreement will not be introduced into evidence or otherwise referred to in any litigation or proceeding against the Defendants.
- (5) Notwithstanding the provisions of section 9.1(4), if the Agreement is terminated, the provisions of this section and sections 2, 4.1(1), 4.2, 4.3, 7, 9.1(3), 9.2, 9.3, 15.1(1), 15.1(2), 15.2, 15.3, 15.4, 15.5, 15.7, 15.9, 15.10, 15.11, 15.12, 15.13, 15.14 and the recitals and schedules applicable thereto shall survive termination and shall continue in full force and effect.

9.2 Allocation of Monies in the Escrow Account Following Termination

- (1) If the Agreement is terminated, the Plaintiff shall, within thirty (30) days after termination, apply to the Court for an order:
- (a) declaring the Agreement null and void and of no force or effect except for the provisions of those sections listed in section 9.1(5);
 - (b) requiring the notice of termination to be sent out to the Class Members and, if so, the form and method of disseminating such a notice;
 - (c) setting aside, *nunc pro tunc*, all prior orders or judgments entered in accordance with the terms of the Agreement; and
 - (d) authorizing the payment of all funds in the Escrow Account, including accrued interest, to the Contributing Parties, apportioned *pro rata* based on their respective contributions, directly or indirectly, to the Escrow Account, as the case may be.
- (3) Subject to section 9.3, the Imperial Defendants shall consent to the orders sought in any motion made by the Plaintiff pursuant to section 9.2(2).

9.3 Disputes Relating to Termination

If there are any disputes about the termination of the Agreement, the Court shall determine any dispute by motion on notice to the Plaintiff and the Defendants. The Contributing Parties shall be granted standing in respect of any such motion, should they deem it appropriate to intervene or otherwise make representations.

SECTION 10 – DETERMINATION THAT THE SETTLEMENT IS FINAL

- (1) The Settlement shall be considered final on the Effective Date.
- (2) Within ten (10) days after the Effective Date, Siskinds LLP shall transfer the Escrow Account to the Administrator.

SECTION 11 – RELEASES AND JURISDICTION OF THE COURT

11.1 Release of Releasees

As of the Effective Date, provided that the Settlement Amount has been deposited into the Escrow Account, the Releasers in exchange for and in consideration of the foregoing, and inasmuch as the terms and conditions of the Settlement are approved by the Court, forever and absolutely release the Releasees from the Released Claims.

11.2 No Further Claims

- (1) As of the Effective Date and provided that the Settlement Amount has been deposited into the Escrow Account, the Releasers shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto; and
- (2) For greater certainty, the Releasers acknowledge that they may subsequently discover facts adding to those they now know, but nonetheless agree that on the Effective Date, they shall have fully, definitively and permanently settled, waived and released and discharged all claims, no matter if they were unknown, unsuspected, not disclosed, and regardless of the subsequent

discovery of facts different from those they are aware of on the Effective Date. By means of the Settlement, the Releasors waive any right they might have under the law, common law, civil law, in equity or otherwise, to disregard or avoid the release and discharge of the unknown claims and bar against the commencement of new claims for any reason whatsoever and expressly relinquish any such right and each Class Member shall be deemed to have waived and relinquished such right. Furthermore, the Releasors agree to this waiver of their own volition, with full knowledge of its consequences and that this waiver was negotiated and constitutes a key element of the Settlement.

11.3 Dismissal of the Action

Except as otherwise provided in the Agreement and the Second Order, and as a condition of Settlement, this Action shall be dismissed without costs and with prejudice.

SECTION 12 – ADMINISTRATION

12.1 Appointment of the Administrator

(1) The Court will appoint the Administrator to serve until further order of the Court, to implement the Agreement and the Plan of Allocation, on the terms and conditions and with the powers, rights, duties and responsibilities set out in the Agreement and in the Plan of Allocation.

12.2 Conclusion of the Administration

(1) Following the Claims Bar Deadline, and in accordance with the terms of the Agreement, the Plan of Allocation, and such further order of the Court, as may be necessary, or as circumstances may require, the Administrator shall distribute the amount that remains in the Escrow Account to Authorized Claimants.

(2) No claims or appeals shall lie against the Releasees, the Defendants, the Defendants' counsel, Class Counsel, the Administrator, based on distributions made substantially in accordance with the Agreement and the Plan of Allocation.

(3) If the Escrow Account is in a positive balance after one hundred eighty (180) days from the date of distribution to the Authorized Claimants, the Administrator shall, if economically feasible, allocate and distribute such balance among Authorized Claimants in an equitable

fashion. If there is a balance in the Escrow Account after an initial distribution and it is uneconomical to allocate and distribute the remaining balance in the Escrow Account to Authorized Claimants, the remaining funds shall be paid *cy prè*s to a recipient selected by the Plaintiff. The Administrator shall advise the Imperial Defendants of the intention to make a *cy prè*s payment and the Imperial Defendants shall have an opportunity to comment.

SECTION 13 – THE PLAN OF ALLOCATION

- (1) Class Counsel shall propose for approval by the Court a Plan of Allocation in the form attached as Schedule “F” or such other form as Class Counsel may advise. The approval of the Plan of Allocation may be considered separately from the approval of the Agreement and is not a condition of the approval of the Agreement itself.
- (2) The Defendants shall have no obligation to consent to but shall not oppose the approval of the Plan of Allocation.
- (3) Section 13(2) is not an acknowledgement that the Defendants have standing to make any submissions regarding the Plan of Allocation.

SECTION 14 – CLASS COUNSEL FEES

14.1 Motion for Approval of Class Counsel Fees

- (1) At the Second Motion, Class Counsel shall seek the approval of Class Counsel Fees to be paid as a first charge on the Settlement Amount. Class Counsel are not precluded from making additional applications to the Court for expenses incurred as a result of implementing the terms of the Agreement. All amounts awarded on account of Class Counsel Fees shall be paid from the Settlement Amount.
- (2) The Defendants acknowledge that they are not parties to the motion concerning the approval of Class Counsel Fees, they shall not oppose the approval and they will not make any submissions to the Court concerning Class Counsel Fees.
- (3) Any order or proceeding relating to Class Counsel Fees, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the

Agreement or affect or delay the finality of the Second Order and the Settlement of the Action as provided herein.

14.2 Payment of Class Counsel Fees

(1) Forthwith after the Settlement becomes final, Siskinds LLP or the Administrator shall pay to Class Counsel the Class Counsel Fees approved by the Court from the Escrow Account.

SECTION 15 – MISCELLANEOUS

15.1 Motions for Directions

(1) Any one or more of the Plaintiff, the Defendants, Class Counsel, or the Administrator may apply to the Court for directions in respect of any matter in relation to the Agreement and Plan of Allocation.

(2) All motions contemplated by the Agreement shall be on notice to the Plaintiff and the Defendants.

15.2 Defendants Have No Responsibility or Liability for Administration

Except for the obligation to pay the Settlement Amount, none of the Releasees, the Defendants, or the Defendants' counsel shall have any responsibility for or any liability whatsoever with respect to the administration or implementation of the Agreement and Plan of Allocation, including, without limitation, the processing and payment of claims by the Administrator.

15.3 Headings, etc.

(1) In the Agreement:

- (a) the division of the Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of the Agreement;
- (b) the terms “the Agreement”, “herein”, “hereto” and similar expressions refer to the Agreement and not to any particular section or other portion of the Agreement;

- (c) unless otherwise indicated, all amounts referred to are in lawful money of Canada; and
 - (d) “person” means any legal entity including, but not limited to, individuals, corporations, sole proprietorships, general or limited partnerships, limited liability partnerships or limited liability companies.
- (2) In the computation of time in the Agreement, except where a contrary intention appears:
- (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
 - (b) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

15.4 Governing Law

- (1) The Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.
- (2) The Court shall exercise jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of the Agreement. Issues related to the administration of the Agreement, and the Escrow Account shall be determined by the Court.

15.5 Entire Agreement

The Agreement constitutes the entire agreement among the Plaintiff and the Imperial Defendants and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Plaintiff and the Imperial Defendants will be bound by any prior obligations, conditions or representations with respect to the subject matter of the Agreement, unless expressly incorporated herein. The Agreement may not be modified or amended except in writing and on consent of all Plaintiff and the Imperial Defendants and any such modification or amendment must be approved by the Court.

15.6 Binding Effect

(1) If the Settlement is approved by the Court and becomes final, the Agreement shall be binding upon, and enure to the benefit of the Plaintiff, the Class Members, the Defendants, the Individual Defendants, the Releasees, the Releasors, the Contributing Parties and all of their respective heirs, executors, predecessors, successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiff shall be binding upon all Releasors and each and every covenant and agreement made herein by the Defendants shall be binding upon all of the Releasees.

- (2) The person signing the Agreement represents and warrants (as applicable) that:
- (a) he/she has all requisite corporate power and authority to execute, deliver and perform the Agreement and to consummate the transaction contemplated hereby on his/her own behalf;
 - (b) the execution, delivery, and performance of the Agreement and the consummation of the Actions contemplated herein have been duly authorized by all necessary corporate action;
 - (c) the Agreement has been duly and validly executed and delivered by him/her and constitutes legal, valid, and binding obligations;
 - (d) he/she agrees to use his/her best efforts to satisfy all conditions precedent to the Effective Date.

15.7 Survival

The representations and warranties contained in the Agreement shall survive its execution and implementation.

15.8 Negotiated Agreement

The Agreement and the Settlement have been the subject of negotiations and many discussions among the Plaintiff and the Imperial Defendants. Each of the undersigned has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafters of the Agreement shall have no force and effect. The Plaintiff and the Imperial

Defendants further agree that the language contained in or not contained in previous drafts of the Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of the Agreement.

15.9 Confidentiality

(1) The Plaintiff and the Imperial Defendants agree that prior to the filing of the First Motion:

- (a) this Settlement Agreement, its terms, and the Settlement Amount are and shall be treated as confidential and shall not be disclosed, described, or characterized to any other person, entity, publication or member of the media, except as may be required by law, judicial process, or order of a court, to enforce the terms of the Settlement Agreement, or as otherwise agreed by the Plaintiff and Imperial Defendants; and
- (b) any one of the Plaintiff or Imperial Defendants intending to disclose such information as may be required by law, judicial process or order of a court, will notify the other of its intention and give the non-disclosing party a reasonable opportunity to object.

(2) The Plaintiff and the Imperial Defendants agree not to disclose the substance of the negotiations that led to this Settlement Agreement including the merits of any positions taken by the Plaintiff and the Imperial Defendants except as necessary to provide the Court with information necessary to consider approval of the Settlement. Notwithstanding the foregoing, any Defendants may disclose such information to a regulatory authority if he/she/it determines that disclosure is warranted.

15.10 Recitals and Schedules

(1) The recitals and schedules to the Agreement are material and integral parts hereof and are fully incorporated into, and form part of, the Agreement.

(2) The schedules to the Agreement are:

- (a) Schedule “A” – First Order
- (b) Schedule “B” – First Notice

- (c) Schedule “C” – Plan of Notice
- (d) Schedule “D” – Second Order
- (e) Schedule “E” – Second Notice
- (f) Schedule “F” – Plan of Allocation

15.11 Acknowledgements

Each of the Plaintiff and Imperial Defendants hereby represents, affirms and acknowledges that:

- (a) he, she or its representative has the authority to bind the person or entity with respect to the matters set forth herein and has read and understood the Agreement;
- (b) the terms of the Agreement and the effects thereof have been fully explained to him, her or its representative by his, her or its counsel; and
- (c) he, she or its representative fully understands each term of the Agreement and its effect.

15.12 Authorized Signatures

Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, the Agreement on behalf of the person or entity for whom he or she is signing.

15.13 Counterparts

The Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same Agreement, and a facsimile signature shall be deemed an original signature for purposes of executing the Agreement.

15.14 Notice

Any notice, instruction, motion for court approval or motion for directions or court orders sought in connection with the Agreement or any other report or document to be given by any of the Plaintiff or the Defendants to the Plaintiff or any of the other Imperial Defendants shall be in

writing and delivered personally, by facsimile or e-mail during normal business hours, or sent by registered or certified mail, or courier postage paid as follows:

Counsel for the Plaintiff:

Siskinds LLP

Barristers and Solicitors
275 Dundas Street, Unit
London, ON N6B 3L1
Tel: 519-672-7409

Michael G. Robb (LSO#: 45787G)

michael.robb@siskinds.com

Garrett Hunter (LSO#: 71800D)

garret.hunter@siskinds.com

GROIA & COMPANY PROFESSIONAL CORPORATION

365 Bay Street, Suite 1100
Toronto, ON M5H 2V1
Tel: 416-203-2115

Joseph Groia (LSO#: 20612J)

jgroia@groiaco.com

Kevin Richard (LSO#: 43160P)

krichard@groiaco.com

Bethanie Pascutto (LSO#: 78098F)

bpascutto@groiaco.com

Counsel for the Defendants:

Lenczner Slaght Royce Smith Griffin LLP

Barristers

130 Adelaide Street West, Suite 2600

Toronto, ON M5H 3P5

Lawrence E. Thacker (LSO#: 36939M)

lthacker@litigate.com

Brian Kolenda (LSO#: 60153N)

bkolenda@litigate.com

Aoife Quinn (LSO#: 71033H)

aquinn@litigate.com

Kathleen Glowach (LSO#: 79967R)

kglowach@litigate.com

N. Murray Edwards

Suite 3220-255 5 Ave SW

Calgary, AB T2P 3G6

Edco Financial Holdings Ltd.

Suite 3220-255 5 Ave SW

Calgary, AB T2P 3G6

Edco Capital Corporation

Suite 3220-255 5 Ave SW

Calgary, AB T2P 3G6

The Plaintiff and the Imperial Defendants have executed the Agreement as of the date on the cover page.

Claire Baldwin



Imperial Metals Corporation

By: _____
Name
Title

J. Brian Kynoch

Andre Deepwell

Larry G. Moeller

Laurie Pare

Siskinds LLP has executed the Agreement as of the date on the cover page to signify its consent to hold the Escrow Account on the terms set out in the Agreement and to be bound by the terms of the Agreement.

Siskinds LLP

By: _____
Name:
Title:

Claire Baldwin

Imperial Metals Corporation

By: 
Name DARBY DILLON
Title CFO

J. Brian Kynoch

Andre Deepwell

Larry G. Moeller

Laurie Pare

Siskinds LLP has executed the Agreement as of the date on the cover page to signify its consent to hold the Escrow Account on the terms set out in the Agreement and to be bound by the terms of the Agreement.

Siskinds LLP

By: _____
Name:
Title:

Claire Baldwin

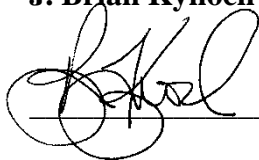
Imperial Metals Corporation

By: _____

Name

Title

J. Brian Kynoch



Andre Deepwell

Larry G. Moeller

Laurie Pare

Siskinds LLP has executed the Agreement as of the date on the cover page to signify its consent to hold the Escrow Account on the terms set out in the Agreement and to be bound by the terms of the Agreement.

Siskinds LLP

By: _____

Name:

Title:

Claire Baldwin

Imperial Metals Corporation

By: _____
Name
Title

J. Brian Kynoch

Andre Deepwell



Larry G. Moeller

Laurie Pare

Siskinds LLP has executed the Agreement as of the date on the cover page to signify its consent to hold the Escrow Account on the terms set out in the Agreement and to be bound by the terms of the Agreement.

Siskinds LLP

By: _____
Name:
Title:

Claire Baldwin

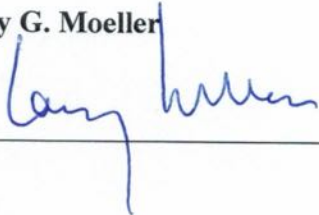
Imperial Metals Corporation

By: _____
Name
Title

J. Brian Kynoch

Andre Deepwell

Larry G. Moeller



Laurie Pare

Siskinds LLP has executed the Agreement as of the date on the cover page to signify its consent to hold the Escrow Account on the terms set out in the Agreement and to be bound by the terms of the Agreement.

Siskinds LLP

By: _____
Name:
Title:

Claire Baldwin

Imperial Metals Corporation

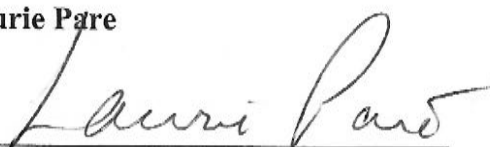
By: _____
Name
Title

J. Brian Kynoch

Andre Deepwell


Larry G. Moeller

Laurie Pare



Siskinds LLP has executed the Agreement as of the date on the cover page to signify its consent to hold the Escrow Account on the terms set out in the Agreement and to be bound by the terms of the Agreement.

Siskinds LLP

By: 

Name: **Garrett Hunter**
Title: **Lawyer**

Schedule A

Court File No.: CV-14-5059885-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) _____, THE ____
)
)
JUSTICE GLUSTEIN) DAY OF _____, 20__

BETWEEN:

CLAIRE BALDWIN

Plaintiff

and

IMPERIAL METALS CORPORATION, J. BRIAN KYNOCH, ANDRE DEEPWELL,
LARRY G. MOELLER, LAURIE PARE, N. MURRAY EDWARDS,
EDCO FINANCIAL HOLDINGS LTD. and EDCO CAPITAL CORPORATION

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**ORDER
(Certification and Notice Approval)**

THIS MOTION, made by the Plaintiff, for an Order certifying this action as a class proceeding for settlement purposes only and approving the form and content of the notices of settlement approval hearing and the method of dissemination of such notices was heard this day at the courthouse, 330 University Avenue, Toronto, Ontario.

ON READING the material filed, including the settlement agreement entered into between the Plaintiff and Imperial Defendants dated ● (the “**Settlement Agreement**”), a copy of which is attached as Schedule “A”, and on hearing the submissions of the lawyers for the parties;

ON BEING ADVISED that the Plaintiff and the Imperial Defendants consent to this Order;

AND ON BEING ADVISED that RicePoint Administration Inc. consents to being appointed as Settlement Notice, Opt-Out and Claims Administrator for the purposes of the Settlement Agreement;

1. **THIS COURT ORDERS** that, except to the extent they are modified by this Order, the definitions in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that it will decide whether to:

- (a) approve the Settlement Agreement;
- (b) approve the Plan of Allocation;
- (c) approve the fees and disbursements of Class Counsel; and
- (d) deal with any related matters

at a hearing to be held on ●, 2023, beginning at 10:00 a.m. at the courthouse, 330 University Avenue, Toronto, Ontario (the “**Settlement Approval Hearing**”).

3. **THIS COURT ORDERS** that the date and time of the Settlement Approval Hearing shall be set forth in the Notice but may be subject to adjournment by the Court without further publication of notice to Class Members, other than notice of such adjournment which shall be posted on the settlement website, ●.

4. **THIS COURT ORDERS** that if the Settlement Agreement is not approved, is terminated in accordance with its terms, or otherwise fails to take effect for any reason, this Order, including certification for settlement purposes and all opt outs delivered pursuant to this Order, shall be set aside and declared null and void and of no force or effect, without the need for any further order of this Court.

5. **THIS COURT ORDERS** that this action is certified as a class proceeding as against the Imperial Defendants pursuant to section 5 of the *Class Proceedings Act, 1992*, solely for settlement purposes and subject to the terms of the Settlement Agreement.

6. **THIS COURT ORDERS** that Claire Baldwin is appointed as the representative plaintiff for the Class Members.

7. **THIS COURT ORDERS** that the class certified for purpose of the settlement with the Imperial Defendants is defined as:

all persons and entities, wherever they may reside or be domiciled, who acquired Imperial's Securities during the Class Period and continued to hold some or all of those Securities as of August 5, 2014, other than the Excluded Persons.

8. **THIS COURT ORDERS** that Siskinds LLP and Groia & Company Professional Corporation are appointed Class Counsel.

9. **THIS COURT ORDERS** this action is certified as a class proceeding on the basis of the following common issue:

Did one or more of the Impugned Documents, as defined in the Second Fresh as Amended Statement of Claim, contain a misrepresentation within the meaning of the Securities Legislation?

10. **THIS COURT ORDERS** that the notice advising the Class Members of consent certification, the Approval Hearing, the right to opt-out of the action and the procedure to object to the settlement, generally in the form attached as Schedule “B” to this Order, is approved.
11. **THIS COURT ORDERS** that on or before ●, 2023, the Class Members shall be given notice of this Order, the right to opt out and the Approval Hearing in accordance with the Plan of Notice, in the form as attached as Schedule “C” to this Order, is approved.
12. **THIS COURT ORDERS AND DECLARES** that the notice to the Class Members described in paragraph 11 satisfies the requirements of section 17(6) of the *Class Proceedings Act, 2002*.
13. **THIS COURT ORDERS** that RicePoint Administration Inc. is appointed as Administrator for (i) the coordination and administration of Notice of the Certification Order and Settlement Approval Hearings pursuant to the Plan of Notice and related tasks; (ii) coordination and administration of the opt-out process, as described below; and (iii) coordination and administration of objections to the settlement, distribution protocol and fee request, as described below.
14. **THIS COURT ORDERS** that Class Members may exclude themselves from this proceeding by, no later than April 21, 2023 (the “**Opt Out Deadline**”), sending a written request to Opt Out to the Settlement Notice and Claims Administrator (“**Opt Out Election**”):

RicePoint Administration Inc.
1480 Richmond Street
Suite 204
London, ON N6G 0J4
Email: imperialmetals@ricepoint.com

15. **THIS COURT ORDERS** that the Opt Out Election must include the following:
- (a) a statement of intention to opt out of the action by the Class Member or a person authorized to bind the Class Member;
 - (b) a listing of all transactions in Imperial securities during the Class Period showing, for each transaction, the type of transaction (purchase or sale), the number of Imperial securities purchased or sold and the date of the transaction, and state the number of securities held at the close of trading on the TSX on August 4, 2014;
 - (c) the transactions must be supported by documents to evidence such transactions, in the form of trade confirmations, brokerage statements or other transaction records allowing the Administrator to verify the transactions
 - (d) the Class Member's full name, current mailing address, telephone number, fax number and email address (as may be available); and
 - (e) may, at the option of the Class Member, contain a statement of the Class Member's reason for opting out.
16. **THIS COURT ORDERS** that all Class Members who do not validly Opt Out of this proceeding by the Opt Out Deadline shall be bound by the terms of the Settlement Agreement, if it is approved by this Court, and may not Opt Out of the action in the future.
17. **THIS COURT ORDERS** that any Class Member who elects to Opt Out of this class action in accordance with the provisions of this Order may not also object to or comment on the Settlement Agreement and any such objection or comments received therefrom shall be deemed withdrawn.
18. **THIS COURT ORDERS** that any Class Member who Opts Out of this class action in accordance with the provisions of this Order shall not be bound by the Settlement Agreement, shall not be entitled to receive any benefits or compensation in connection with the Settlement Agreement, shall cease to be a putative class member in this action and any limitation periods otherwise applicable to said class member shall be deemed to re-commence running as of the Opt Out Deadline.

19. **THIS COURT ORDERS** that at the Approval Hearing, the Court will consider objections to the Settlement Agreement by Class Members if their objections are sent in written form by no later than April 21, 2023 to:

RicePoint Administration Inc.
1480 Richmond Street
Suite 204
London, ON N6G 0J4
Email: imperialmetals@ricepoint.com

20. **THIS COURT ORDERS** that the written objections must include the following:

- (f) the objector's full name, current mailing address, telephone number, fax number and email address (as may be available);
- (g) a statement that the Class Member acquired Imperial's Securities during the Class Period and continued to hold some or all of those Securities as of August 5, 2014;
- (h) a brief statement of the nature of and reasons for the objection; and
- (i) the objector intends to appear at the Approval Hearing in person or by counsel, and, if by counsel, the name, address, telephone number, fax number and email address of counsel.

21. **THIS COURT ORDERS** that RicePoint Administration Inc. shall, on or before ●, report to the Court, by affidavit, with a copy to counsel for the Plaintiff and counsel for the Defendants, the names of the persons who objected and copies of any materials filed in connection with the objections.

22. **THIS COURT ORDERS** that any party affected by this Order may apply to the Court for further directions.

23. **THIS COURT ORDERS** that in the event of a conflict between this Order and the terms of the Settlement Agreement, this Order shall prevail.

NOTICE OF THE PROPOSED SETTLEMENT OF THE IMPERIAL METALS CORPORATION CLASS ACTION

Read this notice carefully as it may affect your rights.

This notice is directed to all persons and entities, excluding certain persons associated with the Defendants who acquired Imperial Metals Corporation's common shares, notes or other such securities from August 15, 2011 through to August 4, 2014, inclusive, and continued to hold some or all of those securities as of August 5, 2014.

On August 7, 2014, a proposed class action was commenced in the Ontario Superior Court of Justice (the "Action"). The Plaintiff alleges that Imperial Metals Corporation's continuous disclosure documents contained misrepresentations at law and within the meaning of Part XXIII.1 of the *Securities Act*, R.S.O. 1990, c. S.5 and, if necessary, the other provincial and territorial securities legislation from August 15, 2011 through to August 4, 2014, inclusive, by failing to disclose the adverse conditions at Imperial Metals Corporation's tailings storage facility at the Mount Polley mine.

The parties have reached a proposed settlement of the Action, without an admission of liability by the Defendants, subject to the approval by the Court. This notice provides a summary of the proposed settlement.

On •, 2023, the action was certified on consent for settlement purposes. The certified class includes persons, other than Excluded Persons, who acquired Imperial Metals Corporation's securities from August 15, 2011 through to August 4, 2014, inclusive, and continued to hold some or all of those securities as of August 5, 2014.

The persons included in the class are entitled to participate in the settlement.

THE TERMS OF THE PROPOSED SETTLEMENT

The Imperial Defendants will pay \$6 million, in full and final settlement of all claims against the Defendants. The \$6 million, less the lawyers' fees, disbursements and taxes, and the costs of administration of the settlement will be distributed to the Class in accordance with a plan of allocation. The Settlement Agreement may be viewed at •.

THE APPROVAL HEARING

The Court will be asked to approve the proposed settlement and the lawyers' fees, disbursements, expenses and taxes at a hearing to be held on •, 2023 at • a.m. at the courthouse located at 330 University Avenue, Toronto. The lawyers for the Class will ask the Court to approve legal fees of • (●) percent of \$6 million which is \$●, plus disbursements and taxes.

OBJECTIONS

Class Members who do not oppose the proposed settlement are not required to appear at the hearing or take any other action at this time to indicate their desire to participate in the proposed settlement. Class Members who consider it desirable or necessary to seek the advice and guidance of their own lawyers may do so at their own expense.

At the approval hearing, the Court will consider an objection to the proposed settlement by a Class Member if the objection is submitted in writing, by prepaid mail or e-mail to the Administrator: RicePoint Administration Inc., 1480 Richmond Street, Suite 204, London, ON N6G 0J4, Email: imperialmetals@ricepoint.com. Class Members who wish to object must do so before April 21, 2023.

A written objection can be submitted in English or French and must include the following information:

- (a) the objector's full name, current mailing address, telephone number, fax number and email address (as may be available);
- (b) a statement that the Class Member acquired Imperial Metals Corporation's common shares, notes or other such securities from August 15, 2011 through to August 4, 2014, inclusive, and continued to hold some or all of those securities as of August 5, 2014;
- (c) a brief statement of the nature of and reasons for the objection; and
- (d) the objector intends to appear at the Approval Hearing in person or by counsel, and, if by counsel, the name, address, telephone number, fax number and email address of counsel.

OPTING OUT FROM THE CLASS ACTION

If you are a Class Member, you will be bound by the outcome of the Action, including the terms of the proposed settlement, if approved, unless you opt out of the Action. Class Members who do not opt out will (i) be entitled to participate in the settlement; (ii) be bound by the terms of the settlement; and (iii) not be permitted to bring other legal proceedings in relation to the matters alleged in the Action against the Defendants, or any person released by the approved settlement. Conversely, if you are a Class Member who opts out of the Action (an "**Opt Out Party**"), you will not be able to make a claim to receive compensation from the proposed settlement but will maintain the right to pursue your own claim against the Defendants relating to the matters alleged in the Action.

If you are a Class Member and wish to opt out, you must submit a written election ("**Opt Out Election**"), to the Administrator at the mail or email address set out in the preceding section. Your Opt Out Election must be postmarked or be sent via email by no later than **11:59pm Toronto (Eastern) time on April 21, 2023** ("**Opt Out Deadline**") to be valid.

To be valid, the Opt Out Election: (a) must contain a statement of intention to opt out of the action by the Class Member or person authorized to bind the Class Member; (b) a listing of all transactions in Imperial Securities from and including August 15, 2011 to and including August 4, 2014 (the Class Period) showing, for each transaction, the type of transaction (purchase or sale), the number of Imperial securities purchased or sold and the date of the transaction, and state the number of securities held at the close of trading on the TSX on August 4, 2014; (c) the transactions must be supported by documents to evidence such transactions, in the form of trade confirmations, brokerage statements or other transaction records allowing the Administrator to verify the transactions; (d) must contain the name, address, telephone number and email address of the Class Member; and (e) may, at the option of the Class Member, contain a statement of the Class Member's reason for opting out.

An Opt Out Election that does not contain all of the required information or is postmarked or emailed after the Opt Out Deadline will not be valid, which means that you will be bound by the outcome of the Action, including the proposed settlement, if it is approved.

You may revoke an Opt Out Election by delivering to the Administrator by mail or courier a written statement that you wish to revoke the Opt Out Election, which must be postmarked on or before 11:59pm Toronto (Eastern) time on ● .

QUESTIONS

Questions for the lawyers for the Class may be directed to:

Garett Hunter
Siskinds LLP
275 Dundas Street, Unit
London, ON N6B 3L1
Tel: 519-660-7802
garett.hunter@siskinds.com

Kevin Richard
Groia & Company Professional Corporation
Wildeboer Dellelce Place
1100 - 365 Bay Street
Toronto, ON M5H 2V1
Tel: 416.203.2115
Fax: 416.203.9231
krichard@groiaco.com

This notice has been approved by the Court. Questions regarding this notice should NOT be directed to the Court.

Schedule C

Court File No.: CV-14-5059885-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CLAIRE BALDWIN

Plaintiff

and

IMPERIAL METALS CORPORATION, J. BRIAN KYNOCH, ANDRE DEEPWELL,
LARRY G. MOELLER, LAURIE PARE, N. MURRAY EDWARDS,
EDCO FINANCIAL HOLDINGS LTD. and EDCO CAPITAL CORPORATION

Defendants

Proceeding under the *Class Proceedings Act, 1992*

PLAN OF NOTICE

1. The First Notice shall be disseminated as follows:
 - (a) The Administrator shall issue a press release containing the content of the First Notice over *Canada Newswire*;
 - (b) The Administrator shall provide the First Notice to the brokerage firms in its proprietary database;
 - (c) Class Counsel shall post the First Notice in English and French on their website;
 - (d) Class Counsel shall e-mail the First Notice to Class Members for whom they have current e-mail addresses; and
 - (e) Class Counsel shall mail the First Notice to Class Members for whom they have current mailing addresses but no e-mail addresses.

2. The Second Notice shall be disseminated as follows:
 - (a) The Administrator shall issue a press release containing the content of the First Notice over *Canada Newswire*;
 - (b) The Administrator shall provide the Second Notice to all brokerage firms in its proprietary database;
 - (c) Class Counsel shall post the Second Notice in English and French on their website;
 - (d) Class Counsel shall e-mail the First Notice to Class Members for whom they have current e-mail addresses; and
 - (e) Class Counsel shall mail the First Notice to Class Members for whom they have current mailing addresses but no e-mail addresses.

Schedule D

Court File No.: CV-14-5059885-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) , THE DAY
JUSTICE GLUSTEIN) OF , 2022

BETWEEN:

CLAIRE BALDWIN

Plaintiff

and

IMPERIAL METALS CORPORATION, J. BRIAN KYNOCH, ANDRE DEEPWELL,
LARRY G. MOELLER, LAURIE PARE, N. MURRAY EDWARDS,
EDCO FINANCIAL HOLDINGS LTD. and EDCO CAPITAL CORPORATION

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**ORDER
(Settlement, Notice, Plan of Allocation and Counsel Fees Approval)**

THIS MOTION made by:

- (a) Claire Baldwin for an Order approving the settlement of the Action; and
- (b) Siskinds LLP and Groia & Company Professional Corporation for the approval of the agreement respecting fees and disbursements between Siskinds LLP, Groia & Company Professional Corporation and Claire Baldwin pursuant to subsection 32(2) of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 (the “*CPA*”).

was heard this ● day of ●, 2023 at Toronto, Ontario.

ON READING the following:

- (a) the notice of motion;
- (b) the Settlement Agreement;
- (c) the affidavits of:
 - (i) Bethanie Pascutto affirmed January 26, 2023;
 - (ii) Ivan Bobanovic affirmed January 26, 2023.

AND ON HEARING the submissions of the Plaintiff and the Imperial Defendants;

AND ON BEING ADVISED that:

- (a) the Plaintiff and the Imperial Defendants consent to paragraphs 1, 2, 3(a), 3(b), 4, 5, 7, 8, 9, 10, 11, 12, 13, and 16 of this Order and the Imperial Defendants take no position on paragraphs 3(c), 3(d), 6, 14 and 15 of this Order;
- (b) RicePoint Administration Inc. consents to being appointed Administrator;
- (c) as of ●, there have been ● objections to the proposed settlement received by RicePoint Administration Inc.;

AND without any admissions of liability on the part of any of the Defendants, who have denied liability;

1. **THIS COURT ORDERS AND DECLARES** that, except as otherwise stated, for the purposes of this Order, the definitions in the Settlement Agreement apply to and are incorporated into this Order and that the following definitions also apply:

- (a) "Claims Bar Deadline" means 5:00 p.m. Eastern Standard Time on ●, 2022;
- (b) "Class Counsel" means Siskinds LLP and Groia & Company Professional Corporation;
- (c) "Fee Agreement" means the agreement between Claire Baldwin, Siskinds LLP and Groia & Company Professional Corporation signed by Claire Baldwin on ●, 2014;
- (d) "Released Claims" means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages whenever and wherever incurred, and rights and

liabilities of any nature whatsoever, including interest, costs, expenses, administration expenses, penalties, Class Counsel Fees and lawyers' fees, known or unknown, suspected or unsuspected, in law, under statute or in equity or at common law, that the Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have as against the Releasees relating or connected in any way to trading in Securities during the Class Period;

- (e) "Releasees" means the Defendants and their respective past and present affiliates, and subsidiaries, and each of their respective insurers, reinsurers, directors, officers, partners, employees, agents, trustees, servants, parents, consultants, underwriters, lenders, advisors, lawyers, representatives, successors, predecessors, assigns and each of their respective heirs, executors, attorneys, administrators, guardians, estates, trustees, successors and assigns;
- (f) "Releasors" means, jointly and severally, the Plaintiff, the Class Members and their respective past and present predecessors, affiliates, subsidiaries, directors, officers, employees, partners, parents, agents, trustees, servants, consultants, underwriters, lenders, shareholders, advisors, representatives, lawyers, heirs, executors, attorneys, administrators, guardians, estate trustees, successors and assigns, as the case may be; and
- (g) "Settlement Agreement" means the settlement agreement dated ●, 2023 (without schedules) attached hereto as Schedule 1.

2. **THIS COURT ORDERS AND ADJUDGES** that the Settlement is fair and reasonable and in the best interests of the Class Members and is approved.

3. **THIS COURT ORDERS** that:

- (a) the Settlement Agreement attached as Schedule 1 to this Order, is approved and shall be implemented in accordance with its terms;
- (b) the Second Notice in the form attached as Schedule 2 to this Order, is approved;
- (c) the Plan of Allocation in the form attached as Schedule 3 to this Order, is approved; and
- (d) the Claim Form in the form attached as Schedule 4 to this Order, is approved.

4. **THIS COURT ORDERS** that the Class Members shall be given notice of this Order substantially in the form of the Second Notice disseminated in accordance with the Plan of Notice.

5. **THIS COURT ORDERS** that RicePoint Administration Inc. is appointed:
 - (a) as the Administrator on the terms and conditions and with the powers, duties and responsibilities set out in the Settlement Agreement and Plan of Allocation; and
 - (b) to manage the Escrow Account and to hold, invest and disburse the Escrow Settlement Amount in accordance with the terms of the Settlement Agreement, the Plan of Allocation and this Order.

6. **THIS COURT ORDERS AND DECLARES** that all provisions of the Settlement Agreement (including the Recitals and Definitions) form part of this Order and are binding upon the Defendants in accordance with the terms thereof, and upon the Plaintiff and all Class Members in accordance with the terms of this Order, including those persons who are minors or mentally incapable, and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with.

7. **THIS COURT ORDERS AND DECLARES** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.

8. **THIS COURT ORDERS AND DECLARES** that each Releasor has released and shall be conclusively deemed to have fully, finally and forever released the Releasees from the Released Claims.

9. **THIS COURT ORDERS** that the Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto.

10. **THIS COURT ORDERS** that to participate in this Settlement, Class Members must file a Claim Form with the Administrator on or before the Claims Bar Deadline unless the Court orders otherwise.

11. **THIS COURT ORDERS** that the Plaintiff and the Defendants, Class Counsel or the Administrator may apply to the Court for directions in respect of the implementation and/or the administration of the Plan of Allocation or relating to any other matter.

12. **THIS COURT ORDERS** that no person may bring any action or take any proceedings against the Plaintiff, the Defendants, Administrator, or their employees, directors, officers, partners, agents, trustees, parents, predecessors, or assigns for any matter in any way relating to the administration of the Plan of Allocation of the implementation of this Order except with leave of the Court.

13. **THIS COURT ORDERS** that:

- (a) the Fee Agreement between Claire Baldwin, Siskinds LLP and Groia & Company Professional Corporation is approved; and
- (b) Siskinds LLP and Groia & Company Professional Corporation's fees, disbursements and taxes are fixed at \$● and shall be paid from the Escrow Account forthwith after the Settlement becomes final.

14. **THIS COURT ORDERS** that Claire Baldwin shall be awarded an honorarium of \$● and such amounts shall be paid from the Escrow Account by Siskinds LLP forthwith after the Settlement becomes final.

15. **THIS COURT ORDERS** that this Action, except as provided for in this Order, is dismissed without costs and with prejudice.

JUSTICE GLUSTEIN

NOTICE OF SETTLEMENT OF THE IMPERIAL METALS CORPORATION CLASS ACTION

Read this notice carefully as it may affect your rights.

This notice is directed to all persons and entities, excluding certain persons associated with the Defendants, who acquired Imperial Metals Corporation's common shares, notes or other such securities from August 15, 2011 through to August 4, 2014, inclusive, and continued to hold some or all of those securities as of August 5, 2014.

On August 7, 2014, a proposed class action was commenced in Toronto (the "Action"). The Plaintiff alleges that Imperial Metals Corporation's continuous disclosure documents contained misrepresentations at law and within the meaning under Part XXIII.1 of the *Securities Act*, R.S.O. 1990, c. S.5 and, if necessary, the other provincial and territorial securities legislation from August 15, 2011 through to August 4, 2014, inclusive, by failing to disclose the adverse conditions at Imperial Metals Corporation's tailings storage facility at the Mount Polley mine.

The proposed settlement of the Action was approved by Justice Glustein on •. This notice provides a summary of the terms of the settlement.

Persons eligible to participate in the settlement are persons, other than Excluded Persons, who acquired Imperial Metals Corporation's common shares, notes or other such securities from August 15, 2011 through to August 4, 2014, inclusive, and continued to hold some or all of those securities as of August 5, 2014 who did not opt out of the Action.

SUMMARY OF THE TERMS OF THE SETTLEMENT

The Defendants will pay \$6 million, in full and final settlement of all claims, to be distributed in accordance with the following priorities:

- (a) \$• to the lawyers for the Class for fees, disbursements and taxes;
- (b) all costs and expenses incurred in the administration of the settlement, including the costs of RicePoint Administration Inc. the Court-appointed Administrator; and
- (c) a pro rata share of the balance to each Class Member in accordance with the Court-approved claims process and Plan of Allocation.

The Settlement Agreement, the Plan of Allocation and a description of the claims process may be viewed at •.

A CLAIM FOR COMPENSATION MUST BE MADE BY •, 2023.

Each Class Member must submit a completed Claim Form on or before •, 2023 in order to participate in the Settlement. The Claim Form can be accessed or downloaded at • or obtained by calling the Administrator at •. If you do not submit a completed Claim Form by •, 2023, you will not receive any compensation.

The Claim Form should be submitted to the Administrator by using the secure Online Claims System at • or by e-mail to imperialmetals@ricepoint.com. You may submit a paper Claim Form only if you do not have internet access. The paper Claim Form may be sent to mail or courier to:

RicePoint Administration Inc., Administrator, Imperial Metals Corporation Class Action Administration

1480 Richmond Street
Suite 204
London, ON N6G 0J4

QUESTIONS

Questions for the lawyers for the Class may be directed to:

Garett Hunter
Siskinds LLP
275 Dundas Street, Unit
London, ON N6B 3L1
Tel: 519-660 7802
garett.hunter@siskinds.com

Kevin Richard
Groia & Company Professional Corporation
Wildeboer Dellelce Place
1100 - 365 Bay Street
Toronto, ON M5H 2V1
Tel: 416.203.2115
Fax: 416.203.9231
krichard@groiaco.com

This notice has been approved by the Court. Questions regarding this notice should NOT be directed to the Court

Schedule F

PLAN OF ALLOCATION**THE DEFINED TERMS**

1. The definitions set out in the settlement agreement reached between the Plaintiffs and Imperial Defendants dated • (“**Agreement**”), except as modified or defined herein, apply to and are incorporated into this Plan of Allocation:
 - (a) **Acquisition Expense** means the price paid by the Claimant (including brokerage commissions) to acquire a Qualified Security;
 - (b) **Administrator** means RicePoint Administration Inc.;
 - (c) **Authorized Claimant** means a Class Member who: (i) submitted a properly completed Claim Form and all required supporting documentation to the Administrator prior to the Claims Bar Deadline; and (ii) is eligible to receive a Distribution from the Compensation Fund;
 - (d) **Claimant** means a Class Member who submits a properly completed Claim Form and all required supporting documentation to the Administrator, on or before the Claims Bar Deadline;
 - (e) **Class Period** means the period from August 15, 2011 through to August 4, 2014, inclusive;
 - (f) **Compensation Fund** means the Settlement Amount less Class Counsel Fees, Administration Expenses and other expenses authorized by the Court, if any. The Compensation Fund is the same as the Escrow Settlement Amount;
 - (g) **Court** means the Ontario Superior Court of Justice;

- (h) **Database** means the database in which the Administrator stores information received from the Claimants and/or acquired through the claims process;
- (i) **Disposition Proceeds** means the price received by the Claimant (without deducting any brokerage commissions) on the disposition of a Qualified Security;
- (j) **Distribution** means payment to Authorized Claimants in accordance with this Plan of Allocation, the Agreement and any order of the Court;
- (k) **Distribution List** means a list containing the name and address of each Authorized Claimant, the calculation of their net loss and the calculation of the Authorized Claimant's *pro rata* share of the Compensation Fund;
- (l) **Notional Entitlement** means the Authorized Claimant's notional damages as calculated pursuant to the formulae set forth in this Plan of Allocation, which forms the basis upon which each Authorized Claimant's *pro rata* share of the Compensation Fund is determined for purposes of the Distribution.
- (m) **Qualified Securities** means Securities purchased or acquired during the Class Period and held until after August 4, 2014;
- (n) **Securities** means Imperial Metals Corporation's common shares, 7% Unsecured Notes due March 2019, or such other securities as defined in the Securities Legislation;
- (o) **Settlement Amount** means \$6,000,000 less the Administration Expenses, Class Counsel Fees, interest, taxes and any other costs or expenses related to the Action or the Settlement; and
- (p) **Website** means the website at www.♦.com.

THE OVERVIEW

2. This Plan of Allocation contemplates a determination of eligibility and an allocation and Distribution to each Authorized Claimant of a share of the Compensation Fund determined on the basis of the calculations set forth herein.

CALCULATION OF THE DISTRIBUTION

3. The Administrator shall apply first in first out principles (whereby securities are deemed to be sold in the same order that they were purchased) to determine the purchase transactions that correspond to the sale of Qualified Securities, including in the calculation of a Claimant's Notional Entitlement.
4. The Administrator shall first determine a Claimant's Notional Entitlement. If the Claimant has a Notional Entitlement greater than zero, they become an Authorized Claimant, and the Administrator will go on to calculate the Authorized Claimant's monetary compensation. A Claimant must have a Notional Entitlement greater than zero in order to be eligible to receive a payment from the Compensation Fund.
5. Transfers of Imperial Metals Corporation's securities between accounts belonging to the same Claimant will not be taken into account in determining a Claimant's Notional Entitlement.
6. The date of an acquisition or disposition shall be the trade date of the transaction, as opposed to the settlement of the transaction or the payment date,
7. **The Notional Entitlement for Qualified Securities will be calculated as follows:**
 - a. No Notional Entitlement shall be recognized for any Qualified Securities disposed of before the close of trading on the Toronto Stock Exchange on August 1, 2014;

Common Shares

- b. For each common share disposed on or before August 18, 2014 (10 trading days post-correction), the Notional Entitlement is the difference between the Acquisition Expense and the Disposition Proceeds;
- c. For each common share disposed of after August 18, 2014 (10 trading days post-correction), the Notional Entitlement shall be the lesser of:
 - i. the difference between the Acquisition Expense and the Disposition Proceeds; and;
 - ii. the difference between the Acquisition Expense and \$9.97¹;
- d. For each common share not yet disposed of, the Notional Entitlement is the difference between the Acquisition Expense and \$9.97².

7% Unsecured Notes due March 2019 (“Notes”)

- e. For each Note disposed of after August 4, 2014 and prior to March 15, 2019, the Notional Entitlement is the Acquisition Expense less the Disposition Proceeds and any interest payments received on the Note; and
 - f. For each Note redeemed, paid in full or extended on or before March 15, 2019, the Notional Entitlement is nil.
8. Each Authorized Claimant’s actual compensation shall be the portion of the Compensation Fund equivalent to the ratio of their Notional Entitlement to the total Notional Entitlement of all Authorized Claimants multiplied by the Compensation Fund, as calculated by the

¹ The post-correction 10-day volume weighted average share price.

² *Ibid.*

Administrator (defined herein as the “*Pro Rata Distribution*”). However, the amount payable on account of the Notes shall not exceed 10% of the Compensation Fund.

9. Compensation shall be paid to Authorized Claimants in Canadian currency.

GENERAL PRINCIPLES OF THE ADMINISTRATION OF THE SETTLEMENT

10. The administration process to be established shall:
- (a) implement and conform to the Plan of the Allocation;
 - (b) employ secure, paperless, web-based systems with electronic registration and record keeping, wherever practical; and
 - (c) be bilingual (English, French) in all respects and include a bilingual website and a bilingual toll-free telephone helpline.

THE ADMINISTRATOR

11. The Administrator shall have such powers and rights reasonably necessary to discharge its duties and obligations to implement and administer the Escrow Account and the Plan of Allocation in accordance with their terms, subject to the direction of the Court.

THE ADMINISTRATOR’S DUTIES AND RESPONSIBILITIES

12. The Administrator shall administer the Plan of Allocation under the oversight and direction of the Courts and act as trustee in respect of the monies held within the Escrow Account upon receipt from Class Counsel.
13. The Administrator shall, wherever practical, develop, implement and operate an administration system utilizing web-based technology and other electronic systems for the following:

- (a) receipt of information from Computershare and/or TMX Equity Transfer Services or Broadridge Financial Solutions Inc. concerning the identity and contact information of registered holders or beneficial owners of Securities, respectively;
 - (b) Class notification, as required;
 - (c) claim filing and document collection;
 - (d) claim evaluation, and analysis;
 - (e) distribution analysis and Distribution;
 - (f) cy près award distribution, if any, and reporting thereon;
 - (g) Administration Expense payments; and
 - (h) cash management, audit control and reporting thereon.
14. The Administrator's duties and responsibilities shall include the following:
- (a) receiving the monies in the Escrow Account from Siskinds LLP and investing them in trust in accordance with the Agreement;
 - (b) preparing any protocols required for submissions to and approval of the Court;
 - (c) providing notice of (i) the Second Motion, namely the Settlement was approved, and (ii) details of how, where, and by when to submit completed Claim Forms;
 - (d) providing the hardware, software solutions and other resources necessary for an electronic web-based bilingual claims processing centre to function in a commercially-reasonable manner;
 - (e) providing, training and instructing personnel in such reasonable numbers as are required for the performance of its duties in the most expedient, commercially reasonable manner;

- (f) developing, implementing and operating electronic web-based systems and procedures for receiving, processing, evaluating and decision-making respecting the claims of Class Members, including making all necessary inquiries to determine the validity of such claims;
- (g) if practicable, providing any Claimant whose Claim Form is not properly completed or does not include some of the required supporting documentation, an opportunity to remedy the deficiency as stipulated in the Agreement;
- (h) making timely assessments of eligibility for compensation and providing prompt notice thereof;
- (i) paying all taxes accruing on the interest earned in the Escrow Account and adding that interest (net of taxes) to the Compensation Fund;
- (j) making Distributions from the Compensation Fund in a timely fashion;
- (k) dedicating sufficient personnel to communicate with a Claimant in English or French as the Claimant elects;
- (l) using its best efforts to ensure that its personnel provide timely, helpful and supportive assistance to Claimants in completing the claims application process and in responding to inquiries respecting claims;
- (m) distributing and reporting on any *cy près* awards;
- (n) making payments of Administration Expenses;
- (o) maintaining a Database with all information necessary to permit the Courts to evaluate the progress of the administration, as may, from time to time, be required;

- (p) reporting to the Court respecting claims received and administered, and Administration Expenses; and
 - (q) preparing such financial statements, reports and records as directed by the Court.
15. The Administrator shall pay all of the costs and expenses reasonably and actually incurred in connection with the provision of notices, locating Class Members for the sole purpose of providing notice to them, soliciting Class Members to submit a Claim Form, including the notice expenses reasonably and actually incurred by the Administrator and brokerage firms in connection with the provision of notice of this Settlement to Class Members (provided, however, that the Administrator shall not pay in excess CAD\$30,000.00 in the aggregate to all brokerage firms and, if the aggregate amount claimed by such brokerage firms exceeds CAD\$30,000.00, then the Administrator shall distribute the sum of CAD\$30,000.00 to such brokerage firms on a *pro rata* basis).
16. The Administrator shall keep up to date information on the Website on the status of the administration.
17. Once a Claim Form and required supporting documentation is received by the Administrator, the Administrator shall:
- (a) decide whether the Claimant is eligible to participate in the Distribution; and
 - (b) calculate the *Pro Rata* Distribution.

DISTRIBUTION TO AUTHORIZED CLAIMANTS

18. No Distribution shall be made by the Administrator in respect of any amount under \$5, and the name(s) of the Authorized Claimant(s) with claims under this amount shall be excluded from the Distribution List in respect of such claims.

19. Each Authorized Claimant whose name appears on the Distribution List shall comply with any condition precedent to Distribution that the Court may impose.
20. The Administrator shall make Distributions from the Compensation Fund to the Authorized Claimants whose names are on the Distribution List.
21. If the Escrow Account is in a positive balance (whether by reason of tax refunds, uncashed cheques or otherwise) in an amount greater than 10% of the net Settlement Amount after one hundred eighty (180) days from the date of Distribution of the Compensation Fund to the Authorized Claimants, the Administrator shall allocate such balance among Authorized Claimants whose names are on the Distribution List in an equitable fashion up to the limit of each person's actual loss. The Administrator may wait until a CRA T-5 tax slip for investment income is issued by the Schedule 1 bank in respect of the Escrow Account before making this second distribution. If there is a balance in the Escrow Account after each Authorized Claimant is paid up to his/her/its actual loss, the remaining funds shall be paid *cy près* to a recipient selected by Class Counsel.

IRREGULAR CLAIMS AND RESTRICTION ON CLAIMS

22. Where a Claim Form contains minor omissions or errors or there are minor errors or omissions in supporting documentation, the Administrator shall correct such omissions or errors if the information necessary to correct the error or omission is readily available to the Administrator and it is a proportionate and efficient use of resources for them to do so.
23. In order to remedy any deficiency in the completion of a Claim Form, the Administrator may require and request that additional information be submitted. This information must be submitted sixty (60) days from the date of the request from the Administrator or the Claims Bar Deadline to rectify the deficiency. Any person who does not respond to such a request

for information within this period shall be forever barred from receiving any payments pursuant to the Settlement, subject to any order of the Court to the contrary, but will in all other respects be subject to and bound by the provisions of the Agreement and the releases contained therein.

24. Any Class Member who does not submit a Claim Form and required supporting documentation with the Administrator on or before the Claims Bar Deadline will have their claim disallowed unless the Claims Administrator, in their absolute discretion, determines that allowing the claim would not delay the administration or otherwise impact the efficiency of the administration.
25. The claims process is also intended to prevent fraud and abuse. If, after reviewing any Claim Form, the Administrator believes that the claim contains unintentional errors which would materially exaggerate the Notional Entitlement of the Claimant, then the Administrator may disallow the claim in its entirety or make such adjustments so that an appropriate Notional Entitlement is allocated to the Claimant. If the Administrator believes that the claim is fraudulent or contains intentional errors which would materially exaggerate the Notional Entitlement of the Claimant, then the Administrator shall disallow the claim in its entirety.
26. Where the Administrator disallows a claim in its entirety, the Administrator shall send to the Claimant, at the email or postal address provided by the Claimant or the Claimant's last known email or postal address, a notice advising that the claim has been disallowed and that the Claimant may request the Administrator to reconsider its decision. For greater certainty, a Claimant is not entitled to a notice or a review where a claim is allowed but the

Claimant disputes the amount of his, her or its Notional Entitlement or his, her or its individual compensation.

27. Any request for reconsideration must be received by the Administrator within 45 days of the date of the notice advising of the disallowance. If no request is received within this time period, the Claimant shall be deemed to have accepted the Administrator's determination and the determination shall be final and not subject to further review by any court or other tribunal.
28. Where a Claimant files a request for reconsideration with the Administrator, the Administrator shall advise Class Counsel of the request and conduct an administrative review of the Claimant's complaint.
29. Following its determination in an administrative review, the Administrator shall advise the Claimant of its determination. In the event the Administrator reverses a disallowance, the Administrator shall send the Claimant, at the email or postal address provided by the Claimant or the Claimant's last known email or postal address, a notice specifying the revision to the Administrator's disallowance.
30. The determination of the Administrator in an administrative review is final and is not subject to further review by any court or other tribunal.
31. Any matter not referred to above shall be determined by analogy by the Administrator in consultation with Class Counsel.
32. No action shall lie against Class Counsel or the Administrator for any decision made in the administration of the Agreement and the Distribution Protocol without an order from a Court authorizing such an action.

ADMINISTRATION EXPENSES

33. The Administrator shall pay the fees, disbursements, taxes, levies, and other costs of:

- (a) the Administrator; and
- (b) such other persons at the direction of the Court,


out of the Settlement Amount in accordance with the provisions of the Agreement, the Second Order and any other orders of the Court.

34. The costs of giving the notices required pursuant to the Second Order and the Plan of Allocation are not to be paid by the Administrator from its fee.

NO ASSIGNMENT

35. No amount payable under this Plan of Allocation may be assigned without the written consent of the Administrator.

THIS IS **EXHIBIT "I"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end.

TAEK SOO SHIN (LSO #85691Q)

XEBEC CLASS ACTION SETTLEMENT AGREEMENT

Made as of the 26th day of May, 2023

Between

Maurice Leclair and Evert Schuringa

Proposed representative plaintiffs in Québec Superior Court proceeding No.: 500-06-001135-215
in their personal and representative capacities

- and -

FormerXBC Inc., formerly known as Xebec Adsorption Inc.

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RECITALS

- A. WHEREAS** on or about March 15, 2021, the Plaintiffs commenced the Action in the form of a proposed class action for, *inter alia*, damages for misrepresentation under Title VIII, Chapter II, Divisions I and II of the QSA and, if necessary, the concordant provisions of the other Securities Legislation, for civil fault pursuant to article 1457 of the CCQ, and for oppression pursuant to section 241 of the CBCA;
- B. AND WHEREAS** Xebec and its direct and indirect subsidiaries and other affiliated entities and related persons, both past and present, and their respective present and former directors, officers, employees, agents, representatives, underwriters, auditors and insurers deny any liability with respect to the allegations made, or which could have been made, in the Action;
- C. AND WHEREAS** on September 29, 2022, the CCAA Court issued a First Day Initial Order pursuant to the CCAA, which resulted in the stay of all proceedings involving Xebec and its former and current directors and officers, including the Action;
- D. AND WHEREAS**, both before and after the First Day Initial Order, counsel for the Parties have engaged in arm's length settlement discussions and negotiations, including a mediation, which ultimately resulted in the Settlement;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by the Parties that the Action be declared settled out of court without costs, subject to the approval of the Class Action Court, on the following terms and conditions.

SECTION 1 - DEFINITIONS

1.1 For the purposes of this Agreement, including the Recitals:

- (a) **Action** means the authorization proceeding and proposed class action styled *Leclair et al. v. FormerXBC Inc., formerly known as Xebec Adsorption Inc., et al.* in the Class Action Court File No.: 500-06-001135-215.

- (b) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiffs, Class Counsel, the Claims Administrator or otherwise for the approval, implementation and operation of this Agreement, including the costs of notices and claims administration, but not Class Counsel Fees.
- (c) **Agreement** means this settlement agreement, including the Recitals.
- (d) **Authorization** means authorization to bring a class action under article 574 of the CCP.
- (e) **CBCA** means the *Canada Business Corporations Act*, RSC 1985, c C-44.
- (f) **CCAA** means the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36.
- (g) **CCAA Court** means the Commercial Division of the Superior Court of Québec (District of Montréal) or any other court seized of, or having jurisdiction in, the CCAA Proceeding.
- (h) **CCAA Proceeding** means the proceeding styled *In the Matter of the Compromise or Arrangement of FormerXBC Inc. et al.* in the CCAA Court File No.: 500-11-061483-224.
- (i) **CCP** means the *Code of Civil Procedure*, CQRL, c. 25.01.
- (j) **CCQ** means the *Civil Code of Québec*, CQLR c CCQ-1991.
- (k) **Claim Form** means the form or forms to be approved by the Court, which when completed and submitted in a timely manner to the Claims Administrator, enables Settlement Class Members to apply for compensation pursuant to the Agreement.
- (l) **Claims Administrator** means KND Complex Litigation and any employees of KND Complex Litigation, or a third-party professional firm and any employees of such firm, appointed by the Class Action Court to administer:
 - (i) this Agreement;
 - (ii) the program whereby Class Members can exclude themselves from the Action; and

- (iii) the Plan of Allocation.
- (m) **Claims Bar Deadline** means the date by which each Settlement Class Member must file a Claim Form and all required supporting documentation with the Claims Administrator, which date shall be set out in the Second Notice and which shall be at least one hundred twenty (120) days after the date on which the Second Notice is first published.
- (n) **Class** or **Class Member** means, other than the Excluded Persons, any person or entity, wherever they may reside or may be domiciled, who purchased or otherwise acquired securities of Xebec by any means (whether pursuant to a primary market offering, in the secondary market or otherwise) during the Class Period, and held some or all of such securities as of the close of trading on the TSX on March 11, 2021 or March 24, 2021.
- (o) **Class Action Court** means the Class Actions Division of the Superior Court of Québec (District of Montréal) or any other court seized of, or having jurisdiction in, the Action.
- (p) **Class Counsel** means KND Complex Litigation and Lex Group Inc.
- (q) **Class Counsel Fees** means the fees and any proportionate amount of accrued interest on the Settlement Amount, Administration Expenses, holdbacks, GST/PST/HST and other applicable taxes or charges of Class Counsel.
- (r) **Class Period** means the period from November 10, 2019, to March 24, 2021, inclusively.
- (s) **Collateral Agreement** means the agreement executed contemporaneously with this Agreement, which sets the Opt-Out Threshold, the terms of which shall be kept confidential unless a Court requires disclosure thereof.
- (t) **Contributing Parties** means Xebec's insurers, as will be identified in the Letter of Undertaking, but only in their respective capacities as insurers of Xebec and the Individual Defendants under the insurance policies.

- (u) **Effective Date** means the date when the Settlement Approval Order issued by the Class Action Court approving this Agreement becomes the Final Approval Order;
- (v) **Eligible Securities** means Xebec's securities held by the Class Members that are the basis for inclusion in the Action.
- (w) **Escrow Account** means an interest-bearing escrow account at a Canadian Schedule 1 bank under the control of KND Complex Litigation or the Claims Administrator for the benefit of the Settlement Class Members.
- (x) **Excluded Persons** means the following persons and entities:
 - (i) Xebec;
 - (ii) the Underwriter Defendants and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns;
 - (iii) the Individual Defendants, members of their immediate families and any entity in which the Individual Defendants hold a controlling interest; and
 - (iv) SDI, Oost NL and the Trust Foundation, as those entities are defined in the Share Purchase Agreement dated December 8, 2020 with Xebec Europe B.V.
- (y) **Execution Date** means the date on the execution pages as of which the Parties have fully executed this Agreement.
- (z) **Final Approval Order** means the later of a final judgment granting the Settlement Approval Order, the time to appeal such judgment having expired without any appeal being taken, or if an appeal is pursued, the approval of this Agreement upon a final disposition of all appeals.
- (aa) **Final Lift Stay Order** means the later of a final judgment entered by the CCAA Court granting the Lift Stay Order, the time to appeal such judgment having expired without any appeal being taken, and if an appeal lies, the lifting of the Stay of Proceedings upon a final disposition of all appeals.

- (bb) **First Motion** means the motions or applications brought before the Class Action Court, for orders:
- (i) granting Authorization and Leave for settlement purposes only;
 - (ii) setting the date for the hearing of the Second Motion;
 - (iii) approving the form of the First Notice;
 - (iv) approving and authorizing publication and dissemination of the First Notice;
 - (v) appointing the Claims Administrator; and
 - (vi) appointing Class Counsel to control the Escrow Account subject to the terms of the Agreement.
- (cc) **First Notice** means the form or forms of notice to the class, as agreed to by the Plaintiffs and Xebec, and approved by the Class Action Court, which shall substantially be in accordance with the notice at Schedule “A” and a French translation thereof, which inform(s) the Settlement Class Members of: (i) the date and location of the Settlement Approval Hearing; (ii) the principal elements of the Agreement; (iii) the process by which Settlement Class Members may object to or opt out of the Settlement; and (iv) Class Counsel Fees requested by Class Counsel.
- (dd) **Individual Defendants** means Kurt Sorschak, Stéphane Archambault, Louis Dufour, William Beckett, and Guy Saint Jacques.
- (ee) **Leave** means leave to commence a secondary market securities claim under section 225.4 of the QSA.
- (ff) **Letter of Undertaking** means the agreement executed contemporaneously with this Agreement, which sets the contribution of each Contributing Party, the terms of which shall be kept confidential unless a Court requires disclosure thereof.
- (gg) **Lift Stay Order** means the order of the CCAA Court to be requested by Xebec, with consent of the Plaintiffs, lifting the Stay of Proceedings with respect to Xebec and the Individual Defendants for the sole purpose of allowing the Plaintiffs to apply for: (i) the authorization of the Action as a class proceeding on behalf of the Settlement Class for settlement purposes, and (ii) the Settlement Approval Order.

- (hh) **Litigation Disbursements** means disbursements made by Class Counsel in connection with the prosecution of the Action.
- (ii) **Opt-Out Deadline** means the date to be specified and determined by the Class Action Court which shall be at least 30 days after the date on which the First Notice is first published.
- (jj) **Opt-Out Parties** means collectively, all persons who would otherwise be Class Members who validly opt out of the Action, each individually being an “Opt-Out Party”.
- (kk) **Opt-Out Threshold** means the total number of Xebec outstanding shares required to be held by all Opt-Out Parties in order to trigger Xebec’s right to terminate this Agreement in accordance with Section 10.6 hereof, as particularized in the Collateral Agreement.
- (ll) **Parties** means Xebec, the Individual Defendants, the Underwriter Defendants, and the Plaintiffs and, where applicable, the Settlement Class Members.
- (mm) **Plaintiffs** means Maurice Leclair and Evert Schuringa.
- (nn) **Plan of Allocation** means the plan for allocating and distributing the Settlement Amount and accrued interest, net of court-approved deductions, in whole or in part, as established by Class Counsel and approved by the Class Action Court.
- (oo) **Proceedings** means any action or proceeding, other than the Action, advancing Released Claims commenced by a Settlement Class Member either before or after the Effective Date.
- (pp) **QSA** means Québec *Securities Act*, CQLR c. V-1.1.
- (qq) **Released Claims** mean any and all manner of claims, demands, actions, suits, causes of action, whether class, individual, representative or otherwise in nature, whether personal or subrogated, damages whenever incurred, damages of any kind including compensatory, punitive or other damages, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties, and lawyers’ fees, known or unknown, suspected or unsuspected,

foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity that Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, relating in any way to any conduct occurring anywhere, from the beginning of time to the date hereof relating to any conduct alleged (or which could have been alleged) in the Action including, without limitation, any such claims which have been asserted, would have been asserted, or could have been asserted, directly or indirectly, whether in Canada or elsewhere, concerning, based on, arising out of, or in connection with both: (i) the purchase or other acquisition, holding, sale, disposition or other transactions in relation to Securities by Plaintiffs or any other Settlement Class Member during the Class Period; and (ii) the allegations, transactions, acts, facts, matters, occurrences, disclosures, statements, filings, representations, omissions, or events that were or could have been alleged or asserted in the Action.

- (rr) **Releasees** means, jointly and severally, individually and collectively, Xebec, the Individual Defendants and the Underwriter Defendants, and all of their respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, principals, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing.
- (ss) **Releasors** mean, jointly and severally, individually and collectively, the Plaintiffs and Settlement Class Members on behalf of themselves and any person claiming by or through them as a parent, subsidiary, affiliate, predecessor, successor, shareholder, partner, director, owner of any kind, agent, employee, contractor, attorney, heir, executor, administrator, insurer, devisee, assignee or representative of any kind.
- (tt) **Second Motion** means the motions or applications brought before the Class Action Court for orders:

- (i) approving the Agreement;
 - (ii) approving the Second Notice;
 - (iii) approving the Plan of Allocation;
 - (iv) approving the Claim Form;
 - (v) approving the Claims Bar Deadline; and
 - (vi) approving the Class Counsel Fees and the Litigation Disbursements.
- (uu) **Second Notice** means notices to the Class of *inter alia* the granting of the Settlement Approval Order and the process to submit a claim for a portion of the net Settlement Amount, in a form to be approved by the Court which shall substantially be in accordance with the notice at Schedule “B” and a French translation thereof.
- (vv) **Securities** means the securities issued by Xebec, including, without limitation, common shares and subscription receipts.
- (ww) **Securities Legislation** means, collectively, the QSA; the *Securities Act*, RSO 1990, c S.5, as amended; the *Securities Act*, RSA 2000, c S-4, as amended; the *Securities Act*, RSBC 1996, c 418, as amended; the *Securities Act*, CCSM c S50, as amended; the *Securities Act*, SNB 2004, c S-5.5, as amended; the *Securities Act*, RSNL 1990, c S-13, as amended; the *Securities Act*, SNWT 2008, c 10, as amended; the *Securities Act*, RSNS 1989, c 418, as amended; the *Securities Act*, S Nu 2008, c 12, as amended; the *Securities Act*, RSPEI 1988, c S-3.1, as amended; the *Securities Act*, 1988, SS 1988-89, c S-42.2, as amended; and the *Securities Act*, SY 2007, c 16, as amended.
- (xx) **Settlement** means the settlement provided for in this Agreement.
- (yy) **Settlement Amount** means the sum of five million dollars (CAD \$5,000,000.00).
- (zz) **Settlement Approval Hearing** means the hearing for the Class Action Court’s approval of the Settlement.

- (aaa) **Settlement Approval Order** means the order of the Class Action Court to be requested by the Plaintiffs, with the consent of Xebec, the Individual Defendants and the Underwriter Defendants, approving the Agreement.
- (bbb) **Settlement Class or Settlement Class Members** means, other than Excluded Persons and any person who validly opted out of the Action or who is deemed to have opted out of the Action pursuant to Article 580 of the CCP:
- (i) All persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired securities of Xebec by any means (whether pursuant to a primary market offering, in the secondary market or otherwise) during the Class Period, and held some or all of such securities as of the close of trading on the TSX on March 11, 2021 or March 24, 2021.
- (ccc) **Stay of Proceedings** means the stay of proceedings ordered by the CCAA Court, as part of the CCAA Proceeding, with respect to all proceedings against or respect of, *inter alia*, Xebec and its former and current directors and officers, as per the terms of the First Initial Order dated September 29, 2022, as subsequently amended, restated, and extended by the CCAA Court from time to time.
- (ddd) **TSX** means the Toronto Stock Exchange.
- (eee) **Underwriter Defendants** means Desjardins Securities Inc., National Bank Financial Inc., Canaccord Genuity Group Inc., Raymond James Ltd., Beacon Securities Limited, TD Securities Inc. and Stifel Nicolaus Canada Inc.
- (fff) **Xebec** means the corporation known as FormerXBC Inc. and formerly known as Xebec Adsorption Inc.

SECTION 2 - SETTLEMENT BENEFITS

Payment of Settlement Amount

- 2.1 Subject to Section 10, within fifteen (15) business days from the Final Lift Stay Order, the Contributing Parties, pursuant to the Letter of Undertaking, shall pay the Settlement Amount to KND Complex Litigation for deposit into the Escrow Account.
- 2.2 The Contributing Parties shall deposit the Settlement Amount into the Escrow Account by wire transfer. KND Complex Litigation shall provide the necessary wire transfer information to counsel for Xebec on or before the Final Lift Stay Order so that the Contributing Parties have a reasonable period of time to comply with Section 2.1.
- 2.3 The Settlement Amount shall be paid in full satisfaction of the Released Claims against the Releasees.
- 2.4 The Settlement Amount shall be inclusive of all amounts, including, but not limited to, interest, taxes, fees, costs, expenses, disbursements, Class Counsel Fees, Administration Expenses and Litigation Disbursements.
- 2.5 Once a Claims Administrator has been appointed, if the Class Action Court appoints a firm other than KND Complex Litigation, then KND Complex Litigation shall transfer control of the Escrow Account to the Claims Administrator.
- 2.6 KND Complex Litigation and the Claims Administrator shall maintain the Escrow Account as provided for in this Agreement. While in control of the Escrow Account, KND Complex Litigation and the Claims Administrator shall not pay out all or part of the monies in the Escrow Account, except in accordance with this Agreement, or in accordance with an order of the Class Action Court obtained.

SECTION 3- CLASS COUNSEL FEES

Class Counsel Fees Approval

- 3.1 At the Settlement Approval Hearing, Class Counsel shall also seek the approval of Class Counsel Fees to be paid as a first charge on the Settlement Amount. Unless this Agreement is terminated pursuant to Section 10, all amounts awarded on account of Class Counsel Fees shall be paid from the Settlement Amount.

- 3.2 At the Settlement Approval Hearing, Class Counsel shall also seek the approval of Litigation Disbursements to be paid as a first charge on the Settlement Amount. Unless this Agreement is terminated pursuant to Section 10, all amounts awarded on account of Litigation Disbursements shall be paid from the Settlement Amount.
- 3.3 Xebec, the Individual Defendants and the Underwriter Defendants acknowledge that they are not parties to the application concerning the approval of Class Counsel Fees and Litigation Disbursements, will have no involvement in nor take any position on the approval process to determine the amount of Class Counsel Fees and Litigation Disbursements and will not make any submissions to the Class Action Court concerning Class Counsel Fees and Litigation Disbursements unless requested to do so by the Class Action Court.
- 3.4 Any order in respect of Class Counsel Fees and Litigation Disbursements, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Agreement or affect or delay the Settlement of the Action as provided herein. For greater certainty, and without limitation of any of the foregoing, any appeal from any order in respect of Class Counsel Fees and Litigation Disbursements shall have no effect on the date on which the Settlement Approval Order becomes the Final Approval Order.
- 3.5 Forthwith after the Effective Date, Class Counsel Fees and Litigation Disbursements approved by the Class Action Court shall be paid to Class Counsel from the Escrow Account in accordance with the order of the Class Action Court.

Taxes and Interest

- 3.6 Except as expressly provided herein, all interest earned on the Settlement Amount shall accrue to the benefit of the Settlement Class and shall become and remain part of the amount held in escrow pursuant to this Agreement (together with the Settlement Amount, the “**Escrow Amount**”).
- 3.7 Subject to Section 3.8, all taxes payable on any interest which accrues on or otherwise in relation to the Escrow Amount shall be paid from the Escrow Account. KND Complex Litigation or the Claims Administrator, as may later be appropriate, shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Escrow

Amount, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Escrow Amount shall be paid from the Escrow Account.

- 3.8 Xebec, the Individual Defendants and the Underwriter Defendants shall have no responsibility in any way related to the Escrow Account including but not limited to, making any filings relating to the Escrow Account, paying taxes on any income earned by the Escrow Amount, or paying any taxes on the monies in the Escrow Account, unless this Agreement is terminated as provided for herein, in which case any interest earned on the Escrow Amount shall be paid to Xebec who, in such case, shall be responsible for the payment of any taxes on such interest not previously paid by KND Complex Litigation or the Claims Administrator.
- 3.9 The Parties agree that they are in no way liable for any taxes any Settlement Class Members may be required to pay as a result of receiving any benefits under this Settlement Agreement. No opinion concerning the tax consequences of this Settlement Agreement to any Settlement Class Member is given or will be given by the Parties or their respective counsel, nor are they providing any representation or guarantee respecting the tax consequences of this Settlement Agreement as to any Settlement Class Member. Each Settlement Class Member is responsible for their tax reporting and other obligations respecting this Settlement Agreement, if any.

No Reversion

- 3.10 Unless this Agreement is terminated as provided for herein, Xebec shall not be entitled to the repayment of any portion of the Escrow Amount and then only to the extent of and in accordance with the terms provided for herein.

SECTION 4- DISTRIBUTION OF SETTLEMENT AMOUNT

Distribution of the Settlement Amount

- 4.1 The formula for distribution of the Settlement Amount to Settlement Class Members shall be contained in the Plan of Allocation.
- 4.2 In conjunction with the Plaintiffs' application to the Class Action Court for the Settlement Approval Order, on notice to Xebec, the Individual Defendants and the Underwriter

Defendants, Class Counsel will make an application seeking an order from the Class Action Court approving the Plan of Allocation.

- 4.3 Xebec, the Individual Defendants and the Underwriter Defendants shall take no position on the Class Action Court's approval of the Plan of Allocation, and shall not make any submissions to the Court about the Plan of Allocation, unless requested by the Class Action Court.
- 4.4 Xebec, the Individual Defendants and the Underwriter Defendants shall not have any responsibility, financial obligations or liability whatsoever with respect to the Plan of Allocation, or the investment, distribution or administration of monies in the Escrow Account.

SECTION 5- EFFECT OF SETTLEMENT

No Admissions or Concessions

- 5.1 This Agreement, whether or not it is terminated, anything contained in it, any and all negotiations, discussions, and communications associated with this Agreement, and any action taken to implement this Agreement, shall not be deemed, construed or interpreted to be:
- (a) an admission or concession by Xebec, the Individual Defendants or the Underwriter Defendants of any fact, fault, omission, wrongdoing or liability, or of the truth of any of the claims or allegations made or which could have been made against any of them in the Action, or the application of the law of Québec or any other Province of Canada to any of the claims made in the Action; or
 - (b) an admission or concession by the Plaintiffs, Class Counsel or the Settlement Class of any weakness in the claims of the Plaintiffs and the Settlement Class, or that the consideration to be given hereunder represents the amount that could or would have been recovered after trial of the Action.

Agreement Not Evidence Nor Presumption

- 5.2 This Agreement, whether or not it is terminated, anything contained in it, any and all negotiations, documents, discussions and proceedings associated with this Agreement, and

any action taken to implement this Agreement, shall not be offered or received in the Action or any pending or future civil, criminal, quasi-criminal, administrative action or disciplinary investigation or proceeding in any jurisdiction:

- (a) against Xebec, the Individual Defendants or the Underwriter Defendants, as evidence, or a presumption, of a concession or admission of any fact, fault, omission, wrongdoing or liability, or of the truth of any of the claims or allegations made against any of them in the Action or the application of the law of Québec or any other Province of Canada to any of the claims made in the Action; or
- (b) against the Plaintiffs, Class Counsel or the Settlement Class, as evidence, or a presumption, of a concession or admission of any weakness in the claims of the Plaintiffs and the Settlement Class, or that the consideration to be given hereunder represents the amount that could or would have been recovered after trial of the Action.

5.3 Notwithstanding Section 5.2, this Agreement may be referred to or offered as evidence in order to obtain the orders or directions from the CCAA Court or the Class Action Court contemplated by this Agreement, in a proceeding to approve or enforce this Agreement, to defend against the assertion of Released Claims, or as otherwise required by law.

SECTION 6 - STEPS TO IMPLEMENT AGREEMENT

Reasonable Efforts

- 6.1 The Action shall be authorized as a class proceeding on behalf of the Settlement Class solely for purposes of settlement of the Action and the approval and implementation of this Agreement by the Class Action Court.
- 6.2 The Parties shall take all reasonable steps within their power to implement the Agreement and to prepare and execute such documents or undertake such proceedings as may reasonably be required to obtain its approval and implementation, including:
 - (a) The application by Xebec, before the CCAA Court, to obtain the Lift Stay Order;
 - (b) The application by the Plaintiffs, before the Class Action Court, to authorize the Action as a class proceeding for the sole purpose of settlement of the Action; and

(c) The application by the Plaintiffs, before the Class Action Court, to obtain the Settlement Approval Order.

6.3 This Agreement shall only become final on the Effective Date.

6.4 The Plaintiffs will provide all materials to be filed with or provided to the Class Action Court in connection with this Agreement to Xebec in advance for review and comment. Xebec will provide all materials to be filed with or provided to the CCAA Court in connection with this Agreement to Class Counsel in advance for review and comment.

Action in Abeyance

6.5 Until the Parties have obtained the Final Approval Order or this Agreement is terminated as provided for herein, whichever occurs first, the Parties agree to hold in abeyance all other steps in the Action, other than the applications described in Section 6.2 (and such other matters required to implement the terms of this Agreement), unless otherwise agreed in writing by the Parties.

SECTION 7- NOTICE TO SETTLEMENT CLASS

7.1 The proposed Settlement Class shall be given the following notices: (i) the First Notice; (ii) the Second Notice; (iii) notice if this Agreement is not approved, is terminated, or otherwise fails to take effect; and (iv) such further notice as may be directed by the Class Action Court; all costs, fees, and/or disbursements in relation to such notices, including any costs or fees of the Claims Administrator, will be paid exclusively from the Escrow Account, whether or not this Agreement is terminated for any reason or whether or not this Agreement is ultimately approved by the Class Action Court. The Plaintiffs and Class Counsel will in no circumstances be responsible to pay such costs, fees and/or disbursements.

7.2 The form of notices referred to in Section 7.1 and the manner and extent of publication and distribution shall be as follows:

(a) by Class Counsel posting the notice on their websites and by delivering a copy of the notice of authorization electronically to all individuals and entities who have contacted Class Counsel about this Action and for whom Class Counsel has an email address, and all individuals and entities who request it;

- (b) by the Claims Administrator placing the notice online on websites such as Stockhouse.com and CEO.ca in abbreviated form with a URL leading to more information on a number of websites for a period of 45 days;
- (c) by the Claims Administrator disseminating the notice once through Canada NewsWire in English and French;
- (d) by the Claims Administrator publishing the notice once in French in a weekday tablet (online) edition of *La Presse*;
- (e) by Class Counsel publishing the notice on the Québec Class Action Registry;
- (f) by Class Counsel publishing a link to the notice on their LinkedIn and/or Twitter accounts; and
- (g) by the Claims Administrator publishing the notice once in English in the national print edition of *The Globe and Mail*, Report on Business section, and once in English in the national print edition of the *National Post*, Financial Post section.

or in such form or manner as approved or ordered by the Class Action Court.

7.3 Unless otherwise authorized by the Class Action Court, any Settlement Class Member who has not opted out and who intends to object to the fairness of this Agreement must do so in writing no later than twenty (20) days prior to the Settlement Approval Hearing (hereinafter the “**Objection Date**”). The written objection must be served on the Claims Administrator no later than the Objection Date. The written objection must include:

- (a) a heading which refers to the *Leclair et al. v. Xebec Adsorption Inc. et al.* class action, File No.: 500-06-001135-215;
- (b) the objector’s name, address, telephone number(s), email address(es) and, if represented by counsel, the name, address, telephone number and email address of counsel;
- (c) a statement whether the objector intends to appear at the Settlement Approval Hearing, either in person or through counsel;

- (d) a declaration that the objector considers himself/herself to be included in the Settlement Class;
- (e) a statement of the objection and the grounds supporting the objection;
- (f) copies of any papers, briefs, or other documents upon which the objection is based;
- (g) a declaration under the penalty of perjury that the foregoing information is true and correct; and
- (h) the objector's signature.

7.4 Unless otherwise ordered by the Class Action Court, any Settlement Class Member who files and serves a written objection, as described above, may appear at the Settlement Approval Hearing, either in person or through counsel hired at the said Settlement Class Member's expense, to object to any aspect of the fairness, reasonableness, or adequacy of this Settlement. Unless otherwise authorized by the Class Action Court, any Settlement Class Member who fails to comply with the above provisions shall waive and forfeit any and all rights he, she or it may have to appear separately and/or to object, and shall be bound by all the terms of this Agreement and by all proceedings, orders and judgments in the Action.

SECTION 8 - SETTLEMENT APPROVAL

Motions for Approval

- 8.1 As soon as practicable after the Execution Date and in any event no later than ten (10) business days thereafter, Xebec shall file an application for the Lift Stay Order.
- 8.2 As soon as practicable after the Lift Stay Order and in any event no later than twenty one (21) calendar days thereafter, the Plaintiffs shall bring the First Motion.
- 8.3 The form of order referred to in Section 8.2, and any notices attached thereto, shall be as agreed to by the Plaintiffs and Xebec both acting reasonably, or in such form or manner as approved by the Class Action Court.
- 8.4 As soon as practicable after obtaining the order referred to in Section 8.2, Plaintiffs shall bring the Second Motion.

- 8.5 The form of Settlement Approval Order shall be as agreed to by the Plaintiffs and Xebec both acting reasonably, or in such form or manner as approved by the Class Action Court.
- 8.6 The Settlement Approval Order shall also contain a term providing that no action may be taken against Xebec, the Individual Defendants, the Underwriter Defendants, the Plaintiffs, Class Counsel or the Claims Administrator without leave of the Class Action Court with respect to any issues arising from the Settlement.

No Press Release

- 8.7 Plaintiffs and Class Counsel agree that, other than in connection with any court-approved notice arising from this Agreement, they will not issue any press release, whether joint or individual, concerning this Agreement or anything related thereto and that they will not seek to obtain media coverage in relation to the Agreement, with the exception (i) of the publication of notices as provided herein; and (ii) that Class Counsel will post this Agreement (or links leading to this Agreement) on their websites and social media accounts, and on the Québec Class Action Registry.
- 8.8 The Parties specifically agree that the Parties will not make any public statements, comment or any communication of any kind about any negotiations or information exchanged as part of the settlement process. The Parties' obligations under this subsection shall not prevent them, or any of them, from reporting to their clients, or from complying with any court order, or from making any disclosure or comment otherwise required by the Agreement, or from making any necessary disclosure or comment for the purposes of any applicable legislation or professional obligation, or from preparing and filing the materials necessary to obtain the Class Action Court's approval of the Settlement. For greater certainty, nothing in this section prohibits Xebec from issuing a press release disclosing the fact of this Agreement and describing its terms or from responding to third party inquiries from, *inter alia*, analysts, investors or media regarding same.
- 8.9 If comment is solicited by the press, Class Counsel and the Plaintiffs agree and undertake to describe the Settlement and the terms of this Agreement only as fair, reasonable and in the best interests of the Settlement Class.

SECTION 9 - RELEASES

- 9.1 As of the Effective Date, and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Agreement, the Releasers forever and absolutely release, relinquish and discharge the Releasees from the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have or hereafter can, shall or may have.
- 9.2 The Plaintiffs and Settlement Class Members acknowledge that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true regarding the subject matter of the Agreement, and it is their intention to release fully, finally and forever all Released Claims and, in furtherance of such intention, this release shall be and remain in effect notwithstanding the discovery or existence of additional or different facts.
- 9.3 As of the Effective Date, the Releasers and Class Counsel shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any other person, any action, suit cause of action, claim or demand against any Releasee or against any other person who may seek contribution or indemnity from any Releasee in respect of any Released Claims or any matter related thereto.
- 9.4 Class Counsel do not as of the date of this Agreement and will not in the future represent plaintiffs in any other proceeding related to any matter raised or which could have been raised in the Action.
- 9.5 Upon the Effective Date, the Action shall be declared settled out of court, and without costs.
- 9.6 For the avoidance of doubt and without in any way limiting the ability of the Parties to assert that other terms in this Agreement are material terms (subject to Subsection 10.3), the releases and reservation of rights contemplated in this Section 9 shall be considered a material term of the Agreement and the failure of the Class Action Court to approve the releases and/or reservation of rights contemplated herein shall give rise to a right of termination pursuant to section 10.1 of the Agreement.

SECTION 10- TERMINATION**Right of Termination**

10.1 In the event that:

- (a) the CCAA Court declines to grant the Lift Stay Order as contemplated by Section 8.1;
- (b) the Lift Stay Order does not become a Final Lift Stay Order;
- (c) after the Final Lift Stay Order, the CCAA Court reinstates the Stay of Proceedings with respect to any of Xebec or any the Individual Defendants;
- (d) the Class Action Court declines to grant Authorization on behalf of the Settlement Class for settlement purposes;
- (e) the Class Action Court declines to grant the Settlement Approval Order;
- (f) the Class Action Court issues a Settlement Approval Order that is materially inconsistent with the terms of the Agreement, including, but not limited to, if the Class Action Court declines to approve the releases, covenants (including covenants not to sue), and dismissals contemplated in Section 9, or approves them in a materially modified form;
- (g) the Settlement Approval Order does not become a Final Approval Order;
- (h) the Class Action Court declines to declare the Action settled out of court; or
- (i) the CCAA Court fails or declines to issue any approval or other order necessary, if any, for the execution or implementation of the Settlement;

either Xebec or the Plaintiffs shall have the right to terminate this Agreement by delivering a written notice in accordance with subsection 12.17 of same within thirty (30) days following an event described above.

10.2 In the event that the Opt-Out Threshold is exceeded as provided for in Section 10.6 of the Agreement, only Xebec shall have the right, but not the obligation to terminate this Agreement in accordance with the terms of subsection 10.6.

- 10.3 Notwithstanding anything to the contrary, any order, ruling or determination made (or rejected) by the Class Action Court with respect to Class Counsel Fees or Litigation Disbursements shall not be deemed to be a material modification of all, or a part, of this Agreement and shall not provide any basis for the termination of this Agreement.
- 10.4 For greater certainty, the Settlement is not conditional on the approval by the Class Action Court of the Class Counsel Fees or Litigation Disbursements.
- 10.5 Except as provided for in section 10.13 and subject to section 10.14, if the Plaintiffs or Xebec exercise their right to terminate, the Agreement shall be null and void and have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation or in any other way for any reason, the Parties reiterating that all notice or Claims Administrator costs, Administration Expenses, disbursements, and/or fees (including taxes) incurred before termination will remain exclusively paid from the Escrow Account and the Plaintiffs and Class Counsel will never be responsible to pay for said amounts.

Effect of Exceeding the Opt-Out Threshold

- 10.6 Notwithstanding any other provision in the Agreement, Xebec, in its sole discretion, may elect to terminate the Agreement if the Opt-Out Threshold is exceeded provided its election is made by delivering a written notice in accordance with subsection 12.17 within thirty (30) business days of receiving notice from Class Counsel notifying it of the number of opt-outs received and showing the Opt-Out Threshold being exceeded. If Xebec does not elect to terminate the Agreement within this period, its right to terminate the Agreement pursuant to the provisions of this section will expire.
- 10.7 If the Opt-Out Threshold is not exceeded, Xebec's right to terminate the Agreement pursuant to the provisions of this section is inoperative.
- 10.8 The Opt-Out Threshold shall be stated in the Collateral Agreement signed contemporaneously with the execution of this Agreement. The Opt-Out Threshold shall be kept confidential by the Parties and their respective counsel, and may be confidentially shown to the Class Action Court solely for the purposes of seeking approval of the Settlement, unless disclosure is ordered by the CCAA Court or Class Action Court, or if Xebec and Plaintiffs provide prior written consent to disclosure.

Steps Required on Termination

- 10.9 If this Agreement is terminated, either Xebec or the Plaintiffs shall, within thirty (30) days after termination, apply to the Class Action Court, on notice to the Parties, for an order:
- (a) declaring this Agreement null and void and of no force or effect except for the provisions of those sections listed in Section 10.13;
 - (b) setting aside and declaring null and void and of no force or effect, *nunc pro tunc*, all prior orders or judgments entered by a court in accordance with the terms of this Agreement; and
 - (c) authorizing the payment to Xebec of the Escrow Amount, after deductions made of all already incurred and/or paid costs, fees, disbursements or taxes of the Claims Administrator and/or relating to any notices.
- 10.10 Subject to Section 10.14, the Plaintiffs shall consent to the orders sought in any application made by Xebec under Section 10.9 and Xebec shall consent to the orders sought in any application made by the Plaintiffs under Section 10.9.

Notice of Termination

- 10.11 If this Agreement is terminated, a notice of the termination will be given to the Settlement Class. Plaintiffs' counsel will cause the notice of termination, in a form approved by the Class Action Court, to be published and disseminated as the Class Action Court directs, the whole to be paid from the Escrow Account.

Effect of Termination

- 10.12 In the event this Agreement is terminated as provided for herein or otherwise fails to take effect for any reason:
- (a) the Parties will be restored to their respective positions prior to the execution of this Agreement, except as expressly provided for herein;
 - (b) no application for Authorization for settlement purposes or application to approve this Agreement which has not been decided shall proceed;

- (c) the Parties will cooperate in seeking to have all prior orders or judgments entered by a court in accordance with the terms of this Agreement set aside and declared null and void and of no force or effect, and any of the Plaintiffs and Xebec shall be estopped from asserting otherwise;
- (d) Class Counsel shall, within thirty (30) business days of the issuance of the order contemplated by 10.9(c), return to Xebec the Escrow Amount, after deductions made of all already incurred and/or paid costs, fees, disbursements or taxes of the Claims Administrator and/or relating to any notices;
- (e) this Agreement will have no further force or effect and no effect on the rights of the Parties except as specifically provided for herein;
- (f) this Agreement will not be introduced into evidence or otherwise referred to in any litigation against Xebec, the Individual Defendants or the Underwriter Defendants.

10.13 Notwithstanding the provisions of Section 10.5, if this Agreement is terminated, the provisions of Sections 3.7, 3.8, 5.1, 5.2, 5.3, 6.3, 8.7, 8.8, 10.4, 10.5, 10.8, 10.9, 10.10, 10.11, 10.12, 10.13, 10.14, 11.2, 11.3, 12.3, 12.4, 12.5, 12.6, 12.7, 12.8, 12.12, 12.13, 12.15, 12.16, and 12.17, and the definitions and recitals applicable thereto (but only for the limited purpose of the interpretation of those sections), shall survive termination and shall continue in full force and effect. All other provisions of this Agreement and all other obligations pursuant to this Agreement shall cease immediately.

Disputes Relating to Termination

10.14 If there is a dispute about the termination of this Agreement, the Parties agree that the Class Action Court shall determine the dispute on an application made by Xebec or the Plaintiffs on notice to the Parties.

SECTION 11 – ADMINISTRATION

11.1 The Class Action Court will appoint KND Complex Litigation or a third-party firm as Claims Administrator to serve until further order of the Court, to implement the Agreement, the opt-out program and the Plan of Allocation, on the terms and conditions and with the powers, rights, duties and responsibilities set out in the Agreement and in the Plan of Allocation.

- 11.2 All Administration Expenses shall be paid from the Escrow Account, subject to approval of the Class Action Court.
- 11.3 If the Agreement is terminated, the Claims Administrator's fees, disbursements and taxes will be paid out as set out in Subsection 10.12(d).
- 11.4 If the Agreement is not terminated, the Class Action Court will approve and fix the Claims Administrator's compensation on application by the Plaintiffs.

Claims Process

- 11.5 In order to seek payment from the Escrow Account, a Settlement Class Member must submit a completed Claim Form to the Claims Administrator, in accordance with the provisions of the Plan of Allocation, on or before the Claims Bar Deadline, and any Settlement Class Member who fails to do so shall not share in any distribution made in accordance with the Plan of Allocation unless the Class Action Court orders otherwise.

Conclusion of the Administration

- 11.6 Upon the conclusion of the administration, or at such other time(s) as the Class Action Court directs, on application by Class Counsel, on notice to Xebec, the Individual Defendants and the Underwriter Defendants, the Claims Administrator shall report to the Class Action Court on the administration and shall account for all monies it has received, administered and disbursed including a full accounting of its own invoices, and obtain an order from the Class Action Court discharging it as Claims Administrator.

SECTION 12- MISCELLANEOUS

Motions for Directions

- 12.1 Any of the Parties may apply to the Class Action Court for directions in respect of any matter in relation to this Agreement.
- 12.2 All applications contemplated by this Agreement shall be on notice to the Parties.

Headings, etc.

- 12.3 In this Agreement:

- (a) the division into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation;
- (b) the terms “the Agreement”, “this Agreement”, “herein”, “hereto” and similar expressions refer to this Agreement and not to any particular section or other portion of the Agreement; and
- (c) “person” means any legal entity including, but not limited to, individuals, corporations, sole proprietorships, general or limited partnerships, limited liability partnerships or limited liability companies.

Computation of Time

12.4 In the computation of time in this Agreement, except where a contrary intention appears:

- (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a Saturday, Sunday or holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday.

Governing Law

12.5 The Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Québec.

12.6 The Parties agree that the Class Action Court shall retain continuing jurisdiction to interpret and enforce the terms, conditions and obligations under this Agreement and the Settlement Approval Order.

Severability

12.7 Any provision hereof that is held to be inoperative, unenforceable or invalid in any jurisdiction shall be severable from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

Entire Agreement

12.8 This Agreement constitutes the entire agreement among the Parties and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Agreement, unless expressly incorporated herein.

Amendments

12.9 This Agreement may not be modified or amended except in writing and on consent of all Parties hereto, and any such modification or amendment after settlement approval must be approved by the Class Action Court.

Binding Effect

12.10 If the settlement is approved by the Class Action Court and becomes final, this Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Settlement Class Members, Class Counsel, Xebec, the Individual Defendants, the Underwriter Defendants, the Releasees and the Releasers or any of them, and all of their respective heirs, executors, predecessors, successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiffs shall be binding upon all Releasers and each and every covenant and agreement made herein by Xebec shall be binding upon all of the Releasees.

Survival

12.11 The representations and warranties contained in this Agreement shall survive its execution and implementation.

Negotiated Agreement

12.12 This Agreement and the underlying Settlement have been the subject of arm's-length negotiations and discussions among the Parties and their respective counsel. Each of the Parties has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafters of this Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of the

Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Agreement.

Transaction

12.13 This Agreement constitutes a transaction in accordance with Articles 2631 and following of the CCQ, and the Parties are hereby renouncing any errors of fact, of law and/or of calculation.

Recitals

12.14 The recitals to this Agreement are true, constitute integral parts hereof and are fully incorporated into, and form part of, this Agreement.

Acknowledgements

12.15 Each Party hereby affirms and acknowledges that:

- (a) her, his or its signatory has the authority to bind the Party for which it is signing with respect to the matters set forth herein and has reviewed this Agreement;
- (b) the terms of this Agreement and the effects thereof have been fully explained to her, him or it by her, his or its counsel; and
- (c) her, his or its representative fully understands each term of this Agreement and its effect.

Counterparts

12.16 This Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and an emailed pdf. signature shall be deemed an original signature for purposes of executing this Agreement.

Notice

12.17 Any notice, instruction, motion for court approval or motion for directions or court orders sought in connection with this Agreement or any other report or document to be given by any Party to any other Party shall be in writing and delivered by email to:

For Plaintiffs:
KND Complex Litigation
c/o Mtres Eli Karp, Sage Nematollahi

1186 Eglinton Ave. West
Toronto (Ontario) M6C 2E3
or to
Lex Group Inc.
c/o Mtre David Assor
4101 Sherbrooke St. West
Westmount (Québec) H3Z 1A7

For Xebec:
Osler, Hoskin & Harcourt LLP
c/o Jessica Harding and Robert A. Carson
2100-1000 De La Gauchetière West
Montreal (Québec) H3B 4W5

Third Party Beneficiaries

12.18 The Individual Defendants and the Underwriter Defendants are stipulated to be third party beneficiaries of the obligations in Section 5, 8, 9, 10 and 11 of this Agreement for the purpose of Article 1444 of the CCQ, and as such, the Individual Defendants and the Underwriter Defendants have the right to exact performance of said obligations directly.

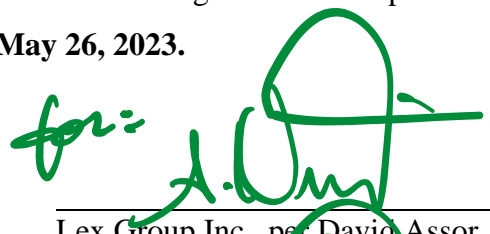
Language

12.19 The present Agreement is available in French and English versions. In case of inconsistency, the English version of this Agreement shall prevail.

This Agreement is executed as of May 26, 2023.

Date:

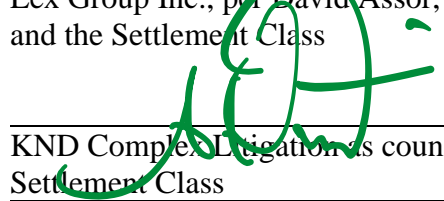
May 26, 2023

for: 

Lex Group Inc., per David Assor, as counsel for the Plaintiffs and the Settlement Class

Date:

May 26, 2023



KND Complex Litigation as counsel for the Plaintiffs and the Settlement Class

Date:

(s) Osler, Hoskin & Harcourt LLP

Osler, Hoskin & Harcourt LLP as counsel for Xebec

THIS IS **EXHIBIT "J"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025

A handwritten signature in blue ink, consisting of several loops and a horizontal stroke at the end, positioned above a solid black horizontal line.

TAEK SOO SHIN (LSO #85691Q)



No. VLC-S-S-2012849
Vancouver Registry

In the Supreme Court of British Columbia

Between

FIRAS HADDAD and WALTER WOO

Plaintiff

and

**NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER,
CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO
NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC. and VELOCITY
TRADE CAPITAL**

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

**ORDER MADE AFTER APPLICATION FOR CERTIFICATION,
APPOINTMENT OF ADMINISTRATOR, APPROVAL OF NOTICE,
CLAIMS PROCESS AND OPT OUT PROCEDURE**

BEFORE THE HONOURABLE MR. JUSTICE
KIRCHNER

) 3 / Nov / 2023
)

ON THE APPLICATION of the plaintiff coming on for hearing at the Courthouse at 800 Smithe Street, Vancouver, British Columbia on 3 / Nov / 2023, and on hearing Alex Dixon, counsel for the Plaintiffs; Alexandra Coates, counsel for the Defendants, Northern Dynasty Minerals Ltd., Ronald W. Thiessen, and Thomas C. Collier; and Mark Gelowitz, counsel for the Defendants Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital; and on reading the materials filed, including the Settlement Agreement; and on the consent of the Defendants.

THIS COURT ORDERS that

I. Except to the extent that they are modified by this Order, the definitions set out in the settlement agreement reached with the Defendants dated August 30, 2023 ("**Settlement Agreement**") attached as **Appendix "1"** apply to and are incorporated into this Order.

2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. This action is certified as a class proceeding as against the Defendants for the purpose of the settlement only, pursuant to the *Class Proceedings Act*, RSBC 1996, c 50, but subject to the terms of the Settlement Agreement.
4. The class certified for the purpose of settlement with the Defendants is defined as:

except for Excluded Persons or Opt Out Parties, all persons and entities, wherever they may reside or be domiciled, who purchased or otherwise acquired securities of Northern Dynasty during the Class Period and held some or all of those securities as of August 22, 2020 or November 25, 2020.
5. Firas Haddad and Walter Woo are appointed as the Representative Plaintiffs for the Class.
6. Siskinds LLP and KND Complex Litigation are appointed Class Counsel.
7. The following issues are certified as common issues:
 - (a) Did Northern Dynasty's Class Period disclosures, or any of them, contain misrepresentation within the meaning of the *Securities Act*?; and
 - (b) Did the disclosures released on August 22, 2020 and/or November 25, 2020 publicly correct the previously released alleged misrepresentations within the meaning of the *Securities Act*?
8. The Plan of Notice, substantially in the form attached as **Appendix "2"**, is approved for the purpose of the publication and dissemination of the First Notice and Claim Form.
9. The form and content of the short-form First Notice, substantially in the form attached as **Appendix "3"**, is approved.
10. The form and content of the long-form First Notice, substantially in the form attached as **Appendix "4"**, is approved.

11. The form and content of the Claim Form, substantially in the form attached as **Appendix “5”**, is approved.

12. RicePoint Administration Inc. is appointed as the Administrator of the Settlement Agreement.

13. In order to be entitled to participate in a distribution from the Net Settlement Amount, a Class Member must:

- (a) submit a properly completed Claim Form to the Administrator, using the online claim portal established by the Administrator or by submitting a paper Claim Form by mail or courier to the Administrator, postmarked or received by the Administrator on or before 11:59pm Vancouver (Pacific) time on the date that is one hundred and eighty (180) calendar days after the date on which the First Notice is first published (“**Claims Bar Deadline**”);
- (b) submit, together with the Claim Form, any supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Administrator; and
- (c) otherwise comply with the instructions set out in the Claim Form.

14. Any Class Member who wishes to validly exclude him, her or itself from the Action must do so by submitting to the Administrator by mail or courier a written opt out election (“**Opt Out Election**”) to be postmarked on or before 11:59pm Vancouver (Pacific) time on the date that is 60 calendar days after the date on which the First Notice is first published whether in print or online (“**Opt Out Deadline**”).

15. An Opt Out Election:

- (a) must contain a statement of intention to opt out of the Action by the Class Member or a person authorized to bind the Class Member;
- (b) for Class Members who acquired Eligible Securities during the period from and including March 29, 2018 to November 25, 2020, inclusive, must provide a listing of all transactions during that period showing, for each transaction, the type of transaction (purchase or sale), the number of securities and the date of the transaction, and state the number of Eligible Securities held at the close of trading on the Toronto Stock Exchange on November 25, 2020;
- (c) must be supported by documents to evidence such transactions, in the form of trade confirmations, brokerage statements or other transaction records allowing the Administrator to verify the transactions;
- (d) must contain the name, address, telephone number and email address of the Class Member; and
- (e) may, at the option of the Class Member, contain a statement of the Class Member's reason for opting out.

16. Any Class Member who delivers a valid Opt Out Election, in accordance with paragraphs 14 and 15 of this Order, may revoke that Opt Out Election by submitting to the Administrator by mail or courier a written statement that he, she or it wishes to revoke the Opt Out Election, which must be postmarked on or before 11:59pm Vancouver (Pacific) time on the date that is five (5) calendar days after the Opt Out Deadline ("**Opt Out Revocation Deadline**").

17. An Opt Out Election that is revoked in accordance with paragraph 16 of this Order shall be null and void and have no force or effect, and the Class Member who submitted the Opt Out Election shall not be considered an Opt Out Party.

18. The Administrator shall, immediately upon receipt by it, provide to Class Counsel and counsel to the Defendants copies of any Opt Out Elections postmarked on or before the Opt Out Deadline.

19. At any time up to the Opt Out Revocation Deadline, Class Counsel may contact any Class Member who has submitted an Opt Out Election to confirm that they wish to exclude him, her or itself from the Action, and to explain to him, her or it the significance of the Opt Out Election.

20. No later than the date that is seven (7) calendar days after the Opt Out Deadline, the Administrator shall:

(a) report to the lawyers for the Parties the number of Eligible Securities of each Opt Out Party and the total number of Eligible Securities of all Opt Out Parties; and

(b) provide to the lawyers for the Parties copies of the Opt Out Elections submitted by Opt Out Parties.


21. Any person who would otherwise be a Class Member who validly excludes him, her or itself from the Action, in accordance with paragraphs 14 and 15 of this Order, and who has not revoked his, her or its Opt Out Election in accordance with paragraph 16 of this Order, is not bound by the Settlement Agreement and shall no longer participate or have the opportunity in the future to participate in the Action and the Settlement.

22. Any person who is a member of the Class and who does not validly exclude him, her or itself from the Action in accordance with paragraphs 14 and 15 of this Order, or who revokes an Opt Out Election in accordance with paragraph 16 of this Order, will be bound by the Settlement Agreement, including the releases contained therein, if and when it becomes effective, and may not exclude him, her or itself from the Action in the future, whether or not a claim to participate in the distribution of the Settlement Amount is submitted by that person.

23. Class Members who wish to file with the Court an objection or comment on the Settlement, the Distribution Protocol or the request for approval of Class Counsel Fees shall deliver to Class Counsel by mail, courier or email a written statement, to be postmarked or received by Class Counsel by no later than 11:59pm Vancouver (Pacific) time on the date that is 14 calendar days prior to the Approval Application. Class Counsel shall, forthwith upon receipt by them, provide a copy of any such objection or comment to counsel for the Defendants.

24. The Defendants shall use reasonable efforts to forthwith deliver or cause to be delivered to the Administrator the information required under section 1.47 of the Settlement Agreement.

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

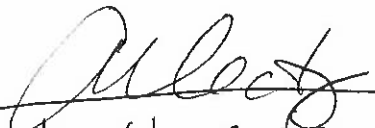


Signature of lawyer for the Plaintiffs



Signature of lawyer for Defendants

Northern Dynasty Minerals Ltd, -
Ronald Thiessen,
Thomas Collier

For 
Mark Gelowitz. Signature of lawyer for Defendants Canbr Fitzgerald Canada Corporation, Canaccord Greenview Corp.; BMO Nesbitt Burns Inc.; Paradigm Capital Inc., TD Securities Inc. and Velocity Trade Capital

By the Court



Registrar

APPENDIX 1 - SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT

Made as of the 30th day of August , 2023

Between

FIRAS HADDAD and WALTER WOO

(“Plaintiffs”)

Proposed representative plaintiffs in Supreme Court of British Columbia Action No. VLC-S-S-2012849

In their personal and proposed representative capacities

- and -

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

(“Defendants”)

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RECITALS

- A. WHEREAS** the Plaintiffs (defined below) commenced this action captioned *Haddad et al. v. Northern Dynasty Minerals Ltd., et al.*, Court File No. VLC-S-S-2012849 (the “Canadian Action”) pending in the Supreme Court of British Columbia, asserting, among other things, primary and secondary market statutory and common law misrepresentation claims;
- B. AND WHEREAS** a substantially corresponding action was commenced in the United States District Court for the Eastern District of New York, *IN RE NORTHERN DYNASTY MINERALS LTD. SECURITIES LITIGATION*, No. 1:20-cv-05917-ENV-RLM (the “U.S. Action”);
- C. AND WHEREAS** the Defendants deny any fault, omission, wrongdoing or liability whatsoever;
- D. AND WHEREAS** the Plaintiffs have delivered their certification materials and materials in support of their application for leave to proceed with their secondary market claims under Part 16.1 of the *BCSA* (defined below);
- E. AND WHEREAS** the Plaintiffs’ motion for leave to proceed with statutory claims under Part 16.1 of the *BCSA* (defined below) was originally scheduled to be argued in April 2023 with certification to be heard following the leave decision;
- F. AND WHEREAS** and the Plaintiffs’ leave application was subsequently adjourned to January 8-12, 2024;
- G. AND WHEREAS** counsel for the Parties (defined below) in the Canadian Action, and the parties in the U.S. Action, have engaged in arm’s length settlement discussions and a mediation held before Robert Meyer, resulting in this Settlement Agreement (defined below) resolving the Canadian Action and a corresponding settlement agreement resolving the U.S. Action;

H. AND WHEREAS this Settlement Agreement is intended to fully, finally, and forever, resolve, discharge, and settle the Canadian Action upon and subject to the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that, upon the Effective Date, the Canadian Action be settled and dismissed with prejudice and without costs, subject to the approval of the Court of this Settlement Agreement, on the following terms and conditions.

DEFINITIONS

1.1 In this Agreement, including the Recitals and Schedules hereto:

- (a) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable in relation to the notice, approval, implementation and administration of the Settlement Agreement, including the costs of publication and delivery of notices, fees, disbursements and taxes paid to the Administrator, which shall be paid from the Escrow Account. For greater certainty, Administration Expenses do not include Class Counsel Fees.
- (b) **Administrator** means the third-party professional firm and any employees of such firm, selected at arm's length by Class Counsel, and appointed by the Court to do any one or more of the following:
 - (i) facilitate dissemination of Notice;
 - (ii) receive and review requests to opt out of the Class;

- (iii) receive and review claims and administer the Settlement Amount in accordance with the Distribution Protocol; and
 - (iv) report to the Parties and the Court on the administration of the Settlement Agreement.
- (c) **Agreement or Settlement Agreement** means this settlement agreement.
- (d) **Approval Application** means an application brought by the Plaintiffs in the Court for the Second Order and the Third Order.
- (e) **Authorized Claimant** means any Class Member who has submitted a completed Claim Form which, pursuant to the terms of the Agreement and the Distribution Protocol, has been approved for compensation by the Administrator in accordance with the Distribution Protocol.
- (f) **BCSA** means the *Securities Act*, RSBC 1996, c 418, as amended.
- (g) **BCBCA** means the *Business Corporations Act*, SBC 2002, c 57, as amended.
- (h) **Canadian Action** means the action filed in the Supreme Court of British Columbia styled *Haddad et al. v Northern Dynasty Minerals Ltd., et al.* (Court File No. VLC-S-S-212849).
- (i) **Claim Form** means the form to be approved by the Court which, when completed and submitted in a timely manner to the Administrator, using the online claim portal established by the Administrator or by submitting a paper form to the Administrator, constitutes a Class Member's claim for compensation pursuant to the Distribution Protocol.

- (j) **Class or Class Members** means, except for the **Excluded Persons or Opt Out Parties**, all persons and entities, wherever they may reside or be domiciled, who purchased or otherwise acquired securities of Northern Dynasty during the Class Period and held some or all of those securities as of August 22, 2020 or November 25, 2020.
- (k) **Class Counsel** means Siskinds LLP and KND Complex Litigation.
- (l) **Class Counsel Fees** means the fees, disbursements, costs, interest thereon in accordance with the *CPA* section 38 plus HST, GST and/or PST and other applicable taxes or charges of Class Counsel as approved by the Court.
- (m) **Class Period** means the period from March 29, 2018 to November 25, 2020, inclusive.
- (n) **Collateral Agreement** means the Collateral Agreement entered into by the Parties dated August 30, 2023.
- (o) **Court** means the Supreme Court of British Columbia.
- (p) **CPA** means the *Class Proceedings Act*, RSBC 1996, c 50, as amended.
- (q) **Defendants** means the Northern Dynasty Defendants and the Underwriters.
- (r) **Distribution Protocol** means the distribution plan to be presented to the Court for approval in due course stipulating the proposed distribution of the Net Settlement Amount in the form approved by the Court.
- (s) **Effective Date** means the first date on which the Second Order has become a final order.

- (t) **Eligible Securities** means Northern Dynasty securities, the acquisition of which makes a person a Class Member or, in the case of an Opt Out Party, Northern Dynasty securities, the acquisition of which would have made the person a Class Member if he, she or it had not excluded himself, herself or itself from the Class in accordance with the terms of the First Order and the First Notice.
- (u) **Escrow Account** means an interest-bearing trust account at a Canadian Schedule 1 bank in Ontario initially under the control of Class Counsel, until such time as it shall be transferred to the Administrator.
- (v) **Escrow Settlement Funds** means the Settlement Amount plus any interest accruing thereon in the Escrow Account.
- (w) **Excluded Persons** means Northern Dynasty and the Underwriters and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns, as well as Thiessen and Collier, their immediate family members, and any entities in which they have a controlling interest.
- (x) **First Notice** means the short-form and long-form notices substantially in the forms attached as Schedules “E” and “F” or as otherwise fixed by the Court.
- (y) **First Order** means the Order substantially in the form attached as Schedule “A” hereto:
- (i) certifying the Canadian Action as a class proceeding for settlement purposes only;
 - (ii) appointing the Administrator;

- (iii) approving the Plan of Notice in respect of the First Notice;
 - (iv) approving the form of First Notice;
 - (v) approving the Claim Form and the procedure for filing claims; and
 - (vi) prescribing the opt out procedures to be administered by the Administrator.
- (z) **Implementation Date** means the first date on which both the Second Order and the Third Order have become final orders.
- (aa) **KND** means KND Complex Litigation.
- (bb) **Net Settlement Amount** means the amount available in the Escrow Account for distribution pursuant to the Distribution Protocol after payment of all Class Counsel Fees and Administration Expenses and other amounts contemplated by sections 1.16(a) to **Error! Reference source not found.**
- (cc) **Northern Dynasty** means Northern Dynasty Minerals Ltd.
- (dd) **Northern Dynasty Defendants** means Northern Dynasty, Ronald W. Thiessen (“Thiessen”), and Thomas C. Collier (“Collier”).
- (ee) **Notice** means the First Notice and the Second Notice.
- (ff) **Opt Out Party** means a person who would otherwise be a Class Member but who opts out of the Canadian Action pursuant to the Court approved opt out process.
- (gg) **Opt Out Threshold** means the number of Eligible Securities held by Opt Out Parties confidentially agreed upon by the Parties in the Collateral Agreement as giving rise to the Defendants’ right to terminate the Agreement pursuant to section 1.51.

- (hh) **Parties** means the Plaintiffs and Defendants.
- (ii) **Plaintiffs** means Firas Haddad and Walter Woo.
- (jj) **Plan of Notice** means the plan for disseminating Notice to the Class substantially in the form attached as **Schedule "D"** hereto or as fixed by the Court.
- (kk) **Released Claims** mean any and all manner of claims, demands, actions, suits, causes of action, whether class, individual, representative or otherwise in nature, whether personal or subrogated, damages whenever incurred, damages of any kind including compensatory, statutory, punitive or other damages, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties, and lawyers' fees, known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity that Releasers, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, relating in any way to any conduct occurring anywhere, from the beginning of time to the date hereof relating to any conduct alleged (or which could have been alleged) in the Canadian Action, including, without limitation, any claims which arise out of or are based on or relate in any way to the purchase or acquisition of Northern Dynasty securities during the Class Period, or any such claims which have been asserted, would have been asserted, or could have been asserted, directly or indirectly, whether in Canada or elsewhere, as a result of or in connection with any alleged unjust enrichment or misrepresentations in breach of the *BCSA*, the *BCBCA*, or at common law.

- (ll) **Releasees** mean, jointly and severally, individually and collectively, the Defendants and all of their respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators, trustees and assigns of each of the foregoing.
- (mm) **Releasers** means, jointly and severally, individually and collectively, the Plaintiffs and the Class and Class Members on behalf of themselves and any person claiming by or through them as a parent, subsidiary, affiliate, predecessor, successor, shareholder, partner, director, owner of any kind, agent, employee, contractor, attorney, heir, executor, trustee, administrator, insurer, devisee, assignee or representative of any kind.
- (nn) **Second Notice** means the short-form and long-form notices substantially in the forms attached as **Schedules "G" and "H"** or as fixed by the Court.
- (oo) **Second Order** means the Order substantially in the form attached as **Schedule "B"**:
- (i) approving this Settlement;
 - (ii) ordering the releases and discharges provided for herein;
 - (iii) dismissing the Canadian Action as against the Defendants without costs and with prejudice on the Effective Date.

- (pp) **Settlement** means the settlement of the Canadian Action on the terms provided for in this Agreement.
- (qq) **Settlement Amount** means two million one hundred twenty-five thousand dollars (USD\$2,125,000.00), inclusive of Administration Expenses, Class Counsel Fees, and any other costs or expenses otherwise related to the Canadian Action.
- (rr) **Siskinds** means Siskinds LLP.
- (ss) **Third Order** means the Order substantially in the form attached as **Schedule "C"**:
- (i) approving the Plan of Notice in respect of the Second Notice;
 - (ii) approving the form of the Second Notice; and
 - (iii) approving the Distribution Protocol.
- (tt) **Underwriters** means Cantor Fitzgerald Canada Corporation ("Cantor"), Canaccord Genuity Corp. ("Canaccord"), BMO Nesbitt Burns Inc. ("BMO NBI"), Paradigm Capital Inc. ("Paradigm"), TD Securities Inc. ("TD"), and Velocity Trade Capital ("Velocity").

SETTLEMENT BENEFITS

Payment of Settlement Amount

- 1.2 Within 30 days of the execution of this Agreement, the Northern Dynasty Defendants shall pay or cause their insurers to pay to Class Counsel, in trust, the Settlement Amount in full and final settlement of the claims against the Defendants or proposed to be made against the Defendants in the Canadian Action.

Settlement Amount to be Held in Trust

- 1.3 Prior to the Effective Date, Class Counsel shall maintain an Escrow Account to hold the Settlement Amount in trust for the benefit of the Class.
- 1.4 Class Counsel may pay Administration Expenses up to \$50,000 (“Non-Refundable Amount”) when they are incurred from the Escrow Settlement Funds while in control of the Escrow Amount.
- 1.5 Within ten (10) days of the Effective Date, Class Counsel shall transfer control of the Escrow Account to the Administrator, but before doing so Class Counsel may deduct and retain from the Escrow Settlement Funds the Class Counsel Fees approved by the Court.
- 1.6 Upon the transfer of the Escrow Account to the Administrator, the Administrator shall maintain the Escrow Settlement Funds in the Escrow Account under the control of the Administrator and hold the Escrow Settlement Funds in trust as provided for in this Agreement.
- 1.7 Class Counsel shall account to the Administrator for all payments made from the Escrow Account prior to the transfer described in section 1.5. In the event this Agreement is terminated, Class Counsel or the Administrator, whichever then has control of the Escrow Account, shall deliver an accounting to the Parties no later than ten (10) days after the termination, and shall return the Settlement Amount to the Defendants within 20 days of the termination less any Non-Refundable Amount paid out of the Escrow Account in accordance with this Agreement.
- 1.8 Neither Class Counsel nor the Administrator shall pay out any of the Escrow Settlement Funds except in accordance with this Agreement.

- 1.9 Any dispute concerning the entitlement to, or quantum of expenses incurred in the publication and dissemination of the First Notice or Second Notice, or Administration Expenses paid by Class Counsel or the Administrator, shall be dealt with by an application to the Court on notice to the Parties.
- 1.10 The Settlement Amount shall be inclusive of interest, taxes, any honorarium, and Class Counsel Fees.
- 1.11 The Settlement Amount shall be paid in full and final satisfaction of the Released Claims against the Releasees.

Taxes on Interest

- 1.12 Except as expressly provided herein, all interest earned on the Settlement Amount shall accrue to the benefit of the Class and shall become and remain part of the Settlement Amount in the Escrow Account.
- 1.13 Subject to section 1.14, all taxes payable on any interest which accrues on or otherwise in relation to the Escrow Settlement Funds shall be the responsibility of the Plaintiffs and the Class. Class Counsel or the Administrator, as may later be appropriate, shall be solely responsible to fulfil all tax reporting and payment requirements arising from the Escrow Settlement Funds, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Escrow Account.
- 1.14 The Defendants shall have no responsibility related to the Escrow Account, other than as expressly set out herein, including but not limited to, making any filings relating to the Escrow Account, paying tax on any income earned by the Settlement Amount, or paying any taxes on the monies in the Escrow Account, unless this Agreement is terminated, in

which case any interest earned on the Settlement Amount shall be paid to the Defendants who, in such case, shall be responsible for the payment of any taxes on such interest not previously paid by Class Counsel or the Administrator.

NO REVERSION

- 1.15 Unless this Agreement is terminated as provided herein, the Defendants shall not be entitled to the repayment of any portion of the Settlement Amount and then only to the extent of and in accordance with the terms provided herein.

DISTRIBUTION OF THE SETTLEMENT AMOUNT

- 1.16 On or after the Implementation Date, the Administrator shall distribute the Settlement Amount in accordance with the following priorities:
- (a) to pay Class Counsel Fees as awarded by the Court (unless the Class Counsel Fees have already been paid to Class Counsel in accordance with section 1.5);
 - (b) to pay any honorarium to the Plaintiffs as the Court may decide to award;
 - (c) to pay all of the costs and expenses reasonably and actually incurred in connection with the provision of Notice;
 - (d) to pay all of the remaining Administration Expenses. For greater certainty, the Defendants and Class are excluded from eligibility for any payment of costs and expenses under this subsection;
 - (e) to pay a *pro rata* share of the balance of the Settlement Amount to each Authorized Claimant in proportion to the Authorized Claimant's claim as recognized in accordance with the Distribution Protocol; and

(f) to the Law Foundation of British Columbia if there shall remain thereafter Escrow Settlement Funds and, in the opinion of the Administrator, it is not feasible to reallocate the remaining Escrow Settlement Funds among the Authorized Claimants in an equitable and economic fashion in accordance with the Distribution Protocol.

1.17 Class Counsel shall propose for approval by the Court a Distribution Protocol. The approval of the Distribution Protocol may be considered separately from the approval of the Settlement and is not a condition of the approval of the Settlement itself.

RELEASES

1.18 As of the Effective Date, and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Agreement, the Releasors forever and absolutely release the Releasees from the Released Claims.

1.19 As of the Effective Date, the Releasors and Class Counsel, only to the extent of compliance with any Rules of Professional Conduct which may apply, shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto.

1.20 The Releasors acknowledge that they may subsequently discover facts in addition to, or different from those they now know, but nonetheless agree that section 1.19 applies regardless of the subsequent discovery of facts different from those they are aware of on the Effective Date. By means of the Settlement, the Releasors waive any right they may

have under the law, common law, civil law, in equity or otherwise, to this waiver of their own volition, with full knowledge of its consequences and that this waiver was negotiated and constitutes a key element of the Settlement.

- 1.21 Upon the Effective Date, each Class Member shall be deemed to irrevocably consent to the dismissal, without costs, with prejudice, and without reservation, of the Action.

EFFECT OF SETTLEMENT

No Admissions or Concessions

- 1.22 This Agreement, whether or not it is terminated, anything contained in it, any and all negotiations, discussions, and communications associated with this Agreement, shall not be deemed, construed or interpreted to be:

- (a) an admission or concession by the Defendants of any fact, fault, omission, wrongdoing or liability, or of the truth of any of the claims or allegations made against the Defendants in the Canadian Action or that could have been made in the Canadian Action against the Defendants; or
- (b) an admission or concession by the Plaintiffs, their counsel or the Class of any weakness in the claims of the Plaintiffs and the Class or that the consideration to be given hereunder represents the amount that could or would have been recovered from the Defendants after trial of the Canadian Action.

Agreement Not Evidence nor Presumption

- 1.23 This Agreement, whether or not it is terminated, anything contained in it, any and all negotiations, documents, discussions and proceedings associated with this Agreement, and any action taken to implement this Agreement, shall not be offered or received in the

Canadian Action should this Agreement be terminated and the Canadian Action continues, or any pending or future civil, criminal, quasi-criminal, administrative action or disciplinary investigation or proceeding:

- (a) of the validity of any of the claims that have been or could have been asserted in the Canadian Action by the Plaintiffs against the Defendants, or the deficiency of any defence that has been or could have been or could be asserted in the Canadian Action;
- (b) of wrongdoing, fault, neglect or liability by the Defendants; or
- (c) against the Plaintiffs, their counsel or the Class, as evidence, or a presumption, of a concession or admission:
 - (i) of any weakness in the claims of the Plaintiffs and the Class; or
 - (ii) that the consideration to be given hereunder represents the amount that could or would have been recovered from the Defendants after trial of the Canadian Action.

1.24 Notwithstanding section 1.23, this Agreement may be referred to or offered as evidence in order to obtain the orders or directions from the Court contemplated by this Agreement, in a proceeding to approve or enforce any term of, or dispute under, this Agreement, to defend against the assertion of released claims, or as otherwise required by law.

REQUIRED STEPS

Reasonable Efforts

1.25 The Parties shall take all reasonable steps to effectuate the Settlement and to secure the prompt, complete and final dismissal with prejudice of the Canadian Action on a without

costs basis as against the Defendants, including cooperating in the Plaintiffs' efforts to obtain the approval and orders required from the Court regarding the approval or implementation of the Settlement.

Canadian Action in Abeyance

1.26 Until the Effective Date or this Agreement is terminated in accordance with its terms, whichever occurs first, the Plaintiffs agree to hold in abeyance all other steps in the Canadian Action as they relate to the Defendants, other than the Approval Application contemplated by this Agreement, the consent orders to amend claims (to consolidate the *Woo* action) and discontinue the *Woo* action with prejudice, and dismiss the claims against the Underwriters, and such other matters required to implement the terms of this Agreement.

APPROVAL, NOTICE AND OPT-OUT PROCESS

First Order and First Notice

1.27 As soon as practicable after this Agreement is executed, the Plaintiffs shall bring an application for the approval of the First Order. The Defendants will consent to the issuance of the First Order.

1.28 The Parties agree that the certification of the Canadian Action as a class proceeding is for the sole purpose of effecting the Settlement. In the event that this Agreement is terminated as provided herein, any certification order binding the Defendants shall be vacated or set aside on consent as set out herein and shall be without prejudice to any position that either of the Parties may later take on any issue in the Canadian Action including in a subsequent certification application. In particular, the fact of the Defendants' consent to certification

for settlement purposes shall not be deemed to be an admission that the Plaintiffs have met any of the requisite criteria for certification of the Canadian Action as a class proceeding.

- 1.29 Following entry of the First Order, the Administrator shall cause the First Notice to be published and distributed in accordance with the Plan of Notice and the direction of the Court. The costs of publishing and distributing the First Notice shall be paid from the Escrow Settlement Funds as and when incurred.
- 1.30 The Administrator shall administer the opt out procedures prescribed by the First Order. No later than seven (7) calendar days after any deadline established by the Court for the delivery of opt out requests, the Administrator shall report to Class Counsel and counsel for the Defendants on the requests made to opt out of the Canadian Action.
- 1.31 Class Members who wish to file with the Court an objection or comment on the Settlement, the Distribution Protocol or the request for approval of Class Counsel Fees shall deliver to Class Counsel a written statement in accordance with the terms of, and by the deadline set out in, the First Order.
- 1.32 The Plaintiffs represent and warrant that they are not aware of any Class Member who has expressed an intention to opt out of the Settlement or of the Class and that they will not encourage any Class Member to do so.

Approval Application and Second Notice

- 1.33 The Plaintiffs will thereafter bring the Approval Application before the Court in accordance with the Court's directions. The Defendants will consent to the issuance of the Second Order.

- 1.34 At the Approval Application, Class Counsel shall propose for approval by the Court the Distribution Protocol or such other plan for distributing the Net Settlement Amount to the Class as Class Counsel may advise. The Distribution Protocol is the responsibility of Class Counsel, and the Defendants have no involvement in its design. Accordingly, the approval of the Distribution Protocol shall be considered separately from the approval of the Settlement Agreement and is not a condition of the approval of the Settlement Agreement itself and the dismissal of the Canadian Action as against the Defendants without costs and with prejudice in accordance with the Second Order.
- 1.35 The Defendants will take no position or make any submission to the Court concerning the Distribution Protocol, except as requested or required by the Court.
- 1.36 The Defendants will not oppose the issuance of the Third Order.
- 1.37 The Plaintiffs may make any amendments to the Distribution Protocol, the Third Order, the Second Notice or the Plan of Notice as it relates to Second Notice requested or directed by the Court.
- 1.38 Following the Implementation Date, the Administrator shall cause the Second Notice to be published and disseminated in accordance with the Plan of Notice as approved by the Court. The costs of publishing the Second Notice shall be paid from the Escrow Settlement Funds as and when incurred.

OTHER APPLICATIONS**Application for Approval of Class Counsel Fees**

- 1.39 Immediately following or in parallel with the Approval Application, Class Counsel may seek the approval of Class Counsel Fees to be paid as a first charge on the Settlement Amount.
- 1.40 The Defendants acknowledge that they are not parties to the application concerning the approval of Class Counsel Fees, that they will have no involvement in the approval process to determine the amount of Class Counsel Fees, and that they will not take any position or make any submissions to the Court concerning Class Counsel Fees, except as requested and required by the Court.
- 1.41 The procedure for and the allowance or disallowance by the Court of any requests for Class Counsel Fees to be paid out of the Settlement Amount are not part of the Settlement provided for herein, except as expressly provided in section 1.16, and are to be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement provided for herein. For clarity, approval of the Settlement is not dependent on approval of any Class Counsel Fees.
- 1.42 Any order or proceeding relating to Class Counsel Fees, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Agreement or affect or delay the finality of the Second Order and the Settlement of this Canadian Action provided herein.

Application for Approval of Honorarium

- 1.43 Immediately following or in parallel with the Approval Application, Class Counsel may seek orders from the Court relating to the payment of an honorarium to the Plaintiffs.
- 1.44 The Defendants acknowledge that they are not parties to any application concerning the payment of an honorarium to the Plaintiffs, they will have no involvement in any such application, and they will not take any position or make any submissions to the Court concerning any such application, except as requested and required by a Court.
- 1.45 Any order or proceeding relating to payment of an honorarium to the Plaintiffs, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Agreement or affect or delay the finality of the Second Order and the Settlement of this Canadian Action provided herein.

ADMINISTRATION

Appointment of the Administrator

- 1.46 By order of the Court, the Administrator will be appointed to serve until such time as the Escrow Settlement Funds are distributed in accordance with this Agreement and the Distribution Protocol, on the terms and conditions and with the powers, rights, duties and responsibilities set out in this Agreement and in the Distribution Protocol.

Information and Assistance from the Defendants

- 1.47 The Defendants shall, forthwith upon entry of the First Order, make reasonable efforts to deliver or cause to be delivered to the Administrator an electronic list of all persons who acquired Eligible Securities, to the extent available, along with email addresses or other

contact information for those persons as may be available to facilitate the delivery of notice to those persons.

- 1.48 The Administrator may use the information obtained under section 1.47 for the purpose of delivering the First Notice and Second Notice and for the purposes of administering and implementing this Agreement, the Plan of Notice and the Distribution Protocol, but the Administrator shall otherwise keep confidential the information obtained under section 1.47.
- 1.49 Any information obtained or created in the administration of this Agreement is confidential and, except as required by law, shall be used and disclosed only for the purpose of distributing notices and the administration of this Agreement and the Distribution Protocol.

TERMINATION

Automatic Termination

- 1.50 This Agreement shall, without notice, be automatically terminated if:
- (a) on the return of the Approval Application, the Court issues an order that is not substantially in the form of the Second Order, and such order becomes a final order;
 - or
 - (b) the Second Order is reversed on appeal and the reversal becomes a final order.
- 1.51 The Defendants shall have the right to terminate this Agreement within 14 days, or on a later date on the consent of the Parties, on being notified by the Administrator that the number of Eligible Securities of Opt Out Parties exceeds the Opt Out Threshold. The Administrator shall notify the Defendants of the number of Eligible Securities of Opt Out Parties and such particulars provided by such Opt Out Parties in support of their request to

exclude themselves from the Class in accordance with the terms of the First Order and the First Notice.

- 1.52 The right to terminate this Agreement contemplated by section 1.51 may be exercised by any one or more of the Defendants notifying Class Counsel in writing of his, her or their intention to terminate the Agreement, which notification shall have the effect of terminating this Agreement for all Defendants.
- 1.53 The Opt Out Threshold shall be stated in the Collateral Agreement. The Opt Out Threshold shall be redacted in the Collateral Agreement that is filed with the Court or otherwise made available to the public. The Collateral Agreement, without redaction of the Opt Out Threshold, shall not be published and shall be kept confidential by the parties unless the Court orders its publication or disclosure.

Effect of Termination

- 1.54 In the event this Agreement is terminated in accordance with its terms:
- (a) the Parties will be restored to their respective positions prior to the execution of this Agreement;
 - (b) the Plaintiffs and Defendants will consent to an order vacating or setting aside any order certifying this Canadian Action as a class proceeding for the purposes of implementing this Agreement and certification of this Canadian Action for settlement purposes shall not be deemed to be an admission by the Defendants that the Canadian Action met any of the criteria for certification, and that no party to this Canadian Action and no other person may rely upon the fact of the prior consent to the certification order for any purpose whatsoever;

- (c) the Escrow Settlement Funds will be returned to the Defendants;
- (d) this Agreement will have no further force or effect and no effect on the rights of the Parties except as specifically provided for herein;
- (e) all statutes of limitation applicable to the claims asserted in the Canadian Action shall be deemed to have been tolled during the period beginning with the execution of this Agreement and ending with Order described in section 1.56;
- (f) any costs reasonably incurred by Class Counsel and paid out of the Escrow Account for the publication and dissemination of notices are non-recoverable from the Plaintiffs, the Class Members and Class Counsel, except by way of any costs order that may be made in favour of the Defendants in the Canadian Action; and
- (g) this Agreement and the First Order will not be introduced into evidence or otherwise referred to in any litigation against the Defendants.

1.55 Notwithstanding the provisions of section 1.54(d), if this Agreement is terminated, the provisions of this section 1.55, and sections 1.1, 1.7, 1.8, 1.9, 1.13, 1.14, 1.15, 1.22, 1.23, 1.24, and 1.56 to 1.76 shall survive termination and shall continue in full force and effect.

Steps Required on Termination

- 1.56 If this Agreement is terminated, the Defendants shall, within thirty (30) days after termination, apply to the Court, on notice to the Plaintiffs, for an order:
- (a) declaring this Agreement null and void and of no force or effect except for the provisions of those sections listed in section 1.55;
 - (b) requesting an order setting aside, *nunc pro tunc*, all prior orders or judgments entered by the Court in accordance with the terms of this Agreement, including any

order certifying the Canadian Action as a class proceeding for the purposes of implementing this Agreement; and

- (c) authorizing the payment of the Escrow Settlement Funds, including accrued interest, to the Defendants.

1.57 Subject to section 1.58, the Plaintiffs shall consent to the orders sought in any application made by the Defendants under section 1.56.

Notice of Termination

1.58 If this Agreement is terminated, a notice of the termination will be given to the Class. Class Counsel will cause the notice of termination, in a form approved by the Court, to be published and disseminated as the Court directs.

Disputes Relating to Termination

1.59 If there is a dispute about the termination of this Agreement, the Parties agree that the Court shall determine the dispute on an application made by a Party on notice to the other Parties.

MISCELLANEOUS

Applications for Directions

1.60 The Parties may apply to the Court for directions in respect of any matter in relation to this Agreement.

1.61 All applications contemplated by this Agreement shall be on notice to the Parties.

Headings, etc.

1.62 In this Agreement:

- (a) the division into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation;
- (b) the terms “the Agreement”, “this Agreement”, “herein”, “hereto” and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of the Settlement Agreement; and
- (c) “person” means any legal entity including, but not limited to, individuals, corporations, sole proprietorships, general or limited partnerships, limited liability partnerships or limited liability companies.

Computation of Time

1.63 In the computation of time in this Agreement, except where a contrary intention appears:

- (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

Governing Law

1.64 The Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of British Columbia. The language of the Agreement is English.

1.65 The Parties agree that the Court shall retain exclusive and continuing jurisdiction to interpret and enforce the terms, conditions and obligations under this Agreement and the First Order, the Second Order and the Third Order.

Severability

1.66 Any provision hereof that is held to be inoperative, unenforceable or invalid in any jurisdiction shall be severable from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

Entire Agreement

1.67 This Agreement and the Collateral Agreement constitute the entire agreement among the Parties and supersede all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. The Parties will not be bound by any prior obligations, conditions or representations with respect to the subject matter of this Agreement and the Collateral Agreement, unless expressly incorporated herein. This Agreement may not be modified or amended except in writing and on consent of both Parties and any such modification or amendment after settlement approval must be approved by the Court.

Binding Effect

1.68 If the Settlement is approved by the Court and becomes final, this Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Class Members, the Defendants, Class Counsel, the Releasees and the Releasers or, any of them, and all of their respective heirs, executors, predecessors, successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the

Plaintiffs shall be binding upon all Releasors and each and every covenant and agreement made herein by the Defendants shall be binding upon all of the Releasees.

1.69 For greater certainty, no Opt Out Party shall be bound by this Agreement.

Survival

1.70 The representations and warranties contained in this Agreement shall survive its execution and implementation.

Negotiated Agreement

1.71 This Agreement and the underlying settlement have been the subject of arm's length negotiations and discussions among the undersigned and counsel. Each of the Parties has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafters of this Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of the Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Agreement.

Recitals

1.72 The recitals to this Agreement are true, constitute material and integral parts hereof and are fully incorporated into, and form part of, this Agreement.

Acknowledgements

1.73 Each Party hereby affirms and acknowledges that:

- (a) its signatory has the authority to bind the Party for which it is signing with respect to the matters set forth herein and has reviewed this Agreement;

- (b) the terms of this Agreement and the effects thereof have been fully explained to him/her or it by his/her or its counsel; and
- (c) he/she or its representative fully understands each term of this Agreement and its effect.

Counterparts

1.74 This Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and an emailed .PDF signature shall be deemed an original signature for purposes of executing this Agreement.

Notice

1.75 Any notice, instruction, application for Court approval or application for directions or Court orders sought in connection with this Agreement or any other report or document to be given by any party to any other party shall be in writing and delivered by email to:

For the Plaintiffs:

Alex Dimson
Siskinds LLP
65 Queen Street West, Suite 1155
Toronto, ON M5H 2M5
Email: alex.dimson@siskinds.com

Sage Nematollahi
KND Complex Litigation
1186 Eglinton Avenue West
Toronto, ON M6C 2E3
Email: sn@knd.law

For the Northern Dynasty Defendants:


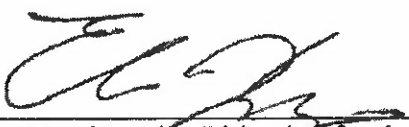
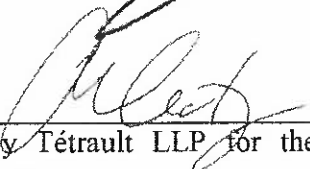

Alexandra Cocks
McCarthy Tétrault LLP
745 Thurlow Street, Suite 2400
Vancouver, BC V6E 0C5
Email: acocks@mccarthy.ca

For the Underwriters:

Mark Gelowitz
Osler, Hoskin & Harcourt LLP
100 King Street West
1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto, ON M5X 1B8
Email: mgelowitz@osler.com

Date of Execution

1.76 This Agreement is effective as of the date on the cover page.

<u>2023-09-05</u> Date	 Oslands LLP for the Plaintiffs
<u>September 05, 2023</u> Date	 KND Complex Litigation for the Plaintiffs
<u>September 1, 2023</u> Date	 McCarthy Tétrault LLP for the Northern Dynasty Defendants
<u>September 8, 2023</u> Date	 Osler, Hoskin & Harcourt LLP for the Underwriters

SCHEDULE "A"
FIRST ORDER

No. VLC-S-S-2012849
Vancouver Registry

In the Supreme Court of British Columbia

Between

FIRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

**ORDER MADE AFTER APPLICATION FOR CERTIFICATION,
APPOINTMENT OF ADMINISTRATOR, APPROVAL OF NOTICE,
CLAIMS PROCESS AND OPT OUT PROCEDURE**

BEFORE THE HONOURABLE JUSTICE ●) [Date]
)
)

ON THE APPLICATION of the plaintiffs coming on for hearing at the Courthouse, [address], on [date] and on hearing [counsel appearing]; and on reading the materials filed, including the Settlement Agreement; and on the consent of the Defendants.

THIS COURT ORDERS that

1. Except to the extent that they are modified by this Order, the definitions set out in the settlement agreement reached with the Defendants dated August 30, 2023 (“**Settlement Agreement**”) attached as **Appendix “1”** apply to and are incorporated into this Order.
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. This action is certified as a class proceeding as against the Defendants for the purpose of the settlement only, pursuant to the *Class Proceedings Act*, RSBC 1996, c 50, but subject to the terms of the Settlement Agreement.
4. The class certified for the purpose of settlement with the Defendants is defined as:

except for the **Excluded Persons** or **Opt Out Parties**, all persons and entities, wherever they may reside or be domiciled, who purchased or otherwise acquired securities of Northern Dynasty during the Class Period and held some or all of those securities as of August 22, 2020 or November 25, 2020.
5. Firas Haddad and Walter Woo are appointed as the Representative Plaintiffs for the Class.
6. Siskinds LLP and KND Complex Litigation are appointed Class Counsel.
7. The following issues are certified as common issues:
 - a) Did Northern Dynasty’s Class Period disclosures, or any of them, contain misrepresentation within the meaning of the *Securities Act*?; and
 - b) Did the disclosures released on August 22, 2020 and/or November 25, 2020 publicly correct the previously released alleged misrepresentations within the meaning of the *BCSA*?

8. The Plan of Notice, substantially in the form attached as **Appendix “2”**, is approved for the purpose of the publication and dissemination of the First Notice and Claim Form.
9. The form and content of the short-form First Notice, substantially in the form attached as **Appendix “3”**, is approved.
10. The form and content of the long-form First Notice, substantially in the form attached as **Appendix “4”**, is approved.
11. The form and content of the Claim Form, substantially in the form attached as **Appendix “5”**, is approved.
12. ● is appointed as the Administrator of the Settlement Agreement.
13. In order to be entitled to participate in a distribution from the Net Settlement Amount, a Class Member must:
 - (a) submit a properly completed Claim Form to the Administrator, using the online claim portal established by the Administrator or by submitting a paper Claim Form by mail or courier to the Administrator, postmarked or received by the Administrator on or before 11:59pm Vancouver (Pacific) time on the date that is one hundred and eighty (180) calendar days after the date on which the First Notice is first published (“**Claims Bar Deadline**”);
 - (b) submit, together with the Claim Form, any supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Administrator; and

(c) otherwise comply with the instructions set out in the Claim Form.

14. Any Class Member who wishes to validly exclude him, her or itself from the Action must do so by submitting to the Administrator by mail or courier a written opt out election ("**Opt Out Election**") to be postmarked on or before 11:59pm Vancouver (Pacific) time on the date that is 60 calendar days after the date on which the First Notice is first published whether in print or online ("**Opt Out Deadline**").

15. An Opt Out Election:

- (a) must contain a statement of intention to opt out of the Action by the Class Member or a person authorized to bind the Class Member;
- (b) for Class Members who acquired Eligible Securities during the period from and including ● to and including ●, must provide a listing of all transactions during that period showing, for each transaction, the type of transaction (purchase or sale), the number of securities and the date of the transaction, and state the number of Eligible Securities held at the close of trading on the TSX Venture Exchange on ●;
- (c) must be supported by documents to evidence such transactions, in the form of trade confirmations, brokerage statements or other transaction records allowing the Administrator to verify the transactions;
- (d) must contain the name, address, telephone number and email address of the Class Member; and
- (e) may, at the option of the Class Member, contain a statement of the Class Member's reason for opting out.

16. Any Class Member who delivers a valid Opt Out Election, in accordance with paragraphs 14 and 15 of this Order, may revoke that Opt Out Election by submitting to the Administrator by mail or courier a written statement that he, she or it wishes to revoke the Opt Out Election, which must be postmarked on or before 11:59pm Vancouver (Pacific) time on the date that is five (5) calendar days after the Opt Out Deadline (“**Opt Out Revocation Deadline**”).

17. An Opt Out Election that is revoked in accordance with paragraph 16 of this Order shall be null and void and have no force or effect, and the Class Member who submitted the Opt Out Election shall not be considered an Opt Out Party.

18. The Administrator shall, immediately upon receipt by it, provide to Class Counsel and counsel to the Defendants copies of any Opt Out Elections postmarked on or before the Opt Out Deadline.

19. At any time up to the Opt Out Revocation Deadline, Class Counsel may contact any Class Member who has submitted an Opt Out Election to confirm that they wish to exclude him, her or itself from the Action, and to explain to him, her or it the significance of the Opt Out Election.

20. No later than the date that is seven (7) calendar days after the Opt Out Deadline, the Administrator shall:

- (a) report to the lawyers for the Parties the number of Eligible Securities of each Opt Out Party and the total number of Eligible Securities of all Opt Out Parties; and
- (b) provide to the lawyers for the Parties copies of the Opt Out Elections submitted by Opt Out Parties.

21. Any person who would otherwise be a Class Member who validly excludes him, her or itself from the Action, in accordance with paragraphs 14 and 15 of this Order, and who has not

revoked his, her or its Opt Out Election in accordance with paragraph 16 of this Order, is not bound by the Settlement Agreement and shall no longer participate or have the opportunity in the future to participate in the Action and the Settlement.

22. Any person who is a member of the Class and who does not validly exclude him, her or itself from the Action in accordance with paragraphs 14 and 15 of this Order, or who revokes an Opt Out Election in accordance with paragraph 16 of this Order, will be bound by the Settlement Agreement, including the releases contained therein, if and when it becomes effective, and may not exclude him, her or itself from the Action in the future, whether or not a claim to participate in the distribution of the Settlement Amount is submitted by that person.

23. Class Members who wish to file with the Court an objection or comment on the Settlement, the Distribution Protocol or the request for approval of Class Counsel Fees shall deliver to Class Counsel by mail, courier or email a written statement, to be postmarked or received by Class Counsel by no later than 11:59pm Vancouver (Pacific) time on the date that is 14 calendar days prior to the Approval Application. Class Counsel shall, forthwith upon receipt by them, provide a copy of any such objection or comment to counsel for the Defendants.

24. The Defendants shall use reasonable efforts to forthwith deliver or cause to be delivered to the Administrator the information required under section 1.47 of the Settlement Agreement.

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

Signature of lawyer for the Plaintiffs

Signature of lawyer for the Northern Dynasty
Defendants

Signature of lawyer for the Underwriters

By the Court

Registrar

In the Supreme Court of British Columbia

Between

FIRRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

ORDER MADE AFTER APPLICATION

<p>Siskinds LLP Barristers & Solicitors 65 Queen Street West, Suite 1155 Toronto ON M5H 2M5</p> <p>Courier address: ●</p>	<p>KND Complex Litigation 1186 Eglinton Ave West Toronto ON M6C 2E3</p> <p>Courier address: ●</p>
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SCHEDULE "B"
SECOND ORDER

No. VLC-S-S-2012846
Vancouver Registry

In the Supreme Court of British Columbia

Between

FIRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

ORDER MADE AFTER APPLICATION FOR SETTLEMENT APPROVAL

BEFORE THE HONOURABLE JUSTICE ●)
) [Date]
)

ON THE APPLICATION of the plaintiffs coming on for hearing at the Courthouse, [address], on ● and on hearing [counsel appearing]; and on reading the materials filed, including the Settlement Agreement; and on the consent of the Defendants;

THIS COURT ORDERS that

1. Except to the extent that they are modified by this Order, the definitions set out in the settlement agreement reached with the Defendants dated August 30, 2023 (“**Settlement Agreement**”) attached as **Appendix “1”** apply to and are incorporated into this Order.
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. The Settlement Agreement is fair, reasonable and in the best interests of the Class.
4. The Settlement Agreement is approved pursuant to section 35 of the *Class Proceedings Act*, RSBC 1996, c 50 as amended and shall be implemented in accordance with its terms.
5. The Settlement Agreement is incorporated by reference to and forms part of this Order and is binding upon the Plaintiffs and Class Members.
6. The Settlement Agreement shall be implemented in accordance with its terms.
7. The Plaintiffs and Defendants may, on notice to the Court but without the need for further order of the Court, agree to reasonable extensions of time to carry out any provisions of the Settlement Agreement.
8. Except as expressly provided for in the Settlement Agreement, the Defendants and the other Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement.
9. This Order, including the Settlement Agreement, is binding upon each member of the Class including those Persons who are minors or mentally incapable.

10. Upon the Effective Date, the Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee, or any other person who may claim contribution or indemnity or other claims over relief from any Releasee, in respect of any Released Claim or any matter related thereto.

11. For the purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Defendants and the other Releasees acknowledge the jurisdiction of this Court solely for the purpose of implementing, administering and enforcing the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement.

12. Upon the Effective Date, the Action shall be dismissed against all Defendants with prejudice and without costs.

13. This Order shall be declared null and void on a subsequent application made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

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

Signature of lawyer for the Plaintiffs

Signature of lawyer for the Northern Dynasty
Defendants

Signature of lawyer for the Underwriters

By the Court

Registrar

In the Supreme Court of British Columbia

Between

FIRRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANNACORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., and VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

ORDER MADE AFTER APPLICATION

<p>Siskinds LLP Barristers & Solicitors 65 Queen Street West, Suite 1155 Toronto ON M5H 2M5</p> <p>Courier address: ●</p>	<p>KND Complex Litigation 1186 Eglinton Ave West Toronto ON M6C 2E3</p> <p>Courier address: ●</p>
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SCHEDULE "C"
THIRD ORDER

No. VLC-S-S-2012849
Vancouver Registry

In the Supreme Court of British Columbia

Between

FIRRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

**ORDER MADE AFTER APPLICATION FOR APPROVAL OF THE DISTRIBUTION
PROTOCOL AND NOTICE**

BEFORE THE HONOURABLE JUSTICE ●

)
)
)

[Date]

ON THE APPLICATION of the plaintiffs coming on for hearing at the Courthouse, [address], on ● and on hearing [counsel appearing]; and on reading the materials filed, including the Distribution Protocol; and the Defendants not opposing this order;

THIS COURT ORDERS that

1. Except to the extent that they are modified by this Order, the definitions set out in the settlement agreement reached with the Defendants, dated August 30, 2023 (“**Settlement Agreement**”) attached as **Appendix “1”** apply to and are incorporated into this Order.
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. The Distribution Protocol, substantially in the form attached as **Appendix “2”**, is fair and appropriate.
4. The Distribution Protocol is approved and the Settlement Amount shall be distributed in accordance with the terms of the Settlement Agreement, following payment of Class Counsel Fees approved by this Court, the Administration Expenses and any other expenses approved by this Court.
5. The Plan of Notice, substantially in the form attached as **Appendix “3”**, is approved for the purpose of the publication and dissemination of the Second Notice.
6. The form and content of the short-form Second Notice, substantially in the form attached as **Appendix “4”**, is approved.
7. The form and content of the long-form Second Notice, substantially in the form attached as **Appendix “5”**, is approved.

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

Signature of lawyer for the Plaintiffs

Signature of lawyer for the Northern Dynasty
Defendants

Signature of lawyer for the Underwriters

By the Court

Registrar

In the Supreme Court of British Columbia

Between

FIRRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

ORDER MADE AFTER APPLICATION

<p>Siskinds LLP Barristers & Solicitors 65 Queen Street West, Suite 1155 Toronto ON M5H 2M5</p> <p>Courier address: ●</p>	<p>KND Complex Litigation 1186 Eglinton Ave West Toronto ON M6C 2E3</p> <p>Courier address: ●</p>
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SCHEDULE “D”
PLAN OF NOTICE

Capitalized terms used in this Plan of Notice have the meanings ascribed to them in the Settlement Agreement dated August 30, 2023.

Subject to such alternative or additional direction by the Court, notices provided for as contemplated in the Settlement Agreement will be disseminated as follows:

PART 1 – FIRST NOTICE

A. Short-Form

As soon as possible following the entry of the First Order, the short-form First Notice will be disseminated as follows:

Newspaper Publication

Print publication of the short-form First Notice will be at least a 1/8 page in size. Print publication will be made in Canada in the English language in the business section of the national weekend edition of *The Globe and Mail* and in the French language in the business section of *La Presse*.

News Release

The English and French language versions of the short-form First Notice will be issued (with necessary formatting modifications) across Canada Newswire, a major business newswire in Canada.

ISS Publication

The English and French language versions of the short-form First Notice will be sent to Institutional Shareholder Services Inc. (ISS) for publication through their platform.

Individual Notice

The Administrator will send a package to the Canadian brokerage firms in the Administrator's proprietary databases. The package will consist of the short-form First Notice and a cover letter to the brokerage firms in the form customarily used by the Administrator. The Administrator shall request that the brokerage firms either send a copy of the short-form First Notice to all individuals and entities identified by the brokerage firms as being Class Members, or to send the names and contact information of all known Class Members to the Administrator (who shall subsequently send the short-form First Notice to the individuals and entities so identified). The notice shall be distributed by email where Class Member email addresses are available.

The Administrator shall, if requested, reimburse the brokerage firms out of the Settlement Amount solely for their reasonable out-of-pocket expenses incurred in distributing notice to the Class Members. The reimbursement shall be at reasonable and customary rates per unit as determined

by the Administrator. Each brokerage firm must submit its account by a date to be determined by the Administrator to be entitled to reimbursement.

The Administrator shall send the short-form First Notice to the individuals and entities on the electronic list of persons who acquired Eligible Securities delivered by the Defendants to the Administrator as required by the Settlement Agreement. The notice shall be distributed by email where Class Member email addresses are available.

B. Long-Form

Publication by Class Counsel

As soon as possible following the entry of the First Order, the long-form First Notice will be disseminated as follows:

1. Electronic publication of the long-form First Notice will occur in both the English and French languages on the Northern Dynasty class action website of Class Counsel at Northern Dynasty Minerals Ltd. | Siskinds Law Firm and Northern Dynasty Minerals Ltd. | KND Complex Litigation (“Class Counsel Website”).
2. The long-form First Notice will be mailed, electronically or physically, as may be required, to those persons and entities who have previously contacted Class Counsel for the purposes of receiving notice of developments in the Action.

Class Counsel shall make a toll-free number and email address available to the public that will enable Class Members to contact Class Counsel in order that they may, amongst other things:

1. obtain more information about the Settlement, how to object to the Settlement, the claims process and the opt out process; and/or
2. request that a copy of the Settlement Agreement, the long-form First Notice and the Claim Form be electronically or physically mailed to them.

Class Counsel will post on the Class Counsel Website:

1. the Settlement Agreement;
2. the long-form First Notice;
3. a short summary of the rationale for the Settlement (no less than 30 days prior to the application to approve the Settlement);
4. the affidavit(s) in support of the application for approval of the Settlement (no less than 30 days prior to the application to approve the Settlement); and
5. the affidavit(s) in support of the application for approval of Class Counsel Fees and disbursements (no less than 30 days prior to the application to approve Class Counsel Fees and disbursements).

PART 2 – SECOND NOTICE

A. Short-Form

As soon as possible following the Implementation Date, the short-form Second Notice will be disseminated as follows:

News Release

The English and French language versions of the short-form Second Notice will be issued (with necessary formatting modifications) across Canada Newswire, a major business newswire in Canada.

ISS Publication

The English and French language versions of the short-form Second Notice will be sent to Institutional Shareholder Services Inc. (ISS) for publication through their platform.

B. Long-Form

As soon as possible following the Implementation Date, the long-form Second Notice will be disseminated as follows:

1. Electronic publication of the long-form Second Notice will occur in both the English and French languages on the Class Counsel Website; and
2. Class Counsel shall mail or email the long-form Second Notice to those persons that have contacted Class Counsel as of the publication date regarding this litigation and have provided Class Counsel with their contact information.

Class Counsel shall make a toll-free number and email address available to the public that will enable Class Members to obtain more information about the settlement and to request that a copy of the long-form Second Notice be sent electronically or physically to them directly.

SCHEDULE "E"
FIRST NOTICE – SHORT FORM

NORTHERN DYNASTY MINERALS LTD. SECURITIES CLASS ACTION

Did you acquire securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020, inclusive, and hold some or all of those securities as of August 22, 2020 or November 25, 2020?

A settlement has been reached in a class action against Northern Dynasty Minerals Ltd. ("Northern Dynasty"), Ronald W. Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital. The class action alleges that there were misrepresentations in certain of Northern Dynasty's public disclosures and in documents provided to investors.

The settlement provides for payments by the defendants in the class action and their insurers of the total amount of USD\$2,125,000 to resolve those claims. The settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault by Northern Dynasty or any of the other defendants, all of whom have denied, and continue to deny, the allegations against them.

The settlement must be approved by the Supreme Court of British Columbia. A settlement approval hearing has been set for [date], 2023. At the hearing, the Court will also address an application to approve Class Counsel's fees, which will not exceed [number]% of the recovery plus reimbursement for expenses incurred in the litigation.

Class Members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

The Court has appointed [Administrator] as the Administrator of the settlement. To be eligible for compensation, Class Members must submit a completed Claim Form to the Administrator by no later than 11:59 pm Vancouver (Pacific) time on [date]. If the settlement is approved, and if you do not file a claim by this deadline, you may not be able to claim a portion of the settlement and your claim will be extinguished.

If you do not want to be part of this class action and be bound by the terms of the settlement, you must opt out by 11:59 Vancouver (Pacific) time on [date].

Class Members may also express their views about the proposed settlement to the Court. If you wish to express your views, you must do so in writing by [date].

For more information about the certification of the class action, who qualifies as a class member, the settlement, how to make a claim for compensation from the settlement, and your rights to opt out of the class and the settlement or object to the settlement, see the long-form notice available online at [website] or call toll free at [number].

SCHEDULE "F"
FIRST NOTICE – LONG FORM

NORTHERN DYNASTY MINERALS LTD. SECURITIES CLASS ACTION
NOTICES OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING

Please read this notice carefully. A proposed settlement may affect your legal rights. You may have to take prompt action.

This notice is directed to: All persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020, inclusive, and held some or all of those securities as of August 22, 2020 or November 25, 2020.

(collectively, "Class" or "Class Members")

IMPORTANT DEADLINES

Claims Bar Deadline (to file a claim for compensation): 11:59 pm Vancouver (Pacific) time on [date]

Opt Out Deadline (to exclude yourself from the class action and settlement): 11:59 pm Vancouver (Pacific) time on [date]

Objection Deadline (to object or to comment on the settlement or Class Counsel fees): 11:59 pm Vancouver (Pacific) time on [date]

Claim Forms may not be accepted after the Claims Bar Deadline. As a result, it is necessary that you act without delay.

PURPOSE OF THIS NOTICE

The class action brought on behalf of Class Members has been settled, subject to court approval. It has also been certified for settlement purposes. This notice provides Class Members with information about certification, who qualifies as a Class Member, the right to opt out of the class action, the settlement, and their rights to participate in the court proceedings considering whether to approve the settlement.

The notice also provides Class Member with information about how to apply for compensation from the settlement. **Class Members who wish to do so must do so by 11:59 pm Vancouver (Pacific) time on [date].**

THE ACTION AND CLASS CERTIFICATION

In 2020, an action (as amended) ("Action") was commenced in the Supreme Court of British Columbia ("Court") against Northern Dynasty Minerals Ltd. ("Northern Dynasty"), Ronald W.

Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital (collectively, the “Defendants”)

The Action alleges that the Defendants made misrepresentations regarding the permit application process for Northern Dynasty’s proposed Pebble Project. The Action alleges that the misrepresentations were corrected over two corrective disclosures: *first*, on August 24, 2020, when media outlets reported that due to the environmental impacts of the project the USACE was set to impose stringent compensatory mitigation requirements for the Pebble Project; *second*, on November 25, 2020, when the USACE issued an unfavourable Record of Decision denying the Pebble Project’s permit application. It is further alleged that following these disclosures Northern Dynasty’s share price declined significantly, causing damage to the Class Members.

On [date], the Court certified the class action for settlement purposes against the Defendants on behalf of the Class defined above. Excluded persons are Northern Dynasty and the Underwriters (as defined in the Settlement Agreement) and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns, as well as Thiessen and Collier, their immediate family members, and any entities in which they have a controlling interest.

THE SETTLEMENT

On [date] the Plaintiffs and Defendants executed a Settlement Agreement providing for the settlement of the Action (“Settlement”), which is subject to approval by the Court. The Settlement Agreement provides for the payment of USD\$2,125,000 (“Settlement Amount”) in consideration of the full and final settlement of the claims of Class Members. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses.

The Settlement provides that if it is approved by the Court, the claims of all Class Members asserted or which could have been asserted in the Action will be fully and finally released, and the Action will be dismissed. The Settlement is not an admission of liability, wrongdoing or fault on the part of the Defendants, all of whom have denied, and continue to deny, the allegations against them.

Class Members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

PARTICIPATING IN THE SETTLEMENT OR EXCLUDING YOURSELF (“OPTING OUT”) FROM THE CLASS ACTION AND SETTLEMENT

If you are a Class Member, you will be bound by the outcome of the Action, including the terms of the Settlement if approved, unless you opt out of the Action. Class Members who do not opt out will (i) be entitled to participate in the Settlement; (ii) be bound by the terms of the Settlement; and (iii) not be permitted to bring other legal proceedings in relation to the matters alleged in the Action against the Defendants, or any person released by the approved Settlement. Conversely, if you are a Class Member who opts out of the Action (an “Opt Out Party”), you will not be able to

make a claim to receive compensation from the Settlement Amount but will maintain the right to pursue your own claim against the Defendants relating to the matters alleged in the Action.

If you are a Class Member and wish to opt out, you must submit a written election to do so, together with required supporting documentation (“Opt Out Election”), to [Administrator] (“Administrator”).

To be a valid, the Opt Out Election: (a) must contain a statement of intention to opt out of the Action by you or a person authorized to bind you; (b) for Class Members who acquired Northern Dynasty securities during the period from and including [date] to and including [date], must provide a listing of all transactions during that period showing, for each transaction, the type of transaction (purchase or sale), the number of securities and the date of the transaction, and state the number of Northern Dynasty securities held at the close of trading on the TSX Venture Exchange on [date]; (d) must be supported by documents to evidence such transactions, in the form of trade confirmations, brokerage statements or other transaction records acceptable to the Administrator to verify the transactions; (e) must contain your name, address, telephone number and email address; and (f) may, at your option, contain a statement of your reason for opting out.

Your Opt Out Election must be postmarked no later than **11:59pm Vancouver (Pacific) time on [date] (“Opt Out Deadline”)**.

Opt Out Elections may be sent by mail or courier to: [Administrator contact details]

An Opt Out Election that does not contain all of the required information or is postmarked after the Opt Out Deadline will not be valid, which means that you will be bound by the outcome of the Action, including the Settlement, if it is approved.

You may revoke an Opt Out Election by delivering to the Administrator by mail or courier a written statement that you wish to revoke the Opt Out Election, which must be postmarked on or before 11:59pm Vancouver (Pacific) time on [date].

SETTLEMENT APPROVAL HEARING

The Settlement is conditional on approval by the Court. The Settlement will be approved if the Court determines that it is fair and reasonable and in the best interests of Class Members to approve it.

The Court will hear an application for approval of the Settlement on [date] at [address] before the Honourable [Justice ●].

RELEASE OF CLAIMS AND EFFECT ON OTHER PROCEEDINGS

If the Settlement Agreement is approved by the Court, the claims and allegations of Class Members which were asserted or which could have been asserted in the Action will be released (“Released Claims”), and the Action will be dismissed. Class Members will not be able to pursue any action in relation to the Released Claims regardless of whether or not they file a claim for compensation from the Settlement. If approved, the Settlement will therefore represent the only means of compensation available to Class Members in respect of the Released Claims.

APPROVAL OF CLASS COUNSEL FEES AND OTHER EXPENSES

In addition to seeking the Court's approval of the Settlement Agreement, Class Counsel will seek the Court's approval of legal fees not to exceed [number]% of the Settlement Amount, plus disbursements not exceeding CAD\$[number] and applicable taxes ("Class Counsel Fees"). This fee request is consistent with the retainer agreement entered into between Class Counsel and the Plaintiffs at the beginning of the litigation. As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation.

Class Counsel will also seek the Court's approval for the payment of an honoraria to the Plaintiffs not exceeding CAD\$[number] each. Class Counsel will be requesting that the honoraria be deducted directly from the Settlement Amount.

The approval of the Settlement is not contingent on the approval of the Class Counsel Fees requested or an honorarium to the Plaintiff. The Settlement may still be approved even if the requested Class Counsel Fees or the Plaintiff's honorarium are not approved.

The fees of the Administrator, together with any other costs relating to approval, notification, implementation and administration of the settlement ("Administration Expenses"), will also be paid from the Settlement Amount.

CLASS MEMBERS' ENTITLEMENT TO COMPENSATION

Class Members will be eligible for compensation pursuant to the Settlement if they submit a completed Claim Form, including any supporting documentation, with the Administrator, and their claim satisfies the criteria set out in the Distribution Protocol.

To be eligible for compensation under the Settlement, your Claim Form must be postmarked or received by the Administrator by **no later than 11:59pm Vancouver (Pacific) time on [date]** ("**Claims Bar Deadline**"). Only Class Members who have not opted out of the Action are permitted to recover from the Settlement.

If the Settlement Agreement is approved by the Court, the Settlement Amount, after deduction of Class Counsel Fees, Administration Expenses and any approved honorarium ("**Net Settlement Amount**") will be distributed to Class Members in accordance with the Distribution Protocol, subject to the Court's approval.

The proposed Distribution Protocol provides that in order to determine the individual entitlements of Class Members who make claims, the losses of each claimant will be calculated in accordance with a formula based on the statutory damages provisions contained in the securities legislation of British Columbia. Once the notional losses of all Class Members who have filed valid claims have been calculated, the Net Settlement Amount will be allocated to those Class Members in proportion to their percentage of the total notional losses calculated for all valid claims filed. Because the Net Settlement Amount will be distributed pro rata, it is not possible to estimate the individual recovery of any individual Class Member until all the claims have been received and reviewed.

The approval of the Settlement is not contingent on the approval of the Distribution Protocol. The Court may still approve the Settlement even if it does not approve the Distribution Protocol or approves amendments to the Distribution Protocol.

In the event any amounts remain undistributed 180 days after the distribution of the Net Settlement Amount (because of uncashed cheques or for other administrative reasons), those amounts will be distributed to eligible Class Members (if sufficient to warrant a further distribution) or distributed to the Law Foundation of British Columbia.

ADMINISTRATOR

The Court has appointed [Administrator] as the Administrator of the Settlement. The Administrator will, among other things: (i) receive and process the Claim Forms; (ii) determine Class Members' eligibility for and entitlement to compensation pursuant to the Distribution Protocol; (iii) communicate with Class Members regarding claims for compensation; and (iv) manage and distribute the Settlement Amount in accordance with the Settlement Agreement and the orders of the Court. The Administrator can be contacted at:

Telephone: [number]

Mailing Address: [address]

Website: [website]

FILING A CLAIM

All claims for compensation from the Settlement must be postmarked or received by no later than 11:59pm Vancouver (Pacific) time on [date].

The most efficient way to file a claim is to visit the Administrator's website at [website address]. **You are strongly encouraged to file your claim online through the website.** The website provides step by step instructions on how to file a claim. In order to verify claims, the Administrator will require supporting documentation, including brokerage statements or confirmations evidencing the claimed transactions. Accordingly, Class Members should visit the Administrator's site as soon as possible so that they have time to obtain the required documentation prior to the Claims Bar Deadline.

The Administrator will also accept Claim Forms filed by mail or courier. To obtain a paper copy of the Claim Form, Class Members must telephone the Administrator to have one sent by email or regular mail. Claim Forms sent by mail or courier should be sent to:

[Administrator]

[address]

CLASS MEMBERS' RIGHT TO PARTICIPATE IN THE APPLICATION FOR APPROVAL

Class Counsel has posted or will post the following material on its website [website] on or before the dates set out below:

1. The Settlement Agreement, including the proposed Distribution Protocol (posted prior to or at the time of publication of this notice);
2. A summary of the basis upon which Class Counsel recommends the Settlement and Distribution Protocol (by [date]);
3. The Plaintiffs' evidence in support of the approval of the Settlement and Distribution Protocol (by [date]);
4. Class Counsel's evidence in support of the request for approval of Class Counsel's fees and disbursements (by [date]).

Class Members who wish to comment on, or make an objection to, the approval of the Settlement Agreement, the Distribution Protocol or the Class Counsel fees requested shall deliver a written statement to Class Counsel by mail, courier or email, using the contact details listed under "Class Counsel"; below, to be postmarked or received by Class Counsel no later than 11:59 pm Vancouver (Pacific) time on [date]. Any objections postmarked or received by that date will be filed with the Court.

Class Members may attend at the hearing whether or not they deliver an objection. Class Members who wish a lawyer to speak on their behalf at the hearing may retain one to do so at their own expense.

YOU HAVE THREE OPTIONS:

1. Stay in the Class Action and Do Nothing:

You do not have to do anything to stay in the class action. If the Court approves the Settlement, it will be distributed according to its terms. If you are eligible and submit a valid claim form, you will receive your share of the net Settlement Amount. If you do nothing, you will be legally bound by all orders and judgments of the Court, and you will not be able to sue the Defendants on your own regarding the legal claims made in this case.

2. Stay in the Class Action and Object to the Agreement or Class Counsel's Fees:

If you want to object to the proposed Settlement or to the payment of Class Counsel's fees and expenses, you should do so by filling out a Notice of Objection and delivering it to Class Counsel at the address below. The Notice of Objection can be found at: [\[website\]](#). The Notice of Objection must be provided by • at 11:59 pm Vancouver (Pacific) time.

3. Opt-Out of the Class Action:

All Class Members will be bound by the terms of the Settlement, unless they opt-out. The Opt-Out Form is available at [\[website\]](#) **Error! Hyperlink reference not valid.** or by request to Class Counsel at the address below. Any Class Member who wishes to opt-out of the class action must deliver a completed Opt-Out Form by email or fax to the address

indicated below. The Opt-Out Form must be received on or before • at 11:59 pm Vancouver (Pacific) time to be valid.

COPIES OF THE SETTLEMENT DOCUMENTS:

Copies of the Settlement Agreement, the Distribution Protocol and other documents relating to the Settlement may be found on the Administrator's website, Class Counsel's websites or by contacting the Administrator or Class Counsel using the contact information provided in this notice.

PERSONAL LEGAL ADVICE:

The lawyers for the Plaintiffs are Siskinds LLP and KND Complex Litigation. Class Members who seek the advice or guidance of their personal lawyers should do so at their own expense.

CLASS COUNSEL:

Siskinds LLP and KND Complex Litigation are Class Counsel. Inquiries may be directed to:

Northern Dynasty Class Counsel
Siskinds LLP
c/o Alex Dimson
Email: alex.dimson@siskinds.com

Northern Dynasty Class Counsel
KND Complex Litigation
c/o Sage Nematollahi
Email: northerndynasty@knd.law

INTERPRETATION:

If there is a conflict between the provisions of this notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

THE SUPREME COURT OF BRITISH COLUMBIA HAS AUTHORIZED DISTRIBUTION OF THIS NOTICE.

QUESTIONS ABOUT THIS NOTICE SHOULD BE DIRECTED TO THE ADMINISTRATOR OR CLASS COUNSEL AND SHOULD NOT BE DIRECTED TO THE COURT.

SCHEDULE "G"
SECOND NOTICE – SHORT FORM

**SETTLEMENT OF NORTHERN DYNASTY MINERALS LTD.
SECURITIES CLASS ACTION**

Did you acquire securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020 (inclusive)?

A settlement has been reached in a class action against Northern Dynasty Minerals Ltd. ("Northern Dynasty"), Ronald W. Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital. The class action alleges that there were misrepresentations in certain of Northern Dynasty's public disclosures and in documents provided to investors.

The settlement provides for payments by the defendants in the class action and their insurers of the total amount of USD\$2,125,000 to resolve those claims. This settlement is not an admission of liability, wrongdoing or fault on the part of the defendants, all of whom have denied, and continue to deny, the allegations against them.

The settlement has been approved by the Supreme Court of British Columbia.

For more information about your rights and how to exercise them, see the long-form notice and other information available online at [webpage created by the Administrator] or contact the Administrator at: [Administrator email and phone number]

Class members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

SCHEDULE "H"
SECOND NOTICE – LONG FORM

NORTHERN DYNASTY MINERALS LTD.
SECURITIES CLASS ACTION

NOTICE OF SETTLEMENT APPROVAL

Please read this notice carefully. A settlement may affect your legal rights. You may have to take prompt action.

This notice is directed to: All persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020, inclusive, and held some or all of those securities as of August 22, 2020 or November 25, 2020.

(collectively, "Class" or "Class Members")

IMPORTANT DEADLINE TO FILE A CLAIMS FOR COMPENSATION

Claims Bar Deadline (to file a claim for compensation): 11:59 pm Vancouver (Pacific) time on [date]

PURPOSE OF THIS NOTICE

The purpose of this notice is to advise Class Members of the approval of the settlement of the class proceeding brought on behalf of Class Members.

THE ACTION AND CLASS CERTIFICATION

In 2020, a class proceeding ("Action") was commenced in the Supreme Court of British Columbia ("Court") against Northern Dynasty Minerals Ltd. ("Northern Dynasty"), Ronald W. Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital (collectively, the "Defendants").

The Action alleges that the Defendants made misrepresentations regarding the permit application process for Northern Dynasty's proposed Pebble Project. The Action alleges that the misrepresentations were corrected over two corrective disclosures: *first*, on August 24, 2020, when media outlets reported that due to the environmental impacts of the project the USACE was set to impose stringent compensatory mitigation requirements for the Pebble Project; *second*, on November 25, 2020, when the USACE issued an unfavourable Record of Decision denying the Pebble Project's permit application. It is further alleged that following these disclosures Northern Dynasty's share price declined significantly, causing damage to the Class Members.

On [date], the Court certified the Action as a class action for settlement purposes. The Class excludes the following persons: Northern Dynasty and the Underwriters (as defined in the Settlement Agreement) and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns, as well as Thiessen and Collier, their immediate family members, and any entities in which they have a controlling interest.

SETTLEMENT APPROVAL

On [date] the Plaintiffs and Defendants executed a Settlement Agreement providing for the settlement of the Action (“**Settlement**”). The Settlement Agreement provides for the payment of USD\$2,125,000 (“**Settlement Amount**”) in consideration of the full and final settlement of the claims of Class Members. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses.

The Settlement provides that the claims of all Class Members asserted or which could have been asserted in the Action will be fully and finally released, and the Action will be dismissed. The Settlement is not an admission of liability, wrongdoing or fault on the part of the Defendants, all of whom have denied, and continue to deny, the allegations against them.

On [date], the Supreme Court of British Columbia approved the Settlement and ordered that it be implemented in accordance with its terms.

Class Members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

The Court also awarded Siskinds LLP and KND Complex Litigation (“**Class Counsel**”) total legal fees, expenses and applicable taxes in the amount of CAD\$[amount] inclusive of disbursements of CAD\$[amount], plus HST, GST and/or PST (“**Class Counsel Fees**”). As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation. Class Counsel Fees will be deducted from the Settlement Amount before it is distributed to Class Members.

Expenses incurred or payable relating to approval, notification, implementation and administration of the Settlement (“**Administration Expenses**”) will also be paid from the Settlement Amount before it is distributed to Class Members.

The Court also approved the payment of honoraria to the Plaintiffs in the amount of CAD\$[amount] each. The honoraria will be deducted from the Settlement Amount before it is distributed to Class Members.

CLASS MEMBERS’ ENTITLEMENT TO COMPENSATION

Pursuant to the Court order approving the Settlement, claims of Class Members which were or could have been asserted in the Action are now released and the Action has been dismissed. Class Members may not pursue individual or class actions for those claims, whether or not they submit

a claim for compensation from the Settlement. **The Settlement therefore represents the only means of compensation available to Class Members in respect of the claims raised in the Action.**

For instructions on how to submit a claim for compensation from the Settlement, refer to the previously-issued notice of certification and settlement approval hearing, which is available at [website to be created by Administrator]. To be eligible for compensation under the Settlement, your Claim Form must be postmarked or received by the Administrator by **no later than 11:59pm Vancouver (Pacific) time on [date]**.

After deduction of Class Counsel Fees, Administration Expenses and the approved honorarium, the balance of the Settlement Amount ("**Net Settlement Amount**") will be distributed to Class Members in accordance with the Distribution Protocol approved by the Court.

The proposed Distribution Protocol provides that in order to determine the individual entitlements of Class Members who make claims, the losses of each claimant will be calculated in accordance with a formula based on the statutory damages provisions contained in the securities legislation of British Columbia. Once the notional losses of all Class Members who have filed valid claims have been calculated, the Net Settlement Amount will be allocated to those Class Members in proportion to their percentage of the total notional losses calculated for all valid claims filed. Because the Net Settlement Amount will be distributed pro rata, it is not possible to estimate the individual recovery of any individual Class Member until all the claims have been received and reviewed.

In the event any amounts remain undistributed 180 days after the distribution of the Net Settlement Amount (because of uncashed cheques or for other administrative reasons), those amounts will be distributed to eligible Class Members (if sufficient to warrant a further distribution) or distributed to the Law Foundation of British Columbia.

YOU HAVE TWO OPTIONS:

1. Submit a Claim Form:

Fill out a Claim Form online and submit it with supporting documentation by the deadline to apply for compensation. The deadline for Claim Form submission is ●.

2. Do Nothing:

Give up any right to compensation.

COPIES OF THE SETTLEMENT DOCUMENTS

The Settlement Agreement and various other Court-approved documents set out the procedures applicable to the Settlement of the class action. The Settlement Amount, less administration costs, honorarium and lawyers' fees and disbursements, will be distributed to those who are eligible and submit a claim form and supporting documentation on a pro rata basis up to the value of their calculated loss, in accordance with the Court-approved and supervised Distribution Protocol. The Distribution Protocol, Settlement Agreement, and other pertinent documents can be found at: [website] or by contacting Class Counsel at the address below.

ADMINISTRATOR

The Administrator can be contacted at:

[Contact details]

CLASS COUNSEL

Inquiries to Class Counsel may be directed to:

Northern Dynasty Class Counsel
Siskinds LLP
c/o Alex Dimson
Email: alex.dimson@siskinds.com

Northern Dynasty Class Counsel
KND Complex Litigation
c/o Sage Nematollahi
Email: northerndynasty@knd.law

INTERPRETATION

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

THE SUPREME COURT OF BRITISH COLUMBIA HAS AUTHORIZED DISTRIBUTION OF THIS NOTICE.

QUESTIONS ABOUT THIS NOTICE SHOULD BE DIRECTED TO THE ADMINISTRATOR OR CLASS COUNSEL AND SHOULD NOT BE DIRECTED TO THE COURT.

APPENDIX 2 - PLAN OF NOTICE

PLAN OF NOTICE

Capitalized terms used in this Plan of Notice have the meanings ascribed to them in the Settlement Agreement dated August 30, 2023.

Subject to such alternative or additional direction by the Court, notices provided for as contemplated in the Settlement Agreement will be disseminated as follows:

PART 1 – FIRST NOTICE

A. Short-Form

As soon as possible following the entry of the First Order, the short-form First Notice will be disseminated as follows:

Newspaper Publication

Print publication of the short-form First Notice will be at least a 1/8 page in size. Print publication will be made in Canada in the English language in the business section of the national weekend edition of *The Globe and Mail* and in the French language in the business section of *La Presse*.

News Release

The English and French language versions of the short-form First Notice will be issued (with necessary formatting modifications) across Canada Newswire, a major business newswire in Canada.

ISS Publication

The English and French language versions of the short-form First Notice will be sent to Institutional Shareholder Services Inc. (ISS) for publication through their platform.

Individual Notice

The Administrator will send a package to the Canadian brokerage firms in the Administrator's proprietary databases. The package will consist of the short-form First Notice and a cover letter to the brokerage firms in the form customarily used by the Administrator. The Administrator shall request that the brokerage firms either send a copy of the short-form First Notice to all individuals and entities identified by the brokerage firms as being Class Members, or to send the names and contact information of all known Class Members to the Administrator (who shall subsequently send the short-form First Notice to the individuals and entities so identified). The notice shall be distributed by email where Class Member email addresses are available.

The Administrator shall, if requested, reimburse the brokerage firms out of the Settlement Amount solely for their reasonable out-of-pocket expenses incurred in distributing notice to the Class Members. The reimbursement shall be at reasonable and customary rates per unit as determined

by the Administrator. Each brokerage firm must submit its account by a date to be determined by the Administrator to be entitled to reimbursement.

The Administrator shall send the short-form First Notice to the individuals and entities on the electronic list of persons who acquired Eligible Securities delivered by the Defendants to the Administrator as required by the Settlement Agreement. The notice shall be distributed by email where Class Member email addresses are available.

B. Long-Form

Publication by Class Counsel

As soon as possible following the entry of the First Order, the long-form First Notice will be disseminated as follows:

1. Electronic publication of the long-form First Notice will occur in both the English and French languages on the Northern Dynasty class action website of Class Counsel at Northern Dynasty Minerals Ltd. | Siskinds Law Firm and Northern Dynasty Minerals Ltd. | KND Complex Litigation (“Class Counsel Website”).
2. The long-form First Notice will be mailed, electronically or physically, as may be required, to those persons and entities who have previously contacted Class Counsel for the purposes of receiving notice of developments in the Action.

Class Counsel shall make a toll-free number and email address available to the public that will enable Class Members to contact Class Counsel in order that they may, amongst other things:

1. obtain more information about the Settlement, how to object to the Settlement, the claims process and the opt out process; and/or
2. request that a copy of the Settlement Agreement, the long-form First Notice and the Claim Form be electronically or physically mailed to them.

Class Counsel will post on the Class Counsel Website:

1. the Settlement Agreement;
2. the long-form First Notice;
3. a short summary of the rationale for the Settlement (no less than 30 days prior to the application to approve the Settlement);
4. the affidavit(s) in support of the application for approval of the Settlement (no less than 30 days prior to the application to approve the Settlement); and
5. the affidavit(s) in support of the application for approval of Class Counsel Fees and disbursements (no less than 30 days prior to the application to approve Class Counsel Fees and disbursements).

PART 2 – SECOND NOTICE

A. Short-Form

As soon as possible following the Implementation Date, the short-form Second Notice will be disseminated as follows:

News Release

The English and French language versions of the short-form Second Notice will be issued (with necessary formatting modifications) across Canada Newswire, a major business newswire in Canada.

ISS Publication

The English and French language versions of the short-form Second Notice will be sent to Institutional Shareholder Services Inc. (ISS) for publication through their platform.

B. Long-Form

As soon as possible following the Implementation Date, the long-form Second Notice will be disseminated as follows:

1. Electronic publication of the long-form Second Notice will occur in both the English and French languages on the Class Counsel Website; and
2. Class Counsel shall mail or email the long-form Second Notice to those persons that have contacted Class Counsel as of the publication date regarding this litigation and have provided Class Counsel with their contact information.

Class Counsel shall make a toll-free number and email address available to the public that will enable Class Members to obtain more information about the settlement and to request that a copy of the long-form Second Notice be sent electronically or physically to them directly.

APPENDIX 3 - SHORT FORM NOTICE

NORTHERN DYNASTY MINERALS LTD. SECURITIES CLASS ACTION

Did you acquire securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020, inclusive, and hold some or all of those securities as of August 22, 2020 or November 25, 2020?

A settlement has been reached in a class action against Northern Dynasty Minerals Ltd. (“Northern Dynasty”), Ronald W. Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital. The class action alleges that there were misrepresentations in certain of Northern Dynasty’s public disclosures and in documents provided to investors.

The settlement provides for payments by the defendants in the class action and their insurers of the total amount of USD\$2,125,000 to resolve those claims. The settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault by Northern Dynasty or any of the other defendants, all of whom have denied, and continue to deny, the allegations against them.

The settlement must be approved by the Supreme Court of British Columbia. A settlement approval hearing has been set for [date], 2023. At the hearing, the Court will also address an application to approve Class Counsel’s fees, which will not exceed 25% of the recovery plus reimbursement for expenses incurred in the litigation.

YOUR OPTIONS AND DEADLINES:

You have three options:

- 1. Stay in the Class Action, and submit a valid claim form.** You do not have to do anything to stay in the class action. If the Court approves the Settlement, it will be distributed according to its terms. **If you wish to file a claim for compensation, you must do so by 11:59 pm Vancouver (Pacific) time on [date].** If the settlement is approved, and if you do not file a claim by this deadline, you may not be able to claim a portion of the settlement and your claim will be extinguished.
- 2. Stay in the Class Action and object to the settlement and/or Class Counsel’s fees.** If you want to object to the proposed Settlement and/or to the payment of Class Counsel’s fees and expenses, you must do so by filling out a Notice of Objection by **11:59 Vancouver (Pacific) time on [date].**
- 3. Opt-Out of the Class Action.** All Class Members will be bound by the terms of the Settlement unless they opt-out. **If you wish to opt-out you must deliver a completed Opt-Out Form by 11:59 pm Vancouver (Pacific) time on [date].**

For more information about the certification of the class action, who qualifies as a class member, the settlement, how to make a claim for compensation from the settlement, your right and how to opt-out of the class and the settlement, your right and how to object to the settlement or to Class

Counsel's fees, your right and how to participate in the court application for approval of the settlement, distribution protocol, and Class Counsel's fees, see the long-form notice available online at [website] or call toll free at 1-888-352-1072.

Class Members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE are eligible for compensation under a United States settlement agreement. Information on claims deadlines and processes can be found at [website].

APPENDIX 4 - LONG FORM NOTICE

**NORTHERN DYNASTY MINERALS LTD. SECURITIES CLASS ACTION
NOTICES OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING**
**Please read this notice carefully. A proposed settlement may affect your legal rights. You may
have to take prompt action.**

This notice is directed to: All persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020, inclusive, and held some or all of those securities as of August 22, 2020 or November 25, 2020.

(collectively, “Class” or “Class Members”)

IMPORTANT DEADLINES

Claims Bar Deadline (to file a claim for compensation): 11:59 pm Vancouver (Pacific) time on [date]

Opt Out Deadline (to exclude yourself from the class action and settlement): 11:59 pm Vancouver (Pacific) time on [date]

Objection Deadline (to object or to comment on the settlement or Class Counsel fees): 11:59 pm Vancouver (Pacific) time on [date]

Claim Forms may not be accepted after the Claims Bar Deadline. As a result, it is necessary that you act without delay.

PURPOSE OF THIS NOTICE

The class action brought on behalf of Class Members has been settled, subject to court approval. It has also been certified for settlement purposes. This notice provides Class Members with information about certification, who qualifies as a Class Member, the right to opt out of the class action, the settlement, the right to comment on or object to the settlement, the distribution protocol and/or Class Counsel’s fees, the right to participate in the application for approval of the settlement, distribution protocol and/or Class Counsel’s fees, and how to apply for compensation from the settlement.

THE ACTION AND CLASS CERTIFICATION

In 2020, an action (as amended) (“Action”) was commenced in the Supreme Court of British Columbia (“Court”) against Northern Dynasty Minerals Ltd. (“Northern Dynasty”), Ronald W. Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital (collectively, the “Defendants”)

The Action alleges that the Defendants made misrepresentations regarding the permit application process for Northern Dynasty’s proposed Pebble Project. The Action alleges that the misrepresentations were corrected over two corrective disclosures: *first*, on August 24, 2020, when media outlets reported that

due to the environmental impacts of the project the USACE was set to impose stringent compensatory mitigation requirements for the Pebble Project; *second*, on November 25, 2020, when the USACE issued an unfavourable Record of Decision denying the Pebble Project's permit application. It is further alleged that following these disclosures Northern Dynasty's share price declined significantly, causing damage to the Class Members.

On [date], the Court certified the class action for settlement purposes against the Defendants on behalf of the Class defined above. Excluded persons are Northern Dynasty and the Underwriters (as defined in the Settlement Agreement) and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns, as well as Thiessen and Collier, their immediate family members, and any entities in which they have a controlling interest.

THE SETTLEMENT

On [date] the Plaintiffs and Defendants executed a Settlement Agreement providing for the settlement of the Action ("**Settlement**"), which is subject to approval by the Court. The Settlement Agreement provides for the payment of USD\$2,125,000 ("**Settlement Amount**") in consideration of the full and final settlement of the claims of Class Members. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses.

The Settlement provides that if it is approved by the Court, the claims of all Class Members asserted or which could have been asserted in the Action will be fully and finally released, and the Action will be dismissed. The Settlement is not an admission of liability, wrongdoing or fault on the part of the Defendants, all of whom have denied, and continue to deny, the allegations against them.

Class Members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE are eligible for compensation under a United States settlement agreement. Information on claims deadlines and processes can be found at [website].

CLASS MEMBERS' RIGHT TO PARTICIPATE IN THE APPLICATION FOR APPROVAL

Class Counsel has posted or will post the following material on its website [website] on or before the dates set out below:

1. The Settlement Agreement, including the proposed Distribution Protocol (posted prior to or at the time of publication of this notice);
2. A summary of the basis upon which Class Counsel recommends the Settlement and Distribution Protocol (by [date]);
3. The Plaintiffs' evidence in support of the approval of the Settlement and Distribution Protocol (by [date]);
4. Class Counsel's evidence in support of the request for approval of Class Counsel's fees and disbursements (by [date]).

Class Members have the right to comment on, or make an objection to, the approval of the Settlement Agreement, the Distribution Protocol or the Class Counsel fees requested.

Class Members who wish to comment on, or make an objection to, the approval of the Settlement Agreement, the Distribution Protocol or the Class Counsel fees requested shall deliver a Notice of Objection to Class Counsel by mail, courier or email, using the contact details listed under “Class Counsel”; below, to be postmarked or received by Class Counsel no later than 11:59 pm Vancouver (Pacific) time on [date]. Any objections postmarked or received by that date will be filed with the Court.

Class Members may attend at the hearing whether or not they deliver an objection. Class Members who wish a lawyer to speak on their behalf at the hearing may retain one to do so at their own expense.

YOU HAVE THREE OPTIONS:

1. Stay in the Class Action and Do Nothing:

You do not have to do anything to stay in the class action. If the Court approves the Settlement, it will be distributed according to its terms. If you are eligible and submit a valid claim form, you will receive your share of the net Settlement Amount. If you do nothing, you will be legally bound by all orders and judgments of the Court, and you will not be able to sue the Defendants on your own regarding the legal claims made in this case.

2. Stay in the Class Action and Object to the Agreement or Class Counsel’s Fees:

If you want to comment on or object to the proposed Settlement, the Distribution Notice, and/or to the payment of Class Counsel’s fees and expenses, you should do so by filling out a Notice of Objection and delivering it to Class Counsel at the address below. The Notice of Objection can be found at: [website]. The Notice of Objection must be provided by • at 11:59 pm Vancouver (Pacific) time.

3. Opt-Out of the Class Action:

All Class Members will be bound by the terms of the Settlement, unless they opt-out. The Opt-Out Form is available at [website] or by request to Class Counsel at the address below. Any Class Member who wishes to opt-out of the class action must deliver a completed Opt-Out Form by email or fax to the address indicated below. The Opt-Out Form must be received on or before • at 11:59 pm Vancouver (Pacific) time to be valid.

PARTICIPATING IN THE SETTLEMENT OR EXCLUDING YOURSELF (“OPTING OUT”) FROM THE CLASS ACTION AND SETTLEMENT

If you are a Class Member, you will be bound by the outcome of the Action, including the terms of the Settlement if approved, unless you opt out of the Action. Class Members who do not opt out will (i) be entitled to participate in the Settlement; (ii) be bound by the terms of the Settlement; and (iii) not be permitted to bring other legal proceedings in relation to the matters alleged in the Action against the Defendants, or any person released by the approved Settlement. Conversely, if you are a Class Member

who opts out of the Action (an “Opt Out Party”), you will not be able to make a claim to receive compensation from the Settlement Amount but will maintain the right to pursue your own claim against the Defendants relating to the matters alleged in the Action.

If you are a Class Member and wish to opt out, you must submit a written election to do so, together with required supporting documentation (“Opt Out Election”), to Rice Point (“Administrator”).

To be a valid, the Opt Out Election: (a) must contain a statement of intention to opt out of the Action by you or a person authorized to bind you; (b) for Class Members who acquired Northern Dynasty securities during the period from and including [date] to and including [date], must provide a listing of all transactions during that period showing, for each transaction, the type of transaction (purchase or sale), the number of securities and the date of the transaction, and state the number of Northern Dynasty securities held at the close of trading on the TSX Venture Exchange on [date]; (d) must be supported by documents to evidence such transactions, in the form of trade confirmations, brokerage statements or other transaction records acceptable to the Administrator to verify the transactions; (e) must contain your name, address, telephone number and email address; and (f) may, at your option, contain a statement of your reason for opting out.

Your Opt Out Election must be postmarked no later than **11:59pm Vancouver (Pacific) time on [date] (“Opt Out Deadline”).**

Opt Out Elections may be sent by email, mail or courier to:

Email: **northerndynastyminerals@ricepoint.com**
Mailing Address: **Northern Dynasty Minerals Ltd.
c/o RicePoint Administration Inc,
P.O. Box 3355
London, ON N6A 4K3**

An Opt Out Election that does not contain all of the required information or is postmarked after the Opt Out Deadline will not be valid, which means that you will be bound by the outcome of the Action, including the Settlement, if it is approved.

You may revoke an Opt Out Election by delivering to the Administrator by email, mail or courier a written statement that you wish to revoke the Opt Out Election, which must be postmarked on or before 11:59pm Vancouver (Pacific) time on [date].

Any questions regarding Opt Out Elections can be directed to:

Class Counsel

Northern Dynasty Class Counsel
Siskinds LLP
c/o Alex Dimson
Email: alex.dimson@siskinds.com

Northern Dynasty Class Counsel
KND Complex Litigation
c/o Sage Nematollahi
Email: northerndynasty@knd.law

The Administrator

Northern Dynasty Minerals Ltd.
c/o RicePoint Administration Inc
Email: northerndynastyminerals@ricepoint.com

SETTLEMENT APPROVAL HEARING

The Settlement is conditional on approval by the Court. The Settlement will be approved if the Court determines that it is fair and reasonable and in the best interests of Class Members to approve it.

The Court will hear an application for approval of the Settlement on [date] at [address] before the Honourable Justice Kirchner.

RELEASE OF CLAIMS AND EFFECT ON OTHER PROCEEDINGS

If the Settlement Agreement is approved by the Court, the claims and allegations of Class Members which were asserted or which could have been asserted in the Action will be released (“Released Claims”), and the Action will be dismissed. Class Members will not be able to pursue any action in relation to the Released Claims regardless of whether or not they file a claim for compensation from the Settlement. If approved, the Settlement will therefore represent the only means of compensation available to Class Members in respect of the Released Claims.

APPROVAL OF CLASS COUNSEL FEES AND OTHER EXPENSES

In addition to seeking the Court’s approval of the Settlement Agreement, Class Counsel will seek the Court’s approval of legal fees not to exceed 25% of the Settlement Amount, plus disbursements not exceeding CAD\$[number] and applicable taxes (“**Class Counsel Fees**”). This fee request is consistent with the retainer agreement entered into between Class Counsel and the Plaintiffs at the beginning of the litigation. As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation.

Class Counsel will also seek the Court’s approval for the payment of an honoraria to the Plaintiffs not exceeding CAD\$[number] each. Class Counsel will be requesting that the honoraria be deducted directly from the Settlement Amount.

The approval of the Settlement is not contingent on the approval of the Class Counsel Fees requested or an honorarium to the Plaintiff. The Settlement may still be approved even if the requested Class Counsel Fees or the Plaintiff’s honorarium are not approved.

The fees of the Administrator, together with any other costs relating to approval, notification, implementation and administration of the settlement (“Administration Expenses”), will also be paid from the Settlement Amount.

CLASS MEMBERS’ ENTITLEMENT TO COMPENSATION

Class Members will be eligible for compensation pursuant to the Settlement if they submit a completed Claim Form, including any supporting documentation, with the Administrator, and their claim satisfies the criteria set out in the Distribution Protocol.

To be eligible for compensation under the Settlement, your Claim Form must be postmarked or received by the Administrator by **no later than 11:59pm Vancouver (Pacific) time on [date]** (“**Claims Bar Deadline**”). Only Class Members who have not opted out of the Action are permitted to recover from the Settlement.

If the Settlement Agreement is approved by the Court, the Settlement Amount, after deduction of Class Counsel Fees, Administration Expenses and any approved honorarium (“**Net Settlement Amount**”) will be distributed to Class Members in accordance with the Distribution Protocol, subject to the Court’s approval.

The proposed Distribution Protocol provides that in order to determine the individual entitlements of Class Members who make claims, the losses of each claimant will be calculated in accordance with a formula based on the statutory damages provisions contained in the securities legislation of British Columbia. Once the notional losses of all Class Members who have filed valid claims have been calculated, the Net Settlement Amount will be allocated to those Class Members in proportion to their percentage of the total notional losses calculated for all valid claims filed. Because the Net Settlement Amount will be distributed pro rata, it is not possible to estimate the individual recovery of any individual Class Member until all the claims have been received and reviewed.

The approval of the Settlement is not contingent on the approval of the Distribution Protocol. The Court may still approve the Settlement even if it does not approve the Distribution Protocol or approves amendments to the Distribution Protocol.

In the event any amounts remain undistributed 180 days after the distribution of the Net Settlement Amount (because of uncashed cheques or for other administrative reasons), those amounts will be distributed to eligible Class Members (if sufficient to warrant a further distribution) or distributed to the Law Foundation of British Columbia.

ADMINISTRATOR

The Court has appointed Rice Point as the Administrator of the Settlement. The Administrator will, among other things: (i) receive and process the Claim Forms; (ii) determine Class Members’ eligibility for and entitlement to compensation pursuant to the Distribution Protocol; (iii) communicate with Class Members regarding claims for compensation; and (iv) manage and distribute the Settlement Amount in

accordance with the Settlement Agreement and the orders of the Court. The Administrator can be contacted at:

Telephone: 1- 888-352-1072
Email: northerndynastyminerals@ricepoint.com
Mailing Address: Northern Dynasty Minerals Ltd.
c/o RicePoint Administration Inc,
P.O. Box 3355
London, ON N6A 4K3
Website: [website]

FILING A CLAIM

All claims for compensation from the Settlement must be postmarked or received by no later than 11:59pm Vancouver (Pacific) time on [date].

The most efficient way to file a claim is to visit the Administrator's website at [website]. **You are strongly encouraged to file your claim online through the website.** The website provides step by step instructions on how to file a claim. In order to verify claims, the Administrator will require supporting documentation, including brokerage statements or confirmations evidencing the claimed transactions. Accordingly, Class Members should visit the Administrator's site as soon as possible so that they have time to obtain the required documentation prior to the Claims Bar Deadline.

The Administrator will also accept Claim Forms filed by mail or courier. To obtain a paper copy of the Claim Form, Class Members must telephone the Administrator to have one sent by email or regular mail. Claim Forms sent by mail or courier should be sent to:

Northern Dynasty Minerals Ltd.
c/o RicePoint Administration Inc,
P.O. Box 3355
London, ON N6A 4K3

COPIES OF THE SETTLEMENT DOCUMENTS:

Copies of the Settlement Agreement, the Distribution Protocol and other documents relating to the Settlement may be found on the Administrator's website, Class Counsel's websites or by contacting the Administrator or Class Counsel using the contact information provided in this notice.

PERSONAL LEGAL ADVICE:

The lawyers for the Plaintiffs are Siskinds LLP and KND Complex Litigation. Class Members who seek the advice or guidance of their personal lawyers should do so at their own expense.

CLASS COUNSEL:

Siskinds LLP and KND Complex Litigation are Class Counsel. Inquiries may be directed to:

Northern Dynasty Class Counsel
Siskinds LLP
c/o Alex Dimson
Email: alex.dimson@siskinds.com

Northern Dynasty Class Counsel
KND Complex Litigation
c/o Sage Nematollahi
Email: northerndynasty@knd.law

INTERPRETATION:

If there is a conflict between the provisions of this notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

THE SUPREME COURT OF BRITISH COLUMBIA HAS AUTHORIZED DISTRIBUTION OF THIS NOTICE.

QUESTIONS ABOUT THIS NOTICE SHOULD BE DIRECTED TO THE ADMINISTRATOR OR CLASS COUNSEL AND SHOULD NOT BE DIRECTED TO THE COURT.

APPENDIX 5 - CLAIM FORM

Northern Dynasty Minerals Ltd.

Supreme Court of British Columbia Action No. VLC-S-S-2012849

CLAIM FORM

I. GENERAL INSTRUCTIONS – PLEASE READ CAREFULLY

1. This Claim Form is directed to the following Class or Class Members: except for the **Excluded Persons** or **Opt-Out Parties**, all persons and entities, wherever they may reside or be domiciled, who purchased or otherwise acquired securities of Northern Dynasty during the Class Period and held some or all of those securities as of August 22, 2020 or November 25, 2020.
2. If you are NOT a member of the Class, as defined below, PLEASE DO NOT submit a Claim Form.
3. To make a claim for compensation from the Settlement in the above-noted action, you must complete and, on page 5, sign the Claim Form. If you fail to file a properly addressed Claim Form, your claim may be rejected and you may be precluded from any recovery from the Settlement Amount created in connection with the Settlement.
4. A separate Claim Form must be filed for each account in which Securities were held.
5. Only your Securities acquired during the Class Period are eligible to potentially recover under the Settlement. However, because your sales or unsold Securities held up to the time of your claim will be used for purposes of calculating your Notional Entitlement under the Distribution Protocol, information about acquisitions and dispositions of Securities after the Class Period, if any, is required for claim balancing. While such post Class Period acquisitions and dispositions will not be used for purposes of calculating your Notional Entitlement pursuant to the Distribution Protocol, the information is necessary in order to properly process your claim.
6. Submission of a Claim Form does not assure that you will share in the Settlement Amount.
7. For questions about this Claim Form, or if you require assistance, please contact the Claims Administrator, RicePoint Administration Inc., at **1-NUMBER** or **northerndynastyminerals@ricepoint.com**.
8. **MAIL YOUR COMPLETED AND SIGNED CLAIM FORM POSTMARKED ON OR BEFORE MONTH XX, 2024, ADDRESSED TO THE CLAIMS ADMINISTRATOR:**

Northern Dynasty Minerals Ltd.
c/o RicePoint Administration Inc.
P.O. Box 3355
London, ON N6A 4K3

II. KEY DEFINITIONS

1. "Action" means *Firas Haddad and Walter Woo v. Northern Dynasty Minerals Limited, et al.*, brought in the British Columbia Superior Court of Justice under Court File No. VLC-S-S-2012849.
2. "Class Period" means the period from March 29, 2018 to November 25, 2020, inclusive.
3. "Defendants" means the Northern Dynasty Defendants and the Underwriters.
4. "Excluded Persons" means Northern Dynasty and the Underwriters and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns, as well as Thiessen and Collier, their immediate family members, and any entities in which they have a controlling interest.

III. CLAIMANT IDENTIFICATION

1. Use Part I of this form entitled "Claimant Identification" to identify each purchaser of the Securities that are the subject of this claim. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNER(S) OR THE LEGAL REPRESENTATIVE OF SUCH PURCHASERS.**

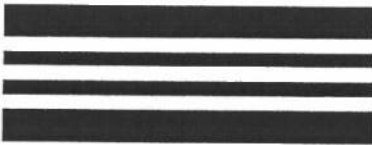
IV. CLAIM FORM

1. Claim Forms must be submitted to the Claims Administrator (see contact details on the first page of these instructions).
2. A separate Claim Form must be filed for each account in which Northern Dynasty, securities were held.
3. A Claimant must provide all of the requested information with respect to *all* of his, her or its:
 - (a) Northern Dynasty common shares held March 28, 2018;
 - (b) Northern Dynasty common shares acquired between March 29, 2018 and November 25, 2020;
 - (c) Northern Dynasty common shares acquired between November 26, 2020 and the date you are filing your Claim Form;
 - (d) Northern Dynasty common shares sold/disposed of during the period from March 29, 2018 to and including the date you are filing your Claim Form; and
 - (e) Number of common shares held at the time the Claim Form is filed.

Failure to report all required details may result in the rejection of a Claimant's claim.

4. Please list each transaction in the Class Period separately and in chronological order, by trade date (not settlement date), beginning with the earliest. Claimants must accurately provide the month, day and year of each transaction listed.
5. Trade confirmations, broker statements or suitable alternative documentation evidencing a Claimant's transactions in Securities must be submitted with the Claim Form. Failure to submit supporting documentation acceptable to the Claims Administrator may result in the rejection of your claim.
6. The information required by the Claims Administrator is the minimum amount of information necessary to process the claims. The Claims Administrator may request additional information as required to efficiently and reliably calculate Claimants' losses. In some cases, where the Claims Administrator cannot perform compensation calculations accurately or at a reasonable cost to the Class with the information provided by a Claimant, the Claims Administrator may conditionally accept the claim pending receipt of additional information.
7. NOTICE REGARDING ELECTRONIC FILES: Certain Claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in an electronic aggregate file. If you wish to file an electronic file batch claim, you must contact the Claims Administrator at institutions@ricepoint.com.

Official
Office
Use
Only



Must Be Postmarked No Later
Than Month XX, 2023

Northern Dynasty Minerals Ltd.

Court File No. VLC-S-S-2012849

TBD

CLAIM FORM

Please Type or Print in the Boxes Below
Do **NOT** use Red Ink, Pencil, or Staples
Must use Black or Blue Ink or your claim
may be deemed deficient.

PART I: CLAIMANT IDENTIFICATION

Payee Name (as you would like the name(s) to appear on the cheque, if eligible for payment):

Payee Name (cont'd)

Payee Name (cont'd)

Telephone Number (Primary Daytime) Telephone Number (Alternate)

Email Address

MAILING INFORMATION

Address

Address (cont'd)

City Province Postal Code

Province/State Postal Code/ZIP Code Foreign Country Name/Abbreviation

FOR CLAIMS PROCESSING ONLY	OB	CB	<input type="radio"/> ATP <input type="radio"/> KE	<input type="radio"/> BE <input type="radio"/> DR	<input type="radio"/> EM <input type="radio"/> ME	<input type="radio"/> ND <input type="radio"/> OP	MM / DD / YYYY	FOR CLAIMS PROCESSING ONLY
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PART III. DECLARATION

I (we) declare that the information on this Claim Form is true, correct and complete to the best of my (our) knowledge, information and belief.

I (we) declare that I (we) have disclosed all of my (our) holdings and purchase and sales transactions in Shares for the time periods required by this Claim Form.

I (we) also declare that I (we) am (are) not an Excluded Person(s) as defined in the General Instructions.

I (we) acknowledge and agree that the Claims Administrator may disclose all information relating to my (our) claim to the Courts and counsel to the parties in the Actions, as may be necessary.

Executed this _____ day of _____ in _____
(Month/Year) (City/State/Province/Country)

(Sign your name here)

(Sign your name here)

(Type or print your name here)

(Type or print your name here)

(Capacity of person(s) signing, e.g., Claimant)

(Capacity of person(s) signing, e.g., Claimant)

Proof of Authority to File Enclosed? Yes No

Proof of Authority to File Enclosed? Yes No

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.
THANK YOU FOR YOUR PATIENCE.**



Reminder Checklist:

1. Please sign the above declaration.
2. Remember to attach supporting documentation, if available.
3. Do not send original share certificates; we may not be able to send them back.
4. Keep a copy of your Claim Form and all supporting documentation for your records.
5. The Claims Administrator will acknowledge receipt of your Claim Form by mail or email within 60 days. Your Claim Form is not deemed fully filed until you receive an acknowledgment postcard. If you do not receive an acknowledgment postcard within 60 days, please call the Claims Administrator toll-free at 1-NUMBER.
6. If you move, you are required to send the Claims Administrator your new address. Failure to notify the Claims Administrator of a new address may result in your settlement benefits not being received by you.

Privacy Statement

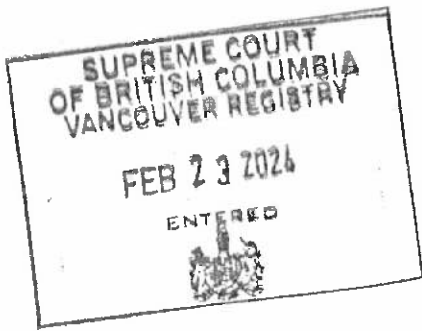
All personal information provided by or on behalf of the Claimant to the Claims Administrator will be handled in accordance with applicable privacy laws and the Claims Administrator's privacy policies available at www.ricepoint.com. Such information will be used for the purposes of administering the Settlement Agreement, including evaluation by the Claims Administrator, Class Counsel, and Defense Counsel, of the Claimant's eligibility for compensation under the Settlement Agreement. Personal information provided by the Claimant will not be disclosed without further express written consent of the Claimant, except to Class Counsel and Defense Counsel; to appropriate persons to the extent necessary to process claims or provide benefits under the Settlement Agreement; as otherwise expressly provided in the Settlement Agreement; pursuant to court order, or as otherwise permitted or required by law; as may be reasonably necessary in order to enforce, or for Class Counsel or Defense Counsel to exercise their respective rights (including appeal rights) under the Settlement Agreement; or to the immediate family members, counsel, accountants and/or financial advisors of the Claimant (each of whom the Claimant shall instruct to maintain and honour the confidentiality of such information).



THIS IS **EXHIBIT "K"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end.

TAEK SOO SHIN (LSO #85691Q)



No. VLC-S-S-2012846
Vancouver Registry

In the Supreme Court of British Columbia

Between

FIRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN and THOMAS C. COLLIER

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

ORDER MADE AFTER APPLICATION FOR SETTLEMENT APPROVAL

BEFORE THE HONOURABLE JUSTICE KIRCHNER)
) February 23, 2024
)

ON THE APPLICATION of the plaintiffs coming on for the hearing at the Courthouse at 800 Smithe Street, Vancouver, British Columbia on February 23, 2024 and on hearing Alex Dimson, counsel for the Plaintiffs; and on reading the materials filed, including the Settlement Agreement; and on the consent of the Defendants;

THIS COURT ORDERS that

1. Except to the extent that they are modified by this Order, the definitions set out in the settlement agreement reached with the Defendants dated August 30, 2023 (“**Settlement Agreement**”) attached as **Appendix “1”** apply to and are incorporated into this Order.

~~2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.~~

2. The Settlement Agreement is fair, reasonable and in the best interests of the Class.

MA
AO

3 ~~4.~~ The Settlement Agreement is approved pursuant to section 35 of the *Class Proceedings Act*, RSBC 1996, c 50 as amended and shall be implemented in accordance with its terms.

4 ~~5.~~ The Settlement Agreement is incorporated by reference to and forms part of this Order and is binding upon the Plaintiffs and Class Members.

5 ~~6.~~ The Settlement Agreement shall be implemented in accordance with its terms.

6 ~~7.~~ The Plaintiffs and Defendants may, on notice to the Court but without the need for further order of the Court, agree to reasonable extensions of time to carry out any provisions of the Settlement Agreement.

7 ~~8.~~ Except as expressly provided for in the Settlement Agreement, the Defendants and the other Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement.

8 ~~9.~~ This Order, including the Settlement Agreement, is binding upon each member of the Class including those Persons who are minors or mentally incapable.

~~AG
AD
the~~ 10. Upon the Effective Date, the Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee, or any other person who may claim contribution or indemnity or other claims over relief from any Releasee, in respect of any Released Claim or any matter related thereto.

9 ~~11.~~ For the purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Defendants and the other Releasees acknowledge the jurisdiction of this Court solely for the purpose of implementing,

administering and enforcing the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement.

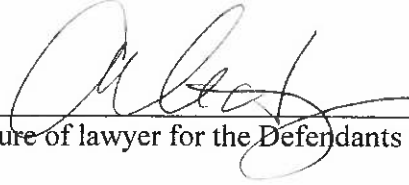
10 ~~12.~~ Upon the Effective Date, the Action shall be dismissed against all Defendants with prejudice and without costs.

11 ~~13.~~ This Order shall be declared null and void on a subsequent application made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

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

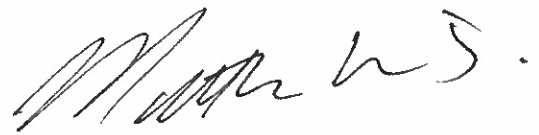


Signature of lawyer for the Plaintiffs



Signature of lawyer for the Defendants

By the Court



Registrar

APPENDIX "1"

SETTLEMENT AGREEMENT

Made as of the 30th day of August , 2023

Between

FIRAS HADDAD and WALTER WOO

(“Plaintiffs”)

Proposed representative plaintiffs in Supreme Court of British Columbia Action No. VLC-S-S-2012849

In their personal and proposed representative capacities

- and –

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

(“Defendants”)

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RECITALS

- A. WHEREAS** the Plaintiffs (defined below) commenced this action captioned *Haddad et al. v. Northern Dynasty Minerals Ltd., et al.*, Court File No. VLC-S-S-2012849 (the “Canadian Action”) pending in the Supreme Court of British Columbia, asserting, among other things, primary and secondary market statutory and common law misrepresentation claims;
- B. AND WHEREAS** a substantially corresponding action was commenced in the United States District Court for the Eastern District of New York, *IN RE NORTHERN DYNASTY MINERALS LTD. SECURITIES LITIGATION*, No. 1:20-cv-05917-ENV-RLM (the “U.S. Action”);
- C. AND WHEREAS** the Defendants deny any fault, omission, wrongdoing or liability whatsoever;
- D. AND WHEREAS** the Plaintiffs have delivered their certification materials and materials in support of their application for leave to proceed with their secondary market claims under Part 16.1 of the *BCSA* (defined below);
- E. AND WHEREAS** the Plaintiffs’ motion for leave to proceed with statutory claims under Part 16.1 of the *BCSA* (defined below) was originally scheduled to be argued in April 2023 with certification to be heard following the leave decision;
- F. AND WHEREAS** and the Plaintiffs’ leave application was subsequently adjourned to January 8-12, 2024;
- G. AND WHEREAS** counsel for the Parties (defined below) in the Canadian Action, and the parties in the U.S. Action, have engaged in arm’s length settlement discussions and a mediation held before Robert Meyer, resulting in this Settlement Agreement (defined below) resolving the Canadian Action and a corresponding settlement agreement resolving the U.S. Action;

H. AND WHEREAS this Settlement Agreement is intended to fully, finally, and forever, resolve, discharge, and settle the Canadian Action upon and subject to the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that, upon the Effective Date, the Canadian Action be settled and dismissed with prejudice and without costs, subject to the approval of the Court of this Settlement Agreement, on the following terms and conditions.

DEFINITIONS

1.1 In this Agreement, including the Recitals and Schedules hereto:

- (a) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable in relation to the notice, approval, implementation and administration of the Settlement Agreement, including the costs of publication and delivery of notices, fees, disbursements and taxes paid to the Administrator, which shall be paid from the Escrow Account. For greater certainty, Administration Expenses do not include Class Counsel Fees.
- (b) **Administrator** means the third-party professional firm and any employees of such firm, selected at arm's length by Class Counsel, and appointed by the Court to do any one or more of the following:
 - (i) facilitate dissemination of Notice;
 - (ii) receive and review requests to opt out of the Class;

- (iii) receive and review claims and administer the Settlement Amount in accordance with the Distribution Protocol; and
 - (iv) report to the Parties and the Court on the administration of the Settlement Agreement.
- (c) **Agreement** or **Settlement Agreement** means this settlement agreement.
- (d) **Approval Application** means an application brought by the Plaintiffs in the Court for the Second Order and the Third Order.
- (e) **Authorized Claimant** means any Class Member who has submitted a completed Claim Form which, pursuant to the terms of the Agreement and the Distribution Protocol, has been approved for compensation by the Administrator in accordance with the Distribution Protocol.
- (f) **BCSA** means the *Securities Act*, RSBC 1996, c 418, as amended.
- (g) **BCBCA** means the *Business Corporations Act*, SBC 2002, c 57, as amended.
- (h) **Canadian Action** means the action filed in the Supreme Court of British Columbia styled *Haddad et al. v Northern Dynasty Minerals Ltd., et al.* (Court File No. VLC-S-S-212849).
- (i) **Claim Form** means the form to be approved by the Court which, when completed and submitted in a timely manner to the Administrator, using the online claim portal established by the Administrator or by submitting a paper form to the Administrator, constitutes a Class Member's claim for compensation pursuant to the Distribution Protocol.

- (j) **Class or Class Members** means, except for the **Excluded Persons** or **Opt Out Parties**, all persons and entities, wherever they may reside or be domiciled, who purchased or otherwise acquired securities of Northern Dynasty during the Class Period and held some or all of those securities as of August 22, 2020 or November 25, 2020.
- (k) **Class Counsel** means Siskinds LLP and KND Complex Litigation.
- (l) **Class Counsel Fees** means the fees, disbursements, costs, interest thereon in accordance with the *CPA* section 38 plus HST, GST and/or PST and other applicable taxes or charges of Class Counsel as approved by the Court.
- (m) **Class Period** means the period from March 29, 2018 to November 25, 2020, inclusive.
- (n) **Collateral Agreement** means the Collateral Agreement entered into by the Parties dated August 30, 2023.
- (o) **Court** means the Supreme Court of British Columbia.
- (p) **CPA** means the *Class Proceedings Act*, RSBC 1996, c 50, as amended.
- (q) **Defendants** means the Northern Dynasty Defendants and the Underwriters.
- (r) **Distribution Protocol** means the distribution plan to be presented to the Court for approval in due course stipulating the proposed distribution of the Net Settlement Amount in the form approved by the Court.
- (s) **Effective Date** means the first date on which the Second Order has become a final order.

- (t) **Eligible Securities** means Northern Dynasty securities, the acquisition of which makes a person a Class Member or, in the case of an Opt Out Party, Northern Dynasty securities, the acquisition of which would have made the person a Class Member if he, she or it had not excluded himself, herself or itself from the Class in accordance with the terms of the First Order and the First Notice.
- (u) **Escrow Account** means an interest-bearing trust account at a Canadian Schedule 1 bank in Ontario initially under the control of Class Counsel, until such time as it shall be transferred to the Administrator.
- (v) **Escrow Settlement Funds** means the Settlement Amount plus any interest accruing thereon in the Escrow Account.
- (w) **Excluded Persons** means Northern Dynasty and the Underwriters and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns, as well as Thiessen and Collier, their immediate family members, and any entities in which they have a controlling interest.
- (x) **First Notice** means the short-form and long-form notices substantially in the forms attached as **Schedules “E” and “F”** or as otherwise fixed by the Court.
- (y) **First Order** means the Order substantially in the form attached as **Schedule “A”** hereto:
- (i) certifying the Canadian Action as a class proceeding for settlement purposes only;
 - (ii) appointing the Administrator;

- (iii) approving the Plan of Notice in respect of the First Notice;
 - (iv) approving the form of First Notice;
 - (v) approving the Claim Form and the procedure for filing claims; and
 - (vi) prescribing the opt out procedures to be administered by the Administrator.
- (z) **Implementation Date** means the first date on which both the Second Order and the Third Order have become final orders.
- (aa) **KND** means KND Complex Litigation.
- (bb) **Net Settlement Amount** means the amount available in the Escrow Account for distribution pursuant to the Distribution Protocol after payment of all Class Counsel Fees and Administration Expenses and other amounts contemplated by sections 1.16(a) to **Error! Reference source not found.**
- (cc) **Northern Dynasty** means Northern Dynasty Minerals Ltd.
- (dd) **Northern Dynasty Defendants** means Northern Dynasty, Ronald W. Thiessen (“Thiessen”), and Thomas C. Collier (“Collier”).
- (ee) **Notice** means the First Notice and the Second Notice.
- (ff) **Opt Out Party** means a person who would otherwise be a Class Member but who opts out of the Canadian Action pursuant to the Court approved opt out process.
- (gg) **Opt Out Threshold** means the number of Eligible Securities held by Opt Out Parties confidentially agreed upon by the Parties in the Collateral Agreement as giving rise to the Defendants’ right to terminate the Agreement pursuant to section 1.51.

- (hh) **Parties** means the Plaintiffs and Defendants.
- (ii) **Plaintiffs** means Firas Haddad and Walter Woo.
- (jj) **Plan of Notice** means the plan for disseminating Notice to the Class substantially in the form attached as **Schedule “D”** hereto or as fixed by the Court.
- (kk) **Released Claims** mean any and all manner of claims, demands, actions, suits, causes of action, whether class, individual, representative or otherwise in nature, whether personal or subrogated, damages whenever incurred, damages of any kind including compensatory, statutory, punitive or other damages, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties, and lawyers’ fees, known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity that Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, relating in any way to any conduct occurring anywhere, from the beginning of time to the date hereof relating to any conduct alleged (or which could have been alleged) in the Canadian Action, including, without limitation, any claims which arise out of or are based on or relate in any way to the purchase or acquisition of Northern Dynasty securities during the Class Period, or any such claims which have been asserted, would have been asserted, or could have been asserted, directly or indirectly, whether in Canada or elsewhere, as a result of or in connection with any alleged unjust enrichment or misrepresentations in breach of the *BCSA*, the *BCBCA*, or at common law.

- (ll) **Releasees** mean, jointly and severally, individually and collectively, the Defendants and all of their respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators, trustees and assigns of each of the foregoing.
- (mm) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Class and Class Members on behalf of themselves and any person claiming by or through them as a parent, subsidiary, affiliate, predecessor, successor, shareholder, partner, director, owner of any kind, agent, employee, contractor, attorney, heir, executor, trustee, administrator, insurer, devisee, assignee or representative of any kind.
- (nn) **Second Notice** means the short-form and long-form notices substantially in the forms attached as **Schedules “G”** and **“H”** or as fixed by the Court.
- (oo) **Second Order** means the Order substantially in the form attached as **Schedule “B”**:
- (i) approving this Settlement;
 - (ii) ordering the releases and discharges provided for herein;
 - (iii) dismissing the Canadian Action as against the Defendants without costs and with prejudice on the Effective Date.

- (pp) **Settlement** means the settlement of the Canadian Action on the terms provided for in this Agreement.
- (qq) **Settlement Amount** means two million one hundred twenty-five thousand dollars (USD\$2,125,000.00), inclusive of Administration Expenses, Class Counsel Fees, and any other costs or expenses otherwise related to the Canadian Action.
- (rr) **Siskinds** means Siskinds LLP.
- (ss) **Third Order** means the Order substantially in the form attached as **Schedule “C”**:
- (i) approving the Plan of Notice in respect of the Second Notice;
 - (ii) approving the form of the Second Notice; and
 - (iii) approving the Distribution Protocol.
- (tt) **Underwriters** means Cantor Fitzgerald Canada Corporation (“Cantor”), Canaccord Genuity Corp. (“Canaccord”), BMO Nesbitt Burns Inc. (“BMO NBI”), Paradigm Capital Inc. (“Paradigm”), TD Securities Inc. (“TD”), and Velocity Trade Capital (“Velocity”).

SETTLEMENT BENEFITS

Payment of Settlement Amount

- 1.2 Within 30 days of the execution of this Agreement, the Northern Dynasty Defendants shall pay or cause their insurers to pay to Class Counsel, in trust, the Settlement Amount in full and final settlement of the claims against the Defendants or proposed to be made against the Defendants in the Canadian Action.

Settlement Amount to be Held in Trust

- 1.3 Prior to the Effective Date, Class Counsel shall maintain an Escrow Account to hold the Settlement Amount in trust for the benefit of the Class.
- 1.4 Class Counsel may pay Administration Expenses up to \$50,000 (“Non-Refundable Amount”) when they are incurred from the Escrow Settlement Funds while in control of the Escrow Amount.
- 1.5 Within ten (10) days of the Effective Date, Class Counsel shall transfer control of the Escrow Account to the Administrator, but before doing so Class Counsel may deduct and retain from the Escrow Settlement Funds the Class Counsel Fees approved by the Court.
- 1.6 Upon the transfer of the Escrow Account to the Administrator, the Administrator shall maintain the Escrow Settlement Funds in the Escrow Account under the control of the Administrator and hold the Escrow Settlement Funds in trust as provided for in this Agreement.
- 1.7 Class Counsel shall account to the Administrator for all payments made from the Escrow Account prior to the transfer described in section 1.5. In the event this Agreement is terminated, Class Counsel or the Administrator, whichever then has control of the Escrow Account, shall deliver an accounting to the Parties no later than ten (10) days after the termination, and shall return the Settlement Amount to the Defendants within 20 days of the termination less any Non-Refundable Amount paid out of the Escrow Account in accordance with this Agreement.
- 1.8 Neither Class Counsel nor the Administrator shall pay out any of the Escrow Settlement Funds except in accordance with this Agreement.

- 1.9 Any dispute concerning the entitlement to, or quantum of expenses incurred in the publication and dissemination of the First Notice or Second Notice, or Administration Expenses paid by Class Counsel or the Administrator, shall be dealt with by an application to the Court on notice to the Parties.
- 1.10 The Settlement Amount shall be inclusive of interest, taxes, any honorarium, and Class Counsel Fees.
- 1.11 The Settlement Amount shall be paid in full and final satisfaction of the Released Claims against the Releasees.

Taxes on Interest

- 1.12 Except as expressly provided herein, all interest earned on the Settlement Amount shall accrue to the benefit of the Class and shall become and remain part of the Settlement Amount in the Escrow Account.
- 1.13 Subject to section 1.14, all taxes payable on any interest which accrues on or otherwise in relation to the Escrow Settlement Funds shall be the responsibility of the Plaintiffs and the Class. Class Counsel or the Administrator, as may later be appropriate, shall be solely responsible to fulfil all tax reporting and payment requirements arising from the Escrow Settlement Funds, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Escrow Account.
- 1.14 The Defendants shall have no responsibility related to the Escrow Account, other than as expressly set out herein, including but not limited to, making any filings relating to the Escrow Account, paying tax on any income earned by the Settlement Amount, or paying any taxes on the monies in the Escrow Account, unless this Agreement is terminated, in

which case any interest earned on the Settlement Amount shall be paid to the Defendants who, in such case, shall be responsible for the payment of any taxes on such interest not previously paid by Class Counsel or the Administrator.

NO REVERSION

- 1.15 Unless this Agreement is terminated as provided herein, the Defendants shall not be entitled to the repayment of any portion of the Settlement Amount and then only to the extent of and in accordance with the terms provided herein.

DISTRIBUTION OF THE SETTLEMENT AMOUNT

- 1.16 On or after the Implementation Date, the Administrator shall distribute the Settlement Amount in accordance with the following priorities:
- (a) to pay Class Counsel Fees as awarded by the Court (unless the Class Counsel Fees have already been paid to Class Counsel in accordance with section 1.5);
 - (b) to pay any honorarium to the Plaintiffs as the Court may decide to award;
 - (c) to pay all of the costs and expenses reasonably and actually incurred in connection with the provision of Notice;
 - (d) to pay all of the remaining Administration Expenses. For greater certainty, the Defendants and Class are excluded from eligibility for any payment of costs and expenses under this subsection;
 - (e) to pay a *pro rata* share of the balance of the Settlement Amount to each Authorized Claimant in proportion to the Authorized Claimant's claim as recognized in accordance with the Distribution Protocol; and

(f) to the Law Foundation of British Columbia if there shall remain thereafter Escrow Settlement Funds and, in the opinion of the Administrator, it is not feasible to reallocate the remaining Escrow Settlement Funds among the Authorized Claimants in an equitable and economic fashion in accordance with the Distribution Protocol.

1.17 Class Counsel shall propose for approval by the Court a Distribution Protocol. The approval of the Distribution Protocol may be considered separately from the approval of the Settlement and is not a condition of the approval of the Settlement itself.

RELEASES

1.18 As of the Effective Date, and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Agreement, the Releasors forever and absolutely release the Releasees from the Released Claims.

1.19 As of the Effective Date, the Releasors and Class Counsel, only to the extent of compliance with any Rules of Professional Conduct which may apply, shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto.

1.20 The Releasors acknowledge that they may subsequently discover facts in addition to, or different from those they now know, but nonetheless agree that section 1.19 applies regardless of the subsequent discovery of facts different from those they are aware of on the Effective Date. By means of the Settlement, the Releasors waive any right they may

have under the law, common law, civil law, in equity or otherwise, to this waiver of their own volition, with full knowledge of its consequences and that this waiver was negotiated and constitutes a key element of the Settlement.

- 1.21 Upon the Effective Date, each Class Member shall be deemed to irrevocably consent to the dismissal, without costs, with prejudice, and without reservation, of the Action.

EFFECT OF SETTLEMENT

No Admissions or Concessions

- 1.22 This Agreement, whether or not it is terminated, anything contained in it, any and all negotiations, discussions, and communications associated with this Agreement, shall not be deemed, construed or interpreted to be:

- (a) an admission or concession by the Defendants of any fact, fault, omission, wrongdoing or liability, or of the truth of any of the claims or allegations made against the Defendants in the Canadian Action or that could have been made in the Canadian Action against the Defendants; or
- (b) an admission or concession by the Plaintiffs, their counsel or the Class of any weakness in the claims of the Plaintiffs and the Class or that the consideration to be given hereunder represents the amount that could or would have been recovered from the Defendants after trial of the Canadian Action.

Agreement Not Evidence nor Presumption

- 1.23 This Agreement, whether or not it is terminated, anything contained in it, any and all negotiations, documents, discussions and proceedings associated with this Agreement, and any action taken to implement this Agreement, shall not be offered or received in the

Canadian Action should this Agreement be terminated and the Canadian Action continues, or any pending or future civil, criminal, quasi-criminal, administrative action or disciplinary investigation or proceeding:

- (a) of the validity of any of the claims that have been or could have been asserted in the Canadian Action by the Plaintiffs against the Defendants, or the deficiency of any defence that has been or could have been or could be asserted in the Canadian Action;
- (b) of wrongdoing, fault, neglect or liability by the Defendants; or
- (c) against the Plaintiffs, their counsel or the Class, as evidence, or a presumption, of a concession or admission:
 - (i) of any weakness in the claims of the Plaintiffs and the Class; or
 - (ii) that the consideration to be given hereunder represents the amount that could or would have been recovered from the Defendants after trial of the Canadian Action.

1.24 Notwithstanding section 1.23, this Agreement may be referred to or offered as evidence in order to obtain the orders or directions from the Court contemplated by this Agreement, in a proceeding to approve or enforce any term of, or dispute under, this Agreement, to defend against the assertion of released claims, or as otherwise required by law.

REQUIRED STEPS

Reasonable Efforts

1.25 The Parties shall take all reasonable steps to effectuate the Settlement and to secure the prompt, complete and final dismissal with prejudice of the Canadian Action on a without

costs basis as against the Defendants, including cooperating in the Plaintiffs' efforts to obtain the approval and orders required from the Court regarding the approval or implementation of the Settlement.

Canadian Action in Abeyance

1.26 Until the Effective Date or this Agreement is terminated in accordance with its terms, whichever occurs first, the Plaintiffs agree to hold in abeyance all other steps in the Canadian Action as they relate to the Defendants, other than the Approval Application contemplated by this Agreement, the consent orders to amend claims (to consolidate the *Woo* action) and discontinue the *Woo* action with prejudice, and dismiss the claims against the Underwriters, and such other matters required to implement the terms of this Agreement.

APPROVAL, NOTICE AND OPT-OUT PROCESS

First Order and First Notice

1.27 As soon as practicable after this Agreement is executed, the Plaintiffs shall bring an application for the approval of the First Order. The Defendants will consent to the issuance of the First Order.

1.28 The Parties agree that the certification of the Canadian Action as a class proceeding is for the sole purpose of effecting the Settlement. In the event that this Agreement is terminated as provided herein, any certification order binding the Defendants shall be vacated or set aside on consent as set out herein and shall be without prejudice to any position that either of the Parties may later take on any issue in the Canadian Action including in a subsequent certification application. In particular, the fact of the Defendants' consent to certification

for settlement purposes shall not be deemed to be an admission that the Plaintiffs have met any of the requisite criteria for certification of the Canadian Action as a class proceeding.

- 1.29 Following entry of the First Order, the Administrator shall cause the First Notice to be published and distributed in accordance with the Plan of Notice and the direction of the Court. The costs of publishing and distributing the First Notice shall be paid from the Escrow Settlement Funds as and when incurred.
- 1.30 The Administrator shall administer the opt out procedures prescribed by the First Order. No later than seven (7) calendar days after any deadline established by the Court for the delivery of opt out requests, the Administrator shall report to Class Counsel and counsel for the Defendants on the requests made to opt out of the Canadian Action.
- 1.31 Class Members who wish to file with the Court an objection or comment on the Settlement, the Distribution Protocol or the request for approval of Class Counsel Fees shall deliver to Class Counsel a written statement in accordance with the terms of, and by the deadline set out in, the First Order.
- 1.32 The Plaintiffs represent and warrant that they are not aware of any Class Member who has expressed an intention to opt out of the Settlement or of the Class and that they will not encourage any Class Member to do so.

Approval Application and Second Notice

- 1.33 The Plaintiffs will thereafter bring the Approval Application before the Court in accordance with the Court's directions. The Defendants will consent to the issuance of the Second Order.

- 1.34 At the Approval Application, Class Counsel shall propose for approval by the Court the Distribution Protocol or such other plan for distributing the Net Settlement Amount to the Class as Class Counsel may advise. The Distribution Protocol is the responsibility of Class Counsel, and the Defendants have no involvement in its design. Accordingly, the approval of the Distribution Protocol shall be considered separately from the approval of the Settlement Agreement and is not a condition of the approval of the Settlement Agreement itself and the dismissal of the Canadian Action as against the Defendants without costs and with prejudice in accordance with the Second Order.
- 1.35 The Defendants will take no position or make any submission to the Court concerning the Distribution Protocol, except as requested or required by the Court.
- 1.36 The Defendants will not oppose the issuance of the Third Order.
- 1.37 The Plaintiffs may make any amendments to the Distribution Protocol, the Third Order, the Second Notice or the Plan of Notice as it relates to Second Notice requested or directed by the Court.
- 1.38 Following the Implementation Date, the Administrator shall cause the Second Notice to be published and disseminated in accordance with the Plan of Notice as approved by the Court. The costs of publishing the Second Notice shall be paid from the Escrow Settlement Funds as and when incurred.

OTHER APPLICATIONS**Application for Approval of Class Counsel Fees**

- 1.39 Immediately following or in parallel with the Approval Application, Class Counsel may seek the approval of Class Counsel Fees to be paid as a first charge on the Settlement Amount.
- 1.40 The Defendants acknowledge that they are not parties to the application concerning the approval of Class Counsel Fees, that they will have no involvement in the approval process to determine the amount of Class Counsel Fees, and that they will not take any position or make any submissions to the Court concerning Class Counsel Fees, except as requested and required by the Court.
- 1.41 The procedure for and the allowance or disallowance by the Court of any requests for Class Counsel Fees to be paid out of the Settlement Amount are not part of the Settlement provided for herein, except as expressly provided in section 1.16, and are to be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement provided for herein. For clarity, approval of the Settlement is not dependent on approval of any Class Counsel Fees.
- 1.42 Any order or proceeding relating to Class Counsel Fees, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Agreement or affect or delay the finality of the Second Order and the Settlement of this Canadian Action provided herein.

Application for Approval of Honorarium

- 1.43 Immediately following or in parallel with the Approval Application, Class Counsel may seek orders from the Court relating to the payment of an honorarium to the Plaintiffs.
- 1.44 The Defendants acknowledge that they are not parties to any application concerning the payment of an honorarium to the Plaintiffs, they will have no involvement in any such application, and they will not take any position or make any submissions to the Court concerning any such application, except as requested and required by a Court.
- 1.45 Any order or proceeding relating to payment of an honorarium to the Plaintiffs, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Agreement or affect or delay the finality of the Second Order and the Settlement of this Canadian Action provided herein.

ADMINISTRATION**Appointment of the Administrator**

- 1.46 By order of the Court, the Administrator will be appointed to serve until such time as the Escrow Settlement Funds are distributed in accordance with this Agreement and the Distribution Protocol, on the terms and conditions and with the powers, rights, duties and responsibilities set out in this Agreement and in the Distribution Protocol.

Information and Assistance from the Defendants

- 1.47 The Defendants shall, forthwith upon entry of the First Order, make reasonable efforts to deliver or cause to be delivered to the Administrator an electronic list of all persons who acquired Eligible Securities, to the extent available, along with email addresses or other

contact information for those persons as may be available to facilitate the delivery of notice to those persons.

- 1.48 The Administrator may use the information obtained under section 1.47 for the purpose of delivering the First Notice and Second Notice and for the purposes of administering and implementing this Agreement, the Plan of Notice and the Distribution Protocol, but the Administrator shall otherwise keep confidential the information obtained under section 1.47.
- 1.49 Any information obtained or created in the administration of this Agreement is confidential and, except as required by law, shall be used and disclosed only for the purpose of distributing notices and the administration of this Agreement and the Distribution Protocol.

TERMINATION

Automatic Termination

- 1.50 This Agreement shall, without notice, be automatically terminated if:
- (a) on the return of the Approval Application, the Court issues an order that is not substantially in the form of the Second Order, and such order becomes a final order;
 - or
 - (b) the Second Order is reversed on appeal and the reversal becomes a final order.
- 1.51 The Defendants shall have the right to terminate this Agreement within 14 days, or on a later date on the consent of the Parties, on being notified by the Administrator that the number of Eligible Securities of Opt Out Parties exceeds the Opt Out Threshold. The Administrator shall notify the Defendants of the number of Eligible Securities of Opt Out Parties and such particulars provided by such Opt Out Parties in support of their request to

exclude themselves from the Class in accordance with the terms of the First Order and the First Notice.

- 1.52 The right to terminate this Agreement contemplated by section 1.51 may be exercised by any one or more of the Defendants notifying Class Counsel in writing of his, her or their intention to terminate the Agreement, which notification shall have the effect of terminating this Agreement for all Defendants.
- 1.53 The Opt Out Threshold shall be stated in the Collateral Agreement. The Opt Out Threshold shall be redacted in the Collateral Agreement that is filed with the Court or otherwise made available to the public. The Collateral Agreement, without redaction of the Opt Out Threshold, shall not be published and shall be kept confidential by the parties unless the Court orders its publication or disclosure.

Effect of Termination

- 1.54 In the event this Agreement is terminated in accordance with its terms:
- (a) the Parties will be restored to their respective positions prior to the execution of this Agreement;
 - (b) the Plaintiffs and Defendants will consent to an order vacating or setting aside any order certifying this Canadian Action as a class proceeding for the purposes of implementing this Agreement and certification of this Canadian Action for settlement purposes shall not be deemed to be an admission by the Defendants that the Canadian Action met any of the criteria for certification, and that no party to this Canadian Action and no other person may rely upon the fact of the prior consent to the certification order for any purpose whatsoever;

- (c) the Escrow Settlement Funds will be returned to the Defendants;
- (d) this Agreement will have no further force or effect and no effect on the rights of the Parties except as specifically provided for herein;
- (e) all statutes of limitation applicable to the claims asserted in the Canadian Action shall be deemed to have been tolled during the period beginning with the execution of this Agreement and ending with Order described in section 1.56;
- (f) any costs reasonably incurred by Class Counsel and paid out of the Escrow Account for the publication and dissemination of notices are non-recoverable from the Plaintiffs, the Class Members and Class Counsel, except by way of any costs order that may be made in favour of the Defendants in the Canadian Action; and
- (g) this Agreement and the First Order will not be introduced into evidence or otherwise referred to in any litigation against the Defendants.

1.55 Notwithstanding the provisions of section 1.54(d), if this Agreement is terminated, the provisions of this section 1.55, and sections 1.1, 1.7, 1.8, 1.9, 1.13, 1.14, 1.15, 1.22, 1.23, 1.24, and 1.56 to 1.76 shall survive termination and shall continue in full force and effect.

Steps Required on Termination

1.56 If this Agreement is terminated, the Defendants shall, within thirty (30) days after termination, apply to the Court, on notice to the Plaintiffs, for an order:

- (a) declaring this Agreement null and void and of no force or effect except for the provisions of those sections listed in section 1.55;
- (b) requesting an order setting aside, *nunc pro tunc*, all prior orders or judgments entered by the Court in accordance with the terms of this Agreement, including any

order certifying the Canadian Action as a class proceeding for the purposes of implementing this Agreement; and

- (c) authorizing the payment of the Escrow Settlement Funds, including accrued interest, to the Defendants.

1.57 Subject to section 1.58, the Plaintiffs shall consent to the orders sought in any application made by the Defendants under section 1.56.

Notice of Termination

1.58 If this Agreement is terminated, a notice of the termination will be given to the Class. Class Counsel will cause the notice of termination, in a form approved by the Court, to be published and disseminated as the Court directs.

Disputes Relating to Termination

1.59 If there is a dispute about the termination of this Agreement, the Parties agree that the Court shall determine the dispute on an application made by a Party on notice to the other Parties.

MISCELLANEOUS

Applications for Directions

1.60 The Parties may apply to the Court for directions in respect of any matter in relation to this Agreement.

1.61 All applications contemplated by this Agreement shall be on notice to the Parties.

Headings, etc.

1.62 In this Agreement:

- (a) the division into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation;
- (b) the terms “the Agreement”, “this Agreement”, “herein”, “hereto” and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of the Settlement Agreement; and
- (c) “person” means any legal entity including, but not limited to, individuals, corporations, sole proprietorships, general or limited partnerships, limited liability partnerships or limited liability companies.

Computation of Time

1.63 In the computation of time in this Agreement, except where a contrary intention appears:

- (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

Governing Law

1.64 The Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of British Columbia. The language of the Agreement is English.

1.65 The Parties agree that the Court shall retain exclusive and continuing jurisdiction to interpret and enforce the terms, conditions and obligations under this Agreement and the First Order, the Second Order and the Third Order.

Severability

1.66 Any provision hereof that is held to be inoperative, unenforceable or invalid in any jurisdiction shall be severable from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

Entire Agreement

1.67 This Agreement and the Collateral Agreement constitute the entire agreement among the Parties and supersede all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. The Parties will not be bound by any prior obligations, conditions or representations with respect to the subject matter of this Agreement and the Collateral Agreement, unless expressly incorporated herein. This Agreement may not be modified or amended except in writing and on consent of both Parties and any such modification or amendment after settlement approval must be approved by the Court.

Binding Effect

1.68 If the Settlement is approved by the Court and becomes final, this Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Class Members, the Defendants, Class Counsel, the Releasees and the Releasors or, any of them, and all of their respective heirs, executors, predecessors, successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the

Plaintiffs shall be binding upon all Releasers and each and every covenant and agreement made herein by the Defendants shall be binding upon all of the Releasees.

1.69 For greater certainty, no Opt Out Party shall be bound by this Agreement.

Survival

1.70 The representations and warranties contained in this Agreement shall survive its execution and implementation.

Negotiated Agreement

1.71 This Agreement and the underlying settlement have been the subject of arm's length negotiations and discussions among the undersigned and counsel. Each of the Parties has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafters of this Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of the Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Agreement.

Recitals

1.72 The recitals to this Agreement are true, constitute material and integral parts hereof and are fully incorporated into, and form part of, this Agreement.

Acknowledgements

1.73 Each Party hereby affirms and acknowledges that:

- (a) its signatory has the authority to bind the Party for which it is signing with respect to the matters set forth herein and has reviewed this Agreement;

- (b) the terms of this Agreement and the effects thereof have been fully explained to him/her or it by his/her or its counsel; and
- (c) he/she or its representative fully understands each term of this Agreement and its effect.

Counterparts

1.74 This Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and an emailed .PDF signature shall be deemed an original signature for purposes of executing this Agreement.

Notice

1.75 Any notice, instruction, application for Court approval or application for directions or Court orders sought in connection with this Agreement or any other report or document to be given by any party to any other party shall be in writing and delivered by email to:

For the Plaintiffs:

Alex Dimson
Siskinds LLP
65 Queen Street West, Suite 1155
Toronto, ON M5H 2M5
Email: alex.dimson@siskinds.com

Sage Nematollahi
KND Complex Litigation
1186 Eglinton Avenue West
Toronto, ON M6C 2E3
Email: sn@knd.law

For the Northern Dynasty Defendants:


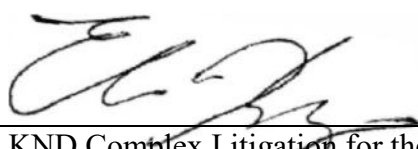
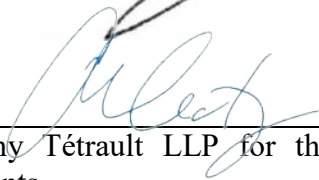
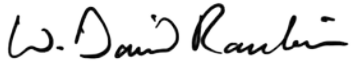
Alexandra Cocks
McCarthy Tétrault LLP
745 Thurlow Street, Suite 2400
Vancouver, BC V6E 0C5
Email: acocks@mccarthy.ca

For the Underwriters:

Mark Gelowitz
Osler, Hoskin & Harcourt LLP
100 King Street West
1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto, ON M5X 1B8
Email: mgelowitz@osler.com

Date of Execution

1.76 This Agreement is effective as of the date on the cover page.

<u>2023-09-05</u> Date	 Siskinds LLP for the Plaintiffs
<u>September 05, 2023</u> Date	 KND Complex Litigation for the Plaintiffs
<u>September 1, 2023</u> Date	 McCarthy Tétrault LLP for the Northern Dynasty Defendants
<u>September 8, 2023</u> Date	 Osler, Hoskin & Harcourt LLP for the Underwriters

THIS COURT ORDERS that

1. Except to the extent that they are modified by this Order, the definitions set out in the settlement agreement reached with the Defendants dated August 30, 2023 (“**Settlement Agreement**”) attached as **Appendix “1”** apply to and are incorporated into this Order.
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. This action is certified as a class proceeding as against the Defendants for the purpose of the settlement only, pursuant to the *Class Proceedings Act*, RSBC 1996, c 50, but subject to the terms of the Settlement Agreement.
4. The class certified for the purpose of settlement with the Defendants is defined as:

except for the **Excluded Persons** or **Opt Out Parties**, all persons and entities, wherever they may reside or be domiciled, who purchased or otherwise acquired securities of Northern Dynasty during the Class Period and held some or all of those securities as of August 22, 2020 or November 25, 2020.
5. Firas Haddad and Walter Woo are appointed as the Representative Plaintiffs for the Class.
6. Siskinds LLP and KND Complex Litigation are appointed Class Counsel.
7. The following issues are certified as common issues:
 - a) Did Northern Dynasty’s Class Period disclosures, or any of them, contain misrepresentation within the meaning of the *Securities Act*?; and
 - b) Did the disclosures released on August 22, 2020 and/or November 25, 2020 publicly correct the previously released alleged misrepresentations within the meaning of the *BCSA*?

8. The Plan of Notice, substantially in the form attached as **Appendix “2”**, is approved for the purpose of the publication and dissemination of the First Notice and Claim Form.
9. The form and content of the short-form First Notice, substantially in the form attached as **Appendix “3”**, is approved.
10. The form and content of the long-form First Notice, substantially in the form attached as **Appendix “4”**, is approved.
11. The form and content of the Claim Form, substantially in the form attached as **Appendix “5”**, is approved.
12. ● is appointed as the Administrator of the Settlement Agreement.
13. In order to be entitled to participate in a distribution from the Net Settlement Amount, a Class Member must:
 - (a) submit a properly completed Claim Form to the Administrator, using the online claim portal established by the Administrator or by submitting a paper Claim Form by mail or courier to the Administrator, postmarked or received by the Administrator on or before 11:59pm Vancouver (Pacific) time on the date that is one hundred and eighty (180) calendar days after the date on which the First Notice is first published (“**Claims Bar Deadline**”);
 - (b) submit, together with the Claim Form, any supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Administrator; and

- (c) otherwise comply with the instructions set out in the Claim Form.

14. Any Class Member who wishes to validly exclude him, her or itself from the Action must do so by submitting to the Administrator by mail or courier a written opt out election (“**Opt Out Election**”) to be postmarked on or before 11:59pm Vancouver (Pacific) time on the date that is 60 calendar days after the date on which the First Notice is first published whether in print or online (“**Opt Out Deadline**”).

15. An Opt Out Election:

- (a) must contain a statement of intention to opt out of the Action by the Class Member or a person authorized to bind the Class Member;
- (b) for Class Members who acquired Eligible Securities during the period from and including ● to and including ●, must provide a listing of all transactions during that period showing, for each transaction, the type of transaction (purchase or sale), the number of securities and the date of the transaction, and state the number of Eligible Securities held at the close of trading on the TSX Venture Exchange on ●;
- (c) must be supported by documents to evidence such transactions, in the form of trade confirmations, brokerage statements or other transaction records allowing the Administrator to verify the transactions;
- (d) must contain the name, address, telephone number and email address of the Class Member; and
- (e) may, at the option of the Class Member, contain a statement of the Class Member’s reason for opting out.

16. Any Class Member who delivers a valid Opt Out Election, in accordance with paragraphs 14 and 15 of this Order, may revoke that Opt Out Election by submitting to the Administrator by mail or courier a written statement that he, she or it wishes to revoke the Opt Out Election, which must be postmarked on or before 11:59pm Vancouver (Pacific) time on the date that is five (5) calendar days after the Opt Out Deadline (“**Opt Out Revocation Deadline**”).

17. An Opt Out Election that is revoked in accordance with paragraph 16 of this Order shall be null and void and have no force or effect, and the Class Member who submitted the Opt Out Election shall not be considered an Opt Out Party.

18. The Administrator shall, immediately upon receipt by it, provide to Class Counsel and counsel to the Defendants copies of any Opt Out Elections postmarked on or before the Opt Out Deadline.

19. At any time up to the Opt Out Revocation Deadline, Class Counsel may contact any Class Member who has submitted an Opt Out Election to confirm that they wish to exclude him, her or itself from the Action, and to explain to him, her or it the significance of the Opt Out Election.

20. No later than the date that is seven (7) calendar days after the Opt Out Deadline, the Administrator shall:

- (a) report to the lawyers for the Parties the number of Eligible Securities of each Opt Out Party and the total number of Eligible Securities of all Opt Out Parties; and
- (b) provide to the lawyers for the Parties copies of the Opt Out Elections submitted by Opt Out Parties.

21. Any person who would otherwise be a Class Member who validly excludes him, her or itself from the Action, in accordance with paragraphs 14 and 15 of this Order, and who has not

revoked his, her or its Opt Out Election in accordance with paragraph 16 of this Order, is not bound by the Settlement Agreement and shall no longer participate or have the opportunity in the future to participate in the Action and the Settlement.

22. Any person who is a member of the Class and who does not validly exclude him, her or itself from the Action in accordance with paragraphs 14 and 15 of this Order, or who revokes an Opt Out Election in accordance with paragraph 16 of this Order, will be bound by the Settlement Agreement, including the releases contained therein, if and when it becomes effective, and may not exclude him, her or itself from the Action in the future, whether or not a claim to participate in the distribution of the Settlement Amount is submitted by that person.

23. Class Members who wish to file with the Court an objection or comment on the Settlement, the Distribution Protocol or the request for approval of Class Counsel Fees shall deliver to Class Counsel by mail, courier or email a written statement, to be postmarked or received by Class Counsel by no later than 11:59pm Vancouver (Pacific) time on the date that is 14 calendar days prior to the Approval Application. Class Counsel shall, forthwith upon receipt by them, provide a copy of any such objection or comment to counsel for the Defendants.

24. The Defendants shall use reasonable efforts to forthwith deliver or cause to be delivered to the Administrator the information required under section 1.47 of the Settlement Agreement.

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

Signature of lawyer for the Plaintiffs

Signature of lawyer for the Northern Dynasty
Defendants

Signature of lawyer for the Underwriters

By the Court

Registrar

In the Supreme Court of British Columbia

Between

FIRRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

ORDER MADE AFTER APPLICATION

<p>Siskinds LLP Barristers & Solicitors 65 Queen Street West, Suite 1155 Toronto ON M5H 2M5</p> <p>Courier address: ●</p>	<p>KND Complex Litigation 1186 Eglinton Ave West Toronto ON M6C 2E3</p> <p>Courier address: ●</p>
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SCHEDULE "B"
SECOND ORDER

No. VLC-S-S-2012846
Vancouver Registry

In the Supreme Court of British Columbia

Between

FIRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

ORDER MADE AFTER APPLICATION FOR SETTLEMENT APPROVAL

BEFORE THE HONOURABLE JUSTICE ●)
) [Date]
)

ON THE APPLICATION of the plaintiffs coming on for hearing at the Courthouse, [address], on ● and on hearing [counsel appearing]; and on reading the materials filed, including the Settlement Agreement; and on the consent of the Defendants;

THIS COURT ORDERS that

1. Except to the extent that they are modified by this Order, the definitions set out in the settlement agreement reached with the Defendants dated August 30, 2023 (“**Settlement Agreement**”) attached as **Appendix “1”** apply to and are incorporated into this Order.
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. The Settlement Agreement is fair, reasonable and in the best interests of the Class.
4. The Settlement Agreement is approved pursuant to section 35 of the *Class Proceedings Act*, RSBC 1996, c 50 as amended and shall be implemented in accordance with its terms.
5. The Settlement Agreement is incorporated by reference to and forms part of this Order and is binding upon the Plaintiffs and Class Members.
6. The Settlement Agreement shall be implemented in accordance with its terms.
7. The Plaintiffs and Defendants may, on notice to the Court but without the need for further order of the Court, agree to reasonable extensions of time to carry out any provisions of the Settlement Agreement.
8. Except as expressly provided for in the Settlement Agreement, the Defendants and the other Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement.
9. This Order, including the Settlement Agreement, is binding upon each member of the Class including those Persons who are minors or mentally incapable.

10. Upon the Effective Date, the Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee, or any other person who may claim contribution or indemnity or other claims over relief from any Releasee, in respect of any Released Claim or any matter related thereto.

11. For the purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Defendants and the other Releasees acknowledge the jurisdiction of this Court solely for the purpose of implementing, administering and enforcing the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement.

12. Upon the Effective Date, the Action shall be dismissed against all Defendants with prejudice and without costs.

13. This Order shall be declared null and void on a subsequent application made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

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

Signature of lawyer for the Plaintiffs

Signature of lawyer for the Northern Dynasty
Defendants

Signature of lawyer for the Underwriters

By the Court

Registrar

In the Supreme Court of British Columbia

Between

FIRRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANNACORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., and VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

ORDER MADE AFTER APPLICATION

<p>Siskinds LLP Barristers & Solicitors 65 Queen Street West, Suite 1155 Toronto ON M5H 2M5</p> <p>Courier address: ●</p>	<p>KND Complex Litigation 1186 Eglinton Ave West Toronto ON M6C 2E3</p> <p>Courier address: ●</p>
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THIS COURT ORDERS that

1. Except to the extent that they are modified by this Order, the definitions set out in the settlement agreement reached with the Defendants, dated August 30, 2023 (“**Settlement Agreement**”) attached as **Appendix “1”** apply to and are incorporated into this Order.
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. The Distribution Protocol, substantially in the form attached as **Appendix “2”**, is fair and appropriate.
4. The Distribution Protocol is approved and the Settlement Amount shall be distributed in accordance with the terms of the Settlement Agreement, following payment of Class Counsel Fees approved by this Court, the Administration Expenses and any other expenses approved by this Court.
5. The Plan of Notice, substantially in the form attached as **Appendix “3”**, is approved for the purpose of the publication and dissemination of the Second Notice.
6. The form and content of the short-form Second Notice, substantially in the form attached as **Appendix “4”**, is approved.
7. The form and content of the long-form Second Notice, substantially in the form attached as **Appendix “5”**, is approved.

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

Signature of lawyer for the Plaintiffs

Signature of lawyer for the Northern Dynasty
Defendants

Signature of lawyer for the Underwriters

By the Court

Registrar

In the Supreme Court of British Columbia

Between

FIRRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

ORDER MADE AFTER APPLICATION

<p>Siskinds LLP Barristers & Solicitors 65 Queen Street West, Suite 1155 Toronto ON M5H 2M5</p> <p>Courier address: ●</p>	<p>KND Complex Litigation 1186 Eglinton Ave West Toronto ON M6C 2E3</p> <p>Courier address: ●</p>
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SCHEDULE “D”
PLAN OF NOTICE

Capitalized terms used in this Plan of Notice have the meanings ascribed to them in the Settlement Agreement dated August 30, 2023.

Subject to such alternative or additional direction by the Court, notices provided for as contemplated in the Settlement Agreement will be disseminated as follows:

PART 1 – FIRST NOTICE

A. Short-Form

As soon as possible following the entry of the First Order, the short-form First Notice will be disseminated as follows:

Newspaper Publication

Print publication of the short-form First Notice will be at least a 1/8 page in size. Print publication will be made in Canada in the English language in the business section of the national weekend edition of *The Globe and Mail* and in the French language in the business section of *La Presse*.

News Release

The English and French language versions of the short-form First Notice will be issued (with necessary formatting modifications) across Canada Newswire, a major business newswire in Canada.

ISS Publication

The English and French language versions of the short-form First Notice will be sent to Institutional Shareholder Services Inc. (ISS) for publication through their platform.

Individual Notice

The Administrator will send a package to the Canadian brokerage firms in the Administrator's proprietary databases. The package will consist of the short-form First Notice and a cover letter to the brokerage firms in the form customarily used by the Administrator. The Administrator shall request that the brokerage firms either send a copy of the short-form First Notice to all individuals and entities identified by the brokerage firms as being Class Members, or to send the names and contact information of all known Class Members to the Administrator (who shall subsequently send the short-form First Notice to the individuals and entities so identified). The notice shall be distributed by email where Class Member email addresses are available.

The Administrator shall, if requested, reimburse the brokerage firms out of the Settlement Amount solely for their reasonable out-of-pocket expenses incurred in distributing notice to the Class Members. The reimbursement shall be at reasonable and customary rates per unit as determined

by the Administrator. Each brokerage firm must submit its account by a date to be determined by the Administrator to be entitled to reimbursement.

The Administrator shall send the short-form First Notice to the individuals and entities on the electronic list of persons who acquired Eligible Securities delivered by the Defendants to the Administrator as required by the Settlement Agreement. The notice shall be distributed by email where Class Member email addresses are available.

B. Long-Form

Publication by Class Counsel

As soon as possible following the entry of the First Order, the long-form First Notice will be disseminated as follows:

1. Electronic publication of the long-form First Notice will occur in both the English and French languages on the Northern Dynasty class action website of Class Counsel at [Northern Dynasty Minerals Ltd. | Siskinds Law Firm](#) and [Northern Dynasty Minerals Ltd. | KND Complex Litigation](#) (“**Class Counsel Website**”).
2. The long-form First Notice will be mailed, electronically or physically, as may be required, to those persons and entities who have previously contacted Class Counsel for the purposes of receiving notice of developments in the Action.

Class Counsel shall make a toll-free number and email address available to the public that will enable Class Members to contact Class Counsel in order that they may, amongst other things:

1. obtain more information about the Settlement, how to object to the Settlement, the claims process and the opt out process; and/or
2. request that a copy of the Settlement Agreement, the long-form First Notice and the Claim Form be electronically or physically mailed to them.

Class Counsel will post on the Class Counsel Website:

1. the Settlement Agreement;
2. the long-form First Notice;
3. a short summary of the rationale for the Settlement (no less than 30 days prior to the application to approve the Settlement);
4. the affidavit(s) in support of the application for approval of the Settlement (no less than 30 days prior to the application to approve the Settlement); and
5. the affidavit(s) in support of the application for approval of Class Counsel Fees and disbursements (no less than 30 days prior to the application to approve Class Counsel Fees and disbursements).

PART 2 – SECOND NOTICE

A. Short-Form

As soon as possible following the Implementation Date, the short-form Second Notice will be disseminated as follows:

News Release

The English and French language versions of the short-form Second Notice will be issued (with necessary formatting modifications) across Canada Newswire, a major business newswire in Canada.

ISS Publication

The English and French language versions of the short-form Second Notice will be sent to Institutional Shareholder Services Inc. (ISS) for publication through their platform.

B. Long-Form

As soon as possible following the Implementation Date, the long-form Second Notice will be disseminated as follows:

1. Electronic publication of the long-form Second Notice will occur in both the English and French languages on the Class Counsel Website; and
2. Class Counsel shall mail or email the long-form Second Notice to those persons that have contacted Class Counsel as of the publication date regarding this litigation and have provided Class Counsel with their contact information.

Class Counsel shall make a toll-free number and email address available to the public that will enable Class Members to obtain more information about the settlement and to request that a copy of the long-form Second Notice be sent electronically or physically to them directly.

SCHEDULE “E”
FIRST NOTICE – SHORT FORM

NORTHERN DYNASTY MINERALS LTD. SECURITIES CLASS ACTION

Did you acquire securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020, inclusive, and hold some or all of those securities as of August 22, 2020 or November 25, 2020?

A settlement has been reached in a class action against Northern Dynasty Minerals Ltd. (“Northern Dynasty”), Ronald W. Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital. The class action alleges that there were misrepresentations in certain of Northern Dynasty’s public disclosures and in documents provided to investors.

The settlement provides for payments by the defendants in the class action and their insurers of the total amount of USD\$2,125,000 to resolve those claims. The settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault by Northern Dynasty or any of the other defendants, all of whom have denied, and continue to deny, the allegations against them.

The settlement must be approved by the Supreme Court of British Columbia. A settlement approval hearing has been set for [date], 2023. At the hearing, the Court will also address an application to approve Class Counsel’s fees, which will not exceed [number]% of the recovery plus reimbursement for expenses incurred in the litigation.

Class Members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

The Court has appointed [Administrator] as the Administrator of the settlement. To be eligible for compensation, Class Members must submit a completed Claim Form to the Administrator by no later than 11:59 pm Vancouver (Pacific) time on [date]. If the settlement is approved, and if you do not file a claim by this deadline, you may not be able to claim a portion of the settlement and your claim will be extinguished.

If you do not want to be part of this class action and be bound by the terms of the settlement, you must opt out by 11:59 Vancouver (Pacific) time on [date].

Class Members may also express their views about the proposed settlement to the Court. If you wish to express your views, you must do so in writing by [date].

For more information about the certification of the class action, who qualifies as a class member, the settlement, how to make a claim for compensation from the settlement, and your rights to opt out of the class and the settlement or object to the settlement, see the long-form notice available online at [website] or call toll free at [number].

SCHEDULE “F”
FIRST NOTICE – LONG FORM

NORTHERN DYNASTY MINERALS LTD. SECURITIES CLASS ACTION

NOTICES OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING

Please read this notice carefully. A proposed settlement may affect your legal rights. You may have to take prompt action.

This notice is directed to: All persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020, inclusive, and held some or all of those securities as of August 22, 2020 or November 25, 2020.

(collectively, “Class” or “Class Members”)

IMPORTANT DEADLINES

Claims Bar Deadline (to file a claim for compensation): 11:59 pm Vancouver (Pacific) time on [date]

Opt Out Deadline (to exclude yourself from the class action and settlement): 11:59 pm Vancouver (Pacific) time on [date]

Objection Deadline (to object or to comment on the settlement or Class Counsel fees): 11:59 pm Vancouver (Pacific) time on [date]

Claim Forms may not be accepted after the Claims Bar Deadline. As a result, it is necessary that you act without delay.

PURPOSE OF THIS NOTICE

The class action brought on behalf of Class Members has been settled, subject to court approval. It has also been certified for settlement purposes. This notice provides Class Members with information about certification, who qualifies as a Class Member, the right to opt out of the class action, the settlement, and their rights to participate in the court proceedings considering whether to approve the settlement.

The notice also provides Class Member with information about how to apply for compensation from the settlement. **Class Members who wish to do so must do so by 11:59 pm Vancouver (Pacific) time on [date].**

THE ACTION AND CLASS CERTIFICATION

In 2020, an action (as amended) (“Action”) was commenced in the Supreme Court of British Columbia (“Court”) against Northern Dynasty Minerals Ltd. (“Northern Dynasty”), Ronald W.

Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital (collectively, the “Defendants”)

The Action alleges that the Defendants made misrepresentations regarding the permit application process for Northern Dynasty’s proposed Pebble Project. The Action alleges that the misrepresentations were corrected over two corrective disclosures: *first*, on August 24, 2020, when media outlets reported that due to the environmental impacts of the project the USACE was set to impose stringent compensatory mitigation requirements for the Pebble Project; *second*, on November 25, 2020, when the USACE issued an unfavourable Record of Decision denying the Pebble Project’s permit application. It is further alleged that following these disclosures Northern Dynasty’s share price declined significantly, causing damage to the Class Members.

On [date], the Court certified the class action for settlement purposes against the Defendants on behalf of the Class defined above. Excluded persons are Northern Dynasty and the Underwriters (as defined in the Settlement Agreement) and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns, as well as Thiessen and Collier, their immediate family members, and any entities in which they have a controlling interest.

THE SETTLEMENT

On [date] the Plaintiffs and Defendants executed a Settlement Agreement providing for the settlement of the Action (“**Settlement**”), which is subject to approval by the Court. The Settlement Agreement provides for the payment of USD\$2,125,000 (“**Settlement Amount**”) in consideration of the full and final settlement of the claims of Class Members. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses.

The Settlement provides that if it is approved by the Court, the claims of all Class Members asserted or which could have been asserted in the Action will be fully and finally released, and the Action will be dismissed. The Settlement is not an admission of liability, wrongdoing or fault on the part of the Defendants, all of whom have denied, and continue to deny, the allegations against them.

Class Members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

PARTICIPATING IN THE SETTLEMENT OR EXCLUDING YOURSELF (“OPTING OUT”) FROM THE CLASS ACTION AND SETTLEMENT

If you are a Class Member, you will be bound by the outcome of the Action, including the terms of the Settlement if approved, unless you opt out of the Action. Class Members who do not opt out will (i) be entitled to participate in the Settlement; (ii) be bound by the terms of the Settlement; and (iii) not be permitted to bring other legal proceedings in relation to the matters alleged in the Action against the Defendants, or any person released by the approved Settlement. Conversely, if you are a Class Member who opts out of the Action (an “Opt Out Party”), you will not be able to

make a claim to receive compensation from the Settlement Amount but will maintain the right to pursue your own claim against the Defendants relating to the matters alleged in the Action.

If you are a Class Member and wish to opt out, you must submit a written election to do so, together with required supporting documentation (“Opt Out Election”), to [Administrator] (“Administrator”).

To be a valid, the Opt Out Election: (a) must contain a statement of intention to opt out of the Action by you or a person authorized to bind you; (b) for Class Members who acquired Northern Dynasty securities during the period from and including [date] to and including [date], must provide a listing of all transactions during that period showing, for each transaction, the type of transaction (purchase or sale), the number of securities and the date of the transaction, and state the number of Northern Dynasty securities held at the close of trading on the TSX Venture Exchange on [date]; (d) must be supported by documents to evidence such transactions, in the form of trade confirmations, brokerage statements or other transaction records acceptable to the Administrator to verify the transactions; (e) must contain your name, address, telephone number and email address; and (f) may, at your option, contain a statement of your reason for opting out.

Your Opt Out Election must be postmarked no later than **11:59pm Vancouver (Pacific) time on [date] (“Opt Out Deadline”)**.

Opt Out Elections may be sent by mail or courier to: [Administrator contact details]

An Opt Out Election that does not contain all of the required information or is postmarked after the Opt Out Deadline will not be valid, which means that you will be bound by the outcome of the Action, including the Settlement, if it is approved.

You may revoke an Opt Out Election by delivering to the Administrator by mail or courier a written statement that you wish to revoke the Opt Out Election, which must be postmarked on or before 11:59pm Vancouver (Pacific) time on [date].

SETTLEMENT APPROVAL HEARING

The Settlement is conditional on approval by the Court. The Settlement will be approved if the Court determines that it is fair and reasonable and in the best interests of Class Members to approve it.

The Court will hear an application for approval of the Settlement on [date] at [address] before the Honourable [Justice ●].

RELEASE OF CLAIMS AND EFFECT ON OTHER PROCEEDINGS

If the Settlement Agreement is approved by the Court, the claims and allegations of Class Members which were asserted or which could have been asserted in the Action will be released (“Released Claims”), and the Action will be dismissed. Class Members will not be able to pursue any action in relation to the Released Claims regardless of whether or not they file a claim for compensation from the Settlement. If approved, the Settlement will therefore represent the only means of compensation available to Class Members in respect of the Released Claims.

APPROVAL OF CLASS COUNSEL FEES AND OTHER EXPENSES

In addition to seeking the Court's approval of the Settlement Agreement, Class Counsel will seek the Court's approval of legal fees not to exceed [number]% of the Settlement Amount, plus disbursements not exceeding CAD\$[number] and applicable taxes ("**Class Counsel Fees**"). This fee request is consistent with the retainer agreement entered into between Class Counsel and the Plaintiffs at the beginning of the litigation. As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation.

Class Counsel will also seek the Court's approval for the payment of an honoraria to the Plaintiffs not exceeding CAD\$[number] each. Class Counsel will be requesting that the honoraria be deducted directly from the Settlement Amount.

The approval of the Settlement is not contingent on the approval of the Class Counsel Fees requested or an honorarium to the Plaintiff. The Settlement may still be approved even if the requested Class Counsel Fees or the Plaintiff's honorarium are not approved.

The fees of the Administrator, together with any other costs relating to approval, notification, implementation and administration of the settlement ("**Administration Expenses**"), will also be paid from the Settlement Amount.

CLASS MEMBERS' ENTITLEMENT TO COMPENSATION

Class Members will be eligible for compensation pursuant to the Settlement if they submit a completed Claim Form, including any supporting documentation, with the Administrator, and their claim satisfies the criteria set out in the Distribution Protocol.

To be eligible for compensation under the Settlement, your Claim Form must be postmarked or received by the Administrator by **no later than 11:59pm Vancouver (Pacific) time on [date]** ("**Claims Bar Deadline**"). Only Class Members who have not opted out of the Action are permitted to recover from the Settlement.

If the Settlement Agreement is approved by the Court, the Settlement Amount, after deduction of Class Counsel Fees, Administration Expenses and any approved honorarium ("**Net Settlement Amount**") will be distributed to Class Members in accordance with the Distribution Protocol, subject to the Court's approval.

The proposed Distribution Protocol provides that in order to determine the individual entitlements of Class Members who make claims, the losses of each claimant will be calculated in accordance with a formula based on the statutory damages provisions contained in the securities legislation of British Columbia. Once the notional losses of all Class Members who have filed valid claims have been calculated, the Net Settlement Amount will be allocated to those Class Members in proportion to their percentage of the total notional losses calculated for all valid claims filed. Because the Net Settlement Amount will be distributed pro rata, it is not possible to estimate the individual recovery of any individual Class Member until all the claims have been received and reviewed.

The approval of the Settlement is not contingent on the approval of the Distribution Protocol. The Court may still approve the Settlement even if it does not approve the Distribution Protocol or approves amendments to the Distribution Protocol.

In the event any amounts remain undistributed 180 days after the distribution of the Net Settlement Amount (because of uncashed cheques or for other administrative reasons), those amounts will be distributed to eligible Class Members (if sufficient to warrant a further distribution) or distributed to the Law Foundation of British Columbia.

ADMINISTRATOR

The Court has appointed [Administrator] as the Administrator of the Settlement. The Administrator will, among other things: (i) receive and process the Claim Forms; (ii) determine Class Members' eligibility for and entitlement to compensation pursuant to the Distribution Protocol; (iii) communicate with Class Members regarding claims for compensation; and (iv) manage and distribute the Settlement Amount in accordance with the Settlement Agreement and the orders of the Court. The Administrator can be contacted at:

Telephone: [number]

Mailing Address: [address]

Website: [website]

FILING A CLAIM

All claims for compensation from the Settlement must be postmarked or received by no later than 11:59pm Vancouver (Pacific) time on [date].

The most efficient way to file a claim is to visit the Administrator's website at [website address]. **You are strongly encouraged to file your claim online through the website.** The website provides step by step instructions on how to file a claim. In order to verify claims, the Administrator will require supporting documentation, including brokerage statements or confirmations evidencing the claimed transactions. Accordingly, Class Members should visit the Administrator's site as soon as possible so that they have time to obtain the required documentation prior to the Claims Bar Deadline.

The Administrator will also accept Claim Forms filed by mail or courier. To obtain a paper copy of the Claim Form, Class Members must telephone the Administrator to have one sent by email or regular mail. Claim Forms sent by mail or courier should be sent to:

[Administrator]

[address]

CLASS MEMBERS' RIGHT TO PARTICIPATE IN THE APPLICATION FOR APPROVAL

Class Counsel has posted or will post the following material on its website [website] on or before the dates set out below:

1. The Settlement Agreement, including the proposed Distribution Protocol (posted prior to or at the time of publication of this notice);
2. A summary of the basis upon which Class Counsel recommends the Settlement and Distribution Protocol (by [date]);
3. The Plaintiffs' evidence in support of the approval of the Settlement and Distribution Protocol (by [date]);
4. Class Counsel's evidence in support of the request for approval of Class Counsel's fees and disbursements (by [date]).

Class Members who wish to comment on, or make an objection to, the approval of the Settlement Agreement, the Distribution Protocol or the Class Counsel fees requested shall deliver a written statement to Class Counsel by mail, courier or email, using the contact details listed under "Class Counsel"; below, to be postmarked or received by Class Counsel no later than 11:59 pm Vancouver (Pacific) time on [date]. Any objections postmarked or received by that date will be filed with the Court.

Class Members may attend at the hearing whether or not they deliver an objection. Class Members who wish a lawyer to speak on their behalf at the hearing may retain one to do so at their own expense.

YOU HAVE THREE OPTIONS:

1. Stay in the Class Action and Do Nothing:

You do not have to do anything to stay in the class action. If the Court approves the Settlement, it will be distributed according to its terms. If you are eligible and submit a valid claim form, you will receive your share of the net Settlement Amount. If you do nothing, you will be legally bound by all orders and judgments of the Court, and you will not be able to sue the Defendants on your own regarding the legal claims made in this case.

2. Stay in the Class Action and Object to the Agreement or Class Counsel's Fees:

If you want to object to the proposed Settlement or to the payment of Class Counsel's fees and expenses, you should do so by filling out a Notice of Objection and delivering it to Class Counsel at the address below. The Notice of Objection can be found at: [website]. The Notice of Objection must be provided by • at 11:59 pm Vancouver (Pacific) time.

3. Opt-Out of the Class Action:

All Class Members will be bound by the terms of the Settlement, unless they opt-out. The Opt-Out Form is available at [website] **Error! Hyperlink reference not valid.** or by request to Class Counsel at the address below. Any Class Member who wishes to opt-out of the class action must deliver a completed Opt-Out Form by email or fax to the address

indicated below. The Opt-Out Form must be received on or before • at 11:59 pm Vancouver (Pacific) time to be valid.

COPIES OF THE SETTLEMENT DOCUMENTS:

Copies of the Settlement Agreement, the Distribution Protocol and other documents relating to the Settlement may be found on the Administrator's website, Class Counsel's websites or by contacting the Administrator or Class Counsel using the contact information provided in this notice.

PERSONAL LEGAL ADVICE:

The lawyers for the Plaintiffs are Siskinds LLP and KND Complex Litigation. Class Members who seek the advice or guidance of their personal lawyers should do so at their own expense.

CLASS COUNSEL:

Siskinds LLP and KND Complex Litigation are Class Counsel. Inquiries may be directed to:

Northern Dynasty Class Counsel
Siskinds LLP
c/o Alex Dimson
Email: alex.dimson@siskinds.com

Northern Dynasty Class Counsel
KND Complex Litigation
c/o Sage Nematollahi
Email: northerndynasty@knd.law

INTERPRETATION:

If there is a conflict between the provisions of this notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

THE SUPREME COURT OF BRITISH COLUMBIA HAS AUTHORIZED DISTRIBUTION OF THIS NOTICE.

QUESTIONS ABOUT THIS NOTICE SHOULD BE DIRECTED TO THE ADMINISTRATOR OR CLASS COUNSEL AND SHOULD NOT BE DIRECTED TO THE COURT.

SCHEDULE “G”
SECOND NOTICE – SHORT FORM

**SETTLEMENT OF NORTHERN DYNASTY MINERALS LTD.
SECURITIES CLASS ACTION**

Did you acquire securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020 (inclusive)?

A settlement has been reached in a class action against Northern Dynasty Minerals Ltd. (“Northern Dynasty”), Ronald W. Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital. The class action alleges that there were misrepresentations in certain of Northern Dynasty’s public disclosures and in documents provided to investors.

The settlement provides for payments by the defendants in the class action and their insurers of the total amount of USD\$2,125,000 to resolve those claims. This settlement is not an admission of liability, wrongdoing or fault on the part of the defendants, all of whom have denied, and continue to deny, the allegations against them.

The settlement has been approved by the Supreme Court of British Columbia.

For more information about your rights and how to exercise them, see the long-form notice and other information available online at [webpage created by the Administrator] or contact the Administrator at: [Administrator email and phone number]

Class members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

SCHEDULE “H”
SECOND NOTICE – LONG FORM

NORTHERN DYNASTY MINERALS LTD.
SECURITIES CLASS ACTION

NOTICE OF SETTLEMENT APPROVAL

Please read this notice carefully. A settlement may affect your legal rights. You may have to take prompt action.

This notice is directed to: All persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020, inclusive, and held some or all of those securities as of August 22, 2020 or November 25, 2020.

(collectively, “Class” or “Class Members”)

IMPORTANT DEADLINE TO FILE A CLAIMS FOR COMPENSATION

Claims Bar Deadline (to file a claim for compensation): 11:59 pm Vancouver (Pacific) time on [date]

PURPOSE OF THIS NOTICE

The purpose of this notice is to advise Class Members of the approval of the settlement of the class proceeding brought on behalf of Class Members.

THE ACTION AND CLASS CERTIFICATION

In 2020, a class proceeding (“Action”) was commenced in the Supreme Court of British Columbia (“Court”) against Northern Dynasty Minerals Ltd. (“Northern Dynasty”), Ronald W. Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital (collectively, the “Defendants”).

The Action alleges that the Defendants made misrepresentations regarding the permit application process for Northern Dynasty’s proposed Pebble Project. The Action alleges that the misrepresentations were corrected over two corrective disclosures: *first*, on August 24, 2020, when media outlets reported that due to the environmental impacts of the project the USACE was set to impose stringent compensatory mitigation requirements for the Pebble Project; *second*, on November 25, 2020, when the USACE issued an unfavourable Record of Decision denying the Pebble Project’s permit application. It is further alleged that following these disclosures Northern Dynasty’s share price declined significantly, causing damage to the Class Members.

On [date], the Court certified the Action as a class action for settlement purposes. The Class excludes the following persons: Northern Dynasty and the Underwriters (as defined in the Settlement Agreement) and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns, as well as Thiessen and Collier, their immediate family members, and any entities in which they have a controlling interest.

SETTLEMENT APPROVAL

On [date] the Plaintiffs and Defendants executed a Settlement Agreement providing for the settlement of the Action (“**Settlement**”). The Settlement Agreement provides for the payment of USD\$2,125,000 (“**Settlement Amount**”) in consideration of the full and final settlement of the claims of Class Members. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses.

The Settlement provides that the claims of all Class Members asserted or which could have been asserted in the Action will be fully and finally released, and the Action will be dismissed. The Settlement is not an admission of liability, wrongdoing or fault on the part of the Defendants, all of whom have denied, and continue to deny, the allegations against them.

On [date], the Supreme Court of British Columbia approved the Settlement and ordered that it be implemented in accordance with its terms.

Class Members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

The Court also awarded Siskinds LLP and KND Complex Litigation (“Class Counsel”) total legal fees, expenses and applicable taxes in the amount of CAD\$[amount] inclusive of disbursements of CAD\$[amount], plus HST, GST and/or PST (“Class Counsel Fees”). As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation. Class Counsel Fees will be deducted from the Settlement Amount before it is distributed to Class Members.

Expenses incurred or payable relating to approval, notification, implementation and administration of the Settlement (“**Administration Expenses**”) will also be paid from the Settlement Amount before it is distributed to Class Members.

The Court also approved the payment of honoraria to the Plaintiffs in the amount of CAD\$[amount] each. The honoraria will be deducted from the Settlement Amount before it is distributed to Class Members.

CLASS MEMBERS’ ENTITLEMENT TO COMPENSATION

Pursuant to the Court order approving the Settlement, claims of Class Members which were or could have been asserted in the Action are now released and the Action has been dismissed. Class Members may not pursue individual or class actions for those claims, whether or not they submit

a claim for compensation from the Settlement. **The Settlement therefore represents the only means of compensation available to Class Members in respect of the claims raised in the Action.**

For instructions on how to submit a claim for compensation from the Settlement, refer to the previously-issued notice of certification and settlement approval hearing, which is available at [website to be created by Administrator]. To be eligible for compensation under the Settlement, your Claim Form must be postmarked or received by the Administrator by **no later than 11:59pm Vancouver (Pacific) time on [date]**.

After deduction of Class Counsel Fees, Administration Expenses and the approved honorarium, the balance of the Settlement Amount (“**Net Settlement Amount**”) will be distributed to Class Members in accordance with the Distribution Protocol approved by the Court.

The proposed Distribution Protocol provides that in order to determine the individual entitlements of Class Members who make claims, the losses of each claimant will be calculated in accordance with a formula based on the statutory damages provisions contained in the securities legislation of British Columbia. Once the notional losses of all Class Members who have filed valid claims have been calculated, the Net Settlement Amount will be allocated to those Class Members in proportion to their percentage of the total notional losses calculated for all valid claims filed. Because the Net Settlement Amount will be distributed pro rata, it is not possible to estimate the individual recovery of any individual Class Member until all the claims have been received and reviewed.

In the event any amounts remain undistributed 180 days after the distribution of the Net Settlement Amount (because of uncashed cheques or for other administrative reasons), those amounts will be distributed to eligible Class Members (if sufficient to warrant a further distribution) or distributed to the Law Foundation of British Columbia.

YOU HAVE TWO OPTIONS:

1. Submit a Claim Form:

Fill out a Claim Form online and submit it with supporting documentation by the deadline to apply for compensation. The deadline for Claim Form submission is ●.

2. Do Nothing:

Give up any right to compensation.

COPIES OF THE SETTLEMENT DOCUMENTS

The Settlement Agreement and various other Court-approved documents set out the procedures applicable to the Settlement of the class action. The Settlement Amount, less administration costs, honorarium and lawyers’ fees and disbursements, will be distributed to those who are eligible and submit a claim form and supporting documentation on a pro rata basis up to the value of their calculated loss, in accordance with the Court-approved and supervised Distribution Protocol. The Distribution Protocol, Settlement Agreement, and other pertinent documents can be found at: [website] or by contacting Class Counsel at the address below.

ADMINISTRATOR

The Administrator can be contacted at:

[Contact details]

CLASS COUNSEL

Inquiries to Class Counsel may be directed to:

Northern Dynasty Class Counsel
Siskinds LLP
c/o Alex Dimson
Email: alex.dimson@siskinds.com

Northern Dynasty Class Counsel
KND Complex Litigation
c/o Sage Nematollahi
Email: northerndynasty@knd.law

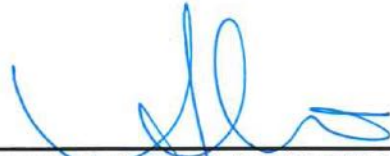
INTERPRETATION

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

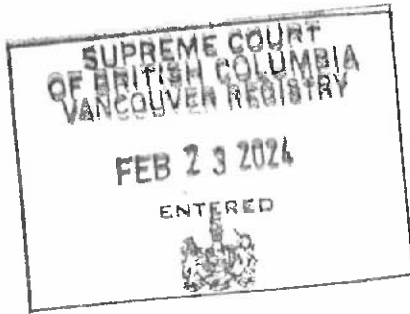
THE SUPREME COURT OF BRITISH COLUMBIA HAS AUTHORIZED DISTRIBUTION OF THIS NOTICE.

QUESTIONS ABOUT THIS NOTICE SHOULD BE DIRECTED TO THE ADMINISTRATOR OR CLASS COUNSEL AND SHOULD NOT BE DIRECTED TO THE COURT.

THIS IS **EXHIBIT "L"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end.

TAEK SOO SHIN (LSO #85691Q)



No. VLC-S-S-2012849
Vancouver Registry

In the Supreme Court of British Columbia

Between

FIRRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN and THOMAS C. COLLIER

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

**ORDER MADE AFTER APPLICATION FOR APPROVAL OF THE DISTRIBUTION
PROTOCOL AND NOTICE**

BEFORE THE HONOURABLE JUSTICE KIRCHNER) February 23, 2024

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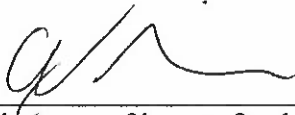
ON THE APPLICATION of the plaintiffs coming on for hearing at the Courthouse at 800 Smithe Street, Vancouver, British Columbia, on February 23, 2024 and on hearing Alex Dimson, Counsel for the Plaintiffs; and on reading the materials filed, including the Distribution Protocol; and the Defendants not opposing this order;

THIS COURT ORDERS that

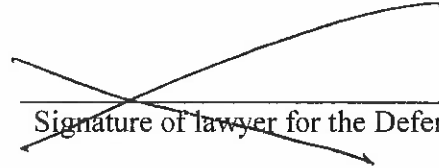
1. Except to the extent that they are modified by this Order, the definitions set out in the settlement agreement reached with the Defendants, dated August 30, 2023 (“**Settlement Agreement**”) attached as **Appendix “1”** apply to and are incorporated into this Order.

2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. The Distribution Protocol, substantially in the form attached as **Appendix "2"**, is fair and appropriate.
4. The Distribution Protocol is approved and the Settlement Amount shall be distributed in accordance with the terms of the Settlement Agreement, following payment of Class Counsel Fees approved by this Court, the Administration Expenses and any other expenses approved by this Court.
5. The Plan of Notice, substantially in the form attached as **Appendix "3"**, is approved for the purpose of the publication and dissemination of the Second Notice.
6. The form and content of the short-form Second Notice, substantially in the form attached as **Appendix "4"**, is approved.
7. The form and content of the long-form Second Notice, substantially in the form attached as **Appendix "5"**, is approved.

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

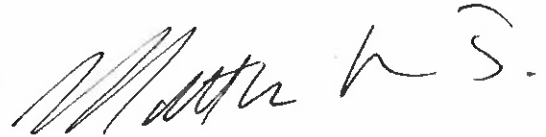


Signature of lawyer for the Plaintiffs



~~Signature of lawyer for the Defendants~~

By the Court



Registrar

APPENDIX "1"

SETTLEMENT AGREEMENT

Made as of the 30th day of August , 2023

Between

FIRAS HADDAD and WALTER WOO

(“Plaintiffs”)

Proposed representative plaintiffs in Supreme Court of British Columbia Action No. VLC-S-S-2012849

In their personal and proposed representative capacities

- and –

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

(“Defendants”)

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RECITALS

- A. WHEREAS** the Plaintiffs (defined below) commenced this action captioned *Haddad et al. v. Northern Dynasty Minerals Ltd., et al.*, Court File No. VLC-S-S-2012849 (the “Canadian Action”) pending in the Supreme Court of British Columbia, asserting, among other things, primary and secondary market statutory and common law misrepresentation claims;
- B. AND WHEREAS** a substantially corresponding action was commenced in the United States District Court for the Eastern District of New York, *IN RE NORTHERN DYNASTY MINERALS LTD. SECURITIES LITIGATION*, No. 1:20-cv-05917-ENV-RLM (the “U.S. Action”);
- C. AND WHEREAS** the Defendants deny any fault, omission, wrongdoing or liability whatsoever;
- D. AND WHEREAS** the Plaintiffs have delivered their certification materials and materials in support of their application for leave to proceed with their secondary market claims under Part 16.1 of the *BCSA* (defined below);
- E. AND WHEREAS** the Plaintiffs’ motion for leave to proceed with statutory claims under Part 16.1 of the *BCSA* (defined below) was originally scheduled to be argued in April 2023 with certification to be heard following the leave decision;
- F. AND WHEREAS** and the Plaintiffs’ leave application was subsequently adjourned to January 8-12, 2024;
- G. AND WHEREAS** counsel for the Parties (defined below) in the Canadian Action, and the parties in the U.S. Action, have engaged in arm’s length settlement discussions and a mediation held before Robert Meyer, resulting in this Settlement Agreement (defined below) resolving the Canadian Action and a corresponding settlement agreement resolving the U.S. Action;

H. AND WHEREAS this Settlement Agreement is intended to fully, finally, and forever, resolve, discharge, and settle the Canadian Action upon and subject to the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that, upon the Effective Date, the Canadian Action be settled and dismissed with prejudice and without costs, subject to the approval of the Court of this Settlement Agreement, on the following terms and conditions.

DEFINITIONS

1.1 In this Agreement, including the Recitals and Schedules hereto:

- (a) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable in relation to the notice, approval, implementation and administration of the Settlement Agreement, including the costs of publication and delivery of notices, fees, disbursements and taxes paid to the Administrator, which shall be paid from the Escrow Account. For greater certainty, Administration Expenses do not include Class Counsel Fees.
- (b) **Administrator** means the third-party professional firm and any employees of such firm, selected at arm's length by Class Counsel, and appointed by the Court to do any one or more of the following:
 - (i) facilitate dissemination of Notice;
 - (ii) receive and review requests to opt out of the Class;

- (iii) receive and review claims and administer the Settlement Amount in accordance with the Distribution Protocol; and
 - (iv) report to the Parties and the Court on the administration of the Settlement Agreement.
- (c) **Agreement** or **Settlement Agreement** means this settlement agreement.
- (d) **Approval Application** means an application brought by the Plaintiffs in the Court for the Second Order and the Third Order.
- (e) **Authorized Claimant** means any Class Member who has submitted a completed Claim Form which, pursuant to the terms of the Agreement and the Distribution Protocol, has been approved for compensation by the Administrator in accordance with the Distribution Protocol.
- (f) **BCSA** means the *Securities Act*, RSBC 1996, c 418, as amended.
- (g) **BCBCA** means the *Business Corporations Act*, SBC 2002, c 57, as amended.
- (h) **Canadian Action** means the action filed in the Supreme Court of British Columbia styled *Haddad et al. v Northern Dynasty Minerals Ltd., et al.* (Court File No. VLC-S-S-212849).
- (i) **Claim Form** means the form to be approved by the Court which, when completed and submitted in a timely manner to the Administrator, using the online claim portal established by the Administrator or by submitting a paper form to the Administrator, constitutes a Class Member's claim for compensation pursuant to the Distribution Protocol.

- (j) **Class or Class Members** means, except for the **Excluded Persons** or **Opt Out Parties**, all persons and entities, wherever they may reside or be domiciled, who purchased or otherwise acquired securities of Northern Dynasty during the Class Period and held some or all of those securities as of August 22, 2020 or November 25, 2020.
- (k) **Class Counsel** means Siskinds LLP and KND Complex Litigation.
- (l) **Class Counsel Fees** means the fees, disbursements, costs, interest thereon in accordance with the *CPA* section 38 plus HST, GST and/or PST and other applicable taxes or charges of Class Counsel as approved by the Court.
- (m) **Class Period** means the period from March 29, 2018 to November 25, 2020, inclusive.
- (n) **Collateral Agreement** means the Collateral Agreement entered into by the Parties dated August 30, 2023.
- (o) **Court** means the Supreme Court of British Columbia.
- (p) **CPA** means the *Class Proceedings Act*, RSBC 1996, c 50, as amended.
- (q) **Defendants** means the Northern Dynasty Defendants and the Underwriters.
- (r) **Distribution Protocol** means the distribution plan to be presented to the Court for approval in due course stipulating the proposed distribution of the Net Settlement Amount in the form approved by the Court.
- (s) **Effective Date** means the first date on which the Second Order has become a final order.

- (t) **Eligible Securities** means Northern Dynasty securities, the acquisition of which makes a person a Class Member or, in the case of an Opt Out Party, Northern Dynasty securities, the acquisition of which would have made the person a Class Member if he, she or it had not excluded himself, herself or itself from the Class in accordance with the terms of the First Order and the First Notice.
- (u) **Escrow Account** means an interest-bearing trust account at a Canadian Schedule 1 bank in Ontario initially under the control of Class Counsel, until such time as it shall be transferred to the Administrator.
- (v) **Escrow Settlement Funds** means the Settlement Amount plus any interest accruing thereon in the Escrow Account.
- (w) **Excluded Persons** means Northern Dynasty and the Underwriters and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns, as well as Thiessen and Collier, their immediate family members, and any entities in which they have a controlling interest.
- (x) **First Notice** means the short-form and long-form notices substantially in the forms attached as **Schedules “E” and “F”** or as otherwise fixed by the Court.
- (y) **First Order** means the Order substantially in the form attached as **Schedule “A”** hereto:
- (i) certifying the Canadian Action as a class proceeding for settlement purposes only;
 - (ii) appointing the Administrator;

- (iii) approving the Plan of Notice in respect of the First Notice;
 - (iv) approving the form of First Notice;
 - (v) approving the Claim Form and the procedure for filing claims; and
 - (vi) prescribing the opt out procedures to be administered by the Administrator.
- (z) **Implementation Date** means the first date on which both the Second Order and the Third Order have become final orders.
- (aa) **KND** means KND Complex Litigation.
- (bb) **Net Settlement Amount** means the amount available in the Escrow Account for distribution pursuant to the Distribution Protocol after payment of all Class Counsel Fees and Administration Expenses and other amounts contemplated by sections 1.16(a) to **Error! Reference source not found.**
- (cc) **Northern Dynasty** means Northern Dynasty Minerals Ltd.
- (dd) **Northern Dynasty Defendants** means Northern Dynasty, Ronald W. Thiessen (“Thiessen”), and Thomas C. Collier (“Collier”).
- (ee) **Notice** means the First Notice and the Second Notice.
- (ff) **Opt Out Party** means a person who would otherwise be a Class Member but who opts out of the Canadian Action pursuant to the Court approved opt out process.
- (gg) **Opt Out Threshold** means the number of Eligible Securities held by Opt Out Parties confidentially agreed upon by the Parties in the Collateral Agreement as giving rise to the Defendants’ right to terminate the Agreement pursuant to section 1.51.

- (hh) **Parties** means the Plaintiffs and Defendants.
- (ii) **Plaintiffs** means Firas Haddad and Walter Woo.
- (jj) **Plan of Notice** means the plan for disseminating Notice to the Class substantially in the form attached as **Schedule “D”** hereto or as fixed by the Court.
- (kk) **Released Claims** mean any and all manner of claims, demands, actions, suits, causes of action, whether class, individual, representative or otherwise in nature, whether personal or subrogated, damages whenever incurred, damages of any kind including compensatory, statutory, punitive or other damages, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties, and lawyers’ fees, known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity that Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, relating in any way to any conduct occurring anywhere, from the beginning of time to the date hereof relating to any conduct alleged (or which could have been alleged) in the Canadian Action, including, without limitation, any claims which arise out of or are based on or relate in any way to the purchase or acquisition of Northern Dynasty securities during the Class Period, or any such claims which have been asserted, would have been asserted, or could have been asserted, directly or indirectly, whether in Canada or elsewhere, as a result of or in connection with any alleged unjust enrichment or misrepresentations in breach of the *BCSA*, the *BCBCA*, or at common law.

- (ll) **Releasees** mean, jointly and severally, individually and collectively, the Defendants and all of their respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators, trustees and assigns of each of the foregoing.
- (mm) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Class and Class Members on behalf of themselves and any person claiming by or through them as a parent, subsidiary, affiliate, predecessor, successor, shareholder, partner, director, owner of any kind, agent, employee, contractor, attorney, heir, executor, trustee, administrator, insurer, devisee, assignee or representative of any kind.
- (nn) **Second Notice** means the short-form and long-form notices substantially in the forms attached as **Schedules “G”** and **“H”** or as fixed by the Court.
- (oo) **Second Order** means the Order substantially in the form attached as **Schedule “B”**:
- (i) approving this Settlement;
 - (ii) ordering the releases and discharges provided for herein;
 - (iii) dismissing the Canadian Action as against the Defendants without costs and with prejudice on the Effective Date.

- (pp) **Settlement** means the settlement of the Canadian Action on the terms provided for in this Agreement.
- (qq) **Settlement Amount** means two million one hundred twenty-five thousand dollars (USD\$2,125,000.00), inclusive of Administration Expenses, Class Counsel Fees, and any other costs or expenses otherwise related to the Canadian Action.
- (rr) **Siskinds** means Siskinds LLP.
- (ss) **Third Order** means the Order substantially in the form attached as **Schedule “C”**:
- (i) approving the Plan of Notice in respect of the Second Notice;
 - (ii) approving the form of the Second Notice; and
 - (iii) approving the Distribution Protocol.
- (tt) **Underwriters** means Cantor Fitzgerald Canada Corporation (“Cantor”), Canaccord Genuity Corp. (“Canaccord”), BMO Nesbitt Burns Inc. (“BMO NBI”), Paradigm Capital Inc. (“Paradigm”), TD Securities Inc. (“TD”), and Velocity Trade Capital (“Velocity”).

SETTLEMENT BENEFITS

Payment of Settlement Amount

- 1.2 Within 30 days of the execution of this Agreement, the Northern Dynasty Defendants shall pay or cause their insurers to pay to Class Counsel, in trust, the Settlement Amount in full and final settlement of the claims against the Defendants or proposed to be made against the Defendants in the Canadian Action.

Settlement Amount to be Held in Trust

- 1.3 Prior to the Effective Date, Class Counsel shall maintain an Escrow Account to hold the Settlement Amount in trust for the benefit of the Class.
- 1.4 Class Counsel may pay Administration Expenses up to \$50,000 (“Non-Refundable Amount”) when they are incurred from the Escrow Settlement Funds while in control of the Escrow Amount.
- 1.5 Within ten (10) days of the Effective Date, Class Counsel shall transfer control of the Escrow Account to the Administrator, but before doing so Class Counsel may deduct and retain from the Escrow Settlement Funds the Class Counsel Fees approved by the Court.
- 1.6 Upon the transfer of the Escrow Account to the Administrator, the Administrator shall maintain the Escrow Settlement Funds in the Escrow Account under the control of the Administrator and hold the Escrow Settlement Funds in trust as provided for in this Agreement.
- 1.7 Class Counsel shall account to the Administrator for all payments made from the Escrow Account prior to the transfer described in section 1.5. In the event this Agreement is terminated, Class Counsel or the Administrator, whichever then has control of the Escrow Account, shall deliver an accounting to the Parties no later than ten (10) days after the termination, and shall return the Settlement Amount to the Defendants within 20 days of the termination less any Non-Refundable Amount paid out of the Escrow Account in accordance with this Agreement.
- 1.8 Neither Class Counsel nor the Administrator shall pay out any of the Escrow Settlement Funds except in accordance with this Agreement.

- 1.9 Any dispute concerning the entitlement to, or quantum of expenses incurred in the publication and dissemination of the First Notice or Second Notice, or Administration Expenses paid by Class Counsel or the Administrator, shall be dealt with by an application to the Court on notice to the Parties.
- 1.10 The Settlement Amount shall be inclusive of interest, taxes, any honorarium, and Class Counsel Fees.
- 1.11 The Settlement Amount shall be paid in full and final satisfaction of the Released Claims against the Releasees.

Taxes on Interest

- 1.12 Except as expressly provided herein, all interest earned on the Settlement Amount shall accrue to the benefit of the Class and shall become and remain part of the Settlement Amount in the Escrow Account.
- 1.13 Subject to section 1.14, all taxes payable on any interest which accrues on or otherwise in relation to the Escrow Settlement Funds shall be the responsibility of the Plaintiffs and the Class. Class Counsel or the Administrator, as may later be appropriate, shall be solely responsible to fulfil all tax reporting and payment requirements arising from the Escrow Settlement Funds, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Escrow Account.
- 1.14 The Defendants shall have no responsibility related to the Escrow Account, other than as expressly set out herein, including but not limited to, making any filings relating to the Escrow Account, paying tax on any income earned by the Settlement Amount, or paying any taxes on the monies in the Escrow Account, unless this Agreement is terminated, in

which case any interest earned on the Settlement Amount shall be paid to the Defendants who, in such case, shall be responsible for the payment of any taxes on such interest not previously paid by Class Counsel or the Administrator.

NO REVERSION

- 1.15 Unless this Agreement is terminated as provided herein, the Defendants shall not be entitled to the repayment of any portion of the Settlement Amount and then only to the extent of and in accordance with the terms provided herein.

DISTRIBUTION OF THE SETTLEMENT AMOUNT

- 1.16 On or after the Implementation Date, the Administrator shall distribute the Settlement Amount in accordance with the following priorities:
- (a) to pay Class Counsel Fees as awarded by the Court (unless the Class Counsel Fees have already been paid to Class Counsel in accordance with section 1.5);
 - (b) to pay any honorarium to the Plaintiffs as the Court may decide to award;
 - (c) to pay all of the costs and expenses reasonably and actually incurred in connection with the provision of Notice;
 - (d) to pay all of the remaining Administration Expenses. For greater certainty, the Defendants and Class are excluded from eligibility for any payment of costs and expenses under this subsection;
 - (e) to pay a *pro rata* share of the balance of the Settlement Amount to each Authorized Claimant in proportion to the Authorized Claimant's claim as recognized in accordance with the Distribution Protocol; and

(f) to the Law Foundation of British Columbia if there shall remain thereafter Escrow Settlement Funds and, in the opinion of the Administrator, it is not feasible to reallocate the remaining Escrow Settlement Funds among the Authorized Claimants in an equitable and economic fashion in accordance with the Distribution Protocol.

1.17 Class Counsel shall propose for approval by the Court a Distribution Protocol. The approval of the Distribution Protocol may be considered separately from the approval of the Settlement and is not a condition of the approval of the Settlement itself.

RELEASES

1.18 As of the Effective Date, and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Agreement, the Releasors forever and absolutely release the Releasees from the Released Claims.

1.19 As of the Effective Date, the Releasors and Class Counsel, only to the extent of compliance with any Rules of Professional Conduct which may apply, shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto.

1.20 The Releasors acknowledge that they may subsequently discover facts in addition to, or different from those they now know, but nonetheless agree that section 1.19 applies regardless of the subsequent discovery of facts different from those they are aware of on the Effective Date. By means of the Settlement, the Releasors waive any right they may

have under the law, common law, civil law, in equity or otherwise, to this waiver of their own volition, with full knowledge of its consequences and that this waiver was negotiated and constitutes a key element of the Settlement.

- 1.21 Upon the Effective Date, each Class Member shall be deemed to irrevocably consent to the dismissal, without costs, with prejudice, and without reservation, of the Action.

EFFECT OF SETTLEMENT

No Admissions or Concessions

- 1.22 This Agreement, whether or not it is terminated, anything contained in it, any and all negotiations, discussions, and communications associated with this Agreement, shall not be deemed, construed or interpreted to be:

- (a) an admission or concession by the Defendants of any fact, fault, omission, wrongdoing or liability, or of the truth of any of the claims or allegations made against the Defendants in the Canadian Action or that could have been made in the Canadian Action against the Defendants; or
- (b) an admission or concession by the Plaintiffs, their counsel or the Class of any weakness in the claims of the Plaintiffs and the Class or that the consideration to be given hereunder represents the amount that could or would have been recovered from the Defendants after trial of the Canadian Action.

Agreement Not Evidence nor Presumption

- 1.23 This Agreement, whether or not it is terminated, anything contained in it, any and all negotiations, documents, discussions and proceedings associated with this Agreement, and any action taken to implement this Agreement, shall not be offered or received in the

Canadian Action should this Agreement be terminated and the Canadian Action continues, or any pending or future civil, criminal, quasi-criminal, administrative action or disciplinary investigation or proceeding:

- (a) of the validity of any of the claims that have been or could have been asserted in the Canadian Action by the Plaintiffs against the Defendants, or the deficiency of any defence that has been or could have been or could be asserted in the Canadian Action;
- (b) of wrongdoing, fault, neglect or liability by the Defendants; or
- (c) against the Plaintiffs, their counsel or the Class, as evidence, or a presumption, of a concession or admission:
 - (i) of any weakness in the claims of the Plaintiffs and the Class; or
 - (ii) that the consideration to be given hereunder represents the amount that could or would have been recovered from the Defendants after trial of the Canadian Action.

1.24 Notwithstanding section 1.23, this Agreement may be referred to or offered as evidence in order to obtain the orders or directions from the Court contemplated by this Agreement, in a proceeding to approve or enforce any term of, or dispute under, this Agreement, to defend against the assertion of released claims, or as otherwise required by law.

REQUIRED STEPS

Reasonable Efforts

1.25 The Parties shall take all reasonable steps to effectuate the Settlement and to secure the prompt, complete and final dismissal with prejudice of the Canadian Action on a without

costs basis as against the Defendants, including cooperating in the Plaintiffs' efforts to obtain the approval and orders required from the Court regarding the approval or implementation of the Settlement.

Canadian Action in Abeyance

1.26 Until the Effective Date or this Agreement is terminated in accordance with its terms, whichever occurs first, the Plaintiffs agree to hold in abeyance all other steps in the Canadian Action as they relate to the Defendants, other than the Approval Application contemplated by this Agreement, the consent orders to amend claims (to consolidate the *Woo* action) and discontinue the *Woo* action with prejudice, and dismiss the claims against the Underwriters, and such other matters required to implement the terms of this Agreement.

APPROVAL, NOTICE AND OPT-OUT PROCESS

First Order and First Notice

1.27 As soon as practicable after this Agreement is executed, the Plaintiffs shall bring an application for the approval of the First Order. The Defendants will consent to the issuance of the First Order.

1.28 The Parties agree that the certification of the Canadian Action as a class proceeding is for the sole purpose of effecting the Settlement. In the event that this Agreement is terminated as provided herein, any certification order binding the Defendants shall be vacated or set aside on consent as set out herein and shall be without prejudice to any position that either of the Parties may later take on any issue in the Canadian Action including in a subsequent certification application. In particular, the fact of the Defendants' consent to certification

for settlement purposes shall not be deemed to be an admission that the Plaintiffs have met any of the requisite criteria for certification of the Canadian Action as a class proceeding.

- 1.29 Following entry of the First Order, the Administrator shall cause the First Notice to be published and distributed in accordance with the Plan of Notice and the direction of the Court. The costs of publishing and distributing the First Notice shall be paid from the Escrow Settlement Funds as and when incurred.
- 1.30 The Administrator shall administer the opt out procedures prescribed by the First Order. No later than seven (7) calendar days after any deadline established by the Court for the delivery of opt out requests, the Administrator shall report to Class Counsel and counsel for the Defendants on the requests made to opt out of the Canadian Action.
- 1.31 Class Members who wish to file with the Court an objection or comment on the Settlement, the Distribution Protocol or the request for approval of Class Counsel Fees shall deliver to Class Counsel a written statement in accordance with the terms of, and by the deadline set out in, the First Order.
- 1.32 The Plaintiffs represent and warrant that they are not aware of any Class Member who has expressed an intention to opt out of the Settlement or of the Class and that they will not encourage any Class Member to do so.

Approval Application and Second Notice

- 1.33 The Plaintiffs will thereafter bring the Approval Application before the Court in accordance with the Court's directions. The Defendants will consent to the issuance of the Second Order.

- 1.34 At the Approval Application, Class Counsel shall propose for approval by the Court the Distribution Protocol or such other plan for distributing the Net Settlement Amount to the Class as Class Counsel may advise. The Distribution Protocol is the responsibility of Class Counsel, and the Defendants have no involvement in its design. Accordingly, the approval of the Distribution Protocol shall be considered separately from the approval of the Settlement Agreement and is not a condition of the approval of the Settlement Agreement itself and the dismissal of the Canadian Action as against the Defendants without costs and with prejudice in accordance with the Second Order.
- 1.35 The Defendants will take no position or make any submission to the Court concerning the Distribution Protocol, except as requested or required by the Court.
- 1.36 The Defendants will not oppose the issuance of the Third Order.
- 1.37 The Plaintiffs may make any amendments to the Distribution Protocol, the Third Order, the Second Notice or the Plan of Notice as it relates to Second Notice requested or directed by the Court.
- 1.38 Following the Implementation Date, the Administrator shall cause the Second Notice to be published and disseminated in accordance with the Plan of Notice as approved by the Court. The costs of publishing the Second Notice shall be paid from the Escrow Settlement Funds as and when incurred.

OTHER APPLICATIONS**Application for Approval of Class Counsel Fees**

- 1.39 Immediately following or in parallel with the Approval Application, Class Counsel may seek the approval of Class Counsel Fees to be paid as a first charge on the Settlement Amount.
- 1.40 The Defendants acknowledge that they are not parties to the application concerning the approval of Class Counsel Fees, that they will have no involvement in the approval process to determine the amount of Class Counsel Fees, and that they will not take any position or make any submissions to the Court concerning Class Counsel Fees, except as requested and required by the Court.
- 1.41 The procedure for and the allowance or disallowance by the Court of any requests for Class Counsel Fees to be paid out of the Settlement Amount are not part of the Settlement provided for herein, except as expressly provided in section 1.16, and are to be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement provided for herein. For clarity, approval of the Settlement is not dependent on approval of any Class Counsel Fees.
- 1.42 Any order or proceeding relating to Class Counsel Fees, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Agreement or affect or delay the finality of the Second Order and the Settlement of this Canadian Action provided herein.

Application for Approval of Honorarium

- 1.43 Immediately following or in parallel with the Approval Application, Class Counsel may seek orders from the Court relating to the payment of an honorarium to the Plaintiffs.
- 1.44 The Defendants acknowledge that they are not parties to any application concerning the payment of an honorarium to the Plaintiffs, they will have no involvement in any such application, and they will not take any position or make any submissions to the Court concerning any such application, except as requested and required by a Court.
- 1.45 Any order or proceeding relating to payment of an honorarium to the Plaintiffs, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Agreement or affect or delay the finality of the Second Order and the Settlement of this Canadian Action provided herein.

ADMINISTRATION**Appointment of the Administrator**

- 1.46 By order of the Court, the Administrator will be appointed to serve until such time as the Escrow Settlement Funds are distributed in accordance with this Agreement and the Distribution Protocol, on the terms and conditions and with the powers, rights, duties and responsibilities set out in this Agreement and in the Distribution Protocol.

Information and Assistance from the Defendants

- 1.47 The Defendants shall, forthwith upon entry of the First Order, make reasonable efforts to deliver or cause to be delivered to the Administrator an electronic list of all persons who acquired Eligible Securities, to the extent available, along with email addresses or other

contact information for those persons as may be available to facilitate the delivery of notice to those persons.

- 1.48 The Administrator may use the information obtained under section 1.47 for the purpose of delivering the First Notice and Second Notice and for the purposes of administering and implementing this Agreement, the Plan of Notice and the Distribution Protocol, but the Administrator shall otherwise keep confidential the information obtained under section 1.47.
- 1.49 Any information obtained or created in the administration of this Agreement is confidential and, except as required by law, shall be used and disclosed only for the purpose of distributing notices and the administration of this Agreement and the Distribution Protocol.

TERMINATION

Automatic Termination

- 1.50 This Agreement shall, without notice, be automatically terminated if:
- (a) on the return of the Approval Application, the Court issues an order that is not substantially in the form of the Second Order, and such order becomes a final order;
 - or
 - (b) the Second Order is reversed on appeal and the reversal becomes a final order.
- 1.51 The Defendants shall have the right to terminate this Agreement within 14 days, or on a later date on the consent of the Parties, on being notified by the Administrator that the number of Eligible Securities of Opt Out Parties exceeds the Opt Out Threshold. The Administrator shall notify the Defendants of the number of Eligible Securities of Opt Out Parties and such particulars provided by such Opt Out Parties in support of their request to

exclude themselves from the Class in accordance with the terms of the First Order and the First Notice.

- 1.52 The right to terminate this Agreement contemplated by section 1.51 may be exercised by any one or more of the Defendants notifying Class Counsel in writing of his, her or their intention to terminate the Agreement, which notification shall have the effect of terminating this Agreement for all Defendants.
- 1.53 The Opt Out Threshold shall be stated in the Collateral Agreement. The Opt Out Threshold shall be redacted in the Collateral Agreement that is filed with the Court or otherwise made available to the public. The Collateral Agreement, without redaction of the Opt Out Threshold, shall not be published and shall be kept confidential by the parties unless the Court orders its publication or disclosure.

Effect of Termination

- 1.54 In the event this Agreement is terminated in accordance with its terms:
- (a) the Parties will be restored to their respective positions prior to the execution of this Agreement;
 - (b) the Plaintiffs and Defendants will consent to an order vacating or setting aside any order certifying this Canadian Action as a class proceeding for the purposes of implementing this Agreement and certification of this Canadian Action for settlement purposes shall not be deemed to be an admission by the Defendants that the Canadian Action met any of the criteria for certification, and that no party to this Canadian Action and no other person may rely upon the fact of the prior consent to the certification order for any purpose whatsoever;

- (c) the Escrow Settlement Funds will be returned to the Defendants;
- (d) this Agreement will have no further force or effect and no effect on the rights of the Parties except as specifically provided for herein;
- (e) all statutes of limitation applicable to the claims asserted in the Canadian Action shall be deemed to have been tolled during the period beginning with the execution of this Agreement and ending with Order described in section 1.56;
- (f) any costs reasonably incurred by Class Counsel and paid out of the Escrow Account for the publication and dissemination of notices are non-recoverable from the Plaintiffs, the Class Members and Class Counsel, except by way of any costs order that may be made in favour of the Defendants in the Canadian Action; and
- (g) this Agreement and the First Order will not be introduced into evidence or otherwise referred to in any litigation against the Defendants.

1.55 Notwithstanding the provisions of section 1.54(d), if this Agreement is terminated, the provisions of this section 1.55, and sections 1.1, 1.7, 1.8, 1.9, 1.13, 1.14, 1.15, 1.22, 1.23, 1.24, and 1.56 to 1.76 shall survive termination and shall continue in full force and effect.

Steps Required on Termination

1.56 If this Agreement is terminated, the Defendants shall, within thirty (30) days after termination, apply to the Court, on notice to the Plaintiffs, for an order:

- (a) declaring this Agreement null and void and of no force or effect except for the provisions of those sections listed in section 1.55;
- (b) requesting an order setting aside, *nunc pro tunc*, all prior orders or judgments entered by the Court in accordance with the terms of this Agreement, including any

order certifying the Canadian Action as a class proceeding for the purposes of implementing this Agreement; and

- (c) authorizing the payment of the Escrow Settlement Funds, including accrued interest, to the Defendants.

1.57 Subject to section 1.58, the Plaintiffs shall consent to the orders sought in any application made by the Defendants under section 1.56.

Notice of Termination

1.58 If this Agreement is terminated, a notice of the termination will be given to the Class. Class Counsel will cause the notice of termination, in a form approved by the Court, to be published and disseminated as the Court directs.

Disputes Relating to Termination

1.59 If there is a dispute about the termination of this Agreement, the Parties agree that the Court shall determine the dispute on an application made by a Party on notice to the other Parties.

MISCELLANEOUS

Applications for Directions

1.60 The Parties may apply to the Court for directions in respect of any matter in relation to this Agreement.

1.61 All applications contemplated by this Agreement shall be on notice to the Parties.

Headings, etc.

1.62 In this Agreement:

- (a) the division into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation;
- (b) the terms “the Agreement”, “this Agreement”, “herein”, “hereto” and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of the Settlement Agreement; and
- (c) “person” means any legal entity including, but not limited to, individuals, corporations, sole proprietorships, general or limited partnerships, limited liability partnerships or limited liability companies.

Computation of Time

1.63 In the computation of time in this Agreement, except where a contrary intention appears:

- (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

Governing Law

1.64 The Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of British Columbia. The language of the Agreement is English.

1.65 The Parties agree that the Court shall retain exclusive and continuing jurisdiction to interpret and enforce the terms, conditions and obligations under this Agreement and the First Order, the Second Order and the Third Order.

Severability

1.66 Any provision hereof that is held to be inoperative, unenforceable or invalid in any jurisdiction shall be severable from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

Entire Agreement

1.67 This Agreement and the Collateral Agreement constitute the entire agreement among the Parties and supersede all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. The Parties will not be bound by any prior obligations, conditions or representations with respect to the subject matter of this Agreement and the Collateral Agreement, unless expressly incorporated herein. This Agreement may not be modified or amended except in writing and on consent of both Parties and any such modification or amendment after settlement approval must be approved by the Court.

Binding Effect

1.68 If the Settlement is approved by the Court and becomes final, this Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Class Members, the Defendants, Class Counsel, the Releasees and the Releasors or, any of them, and all of their respective heirs, executors, predecessors, successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the

Plaintiffs shall be binding upon all Releasers and each and every covenant and agreement made herein by the Defendants shall be binding upon all of the Releasees.

1.69 For greater certainty, no Opt Out Party shall be bound by this Agreement.

Survival

1.70 The representations and warranties contained in this Agreement shall survive its execution and implementation.

Negotiated Agreement

1.71 This Agreement and the underlying settlement have been the subject of arm's length negotiations and discussions among the undersigned and counsel. Each of the Parties has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafters of this Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of the Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Agreement.

Recitals

1.72 The recitals to this Agreement are true, constitute material and integral parts hereof and are fully incorporated into, and form part of, this Agreement.

Acknowledgements

1.73 Each Party hereby affirms and acknowledges that:

- (a) its signatory has the authority to bind the Party for which it is signing with respect to the matters set forth herein and has reviewed this Agreement;

- (b) the terms of this Agreement and the effects thereof have been fully explained to him/her or it by his/her or its counsel; and
- (c) he/she or its representative fully understands each term of this Agreement and its effect.

Counterparts

1.74 This Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and an emailed .PDF signature shall be deemed an original signature for purposes of executing this Agreement.

Notice

1.75 Any notice, instruction, application for Court approval or application for directions or Court orders sought in connection with this Agreement or any other report or document to be given by any party to any other party shall be in writing and delivered by email to:

For the Plaintiffs:

Alex Dimson
Siskinds LLP
65 Queen Street West, Suite 1155
Toronto, ON M5H 2M5
Email: alex.dimson@siskinds.com

Sage Nematollahi
KND Complex Litigation
1186 Eglinton Avenue West
Toronto, ON M6C 2E3
Email: sn@knd.law

For the Northern Dynasty Defendants:


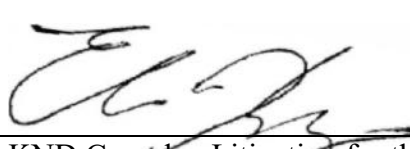
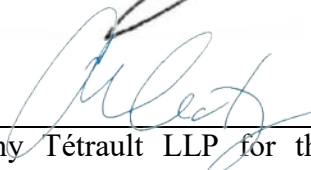
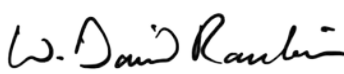
Alexandra Cocks
McCarthy Tétrault LLP
745 Thurlow Street, Suite 2400
Vancouver, BC V6E 0C5
Email: acocks@mccarthy.ca

For the Underwriters:

Mark Gelowitz
Osler, Hoskin & Harcourt LLP
100 King Street West
1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto, ON M5X 1B8
Email: mgelowitz@osler.com

Date of Execution

1.76 This Agreement is effective as of the date on the cover page.

<u>2023-09-05</u> Date	 Siskinds LLP for the Plaintiffs
<u>September 05, 2023</u> Date	 KND Complex Litigation for the Plaintiffs
<u>September 1, 2023</u> Date	 McCarthy Tétrault LLP for the Northern Dynasty Defendants
<u>September 8, 2023</u> Date	 Osler, Hoskin & Harcourt LLP for the Underwriters

THIS COURT ORDERS that

1. Except to the extent that they are modified by this Order, the definitions set out in the settlement agreement reached with the Defendants dated August 30, 2023 (“**Settlement Agreement**”) attached as **Appendix “1”** apply to and are incorporated into this Order.
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. This action is certified as a class proceeding as against the Defendants for the purpose of the settlement only, pursuant to the *Class Proceedings Act*, RSBC 1996, c 50, but subject to the terms of the Settlement Agreement.
4. The class certified for the purpose of settlement with the Defendants is defined as:

except for the **Excluded Persons** or **Opt Out Parties**, all persons and entities, wherever they may reside or be domiciled, who purchased or otherwise acquired securities of Northern Dynasty during the Class Period and held some or all of those securities as of August 22, 2020 or November 25, 2020.
5. Firas Haddad and Walter Woo are appointed as the Representative Plaintiffs for the Class.
6. Siskinds LLP and KND Complex Litigation are appointed Class Counsel.
7. The following issues are certified as common issues:
 - a) Did Northern Dynasty’s Class Period disclosures, or any of them, contain misrepresentation within the meaning of the *Securities Act*?; and
 - b) Did the disclosures released on August 22, 2020 and/or November 25, 2020 publicly correct the previously released alleged misrepresentations within the meaning of the *BCSA*?

8. The Plan of Notice, substantially in the form attached as **Appendix “2”**, is approved for the purpose of the publication and dissemination of the First Notice and Claim Form.
9. The form and content of the short-form First Notice, substantially in the form attached as **Appendix “3”**, is approved.
10. The form and content of the long-form First Notice, substantially in the form attached as **Appendix “4”**, is approved.
11. The form and content of the Claim Form, substantially in the form attached as **Appendix “5”**, is approved.
12. ● is appointed as the Administrator of the Settlement Agreement.
13. In order to be entitled to participate in a distribution from the Net Settlement Amount, a Class Member must:
 - (a) submit a properly completed Claim Form to the Administrator, using the online claim portal established by the Administrator or by submitting a paper Claim Form by mail or courier to the Administrator, postmarked or received by the Administrator on or before 11:59pm Vancouver (Pacific) time on the date that is one hundred and eighty (180) calendar days after the date on which the First Notice is first published (“**Claims Bar Deadline**”);
 - (b) submit, together with the Claim Form, any supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Administrator; and

(c) otherwise comply with the instructions set out in the Claim Form.

14. Any Class Member who wishes to validly exclude him, her or itself from the Action must do so by submitting to the Administrator by mail or courier a written opt out election (“**Opt Out Election**”) to be postmarked on or before 11:59pm Vancouver (Pacific) time on the date that is 60 calendar days after the date on which the First Notice is first published whether in print or online (“**Opt Out Deadline**”).

15. An Opt Out Election:

- (a) must contain a statement of intention to opt out of the Action by the Class Member or a person authorized to bind the Class Member;
- (b) for Class Members who acquired Eligible Securities during the period from and including ● to and including ●, must provide a listing of all transactions during that period showing, for each transaction, the type of transaction (purchase or sale), the number of securities and the date of the transaction, and state the number of Eligible Securities held at the close of trading on the TSX Venture Exchange on ●;
- (c) must be supported by documents to evidence such transactions, in the form of trade confirmations, brokerage statements or other transaction records allowing the Administrator to verify the transactions;
- (d) must contain the name, address, telephone number and email address of the Class Member; and
- (e) may, at the option of the Class Member, contain a statement of the Class Member’s reason for opting out.

16. Any Class Member who delivers a valid Opt Out Election, in accordance with paragraphs 14 and 15 of this Order, may revoke that Opt Out Election by submitting to the Administrator by mail or courier a written statement that he, she or it wishes to revoke the Opt Out Election, which must be postmarked on or before 11:59pm Vancouver (Pacific) time on the date that is five (5) calendar days after the Opt Out Deadline (“**Opt Out Revocation Deadline**”).

17. An Opt Out Election that is revoked in accordance with paragraph 16 of this Order shall be null and void and have no force or effect, and the Class Member who submitted the Opt Out Election shall not be considered an Opt Out Party.

18. The Administrator shall, immediately upon receipt by it, provide to Class Counsel and counsel to the Defendants copies of any Opt Out Elections postmarked on or before the Opt Out Deadline.

19. At any time up to the Opt Out Revocation Deadline, Class Counsel may contact any Class Member who has submitted an Opt Out Election to confirm that they wish to exclude him, her or itself from the Action, and to explain to him, her or it the significance of the Opt Out Election.

20. No later than the date that is seven (7) calendar days after the Opt Out Deadline, the Administrator shall:

- (a) report to the lawyers for the Parties the number of Eligible Securities of each Opt Out Party and the total number of Eligible Securities of all Opt Out Parties; and
- (b) provide to the lawyers for the Parties copies of the Opt Out Elections submitted by Opt Out Parties.

21. Any person who would otherwise be a Class Member who validly excludes him, her or itself from the Action, in accordance with paragraphs 14 and 15 of this Order, and who has not

revoked his, her or its Opt Out Election in accordance with paragraph 16 of this Order, is not bound by the Settlement Agreement and shall no longer participate or have the opportunity in the future to participate in the Action and the Settlement.

22. Any person who is a member of the Class and who does not validly exclude him, her or itself from the Action in accordance with paragraphs 14 and 15 of this Order, or who revokes an Opt Out Election in accordance with paragraph 16 of this Order, will be bound by the Settlement Agreement, including the releases contained therein, if and when it becomes effective, and may not exclude him, her or itself from the Action in the future, whether or not a claim to participate in the distribution of the Settlement Amount is submitted by that person.

23. Class Members who wish to file with the Court an objection or comment on the Settlement, the Distribution Protocol or the request for approval of Class Counsel Fees shall deliver to Class Counsel by mail, courier or email a written statement, to be postmarked or received by Class Counsel by no later than 11:59pm Vancouver (Pacific) time on the date that is 14 calendar days prior to the Approval Application. Class Counsel shall, forthwith upon receipt by them, provide a copy of any such objection or comment to counsel for the Defendants.

24. The Defendants shall use reasonable efforts to forthwith deliver or cause to be delivered to the Administrator the information required under section 1.47 of the Settlement Agreement.

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

Signature of lawyer for the Plaintiffs

Signature of lawyer for the Northern Dynasty
Defendants

Signature of lawyer for the Underwriters

By the Court

Registrar

In the Supreme Court of British Columbia

Between

FIRRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

ORDER MADE AFTER APPLICATION

<p>Siskinds LLP Barristers & Solicitors 65 Queen Street West, Suite 1155 Toronto ON M5H 2M5</p> <p>Courier address: ●</p>	<p>KND Complex Litigation 1186 Eglinton Ave West Toronto ON M6C 2E3</p> <p>Courier address: ●</p>
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SCHEDULE "B"
SECOND ORDER

No. VLC-S-S-2012846
Vancouver Registry

In the Supreme Court of British Columbia

Between

FIRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

ORDER MADE AFTER APPLICATION FOR SETTLEMENT APPROVAL

BEFORE THE HONOURABLE JUSTICE ●)
) [Date]
)

ON THE APPLICATION of the plaintiffs coming on for hearing at the Courthouse, [address], on ● and on hearing [counsel appearing]; and on reading the materials filed, including the Settlement Agreement; and on the consent of the Defendants;

THIS COURT ORDERS that

1. Except to the extent that they are modified by this Order, the definitions set out in the settlement agreement reached with the Defendants dated August 30, 2023 (“**Settlement Agreement**”) attached as **Appendix “1”** apply to and are incorporated into this Order.
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. The Settlement Agreement is fair, reasonable and in the best interests of the Class.
4. The Settlement Agreement is approved pursuant to section 35 of the *Class Proceedings Act*, RSBC 1996, c 50 as amended and shall be implemented in accordance with its terms.
5. The Settlement Agreement is incorporated by reference to and forms part of this Order and is binding upon the Plaintiffs and Class Members.
6. The Settlement Agreement shall be implemented in accordance with its terms.
7. The Plaintiffs and Defendants may, on notice to the Court but without the need for further order of the Court, agree to reasonable extensions of time to carry out any provisions of the Settlement Agreement.
8. Except as expressly provided for in the Settlement Agreement, the Defendants and the other Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement.
9. This Order, including the Settlement Agreement, is binding upon each member of the Class including those Persons who are minors or mentally incapable.

10. Upon the Effective Date, the Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee, or any other person who may claim contribution or indemnity or other claims over relief from any Releasee, in respect of any Released Claim or any matter related thereto.

11. For the purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Defendants and the other Releasees acknowledge the jurisdiction of this Court solely for the purpose of implementing, administering and enforcing the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement.

12. Upon the Effective Date, the Action shall be dismissed against all Defendants with prejudice and without costs.

13. This Order shall be declared null and void on a subsequent application made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

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

Signature of lawyer for the Plaintiffs

Signature of lawyer for the Northern Dynasty
Defendants

Signature of lawyer for the Underwriters

By the Court

Registrar

In the Supreme Court of British Columbia

Between

FIRRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANNACORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., and VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

ORDER MADE AFTER APPLICATION

<p>Siskinds LLP Barristers & Solicitors 65 Queen Street West, Suite 1155 Toronto ON M5H 2M5</p> <p>Courier address: ●</p>	<p>KND Complex Litigation 1186 Eglinton Ave West Toronto ON M6C 2E3</p> <p>Courier address: ●</p>
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THIS COURT ORDERS that

1. Except to the extent that they are modified by this Order, the definitions set out in the settlement agreement reached with the Defendants, dated August 30, 2023 (“**Settlement Agreement**”) attached as **Appendix “1”** apply to and are incorporated into this Order.
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. The Distribution Protocol, substantially in the form attached as **Appendix “2”**, is fair and appropriate.
4. The Distribution Protocol is approved and the Settlement Amount shall be distributed in accordance with the terms of the Settlement Agreement, following payment of Class Counsel Fees approved by this Court, the Administration Expenses and any other expenses approved by this Court.
5. The Plan of Notice, substantially in the form attached as **Appendix “3”**, is approved for the purpose of the publication and dissemination of the Second Notice.
6. The form and content of the short-form Second Notice, substantially in the form attached as **Appendix “4”**, is approved.
7. The form and content of the long-form Second Notice, substantially in the form attached as **Appendix “5”**, is approved.

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

Signature of lawyer for the Plaintiffs

Signature of lawyer for the Northern Dynasty
Defendants

Signature of lawyer for the Underwriters

By the Court

Registrar

In the Supreme Court of British Columbia

Between

FIRRAS HADDAD and WALTER WOO

Plaintiffs

and

NORTHERN DYNASTY MINERALS LTD., RONALD W. THIESSEN, THOMAS C. COLLIER, CANTOR FITZGERALD CANADA CORPORATION, CANACCORD GENUITY CORP., BMO NESBITT BURNS INC., PARADIGM CAPITAL INC., TD SECURITIES INC., AND VELOCITY TRADE CAPITAL

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

ORDER MADE AFTER APPLICATION

<p>Siskinds LLP Barristers & Solicitors 65 Queen Street West, Suite 1155 Toronto ON M5H 2M5</p> <p>Courier address: ●</p>	<p>KND Complex Litigation 1186 Eglinton Ave West Toronto ON M6C 2E3</p> <p>Courier address: ●</p>
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SCHEDULE “D”
PLAN OF NOTICE

Capitalized terms used in this Plan of Notice have the meanings ascribed to them in the Settlement Agreement dated August 30, 2023.

Subject to such alternative or additional direction by the Court, notices provided for as contemplated in the Settlement Agreement will be disseminated as follows:

PART 1 – FIRST NOTICE

A. Short-Form

As soon as possible following the entry of the First Order, the short-form First Notice will be disseminated as follows:

Newspaper Publication

Print publication of the short-form First Notice will be at least a 1/8 page in size. Print publication will be made in Canada in the English language in the business section of the national weekend edition of *The Globe and Mail* and in the French language in the business section of *La Presse*.

News Release

The English and French language versions of the short-form First Notice will be issued (with necessary formatting modifications) across Canada Newswire, a major business newswire in Canada.

ISS Publication

The English and French language versions of the short-form First Notice will be sent to Institutional Shareholder Services Inc. (ISS) for publication through their platform.

Individual Notice

The Administrator will send a package to the Canadian brokerage firms in the Administrator's proprietary databases. The package will consist of the short-form First Notice and a cover letter to the brokerage firms in the form customarily used by the Administrator. The Administrator shall request that the brokerage firms either send a copy of the short-form First Notice to all individuals and entities identified by the brokerage firms as being Class Members, or to send the names and contact information of all known Class Members to the Administrator (who shall subsequently send the short-form First Notice to the individuals and entities so identified). The notice shall be distributed by email where Class Member email addresses are available.

The Administrator shall, if requested, reimburse the brokerage firms out of the Settlement Amount solely for their reasonable out-of-pocket expenses incurred in distributing notice to the Class Members. The reimbursement shall be at reasonable and customary rates per unit as determined

by the Administrator. Each brokerage firm must submit its account by a date to be determined by the Administrator to be entitled to reimbursement.

The Administrator shall send the short-form First Notice to the individuals and entities on the electronic list of persons who acquired Eligible Securities delivered by the Defendants to the Administrator as required by the Settlement Agreement. The notice shall be distributed by email where Class Member email addresses are available.

B. Long-Form

Publication by Class Counsel

As soon as possible following the entry of the First Order, the long-form First Notice will be disseminated as follows:

1. Electronic publication of the long-form First Notice will occur in both the English and French languages on the Northern Dynasty class action website of Class Counsel at [Northern Dynasty Minerals Ltd. | Siskinds Law Firm](#) and [Northern Dynasty Minerals Ltd. | KND Complex Litigation](#) (“**Class Counsel Website**”).
2. The long-form First Notice will be mailed, electronically or physically, as may be required, to those persons and entities who have previously contacted Class Counsel for the purposes of receiving notice of developments in the Action.

Class Counsel shall make a toll-free number and email address available to the public that will enable Class Members to contact Class Counsel in order that they may, amongst other things:

1. obtain more information about the Settlement, how to object to the Settlement, the claims process and the opt out process; and/or
2. request that a copy of the Settlement Agreement, the long-form First Notice and the Claim Form be electronically or physically mailed to them.

Class Counsel will post on the Class Counsel Website:

1. the Settlement Agreement;
2. the long-form First Notice;
3. a short summary of the rationale for the Settlement (no less than 30 days prior to the application to approve the Settlement);
4. the affidavit(s) in support of the application for approval of the Settlement (no less than 30 days prior to the application to approve the Settlement); and
5. the affidavit(s) in support of the application for approval of Class Counsel Fees and disbursements (no less than 30 days prior to the application to approve Class Counsel Fees and disbursements).

PART 2 – SECOND NOTICE

A. Short-Form

As soon as possible following the Implementation Date, the short-form Second Notice will be disseminated as follows:

News Release

The English and French language versions of the short-form Second Notice will be issued (with necessary formatting modifications) across Canada Newswire, a major business newswire in Canada.

ISS Publication

The English and French language versions of the short-form Second Notice will be sent to Institutional Shareholder Services Inc. (ISS) for publication through their platform.

B. Long-Form

As soon as possible following the Implementation Date, the long-form Second Notice will be disseminated as follows:

1. Electronic publication of the long-form Second Notice will occur in both the English and French languages on the Class Counsel Website; and
2. Class Counsel shall mail or email the long-form Second Notice to those persons that have contacted Class Counsel as of the publication date regarding this litigation and have provided Class Counsel with their contact information.

Class Counsel shall make a toll-free number and email address available to the public that will enable Class Members to obtain more information about the settlement and to request that a copy of the long-form Second Notice be sent electronically or physically to them directly.

SCHEDULE “E”
FIRST NOTICE – SHORT FORM

NORTHERN DYNASTY MINERALS LTD. SECURITIES CLASS ACTION

Did you acquire securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020, inclusive, and hold some or all of those securities as of August 22, 2020 or November 25, 2020?

A settlement has been reached in a class action against Northern Dynasty Minerals Ltd. (“Northern Dynasty”), Ronald W. Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital. The class action alleges that there were misrepresentations in certain of Northern Dynasty’s public disclosures and in documents provided to investors.

The settlement provides for payments by the defendants in the class action and their insurers of the total amount of USD\$2,125,000 to resolve those claims. The settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault by Northern Dynasty or any of the other defendants, all of whom have denied, and continue to deny, the allegations against them.

The settlement must be approved by the Supreme Court of British Columbia. A settlement approval hearing has been set for [date], 2023. At the hearing, the Court will also address an application to approve Class Counsel’s fees, which will not exceed [number]% of the recovery plus reimbursement for expenses incurred in the litigation.

Class Members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

The Court has appointed [Administrator] as the Administrator of the settlement. To be eligible for compensation, Class Members must submit a completed Claim Form to the Administrator by no later than 11:59 pm Vancouver (Pacific) time on [date]. If the settlement is approved, and if you do not file a claim by this deadline, you may not be able to claim a portion of the settlement and your claim will be extinguished.

If you do not want to be part of this class action and be bound by the terms of the settlement, you must opt out by 11:59 Vancouver (Pacific) time on [date].

Class Members may also express their views about the proposed settlement to the Court. If you wish to express your views, you must do so in writing by [date].

For more information about the certification of the class action, who qualifies as a class member, the settlement, how to make a claim for compensation from the settlement, and your rights to opt out of the class and the settlement or object to the settlement, see the long-form notice available online at [website] or call toll free at [number].

SCHEDULE “F”
FIRST NOTICE – LONG FORM

NORTHERN DYNASTY MINERALS LTD. SECURITIES CLASS ACTION

NOTICES OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING

Please read this notice carefully. A proposed settlement may affect your legal rights. You may have to take prompt action.

This notice is directed to: All persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020, inclusive, and held some or all of those securities as of August 22, 2020 or November 25, 2020.

(collectively, “Class” or “Class Members”)

IMPORTANT DEADLINES

Claims Bar Deadline (to file a claim for compensation): 11:59 pm Vancouver (Pacific) time on [date]

Opt Out Deadline (to exclude yourself from the class action and settlement): 11:59 pm Vancouver (Pacific) time on [date]

Objection Deadline (to object or to comment on the settlement or Class Counsel fees): 11:59 pm Vancouver (Pacific) time on [date]

Claim Forms may not be accepted after the Claims Bar Deadline. As a result, it is necessary that you act without delay.

PURPOSE OF THIS NOTICE

The class action brought on behalf of Class Members has been settled, subject to court approval. It has also been certified for settlement purposes. This notice provides Class Members with information about certification, who qualifies as a Class Member, the right to opt out of the class action, the settlement, and their rights to participate in the court proceedings considering whether to approve the settlement.

The notice also provides Class Member with information about how to apply for compensation from the settlement. **Class Members who wish to do so must do so by 11:59 pm Vancouver (Pacific) time on [date].**

THE ACTION AND CLASS CERTIFICATION

In 2020, an action (as amended) (“Action”) was commenced in the Supreme Court of British Columbia (“Court”) against Northern Dynasty Minerals Ltd. (“Northern Dynasty”), Ronald W.

Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital (collectively, the “Defendants”)

The Action alleges that the Defendants made misrepresentations regarding the permit application process for Northern Dynasty’s proposed Pebble Project. The Action alleges that the misrepresentations were corrected over two corrective disclosures: *first*, on August 24, 2020, when media outlets reported that due to the environmental impacts of the project the USACE was set to impose stringent compensatory mitigation requirements for the Pebble Project; *second*, on November 25, 2020, when the USACE issued an unfavourable Record of Decision denying the Pebble Project’s permit application. It is further alleged that following these disclosures Northern Dynasty’s share price declined significantly, causing damage to the Class Members.

On [date], the Court certified the class action for settlement purposes against the Defendants on behalf of the Class defined above. Excluded persons are Northern Dynasty and the Underwriters (as defined in the Settlement Agreement) and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns, as well as Thiessen and Collier, their immediate family members, and any entities in which they have a controlling interest.

THE SETTLEMENT

On [date] the Plaintiffs and Defendants executed a Settlement Agreement providing for the settlement of the Action (“**Settlement**”), which is subject to approval by the Court. The Settlement Agreement provides for the payment of USD\$2,125,000 (“**Settlement Amount**”) in consideration of the full and final settlement of the claims of Class Members. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses.

The Settlement provides that if it is approved by the Court, the claims of all Class Members asserted or which could have been asserted in the Action will be fully and finally released, and the Action will be dismissed. The Settlement is not an admission of liability, wrongdoing or fault on the part of the Defendants, all of whom have denied, and continue to deny, the allegations against them.

Class Members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

PARTICIPATING IN THE SETTLEMENT OR EXCLUDING YOURSELF (“OPTING OUT”) FROM THE CLASS ACTION AND SETTLEMENT

If you are a Class Member, you will be bound by the outcome of the Action, including the terms of the Settlement if approved, unless you opt out of the Action. Class Members who do not opt out will (i) be entitled to participate in the Settlement; (ii) be bound by the terms of the Settlement; and (iii) not be permitted to bring other legal proceedings in relation to the matters alleged in the Action against the Defendants, or any person released by the approved Settlement. Conversely, if you are a Class Member who opts out of the Action (an “Opt Out Party”), you will not be able to

make a claim to receive compensation from the Settlement Amount but will maintain the right to pursue your own claim against the Defendants relating to the matters alleged in the Action.

If you are a Class Member and wish to opt out, you must submit a written election to do so, together with required supporting documentation (“Opt Out Election”), to [Administrator] (“Administrator”).

To be a valid, the Opt Out Election: (a) must contain a statement of intention to opt out of the Action by you or a person authorized to bind you; (b) for Class Members who acquired Northern Dynasty securities during the period from and including [date] to and including [date], must provide a listing of all transactions during that period showing, for each transaction, the type of transaction (purchase or sale), the number of securities and the date of the transaction, and state the number of Northern Dynasty securities held at the close of trading on the TSX Venture Exchange on [date]; (d) must be supported by documents to evidence such transactions, in the form of trade confirmations, brokerage statements or other transaction records acceptable to the Administrator to verify the transactions; (e) must contain your name, address, telephone number and email address; and (f) may, at your option, contain a statement of your reason for opting out.

Your Opt Out Election must be postmarked no later than **11:59pm Vancouver (Pacific) time on [date] (“Opt Out Deadline”)**.

Opt Out Elections may be sent by mail or courier to: [Administrator contact details]

An Opt Out Election that does not contain all of the required information or is postmarked after the Opt Out Deadline will not be valid, which means that you will be bound by the outcome of the Action, including the Settlement, if it is approved.

You may revoke an Opt Out Election by delivering to the Administrator by mail or courier a written statement that you wish to revoke the Opt Out Election, which must be postmarked on or before 11:59pm Vancouver (Pacific) time on [date].

SETTLEMENT APPROVAL HEARING

The Settlement is conditional on approval by the Court. The Settlement will be approved if the Court determines that it is fair and reasonable and in the best interests of Class Members to approve it.

The Court will hear an application for approval of the Settlement on [date] at [address] before the Honourable [Justice ●].

RELEASE OF CLAIMS AND EFFECT ON OTHER PROCEEDINGS

If the Settlement Agreement is approved by the Court, the claims and allegations of Class Members which were asserted or which could have been asserted in the Action will be released (“Released Claims”), and the Action will be dismissed. Class Members will not be able to pursue any action in relation to the Released Claims regardless of whether or not they file a claim for compensation from the Settlement. If approved, the Settlement will therefore represent the only means of compensation available to Class Members in respect of the Released Claims.

APPROVAL OF CLASS COUNSEL FEES AND OTHER EXPENSES

In addition to seeking the Court's approval of the Settlement Agreement, Class Counsel will seek the Court's approval of legal fees not to exceed [number]% of the Settlement Amount, plus disbursements not exceeding CAD\$[number] and applicable taxes ("**Class Counsel Fees**"). This fee request is consistent with the retainer agreement entered into between Class Counsel and the Plaintiffs at the beginning of the litigation. As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation.

Class Counsel will also seek the Court's approval for the payment of an honoraria to the Plaintiffs not exceeding CAD\$[number] each. Class Counsel will be requesting that the honoraria be deducted directly from the Settlement Amount.

The approval of the Settlement is not contingent on the approval of the Class Counsel Fees requested or an honorarium to the Plaintiff. The Settlement may still be approved even if the requested Class Counsel Fees or the Plaintiff's honorarium are not approved.

The fees of the Administrator, together with any other costs relating to approval, notification, implementation and administration of the settlement ("**Administration Expenses**"), will also be paid from the Settlement Amount.

CLASS MEMBERS' ENTITLEMENT TO COMPENSATION

Class Members will be eligible for compensation pursuant to the Settlement if they submit a completed Claim Form, including any supporting documentation, with the Administrator, and their claim satisfies the criteria set out in the Distribution Protocol.

To be eligible for compensation under the Settlement, your Claim Form must be postmarked or received by the Administrator by **no later than 11:59pm Vancouver (Pacific) time on [date]** ("**Claims Bar Deadline**"). Only Class Members who have not opted out of the Action are permitted to recover from the Settlement.

If the Settlement Agreement is approved by the Court, the Settlement Amount, after deduction of Class Counsel Fees, Administration Expenses and any approved honorarium ("**Net Settlement Amount**") will be distributed to Class Members in accordance with the Distribution Protocol, subject to the Court's approval.

The proposed Distribution Protocol provides that in order to determine the individual entitlements of Class Members who make claims, the losses of each claimant will be calculated in accordance with a formula based on the statutory damages provisions contained in the securities legislation of British Columbia. Once the notional losses of all Class Members who have filed valid claims have been calculated, the Net Settlement Amount will be allocated to those Class Members in proportion to their percentage of the total notional losses calculated for all valid claims filed. Because the Net Settlement Amount will be distributed pro rata, it is not possible to estimate the individual recovery of any individual Class Member until all the claims have been received and reviewed.

The approval of the Settlement is not contingent on the approval of the Distribution Protocol. The Court may still approve the Settlement even if it does not approve the Distribution Protocol or approves amendments to the Distribution Protocol.

In the event any amounts remain undistributed 180 days after the distribution of the Net Settlement Amount (because of uncashed cheques or for other administrative reasons), those amounts will be distributed to eligible Class Members (if sufficient to warrant a further distribution) or distributed to the Law Foundation of British Columbia.

ADMINISTRATOR

The Court has appointed [Administrator] as the Administrator of the Settlement. The Administrator will, among other things: (i) receive and process the Claim Forms; (ii) determine Class Members' eligibility for and entitlement to compensation pursuant to the Distribution Protocol; (iii) communicate with Class Members regarding claims for compensation; and (iv) manage and distribute the Settlement Amount in accordance with the Settlement Agreement and the orders of the Court. The Administrator can be contacted at:

Telephone: [number]

Mailing Address: [address]

Website: [website]

FILING A CLAIM

All claims for compensation from the Settlement must be postmarked or received by no later than 11:59pm Vancouver (Pacific) time on [date].

The most efficient way to file a claim is to visit the Administrator's website at [website address]. **You are strongly encouraged to file your claim online through the website.** The website provides step by step instructions on how to file a claim. In order to verify claims, the Administrator will require supporting documentation, including brokerage statements or confirmations evidencing the claimed transactions. Accordingly, Class Members should visit the Administrator's site as soon as possible so that they have time to obtain the required documentation prior to the Claims Bar Deadline.

The Administrator will also accept Claim Forms filed by mail or courier. To obtain a paper copy of the Claim Form, Class Members must telephone the Administrator to have one sent by email or regular mail. Claim Forms sent by mail or courier should be sent to:

[Administrator]

[address]

CLASS MEMBERS' RIGHT TO PARTICIPATE IN THE APPLICATION FOR APPROVAL

Class Counsel has posted or will post the following material on its website [website] on or before the dates set out below:

1. The Settlement Agreement, including the proposed Distribution Protocol (posted prior to or at the time of publication of this notice);
2. A summary of the basis upon which Class Counsel recommends the Settlement and Distribution Protocol (by [date]);
3. The Plaintiffs' evidence in support of the approval of the Settlement and Distribution Protocol (by [date]);
4. Class Counsel's evidence in support of the request for approval of Class Counsel's fees and disbursements (by [date]).

Class Members who wish to comment on, or make an objection to, the approval of the Settlement Agreement, the Distribution Protocol or the Class Counsel fees requested shall deliver a written statement to Class Counsel by mail, courier or email, using the contact details listed under "Class Counsel"; below, to be postmarked or received by Class Counsel no later than 11:59 pm Vancouver (Pacific) time on [date]. Any objections postmarked or received by that date will be filed with the Court.

Class Members may attend at the hearing whether or not they deliver an objection. Class Members who wish a lawyer to speak on their behalf at the hearing may retain one to do so at their own expense.

YOU HAVE THREE OPTIONS:

1. Stay in the Class Action and Do Nothing:

You do not have to do anything to stay in the class action. If the Court approves the Settlement, it will be distributed according to its terms. If you are eligible and submit a valid claim form, you will receive your share of the net Settlement Amount. If you do nothing, you will be legally bound by all orders and judgments of the Court, and you will not be able to sue the Defendants on your own regarding the legal claims made in this case.

2. Stay in the Class Action and Object to the Agreement or Class Counsel's Fees:

If you want to object to the proposed Settlement or to the payment of Class Counsel's fees and expenses, you should do so by filling out a Notice of Objection and delivering it to Class Counsel at the address below. The Notice of Objection can be found at: [website]. The Notice of Objection must be provided by • at 11:59 pm Vancouver (Pacific) time.

3. Opt-Out of the Class Action:

All Class Members will be bound by the terms of the Settlement, unless they opt-out. The Opt-Out Form is available at [website] **Error! Hyperlink reference not valid.** or by request to Class Counsel at the address below. Any Class Member who wishes to opt-out of the class action must deliver a completed Opt-Out Form by email or fax to the address

indicated below. The Opt-Out Form must be received on or before • at 11:59 pm Vancouver (Pacific) time to be valid.

COPIES OF THE SETTLEMENT DOCUMENTS:

Copies of the Settlement Agreement, the Distribution Protocol and other documents relating to the Settlement may be found on the Administrator's website, Class Counsel's websites or by contacting the Administrator or Class Counsel using the contact information provided in this notice.

PERSONAL LEGAL ADVICE:

The lawyers for the Plaintiffs are Siskinds LLP and KND Complex Litigation. Class Members who seek the advice or guidance of their personal lawyers should do so at their own expense.

CLASS COUNSEL:

Siskinds LLP and KND Complex Litigation are Class Counsel. Inquiries may be directed to:

Northern Dynasty Class Counsel
Siskinds LLP
c/o Alex Dimson
Email: alex.dimson@siskinds.com

Northern Dynasty Class Counsel
KND Complex Litigation
c/o Sage Nematollahi
Email: northerndynasty@knd.law

INTERPRETATION:

If there is a conflict between the provisions of this notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

THE SUPREME COURT OF BRITISH COLUMBIA HAS AUTHORIZED DISTRIBUTION OF THIS NOTICE.

QUESTIONS ABOUT THIS NOTICE SHOULD BE DIRECTED TO THE ADMINISTRATOR OR CLASS COUNSEL AND SHOULD NOT BE DIRECTED TO THE COURT.

SCHEDULE “G”
SECOND NOTICE – SHORT FORM

**SETTLEMENT OF NORTHERN DYNASTY MINERALS LTD.
SECURITIES CLASS ACTION**

Did you acquire securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020 (inclusive)?

A settlement has been reached in a class action against Northern Dynasty Minerals Ltd. (“Northern Dynasty”), Ronald W. Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital. The class action alleges that there were misrepresentations in certain of Northern Dynasty’s public disclosures and in documents provided to investors.

The settlement provides for payments by the defendants in the class action and their insurers of the total amount of USD\$2,125,000 to resolve those claims. This settlement is not an admission of liability, wrongdoing or fault on the part of the defendants, all of whom have denied, and continue to deny, the allegations against them.

The settlement has been approved by the Supreme Court of British Columbia.

For more information about your rights and how to exercise them, see the long-form notice and other information available online at [webpage created by the Administrator] or contact the Administrator at: [Administrator email and phone number]

Class members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

SCHEDULE “H”
SECOND NOTICE – LONG FORM

NORTHERN DYNASTY MINERALS LTD.
SECURITIES CLASS ACTION

NOTICE OF SETTLEMENT APPROVAL

Please read this notice carefully. A settlement may affect your legal rights. You may have to take prompt action.

This notice is directed to: All persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020, inclusive, and held some or all of those securities as of August 22, 2020 or November 25, 2020.

(collectively, “Class” or “Class Members”)

IMPORTANT DEADLINE TO FILE A CLAIMS FOR COMPENSATION

Claims Bar Deadline (to file a claim for compensation): 11:59 pm Vancouver (Pacific) time on [date]

PURPOSE OF THIS NOTICE

The purpose of this notice is to advise Class Members of the approval of the settlement of the class proceeding brought on behalf of Class Members.

THE ACTION AND CLASS CERTIFICATION

In 2020, a class proceeding (“Action”) was commenced in the Supreme Court of British Columbia (“Court”) against Northern Dynasty Minerals Ltd. (“Northern Dynasty”), Ronald W. Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital (collectively, the “Defendants”).

The Action alleges that the Defendants made misrepresentations regarding the permit application process for Northern Dynasty’s proposed Pebble Project. The Action alleges that the misrepresentations were corrected over two corrective disclosures: *first*, on August 24, 2020, when media outlets reported that due to the environmental impacts of the project the USACE was set to impose stringent compensatory mitigation requirements for the Pebble Project; *second*, on November 25, 2020, when the USACE issued an unfavourable Record of Decision denying the Pebble Project’s permit application. It is further alleged that following these disclosures Northern Dynasty’s share price declined significantly, causing damage to the Class Members.

On [date], the Court certified the Action as a class action for settlement purposes. The Class excludes the following persons: Northern Dynasty and the Underwriters (as defined in the Settlement Agreement) and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns, as well as Thiessen and Collier, their immediate family members, and any entities in which they have a controlling interest.

SETTLEMENT APPROVAL

On [date] the Plaintiffs and Defendants executed a Settlement Agreement providing for the settlement of the Action (“**Settlement**”). The Settlement Agreement provides for the payment of USD\$2,125,000 (“**Settlement Amount**”) in consideration of the full and final settlement of the claims of Class Members. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses.

The Settlement provides that the claims of all Class Members asserted or which could have been asserted in the Action will be fully and finally released, and the Action will be dismissed. The Settlement is not an admission of liability, wrongdoing or fault on the part of the Defendants, all of whom have denied, and continue to deny, the allegations against them.

On [date], the Supreme Court of British Columbia approved the Settlement and ordered that it be implemented in accordance with its terms.

Class Members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

The Court also awarded Siskinds LLP and KND Complex Litigation (“Class Counsel”) total legal fees, expenses and applicable taxes in the amount of CAD\$[amount] inclusive of disbursements of CAD\$[amount], plus HST, GST and/or PST (“Class Counsel Fees”). As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation. Class Counsel Fees will be deducted from the Settlement Amount before it is distributed to Class Members.

Expenses incurred or payable relating to approval, notification, implementation and administration of the Settlement (“**Administration Expenses**”) will also be paid from the Settlement Amount before it is distributed to Class Members.

The Court also approved the payment of honoraria to the Plaintiffs in the amount of CAD\$[amount] each. The honoraria will be deducted from the Settlement Amount before it is distributed to Class Members.

CLASS MEMBERS’ ENTITLEMENT TO COMPENSATION

Pursuant to the Court order approving the Settlement, claims of Class Members which were or could have been asserted in the Action are now released and the Action has been dismissed. Class Members may not pursue individual or class actions for those claims, whether or not they submit

a claim for compensation from the Settlement. **The Settlement therefore represents the only means of compensation available to Class Members in respect of the claims raised in the Action.**

For instructions on how to submit a claim for compensation from the Settlement, refer to the previously-issued notice of certification and settlement approval hearing, which is available at [website to be created by Administrator]. To be eligible for compensation under the Settlement, your Claim Form must be postmarked or received by the Administrator by **no later than 11:59pm Vancouver (Pacific) time on [date]**.

After deduction of Class Counsel Fees, Administration Expenses and the approved honorarium, the balance of the Settlement Amount (“**Net Settlement Amount**”) will be distributed to Class Members in accordance with the Distribution Protocol approved by the Court.

The proposed Distribution Protocol provides that in order to determine the individual entitlements of Class Members who make claims, the losses of each claimant will be calculated in accordance with a formula based on the statutory damages provisions contained in the securities legislation of British Columbia. Once the notional losses of all Class Members who have filed valid claims have been calculated, the Net Settlement Amount will be allocated to those Class Members in proportion to their percentage of the total notional losses calculated for all valid claims filed. Because the Net Settlement Amount will be distributed pro rata, it is not possible to estimate the individual recovery of any individual Class Member until all the claims have been received and reviewed.

In the event any amounts remain undistributed 180 days after the distribution of the Net Settlement Amount (because of uncashed cheques or for other administrative reasons), those amounts will be distributed to eligible Class Members (if sufficient to warrant a further distribution) or distributed to the Law Foundation of British Columbia.

YOU HAVE TWO OPTIONS:

1. Submit a Claim Form:

Fill out a Claim Form online and submit it with supporting documentation by the deadline to apply for compensation. The deadline for Claim Form submission is ●.

2. Do Nothing:

Give up any right to compensation.

COPIES OF THE SETTLEMENT DOCUMENTS

The Settlement Agreement and various other Court-approved documents set out the procedures applicable to the Settlement of the class action. The Settlement Amount, less administration costs, honorarium and lawyers’ fees and disbursements, will be distributed to those who are eligible and submit a claim form and supporting documentation on a pro rata basis up to the value of their calculated loss, in accordance with the Court-approved and supervised Distribution Protocol. The Distribution Protocol, Settlement Agreement, and other pertinent documents can be found at: [website] or by contacting Class Counsel at the address below.

ADMINISTRATOR

The Administrator can be contacted at:

[Contact details]

CLASS COUNSEL

Inquiries to Class Counsel may be directed to:

Northern Dynasty Class Counsel
Siskinds LLP
c/o Alex Dimson
Email: alex.dimson@siskinds.com

Northern Dynasty Class Counsel
KND Complex Litigation
c/o Sage Nematollahi
Email: northerndynasty@knd.law

INTERPRETATION

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

THE SUPREME COURT OF BRITISH COLUMBIA HAS AUTHORIZED DISTRIBUTION OF THIS NOTICE.

QUESTIONS ABOUT THIS NOTICE SHOULD BE DIRECTED TO THE ADMINISTRATOR OR CLASS COUNSEL AND SHOULD NOT BE DIRECTED TO THE COURT.

APPENDIX "2"

DISTRIBUTION PROTOCOL

This Distribution Protocol should be read in conjunction with the Settlement Agreement dated August 30, 2023 (“**Settlement Agreement**”).

DEFINED TERMS

1. Unless otherwise defined herein, capitalized terms used are as defined in the Settlement Agreement. In addition, the following definitions apply to this Distribution Protocol:
 - (a) **Acquisition Expense** means the price per security paid by a Claimant (including brokerage commissions) to acquire an Eligible Security;
 - (b) **Claimant** means a Class Member who submits a properly completed Claim Form and all required supporting documentation to the Administrator on or before the Claims Bar Deadline;
 - (c) **Claims Bar Deadline** means 11:59pm Vancouver (Pacific) time on the date that is one hundred and eighty (180) calendar days after the date on which the First Notice is first published or such other date as may be fixed by the Court;
 - (d) **FIFO** means “first in, first out”, whereby for the purpose of determining Claimants’ Notional Entitlement, securities are deemed to be sold in the same order that they were purchased (e.g. the first Eligible Securities purchased by a Claimant are deemed to be the first Eligible Securities sold); and
 - (e) **Notional Entitlement** means an Authorized Claimant’s notional damages as calculated pursuant to the formulae set forth in this Distribution Protocol, which forms the basis upon which each Authorized Claimant’s *pro rata* share of the Net Settlement Amount is determined.

OBJECTIVE

2. The objective of this Distribution Protocol is to equitably distribute the Net Settlement Amount among Authorized Claimants.

CALCULATION OF NOTIONAL ENTITLEMENT

3. The Net Settlement Amount will be distributed in accordance with this Distribution Protocol.
4. The Administrator shall apply FIFO to determine the purchase transactions that correspond to the sale of Eligible Securities, including in the calculation of an Authorized Claimant's Notional Entitlement.
5. The Administrator shall first determine a Claimant's Notional Entitlement. If the Claimant has a Notional Entitlement greater than zero, they become an Authorized Claimant, and the Administrator will go on to calculate the Authorized Claimant's monetary compensation. A Claimant must have a Notional Entitlement greater than zero in order to be eligible to receive a payment from the Net Settlement Amount.
6. Transfers of Northern Dynasty Minerals Ltd. ("NDM") securities between accounts belonging to the same Claimant will not be taken into account in determining a Claimant's Notional Entitlement.
7. The date of a purchase or sale shall be the trade date of the transaction, as opposed to the settlement date of the transaction or the payment date.
8. An Authorized Claimant's Notional Entitlement will be calculated as follows:

No Notional Entitlement

- (a) No Notional Entitlement shall be recognized for any Eligible Securities acquired

from and including March 29, 2018 to and including August 23, 2020, and disposed of on or before August 23, 2020.

- (b) No Notional Entitlement shall be recognized for any Eligible Securities acquired from and including August 24, 2020 to and including November 24, 2020, and disposed of on or before November 24, 2020.

Secondary Market Purchases of NDM Common Shares

- (c) For each NDM common share acquired in the secondary market from March 29, 2018 to August 23, 2020 (inclusive), and disposed of between August 24, 2020 and November 24, 2020 (inclusive), the Notional Entitlement shall be the difference between the Acquisition Expense and CAD\$1.15.¹
- (d) For each NDM common share acquired in the secondary market from March 29, 2018 to November 25, 2020 (inclusive), and disposed of on or after November 25, 2020, the Notional Entitlement shall be the difference between the Acquisition Expense and CAD\$0.48.²
- (e) For each NDM common share acquired in the secondary market from March 29, 2018 to November 25, 2020 (inclusive), and not disposed of, the Notional Entitlement shall be the difference between the Acquisition Expense and CAD\$0.48.

Secondary Market Purchases of NDM Warrants

- (f) For each NDM warrant (issued by NDM in 2016 with an exercise price of \$0.65

¹ \$1.15 is the volume weighted average trading price for NDM common shares during the ten days following August 23, 2020.

² \$0.48 is the volume weighted average trading price for NDM common shares during the ten days following November 25, 2020.

that expired on or about June 10, 2021) (“**NDM 2016 Warrants**”) acquired in the secondary market from March 29, 2018 to August 23, 2020 (inclusive), and disposed of between August 24, 2020 and November 24, 2020 (inclusive), the Notional Entitlement shall be the difference between the Acquisition Expense and CAD\$0.57.³

- (g) For each NDM 2016 Warrant acquired in the secondary market from March 29, 2018 to November 25, 2020 (inclusive), and disposed of on or after November 25, 2020, the Notional Entitlement shall be the difference between the Acquisition Expense and CAD\$0.08.⁴
- (h) For each NDM 2016 Warrant acquired in the secondary market from March 29, 2018 to November 25, 2020 (inclusive), and not disposed of, the Notional Entitlement shall be the difference between the Acquisition Expense and CAD\$0.08.
- (i) Where a Claimant acquired NDM common shares through the exercise of a NDM 2016 Warrant between March 29, 2018 and November 25, 2020 (inclusive), the common shares so acquired shall be treated as Eligible Securities. The Acquisition Expense for the common shares so acquired shall be CAD\$0.65. The Notional Entitlement with respect to those common shares shall otherwise be determined in accordance with sub-paragraphs (c) to (e) above.

³ \$0.57 is the volume weighted average trading price for NDM 2016 Warrants during the ten days following August 23, 2020.

⁴ \$0.08 is the volume weighted average trading price for NDM 2016 Warrants during the ten days following November 25, 2020.

Purchases of NDM Special Warrants in the December 2018 Offering, Converted into NDM Common Shares

- (j) Subject to sub-paragraph (m), for each NDM common share acquired on or around February 19, 2019 through the conversion of a NDM special warrant originally acquired in the December 2018 private placement, the Notional Entitlement shall be zero.⁵
- (k) Subject to sub-paragraph (m), for each NDM common share acquired on or around February 19, 2019 through the conversion of a NDM special warrant originally acquired in the December 2018 private placement, and disposed of on or after November 25, 2020, the Notional Entitlement shall be CAD\$0.35 (being the difference between CAD\$0.83 and CAD\$0.48).
- (l) Subject to sub-paragraph (m), for each NDM common share acquired on or around February 19, 2019 through the conversion of a NDM special warrant originally acquired in the December 2018 private placement, and not disposed of, the Notional Entitlement shall be CAD\$0.35 (being the difference between CAD\$0.83 and CAD\$0.48).
- (m) The Notional Entitlement calculated in accordance with sub-paragraphs (j) to (l) shall be multiplied by 0.75.

Purchases of NDM Common Shares in the March 2019 Offering

- (n) Subject to sub-paragraph (q), for each NDM common share acquired in the March 2019 private placement or prospectus offering, and disposed of between August 24,

⁵ This is because the offering price was below CAD\$1.15, being the volume weighted average trading price for NDM common shares during the ten days following August 23, 2020.

2020 and November 24, 2020 (inclusive), the Notional Entitlement shall be zero.⁶

- (o) Subject to sub-paragraph (q), for each NDM common share acquired in the March 2019 private placement or prospectus offering, and disposed of on or after November 25, 2020, the Notional Entitlement shall be CAD\$0.37 (being the difference between CAD\$0.85⁷ and CAD\$0.48).
- (p) Subject to sub-paragraph (q), for each NDM common share acquired in the March 2019 private placement or prospectus offering, and not disposed of, the Notional Entitlement shall be CAD\$0.37 (being the difference between CAD\$0.85 and CAD\$0.48).
- (q) For each NDM common share acquired in the March 2019 private placement (as opposed to the prospectus offering), the Notional Entitlement calculated in accordance with sub-paragraphs (n) to (p) shall be multiplied by 0.75.

Purchases of NDM Common Shares in the June 2019 Offering

- (r) Subject to sub-paragraph (u), for each NDM common share acquired in the June 2019 private placement or prospectus offering, and disposed of between August 24, 2020 and November 24, 2020 (inclusive), the Notional Entitlement shall be zero.⁸
- (s) Subject to sub-paragraph (u), for each NDM common share acquired in the June 2019 private placement or prospectus offering, and disposed of on or after November 25, 2020, the Notional Entitlement shall be CAD\$0.06 (being the

⁶ This is because the offering price was below CAD\$1.15, being the volume weighted average trading price for NDM common shares during the ten days following August 23, 2020.

⁷ This is the Canadian dollar equivalent of the US\$0.64 offering price, converted using the Bank of Canada daily exchange rate on March 18, 2019 (US\$1.00=CAD\$1.3345).

⁸ This is because the offering price was below CAD\$1.15, being the volume weighted average trading price for NDM common shares during the ten days following August 23, 2020.

difference between CAD\$0.54⁹ and CAD\$0.48).

- (t) Subject to sub-paragraph (u), for each NDM common share acquired in the June 2019 private placement or prospectus offering, and not disposed of, the Notional Entitlement shall be CAD\$0.06 (being the difference between CAD\$0.54 and CAD\$0.48).
- (u) For each NDM common share acquired in the June 2019 private placement (as opposed to the prospectus offering), the Notional Entitlement calculated in accordance with sub-paragraphs (r) to (t) shall be multiplied by 0.75.

Purchases of NDM Common Shares in the August 2019 Offering

- (v) Subject to sub-paragraph (y), for each NDM common share acquired in the August 2019 private placement or prospectus offering, and disposed of between August 24, 2020 and November 24, 2020 (inclusive), the Notional Entitlement shall be zero.¹⁰
- (w) Subject to sub-paragraph (y), for each NDM common share acquired in the August 2019 private placement or prospectus offering, and disposed of on or after November 25, 2020, the Notional Entitlement shall be CAD\$0.52 (being the difference between CAD\$1.00¹¹ and CAD\$0.48).
- (x) Subject to sub-paragraph (y), for each NDM common share acquired in the August 2019 private placement or prospectus offering, and not disposed of, the Notional Entitlement shall be CAD\$0.52 (being the difference between CAD\$1.00 and

⁹ This is the Canadian dollar equivalent of the US\$0.41 offering price, converted using the Bank of Canada daily exchange rate on June 24, 2019 (US\$1.00=CAD\$1.3194).

¹⁰ This is because the offering price was below CAD\$1.15, being the volume weighted average trading price for NDM common shares during the ten days following August 23, 2020.

¹¹ This is the Canadian dollar equivalent of the US\$0.75 offering price, converted using the Bank of Canada daily exchange rate on August 14, 2019 (US\$1.00=CAD\$1.3311).

CAD\$0.48).

- (y) For each NDM common share acquired in the August 2019 private placement (as opposed to the prospectus offering), the Notional Entitlement calculated in accordance with sub-paragraphs (v) to (x) shall be multiplied by 0.75.

Purchases of NDM Common Shares in the December 2019 Offering

- (z) Subject to sub-paragraph (cc), for each NDM common share acquired in the December 2019 private placement or prospectus offering, and disposed of between August 24, 2020 and November 24, 2020 (inclusive), the Notional Entitlement shall be zero.¹²
- (aa) Subject to sub-paragraph (cc), for each NDM common share acquired in the December 2019 private placement or prospectus offering, and disposed of on or after November 25, 2020, the Notional Entitlement shall be CAD\$0.01 (being the difference between CAD\$0.49¹³ and CAD\$0.48).
- (bb) Subject to sub-paragraph (cc), for each NDM common share acquired in the December 2019 private placement or prospectus offering, and not disposed of, the Notional Entitlement shall be CAD\$0.01 (being the difference between CAD\$0.49 and CAD\$0.48).
- (cc) For each NDM common share acquired in the December 2019 private placement (as opposed to the prospectus offering), the Notional Entitlement calculated in accordance with sub-paragraphs (z) to (bb) shall be multiplied by 0.75.

¹² This is because the offering price was below CAD\$1.15, being the volume weighted average trading price for NDM common shares during the ten days following August 23, 2020.

¹³ This is the Canadian dollar equivalent of the US\$0.37 offering price, converted using the Bank of Canada daily exchange rate on December 18, 2019 (US\$1.00=CAD\$1.3119).

Purchases of NDM Common Shares in the May 2020 Offering

- (dd) Subject to sub-paragraph (gg), for each NDM common share acquired in the May 2020 private placement or prospectus offering, and disposed of between August 24, 2020 and November 24, 2020 (inclusive), the Notional Entitlement shall be zero.¹⁴
- (ee) Subject to sub-paragraph (gg), for each NDM common share acquired in the May 2020 private placement or prospectus offering, and disposed of on or after November 25, 2020, the Notional Entitlement shall be CAD\$0.22 (being the difference between CAD\$0.70 and CAD\$0.48).
- (ff) Subject to sub-paragraph (gg), for each NDM common share acquired in the May 2020 private placement or prospectus offering, and not disposed of, the Notional Entitlement shall be CAD\$0.22 (being the difference between CAD\$0.70 and CAD\$0.48).
- (gg) For each NDM common share acquired in the May 2020 private placement (as opposed to the prospectus offering), the Notional Entitlement calculated in accordance with sub-paragraphs (dd) to (ff) shall be multiplied by 0.75.

Purchases of NDM Common Shares in the July 2020 Offering

- (hh) Subject to sub-paragraph (kk), for each NDM common share acquired in the July 2020 private placement or prospectus offering, and disposed of between August 24, 2020 and November 24, 2020 (inclusive), the Notional Entitlement shall be CAD\$0.83 (being the difference between CAD\$1.98¹⁵ and CAD\$1.15).

¹⁴ This is because the offering price was below CAD\$1.15, being the volume weighted average trading price for NDM common shares during the ten days following August 23, 2020.

¹⁵ This is the Canadian dollar equivalent of the US\$1.46 offering price, converted using the Bank of Canada daily exchange rate on July 15, 2020 (US\$1.00=CAD\$1.3534).

- (ii) Subject to sub-paragraph (kk), for each NDM common share acquired in the July 2020 private placement or prospectus offering, and disposed of on or after November 25, 2020, the Notional Entitlement shall be CAD\$1.50 (being the difference between CAD\$1.98 and CAD\$0.48).
- (jj) Subject to sub-paragraph (kk), for each NDM common share acquired in the July 2020 private placement or prospectus offering, and not disposed of, the Notional Entitlement shall be CAD\$1.50 (being the difference between CAD\$1.98 and CAD\$0.48).
- (kk) For each NDM common share acquired in the July 2020 private placement (as opposed to the prospectus offering), the Notional Entitlement calculated in accordance with sub-paragraphs (hh) to (jj) shall be multiplied by 0.75.

CALCULATION OF MONETARY COMPENSATION AND DISTRIBUTION

- 9. Each Authorized Claimant's actual compensation shall be the portion of the Net Settlement Amount equivalent to the ratio of his, her or its Notional Entitlement to the total Notional Entitlements of all Authorized Claimants multiplied by the Net Settlement Amount, as calculated by the Administrator.
- 10. Compensation shall be paid to Authorized Claimants in Canadian currency.
- 11. If, one hundred eighty (180) days from the date on which the Administrator distributes the Net Settlement Amount to Authorized Claimants, the Escrow Account remains in a positive balance (whether due to tax refunds, uncashed cheques, or otherwise), the Administrator shall, if feasible, reallocate such balance among the Authorized Claimants in an equitable and economic fashion. If, in the opinion of the Administrator, it is not feasible to reallocate

any remaining balance among the Authorized Claimants in an equitable and economic fashion, such balance shall be distributed to the Law Foundation of British Columbia.

12. By agreement between the Administrator and Class Counsel, any deadline contained in this Distribution Protocol may be extended. Class Counsel and the Administrator shall agree to extend a deadline(s) if, in their opinions, doing so will not adversely affect the efficient administration of the Settlement and it is in the best interests of the Class to do so.

CLAIMS PROCESS

13. In order to seek payment from the Settlement Amount, a Class Member shall submit a completed Claim Form to the Administrator on or before the Claims Bar Deadline.
14. The Administrator shall review each Claim Form and verify that the Claimant is eligible for compensation from the Net Settlement Amount, as follows:
 - (a) for a Claimant claiming as a Class Member, the Administrator shall be satisfied that the Claimant is a Class Member; or
 - (b) for a Claimant claiming on behalf of a Class Member or a Class Member's estate, the Administrator shall be satisfied that:
 - A. the Claimant has authority to act on behalf of the Class Member or the Class Member's estate in respect of financial affairs;
 - B. the person or estate on whose behalf the claim was submitted was a Class Member; and
 - C. the Claimant has provided all supporting documentation required by the Claim Form or alternative documentation acceptable to the Administrator.

15. The Administrator shall ensure that only claims for compensation in respect of Eligible Securities in the Claim Form are approved.
16. If, for any reason, a Claimant is unable to complete the Claim Form then it may be completed by the Claimant's personal representative or a member of the Claimant's family duly authorized by the Claimant to the satisfaction of the Administrator.

IRREGULAR CLAIMS

17. The claims process is intended to be expeditious, cost effective and "user friendly" to minimize the burden on Claimants. The Administrator shall, in the absence of reasonable grounds to the contrary, assume Claimants to be acting honestly and in good faith. The Administrator shall use email for correspondence with Claimants to the maximum extent possible.
18. Where a Claim Form contains minor omissions or errors, the Administrator shall correct such omissions or errors if the information necessary to correct the error or omission is readily available to the Administrator.
19. In order to remedy any deficiency in the completion of a Claim Form, the Administrator may require and request that additional information be submitted by a Class Member who submits a Claim Form. Such Class Members shall have until the later of sixty (60) days from the date of the request from the Administrator or the Claims Bar Deadline to rectify the deficiency. Any person who does not respond to such a request for information within this period shall be forever barred from receiving any payments pursuant to the Settlement, subject to any order of the Court to the contrary, but will in all other respects be subject to and bound by the provisions of the Settlement Agreement and the releases contained therein.

20. The claims process is also intended to prevent fraud and abuse. If, after reviewing any Claim Form, the Administrator believes that the claim contains unintentional errors which would materially exaggerate the Notional Entitlement of the Claimant, then the Administrator may disallow the claim in its entirety or make such adjustments so that an appropriate Notional Entitlement is allocated to the Claimant. If the Administrator believes that the claim is fraudulent or contains intentional errors which would materially exaggerate the Notional Entitlement of the Claimant, then the Administrator shall disallow the claim in its entirety.
21. Where the Administrator disallows a claim in its entirety, the Administrator shall send to the Claimant, at the email or postal address provided by the Claimant or the Claimant's last known email or postal address, a notice advising that the claim has been disallowed and that the Claimant may request the Administrator to reconsider its decision. For greater certainty, a Claimant is not entitled to a notice or a review where a claim is allowed but the Claimant disputes the amount of his, her or its Notional Entitlement or his, her or its individual compensation.
22. Any request for reconsideration must be received by the Administrator within 45 days of the date of the notice advising of the disallowance. If no request is received within this time period, the Claimant shall be deemed to have accepted the Administrator's determination and the determination shall be final and not subject to further review by any court or other tribunal.
23. Where a Claimant files a request for reconsideration with the Administrator, the Administrator shall advise Class Counsel of the request and conduct an administrative review of the Claimant's complaint.

24. Following its determination in an administrative review, the Administrator shall advise the Claimant of its determination. In the event the Administrator reverses a disallowance, the Administrator shall send the Claimant, at the email or postal address provided by the Claimant or the Claimant's last known email or postal address, a notice specifying the revision to the Administrator's disallowance.
25. The determination of the Administrator in an administrative review is final and is not subject to further review by any court or other tribunal.
26. Any matter not referred to above shall be determined by analogy by the Administrator in consultation with Class Counsel.
27. No action shall lie against Class Counsel or the Administrator for any decision made in the administration of the Settlement Agreement and the Distribution Protocol without an order from a Court authorizing such an action.

APPENDIX "3"

PLAN OF NOTICE

Capitalized terms used in this Plan of Notice have the meanings ascribed to them in the Settlement Agreement dated August 30, 2023.

Subject to such alternative or additional direction by the Court, notices provided for as contemplated in the Settlement Agreement will be disseminated as follows:

PART 1 – FIRST NOTICE

A. Short-Form

As soon as possible following the entry of the First Order, the short-form First Notice will be disseminated as follows:

Newspaper Publication

Print publication of the short-form First Notice will be at least a 1/8 page in size. Print publication will be made in Canada in the English language in the business section of the national weekend edition of *The Globe and Mail* and in the French language in the business section of *La Presse*.

News Release

The English and French language versions of the short-form First Notice will be issued (with necessary formatting modifications) across Canada Newswire, a major business newswire in Canada.

ISS Publication

The English and French language versions of the short-form First Notice will be sent to Institutional Shareholder Services Inc. (ISS) for publication through their platform.

Individual Notice

The Administrator will send a package to the Canadian brokerage firms in the Administrator's proprietary databases. The package will consist of the short-form First Notice and a cover letter to the brokerage firms in the form customarily used by the Administrator. The Administrator shall request that the brokerage firms either send a copy of the short-form First Notice to all individuals and entities identified by the brokerage firms as being Class Members, or to send the names and contact information of all known Class Members to the Administrator (who shall subsequently send the short-form First Notice to the individuals and entities so identified). The notice shall be distributed by email where Class Member email addresses are available.

The Administrator shall, if requested, reimburse the brokerage firms out of the Settlement Amount solely for their reasonable out-of-pocket expenses incurred in distributing notice to the Class Members. The reimbursement shall be at reasonable and customary rates per unit as determined

by the Administrator. Each brokerage firm must submit its account by a date to be determined by the Administrator to be entitled to reimbursement.

The Administrator shall send the short-form First Notice to the individuals and entities on the electronic list of persons who acquired Eligible Securities delivered by the Defendants to the Administrator as required by the Settlement Agreement. The notice shall be distributed by email where Class Member email addresses are available.

B. Long-Form

Publication by Class Counsel

As soon as possible following the entry of the First Order, the long-form First Notice will be disseminated as follows:

1. Electronic publication of the long-form First Notice will occur in both the English and French languages on the Northern Dynasty class action website of Class Counsel at [Northern Dynasty Minerals Ltd. | Siskinds Law Firm](#) and [Northern Dynasty Minerals Ltd. | KND Complex Litigation](#) (“**Class Counsel Website**”).
2. The long-form First Notice will be mailed, electronically or physically, as may be required, to those persons and entities who have previously contacted Class Counsel for the purposes of receiving notice of developments in the Action.

Class Counsel shall make a toll-free number and email address available to the public that will enable Class Members to contact Class Counsel in order that they may, amongst other things:

1. obtain more information about the Settlement, how to object to the Settlement, the claims process and the opt out process; and/or
2. request that a copy of the Settlement Agreement, the long-form First Notice and the Claim Form be electronically or physically mailed to them.

Class Counsel will post on the Class Counsel Website:

1. the Settlement Agreement;
2. the long-form First Notice;
3. a short summary of the rationale for the Settlement (no less than 30 days prior to the application to approve the Settlement);
4. the affidavit(s) in support of the application for approval of the Settlement (no less than 30 days prior to the application to approve the Settlement); and
5. the affidavit(s) in support of the application for approval of Class Counsel Fees and disbursements (no less than 30 days prior to the application to approve Class Counsel Fees and disbursements).

PART 2 – SECOND NOTICE

A. Short-Form

As soon as possible following the Implementation Date, the short-form Second Notice will be disseminated as follows:

News Release

The English and French language versions of the short-form Second Notice will be issued (with necessary formatting modifications) across Canada Newswire, a major business newswire in Canada.

ISS Publication

The English and French language versions of the short-form Second Notice will be sent to Institutional Shareholder Services Inc. (ISS) for publication through their platform.

B. Long-Form

As soon as possible following the Implementation Date, the long-form Second Notice will be disseminated as follows:

1. Electronic publication of the long-form Second Notice will occur in both the English and French languages on the Class Counsel Website; and
2. Class Counsel shall mail or email the long-form Second Notice to those persons that have contacted Class Counsel as of the publication date regarding this litigation and have provided Class Counsel with their contact information.

Class Counsel shall make a toll-free number and email address available to the public that will enable Class Members to obtain more information about the settlement and to request that a copy of the long-form Second Notice be sent electronically or physically to them directly.

APPENDIX "4"

SECOND NOTICE – SHORT FORM

**SETTLEMENT OF NORTHERN DYNASTY MINERALS LTD.
SECURITIES CLASS ACTION**

Did you acquire securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020 (inclusive)?

A settlement has been reached in a class action against Northern Dynasty Minerals Ltd. (“Northern Dynasty”), Ronald W. Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital. The class action alleges that there were misrepresentations in certain of Northern Dynasty’s public disclosures and in documents provided to investors.

The settlement provides for payments by the defendants in the class action and their insurers of the total amount of USD\$2,125,000 to resolve those claims. This settlement is not an admission of liability, wrongdoing or fault on the part of the defendants, all of whom have denied, and continue to deny, the allegations against them.

The settlement has been approved by the Supreme Court of British Columbia.

For more information about your rights and how to exercise them, see the long-form notice and other information available online at [webpage created by the Administrator] or contact the Administrator at: [Administrator email and phone number]

Class members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

APPENDIX "5"

SECOND NOTICE – LONG FORM

NORTHERN DYNASTY MINERALS LTD. SECURITIES CLASS ACTION

NOTICE OF SETTLEMENT APPROVAL

Please read this notice carefully. A settlement may affect your legal rights. You may have to take prompt action.

This notice is directed to: All persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired securities of Northern Dynasty Minerals Ltd. between March 29, 2018 and November 25, 2020, inclusive, and held some or all of those securities as of August 22, 2020 or November 25, 2020.

(collectively, “Class” or “Class Members”)

IMPORTANT DEADLINE TO FILE A CLAIMS FOR COMPENSATION

Claims Bar Deadline (to file a claim for compensation): 11:59 pm Vancouver (Pacific) time on [date]

PURPOSE OF THIS NOTICE

The purpose of this notice is to advise Class Members of the approval of the settlement of the class proceeding brought on behalf of Class Members.

THE ACTION AND CLASS CERTIFICATION

In 2020, a class proceeding (“Action”) was commenced in the Supreme Court of British Columbia (“Court”) against Northern Dynasty Minerals Ltd. (“Northern Dynasty”), Ronald W. Thiessen, Thomas C. Collier, Cantor Fitzgerald Canada Corporation, Canaccord Genuity Corp., BMO Nesbitt Burns Inc., Paradigm Capital Inc., TD Securities Inc., and Velocity Trade Capital (collectively, the “Defendants”).

The Action alleges that the Defendants made misrepresentations regarding the permit application process for Northern Dynasty’s proposed Pebble Project. The Action alleges that the misrepresentations were corrected over two corrective disclosures: *first*, on August 24, 2020, when media outlets reported that due to the environmental impacts of the project the USACE was set to impose stringent compensatory mitigation requirements for the Pebble Project; *second*, on November 25, 2020, when the USACE issued an unfavourable Record of Decision denying the Pebble Project’s permit application. It is further alleged that following these disclosures Northern Dynasty’s share price declined significantly, causing damage to the Class Members.

On [date], the Court certified the Action as a class action for settlement purposes. The Class excludes the following persons: Northern Dynasty and the Underwriters (as defined in the Settlement Agreement) and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns, as well as Thiessen and Collier, their immediate family members, and any entities in which they have a controlling interest.

SETTLEMENT APPROVAL

On [date] the Plaintiffs and Defendants executed a Settlement Agreement providing for the settlement of the Action (“**Settlement**”). The Settlement Agreement provides for the payment of USD\$2,125,000 (“**Settlement Amount**”) in consideration of the full and final settlement of the claims of Class Members. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses.

The Settlement provides that the claims of all Class Members asserted or which could have been asserted in the Action will be fully and finally released, and the Action will be dismissed. The Settlement is not an admission of liability, wrongdoing or fault on the part of the Defendants, all of whom have denied, and continue to deny, the allegations against them.

On [date], the Supreme Court of British Columbia approved the Settlement and ordered that it be implemented in accordance with its terms.

Class Members who purchased securities of Northern Dynasty Minerals Ltd. on the NYSE may be eligible for compensation under a United States settlement agreement, subject to approval of the United States settlement agreement by the United States court. Information on claims deadlines and processes can be found at [website].

The Court also awarded Siskinds LLP and KND Complex Litigation (“Class Counsel”) total legal fees, expenses and applicable taxes in the amount of CAD\$[amount] inclusive of disbursements of CAD\$[amount], plus HST, GST and/or PST (“Class Counsel Fees”). As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation. Class Counsel Fees will be deducted from the Settlement Amount before it is distributed to Class Members.

Expenses incurred or payable relating to approval, notification, implementation and administration of the Settlement (“**Administration Expenses**”) will also be paid from the Settlement Amount before it is distributed to Class Members.

The Court also approved the payment of honoraria to the Plaintiffs in the amount of CAD\$[amount] each. The honoraria will be deducted from the Settlement Amount before it is distributed to Class Members.

CLASS MEMBERS’ ENTITLEMENT TO COMPENSATION

Pursuant to the Court order approving the Settlement, claims of Class Members which were or could have been asserted in the Action are now released and the Action has been dismissed. Class Members may not pursue individual or class actions for those claims, whether or not they submit a claim for compensation from the Settlement. **The Settlement therefore represents the only**

means of compensation available to Class Members in respect of the claims raised in the Action.

For instructions on how to submit a claim for compensation from the Settlement, refer to the previously-issued notice of certification and settlement approval hearing, which is available at [website to be created by Administrator]. To be eligible for compensation under the Settlement, your Claim Form must be postmarked or received by the Administrator by **no later than 11:59pm Vancouver (Pacific) time on [date]**.

After deduction of Class Counsel Fees, Administration Expenses and the approved honorarium, the balance of the Settlement Amount (“**Net Settlement Amount**”) will be distributed to Class Members in accordance with the Distribution Protocol approved by the Court.

The proposed Distribution Protocol provides that in order to determine the individual entitlements of Class Members who make claims, the losses of each claimant will be calculated in accordance with a formula based on the statutory damages provisions contained in the securities legislation of British Columbia. Once the notional losses of all Class Members who have filed valid claims have been calculated, the Net Settlement Amount will be allocated to those Class Members in proportion to their percentage of the total notional losses calculated for all valid claims filed. Because the Net Settlement Amount will be distributed pro rata, it is not possible to estimate the individual recovery of any individual Class Member until all the claims have been received and reviewed.

In the event any amounts remain undistributed 180 days after the distribution of the Net Settlement Amount (because of uncashed cheques or for other administrative reasons), those amounts will be distributed to eligible Class Members (if sufficient to warrant a further distribution) or distributed to the Law Foundation of British Columbia.

YOU HAVE TWO OPTIONS:

1. Submit a Claim Form:

Fill out a Claim Form online and submit it with supporting documentation by the deadline to apply for compensation. The deadline for Claim Form submission is ●.

2. Do Nothing:

Give up any right to compensation.

COPIES OF THE SETTLEMENT DOCUMENTS

The Settlement Agreement and various other Court-approved documents set out the procedures applicable to the Settlement of the class action. The Settlement Amount, less administration costs, honorarium and lawyers’ fees and disbursements, will be distributed to those who are eligible and submit a claim form and supporting documentation on a pro rata basis up to the value of their calculated loss, in accordance with the Court-approved and supervised Distribution Protocol. The Distribution Protocol, Settlement Agreement, and other pertinent documents can be found at: [website] or by contacting Class Counsel at the address below.

ADMINISTRATOR

The Administrator can be contacted at:

[Contact details]

CLASS COUNSEL

Inquiries to Class Counsel may be directed to:

Northern Dynasty Class Counsel

Siskinds LLP

c/o Alex Dimson

Email: alex.dimson@siskinds.com

Northern Dynasty Class Counsel

KND Complex Litigation

c/o Sage Nematollahi

Email: northerndynasty@knd.law

INTERPRETATION

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

THE SUPREME COURT OF BRITISH COLUMBIA HAS AUTHORIZED DISTRIBUTION OF THIS NOTICE.

QUESTIONS ABOUT THIS NOTICE SHOULD BE DIRECTED TO THE ADMINISTRATOR OR CLASS COUNSEL AND SHOULD NOT BE DIRECTED TO THE COURT.

THIS IS **EXHIBIT "M"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end, positioned above a solid black horizontal line.

TAEK SOO SHIN (LSO #85691Q)

**In re Trevali Mining Corporation Securities Litigation
CCAA Proceedings, Supreme Court of BC at Vancouver No. S-226670
Class Action Claim, Supreme Court of BC at Vancouver No. S-228113**

SETTLEMENT PLAN OF ALLOCATION

PART I – RECITALS:

- A. **WHEREAS** on August 19, 2022, Trevali Mining Corporation (“**Trevali**”) obtained an Initial Order of the Supreme Court of British Columbia (“**Court**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, C. C-36 (“**CCAA**”) and commenced a proceeding under the *CCAA* (“**CCAA Proceedings**”);
- B. **AND WHEREAS** on October 7, 2022, Michael Demmer, Rodney Brunk, Tim Kempter and William Williamson (“**Ad Hoc Committee of Shareholders**”) commenced the proceeding styled *Demmer et al v Trevali Mining Corporation et al*, Supreme Court of British Columbia at Vancouver Registry, No. 228113 (“**Class Action Claim**”);
- C. **AND WHEREAS** by way of the Court’s Shareholder Representation Order dated March 29, 2023, the Ad Hoc Committee of Shareholders was appointed as Representative Shareholders and KND Complex Litigation was appointed Representative Counsel to a class of **Securities Claimants**, as defined in the Court’s Shareholder Representation Order, and at **Schedule “A”** to this Plan of Allocation;
- D. **AND WHEREAS** pursuant to the Court’s Claims Process Order dated March 29, 2023, the Ad Hoc Committee of Shareholders in its capacity as Representative Shareholders filed proofs of claim with respect to the Securities Claimants’ claims (“**Shareholders Claim**”);
- E. **AND WHEREAS** by way of an agreement dated _____, 2025 (“**Settlement Agreement**”), the parties have reached a proposed settlement with respect to the Class Action Claim and the Shareholders Claim on behalf of the Securities Claimants (“**Settlement**”);
- F. **AND WHEREAS** subject to the approval of the Court, which will be sought in due course, the net proceeds of the Settlement after the deduction of the Court-approved legal fees, expenses, taxes and honorariums would be available for distribution to the Securities Claimants who submit valid claims in accordance with the Court-approved Claim Process;
- G. **AND WHEREAS** the goal of this Plan of Allocation is to facilitate an efficient, just and fair allocation and distribution of the Settlement Distribution Fund;
- H. **NOW THEREFORE**, subject to the approval of the Court, which will be sought in due course, it is hereby determined that the Settlement Distribution Fund shall be allocated and distributed in accordance with the terms of this Plan of Allocation, as follows.

PART II – DEFINITIONS:

1. For the purposes of this Plan of Allocation, the definitions set out in the Settlement Agreement apply to and are incorporated into this Plan of Allocation and, in addition to the terms defined in the Recitals section of this Plan of Allocation, the following definitions apply:
 - (a) “**Allocation System**” means the method of determining the Compensable Loss assigned to a claim in order to determine the amount of compensation to be awarded for that claim, taking into account risk adjustments to account for the litigation and liability risks for the seven (7) different categories of Eligible Securities.
 - (b) “**Claimant**” means any person or entity who submits a Claim Form, regardless of whether it is a valid Claim Form which is accepted by the Claims Administrator or not.
 - (c) “**Claim Form**” means a written claim in the prescribed form seeking compensation from the Settlement Distribution Fund.
 - (d) “**Claim Process**” means the Court-approved process to submit a Claim Form seeking compensation from the Settlement Distribution Fund.
 - (e) “**Claims Administrator**” means the firm to be appointed by the Court to administer the Claim Process.
 - (f) “**Claims Bar Date**” means the date to be determined by the Court by which Claim Forms must be submitted in order for it to be considered a valid Claim Form.
 - (g) “**Claims Process Escrow Account**” has the meaning attributed to it in paragraph 37 below.
 - (h) “**Class Counsel**” means KND Complex Litigation.
 - (i) “**Compensable Loss**” is the sum of an Eligible Claimant’s recoverable investment loss after applying the risk adjustments identified herein to the Eligible Claimant’s Gross Loss.
 - (j) “**Eligible Claimants,**” each being an “**Eligible Claimant,**” means the Securities Claimants who submit a valid Claim Form, or on whose behalf a valid Claim Form is submitted by a person who is authorized to submit the Claim Form, in accordance with the Court-approved Claim Process, but specifically excluding the Excluded Persons.
 - (x) “**Eligible Securities**” means the securities of Trevali held by an Eligible Claimant, and it compasses the following seven (7) categories:
 - (i) Securities of Trevali purchased prior to October 9, 2020, and held as of the close of trading on the TSX on April 14, 2022, and which were sold on or before August 15, 2022;

- (ii) Securities of Trevali purchased prior to October 9, 2020, and were held as of the close of trading on the TSX on August 15, 2022 or later;
 - (iii) Securities of Trevali purchased pursuant to the Prospectus at the effective price of \$1.85 (after giving effect to the reverse securities split, which was effected on December 3, 2021), and held as of the close of trading on the TSX on April 14, 2022, and which were sold on or before August 15, 2022;
 - (iv) Securities of Trevali purchased pursuant to the Prospectus at the effective price of \$1.85 (after giving effect to the reverse securities split, which was effected on December 3, 2021), and held as of the close of trading on the TSX on August 15, 2022 or later;
 - (v) Securities of Trevali purchased in the secondary market between October 9, 2020 and April 14, 2022, both dates inclusive, and held as of the close of trading on the TSX on April 14, 2022, and which were sold on or before August 15, 2022;
 - (vi) Securities of Trevali purchased in the secondary market between October 9, 2020 and April 14, 2022, both dates inclusive, held as of the close of trading on the TSX on August 15, 2022 or later; and
 - (vii) Securities of Trevali purchased in the secondary market between April 18, 2022 and August 15, 2022, both dates inclusive, and held as of the close of trading on the TSX on August 15, 2022 or later.
- (k) “**Escrow Account**” has the meaning ascribed in the Settlement Agreement.
 - (l) “**Excluded Persons**” are the persons and entities identified in **Schedule “A”**.
 - (m) “**Gross Loss**” means an Eligible Claimant’s gross investment loss to be calculated based on the methodology provided herein.
 - (n) “**Plaintiffs’ Compensable Loss**” means for Michael Demmer \$5,803.50, for Rodney Brunk \$21,858.35, for Tim Kempter \$11,200, and for William Williamson \$175.
 - (o) “**Prospectus**” means Trevali’s Prospectus Supplement dated November 25, 2020, to a Short Form Prospectus dated November 19, 2020.
 - (p) “**Purchase Price**” means the average price per security at which a Securities Claimant purchased or otherwise acquired their Eligible Securities (after giving effect to the reverse securities split, which was effected on December 3, 2021, if applicable).
 - (q) “**Securities Claimants**,” each being a “**Securities Claimant**,” has the meaning attributed to this term in **Schedule “A”**, but specifically excluding the Excluded Persons.

- (r) “**Selling Price**” means the average price per security at which a Securities Claimant sold or otherwise disposed of their Eligible Securities.
- (s) “**Settlement Distribution Fund**” means the net settlement fund available for allocation and distribution after payment of legal fees, expenses, taxes and honorariums to be approved by the Court.
- (x) “**Trevali**” means Trevali Mining Corporation.
- (y) “**TSX**” means the Toronto Stock Exchange.

PART III – GENERAL:

- 2. The Claims Administrator shall distribute the Settlement Distribution Fund in accordance with the terms of this Plan of Allocation.
- 3. The goal of this Plan of Allocation is to distribute the Settlement Distribution Fund among Securities Claimants who submit valid and timely Claim Forms.
- 4. In the event of circumstances that may not be specifically addressed herein, the Claims Administrator shall address the situation bearing in mind the spirit and goal of this Plan of Allocation.
- 5. Class Counsel and the Claims Administrator may apply to the Court for guidance and directions as needed to give effect to this Plan of Allocation.
- 6. All dollar figures indicated herein are in Canadian dollars.

PART III – COMPLETION AND SUBMISSION OF CLAIM FORMS:

- 7. Other than as specified herein, any person who wishes to claim compensation from the Settlement Distribution Fund must complete and submit a Claim Form by the Claims Bar Date, following which the claim shall be disallowed and it shall be extinguished and forever barred. Notwithstanding this clause, the Claims Administrator may in its discretion allow an otherwise-valid late claim without further order of the Court.
- 8. A Claim Form may be completed and submitted by an Eligible Claimant, or a person who is authorized to complete and submit the Claim Form on behalf of an Eligible Claimant.
- 9. If a Claim Form is completed and submitted by a representative of an Eligible Claimant, the person completing and submitting the Claim Form shall certify that he, she or it is authorized to do so on behalf of the Eligible Claimant.

PART IV – PROCESSING CLAIM FORMS:

- 10. The Claims Administrator shall develop and make available an electronic and automated process to facilitate the completion, submission and processing of the Claim Forms. That process will be designed and structured to receive each Eligible Claimant’s information

from them, including the particulars of their transactions in the Eligible Securities, and determine their eligibility and, if so, their Compensable Loss, in accordance with the terms of this Plan of Allocation.

11. Each person submitting a Claim Form shall certify that:
 - (a) He, she or it, or the person on whose behalf the Claim Form is being submitted, is an Eligible Claimant;
 - (b) He, she or it, or the person on whose behalf the Claim Form is being submitted, is not an Excluded Person; and
 - (c) He, she or it is providing information that is true and correct.
12. The Claim Process is intended to be expeditious, cost effective and “user friendly” and to minimize the burden on Eligible Claimants. The Claims Administrator shall, in the absence of reasonable grounds to the contrary, assume an Eligible Claimant to be acting honestly and in good faith.
13. The Claim Process is also intended to prevent fraud and abuse. If, after reviewing any Claim Form, the Claims Administrator believes that the claim contains unintentional errors which would materially exaggerate the Compensable Loss to be awarded to the Claimant, then the Claims Administrator may disallow the claim in its entirety or make such adjustments so that an appropriate Compensable Loss is awarded to the Eligible Claimant. If the Claims Administrator believes that the claim is fraudulent or contains intentional errors which would materially exaggerate the Compensable Loss to be awarded to the Eligible Claimant, then the Claims Administrator shall disallow the claim in its entirety and the Claimant shall be barred from subsequent claims arising from any settlement or judgment in this class proceeding. The Claims Administrator shall conduct test audits of the Claim Forms, meaning that it shall test random samples of the Claim Forms, to be received from Eligible Claimants, in order to verify the accuracy of the Claim Forms.

PART V – IRREGULAR CLAIMS OR CLAIM FORMS:

14. Where a Claim Form contains minor omissions or errors, the Claims Administrator may in its discretion correct such omissions or errors if the information necessary to correct the error or omission is readily available to the Claims Administrator.
15. If the Claims Administrator identifies a Claim Form that is materially untrue or inaccurate, the Claims Administrator may in its discretion disallow the claim in its entirety.
16. Where the Claims Administrator disallows a claim in its entirety, the Claims Administrator shall send to the Claimant at the address provided by the Claimant or the Claimant’s last known email or postal address, a notice advising the Claimant that he, she or it may request the Claims Administrator to reconsider its decision. For greater certainty, an Eligible Claimant is not entitled to a notice or a review where a claim is allowed but the Eligible Claimant disputes the determination of Compensable Loss or his, her or its individual compensation.

17. Any request for reconsideration must be received by the Claims Administrator within 21 calendar days of the date of the notice advising of the disallowance. If no request is received within this time period, the Claimant shall be deemed to have accepted the Claims Administrator's determination and the determination shall be final and not subject to further review by any court or other tribunal.
18. Where a Claimant files a request for reconsideration with the Claims Administrator, the Claims Administrator shall advise Class Counsel of the request and conduct an administrative review of the Claimant's complaint.
19. Following its determination in an administrative review, the Claims Administrator shall advise the Claimant of its determination. In the event the Claims Administrator reverses a disallowance, the Claims Administrator shall send the Eligible Claimant at the Eligible Claimant's last known email or postal address, a notice specifying the revision to the Claims Administrator's disallowance.
20. The determination of the Claims Administrator in an administrative review is final and is not subject to further review by any court or other tribunal.

PART VI – ALLOCATION SYSTEM:

A. GENERAL

21. Each Eligible Claimant's Compensable Loss shall be determined in accordance with this section of the Plan of Allocation, unless otherwise specified herein.
22. The Plaintiffs' Compensable Losses have been calculated by Class Counsel in accordance with this section.
23. Each Eligible Claimant's Compensable Loss shall be determined through the following two-step process:
 - (a) First, the Eligible Claimant's Gross Loss shall be determined; and
 - (b) Second, the Eligible Claimant's Gross Loss shall be multiplied by the applicable risk adjustments prescribed herein to calculate each Eligible Claimant's Compensable Loss.

$$\underline{\underline{\text{COMPENSABLE LOSS} = \text{Gross Loss} \times \text{Applicable Risk Adjustment}}}$$

B. CALCULATION OF AN ELIGIBLE CLAIMANT'S GROSS LOSS:

24. In calculating the Eligible Claimant's Gross Loss, with respect to the Eligible Securities that were purchased on or prior to December 2, 2021, the number of the purchased securities shall be divided by 10, and the price paid for the securities shall be multiplied by 10 in order to give effect to the reverse split of the securities of Trevali that was effected on December 3, 2021. For example, if an Eligible Claimant purchased 10 securities at a

price of \$0.185 per securities, the Eligible Claimant shall be deemed to have purchased 1 security at a price of \$1.85.

25. An Eligible Claimant's Gross Loss with respect to each category of the Eligible Securities shall be calculated as follows.
26. **CATEGORY 1: Securities of Trevali purchased prior to October 9, 2020, and held as of the close of trading on the TSX on April 14, 2022, and which were sold on or before August 15, 2022:**

Number of Eligible Securities X \$0.69

27. **CATEGORY 2: Securities of Trevali purchased prior to October 9, 2020, and were held as of the close of trading on the TSX on August 15, 2022 or later:**

Number of Eligible Securities X \$0.93

28. **CATEGORY 3: Securities of Trevali purchased pursuant to the Prospectus at the effective price of \$1.85 (after giving effect to the reverse securities split, which was effected on December 3, 2021), and held as of the close of trading on the TSX on April 14, 2022, and which were sold on or before August 15, 2022:**

The lesser amount of:

Number of Eligible Securities X (\$1.85 – Selling Price)

and

Number of Eligible Securities X (\$1.85 - \$1.20)

29. **CATEGORY 4: Securities of Trevali purchased pursuant to the Prospectus at the effective price of \$1.85 (after giving effect to the reverse securities split, which was effected on December 3, 2021), and held as of the close of trading on the TSX on August 15, 2022 or later:**

The lesser amount of:

(Number of Eligible Securities X (\$1.85 - \$1.20)) + (Number of Eligible Securities X (\$0.45 – Selling Price))

and

(Number of Eligible Securities X (\$1.85 - \$1.20)) + (Number of Eligible Securities X (\$0.45 – \$0.22))

30. **CATEGORY 5: Securities of Trevali purchased in the secondary market between October 9, 2020 and April 14, 2022, both dates inclusive, and held as of the close of trading on the TSX on April 14, 2022, and which were sold on or before August 15, 2022:**

The lesser amount of:

Number of Eligible Securities X (Purchase Price - Selling Price)

and

Number of Eligible Securities X (Purchase Price - \$1.20)

31. **CATEGORY 6: Securities of Trevali purchased in the secondary market between October 9, 2020 and April 14, 2022, both dates inclusive, held as of the close of trading on the TSX on August 15, 2022 or later:**

The lesser amount of:

(Number of Eligible Securities X (Purchase Price - \$1.20)) + (Number of Eligible Securities X (\$0.45 – Selling Price))

and

(Number of Eligible Securities X (Purchase Price - \$1.20)) + (Number of Eligible Securities X (\$0.45 – \$0.22))

32. **CATEGORY 7: Securities of Trevali purchased in the secondary market between April 18, 2022 and August 15, 2022, both dates inclusive, and held as of the close of trading on the TSX on August 15, 2022 or later**

The lesser amount of:

Number of Eligible Securities X (Purchase Price - Selling Price)

and

Number of Eligible Securities X (Purchase Price - \$0.22)

C. RISK ADJUSTMENTS

33. The following risk adjustments shall apply to each of the categories of the Eligible Securities.
34. **CATEGORIES 1 and 2: 10%.** For example, if an Eligible Claimant's Gross Loss for Eligible Securities in Category 1 is \$1,000, the Eligible Claimant's Compensable Loss shall be $\$1,000 \times 10\% = \100 .
35. **CATEGORIES 3 and 4: 20%.** For example, if an Eligible Claimant's Gross Loss for Eligible Securities in Category 3 is \$1,000, the Eligible Claimant's Compensable Loss shall be $\$1,000 \times 20\% = \200 .

36. **CATEGORIES 5, 6 and 7: 35%.** For example, if an Eligible Claimant's Gross Loss for Eligible Securities in Category 5 is \$1,000, the Eligible Claimant's Compensable Loss shall be $\$1,000 \times 35\% = \350 .

PART VIII – DISTRIBUTION OF THE SETTLEMENT DISTRIBUTION FUND:

37. Class Counsel shall distribute the Plaintiff's Compensable Losses to the Plaintiffs as applicable from the Escrow Account directly. After deducting such fees and disbursements as may be authorized by the Court from the Escrow Account, Class Counsel shall transfer the remaining balance in the Escrow Account to an account designated by the Claims Administrator to be the Claims Process Escrow Account.
38. After the Eligible Claimants' Compensable Losses are determined, the Claims Administrator shall make payments to such Claimants from the Claims Process Escrow Account on a prorated basis, subject to the following terms:
- (a) Payments will be made in Canadian currency.
 - (b) The Claims Administrator shall not make payments to Eligible Claimants whose allocation is less than \$25.00. Such amount shall instead be allocated *pro rata* to the other Eligible Claimants.
 - (c) The Claims Administrator shall make payment to an Eligible Claimant by either bank transfer or by cheque to the Eligible Claimant at the address provided by the Eligible Claimant or the last known postal address for the Eligible Claimant. If, for any reason, an Eligible Claimant does not cash a cheque within 6 (six) months after the date of the cheque, the Eligible Claimant shall forfeit the right to compensation.

PART IX – REMAINING AMOUNTS IN THE CLAIMS PROCESS ESCROW ACCOUNT:

39. If the Claims Process Escrow Account is in a positive balance (whether by reason of tax refunds, un-cashed cheques or otherwise) after one hundred and eighty (180) days from the date of distribution of the Settlement Distribution Fund, the Claims Administrator shall, if feasible, allocate such balance among Eligible Claimants with valid and approved claims with allocations exceeding \$25.00 in an equitable and economic fashion.

SCHEDULE “A”

DEFINITION OF “SECURITIES CLAIMANTS”

The term “**Securities Claimants**” is defined as follows:

All persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired the common shares (or their equivalent) of Trevali in the primary market and/or in the secondary market during the Class Period, and held some or all of such common shares as of the close of trading on the TSX on April 14, 2022 and/or August 15, 2022, except the Excluded Persons.

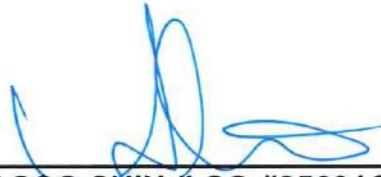
The term “**Class Period**” is defined as follows:

The period from October 9, 2020 through to August 15, 2022, both dates inclusive.

The term “**Excluded Persons**” means the following persons and entities:

- a) Trevali and its current or former directors, officers, subsidiaries, partners, affiliates, legal representatives, predecessors, successors and assigns;
- b) Ricus Grimbeek, Brendan Creaney, Jill Gardiner, Russell Ball, Aline Cote, Nick Popovic, Jeane Hull, Dan Isserow and Richard Williams (collectively, “D&O Defendants”);
- c) Glencore plc, Glencore International AG, Glencore AG and Glencore Canada Corporation (collectively, “Glencore Entities”), and their directors, officers, subsidiaries, partners, affiliates, legal representatives, predecessors, successors and assigns; and
- d) any judge of a court who has heard or will hear any motion, application or appeal in respect of the Class Proceeding.

THIS IS **EXHIBIT "N"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end.

TAEK SOO SHIN (LSO #85691Q)

LECLAIR et al v XEBEC ADSORPTION INC. et al
500-06-001135-215
SETTLEMENT PLAN OF ALLOCATION

PART I – RECITALS:

- A. **WHEREAS** by way of an agreement dated May 26, 2023 (“**Settlement Agreement**”), the action styled *Leclair et al v Xebec Adsorption Inc. et al.*, brought in the Superior Court of Québec, Court File No.: 500-06-001135-215 (“**Action**”) has been settled amongst the parties on behalf of a Class of investors as defined in **Schedule “A”** to this Plan of Allocation (“**Settlement**”);
- B. **AND WHEREAS** subject to the approval of the Superior Court of Québec, which will be sought in due course, the net proceeds of the Settlement, after the deduction of the Court-approved legal fees, expenses and taxes (“**Settlement Distribution Fund**”) would be available for distribution to the members of the Class who submit valid claims in accordance with the Court-approved Claim Process (“**Claimants**”);
- C. **AND WHEREAS** the goal of this Plan of Allocation is to facilitate an efficient, just and fair allocation and distribution of the Settlement Distribution Fund;
- D. **NOW THEREFORE**, subject to the approval of the Superior Court of Québec, which will be sought in due course, it is hereby determined that the Settlement Distribution Fund shall be allocated and distributed in accordance with the terms of this Plan of Allocation, as follows.

PART II – DEFINITIONS:

1. For the purposes of this Plan of Allocation, the definitions set out in the Settlement Agreement apply to and are incorporated into this Plan of Allocation and, in addition, the following definitions apply:
- (a) “**Allocation System**” means the method of determining the Compensable Loss assigned to a claim in order to determine the amount of compensation to be awarded for that claim, taking into account risk adjustments to account for the litigation and liability risks for the 4 (four) different categories of Claimants.
 - (b) “**Claim Form**” means a written claim in the prescribed form seeking compensation from the Settlement Distribution Fund.
 - (c) “**Claim Process**” means the Court-approved process to submit a Claim Form seeking compensation from the Settlement Distribution Fund.
 - (x) “**Claimants**” means each Class Member who submits a valid Claim Form, or on whose behalf a valid Claim Form is submitted by a person who is authorized to submit the Claim Form, in accordance with the Court-approved Claim Process. The Claimants would encompass the following four groups, in each case specifically excluding the Excluded Persons:

- (i) **Secondary Market Purchasers:** any person or entity, wherever they may reside or may be domiciled, who purchased Xebec’s common shares in the secondary market at any time during the Class Period, and held those shares as of the close of trading on the TSX on March 11, 2021 or March 24, 2021.
 - (ii) **Prospectus Purchasers:** any person or entity, wherever they may reside or may be domiciled, who purchased Xebec’s Subscription Receipts pursuant to the Final Short-Form Prospectus dated December 21, 2020, at a purchase price of \$5.80 per Subscription Receipt.
 - (iii) **Private Placement Purchasers:** any person or entity, wherever they may reside or may be domiciled, who purchased Xebec’s Subscription Receipts in the Private Placement carried out in December of 2020, at a purchase price of \$5.80 per Subscription Receipt.
 - (iv) **HyGear Investors:** any person or entity, wherever they may reside or may be domiciled, who acquired Xebec’s common shares in exchange for shares of HyGear Technology and Services B.V at a deemed price of \$6.03 per Xebec common share.
- (d) “**Claims Administrator**” means the firm to be appointed by the Court to administer the Claim Process and may include KND Complex Litigation acting as Claims Administrator.
 - (e) “**Claims Bar Date**” means the date to be determined by Court by which Claim Forms must be submitted in order for it to be considered a valid Claim Form.
 - (f) “**Class**” and “**Class Members**” have the meanings attributed to these terms in **Schedule “A”**, and specifically exclude an Excluded Person.
 - (g) “**Class Counsel**” means KND Complex Litigation and Lex Group.
 - (h) “**Claims Process Escrow Account**” has the meaning attributed to it in paragraph 34 below.
 - (i) “**Compensable Loss**” is the sum of a Claimant’s recoverable investment loss after risk adjustments applied for each type of purchase.
 - (j) “**Court**” means the Superior Court of the Province of Québec.
 - (k) “**Escrow Account**” has the meaning ascribed in the Settlement Agreement.
 - (l) “**Excluded Persons**” are the persons and entities identified in **Schedule “A”**.
 - (m) “**Offering**” means the issuance and distribution of Subscription Receipts of Xebec, at a price of \$5.80 per Subscription Receipt, in December 2020.
 - (n) “**Plaintiff’s Compensable Loss**” means for Maurice Leclair \$1,680 and for Evert Schuringa \$9,346.12

- (o) “**Settlement Distribution Fund**” means the net settlement fund available for allocation and distribution after payment of legal fees, expenses and taxes to be approved by the Court.
- (x) “**Xebec**” means Xebec Adsorption Inc.

PART III – GENERAL:

- 2. The Claims Administrator shall distribute the Settlement Distribution Fund in accordance with the terms of this Plan of Allocation.
- 3. The goal of this Plan of Allocation is to distribute the Settlement Distribution Fund among Claimants who submit valid and timely Claim Forms.
- 4. In the event of circumstances that may not be specifically addressed herein, the Claims Administrator shall address the situation bearing in mind the spirit and goal of this Plan of Allocation.
- 5. Class Counsel and the Claims Administrator may apply to the Court for guidance and directions as needed to give effect to this Plan of Allocation.
- 6. All dollar figures indicated herein are in Canadian dollars.

PART III – COMPLETION AND SUBMISSION OF CLAIM FORMS:

- 7. Other than as specified herein, any person who wishes to claim compensation from the Settlement Distribution Fund must complete and submit a Claim Form by the Claims Bar Date, following which the claim shall be disallowed and it shall be extinguished and forever barred. Notwithstanding this clause, the Claims Administrator may in its discretion allow an otherwise-valid late claim without further order of the Court.
- 8. A Claim Form may be completed and submitted by the Claimant, or a person who is authorized to complete and submit the Claim Form on behalf of the Claimant.
- 9. If the Claim Form is completed and submitted by a representative, the person completing and submitting the Claim Form shall certify that he, she or it is authorized to do so on behalf of the Claimant.

PART IV – PROCESSING CLAIM FORMS:

- 10. The Claims Administrator shall develop and make available an electronic and automated process to facilitate the completion, submission and processing of the Claim Forms. That process will be designed and structured to receive each Claimant’s information from them, including the particulars of their transactions in Xebec’s securities, and determine their eligibility and, if so, their Compensable Loss, in accordance with the terms of this Plan of Allocation.

11. Each person submitting a Claim Form shall certify that:
 - (a) He, she or it, or the person on whose behalf the Claim Form is being submitted, is an eligible Claimant;
 - (b) He, she or it, or the person on whose behalf the Claim Form is being submitted, is not an Excluded Person; and
 - (c) He, she or it is providing information that is true and correct.
12. The Claim Process is intended to be expeditious, cost effective and “user friendly” and to minimize the burden on Claimants. The Claims Administrator shall, in the absence of reasonable grounds to the contrary, assume the Claimants to be acting honestly and in good faith.
13. The Claim Process is also intended to prevent fraud and abuse. If, after reviewing any Claim Form, the Claims Administrator believes that the claim contains unintentional errors which would materially exaggerate the Compensable Loss to be awarded to the Claimant, then the Claims Administrator may disallow the claim in its entirety or make such adjustments so that an appropriate Compensable Loss is awarded to the Claimant. If the Claims Administrator believes that the claim is fraudulent or contains intentional errors which would materially exaggerate the Compensable Loss to be awarded to the Claimant, then the Claims Administrator shall disallow the claim in its entirety and the Claimant shall be barred from subsequent claims arising from any settlement or judgment in this class proceeding. The Claims Administrator shall conduct test audits of the Claim Forms, meaning that it shall test random samples of the Claim Forms, to be received from Claimants, in order to verify the accuracy of the Claim Forms.

PART V – IRREGULAR CLAIMS OR CLAIM FORMS:

14. Where a Claim Form contains minor omissions or errors, the Claims Administrator may in its discretion correct such omissions or errors if the information necessary to correct the error or omission is readily available to the Claims Administrator.
15. If the Claims Administrator identifies a Claim Form that is materially untrue or inaccurate, the Claims Administrator may in its discretion disallow the claim in its entirety.
16. Where the Claims Administrator disallows a claim in its entirety, the Claims Administrator shall send to the Claimant at the address provided by the Claimant or the Claimant’s last known email or postal address, a notice advising the Claimant that he, she or it may request the Claims Administrator to reconsider its decision. For greater certainty, a Claimant is not entitled to a notice or a review where a claim is allowed but the Claimant disputes the determination of Compensable Loss or his, her or its individual compensation.
17. Any request for reconsideration must be received by the Claims Administrator within 21 days of the date of the notice advising of the disallowance. If no request is received within this time period, the Claimant shall be deemed to have accepted the Claims Administrator’s determination and the determination shall be final and not subject to further review by any court or other tribunal.

18. Where a Claimant files a request for reconsideration with the Claims Administrator, the Claims Administrator shall advise Class Counsel of the request and conduct an administrative review of the Claimant's complaint.
19. Following its determination in an administrative review, the Claims Administrator shall advise the Claimant of its determination. In the event the Claims Administrator reverses a disallowance, the Claims Administrator shall send the Claimant at the Claimant's last known email or postal address, a notice specifying the revision to the Claims Administrator's disallowance.
20. The determination of the Claims Administrator in an administrative review is final and is not subject to further review by any court or other tribunal.

PART VI – ALLOCATION SYSTEM:

A. GENERAL

21. Each Claimant's Compensable Loss shall be determined in accordance with this section of the Plan of Allocation unless otherwise specified herein.
22. The Plaintiff's Compensable Loss(es) have been calculated by Class Counsel in accordance with this section.
23. Each Claimant's Compensable Loss shall be, or in the case of the Plaintiff's Compensable Loss has been determined through the following two-step process:
 - (a) First, the Claimant's gross loss shall be determined; and
 - (b) Second, the Claimant's gross loss shall be multiplied by the applicable risk adjustments prescribed herein to calculate each Claimant's Compensable Loss.

COMPENSABLE LOSS = Gross Loss X Applicable Risk Adjustment

B. SECONDARY MARKET PURCHASERS:

24. For the purposes of this Plan of Allocation, a secondary market purchaser is a Claimant, wherever residing or domiciled, who purchased Xebec's common shares in the secondary market, on a securities exchange, but specifically excluding the Excluded Persons.

25. The Compensable Loss of each such Claimant shall be determined as follows:

DATE OF PURCHASE OF XEBEC COMMON SHARES	HOLD-THROUGH	GROSS LOSS	RISK ADJUSTMENT
Common shares purchased at any time between November 10, 2019 and March 11, 2021	Common shares sold on, or at any time before, March 11, 2021	NIL	N/A
Common shares purchased at any time between November 10, 2019 and March 11, 2021	Common shares sold at any time between March 12, 2021 and April 8, 2021	# of common shares X (Purchase Price - Selling Price)	0.35
Common shares purchased at any time between November 10, 2019 and March 11, 2021	Common shares sold on or at any time after April 9, 2021, or which continue to be held	# of common shares X (Purchase Price - \$4.58)	0.35
Common shares purchased at any time between March 12, 2021 and March 24, 2021	Common shares sold on, or at any time before, March 24, 2021	NIL	N/A
Common shares purchased at any time between March 12, 2021 and March 24, 2021	Common shares sold at any time between March 25, 2021 and April 8, 2021	# of common shares X (Purchase Price - Selling Price)	0.35
Common shares purchased at any time between March 12, 2021 and March 24, 2021	Common shares sold on or at any time after April 9, 2021, or which continue to be held	# of common shares X (Purchase Price - \$4.58)	0.35

C. PROSPECTUS PURCHASERS:

26. For the purposes of this Plan of Allocation, a prospectus purchaser is a Claimant, wherever residing or domiciled, who purchased Xebec's Subscription Receipts in the primary market pursuant to the Final Short Form Prospectus dated December 21, 2020, at a purchase price of \$5.80 per Subscription Receipt, but specifically excluding the Excluded Persons.
27. Each Xebec Subscription Receipt was subsequently converted to 1 Xebec common shares. Therefore, for the purposes of this Plan of Allocation, the applicable hold-through applies to the equivalent common shares.
28. The Compensable Loss of each such Claimant shall be determined as follows:

HOLD-THROUGH	GROSS LOSS	RISK ADJUSTMENT
Common shares sold on, or at any time before, March 11, 2021	NIL	N/A
Common shares sold at any time between March 12, 2021 and April 8, 2021	# of common shares X (\$5.80 – Selling Price)	0.50
Common shares sold on or at any time after April 9, 2021, or which continue to be held	# of common shares X (\$5.80 - \$4.58)	0.50

D. PRIVATE PLACEMENT PURCHASERS:

29. For the purposes of this Plan of Allocation, a prospectus purchaser is a Claimant, wherever residing or domiciled, who purchased Xebec's Subscription Receipts in the private placement that was carried out in December 2020, at a purchase price of \$5.80 per Subscription Receipt, but specifically excluding the Excluded Persons.
30. Each Xebec Subscription Receipt was subsequently converted to 1 Xebec common shares. Therefore, for the purposes of this Plan of Allocation, the applicable hold-through applies to the equivalent common shares.

31. The Compensable Loss of each such Claimant shall be determined as follows:

HOLD-THROUGH	GROSS LOSS	RISK ADJUSTMENT
Common shares sold on, or at any time before, March 11, 2021	NIL	N/A
Common shares sold at any time between March 12, 2021 and April 8, 2021	# of common shares X (\$5.80 – Selling Price)	0.10
Common shares sold on or at any time after April 9, 2021, or which continue to be held	# of common shares X (\$5.80 - \$4.58)	0.10

E. HYGear INVESTORS:

32. For the purposes of this Plan of Allocation, a HyGear Investor is a Claimant, wherever residing or domiciled, who acquired Xebec's common shares in exchange for shares of HyGear Technology and Services B.V at a deemed price of \$6.03 per Xebec common share., but specifically excluding the Excluded Persons.
33. The Compensable Loss of each such Claimant shall be determined as follows:

HOLD-THROUGH	GROSS LOSS	RISK ADJUSTMENT
Common shares sold on, or at any time before, March 11, 2021	NIL	N/A
Common shares sold at any time between March 12, 2021 and April 8, 2021	# of common shares X (\$6.03 – Selling Price)	0.35
Common shares sold on or at any time after April 9, 2021, or which continue to be held	# of common shares X (\$6.03 - \$4.58)	0.35

PART VIII – DISTRIBUTION OF THE SETTLEMENT DISTRIBUTION FUND:

34. Class Counsel shall distribute the Plaintiff's Compensable Losses to the Plaintiffs as applicable from the Escrow Account directly. After deducting such fees and disbursements as may be authorized by the Court from the Escrow Account, Class Counsel shall transfer the remaining balance in the Escrow Account to an account designated by the Claims Administrator to be the Claims Process Escrow Account.
35. After the Claimants' Compensable Losses are determined, the Claims Administrator shall make payments to such Claimants from the Claims Process Escrow Account on a prorated basis, subject to the following terms:
 - (a) Payments will be made in Canadian currency.
 - (b) The Claims Administrator shall not make payments to Claimants whose allocation is less than \$25.00. Such amount shall instead be added to the Claims Process Escrow Account and distributed in accordance with paragraph 36, and these Claimants will not be eligible for payment.
 - (c) The Claims Administrator shall make payment to a Claimant by either bank transfer or by cheque to the Claimant at the address provided by the Claimant or the last known postal address for the Claimant. If, for any reason, a Claimant does not cash a cheque within 6 (six) months after the date of the cheque, the cheque shall be cancelled and the Claimant shall forfeit the right to compensation.

PART IX – REMAINING AMOUNTS IN THE ESCROW ACCOUNT:

36. If the Claims Process Escrow Account is in a positive balance (whether by reason of tax refunds, un-cashed cheques or otherwise) after one hundred and eighty (180) days from the date of distribution of the Settlement Distribution Fund, the Claims Administrator shall, if feasible, allocate such balance among Claimants with valid and approved claims with allocations exceeding \$25.00 in an equitable and economic fashion. Thereafter or if not feasible, any remaining funds will be distributed as follows:
 - a) The Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives, c. F-3.2.0.1.1, r.2 will apply to the portion of any remaining balance.
 - b) If the Claims Administrator determines, at its discretion, that funds that cannot be economically allocated among Claimants, the Claims Administrator shall, after payment is made to the Fonds d'aide aux actions collectives, hold the balance in the Escrow Account pending further directions of the Court, and if appropriate, seek *cy-près* payment of such excess fund to a recipient to be approved by the Court.

SCHEDULE “A”

DEFINITION OF “CLASS” AND “CLASS MEMBERS”

Class or Class Member means, other than the Excluded Persons, any person or entity, wherever they may reside or may be domiciled, who purchased or otherwise acquired securities of Xebec by any means (whether pursuant to a primary market offering, in the secondary market or otherwise) during the Class Period, and held some or all of such securities as of the close of trading on the TSX on March 11, 2021 or March 24, 2021.

Class Period means the period from November 10, 2019, to March 24, 2021, inclusively.

Excluded Persons means the following persons and entities:

- (i) Xebec;
- (ii) the Underwriter Defendants and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns;
- (iii) the Individual Defendants, members of their immediate families and any entity in which the Individual Defendants hold a controlling interest; and
- (iv) SDI, Oost NL and the Trust Foundation, as those entities are defined in the Share Purchase Agreement dated December 8, 2020 with Xebec Europe B.V.;

as defined in the Settlement Agreement.

THIS IS **EXHIBIT "O"** TO THE AFFIDAVIT OF
HADI DAVARINIA, SWORN BEFORE ME THIS
11TH DAY OF MARCH, 2025



TAEK SOO SHIN (LSO #85691Q)



About Us

At Concilia, we want to shape the future of class action administration. Bringing together different cross-functional and complementary expertise, we work to advance the field by clarifying and making settlement processes more reliable. By offering turnkey solutions that simplify and optimize the management of all forms of collective action, we assert ourselves as the preferred partner of large companies, law firms and consumers. Aware that each collective action is unique, we are committed to providing tailor-made services, adapted to the specific needs of each case. From handling claims to disbursing settlement funds, including mass notification systems or detailed reports, we manage all aspects of the procedure to allow our various partners to concentrate on their main activity. We aim to revolutionize class action management by merging technological innovation with a diverse array of technical skills and essential values like transparency and honesty. Through continual refinement of our tools and methods, we strive to uncover fresh perspectives in this field.

Our Expertise

INITIAL PLANNING CONSULTATION

Preliminary consultation to structure a comprehensive plan for settlement administration. An important step prior to finalizing a settlement agreement to avoid any delays or unanticipated costs.

MASS NOTICE NOTIFICATIONS

Ability to reach the largest audiences possible for all types of class action settlements by using e-mail and snail mail. Through email analytics, Concilia provides detailed reports on deliverability (bounces, opens, clicks).

CALL CENTRE SUPPORT

Team of bilingual agents available for live chat support through toll free numbers. Interactive voice menus and operators assist claimants by answering frequently asked questions, guiding the claims process as well as providing general case information.

FRAUD DETECTION SERVICES

Concilia excels in identifying fraudulent claims, ensuring the trustworthiness of every settlement. Our services include real-time analysis, behavioral profiling, multi-layered authentication, and personalized solutions for each case. Through machine learning applications, Concilia uses technology to combat fraud and streamline administrative processes.

CLAIMS ADMINISTRATION

Streamlined approach to administering the process and ensuring successful campaigns, with the ability to quickly launch and execute mandates. Using technology, claimant notices and claims processes are customized, digitalized and monitored to meet strict requirements.

MULTICHANNEL APPROACH

Leveraging expertise in social media ad campaigns, print ads, customized web development, SMS campaigns, and business analytics, the team's strong technology background allows a modernized claims process and improved success rates.

SETTLEMENT FUNDS DISBURSEMENT

Distribution of funds to large groups of class action members through efficient and cost-effective payout solutions, including Interac e-transfer and cheque distribution. Available phone and chat support to assist claimants in receiving their indemnities. Settlement funds are managed in compliance with all provincial and federal requirements.

EXTENSIVE REPORTING

Extensive reporting and analytics are provided for each campaign. Clients are kept informed on the status of their projects through periodic custom reports, banking reports, critical milestone notifications and ongoing access to data.

Confidentiality and Protection of Data

Hosted on a cloud infrastructure geographically located in Canada, Concilia are highly scalable, fully redundant, and continuously backed up for point-in-time recovery. Modern cloud architecture increases infrastructure security through built-in security processes. Confidentiality of client data is paramount. It is held in strict confidence and is only used to exercise rights and fulfill obligations, in accordance with settlement agreements.

The Team

Concilia was founded by two software engineers who combine 20 years of industry relevant experience in technology and process engineering who work in collaboration with an attorney with over 20 years of expertise in the legal field. This team identified and filled a gap in the industry of collective class action claims management services.

MORAN SOLOMON B.S.C., B.ING. CEO & CO-FOUNDER

✉ moran@conciliainc.com



CEO and Founder of Concilia, Moran Solomon works with clients to ensure that mandates are well defined and delivered within scope and timeline.

Senior technology executive, Moran has a history of envisioning and operationalizing IT infrastructure solutions that propel service delivery, scalability, and growth through emerging technologies. Operational leader, he has led various mission-critical IT projects for important clients and has empowered teams of experts through the various stages of project lifecycles.

CHE HODGINS B.ING. CTO & CO-FOUNDER

✉ che@conciliainc.com



CTO and Co-Founder of Concilia, Che Hodgins oversees the technology infrastructure and services of the company. He is also responsible for structuring all elements of client campaigns from inception to delivery and reporting.

Software Engineer by trade, Che started his career designing and optimizing high traffic web applications. With the advent of mobile apps and integrated technology, he has established successful startups in the claims management, sports and music industries. Ultimately, his passion is turning ideas into innovative commercial products.

SIMONE DIGHENAKIS LL.B DIRECTOR OF OPERATIONS

✉ simone@conciliainc.com



Director of Operations for Concilia, Simone Dighenakis brings over 20 years of legal experience to the table, with a notable focus on insurance law for the past 15 years. Her collaborative spirit, client-centric approach, and innovative mindset make her an invaluable asset to Concilia, ensuring exceptional client satisfaction.

Competitive Advantage & Client Benefits



TURNKEY SERVICES

Full management of the process, payout logistics, inquiries, etc.



STRATEGY PLANNING

Consultative guidance from class action settlement administration experts



COMPETITIVE PRICING

Cost structure built to reduce claims administration costs



CUSTOMIZED APPROACH

Catered to unique party interests



MODERN TECHNOLOGY

Reach target audiences via email, social media, and mass SMS campaigns



HIGH EMAIL DELIVERABILITY

Exceptional reach rates through email campaigns



MASS PAYMENTS

Efficient distributions of payments

1. Firm Overview

Concilia provides turnkey solutions for class action settlements to a diverse range of clients, including major corporations and specialized class action law firms. With a team of trusted experts, Concilia manages the entire process—from planning and case management to notice administration and settlement payout distribution.

Our claims administration process is tailored to the specific needs of each case, incorporating advanced digitization and rigorous quality control measures. We prioritize data security to safeguard sensitive information throughout the administration process. Backed by a team of technology professionals, Concilia leverages tools like targeted social media campaigns, custom web development, and business analytics. This approach ensures we reach the largest possible audience for a variety of settlements, delivering seamless and efficient outcomes.

From initial planning consultations to effective claims administration and mass notifications through multiple channels—including email, traditional mail, and social media—Concilia offers comprehensive settlement administration services. Our bilingual support team ensures seamless claimant assistance, while settlement fund disbursement is managed through cost-effective methods. With a strong focus on data security and detailed reporting, Concilia delivers transparent, secure, and reliable administration for class action settlements.

Class Action Claims Administration

Turnkey Solutions



2. List of Class Actions Managed by Our Team

Over the last few years we have carried out several mandates involving the administration of claims and the distribution of compensation in the context of class actions. Below is a list of some of our more prominent cases:

Securities Class Actions

- *Gauthier v. Bombardier* (Court File No. 500-06-000977-195);
- *Gauthier v. Baazov* (Court File No. 500-06-000859-179);
- *Leclair, et al. v. Xebec Adsorption Inc., et al.* (Court File No. 500-06-001135-215);

Consumer Protection Class Actions

- *Accor, Kayak, Priceline –Accommodation Reservation* (Court File No. 500-06-001041-207);
- Dollarama Ecofees Settlement (Court File No.500-06-001243-233);
- Quebec Event Insurance Settlement (Ticketmaster) (Court File No.500-06-001215-231);
- Amazon Extended Warranties Settlement (Court File No.500-06-001195-227);
- Audi PODS Settlement (Court File No. 500-06-001170-212);
- Lotto-Quebec OK Poker Settlement (Court File No. 500-06-001073-200);
- CSLSI – Vehicle Lease Assignment Fees (Court File No. 500-06-000920-187);
- *Corbeil & Pilon v. Bell Canada* (Court File No. 500-06-000773-156);
- CIBC Mortgages Prepayment Charge (IRD) Settlement (Court File No. 500-06-000930-186);
- Spring Coils – Class Action Settlement (Court File No. 500-06-000796-165);
- Canada Dry – “Made from Real Ginger” (Court File No. 500-06-000968-194);
- Airbnb Service Fees – Settlement (Court File No. 500-06-000884-177);
- Red Bull – Energy Drinks Settlement (Court File No. 500-06-000780-169);
- Sony Warranty – Shipping Costs Class Action (Court File No. 500-06-001064-209);
- Epic Lootbox Settlement (Court File No. 500-06-001132-212);
- StubHub, Vivid Seats, TicketNetwork, SeatGeek & Fanxchange (Court File No. 500-06-000754-156);

Class Action relating to a Data Breach

- La Place 0-5 Settlement (Court File No. 500-06-001148-218);