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COURT

COURT OF KING'S BENCH OF ALBERTA,
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE

CALGARY



C40584

Apr 19, 2024
COM

IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, RSC 1985, C B-3 AS
AMENDED

AND IN THE MATTER OF THE NOTICE OF
INTENTION TO MAKE A PROPOSAL OF
ATHABASCA MINERALS INC., AMI SILICA
INC., AMI AGGREGATES INC., AMI
ROCKCHAIN INC., TERRASHIFT
ENGINEERING LTD., 2132561 ALBERTA
LTD., and 2140534 ALBERTA LTD.

APPLICANT

ATHABASCA MINERALS INC., AMI SILICA
INC., AMI AGGREGATES INC., AMI
ROCKCHAIN INC., TERRASHIFT
ENGINEERING LTD., 2132561 ALBERTA
LTD., and 2140534 ALBERTA LTD.

DOCUMENT

**AFFIDAVIT OF JOHN DAVID
CHURCHILL**

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF
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File No. 318938.00024

AFFIDAVIT NO. 5 OF JOHN DAVID CHURCHILL

Sworn on April 8, 2024

I, John David Churchill, of the City of Calgary, in the Province of Alberta, SWEAR AND SAY THAT:

1. I am the Chief Financial Officer (“**CFO**”) of the Applicant, Athabasca Minerals Inc. (“**AMI**”). I have been the CFO of AMI since May 2022. I am also a director of all of the Applicants, excepting AMI. I have over 33 years of financial experience including 15 years in oilfield services, aggregates, and the industrial minerals industry, focusing on financial and accounting management and corporate finance. I have personal knowledge of the matters to which I depose in this Affidavit, except where such matters are stated to be based on information and belief, in which case I have stated the source of my information and, in all cases, I believe such information to be true. In preparing this Affidavit, I consulted with the Companies’ management team and advisors and reviewed relevant documents and information concerning the Companies’ operations, financial affairs, and restructuring activities.
2. I previously swore several affidavits in these proceedings, including on December 6, 2023 (my “**First Affidavit**”), on February 26, 2024 (my “**Third Affidavit**”), and on March 4, 2024 (my “**Fourth Affidavit**”). All capitalized terms used but not otherwise defined herein have the meaning given to them in my First Affidavit, my Third Affidavit, or my Fourth Affidavit, as the case may be. This Affidavit should be read in conjunction with: i) my Third Affidavit, which provides the background to the Companies’ application for approval of the corporate share transaction with Badger Mining Corporation (“**Badger**”) for the acquisition of substantially all of the Companies’ Business and Property (the “**Transaction**”), by way of approval of a subscription agreement between the Companies and Badger dated February 9, 2024 (the “**Subscription Agreement**”), and requested reverse vesting order (“**RVO**”); and ii) my Fourth Affidavit which provides further background on the dispute between the Companies and JMAC Energy Services LLC (“**JMAC**”) in relation to the applicability of a contractual right of first refusal (“**ROFR**”) to the Transaction.
3. I am authorized to swear this Affidavit as a corporate representative of the Companies.
4. All monetary references in this Affidavit are in Canadian dollars, unless otherwise stated.

5. I swear this Affidavit in support of the Companies' Application for an order that, among other things:
- (a) abridges the time for service of notice of this Application and the supporting materials, if necessary, and deems service thereof to be good and sufficient;
 - (b) approves the settlement agreement and final release between the Companies and JMAC dated March 28, 2024, (the "**Settlement Agreement**"), and authorizes the Companies to complete all necessary steps under the Settlement Agreement, including payment of the Settlement Amount thereunder to JMAC;
 - (c) approves as the Backup Bid:
 - (i) a transaction for the sale of all shares of AMI to JMAC Resources Ltd. ("**JMAC Resources**" and the "**JMAC Share Transaction**") pursuant to the Subscription Agreement between the Companies and JMAC dated March 28, 2024 ("**JMAC Subscription Agreement**"); and
 - (ii) a transaction for the sale of the Membership Units held by AMI in AMIS LLC (the "**AMIS Unit Sale**") pursuant to the Membership Interest Purchase Agreement between AMI and JMAC dated March 28, 2024 (the "**Purchase Agreement**", and with the JMAC Share Transaction, the "**JMAC Backup Bid**");
 - (d) grants the proposed reverse vesting order in respect of the JMAC Share Transaction and the sale approval and vesting order in respect of the AMIS Unit Sale, which orders will not be relied upon unless the conditions to closing the JMAC Subscription Agreement are satisfied, namely that the Badger Transaction does not close by April 30, 2024;
 - (e) authorizes the Proposal Trustee to make certain priority payments on behalf of the Companies from the proceeds of sale arising from the closing of either the Badger Transaction or the JMAC Backup Bid, as the case may be;

- (f) extends the time by which the Companies may file a proposal to their creditors pursuant to the BIA, and the corresponding Stay Period for 24 days up to and including May 13, 2024 (the “**Stay Extension**”);
- (g) seals a copy of the Settlement Agreement on the Court record, which is attached hereto and marked as **Confidential Exhibit “1”**; and
- (h) grants such further and other relief as the Companies may request and this Honourable Court may deem just.

6. I have been advised by the Proposal Trustee that it supports this Application.

Procedural Background

- 7. On November 13, 2023, each of the debtor companies (the “**Companies**”) filed notices of an intention to file a proposal (the “**Proposal Proceedings**”), pursuant to Part III of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (“**BIA**”). KSV Restructuring Inc. was appointed as the proposal trustee of each of the Companies in the within Proposal Proceedings (in such capacity, the “**Proposal Trustee**”).
- 8. Subsequently, on December 12, 2023, this Court granted an order approving (the “**First Order**”), among other things, a stalking horse sales and investment solicitation process (“**SISP**”).
- 9. JMAC previously acted as Interim Lender in these Proposal Proceedings and is the Companies first secured creditor and a shareholder in AMI, holding an approximately 20% interest. Further, JMAC is a 50% partner in AMIS LLC, a joint venture partnership with AMI and one of AMI’s most significant assets.
- 10. Pursuant to the Court-approved SISP, and in consultation with the Proposal Trustee, the Companies implemented and conducted the single phase SISP with JMAC acting as the stalking horse bidder. Further details in regard to the SISP are provided in my Third Affidavit. In short, and for background purposes on this application, Badger submitted a Superior Bid prior to the Bid Deadline of January 31, 2024. Pursuant to the terms of the

SISP, the Companies then proceeded to a run-off auction conducted by the Proposal Trustee on February 9, 2024 (the “**Auction**”), with both JMAC and Badger as participants. In round 162 of the Auction, JMAC declined to bid and Badger subsequently confirmed its bid at \$29.2 million. The Proposal Trustee then closed the Auction.

11. The Proposal Trustee declared Badger’s bid at \$29.2 million to be the Winning Bid and the Companies and Badger subsequently entered into the Subscription Agreement to implement the Transaction. The Proposal Trustee advised that JMAC’s bid of \$29.1 million would stand as the Backup Bid, all pursuant to and in accordance with the terms of the SISP.

The ROFR Dispute

12. As discussed in my Third Affidavit, throughout these Proposal Proceedings JMAC has reserved its rights with respect to a contractual ROFR contained in Article 11.02 of the LLC Operating Agreement. The Companies maintained throughout the within Proposal Proceedings that the ROFR would not apply to a transaction for the shares of AMI. Following the announcement of Badger’s Winning Bid, JMAC confirmed that it would be exercising the ROFR in regard to the Transaction at a purchase price of \$13.1 million. Copies of correspondence between the Companies and JMAC between February 12 and 15, 2024, confirming JMAC’s formal position on the ROFR issue are attached to my Third Affidavit and marked as Exhibits “O”, “P”, and “Q” thereto.
13. On February 26, 2024, the Companies filed an Application with this Court for, among other things, approval of the Transaction (the “**Transaction Approval Motion**”). The day after the Companies filed their materials for the Transaction Approval Motion, JMAC commenced a civil complaint against AMI in the US District Court of North Dakota alleging, among other things, breach of contract and seeking various forms of injunctive relief. JMAC subsequently brought a motion for a temporary restraining order against AMI to prevent the Companies from proceeding with the approval of the Transaction in Canada (collectively, the “**US Proceedings**”). Copies of the documents filed in the US Proceedings by JMAC are attached to my Fourth Affidavit and marked as Exhibits “B” to “E” thereto.

14. JMAC further filed a cross-application with this Court seeking various relief, including a stay of the Transaction Approval Motion and to lift the stay of proceedings to allow JMAC to continue the US Proceedings (the “**Cross-Application**”).
15. On March 8, 2024, this Court granted orders that, among other things: i) extended the stay of proceedings in these Proposal Proceedings up to and including April 22, 2024; ii) approved a litigation schedule for the Transaction Approval Motion and JMAC’s Cross-Application; and iii) authorized the Companies to enter into a second interim financing facility with Badger as the second interim lender, amend the Interim Lender’s Charge accordingly, and pay out the Companies’ debt in full that was owing to JMAC under the pre-existing Interim Financing Facility.
16. Following several discussions amongst the parties, the Companies and JMAC have entered into the Settlement Agreement dated March 28, 2024, which Settlement Agreement contains a full and final release by JMAC in favour of the Companies and ResidualCo, as a full and final resolution to the dispute in regard to JMAC’s asserted ROFR and the closing of the Transaction. A copy of the Settlement Agreement is attached hereto and marked as **Confidential Exhibit “1”**, without including copies of the executed JMAC Backup Bid documents, which are attached separately as Exhibits “A” and “B” to this Affidavit.
17. The Companies seek a sealing order over Confidential Exhibit “1” and intend to only provide the same to the Court, the Proposal Trustee, JMAC, and Badger. Confidential Exhibit “1” contains settlement details and commercially-sensitive information in regard to the settlement amount to be paid by the Companies to JMAC, which I believe could adversely affect the parties’ future business dealings, particularly in relation to AMIS LLC, if such information was made public. The Companies seek to limit such disclosure through the requested sealing order. The Settlement Agreement expressly contemplates that the settlement would be kept confidential and that the Companies would seek a sealing order with respect to the Settlement Agreement.
18. The key terms of the Settlement Agreement include that:

- (a) The Settlement Amount (as defined therein) will be paid from the sale proceeds upon closing of either: i) the Transaction with Badger, or ii) the JMAC Backup Bid;
 - (b) In return for the Settlement Payment, JMAC will:
 - (i) support the Companies' Transaction Approval Motion, including approval of the Settlement Agreement and the JMAC Backup Bid;
 - (ii) take no further steps in the US Proceedings, and upon the conditions precedent to the Settlement Agreement having occurred, withdraw its motion for injunctive relief, and dismiss its existing claims against Athabasca Minerals Inc., with prejudice in the US Proceedings, all on a without costs basis; and
 - (iii) fully and finally release the Companies and their successors in interest from any claims or assertions that, among other things, the ROFR was triggered with respect to the Transaction; and
 - (c) It is conditional upon, among other things, Court approval of: i) the Settlement Agreement, ii) the Transaction and/or iii) the JMAC Backup Bid.
19. The Companies view the Settlement Agreement and resolution to the ROFR dispute as critical to the success of the within Proposal Proceedings. The Settlement Agreement will allow the Companies to proceed with the Transaction Approval Motion seeking approval of the Transaction with Badger at the purchase price of \$29.2 million. Even after the Settlement Amount is paid, the Companies expect that the proceeds from closing the Transaction will allow all creditors to be paid in full and provide for distributions to AMI shareholders at the original estimated range of \$0.15 to \$0.19 cents per common share, depending upon payment of transaction and professional fees, as well as expenses associated with maintaining ResidualCo through to its dissolution. As I have previously advised in my Third Affidavit, these anticipated distributions would be effected by virtue of existing AMI shareholders obtaining new shares in ResidualCo pursuant to either the proposed Badger Transaction, or JMAC Backup Bid, and granting of the RVO.
20. As such, the Settlement Agreement, which facilitates the closing of either the Badger Transaction or the JMAC Backup Bid, represents the highest and best option available to the Companies to maximize value for all of their stakeholders.

21. The Companies believe the Settlement Agreement is appropriate and necessary, in that by virtue of the Settlement Agreement:
- (a) the Companies and JMAC can avoid incurring further costs from continuing lengthy and uncertain litigation in both Canada and the US;
 - (b) the Companies can proceed forward with the Transaction Approval Motion to the benefit of all of the Companies' stakeholders;
 - (c) any other claims that JMAC may have in the Companies' estate as a creditor or as a shareholder in AMI will not be prejudiced by the Settlement Agreement; and
 - (d) in the unlikely event that the Badger Transaction fails to close, the Settlement Agreement also resolves the issue of JMAC acting as the Backup Bidder at the full value of its Backup bid of \$29.1 million, which was also previously in dispute.
22. The Companies negotiated and entered into the Settlement Agreement with JMAC, and kept the Proposal Trustee apprised of such negotiations. Based on my discussions with Andrew Basi of the Proposal Trustee's office, I understand that the Proposal Trustee is supportive of the Companies entering into the Settlement Agreement and will be filing a further report to this Court outlining the Proposal Trustee's reasons for support.

JMAC Backup Bid

23. The JMAC Backup Bid is comprised of two separate transactions:
- (a) The JMAC Share Transaction; and
 - (b) AMIS Unit Sale.

The JMAC Share Transaction is attached hereto as **Exhibit "A"** and the Purchase Agreement is attached hereto as **Exhibit "B"**.

24. The aggregate consideration payable by JMAC pursuant to the JMAC Backup Bid is \$29.1 million, allocated as between the shares of AMI (pursuant to the JMAC Share Transaction) and the membership units held by AMI in AMIS LLC (pursuant to the AMIS Unit Sale). JMAC has paid a 10% deposit in the amount of \$2.9 million to the Proposal Trustee in accordance with the terms of the JMAC Backup Bid, which will be allocated toward the purchase price payable by JMAC in the event the JMAC Backup Bid closes. In the event AMI closes the Badger Transaction, this deposit will be refunded by the Proposal Trustee to JMAC.
25. The key terms of the JMAC Share Transaction are as follows:
- (a) **Transaction Structure:** The JMAC Share Transaction is similar in structure to the Badger Transaction. Pursuant to the JMAC Share Transaction:
- (i) All of the existing Common Shares of AMI outstanding immediately prior to the Closing Date will be exchanged on a 1:1 basis for new shares in ResidualCo;
 - (ii) All other Equity Interests (as defined in the subscription agreement) will be terminated and cancelled for no consideration;
 - (iii) JMAC will purchase and subscribe for 1,000 Common Shares pursuant to the subscription agreement and those shares will represent all of the issued and outstanding Common Shares of the Company at the time of issuance;
 - (iv) The Transferred Assets and Transferred Liabilities (as defined in the subscription agreement) will be transferred to ResidualCo and the Retained Assets and Retained Liabilities will be retained by AMI;
 - (v) The Retained Liabilities will be paid, assumed or otherwise satisfied and the Retained Assets will be retained free and clear of and from any and all Claims, Losses and Encumbrances (as defined in the Subscription Agreement);
 - (vi) Upon closing, the Companies will cease to be applicants in the Proposal Proceedings and the Companies will be deemed to be released from the SISP Order and all other orders granted in relation to the Proposal Proceedings;
 - (vii) ResidualCo will replace the Companies as applicants and “debtors” in the Proposal Proceedings and will be subject to the terms of all of the orders granted in those proceedings;

- (viii) Upon this occurring, the Proposal Trustee's powers will be enhanced in respect of ResidualCo, including the power to authorize and direct ResidualCo to make an assignment in bankruptcy, with the Proposal Trustee authorized to be appointed as trustee in bankruptcy of the estate of ResidualCo.
- (b) **Permits and Licenses:** As in the Badger Transaction, all of the permits and licenses in the name of AMI will be preserved, including:
- (i) 648745 Alberta Ltd. (five option to purchase agreements – Prosvita);
 - (ii) Alberta Environment and Parks – DML 130162 (Firebag);
 - (iii) Alberta Environment and Parks – DLO130748 (Firebag);
 - (iv) Alberta Environment and Parks – SML130021 (Firebag);
 - (v) Alberta Environment and Parks – DLO220117 (Firebag);
 - (vi) Robert Dale Marshall (Temporary Workspace Agreement – Montney);
 - (vii) Ralph & Ralph Farms (Temporary Workspace Agreement – Montney);
 - (viii) Frances Margaret Adams (Temporary Workspace Agreement – Montney);
 - (ix) Donna Lee Kane (Temporary Workspace Agreement – Montney);
 - (x) Shannon Gail McKinnon (Temporary Workspace Agreement – Montney);
 - (xi) Cheryl Lynn McKenzie (Temporary Workspace Agreement – Montney);
 - (xii) Province of British Columbia Mineral Claims 1066380, 1066381, 1066382, 1066383, 1066384, 1066385; and (xiii) Province of Alberta Metallic & Industrial Mineral Permits 9322120231, 9322120232, 9322120233, 9322120234, 9322120235, 9322120236, 9322120237, 9322110204, 9322110205;
- (c) **Retained/Excluded Contracts:** As with the Badger Transaction, each and every contract, agreement and commitment held by AMI or the Companies, as applicable in force immediately prior to the date of the Subscription Agreement, unless otherwise designated by JMAC, will be a Retained Contract. Where JMAC elects to disclaim or terminate a contract, such contract becoming an Excluded Contract, the Purchase Price will increase by an amount equal to any liability created by such disclaimer or termination. JMAC is required to deliver \$500,000 in escrow to the

Proposal Trustee on closing, over and above the Aggregate Purchase Price, to address potential disclaimer liability. In the event the disclaimer liability is less than the escrow amount, the difference will be refunded to JMAC. In the event the disclaimer liability is more than the escrow amount, JMAC will be required to fund the difference.

(d) **Retained Assets:** The Retained Assets in the JMAC Share Transaction are outlined in Schedule “B” thereto and include the following:

- (i) Real property;
- (ii) Books and records of the Companies;
- (iii) All regulatory and license attributes of the Companies;
- (iv) All share of capital stock or other equity interests in any affiliate of AMI;
- (v) All tax attributes of the Companies, including all rights related to former tax returns, operating, non-operating and capital loss balances or carry forwards and tax audits.

Whereas the Badger Transaction includes AMI’s Membership Interest as a Retained Asset, JMAC will acquire such interest pursuant to the Purchase Agreement.

(e) **Retained Liabilities:** The Retained Liabilities as outlined in Schedule “B” include:

- (i) Nondisclosure agreements, confidentiality agreements and non-compete/non-solicitation agreements;
- (ii) All new liabilities incurred post closing;
- (iii) Regulatory, environmental and government liabilities related to lands and buildings/fixtures;
- (iv) All operating and tax liabilities relating to the Retained Assets, which are not unsecured trade claims, trade payables, utility bills or which are not related to any retained operating asset or contract;
- (v) Any taxes and other liabilities related to the sale of the 50% voting membership interest of AMIS LLC, in accordance with the AMIS Unit Sale;

- (vi) Taxes arising from or in relation to the transfer of the Transferred Assets and the Transferred Liabilities;
 - (vii) Liabilities of the Companies for taxes arising prior to or on the closing date, howsoever arising; and
 - (viii) Any intercompany indebtedness or claim owing to an affiliate of the Companies.
- (f) **Transferred Assets.** The assets to be transferred to ResidualCo include:
- (i) The cash or wire transfer of immediately available funds received as the Aggregate Purchase Price;
 - (ii) All cash, bank balances, funds, deposits or monies owned or held by the Companies or any other Person (including any bank or depository) on behalf of the Companies at closing and all cash equivalents, securities and investments of the Companies at closing;
 - (iii) All accounts receivable, bills receivable, trade accounts, holdbacks, retention, book debts, insurance claims and other amounts due or accruing to the Companies and including any and all tax refunds; and
 - (iv) All prepaid expenses or other security or collateral provided by the Companies.
- (g) **Transferred Liabilities.** The liabilities to be transferred to ResidualCo, to be addressed through the Transferred Assets, include:
- (i) Any and all funded indebtedness;
 - (ii) Any and all promissory notes issued by the Companies;
 - (iii) Any and all operating and tax liabilities related to the Transferred Assets, except for any taxes arising from or in relation to the transfer of the Transferred Assets and the Transferred Liabilities (which are retained);
 - (iv) Any and all operating liabilities to the extent they are trade claims, trade payables, utility bills or other unsecured claims, and excluding any amounts that would constitute a priority claim on or against any Retained Asset;
 - (v) Any and all liabilities associated with shareholder loans to the Companies;
 - (vi) Any and all trade claims, trade payables or other unsecured claims;

- (vii) Any and all liabilities relating to any employment agreements, severance payments and/or termination payments; and
 - (viii) Any and all amounts owing under the court ordered charges granted in these proceedings (the Administration Charge, the Interim Lender's Charge, the Directors' Charge and the KERP Charge).
- (h) **Cure Costs.** As with the Badger Transaction, JMAC is responsible for the payment of specific Cure Costs set out in Schedule "D" to the JMAC Subscription Agreement.
- (i) **Conditions to Closing.** The conditions to close the JMAC Share Transaction include, among other things, the following:
- (i) The reverse vesting order must have been granted, and must not have been vacated, set aside or stayed;
 - (ii) The Badger Transaction must not have closed as a result of either:
 - (1) AMI or Badger failing to obtain Court approval of the Badger Transaction by April 19, 2024 (or such later date as the Court may hear or render a decision on the approval of the Badger Transaction); or
 - (2) AMI, acting reasonably, determining that the Badger Transaction will not close by April 30, 2024;
 - (iii) The AMIS Unit Sale must have closed;
 - (iv) ResidualCo must have been incorporated; and
 - (v) No stay or appeal or application to vary the reverse vesting order must have been filed at any time by AMI or any other person on or before closing.
- (j) **Outside Date.** The outside date for the JMAC Share Transaction is May 3, 2024, or such other date as may be agreed upon between the parties in writing. This date is designed to allow sufficient time for JMAC and AMI to close the transaction in the event the Badger Transaction does not close by April 30, 2024.

26. The key terms of the AMIS Unit Sale include the following:

- (a) **Sale.** The sale of AMI's membership interest in AMIS (the "**Membership Interest**") would occur contemporaneous to the JMAC Share Transaction;
- (b) **Purchase Price.** The portion of the JMAC Backup Bid purchase price allocated to the AMIS Unit Sale would be paid upon receipt of the certificate representing the Membership Interest and would be paid by way of a combination of:
 - (i) A set off of the amounts owing by AMI to JMAC prior to closing, including the JMAC secured indebtedness of \$2 million, plus accrued interest, and the amount owing to JMAC pursuant to the Settlement Agreement; and
 - (ii) Cash or wire transfer of immediately available funds.
- (c) **Conditions.** The obligation of AMI to sell and the obligation of JMAC to purchase the Membership Interest is conditional upon:
 - (i) The transaction steps having occurred under the JMAC Subscription Agreement; and
 - (ii) The reverse vesting order having been obtained in respect of the JMAC Share Transaction.

Necessity of RVO Structure

27. In my Third Affidavit, I set out at paragraphs 38 through 49 why the RVO structure was necessary with respect to the Badger Transaction. The evidence supporting this necessity is similar given the similarity between the Badger Transaction and the JMAC Share Transaction. This includes:
- (a) AMI holds 11 Land Agreements, 4 Licenses, 6 Mineral Claims and 9 Permits each of which are required to operate the business in the regulated aggregates and industrial minerals industry across Western Canada and the Western United States;
 - (b) The Land Agreements are critical to the continued operations of the Canadian assets and based on discussions with one of the Land Agreement counterparties who has granted AMI five Option to Purchase Agreements in respect of the Prosvita Sand

Project, consent to a transfer is not available, without which any value held by the Companies in this asset is potentially destroyed; and

- (c) The Mineral Claims held by AMI in relation to its interests in the Montney region of British Columbia are situated on lands within an area where the Province of British Columbia has implemented a moratorium on new mineral claims. It is not possible to obtain new mineral claims on these lands. The existing Mineral Claims held by AMI were grandfathered by the province and continue to be in force, as AMI held those interests prior to the moratorium being put in place. As a result, there is significant risk that the transfer of such Mineral Claims would not be possible and the interests would revert back to the Province of British Columbia.
28. As a result, the RVO in respect of the JMAC Share Transaction, like the Badger Transaction, would permit the preservation of the Land Agreements, Licenses, Mineral Claims and Permits, representing substantial value in the transaction, and would avoid any delays, costs, or unnecessary risk to the completion of the Transaction associated with the transfer of those items to JMAC under a traditional asset sale.
29. Additionally, any value associated with the tax attributes referenced in my Third Affidavit (at paragraph 43) may also be preserved in the RVO but would be lost in an asset sale.
30. Further, the JMAC Share Transaction will preserve at least some employment opportunities, as JMAC has previously indicated it intends to make offers of employment to at least five of the Companies' nine employees.
31. As there is no other option currently available to the Companies beyond the Badger Transaction and the JMAC Backup Bid, both of which contemplate an RVO structure, there is a significant amount of value available to the Companies' stakeholders that would be lost in the event the RVO is not granted. On this basis, approval of the RVO for the Badger Transaction, or in the alternative if the Badger Transaction does not close, the JMAC Backup Bid, provides the most favourable economic result available to the Companies and their stakeholders.

Badger Transaction Amendment

32. The Badger Transaction attached as Exhibit “K” to my Third Affidavit has an Outside Date of March 30, 2024. Badger and AMI have entered into an agreement dated effective March 5, 2024 (“**Badger Amending Agreement**”) amending the Badger Transaction to extend the Outside Date from March 30, 2024 to April 30, 2024. Attached hereto and marked as **Exhibit “C”** is a copy of the Badger Amending Agreement executed by AMI.
33. Further, Badger and AMI have also agreed upon terms of a Waiver and Acknowledgement Agreement (“**Badger Waiver Agreement**”), respecting the waiver of certain conditions to closing the Badger Transaction. The waiver is subject to closing of the Badger Transaction occurring on or before April 29, 2024. Attached hereto and marked as **Exhibit “D”** is a copy of the Badger Waiver Agreement executed by AMI.
34. As at the time of swearing this Affidavit, AMI was still awaiting Badger’s execution copy of each of the Badger Amending Agreement and the Badger Waiver Agreement.

Requested Priority Distributions

35. Subject to the Companies closing either the proposed Badger Transaction or the JMAC Backup Bid, the Companies will be obligated to pay certain Court-ordered priority charges. Following payment of the Settlement Amount, the Companies are seeking authorization for the Proposal Trustee to remit on their behalf the following payments:
- (a) **Administration Charge** – The outstanding reasonable fees and disbursements of the Proposal Trustee, the Proposal Trustee’s counsel, and the Companies’ counsel, in each case, incurred at their standard rates and charges, which priority payment shall collectively not exceed \$350,000, being the quantum of the Administration Charge previously approved by this Court on December 12, 2023. The forms of order sought by the Companies contemplate that the Administration Charge would not otherwise be released or discharged at this time, and would continue to attach to ResidualCo and the Transferred Assets to secure payment of the ongoing professional fees that might be incurred by the Proposal Trustee, the Proposal Trustee’s counsel, or the Companies’ counsel;

(b) **Interim Lender's Charge** –

(i) In the event the Companies proceed to close the Badger Transaction, it is contemplated that Badger would credit bid the amount owed to it by the Companies pursuant to the Interim Financing Facility as part of its purchase price. As such, the form of RVO sought respecting the Badger Transaction contemplates this credit bid, and subsequent release and discharge of the Interim Lender's Charge;

(ii) Otherwise, if the Companies close the JMAC Backup Bid, they are seeking approval for the Proposal Trustee to remit on their behalf the outstanding indebtedness, interest, fees, liabilities, and obligations owed by the Companies to the Interim Lender pursuant to the Interim Financing Agreement between the Companies and Badger Mining Corporation dated March 4, 2024 and previously attached to my Fourth Affidavit as Exhibit "L", which priority payment shall not exceed \$5,300,000, being the quantum of the Interim Lender's Charge. As noted below, to date the Companies have drawn \$3.25 million under the Interim Financing Facility and pursuant to the previously filed Cash Flow Forecast, are anticipated to draw a further \$350,000 prior to closing either transaction, such that the total anticipated priority payment to the Interim Lender is estimated to be \$3.685 million (inclusive of principal of \$3.6 million and estimated accrued interest of \$85,000). Once a target closing date is known, the Companies shall request an updated payout statement effective as of the transaction closing date in order for the Proposal Trustee to make this distribution. Upon payment of such amounts, the form of JMAC RVO sought by the Companies contemplates that the Interim Lender's Charge would be released and discharged as against ResidualCo and the Transferred Assets;

(c) **Sale's Advisor Charge** – The outstanding obligations owing by the Companies to the Sales Advisor pursuant to the Engagement Letter between the parties dated December 5, 2023 and previously attached to my First Affidavit as Confidential

Exhibit “1”, which priority payment shall not exceed \$450,000, being the quantum of the Sale’s Advisor Charge. Pursuant to the terms of the Engagement Letter, the Sales Advisor is entitled to be paid a restructuring transaction fee upon the consummation of a transaction in the within Proposal Proceedings. The forms of order sought by the Companies contemplate that upon payment of such amount the Sale’s Advisor Charge shall be released and discharged as against ResidualCo and the Transferred Assets; and

- (d) **KERP Charge** – The outstanding obligations owing by the Companies in accordance with the terms set forth in the Companies’ key employee retention plan, as set forth in Confidential Exhibit “4” to my First Affidavit, which priority payment shall not exceed \$260,000, being the quantum of the KERP Charge. Pursuant to the terms of the KERP, such payments are payable upon, amongst other things, the closing of a Transaction in the within Proposal Proceedings. The forms of order sought by the Companies contemplate that upon payment of such amounts the KERP Charge shall be released and discharged as against ResidualCo and the Transferred Assets.
36. All of the contemplated priority payments are subject to Court-ordered priority charges granted by the First Order. As the proceeds of sale under either transaction are contemplated to be paid to the Proposal Trustee on behalf of and for the benefit of the Companies, it is possible that the Companies will not have sufficient cash on hand to satisfy the professional fees associated with closing a transaction.
37. Further, all obligations owed by the Companies to Badger under the Interim Financing Facility will become due and owing on the Maturity Date of April 30th, 2024, necessitating their prompt payment to avoid any additional interest or fees charged thereunder.
38. Each of the Sales Advisor and the beneficiaries under the KERP are entitled to be paid upon the closing of a transaction respecting the Companies.
39. The Companies are otherwise seeking to discharge the Directors’ Charge, as we are aware of no obligations that have become due and owing by the Directors during the pendency of

these Proposal Proceedings that would be secured by that charge. Namely, throughout these Proposal Proceedings the Companies have remained current on their employee payroll and source deductions, as well as sales tax remittances.

Extension of Time to Make a Proposal

40. As evidenced in my Third Affidavit, my Fourth Affidavit and in this Affidavit No. 5, the Companies have been acting in good faith and with due diligence to advance the Proposal Proceedings with the goal of maximizing value for the benefit of all of their creditors and stakeholders. In addition to the evidence outlined in my Third Affidavit and my Fourth Affidavit, the Companies have been working tirelessly to resolve the disputes raised by JMAC in the US Proceedings and the Cross-Application, negotiating the Settlement Agreement and taking into account concerns raised at various stages by Badger.
41. In support of the requested Stay Extension, the Companies have prepared an updated cash flow forecast for the period April 1, 2024 to June 30, 2024 (the “**Updated Cash Flow Forecast**”). Subject to certain variances due to higher than anticipated professional fees associated with the ROFR dispute, overall the Companies have continued to operate in accordance with the previously filed cash flow forecast attached as Exhibit “K” to my Fourth Affidavit. In accordance with the Updated Cash Flow Forecast, and as previously forecast, the Companies anticipate making further draws in the approximate amount of \$350,000 under the Interim Financing Facility in order to continue to fund ongoing expenses in the within Proposal Proceedings, which largely consist of the professional fees associated with Court approval and closing of a transaction. Attached hereto and marked as **Exhibit “E”** is a copy of the Updated Cash Flow Forecast.
42. Based on the Updated Cash Flow Forecast, it is anticipated that the Companies will have sufficient funding to operate in the ordinary course, particularly taking into account the availability under the Interim Financing Facility. As at the date of this Affidavit, the Companies have drawn \$3.25 million from the total amount available of \$5.3 million under the Interim Financing Facility.

43. The extension of time requested to May 13, 2024 is necessary and appropriate in the circumstances to allow the Companies time to close and implement the Transaction, or in the event the Transaction does not close, the JMAC Backup Bid. I honestly believe that closing the Transaction (or in the alternative, the JMAC Backup Bid), is in the best interests of all of the Companies' creditors and stakeholders and that no creditors will be materially prejudiced by the requested stay extension to May 13, 2024. As previously noted, and taking into account the value of both available transactions, the Companies are expected to have sufficient funds to repay all creditor claims and to make returns to shareholders.
44. As noted in my Third Affidavit, all creditor claims of ResidualCo need to be finalized before any distributions to shareholders through ResidualCo can be made. The evaluation of claims and distribution of funds will be administered by the Proposal Trustee, however, it will likely take several months before creditors or existing AMI shareholders will be entitled to any distributions (in the case of the AMI shareholders, residual value after payment of creditors) arising from a transaction.
45. Based on my discussions with the Proposal Trustee, I understand that the Proposal Trustee is of the view that the extension of time requested to May 13, 2024 is appropriate and that the Companies have been acting in good faith and with due diligence over the course of the Proposal Proceedings.

Conclusion

46. I swear this Affidavit in support of the Companies' Application for an order:
- (a) approving the Settlement Agreement, including authorizing the Companies to pay the Settlement Amount stipulated thereunder to JMAC from the proceeds arising from the closing of a transaction;
 - (b) approving the JMAC Share Transaction pursuant to the reverse vesting order;
 - (c) approving the AMIS Unit Sale;
 - (d) approving the proposed priority distributions from the proceeds of sale arising from the closing of a transaction;

- (e) extending the time to make a proposal to creditors to May 13, 2024; and
- (f) sealing Confidential Exhibit "1" to this Affidavit.

SWORN BEFORE ME at Calgary, Alberta, this 8th)
day of April, 2024.)



Commissioner for Oaths in and for Alberta



JOHN DAVID CHURCHILL

Carter Lindsay
Student-at-Law
3400, 350 7th Avenue SW
Calgary, Alberta T2P3N9
Ph: 1-403-261-9448

This is Exhibit "A"
Referred to in the Affidavit of
JOHN DAVID CHURCHILL
Sworn before me this 8 day of
April, 2024



A Commissioner for Oaths in and for the
Province of Alberta

Carter Lindsay
Student-at-Law
3400, 350 7th Avenue SW
Calgary, Alberta T2P3N9
Ph: 1-403-261-9448

SUBSCRIPTION AGREEMENT

BETWEEN:

ATHABASCA MINERALS INC.

- and -

JMAC RESOURCES LTD.

March 28, 2024

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SUBSCRIPTION AGREEMENT

THIS SUBSCRIPTION AGREEMENT made as of March 28, 2024.

BETWEEN:

ATHABASCA MINERALS INC. (the “**Company**”)

- and -

JMAC RESOURCES LTD. (the “**Purchaser**”)

WHEREAS:

- A. On November 13, 2023, the Company, TerraShift Engineering Ltd., AMI Silica Inc., AMI Aggregates Inc., AMI RockChain Inc., 2140534 Alberta Ltd., and 2132561 Alberta Ltd. (collectively, the “**Companies**”) each filed a notice of intention to make a proposal under the BIA (as defined herein) as amended with the Office of the Superintendent of Bankruptcy (the “**Proposal Proceedings**”);
- B. KSV Restructuring Inc. was appointed as proposal trustee of each of the Companies (in such capacity, the “**Proposal Trustee**”);
- C. On December 12, 2023, the Companies obtained an order from the Court of King’s Bench of Alberta (the “**Court**”) in the Judicial District of Calgary, Alberta, which, among other things, approved the procedure for the Companies’ sales and investment solicitation process of the Companies (the “**SISP Order**”);
- D. Further to the SISP Order, the Company and the Purchaser entered into negotiations for the subscription for and purchase of the Purchased Shares (as defined herein) by the Purchaser, to be completed through a series of transactions between the Company and the Purchaser to proceed by way of the Reverse Vesting Order (as defined herein);
- E. On or about January 31, 2024, Badger Mining Corporation (“**Badger**”) submitted a Superior Bid (as defined in the SISP Order), which triggered an auction process under the SISP (the “**Badger Transaction**”). The Companies, in consultation with the Proposal Trustee, proceeded to a run-off auction pursuant to the terms of the SISP (the “**Auction**”). On February 9, 2024, the Proposal Trustee conducted the Auction, with the Purchaser and Badger each acting as participants. Badger submitted the final bid at the Auction with a purchase price of \$29,200,000, and the Proposal Trustee subsequently closed the Auction.
- F. Following the closing of the Auction, the Proposal Trustee advised the Purchaser and Badger that Badger had been declared the Winning Bidder with its bid of \$29,200,000 and the Purchaser had been declared the Back-up Bidder with the last bid it made in the Auction in the amount of \$29,100,000 (all as defined in the SISP Order and for the purposes of this Subscription Agreement (as defined herein), the “**Back-up Bid**”).

- G. Pursuant to the Back-up Bid and subject to the conditions set forth in this Subscription Agreement, specifically without limitation Section 5.1(c) of this Subscription Agreement and the issuance by the Court (as defined herein) of the Reverse Vesting Order (as defined herein), the Company wishes to issue from treasury to the Purchaser, and the Purchaser has agreed to subscribe for and purchase from the Company, the Purchased Shares, upon the terms and conditions set forth herein;
- H. The Company shall effect a reorganization pursuant to the statutory procedure set out in Section 193 of the *Business Corporations Act* (Alberta) (the “**ABCA**”), or Section 59(4) of the BIA, as applicable, whereby, among other things, all existing Common Shares (as defined herein) issued and outstanding immediately prior to the Closing Date (as defined herein) shall be deemed to be exchanged by the registered holders thereof, without any act or formality on their part, for consideration in the form of ResidualCo Shares (as defined herein) on the basis of one ResidualCo Share being issued for each Common Share then outstanding, following which the Common Shares so exchanged, and all other Equity Interests, shall be cancelled, immediately prior to the subscription for and purchase of the Purchased Shares by the Purchaser pursuant to this Subscription Agreement (the “**Reorganization**”);
- I. At Closing, the Purchased Shares shall represent all of the issued and outstanding equity of the Company; and
- J. The Transactions (as defined herein) contemplated by this Subscription Agreement are subject to the approval of the Court and will be consummated only pursuant to and in accordance with this Subscription Agreement and the approval of the Court pursuant to the Reverse Vesting Order.

NOW THEREFORE, THIS SUBSCRIPTION AGREEMENT WITNESSETH that in consideration of the premises and the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties have agreed as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Subscription Agreement, unless the context otherwise requires:

- (a) “**ABCA**” has the meaning ascribed thereto in the Recitals;
- (b) “**Affiliate**” means, with respect to any Person, any other Person or group of Persons acting in concert, directly or indirectly, that controls, is controlled by or is under common control with such Person. The term “**control**” as used in the preceding sentence means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person whether through ownership or more than 50% of the voting securities of such Person, by contract or otherwise;

- (c) “**Aggregate Purchase Price**” means the aggregate total of the Purchase Price and the Membership Interest Purchase Price, in consideration for the issuance of the Purchased Shares and the sale, assignment and transfer of the Purchased Interest;
- (d) “**AMI Silica LLC Transaction**” means acquisition of the membership interest of AMIS LLC held by the Company by JMAC LLC pursuant to the terms and conditions of the Membership Interest Purchase Agreement;
- (e) “**AMIS LLC**” means AMI Silica LLC;
- (f) “**Applicable Law**” means, in relation to any Person, property, transaction, event or other circumstance, any transnational, foreign or domestic, federal, provincial, territorial, state, local or municipal (or any subdivision of them) law (including common law and civil law), constitution, treaty, statute, rule, regulation, code, ordinance, principle of common law or equity rule, by-law (zoning or otherwise), official directive, order of Governmental Authorities (whether administrative, legislative, executive or otherwise, including any Securities Laws or requirements of stock exchanges and any consent decree or administrative order) or other requirement having the force of law, including judgments, orders and decrees of courts, commissions or bodies exercising similar functions, as amended, and includes the provisions and conditions of any Permit, licence or other governmental or regulatory authorization, that are in effect as at the relevant time and are applicable to such person, property or circumstance;
- (g) “**Articles of Reorganization**” means the articles of reorganization of the Company in respect of the Reorganization required under Section 192(4) of the ABCA to be sent to the Registrar after the Reverse Vesting Order has been granted, giving effect to the Reorganization;
- (h) “**Auction**” has the meaning ascribed thereto in the Recitals;
- (i) “**Back-up Bid**” has the meaning ascribed thereto in the Recitals;
- (j) “**Badger**” has the meaning ascribed thereto in the Recitals;
- (k) “**Badger Transaction**” has the meaning ascribed thereto in the Recitals;
- (l) “**BIA**” means the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended from time to time;
- (m) “**Buildings and Fixtures**” means all plant, buildings, structures, erections, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment) situate on or under or forming part of the land or lands owned or controlled by the Companies or any of them;
- (n) “**Business**” means the business and operations carried on by the Companies as at the date of this Subscription Agreement;

- (o) “**Business Day**” means a day other than a Saturday, a Sunday or a statutory holiday in Calgary, Alberta;
- (p) “**Canadian Securities Laws**” means the securities legislation or ordinance and regulations thereunder of each province and territory of Canada and the rules, instruments, policies and orders of each Canadian Securities Administrator made thereunder;
- (q) “**Certificate of Reorganization**” means the certificate of amendment to be issued by the Registrar for the Reorganization pursuant to Section 192(5) of the ABCA in respect of the Articles of Reorganization;
- (r) “**Claim**” means any claim, action, cause of action, demand, lawsuit, proceeding, arbitration, or any investigation by a Third Party or a Governmental Authority (whether pertaining to the Retained Assets or otherwise), in each case whether asserted, threatened, pending or existing;
- (s) “**Closing**” means the completion of the Transactions pursuant to this Subscription Agreement;
- (t) “**Closing Date**” the date on which Closing occurs, which date shall be no later than three (3) Business Days from the date on which all conditions set out in Article 5 (other than those conditions that by their nature can only be satisfied on the Closing Date) have been satisfied or waived or such other date as may be agreed upon by the Parties;
- (u) “**Closing Place**” means the office of the Company or its counsel, or such other place as may be agreed upon in writing by the Parties;
- (v) “**Closing Sequence**” has the meaning ascribed thereto in Section 4.3;
- (w) “**Common Shares**” means common shares in the capital of the Company;
- (x) “**Companies**” has the meaning ascribed thereto in the Recitals;
- (y) “**Company Shareholders**” means the registered holders of issued and outstanding Common Shares as of close of business on the day prior to the Closing Date;
- (z) “**Confidentiality Agreement**” means the Confidentiality Agreement dated effective February 1, 2023 entered into between the Company and the Purchaser in connection with the Transaction;
- (aa) “**Confidential Materials**” has the meaning ascribed thereto in Section 9.14;
- (bb) “**Court**” has the meaning ascribed thereto in the Recitals;
- (cc) “**Cure Costs**” means amounts described in Schedule “D” hereto in respect of monetary defaults owing in connection with the Retained Contracts;

- (dd) “**Deposit**” has the meaning ascribed thereto in Section 2.4;
- (ee) “**Effective Time**” means 12:01 a.m. on the Closing Date;
- (ff) “**Employees**” has the meaning ascribed thereto in Section 3.1;
- (gg) “**Encumbrances**” means all security interests (whether contractual, statutory, or otherwise), hypothecs, pledges, mortgages, liens, trusts or deemed trusts (whether contractual, statutory or otherwise), reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, Taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the SISP Order, the Reverse Vesting Order or any other Order of the Court; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of Alberta, British Columbia or any other personal property registry system or pursuant to the *Land Titles Act* (Alberta) or any other land titles or similar registry system;
- (hh) “**Equity Interests**” includes, in respect of the Company: (i) any shares, interests, participations or other equivalents (however designated) of capital stock or share capital; (ii) any phantom stock, phantom stock rights, stock appreciation rights or stock-based performance securities; and (iii) any warrants, options, convertible, exchangeable or exercisable securities (whether convertible, non-convertible, voting or nonvoting, whether preferred, common or otherwise), subscriptions, rights (including any pre-emptive or similar rights), calls or other rights to purchase or acquire any of the foregoing;
- (ii) “**Escrow Amount**” has the meaning ascribed thereto in Section 7.10(c);
- (jj) “**Excluded Contracts**” means those contracts, agreements, and commitments described in Schedule “B” hereto which shall be disclaimed or terminated by any one of the Companies prior to Closing;
- (kk) “**Governmental Authority**” means any federal, national, provincial, territorial, state, municipal or other government, any political subdivision thereof, and any ministry, sub-ministry, agency or sub-agency, court, board, bureau, office, commission or department, as well as any government-owned entity, any regulatory authority and any public authority, including any public utility, having jurisdiction over a Party, the Retained Assets or the Transactions;
- (ll) “**GST**” means the goods and services tax payable pursuant to the GST Legislation;
- (mm) “**GST Legislation**” means Part IX of the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended, and the regulations promulgated thereunder, all as amended from time to time;

- (nn) “**Interim Period**” means the period from the date that this Subscription Agreement is entered into by the Parties through to Closing;
- (oo) “**JMAC LLC**” means JMAC Energy Services LLC, a limited liability company subsisting under the laws of the State of Delaware;
- (pp) “**KERP**” means the Key Employee Retention Plan approved by the Court on December 12, 2023;
- (qq) “**KERP Charge**” means the charge securing payment of the KERP and approved by the Court on December 12, 2023;
- (rr) “**KERP Obligations**” means all obligations secured by the KERP Charge;
- (ss) “**Lands**” means the lands more particularly described in Schedule “C”;
- (tt) “**Losses**” means all losses, costs, Claims, damages, penalties, assessments, charges, expenses, and other liabilities and obligations which a Party suffers, sustains, pays or incurs, including reasonable legal fees and other professional fees and disbursements on a full-indemnity basis;
- (uu) “**Material Adverse Effect**” means any fact or state of facts, circumstance, change, effect, occurrence or event which:
 - (i) either individually is or in the aggregate are, or individually or in the aggregate could reasonably be expected to be, material and adverse to the Business, operations, results of operations, properties, assets, liabilities (whether absolute, accrued, contingent or otherwise), capitalization or condition (financial or otherwise) of the Company and its subsidiaries, including AMIS LLC, taken as a whole; or
 - (ii) either individually or in the aggregate prevents, or individually or in the aggregate could reasonably be expected to prevent, the completion of the Transactions or the Company from performing its obligations under this Subscription Agreement in any material respect by the Outside Date;

provided, however, that with respect to (i) and (ii) above: (1) any effect resulting from facts, circumstances, changes, effects, occurrences or events of which JMAC or its Affiliates had knowledge of prior to the Closing Date; (2) any occurrence or event caused directly or indirectly by JMAC or its Affiliates in connection with the Transactions or the Business; (3) any development that could reasonably be expected to result in a change, in the condition, financial or otherwise, or in the earnings/losses, business, operations or prospects arising from transactions in the ordinary course of Business; or (4) any occurrence or event that, individually, or in the aggregate, results in Losses to the Company of individually, or in the aggregate, less than \$10,000,000, shall not constitute a Material Adverse Effect. Further, in determining whether there has been a Material Adverse Effect, the Proposal Trustee

shall have the final and binding decision between the Company and the Purchaser, in respect of whether a Material Adverse Effect has occurred;

- (vv) **“Membership Interest Purchase Agreement”** means the membership interest purchase agreement dated March 28, 2024 between the Company and JMAC LLC in respect of the membership interest of AMIS LLC held by the Company;
- (ww) **“Membership Interest Purchase Price”** means the purchase price as set forth in the Membership Interest Purchase Agreement;
- (xx) **“Order”** means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority;
- (yy) **“Outside Date”** means May 3, 2024, or such other date as may be agreed upon between the Parties in writing;
- (zz) **“Parties”** means, collectively, all of the parties to this Subscription Agreement; and **“Party”** means a party to this Subscription Agreement;
- (aaa) **“Permits”** means all authorizations, permits, decisions, determinations, judgments, directions, entitlements, licenses, orders, consents, approvals, notices, correspondence, directives, exemptions, registrations, rulings, advance rulings and certifications whether now existing or hereafter issued or obtained or required to be issued or obtained and which are or may be given or issued by any Governmental Authority;
- (bbb) **“Person”** means any individual, corporation, limited or unlimited liability company, joint venture, partnership (limited or general), trust, trustee, executor, Governmental Authority or other entity;
- (ccc) **“Proposal Proceedings”** has the meaning ascribed thereto in the Recitals;
- (ddd) **“Proposal Trustee”** has the meaning ascribed thereto in the Recitals;
- (eee) **“Proposal Trustee’s Certificate”** means the certificate, substantially in the form attached as Schedule “A” to the Reverse Vesting Order, to be delivered by the Proposal Trustee in accordance with Section 5.5 and thereafter filed by the Proposal Trustee with the Court;
- (fff) **“Purchase Price”** has the meaning set out in Section 2.2;
- (ggg) **“Purchase Price Balance”** has the meaning set out in Section 2.2;
- (hhh) **“Purchased Interest”** means the purchase of a 50% voting membership interest of AMIS LLC by JMAC LLC, pursuant to the terms and conditions of the Membership Interest Purchase Agreement;

- (iii) **“Purchased Shares”** means 1,000 Common Shares subscribed for by the Purchaser in accordance with the Reverse Vesting Order and this Subscription Agreement, representing all of the issued and outstanding Common Shares of the Company at the time of issuance;
- (jjj) **“Real Property”** means collectively all land or lands owned by or controlled by the Companies or any of them and all other Buildings and Fixtures;
- (kkk) **“Recitals”** means the preamble and the recitals to this Subscription Agreement;
- (lll) **“Registrar”** means the Registrar of Corporations or a Deputy Registrar of Corporations appointed pursuant to Section 263 of the ABCA;
- (mmm) **“Reorganization”** has the meaning ascribed thereto in the Recitals;
- (nnn) **“Representative”** means, with respect to any Party, its Affiliates, and its and their respective directors, officers, agents, advisors, employees and consultants and with respect to the Company includes its employees and consultants, and its and their respective directors, officers, agents, advisors, employees and consultants;
- (ooo) **“ResidualCo”** means a corporation to be incorporated by the Company in advance of Closing, to which the Transferred Assets, Transferred Contracts, and Transferred Liabilities will be transferred to, as part of the Closing Sequence as further set out in Section 4.3 of this Subscription Agreement, and such corporation will then be added as an applicant in the Proposal Proceedings upon the completion of the Transactions contemplated herein;
- (ppp) **“ResidualCo Shares”** means the common shares of ResidualCo;
- (qqq) **“Retained Assets”** means those assets described in Schedule “B” hereto and includes, where the context requires, the Retained Contracts, which shall be retained by the Company;
- (rrr) **“Retained Contracts”** means those contracts, agreements and commitments described in Schedule “B” hereto, which shall be retained by the Company;
- (sss) **“Retained Liabilities”** means those liabilities described in Schedule “B” hereto, which shall be retained by the Company;
- (ttt) **“Reverse Vesting Order”** means an Order of the Court, in substantially the form attached hereto as Schedule “A”, or in such other form as may be agreed to by the Parties in writing that, among other things: (a) approves this Subscription Agreement and the Transactions contemplated hereby (including the cancellation of all of the issued and outstanding Equity Interests, other than the Purchased Shares); (b) authorizes and directs the Company to file the Articles of Reorganization with the Registrar; and (c) upon the delivery of a copy of the Proposal Trustee’s Certificate to the Purchaser, among other things: (i) transfers all of the Companies’ right, title and interest in and to the Transferred Assets and

Transferred Contracts to ResidualCo; (ii) transfers all Transferred Liabilities to ResidualCo; (iii) releases and discharges the Companies from all of the Transferred Liabilities; and (iv) releases the Companies from the purview of the Proposal Proceedings and adds ResidualCo as an entity in the Proposal Proceedings;

- (uuu) “**Securities Laws**” means collectively, the Canadian Securities Laws and U.S. Securities Laws;
- (vvv) “**Settlement Agreement**” means the settlement agreement and final release between the Companies and JMAC LLC dated March 28, 2024;
- (www) “**SISP Order**” has the meaning ascribed thereto in the Recitals;
- (xxx) “**Subscription Agreement**” means this subscription agreement between the Company and the Purchaser, including all Recitals and schedules attached hereto, and “**this Agreement**”, this “**Subscription Agreement**” “**herein**”, “**hereto**”, “**hereof**” and similar expressions mean and refer to this subscription agreement;
- (yyy) “**Taxes**” means taxes, duties, fees, premiums, assessments, imposts, levies and other similar charges imposed by any Governmental Authority under Applicable Law, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, whether disputed or not, and any liability for the payment of any such amounts as a result of any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any Person, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, and all employment insurance, amounts or refunds owing in respect of any form of COVID-19 economic support, health insurance and governmental pension plan premiums or contributions;
- (zzz) “**Tax Refunds**” means all payments, subsidies, claims with respect to subsidies, credits or refunds (including payments and refunds in respect of Taxes) to which the Companies are entitled that arose or relate to the period prior to Closing, including but not limited to: (i) any refund of goods and services taxes or harmonized sales taxes, (ii) any refund of federal or provincial income taxes, and (iii) any refund of premiums or payments relating to any provincial or federal workers’ compensation fund or program;
- (aaaa) “**Tax Returns**” means all reports, elections, designations, forms, declarations of estimated Tax, information statements and returns relating to, or required to be filed in connection with any Taxes, including any amendment thereof, and whether in tangible or electronic form;

- (bbbb) “**Terminated Employee Claims**” has the meaning ascribed thereto in Section 3.1(b);
- (cccc) “**Terminated Employees**” has the meaning ascribed thereto in Section 3.1(a);
- (dddd) “**Third Party**” means any individual or entity other than the Companies and the Purchaser, including any partnership, corporation, trust, unincorporated organization, union, government and any department and agency thereof and any heir, executor, administrator or other legal representative of an individual;
- (eeee) “**Transactions**” means the issuance by the Company to the Purchaser, and the subscription for and purchase by the Purchaser, of the Purchased Shares in consideration of the Purchase Price and all matters related or ancillary to the foregoing contemplated by or in the manner provided for in this Subscription Agreement, the Reverse Vesting Order, and the Membership Interest Purchase Agreement;
- (ffff) “**Transfer Agent**” means TSX Trust Company;
- (gggg) “**Transferred Assets**” means those assets described in Schedule “B” hereto and, where the context requires, includes the Transferred Contracts;
- (hhhh) “**Transferred Contracts**” means those contracts, agreements and commitments described in Schedule “B” hereto;
- (iiii) “**Transferred Liabilities**” means those liabilities described in Schedule “B” hereto, including without limitation, any Terminated Employee Claims or KERP Obligations;
- (jjjj) “**Trustee’s Certificate**” means the certificate to be filed by the Proposal Trustee certifying that all conditions of Closing of the Transactions contemplated by this Subscription Agreement and approved by the Reverse Vesting Order have been satisfied; and
- (kkkk) “**U.S. Securities Laws**” means federal and state securities legislation of the United States and all rules, regulations and orders promulgated thereunder.

1.2 Headings

The words “Article”, “Section”, “subsection” and “Schedule” followed by a number or letter or combination thereof mean and refer to the specified Article, Section, subsection and Schedule of or to this Subscription Agreement.

1.3 Interpretation Not Affected by Headings

The division of this Subscription Agreement into Articles, Sections and subsections and the provision of headings for all or any thereof are for convenience and reference only and shall not affect the construction or interpretation of this Subscription Agreement.

1.4 Plurals and Gender

When the context reasonably permits, words suggesting the singular shall be construed as suggesting the plural and *vice versa*, and words suggesting gender or gender neutrality shall be construed as suggesting all genders.

1.5 Schedules

There are appended to this Subscription Agreement the following Schedules pertaining to the following matters:

Schedule “A” – Form of Reverse Vesting Order

Schedule “B” – Transferred Assets; Transferred Liabilities; Transferred Contracts; Retained Assets; Retained Liabilities and Retained Contracts

Schedule “C” – The Lands

Schedule “D” – Cure Costs

Such Schedules are incorporated herein by reference as though contained in the body hereof. Wherever any term or condition of such Schedules conflicts or is at variance with any term or condition in the body of this Subscription Agreement, such term or condition in the body of this Subscription Agreement shall prevail.

1.6 Derivatives

Where a term is defined in the body of this Subscription Agreement, a capitalized derivative of such term shall have a corresponding meaning unless the context otherwise requires. The word “include” and derivatives thereof shall be read as if followed by the phrase “without limitation”.

1.7 Conflicts

If there is any conflict or inconsistency between a provision of the body of this Subscription Agreement and that of a schedule, the provision of the body of this Subscription Agreement shall prevail. If any term or condition of this Subscription Agreement conflicts with a term or condition of any Applicable Law or the Reverse Vesting Order, the term or condition of such Applicable Law or the Reverse Vesting Order, as applicable, shall prevail, and this Subscription Agreement shall be deemed to be amended to the extent required to eliminate any such conflict.

1.8 Currency

All dollar (\$) amounts referenced in this Subscription Agreement are expressed in the lawful currency of Canada.

ARTICLE 2 SUBSCRIPTION OF PURCHASED SHARES

2.1 Subscription for Purchased Shares

Subject to the provisions of this Subscription Agreement and the Reverse Vesting Order, on the Closing Date, in consideration for the Purchase Price the Purchaser shall subscribe for and purchase from the Company, and the Company shall issue to the Purchaser the Purchased Shares, free and clear of and from all Claims, Losses and Encumbrances.

2.2 Purchase Price

The aggregate consideration payable by the Purchaser pursuant to this Subscription Agreement and the Membership Interest Purchase Agreement is \$29,100,000. The consideration payable pursuant to this Subscription Agreement for the Purchased Shares is: (i) \$4,500,000, and (ii) any amounts payable pursuant to Section 7.10 (collectively, the “**Purchase Price**”) which is comprised of:

- (a) the Deposit; and
- (b) the amount that results from the Purchase Price less the Deposit (the “**Purchase Price Balance**”).

2.3 Form of Payment

Subject to Section 2.2, all payments to be made pursuant to this Subscription Agreement shall be in Canadian funds and shall be made by wire transfer.

2.4 Deposit

- (a) The Parties acknowledge that a deposit in the amount of \$2,900,000 shall be delivered by JMAC LLC, to the Proposal Trustee, in trust pursuant to Section 2.4(b) of this Subscription Agreement, pending execution of the Settlement Agreement, and shall be released only in accordance with the provisions of this Section 2.4 and 9.15(c) (the “**Deposit**”). Until release, the Deposit shall be held by the Proposal Trustee in a non-interest-bearing trust account.
- (b) The Deposit shall be:
 - (i) retained by the Companies:
 - (A) if the Transactions closes, in which case the Deposit shall be applied to the Purchase Price to be paid by JMAC LLC; or
 - (B) as liquidated damages if the Companies seek to close the Transactions, but fail to do so for reasons attributable to the Purchaser pursuant to the terms and conditions set forth in this Subscription Agreement;

- (ii) returned to JMAC LLC, if:
 - (A) the Companies close the Badger Transaction pursuant to the terms and conditions therein; or
 - (B) the Companies fail to close the Badger Transaction and instead seek to close the Back-up Bid but fail to do so for reasons not attributable to the Purchaser, or its Affiliate.

2.5 Damages

The Parties agree that the amount of the Deposit constitutes their genuine estimate of all damages that will be suffered as a result of Closing not occurring and the Company shall retain the Deposit pursuant to Section 2.4(b)(i) if such circumstances described therein arise. The Deposit shall constitute liquidated damages to the Company and not a penalty of Closing not occurring. For greater certainty, retention of the Deposit shall be the sole and exclusive remedy of the Company.

ARTICLE 3 PRE-CLOSING MATTERS

3.1 Employee Matters

- (a) The Parties acknowledge that the Company has provided the Purchaser with an up-to-date list of the names and positions of all of the Company's employees, consultants and contractors fulfilling an employee-like role (collectively, "**Employees**") prior to the date hereof. The Parties further acknowledge that the Purchaser has provided to the Company a list of those Employees that it will not employ, and whose employment is to be terminated by the Company prior to Closing (the "**Terminated Employees**").
- (b) The Company shall, prior to Closing, have terminated the employment of the Terminated Employees, as requested by the Purchaser, and all liabilities owing to any such Terminated Employees in respect of such terminations, including all claims of the Terminated Employees in the amount equal to the payment that such Terminated Employees would have received under the BIA and all amounts owing on account of statutory notice, termination payments, common law notice or pay in lieu thereof, severance, vacation pay, benefits, bonuses or other compensation or entitlements (the "**Terminated Employee Claims**"), shall be and constitute Transferred Liabilities which, pursuant to the Reverse Vesting Order and the closing sequence set out in Section 4.3 of this Agreement, shall be discharged as against the Company and transferred to the ResidualCo.
- (c) The Company shall not make any change in the salary, benefits or other forms of compensation payable to the Employees during the period following the date hereof and ending on the Closing Date.
- (d) The Purchaser acknowledges and agrees that the information received pursuant to this Section 3.1 is confidential information and shall hold and use such information

in compliance with all Applicable Law and without limiting the generality of the foregoing, all Applicable Law relating to privacy.

ARTICLE 4 CLOSING

4.1 Date, Time and Place of Closing

Closing shall take place at the Closing Place on the Closing Date if there has been satisfaction or waiver of the conditions of Closing herein contained prior to the Outside Date.

4.2 Effectiveness of Reverse Vesting Order

Subject to the other terms of this Subscription Agreement and the Reverse Vesting Order, to the extent such further action is required to give effective thereto, the Company and ResidualCo, as applicable, shall effect the steps set forth in the Reverse Vesting Order, in the sequence and at the times specified therein, as such steps, transactions, sequence and/or times may be amended by written agreement of the Parties.

4.3 Closing

On the Closing Date, subject to the conditions set forth in Sections 5.1, 5.2 and 5.3 hereto being satisfied, complied with, or waived by the applicable Party or Parties, at or before the Outside Date, Closing shall take place in the following sequence (the “**Closing Sequence**”):

- (a) first, JMAC LLC, shall pay the Membership Interest Purchase Price to the Proposal Trustee, on behalf of the Company, to be paid in cash or wire transfer of immediately available funds;
- (b) second, the Purchaser shall deliver the Escrow Amount, if applicable, pursuant to Section 7.10, to the Proposal Trustee;
- (c) third, JMAC LLC, shall pay the Purchase Price to the Proposal Trustee, on behalf of the Company, to be paid in cash or wire transfer of immediately available funds;
- (d) fourth, the Companies shall transfer to and cause ResidualCo to assume the Transferred Assets and Transferred Liabilities pursuant to the Reverse Vesting Order;
- (e) fifth, all of the Companies’ right, title and interest in and to the Transferred Liabilities, but specifically excluding the Retained Liabilities, shall be channeled to, assumed by and vest absolutely and exclusively in ResidualCo for the purpose of allowing ResidualCo to continue to administer the Transferred Liabilities in accordance with the terms and conditions of the Reverse Vesting Order, for the benefit of the existing creditors of the Companies as at the Closing Date, and: (i) such Transferred Liabilities shall continue to attach to the Transferred Assets with the same nature and priority as they had immediately prior to the Closing Date, as set out in paragraph 9 of the Reverse Vesting Order; and (ii) such Transferred

Liabilities shall be transferred to, and assumed by and vest absolutely and exclusively with ResidualCo in consideration for the transfer of the Transferred Assets and the Purchase Price, such that the Transferred Liabilities shall be novated and become obligations of ResidualCo which shall be deemed to have been party to the contracts and agreements giving rise thereto and which shall stand in place and stead of the Companies in respect of any such liability or obligation, and shall no longer, under any circumstances, be or represent obligations of the Companies;

- (f) sixth, each Common Share outstanding immediately prior to the Closing Date shall be transferred to ResidualCo and, in consideration therefor, ResidualCo shall issue one (1) ResidualCo Share for each Common Share outstanding;
- (g) seventh, each Equity Interest that is issued and outstanding immediately prior to the Closing Date, together with any agreement, contract, plan, indenture, deed, certificate, subscription rights, conversion rights, pre-emptive rights, options (including stock options or share purchase or equivalent plans), or other documents or instruments governing or having been created or granted in connection with the share capital of the Company shall be deemed terminated and cancelled for no consideration in accordance with and pursuant to the Reverse Vesting Order;
- (h) eighth, the Company shall have paid, assumed or otherwise satisfied the Retained Liabilities in accordance with the Reverse Vesting Order, and upon payment or assumption thereof, other than as set out in the Reverse Vesting Order, the Retained Liabilities shall be and are hereby forever released, expunged and discharged as against the Retained Assets, the Companies, and the Purchased Shares;
- (i) ninth, the Retained Assets will be retained by the Company in each case free and clear of and from any and all Claims, Losses and Encumbrances including, as applicable, without limiting the generality of the foregoing: (i) any Encumbrances or charges created by the SISP Order or any other Order of the Court; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta), RSA 2000, c P-7, or any other personal property registry system or pursuant to the *Land Titles Act* (Alberta), RSA 2000, c L-4 or any other land titles or similar registry system, all of which affect or relate to the Purchased Shares and/or the Retained Assets shall be expunged and discharged as against the Purchased Shares and Retained Assets, as applicable, in accordance with the Reverse Vesting Order;
- (j) tenth, the Company and JMAC LLC shall effect the closing of the AMI Silica LLC Transaction pursuant to the terms and conditions of the Membership Interest Purchase Agreement;
- (k) eleventh, the Company shall issue from treasury the Purchased Shares to the Purchaser free and clear of and from any and all Claims, Losses and Encumbrances, and the Aggregate Purchase Price shall vest in ResidualCo to be administered by the Proposal Trustee (as trustee of ResidualCo) for the benefit of the Companies' creditors;

- (l) twelfth, the Companies shall cease to be applicants in the Proposal Proceedings and the Companies shall be deemed to be released from the purview of the SISP Order and all other orders of the Court granted in relation to the Proposal Proceedings;
- (m) thirteenth, ResidualCo shall replace the Companies as applicants and debtor, as applicable, in the Proposal Proceedings and shall be subject to the terms of all Orders granted in the Proposal Proceedings; and
- (n) fourteenth, pursuant to the Reverse Vesting Order or further Order of the Court, the Proposal Trustee's power shall be enhanced in respect of ResidualCo, including the authority to authorize and direct ResidualCo to make an assignment in bankruptcy and the Proposal Trustee, shall be authorized to be appointed as trustee in bankruptcy of the estate of ResidualCo.

4.4 Closing Deliveries

- (a) On the Closing Date, the Company shall deliver or cause to be delivered to the Purchaser:
 - (i) a true copy of the Reverse Vesting Order, as granted by the Court;
 - (ii) a true copy of the Certificate of Reorganization;
 - (iii) a true copy of a joint direction of the Company and ResidualCo to the Transfer Agent directing the Transfer Agent to (A) transfer all Common Shares held by registered Company Shareholders as at the close of business on the Business Day prior to the Closing Date to ResidualCo, (B) issue one ResidualCo Share for each Common Share formerly held by each registered Company Shareholder immediately prior to the Closing Date, (C) cancel all of the formerly held issued and outstanding Common Shares; (D) issue the Purchased Shares to the Purchaser and provide evidence of same;
 - (iv) one or more share certificates duly executed by the Company, or other satisfactory evidence such as a notice of uncertified securities, representing, in aggregate, the Purchased Shares registered in the name of the Purchaser as directed by the Purchaser;
 - (v) a certificate dated as of the Closing Date and executed by an executive officer of the Company confirming and certifying that each of the conditions in Sections 5.2(a), 5.2(c) and 5.2(d) have been satisfied; and
 - (vi) all such other assurances, consents, agreements, documents and instruments as may be reasonably required by the Purchaser to complete the Transactions provided for in this Subscription Agreement, all of which shall be in a form and substance satisfactory to the Parties, acting reasonably.
- (b) On the Closing Date, the Purchaser shall deliver or cause to be delivered to the Company:

- (i) a written direction to the Company to retain the Deposit as a partial payment of the Purchase Price;
- (ii) the Purchase Price, pursuant to Section 2.2, the Escrow Amount, if applicable and the Membership Interest Purchase Price pursuant to the Membership Interest Purchase Agreement, which shall be paid to the Proposal Trustee on behalf of the Company;
- (iii) a certificate dated as of the Closing Date and executed by an executive officer of the Purchaser confirming and certifying that each of the conditions in Sections 5.3(a) and 5.3(c) have been satisfied; and
- (iv) all such other assurances, consents, agreements, documents and instruments as may be reasonably required by the Company to complete the Transactions.

ARTICLE 5 CONDITIONS OF CLOSING

5.1 Mutual Conditions

The respective obligations of the Purchaser and the Company to complete the Transactions, are subject to the satisfaction of, or compliance with, at or prior to the Closing Date or in any event, no later than the Outside Date, the following conditions precedent:

- (a) the Reverse Vesting Order shall have been granted and entered by the Court and shall not have been vacated, set aside, or stayed, and all conditions to the effectiveness of the Reverse Vesting Order shall have been satisfied or waived in accordance with the terms thereof, or will be satisfied and waived in accordance with the Closing;
- (b) on or before Closing, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or law which has: (i) the effect of making any of the Transactions illegal, or (ii) the effect of otherwise prohibiting, preventing or restraining the consummation of any of the Transactions contemplated by this Subscription Agreement; or (iii) the effect of varying, modifying or amending the Reverse Vesting Order without the consent of the Purchaser;
- (c) the Badger Transaction does not close as a result of either of the following:
 - (i) the failure by either the Company or Badger to obtain Court approval in respect of the Badger Transaction by April 19, 2024, or such later date as the Court may hear or render a decision on the approval of the Badger Transaction; or
 - (ii) the Company, acting reasonably, determines that the Badger Transaction will not close by April 30, 2024;

- (d) the closing of the AMI Silica LLC Transaction pursuant to the terms and conditions of the Membership Interest Purchase Agreement;
- (e) ResidualCo has been incorporated; and
- (f) no stay or appeal or application to vary the Reverse Vesting Order shall have been filed with the Court at any time by the Company or any other Person on or before the Closing.

Unless otherwise agreed to by the Parties, if the conditions contained in this Section 5.1 have not been performed, satisfied or waived before the Outside Date, this Subscription Agreement and the obligations of the Company and the Purchaser under this Subscription Agreement (other than under Sections 9.13, 9.16, and Section 9.14 as applicable) shall automatically terminate without any further action on the part of either the Company or the Purchaser.

5.2 Purchaser's Conditions

The obligations of the Purchaser to purchase the Purchased Shares and complete the Transactions are subject to the following conditions precedent being met prior to the Outside Date, which are inserted herein and made part hereof for the exclusive benefit of the Purchaser and may be waived by the Purchaser:

- (a) the representations and warranties of the Company herein contained shall be true and correct in all material respects when made and shall remain true and correct as of the Closing Date or if made as of a date specified therein, as of such date;
- (b) the Company shall have executed and delivered or caused to be executed and delivered to the Purchaser at the Closing all documents contemplated by Section 4.4(a);
- (c) all covenants, obligations or agreements of the Company contained in this Subscription Agreement to be performed prior to or at Closing shall have been timely performed in all material respects;
- (d) the Company shall not have issued any new Common Shares or other securities of the Company, except as provided for in the Reverse Vesting Order and this Subscription Agreement; and
- (e) there shall not have been any Material Adverse Effect during the Interim Period.

If any one or more of the foregoing conditions precedent has or have not been satisfied, complied with, or waived by the Purchaser, at or before the Outside Date, the Purchaser may rescind this Subscription Agreement by written notice to the Company. If the Purchaser rescinds this Subscription Agreement, the Company and the Purchaser shall be released and discharged from all obligations hereunder except as provided in Sections 2.4, 9.13 and 9.16.

5.3 Company's Conditions

The obligations of the Company to sell the Purchased Shares and complete the Transactions are subject to the following conditions precedent being met prior to the Outside Date, which are inserted herein and made part hereof for the exclusive benefit of the Company and may be waived by the Company:

- (a) the representations and warranties of the Purchaser herein contained shall be true and correct in all material respects when made and shall remain true and correct as of the Closing Date or if made as of a date specified therein, as of such date;
- (b) the Purchaser shall have executed and delivered or caused to be executed and delivered to the Company at the Closing all documents contemplated by Section 4.4(b);
- (c) all covenants, obligations or agreements of the Purchaser contained in this Subscription Agreement to be performed prior to or at Closing shall have been timely performed in all material respects; and
- (d) all amounts to be paid by the Purchaser to the Company at Closing, including the Aggregate Purchase Price and the Escrow Amount, if applicable, shall have been paid to the Proposal Trustee, on behalf of the Company, in the form stipulated in this Subscription Agreement.

If any one or more of the foregoing conditions precedent has or have not been satisfied, complied with, or waived by the Company, at or before the Outside Date, the Company may rescind this Subscription Agreement by written notice to the Purchaser. If the Company rescinds this Subscription Agreement, the Company and the Purchaser shall be released and discharged from all obligations hereunder except as provided in Sections 2.4, 9.13 and 9.16.

5.4 Efforts to Fulfil Conditions Precedent

The Purchaser and the Company shall proceed diligently and in good faith and use all reasonable efforts to satisfy and comply with and assist in the satisfaction and compliance with the foregoing conditions precedent.

5.5 Proposal Trustee's Certificate

When the conditions to Closing set out in Sections 5.1, 5.2 and 5.3 have been satisfied and/or waived by the Company or the Purchaser, as applicable, the Company, the Purchaser or their respective counsel will each deliver to the Proposal Trustee confirmation in writing that such conditions of Closing, as applicable, have been satisfied and/or waived and that the Parties are prepared for the Closing Sequence to commence (the "**Conditions Certificate**"). Upon receipt of the Conditions Certificates and the receipt of the Purchase Price Balance, the Escrow Amount, if applicable and the Deposit, if applicable, the Proposal Trustee shall: (i) issue forthwith its Proposal Trustee's Certificate concurrently to the Company and counsel to the Purchaser, at which time the Closing will be deemed to commence and be completed in the order set out in the Closing Sequence, and Closing will be deemed to have occurred, and (ii) file as soon as practicable a copy

of the Proposal Trustee's Certificate with the Court (and shall provide a true copy of such filed certificate to the Company and counsel to the Purchaser). In the case of: (i) and (ii) above, the Proposal Trustee will be relying exclusively on the Conditions Certificate without any obligation whatsoever to verify or inquire into the satisfaction or waiver of the applicable conditions, and the Proposal Trustee will have no liability to the Company or the Purchaser as a result of filing the Proposal Trustee's Certificate.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties of the Company

The Company makes only the following representations to the Purchaser and agrees that the Purchaser is relying on such representations and warranties for the purposes of entering into this Subscription Agreement:

- (a) Authorization, Validity and Binding Effect. Subject to obtaining the Reverse Vesting Order, the Company has the right to enter into this Subscription Agreement and to complete the Transactions and this Subscription Agreement has been duly executed by the Company and constitutes a legal, valid and binding obligation of the Company enforceable against it in accordance with its terms;
- (b) Tax Matters.
 - (i) The Company has made available to the Purchaser for review originals or true and complete copies of: (A) material portions of income tax audit reports, statements of deficiencies, closing or other agreements or correspondence concerning assessments, reassessments or audits pursuant to which a Governmental Authority has proposed amendments to previously filed Tax Returns received by or on behalf of the Companies relating to Taxes; (B) any material federal, provincial, state, local or foreign income or franchise Tax Returns for the Companies for the Tax years ending 2021 and 2022; and (C) all material written communications to or from any Governmental Authority relating to the Taxes of the Companies over such period have been made available to Purchaser; and
 - (ii) The Company has or will furnish Purchaser with originals or copies of all elections, designations or similar filings relating to Taxes of the Companies and any agreement or other arrangement in respect of Taxes or Tax Returns of the Companies that have effect for any period ending after the Closing Date;
- (c) Permits. Company has provided to Purchaser copies of all Permits relating to the assets, Business or operations of Companies. The Company has not been advised of any event occurring or circumstance existing which (with notice or lapse of time or both) may constitute or result in a violation of any such Permit except where such violation would not have an impact on the Business or operations of the Companies. To the knowledge of the Company, no proceedings are pending or

threatened, which could result in the revocation or limitation of any such Permit, and all steps have been taken and filings made on a timely basis with respect to each such Permit and its renewal, except where such violation would not have an impact on the Business or operations of the Companies;

- (d) Books and Records. The Company has provided to Purchaser copies in their entirety of the financial books, records and accounts of the Company; and
- (e) Employee Payroll Obligations. All Employee payroll and other statutory remittance obligations, including any amounts owing under the *Income Tax Act* (Canada), the *Canada Pension Plan* (Canada), and the *Employment Insurance Act* (Canada) are current.

6.2 Representations and Warranties of the Purchaser

The Purchaser makes the following representations and warranties to the Company and agrees that the Company is relying on such representations and warranties for the purposes of entering into this Subscription Agreement:

- (a) Organization. The Purchaser is a corporation registered and existing under the Applicable Laws of its jurisdiction of registration, continuance or creation and has all necessary corporate or other power and capacity to carry on Business as it is now being conducted;
- (b) Qualification. The Purchaser has good right, full power and absolute authority to purchase and acquire the Purchased Shares according to the true intent and meaning of this Subscription Agreement;
- (c) Authorization. The execution, delivery and performance of this Subscription Agreement has been duly and validly authorized by any and all requisite corporate, shareholders', directors' or equivalent actions and will not result in any violation of, be in conflict with, or constitute a default under, any articles, charter, bylaw or other governing document to which the Purchaser is bound;
- (d) No Conflict. The execution, delivery and performance of this Subscription Agreement will not result in any violation of, be in conflict with, or constitute a default under, any term or provision of any agreement or document to which the Purchaser is party or by which the Purchaser is bound, nor under any judgement, decree, order, statute, regulation, rule or licence applicable to the Purchaser;
- (e) Validity and Binding Effect. This Subscription Agreement and any other agreements delivered in connection herewith constitute valid and binding obligations of the Purchaser enforceable against the Purchaser in accordance with their terms subject only to the granting of the Reverse Vesting Order;
- (f) Legal Effect. Other than the granting of the Reverse Vesting Order, no authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or regulatory body exercising jurisdiction over the

Retained Assets is required for the due execution, delivery and performance by the Purchaser of this Subscription Agreement;

- (g) Funds Available. The Purchaser has adequate funds available in an aggregate amount sufficient to pay: (i) all amounts required to be paid by the Purchaser under this Subscription Agreement; and (ii) all expenses which have been or will be incurred by the Purchaser in connection with this Subscription Agreement and the Transactions;
- (h) Securities Law Matters.
- (i) The Purchaser has not incurred any obligation or liability, contingent or otherwise, for brokers' or finders' fees in respect of this Subscription Agreement or the Transactions for which the Company shall have any obligation or liability;
- (ii) The Purchaser is acquiring the Purchased Shares in its capacity as principal and is not purchasing the Purchased Shares for the purpose of resale or distribution to a Third Party, and is dealing at arm's length with the Company;
- (iii) The Purchaser is an informed and sophisticated buyer, it has engaged expert advisors and is experienced in the evaluation and purchase of property and assets and assumption of liabilities such as the Purchased Shares, the Retained Assets and the Retained Liabilities, and has undertaken such investigations and has been provided with and has evaluated such documents and information as it has deemed necessary to enable it to make an informed and intelligent decision with respect to the execution, delivery and performance of this Subscription Agreement;
- (iv) The Purchaser represents that it is an accredited investor, as defined by National Instrument 45-106 – *Prospectus Exemptions* of the Canadian Securities Administrators, and/or that it meets one of the other exemptions under Canadian Securities Laws;
- (v) The Purchaser understands that the Purchased Shares are being issued to it upon an exemption from the prospectus requirements applicable under applicable Canadian Securities Laws and that there may be restrictions imposed on the Purchaser and the Purchased Shares which limit the Purchaser's ability to resell the Purchased Shares in Canada. Without limiting the foregoing, the Purchaser further acknowledges and agrees that any proposed transfer, resale or other disposition of the Purchased Shares shall be subject to Applicable Laws, including any restrictions and requirements under Canadian Securities Laws; and
- (vi) The Purchaser acknowledges that investment in the Purchased Shares involves risk, and represents that it is able, without materially impairing its

financial condition, to hold the Purchased Shares for an indefinite period of time and to suffer a complete loss of its investment;

- (i) Compliance. The Purchaser is in compliance with all the requirements of all Governmental Authorities; and
- (j) Investment Canada Act. The Purchaser is a WTO Investor or a Trade Agreement Investor for the purposes of the *Investment Canada Act* RSC, 1985, c. 28 (1st Supp).

6.3 Limitation of Representations

Notwithstanding any other provision of this Subscription Agreement, the Purchaser acknowledges, agrees and confirms that:

- (a) except for the representations and warranties of the Company set forth in Section 6.1, it is entering into this Subscription Agreement, acquiring the Purchased Shares (and the underlying Retained Assets and Retained Liabilities), in each case on an “as is, where is” basis as they exist as of Closing;
- (b) except as expressly stated in Section 6.1, none of the Company or ResidualCo or their respective Representatives is making, and the Purchaser is not relying on, any written or oral representations, warranties, statements, information, promises or guarantees, express or implied, statutory or otherwise, concerning the Transactions, the Company, the Business of the Company, the Purchased Shares, the Retained Assets, the Retained Liabilities, the Transferred Assets and the Transferred Liabilities, including the right, title or interest of the Company in and to any of the foregoing, and any and all conditions, warranties or representations expressed or implied pursuant to any Applicable Law in any jurisdiction, which the Purchaser confirms do not apply to this Subscription Agreement, are hereby waived in their entirety by the Purchaser;
- (c) except for the representations and warranties of the Company set forth in Section 6.1, none of the Company, ResidualCo or any of their respective Representatives has made any representation or warranty as to any regulatory approvals, Permits, licences, consents, registrations, filings or authorizations that may be needed to complete the Transactions or to obtain the benefit of the Retained Assets or any portion thereof, and the Purchaser is relying entirely on its own investigation, due diligence and inquiries in connection with such matters;
- (d) the obligations of the Purchaser under this Subscription Agreement are not conditional upon any additional due diligence;
- (e) except for the representations and warranties of the Company set forth in Section 6.1, any information regarding or describing the Purchased Shares, the Retained Assets or the Retained Liabilities, or in any other agreement or instrument contemplated hereby, is for identification purposes only, is not relied upon by the Purchaser, and no representation, warranty or condition, express or implied, has or will be given by the Company or ResidualCo or any of their respective

Representatives concerning the completeness or accuracy of such information or descriptions;

- (f) except as otherwise expressly provided in this Subscription Agreement, and except for fraud on the part of the Company, the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or Claims the Purchaser might have against the Company, ResidualCo, or any of their respective Representatives pursuant to any warranty, express or implied, legal or conventional, of any kind or type, other than those representations and warranties of the Company expressly set forth in Section 6.1. Except as set forth above in this Section 6.3(f), such waiver is absolute, unlimited, and includes, but is not limited to, waiver of express warranties, completeness of warranties, implied warranties, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and claims of every kind and type, including claims regarding defects, whether or not discoverable or latent, and all other claims that may be later created or conceived in strict liability or as strict liability type claims and rights; and
- (g) the provisions of this Section 6.3 shall survive and not merge on Closing.

ARTICLE 7 COVENANTS

7.1 Incorporation of ResidualCo

The Company shall coordinate the incorporation of ResidualCo before the Closing Date, which at incorporation shall have no issued and outstanding shares.

7.2 Application for Reverse Vesting Order

The Company shall file with the Court a motion for the issuance of the Reverse Vesting Order. The Company shall diligently use their commercially reasonable efforts to seek the issuance and entry of the Reverse Vesting Order and the Purchaser shall cooperate with the Company in its efforts to obtain the issuance and entry of the Reverse Vesting Order.

7.3 Court Materials

The Company shall provide the Purchaser and its Representatives with a reasonable opportunity to review and comment upon drafts of all material to be filed by the Company and its counsel with the Court in connection with the Transactions, prior to the service and filing of that material. The Company will ensure that all material filed with the Court in connection with the Transactions is consistent in all material respects with the terms of this Subscription Agreement. In addition, the Company will also provide legal counsel to the Purchaser on a timely basis with copies of any notice or other documents served on the Company or its legal counsel in respect of the application for the Reverse Vesting Order or any appeal therefrom.

7.4 Maintenance of Retained Assets and Continuation of the Business

During the Interim Period, the Companies shall use reasonable commercial efforts, subject to the SISP Order and the Reverse Vesting Order:

- (a) to continue and maintain the Business in substantially the same manner as conducted on the date of this Subscription Agreement;
- (b) to maintain the Retained Assets in a proper and prudent manner in material compliance with all Applicable Laws and directions of Governmental Authorities;
- (c) to keep in full force and effect all existing insurance policies and give to the Purchaser notice of or present any claim made under any such insurance policies; and
- (d) pay or cause to be paid all costs and expenses relating to the Retained Assets which become due during the Interim Period,

provided that nothing contained in the foregoing or elsewhere in this Subscription Agreement shall obligate the Company to post security, make any other financial contribution or file any undertaking with a Governmental Authority with respect to any liability management program or other program.

7.5 Consent of the Purchaser

Notwithstanding Section 7.4, the Companies shall not, during the Interim Period, without the written consent of the Purchaser acting reasonably:

- (a) make any commitment or propose, initiate or authorize any capital expenditure with respect to the Retained Assets of which the Company's share is in excess of \$35,000, except: (i) in case of an emergency; (ii) as may be reasonably necessary to protect or ensure life and safety; (iii) to preserve the Retained Assets or title to the Retained Assets; or (iv) in respect of amounts which the Company may be committed to expend or be deemed to authorize for expenditure without its consent, including, without limitation, in connection with the Prosvita Sand Project and the Montney In-Basin Project; provided, however, that should the Purchaser withhold its consent or fail to provide its consent in a timely manner and a reduction in the value of the Retained Assets results, there shall be no abatement or reduction in the Aggregate Purchase Price;
- (b) other than pursuant to ordinary course expenditures, surrender or abandon any of the Retained Assets, unless an expenditure of money is required to avoid the surrender or abandonment and the Purchaser does not provide same to the Company in a timely fashion, in which event the Retained Assets in question shall be surrendered or abandoned without abatement or reduction in the Aggregate Purchase Price;

- (c) other than in ordinary course of Business, materially amend or terminate any title document or enter into any new material agreement or commitment relating to the Retained Assets; or
- (d) sell, encumber or otherwise dispose of any of the Retained Assets or any part or portion thereof.

7.6 Proposed Actions

If an operation or the exercise of any right or option respecting the Retained Assets is proposed in circumstances in which such operation or the exercise of such right or option would result in the Purchaser incurring an obligation pursuant to Section 7.5, the following shall apply to such operation or the exercise of such right or option (hereinafter referred to as the “**Proposal**”):

- (a) the Company shall promptly give the Purchaser notice of the Proposal, describing the particulars in reasonable detail;
- (b) the Purchaser shall, not later than 48 hours prior to the time the Company is required to make its election with respect to the Proposal, advise the Company, by notice, whether the Purchaser wishes the Company to exercise the Company’s rights with respect to the Proposal on the Purchaser’s behalf, provided that the Purchaser’s failure to make such election within such period shall be deemed to be the Purchaser’s election to participate in the Proposal;
- (c) the Company shall make the election authorized (or deemed to be authorized) by the Purchaser with respect to the Proposal within the period during which the Company may respond to the Proposal; and
- (d) the Purchaser’s election (including its deemed election) to not participate in any Proposal required to preserve the existence of any of the Retained Assets shall not entitle the Purchaser to any reduction of the Aggregate Purchase Price if the Company’s interest therein is terminated as a result of such election and such termination shall not constitute a failure or breach of the Company’s representations and warranties relating to such Retained Assets.

7.7 Licence Transfers

If for any reason, after Closing, a Governmental Authority requires the Purchaser or the Company or its nominee to make a deposit or furnish any other form of security, or undertake any corrective action or remedial work including inspections, tests or engineering assessments, the Purchaser shall make such deposit or furnish such other form of security or undertake such corrective or remedial work as may be required, at the Purchaser’s sole expense. All processing fees (including any fees required to be paid for expedited service) shall be for the Purchaser’s account.

7.8 Payments in Respect of Transferred Assets

If at any time after Closing, the Company, the Purchaser or any of their respective Affiliates receives a payment or other consideration in respect of or relating to any Transferred Asset

(including a Tax Refund) or a Tax Refund that relates to any period prior to Closing, the recipient of such payment or other consideration shall promptly notify the Company and promptly pay and transfer such payment or other consideration to the Company, on behalf of ResidualCo. From and after Closing, the Company and the Purchaser shall provide reasonable cooperation to ResidualCo to enable ResidualCo to obtain the benefit of any Transferred Asset.

7.9 Agreement Regarding Fees

The Purchaser and the Companies hereby acknowledge and agree that each of them will be responsible for any and all fees (including any Taxes imposed on such fees) incurred by them in connection with the formulation, negotiation, submission, and pursuit of its bid.

7.10 Disclaimer of Excluded Contracts

The Company or the Companies, as applicable, shall, in consultation with the Proposal Trustee, either: (a) disclaim all Excluded Contracts in accordance with Section 65.11 of the BIA, or (b) terminate those Excluded Contracts, as applicable, on or before the Closing Date.

In the event a contract, agreement, lease (including leases or subleases in respect of real property) or other commitment is designated as an Excluded Contract by the Purchaser in writing prior to Closing, the Parties acknowledge and agree that:

- (a) any monetary obligation flowing from such disclaimer or termination, as determined pursuant to a claims process to be facilitated by the Proposal Trustee in accordance with the BIA, shall be a Transferred Liability (the “**Disclaimer Liability**”);
- (b) the Purchase Price shall increase by an amount equal to the Disclaimer Liability; and
- (c) on Closing, the Purchaser shall transfer \$500,000, or such lesser amount as the Purchaser and the Proposal Trustee may agree, acting reasonably, to the Proposal Trustee (the “**Escrow Amount**”), to be held by the Proposal Trustee in a non-interest bearing trust account, pending the final valuation of any claim or claims filed by a counterparty to a disclaimed or terminated contract; provided, however, that the Escrow Amount shall not be deemed or otherwise construed to be an estimate of the Disclaimer Liability, if any, arising from such disclaimer or termination.

In the event the Disclaimer Liability is determined by the Proposal Trustee to:

- (a) exceed the Escrow Amount:
 - (i) the Escrow Amount shall form part of the Purchase Price (and for clarity, in that circumstance, the Purchase Price shall increase by the Escrow Amount);

- (ii) the Purchaser shall pay to the Proposal Trustee, in cash or by wire transfer the difference between the Disclaimer Liability and the Escrow Amount, and such payment shall form part of the Purchase Price; and
 - (iii) the Purchaser shall have no further obligation with respect to the Disclaimer Liability; or
- (b) be equal to the Escrow Amount:
 - (i) the Escrow Amount shall form part of the Purchase Price;
 - (ii) the Proposal Trustee shall release the Escrow Amount to ResidualCo; and
 - (iii) the Purchaser shall have no further obligation with respect to the Disclaimer Liability; or
- (c) be less than the Escrow Amount:
 - (i) an amount equivalent to the Disclaimer Liability shall form part of the Purchase Price;
 - (ii) the Proposal Trustee shall release an amount equal to the Disclaimer Liability to ResidualCo;
 - (iii) the Proposal Trustee shall return the balance of the Escrow Amount to the Purchaser; and
 - (iv) the Purchaser shall have no further obligation with respect to the Disclaimer Liability.

ARTICLE 8

PURCHASER'S REVIEW AND ACCESS TO BOOKS AND RECORDS

8.1 Company to Provide Access

Prior to Closing, the Company shall, subject to all contractual and fiduciary obligations of the Company, at the Calgary offices of the Company during normal business hours, provide reasonable access for the Purchaser and its Representatives to the records, books, accounts, documents, files, reports, information, materials, filings, and data, to the extent they relate directly to the Retained Assets and are in possession or control of the Company, as well as physical access to the Retained Assets (insofar as the Company can reasonably provide such access, with such access to be at the Purchaser's sole risk, expense and liability) to facilitate the Purchaser's review of the Retained Assets and title thereto for the purpose of completing these Transactions. The Purchaser shall indemnify and save harmless the Company and ResidualCo from and against all liabilities, Claims and causes of action for personal injury, death or property damage occurring on or to such property as a result of such entry onto the premises. The Purchaser shall comply fully with all rules, regulations and instructions issued by the Company regarding the Purchaser's actions while upon,

entering or leaving such properties. The Purchaser's obligations set forth in this Section 8.1 shall survive the Closing Date indefinitely.

8.2 Access to Information

After Closing and subject to contractual restrictions in favour of Third Parties relative to disclosure, the Purchaser shall, on request from the Company or ResidualCo, provide reasonable access to their Representative at the Purchaser's offices, during its normal business hours, to the agreements and documents to which the Transferred Assets are subject and the contracts, agreements, records, books, documents, licences, reports and data which are then in the possession or control of the Purchaser and to make copies thereof, as they may reasonably require, including for purposes relating to:

- (a) ResidualCo's ownership of the Transferred Assets (including taxation matters and Losses that arise from or relate to acts, omissions, events, circumstances or operations on or before the Closing Date);
- (b) enforcing its rights under this Subscription Agreement;
- (c) compliance with Applicable Law; or
- (d) any Claim commenced or threatened by any Third Party against ResidualCo, the Company or any of them.

8.3 Maintenance of Information

Subject to Applicable Law, all of the information, materials and other records delivered to the Purchaser pursuant to the terms hereof shall be maintained by the Purchaser in good order and good condition and kept in a reasonably accessible location by the Purchaser for a period of two years from the Closing Date.

ARTICLE 9 GENERAL

9.1 Further Assurances

Each Party will, at the cost and expense of the requesting party, from time to time and at all times after Closing, without further consideration, do such further acts and deliver all such further assurances, deeds and documents as shall be reasonably required to fully perform and carry out the terms of this Subscription Agreement.

9.2 Liability of the Company or ResidualCo

Other than as set out in Section 2.4, under no circumstances shall the Company or ResidualCo or any of their Representatives have any liability pursuant to this Subscription Agreement, or in relation to the Transactions whether such liability be in contract, tort or otherwise.

9.3 Liability of the Proposal Trustee

Under no circumstances shall the Proposal Trustee or any of their Representatives have any liability pursuant to this Subscription Agreement with respect to its determination of a Material Adverse Effect, if applicable, as further set forth in Section 1.1(uu), whether such liability be in contract, tort or otherwise.

9.4 Entire Agreement

Except for the SISP Order, Reverse Vesting Order and the Membership Interest Purchase Agreement, the provisions contained in any and all documents and agreements collateral hereto shall at all times be read subject to the provisions of this Subscription Agreement and, in the event of conflict, except for the SISP Order or the Reverse Vesting Order, the provisions of this Subscription Agreement shall prevail. In the event that Closing occurs, except for the SISP Order and the Reverse Vesting Order, this Subscription Agreement supersedes all other agreements (other than the Membership Interest Purchase Agreement and Confidentiality Agreement between the Company and the Purchaser), documents, writings and verbal understandings between the Parties relating to the subject matter hereof and expresses the entire agreement of the Parties with respect to the Transactions herein.

9.5 Governing Law

This Subscription Agreement shall, in all respects, be subject to, interpreted, construed and enforced in accordance with and under the laws of the Province of Alberta and the laws of Canada applicable therein and shall, in every regard, be treated as a contract made in the Province of Alberta and all disputes shall be determined within the proceedings bearing Alberta Court of King's Bench Court Action No. 25-3009380. The Parties irrevocably attorn and submit to the jurisdiction of the courts of the Province of Alberta and courts of appeal therefrom in respect of all matters arising out of this Subscription Agreement.

9.6 Assignment and Enurement

Excepting an assignment in whole of this Subscription Agreement from the Purchaser to an Affiliate of the Purchaser, neither this Subscription Agreement nor any of the rights or obligations under the Subscription Agreement may be assigned or transferred, in whole or in part, by any Party without the prior written consent of the other Party. This Subscription Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective administrators, trustees, receivers, successors and permitted assigns.

9.7 Time of Essence

Time is of the essence in this Subscription Agreement.

9.8 Notices

The addresses of the Parties for delivery of notices hereunder shall be as follows:

Company: Athabasca Minerals Inc.
407 2 Street SW, Suite 1730
Calgary, AB Canada T2P 2Y3

Attention: Dana Archibald, Chief Executive Officer
Email: dana.archibald@athabascaminerals.com

With a copy to its legal counsel at:

Fasken Martineau DuMoulin LLP
Suite 3400, 350 7 Avenue SW
Calgary, AB Canada T2P 3N9

Attention: Robyn Gurofsky / Jessica Cameron
Email: rgurofsky@fasken.com / jcameron@fasken.com

Purchaser: JMAC Resources Ltd.
c/o JMAC Energy Services LLC
121 – 48 Avenue SW
Williston, ND 58801 USA

Attention: Jon McCreary
Email: jon@jmacresources.com

With a copy to its legal counsel at:

Field LLP
444 – 7th Avenue SW, Suite 400
Calgary, AB Canada T2P 0X8

Attention: Doug Nishimura / Melissa Cook
Email: dnishimura@fieldlaw.com / mcook@fieldlaw.com

All notices, communications and statements required, permitted or contemplated hereunder shall be in writing, and shall be delivered as follows:

- (a) by delivery to a Party between 8:00 a.m. and 4:00 p.m. on a Business Day at the address of such Party for notices, in which case, the notice shall be deemed to have been received by that Party when it is delivered; or
- (b) by email to a Party to the email address of such Party for notices, in which case, if the notice was emailed prior to 4:00 p.m. on a Business Day, the notice shall be deemed to have been received by that Party when it was emailed and if it is emailed on a day which is not a Business Day or is emailed after 4:00 p.m. on a Business

Day, it shall be deemed to have been received on the next following Business Day;
or

- (c) except in the event of an actual or threatened postal strike or other labour disruption that may affect mail service, by first class registered postage prepaid mail to a Party at the address of such Party for notices, in which case, the notice shall be deemed to have been received by that Party on the fourth Business Day following the date of mailing.

A Party may from time to time change its address for service, email address for service or designated representative by giving written notice of such change to the other Party.

9.9 Invalidity of Provisions

In case any of the provisions of this Subscription Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

9.10 Waiver

No failure on the part of any Party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any right or remedy in law or in equity or by statute or otherwise conferred. No waiver by any Party of any breach (whether actual or anticipated) of any of the terms, conditions, representations or warranties contained herein shall take effect or be binding upon that Party unless the waiver is expressed in writing under the authority of that Party and made in accordance with the Subscription Agreement. Any waiver so given shall extend only to the particular breach so waived and shall not limit or affect any rights with respect to any other or future breach.

9.11 Amendment

This Subscription Agreement shall not be varied in its terms or amended by oral agreement or by representations or otherwise other than by an instrument in writing dated subsequent to the date hereof, executed by a duly authorized Representative of each Party.

9.12 Survival

Other than those representations, warranties, covenants or other agreements which by their terms contemplate performance after Closing (including those set forth in Article 7) or unless otherwise expressly provided in this Subscription Agreement, the representations, warranties, covenants and other agreements contained in this Subscription Agreement shall not survive Closing.

9.13 Confidentiality and Public Announcements

Until Closing has occurred, each Party shall keep confidential all information obtained from the other Party in connection with the Purchased Shares, the Retained Assets and this Subscription Agreement, and shall not release any information concerning this Subscription Agreement and the

Transactions without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Nothing contained herein shall prevent a Party at any time from furnishing information: (i) to any Governmental Authority or to the public if required by Applicable Law (provided that the Purchaser shall advise the Company in advance of the content of any such public statement); (ii) in connection with obtaining the Reverse Vesting Order; or (iii) upon request by a secured creditor.

9.14 Sealing Order

The Company may, at its discretion, apply to the Court for a sealing order with respect to confidential materials prepared by the Company or the Proposal Trustee containing the financial and other confidential details of these Transactions (the “**Confidential Materials**”), such order sealing the Confidential Materials and the confidential information contained therein from the public court file for the period directed by the Court. Pursuant to the terms of such sealing order applied for by the Company, if granted, only the judge presiding over the Proposal Proceedings, the Purchaser and their respective Representatives, and the secured creditors of the Company who have executed confidentiality agreements, and subject to the terms of those confidentiality agreements, shall have access to the Confidential Materials and the confidential information contained therein.

9.15 Termination

This Subscription Agreement may be terminated at any time prior to Closing:

- (a) by mutual written agreement of the Company and the Purchaser; or
- (b) by either the Company or the Purchaser pursuant to the provisions of Sections 5.1, 5.2 or 5.3, as applicable; or
- (c) by the Purchaser or the Company if the Companies close the Badger Transaction pursuant to the terms and conditions therein, which then for greater certainty will result in a full refund of the Deposit which shall be paid by the Company within three Business Days.

In the event that this Subscription Agreement is terminated, each Party shall be released from all obligations under or in connection with this Subscription Agreement, other than the provisions with respect to confidentiality (Section 9.13) and the use of personal information (Section 9.16), and the Deposit shall be addressed in accordance with Section 2.4.

9.16 Personal Information

The Purchaser covenants and agrees to use and disclose any personal information contained in any of the books, records or files transferred to the Purchaser or otherwise obtained or reviewed by the Purchaser in connection with these Transactions only for those purposes for which it was initially collected from or in respect of the individual to which such information relates, unless:

- (a) the Company or the Purchaser has first notified such individual of such additional purpose, and where required by the Applicable Laws, obtained the consent of such individual to such additional purpose; or
- (b) such use or disclosure is permitted or authorized by Applicable Laws, without notice to, or consent from, such individual; and

the Purchaser's obligations set forth in this Section 9.16 shall survive the Closing Date indefinitely.

9.17 Directors

- (a) At Closing, Todd Erickson shall be the director of the Company and John David Churchill shall be the sole director of ResidualCo, and all other prior directors shall be deemed to have resigned effective at Closing.

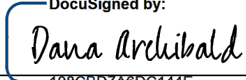
(Remainder of page intentionally left blank)

9.18 Counterpart Execution

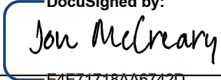
This Subscription Agreement may be executed and delivered in counterpart and transmitted by facsimile or other electronic means and all such executed counterparts, including electronically transmitted copies of such counterparts, shall together constitute one and the same agreement.

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

ATHABASCA MINERALS INC.

Per: 
DocuSigned by:
108CB07A8DC144E...
Name: Dana Archibald
Title: Chief Executive Officer

JMAC RESOURCES LTD.

Per: 
DocuSigned by:
E4E71718AA6742D...
Name: Jon McCreary
Title: President

**THE FOLLOWING COMPRISES SCHEDULE “A” ATTACHED TO AND FORMING
PART OF A SUBSCRIPTION AGREEMENT DATED March 28, 2024
BETWEEN ATHABASCA MINERALS INC. AND JMAC RESOURCES LTD.**

Form of Reverse Vesting Order

COURT FILE NUMBER & **25-3009380**
BANKRUPTCY ESTATE

NUMBER
COURT

COURT OF KING’S BENCH OF ALBERTA, IN
BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE

CALGARY

MATTER

IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, RSC 1985, C B-3 AS AMENDED

AND IN THE MATTER OF THE NOTICE OF
INTENTION TO MAKE A PROPOSAL OF
ATHABASCA MINERALS INC., AMI SILICA INC.,
AMI AGGREGATES INC., AMI ROCKCHAIN INC.,
TERRASHIFT ENGINEERING LTD., 2132561
ALBERTA LTD., and 2140534 ALBERTA LTD.

APPLICANTS

ATHABASCA MINERALS INC., AMI SILICA INC.,
AMI AGGREGATES INC., AMI ROCKCHAIN INC.,
TERRASHIFT ENGINEERING LTD., 2132561
ALBERTA LTD., and 2140534 ALBERTA LTD.

DOCUMENT

**TRANSACTION APPROVAL AND REVERSE
VESTING ORDER**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

Fasken Martineau DuMoulin LLP
Attn: Robyn Gurofsky / Jessica Cameron
3400 First Canadian Centre
350-7 Avenue SW
Calgary, AB T2P 3N9
Telephone: (403) 261-9469/261-9468
Facsimile: (403) 261-5351

DATE ON WHICH ORDER WAS PRONOUNCED: _____

LOCATION WHERE ORDER WAS PRONOUNCED: **Calgary, Alberta**

NAME OF JUSTICE WHO MADE THIS ORDER: _____

UPON THE APPLICATION of Athabasca Minerals Inc. (“**AMI**”), AMI Silica Inc., AMI
Aggregates Inc., AMI RockChain Inc., TerraShift Engineering Ltd., 2132561 Alberta Ltd., and
2140534 Alberta Ltd. (collectively, the “**Companies**”), for an order, among other things,
approving the reverse vesting share transaction (the “**Transaction**”) in respect of AMI

contemplated by the Subscription Agreement between AMI and • (the “**Purchaser**”) dated • (the “**Subscription Agreement**”), and attached as Exhibit • to the Affidavit of • sworn • (the “**Affidavit**”);

AND UPON HAVING READ the within Notice of Application, the • Affidavit and the • Report of KSV Restructuring Inc. in its capacity as proposal trustee of the Companies (in such capacity, the “**Proposal Trustee**”) dated • (the “**• Report**”), the Affidavit of Service of Kim Picard, sworn •, the Order of this Court granted on December 12, 2023 (the “**First Order**”), and the other pleadings previously filed in the within proposal proceedings;

AND UPON HEARING the submissions of counsel for the Companies, the Proposal Trustee, the Purchaser, and such other counsel in attendance at the hearing of the Application:

IT IS HEREBY ORDERED THAT:

SERVICE

1. Service of the notice of this Application for this Order and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this Application, and the time for service of this Application is abridged to that actually given and this Application is properly returnable today.

CAPITALIZED TERMS

2. Capitalized terms used but not otherwise defined in this Order shall have the meaning given to such terms in the Subscription Agreement and the First Order, as applicable.

APPROVAL OF THE TRANSACTIONS

3. The Subscription Agreement and the Transactions contemplated by it are hereby approved, and the execution of the Subscription Agreement by AMI is hereby authorized and approved, with such amendments as AMI and the Purchaser may agree to. AMI is hereby authorized and directed to perform its obligations under the Subscription Agreement and any ancillary documents related thereto, and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the

Transactions. In the event of any conflict between the terms of the Subscription Agreement and this Order, this Order shall prevail.

4. Subject to the terms of the Subscription Agreement, this Order shall constitute the only authorization required in respect of the Company proceeding with the Transactions, and no shareholder or other approval shall be required in connection therewith.

TREATMENT OF SHARES AND MEMBERSHIP INTEREST

5. On the Closing Date, AMI is hereby authorized and directed to issue the Purchased Shares to the Purchaser and sell, assign and transfer the Purchased Interest to JMAC Energy Services, LLC, in consideration for the Aggregate Purchase Price, and in accordance with paragraph 6 of this Order.
6. The following shall occur and shall be deemed to have occurred at the Effective Time (as defined below), all in accordance with the Closing Sequence set out in the Subscription Agreement and the steps contemplated thereunder:
 - (a) The Purchaser shall pay the Aggregate Purchase Price to the Proposal Trustee, for the benefit of AMI, and the Aggregate Purchase Price shall be dealt with in accordance with the Closing Sequence (as defined in the Subscription Agreement);
 - (b) Each Common Share outstanding shall be transferred to ResidualCo and, in consideration therefor, ResidualCo shall issue one (1) ResidualCo Share for each Common Share;
 - (c) All Equity Interests, including Common Shares, together with any agreement, contract, plan, indenture, deed, certificate, subscription rights, conversion rights, pre-emptive rights, options (including stock options or share purchase or equivalent plans), or other documents or instruments governing or having been created or granted in connection with the share capital of AMI shall be deemed terminated and cancelled in accordance with and pursuant to this Order; and
 - (d) AMI shall sell, assign and transfer the Purchased Interest to JMAC Energy Services, LLC; and

- (e) The Purchased Shares shall be issued from treasury by AMI to the Purchaser free and clear of and from any Claims and Encumbrances.
- 7. The Purchaser and AMI, in completing the Transactions, are authorized to:
 - (a) Execute and deliver any documents and assurances governing or giving effect to the Transactions as the Purchaser and/or AMI, in their discretion, may deem to be reasonably necessary or advisable to conclude the Transactions, including the execution of all such ancillary documents as may be contemplated in the Subscription Agreement or necessary or desirable for the completion and implementation of the Transactions, and all such ancillary documents are hereby ratified, approved and confirmed; and
 - (b) take such steps as are, in the opinion of the Purchaser and/or AMI, necessary or incidental to the implementation of the Transactions.
- 8. The Registrar appointed pursuant to Section 263 of the *Business Corporations Act*, RSA 2000, c B-9 (“**ABCA**”) shall accept and receive any documents or instruments as may be required to permit or enable and effect the Transactions contemplated in the Subscription Agreement, filed by AMI.

VESTING OF ASSETS AND LIABILITIES

- 9. Subject to the terms of the Subscription Agreement, upon delivery of a certificate from the Proposal Trustee confirming Closing of the Transactions has occurred, substantially in the form set out in Schedule “A” hereto (the “**Proposal Trustee’s Certificate**”), the following shall occur and be deemed to occur commencing at the time of delivery of the Proposal Trustee’s Certificate (the “**Effective Time**”) in the following sequence:
 - (a) all right, title and interest of the Companies in and to the Transferred Assets shall be transferred to and shall vest absolutely and exclusively, without recourse, in ResidualCo;

- (b) all right, title and interest of the Companies in and to the Transferred Liabilities shall be transferred to and shall vest absolutely and exclusively, without recourse, in ResidualCo;
- (c) and for further clarity, all right, title and interest of the Companies in and to the Transferred Contracts shall be transferred to and shall vest absolutely and exclusively, without recourse, in ResidualCo;
- (d) all Claims and Encumbrances in respect of the Companies, other than the Retained Liabilities, shall be transferred to and assumed by and shall vest absolutely and exclusively without recourse in ResidualCo, and (i) such Claims and Encumbrances shall continue to attach to the Transferred Assets with the same nature and priority as they had immediately prior to the Effective Time, as if the Transferred Assets had not been conveyed and had remained in the possession or control of the person having that possession or control immediately prior to the transfer;
- (e) all Claims and Encumbrances other than the Retained Liabilities shall be irrevocably and forever expunged, released and discharged as against the Companies, the Purchaser, and the Retained Assets;
- (f) without limiting subparagraph 9(c), any and all security registrations against the Companies (other than any security registrations in respect of a Retained Liability) shall be and are hereby forever released and discharged as against the Companies, and all such security registrations shall attach to the Transferred Assets vested in ResidualCo and maintain the same attributes, rights, nature, perfection and priority as they had immediately prior to the Effective Time, as if the Transferred Assets had not been conveyed and remained in the possession or control of the person having that possession or control immediately prior to the transfer, and no financing change statements in any applicable personal property or other registry system are required to reflect the transfer of and assumption by ResidualCo of such security registrations;

- (g) for clarity, the Aggregate Purchase Price, less the quantum of the Administration Charge, the Interim Lender's Charge, and the KERP Charge (the "**Purchase Price Holdback**"), shall be transferred to, assumed by, and shall vest absolutely and exclusively without recourse in ResidualCo;
- (h) from the Purchase Price Holdback, the Proposal Trustee shall hold the quantum of the Administration Charge in a non-interest bearing trust account for the beneficiaries of that charge until further Order of this Court;
- (i) from the Purchase Price Holdback, the Proposal Trustee shall repay the obligations secured by the Interim Lender's charge to Badger Mining Corporation, as Interim Lender, following which, the Interim Lender's Charge shall be forever expunged, released and discharged as against the Transferred Assets and ResidualCo;
- (j) from the Purchase Price Holdback, the Proposal Trustee shall repay the obligations secured by the KERP charge to the beneficiaries of such charge, following which, the KERP Charge shall be forever expunged, released and discharged as against the Transferred Assets and ResidualCo;
- (k) the Companies shall cease to be Applicants in, or subject to, this Action and shall be released from the purview of the notice of intention proceedings pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**") the First Order, and all other orders of this Court granted in these proceedings; and
- (l) ResidualCo shall be substituted as the Applicant in this Action, and debtor in these proposal proceedings, *nunc pro tunc*, as if ResidualCo had always been a party to these proceedings since the filing date of November 13, 2023.

10. As of the Effective Time:

- (a) AMI shall continue to hold all right, title and interest in and to the Retained Assets, free and clear of all Claims and Encumbrances other than the Retained Liabilities; and

- (b) AMI shall be deemed to have disposed of the Transferred Assets and shall have no right, title or interest in or to the Transferred Assets.
11. For greater certainty, any person that, prior to the Effective Time, had a Claim or Encumbrance other than a Retained Liability against the Companies or their assets, properties or undertakings shall, as of the Effective Time, no longer have any such Claim or Encumbrance against or in respect of the Companies or the Retained Assets, but shall have an equivalent Claim or Encumbrance, as applicable, against the Transferred Assets to be administered by the Proposal Trustee in ResidualCo from and after the Effective Time, with the same attributes, rights, security, nature and priority as such Claim or Encumbrance had immediately prior to its transfer to ResidualCo, and nothing in this Order limits, lessens, modifies (other than by change in debtor) or extinguishes the Claim or Encumbrance of any Person as against the Transferred Assets to be administered by the Proposal Trustee in ResidualCo.
 12. Notwithstanding paragraph 11, all Cure Costs shall be paid by the Purchaser to the relevant counterparty to a Retained Contract on or before the date that is 30 days following the Effective Time or such later date as may be agreed to by the Purchaser and the relevant counterparty to a Retained Contract.
 13. From and after the Effective Time, the Purchaser and/or AMI shall be authorized to take all steps as may be necessary to effect the discharge and release as against AMI and the Retained Assets of the Claims and Encumbrances that are transferred to and vested in ResidualCo pursuant to this Order.
 14. Upon the delivery of the Proposal Trustee's Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities and any other applicable registrar or government ministries or authorities exercising jurisdiction with respect to AMI, the Retained Assets or the Transferred Assets (collectively, "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of such Proposal Trustee's Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to give effect to the terms of

this Order and the completion of the Transactions, and to discharge and release all Claims and Encumbrances other than Retained Liabilities against or in respect of the Companies and the Retained Assets, and presentment of this Order and the Proposal Trustee's Certificate shall be the sole and sufficient authority for the Governmental Authorities to do so.

RESIDUALCO MATTERS

15. John David Churchill (the "**First Director**") is hereby authorized, *nunc pro tunc*, to act as director and officer of ResidualCo and, in such capacity, is hereby authorized to take such steps and perform such tasks as are necessary or desirable to facilitate the Transactions.
16. Notwithstanding section 106 of the ABCA, the First Director shall be entitled to tender his resignation as a director and officer upon the appointment of the Proposal Trustee in respect of ResidualCo in these proposal proceedings and the granting and issuance of this Order.
17. The First Director shall not incur any liability as a result of becoming a director or officer of ResidualCo, save and except for any liability or obligation incurred as a result of fraud, gross negligence, or wilful misconduct on their part.
18. ResidualCo shall be deemed to be the former employer of any former employees of AMI who were terminated between the filing date, November 13, 2023, and the Effective Time, if any, whose claims against the Companies are transferred to ResidualCo pursuant to this Order, provided that such deeming: (i) shall be effective immediately after the Effective Time; and (ii) will solely be for the purposes of termination pay and severance pay pursuant to the *Wage Earners Protection Program*.
19. The administration of ResidualCo shall remain subject to the Proposal Trustee's appointment and oversight, and this Court's oversight and these proposal proceedings.
20. Following the satisfaction and discharge of all Transferred Liabilities, all outstanding ResidualCo Shares shall be cancelled for either: (i) no consideration; or (ii) in the event the Transferred Assets are sufficient to satisfy all Transferred Liabilities against ResidualCo, and notwithstanding any provision of the ABCA, such amounts as determined by the

Proposal Trustee in its sole discretion. Following the foregoing, all such ResidualCo Shares together with any agreement, contract, plan, indenture, deed, certificate, subscription rights, conversion rights, pre-emptive rights, options (including stock options or share purchase or equivalent plans), or other documents or instruments governing or having been created or granted in connection with the share capital of ResidualCo shall be deemed terminated and cancelled in accordance with and pursuant to the this Order. The record date for such payment shall be set as the date of granting of this Order.

21. In addition to and without limiting the rights and protections afforded to the Proposal Trustee pursuant to the BIA, the First Order, and any subsequent Order granted by this Court in the within proceedings, the Proposal Trustee and its employees and representatives shall not incur any liability as a result of acting in accordance with this Order or administering ResidualCo, save and except for any gross negligence or wilful misconduct on the part of any such parties. All protections afforded to the Proposal Trustee pursuant to the First Order, any further order granted in these proceedings or under the BIA shall continue to apply.

RELEASES AND OTHER PROTECTIONS

22. From and after the Effective Time, all Persons shall be absolutely and forever barred, estopped, foreclosed and permanently enjoined from pursuing, asserting, exercising, enforcing, issuing or continuing any steps or proceedings, or relying on any rights, remedies, claims or benefits in respect of or against the Companies, the Purchaser, the Proposal Trustee, the First Director, or the Retained Assets, in any way relating to, arising from or in respect of:
 - (a) the Transferred Assets;
 - (b) any and all Claims or Encumbrances other than the Retained Liabilities against or relating to the Companies, the Transferred Assets or the Retained Assets existing immediately prior to the Effective Time;
 - (c) the insolvency of the Companies prior to the Effective Time;

- (d) the commencement or existence of the Proposal Proceedings; or
 - (e) the completion of the Transactions.
23. From and after the Effective Time, (a) the Companies, and their respective current directors, officers, employees, legal counsel, representatives and advisors; (b) the Proposal Trustee, and its employees and legal counsel, (c) the Purchaser, and its current directors, officers, employees, legal counsel, representatives and advisors, and (d) the First Director (collectively, the “**Released Parties**” and each a “**Released Party**”) shall be and are hereby released and discharged from any and all claims that any Person may have or be entitled to assert against the Released Parties, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Effective Time in any way relating to, arising out of, or in respect of, these proposal proceedings, the administration of ResidualCo, or with respect to their respective conduct in these proposal proceedings (collectively, the “**Released Claims**”), and any such Released Claims are hereby released, stayed, extinguished and forever barred, and the Released Parties shall have no liability in respect thereof, provided that the Released Claims shall not include any claim or liability that is determined by a court of competent jurisdiction to have constituted actual fraud, gross negligence, or wilful misconduct on the part of the applicable Released Party.
24. No action or other proceeding shall be commenced against any of the Released Parties in any way arising from or related to these proposal proceedings or ResidualCo, except with prior leave of this Court on not less than fifteen (15) days’ prior written notice to the applicable Released Party and upon further order security, as security for costs, the full indemnity costs of the applicable Released Party in connection with any proposed action or proceeding as the Court hearing the motion for leave to proceed may deem just and appropriate.

MISCELLANEOUS MATTERS

25. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada), AMI, is authorized, permitted and directed to, at the Effective

Time, disclose to the Purchaser all human resources and payroll information in AMI's records pertaining to past and current employees of AMI. The Purchaser shall maintain and protect the privacy of such information in accordance with applicable law and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by AMI prior to the Effective Time.

26. The Proposal Trustee is directed to file with the Court a copy of the Proposal Trustee's Certificate forthwith after delivery thereof to the Purchaser.

27. Notwithstanding:

- (a) the pendency of these proceedings;
- (b) any application for a bankruptcy order now or hereafter issued pursuant to the BIA or otherwise and any bankruptcy or receivership order issued pursuant to any such application; or
- (c) the provisions of any federal or provincial statute,

the execution of the Agreement and the implementation of the Transactions shall be binding on any trustee or other administrator in respect of ResidualCo and any trustee in bankruptcy or receiver that may be appointed in respect of the Companies and shall not be void or voidable by creditors of ResidualCo or the Companies, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the BIA or any other applicable federal or provincial legislation or at common law, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

28. Following the Effective Time, the style of cause of these proposal proceedings shall be hereby amended by being deleted and replaced in its entirety by the following:

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY
ACT, RSC 1985, C B-3 AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF [**ResidualCo**]

29. The Companies, the Purchaser, the Proposal Trustee, and any other interested party shall be at liberty to apply for further advice, assistance and direction as may be necessary or desirable in order to give full force and effect to the terms of this Order and to assist and aid the parties in completing the Transactions.
30. This Court shall retain exclusive jurisdiction to, among other things, interpret, implement and enforce the terms and provisions of this Order, the Subscription Agreement and all amendments thereto, in connection with any dispute involving the Companies or ResidualCo, and to adjudicate, if necessary, any disputes concerning the Companies or ResidualCo related in any way to the Transactions.
31. This Court hereby requests the aid and recognition of any court, tribunal, or regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Proposal Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Proposal Trustee, as an officer of the Court, as may be necessary or desirable to give effect to this Order.
32. Service of this Order may be effected by facsimile, electronic mail, personal delivery, registered mail or courier.

**Justice of the Court of King's Bench of
Alberta**

Schedule “A” - Form of Proposal Trustee’s Certificate

COURT FILE NUMBER & BANKRUPTCY ESTATE NUMBER	25-3009380
COURT	COURT OF KING’S BENCH OF ALBERTA, IN BANKRUPTCY & INSOLVENCY
JUDICIAL CENTRE	CALGARY
MATTER	IN THE MATTER OF THE <i>BANKRUPTCY AND INSOLVENCY ACT</i> , RSC 1985, C B-3 AS AMENDED AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF ATHABASCA MINERALS INC., AMI SILICA INC., AMI AGGREGATES INC., AMI ROCKCHAIN INC., TERRASHIFT ENGINEERING LTD., 2132561 ALBERTA LTD., and 2140534 ALBERTA LTD.

Clerk’s Stamp

DOCUMENT	Proposal Trustee’s Certificate
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Fasken Martineau DuMoulin LLP Attn: Robyn Gurofsky / Jessica Cameron 3400 First Canadian Centre 350-7 Avenue SW Calgary, AB T2P 3N9 Telephone: (403) 261-9469/261-9468 Facsimile: (403) 261-5351 Email: rgurofsky@fasken.com / jcameron@fasken.com File No. 318938.00024

RECITALS

- On November 13, 2023, Athabasca Minerals Inc. (“**AMI**”), AMI Silica Inc., AMI Aggregates Inc., AMI RockChain Inc., TerraShift Engineering Ltd., 2132561 Alberta Ltd., and 2140534 Alberta Ltd. (collectively, the “**Companies**”) each filed a notice of intention to make a proposal to their creditors (the “**Proposal Proceedings**”) with the Office of the Superintendent of Bankruptcy. KSV Restructuring Inc. was appointed as the proposal

trustee of the Companies' within Proposal Proceedings (and in such capacity the "**Proposal Trustee**").

2. Pursuant to an Order of the Honourable • of the Alberta Court of King's Bench, Judicial District of Calgary (the "**Court**") dated •, 2024 (the "**Transaction Approval Order**"), the Court approved the transactions contemplated by the Subscription Agreement dated _____, 2024 (the "**Subscription Agreement**") between AMI and • (the "**Purchaser**").
3. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Subscription Agreement.

THE PROPOSAL TRUSTEE CERTIFIES the following:

1. The Purchaser has paid and the Proposal Trustee has received the Aggregate Purchase Price for the Purchased Shares and the Purchased Interest payable on the Closing Date and the Escrow Amount, if applicable, pursuant to the Subscription Agreement and the Transaction Approval Order;
2. The conditions to Closing as set out in the Subscription Agreement have been satisfied or waived by AMI and/or the Purchaser, as the case may be; and
3. The Transactions contemplated by the Subscription Agreement and the Transaction Approval Order have been completed to the satisfaction of the Proposal Trustee.
4. This Certificate was delivered by the Proposal Trustee at _____ on _____, 2024.

**KSV Restructuring Inc., in its capacity as
Proposal Trustee of and not in its personal or
corporate capacity**

Per: _____
Name: Andrew Basi
Title: Managing Director

THE FOLLOWING COMPRISES SCHEDULE “B” ATTACHED TO AND FORMING PART OF A SUBSCRIPTION AGREEMENT DATED March 28, 2024, BETWEEN ATHABASCA MINERALS INC. AND JMAC RESOURCES LTD.

Transferred Assets

The Transferred Assets, being those assets proposed to be transferred to ResidualCo through operation of the Reverse Vesting Order, mean:

- the cash or wire transfer of immediately available funds received as the Aggregate Purchase Price;
- all cash, bank balances, funds, deposits or monies owned or held by the Companies or any other Person (including any bank or depository) on behalf of the Companies at Closing and all cash equivalents, securities and investments of the Companies at Closing;
- all accounts receivable, bills receivable, trade accounts, holdbacks, retention, book debts, insurance claims and other amounts due or accruing to the Companies and includes, for greater certainty, any and all Tax Refunds, and together with any unpaid interest accrued on such items and any security or collateral for such items, including recoverable deposits, which arise prior to Closing;
- all Tax Refunds which arise or relate to any period prior to Closing;
- all prepaid expenses or other security or collateral provided by the Companies; and
- any and all other assets or interests of the Companies other than the Retained Assets.

Transferred Liabilities

The Transferred Liabilities, being those liabilities proposed to be transferred to ResidualCo through operation of the Reverse Vesting Order, mean:

- any and all funded indebtedness;
- any and all promissory notes issued by the Companies;
- any and all operating and tax liabilities related to the Transferred Assets, except any Taxes arising from or in relation to the transfer of the Transferred Assets and the Transferred Liabilities;
- any and all operating liabilities to the extent they are trade claims, trade payables, utility bills or other unsecured claims, and excluding any amounts that would constitute a priority claim on or against any Retained Assets;
- any and all liabilities associated with shareholder loans to the Companies;

- any and all trade claims, trade payables or other unsecured claims;
- any and all liabilities relating to any employment agreements, severance payments and/or termination payments;
- the Administration Charge as described and defined in the SISP Order and any subsequent orders of the Court;
- the Interim Lender's Charge as described and defined in the SISP Order and any subsequent orders of the Court;
- the Directors' Charge as described and defined in the SISP Order and any subsequent orders of the Court; and
- the KERP Charge as described and defined in the SISP Order and any subsequent orders of the Court,

but for greater certainty shall not include any Outstanding Debt (as defined in the Membership Interest Purchase Agreement), which was set-off against the Membership Interest Purchase Price.

Transferred Contracts

The Transferred Contracts, being those assets proposed to be transferred to ResidualCo through operation of the Reverse Vesting Order, mean:

- none, unless otherwise agreed by the Company and the Purchaser.

Excluded Contracts

The Excluded Contracts, being those contracts, leases or agreements to be disclaimed and/or otherwise terminated by the Company, or the Companies, includes:

- any contract, agreement, lease, or commitment designated as an Excluded Contract by the Purchaser in writing to the Company or the Proposal Trustee prior to the closing of the Transactions.

Retained Assets

The Retained Assets, being those assets proposed to be retained by the Company, mean:

- the Real Property;
- all books and records of the Companies, including minute books, books of account, ledgers, general, financial and accounting records, tax returns and other records in the possession or control of the Companies or the Proposal Trustee, but in each case excludes all books and records in respect of the Transferred Assets and Transferred Liabilities, and excludes any email correspondence of the Companies (including

any of its present and former, directors, officers, employees, contractors and other representatives) prior to Closing;

- the Companies' bank accounts and all agreements related thereto (the Purchaser acknowledges that the balances in such accounts shall be \$0.00 at Closing);
- all regulatory and license attributes of the Companies, including without limitation: business numbers; payroll numbers; GST numbers; and regulatory operator codes;
- letters of intent, nondisclosure agreements, confidentiality agreements and non-compete/non-solicitation agreements (other than any employment agreements);
- all shares of capital stock or other Equity Interests in any Affiliate of the Company;
- any intercompany indebtedness or claim owing to the Company by an Affiliate of the Company;
- all organizational documents, corporate books and records, income tax returns and the corporate seal of the Company;
- any records that are required by law to be retained by the Companies;
- all computer servers and websites;
- all office equipment;
- all tax attributes, if any, of the Companies inherent to them, including all rights related to former tax returns, operating, non-operating, and capital loss balances or carry forwards and tax audits;
- all current and prior director and officer insurance policies of the Company and all rights of any nature with respect thereto running in favor of the Company;
- any and all rights of the Company under this Subscription Agreement and the Reverse Vesting Order; and
- all rights, Losses or causes of action by or on behalf of the Companies against any Person.

Retained Liabilities

The Retained Liabilities, being those liabilities proposed to be retained by the Company, mean:

- nondisclosure agreements, confidentiality agreements and non-compete/non-solicitation agreements;
- all new liabilities incurred, assumed or accepted by the Company after Closing;

- any and all regulatory, environmental and government liabilities related to the Lands and Buildings & Fixtures;
- all operating and Tax liabilities which relate to the Retained Assets and which are not unsecured trade claims, trade payables, utility bills or which are not related to any retained operating asset or contract;
- any Taxes and any other liabilities relating to the sale of the 50% voting membership interest of AMI Silica LLC in accordance with the Membership Interest Purchase Agreement;
- any Taxes arising from or in relation to the transfer of the Transferred Assets and the Transferred Liabilities;
- liabilities of the Companies for Taxes arising prior to or on the Closing Date, howsoever arising;
- any intercompany indebtedness or claim owing to an Affiliate of the Company; and
- any other obligation designated as a Retained Liability by the Purchaser in writing to the Company or the Proposal Trustee prior to the closing of the Transactions.

Retained Contracts

The Retained Contracts, being those assets to be retained by the Company through operation of the Reverse Vesting Order, mean:

- all contracts of the Company, unless otherwise agreed by the Company and the Purchaser.

**THE FOLLOWING COMPRISES SCHEDULE “C” ATTACHED TO AND FORMING
PART OF A SUBSCRIPTION AGREEMENT DATED March 28, 2024,
BETWEEN ATHABASCA MINERALS INC. AND JMAC RESOURCES LTD.**

The Lands

All lands owned, leased or licensed by the Company and any other interest in land of the Company.

THE FOLLOWING COMPRISES SCHEDULE “D” ATTACHED TO AND FORMING PART OF A SUBSCRIPTION AGREEMENT DATED March 28, 2024, BETWEEN ATHABASCA MINERALS INC. AND JMAC RESOURCES LTD.

Contract Counterparty/Project	Cure Cost (\$CAD)
799462 Alberta Ltd.	\$40,000.00
Sierra Geological Corp.	\$40,000.00
102004623 Saskatchewan Inc.	\$40,000.00
Firebag Sand Resource	\$20,851.65

This is Exhibit "B"
Referred to in the Affidavit of
JOHN DAVID CHURCHILL
Sworn before me this 8 day of
April, 2024



A Commissioner for Oaths in and for the
Province of Alberta

Carter Lindsay
Student-at-Law
3400, 350 7th Avenue SW
Calgary, Alberta T2P3N9
Ph: 1-403-261-9448

MEMBERSHIP INTEREST PURCHASE AGREEMENT

THIS AGREEMENT is made as of March 28, 2024.

BETWEEN:

ATHABASCA MINERALS INC.,
a corporation existing pursuant to the *Business Corporations Act* (Alberta)
(the "**Vendor**")

-and-

JMAC ENERGY SERVICES, LLC,
a limited liability corporation existing pursuant to the laws of the state of
Delaware, or an Affiliate (as defined in the Subscription Agreement) thereof (together, the
"**Purchaser**")

RECITALS

WHEREAS:

- A. the Vendor is the registered and beneficial owner of a 50% voting membership interest (the "**Purchaser Interest**") in AMI Silica LLC (the "**Company**");
- B. the Vendor hereby contracts and agrees with the Purchaser for the absolute sale to the Purchaser of the Purchaser Interest held by the Vendor, on the terms and conditions contained in this Agreement (as defined herein);
- C. contemporaneous with the completion of the transactions contemplated by this Agreement, the Purchaser has agreed to subscribe for certain shares of the Vendor pursuant to the terms and conditions of a subscription agreement dated March 28, 2024 (the "**Subscription Agreement**"); and
- D. the Vendor and the Purchaser hereby agree to take all steps as may be necessary to give effect to the transactions contemplated by this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of this Agreement and the mutual terms and conditions set forth herein, the parties agree as follows:

DEFINITIONS

- 1. In this Agreement, the following terms shall have the following respective meanings:
 - (a) "**Act**" means the *Income Tax Act* (Canada);
 - (b) "**Affiliate**" has the meaning given to such term in the Subscription Agreement;
 - (c) "**Agreement**" means this agreement and any amendments hereof;

- (d) "**Business Day**" means a day other than a Saturday, a Sunday or a statutory holiday in Calgary, Alberta;
- (e) "**Closing**" means the completion of the Transactions pursuant to the Subscription Agreement;
- (f) "**Closing Date**" the date on which Closing occurs, which date shall be no later than three (3) Business Days from the date on which all conditions set out in Article 5 of the Subscription Agreement (other than those conditions that by their nature can only be satisfied on the Closing Date) have been satisfied or waived or such other date as may be agreed upon by the Vendor and JMAC Resources Ltd.;
- (g) "**Court**" means the Court of King's Bench of Alberta;
- (h) "**Proposal Trustee**" means KSV Restructuring Inc.;
- (i) "**Purchase Price**" has the meaning ascribed to such term in Section 3 hereof;
- (j) "**Purchaser Interest**" has the meaning ascribed to such term in the Recitals;
- (k) "**Subscription Agreement**" means the subscription agreement dated March 28, 2024 between the Vendor and JMAC Resources Ltd.;
- (l) "**Tax**" means any federal, provincial, state, county, municipal, local, foreign and other income, profits, gains, net worth, sales, use, *ad valorem*, gross receipts, business and occupation, estimated, stamp, custom duties, occupation, property (real or personal), franchise, capital stock, license, excise, value added, payroll, employees, income withholding, social security, workers compensation levy, employment insurance or other tax and any penalty, fine, addition to tax and interest on the foregoing; and
- (m) "**Transactions**" means the transactions as set forth in the Subscription Agreement.

PURCHASE AND SALE OF THE PURCHASER INTEREST

2. Subject to the terms of this Agreement, the Vendor hereby sells, assigns and transfers to the Purchaser, and the Purchaser hereby purchases from the Vendor, effective as of the Closing Date, all right, title and interest of the Vendor in and to all of the Purchaser Interest held by the Vendor.

PURCHASE PRICE

3. The aggregate purchase price payable by the Purchaser pursuant to the terms of this Agreement and the Subscription Agreement is \$29,100,000. The aggregate purchase price for the Purchaser Interest pursuant to this Membership Interest Purchase Agreement is \$24,600,000 (the "**Purchase Price**"). Upon receipt by the Purchaser of the unit certificate representing the Purchaser Interest duly endorsed for transfer and accompanied by a stock transfer power of attorney, or satisfactory evidence of registration of the Purchaser Interest

in the name of the Purchaser, the Purchaser shall pay the Purchase Price, as agreed upon pursuant to this Agreement, to the Vendor.

4. The Purchase Price shall be paid by the Purchaser to the Proposal Trustee, on behalf of the Company, to be paid by a combination of:
 - (a) a set-off from the Purchase Price of any other amounts owed by the Vendor to the Purchaser and its Affiliates prior to Closing, including without limitation, any secured debt, interest or amounts owed pursuant to the Settlement Agreement (as defined in the Subscription Agreement) or otherwise (together, the “**Outstanding Debt**”); and
 - (b) the amount resulting from the Purchase Price less the Outstanding Debt, which is to be paid in cash or wire transfer of immediately available funds, as of the Closing Date.

COVENANTS, REPRESENTATIONS AND WARRANTIES

5. The Vendor covenants, represents and warrants the following:
 - (a) the Vendor is a corporation duly incorporated and is organized and validly existing under the *Business Corporations Act* (Alberta) (the "**ABCA**") and has the full requisite corporate power, capacity and authority to execute and deliver this Agreement and to perform its obligations hereunder and to convey to the Purchaser the Purchaser Interest; and
 - (b) this Agreement has been duly authorized, executed and delivered by the Vendor and is a legal, valid and binding obligation of the Vendor, enforceable against the Vendor by the Purchaser in accordance with its terms, subject to bankruptcy, insolvency and similar laws relating to or affecting creditors' rights generally and to general principles of equity.
6. The Purchaser covenants, represents and warrants the following:
 - (a) the Purchaser is a is a limited liability corporation existing under the laws of the State of Delaware (the "**Delaware Act**") and has the full requisite corporate power, capacity and authority to execute and deliver this Agreement and to perform its obligations hereunder;
 - (b) this Agreement has been duly authorized, executed and delivered by the Purchaser and is a legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser by the Vendor in accordance with its terms, subject to bankruptcy, insolvency and similar laws relating to or affecting creditors' rights generally and to general principles of equity;
 - (c) the execution of this Agreement and the consummation of the transactions contemplated hereby satisfy and comply with all relevant provisions of the Delaware Act and no other corporate proceedings on the part of the Purchaser are

necessary to approve or adopt this Agreement or undertake the transactions contemplated hereby; and

- (d) the covenants, representations, warranties and agreements contained in this Agreement shall not merge with the conveyance of the Purchaser Interest into the name of the Purchaser.

MUTUAL CONDITIONS PRECEDENT

- 7. The obligation of the Vendor to sell, assign and transfer to the Purchaser, and of the Purchaser to purchase from the Vendor all right, title and interest of the Vendor in and to all of the Purchaser Interest held by the Vendor are subject to the following conditions precedent:
 - (a) that the Closing of the Transactions have occurred pursuant to the terms and conditions set forth in the Subscription Agreement; and
 - (b) the Reverse Vesting Order (as defined in the Subscription Agreement) being obtained.

HEADINGS AND RECITALS

- 8. The headings in this Agreement are for reference purposes and shall not affect in any way the meaning and interpretation of this Agreement.
- 9. The Recitals to this Agreement are true and correct and form an integral part of this Agreement.

SURVIVAL OF REPRESENTATIONS AND WARRANTIES

- 10. The representations and warranties set out in Sections 5 and 6 of this Agreement shall survive the closing of the purchase and sale of the Purchaser Interest provided for herein and shall continue in full force and effect for the benefit of the party in whose favour they are expressed to be made, and be binding upon the party by whom they are made.

TAX

- 11. Except as otherwise provided in this Agreement, the Vendor shall be responsible and liable for any income tax arising from or attributable to the sale of the Purchaser Interest to the Purchaser under this Agreement. The Purchaser will be solely responsible in ensuring that the Vendor receives the full Purchase Price without any withholding or deduction, and the Vendor shall have no responsibility whatsoever with respect to same.
- 12. Notwithstanding any other provision of this Agreement, the Purchaser and the Vendor agree that all payments by the Purchaser to the Vendor under this Agreement shall be made free and clear of and without any deduction for or on account of any Taxes, except to the extent that the Purchaser is required by law to make payment subject to any deduction or withholding for or on account of Tax (a "**Tax Deduction**"). If any Tax Deduction must be

effected from any amounts payable or paid by the Purchaser under this Agreement, the Purchaser shall pay such additional amounts as may be necessary to ensure that the Vendor receives (after making any Tax Deduction) a net amount equal to the full amount which it would have received had payment not been made subject to a Tax Deduction.

ADJUSTMENTS

13. All profits and receipts in respect of the Purchaser Interest and all costs, expenses and outgoings in respect thereof up to the Closing Date shall belong to, or, as the case may be, be paid by and discharged by the Vendor. From and after the Closing Date all profits and receipts in respect of the Purchaser Interest and all costs, expenses and outgoings in respect thereof shall belong to, or, as the case may be, be paid by and discharged by the Purchaser.

TRUST AFTER CLOSING DATE

14. To the extent that the Purchaser Interest are not fully transferred and conveyed to the Purchaser on the Closing Date, the Vendor will hold the Purchaser Interest and/or any interest therein as bare trustee and agent for the Purchaser and will not deal with the Purchaser Interest in any way whatsoever except at the discretion and prior direction of the Purchaser.

AMENDMENT

15. This Agreement may not be amended, modified or varied except by an instrument in writing signed by the parties.

APPLICABLE LAW

16. This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province of Alberta and the federal laws of Canada applicable therein, and each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of such province and all courts competent to hear appeals therefrom with respect to all matters arising hereby.

SUCCESSORS AND ASSIGNS

17. This Agreement shall enure to the benefit of and shall be binding on and enforceable by the parties and their respective heirs, executors, administrators, successors and permitted assigns. Neither party may assign any of its rights or obligations hereunder without the prior written consent of the other party. Notwithstanding the foregoing, the Purchaser may assign this Agreement to an Affiliate with consent of the Vendor, with such consent to not be unreasonably withheld provided that the Purchaser agrees to fully guarantee the obligations of such Affiliate.

FURTHER ASSURANCES

18. The parties to this Agreement shall, without further consideration, do and perform all such further acts and execute all such further deeds and documents as are reasonably required in order to give effect to this Agreement and the transactions contemplated hereby.

ENTIRE AGREEMENT

19. This Agreement and the Subscription Agreement (together, the "**Definitive Agreements**"), together with any agreement and other documents to be delivered in conjunction with the Definitive Agreements, constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof except as specifically set forth herein.

TIME OF ESSENCE

20. Time shall be of the essence in this Agreement.

CURRENCY

21. Unless otherwise stated, all references in this Agreement to sums of money are expressed in lawful money of Canada and "\$" refers to Canadian dollars.

EXECUTION

22. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall together be deemed to constitute one agreement. The Vendor and the Purchaser agree that execution and delivery of this Agreement by industry standard electronic signature software and/or by exchanging PDF signatures shall have the same legal force and effect as the exchange of original signatures and that in any proceeding arising under or relating to this Agreement, each party hereby waives any right to raise any defense or waiver based upon execution of this Agreement by means of such electronic signatures or maintenance of the executed agreement electronically.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF the parties hereto have executed this Agreement the date first above written.

ATHABASCA MINERALS INC.

DocuSigned by:
Dana Archibald
Per: _____
Name: Dana Archibald
Title: Chief Executive Officer

JMAC ENERGY SERVICES LLC

DocuSigned by:
Jon McCreary
Per: _____
Name: Jon McCreary
Title: Director

This is Exhibit "C"
Referred to in the Affidavit of
JOHN DAVID CHURCHILL
Sworn before me this 8 day of
April, 2024



A Commissioner for Oaths in and for the
Province of Alberta

Carter Lindsay
Student-at-Law
3400, 350 7th Avenue SW
Calgary, Alberta T2P3N9
Ph: 1-403-261-9448

SUBSCRIPTION AGREEMENT AMENDING AGREEMENT

THIS AGREEMENT made effective as of the 5th day of March, 2024 between Athabasca Minerals Inc. (the “**Company**”) and Badger Mining Corporation, or its affiliate (the “**Purchaser**”)

RECITALS:

- A. The Company and the Purchaser entered into a subscription agreement dated February 9, 2024 (the “**Subscription Agreement**”).
- B. The Company and the Purchaser now desire to amend the Subscription Agreement for the purpose of extending the Outside Date (as defined in the Subscription Agreement) upon the terms and conditions set forth in this subscription agreement amending agreement (the “**Amending Agreement**”).

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the premises hereto and of the covenants, warranties, representations, agreements and payments herein set forth and provided for, the parties hereto covenant and agree as follows:

ARTICLE 1 INTERPRETATION

Section 1.1 Subscription Agreement Amending Agreement

This Amending Agreement shall henceforth be read in conjunction with the Subscription Agreement and all the provisions of the Subscription Agreement, except only insofar as the same may be inconsistent with the express provisions hereof, shall apply and have the same effect as if all the provisions of the Subscription Agreement and this Amending Agreement were contained in one agreement and the expressions used herein, including the recitals hereto, shall have the same meanings as are ascribed to the corresponding expressions in the Subscription Agreement (as amended by this Amending Agreement).

Section 1.2 Headings

The headings and the division of this Amending Agreement into Articles and Sections are for convenience of reference only and shall not affect the interpretation of this Amending Agreement.

Section 1.3 Definitions

The various capitalized words and phrases contained herein shall have the meanings attributed to them in the Subscription Agreement, unless otherwise defined herein or unless the context otherwise requires.

Section 1.4 Counterparts

This Amending Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. The delivery of an executed counterpart copy of this Amending Agreement by facsimile, email or other electronic means shall be deemed to be equivalent to the delivery of an original executed copy thereof.

Section 1.5 Governing Law

This Amending Agreement shall, in all respects, be subject to, interpreted, construed and enforced in accordance with and under the laws of the Province of Alberta and the laws of Canada applicable therein and shall, in every regard, be treated as a contract made in the Province of Alberta and all disputes shall be determined within the proceedings bearing Alberta Court of King’s Bench Court Action No. 25-3009380. The parties irrevocably attorn and submit to the jurisdiction of the courts of the Province of Alberta and courts of appeal therefrom in respect of all matters arising out of this Amending Agreement.

**ARTICLE 2
AMENDMENTS**

Section 2.1 Amended Definition of Outside Date

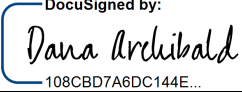
The Subscription Agreement be amended by deleting the definition of “Outside Date” in Section 1.1(qq) in its entirety and replacing it with the following:

““**Outside Date**” means April 30, 2024, or such other date as may be agreed upon between the Parties in writing;”.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the parties hereto have executed this Amending Agreement as of the date and year first above written.

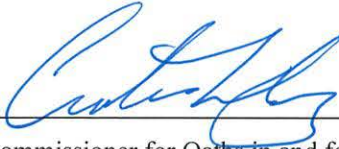
ATHABASCA MINERALS INC.

By: 
Name: Dana Archibald
Title: Chief Executive Officer

**BADGER MINING
CORPORATION**

By: _____
Name: Adam Katz
Title: Chief Commercial Officer

This is Exhibit "D"
Referred to in the Affidavit of
JOHN DAVID CHURCHILL
Sworn before me this 8 day of
April, 2024



A Commissioner for Oaths in and for the
Province of Alberta

Carter Lindsay
Student-at-Law
3400, 350 7th Avenue SW
Calgary, Alberta T2P3N9
Ph: 1-403-261-9448

WAIVER AND ACKNOWLEDGMENT

DATE: April __, 2024

TO: Athabasca Minerals Inc. (the “**Company**”)

FROM: Badger Mining Corporation, or its affiliate (the “**Purchaser**”)

RE: Subscription Agreement between the Company and the Purchaser dated effective February 9, 2024, as amended by a subscription amending agreement dated effective March 5, 2024, as may be further amended, supplemented, restated or otherwise modified (the “**Subscription Agreement**”)

Capitalized terms utilized herein and not defined shall have the meaning ascribed thereto in the Subscription Agreement.

WHEREAS:

A. Pursuant to Sections 3.4(a)(iii) and 3.4(a)(iv) of the Subscription Agreement, the Company is required to deliver to the Purchaser on the Closing Date a true copy of the TSX Venture Exchange bulletin confirming the delisting of the Common Shares and a true copy of the ASC Revocation Order, respectively.

B. Pursuant to Sections 6.5 and 6.6 of the Subscription Agreement, the Company covenants that as soon as practicable after the execution of the Subscription Agreement, the Company would take all actions to delist the Common Shares from the TSX Venture Exchange and to use its commercially reasonable efforts to obtain the ASC Revocation Order.

C. The Company anticipates that it will not be able to deliver such closing items to the Purchaser in accordance with Sections 3.4(a)(iii) and 3.4(a)(iv) of the Subscription Agreement on the Closing Date, such that the Company will not be in a position to satisfy the condition precedent to the Transaction set forth in Section 4.2(b) of the Subscription Agreement.

D. In accordance with Section 8.9 of the Subscription Agreement, the Company requires the written approval of the Purchaser to waive any condition precedent in the Purchaser’s favour.

E. The Parties acknowledge their intention in respect of the foregoing, that: (1) the deliverables required pursuant to Sections 3.4(a)(iii) and 3.4(a)(iv) of the Subscription Agreement will be delivered to the Purchaser; and (2) the covenants pursuant to Sections 6.5 and 6.6 of the Subscription Agreement would also be satisfied, as soon as reasonably practicable after the Closing Date of the Transaction subject to the conditions set forth herein.

NOW THEREFORE the Parties agrees as follows:

1. The Purchaser, pursuant to Section 8.9 of the Subscription Agreement, hereby irrevocably agrees to waive the Company’s obligation to deliver to the Purchaser on the Closing Date: a true copy of the TSX Venture Exchange bulletin confirming the delisting of the Common Shares, pursuant to Sections 3.4(a)(iii) and 6.5 of the Subscription Agreement; and a true copy of the ASC Revocation Order, pursuant to Sections 3.4(a)(iv) and 6.6 of the Subscription Agreement, and hereby irrevocably waives the condition precedent to the Transaction set forth in Section 4.2(b) of the Subscription Agreement to the extent such

condition precedent relates to the deliverables set forth in Sections 3.4(a)(iii) and 3.4(a)(iv) of the Subscription Agreement, provided that:

- (a) the Closing occurs on or before April 29, 2024; and
 - (b) prior to the Closing, neither the Company nor the Purchaser receives any communication from the TSX Venture Exchange nor from any securities regulatory authority indicating that the TSX Venture Exchange bulletin and the ASC Revocation Order will not be delivered in due course after the Closing Date without the requirement on the part of the Company or the Purchaser to remedy any defaults or take any steps which would be unduly burdensome on the Company or the Purchaser.
2. The Company hereby undertakes and agrees to take all reasonable measures prior to Closing to ensure that the TSX Venture Exchange bulletin and the ASC Revocation Order will be delivered in due course as soon as reasonably practicable after the Closing Date without the requirement on the part of the Company or the Purchaser to remedy any defaults or take any steps which would be unduly burdensome on the Company or the Purchaser.
3. Upon execution of this Waiver by the Company and the Purchaser, any breach by the Company of the undertaking set out herein shall constitute a breach of the Subscription Agreement.
4. The waiver and extension set out in herein shall be effective only in the instance and for the specific purposes for which they were intended and shall not constitute a consent or waiver of compliance in the future or a consent to a waiver of any other covenant or provision of the Subscription Agreement or any other document delivered in connection therewith. The Subscription Agreement, as may be amended, supplemented, restated or otherwise modified remains in full force and effect.
5. Executed copies of this Waiver may be delivered by facsimile transmission or other electronic means and it shall not be necessary to confirm execution by delivery of the originally executed documents.

[Signature Page Follows]

DATED as of the date first written above.

BADGER MINING CORPORATION

By: _____
Name: Adam Katz
Title: Chief Commercial Officer

Acknowledged and agreed effective as of the date first written above.

ATHABASCA MINERALS INC.

By:  _____
Name: Dana Archibald
Title: Chief Executive Officer

This is Exhibit "E"
Referred to in the Affidavit of
JOHN DAVID CHURCHILL
Sworn before me this 8 day of
April, 2024



A Commissioner for Oaths in and for the
Province of Alberta

Carter Lindsay
Student-at-Law
3400, 350 7th Avenue SW
Calgary, Alberta T2P3N9
Ph: 1-403-261-9448

Athabasca Minerals Inc., 2132561 Alberta Ltd., 2140534 Alberta Ltd.,
 AMI Aggregates Inc., AMI RockChain Inc., AMI Silicia Inc., TerraShift Engineering Ltd.
 Cash Flow Forecast
 April 01, 2024 to May 19, 2024

For the week ending, In CAD	Notes	Forecast Week 1 7-Apr-24	Forecast Week 2 14-Apr-24	Forecast Week 3 21-Apr-24	Forecast Week 4 28-Apr-24	Forecast Week 5 5-May-24	Forecast Week 6 12-May-24	Forecast Week 7 19-May-24	Forecast Week 8 26-May-24	Forecast Week 9 2-Jun-24	Forecast Week 10 9-Jun-24	Forecast Week 11 16-Jun-24	Forecast Week 12 23-Jun-24	Forecast Week 13 30-Jun-24	Total
Opening cash balance	1	731,943	602,423	708,423	370,423	103,423	0	0	0	0	0	0	0	0	731,943
Cash Receipts															
Cash Collections	2	33,743	-	-	-	8,460	-	-	-	-	-	-	-	-	42,203
		33,743	-	-	-	8,460	-	-	-	-	-	-	-	-	42,203
Cash Disbursements															
Operating Expenses															
Wages, salaries, and benefits	3	5,000	57,000	3,000	57,000	-	-	-	-	-	-	-	-	-	122,000
Utilities	4	500	-	-	1,000	-	-	-	-	-	-	-	-	-	1,500
Other operating expenses	5	23,387	9,000	5,000	9,000	-	-	-	-	-	-	-	-	-	46,387
Rent	6	1,400	-	-	-	14,860	-	-	-	-	-	-	-	-	16,260
		30,287	66,000	8,000	67,000	14,860	-	-	-	-	-	-	-	-	186,147
Other Disbursements															
AMI Silica LLC - funding	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total other disbursements	7	50,000	-	330,000	-	-	-	-	-	-	-	-	-	-	380,000
Anticipated capital expenditures	8	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		50,000	-	330,000	-	-	-	-	-	-	-	-	-	-	380,000
Debt Repayment															
Interest & principal		-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total disbursements		80,287	66,000	338,000	67,000	14,860	-	-	-	-	-	-	-	-	566,147
Professional Costs	9														
Company counsel legal fees		-	150,000	-	200,000	27,023	-	-	-	-	-	-	-	-	377,023
Trustee fees		82,976	-	-	-	50,000	-	-	-	-	-	-	-	-	132,976
Trustee's counsel fees		-	28,000	-	-	20,000	-	-	-	-	-	-	-	-	48,000
Total Professional Costs		82,976	178,000	-	200,000	97,023	-	-	-	-	-	-	-	-	557,999
Net cash flow		(129,520)	(244,000)	(338,000)	(267,000)	(103,423)	-	-	-	-	-	-	-	-	(1,081,943)
Interim financing															
Interim financing advances / (repayments)	10	-	350,000	-	-	-	-	-	-	-	-	-	-	-	350,000
Closing cash (operating line) balance		602,423	708,423	370,423	103,423	0	0	0	0	0	0	0	0	0	0

Management of Athabasca Minerals Inc., 2132561 Alberta Ltd., 2140534 Alberta Ltd., AMI Aggregates Inc., AMI RockChain Inc., AMI Silicia Inc., TerraShift Engineering Ltd. (collectively "AMI" or the "Companies") has prepared this forecasted cash-flow statement (the "Cash Flow Forecast") based on probable and hypothetical assumptions detailed in Notes 1 to 10. The Cash Flow Forecast has been prepared on a consolidated basis, as the Companies have been granted a consolidation order by the Court. The Cash Flow Forecast has been prepared solely for the purpose of supporting the Notice of Intention to Make a Proposal ("NOI") filed by each of the Companies on November 13, 2023. As such, readers are cautioned that it may not be appropriate for their purposes. The Cash Flow Forecast of the Companies is prepared in accordance with the provisions of the *Bankruptcy and Insolvency Act* and should be read in conjunction with the Trustee's Report on the Cash-flow Statement.

Dated at the City of Calgary in the Province of Alberta, this 8th day of April 2024.


Athabasca Minerals Inc., 2132561 Alberta Ltd., 2140534 Alberta Ltd.,
 AMI Aggregates Inc., AMI RockChain Inc., AMI Silicia Inc., TerraShift Engineering Ltd.

Per:


 David Churchill
 Chief Financial Officer

KSV Restructuring Inc.

Per:


 Andrew Basi, CPA, CA, CIRP, LIT
 Managing Director

Athabasca Minerals Inc., 2132561 Alberta Ltd., 2140534 Alberta Ltd.,
AMI Aggregates Inc., AMI RockChain Inc., AMI Silicia Inc., TerraShift Engineering Ltd.
Notes to the Cash Flow Forecast
April 01, 2024 to May 19, 2024

Note 1

Consolidated cash balance for all Athabasca entities. Please note only the following entities have bank accounts: Athabasca Minerals Inc., AMI RockChain Inc. (formerly Aggregates Marketing Inc.), AMI Silicia Inc., TerraShift Engineering Ltd 2132561 Alberta Ltd. and 2140534 Alberta Ltd. The following entities do not have bank accounts: AMI Aggregates Inc. The Cash Flow Forecast assumes that the Transaction will close on April 30, 2024, however the actual closing date may be prior to or later than this forecasted date. The Cash Flow Forecast does not reflect any cash transactions related to ResidualCo.

Note 2

Athabasca Minerals Inc. owns a 50% interest in AMI Silicia LLC. The only cash flow for AMI is through monthly management fees and reimbursement of expenses from AMI Silicia LLC. Monthly management fees are not being paid due to insufficient working capital in the AMI Silicia LLC. AMI Silicia LLC is currently experiencing working capital shortfall that has been funded with a cash call by its two equity holders in December 2023. Cash is being very tightly managed in the LLC

Note 3

Athabasca Minerals Inc. has 9 employees. The other entities do not have employees. Payroll is mid month and month end. Employee benefits are through Equitable Life and are paid at month end.

Note 4

Utilities are for EPCOR and Direct Energy for the Edmonton office. Calgary office utilities are included in rent

Note 5

Other operating expenses are as follows: Third party IT support, office supplies, water for office, Xerox for photocopier in Edmonton office, Telus mobility, Shaw internet, Shaw phone, Website management, fuel for company vehicles, janitorial services for the Edmonton office.

Note 6

Rent for both office leases in Calgary and Edmonton. Property taxes are included in the monthly lease payments.

Note 7

Other disbursements include amounts for D&O run-off insurance that will need to be paid 7 days before closing. A Prosvita Land option payment of \$50,000 is required to retain the asset. This cheque was issued in March with payment clearing April 2

Note 8

Capital expenditures are required to maintain the in-basin sand development project leases in Montney BC.

Note 9

Trustee fees to KSV Restructuring and their legal counsel, Bennett Jones and to Fasken as AMI counsel and its US counsel with respect to US legal matters.

Note 10

Interim advances are pursuant to the Replacement Interim Financing Order granted on March 8, 2024. The Second Interim Financing Facility is for the amount of \$5,300,000.