

**SETTLEMENT AGREEMENT**

Made as of the 12th day of May, 2010

Between

**Gary Henault**

and

**Bear Lake Gold Ltd.**  
**Elaine Bennett**  
**Robert Cudney**  
**David Fennell**  
**Alexander S. Horvath**  
**Alain Krushnisky**  
**Phillip S. Martin**  
**Thomas G. Larsen**  
**Miles Nagamatsu**  
**Stephen P. Quin**  
**Francois Viens and**  
**Bernard Boily**

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## SETTLEMENT AGREEMENT

Subject to the approval of the Court as provided herein, the Parties hereby stipulate and agree that, in consideration of the promises and covenants set forth in the Agreement and upon the Approval Order approving the Settlement and directing the implementation of the terms and conditions of the Settlement as set forth in the Agreement becoming final, the Action will be settled and compromised on the terms and conditions contained herein.

### SECTION 1 – RECITALS

#### 1.1 WHEREAS:

- A. Gary Henault commenced the Action against the Defendants alleging, among other things, that the Defendants had misrepresented BLG's exploration results.
- B. The Defendants have denied and continue to deny the Plaintiff's claims in the Action and have denied any wrong-doing or liability to the Plaintiff of any kind, and have raised numerous affirmative defences and would raise numerous other defences had the Action not been settled.
- C. Based upon an analysis of the facts and law applicable to the Plaintiff's claims, and taking into account the extensive burdens, risks and expense of continued litigation, including any potential appeals, as well as the fair, cost-effective and assured method of resolving the claims of the Class and having regard to the capacity of the Defendants to satisfy any future judgment or settlement of the Action, the Plaintiff, with the benefit of advice from Class Counsel, concluded that the Agreement is fair and reasonable, and in the best interest of the Class.
- D. The Defendants similarly have concluded that the Agreement is desirable in order to avoid the time, risk and expense, including the executive time and expense, of continuing with the litigation, including any potential appeals, and to resolve finally and completely the pending claims of the Class.
- E. The Plaintiff and Defendants have engaged in extensive litigation and negotiations.
- F. The Parties intend to and hereby do finally resolve the Action, subject to the approval of the Court, without any admission of liability.
- G. The Plaintiff asserts that he is a suitable representative for the Class and will seek to be appointed as the representative plaintiff.

NOW, THEREFORE, FOR VALUE RECEIVED, the Parties stipulate and agree, subject to the approval of the Court, that any and all claims made or that could have been made in the Action shall be finally settled and resolved on the terms and conditions set forth in the Agreement.

## SECTION 2 – DEFINITIONS

### 2.1 Definitions

In this Settlement Agreement, including the recitals and schedules hereto:

- (1) **Action** means the proceeding commenced by the Plaintiff against the Defendants in Superior Court of Justice Court File No. CV-09-385732CP, *Henault v. Bear Lake Gold Ltd. et al.*;
- (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 publishing and delivering notices, the fees, disbursements and taxes paid to the Administrator, Computershare Limited, Broadridge Financial Solutions Inc., Equity Transfer and Trust Company and any other expenses approved by the Court which shall all be paid from the Settlement Amount. For greater certainty, Administration Expenses include the Non-Refundable Expenses for the purposes of the Agreement but do not include Class Counsel Fees.
- (3) **Administrator** means the third-party firm selected at arm's length by Class Counsel and appointed by the Court to administer the Agreement, and any employees of such firm.
- (4) **Agreement** means this agreement, including the recitals.
- (5) **Approval Hearing** means the hearing of the Second Motion by the Court.
- (6) **Approval Order** means the order made by the Court in connection with the motion for certification of the Action for settlement purposes and the approval of the Settlement, such order to be substantially in the form agreed to by the Parties or fixed by the Court.
- (7) **Authorized Claimant** means any Class Member who has submitted a completed Claim Form which, pursuant to the terms of the Agreement, has been approved for compensation by the Administrator.
- (8) **Bennett** means the Defendant Elaine Bennett.
- (9) **BLG** means the Defendant Bear Lake Gold Limited.

- (10) **Boily** means the Defendant Bernard Boily.
- (11) **Claim Form** means the form to be agreed to by the Parties and approved by the Court which, when completed and submitted in a timely manner to the Administrator, constitutes a Class Member's claim for compensation pursuant to the Settlement.
- (12) **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 ninety days (90) days after the date on which the Second Notice is published.
- (13) **Class or Class Members** means all persons, other than Excluded Persons and Opt-Out Parties, who acquired Eligible Shares.
- (14) **Class Counsel** means Siskinds LLP.
- (15) **Class Counsel Fees** means the fees, disbursements, costs, GST and other applicable taxes (including any future provincial or harmonized sales tax) or charges of Class Counsel and a *pro rata* share of all interest earned on the Settlement Amount to the date of payment, as approved by the Court.
- (16) **Class Period** means the period from the opening of trading on the TSX-V on July 18, 2006 to the time when trading in the Shares was halted on the TSX-V on July 17, 2009.
- (17) **Collateral Agreement** means the agreement to be executed in a form agreed to by the parties, which sets the Opt-Out Threshold, the terms of which shall be kept confidential unless the Court requires disclosure thereof.
- (18) **Contributing Parties** means the BLG, Boily and the Insurer.
- (19) **Court** means the Ontario Superior Court of Justice.
- (20) **CPA** means the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, as amended.
- (21) **Cudney** means the Defendant Robert Cudney.
- (22) **Defendants** means BLG, Bennett, Boily, Cudney, Fennell, Horvath, Krushnisky, Martin, Larsen, Nagamatsu, Quin and Viens.
- (23) **Effective Date** means the date on which both of the following occur or have occurred:
- a. the Contributing Parties have paid the Settlement Amount into the Escrow account; and
  - b. the Defendants' right to terminate the Settlement has expired and the Approval Order becomes a Final Order.

(24) **Eligible Shares** means Shares purchased by a Class Member or Opt-Out Party during the Class Period and held by the Class Member or Opt-Out Party when trading in the Shares was halted on July 17, 2009.

(25) **Escrow Account** means the interest bearing trust account with one of the Canadian Schedule 1 banks in Ontario initially under the control of Siskinds LLP and then transferred to the control of the Administrator.

(26) **Escrow Settlement Amount** means the Settlement Amount plus any interest accruing thereon, whether on account of late payment into the Escrow Account as provided in section 5.1, or as a result of investment thereof.

(27) **Excluded Persons** means (i) the Defendants, (ii) BLG's past or present subsidiaries, affiliates, officers, directors, legal representatives, heirs, predecessors, successors and assigns, (iii) any member of the Individual Defendants' families, and (iv) any entity in which any of them has or had a legal or *de facto* controlling interest.

(28) **Fennell** means the Defendant David Fennell.

(29) **Final Order** means any order contemplated by this Agreement from which no appeal lies or in respect of which any right of appeal has expired without the initiation of proceedings in respect of that appeal such as the delivery of a notice of motion for leave to appeal or notice of appeal.

(30) **First Motion** means a motion brought by the Plaintiff for an order:

- (i) setting the date for the hearing of the Second Motion;
- (ii) approving the form and authorizing the manner of publication and dissemination of the First Notice;
- (iii) appointing Siskinds LLP to manage the Escrow Account.

the form of which order shall be agreed by the parties or fixed by the Court.

(31) **First Notice** means notice to the Class of the Second Motion in a form to be agreed by the Parties and approved by the Court.

(32) **First Order** means the order to be sought at the First Motion.

(33) **Horvath** means the Defendant Alexander S. Horvath.

(34) **Individual Defendants** means Bennett, Boily, Cudney, Fennell, Horvath, Krushnisky, Martin, Larsen, Nagamatsu, Quin and Viens.

(35) **Insurer** means Encon Group Inc.



- (36) ***Krushnisky*** means the Defendant Alain Krushnisky.
- (37) ***Larsen*** means the Defendant Thomas G. Larsen.
- (38) ***Newspapers*** means the following newspaper publications in Canada: National Post (National Edition) and the Northern Miner or such other publications as the Court directs.
- (39) ***Martin*** means the Defendant Phillip S. Martin.
- (40) ***Nagamatsu*** means the Defendant Miles Nagamatsu.
- (41) ***Non-Refundable Expenses*** means certain Administration Expenses stipulated in section 4.1(1) of the Agreement to be paid from the Settlement Amount.
- (42) ***Opt-Out Deadline*** means the date sixty (60) days after the date on which the Second Notice is published in the Newspapers.
- (43) ***Opt-Out Party*** means any person who would otherwise be a Class Member who opts out of the Class.
- (44) ***Opt-Out Threshold*** means the total number of Eligible Shares held by all Opt-Out Parties particularized in the Collateral Agreement.
- (45) ***Parties*** means the Plaintiff and the Defendants in the Action.
- (46) ***Plaintiff*** means the plaintiff Gary Henault.
- (47) ***Plan of Allocation*** means the distribution plan stipulating the proposed implementation and administration of the Settlement which shall be in a form to be agreed by the parties and approved by the Court.
- (48) ***Plan of Notice*** means the plan for disseminating the First Notice and the Second Notice to the Class, which shall be in form agreed to by the Parties and approved by the Court.
- (49) ***Quin*** means the Defendant Stephen P. Quin.
- (50) ***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 incurred, 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, 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 as against the Releasees, relating in any way to the purchase, sale, pricing, marketing or distribution of Shares during the Class Period, or 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 as a result of the purchase of Eligible Shares during the Class Period.

(51) **Releasees** means the Defendants, their insurers and their respective past and present affiliates, predecessors, subsidiaries, directors, officers, partners, employees, trustees, servants, consultants, underwriters, advisors, lawyers, representatives, successors, assigns and their heirs, executors, administrators, successors and assigns.

(52) **Releasers** means, jointly and severally, the Plaintiff, the Class Members (excluding Opt-Out Parties), including any person having a legal and/or beneficial interest in the Eligible Shares purchased or acquired by these Class Members, and their respective past and present directors, officers, employees, agents, trustees, servants, consultants, underwriters, advisors, representatives, heirs, executors, attorneys, administrators, guardians, estate trustees, successors and assigns, as the case may be.

(53) **Second Motion** means a motion brought by the Plaintiff in the Court for the Approval Order.

(54) **Second Long Form Notice** means a form of notice to the Class of the Approval Order for the purpose of providing direct notice to Class Members, in a form to be agreed by the Parties and approved by the Court.

(55) **Second Short Form Notice** means a form of notice to the Class of the Approval Order for the purposes of publication in the Newspapers, in a form to be agreed by the Parties and approved by the Court”.

(56) **Settlement** means the settlement provided for in the Agreement.

(57) **Settlement Amount** means \$1,305,000, inclusive of the Administration Expenses, Class Counsel Fees, and any other costs or expenses related to the Action or the Settlement.

(58) **Shares** means the common shares of BLG traded on the TSX-V during the Class Period.

(59) **TSX-V** means the TSX Venture Exchange.

(60) **Viens** means the Defendant Francois Viens.

### **SECTION 3 – APPROVAL PROCESS**

- (1) The Plaintiff will, as soon as is reasonably possible following the execution of the Agreement bring the First Motion. The Defendants shall consent to the order sought on the First Motion.
- (2) Following the determination of the First Motion, the First Notice will be published in accordance with the directions of the Court and section 10.1 of the Agreement.
- (3) The Plaintiff will thereafter bring the Second Motion before the Court in accordance with its directions and the Defendants will consent to the Approval Order sought in the Second Motion.
- (4) Except as hereinafter provided, the Agreement shall be immediately terminated if an order dismissing the Second Motion becomes a Final Order or if an order otherwise failing to approve the Settlement becomes a Final Order.
- (5) Upon the granting of the Approval Order, the Second Short Form Notice and the Second Long Form Notice will be published in accordance with the directions of the Court and section 10.2.

### **SECTION 4 – NON-REFUNDABLE EXPENSES**

#### **4.1 Payments**

- (1) Expenses reasonably incurred for the following purposes, as approved by the Court, shall be the Non-Refundable Expenses, and shall be payable from the Settlement Amount, as and when incurred:
  - (a) the costs incurred in connection with establishing and operating the Escrow Account;
  - (b) the costs incurred in publishing the First Notice;
  - (c) the cost incurred in publishing and distributing the Second Short Form Notice and the Second Long Form Notice;
  - (d) if necessary, the costs incurred in publishing notice to the Class that the Agreement has been terminated; and
  - (e) if the Court appoints the Administrator and thereafter the Settlement Agreement is terminated, the costs reasonably incurred by the Administrator for performing the

services required to prepare to implement the Settlement, to a maximum of \$25,000, as approved by the Court.

(2) Siskinds LLP shall account to the Court and the Parties for all payments it makes from the Escrow Account. In the event that the Agreement is terminated, this accounting shall be delivered no later than ten (10) days after such termination.

#### **4.2 Disputes Concerning Non-Refundable Expenses**

Any dispute concerning the entitlement to or quantum of Non-Refundable Expenses shall be dealt with by a motion to the Court on notice to the Parties.

### **SECTION 5 –SETTLEMENT BENEFITS**

#### **5.1 Payment of Escrow Settlement Amount**

(1) On or before May 5, 2010, BLG will pay into the Escrow Account the amount of \$200,000. BLG will pay interest at the rate of 5% per year on any portion of \$200,000 not deposited in the Escrow Account by May 5, 2010.

(2) BLG will cause the Insurer to use best efforts to pay \$1,100,000 into the Escrow Account by May 5, 2010. BLG will cause the Insurer to pay interest at the rate of 5% per year on any portion of \$1,100,000 not deposited in the Escrow Account by June 10, 2010.

(3) On or before April 30, 2010, Boily will pay into the Escrow Account the amount of \$5,000. Boily will pay interest at the rate of 5% per year on any portion of \$5,000 not deposited in the Escrow Account by April 30, 2010.

#### **5.2 Interim Investment of Escrow Account**

Siskinds LLP, and then the Administrator, after the Settlement becomes final, shall hold the Escrow Settlement Amount in the Escrow Account and shall not pay out any amount from the Escrow Account, except in accordance with the terms of the Agreement, or pursuant to an order of the Court made on notice to the Parties.

#### **5.3 Taxes on Interest**

(1) Except as provided in section 5.3(2), all taxes payable on any interest which accrues in relation to the Settlement Amount shall be the responsibility of the Class and shall be paid by Siskinds LLP or the Administrator, as appropriate, from the Escrow Settlement Amount, or by the Class as the Administrator considers appropriate.

(2) If the Administrator or Siskinds LLP 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.

#### **5.4 Other Consideration -- Boily**

(1) Boily undertakes and covenants that he shall not accept a position as a director or officer or serve in the capacity of a director or officer of any Ontario reporting issuer for a period of ten years from the date of this Agreement.

(2) In the event Boily accepts a position as or serves in the capacity of a director or officer of any Ontario reporting issuer during the period contemplated by paragraph 5.4(1) notwithstanding this Agreement, Boily agrees to forfeit any compensation earned in that capacity for the benefit of the Class notwithstanding any other remedies which may be available against him for breach of this Agreement.

(3) A breach of this section 5.4 shall not affect the effectiveness of this Agreement with respect to any Defendant other than Boily.

#### **5.5 Other Consideration – BLG**

(1) BLG agrees to implement an internal corporate policy requiring compliance with the following procedures with respect to exploration projects where it is the operator and has responsibility for the functions described in this section:

All reports from geochemical laboratories involving the analysis of samples submitted by BLG shall be requested and delivered in accordance with the following:

1) BLG will instruct all external service providers to provide all sets of analytical data to BLG in electronic format as soon as a set of analytical data becomes available, even if there are additional and/or different tests that the lab will perform on the samples, which will generate additional results (which will then be sent to BLG as soon as a set of results becomes available). For greater certainty, BLG will instruct its service providers to provide it with test results as soon as the lab has concluded a particular type of testing and has those results available for a set of samples, even if the lab will perform more testing on the same sample.

2) BLG will instruct all external service providers to deliver final reports of geochemical or assay data in electronic format to BLG as soon as they are available.

3) BLG will instruct all external service providers to deliver a follow-up original (hard copy) of the final report of geochemical or assay results, in certificate form signed by the laboratory manager by mail or courier as soon as possible following the completion of the analysis requested by BLG.

4) BLG will instruct all external service providers to deliver all geochemical or assay reports simultaneously by electronic media directly to each of the following personnel:

- a) the Project Manager; and,
- b) the President and CEO of BLG; and,
- c) BLG's Vice President of Exploration (if and when appointed).

5) BLG will instruct all external service providers to deliver all signed certificates issued by the laboratory by mail or courier by separate package to the President and CEO of BLG.

6) BLG shall require that all requests for geochemical or assay analysis from an outside laboratory, whether in electronic media or hard copy, clearly identify the recipients of the data as specified in the foregoing, and all such requests shall be copied to the other recipients of such data as listed above.

7) All communications to a laboratory from one of the recipients of a geochemical or assay report enquiring about the report, whether in electronic media or certificate format, must be copied to the other recipients.

8) When samples are sent to an outside laboratory, a list of all sample specifications and the analyses requested shall be provided to the President and CEO and BLG's Vice President of Exploration (if and when appointed). The specifications to be provided shall include:

- a) for rock and soil samples:
  - i) sample media (soil, outcrop, boulder, alluvial, heavy mineral concentrate);
  - ii) Sample type (grab or composite sample, chip sample, channel sample....etc);
  - iii) Sample location; and
  - iv) Sample description including any obvious mineralization
- b) for samples from drill holes:
  - i) Drill hole number;
  - ii) Drill hole location, bearing and dip angle;
  - iii) Sample number; and
  - iv) Sample interval.

## **SECTION 6 – NO REVERSION**

Unless the Agreement is terminated as provided herein, 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 7 - DISTRIBUTION OF THE SETTLEMENT AMOUNT**

On or after the Effective Date, the Administrator shall distribute the remainder of the Settlement Amount in accordance with the following priorities:

- (a) to pay Class Counsel Fees;
- (b) to pay all of the Administration Expenses. For greater certainty, the Defendants are specifically excluded from eligibility for any payment of costs and expenses under this subsection;
- (c) to pay any taxes required by law to be paid to any governmental authority; and
- (d) to pay a *pro rata* share of the balance of the Escrow Settlement Amount to each Authorized Claimant in proportion to his/her/its claim as recognized in accordance with the Plan of Allocation.

## **SECTION 8 – EFFECT OF SETTLEMENT**

### **8.1 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 Releasees, or as a concession or admission by the Releasees of the truthfulness of any claim or allegation asserted in the Action. Neither the Agreement nor anything contained herein shall be used or construed as an admission by the Releasees of any fault, omission, liability or wrongdoing in connection with any statement, release or written document or financial report.

### **8.2 Agreement Not Evidence**

- (1) 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 pending or future civil, criminal, quasi-criminal or administrative action or proceeding other than as

reasonably deemed necessary in the judgement of the Parties to obtain the orders or directions from Court contemplated by the Agreement.

(2) Notwithstanding section 8.1(1), the Agreement may be referred to or offered as evidence in a proceeding to approve or enforce the Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law.

### **8.3 Best Efforts**

The Parties shall use their best efforts to implement the terms of the Agreement. The Parties agree to hold in abeyance all steps in the Action, including all discovery, other than proceedings provided for in the Agreement, such other proceedings required to implement the terms of the Agreement, until the date the Settlement becomes final or the termination of the Agreement, whichever occurs last.

## **SECTION 9 – CERTIFICATION AND SETTLEMENT APPROVAL**

### **9.1 Certification and Settlement Approval**

Subject to the approval of the Court, and for purposes of the Settlement only, the Defendants will consent to the certification of the Action as a class proceeding pursuant to sections 2, 5 and 6 of the *CPA*.

### **9.2 Certification Without Prejudice**

In the event the Agreement is terminated as provided herein, the Parties agree that the certification of the Action as a class proceeding was for the sole purpose of effecting the Settlement and shall be without prejudice to any position that any of the Parties may later take on any issue in the Action.

## **SECTION 10 – NOTICE TO THE CLASS**

### **10.1 First Notice**

Class Counsel shall cause the First Notice to be published in accordance with the Plan of Notice as approved by the Court and the costs of so doing shall be paid as a Non-Refundable Expense as provided in section 4.1(1)(b).

### **10.2 Second Notice**

Class Counsel or the Administrator, as the case may be, shall cause the Second Short Form Notice and the Second Long Form Notice to be published in accordance with the Plan of



Notice as approved by the Court and the costs of so doing shall be paid as a Non-Refundable Expense as provided in section 4.1(1)(c).

### **10.3 Notice of Termination**

If the Agreement is terminated after the Second Notice has been published and disseminated, a notice of the termination will be given to the Class. Class Counsel or the Administrator, as the case may be, will cause the notice of termination, in a form approved by the Court, to be published and disseminated as the Court directs and the costs of so doing shall be paid as a Non-Refundable Expense as provided in section 4.1(1)(d).

### **10.4 Report to the Court**

After publication and dissemination of each of the notices required by this section, Class Counsel or the Administrator, as the case may be, shall file with the Court an affidavit confirming publication and dissemination.

## **SECTION 11 – OPTING OUT**

### **11.1 Awareness of any Potential Opt-Outs**

- (1) The Defendants represent and warrant that:
  - (a) they are unaware of any Class Member who has expressed an intention to opt out;  
and
  - (b) they will not encourage or solicit any Class Member to opt out.
- (2) Class Counsel represent and warrant that:
  - (a) they are unaware of any Class Member who has expressed an intention to opt out;  
and
  - (b) they will not encourage or solicit any Class Member to opt out.

### **11.2 Opt-Out Procedure**

- (1) Each person who would otherwise be a Class Member who wishes to opt out may do so by communicating all of the following information to the Administrator in writing on or before the Opt-Out Deadline:
  - a. the person's name, mailing address, and telephone number;
  - b. the number of Eligible Shares held by the person, along with supporting documentation thereof, including brokerage statements and/or trade confirmations;

- c. if the person filing the form is not the proposed Opt-Out Party, evidence that the person filing the documentation is authorized to do so; and
  - d. a clear statement that the person intends to opt out.
- (2) In order to remedy any deficiency in the documentation required by paragraph 11.2(1), the Administrator may require that additional information be submitted by a person who submits documentation pursuant to paragraph 11.2(1), and that such person shall have until ten (10) days after the Opt-Out Deadline to remedy the deficiency.
- (3) If a Class Member fails to submit the documentation required by paragraph 11.2(1) to the Administrator or fails to remedy any deficiency within ten (10) days after the Opt-Out Deadline, the Class Member shall not have opted out of the Action, subject to any order of the Court to the contrary, and will in all other respects be subject to, and bound by, the provisions of the Agreement and the releases contained herein.
- (4) The Opt-Out Deadline will not be extended unless the Court orders otherwise.
- (5) Opt-Out Parties will be excluded from any and all rights and obligations arising from the Settlement. Class Members who do not opt out shall be bound by the Settlement and the terms of the Agreement regardless of whether the Class Member files a Claim Form or receives compensation from the Settlement.

### **11.3 Notification of Number of Opt-Outs**

Within ten (10) days after the Opt-Out Deadline, the Administrator shall report to the Court and the Parties, the number of Eligible Shares held by each Opt-Out Party, a summary of the information delivered by each Opt-Out Party and the total number of Eligible Shares held by all Opt-Out Parties.

## **SECTION 12 – TERMINATION OF THE AGREEMENT**

### **12.1 General**

- (1) The Agreement shall, without notice, be automatically terminated if:
  - (a) an order dismissing the motion for the Approval Order becomes a Final Order; or
  - (b) the Approval Order is reversed on appeal and the order reversing the Approval Order becomes a Final Order; or
  - (c) the Defendants elect to terminate the Agreement if the Opt-Out Threshold is exceeded.

- (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 this Agreement.
- (3) In the event the Agreement is terminated in accordance with its terms:
- (a) the Plaintiff and the Defendants will be restored to their respective positions prior to the execution of the Agreement;
  - (b) the Plaintiff and the Defendants will consent to an order setting aside any order certifying the Action as a class proceeding for the purposes of implementing this Agreement;
  - (c) the Agreement will have no further force and effect and no effect on the rights of the Plaintiff, Class Members, or the Defendants except as specifically provided for herein;
  - (d) all statutes of limitation applicable to the claims asserted in the Action shall be deemed to have been tolled until the orders contemplated by section 12.3(2)(c) are entered;
  - (e) any amounts paid as Non-Refundable Expenses pursuant to section 4.1(1) are non-recoverable from the Plaintiff, the Class Members or Class Counsel;
  - (f) the Agreement will not be introduced into evidence or otherwise referred to in any litigation against the Defendants other than with respect to any dispute arising as to the right of a party to terminate the Agreement, to treat the Agreement as terminated, or as to the status or payment of the Settlement Amount.
- (4) Notwithstanding the provisions of section 12.1(3)(c), if the Agreement is terminated, the provisions of this section and sections 2, 4, 5.2, 5.3, 8.1, 8.2, 9.2, 10.3, 12.1(3), 12.1(4), 12.3, and 18.4 and the recitals and schedules applicable thereto shall survive termination and shall continue in full force and effect.

## **12.2 Effect of Exceeding the Opt-Out Threshold, Conditions Precedent and Right to Terminate**

- (1) Notwithstanding any other provision in the Agreement, the Defendants in their sole discretion, may elect to terminate the Agreement if the Opt-Out Threshold is exceeded provided their election is made within fifteen (15) days of the Administrator notifying them of the number of Eligible Shares held by Opt-Out Parties pursuant to section 11.3, after which date their right to terminate the Agreement will have expired.

(2) If the Opt-Out Threshold is not exceeded, the Defendants' right to terminate the Agreement pursuant to the provisions of this section is inoperative and of no force and effect.

(3) The Opt-Out Threshold shall be stated in the Collateral Agreement signed prior to, or contemporaneously with, the execution of the Agreement.

### **12.3 Allocation of Monies in the Escrow Account Following Termination**

(1) The Administrator and Siskinds LLP shall account to the Court and the Parties for the amounts maintained in the Escrow Account. If the Agreement is terminated, this accounting shall be delivered no later than ten (10) days after such termination.

(2) If the Agreement is terminated, the Defendants shall, within thirty (30) days after termination, apply to the appropriate Court, on notice to the Plaintiff and the Administrator, 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 12.1(4);
- (b) determining the form and method of disseminating a notice of termination of the Agreement as contemplated by section 10.3 hereof;
- (c) 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 Action as a class proceeding for the purposes of implementing this Agreement; and
- (d) authorizing the payment of:
  - (i) any outstanding amounts to be paid on account of Non-Refundable Expenses from the Escrow Account pursuant to section 4.1; and
  - (ii) all funds in the Escrow Account, including accrued interest, to the Contributing Parties and apportioned *pro rata*, based on their respective contributions, directly or indirectly, to the Escrow Account, as the case may be, minus any amounts paid out of the Escrow Account in accordance with the Agreement.

(3) Subject to section 12.4, the Parties shall consent to the orders sought in any motion made by the Defendants pursuant to section 12.3(2).

#### **12.4 Disputes Relating to Termination**

If there is any dispute about the termination of the Agreement, the Court shall determine any dispute by motion on notice to the Parties.

### **SECTION 13 – 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 14 – RELEASES AND JURISDICTION OF THE COURT**

#### **14.1 Releases**

(1) As of the Effective Date, the Releasors forever and absolutely release the Releasees from the Released Claims.

(2) As of the Effective Date, each Defendant forever and absolutely releases each and every Releasee from 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 incurred, and liabilities of any nature whatsoever, including interest, costs, expenses, known or unknown, suspected or unsuspected, in law, under statute or in equity, that such Defendant, whether directly, indirectly, derivatively, or in any other capacity, ever had, now has, or hereafter can, shall, or may have as against any Releasee, relating in any way to the matters raised in the Action, the purchase, sale, pricing, marketing or distributing of Eligible Shares during the Class Period, or 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 either by way of claims for contribution or indemnity or otherwise.

#### **14.2 No Further Claims**

As of the Effective Date, the Releasors 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 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.

#### **14.3 Dismissal of the Action**

Except as otherwise provided in the Agreement and the Approval Order, the Action shall be dismissed without costs and with prejudice.

#### **14.4 No Claims in Interim**

As of the date of the Agreement, Class Counsel does not represent plaintiffs in any other proceeding related to any matter at issue in the Action.

#### **14.5 Ongoing Jurisdiction of the Court**

The administration and implementation of the Settlement shall be under the authority of the Court, and it shall retain jurisdiction for the purpose of entering orders providing for the enforcement of the terms of this Agreement. Each Party hereby attorns to the jurisdiction of the Court. Any agreements providing for the retention of the Administrator shall require those persons to attorn to the jurisdiction of the Court for the purposes of the implementation of the Settlement.

### **SECTION 15 – ADMINISTRATION**

#### **15.1 Appointment of the Administrator**

(1) The Court will appoint the Administrator on motion by the Plaintiff 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.

#### **15.2 Information and Assistance from the Defendants**

(1) Within thirty (30) days of the issuance of the Approval Order, BLG will, in writing, authorize and direct Equity Transfer and Trust Company to deliver a computerized list of the names and addresses of persons who purchased Shares during the Class Period in its possession to Class Counsel and the Administrator. BLG will also assist Class Counsel in contacting Broadridge Financial Solutions Inc. regarding obtaining information about Class Members who hold or held beneficial interests in Eligible Shares.

(2) BLG will nominate and identify to Class Counsel and the Administrator a person to whom Class Counsel and/or the Administrator may address any requests for information. BLG

agrees to make reasonable efforts to answer any reasonable inquiry from Class Counsel and/ or the Administrator in order to facilitate the administration and implementation of the Agreement.

(3) Class Counsel and/or the Administrator may use the information obtained in accordance with sections 15.3(1) and (2) for the purpose of delivering the Second Notice and for the purposes of administering and implementing the Agreement and the Plan of Allocation.

(4) 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 the Agreement.

### **15.3 Claims Process**

(1) In order to seek payment from the Settlement Amount, a Class Member must submit a completed Claim Form to the Administrator, in accordance with the provisions of the Plan of Allocation, on or before the Claims Bar Deadline, and any Class Member who fails to do so shall not share in any distribution made in accordance with the Plan of Allocation unless the Court orders otherwise. Class Members shall be bound by the terms of the Settlement regardless of whether they submit a completed Claim Form or receive payment from the Settlement Amount.

(2) 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 thirty (30) 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 the thirty (30) day 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 herein.

### **15.4 Disputes Concerning the Decisions of the Administrator**

(1) In the event that a Class Member disputes the Administrator's decision, whether in whole or in part, the Class Member may appeal the decision to the Court in accordance with the provisions in the Plan of Allocation. The decision of the Court will be final with no right of appeal.

(2) No action shall lie against Class Counsel, or the Administrator for any decision made in the administration of the Agreement and Plan of Allocation without an order from the Court authorizing such an action.

### **15.5 Conclusion of the Administration**

- (1) Following the Claims Bar Deadline, and in accordance with the terms of the Settlement Agreement, the Plan of Allocation, and such further approval or order of the Court as may be necessary, or as circumstances may require, the Administrator shall distribute the Escrow Settlement Amount to Authorized Claimants.
- (2) No claims or appeals shall lie against Class Counsel or the Administrator based on distributions made substantially in accordance with the Agreement, the Plan of Allocation, or with any other order or judgment of the Court.
- (3) If the Escrow Settlement Account is in a positive balance (whether by reason of tax refunds, un-cashed cheques or otherwise) after one hundred eighty (180) days from the date of distribution of the Escrow Settlement Amount to the Authorized Claimants, the Administrator shall, if feasible, allocate such balance among Authorized Claimants in an equitable and economic fashion. Any balance below CAN\$40,000.00 which still remains thereafter shall be allocated *cy pres* to the Small Investor Protection Association.
- (4) Upon the conclusion of the administration, or at such other time as the Court directs, the Administrator shall report to the Court on the administration and shall account for all monies it has received, administered and disbursed and may obtain an order from the Court discharging it as Administrator.

### **SECTION 16 – THE PLAN OF ALLOCATION**

- (1) The Defendants shall have no obligation to consent to but shall not oppose the Court's approval of the Plan of Allocation.
- (2) Unless directed to do so by the Court, the Defendants will not make any submissions to the Court relating to the Plan of Allocation.
- (3) Sections 16(1) and (2) are not an acknowledgement by the Class or Class Counsel that the Defendants have standing to make any submissions to the Court about the Plan of Allocation.

### **SECTION 17 – THE FEE AGREEMENT AND CLASS COUNSEL FEES**

#### **17.1 Motion for Approval of Class Counsel Fees**

- (1) Immediately following the hearing of the Second Motion, Class Counsel may bring a motion seeking the Court's approval for the payment of Class Counsel Fees as a first charge on



the Settlement Amount. Class Counsel are not precluded from making additional applications to the Court for expenses incurred in the implementation of the Settlement. 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 for approval of Class Counsel Fees, and will not participate in the motion for approval of Class Counsel Fees.

(3) 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 7(a), and are to be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement provided for herein.

(4) 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 Approval Order and the Settlement of the Action provided herein.

#### **17.2 Payment of Class Counsel Fees**

(1) Class Counsel shall be entitled to pay the Class Counsel Fees awarded by the Court out of the Escrow Account forthwith after the granting of an order awarding Class Counsel Fees. In the event the Agreement is terminated in accordance with its terms, or the order awarding Class Counsel Fees is modified or reversed on appeal, Class Counsel shall refund the Escrow Account or the Defendants, as the case may be, such amount of the Class Counsel Fees as is required, plus interest thereon paid at the same rate as earned by the Escrow Account during the relevant period.

### **SECTION 18 – MISCELLANEOUS**

#### **18.1 Motions for Directions**

(1) Any one or more of the Parties, 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 Parties.

#### **18.2 Defendants Have No Responsibility or Liability for Administration**

Except for the obligation to pay the Settlement Amount and provide the information and assistance contemplated by sections 15.3(1), (2), the Defendants shall have no responsibility for

and no 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.

### **18.3 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) 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.

### **18.4 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 Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Action, the Parties and Class Members to interpret and enforce the terms, conditions and obligations under the Agreement and the Approval Order, and it will be unnecessary to obtain orders from any other court relating to the approval or implementation or enforcement of the terms of the Settlement.

### **18.5 Entire Agreement**

The 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 the Agreement, unless expressly incorporated herein. The Agreement may not be modified or amended except in writing and on consent of all Parties and any such modification or amendment must be approved by the Court.

#### **18.6 Binding Effect**

(1) If the Settlement is approved by the Court and becomes final as contemplated in section 13, the Agreement shall be binding upon, and enure to the benefit of, the Plaintiff, the Class Members, the Defendants, the Releasees, the Releasers, the Contributing Parties, the Insurer 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 Releasers and each and every covenant and agreement made herein by the Defendants shall be binding upon all of the Releasees.

(2) BLG represents and warrants that:

- (a) it has all requisite corporate power and authority to execute, deliver and perform the Agreement and to consummate the transaction contemplated hereby its 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 its part;
- (c) the Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid, and binding obligations;
- (d) it agrees to use its best efforts to cause all conditions precedent to the Effective Date to occur.

#### **18.7 Survival**

The representations and warranties contained in the Agreement shall survive its execution and implementation.

#### **18.8 Negotiated Agreement**

The Agreement and the Settlement have been the subject of negotiations and many discussions among the undersigned. 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 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 the Agreement.

### **18.9 Recitals and Schedules**

The recitals to the Agreement are material and integral parts hereof and are fully incorporated into, and form part of, the Agreement.

### **18.10 Acknowledgements**

Each of the Parties hereby affirms and acknowledges that:

- (a) he, she or its representative has the authority to bind the Party with respect to the matters set forth herein 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;
- (c) he, she or its representative fully understands each term of the Agreement and its effect.

### **18.11 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 Party for whom he or she is signing.

### **18.12 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.

### **18.13 Confidentiality and Communications**

- (1) In any public discussion of, comment on, press release or other communication of any kind (with the media or otherwise) about the Agreement and Plan of Allocation, the Parties and their respective counsel agree and undertake to describe the Settlement and the terms of this Agreement as fair, reasonable and in the best interests of the Class.
- (2) The Parties' obligations under this section shall not prevent them, or any of them, from reporting to their clients, from complying with any order of the Court, or from making any disclosure or comment required by the Agreement, or from making any necessary disclosure or

comment for the purposes of any applicable securities or tax legislation or from making any disclosure or comment to Class Members or the Court or for the purposes of any proceedings as between the Defendants.

**18.14 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 party to any other party 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:

**For Plaintiff and for Class Counsel:**

Michael G. Robb  
**Siskinds LLP**  
**680 Waterloo Street**  
**London, ON N6A 3V8**

Telephone: 519.660.7872  
Facsimile: 519.660.7873  
Email: michael.robbs@siskinds.com

**For Bear Lake Gold Ltd, Elaine Bennett, Robert Cudney, David Fennell, Alexander S. Horvath, Alain Krushnisky, Phillip S. Martin, Thomas G. Larsen, Miles Nagamatsu, Stephen P. Quin and Francois Viens**

Alan L. W. D'Silva  
Simon Bieber

Paul LeVay

**Stikeman Elliott LLP  
Barristers & Solicitors  
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Facsimile: 416.947.0866  
Email: sbieber@stikeman.com

Telephone: 416.593-2493  
Facsimile: 416.593-9345  
Email: PaulLV@stockwoods.ca

The Parties have executed the Agreement as of the date on the cover page.

Siskinds LLP for Gary Henault



Elaine Bennett

**Bear Lake Gold Ltd.**

By: \_\_\_\_\_  
Name  
Title

**Bernard Boily**

Robert Cudney

**David Fennell**

**For Bear Lake Gold Ltd, Elaine Bennett, Robert Cudney, David Fennell, Alexander S. Horvath, Alain Krushnisky, Phillip S. Martin, Thomas G. Larsen, Miles Nagamatsu, Stephen P. Quin and Francois Viens**      **For Bernard Bolly:**

Alan L. W. D'Silva  
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**Bear Lake Gold Ltd.**

By: 

Name *FRANCOIS VIENS*  
Title *PRESIDENT & CEO*

**Elaine Bennett**

---

**Bernard Bolly**

---

**Robert Cudney**

---

**David Fennell**



**For Bear Lake Gold Ltd, Elaine Bennett, Robert Cudney, David Fennell, Alexander S. Horvath, Alain Krushnisky, Phillip S. Martin, Thomas G. Larsen, Miles Nagamatsu, Stephen P. Quin and Francois Viens**      **For Bernard Boily:**

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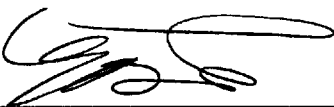
**Bear Lake Gold Ltd.**

\_\_\_\_\_

By: \_\_\_\_\_

Name  
Title

**Elaine Bennett**



**Bernard Boily**

\_\_\_\_\_

\_\_\_\_\_

**Robert Cudney**

**David Fennell**

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**For Bear Lake Gold Ltd, Elaine Bennett, Robert Cudney, David Fennell, Alexander S. Horvath, Alain Krushnisky, Phillip S. Martin, Thomas G. Larsen, Miles Nagamatsu, Stephen P. Quin and Francois Viens**      **For Bernard Boily:**

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By: \_\_\_\_\_  
Name  
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**Elaine Bennett**

**Bernard Boily**

\_\_\_\_\_

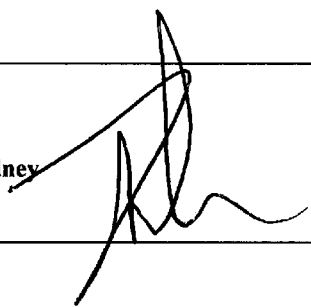
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**Robert Cudney**

**David Fennell**

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**For Bear Lake Gold Ltd, Elaine Bennett, Robert Cudney, David Fennell, Alexander S. Horvath, Alain Krushnisky, Phillip S. Martin, Thomas G. Larsen, Miles Nagamatsu, Stephen P. Quin and Francois Viens**      **For Bernard Boily:**

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**Siskinds LLP for Gary Henault**

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By: \_\_\_\_\_

Name  
Title

**Elaine Bennett**

**Bernard Boily**



\_\_\_\_\_

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**Robert Cudney**

**David Fennell**

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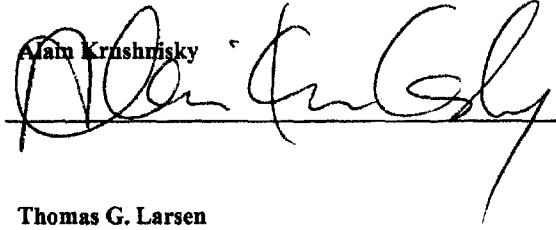
Miles Nagamatsu

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Francois Viens

  
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Alain Krushnisky

  
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Thomas G. Larsen

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Stephen P. Quin

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Siskinds LLP has executed the Agreement as of the date on the cover page to signify its consent to hold the Non-Refundable Expense Fund and the Escrow Account on the terms provided in the Agreement and to be bound by the terms of the Agreement.

Siskinds LLP

By:

\_\_\_\_\_  
Michael G. Robb

734619.v11

**Alexander S. Horvath**

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**Phillip S. Martin**

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**Miles Nagamatsu**

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**Francois Viens**

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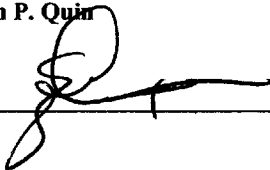
**Alain Krushnisky**

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**Thomas G. Larsen**

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**Stephen P. Quin**



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**Siskinds LLP**

By:

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Michael G. Robb

734619.v11

**Alexander S. Horvath**

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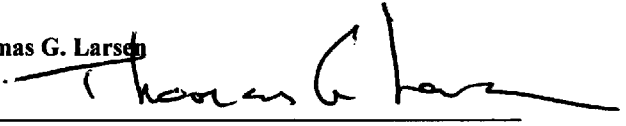
**Alain Krushnisky**

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**Phillip S. Martin**

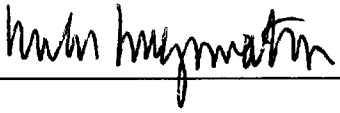
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**Thomas G. Larsen**



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**Miles Nagamatsu**



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**Stephen P. Quin**

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**Francois Viens**

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Siskinds LLP has executed the Agreement as of the date on the cover page to signify its consent to hold the Non-Refundable Expense Fund and the Escrow Account on the terms provided in the Agreement and to be bound by the terms of the Agreement.

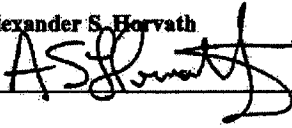
**Siskinds LLP**  
By:

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Michael G. Robb

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Alexander S. Horvath



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Alain Krushnisky

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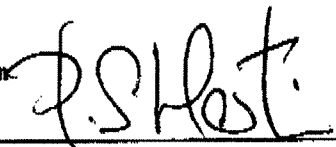
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Siskinds LLP

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Michael G. Robb

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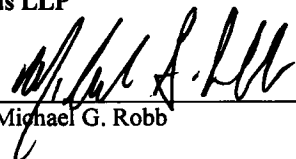
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