Section 1: DEFA14A (FORM 8-K)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): September 28, 2018

Pershing Gold Corporation

(exact name of registrant as specified in its charter)

Nevada	**001-37481**	26-0657736
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

1658 Cole Boulevard Building 6 - Suite 210 Lakewood, Colorado	80401
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: (720) 974-7248

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☒ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4 (c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 1.01 Entry into a Material Definitive Agreement

Agreement and Plan of Merger

On September 28, 2018, Pershing Gold Corporation (the "Company") entered into an Agreement and Plan of Merger (the "Merger Agreement") with Americas Silver Corporation ("Americas Silver") and R Merger Sub, Inc., a wholly-owned subsidiary of Americas Silver ("Merger Sub"). Under the terms of the Merger Agreement, the Company will merge with and into Merger Sub, with the Company being the surviving corporation and becoming a wholly-owned subsidiary of Americas Silver (the "Merger").

In connection with the Merger, common stockholders of the Company will be issued 0.715 Americas Silver common shares for each share of Company common stock (the "Exchange Ratio"). Holders of the Company's Series E Convertible Preferred Stock ("Series E Preferred Stock") will be given the option to (a) convert their shares of Series E Preferred Stock into Company common shares immediately before the closing and exchange those common shares for Americas Silver common shares at the Exchange Ratio, or (b) exchange their Series E Preferred Stock for non-voting preferred stock of Americas Silver ("Purchaser Preferred Stock").

The Merger Agreement provides that, upon consummation of the Merger, Americas Silver will cause one nominee of the Company to be appointed to the board of directors of Americas Silver.

The Merger must be approved by (i) preferred shareholders holding 75% of the Company's preferred shares, voting as a separate class, and (ii) a majority of the voting shares held by the common shareholders and preferred shareholders, voting together as a single class. The issuance of the Americas Silver shares in connection with the Merger must also be approved by a majority of the Americas Silver shares voted at the meeting called for that purpose.

The Company is required to call a meeting and solicit the approval of its stockholders, subject to the board of directors' ability to accept a Superior Proposal (as defined in the Merger Agreement) in accordance with the Merger Agreement. If the Merger Agreement is terminated because the Company accepts a Superior Proposal, or the board of directors of the Company changes its recommendation to its stockholders regarding the approval of the Merger, the Company will be obligated to pay a termination fee to Americas Silver in the amount of $4,000,000 (the "Termination Fee").

Americas Silver is required to call a meeting and solicit the approval of its shareholders for the issuance of shares in connection with the Merger.

In addition to the approval of the stockholders of each of the Company and Americas Silver, as described above, the completion of the Merger will be subject to the satisfaction of other customary closing conditions, including, among others: (i) the declaration by the Securities and Exchange Commission ("SEC") of the effectiveness of the Registration Statement on Form F-4 to be filed by Americas Silver with the SEC in connection with the Merger, (ii) the Americas Silver common shares to be issued or issuable in connection with the Merger will have been approved (or conditionally approved, as applicable) for listing on the NYSE American LLC and the Toronto Stock Exchange, and (iii) the receipt of certain regulatory approvals necessary for the completion of the Merger.

Each of the Company and Americas Silver will be subject to customary covenants with respect to its operations between signing and closing. The Merger Agreement also includes customary representations and warranties with regard to the respective business and assets of the Company and Americas Silver.

The Merger Agreement contains certain termination rights for both the Company and Americas Silver, including in the event that the Merger is not consummated by April 1, 2019 or if the requisite stockholder approvals are not received. The Merger Agreement further provides that, upon termination of the Merger Agreement under specified circumstances, including termination of the Merger Agreement by the Company as a result of the Company entering into an agreement for an alternative transaction, as discussed above, the Company may be required to pay to Americas Silver the Termination Fee.

This summary of the Merger Agreement is not complete and is qualified in its entirety by reference to the full text of the agreement that is attached as Exhibit 2.1 to this Current Report on Form 8-K and incorporated by reference herein.

Convertible Secured Debenture

Concurrent with the execution of the Merger Agreement, the Company and Americas Silver entered into a Convertible Secured Debenture ("Debenture"), effective October 1, 2018, that will entitle the Company to borrow up to $4,000,000 from Americas Silver.

The interest rate will be 16% per year on the amount drawn, accrued and compounded monthly. The loan will mature on June 1, 2019, or September 1, 2019 if the Company has exercised an option to extend maturity.

If the Merger Agreement is terminated, in most circumstances, the outstanding principal amount, plus any accrued and unpaid interest, will be due and payable in cash within 90 days following the date of termination (or 10 days if the Merger Agreement is terminated by the Company in order to accept a Superior Proposal or following a change of the board of directors' recommendation to stockholders). However, if the Merger Agreement is terminated because (i) Americas Silver fails to obtain the approval of its shareholders, (ii) a law or government order prevents consummation of the Merger, or (iii) Americas Silver breaches the Merger Agreement, the Company will have the option to repay the borrowed amount in cash or in shares of Company common stock.

If repayment will be accomplished by conversion into Company common stock, the number of shares issuable will be determined by dividing the amount outstanding under the Debenture by a conversion price equal to the volume-weighted average price of the Company's common stock for the five trading days immediately preceding the date of the election, but never less than $1.18. The issuance of common shares in exchange for amounts outstanding under the Debenture is subject to receipt of prior approval by The NASDAQ Stock Market and the Toronto Stock Exchange.

The Debenture will be secured by a lien on substantially all of the Company's assets.

This summary of the Debenture is not complete and is qualified in its entirety by reference to the full text of the agreement that is attached as Exhibit 4.1 to this Current Report on Form 8-K and incorporated by reference herein.

Support Agreements

On September 30, 2018, Stephen Alfers, as a director and the Company's President and Chief Executive Officer, the Company's other directors (Edward Karr, Pamela Saxton and Jeffrey Clevenger), and Eric Alexander, the Company's Vice President Finance and Controller, each entered into a Support Agreement with Americas Silver pursuant to which he or she will agree to vote in favor of the Merger, not to transfer his or her shares (or any securities convertible into shares) other than in support of the Merger, and not to solicit or negotiate any alternative acquisition proposal. The Support Agreement does not preclude a director, in his or her capacity as such, from exercising his or her fiduciary duties and electing to terminate the Merger Agreement in the circumstances permitted in the Merger Agreement.

This summary of the Support Agreement is not complete and is qualified in its entirety by reference to the full text of the form of agreement that is attached as Exhibit 10.1 to this Current Report on Form 8-K and incorporated by reference herein.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant

The description of the Convertible Secured Debenture disclosed in Item 1.01 is incorporated herein by reference.

Item 3.02 Unregistered Sales of Equity Securities

The description of the Convertible Secured Debenture disclosed in Item 1.01 is incorporated herein by reference.

The issuance of the Debenture, and the potential issuance of common shares thereunder, is exempt from the registration requirements of the Securities Act of 1933, as amended, pursuant to Regulation S promulgated thereunder. Americas Silver is not a U.S. person.

Item 3.03 Material Modification to Rights of Security Holders

On September 28, 2018, the Company amended the Certificate of Designation for its Series E Preferred Stock (the "Amended Series E Certificate of Designation"), effective immediately. The amendments (a) exempt the Merger from automatic conversion and cash payment provisions that would otherwise be applicable upon the consummation of the Merger, and (b) exempt the execution of the Debenture (but not any subsequent conversion of the Debenture into shares of the Company's common stock) from provisions that would otherwise trigger an adjustment in the conversion price of the Series E Preferred Stock.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers

Alexander Amendment to Severance Agreement

On September 28, 2018, the Company and Mr. Alexander, the Company's principal financial officer, amended Mr. Alexander's Fourth Amended Severance Compensation Agreement dated December 21, 2017, a copy of which was filed as Exhibit 10.1 to the Current Report on Form 8-K filed on December 28, 2018. The amendment extends the term of Mr. Alexander's Fourth Amended Severance Compensation Agreement to March 31, 2019.

This summary of the amendment to Mr. Alexander's Fourth Amended Severance Compensation Agreement is not complete and is qualified in its entirety by reference to the full text of the amendment that is attached as Exhibit 10.2 to this Current Report on Form 8-K and incorporated by reference herein.

Janke Amendment to Offer of Employment

On September 28, 2018, the Company and Tim Janke, the Company's Chief Operating Officer, amended Mr. Janke's Offer of Employment dated January 10, 2018, a copy of which was filed as Exhibit 10.1 to the Current Report on Form 8-K filed on January 18, 2018. The amendment extends the term of the severance and change in control provisions of Mr. Janke's Offer of Employment to March 31, 2019.

This summary of the amendment to Mr. Janke's Offer of Employment is not complete and is qualified in its entirety by reference to the full text of the amendment that is attached as Exhibit 10.3 to this Current Report on Form 8-K and incorporated by reference herein.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

The description of the Amended Series E Certificate of Designation disclosed in Item 3.03 is incorporated herein by reference.

The Amended Series E Certificate of Designation is attached as Exhibit 3.1 to this Current Report on 8-K and incorporated by reference herein.

Item 5.07 Submission of Matters to a Vote of Security Holders

On September 28, the holders of at least seventy-five percent of the Company's Series E Preferred Stock approved an action by written consent in lieu of a meeting. The resolutions consented to the Company's execution of the Debenture and approved the Amended Series E Certificate of Designation, the description of which in Item 3.03 is incorporated herein by reference.

Item 8.01 Other Matters

In connection with the Merger, the Company and Americas Silver jointly conducted an investor conference call on October 1, 2018 at 8:30 a.m. EDT to discuss the Merger and certain other matters. A transcript of the conference call is filed as Exhibit 99.1 hereto.

Concurrent with the execution of the Merger Agreement, Mr. Barry Honig, who holds or controls (collectively under his various holdings) approximately 31% of the outstanding Pershing common shares and 87% of the outstanding Pershing preferred shares has entered into an unconditional support agreement and has agreed to vote his shares in favor of the Merger.

Additional Information about the Proposed Transaction

The proposed transaction between Americas Silver and the Company will be submitted to the respective stockholders of Americas Silver and the Company for their consideration. Americas Silver will file with the SEC a registration statement on Form F-4 that will include a proxy statement of the Company that also constitutes a prospectus of Americas Silver. Americas Silver will file an information circular with the applicable Canadian securities administrators and will furnish the information circular to the SEC. The Company will deliver the proxy statement/prospectus to its stockholders as required by applicable law. Americas Silver will deliver the information circular to its stockholders as required by applicable law. Americas Silver and the Company also plan to file other documents with the SEC regarding the proposed transaction. This Current Report on Form 8-K is not a substitute for any prospectus, proxy statement, information circular or any other document which Americas Silver and the Company may file with or furnish to the SEC in connection with the proposed transaction. INVESTORS AND SECURITY HOLDERS OF AMERICAS SILVER AND THE COMPANY ARE URGED TO READ THE PROXY STATEMENT/PROSPECTUS AND INFORMATION CIRCULAR, AS APPLICABLE, AND OTHER RELEVANT DOCUMENTS THAT WILL BE FILED WITH OR FURNISHED TO THE SEC CAREFULLY AND IN THEIR ENTIRETY WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT AMERICAS SILVER, THE COMPANY, THE PROPOSED TRANSACTION AND RELATED MATTERS. Investors and stockholders will be able to obtain free copies of the proxy statement/prospectus and information circular, as applicable, and other documents containing important information about Americas Silver and the Company, once such documents are filed with or furnished to the SEC, through the website maintained by the SEC at www.sec.gov. The Company and Americas Silver make available free of charge at www.pershinggold.com and www.americassilvercorp.com, respectively (in the “Investor Relations” and “Investors” section, as applicable), copies of materials they file with, or furnish to, the SEC.

No Offer or Solicitation

The information contained in this Current Report on Form 8-K is for informational purposes only and does not constitute an offer to sell or the solicitation of an offer to buy any securities or a solicitation of any vote or approval with respect to the proposed transaction between Americas Silver and the Company or otherwise, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offer of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended.

Participants in Solicitation

The Company, Americas Silver and certain of their respective directors, executive officers and other members of management and employees may be deemed to be participants in the solicitation of proxies from the stockholders of the Company and Americas Silver in connection with the proposed transaction. Information about the directors and executive officers of the Company is set forth in its proxy statement for its 2018 annual meeting of stockholders, which was filed with the SEC on April 30, 2018. Information about the directors and executive officers of Americas Silver is set forth in its management information circular for its 2018 annual meeting of shareholders filed on Form 6-K with the SEC on April 13, 2018. These documents can be obtained free of charge from the sources indicated below. Other information regarding those persons who are, under the rules of the SEC, participants in the proxy solicitation and a description of their direct and indirect interests, by security holdings or otherwise, will be contained in the proxy statement/prospectus and other relevant materials to be filed with the SEC when they become available.

Item 9.01. Financial Statements and Exhibits

(d) The following are filed as exhibits to this report on Form 8-K.

Exhibit No.	Description
2.1	Agreement and Plan of Merger dated September 28, 2018
2.2	List of Subject Matters on Schedules*
3.1	Amendment to Certificate of Designation for Series E Convertible Preferred Stock dated September 28, 2018
4.1	Convertible Secured Debenture dated October 1, 2018
10.1	Form of Director and Officer Support Agreement dated September 28, 2018
10.2	Amendment to Fourth Amended Compensation Agreement, dated September 28, 2018, between Pershing Gold Corporation and Eric Alexander +
10.3	Amendment to Offer Letter, dated September 28, 2018, between Pershing Gold Corporation and Tim Janke +
99.1	Conference Call Transcript dated October 1, 2018

* Furnished, not filed, herewith.
\+ Management contract or compensatory plan or arrangement.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: October 4, 2018

PERSHING GOLD CORPORATION

By: /s/ Eric Alexander
Eric Alexander
Vice President Finance and Controller

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Section 2: EX-2.1 (EXHIBIT 2.1)

Exhibit 2.1

Execution Version

AGREEMENT AND PLAN OF MERGER

AMERICAS SILVER CORPORATION

- and -

R MERGER SUB, INC.

- and -

PERSHING GOLD CORPORATION

September 28, 2018

AGREEMENT AND PLAN OF MERGER

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AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT dated September 28, 2018.

BETWEEN

Americas Silver Corporation, a corporation incorporated under the Canada Business Corporations Act

(the "**Purchaser**")

- and -

R Merger Sub, Inc., a corporation existing under the Laws of the State of Nevada

("**Acquireco**")

- and -

Pershing Gold Corporation, a corporation existing under the Laws of the State of Nevada

(the "**Company**").

WHEREAS:

A. Acquireco is a wholly-owned subsidiary of the Purchaser established for the purposes of participating in the transactions described herein, including the Merger (as defined herein);

B. Pursuant to the Merger and as provided in this Agreement, Acquireco proposes to acquire all of the outstanding shares of the Company's common stock, par value $0.0001 per share (the "**Company Common Stock**") and all of the outstanding shares of the Company's Series E convertible preferred stock, par value $0.0001 per share (the "**Company Preferred Stock**") and the Parties intend that Acquireco be merged with and into the Company, with the Company surviving that merger on the terms and subject to the conditions set forth herein;

C. The board of directors of the Company (the "**Company Board**") has unanimously: (a) determined that it is in the best interests of the Company and the Company Stockholders (as defined herein), and declared it advisable, to enter into this Agreement with the Purchaser and Acquireco; (b) approved the execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby, including the Merger; and (c) resolved, subject to the terms and conditions set forth in this Agreement, to recommend adoption of this Agreement by the Company Stockholders; in each case, in accordance with the Laws of the State of Nevada;

D. The board of directors of the Acquireco (the "**Acquireco Board**") has unanimously: (a) determined that it is in the best interests of Acquireco and the Purchaser, as its sole stockholder, and declared it advisable, to enter into this Agreement; (b) approved the execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby, including the Merger; and (c) resolved, subject to the terms and conditions set forth in this Agreement, to recommend adoption of this Agreement by the Purchaser, as its sole stockholder; in each case, in accordance with the Laws of the governing jurisdictions;

E. The board of directors of the Purchaser (the "**Purchaser Board**") has unanimously: (a) determined that it is in the best interests of Purchaser and its shareholders and declared it advisable, to enter into this Agreement; and (b) approved the execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby, including the Merger; in each case, in accordance with the Laws of the governing jurisdictions; and

F. The Parties desire to make certain representations, warranties, covenants, and agreements in connection with the Merger and the other transactions contemplated by this Agreement and the Debenture and also to prescribe certain terms and conditions to the Merger.

NOW THEREFORE in consideration of the foregoing and of the representations, warranties, covenants and agreements herein contained, the Parties, intending to be legally bound, agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions

In this Agreement including the Schedules and recitals hereto, unless otherwise defined or expressly stated herein or something in the subject matter or the context is inconsistent therewith the following terms shall have the following meanings and grammatical variations thereof shall have the respective corresponding meanings:

"**Aboriginal Claim**" means any claim, written assertion or demand, whether proven or unproven, made by any Aboriginal Peoples with respect to Aboriginal title, Aboriginal rights, treaty rights or any other Aboriginal interest;

"**Aboriginal Information**" means any and all written documents or electronic and other communications and any oral communications respecting Aboriginal Claims, the issuance of any Permit that involves Aboriginal Claims and the duty to consult Aboriginal Peoples;

"**Aboriginal Peoples**" means any aboriginal peoples of the United States or Mexico, including Native Americans, including any Tribes in Nevada, and any group of aboriginal peoples, including Tribal Councils;

"**ACA**" has the meaning ascribed thereto in Section 1.10(j) of Schedule E;

"**Acceptable Confidentiality Agreement**" means, with respect to the Company, with respect to any third party (other than the Purchaser) a confidentiality agreement between the Company and such third party that, taken as a whole, is substantially similar to, and no less favourable to the Company than the Confidentiality Agreement (including with respect to standstill provisions).

"**Acquireco**" has the meaning ascribed thereto in the preamble;

"**Acquireco Board**" has the meaning ascribed thereto in the recitals;

"**Acquireco Common Stock**" has the meaning ascribed thereto in Section 2.4(f);

"**Acquisition Agreement**" means any letter of intent, term sheet, memorandum of understanding or other Contract, agreement in principle, acquisition agreement, merger agreement or similar agreement or understanding with respect to any Company Acquisition Proposal, but does not include an Acceptable Confidentiality Agreement;

"**affiliate**" means, as to any person, any other person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such person. For purposes of this definition, "control" (including the terms "controlled by" and "under common control with"), when used with respect to a specific person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person, whether through a substantial or majority ownership of voting securities, by Contract or otherwise;

"**Agreement**" means this Agreement (including the Schedules attached hereto) as the same may be amended, supplemented, restated or otherwise modified from time to time in accordance with the terms hereof;

"**Antitrust Laws**" means together, the HSR Act and any other Laws that are designed or intended to prohibit, restrict, or regulate actions having the purpose or effect of monopolization or restraint of trade or significant impediments or lessening of competition or creation or strengthening of a dominant position through merger or acquisition;

"**Articles of Merger**" has the meaning ascribed thereto in Section 2.1(d);

"**Book-Entry Share**" has the meaning ascribed thereto in Section 2.4(e);

"**Business Day**" means a day other than a Saturday, a Sunday or any other day on which commercial banking institutions in Toronto, Ontario, New York, New York or Denver, Colorado are authorized or required by applicable Law or other governmental action to be closed;

"**Canadian Securities Authorities**" means the securities commissions or similar securities regulatory authority in each of the provinces and territories of Canada;

"**Canadian Securities Laws**" means all applicable Canadian provincial and territorial securities legislation, and the rules and regulations thereunder, together with all applicable published instruments, notices and orders of the Canadian Securities Authorities and the rules and policies of the TSX;

"**Capitalization Date**" has the meaning ascribed thereto in Section 1.2(a) of ;

"**Certificate**" has the meaning ascribed thereto in Section 2.4(e);

"Certificate of Designation" means the Certificate of Designation of Series E Convertible Preferred Stock of the Company dated August 7, 2013;

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601, et seq.;

"**CFIUS**" means the Committee on Foreign Investment in the United States;

"**CFIUS Approval**" means: (i) the Purchaser and the Company shall have received a written notification from CFIUS that it has determined that (A) the transaction contemplated by this Agreement (including the Merger) is not a covered transaction under Section 721; or (B) it has concluded its review (and any applicable investigation) under Section 721 and has determined that there are no unresolved national security concerns with respect to the transaction contemplated by this Agreement (including the Merger), (ii) the parties shall have received a decision by the President of the United States not to suspend, restrict, prohibit or otherwise place any conditions on the transactions contemplated by this Agreement, or (iii) the President of the United States, having received a report from CFIUS, has not taken any action within 15 days after having received such report;

"**Charter Documents**" means the articles of incorporation (including certificate of designations), by-laws, or like constating or organizational documents, each as amended to date;

"**Closing**" has the meaning ascribed thereto in Section 2.1(b);

"**Closing Date**" has the meaning ascribed thereto in Section 2.1(c);

"**COBRA**" means the United States *Consolidated Omnibus Budget Reconciliation Act of 1985*, as amended, and as codified in Section 4980B of the Code and Section 601 through 607, inclusive of ERISA;

"**Code**" means the United States *Internal Revenue Code of 1986*, as amended;

"**commercially reasonable efforts**" with respect to any Party means the cooperation of such Party and the use by such Party of its reasonable efforts consistent with reasonable commercial practice without the payment of a material amount of money or the incurrence of any material liability, expense or obligation;

"**Common Stock Consideration**" has the meaning ascribed thereto in Section 2.4(a);

"**Company**" has the meaning ascribed thereto in the preamble;

"**Company 2010 Equity Incentive Plan**" means the Company's 2010 Equity Incentive Plan dated September 20, 2010;

"**Company 2012 Equity Incentive Plan**" means the Company's 2012 Equity Incentive Plan dated February 9, 2012;

"**Company 2013 Equity Incentive Plan**" means the Company's 2013 Equity Incentive Plan dated February 12, 2013, as amended on October 7, 2016, and as amended and restated on April 29, 2018;

"**Company Acquisition Proposal**" means, at any time after the entering into of this Agreement, whether or not in writing and whether in a single transaction or in a series of related transactions, any proposal or offer, or public announcement of an intention to make a proposal or offer with respect to:

(a) any direct or indirect acquisition, take-over bid, tender offer, exchange offer, treasury issuance or other transaction that, if consummated, would result in any person or group of persons other than the Purchaser (or any affiliate of the Purchaser) beneficially owning shares of Company Stock (or securities convertible into or exchangeable or exercisable for shares of Company Stock) representing 20% or more of the shares of Company Stock then outstanding (assuming, if applicable, the conversion, exchange or exercise of such securities convertible into or exchangeable or exercisable for shares of Company Stock);

(b) any plan of arrangement, amalgamation, merger, share exchange, consolidation, reorganization, recapitalization, liquidation, dissolution, winding up, exclusive license, business combination or other similar transaction in respect of the Company or any of its subsidiaries;

(c) any direct or indirect acquisition by any person or group of persons of any assets of the Company or one or more of the Company's subsidiaries which represents individually or in the aggregate 20% or more of the consolidated assets of the Company;

(d) any direct or indirect sale, issuance or acquisition of voting or equity interests in one or more of the Company's subsidiaries (including shares or other equity interest of subsidiaries) that constitute or hold 20% or more of the fair market value of the assets of the Company and its subsidiaries (taken as a whole), based on the financial statements of the Company most recently filed prior to such time as part of the Company Public Disclosure Record; or

(e) any direct or indirect sale, disposition, lease, license, royalty, alliance or joint venture, long-term supply agreement or other arrangement having a similar economic effect as (a) to (d) above, whether in a single transaction or a series of related transactions by the Company or any of its subsidiaries;

in each case, excluding the Merger and the other transactions contemplated by this Agreement;

"**Company Balance Sheet Date**" means December 31, 2017;

"**Company Board**" has the meaning ascribed thereto in the recitals;

"**Company Board Fairness Opinion**" means the opinion of the Company Board Financial Advisor to the effect that, as of the date of such opinion and based upon and subject to the assumptions, limitations and qualifications set forth therein, the Merger Consideration to be received by the Company Stockholders under the Merger is fair, from a financial point of view, to the Company Stockholders;

"**Company Board Financial Advisor**" means Canaccord Genuity Corp.;

"**Company Budget**" means the monthly Company budget and plan from October 1, 2018 through March 31, 2019, as attached as Schedule 1.1 of the Company Disclosure Letter;

"**Company Change of Recommendation**" has the meaning ascribed thereto in Section 6.1(c);

"**Company Common Stock**" has the meaning ascribed thereto in the recitals;

"**Company Common Stockholder**" means a holder of one or more shares of Company Common Stock;

"**Company Contractor**" has the meaning ascribed thereto in Section 1.10(k) of Schedule E;

"**Company Diligence Information**" means, collectively, the materials posted on the Data Site as of 5:00 p.m. (Denver time) on September 27, 2018;

"**Company Disclosure Letter**" means the disclosure letter dated the date hereof regarding this Agreement that has been executed by the Company and delivered to and accepted by the Purchaser prior to the execution of this Agreement;

"**Company Employee**" has the meaning ascribed thereto in Section 1.10(k) of Schedule E;

"**Company Equity Incentive Plans**" means the Company 2010 Equity Incentive Plan, the Company 2012 Equity Incentive Plan, the Company 2013 Equity Incentive Plan and the Company Individual Equity Incentive Plans;

"**Company Equity Securities**" has the meaning ascribed thereto in Section 1.2(b)(vi) of Schedule E;

"**Company Financial Statements**" has the meaning ascribed thereto in Section 1.7(a)(i) of Schedule E;

"**Company Individual Equity Incentive Plans**" means the option agreements entered into individually with certain recipients, including those incorporating the terms of the Company 2012 Equity Incentive Plan;

"**Company Information Security**" has the meaning ascribed thereto in Section 1.18(a) of Schedule E;

"**Company Insurance Policies**" has the meaning ascribed thereto in Section 1.20(a) of Schedule E;

"**Company Key Regulatory Approvals**" has the meaning ascribed thereto in Section 1.4(a) of Schedule E;

"**Company Leased Claims**" has the meaning ascribed thereto in Section 1.15(d) of Schedule E;

"**Company Leased Real Property**" has the meaning ascribed thereto in Section 1.14(a)(ii) of Schedule E;

"**Company Material Adverse Effect**" means any result, fact, change, condition, effect, event, circumstance, occurrence or development that, individually or taken together with all other results, facts, changes, conditions, effects, events, circumstances, occurrences or developments, has a material and adverse effect on the current or future business, operations, results of operations, assets or condition (financial or otherwise) of the Company and its subsidiaries, taken as a whole, whether before or after giving effect to the transactions contemplated by this Agreement, but shall not include any result, fact, change, proposed change, effect, event, circumstance, occurrence or development resulting from:

(a) any change in general political, economic or financial or capital market conditions in Canada or the United States;

(b) any outbreak or escalation of war or any act of terrorism;

(c) general conditions in the industry in which the Company and its subsidiaries operate;

(d) any natural disasters or acts of God;

(e) any change in Laws;

(f) any change affecting securities or commodity markets in general;

(g) any change relating to currency exchange, interest rates or rates of inflation;

(h) any change in U.S. GAAP;

(i) the announcement of the execution of this Agreement or of the transactions contemplated hereby (including changes in the market price of the Company's securities);

(j) matters disclosed to the Purchaser in the Company Disclosure Letter; or

(k) actions required to be taken by the Company under this Agreement,

provided, however, the exclusion resulting from operation of each of clauses (a) through (h) above shall not apply to the extent that any of the changes, developments, conditions or occurrences referred to therein primarily relate to the Company and its subsidiaries, taken as a whole, or materially disproportionately adversely affect the Company and its subsidiaries, taken as a whole, in comparison to other comparable persons who operate in the industry in which the Company and its subsidiaries operate; and *provided further*, however, that references in certain sections of this Agreement to dollar amounts are not intended to be, and shall not be deemed to be, illustrative or interpretive for purposes of determining whether a Company Material Adverse Effect has occurred;

"**Company Material Contract**" has the meaning ascribed thereto in Section 1.11(a) of Schedule E;

"**Company Meeting**" means the special meeting of the Company Stockholders, including any adjournment or postponement thereof, to be called and held for the purpose of considering and, if thought fit, approving the Merger Resolution;

"**Company Operations**" has the meaning ascribed thereto in Section 1.14(a)(viii) of Schedule E;

"**Company Optionholder**" means a holder of one or more Company Options;

"**Company Options**" means, at any time, options to acquire shares of Company Common Stock granted pursuant to the Company Equity Incentive Plans, which are, at such time, outstanding and unexercised, whether or not vested;

"**Company Owned Real Property**" has the meaning ascribed thereto in Section 1.14(a)(i) of Schedule E;

"**Company Permits**" means all Permits, licenses, registrations, variances, consents, commissions, franchises, exemptions, Orders, clearances, authorizations and approvals from Governmental Authorities owned or held by the Company and its subsidiaries required to conduct their businesses or to use and occupy each Company Property for the business currently being conducted thereon;

"**Company Permitted Liens**" means (a) statutory Liens for current Taxes or other governmental charges not yet due and payable or the amount or validity of which is being contested in good faith (provided appropriate reserves required pursuant to U.S. GAAP have been made in respect thereof), (b) mechanics', carriers', workers', repairers' and similar statutory Liens arising or incurred in the ordinary course of business for amounts which are not delinquent or which are being contested by appropriate proceedings (provided appropriate reserves required pursuant to U.S. GAAP have been made in respect thereof), (c) zoning, entitlement, building and other land use regulations imposed by Governmental Authorities having jurisdiction over such person's owned or leased real property, which are not violated by the current use and operation of such real property, (d) covenants, conditions, restrictions, easements and other similar non-monetary matters of record affecting title to such person's owned or leased real property, which do not materially impair the occupancy or use of such real property for the purposes for which it is currently used in connection with such person's businesses, (e) any right of way or easement related to public roads and highways, which does not materially impair the occupancy or use of such real property for the purposes for which it is currently used in connection with such person's businesses; (f) Liens arising under workers' compensation, unemployment insurance, social security, retirement and similar legislation; (g) any reservations or exceptions contained in the original grants of land (excluding any royalties) or by applicable statute or the terms of any lease in respect of any portion of the Company Properties or comprising any portion of the Company Properties; (h) minor discrepancies in the legal description or acreage of or associated with the Company Properties or any adjoining properties which would be disclosed in an up to date survey and any registered easements and registered restrictions or covenants that run with the land which do not materially detract from the value of, or materially impair the use of the Company Properties for the purpose of conducting and carrying out mining operations thereon; (i) Liens or other rights granted by the Company or any of its subsidiaries to secure performance of statutory obligations or regulatory requirements (including reclamation obligations); (j) equipment leases or purchase money security interests; (k) the existing royalties as specified in Section 1.14(iii) of Schedule E; (l) in the case of Unpatented Claims, the paramount title of the United States, and the obligations under the *General Mining Law of 1872* and regulations pertaining to the same, and the various regulations of the United States Forest Service and the Bureau of Land Management, as well as the various Company Permits, and any rights of third parties to use the surface or subsurface of the lands covered by the Unpatented Claims pursuant to the *Multiple Mineral Development Act of 1954* and the *Surface Resources and Multiple Use Act of 1955*; (m) Liens as a result of any judgment or order rendered or claim filed against a person which is being contested in good faith by proper legal proceedings (and as to which any enforcement proceedings shall have been suspended by operation of law or stayed pending an appeal or other proceeding) and for which appropriate reserves in accordance with U.S. GAAP have been established to the extent required by U.S. GAAP; (n) any rights of set-off with respect to any deposit account of the Company or any of its subsidiaries in favour of the financial institution at which such deposit account is maintained and not constituting a financing transaction; and (o) any other Liens that, in the aggregate, do not materially impair the value or the continued use and operation of the assets or properties to which they relate;

"**Company Plan**" means each plan, program, policy, agreement or other arrangement covering current or former employees, directors, independent contractors or consultants, that is: (i) an employee welfare plan within the meaning of Section 3(1) of ERISA (whether or not subject to ERISA); (ii) an employee pension benefit plan within the meaning of Section 3(2) of ERISA (whether or not subject to ERISA); (iii) a stock option, stock purchase, restricted stock, stock appreciation right, restricted stock unit, dividend equivalent or other stock-based agreement, program or plan; or (iv) a bonus, incentive, deferred compensation, savings, profit-sharing, pension, retirement, cash balance, post-retirement, vacation, severance or termination pay, medical, dental, vision or other health, short- or long-term disability, life, long term care, employee assistance, education, relocation, benefit or fringe-benefit plan, program, policy, or other arrangement, in each case that is sponsored, maintained or contributed to by the Company or any of its subsidiaries or to which the Company or any of its subsidiaries contributes or is obligated to contribute to or has or may have any liability;

"**Company Preferred Stock**" has the meaning ascribed thereto in the recitals;

"**Company Preferred Stockholder**" means a holder of one or more shares of Company Preferred Stock;

"**Company Properties**" has the meaning ascribed thereto in Section 1.14(a)(ii) of Schedule E;

"**Company Proxy Statement**" means the notice of meeting of stockholders and accompanying Company proxy statement (including all schedules, appendices and exhibits thereto) to be sent to Company Stockholders in connection with the Company Meeting, including any amendments or supplements thereto in accordance with the terms of this Agreement;

"**Company Public Disclosure Record**" means all documents filed or furnished under applicable Securities Laws by or on behalf of the Company on SEDAR or EDGAR between January 1, 2017 and the date hereof;

"**Company Real Property Leases**" has the meaning ascribed thereto in Section 1.14(a)(v) of Schedule E;

"**Company Recommendation**" has the meaning ascribed thereto in Section 4.3(a)(i)(C);

"**Company Restricted Stock**" means, at any time, then outstanding restricted shares of common stock issued by the Company;

"**Company RSU Holder**" means a holder of any Company RSUs;

"**Company RSUs**" means, at any time, restricted stock units (including performance-vested restricted stock units) awarded under the Company Equity Incentive Plans, which are, at such time, outstanding and unexercised, whether or not vested;

"**Company SAR"** means a stock appreciation right of the Company.

"**Company Significant Shareholders**" means, collectively, Barry Honig, his controlled companies and trusts and each of them a "**Company Significant Shareholder**";

"**Company Significant Shareholder Support Agreements**" means the voting and support agreements, dated effective on or before the date hereof between the Purchaser and each of the Company Significant Shareholders, in form and substance satisfactory to the Purchaser, which agreements provide that such shareholder shall, among other things:

(a) vote all Company Common Stock and Company Preferred Stock, which they are the registered or beneficial holder or over which they have control or direction, in favour of the Merger; and

(b) not dispose of their securities of the Company, except pursuant to the Merger;

"**Company Stock**" means the Company Common Stock and Company Preferred Stock;

"**Company Stockholder**" means the Company Common Stockholders and Company Preferred Stockholders;

"**Company Superior Proposal**" means an unsolicited Company Acquisition Proposal made in writing on or after the date of this Agreement by a person or persons acting jointly (other than the Purchaser and its affiliates) that:

(a) is to acquire:

(i) all of the outstanding shares of Company Stock (on a fully diluted basis), other than shares of Company Stock beneficially owned by the person making such Acquisition Proposal; or

(ii) all or substantially all of the assets of the Company on a consolidated basis;

(b) complies with Securities Laws and other applicable Laws;

(c) did not result from a breach of Article 5;

(d) is not subject to any financing condition and in respect of which adequate arrangements have been made to ensure that the required funds will be available to effect payment in full;

(e) is not subject to approval by the board of directors or the equivalent of the third party, is not subject to the third party receiving a fairness opinion or similar evaluation, and is not subject to a due diligence condition;

(f) the Company Board or a committee thereof has determined in good faith, and after consultation with its financial advisors and outside legal counsel, that such Company Acquisition Proposal would, if consummated in accordance with its terms (but not assuming away any risk of non-completion), result in a transaction which is more favourable to the Company Stockholders from a financial point of view than the Merger (taking into account any amendment proposed to be made to this Agreement by the Purchaser in accordance with the terms of Article 5) and the failure to recommend such Company Acquisition Proposal would be reasonably likely to be inconsistent with the Company Board's fiduciary duties under applicable Law.

(g) the Company Board has determined, in good faith, after consultation with its financial advisors and outside legal counsel, is reasonably capable of being completed in accordance with its terms, without undue delay, taking into account all legal, financial, regulatory, anticipated timing, conditions (including the availability of funds or other consideration necessary for the consummation of such Company Acquisition Proposal and prospects for completion of such Company Acquisition Proposal) and other aspects of such Company Acquisition Proposal and the person making such Company Acquisition Proposal; and

(h) if the Company does not have sufficient funds that are immediately available to pay the Company Termination Fee and repay any amount payable under the Debenture, the terms of such Company Superior Proposal provide that the maker of such Company Superior Proposal will advance or otherwise provide to the Company the cash required in order to pay the Company Termination Fee and amounts payable under the Debenture prior to the date on which such Company Termination Fee and Debenture repayment is to be paid.

"**Company Support Agreements**" means the voting and support agreements, dated effective on or before the date hereof between the Purchaser and each of the Directors and each of the Named Executive Officers in substantially the form attached hereto as Schedule C-1, which agreements provide that such director, officer and/or shareholder shall, among other things:

(a) vote all Company Common Stock and Company Preferred Stock which they are the registered or beneficial holder or over which they have control or direction, in favour of the Merger; and

(b) not dispose of their securities of the Company, except pursuant to the Merger;

"**Company Technical Report**" means the technical report filed on SEDAR by the Company titled "*Technical Report and Feasibility Study for the Relief Canyon Project, Pershing County, Nevada, U.S.A.*" with an effective date of May 24, 2018;

"**Company Termination Fee**" has the meaning ascribed thereto in Section 5.2(b);

"**Company Termination Fee Event**" has the meaning ascribed thereto in Section 5.2(a);

"**Company Unpatented Claims**" has the meaning ascribed thereto in Section 1.15(b) of Schedule E;

"**Company Voting Debt**" has the meaning ascribed thereto in Section 1.2(c) of Schedule E;

"**Company Warrantholder**" means a holder of one or more Company Warrants;

"**Company Warrants**" means, at any time, warrants to acquire shares of Company Stock, which are, at such time, outstanding and unexercised;

"**Company Water Rights**" has the meaning ascribed thereto in Section 1.15(h) of Schedule E;

"**Confidentiality Agreement**" means the non-disclosure and standstill agreement dated as of September 28, 2017, as amended, between the Company and the Purchaser;

"**Contract**" means any contract, agreement, license, franchise, lease, arrangement, commitment, understanding, joint venture, partnership, note, instrument, or other right or obligation (whether written or oral) to which the Company, or any of its subsidiaries, is a party or by which the Company, or any of its subsidiaries, is bound or affected or to which any of their respective properties or assets is subject;

"**Data Room Information**" means, with respect to the Company, the information and documents listed in the index of documents contained in the Data Site attached to the Company Disclosure Letter;

"**Data Site**" means, with respect to the Company, the material contained in the virtual data room "PGLC Data Room" powered by Firmex Inc., the index of documents of which is appended to the Company Disclosure Letter;

"**Debenture**" means that certain secured convertible debenture with an effective date on or about October 1, 2018, by and between the Purchaser and the Company pursuant to which the Purchaser will make available to the Company a secured convertible loan in the aggregate principal amount of up to $4.0 million;

"**Depositary**" means any trust company, bank or other financial institution agreed to in writing by each of the Parties for the purpose of, among other things, exchanging certificates representing shares of Company Stock for the Merger Consideration in connection with the Merger;

"**Directors**" means each of the directors of the Company;

"**EDGAR**" means the system for Electronic Data Gathering, Analysis and Retrieval maintained by the SEC;

"**Effective Time**" has the meaning ascribed thereto in Section 2.1(d);

"**Enforceability Limitations**" means the effect of bankruptcy, insolvency (including all Laws relating to fraudulent transfers), reorganization, moratorium and similar Laws relating to or affecting creditors' rights or remedies and the effect of general principles of equity, whether considered in a proceeding in equity or at law (including the possible unavailability of specific performance or injunctive relief), and the discretion of the court before which a proceeding is brought;

"**Environment**" means the natural environment (including soil, land surface or subsurface strata, surface water, groundwater, sediment, ambient air (including all layers of the atmosphere), organic and inorganic matter and living organisms, including human health and safety, and any other environmental medium or natural resource);

"**Environmental Authorizations**" means certificates of authorization, authorizations, Permits, consents, agreements (including any sewer surcharge agreement), instructions, directions or registrations issued, granted, conferred or required by any Government Authorities with respect to any Environmental Laws.

"**Environmental Laws**" means Laws relating to reclamation or restoration of property; abatement of pollution; protection of the Environment; protection of wildlife, including endangered species; ensuring public health and safety from environmental hazards; protection of cultural or historic resources; management, treatment, storage, disposal or control of, or exposure to, Hazardous Substances; releases or threatened releases of pollutants, contaminants, chemicals or industrial, toxic or Hazardous Substances, to air, surface water and groundwater; and all other Laws relating to manufacturing, processing, distribution, use, treatment, storage, disposal, handling or transport of pollutants, contaminants, chemicals or industrial, toxic or Hazardous Substances or wastes;

"**ERISA**" means the United States *Employee Retirement Income Security Act of 1974*, as amended;

"**ERISA Affiliate**" means, with respect to any person, any other person that, together with such first person, would be treated as a single employer within the meaning of Section 414(b), (c), (m) or (o) of the Code;

"**Exchange Ratio**" has the meaning ascribed thereto in Section 2.4(c);

"**Exchanges**" means, collectively, the TSX, NYSE American, and the NASDAQ;

"**Fair Market Value**" means the closing price of the Company Common Stock, or Purchaser Shares, as the case may be, on the last trading day prior to the date on which Fair Market Value is to be determined;

"**Galena Complex**" means the property that is subject of the Americas Silver Corporation Technical Report on the Galena Complex, Shoshone County, Idaho, USA" with an effective date of December 23, 2016;

"**Governmental Authority**" means any multinational, federal, provincial, territorial, state, regional, municipal, local or other government or governmental body and any division, agent, official, minister, agency, commission, commissioner, bureau, board or authority of any government, governmental body, quasi-governmental or private body (including the TSX, NYSE American, the NASDAQ or any other stock exchange) exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing and any domestic, foreign or international judicial, quasi-judicial or administrative court, tribunal, commission, board, panel or arbitrator acting under the authority of any of the foregoing (including, without limitation, CFIUS);

"**Hazardous Substances**" means any element, waste or other substance, including an odour, a sound or a vibration, whether natural or artificial and whether consisting of gas, liquid, solid or vapour that is prohibited, listed, defined, designated or classified as hazardous, radioactive, corrosive, explosive, infectious, carcinogenic, or toxic or a pollutant or a contaminant under or pursuant to, or that could result in liability under, any applicable Laws pertaining to health and safety or Environment Laws, including petroleum and all derivatives thereof or synthetic substitutes therefor, hydrogen sulphide, arsenic, cadmium, lead, mercury, equipment and material containing polychlorinated biphenyls, mould, asbestos, asbestos-containing material, urea-formaldehyde and urea-formaldehyde-containing material;

"**HSR Act**" means the United States *Hart-Scott-Rodino Antitrust Improvements Act of 1976*, as amended;

"**IFRS**" means International Financial Reporting Standards as issued by the International Accounting Standards Board and interpretations of the International Financial Reporting Interpretations Committee and the former Standing Interpretations Committee;

"**Indemnified Party**" and "**Indemnified Parties**" have the meanings ascribed thereto in Section 4.9(a);

"**Intellectual Property**" means all intellectual property and other similar proprietary rights in any jurisdiction worldwide, whether registered or unregistered, including such rights in and to: (a) patents (including all reissues, divisions, provisionals, continuations and continuations-in-part, re-examinations, renewals and extensions thereof), patent applications, patent disclosures or other patent rights; (b) copyrights, design, design registration, and all registrations, applications for registration, and renewals for any of the foregoing, and any "moral" rights; (c) trademarks, service marks, trade names, business names, logos, trade dress, certification marks and other indicia of commercial source or origin together with all goodwill associated with the foregoing, and all registrations, applications and renewals for any of the foregoing; (d) trade secrets and business, technical and know-how information, databases (including assay), data collections, and drawings; (e) software, including data files, source code, object code, application programming interfaces, architecture, files, records, schematics, computerized databases and other software-related specifications and documentation; (f) Internet domain name registrations; and (g) other intellectual property and related proprietary rights;

"**Intervening Event**" means a material event, fact, circumstance, development or occurrence that was not known to or by the Company Board, as of or prior to the date hereof (or if known, the magnitude or material consequences of which were not reasonably foreseeable by the Company Board as of or prior to the date hereof), which event, fact, circumstance, development or occurrence becomes known (or the magnitude or material consequences thereof become known if not reasonably foreseeable by the Company Board prior to the date hereof) to or by the Company Board prior to the Company Meeting; *provided, however*, that in no event shall the following events, circumstances, or changes in circumstances constitute an Intervening Event: (a) the receipt, existence, or terms of an Acquisition Proposal or any matter relating thereto or consequence thereof or any inquiry, proposal, offer, or transaction from any third party relating to or in connection with a transaction of the nature described in the definition of "Acquisition Proposal" (which, for the purposes of the Intervening Event definition, shall be read without reference to the percentage thresholds set forth in the definition thereof); (b) any change in the price, or change in trading volume, of the Company Common Stock or Purchaser Shares (provided, however, that the exception to this clause (b) shall not apply to the underlying causes giving rise to or contributing to such change or prevent any of such underlying causes from being taken into account in determining whether an Intervening Event has occurred); (c) the fact that the Company meets or exceeds any internal or published forecasts or projections for any period; (d) the reasonably foreseeable consequences of the announcement of this Agreement; (e) or any event, fact or circumstance relating to or involving the Purchaser;

"**Intervening Event Notice**" has the meaning ascribed thereto in Section 5.1(l)5.1(l);

"**Intervening Event Notice Period**" has the meaning ascribed thereto in Section 5.1(l);

"**IRS**" means the United States Internal Revenue Service;

"**Joint Venture**" means a joint venture, partnership or other similar arrangement, whether in corporate, partnership, contractual or other legal form, in which the Company directly or indirectly holds voting shares, equity interests or other rights of participation but which is not a subsidiary of the Company, and any subsidiary of any such entity;

"**Key Consents**" means those consents, approvals and notices required from any or to third party under any Contracts or as otherwise required to proceed with the transactions contemplated by this Agreement, each as set out in Schedule 1.4(a) of the Company Disclosure Letter;

"Knowledge" means, when used with respect to an entity, the actual knowledge of any officer or director, after reasonable inquiry and, when used with respect to an individual, the actual knowledge of such individual, after reasonable inquiry;

"**Laws**" means all laws, statutes, codes, ordinances (including zoning), decrees, rules, regulations, by-laws, statutory rules, published policies and guidelines, notices, judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, injunctions, orders, decisions, settlements, writs, assessments, arbitration awards, rulings, determinations or awards, decrees or other requirements of any Governmental Authority having the force of law and any legal requirements arising under the common law or principles of law or equity and the term "applicable" with respect to such Laws and, in the context that refers to any person, means such Laws as are applicable at the relevant time or times to such person or its business, undertaking, property or securities and emanate from a Governmental Authority having jurisdiction over such person or its business, undertaking, property or securities;

"**Legal Action**" means claims, actions, suits, arbitrations, mediations, audits, hearings, inquiries, proceedings or investigations wheresoever commenced or prosecuted, including, without restriction, any claim, action, suit, arbitration, mediation, audit, hearing, inquiry, proceeding, notice of violation or investigation under Environmental Laws;

"**Liability**" means any liability, indebtedness or obligation of any kind (whether accrued, absolute, contingent, matured, unmatured, known or unknown, or otherwise, and whether or not required to be recorded or reflected on a balance sheet under U.S. GAAP or IFRS);

"**Liens**" means any pledge, claim, lien, charge, option, hypothec, mortgage, security interest, restriction, adverse right, prior assignment, lease, sublease, royalty, levy, right to possession or any other encumbrance, easement, license, right of first refusal, covenant, voting trust or agreement, transfer restriction under any shareholder or similar agreement, right or restriction of any kind or nature whatsoever, whether contingent or absolute, direct or indirect, or any agreement, option, right or privilege (whether by Law, contract or otherwise) capable of becoming any of the foregoing;

"**Litigation**" has the meaning ascribed thereto in Section 4.1(k);

"**Material Contract**" means, with respect to the Company, Company Material Contract, and, with respect to the Purchaser, Purchaser Material Contract;

"**Merger**" has the meaning ascribed thereto in Section 2.1(a);

"**Merger Consideration**" has the meaning ascribed thereto in Section 2.4(d);

"**Merger Resolution**" means the special resolution approving the Merger to be considered and, if thought fit, passed by Company Common Stockholders and Company Preferred Stockholders (voting as one class) and the Company Preferred Stockholders (voting as a separate class) in accordance with the NRS 92A.120 and the Company's Charter Documents, such resolution to be considered at the Company Meeting and to be substantially in the form and content of Schedule B-1 hereto;

"**MI 61-101**" means Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions*, together with the Companion Policy thereto, as issued by the applicable Canadian Securities Administrators and as amended from time to time;

"**Money Laundering Laws**" has the meaning ascribed thereto in Section 1.5(c)(i) of Schedule E;

"**Named Executive Officers**" means those persons designated as such in the Company's most recent annual Company Proxy Statement filed with the SEC;

"**NASDAQ**" means The Nasdaq Stock Market LLC;

"**NI 43-101**" means National Instrument 43-101 - *Standards of Disclosure for Mineral Projects*, together with the Companion Policy thereto, as issued by the Canadian Securities Administrators and as amended from time to time;

"**NRS**" means the Nevada Revised Statutes, as amended;

"**NYSE American**" means The NYSE American LLC;

"**Officers**" means the officers of the Company;

"**Order**" means any order, judgment, writ, assessment, decision, ruling, stipulation, award, injunction, decree, arbitration award or finding of any Governmental Authority;

"**ordinary course of business**", or any similar reference, means, with respect to an action taken or to be taken by any person, that such action is consistent with the past practices of such person and is taken in the ordinary course of the normal day-to-day business and operations of such person and, in any case, is not unreasonable or unusual in the circumstances when considered in the context of the provisions of this Agreement;

"**Outside Date**" means April 1, 2019;

"**Parties**" means the parties to this Agreement and "**Party**" means any one of them;

"**Permit**" means any lease, license, permit, variance, clearance, commission, franchise, exemption, certificate, consent, Order, grant, approval, classification, registration or other authorization (including an Environmental Authorization) of or from any Governmental Authority;

"**person**" includes an individual, sole proprietorship, corporation, body corporate, incorporated or unincorporated association, syndicate or organization, partnership, limited partnership, limited liability company, unlimited liability company, joint venture, joint stock company, trust, natural person in his or her capacity as trustee, executor, administrator or other legal representative, a government or Governmental Authority or other entity or group (which term will include a "group" as such term is defined in Section 13(d)(3) of the U.S. Exchange Act), whether or not having legal status;

"**Personal Information**" means information (in any form or media) that identifies or can be used to identify, directly or indirectly, an individual natural person, including "Personally Identifiable Information," "Individually Identifiable Information," "Personal Data" and similar terms defined in applicable Law, including the United States *Health Insurance Portability and Accountability Act of 1996* and its implementing regulations, United States state consumer protection, breach notification, social security number and data security laws, the United States *Federal Trade Commission Act*, the United States *Privacy Act of 1974*, the United States *Telephone Consumer Protection Act*, the United States *Fair Credit Reporting Act* and its state law equivalents;

"**Personal Property**" has the meaning ascribed thereto in Section 1.14(b)(i) of Schedule E;

"**Preferred Stock Consideration**" has the meaning ascribed there to in Section 2.4(d)

"**Privacy Legal Requirements**" has the meaning ascribed thereto in Section 1.18(c) of Schedule E;

"Property Agreements" means the leases, licenses, options, purchase and sale agreements or other instruments pursuant to which any of the mineral properties or mineral rights are held;

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

"**Purchaser Balance Sheet Date**" means December 31, 2017;

"**Purchaser Board**" has the meaning ascribed thereto in the recitals;

"**Purchaser Board Fairness Opinion**" means the opinion of the independent financial advisor to the Purchaser to the effect that, as of the date of such opinion and based upon and subject to the assumptions, limitations and qualifications set forth therein, the Merger is fair, from a financial point of view, to the Purchaser Shareholders;

"**Purchaser Charter Amendment Resolution**" means the special resolution to be considered and, if thought fit, passed by the Purchaser Shareholders in accordance with the CBCA and the Purchaser's Charter Documents, such resolution to be considered at the Purchaser Meeting and to be substantially in the form and content of Schedule B-2 hereto;

"Purchaser Circular" means the notice of the Purchaser Meeting and accompanying management proxy circular, including all schedules, appendices and exhibits thereto, to be sent to Purchaser Shareholders in connection with the Purchaser Meeting, as amended, supplemented or otherwise modified from time to time;

"**Purchaser Deferred Share Unit Plan**" means the Purchaser's Deferred Share Unit Plan, dated as of July 1, 2015;

"**Purchaser DSUs**" means, at any time, deferred stock units awarded under the Purchaser Equity Incentive Plans, which are, at such time, outstanding and unexercised, whether or not vested;

"Purchaser Equity Incentive Plans" means the Purchaser Stock Option Plan, the Purchaser Deferred Share Unit Plan and the Purchaser Restricted Share Unit Plan;

"**Purchaser Equity Securities**" has the meaning ascribed thereto in Section 1.2(b)(vi) of Schedule F;

"**Purchaser Financial Statements**" has the meaning ascribed thereto in Section 1.7(a)(i) of Schedule F;

"**Purchaser Issuance Resolution**" means the ordinary resolution to be considered and, if thought fit, passed by the Purchaser Shareholders in accordance with the rules of the TSX and the NYSE American, such resolution to be considered at the Purchaser Meeting and to be substantially in the form and content of Schedule B-2 hereto;

"**Purchaser Key Regulatory Approvals**" has the meaning ascribed thereto in Section 1.4(a) of Schedule F;

"**Purchaser Material Adverse Effect**" means any result, fact, change, condition, effect, event, circumstance, occurrence or development that, individually or taken together with all other results, facts, changes, conditions, effects, events, circumstances, occurrences or developments, has a material and adverse effect on the current or future business, operations, results of operations, assets or condition (financial or otherwise) of the Purchaser and its subsidiaries, taken as a whole, whether before or after giving effect to the transactions contemplated by this Agreement, but shall not include any result, fact, change, proposed change, effect, event, circumstance, occurrence or development resulting from:

(a) any change in general political, economic or financial or capital market conditions in Canada or the United States;

(b) any outbreak or escalation of war or any act of terrorism;

(c) general conditions in the industry in which the Purchaser and its subsidiaries operate;

(d) any natural disasters or acts of God;

(e) any change in Laws;

(f) any change affecting securities or commodity markets in general;

(g) any change relating to currency exchange, interest rates or rates of inflation;

(h) any change in IFRS;

(i) the announcement of the execution of this Agreement or of the transactions contemplated hereby (including changes in the market price of the Purchaser's securities); or

(j) actions required to be taken by the Purchaser under this Agreement;

provided, however, the exclusion resulting from operation of each of clauses (a) through (h) above shall not apply to the extent that any of the changes, developments, conditions or occurrences referred to therein primarily relate to the Purchaser and its subsidiaries, taken as a whole, or materially disproportionately adversely affect the Purchaser and its subsidiaries, taken as a whole, in comparison to other comparable persons who operate in the industry in which the Purchaser and its subsidiaries operate; and *provided further*, however, that references in certain sections of this Agreement to dollar amounts are not intended to be, and shall not be deemed to be, illustrative or interpretive for purposes of determining whether a Purchaser Material Adverse Effect has occurred;

"**Purchaser Material Contract**" means any Contract that, as of the date hereof, is a "material contract" (as such term is defined pursuant to Canadian Securities Laws), whether or not filed by the Purchaser on SEDAR or EDGAR;

"Purchaser Meeting" means the special meeting of the Purchaser Shareholders, including any adjournment or postponement thereof, to be called and held for the purpose of considering and, if thought fit, approving the Purchaser Meeting Resolutions;

"Purchaser Meeting Resolutions" means the Purchaser Issuance Resolution and the Purchaser Charter Amendment Resolution, each substantially in the form and content of Schedule B-2 hereto;

"Purchaser Options" means, at any time, options to acquire shares of Purchaser Common Stock granted pursuant to the Purchaser Equity Incentive Plans, which are, at such time, outstanding and unexercised, whether or not vested;

"**Purchaser Preferred Share**" means the preferred shares in the capital of the Purchaser having the terms set forth on Schedule D;

"**Purchaser Property**" has the meaning ascribed thereto in Section 1.11(c) of Schedule F;

"**Purchaser Public Disclosure Record**" means all documents and information filed by the Purchaser under applicable Securities Laws on SEDAR or EDGAR between January 1, 2017 and the date hereof;

"**Purchaser Recommendation**" has the meaning ascribed thereto in Section 4.4(a)(i)(c);

"**Purchaser Restricted Share Unit Plan**" means the Purchaser's Restricted Share Unit Plan, dated as of January 30, 2015, as amended and restated on February 23, 2016;

"**Purchaser RSUs**" means, at any time, restricted stock units (including performance-vested restricted stock units) awarded under the Purchaser Equity Incentive Plans, which are, at such time, outstanding and unexercised, whether or not vested;

"**Purchaser Shareholder**" means a holder of one or more shares of the Purchaser Shares;

"**Purchaser Shares**" means the common shares in the capital of the Purchaser;

"**Purchaser Stock Option Plan"** means the Scorpio Mining Corporation Amended and Restated Stock Option Plan, dated as of January 30, 2015;

"**Purchaser Support Agreements**" means the voting and support agreements, dated effective on or before the date hereof between the Company and each of the directors and executive officers of Purchaser, in substantially the form attached hereto Schedule C-2, which agreements provide that such director or executive officer shall, among other things,

(a) vote all Purchaser Shares which they are the registered or beneficial holder or over which they have control or direction, in favour of the Purchaser Meeting Resolution; and

(b) not dispose of their securities of the Purchaser prior to the Purchaser Meeting;

"**Purchaser Technical Reports**" means the technical reports filed on SEDAR by the Purchaser titled "Technical Report and Estimated Resources for the San Felipe Project, Sonora, Mexico" with an effective date of March 15, 2018, "Americas Silver Corporation Technical Report on the Galena Complex, Shoshone County, Idaho, USA" with an effective date of December 23, 2016, and "Technical Report and Preliminary Feasibility Study for the San Rafael Property, Sinaloa, Mexico" with an effective date of March 18, 2016;

"**Purchaser Voting Debt**" has the meaning ascribed thereto in Section 1.2(c) of Schedule F;

"**Purchaser Warrants**" means, at any time, warrants to acquire shares of Purchaser Shares, which are, at such time, outstanding and unexercised;

"**Regulatory Approvals**" means sanctions, rulings, consents, Orders, exemptions, Permits, waivers, early termination authorizations, clearances, written confirmations of no intention to initiate legal proceedings and other approvals (including the lapse, without objection, of a prescribed time under a statute or regulation that states that a transaction may be implemented if a prescribed time lapses following the giving of notice without an objection being made) of Governmental Authorities and relating to the Merger;

"**Release**" means any sudden, intermittent or gradual release, spill, leak, pumping, addition, pouring, emission, emptying, discharge, migration, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage, placement or introduction of a Hazardous Substance, whether accidental or intentional, into the Environment;

"**Relief Canyon Project**" means the Relief Canyon property located in Pershing County in northwestern Nevada;

"**Remedial Action**" means any investigation, feasibility study, monitoring, testing, sampling, removal (including removal of underground storage tanks), restoration, clean-up, remediation, closure, site restoration, remedial response or remedial work, in each case in relation to environmental matters (excluding, however, routine monitoring, testing and sampling required under Environmental Authorizations);

"**Representatives**" means, collectively, with respect to a Party, that Party's officers, directors, employees, consultants, advisors, agents or other representatives (including lawyers, accountants, investment bankers and financial advisors) and includes, in the case of:

(a) the Purchaser and Acquireco, the Purchaser's board financial advisor; and

(b) the Company, the Company Board Financial Advisor;

"San Rafael Mine" means the property that is the subject of the "Technical Report and Preliminary Feasibility Study for the San Rafael Property, Sinaloa, Mexico" with an effective date of March 18, 2016;

"**Sarbanes-Oxley Act**" means the United States *Sarbanes-Oxley Act of 2002*, as amended (including the rules and regulations promulgated thereunder);

"**SEC**" means the United States Securities and Exchange Commission;

"**Section 721**" means Section 721 of the United States *Defense Production Act of 1950*, as amended;

"**Securities Authorities**" means the SEC, the Canadian Securities Authorities, and the Exchanges, as applicable;

"**Securities Laws**" means:

(a) Canadian Securities Laws;

(b) the U.S. Securities Act, the U.S. Exchange Act and all other U.S. federal and state securities Laws; and

(c) the rules and regulations of the TSX, NYSE American and the NASDAQ, as applicable;

"**SEDAR**" means the Canadian Securities Administrators' System for Electronic Document Analysis and Retrieval;

"**subsidiary**" means, with respect to a specified entity, any:

(a) corporation of which issued and outstanding voting securities of such corporation to which are attached more than 50% of the votes that may be cast to elect directors of the corporation (whether or not shares of any other class or classes will or might be entitled to vote upon the happening of any event or contingency) are owned by such specified entity and the votes attached to those voting securities are sufficient, if exercised, to elect a majority of the directors of such corporation;

(b) partnership, limited liability company, unlimited liability company, joint venture or other similar entity in which such specified entity has more than 50% of the equity interests and the power to direct the policies, management and affairs thereof; and

(c) a subsidiary (as defined in clauses (a) and (b) above) of any subsidiary (as so defined) of such specified entity;

"**Superior Proposal Notice Period**" has the meaning ascribed thereto in Section 5.1(e)(iv);

"**Surviving Corporation**" has the meaning ascribed thereto in Section 2.1(a);

"**Surviving Corporation Common Stock**" has the meaning ascribed thereto in Section 2.4(f);

"**Tax**" or "**Taxes**" means any federal, state, local, or non-U.S. income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Code §59A), net proceeds of mine, customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not and including any obligations to indemnify or otherwise assume or succeed to the Tax liability of any other person;

"**Tax Act**" means the *Income Tax Act* (Canada) and the regulations promulgated thereunder, as amended;

"**Tax Return**" means any return, declaration, report, claim for refund, information return or statement or other document relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof;

"**Third Party**" means any person or "group" (within the meaning of Section 13(d)(3) of the U.S. Exchange Act) other than the Company, the Purchaser or any of their respective subsidiaries;

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

"Unpatented Claims" means, with respect to the Company, the Company Unpatented Claims;

"**U.S. Exchange Act**" means the United States *Securities Exchange Act of 1934*, as amended, and the rules and regulations promulgated thereunder;

"**U.S. GAAP**" means United States generally accepted accounting principles; and

"**U.S. Securities Act**" means the United States *Securities Act of 1933*, as amended, and the rules and regulations promulgated thereunder.

1.2 Currency

Except where otherwise specified, all references to "$" and "US$" or to currency herein are to lawful money of the United States of America and all references to "C$" herein are to lawful money of Canada.

1.3 Interpretation Not Affected by Headings

(a) The division of this Agreement into Articles and Sections and the insertion of a table of contents and headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement.

(b) The terms "this Agreement", "hereof", "herein", "hereto", "hereunder" and similar expressions refer to this Agreement, including the Schedules hereto, and not to any particular Article, Section or other portion hereof. References to "this Agreement" shall include the Company Disclosure Letter.

(c) Unless something in the subject matter or context is inconsistent therewith, references herein to an Article, Section or Schedule by number or letter or both are to that Article, Section or Schedule in or to this Agreement.

1.4 Extended Meanings, Etc.

(a) This Agreement shall be read with all changes in number and gender required by the context.

(b) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined.

(c) The terms “include”, “includes” or “including” and similar terms of inclusion, unless expressly modified by the words “only” or “solely”, mean “including without limiting the generality of the foregoing” and “includes without limiting the generality of the foregoing”. The word “extent” in the phrase “to the extent” means the degree to which a subject or other thing extends, and does not simply mean “if.”

(d) Unless the context otherwise requires, all accounting terms are to be interpreted in accordance with U.S. GAAP.

(e) Unless the context otherwise requires, all determinations of an accounting nature in respect of the Company required to be made shall be made in a manner consistent with U.S. GAAP.

(f) Unless the context otherwise requires, references herein: (i) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (ii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder.

(g) Any reference to an action taken by a person “in the ordinary course” means that such action is consistent with the past practices of such person and is taken in the ordinary course of business of such person.

(h) The Parties have participated jointly in negotiating and drafting this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

1.5 Date of any Action; Computation of Time

(a) If any date on which any action is required to be taken hereunder by any of the Parties is not a Business Day, then such action will be required to be taken on the next succeeding day which is a Business Day.

(b) A period of time is to be computed as beginning on the day following the event that began the period and ending, if the last day of the period is:

(i) a Business Day, then at 4:30 p.m. (Denver time) on the last day of the period; and

(ii) is not a Business Day, then at 4:30 p.m. (Denver time) on the next Business Day.

1.6 Schedules

The following Schedules to this Agreement are an integral part of this Agreement:

Schedule A	–	ARTICLES OF INCORPORATION
Schedule B-1	–	MERGER RESOLUTION
Schedule B-2	–	PURCHASER MEETING RESOLUTIONS
Schedule C-1	–	FORM OF COMPANY SUPPORT AGREEMENT
Schedule C-2	–	FORM OF PURCHASER SUPPORT AGREEMENT
Schedule D	–	PREFERRED STOCK TERMS
Schedule E	–	REPRESENTATIONS AND WARRANTIES OF THE COMPANY
Schedule F	–	REPRESENTATIONS AND WARRANTIES OF THE PURCHASER AND ACQUIRECO
Schedule G	–	RETENTION ARRANGEMENTS

ARTICLE 2
THE MERGER

2.1 The Merger

(a) The Company, the Purchaser and Acquireco agree that on the terms and subject to the conditions set forth in this Agreement, and in accordance with the NRS, at the Effective Time: (a) Acquireco will merge with and into the Company (the "**Merger**"); (b) the separate corporate existence of Acquireco will cease; and (c) the Company will continue its corporate existence under the NRS as the surviving corporation in the Merger and a subsidiary of the Purchaser (sometimes referred to herein as the "**Surviving Corporation**").

(b) Upon the terms and subject to the conditions set forth herein, the closing of the Merger (the "**Closing**") will take place at 10:00 am (Denver time) on the Closing Date (as defined herein). The Closing shall be held at the offices of Davis Graham & Stubbs, LLP located at 1550 17th Street, Suite 500, Denver, Colorado, 80202.

(c) The actual date of the Closing is hereinafter referred to as the "**Closing Date**" and shall occur:

(i) on the date that is three (3) Business Days following satisfaction or waiver (subject to applicable Laws) of the last of the conditions set forth in Article 7 (excluding conditions that by their terms cannot be satisfied until the Closing Date, but subject to the satisfaction or, when permitted, waiver of those conditions as of the Closing Date); or

(ii) at such other time or such other place as may be agreed to by the Parties.

(d) Subject to the provisions of this Agreement, at the Closing, the Company, the Purchaser, and Acquireco will cause articles of merger (the "**Articles of Merger**") to be executed, acknowledged, and filed with the Secretary of State of the State of Nevada in accordance with the relevant provisions of the NRS and shall make all other filings or recordings required under the NRS. The Merger will become effective at such time as the Articles of Merger have been duly filed with the Secretary of State of the State of Nevada or at such later date or time as may be agreed by the Company and Purchaser in writing and specified in the Articles of Merger in accordance with the NRS (the effective time of the Merger being hereinafter referred to as the "**Effective Time**").

(e) The Merger shall have the effects set forth in this Agreement and in the applicable provisions of the NRS. Without limiting the generality of the foregoing, and subject thereto, from and after the Effective Time, all property, rights, privileges, immunities, powers, franchises, licenses, and authority of the Company and Acquireco shall vest in the Surviving Corporation, and all debts, liabilities, obligations, restrictions, and duties of each of the Company and Acquireco shall become the debts, liabilities, obligations, restrictions, and duties of the Surviving Corporation.

(f) At the Effective Time: (a) the articles of incorporation of the Surviving Corporation shall be amended and restated so as to read in its entirety as set forth in Schedule A hereof, and, as so amended and restated, shall be the articles of incorporation of the Surviving Corporation until thereafter amended in accordance with the terms thereof or as provided by applicable Law; and (b) the by-laws of Acquireco as in effect immediately prior to the Effective Time shall be the by-laws of the Surviving Corporation, except that references to Acquireco's name shall be replaced with references to the Surviving Corporation's name, until thereafter amended in accordance with the terms thereof, the articles of incorporation of the Surviving Corporation, or as provided by applicable Law.

(g) The directors and officers of Acquireco, in each case, immediately prior to the Effective Time shall, from and after the Effective Time, be the directors and officers, respectively, of the Surviving Corporation until their successors have been duly elected or appointed and qualified or until their earlier death, resignation, or removal in accordance with the articles of incorporation and by-laws of the Surviving Corporation.

2.2 Implementation Steps by the Company

The Company covenants in favour of the Purchaser that, subject to the terms of this Agreement, the Company will promptly:

(a) subject to compliance with applicable Securities Laws:

(i) immediately after the execution of this Agreement; or

(ii) such later time prior to the next opening of markets in Toronto and New York City as is agreed to by the Company and the Purchaser,

issue a news release announcing the entering into of this Agreement and the support of the Company Board for the Merger, which news release shall be satisfactory in form and substance to each of the Company and the Purchaser, each acting reasonably;

(b) file such news release and a corresponding material change report and current report on Form 8-K in prescribed form each in accordance with applicable Securities Laws;

(c) subject to the satisfaction or waiver (subject to applicable Laws) of each of the conditions set forth in Article 7 (excluding conditions that by their terms cannot be satisfied until the Closing Date, but subject to the satisfaction or, when permitted, waiver of those conditions as of the Closing Date), as soon as reasonably practicable thereafter, take all steps and actions including, if applicable, making all filings with Governmental Authorities necessary to give effect to the Merger; and

(d) carry out the terms of the Merger applicable to it.

2.3 Implementation Steps by the Purchaser

Subject to the terms of this Agreement, the Purchaser will, and will cause Acquireco to:

(a) subject to the satisfaction or waiver (subject to applicable Laws) of each of the conditions set forth in Article 7 (excluding conditions that by their terms cannot be satisfied until the Closing Date, but subject to the satisfaction or, when permitted, waiver of those conditions as of the Closing Date), as soon as reasonably practicable thereafter, take all steps and actions including, if applicable, making all filings with Governmental Authorities necessary to give effect to the Merger; and

(b) carry out the terms of the Merger applicable to it.

2.4 Effect of the Merger on Capital Stock

At the Effective Time, as a result of the Merger and without any action on the part of the Purchaser, Acquireco, the Company or the holder of any capital stock or shares, as applicable, of the Purchaser, Acquireco or the Company:

(a) Cancellation of Certain Company Common Stock. Each share of Company Common Stock that is owned by the Purchaser, Acquireco or the Company (as treasury stock or otherwise) or any of their respective direct or indirect wholly-owned subsidiaries as of immediately prior to the Effective Time will automatically be cancelled and retired and will cease to exist, and no consideration will be delivered in exchange therefor.

(b) Cancellation of Certain Company Preferred Stock. Each share of Company Preferred Stock that is owned by the Purchaser, Acquireco or the Company (as treasury stock or otherwise) or any of their respective direct or indirect wholly-owned subsidiaries as of immediately prior to the Effective Time will automatically be cancelled and retired and will cease to exist, and no consideration will be delivered in exchange therefor.

(c) Conversion of Company Common Stock. Subject to Section 2.4(g), each share of Company Common Stock issued and outstanding immediately prior to the Effective Time will be converted into the right to receive 0.715 (the "**Exchange Ratio**") of a Purchaser Share (the "**Common Stock Consideration**").

(d) Conversion of Company Preferred Stock and Election to Receive Common Stock. Subject to Section 2.4(g) and Section 2.16, each share of Company Preferred Stock issued and outstanding immediately prior to the Effective Time will be, at the election of the holder thereof, either (i) be converted into the right to receive four hundred sixty-one and 440/1000ths (461.440) Purchaser Preferred Shares; or (ii) be converted into the right to receive the Common Stock Consideration to which such Preferred Stockholder would be entitled if such share of Company Preferred Stock were converted into Company Common Stock in accordance with clause (i) of Section 6 of the Certificate of Designation and such Company Common Stock were converted in accordance with Section 2.4(c) hereof (such consideration received upon the election pursuant to (i) or (ii), the "**Preferred Stock Consideration**" and together with the Common Stock Consideration, the "**Merger Consideration**").

(e) Cancellation of Shares. At the Effective Time, all shares of Company Stock will no longer be outstanding and all shares of Company Stock will be cancelled and retired and will cease to exist, and each holder of: (i) a certificate formerly representing any shares of Company Common Stock or Company Preferred Stock (each, a "**Certificate**"); or (ii) any book-entry shares which immediately prior to the Effective Time represented shares of Company Common Stock or Company Preferred Stock (each, a "**Book-Entry Share**") will cease to have any rights with respect thereto, except the right to receive (A) in exchange for each share of Company Common Stock, the Common Stock Consideration, and (B) in exchange for each share of Company Preferred Stock, the Preferred Stock Consideration, all in accordance with Section 2.5 hereof.

(f) Conversion of Acquireco Capital Stock. Each share of Acquireco's common stock ("**Acquireco Common Stock**") issued and outstanding immediately prior to the Effective Time shall be converted into and become one newly issued, fully paid, and non-assessable share of common stock of the Surviving Corporation (the "**Surviving Corporation Common Stock**") with the same rights, powers, and privileges as the shares so converted and shall constitute the only outstanding shares of Surviving Corporation Common Stock. From and after the Effective Time, all certificates representing shares of Acquireco Common Stock shall be deemed for all purposes to represent the number of shares of Surviving Corporation Common Stock into which they were converted in accordance with the immediately preceding sentence.

(g) Fractional Purchaser Shares. No fractional Purchaser Shares shall be issued to holders of shares of Company Common Stock in connection with the Merger. The total number of Purchaser Shares to be issued to any holder of shares of Company Common Stock shall, without additional compensation, be rounded down to the nearest whole Purchaser Share, in the event that a holder of shares of Company Common Stock is entitled to a fractional share upon the conversion of Company Common Stock pursuant to Section 2.4(c).

2.5 Exchange Procedures

(a) Depositary. Prior to the Effective Time, the Purchaser shall appoint the Depositary to act as the agent for the purpose of paying the Merger Consideration for: (i) the Certificates; and (ii) the Book-Entry Shares. At or promptly following the Effective Time, the Purchaser shall deposit, or cause the Surviving Corporation to deposit, with the Depositary: (i) certificates representing the Purchaser Shares to be issued as Common Stock Consideration (or make appropriate alternative arrangements if uncertificated Purchaser Shares represented by book-entry shares will be issued); and (ii) certificates representing the Purchaser Preferred Shares to be issued as Preferred Stock Consideration (or make appropriate alternative arrangements if uncertificated Purchaser Preferred Shares represented by book-entry shares will be issued).

(b) Procedures for Surrender; No Interest. Promptly after the Effective Time, the Purchaser shall send, or shall cause the Depositary to send, to each record holder of shares of Company Common Stock and Company Preferred Stock at the Effective Time, a letter of transmittal and instructions (which shall specify that the delivery shall be effected, and risk of loss and title shall pass, only upon proper delivery of the Certificates or transfer of the Book-Entry Shares to the Depositary, and which letter of transmittal will be in customary form and have such other provisions as the Purchaser and the Surviving Corporation may reasonably specify) for use in such exchange. Each holder of shares of Company Common Stock that have been converted into the right to receive the Common Stock Consideration shall be entitled to receive the Common Stock Consideration into which such shares of Company Common Stock have been converted pursuant to Section 2.4(c) in respect of the Company Common Stock represented by a Certificate or Book-Entry Share, upon: (i) surrender to the Depositary of a Certificate; or (ii) receipt of an "agent's message" by the Depositary (or such other evidence, if any, of transfer as the Depositary may reasonably request) in the case of Book-Entry Shares; in each case, together with a duly completed and validly executed letter of transmittal and such other documents as may reasonably be requested by the Depositary. Each holder of shares of Company Preferred Stock that have been converted into the right to receive the Preferred Stock Consideration shall be entitled to receive the Preferred Stock Consideration into which such shares of Company Preferred Stock, as applicable, have been converted pursuant to Section 2.4(d) in respect of the Company Preferred Stock represented by a Certificate or Book-Entry Share upon: (i) surrender to the Depositary of a Certificate; or (ii) receipt of an "agent's message" by the Depositary (or such other evidence, if any, of transfer as the Depositary may reasonably request) in the case of Book-Entry Shares; in each case, together with a duly completed and validly executed letter of transmittal and such other documents as may reasonably be requested by the Depositary. No interest shall be paid or accrued upon the surrender or transfer of any Certificate or Book-Entry Share. Upon payment of the Merger Consideration pursuant to the provisions of this Article 2, each Certificate or Certificates or Book-Entry Share or Book-Entry Shares so surrendered or transferred, as the case may be, shall immediately be cancelled.

(c) Payments to Non-Registered Holders. If any portion of the Merger Consideration is to be paid to a person other than the person in whose name the surrendered Certificate or the transferred Book-Entry Share, as applicable, is registered, it shall be a condition to such payment that: (i) such Certificate shall be properly endorsed or shall otherwise be in proper form for transfer or such Book-Entry Share shall be properly transferred; and (ii) the person requesting such payment shall pay to the Depositary any transfer or other Tax required as a result of such payment to a person other than the registered holder of such Certificate or Book-Entry Share, as applicable, or establish to the reasonable satisfaction of the Depositary that such Tax has been paid or is not payable.

(d) Full Satisfaction. All Merger Consideration paid upon the surrender of Certificates or transfer of Book-Entry Shares in accordance with the terms hereof shall be deemed to have been paid in full satisfaction of all rights pertaining to the shares of Company Stock formerly represented by such Certificate or Book-Entry Shares, and from and after the Effective Time, there shall be no further registration of transfers of shares of Company Stock on the stock transfer books of the Surviving Corporation. If, after the Effective Time, Certificates or Book-Entry Shares are presented to the Surviving Corporation, they shall be cancelled and exchanged as provided in this Article 2.

(e) Return of Merger Consideration by Depositary. Any portion of the Merger Consideration that remains unclaimed by the holders of shares of Company Common Stock and/or Company Preferred Stock twelve (12) months after the Effective Time shall be returned to the Purchaser, upon demand, and any such holder who has not exchanged shares of Company Common Stock and/or Company Preferred Stock for the Merger Consideration in accordance with this Section 2.5 prior to that time shall thereafter look only to the Purchaser (subject to abandoned property, escheat, or other similar Laws), as general creditors thereof, for payment of the Merger Consideration without any interest. Notwithstanding the foregoing, the Purchaser shall not be liable to any holder of shares of Company Stock for any amounts paid to a public official pursuant to applicable abandoned property, escheat, or similar Laws. Any amounts remaining unclaimed by holders of shares of Company Common Stock and/or Company Preferred Stock three (3) years after the Effective Time (or such earlier date, immediately prior to such time when the amounts would otherwise escheat to or become property of any Governmental Authority) shall become, to the extent permitted by applicable Law, the property of the Purchaser free and clear of any claims or interest of any person previously entitled thereto.

(f) Distributions with Respect to Unsurrendered Shares of Company Stock. All Purchaser Shares and Purchaser Preferred Shares to be issued pursuant to the Merger shall be deemed issued and outstanding as of the Effective Time and whenever a dividend or other distribution is declared by the Purchaser in respect of the Purchaser Shares or Purchaser Preferred Shares, the record date for which is after the Effective Time, that declaration shall include dividends or other distributions in respect of all shares issuable pursuant to this Agreement. No dividends or other distributions in respect of the Purchaser Shares and Purchaser Preferred Shares shall be paid to any holder of any unsurrendered shares of Company Stock until the Certificate (or affidavit of loss in lieu of the Certificate) or Book-Entry Share is surrendered for exchange in accordance with this Section 2.5. Subject to the effect of applicable Laws, following such surrender, there shall be issued or paid to the holder of record of the whole Purchaser Share and Purchaser Preferred Share issued in exchange for shares in Company Common Stock and Company Preferred Stock, respectively, in accordance with this Section 2.5, without interest: (i) at the time of such surrender, the dividends or other distributions with a record date after the Effective Time theretofore payable and not paid with respect to such whole Purchaser Share or Purchaser Preferred Share, as applicable, and (ii) at the appropriate payment date, the dividends or other distributions payable with respect to such whole Purchaser Share or Purchaser Preferred Shares with a record date after the Effective Time but with a payment date subsequent to surrender.

2.6 Adjustments

(a) Without limiting the other provisions of this Agreement, if at any time during the period between the date of this Agreement and the Effective Time, any change in the outstanding shares of capital stock of the Company shall occur, including by reason of any reclassification, recapitalization, stock split, reverse stock split, or combination, exchange, readjustment of shares, or similar transaction, or any stock dividend or distribution paid in stock, and including by issuance of derivative securities or other rights to acquire capital stock of the Company of any form, the Exchange Ratio, the Merger Consideration, and any other amounts payable pursuant to this Agreement, shall be appropriately adjusted to reflect such change; *provided, however,* that this sentence shall not be construed to permit the Company to take any action with respect to its securities that is prohibited by the terms of this Agreement.

(b) Without limiting the other provisions of this Agreement, if at any time during the period between the date of this Agreement and the Effective Time, any change in the outstanding Purchaser Shares shall occur by reason of any reclassification, recapitalization, stock split, reverse stock split, or combination, exchange, readjustment of shares, or similar transaction, or any stock dividend or distribution paid in stock, and including by issuance of derivative securities or other rights to acquire capital stock of the Company of any form, the Exchange Ratio, the Merger Consideration, and any other amounts payable pursuant to this Agreement, shall be appropriately adjusted to reflect such change; *provided, however,* that this sentence shall not be construed to permit the Purchaser to take any action with respect to its securities that is prohibited by the terms of this Agreement.

2.7 Company Proxy Statement and Form F-4 Registration Statement

(a) In connection with the Company Meeting, as soon as reasonably practicable following the date of this Agreement, the Company shall prepare and file with the SEC and each of the Canadian Securities Authorities, the Company Proxy Statement, and Purchaser shall prepare and file with the SEC and each of the Canadian Securities Authorities in the provinces of British Columbia, Alberta, Ontario and Quebec the Form F-4 (which shall include the Company Proxy Statement). The Company and the Purchaser shall each use its commercially reasonable efforts to: (i) cause the Form F-4 to be declared effective under the U.S. Securities Act as promptly as practicable after its filing; (ii) ensure that the Form F-4 complies in all material respects with the applicable provisions of the applicable Securities Laws; and (iii) keep the Form F-4 effective for so long as necessary to complete the Merger. The Purchaser shall notify the Company promptly of the time when the Form F-4 has become effective or any supplement or amendment to the Form F-4 has been filed, and of the issuance of any stop order or suspension of the qualification of the Purchaser Shares or Purchaser Preferred Shares issuable in connection with the Merger for offering or sale in any jurisdiction. Each of the Purchaser and the Company shall use its commercially reasonable efforts to: (A) cause the Company Proxy Statement to be mailed to the Company Stockholders as promptly as practicable after the Form F-4 is declared effective under the U.S. Securities Act, and (B) ensure that the Company Proxy Statement complies in all material respects with the applicable provisions of the U.S. Securities Act and U.S. Exchange Act and applicable Canadian Securities Laws. Purchaser shall also take any other action (other than qualifying to do business in any jurisdiction in which it is not now so qualified) required to be taken under the applicable Securities Laws, and the rules and regulations thereunder in connection with the issuance of Purchaser Shares and Purchaser Preferred Shares in the Merger, and the Company shall furnish to Purchaser all information concerning the Company as may be reasonably requested in connection with any such actions.

(b) In connection with the Purchaser Meeting, as soon as reasonably practicable following the date of this Agreement, the Purchaser shall prepare and file or furnish the Purchaser Circular with the Canadian Securities Authorities in each of the provinces of British Columbia, Alberta, Ontario and Quebec. Each of the Company and the Purchaser shall use its commercially reasonable efforts to: (A) cause the Purchaser Circular to be mailed to the Purchaser Shareholders as promptly as practicable after the Form F-4 is declared effective under the U.S. Securities Act, and (B) ensure that the Purchaser Circular complies in all material respects with the applicable Laws (including applicable Securities Laws).

(c) The Purchaser and the Company shall furnish to the other party all information concerning such person and its affiliates required by the Laws to be set forth in the Form F-4, Company Proxy Statement or Purchaser Circular. Each of Purchaser and the Company shall promptly correct any information provided by it for use in the Form F-4, Company Proxy Statement or Purchaser Circular if and to the extent that such information shall have become false or misleading in any material respect. Each of Purchaser and the Company shall take all steps necessary to amend or supplement the Form F-4, Company Proxy Statement or Purchaser Circular, as applicable, and to cause the Form F-4, Company Proxy Statement or Purchaser Circular, as so amended or supplemented, to be filed with the applicable Securities Authorities and disseminated to the holders of Company Common Stock and Company Preferred Stock, in the case of the Company Proxy Statement, and to the Purchaser Shareholders, in the case of the Purchaser Circular, as and to the extent required by applicable Law.

(d) With respect to the Company Proxy statement:

(i) The Company shall ensure that the Company Proxy Statement complies in all material respects with applicable Laws, and, without limiting the generality of the foregoing, that the Company Proxy Statement (including with respect to any information incorporated therein by reference):

(A) will not contain any misrepresentation (other than in each case with respect to any information furnished in writing by the Purchaser); and

(B) provides the Company Stockholders with information in sufficient detail to permit them to form a reasoned judgment concerning the matters to be placed before them at the Company Meeting.

(ii) All information relating solely to the Purchaser included in the Company Proxy Statement shall:

(A) be provided by the Purchaser in accordance with Section 2.7(c)(iv); and

(B) be in form and content satisfactory to the Purchaser, acting reasonably.

(iii) Subject to the ability of the Company to make a Company Change of Recommendation, the Company Proxy Statement will include:

(A) a copy of the Company Board Fairness Opinion;

(B) a statement that the Company Board has determined, that the Merger is fair to and in the best interests of the Company and its shareholders; and

(C) the Company Recommendation.

(iv) The Purchaser will, in a timely manner, furnish the Company with all such information regarding the Purchaser as may reasonably be required to be included in the Company Proxy Statement pursuant to applicable Laws and any other documents related thereto.

(v) The Company and the Purchaser will cooperate in the preparation, filing and mailing of the Company Proxy Statement and the Company shall as soon as reasonably practicable, cause the Company Proxy Statement to be sent to the Company Stockholders in compliance with the proxy rules set forth in the applicable Securities Laws.

(vi) The Company and the Purchaser will each promptly notify the other if, at any time before the Closing Date, it becomes aware (in the case of the Company, only with respect to the Company and in the case of the Purchaser only with respect to the Purchaser) that the Company Proxy Statement or any other document referred to in Section 2.7(c)(iii):

(A) contains any misrepresentation; or

(B) otherwise requires any amendment or supplement,

and promptly deliver written notice to the other Party setting out full particulars thereof.

(vii) The Company and the Purchaser will cooperate with each other in the preparation, filing and dissemination of any:

(A) required supplement or amendment to the Company Proxy Statement or such other document, as the case may be; and

(B) related news release or other document necessary or desirable in connection therewith,

provided, *however*, that subject to the terms of this Agreement, the Company shall not be required to cooperate with the Purchaser with respect to any of the foregoing that relates to a Company Acquisition Proposal, a Company Superior Proposal or a Company Change of Recommendation.

(viii) The Company shall keep the Purchaser fully informed, in a timely manner, of any requests or comments made by the SEC or the Canadian Securities Authorities, the TSX and/or the NASDAQ in connection with the Company Proxy Statement.

(e) With respect to the Purchaser Circular:

(i) The Purchaser shall ensure that the Purchaser Circular complies in all material respects with applicable Laws, and, without limiting the generality of the foregoing, that the Purchaser Circular (including with respect to any information incorporated therein by reference):

(A) will not contain any misrepresentation (other than in each case with respect to any information furnished in writing by the Company); and

(B) provides the Purchaser Shareholders with information in sufficient detail to permit them to form a reasoned judgment concerning the matters to be placed before them at the Purchaser Meeting.

(ii) All information relating solely to the Company included in the Purchaser Circular shall:

(A) be provided by the Company in accordance with Section 2.7(e)(iv); and

(B) be in form and content satisfactory to the Company, acting reasonably.

(iii) The Purchaser Circular will include:

(A) a copy of the Purchaser Board Fairness Opinion; and

(B) the Purchaser Recommendation.

(iv) The Company will, in a timely manner, furnish the Purchaser with all such information regarding the Company as may reasonably be required to be included in the Purchaser Circular pursuant to applicable Laws and any other documents related thereto.

(v) The Purchaser and the Company will cooperate in the preparation, filing and mailing of the Purchaser Circular and the Purchaser shall as soon as reasonably practicable, cause the Purchaser Circular to be sent to the Purchaser Shareholders in compliance with applicable Securities Laws.

(vi) The Purchaser and the Company will each promptly notify the other if, at any time before the Closing Date, it becomes aware (in the case of the Company, only with respect to the Company and in the case of the Purchaser only with respect to the Purchaser) that the Purchaser Circular or any other document referred to in Section 2.7(e)(iii):

(A) contains any misrepresentation; or

(B) otherwise requires any amendment or supplement,

and promptly deliver written notice to the other Party setting out full particulars thereof.

(vii) The Purchaser and the Company will cooperate with each other in the preparation, filing and dissemination of any:

(A) required supplement or amendment to the Purchaser Circular or such other document, as the case may be; and

(B) related news release or other document necessary or desirable in connection therewith;

(viii) The Purchaser shall keep the Company fully informed, in a timely manner, of any requests or comments made by the SEC or Canadian Securities Authorities, the TSX and/or the NYSE American in connection with the Purchaser Circular.

2.8 Company and Purchaser Meetings

(a) The Company covenants in favor of the Purchaser that, subject to the terms of this Agreement and subject to Section 5.1, the Company will promptly, after the effectiveness of the Form F-4 by the SEC:

(i) lawfully convene and hold the Company Meeting in accordance with the Company's Charter Documents and applicable Laws, as soon as reasonably practicable, for the purpose of having the Company Stockholders consider the Merger Resolution;

(ii) not adjourn, postpone or cancel (or propose the adjournment, postponement or cancellation of) such Company Meeting without the prior written consent of the Purchaser, such consent not to be unreasonably withheld, unless the Company Board shall have determined in good faith (after consultation with outside legal counsel) that it is required by applicable law to postpone or adjourn the Company Meeting, including in order to give stockholders of the Company sufficient time to evaluate any information or disclosure that the Company has sent to its stockholders or otherwise made available to its stockholders by issuing a press release, filing materials with the SEC or otherwise (including in connection with any Company Change of Recommendation);

(iii) solicit, from the Company Common Stockholders and Company Preferred Stockholders, proxies:

(A) in favor of the approval of the Merger Resolution;

(B) in favor of the approval to adjourn the Company Meeting to solicit votes in favor of the Merger Resolution;

(C) in favour of any required resolution relating to "golden parachute" payments; and

(D) against any resolution submitted by any person that is inconsistent with, or which seeks to hinder or delay the Merger Resolution or the completion of the transactions contemplated by this Agreement,

including, engaging the services of a firm acceptable to the Purchaser (acting reasonably) as proxy solicitation agent to solicit proxies in favour of the approval of the Merger Resolution;

(iv) recommend to all Company Common Stockholders that they vote in favour of the Merger Resolution;

(v) recommend to all Company Preferred Stockholders that they vote in favour of the Merger Resolution;

(vi) provide reasonable advance notice to Company Optionholders of the vesting and cancellation of such Company Options as contemplated by this Agreement;

(vii) provide notice to Company RSU Holders of the vesting and settlement of such Company RSUs as contemplated by this Agreement;

(viii) provide notice to Company Warrantholders in accordance with the terms of such Company Warrants and the Company's election to require exercise or termination, as applicable, of the Company Warrants as contemplated by this Agreement;

(ix) use commercially reasonable efforts to take all other actions that are reasonably necessary or desirable to obtain the approval of the Merger by the Company Stockholders;

(x) (i) provide the Purchaser with copies of or access to information regarding the Company Meeting generated by any dealer or proxy solicitation agents, as reasonably requested from time to time by the Purchaser, and (ii) consult with, and consider any suggestions from, the Purchaser with regards to the proxy solicitation agent;

(xi) consult with the Purchaser in fixing the date of the Company Meeting;

(xii) give notice to the Purchaser of the Company Meeting;

(xiii) advise the Purchaser as reasonably requested (which may be as often as daily within 10 days of the Company Meeting) as to the aggregate tally of the proxies and votes received from Company Common Stockholders and Company Preferred Stockholders in respect of the Company Meeting and all matters to be considered at the Company Meeting;

(xiv) promptly provide the Purchaser with any notice relating to the Company Meeting;

(xv) allow Representatives of the Purchaser to attend the Company Meeting;

(xvi) not change the record date for the Company Stockholders entitled to vote at the Company Meeting in connection with any adjournment or postponement of the Company Meeting unless required by applicable Law or the Company's Charter Documents;

(xvii) if there is a Company Change of Recommendation, unless prohibited pursuant to NRS 92A.120(3), it will not alter the obligation of the Company to submit the adoption of this Agreement and the approval of the Merger to the Company Common Stockholders and Company Preferred Stockholders at the Company Meeting to consider and vote upon, unless this Agreement shall have been terminated in accordance with its terms prior to the Company Meeting; and

(xviii) carry out the terms of the Merger applicable to it.

(b) The Purchaser covenants in favour of the Company that, subject to the terms of this Agreement, the Purchaser will promptly, after the effectiveness of the Form F-4 by the SEC:

(i) lawfully convene and hold the Purchaser Meeting in accordance with the Purchaser's Charter Documents and applicable Laws, as soon as reasonably practicable, for the purpose of having the Purchaser Shareholders consider the Purchaser Meeting Resolutions;

(ii) not adjourn, postpone or cancel (or propose the adjournment, postponement or cancellation of) such Purchaser Meeting without the prior written consent of the Company, such consent not to be unreasonably withheld, unless the Purchaser Board shall have determined in good faith (after consultation with outside legal counsel) that it is required by applicable law to postpone or adjourn the Purchaser Meeting, including in order to give stockholders of the Purchaser sufficient time to evaluate any information or disclosure that the Purchaser has sent to its stockholders or otherwise made available to its stockholders by issuing a press release, filing materials with applicable Securities Authorities or otherwise;

(iii) solicit, from the Purchaser Shareholders, proxies:

(A) in favor of the approval of the Purchaser Meeting Resolutions;

(B) in favour of the approval to adjourn the Purchaser Meeting to solicit votes in favor of the Purchaser Meeting Resolution; and

(C) against any resolution submitted by any person that is inconsistent with, or which seeks to hinder or delay the Purchaser Meeting Resolutions or the completion of the transactions contemplated by this Agreement,

(iv) recommend to all Purchaser Shareholders that they vote in favour of the Purchaser Meeting Resolutions;

(v) use commercially reasonable efforts to take all other actions that are reasonably necessary or desirable to obtain the approval of the Purchaser Meeting Resolutions by the Purchaser Shareholders;

(vi) (i) provide the Company with copies of or access to information regarding the Purchaser Meeting generated by any dealer or proxy solicitation agents, as reasonably requested from time to time by the Company, and (ii) consult with, and consider any suggestions from, the Company with regards to the proxy solicitation agent;

(vii) consult with the Company in fixing the date of the Purchaser Meeting;

(viii) give notice to the Company of the Purchaser Meeting;

(ix) advise the Company as reasonably requested (which may be as often as daily within 10 days of the Purchaser Meeting) as to the aggregate tally of the proxies and votes received from Purchaser Shareholders in respect of the Purchaser Meeting and all matters to be considered at the Purchaser Meeting;

(x) promptly provide the Company with any notice relating to the Purchaser Meeting;

(xi) allow Representatives of the Company to attend the Purchaser Meeting;

(xii) not change the record date for the Purchaser Shareholders entitled to vote at the Purchaser Meeting in connection with any adjournment or postponement of the Purchaser Meeting unless required by applicable Law or the Purchaser's Charter Documents;

(xiii) nothing herein shall alter the obligation of the Purchaser to submit the adoption of Purchaser Meeting Resolutions to the Purchaser Shareholders at the Purchaser Meeting to consider and vote upon, unless this Agreement shall have been terminated in accordance with its terms prior to the Purchaser Meeting; and

(xiv) carry out the terms of the Merger applicable to it.

2.9 List of Securityholders

(a) Upon the reasonable request from time to time of the Purchaser, the Company will promptly provide the Purchaser with lists (in electronic form) of the:

(i) Registered:

(A) Company Stockholders;

(B) Company Optionholders;

(C) Company RSU Holders; and

(D) Company Warrantholders,

together with their record addresses and their respective holdings of shares of Company Stock, Company Options, Company RSUs and Company Warrants, as applicable;

(ii) names and record addresses and respective holdings of all persons having rights (other than the Company Options, Company RSUs and Company Warrants) issued or granted by the Company to acquire or otherwise related to shares of Company Stock; and

(iii) names of non-objecting beneficial owners of shares of Company Stock and participants in bookbased nominee registers (such as CDS & Co., Cede & Co. and the Depositary Trust Company), together with their respective record addresses and holdings of shares of Company Stock.

(b) The Company will from time to time require that its registrar and transfer agent furnish the Purchaser with such additional information, including:

(i) updated or additional lists of Company Stockholders, Company Optionholders, Company RSU Holders and Company Warrantholders;

(ii) information regarding beneficial ownership of shares of Company Stock; and

(iii) other assistance as the Purchaser may reasonably request.

2.10 Securityholder Communications

(a) The Company and the Purchaser agree to cooperate in the preparation of any presentations regarding the Merger, including to any:

(i) Company Stockholders or Purchaser Shareholders; or

(ii) the analyst community,

provided, however, that the foregoing shall be subject to the Company's and Purchaser's overriding obligation to make any disclosure or filing required by applicable Laws or stock exchange rules.

(b) The Company agrees to consult with the Purchaser in connection with any formal meeting relating to the Merger that it may have, including with:

(i) Company Stockholders (other than Company Stockholders who are Officers or Directors of the Company); or

(ii) the analyst community,

provided, however, that the foregoing shall be subject to the Company's overriding obligation to make any disclosure or filing required by applicable Laws or stock exchange rules.

(c) Notwithstanding anything to the contrary in this Section 2.10, the Company shall, subject to the terms of this Agreement, not be obligated to consult or cooperate with the Purchaser with respect to any disclosure relating to a Company Acquisition Proposal, a Company Superior Proposal or a Company Change of Recommendation.

2.11 Company Options

At the Effective Time, each outstanding Company Option, whether vested or unvested, shall, automatically and without any action on the part of the holder thereof, be cancelled and converted into the right to receive (without interest), as soon as reasonably practicable following the Effective Time, the Common Stock Consideration in respect of each share of Company Common Stock which would have been issued upon the net exercise of the Company Option calculated as follows: the number of shares of Company Common Stock otherwise deliverable pursuant to the Company Option shall be reduced by the number of such shares having a Fair Market Value on the Closing Date equal to the exercise price. Any Company Option that has an exercise price per share that is greater than or equal to the Fair Market Value on the Closing Date shall be cancelled at the Effective Time for no consideration or payment.

Promptly following the Effective Time, the Purchaser shall, in compliance with all applicable Laws, deliver or cause the Surviving Corporation to deliver, to each holder of Company Options at the Effective Time, the Common Stock Consideration, if any, to which such holder is entitled in respect of his or her Company Options. To the extent the delivery of such Common Stock Consideration constitutes a payment of wages, (i) the Purchaser shall cause the payment to be processed by the Surviving Corporation through its payroll system, (ii) the Common Stock Consideration deliverable shall be reduced by a number of Purchaser Shares having a Fair Market Value equal to all required tax withholdings, and (iii) the Purchaser shall cause the Surviving Corporation to remit timely such required withholdings in cash to the relevant taxing authorities.

2.12 Company RSUs

At the Effective Time, each outstanding Company RSU, whether vested or unvested, shall, automatically and without any required action on the part of the holder thereof, be cancelled and converted into the right to receive (without interest), as soon as reasonably practicable following the Effective Time, the Common Stock Consideration in respect of each share of Company Common Stock underlying such Company RSU, without interest.

Promptly following the Effective Time, the Purchaser shall, in compliance with all applicable Laws, deliver or cause the Surviving Corporation to deliver, to each holder of Company RSUs at the Effective Time, the Common Stock Consideration to which such holder is entitled in respect of his or her Company RSUs. To the extent the delivery of such Common Stock Consideration constitutes a payment of wages, (i) the Purchaser shall cause the payment to be processed by the Surviving Corporation through its payroll system, (ii) the Common Stock Consideration deliverable shall be reduced by a number of Purchaser Shares having a Fair Market Value equal to all required tax withholdings, and (iii) the Purchaser shall cause the Surviving Corporation to remit timely such required withholdings in cash to the relevant taxing authorities.

2.13 Company Warrants

The Company shall, to the extent permitted by the Company Warrant, require that the holder exercise the Company Warrant prior to the Closing Date, and if the Company Warrant is not exercised, that the Company Warrant shall terminate. If the Company Warrant does not permit the treatment outlined in the foregoing sentence, then the applicable Company Warrants shall in accordance with their terms be exchanged for warrants of the Purchaser having economically equivalent terms in accordance with the terms of the Company Warrants, such that the holder of a Company Warrant shall be entitled to receive, in lieu of shares of Company Common Stock to which such holder was theretofore entitled upon such exercise and for the consideration payable therefor, the number of Purchaser Shares which the holder would have been entitled to receive as a result of the transactions contemplated by the Merger if, immediately prior to the Closing Date, such holder had been the registered holder of the number of shares of Company Common Stock to which such holder would have been entitled if such holder had exercised such holder's Company Warrants immediately prior to the Effective Time.

2.14 Payment of Consideration

The Purchaser will, following receipt by the Company of the Regulatory Approvals, ensure that on the Closing Date the Depositary has been provided with Purchaser Shares and Purchaser Preferred Shares in escrow to satisfy the aggregate Merger Consideration payable to Company Stockholders pursuant to the Merger (other than payments to Company Preferred Stockholders exercising dissenter's rights and who have not withdrawn their notice of exercise).

2.15 Withholding Taxes

(a) The Company, the Purchaser, Acquireco and the Depositary, as the case may be, will be entitled to deduct and withhold from any consideration otherwise payable to any Company Stockholder under the Merger and from any amounts otherwise payable to any person pursuant to or in accordance with this Agreement (including the Company Termination Fee) such amounts as the Company, the Purchaser, Acquireco or the Depositary is required to deduct and withhold with respect to such payment under the Tax Act, the Code and the rules and regulations promulgated thereunder, or any provision of any provincial, state, local or foreign Tax Law as counsel may advise is required to be so deducted and withheld by the Company, the Purchaser, Acquireco or the Depositary, as the case may be.

(b) For the purposes of such deduction and withholding:

(i) all withheld amounts shall be treated as having been paid to the person in respect of which such deduction and withholding was made on account of the obligation to make payment to such person hereunder; and

(ii) such deducted or withheld amounts shall be remitted to the appropriate Governmental Authority in the time and manner required by the applicable Law by or on behalf of the Company, the Purchaser, Acquireco or the Depositary, as the case may be.

2.16 Dissenting Shareholders

(a) Notwithstanding anything in this Agreement to the contrary, in the event that the applicable requirements of NRS Section 92A.120 have been satisfied, shares of Company Preferred Stock which were outstanding on the date for the determination of Company Preferred Stockholders entitled to vote on the Merger and which were voted against the Merger and the holders of which have demanded that the Company purchase such shares at their fair value in accordance with NRS Sections 92A.300 through 92A.500 and have not otherwise failed to perfect or shall not have effectively withdrawn or lost their rights to require such shares to be purchased for cash under NRS 92A (collectively, "**Dissenting Shares**"), shall not be converted into or represent the right to receive any Purchaser Preferred Shares pursuant to Section 2.4(d), but, instead, the holders thereof shall be entitled to have their shares of Company Preferred Stock purchased for cash at the fair value of such Dissenting Shares as agreed upon or determined in accordance with the provisions of NRS Sections 92A.460 through 92A.500.

(b) If any Company Preferred Stockholder who holds Dissenting Shares as of the Effective Time effectively withdraws or loses (through passage of time, failure to demand or perfect, or otherwise) the right to demand and perfect dissenters' rights under NRS 92A, then, as of the later of the Effective Time and the occurrence of such event, such holder's shares of Company Preferred Stock that were Dissenting Shares shall automatically be converted into and represent only the right to receive the Purchaser Preferred Shares pursuant to and subject to Section 2.4(d) without interest thereon upon: (i) surrender to the Depositary of a Certificate; or (ii) receipt of an "agent's message" by the Depositary (or such other evidence, if any, of transfer as the Depositary may reasonably request) in the case of Book-Entry Shares.

(c) The Company shall give the Purchaser (i) prompt written notice of any written demands for purchase of any shares of Company Preferred Stock pursuant to the exercise of dissenters' rights, withdrawals of such demands, and any other instruments or notices served pursuant to NRS 90A on the Company and (ii) the opportunity to participate in all negotiations and proceedings with respect to demands for purchase of any shares of Company Preferred Stock pursuant to the exercise of dissenters' rights under NRS 90A. The Company shall not, except with the prior written consent of the Purchaser, voluntarily make or agree to make any payment with respect to any demands for purchase of any shares of Company Preferred Stock pursuant to the exercise of dissenters' rights under NRS 90A, or settle or offer to settle any such demands.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Company

Except as set forth in the correspondingly numbered paragraph of the Company Disclosure Letter that relates to such Section or in another Section of the Company Disclosure Letter to the extent that it is reasonably apparent on the face of such disclosure that such disclosure is applicable to such Section, the Company represents and warrants to the Purchaser and Acquireco as set forth in Schedule E and acknowledges and agrees that the Purchaser and Acquireco are relying upon such representations and warranties in connection with the entering into of this Agreement. Nothing in the Company Disclosure Letter shall be deemed adequate to disclose an exception to a representation or warranty made in Schedule E unless the Company Disclosure Letter identifies the exception with reasonable particularity and describes the relevant facts in reasonable detail. Without limiting the generality of the foregoing, the mere listing (or inclusion of a copy) of a document or other item shall not be deemed adequate to disclose an exception to a representation or warranty made in Schedule E unless the representation or warranty pertains to the existence of the document or other item itself. Disclosure of any information in the Company Disclosure Letter that is not strictly required under this Agreement has been made for informational purposes only and does not imply disclosure of all matters of a similar nature.

3.2 Representations and Warranties of the Purchaser and Acquireco

Except as disclosed in the Purchaser Public Disclosure Record at least one Business Day prior to the date hereof and that is reasonably apparent on the face of such disclosure to be applicable to the representation and warranty set forth herein (other than any disclosures contained or referenced therein under the captions "Risk Factors," "Forward-Looking Statements," and any other disclosures contained or referenced therein of information, factors, or risks that are predictive, cautionary, or forward-looking in nature);, the Purchaser and Acquireco jointly and severally represent and warrant to the Company as set forth in Schedule F and acknowledge and agree that Company is relying upon such representations and warranties in connection with the entering into of this Agreement.

3.3 Survival of Representations and Warranties

(a) No investigation by or on behalf of any Party prior to the execution of this Agreement will mitigate, diminish or affect the representations and warranties made by the other Parties.

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

This Section 3.3 will not limit any covenant or agreement of any of the Parties, which, by its terms, contemplates performance after the Effective Time or the date on which this Agreement is terminated, as the case may be. The Confidentiality Agreement will survive termination of this Agreement in accordance with its terms.

ARTICLE 4
COVENANTS

4.1 Covenants of the Company

The Company covenants and agrees that, during the period from the date of this Agreement until the earlier of the Effective Time and the time that this Agreement is terminated in accordance with its terms, except (i) as disclosed in the Company Disclosure Letter, (ii) as expressly permitted or specifically contemplated by this Agreement, (iii) as is otherwise required by applicable Law, or (iv) unless the Purchaser otherwise consents in writing (to the extent that such consent is permitted by applicable Law):

(a) the Company will:

(i) conduct the businesses of the Company and its subsidiaries in the ordinary course consistent with past practice and applicable Law, and, to the extent consistent therewith, in accordance with the Company Budget;

(ii) comply in all material respects with the terms of all Company Material Contracts;

(iii) use commercially reasonable efforts to maintain and preserve intact its and its subsidiaries' business organizations, assets, properties, rights and goodwill;

(iv) use commercially reasonable efforts to maintain satisfactory business relationships with suppliers, customers, distributors, contractual counterparties, contractors, employees, Governmental Authorities, Aboriginal Peoples and others having business relationships with it and its subsidiaries; and

(v) duly and timely file all forms, reports, schedules, statements, and other documents required to be filed pursuant to any applicable Laws or Securities Laws.

(b) the Company will promptly notify the Purchaser, in any event within twenty-four (24) hours, of any:

(i) change in any "material fact" or any "material change" (as defined in applicable Securities Laws) in relation to the Company or any of its subsidiaries;

(ii) event, circumstance or development that has had or could reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect;

(iii) notice or other communication from any person alleging that the consent (or waiver, Permit, exemption, Order, approval, agreement, amendment or confirmation) of such person (or another person) is or may be required in connection with this Agreement or the Merger;

(iv) notice or other communication from any Governmental Authority in connection with this Agreement (and contemporaneously provide a copy of any such written notice or communication to the Purchaser);

(v) filings, actions suits, claims, investigations or proceedings commenced or, to its Knowledge, threatened against, relating to or involving or otherwise affecting the Company or any of its subsidiaries or its or their assets or properties;

(vi) breach of this Agreement by the Company; or

(vii) event occurring after the date of this Agreement that would:

(A) render a representation or warranty, if made on that date or the Closing Date, untrue or inaccurate such that any of the conditions in Section 7.3(b) would not be satisfied; or

(B) result in the failure of the Company to comply with or satisfy any covenant, condition or agreement (without giving effect to, applying or taking into consideration any qualification already contained in such covenant, condition or agreement) to be complied with or satisfied prior to the Effective Time,

and in no event shall the delivery of any notice by a Party pursuant to this Article 4 limit or otherwise affect the respective rights, obligations, representations, warranties, covenants, or agreements of the Parties or the conditions to the obligations of the Parties under this Agreement or disclosure by the Company be deemed to amend or supplement the Company Disclosure Letter or constitute an exception to the Company's representations or warranties.

(c) the Company will use its commercially reasonable efforts to cause the current insurance (or re-insurance) policies maintained by the Company, including directors' and officers' insurance, not to be cancelled or terminated and to prevent any of the coverage thereunder from lapsing, unless at the time of such termination, cancellation or lapse, replacement policies underwritten by insurance or re-insurance companies of nationally recognized standing having comparable deductions and providing coverage comparable to or greater than the coverage under the cancelled, terminated or lapsed policies for substantially similar premiums are in full force and effect, *provided, however*, that, except as contemplated by Section 4.9(b), the Company will not obtain or renew any insurance (or re-insurance) policy for a term exceeding twelve (12) months, except that renewal steps may be taken in advance of expiry;

(d) the Company will:

(i) use commercially reasonable efforts to retain the services of its and its subsidiaries' existing employees and consultants (including the Officers) until the Effective Time; and

(ii) promptly provide written notice to the Purchaser of the resignation or termination of any of its key employees or consultants;

(e) the Company will not, directly or indirectly:

(i) alter or amend its Charter Documents or the Charter Documents of any of its subsidiaries;

(ii) declare, set aside or pay any dividend on or make any distribution or payment or return of capital in respect of the shares of Company Stock (other than dividends, distributions, payments or return of capital made to the Company by any of its subsidiaries);

(iii) split, divide, consolidate, combine, reclassify, nor undertake any other capital reorganization in respect of the shares of Company Stock or any other securities of the Company or any of its subsidiaries except in consultation with the Purchaser and in accordance with Section 2.6;

(iv) reduce the stated capital of the shares of Company Stock or any other securities of the Company or any of its subsidiaries;

(v) increase any coverage under any directors' and officer's insurance policy;

(vi) terminate or modify in any material respect, or fail to exercise renewal rights with respect to, any material insurance policy;

(vii) issue, grant, sell, pledge or otherwise encumber, or authorize or approve or agree to issue, grant, sell, pledge or otherwise encumber any shares of Company Stock or other securities of the Company or any of its subsidiaries, or securities convertible into or exchangeable or exercisable for, or otherwise evidencing a right to acquire, shares of Company Stock or other securities of the Company or any of its subsidiaries, including but not limited to the issue or award of any Company Options, Company RSUs or Company Warrants except as required pursuant to any existing Contracts in effect as of the date hereof or as disclosed on Section 4.1 of the Company Disclosure Letter;

(viii) redeem, purchase or otherwise acquire (or offer to redeem, purchase or otherwise acquire) any of its outstanding shares of Company Stock or other securities or securities convertible into or exchangeable or exercisable for shares of Company Stock or any such other securities or any shares or other securities of any of its subsidiaries except according to their terms;

(ix) amend the terms of any securities of the Company or any of its subsidiaries, or amend the terms of any outstanding indebtedness of the Company or any of its subsidiaries;

(x) adopt a plan of liquidation or resolution providing for the liquidation or dissolution of the Company or any of its subsidiaries;

(xi) reorganize, recapitalize, restructure, amalgamate or merge with any other person and will not cause or permit any of its subsidiaries to reorganize, recapitalize, restructure, amalgamate or merge with any other person;

(xii) create any subsidiary or enter into any Contracts or other arrangements regarding the control or management of the operations, or the appointment of governing bodies or enter into any Joint Ventures;

(xiii) engage in any transaction with any related parties other than with its wholly-owned subsidiaries in the ordinary course;

(xiv) make any changes to any of its accounting policies, principles, methods, practices or procedures (including by adopting any new accounting policies, principles, methods, practices or procedures), except as disclosed in the Company Public Disclosure Record, as required by applicable Laws or under U.S. GAAP; or

(xv) enter into, modify or terminate any Contract with respect to any of the foregoing;

(f) the Company will not, and will not cause or permit any of its subsidiaries to, directly or indirectly, except in connection with this Agreement:

(i) sell, pledge, lease, surrender, licence, lose the right to use, mortgage, dispose of or encumber any assets or properties of the Company or any of its subsidiaries, other than inventory or immaterial personal property in the ordinary course of business;

(ii) other than in the ordinary course, acquire or commit to acquire (by merger, amalgamation, consolidation, arrangement or acquisition of shares or other equity securities or interests or assets or otherwise) any corporation, partnership, association or other business organization or division thereof or any property or assets, or make any investment by the purchase of securities, contribution of capital, property transfer, or purchase of any property or assets of any other person, in each case, directly or indirectly, in one transaction or a series of transactions;

(iii) incur any indebtedness or create or issue any debt securities, or assume, guarantee, endorse or otherwise become liable or responsible for such obligations or the obligations of any other person, or make any loans or advances (other than intercompany loans or advances in the ordinary course of business);

(iv) incur or commit to capital expenditures or development expenses unless such capital expenditures or development expenses are set forth in the Company Budget;

(v) enter into any interest rate, currency, equity or commodity swaps, hedges, derivatives, forward sales contracts or similar financial instruments other than in the ordinary course of business consistent with past practice;

(vi) make any Tax election, information schedule, return or designation, except as required by Law and in a manner consistent with past practice;

(vii) settle or compromise any Tax claim, assessment, reassessment or liability;

(viii) file any amended Tax Return;

(ix) enter into any agreement with a Governmental Authority with respect to Taxes;

(x) surrender any right to claim a Tax abatement, reduction, deduction, exemption, credit or refund;

(xi) consent to the extension or waiver of the limitation period applicable to any material Tax matter;

(xii) amend or change any of its methods or reporting income, deductions or accounting for income Tax purposes except as may be required by Law;

(xiii) pay, discharge or satisfy any claim, liability, indebtedness or obligation prior to the same being due, other than the payment, discharge or satisfaction of the same, in the ordinary course, in accordance with their terms;

(xiv) voluntarily waive, release, assign, settle or compromise any material Litigation;

(xv) engage in any new business, enterprise or other activity that is inconsistent with the existing businesses of the Company in the manner such existing businesses generally have been carried on or (as disclosed in the Company Public Disclosure Record) planned or proposed to be carried on prior to the date of this Agreement; or

(xvi) incur or commit to expenditures exceeding $100,000, individually or in the aggregate, over the amount set forth in the Company Budget,

or authorize any of the foregoing, or enter into or modify any Contract to do any of the foregoing;

(g) the Company will not, and will not cause or permit any of its subsidiaries to, directly or indirectly, except in the ordinary course of business:

(i) terminate, fail to renew, cancel, waive, release, grant or transfer any rights, including:

(A) any material existing Contractual rights;

(B) any material Permit; or

(C) any other material legal rights or claims,

in respect of any Company Properties;

(ii) except either as disclosed in Section 4.1(g) of the Company Disclosure Letter or in connection with matters otherwise permitted under this Section 4.1:

(A) enter into any Contract which would be a Company Material Contract if in existence on the date hereof; or

(B) terminate, cancel, extend, renew or amend, modify or change any Company Material Contract;

(iii) except as disclosed in Section 4.1(g) of the Company Disclosure Letter:

(A) enter into any lease or sublease of real property (whether as a lessor, sublessor, lessee or sublessee); or

(B) modify, amend or exercise any right to renew any lease or sublease of real property or acquire any interest in real property; or

(iv) enter into any transaction or perform any act which could reasonably be expected to prevent or impede, restrict or delay, or be inconsistent with the successful completion of the transactions contemplated herein;

(h) Neither the Company nor any of its subsidiaries will, except pursuant to any existing Contracts or employment, pension, supplemental pension, termination or compensation arrangements or policies or plans in effect on the date hereof and as is necessary to comply with applicable Laws:

(i) grant to any officer, director, employee or consultant of the Company or any of its subsidiaries an increase in compensation in any form;

(ii) promote any officers or employees except as reasonably required due to the termination or resignation of any other officer or employee;

(iii) take any action with respect to the grant or increase of any severance, change of control, retirement, retention or termination pay;

(iv) enter into or modify any employment or consulting agreement (except as disclosed on Schedule 1.10(e)) with any employee, consultant, officer or director of the Company or any of its subsidiaries;

(v) terminate the employment or consulting arrangement of any senior management employees (including the Officers), except for cause;

(vi) increase any benefits payable under its current severance or termination pay policies;

(vii) adopt or amend or make any contribution to or any award under any bonus, profit sharing, pension, retirement, deferred compensation, insurance, incentive compensation, compensation or other similar plan, agreement, trust, fund or arrangement for the benefit of any director, officer, or employee or any former director, officer, or employee of the Company or any of its subsidiaries; or

(viii) take any action to accelerate the time of payment of any compensation or benefits, amend or waive any performance or vesting criteria or accelerate vesting under the Company Equity Incentive Plans, except as contemplated in Sections 2.11 and 2.12;

(i) the Company will not and will not cause or permit any of its subsidiaries to make any loan to any officer, director, employee or consultant of the Company or any of its subsidiaries;

(j) the Company will not and will not cause or permit any of its subsidiaries to:

(i) make an application to amend, terminate, allow to expire or lapse or otherwise modify any of its material Permits;

(ii) take any action or fail to take any action which action or failure to act would:

(A) result in the loss, expiration or surrender of, or the loss of any material benefit; or

(B) be reasonably be expected to cause any Governmental Authority to institute proceedings for the suspension, revocation or limitation of rights,

in each case, under, any material Permit necessary to conduct its businesses as now being conducted;

(k) the Company will not, and will not cause or permit any of its subsidiaries to, settle or compromise any action, claim or other proceeding:

(i) brought against it for damages or providing for the grant of injunctive relief or other non-monetary remedy ("**Litigation**"); or

(ii) brought by any present, former or purported holder of its securities,

including in connection with the transactions contemplated by this Agreement or the Merger;

(l) the Company will not, and will not cause or permit any of its subsidiaries to, commence any Litigation, other than Litigation in connection with:

(i) the collection of accounts receivable;

(ii) the enforcement of the terms of this Agreement or the Confidentiality Agreement;

(iii) the enforcement of other obligations of the Purchaser; or

(iv) Litigation commenced against the Company;

(m) in the event that any administrative or judicial action or proceeding is instituted (or threatened to be instituted) by any Governmental Authority or private party challenging the Merger or any other transaction contemplated by this Agreement, or any other agreement contemplated hereby, the Company shall cooperate in all respects with Purchaser and Acquireco and shall use its commercially reasonable efforts to contest and resist any such action or proceeding and to have vacated, lifted, reversed, or overturned any Order, whether temporary, preliminary, or permanent, that is in effect and that prohibits, prevents, or restricts consummation of the transactions contemplated by this Agreement;

(n) the Company will not, and will not cause or permit any of its subsidiaries to, enter into or renew any Contract:

(i) containing:

(A) any new limitation or restriction on the ability of the Company or any of its subsidiaries or, following completion of the transactions contemplated hereby, the ability of the Purchaser or any of its affiliates, to engage in any type of activity or business;

(B) any new limitation or restriction on the manner in which, or the localities in which, all or any portion of the business of the Company or any of its subsidiaries or, following consummation of the transactions contemplated hereby, all or any portion of the business of the Purchaser or any of its affiliates, is or would be conducted; or

(C) any new limit or restriction on the ability of:

(I) the Company or any of its subsidiaries; or

(II) following completion of the transactions contemplated hereby, the ability of the Purchaser or any of its affiliates,

to solicit customers or employees; or

(ii) that could reasonably be expected to prevent or significantly impede or delay the completion of the Merger;

(o) the Company will not, and will not cause or permit any of its subsidiaries to, take any action which would render, or which reasonably may be expected to render, any representation or warranty made by the Company in this Agreement untrue or inaccurate in any respect at any time prior to the Closing Date if then made; and

(p) as is applicable, the Company will not, and will not cause or permit its subsidiaries to, agree, announce, resolve, authorize or commit to do any of the matters to which the negative covenants in Sections 4.1(e) to 4.1(o) inclusive pertain.

4.2 Access to Information

(a) Subject to compliance with applicable Laws and the terms of any existing Contracts, the Company will afford to the Purchaser and its Representatives, until the earlier of the Effective Time or the termination of this Agreement in accordance with its terms, continuing access to the Company Diligence Information, as applicable, and reasonable access during normal business hours and upon reasonable notice, to the Company's and its subsidiaries' businesses, properties, books and records and such other data and information as the Purchaser may reasonably request, as well as to its management personnel, including the Company Diligence Information, provided, that:

(i) such access shall not unduly interfere with the ordinary conduct of the businesses of the Company and its subsidiaries; and

(ii) other than in circumstances where access thereto or disclosure thereof would not result in the loss of attorney-client privilege, the Company shall not have any obligation in response to a request by the Purchaser to provide access to or otherwise disclose any information or documents subject to attorney-client privilege.

(b) Subject to compliance with applicable Laws and the terms of any existing Contracts, the Purchaser will afford to the Company and its Representatives, until the earlier of the Effective Time or the termination of this Agreement in accordance with its terms, reasonable access during normal business hours and upon reasonable notice, to the Purchaser's and its subsidiaries' businesses, properties, books and records and such other data and information as the Company may reasonably request, as well as to its management personnel, provided, that:

(i) such access shall not unduly interfere with the ordinary conduct of the businesses of the Purchaser and its subsidiaries; and

(ii) other than in circumstances where access thereto or disclosure thereof would not result in the loss of attorney-client privilege, the Purchaser shall not have any obligation in response to a request by the Company to provide access to or otherwise disclose any information or documents subject to attorney-client privilege.

(c) Subject to compliance with applicable Laws, the Parties will also make available to the other Parties and their Representatives information requested by such other Party for the purposes of preparing, considering and implementing plans for the combined businesses of the Company and the Purchaser and its affiliates following completion of the Merger.

(d) Without limiting the generality of the provisions of the Confidentiality Agreement, the Purchaser and the Company each acknowledge that all information provided to it under this Section 4.2, or otherwise pursuant to this Agreement or in connection with the transactions contemplated hereby, is subject to the Confidentiality Agreement, which will remain in full force and effect in accordance with its terms notwithstanding any other provision of this Agreement or any termination of this Agreement.

(e) If any provision of this Agreement otherwise conflicts or is inconsistent with any provision of the Confidentiality Agreement, then the provisions of this Agreement will supersede those of the Confidentiality Agreement, but only to the extent of the conflict or inconsistency and all other provisions of the Confidentiality Agreement will remain in full force and effect.

(f) Investigations made by or on behalf of the Purchaser, whether under this Section 4.2 or otherwise, will not waive, diminish the scope of, or otherwise affect any representation or warranty made by the Company in this Agreement.

(g) Investigations made by or on behalf of the Company, whether under this Section 4.2 or otherwise, will not waive, diminish the scope of, or otherwise affect any representation or warranty made by the Purchaser in this Agreement.

4.3 Covenants of the Company in respect of the Merger

(a) Subject to the terms and conditions of this Agreement, the Company shall and shall cause its subsidiaries to perform all obligations required to be performed by the Company under this Agreement, cooperate with the Purchaser in connection therewith, and use commercially reasonable efforts to do such other acts and things as may be necessary or desirable in order to complete the Merger and the other transactions contemplated hereby, including (without limiting the obligations of the Company in Article 2):

(i) publicly announcing the:

(A) the execution of this Agreement;

(B) the support of the Company Board of the Merger;

(C) the recommendation of the Company Board to Company Common Stockholders and Company Preferred Stockholders to vote in favour of the Merger Resolution (collectively, the "**Company Recommendation**");

(D) the execution of the Company Support Agreements by the Directors and Named Executive Officers; and

(E) the execution of the Company Significant Shareholder Support Agreements by the Company Significant Shareholders; and

(ii) using its commercially reasonable efforts to obtain and maintain all third party or other consents, waivers, Permits, exemptions, Orders, approvals, agreements, amendments or confirmations that are:

(A) necessary or advisable under the Company Material Contracts in connection with the Merger; or

(B) required in order to maintain the Company Material Contracts in full force and effect following completion of the Merger,

in the case of each of (A) and (B) of subsection 4.3(a)(ii), on terms that are reasonably satisfactory to the Purchaser, and without paying, and without committing itself or the Purchaser to pay, any consideration or incur any liability or obligation without the prior written consent of the Purchaser.

(b) use commercially reasonable efforts to negotiate and enter into certain retention arrangements with each of the individuals listed in Schedule G, in each case, subject to the written consent of the Purchaser.

4.4 Covenants of the Purchaser in Respect of the Merger

(a) Subject to the terms and conditions of this Agreement, the Purchaser shall, and shall cause Acquireco to, perform all obligations required to be performed by each under this Agreement, cooperate with the Company in connection therewith, and use commercially reasonable efforts to do such other acts and things as may be necessary or desirable in order to complete the Merger and other transactions contemplated hereby, including (without limiting the obligations of the Purchaser in Article 2):

(i) publicly announcing the:

(A) the execution of this Agreement;

(B) the support of the Purchaser Board of the Merger;

(C) the recommendation of the Purchaser Board to Purchaser Shareholders to vote in favour of the Purchaser Meeting Resolutions in connection with the Merger (collectively, the "**Purchaser Recommendation**"); and

(D) the execution of the Purchaser Support Agreements by the directors and executive officers of Purchaser; and

(ii) using its commercially reasonable efforts to obtain and maintain all third party or other consents, waivers, Permits, exemptions, Orders, approvals, agreements, amendments or confirmations that are:

(A) necessary or advisable under the Purchaser Material Contracts in connection with the Merger; or

(B) required in order to maintain the Purchaser Material Contracts in full force and effect following completion of the Merger,

in the case of each of (A) and (B) of subsection 4.4(a)(ii), on terms that are reasonably satisfactory to the Company, and without committing the Company to pay, any consideration or incur any liability or obligation without the prior written consent of the Company;

(iii) cooperating with the Company in connection with, and using its commercially reasonable efforts to assist the Company in obtaining, the waivers, consents and approvals referred to in Section 4.3(a)(ii), *provided, however*, that, notwithstanding anything to the contrary in this Agreement, in connection with obtaining any waiver, consent or approval from any person (other than a Governmental Authority) with respect to any transaction contemplated by this Agreement, the Purchaser will not be required to pay or commit to pay to such person whose waiver, consent or approval is being solicited any cash or other consideration, make any commitment or incur any liability or other obligation;

(iv) applying for and using commercially reasonable efforts to obtain (A) conditional approval of the listing and posting for trading on the TSX, and (B) approval of the listing and posting for trading on the NYSE American, of the Purchaser Shares issuable as Merger Consideration, and in respect of (A) subject only to the satisfaction by Purchaser of customary listing conditions of the TSX; and

(v) use commercially reasonable efforts to assist the Company in the negotiation of the employee retention arrangements set forth in Schedule G.

4.5 Covenants of Purchaser Regarding Conduct of Business

The Purchaser covenants and agrees that, during the period from the date of this Agreement until the earlier of the Effective Time and the time that this Agreement is terminated in accordance with its terms, except as expressly permitted or specifically contemplated by this Agreement, (i) as is otherwise required by applicable Law, or (ii) if the Company otherwise consents in writing (to the extent that such consent is permitted by applicable Law):

(a) the Purchaser will:

(i) conduct the businesses of the Purchaser and its subsidiaries in the ordinary course consistent with past practice and applicable Law;

(ii) comply in all material respects with the terms of all Purchaser Material Contracts;

(iii) use commercially reasonable efforts to maintain and preserve intact its and its subsidiaries' business organizations, assets, properties, rights and goodwill;

(iv) use commercially reasonable efforts to maintain satisfactory business relationships with suppliers, customers, distributors, contractual counterparties, contractors, employees, organized labor, Governmental Authorities, Aboriginal Peoples and others having business relationships with it and its subsidiaries;

(v) duly and timely file all forms, reports, schedules, statements, and other documents required to be filed pursuant to any applicable Laws or Securities Laws.

(b) the Purchaser will not take any action that would reasonably be likely to result in a Purchaser Material Adverse Effect;

(c) the Purchaser will promptly notify the Company, in any event within twenty-four (24) hours, of any:

(i) change in any "material fact" or any "material change" (as defined in applicable Securities Laws) in relation to the Purchaser or any of its subsidiaries;

(ii) event, circumstance or development that has had or could reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect;

(iii) notice or other communication from any person alleging that the consent (or waiver, Permit, exemption, Order, approval, agreement, amendment or confirmation) of such person (or another person) is or may be required in connection with this Agreement or the Merger;

(iv) notice or other communication from any Governmental Authority in connection with this Agreement (and contemporaneously provide a copy of any such written notice or communication to the Company);

(v) filings, actions, suits, claims, investigations or proceedings commenced or, to its Knowledge, threatened against, relating to or involving or otherwise affecting the Purchaser or any of its subsidiaries or its or their assets or properties;

(vi) breach of this Agreement by the Purchaser or Acquireco; or

(vii) event occurring after the date of this Agreement that would:

(A) render a representation or warranty, if made on that date or the Closing Date, untrue or inaccurate such that any of the conditions in Section 7.3(b) would not be satisfied; or

(B) result in the failure of the Purchaser to comply with or satisfy any covenant, condition or agreement (without giving effect to, applying or taking into consideration any qualification already contained in such covenant, condition or agreement) to be complied with or satisfied prior to the Effective Time,

and in no event shall the delivery of any notice by a Party pursuant to this Article 4 limit or otherwise affect the respective rights, obligations, representations, warranties, covenants, or agreements of the Parties or the conditions to the obligations of the Parties under this Agreement or constitute an exception to the Purchaser's representations or warranties;

(d) the Purchaser will not, directly or indirectly, except in connection with this Agreement:

(i) alter or amend its Charter Documents or the Charter Documents of any of its material subsidiaries;

(ii) declare, set aside or pay any dividend on or make any distribution or payment or return of capital in respect of the Purchaser Shares (other than dividends, distributions, payments or return of capital made to the Purchaser by any of its subsidiaries);

(iii) split, divide, consolidate, combine, reclassify, nor undertake any other capital reorganization in respect of the Purchaser Shares or any other securities of the Purchaser or any of its material subsidiaries except in consultation with the Company and in accordance with Section 2.6;

(iv) reduce the stated capital of the Purchaser Shares or any other securities of the Purchaser or any of its material subsidiaries;

(v) issue, grant, sell, pledge or otherwise encumber, or authorize or approve or agree to issue, grant, sell, pledge or otherwise encumber any Purchaser Shares or other securities of the Purchaser or any of its material subsidiaries, or securities convertible into or exchangeable or exercisable for, or otherwise evidencing a right to acquire, Purchaser Shares or other securities of the Purchaser or any of its material subsidiaries, including but not limited to the issue or award of any Purchaser Options, Purchaser RSUs, Purchaser DSUs or Purchaser Warrants except (A) as required pursuant to any existing Contracts in effect as of the date hereof, (B) as compensation for Directors, Officers and employees issued in the ordinary course of business consistent with past practice or (C) as contemplated in the Loan Agreement;

(vi) redeem, purchase or otherwise acquire (or offer to redeem, purchase or otherwise acquire) any of its outstanding Purchaser Shares or other securities or securities convertible into or exchangeable or exercisable for Purchaser Shares or any such other securities or any shares or other securities of any of its material subsidiaries except according to their terms;

(vii) amend the terms of any securities of the Purchaser or any of its material subsidiaries;

(viii) adopt a plan of liquidation or resolution providing for the liquidation or dissolution of the Purchaser or any of its material subsidiaries;

(ix) reorganize, recapitalize, restructure, amalgamate or merge with any other person and will not cause or permit any of its material subsidiaries to reorganize, recapitalize, restructure, amalgamate or merge with any other person that is not also a subsidiary;

(x) enter into, modify or terminate any Contract with respect to any of the foregoing; or

(xi) enter into any transaction or perform any act which could reasonably be expected to prevent or impede, restrict or delay, or be inconsistent with the successful completion of the transactions contemplated herein;

(e) in the event that any administrative or judicial action or proceeding is instituted (or threatened to be instituted) by any Governmental Authority or private party challenging the Merger or any other transaction contemplated by this Agreement, or any other agreement contemplated hereby, the Purchaser and Acquireco shall cooperate in all respects with Company and shall use commercially reasonable efforts to contest and resist any such action or proceeding and to have vacated, lifted, reversed, or overturned any Order, whether temporary, preliminary, or permanent, that is in effect and that prohibits, prevents, or restricts consummation of the transactions contemplated by this Agreement;

(f) the Purchaser will not, and will not cause or permit any of its subsidiaries to, enter into or renew any Contract that could reasonably be expected to prevent or significantly impede or delay the completion of the Merger;

(g) the Purchaser will not, and will not cause or permit any of its subsidiaries to, take any action which would render, or which reasonably may be expected to render, any representation or warranty made by the Purchaser in this Agreement untrue or inaccurate in any respect at any time prior to the Closing Date if then made; and

(h) as is applicable, the Purchaser will not, and will not cause or permit any of its subsidiaries to, agree, announce, resolve, authorize or commit to do any of the matters to which the negative covenants in Sections 4.5(b), and 4.5(d) through (g) pertain.

4.6 Mutual Covenants

Each of the Parties covenants and agrees that, subject to the terms and conditions of this Agreement, until the earlier of the Effective Time and the time that this Agreement is terminated in accordance with its terms, it will:

(a) use commercially reasonable efforts to satisfy (or cause the satisfaction of) the conditions precedent to its obligations hereunder as set forth in Article 7 to the extent the same is within its control;

(b) use commercially reasonable efforts to take, or cause to be taken, all other action and to do, or cause to be done, all other things necessary and commercially reasonable to permit the completion of the Merger in accordance with its obligations under this Agreement and applicable Laws and cooperate with the other Parties in connection therewith, including using commercially reasonable efforts to:

(i) obtain all Regulatory Approvals required to be obtained by it;

(ii) effect or cause to be effected all necessary registrations, filings and submissions of information requested by Governmental Authorities required to be effected by it in connection with the Merger;

(iii) oppose, lift or rescind any injunction or restraining order against it or other Order or action against it seeking to stop, or otherwise adversely affecting its ability to make and complete, the Merger;

(iv) defend all lawsuits or other legal, regulatory or other proceedings against the other Party or its directors or officers challenging or affecting this Agreement or the completion of the Merger; and

(v) cooperate with the other Party in connection with the performance by it of its obligations hereunder;

(c) use commercially reasonable efforts to not take or cause to be taken any action which is inconsistent with this Agreement or which could reasonably be expected to prevent or significantly impede or materially delay the completion of the Merger; and

(d) use commercially reasonable efforts to execute and do all acts, further deeds, things and assurances as may be required in the reasonable opinion of the other Party's legal counsel to permit the completion of the Merger.

4.7 Covenants Related to Regulatory Approvals

With respect to obtaining all Regulatory Approvals required for the completion of the Merger, subject to the terms and conditions of this Agreement and until the earlier of the Effective Time and the time that this Agreement is terminated in accordance with its terms, each Party, as applicable to that Party, covenants and agrees to:

(a) use commercially reasonable efforts to prepare and make, as promptly as practicable, but in no event later than twenty (20) Business Days after the date hereof, all necessary registrations and filings with the appropriate Governmental Authorities (other than the filing of Form F-4, Purchaser Circular, and the Company Proxy Statement), including a notification with respect to the Merger pursuant to the HSR Act (if required), Section 721, and any notification required pursuant to any other applicable foreign antitrust or competition laws or regulations (indicating with each such notification and filing a request for early termination or acceleration of any applicable waiting period), supply all information requested by Governmental Authorities in connection with the HSR Act notification (if required), joint filing with CFIUS pursuant to Section 721 and any other applicable foreign antitrust or competition laws or regulations and will consider in good faith the views of the other party in responding to any such request;

(b) as regards any proposed substantive applications, notices, filings, submissions, undertakings, correspondence and communications (including those described in Section 4.7(a) above and responses to requests for information and inquiries from any Governmental Authority) in respect of obtaining or concluding all required Regulatory Approvals:

(i) provide the other Party with drafts thereof in advance;

(ii) permit the other Party a reasonable opportunity to review in advance and comment thereon;

(iii) agree to consider those comments in good faith; and

(iv) provide the other Party with final copies thereof,

provided that any competitively sensitive information included therein may be provided on an "external counsel only" basis;

(c) keep the other Party reasonably informed, on a timely basis, of the status of discussions relating to obtaining or concluding the required Regulatory Approvals sought by such Party;

(d) supply the other Party with all information necessary to complete the preparation and submission of all necessary registrations and filings with the appropriate Governmental Authorities, including but not limited to, a notification with respect to the Merger pursuant to the HSR Act (if required) and a joint filing to CFIUS pursuant to Section 721;

(e) for greater certainty, the Parties will submit a joint filing to CFIUS, and in connection therewith:

(i) the Purchaser and the Company shall jointly, (i) as soon as practicable make the draft filing with CFIUS contemplated under 31 C.F.R. § 800.401(f) with respect to the transactions contemplated hereby and engage in the pre-notice consultation process with CFIUS as soon as practicable after the date of this Agreement, and (ii) following such pre-notice consultation, as promptly as practicable following CFIUS notification that the draft filing meets all requirements of 31 C.F.R. § 800.402 of the regulation and is, accordingly, complete, file with CFIUS a voluntary notice as contemplated by 31 C.F.R. § 800.401(a).

(ii) each of the Purchaser and the Company shall, to the extent permitted by applicable Law and not prohibited by the applicable Governmental Authority, and subject to all applicable privileges, including the attorney-client privilege, with respect to the filing described in Section 4.7(e)(i): (A) cooperate and coordinate with the other in the making of such filings (including providing copies, or portions thereof, of all such documents to the non-filing parties prior to filing and considering all reasonable additions, deletions or changes suggested in connection therewith) and in connection with resolving any investigation or other inquiry of a Governmental Authority with respect to any such filing; (B) supply the other Party with any information that may be required in order to make such filings; (C) supply any additional information that reasonably may be required or requested by CFIUS; and (D) use commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, and to assist and cooperate with the other Party hereto in doing, all things necessary, proper or advisable to obtain the CFIUS Approval as soon as practicable;

(iii) with respect to obtaining the CFIUS Approval, each of the Purchaser and the Company shall: (A) not extend or consent to any extension of any applicable waiting or review period, except upon the prior consent of the other Party; (B) promptly notify the other Party of written or oral communications of any nature from any Governmental Authority relating to the CFIUS Approval and provide the other Party with copies thereof, except to the extent of competitively or commercially sensitive information in respect of the CFIUS Approval, which competitively sensitive and/or commercially sensitive information will be provided only to the external legal counsel or external expert of the other Party and shall not be shared by such counsel or expert with any other Person; (C) respond as promptly as reasonably possible to any inquiries or requests received from a Governmental Authority in respect of the CFIUS Approval; (D) permit the other Party to review in advance any proposed written communications of any nature with a Governmental Authority in respect of the CFIUS Approval, and provide the other Party with final copies thereof except in respect of competitively or commercially sensitive information, which competitively and/or commercially sensitive information will be redacted from the draft written communications to be shared with the other Party and will be provided (on an unredacted basis) only to the external legal counsel or external expert of the other Party and shall not be shared by such counsel or expert with any other Person; and (E) not participate in any meeting or discussion (whether in person, by phone or otherwise) with a Governmental Authority in respect of the CFIUS Approval unless it consults with the other Party in advance and gives the other Party the reasonable opportunity to attend and participate thereat. Any such disclosures, rights to participate or provisions of information by one Party to the other may be made on a counsel-only basis to the extent required under applicable Law or as appropriate to protect confidential business information;

(iv) in order to permit and cause the Effective Time to occur as soon as possible and prior to the Outside Date, each of the Purchaser and the Company shall use its commercially reasonable efforts to, or cause to be done, all commercially reasonable things necessary, proper or advisable to obtain the CFIUS Approval prior to the Outside Date; provided, however, that nothing in this Section 4.7(e)(iv) will require, or be construed to require the Purchaser to agree to (A) sell, hold, or divest, before or after the Effective Date, any assets, businesses or interests of the Purchaser, the Company or any of their respective affiliates, or (B) any conditions relating to, or changes or restrictions in, the operations of any such assets, businesses or interests;

(f) for greater certainty, notwithstanding anything contrary in this Section 4.7, in no event will Purchaser be obligated to propose or agree to accept any undertaking or condition, to enter into any consent or mitigation agreement, to make any divestiture, to accept any operational restriction, or take any other action with respect to obtaining approval under the HSR Act (if required) or to obtaining CFIUS Approval;

(g) each of the Purchaser and the Company will share equally and pay the filing fees associated with obtaining any approvals required under the HSR Act (if required) and Section 721; and

4.8 Resignations of Board and Senior Management

(a) Prior to the Effective Time, the Company shall use commercially reasonable efforts to cause, and it shall cause any of its subsidiaries to use commercially reasonable efforts to cause, all directors and officers of the Company and its subsidiaries to provide resignations as at the Effective Time on the Closing Date, which resignations shall become effective immediately following the acquisition by the Purchaser of all of the shares of Company Stock pursuant to the Merger.

(b) The Purchaser agrees that it, its subsidiaries and any successor to the Company (including any Surviving Corporation) shall honour and comply with the terms of all of the severance payment obligations of the Company or its subsidiaries under the existing employment, consulting, change of control, and severance agreements of the Company or its subsidiaries properly disclosed to the Purchaser in Schedule 4.8(c) of the Company Disclosure Letter.

4.9 Indemnification and Insurance

(a) The Parties agree that all rights to indemnification existing in favour of the present and former directors and officers of the Company or any of its subsidiaries (each such present or former director or officer of the Company or any of its subsidiaries being herein referred to as an "**Indemnified Party**" and such persons collectively being referred to as the "**Indemnified Parties**") as provided by contracts or agreements to which the Company is a party and in effect as of the date hereof, as listed in the Company Disclosure Letter, and copies of which are included in the Company Diligence Information, will:

(i) survive, and continue in full force and effect following, the completion of the transaction contemplated by this Agreement; and

(ii) shall not be modified by such completion,

and the Company and any successor to the Company (including any Surviving Corporation) shall continue to honour such rights of indemnification and indemnify the Indemnified Parties pursuant thereto, with respect to actions or omissions of the Indemnified Parties occurring prior to the Effective Time, for six (6) years following the Closing Date, subject to the receipt by the successor to the Company (including any Surviving Corporation) of an undertaking by such Indemnified Party to repay such legal and other fees and expenses paid in advance if it is ultimately determined in a final and non-appealable judgment of a court of competent jurisdiction that such Indemnified Party is not entitled to be indemnified under applicable Law; *provided, however,* that the Surviving Corporation will not be liable for any settlement effected without the Surviving Corporation's prior written consent (which consent shall not be unreasonably withheld).

(b) Prior to the Effective Time, notwithstanding any other provision hereof, the Company may purchase prepaid non-cancellable run-off directors' and officers' liability insurance providing coverage for a period of six (6) years from the Closing Date with respect to claims arising from or related to facts or events which occur on or prior to the Closing Date, provided that the total cost of such run-off directors' and officers' liability insurance shall not exceed 300% of the current annual aggregate premium for directors' and officers' liability insurance currently maintained by the Company and its subsidiaries, as disclosed to the Purchaser before the date of this Agreement.

4.10 Intentionally Omitted.

4.11 Control of Business

Prior to the Effective Time, the Company shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its and each of its subsidiaries' respective operations. Prior to the Effective Time, the Purchaser shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its and each of its subsidiaries' respective operations.

4.12 Tax Treatment of the Merger

For U.S. federal income tax purposes, the Parties intend that the Merger shall qualify as a reorganization within the meaning of Section 368(a) of the Code and the Treasury Regulations promulgated thereunder, and this Agreement is intended to be, and is adopted as, a "plan of reorganization" for purposes of Sections 354 and 361 of the Code and within the meaning of Treasury Regulations §§ 1.368-2(g) and 1.368-3(a).

ARTICLE 5
ADDITIONAL AGREEMENTS

5.1 Company Acquisition Proposals

(a) Except permitted in this Article 5, from and after the date of this Agreement and until the earlier of the Effective Time or the date, if any, on which this Agreement is terminated pursuant to Section 6.1, the Company and its subsidiaries shall not, directly or indirectly, and the Company shall not authorize or permit its Representatives to:

(i) directly or indirectly, make, initiate, solicit or knowingly encourage (including by way of furnishing or affording access to information or any site visit), or otherwise take any other action that knowingly facilitates, directly or indirectly, any inquiry, proposal or offer that constitutes, or that could reasonably be expected to lead to, a Company Acquisition Proposal;

(ii) enter into or otherwise engage or participate in any substantive discussions or negotiations with, furnish information to, or otherwise co-operate in any way with, any person that is seeking to make, or has made (other than the Purchaser and its subsidiaries) a Company Acquisition Proposal or any inquiry, proposal or offer that could reasonably be expected to lead to a Company Acquisition Proposal; *provided, however*, that the Company or its Representatives may communicate with such person for the sole purpose of clarifying such Acquisition Proposal, advising such person that the terms of such Acquisition Proposal do not constitute or are not reasonably likely to result in a Company Superior Proposal or advising such person of the terms of this Section 5.1;

(iii) make or propose publicly to make a Company Change of Recommendation; or

(iv) accept, enter into, or propose publicly to accept or enter into, any agreement, understanding or arrangement effecting or related to any Acquisition Proposal or potential Acquisition Proposal (other than an Acceptable Confidentiality Agreement permitted by and in accordance with Section 5.1(d)).

(b) The Company and its Representatives will, and will cause its subsidiaries and their Representatives to, immediately cease and terminate, and cause to be terminated, any solicitation, encouragement, discussion or negotiations with any person (other than the Purchaser and its Representatives) with respect to any Company Acquisition Proposal or inquiry, proposal or offer that could reasonably be expected to lead to a Company Acquisition Proposal, and immediately discontinue access of any such person to any confidential information concerning the Company and its subsidiaries, including access to any data room, virtual or otherwise. In addition, the Company shall use its commercially reasonable efforts to cause any such person (and its agents and advisors) in possession of any confidential information concerning the Company and its subsidiaries that was furnished by or on behalf of the Company to return or destroy (and confirm destruction of) all such information.

(c) With respect to any Company Acquisition Proposal received after the date hereof, or inquiry, proposal or offer that would reasonably be expected to lead to a Company Acquisition Proposal, the Company will:

(i) promptly (and, in any event, within twenty-four (24) hours) notify the Purchaser, either in writing or orally (with subsequent written notice), of:

(A) any Company Acquisition Proposal (whether or not in writing); and

(B) any inquiry, proposal, offer or request (or any substantive amendment or supplement thereto), whether or not in writing, relating to a Company Acquisition Proposal or any request for discussions or negotiations or other communications relating to or that could reasonably be expected to lead to a Company Acquisition Proposal; and

(C) any request in connection with, or that could reasonably be expected to result in, a Company Acquisition Proposal received by the Company or any of its subsidiaries or any of their Representatives for:

(I) non-public information relating to the Company (or any of its subsidiaries); or

(II) access to properties, books, records or the provision of a list of securityholders of the Company (or any of its subsidiaries) by any person;

(ii) include in the written notification contemplated in Section 5.1(c)(i):

(A) a copy of the Company Acquisition Proposal, inquiry, proposal, offer or request and any substantive amendments thereto;

(B) a description of its material terms and conditions if the Company Acquisition Proposal, inquiry, proposal, offer or request is not written;

(C) the identity of all persons making such Company Acquisition Proposal, inquiry, proposal, offer or request; and

(D) a summary of all material related communications;

(iii) promptly provide to the Purchaser such other information concerning such Company Acquisition Proposal, inquiry, proposal, offer or request as the Purchaser may reasonably request; and

(iv) promptly inform the Purchaser of the status and material details (including all substantive amendments, changes or other modifications) of any such Company Acquisition Proposal, inquiry, proposal, offer or request.

(d) Notwithstanding anything to the contrary contained in Section 5.1(a), if the Company receives a *bona fide* written Company Acquisition Proposal from any person after the date hereof and prior to the Company Meeting that did not result from a breach of this Section 5.1, and subject to the Company's compliance with Section 5.1(c), the Company and its Representatives may contact such person to clarify the terms and conditions of such Company Acquisition Proposal so as to determine whether such Company Acquisition Proposal is, or could reasonably be expected to lead to, a Company Superior Proposal, furnish information with respect to it to such person pursuant to an Acceptable Confidentiality Agreement, allow such person to conduct a reasonable due diligence investigation of the Company and participate in discussions or negotiations regarding such Company Acquisition Proposal, if and only if:

(i) prior to any such contacting, furnishing or participation described above, the Company Board determines, in good faith, after consultation with its financial advisors and outside legal counsel, that such Company Acquisition Proposal is or is reasonably likely to result in a Company Superior Proposal and that the failure to participate in discussions or negotiations with the person making such Company Acquisition Proposal or to provide them with such information would be reasonably likely to cause a breach of its fiduciary duties;

(ii) the Company has been, and continues to be, in compliance in all material respects with its obligations under this Article 5; and

(iii) prior to or concurrently with providing any such copies, access, or disclosure, the Company:

(A) enters into and provides a copy of an Acceptable Confidentiality Agreement to the Purchaser promptly (and in any event within twenty-four (24) hours thereafter) upon its execution; and

(B) contemporaneously provides to the Purchaser access to all information provided to such person to the extent not previously provided to the Purchaser.

(e) If the Company receives a *bona fide* Company Acquisition Proposal that is a Company Superior Proposal from any person after the date hereof and prior to the Company Meeting, then the Company Board may, prior to the Company Meeting, make a Company Change of Recommendation relating to such Company Superior Proposal and/or approve or recommend such Company Superior Proposal and/or enter into an Acquisition Agreement with respect to such Company Superior Proposal if and only if:

(i) the Company did not breach this Section 5.1 in any material respect in connection with the preparation or making of such Company Acquisition Proposal and the Company has been and continues to be in compliance in all material respect with this Section 5.1;

(ii) the Company has given written notice to the Purchaser that it has received such Company Superior Proposal and that the Company Board has determined that:

(A) such Company Acquisition Proposal constitutes a Company Superior Proposal; and

(B) the Company Board intends to:

(I) make a Company Change of Recommendation with respect to the Company Superior Proposal; and/or

(II) enter into an Acquisition Agreement with respect to such Company Superior Proposal,

in each case, promptly following the making of such determination;

(iii) the Company has provided the Purchaser with a copy of the proposed definitive Acquisition Agreement:

(iv) a period of at least five (5) full Business Days (such period being the "**Superior Proposal Notice Period**") has elapsed from the later of:

(A) the date the Purchaser received the notice from the Company referred to in Section 5.1(c)(i); and

(B) the date on which the Purchaser received the materials set out in Section 5.1(c)(ii);

(v) during any Superior Proposal Notice Period, the Purchaser has been provided with the right to propose to amend the terms of this Agreement and the Merger in order for such Company Acquisition Proposal to cease to be a Company Superior Proposal;

(vi) after the Superior Proposal Notice Period, the Company Board has determined, after consultation with its outside legal counsel and financial advisors, and otherwise in accordance with Section 5.1(f), and advised the Purchaser in writing that:

(A) such Company Acquisition Proposal remains a Company Superior Proposal compared to the Merger as proposed to be amended by the Purchaser; and

(B) the failure by the Company Board to recommend that the Company enter into the Acquisition Agreement with respect to such Company Superior Proposal would be reasonably likely to cause a breach of its fiduciary duties;

(vii) the Company concurrently terminates this Agreement pursuant to Section 6.1(d)(v); and

(viii) the Company has previously, or concurrently has, paid to the Purchaser the Company Termination Fee.

(f) During the Superior Proposal Notice Period:

(i) the Company Board will review promptly, diligently and in good faith any offer made by the Purchaser to amend the terms of this Agreement and the Merger in order to determine, in consultation with its financial advisors and outside legal counsel, whether the proposed amendments would, upon acceptance, result in the Acquisition Proposal previously constituting a Superior Proposal ceasing to be a Superior Proposal;

(ii) if the Company Board determines that such Acquisition Proposal would cease to be a Superior Proposal as a result of the amendments proposed by the Purchaser, then the Company will:

(A) forthwith so advise the Purchaser; and

(B) promptly thereafter accept the offer by the Purchaser to amend the terms of this Agreement, and the Merger,

and the Parties agree to take such actions and execute such documents as are necessary to give effect to the foregoing; and

(iii) if the Company Board:

(A) continues to believe in good faith, after consultation with its financial advisors and outside legal counsel, that such Acquisition Proposal remains a Superior Proposal; and

(B) therefore rejects the Purchaser's offer to amend this Agreement and the Merger, if any,

then the Company may, subject to compliance with the other provisions hereof, terminate this Agreement, in accordance with Section 6.1(d)(v), and enter into an Acquisition Agreement in respect of such Superior Proposal.

(g) Each successive modification of the financial terms or other material aspects of any Superior Proposal shall:

(i) constitute a new Superior Proposal for the purposes of Section 5.1(g); and

(ii) require a new two (2) full Business Day Superior Proposal Notice Period from the date on which the Purchaser received the notice from the Company referred to in Section 5.1(c)(i).

(h) Unless otherwise directed by the Purchaser, the Company Board shall reaffirm its recommendation in favour of the Merger by news release promptly after:

(i) the Company Board has determined that any Company Acquisition Proposal is not a Company Superior Proposal, if the Company Acquisition Proposal has been publicly announced or made; or

(ii) the Company Board makes the determination referred to in Section 5.1(f) that a Company Acquisition Proposal that has been publicly announced or made and which previously constituted a Company Superior Proposal has ceased to be a Company Superior Proposal.

(i) The Company and/or any of its subsidiaries will not become a party to any Contract with any person subsequent to the date hereof that limits or prohibits the Company from providing:

(i) or making available to the Purchaser and its affiliates and Representatives any information provided or made available to such person or its officers, directors, employees, consultants, advisors, agents or other representatives (including solicitors, accountants, investment bankers and financial advisors) pursuant to any confidentiality agreement described in this Section 5.1; or

(ii) the Purchaser and its affiliates and Representatives with any other information required to be given to it by the Company under this Section 5.1.

(j) Nothing in this Agreement shall be deemed to prohibit the Company or the Company Board or any committee thereof, from (i) complying with its disclosure obligations under U.S. federal or state law with regard to a Company Acquisition Proposal or an Intervening Event, including taking and disclosing to its stockholders a position contemplated by Rule 14d-9 and Rule 14e-2(a) promulgated under the U.S. Exchange Act (or any similar communication to stockholders), or (ii) making any "stop-look-and-listen" communication to the stockholders of the Company pursuant to Rule 14d-9(f) promulgated under the U.S. Exchange Act (or any similar communications to the stockholders of the Company); *provided, however*, that (i) any such disclosure (other than (x) issuing a "stop, look and listen" statement in accordance with the Exchange Act pending disclosure of its position thereunder (or any similar communications to the stockholders of the Company) or (y) an express rejection of any Acquisition Proposal or a reaffirmation of the Company Recommendation) shall be deemed to be a Company Change of Recommendation, unless the Company Board expressly and publicly reaffirms the Company Recommendation within five (5) Business Days following any request by Purchaser for such reaffirmation, and (ii) the Company Board or any committee thereof shall not make or resolve to make a Company Change of Recommendation except in the circumstances contemplated in Section 5.1(f)(iii) or Section 5.1(l).

(k) The Company shall ensure that its subsidiaries and each of the respective Representatives, directors and officers of the Company and its subsidiaries are aware of and instructed to comply with the provisions of this Section 5.1.

(l) Notwithstanding anything to contrary in this Agreement, at any time prior to the Company Meeting, the Company Board (or a duly authorized committee thereof) may, in response to an Intervening Event, make a Company Change of Recommendation if the Company Board has determined in good faith, after consultation with its legal counsel, that failure to make a Company Change of Recommendation in response to such Intervening Event would reasonably be expected to cause a breach of its fiduciary duties and (i) the Company has provided to the Purchaser at least five (5) Business Days' prior notice of its intent to take such action, which notice shall provide a reasonably detailed description of the Intervening Event (such notice being referred to herein as an "**Intervening Event Notice**") (it being understood and agreed that any such Intervening Event Notice shall not in itself be deemed an Company Change of Recommendation); (ii) if requested to do so by the Purchaser, the Company has negotiated, and has caused its Representatives to negotiate, in good faith with the Purchaser during the five (5) Business Day period following the Purchaser's receipt of the Intervening Event Notice (such period, an "**Intervening Event Notice Period**"), any changes or modifications to the terms of this Agreement that the Purchaser proposes to make; and (iii) at the end of such Intervening Event Notice Period, the Company Board (or a duly authorized committee thereof) shall have determined in good faith, after consultation with its legal counsel and taking into account any changes or modifications to the terms of this Agreement proposed by the Purchaser to the Company in a written, binding and irrevocable offer, that failure to make a Company Change of Recommendation in response to such Intervening Event would be reasonably likely to be inconsistent with the Company Board's fiduciary duties under applicable Law.

5.2 Company Termination Fee

(a) "**Company Termination Fee Event**" means any of the following events:

(i) this Agreement shall have been terminated by the Company or the Purchaser pursuant to Section 6.1(b)(i) [*Occurrence of Outside Date*], Section 6.1(b)(ii) [*Merger Resolution Not Approved by Company Common Stockholders*] or Section 6.1(c)(iii) [*Company General Breach*], and:

(A) prior to such termination, either:

(I) a Company Acquisition Proposal is made, publicly announced or otherwise publicly disclosed by any person (other than the Purchaser or any of its affiliates) and was not withdrawn before the Company Meeting; or

(II) any person (other than the Purchaser or any of its affiliates) shall have publicly announced and not withdrawn an intention to make a Company Acquisition Proposal;

and

(B) within 365 days following the date of such termination:

(I) a Company Acquisition Proposal is consummated with any person; or

(II) the Company or one or more of its subsidiaries, directly or indirectly, in one or more transactions, enters into a contract in respect of a Company Acquisition Proposal with any person and such Acquisition Proposal is subsequently consummated at any time thereafter,

provided, *however*, that for the purposes of this Section 5.2(a)(i) all references to "20% or more" in the definition of Acquisition Proposal shall be changed to "50% or more";

(ii) this Agreement shall have been terminated by the Purchaser pursuant to Section 6.1(c)(i) [*Company Change of Recommendation*] or Section 6.1(c)(ii)(B) [*Company Breach of No-Shop or Related Matters*]; or

(iii) this Agreement shall have been terminated by the Company pursuant to Section 6.1(d)(v) [*Company Superior Proposal*].

(b) In the case of the occurrence of a Company Termination Fee Event referred to in:

(i) Section 5.2(a)(i), on or prior to the earlier of:

(A) completion of; or

(B) entry into,

an Acquisition Agreement in respect of the applicable Company Acquisition Proposal;

(ii) Section 5.2(a)(ii) within one (1) Business Day following termination of this Agreement; or

(iii) Section 5.2(a)(iii), prior to or concurrent with termination of this Agreement,

the Company shall pay to the Purchaser a termination fee of $4.0 million (the "**Company Termination Fee**") by wire transfer in immediately available funds to an account specified by the Purchaser.

(c) Each Party acknowledges that all of the payment amounts set out in this Section 5.2 are payments in consideration for the disposition of the Purchaser's rights under this Agreement and represent liquidated damages which are a genuine pre-estimate of the damages which the Purchaser will suffer or incur as a result of the event giving rise to such payment and the resultant termination of this Agreement and are not penalties and the Company irrevocably waives any right that it may have to raise as a defence that any such liquidated damages are excessive or punitive.

(d) The Parties agree that in the event that the Company Termination Fee becomes payable and is paid by the Company pursuant to this Section 5.2, the Company Termination Fee shall be the Purchaser's and Acquireco's sole and exclusive remedy for monetary damages under this Agreement, *provided, however,* that:

(i) nothing contained in this Section 5.2, and no payment of any such amount, shall relieve or have the effect of relieving the Company in any way from liability for damages incurred or suffered by the Purchaser as a result of an intentional or wilful breach of this Agreement, including the intentional or wilful misconduct in connection with this Agreement;

(ii) nothing contained in this Section 5.2 shall preclude the Purchaser from seeking:

(A) injunctive relief in accordance with Section 8.18 to restrain the breach or threatened breach of the covenants or agreements set forth in this Agreement or the Confidentiality Agreement; or

(B) specific performance of any of the acts, covenants or agreements set forth in this Agreement or the Confidentiality Agreement, without the necessity of posting a bond or security in connection therewith; and

(iii) nothing contained in this Section 5.2 shall modify the Company's obligation to pay the Purchaser for its reasonable, documented, out-of-pocket expenses incurred in connection with the Transaction in accordance with Section 5.5.

5.3 Reserved.

5.4 Other Expenses

Each Party will pay:

(a) its respective legal and accounting costs, fees and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement; and

(b) any other costs, fees and expenses whatsoever and howsoever incurred;

and will indemnify and save harmless the other Party from and against any claim for any broker's, finder's or placement fee or commission alleged to have been incurred as a result of any action by it in connection with the transactions hereunder, *provided*, *however*, that Purchaser and the Company shall be equally responsible for all filing fees incurred in connection with the HSR Act, Section 721 or any other Antitrust Laws in connection with the consummation of the transactions contemplated by this Agreement (if applicable); and *provided further*, (i) in the event the Company terminates this Agreement pursuant to Section 6.1(b)(iv), the Purchaser shall promptly pay to the Company the amount of the Company's reasonable, documented, out-of-pocket fees and expenses incurred in furtherance of the Transaction, subject to a maximum of $600,000, and (ii) in the event the Purchaser terminates this Agreement pursuant to Section 6.1(b)(ii) or Section 6.1(b)(iii), the Company shall promptly pay to the Purchaser the amount of the Purchaser's reasonable, documented, out-of-pocket fees and expenses incurred in furtherance of the Transaction, subject to a maximum of $600,000, (which amount shall be creditable against any Company Termination Fee payable pursuant to Section 5.2(a)(i)).

ARTICLE 6
TERMINATION

6.1 Termination

(a) Termination by Mutual Consent. This Agreement may be terminated at any time prior to the Effective Time by mutual written consent of the Company and the Purchaser.

(b) Termination by Either the Company or the Purchaser. This Agreement may be terminated by either the Company or the Purchaser at any time prior to the Effective Time, if:

(i) the Effective Time does not occur on or before the Outside Date, provided that the right to terminate this Agreement under this Section 6.1(b)(i) shall not be available to any Party whose failure to fulfil any of its covenants or obligations or breach of any of its representations and warranties under this Agreement has been a principal cause of, or resulted in, the failure of the Effective Time to occur by such date;

(ii) the Company Meeting is held and the Merger Resolution is not approved by the Company Common Stockholders in accordance with applicable Laws;

(iii) the Company Meeting is held and the Merger Resolution is not approved by the Company Preferred Stockholders in accordance with applicable Laws; or

(iv) the Purchaser Meeting is held and the Purchaser Meeting Resolution is not approved by the Purchaser Shareholders in accordance with applicable Laws;

(v) any Law is enacted, made, enforced or amended, as applicable, that makes the completion of the Merger or the transactions contemplated by this Agreement illegal or otherwise prohibited, and such Law has become final and non-appealable, *provided* that the right to terminate this Agreement under this Section 6.1(b)(iv) shall not be available to any Party unless such Party has used its commercially reasonable efforts to, as applicable, appeal or overturn such Law or otherwise have it lifted or rendered non-applicable in respect of the Merger.

(c) Termination by the Purchaser. This Agreement may be terminated by the Purchaser at any time prior to the Effective Time if:

(i) the Company Board or any committee thereof:

(A) fails to publicly make the Company Recommendation in the Company Proxy Statement;

(B) withdraws, modifies, qualifies or changes, in a manner adverse to the Purchaser, the Company Recommendation;

(C) fails to reaffirm the Company Recommendation as contemplated by Section 5.1(h);

(D) accepts, approves, endorses or recommends any Company Acquisition Proposal; or

(E) publicly proposes or announces its intention to do any of the foregoing (each of the foregoing a "**Company Change of Recommendation**");

(ii) the Company:

(A) enters into an Acquisition Agreement in respect of any Acquisition Proposal (other than an Acceptable Confidentiality Agreement permitted by Section 5.1(d)); or

(B) breaches any of its material obligations or material covenants set forth in Section 5.1;

(iii) subject to compliance with Section 6.3, the Company breaches any of its representations, warranties, covenants or agreements contained in this Agreement, which breach would cause any of the conditions set forth in Section 7.1 or Section 7.3 not to be satisfied by the Outside Date, and such breach is incapable of being cured or is not cured in accordance with the terms of Section 6.3, *provided, however*, that the Purchaser is not then in breach of this Agreement so as to cause any of the conditions set forth in Section 7.1 or Section 7.2 not to be satisfied; or

(iv) a Company Material Adverse Effect has occurred and is continuing.

(d) Termination by the Company. This Agreement may be terminated by the Company at any time prior to the Effective Time if:

(i) [omitted];

(ii) [omitted];

(iii) subject to compliance with Section 6.3, if the Purchaser breaches any of its representations, warranties, covenants or agreements contained in this Agreement, which breach would cause any of the conditions set forth in Section 7.1 or Section 7.2 not to be satisfied, and such breach is incapable of being cured or is not cured in accordance with the terms of Section 6.3, *provided, however,* that the Company is not then in breach of this Agreement so as to cause any of the conditions set forth in Section 7.1 or Section 7.3 not to be satisfied.

(iv) a Purchaser Material Adverse Effect has occurred and is continuing; or

(v) at any time prior to the approval of the Merger Resolution, if the Company Board approves and authorizes the Company to enter into a definitive agreement providing for the implementation of a Company Superior Proposal in accordance with Section 5.1(f), subject to the Company:

(A) complying with the terms of Section 5.1; and

(B) paying the Company Termination Fee.

6.2 Void upon Termination

(a) If this Agreement is terminated pursuant to Section 6.1, then:

(i) this Agreement shall become void and of no force and effect; and

(ii) no Party will have any liability or further obligation to the other Party hereunder,

except that the provisions of this Section 6.2, Section 5.2, Section 5.4 and Article 8 (other than Section 8.6 and Section 8.11) shall survive any termination hereof pursuant to Section 6.1.

(b) Neither:

(i) the termination of this Agreement; nor

(ii) anything contained in Section 5.2 or this Section 6.2,

will relieve any Party from any liability for any intentional or wilful breach by it of this Agreement, including any intentional or wilful making of a misrepresentation in this Agreement.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Confidentiality Agreement shall survive any termination hereof pursuant to Section 6.1.

6.3 Notice and Cure Provisions

(a) If any Party determines, at any time prior to the Effective Time, that it intends to refuse to complete the transactions contemplated hereby because of any unfilled or unperformed condition contained in this Agreement, then such Party will so notify the other Party forthwith upon making such determination in order that the other Party will have the right and opportunity to take such steps, at its own expense, as may be necessary for the purpose of fulfilling or performing such condition within a reasonable period of time, but in no event later than the Outside Date.

(b) Neither the Company nor the Purchaser may:

(i) elect not to complete the transactions contemplated hereby pursuant to the conditions precedent contained in Article 7 hereof; or

(ii) exercise any termination right arising therefrom,

and no payments will be payable as a result of such election pursuant to Article 7 unless forthwith, and in any event prior to the Effective Time, the Party intending to rely thereon has given a written notice to the other Party.

(c) The notice required pursuant to Section 6.3(b) must specify, in reasonable detail all breaches of:

(i) covenants;

(ii) representations and warranties; or

(iii) other matters,

which the Party giving such notice is asserting as the basis for the non-fulfillment of the applicable condition precedent or the exercise of the termination right, as the case may be.

(d) If any notice required pursuant to Section 6.3(b) is duly given, then provided that the other Party is proceeding diligently to cure such matter, if such matter is susceptible to being cured, the Party giving such notice may not terminate this Agreement as a result thereof until the earlier of the:

(i) Outside Date; and

(ii) date of expiration of a period of 15 Business Days from such notice.

(e) If notice required pursuant to Section 6.3(b) is duly given prior to the date of the Company Meeting or the Purchaser Meeting, then such meeting, unless the Parties otherwise agree, will be postponed or adjourned until the expiry of such period (without causing any breach of any other provision contained herein).

ARTICLE 7
CONDITIONS PRECEDENT

7.1 Mutual Conditions Precedent

The respective obligations of the Parties to complete the Merger are subject to the satisfaction, or mutual waiver by the Parties, on or before the Closing Date, of each of the following conditions, each of which are for the mutual benefit of the Parties and which may be waived, in whole or in part, by the Purchaser and the Company at any time:

(a) the Merger Resolution has been approved by the Company Common Stockholders and Company Preferred Stockholders at the Company Meeting, in accordance with the applicable Laws;

(b) the Purchaser Meeting Resolution has been approved by the Purchaser Stockholders at the Purchaser Meeting, in accordance with the applicable Laws;

(c) all necessary filings pursuant to the HSR Act (if required) shall have been made and all applicable waiting periods thereunder shall have expired or been terminated, and CFIUS Approval shall have been obtained;

(d) the Form F-4 shall have become effective under the U.S. Securities Act and shall not be the subject of any stop order;

(e) the Purchaser Shares issuable as Common Stock Consideration and the Purchaser Shares issuable upon conversion of the Purchaser Preferred Shares issuable as Preferred Stock Consideration pursuant to this Agreement shall have been (i) conditionally approved for listing and posting for trading on the TSX and (ii) approved for listing and posting for trading on the NYSE American, subject only to satisfaction of the standard listing conditions, including notice of issuance;

(f) there shall be in effect no Law or Order (whether temporary, preliminary or permanent) that has the effect of prohibiting the consummation of the Merger, and no litigation instituted by any Governmental Authority seeking to prohibit the consummation of the Merger shall be pending, and

(g) no:

(i) Law shall have been enacted, issued, promulgated, enforced, made, entered, issued or applied; or

(ii) proceeding shall have been taken, or be pending or threatened under any Laws or by any Governmental Authority (whether temporary, preliminary or permanent),

that makes the Merger illegal or otherwise directly or indirectly cease trades, enjoins, restrains or otherwise prohibits completion of the Merger.

7.2 Additional Conditions Precedent to the Obligations of the Company

The obligation of the Company to complete the Merger will be subject to the satisfaction, or waiver by the Company, on or before the Closing Date, of each of the following conditions, each of which is for the exclusive benefit of the Company and which may be waived by the Company at any time, in whole or in part, in its sole discretion and without prejudice to any other rights that the Company may have:

(a) the Purchaser and Acquireco shall have complied in all material respects with their obligations, covenants and agreements in this Agreement to be performed and complied with on or before the Closing;

(b) (i) the representations and warranties of the Purchaser and Acquireco in Section 3.2 and Schedule F, other than the representations and warranties in Sections 1.1, 1.2, 1.3, 1.12 and 1.13 of Schedule F, shall be true and correct (disregarding for this purpose all materiality or Purchaser Material Adverse Effect qualifications contained therein) at and as of Closing Date as if made on and as of such date (except for such representations and warranties which are made as of another specified date, in which case such representations and warranties shall have been true and correct as of that date) except for breaches of representations and warranties which have not and would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect; (ii) the representations and warranties in Section 1.1, 1.3, 1.12 and 1.13 of Schedule F shall be true and correct in all respects at and as of the Closing Date as if made on and as of such date (not disregarding for this purpose any materiality or Purchaser Material Adverse Effect qualifications contained therein, and except for such representations and warranties which are made as of another specified date, in which case such representations and warranties shall have been true and correct as of that date), and (iii) the representations and warranties in Section 1.2 (Capital Structure) of Schedule F shall be true and correct in all material respects at and as of the Closing Date as if made on and as of such date (not disregarding for this purpose any materiality or Purchaser Material Adverse Effect qualifications contained therein, and except for such representations and warranties which are made as of another specified date, in which case such representations and warranties shall have been true and correct as of that date);

(c) the Purchaser has complied with its obligations under Section 2.14 and the Depositary shall have confirmed receipt of the Merger Consideration;

(d) the Company shall have received a certificate of the Purchaser and Acquireco:

(i) signed by a senior officer of each company; and

(ii) dated the Closing Date,

certifying that the conditions set out in Section 7.2(a) and Section 7.2(b) have been satisfied, which certificate will cease to have any force and effect after the Effective Time;

(e) the Company shall have received a certificate of each of the Purchaser and Acquireco:

(i) signed by a senior officer of the applicable company; and

(ii) dated the Closing Date,

and certifying that appended thereto are:

(iii) true and complete copies of the Charter Documents of the applicable company, including their respective notice of articles, articles, articles of incorporation, bylaws or equivalent,

(iv) certificates of good standing (or equivalent) issued by the relevant corporate registry or secretary of state confirming the existence and good standing of the applicable company as of a date no earlier than two Business Days prior to the Closing Date,

(v) certified copies of resolutions of the Board of Directors of the applicable company approving the entering into of the Agreement and the consummation of the transactions contemplated hereby, and

(vi) a certificate of incumbency of the applicable company;

(f) there has not occurred, prior to the Effective Time:

(i) a Purchaser Material Adverse Effect; or

(ii) any event, occurrence, circumstance or development that would reasonably be expected to have a Purchaser Material Adverse Effect; and

(g) an individual designated by the Company (and reasonably acceptable to the Purchaser Board), will have been appointed to the Purchaser Board to be effective immediately after the Effective Time.

7.3 Additional Conditions Precedent to the Obligations of the Purchaser

The obligations of the Purchaser and Acquireco to complete the Merger will be subject to the satisfaction, or waiver by the Purchaser, on or before the Closing Date, of each of the following conditions, each of which is for the exclusive benefit of the Purchaser and which may be waived by the Purchaser at any time, in whole or in part, in its sole discretion and without prejudice to any other rights that the Purchaser may have:

(a) the Company shall have complied in all material respects with its obligations, covenants and agreements in this Agreement to be performed and complied with on or before the Closing;

(b) (i) the representations and warranties of the Company in Section 3.1 and Schedule E, other than the representations and warranties in Sections 1.1(a), 1.1(b), 1.1(d), 1.2 and 1.3 and 1.27 of Schedule E, shall be true and correct (disregarding for this purpose all materiality or Company Material Adverse Effect qualifications contained therein) at and as of Closing Date as if made on and as of such date (except for such representations and warranties which are made as of another specified date, in which case such representations and warranties shall have been true and correct as of that date) except for breaches of representations and warranties which have not and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect; (ii) the representations and warranties in Section 1.1(a), 1.1(b), 1.1(d), 1.3 and 1.27 of Schedule E shall be true and correct in all respects at and as of the Closing Date as if made on and as of such date (not disregarding for this purpose any materiality or Company Material Adverse Effect qualifications contained therein, and except for such representations and warranties which are made as of another specified date, in which case such representations and warranties shall have been true and correct as of that date), and (iii) the representations and warranties in Section 1.2 (*Capital Structure*) of Schedule E shall be true and correct in all material respects at and as of the Closing Date as if made on and as of such date (not disregarding for this purpose any materiality or Company Material Adverse Effect qualifications contained therein, and except for such representations and warranties which are made as of another specified date, in which case such representations and warranties shall have been true and correct as of that date);

(c) each of the Company Significant Shareholders will have entered into a Support Agreement with the Purchaser, none of such Company Significant Shareholder Support Agreements will have been terminated and none of the Company Significant Shareholders will have breached, in any material respect, any of the representations, warranties and covenants thereof;

(d) each of the Directors and Named Executive Officers of the Company will have entered into a Company Support Agreement with the Purchaser, none of such Company Support Agreements will have been terminated and none of the Directors and Named Executive Officers of the Company will have breached, in any material respect, any of the representations, warranties and covenants thereof;

(e) the Company Common Stock remains "regularly traded" on an established securities market within the meaning of Section 897 of the Code and Treasury Regulation Section 1.897-9T(d);

(f) the Purchaser shall have received a certificate of the Company:

(i) signed by a senior officer of the Company; and

(ii) dated the Closing Date,

certifying that the conditions set out in Section 7.3(a) and Section 7.3(b) have been satisfied, which certificate will cease to have any force and effect after the Effective Time;

(g) the Purchaser shall have received a certificate of the Company:

(i) signed by a senior officer of the Company; and

(ii) dated the Closing Date,

and certifying that appended thereto are:

(iii) true and complete copies of the Charter Documents of each of the Company and its subsidiaries, including their respective notice of articles, articles, articles of incorporation, bylaws or equivalent,

(iv) certificates of good standing (or equivalent) issued by the relevant corporate registry or secretary of state confirming the existence and good standing of each of the Company and its subsidiaries as of a date no earlier than two Business Days prior to the Closing Date,

(v) certified copies of resolutions of the Board of Directors approving the entering into of the Agreement and the consummation of the transactions contemplated hereby, and

(vi) a certificate of incumbency of the Company;

(h) payments to the Company Board Financial Advisor shall have been made by the Company in accordance with the terms of the engagement letters disclosed to the Purchaser in the Data Room Information and the Company shall have provided evidence of payment in such amounts as set forth in the engagement letters and no greater amount has been paid or is owed to the Company Board Financial Advisor; and

(i) there has not occurred, prior to the Effective Time:

(i) a Company Material Adverse Effect; or

(ii) any event, occurrence, circumstance or development that would reasonably be expected to have a Company Material Adverse Effect.

ARTICLE 8
GENERAL

8.1 Notices

Any demand, notice or other communication to be given in connection with this Agreement must be given in writing and will be given by personal delivery or by electronic means of communication addressed to the recipient as follows:

(a) if to the Purchaser or Acquireco as follows:

Americas Silver Corporation
145 King Street West Suite 2870
Toronto, ON M5H 1J8

Attention: Darren Blasutti
Facsimile No.: 1 (866) 401-3069
E-mail: dblasutti@americassilvercorp.com

with a copy (which will not constitute notice) to:

Blake, Cassels & Graydon LLP
199 Bay Street West Suite 4000
Toronto, ON M5L 1A9

Attention: Michael Hickey
Facsimile No.: (416) 863-2653
E-mail: michael.hickey@blakes.com

and a copy (which will not constitute notice) to:

Troutman Sanders LLP
401 9th Street, N. W. Suite 1000
Washington, D.C. 20004

Attention: Thomas M. Rose
Facsimile No.: (757) 687-1529
E-mail: thomas.rose@troutman.com

if to the Company:

Pershing Gold Corporation
1658 Cole Blvd., Bldg 6
Suite 210
Lakewood, CO 80401

Attention: Stephen Alfers
Facsimile No.: (720) 974-7249
E-mail: salfers@pershinggold.com

with a copy (which will not constitute notice) to:

Davis Graham & Stubbs LLP
1550 Seventeenth Street, Suite 500
Denver, Colorado 80202

Attention: Brian Boonstra
Facsimile No.: 303 893 1379
E-mail: brian.boonstra@dgslaw.com

or to such other persons, addresses or facsimile numbers as may be designated in writing by the person entitled to receive such communication as provided above.

8.2 Notices deemed given

Any demand, notice or other communication given pursuant to Section 8.1 will be taken to be duly given, in the case of delivery by:

(a) hand, when delivered;

(b) facsimile, on receipt by the sender of a transmission control report from the despatching machine showing the:

(i) relevant number of pages;

(ii) correct destination fax machine number or name of the recipient; and

(iii) the transmission has been made without error;

and

(c) email, on receipt by the sender of an email message from the recipient, specifically acknowledging receipt, such acknowledgement being in a form that is not automatically generated,

but if the result is that a demand, notice or other communication would be taken to be given or made on a day that is not a Business Day or the demand, notice or other communication is delivered later than 4:00 pm (local time of the recipient), then it will be taken to have been duly given or made at the commencement of business on the next Business Day**.**

8.3 Assignment

Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by any Party without the prior written consent of the other Party.

8.4 Benefit of Agreement

This Agreement will enure to the benefit of and be binding upon the respective successors (including any successor by reason of amalgamation or statutory arrangement) and permitted assigns of the Parties.

8.5 Third Party Beneficiaries

(a) Except as provided in Section 4.9(a), which, without limiting its terms, is intended as stipulations for the benefit of the Indemnified Parties, the Parties intend that:

(i) this Agreement will not benefit or create any right or cause of action in favour of any person, other than the Parties; and

(ii) no person, other than the Parties, shall be entitled to rely on the provisions of this Agreement in any action, suit, proceeding, hearing or other forum.

(b) Despite the foregoing, the Parties acknowledge to each of the Indemnified Parties their direct rights against the applicable Party under Section 4.9(a), which are intended for the benefit of, and shall be enforceable by, each Indemnified Party, his or her heirs and his or her legal representatives, and for such purpose, the Company confirms that it is acting as trustee on their behalf, and agrees to enforce such provisions on their behalf.

8.6 Time of Essence

Time is of the essence of this Agreement.

8.7 Public Announcements

(a) Except as described in this Agreement, no Party shall issue any news release or otherwise make written public statements with respect to the Merger or this Agreement without the consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed).

(b) Neither the Party shall make any filing with any Governmental Authority with respect to the Merger or the transactions contemplated hereby without prior consultation with the other, *provided, however,* that:

(i) the foregoing shall be subject to each Party's overriding obligation to make any disclosure or filing required under applicable Laws; and

(ii) the Party making the disclosure shall use commercially reasonable efforts to:

(A) give prior oral or written notice to the other Party; and

(B) reasonable opportunity for the other Party to review or comment on the disclosure or filing (other than with respect to confidential information contained in such disclosure or filing),

and if such prior notice is not possible, to give notice immediately following the making of any such disclosure or filing.

(c) Except as otherwise required by Section 5.1, the Company shall have no obligation to obtain the consent of or consult with the Purchaser prior to any news release, public statement, disclosure or filing by the Company with regard to an Acquisition Proposal or a Company Change of Recommendation.

(d) The Parties acknowledge that this Agreement may be filed under such Party's profile on SEDAR and on EDGAR without any further notice to any of them.

8.8 Anti-Takeover Statutes

Assuming the accuracy of the representations and warranties of the Purchaser and Acquireco set forth in Section 1.12 of Schedule F: (a) the Company Board has taken all action necessary to render inapplicable NRS 78.378 – 78.3793 and NRS 78.438 – 78.444 as they relate to the execution, delivery and performance of this Agreement and the consummation of the Merger and the other transactions contemplated by this Agreement, the Company Support Agreement and Company Significant Shareholder Support Agreement, and (b) no other "control share acquisition," "fair price," "moratorium," or other anti-takeover Law becomes or is deemed to be applicable to Purchaser, the Acquireco, the Company, the Merger, or any other transaction contemplated by this Agreement.

8.9 Section 16 Matters

Prior to the Effective Time, the Company, the Purchaser, and Acquireco shall each take all such steps as may be required to cause to be exempt under Rule 16b-3 promulgated under the U.S. Exchange Act any dispositions of shares of Company Common Stock or Company Preferred Stock (including derivative securities with respect to such shares) that are treated as dispositions under such rule and result from the transactions contemplated by this Agreement by each director or officer of the Company who is subject to the reporting requirements of Section 16(a) of the U.S. Exchange Act with respect to the Company immediately prior to the Effective Time.

8.10 Governing Law; Attornment

(a) This Agreement shall be governed by and construed in accordance with, including as to validity, interpretation and effect, the internal Laws of the State of Nevada without giving effect to any choice or conflict of law provision or rule (whether of the State of Nevada or any other jurisdiction) that would cause the application of Laws of any jurisdiction other than those of the State of Nevada.

(b) Each of the Parties hereby:

(i) irrevocably agrees that any Legal Action or proceeding with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder brought by any other party hereto or its successors or assigns shall be brought and determined exclusively in the courts of the State of Nevada, or in the event (but only in the event) that such court does not have subject matter jurisdiction over such action or proceeding, in the relevant federal court;

(ii) agrees that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section 8.1 or in such other manner as may be permitted by applicable Laws, will be valid and sufficient service thereof;

(iii) irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court or tribunal other than the aforementioned courts;

(iv) irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim, or otherwise, in any action or proceeding with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder: (X) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to serve process in accordance with this Section 8.10; (Y) any claim that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise); and (Z) to the fullest extent permitted by the applicable Law, any claim that (A) the suit, action or proceeding in such court is brought in an inconvenient forum, (B) the venue of such suit, action or proceeding is improper, or (C) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

8.11 Entire Agreement

(a) This Agreement constitutes, together with the Confidentiality Agreement and the Loan Agreement, the entire agreement between the Parties with respect to the subject matter thereof.

(b) There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties with respect thereto except as expressly set forth in this Agreement, the Confidentiality Agreement and the Loan Agreement.

8.12 Amendment

This Agreement may, at any time and from time to time before or after the holding of the Company Meeting but not later than the Effective Time, be amended or supplemented in any and all respects, by written agreement of the Parties without, subject to applicable Laws, further notice to or authorization on the part of the Company Stockholders, and any such amendment may, without limitation:

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

(b) waive any inaccuracies or modify any representation, term or provision contained herein or in any document delivered pursuant hereto; or

(c) waive compliance with or modify any of the:

(i) conditions precedent referred to in Article 7; or

(ii) any of the covenants herein contained or waive or modify performance of any of the obligations of the Parties,

provided, however, that no such amendment may reduce or materially affect the consideration to be received by the Company Stockholders under the Merger without their approval at the Company Meeting or, following the Company Meeting, without their approval given in the same manner as required by applicable Laws for the approval of the Merger as may be required by the Court.

8.13 Waiver and Modifications

(a) At any time prior to the Effective Time, any Party may:

(i) waive, in whole or in part, any inaccuracy of, or consent to the modification of, any representation or warranty made to it hereunder or in any document to be delivered pursuant hereto;

(ii) extend the time for the performance of any of the obligations or acts of the other Parties;

(iii) unless prohibited by applicable Law, waive or consent to the modification of any of the covenants herein contained for its benefit or waive or consent to the modification of any of the obligations of the other Parties hereto; or

(iv) unless prohibited by applicable Law, waive the fulfillment of any condition to its own obligations contained herein.

(b) No waiver or consent to the modifications of any of the provisions of this Agreement will be effective or binding unless:

(i) made in writing; and

(ii) signed by the Party or Parties purporting to give the same,

and, unless otherwise provided, will be limited to the specific breach or condition waived.

(c) The rights and remedies of the Parties hereunder are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity or otherwise.

(d) No single or partial exercise by a Party of any right or remedy precludes or otherwise affects any further exercise of such right or remedy or the exercise of any other right or remedy to which that Party may be entitled.

(e) No waiver or partial waiver of any nature, in any one or more instances, will be deemed or construed a continued waiver of any condition or breach of any other term, representation or warranty in this Agreement.

8.14 Severability

If any term or provision of this Agreement is determined by any court of competent jurisdiction to be invalid, illegal or unenforceable, that term or provision will be severed from this Agreement and the remaining provisions will continue in full force and effect so long as the economic or legal substance of the transactions contemplated herein is not affected in any material manner or would prevent or significantly impede or materially delay the completion of the Merger.

8.15 Mutual Interest

Notwithstanding the fact that any part of this Agreement has been drafted or prepared by or on behalf of one of the Parties, all Parties confirm that:

(a) they and their respective counsel have reviewed and negotiated this Agreement;

(b) the Parties have adopted this Agreement as the joint agreement and understanding of the Parties;

(c) the language used in this Agreement will be deemed to be the language chosen by the Parties to express their mutual intent;

(d) the Parties waive the application of any Laws or rules of construction providing that ambiguities in any agreement or other document will be construed against the Party drafting such agreement or other document; and

(e) no rule of construction providing that a provision is to be interpreted in favour of the person who contracted the obligation and against the person who stipulated it will be applied against any Party.

8.16 Further Assurances

Subject to the provisions of this Agreement, the Parties will, from time to time, do all acts and things and execute and deliver all such further documents and instruments, as the other Parties may, either before or after the Closing Date reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

At and after the Effective Time, the officers and directors of the Surviving Corporation shall be authorized to execute and deliver, in the name and on behalf of the Company or Acquireco, any deeds, bills of sale, assignments, or assurances and to take and do, in the name and on behalf of the Company or Acquireco, any other actions and things to vest, perfect, or confirm of record or otherwise in the Surviving Corporation any and all right, title, and interest in, to and under any of the rights, properties, or assets of the Company acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger.

8.17 Remedies

Except as otherwise provided in this Agreement, any and all remedies expressly conferred upon a party to this Agreement will be cumulative with, and not exclusive of, any other remedy contained in this Agreement, at law, or in equity. The exercise by a party to this Agreement of any one remedy will not preclude the exercise by it of any other remedy.

8.18 Injunctive Relief

Subject to Section 5.2(d), the Parties agree that irreparable harm would occur if any of the provisions of this Agreement:

(a) are not performed in accordance with their specific terms; or

(b) are otherwise breached,

for which money damages would not be an adequate remedy at law and accordingly agree that, in addition to any other remedy to which a Party may be entitled at law or in equity, a Party will be entitled to seek an injunction or injunctions and other equitable relief to prevent breaches of this Agreement and the Parties waive any requirement for the securing or posting of any bond in connection with the obtaining of any such injunctive or other equitable relief.

8.19 No Personal Liability

(a) No director, officer or employee of the Purchaser will have any personal liability to the Company under this Agreement or any other document delivered in connection with this Agreement or the Merger on behalf of the Purchaser.

(b) No director, officer or employee of the Company will have any personal liability to the Purchaser under this Agreement or any other document delivered in connection with this Agreement or the Merger on behalf of the Company.

8.20 Waiver of Jury Trial

EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT: (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION; (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY; AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 8.20.

8.21 Counterparts

This Agreement may be executed and delivered in any number of counterparts (including by facsimile or electronic transmission), each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument. This Agreement will become effective when each party to this Agreement will have received counterparts signed by all of the other Parties.

[Remainder of page has been left intentionally blank. Signature page follows.]

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

AMERICAS SILVER CORPORATION

By: /s/ Darren Blasutti
Name: Darren Blasutti
Title: President and CEO

R MERGER SUB, INC.

By: /s/ Darren Blasutti
Name: Darren Blasutti
Title: Director

[*Signature page to Agreement and Plan of Merger*]

PERSHING GOLD CORPORATION

By: /s/ Stephen D. Alfers
Name: Stephen D. Alfers
Title: President and CEO

[*Signature page to Agreement and Plan of Merger*]

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Section 3: EX-2.2 (EXHIBIT 2.2)

Exhibit 2.2

List of Subject Matters on Schedules

The following is a list of the subject matter of the schedules to the Agreement and Plan of Merger, which schedules were omitted from Exhibit 2.1 pursuant to Item 6.01(b)(2) of Regulation S-K. The Company will furnish supplementally a copy of any omitted schedule to the Securities and Exchange Commission upon request.

Schedule A	Articles of Incorporation
Schedule B-1	Merger Resolution
Schedule B-2	Purchaser Meeting Resolution
Schedule C-1	Form of Company Support Agreement
Schedule C-2	Form of Purchaser Support Agreement
Schedule D	Purchaser Preferred Stock Terms
Schedule E	Representations and Warranties of the Company
Schedule F	Representations and Warranties of the Purchaser and Acquireco
Schedule G	Retention Agreements
Company Disclosure Letter	Schedule 1.1 – Company Budget from October 1, 2018 through March 31, 2019
	Schedule 1.1(d) – Company Subsidiaries
	Schedule 1.2(b)(i) – Outstanding Company Stock Options
	Schedule 1.2(b)(ii) – Restricted Stock Unit Grants
	Schedule 1.2(c) – Outstanding Company Warrants
	Schedule 1.4(a) – Key Regulatory Approvals
	Schedule 1.4(b)(i) – Key Consents
	Schedule 1.4(b)(iv) – Payments Upon Closing
	Schedule 1.5(e) - Permits
	Schedule 1.10(a) – Employee Plans
	Schedule 1.10(e) – Payments Due to Employees Upon Closing
	Schedule 1.10(k) – Employees and Contractors
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	Schedule 1.13(b) – Release of Hazardous Substances
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	Schedule 1.14(a)(i) – Owned Real Property
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	Schedule 1.17 – Foreign Persons
	Schedule 1.19(a) – Intellectual Property
	Schedule 1.27 – Brokers
	Schedule 1.29 – Affiliate Transactions
	Schedule 4.8 – Executive Officer Resignations
	Schedule 4.8(c) – Severance Payment Obligations

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Section 4: EX-3.1 (EXHIBIT 3.1)

150303

BARBARA K. CEGAVSKE
Secretary of State
202 North Carson Street
Carson City, Nevada 89701-4201
(775) 684-5708
Website: www.nvsos.gov

Filed in the office of	Document Number
Barbara K. Cegavske	**20180426354-85**
Barbara K. Cegavske Secretary of State State of Nevada	Filing Date and Time **09/28/2018 1:30 PM**
	Entity Number **E0545322007-7**

Amendment to Certificate of Designation After Issuance of Class or Series

(PURSUANT TO NRS 78.1955)

USE BLACK INK ONLY - DO NOT HIGHLIGHT

ABOVE SPACE IS FOR OFFICE USE ONLY

Certificate of Amendment to Certificate of Designation For Nevada Profit Corporations

(Pursuant to NRS 78.1955 - After Issuance of Class or Series)

1. Name of corporation:

Pershing Gold Corporation

2. Stockholder approval pursuant to statute has been obtained.

3. The class or series of stock being amended:

Series E Convertible Preferred Stock, par value $0.0001 per share

4. By a resolution adopted by the board of directors, the certificate of designation is being amended as follows or the new class or series is:

The Certificate of Designation establishing the Series E Convertible Preferred Stock filed with the Secretary of State of Nevada on August 8, 2013 is hereby amended as set forth in Attachment 1 annexed hereto.

5. Effective date of filing: (optional)

(must not be later than 90 days after the certificate is filed)

6. Signature: (required)

X

Signature of Officer

Filing Fee: $175.00

IMPORTANT: Failure to include any of the above information and submit with the proper fees may cause this filing to be rejected.

This form must be accompanied by appropriate fees.

ATTACHMENT 1

TO CERTIFICATE OF AMENDMENT
TO CERTIFICATE OF DESIGNATION OF SERIES E CONVERTIBLE PREFERRED STOCK OF
PERSHING GOLD CORPORATION

SECTION 6: *Change in Control*. The following sentence is hereby added at the end of Section 6:

> Notwithstanding anything to the contrary herein, in connection with the consummation of the Change in Control contemplated by that certain Agreement and Plan of Merger by and among the Corporation, Americas Silver Corporation and R Merger Sub, Inc. dated on or about September 28, 2018 (the "Merger Agreement"), the preceding sentence shall not apply and the outstanding shares of Series E Preferred Stock shall be converted in the manner set forth in the Merger Agreement.

SECTION 7.1(b): *Subsequent Equity Sales*. The following sentence is hereby added at the end of Section 7.1(b):

> Notwithstanding anything to the contrary herein, the execution by the Corporation of the Convertible Secured Debenture dated on or about September 28, 2018 by and between the Company and Americas Silver Corporation (the "ASC Debenture") shall not result in any adjustment to the Conversion Price; *provided* that in the event any amounts borrowed under the ASC Debenture are converted into shares of Common Stock or Common Stock Equivalents at a Conversion Price (as defined in the ASC Debenture) that is lower than the then Conversion Price, this Section 7.1(b) shall apply.

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Section 5: EX-4.1 (EXHIBIT 4.1)

Exhibit 4.1

PERSHING GOLD CORPORATION

and

AMERICAS SILVER CORPORATION

CONVERTIBLE SECURED DEBENTURE

October 1, 2018

TABLE OF CONTENTS

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS CONVERTIBLE SECURED DEBENTURE MUST NOT TRADE SUCH CONVERTIBLE SECURED DEBENTURE BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE DATE OF THIS CONVERTIBLE SECURED DEBENTURE.

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. THE HOLDER HEREOF, BY PURCHASING OR OTHERWISE HOLDING SUCH SECURITIES, AGREES FOR THE BENEFIT OF THE COMPANY THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, ONLY (A) TO THE COMPANY, (B) OUTSIDE THE UNITED STATES IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE U.S. SECURITIES ACT, AND IN COMPLIANCE WITH LOCAL LAWS AND REGULATIONS, OR (C) IN ACCORDANCE WITH AN EXEMPTION FROM REGISTRATION UNDER THE U.S. SECURITIES ACT, IF APPLICABLE AND, IN EACH CASE, IN COMPLIANCE WITH APPLICABLE STATE SECURITIES LAWS.

CONVERTIBLE SECURED DEBENTURE

$4,000,000 (being the maximum Principal Amount that may be advanced hereunder) October 1, 2018

ARTICLE 1
PAYMENT ETC.

Section 1.1 Principal Amount; Funding

(a) **Principal Amount**. Subject to the terms and conditions herein (i) Pershing Gold Corporation (the "**Company**"), a Nevada corporation, hereby promises to pay the Repayment Amount (as defined below) to the order of Americas Silver Corporation, a corporation formed under the *Canada Business Corporations Act* (the "**Holder**") on the Maturity Date (as defined below), or on such earlier date as the Repayment Amount hereof may become due in accordance with the terms and conditions herein; and (ii) the Holder hereby acknowledges its obligation to fund the Principal Amount on or after the date hereof in accordance with the terms and conditions herein. The Holder shall keep a record of the Principal Amount advanced pursuant to this Debenture (as defined below), all accrued and unpaid interest and all payments of principal, interest and fees hereunder from time to time and such record shall constitute prima facie evidence of the Repayment Amount of the Obligations from time to time, absent manifest error.

(b) **Request for Funding**. To request an advancement of all or a portion of the Principal Amount under this Debenture (the "**Borrowing Request**"), the Company shall notify the Holder of such request by telephone or other electronic communication acceptable to the Holder, not later than 12:00 noon, Denver, Colorado time, five (5) Business Days immediately prior to the date of the proposed Funding Date (as defined below), other than with respect to the Initial Drawn Amount, the advancement of which shall occur on the effective date of this Debenture and for which such Borrowing Request shall be deemed to have been delivered on the effective date hereof. Each such telephonic or other electronic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery, telecopy or other electronic communication to the Holder of a written Borrowing Request signed by the Company. Each such telephonic and written Borrowing Request shall specify the following information:

(i) the aggregate amount of the funds requested, which shall be in increments of $100,000 and shall in no event exceed $4,000,000 of Principal Amount in the aggregate;

(ii) the Funding Date of the funds requested, which shall be a Business Day; and

(iii) the location and number of the Company's account to which funds are to be disbursed.

Section 1.2 Interest

(a) Interest on the Drawn Amount at the rate of sixteen percent (16.00%) per annum shall accrue and compound monthly from and after the date of the funding of the Drawn Amount (as applicable, the "**Funding Date**"), and shall be paid in arrears in cash on the earlier of the Maturity Date and the date of conversion pursuant to Article 6, subject to the terms of this Debenture; *provided* that, if any amount due hereunder is not paid when due, whether on maturity, by acceleration or otherwise, or at any time following the exercise of the Extension Option (as defined below) by the Company and until the extended Maturity Date, interest on the Drawn Amount shall accrue and compound monthly at the rate of nineteen percent (19.00%) per annum.

(b) All computations of interest shall be made on the basis of a year of 365 or 366 days, as the case may be, taking into account the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest is payable.

(c) For purposes of the *Interest Act* (Canada), (i) whenever any interest or fee under this Debenture is calculated using a rate based on a number of days less than a full year, such rate determined pursuant to such calculation, when expressed as an annual rate, is equivalent to (A) the applicable rate, (B) multiplied by the actual number of days in the calendar year in which the period for which such interest or fee is payable (or compounded) ends, and (C) divided by the number of days comprising such calculation basis; (ii) the principle of deemed reinvestment of interest does not apply to any interest calculation under this Debenture; and (iii) the rates of interest stipulated in this Debenture are intended to be nominal rates and not effective rates or yields.

(d) No provision of this Debenture shall have the effect of requiring the Company to pay interest (as such term is defined in section 347 of the *Criminal Code* (Canada)) at a rate in excess of 60% per annum, taking into account all other amounts which must be taken into account for the purpose thereof and, to such extent, the Company's obligation to pay interest hereunder shall be so limited.

Section 1.3 Taxes

(a) **Payments Subject to Taxes**. If any Obligor or the Holder is required by applicable law to deduct or pay any Taxes (other than any Taxes payable by the Holder which are imposed on or measured by its net income (the "**Excluded Taxes**")) in respect of any payment by or on account of any obligation of an Obligor hereunder or under any other Loan Document, then (i) the sum payable shall be increased by that Obligor when payable as necessary so that after making or allowing for all required deductions and payments (including deductions and payments applicable to additional sums payable under this Section) the Holder receives an amount equal to the sum it would have received had no such deductions or payments been required, (ii) the Obligor shall make any such deductions required to be made by it under applicable law and (iii) the Obligor shall timely pay the full amount required to be deducted to the relevant Governmental Authority in accordance with applicable law. The Obligors shall indemnify the Holder, within ten (10) days after demand therefor, for the full amount of any Taxes (other than any Taxes payable by the Holder which are imposed on or measured by its net income), including, without limitation, Taxes imposed or asserted on or attributable to amounts payable under this Section 1.3) paid by the Holder and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Company or other relevant Obligor by the Holder shall be conclusive absent manifest error.

(b) **Payment of Other Taxes by the Company**. Without limiting the provisions of Section 1.3(a), the Obligors shall timely pay all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Debenture or any other Loan Document to the relevant Governmental Authority in accordance with applicable law.

(c) **Indemnification by the Company**. The Company shall indemnify the Holder, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including, without limitation, Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Holder and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Company by the Holder shall be conclusive absent manifest error.

Section 1.4 Mandatory Prepayment upon Termination of the Merger Agreement

In the event the Merger Agreement is terminated in accordance with its terms, the outstanding Drawn Amount plus any accrued and unpaid interest (collectively, the "**Repayment Amount**"), will become due and payable on the following terms and conditions:

(a) The Repayment Amount shall, at the Company's option (the "**Election**"), either (I) be payable in cash; or (II) convert into Common Shares at the Conversion Price (the "**Conversion**") in the following circumstances:

(i) if the Purchaser Meeting is held and the Purchaser Meeting Resolutions are not approved by the Purchaser Stockholders and the Merger Agreement is terminated in accordance with Section 6.1(b)(iv) of the Merger Agreement;

(ii) if any Law is enacted, made, enforced or amended, as applicable, that makes the completion of the Merger or the transactions contemplated by the Merger Agreement illegal or otherwise prohibited, and such Law has become final and non-appealable and the Merger Agreement is terminated in accordance with Section 6.1(b)(v) of the Merger Agreement; or

(iii) if the Holder breaches any of its representations, warranties, covenants or agreements contained in the Merger Agreement and the Merger Agreement is terminated in accordance with Section 6.1(d)(iii) of the Merger Agreement.

(b) For greater certainty, the aggregate number of Common Shares that may be issued pursuant to Section 1.4(a) shall not exceed 19.9% of the total issued and outstanding Common Shares as of the date of this Debenture. In the event the full Repayment Amount cannot be converted to Common Shares as a result of this Section 1.4(b), any remaining portion of the Repayment Amount not so converted into Company Shares shall be payable in cash within 90 days of becoming due and payable.

(c) In such cases where the Repayment Amount becomes due and payable pursuant to Section 1.4(a), the Company shall make the Election by notice to the Holder within 30 days following termination of the Merger Agreement, and repayment shall occur within 60 days of such notice but in any event within 90 days of such termination under Section 1.4.

(d) The Repayment Amount shall be payable in cash in the following circumstances:

(i) if the Company Meeting is held and the Merger Resolution is not approved by the Company Common Stockholders and the Merger Agreement is terminated in accordance with Section 6.1(b)(ii) of the Merger Agreement;

(ii) if the Company Meeting is held and the Merger Resolution is not approved by the Company Preferred Stockholders and the Merger Agreement is terminated in accordance with Section 6.1(b)(iii) of the Merger Agreement;

(iii) if the Company breaches any of its representations, warranties, covenants or agreements contained in the Merger Agreement and the Merger Agreement is terminated in accordance with Section 6.1(c)(iii) of the Merger Agreement;

(iv) if the Company makes a Company Change of Recommendation and the Merger Agreement is terminated in accordance with Section 6.1(c)(i) of the Merger Agreement;

(v) if the Board approves and authorizes the Company to enter into a definitive agreement providing for the implementation of a Company Superior Proposal and the Merger Agreement is terminated in accordance with Section 6.1(d)(v) of the Merger Agreement; or

(vi) if the Merger is not completed by the Outside Date and the Merger Agreement is terminated in accordance with Section 6.1(b)(i) of the Merger Agreement.

(e) In such cases where the Repayment Amount becomes due and payable pursuant to Section 1.4(d)(i), (ii), (iii) or (vi), such repayment shall occur within 90 days thereof. In such cases where the Repayment Amount becomes due and payable pursuant to Section 1.4(d)(iv) or (v), such repayment shall occur within 10 days thereof.

(f) Notwithstanding the definition of "Repayment Amount" pursuant to Section 1.4, in the event that the Repayment Amount becomes due and payable pursuant to Section 1.4(b)(v), the Repayment Amount will be calculated as an amount equal to 106% of the Drawn Amount plus all accrued and unpaid interest on the Drawn Amount so prepaid, up to and including the redemption date.

Section 1.5 Manner of Election of Conversion Option

The Holder shall be entered in the books of the Company at the date of the Conversion as the holder of the number of Common Shares issuable in respect of the Repayment Amount which the Company has elected to convert and, as soon as reasonably practicable, the Company shall deliver to the Holder a certificate or certificates representing such Common Shares.

Section 1.6 Fees and Expenses

The Obligors shall pay all reasonable legal counsel expenses incurred by the Holder in connection with this Debenture and the other Loan Documents and the funding provided for hereunder, the amount of which expenses payable by the Obligors shall in no event exceed $85,000 (exclusive of taxes). The Obligors shall pay all reasonable and documented out-of-pocket expenses incurred by the Holder in connection with this Debenture and the other Loan Documents or incurred during any workout, restructuring or negotiations in respect thereof.

Section 1.7 Security

To secure payment of the Obligations , the Company and each of the other Obligors shall enter into the Security Documents in accordance with the terms and conditions set out herein.

ARTICLE 2
INTERPRETATION

Section 2.1 Definitions

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

"**Affiliate**" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the Person specified.

"**Board**" means the board of directors of the Company.

"**Borrowing Request**" has the meaning given thereto in Section 1.1(b).

"**Business Day**" has the meaning given thereto in the Merger Agreement.

"**Charter Documents**" has the meaning given thereto in the Merger Agreement.

"**Common Shares**" means the Company Common Stock, as such term is defined in the Merger Agreement.

"**Company**" has the meaning given thereto in Section 1.1.

"**Company Change of Recommendation**" has the meaning given thereto in the Merger Agreement.

"**Company Common Stockholders**" has the meaning given thereto in the Merger Agreement.

"**Company Disclosure Letter**" has the meaning given thereto in the Merger Agreement.

"**Company Key Regulatory Approvals**" has the meaning given thereto in the Merger Agreement.

"**Company Meeting**" has the meaning given thereto in the Merger Agreement.

"**Company Common Stockholders**" has the meaning given thereto in the Merger Agreement.

"**Company Preferred Stockholders**" has the meaning given thereto in the Merger Agreement.

"**Company Public Disclosure Record**" has the meaning given thereto in the Merger Agreement.

"**Company Superior Proposal**" has the meaning given thereto in the Merger Agreement.

"**Company Technical Report**" has the meaning given thereto in the Merger Agreement.

"**Conversion Option**" has the meaning given thereto in Section 6.1.

"**Conversion Price**" means the volume weighted average price of the Common Shares on NASDAQ for the five trading days immediately preceding the date of the exercise of the Election by the Company, *provided* that the Conversion Price shall in no event be lower than $1.18.

"**Corporate Transaction**" means any transaction whereby all or substantially all of a corporation's undertaking, property, securities or assets would become the property of any other Person whether by way of arrangement, reorganization, consolidation, amalgamation, takeover bid, merger, continuance under any other jurisdiction of incorporation or otherwise.

"**Debenture**" means this convertible secured debenture, as may be amended or restated from time to time.

"**Debt**" means, with respect to any Person, without duplication and, except as provided in item (c) below, without regard to any interest component thereof (whether actual or imputed) that is not due and payable, the following amounts, each calculated in accordance with GAAP:

(a) indebtedness for borrowed money (including, without limitation, by way of overdraft) or indebtedness represented by notes payable and drafts accepted representing extensions of credit;

(b) all obligations in respect of the deferred purchase price of property or services;

(c) the face amount of all bankers' acceptances;

(d) the stated amount of all letters of credit, and reimbursement obligations with respect to letters of credit and with respect to letters of guarantee and surety bonds;

(e) all obligations that are evidenced by bonds, debentures, notes or other similar instruments, or that are not so evidenced but would be considered by GAAP to be indebtedness for borrowed money;

(f) all capital lease and purchase money obligations;

(g) all mandatory obligations of such Person to purchase, redeem, retire, defease or otherwise acquire for value (other than for shares) any shares of such Person at the option of the holder thereof or pursuant to a sinking fund obligation, valued, in the case of redeemable or retractable shares, at the greater of voluntary or involuntary redemption price, plus accrued and unpaid dividends;

(h) the net amount of obligations of such Person (determined on a mark-to-market basis) under any hedging agreements; and

(i) any guarantee or indemnity (other than by endorsement of negotiable instruments for collection or deposit in the ordinary course of business) in any manner of any part or all of an obligation included in items (a) through (h) above.

but excluding for greater certainty current accounts payable and trade payables incurred in the ordinary course of business. For further greater certainty, the stated amount of a letter of credit or any other letter of credit or guarantee shall not be included to the extent that the obligation in respect of which it has been issued is included in one of items (a) to (h) above.

"**Default**" means any event or condition that constitutes an Event of Default or that would constitute an Event of Default except for satisfaction of any condition subsequent required to make the event or condition an Event of Default, including giving of any notice, passage of time, or both.

"**Distribution**" means, in respect of any Person, (a) any dividend, return of capital or other distribution on capital stock of such Person, (b) the purchase, redemption or retirement amount of any capital stock of the Person redeemed or purchased by the Person, (c) any payment made on, under or in respect of any Debt of the Person, including interest, sinking fund or any like payment, and (d) any payment made in respect of any management, consulting or similar fee or any bonus payment or comparable payment, or gift or other gratuity, to any Affiliate of such Person or to any director or officer of such Person or Affiliate of such Person, or to any Person not dealing at arm's length with such first Person or Affiliate, director or officer.

"**Drawn Amount**" means at any time, the portion of the Principal Amount outstanding and owing under this Debenture from time to time, which shall, for the avoidance of doubt, not include any accrued and unpaid interest, fees, costs, charges and expenses then due and owing under this Debenture, except to the extent such accrued and unpaid interest has been compounded on a monthly basis.

"**Event of Default**" has the meaning specified in Section 7.1.

"**Extension Option**" means an option in favour of the Company to extend the Maturity Date from June 1, 2019 to September 1, 2019, which option may be exercised by the Company by delivery of a notice in writing to the Holder by no later than February 1, 2019, provided that the Extension Option is not available if the Merger Agreement has been terminated.

"**Funding Date**" has the meaning given thereto in Section 1.2(a).

"**GAAP**" means United States generally accepted accounting principles.

"**Governmental Authority**" has the meaning set forth in the Merger Agreement.

"**Holder**" has the meaning specified in Section 1.1 and includes the Holder's successors and assigns.

"**Indemnified Taxes**" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by the Company under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

"**Initial Drawn Amount**" means a portion of the Principal Amount not exceeding $1,000,000.

"**Law**" has the meaning set forth in the Merger Agreement.

"**Lien**" has the meaning given thereto in the Merger Agreement.

"**Loan Documents**" means this Debenture, the Security Documents and all other documents to be executed and delivered to the Holder in connection with this Debenture.

"**Material Adverse Effect**" means a Company Material Adverse Effect, as such term is defined in the Merger Agreement.

"**Maturity Date**" means, at any relevant time, (i) if the Company has not exercised the Extension Option, June 1, 2019, or (ii) if the Company has exercised the Extension Option, September 1, 2019, in each case provided that the Repayment Amount shall not have been fully converted into Common Shares at such time and subject to acceleration upon an Event of Default and any mandatory prepayments required pursuant to the terms hereof.

"**Merger**" has the meaning given thereto in the Merger Agreement.

"**Merger Agreement**" means the Agreement and Plan of Merger dated September 28, 2018, by and among the Holder, MergerSub and the Company, as it may be further amended, amended and restated, supplemented or otherwise modified from time to time in accordance with its terms.

"**Merger Resolution**" has the meaning given thereto in the Merger Agreement.

"**MergerSub**" means R Merger Sub, Inc., a Nevada corporation.

"**NASDAQ**" means the The Nasdaq Stock Market LLC.

"**Obligations**" means all debts, liabilities and obligations, present or future, direct or indirect, absolute or contingent, matured or unmatured, at any time or from time to time due or accruing due and owing by or otherwise payable by the Company or any other Obligor to the Holder under this Debenture and the other Loan Documents, including, but not limited to the Repayment Amount.

"**Obligors**" means the Company and each of its Subsidiaries.

"**Other Taxes**" means any and all present or future stamp, court, recording, filing, intangible, documentary or similar Taxes or any other excise or property Taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement or registration of, or performance under, or from the receipt or perfection of a security interest under or otherwise with respect to this Debenture or any other Loan Document (other than Excluded Taxes imposed with respect to an assignment).

"**Outside Date**" has the meaning given thereto in the Merger Agreement.

"**Permitted Debt**" has the meaning given thereto in Section 5.2(a).

"**Permitted Liens**" means Company Permitted Liens, as such term is defined in the Merger Agreement.

"**Person**" means any natural person, individual, body corporate, firm, general partnership, limited partnership, limited liability company, syndicate or other form of unincorporated association, trust, trustee, executor, administrator, legal personal representative, group, organization, government and its agencies or instrumentalities, any entity or group whether or not having legal personality.

"**Principal Amount**" means the face amount of this Debenture, being $4,000,000.

"**Purchaser Meeting**" has the meaning given thereto in the Merger Agreement.

"**Purchaser Meeting Resolutions**" has the meaning given thereto in the Merger Agreement.

"**Purchaser Stockholders**" has the meaning given thereto in the Merger Agreement.

"**Relief Canyon Mine**" means the Relief Canyon property shown within the boundary of the map attached as Appendix 2 hereto.

"**Repayment Amount**" has the meaning given thereto in Section 1.4.

"**Reporting Jurisdictions**" means the jurisdictions in Canada in which the Company is a "reporting issuer" being as at the date hereof, each of the provinces and territories of Canada other than Québec.

"**Security Documents**" means the agreements described in Section 3.1(b)(ii) and (iii) and Section 5.1(a)(i) through (iii).

"**Subsidiary"** has the meaning given thereto in the Merger Agreement.

"**Tax**" or "**Taxes**" has the meaning given thereto in the Merger Agreement.

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

"**United States**" means the United States of America, its territories and possessions, any state of the United States and the District of Columbia.

"**U.S. Securities Act**" means the United States Securities Act of 1933, as amended.

Section 2.2 Interpretation

When a reference is made in this Debenture to an Article, Section, paragraph or clause such reference shall be to an Article, Section, paragraph or clause of this Debenture unless otherwise indicated. The table of contents and headings contained in this Debenture are for convenience of reference purposes only and shall not affect in any way the meaning or interpretation of this Debenture. All words used in this Debenture will be construed to be of such gender or number as the circumstances requires. The word "including" and words of similar import when used in this Debenture will mean "including, without limitation" unless otherwise specified. The words "hereof", "hereto", "hereby", "herein" and "hereunder" and words of similar import when used in this Debenture shall refer to this Debenture as a whole and not to any particular provision of this Debenture. The term "or" is not exclusive. The word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if". The word "will" shall be construed to have the same meaning and effect as the word "shall". The words "assets" and "properties" shall be deemed to have the same meaning, and to refer to all assets and properties, whether real or personal, tangible or intangible. Any agreement, instrument or Law defined or referred to herein means such agreement, instrument or Law as from time to time amended, modified or supplemented, unless otherwise specifically indicated. References to a Person are also to its permitted successors and assigns.

Section 2.3 Currency

Unless otherwise specifically indicated, all references to "dollars" and "$" will be deemed references to the lawful money of the United States.

Section 2.4 Accounting Terms

All accounting terms not specifically defined in this Debenture shall be interpreted in accordance with GAAP.

ARTICLE 3
CONDITIONS PRECEDENT TO FUNDING

Section 3.1 Conditions Precedent to Funding the Initial Drawn Amount

The obligation of the Holder to fund the Initial Drawn Amount is subject to the satisfaction of the following conditions precedent, or the waiver thereof in the Holder's sole and absolute discretion:

(a) evidence of approval of this Debenture and the transactions contemplated hereby by the Board;

(b) receipt by the Holder of duly executed copies of the following documents:

(i) this Debenture;

(ii) a general security agreement by each Obligor in favour of the Holder, granting a first-ranking security interest in all of such Obligor's present and future assets, undertakings and property, to the fullest extent permitted by the instrument creating such Obligor's rights therein, in such form as the Holder or its counsel may reasonably require; and

(iii) a guarantee and postponement of claim made by each Obligor (other than the Company) whereby it guarantees to the Holder payment of all present and future indebtedness and liability now or in the future owing by the Company pursuant to this Debenture and the other Loan Documents;

(c) filing of a UCC-1 Financing Statement in favour of the Holder with the Secretary of State of the State of Nevada;

(d) receipt by the Holder of a certificate of status, good standing or like certificate with respect to each Obligor issued by the appropriate government official in the jurisdiction of its incorporation or formation;

(e) all of the representations and warranties contained in any Loan Document shall be true and correct in all material respects on and as of the applicable Funding Date as though made on and as of such date, and the Holder shall have received a certificate of an officer of the Company so certifying to the Holder;

(f) there shall have occurred no Default or Event of Default that is continuing, and the Holder shall have received a certificate of an officer of the Company so certifying to the Holder;

(g) there shall not have occurred any Material Adverse Effect; and

(h) evidence that all fees and expenses (including the legal fees and disbursements of the Holder's counsel incurred in connection with the preparation and negotiation of the Loan Documents, subject to the limitations set forth in Section 1.6) then payable under the Loan Documents shall have been paid to the Holder.

Section 3.2 Conditions Precedent to Subsequent Fundings

The obligation of the Holder to fund any portion of the Principal Amount after the Funding of the Initial Drawn Amount is subject to the satisfaction of the following conditions precedent, or the waiver thereof in the Holder's sole and absolute discretion:

(a) receipt by the Holder of a Borrowing Request;

(b) all of the representations and warranties contained in any Loan Document shall be true and correct in all material respects on and as of the applicable Funding Date as though made on and as of such date, and, if requested in writing by the Holder, the Holder shall have received a certificate of an officer of the Company so certifying to the Holder;

(c) there shall have occurred no Default or Event of Default that is continuing, and, if requested in writing by the Holder, the Holder shall have received a certificate of an officer of the Company so certifying to the Holder;

(d) there shall not have occurred any Material Adverse Effect.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES

Section 4.1 Representations and Warranties of the Company

The Company (on its own behalf and on behalf of each of the other Obligors) represents and warrants to the Holder, with effect as of the date hereof, and acknowledges and confirms that the Holder is relying thereon without independent inquiry in funding the Principal Amount hereunder, that:

(a) **Incorporation and Qualification**. Each Obligor is (i) a corporation, limited liability company or other legal entity duly formed and is validly existing under the Laws of its jurisdiction of organization and (ii) is duly qualified, licensed or registered to carry on business under applicable Law in all jurisdictions in which the nature of its assets or business makes such qualification necessary, except where the failure to be so qualified or licensed, or to be in good standing, would not have a Material Adverse Effect.

(b) **Corporate Power**. Each Obligor has all requisite corporate, limited liability company or other organizational, as applicable, power and authority to (i) own and operate its assets and to carry on its business as now conducted; and (ii) to enter into and perform its obligations under this Debenture and the other Loan Documents to which it is a party.

(c) **Conflict With Other Instruments**. The execution and delivery of the Loan Documents by each Obligor which is a party thereto and the performance by each Obligor of its respective obligations under them and compliance with the terms, conditions and provisions thereof, will not (i) conflict with or result in a breach of any of the terms, conditions or provisions of (A) its Charter Documents, (B) any applicable Law, (C) any material contractual restriction binding on or affecting it or its properties, including any restriction under any of its other Debt, or (D) any judgment, injunction, determination or award which is binding on it; or (ii) result in, require or permit (A) the imposition of any Lien in, on or with respect to the assets now owned or hereafter acquired by it (other than a Permitted Lien), (B) the acceleration of the maturity of any Debt binding on or affecting it, or (C) any third party to terminate or acquire any rights materially adverse to the applicable Obligor.

(d) **Authorization, Governmental Approvals, etc.** The execution and delivery of each of the Loan Documents by each Obligor which is a party to them and the performance by each of them of its respective obligations hereunder and thereunder have been duly authorized by all necessary corporate action and no authorization, under any applicable Law, and no registration, qualification, designation, declaration or filing with any Governmental Authority is or was necessary to perfect the same, except as are in full force and effect, unamended.

(e) **Execution and Binding Obligation**. This Debenture has been duly executed and delivered by the Company and, and assuming due execution and delivery by the Holder, following execution thereof, each of the other Loan Documents executed and delivered by each Obligor, constitute legal, valid and binding obligations of each of them, enforceable against it in accordance with their respective terms, subject only to any limitation under applicable Law relating to (i) bankruptcy, insolvency, reorganization, moratorium or creditors' rights generally; and (ii) the discretion that a court may exercise in the granting of equitable remedies.

(f) **Ownership of Property**. Each Obligor owns its respective assets with good and marketable title thereto, free and clear of all Liens, except for Permitted Liens.

(g) **Compliance with Laws**. Each Obligor is in compliance in all material respects with all applicable Laws.

(h) **Subsidiaries, etc**. Schedule 1.1(d) of the Company Disclosure Letter lists each of the subsidiaries of the Company as of the date of the Merger Agreement and its place of incorporation or organization. The Company, directly or indirectly, owns 100% of the outstanding equity securities of each subsidiary of the Company. Other than the Company Preferred Stock, Company Restricted Stock, Company Options, Company RSUs, and the Company Warrants (in each case, as defined in the Merger Agreement) as of the date of the Merger Agreement, no Person has an agreement or option or any other right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement or option, including convertible securities, warrants or convertible obligations of any nature, for the purchase, subscription, allotment or issuance of any capital stock or other equity interests of any Obligor. None of the Obligors is the registered or beneficial owner of any capital stock or other equity interest of a Person that is not a Subsidiary of such Obligor.

(i) **No Litigation**. Except as disclosed in the Company Public Disclosure Record, there are no claims, actions, suits or proceedings pending, taken or, to the Company's knowledge, threatened, before or by any Governmental Authority or by any elected or appointed public official or private person in Canada or elsewhere, whether or not having the force of law, in each case, except such claims, actions, suits or proceedings that: (i) do not involve an amount in controversy in excess of $250,000; and (ii) would not reasonably be expected to have a Material Adverse Effect. No applicable Law which may affect any Obligor has been enacted, promulgated or applied, or to the knowledge of the Company, has been proposed, in each case, which could reasonably be expected to have a Material Adverse Effect.

(j) **No Judgments**. None of the Obligors is subject to any judgment, order, writ, injunction, decree or award, or to any restriction, rule or regulation (other than customary or ordinary course restrictions, rules and regulations consistent or similar with those imposed on other Persons engaged in similar businesses) which restrains, prohibits or delays the execution and delivery of the Loan Documents.

(k) **Validity, Priority and Perfection of Security**. Upon execution and delivery thereof, the Security Documents will be effective to create a valid and continuing Lien on and, upon the filing of the appropriate financing statements or other applicable personal property security registrations and filings, a perfected first-priority Lien in favour of the Holder on the collateral with respect to which a security interest may be perfected by filing pursuant to personal property security legislation in all applicable jurisdictions.

(l) **Taxes.** Each Obligor has in a timely manner filed all material tax returns, elections, filings and reports required by law to be filed by it and such returns, elections, filings and reports are true, complete and correct in all material respects. Each Obligor has paid, or reserved in its financial statements, all material Taxes which are due and payable, and has paid all material assessments and reassessments and all other material Taxes, governmental charges, penalties and fines due and payable by it other than those being contested in good faith and for which applicable reserves have been set aside by the applicable Obligor. None of the Obligors has any material liability, contingent or otherwise, except material Taxes now due and payable with respect to ordinary operations during the current fiscal period, adequate provision for the payment of which has been made, other than those being contested in good faith and for which applicable reserves have been set aside by the applicable Obligor.

(m) **Insurance**. Each Obligor's material assets are insured in accordance with the provisions of Section 5.1(j).

(n) **Accuracy of Information**. Neither the financial statements delivered to the Holder from time to time, nor any other written statement furnished by or on behalf of or at the direction of any Obligor to the Holder in connection with the negotiation, consummation or administration of this Debenture contain, as of the time such statements were so furnished, any untrue statement of a material fact or an omission of a material fact as of such time, which material fact is necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading and all such statements, taken as a whole, together with this Debenture, do not contain any untrue statement of a material fact or omit a material fact necessary to make the statements contained herein or therein, in the light of the circumstances under which they were made, not misleading.

(o) **Full Disclosure**. All information furnished by or on behalf of the Obligors to the Holder for purposes of, or in connection with, this Debenture or any other Loan Document, or any other transaction contemplated by this Debenture, including any information furnished in the future, is or will be true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances. There is no fact now known to any of the Obligors which has had, or could reasonably be expected to have, a Material Adverse Effect.

Section 4.2 Representations and Warranties and Acknowledgements of the Holder

(1) In connection with the issuance of this Debenture, the Holder specifically represents, as of the date hereof, to the Company by acceptance of this Debenture as follows:

(a) **Accredited Investor.** The Holder is an "accredited investor" as defined in National Instrument 45-106 – *Prospectus Exemptions*. The Holder agrees to furnish any information and documentation reasonably requested by the Company to assure compliance with the applicable securities laws in connection with delivery of this Debenture.

(b) **Resale Restriction.** The Holder understands and acknowledges that this Debenture and the Shares to be issued upon exercise hereof are subject to the restricted period set forth in subsection 2.5 of National Instrument 45-102 – *Resale of Securities* ("**NI 45-102**") as they are being acquired from the Company in a transaction not involving a public offering and that such securities may be resold without a prospectus under applicable securities laws only in certain limited circumstances. In addition, the Holder represents that it is familiar with NI 45-102 and understands the resale limitations imposed by it and by other applicable securities laws.

(c) **Capacity and Purpose.** The Holder has the legal power, capacity and competence to execute this Debenture and to perform its obligations and take all actions required pursuant hereto. The Holder has not been created solely or primarily to use exemptions from the registration and prospectus exemptions under applicable securities laws and has a pre-existing purpose other than to use such exemptions.

(d) **Due Authorization and Legal Obligation**. This Debenture has been duly and validly authorized, executed and delivered by, and upon acceptance by the Company constitutes a legal, valid, binding and enforceable obligation of, the Holder.

(e) **US Securities Laws.** The Holder represents and warrants or agrees and acknowledges, as applicable, that:

(i) it is aware that the Debentures and the underlying Common Shares have not been and will not be registered under the U.S. Securities Act or the securities laws of any state and that the Debentures and the underlying Common Shares may not be offered or sold, directly or indirectly, in the United States without registration under the U.S. Securities Act or compliance with requirements of an exemption from registration and the applicable laws of all applicable states or an exemption from such registration requirements is available and it acknowledges that the Company has no present intention of filing a registration statement under the U.S. Securities Act in respect of the Debentures or the underlying Common Shares.

(ii) the Debentures and the underlying Common Shares have not been offered to the Holder in the United States, the Holder is not a U.S. Person and the individuals making the order to purchase the Holder and executing and delivering this Debenture on behalf of the Holder were not in the United States when the order was placed and this Debenture was executed and delivered;

(iii) it is not acquiring, and will not acquire, the Debentures and/or the underlying Common Shares on behalf of, or for the account or benefit of, a person in the United States or a U.S. Person;

(iv) it is not acquiring the Debenture or the underlying Common Shares as a result of any "directed selling efforts," as such term is defined in Regulation S under the U.S. Securities Act, or in a scheme to evade the registration requirements of the U.S. Securities Act;

(v) it undertakes and agrees that it will not offer or sell the Debenture or the underlying Common Shares in the United States or to a U.S. Person unless the Debenture or the underlying Common Shares, as applicable, is registered under the U.S. Securities Act and the securities laws of all applicable states of the United States or an exemption from such registration requirements is available; and

(vi) that the Debenture may not be exercised by or on behalf of a U.S. Person or a person in the United States unless an exemption from the registration requirements of the U.S. Securities Act and applicable state securities laws is available to the holder and the holder has furnished such confirmatory information in form and substance reasonable satisfactory to the Company to such effect.

(2) The Holder, by acceptance of this Debenture, agrees to comply in all respects with the provisions of this Section 4.2 and the restrictive legend requirements set forth on the face of this Debenture and further agrees that such Holder shall not offer, sell or otherwise dispose of this Debenture or any shares to be issued upon exercise hereof except under circumstances that will not result in a violation of the applicable securities laws.

(3) Any certificate representing Common Shares issued upon the exercise of this Debenture shall bear the following legends:

"UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER OCTOBER 1, 2018."

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE LISTED ON THE TORONTO STOCK EXCHANGE ("TSX"); HOWEVER, THE SAID SECURITIES CANNOT BE TRADED THROUGH THE FACILITIES OF THE TSX SINCE THEY ARE NOT FREELY TRANSFERABLE, AND CONSEQUENTLY ANY CERTIFICATE REPRESTNGING SUCH SECURITIES IS NOT "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON THE TSX."

"THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. THE HOLDER HEREOF, BY PURCHASING OR OTHERWISE HOLDING SUCH SECURITIES, AGREES FOR THE BENEFIT OF THE COMPANY THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, ONLY (A) TO THE COMPANY, (B) OUTSIDE THE UNITED STATES IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE U.S. SECURITIES ACT, AND IN COMPLIANCE WITH LOCAL LAWS AND REGULATIONS, OR (C) IN ACCORDANCE WITH AN EXEMPTION FROM REGISTRATION UNDER THE U.S. SECURITIES ACT, IF APPLICABLE AND, IN EACH CASE, IN COMPLIANCE WITH APPLICABLE STATE SECURITIES LAWS."

(4) The Holder acknowledges (i) the delivery to the Ontario Securities Commission of the Purchaser's full name, address and telephone number, the number and type of securities purchased by the Holder, the total purchase price, the exemption relied on, and the date of distribution, (ii) that such information is being collected indirectly by the Ontario Securities Commission under the authority granted to it in securities legislation, (iii) that such information is being collected for the purposes of the administration and enforcement of the securities legislation of Ontario, and (iv) that the Administrative Support Clerk at the Ontario Securities Commission, Suite 1903, Box 55, 20 Queen Street West, Toronto, Ontario M5H 3S8, telephone (416) 593-3684 can be contacted to answer questions about the Ontario Securities Commission's indirect collection of such information. The Holder hereby authorizes the indirect collection of such information by the Ontario Securities Commission.

ARTICLE 5
COVENANTS

Section 5.1 Positive Covenants

So long as this Debenture remains outstanding, the Company shall and shall cause each of the other Obligors to:

(a) **Security**. On a best efforts basis, as soon as possible following the date hereof, and in any event within twenty (20) days following the date hereof:

(i) execute and deliver, or cause to be executed and delivered, all such agreements, certificates, instruments or powers of attorney to the Holder required to grant and perfect a first-priority security interest in the assets comprising the Relief Canyon Mine, to the fullest extent permitted by the instrument creating the Obligor's rights therein, including but not limited to a Deed of Trust with Assignment of Rents and Leases, Fixture Filing and Security Agreement and a Leasehold Deed of Trust, or a similar instrument;

(ii) execute and deliver a pledge agreement granting a first-priority security interest in 100% of the Company's ownership interest in each of the Company's Subsidiaries;

(iii) deliver or cause to be delivered to the Holder the original share certificates of each of the Company's Subsidiaries, to the extent certificated, together with endorsements thereof executed in blank;

(iv) if requested in writing by the Holder, deliver or cause to be delivered to the Holder certificate(s) of insurance evidencing that each Obligor has named the Holder as loss payee and additional insured in relation to all insurance over, or in respect of, its assets in which the Holder has been granted a security interest, together with a standard mortgage endorsement clause;

(v) deliver or cause to be delivered to the Holder a certificate of an officer of each Obligor attaching, among other things, certified copies of (A) the Charter Documents of each Obligor; (B) the resolutions of the board of directors (or where applicable, a committee thereof) or the shareholders or limited partners, as the case may be, of each Obligor approving the execution of, and the borrowing, and other matters contemplated by this Debenture and approving the entering into of all other Loan Documents to which it is a party, the grant of security provided for therein and the completion of all transactions contemplated under them; (C) all other instruments evidencing necessary action or corporate action of each Obligor and of any required authorization with respect to such matters; and (D) a certificate of incumbency in respect of any officer or director signing a Loan Document; and

(vi) register or cause to be registered all financing statements in all necessary jurisdictions in favour of the Holder in order to perfect, preserve or protect the Liens created by the Security Documents, to the extent such financing statements have not been registered as of the date hereof.

(b) **Legal Opinions**. If requested in writing by the Holder, cause external legal counsel to such Obligor to deliver to the Holder favourable legal opinions in respect of certain customary corporate, enforceability and registration of security matters in form and substance satisfactory to the Holder and its counsel, acting reasonably.

(c) **Reporting Requirements**. Deliver to the Holder copies of all audited and unaudited financial statements and associated management discussion & analysis within the timelines for the delivery thereof that are required under applicable securities laws and regulations, provided that, the filing of such information on EDGAR shall be deemed to satisfy this covenant.

(d) **Additional Reporting Requirements**. Deliver to the Holder:

(i) as soon as possible, and in any event within two (2) Business Days after the Company or any other Obligor becomes aware of the occurrence of any Default, a statement of the chief financial officer, treasurer or chief operating officer of the Company or any other officer acceptable to the Holder setting forth the details of such Default and the action which the Obligors propose to take or have taken with respect thereto;

(ii) promptly, in writing, and in any event within one (1) Business Day of notice of any default, or event, condition or occurrence which with notice or lapse of time, or both would constitute a default under any agreement in respect of Debt to which any Obligor owes (contingently or otherwise) at least $100,000;

(iii) promptly, and in any event within two (2) Business Days after any Obligor receives notice of any suit, proceeding or similar action commenced or threatened by any Governmental Authority or any other Person, which has had or could reasonably be expected to have a Material Adverse Effect, a copy of such notice; and

(iv) such other information respecting the condition or operations, financial or otherwise, of the business of any of the Obligors as the Holder may from time to time reasonably request.

(e) **Maintenance of Existence; Keeping of Books**. Preserve and maintain its corporate or other form of existence in all jurisdictions in which each carries on business and keep, proper books of record and account, in which full and correct entries shall be made of all financial transactions and the assets and the businesses of the Obligors in accordance with GAAP (to the extent applicable).

(f) **Observance of Covenants**. Observe and perform all of the covenants, agreements, terms and conditions to be observed and performed by it under this Debenture or in any other Loan Document, including the making of all payments of principal, interest and fees on the dates, at the times, and at the places specified in this Debenture or under any other Loan Documents to which the Company or any other Obligor is a party.

(g) **Compliance with Laws, etc**. Comply, and cause each other Obligor to comply, with the requirements of all applicable Law in all material respects.

(h) **Maintenance of Properties, etc**. Maintain and preserve, and cause each other Obligor to maintain and preserve, all of their assets used or useful in their businesses in all material respects in good repair, working order and condition (reasonable wear and tear and obsolete assets excepted) and in material compliance with applicable law (including environmental laws) and, from time to time, make all needful and proper repairs, renewals, replacements, additions and improvements thereto, so that the businesses of the Obligors may be properly and advantageously conducted at all times in accordance with prudent business management.

(i) **Payment of Taxes and Claims**. Pay and discharge, and cause each other Obligor to pay and discharge, before the same shall become delinquent, (i) all Taxes, assessments and governmental charges or levies imposed upon it or upon its assets; and (ii) all lawful claims which, if unpaid, might by applicable law become a Lien upon its assets, except any such Taxes or claims which are being contested in good faith and by proper proceedings.

(j) **Maintenance of Insurance**. Maintain or cause to be maintained, in respect of each Obligors' material assets insurance at all times with responsible insurance carriers in such amounts and covering such risks (including, without limitation, business interruption) as are usually carried by companies engaged in similar businesses and owning similar assets and properties in the same general areas in which each such Obligor operates, with all property insurance policies to show the Holder as loss payee and additional insured thereof and promptly furnish or cause to be furnished, upon written request by the Holder, evidence thereof to the Holder.

(k) **Protect Liens**. Except for the filing of renewal statements and the making of other filings by the Holder as a secured party, at all times take all action and supply the Holder with all information necessary to maintain the Liens provided for under the Security Documents and confer upon the Holder the Liens intended to be created thereby.

(l) **Use of Proceeds**. Use the Principal Amount only for the purposes of funding the Company's working capital and such other purposes as may be agreed between the parties during the period from the date of the Merger Agreement through the completion of the transactions contemplated by the Merger Agreement.

(m) **Additional Guarantees and Security**. Cause (i) any Subsidiaries formed or acquired by it after the date hereof to, within twenty (20) days following their formation or acquisition and (ii) any corporation formed by the amalgamation of one or more Obligors with another Obligor or a Subsidiary, to deliver a guarantee and the Security Documents granting a first ranking Lien over all assets of such Subsidiary or entity (subject to Permitted Liens), as collateral security for its obligations under such guarantee. The Company shall also deliver or cause to be delivered to the Holder all other documentation contemplated in Section 3.1 or 5.1(a), as applicable, with respect to such Subsidiary or entity, guarantee and pledge of shares as were delivered by the initial Obligors on or prior to the funding of the Principal Amount. Following execution and delivery of all documentation contemplated by this Section 5.1(m), such Subsidiary or entity shall be deemed to be an Obligor for purposes of this Debenture and the other Loan Documents, and the guarantee entered into by such Subsidiary or entity shall be considered Loan Documents for purposes of this Debenture.

(n) **Further Assurances**. At the Company's reasonable cost and expense, upon request of the Holder, duly execute and deliver or cause to be duly executed and delivered to the Holder such further instruments and do and cause to be done such further acts as may be necessary or proper in the reasonable opinion of the Holder to perform and carry out the provisions and purposes of the Loan Documents.

(o) **TSX and NASDAQ Listing**. The Company will use its best efforts to maintain the Company's listing on the TSX and NASDAQ and its "reporting issuer" status in the Reporting Jurisdictions during the term of this Debenture; provided that nothing in this Section 5.1(o) shall prevent the Company from participating in the Merger.

Section 5.2 Negative Covenants

So long as this Debenture remains outstanding, other than as contemplated pursuant to the Merger Agreement and the transactions contemplated thereby, the Company shall not, and shall cause each of the other Obligors not to:

(a) **Debt**. Create, incur, assume or suffer to exist, or permit any other Obligor to create, incur, assume or suffer to exist, any Debt other than the following (the "**Permitted Debt**"):

(i) the Debt incurred pursuant to this Debenture and the other Loan Documents;

(ii) Debt owing between Obligors and the Debt owing between the Company and its Subsidiaries; and

(iii) capital leases, purchase money security interest, reclamation bonds and other similar obligations and other indebtedness incurred in the ordinary course of business, in an aggregate amount not to exceed $500,000.

(b) **Liens**. Create, incur, assume or suffer to exist or permit any other Obligor to create, incur, assume or suffer to exist, any Lien on any of its or their, as the case may be, respective assets other than Permitted Liens securing capital leases, purchase money security interest, reclamation bonds and other similar obligations and other indebtedness incurred in the ordinary course of business, in an aggregate amount not to exceed $500,000.

(c) **Mergers, Etc**. Enter into any transaction or permit any other Obligor to enter into any transaction or series of transactions (whether by way of reconstruction, reorganization, consolidation, amalgamation, winding-up, merger, transfer, sale, lease or otherwise) whereby all or any substantial part of its undertaking or assets would become the property of any other Person or alter its capital structure or enter into any arrangement or reorganization having a similar effect; provided that an Obligor may amalgamate with one or more Obligors, so long as the amalgamating corporation provides the agreements and documents required by Section 5.1(m);

(d) **Dispositions**. Dispose of, or permit any other Obligor to dispose of, any assets to any Person, other than (i) dispositions of inventory in the ordinary course of business and (ii) dispositions of equipment which is worn-out, damaged, obsolete or no longer used or useful in the business of the Obligors.

(e) **Change in Business**. Not to make any substantial change to the general nature of its business.

(f) **Share Capital**. Issue, or permit any other Obligor (other than the Company) to issue, any capital stock or any options, warrants or securities convertible into capital stock, except (i) as permitted by the Merger Agreement, (ii) in the case of any Obligor other than the Company, to another Obligor (in which case the resulting share certificates shall be delivered to the Holder together with a power of attorney executed in blank), or (iii) as approved in writing by the Holder in its sole and absolute discretion.

(g) **Distributions**. Declare, make or pay, or permit any other Obligor to declare, make or pay, any Distributions, other than payments or Distributions between Obligors.

(h) **Restrictive Agreements**. Enter into, or permit any other Obligor to enter into, any agreement prohibiting (i) the creation of any Lien securing payment of the Obligations; (ii) the ability of the Company or any other Obligor to amend or otherwise modify the Loan Documents; and (iii) except as set out herein, the ability of any Obligor to make any Distributions, directly or indirectly, to the Company or any other Obligor.

(i) **Amendments to Constating Documents**. Allow any amendments to its constating or formation documents which are adverse to the Holder's interests hereunder or the Liens arising under or created by the Security Documents.

(j) **Change of Name or Registered Office**. Change its name or registered office or principal place of business without first providing thirty (30) days' prior written notice to the Holder.

ARTICLE 6
CONVERSION OF DEBENTURE

Section 6.1 Holder Conversion Option

Upon and subject to the provisions and conditions of this Article 6 and subject to applicable Law, the Holder shall have the right, at its option, at the Maturity Date (other than in respect of the events contemplated in Section 1.4 hereto), to convert all or any portion of the Repayment Amount of this Debenture into Common Shares (the "**Conversion Option**") at the Conversion Price.

Section 6.2 Manner of Exercise of Conversion Option

(a) Subject to the provisions of this Article 6 and to applicable Law, the Holder may exercise the Conversion Option at the Maturity Date (other than in respect of the events contemplated in Section 1.4 hereto) by sending written notice to the Company in substantially the form attached as Appendix 1.

(b) At no point in time may the Conversion Option be exercised to cause the Holder to beneficially own greater than 19.9% of the issued and outstanding Common Shares as of the date of this Debenture.

(c) The Holder shall be entered in the books of the Company as at the date of conversion as the holder of the number of Common Shares issuable in respect of the Repayment Amount which the Holder has elected to convert and, as soon as reasonably practicable, the Company shall deliver to the Holder a certificate or certificates for such Common Shares and, if applicable, a cheque or other payment for any amount payable under Section 6.4.

(d) The issuance of any Common Shares upon exercise of the Conversion Option shall be subject to the receipt of applicable approvals from the TSX and NASDAQ and subject to the conditions of any such approvals.

Section 6.3 Dividends

Common Shares issued to the Holder upon conversion of the Repayment Amount pursuant to the exercise of the Conversion Option shall only entitle the Holder to dividends, if any, declared on the Common Shares in favour of the holders of record of the Common Shares on and after the date of conversion or such later date as the Holder becomes the holder of record of Common Shares pursuant to Section 6.2 (the later date being referred to as the "**applicable date**"). As of and from the applicable date, the Common Shares so issued shall, for all purposes, be and be deemed to be issued and outstanding as fully paid and non-assessable Common Shares.

Section 6.4 Fractional Shares

The Company shall not be required to issue fractional Common Shares upon the conversion of the Repayment Amount into Common Shares pursuant to the exercise of the Conversion Option. If any fractional interest in a Common Share would, except for the provisions of this Article 6, be deliverable upon the conversion of this Debenture, the Company shall, in lieu of delivering any certificate of fractional interest, satisfy the fractional interest by paying to the Holder the amount of the fraction in cash.

Section 6.5 Adjustment

(a) **Adjustments for Share Splits, Share Dividends and Subdivisions.** In the event the Company should at any time or from time to time after the date of issuance hereof fix a record date to effect a split or subdivision of the outstanding Common Shares or a record date for the determination of holders of Common Shares entitled to receive a dividend or other distribution payable in additional shares of Common Shares or other securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional Common Shares without payment of any consideration by such holder for the additional Common Shares (including the additional Common Shares or such other class or series issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Conversion Price of this Debenture shall be appropriately decreased so that the number of Common Shares issuable upon conversion of this Debenture shall be increased in proportion to such increase of outstanding shares, subject to any necessary approvals of the TSX and NASDAQ.

(b) **Adjustments for Consolidations.** If the number of Common Shares outstanding at any time after the date hereof is decreased by a consolidation of the outstanding Common Shares, then, following the record date of such consolidation, the Conversion Price for this Debenture shall be appropriately increased so that the number of Common Shares issuable on conversion hereof shall be decreased in proportion to such decrease in outstanding shares.

(c) **Adjustments for Other Distributions.** In the event the Company shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by the Company or other persons, assets (excluding ordinary course cash dividends) or options or rights not referred to in this subsection, then, in each such case for the purpose of this subsection, the Holder shall be entitled to a proportionate share of any such distribution as though the Holder was the holder of the number of Common Shares into which this Debenture is convertible as of the record date fixed for the determination of the holders entitled to receive such distribution.

(d) **Corporate Transaction / Capital Reorganization**

(i) If and whenever at any time after the date hereof and prior to the Maturity Date, there is a reclassification as a result of a Corporate Transaction or any other event of the Common Shares at any time outstanding or change of the Common Shares into other shares or into other securities or other capital reorganization, in which the holders of Common Shares are entitled to receive shares, other securities or other property (any of such events being called a "**Capital Reorganization**"), if the Holder exercises the right to convert this Debenture after the effective date of such Capital Reorganization will be entitled to receive, and will accept for the same aggregate consideration in lieu of the number of Common Shares to which such Holder was previously entitled upon such conversion, the aggregate number of shares, other securities or other property which such holder would have been entitled to receive as a result of such Capital Reorganization if, on the effective date thereof, the holder had been the registered holder of the number of Common Shares to which such holder was previously entitled upon conversion.

(ii) In the case of the Company entering into a Corporate Transaction or Capital Reorganization:

(A) the successor corporation shall be bound by all of the provisions hereof including the due and punctual performance of all covenants of the Company and forthwith following the occurrence of such event, the successor corporation resulting from such Corporate Transaction or Capital Reorganization, shall be (i) organized and existing under the laws of Canada or any province or territory thereof or in the United States including any state or district thereof, and (ii) expressly assume, by supplemental certificate, if required by the Board, satisfactory to the Board, and executed and delivered to the Holder, the due and punctual performance and observance of this Debenture to be performed and observed by the Company and these securities and the terms set forth in this Debenture will be a valid and binding obligation of the successor corporation entitling the Holder, as against the successor corporation, to all the rights of the Holder under this Debenture,

(B) no Event of Default under this Debenture exists or would arise as a result; and

(C) a legal opinion covering the conditions in (A) and an Officer's Certificate confirming compliance with the conditions of this covenant shall be delivered to the Holder.

(e) **No Adjustment for the Merger.** Notwithstanding any other provision of this Section 6.5, no adjustments shall be made pursuant to this Section 6.5 as a consequence of the Merger and the transactions contemplated thereby in accordance with and pursuant to the terms and conditions of the Merger Agreement.

ARTICLE 7
EVENTS OF DEFAULT

Section 7.1 Events of Default

The occurrence of any of the following events shall constitute an "**Event of Default**" under this Debenture:

(a) **Non-Payment.** If the Company fails to pay when due the Principal Amount or any interest or fees thereof, or any other amount due hereunder.

(b) **Breach of Covenants.** If the Company or any other Obligor fails to perform, observe or comply with any covenant or provision of this Debenture or any other Loan Document and the Company fails to cure (or obtain a waiver for) such default for a period of ten (10) days after notice in writing has been given by the Holder.

(c) **Misrepresentation.** If any representation or warranty or certification made or deemed to be made by any Obligor in this Debenture or any other Loan Document to which it is a party shall prove to have been incorrect in any material respect when made or deemed to be made.

(d) **Breach of Representations, Warranties or Covenants in the Merger Agreement.** If the Company fails to perform, observe or comply with any representation, warranty or covenant in the Merger Agreement, which breach would cause any of the conditions set forth in Section 7.1 or Section 7.3 of the Merger Agreement not to be satisfied by the Outside Date, and such breach is incapable of being cured or is not cured in accordance with the terms of Section 6.3 of the Merger Agreement.

(e) **Bankruptcy; Insolvency.** If the Company or any Obligor (i) becomes insolvent or generally not able to pay its debts as they become due, (ii) admits in writing its inability to pay its debts generally or makes a general assignment for the benefit of creditors, (iii) institutes any proceeding or has instituted against it any proceeding seeking (x) to adjudicate it a bankrupt or insolvent, (y) liquidation, winding up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any Law relating to bankruptcy, insolvency, reorganization or relief of debtors including any plan of compromise or arrangement or other corporate proceeding involving or affecting its creditors, or (z) the entry of an order for relief or the appointment of a receiver, trustee or other similar official for it or for any substantial part of its properties and assets, and in the case of any such proceeding instituted against it (but not instituted by it), or any of the actions sought in such proceeding (including the entry of an order for relief against it or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its properties and assets) occurs, or (iv) takes any corporate action to authorize any of the above actions.

(f) **Dissolution.** If any application is made for, or order, judgment or decree is entered against the Company decreeing, the winding-up, liquidation, dissolution or bankruptcy, insolvency, reorganization, or any similar process of the Company and, in the case of an application, or a resolution is passed for the winding-up, dissolution or liquidation of the Company.

(g) **Cross-default.** If there occurs: (i) a failure by any Obligor to pay Debt exceeding $100,000 in the aggregate at the stated maturity thereof or as a result of which, the creditor may declare the principal thereof to be due and payable prior to the stated maturity thereof, or any event shall occur and shall continue after the applicable grace period (if any) specified in any agreement or instrument relating to any such debt of any Obligor to any Person, the effect of which is to permit the holder of such debt to declare the principal amount thereof to be due and payable prior to its stated maturity; or (ii) a failure by any Obligor to perform or observe any covenant or agreement to be performed or observed by it contained in any other agreement or in any instrument evidencing any of its Debt exceeding $100,000, the effect of which has resulted in the holder of such Debt declaring the principal amount thereof to be due and payable prior to its stated maturity.

(h) **Judgments.** If a final judgment for the payment of money exceeding $100,000 in the aggregate in excess of any amount covered by applicable insurance shall be rendered by a court of competent jurisdiction against the Company or any other Obligor and the Company or such Obligor does not discharge same or provide for its discharge in accordance with its terms, or procure a stay of execution thereof (by reason of a pending appeal or otherwise) within forty-five (45) days from the date of entry thereof.

(i) **Invalidity of Loan Documents.** If any Loan Document shall become unenforceable or the Lien of any of the Security Documents shall cease to rank in priority in the manner contemplated herein or in the Security Documents other than by reason of the direct act or omission of the Holder.

(j) **Material Adverse Effect.** Upon the occurrence of any Material Adverse Effect.

Section 7.2 Remedies

If any Event of Default occurs, all indebtedness, obligations and liabilities of the Obligors under this Debenture shall, automatically in the case of an Event of Default under Section 7.1(e) or Section 7.1(f) and at the option of the Holder in the case of any other Event of Default under Section 7.1, become immediately due and payable with interest, at the rate or rates determined as provided in this Agreement, to the date of their actual payment, all without notice, presentment, protest, demand, notice of dishonour or any other demand or notice whatsoever, all of which are hereby expressly waived by each Obligor. In that event, the Security Documents shall become immediately enforceable and the Holder may, in its sole and absolute discretion, exercise any right or recourse and/or proceed by any action, suit remedy or proceeding against any of the Obligors authorized or permitted by law for the recovery of all the indebtedness, obligations or liabilities of the Obligors to the Holder, and proceed to exercise any and all rights hereunder and under the Security Documents, and no such remedy for the enforcement of the rights of the Holder shall be exclusive of, or dependent on, any other remedy, but anyone or more of such remedies may from time to time be exercised independently or in combination.

ARTICLE 8
MISCELLANEOUS

Section 8.1 No U.S. Registration

Neither this Debenture nor the Common Shares issuable upon exercise of the Conversion Option have been or will be registered under the United States Securities Act of 1933, as amended (the "**U.S. Securities Act**"), or under the securities laws of any state of the United States. This Debenture and the Common Shares issuable hereunder shall not be converted or transferred within the United States unless this Debenture and/or the Common Shares, as applicable, have been registered under the U.S. Securities Act or are exempt from registration thereunder.

Section 8.2 Lost, Stolen, Mutilated or Destroyed Debenture

If this Debenture is lost, stolen, mutilated or destroyed, the Company may, on such terms as to indemnify the Company or otherwise as it may in its discretion reasonably impose (which shall, in the case of a mutilated certificate, include the surrender thereof), issue a new certificate representing the Debenture of like denomination and tenor as the certificate so lost, stolen, mutilated or destroyed. Any such new certificate shall constitute an original contractual obligation of the Company, whether or not the allegedly lost, stolen, mutilated, or destroyed Debenture shall be at any time enforceable by anyone.

Section 8.3 Waiver; Cumulative Remedies

No failure or delay of the Holder 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 power, or any abandonment or discontinuance of steps to enforce such right or power, or any course of conduct, preclude any other or further exercise thereof or the exercise of any other right or power. Any agreement on the part of the Holder to any waiver shall be valid only if set forth in a written instrument executed and delivered by a duly authorized officer on behalf of the Holder. Except to the extent expressly provided in to the contrary, the rights and remedies provided in this Debenture and the other Loan Documents are cumulative and are not exclusive of, and are in addition to and not in substitution for, any other rights or remedies available at law, in equity or otherwise.

Section 8.4 Holder May Remedy Default

If the Company fails to do anything hereby required to be done by it the Holder may, but shall not be obliged to, do such thing and all sums thereby expended by the Holder shall be payable forthwith by the Company, but no such performance by the Holder shall be deemed to relieve the Company from any default hereunder.

Section 8.5 Notices, etc.

All notices, demands or other communications permitted or required to be given or delivered under or by reason of the provisions hereof shall be in writing and shall be deemed to have been given when (a) delivered personally to the recipient, (b) sent to the recipient by reputable express courier service (charges prepaid), or (c) mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid. Such communications must be sent to the respective parties at the addresses indicated below (or at such other address for a party as shall be specified in a notice given in accordance with this Section 8.5).

If to the Company:	Pershing Gold Corporation 1658 Cole Boulevard Building 6, Suite 210 Lakewood, CO 80401 U.S.A.	
	Attention: E-mail:	Stephen Alfers Chief Executive Officer
with a copy to: (which shall not constitute notice to the Company)	Davis Graham & Stubbs LLP 1550 Seventeenth Street, Suite 500 Denver, CO 80202 U.S.A.	
	Attention: E-mail:	Brian Boonstra brian.boonstra@dgslaw.com
If to the Holder:	Americas Silver Corporation Suite 2870, 145 King Street West Toronto, ON M5H 1J8 Canada	
	Attention: E-mail:	Peter McRae pmcrae@americassilvercorp.com

with a copy to: (which shall not constitute notice to the Holder)	Blake, Cassels & Graydon LLP 199 Bay Street Toronto, ON M5L 1A9 Canada
	Attention: Michael Hickey E-mail: michael.hickey@blakes.com

Section 8.6 Equitable Relief

Each of the Company and the Holder acknowledges that a breach or threatened breach by such party of any of its obligations under this Debenture or the other Loan Documents would give rise to irreparable harm to the other party hereto for which monetary damages would not be an adequate remedy and hereby agrees that in the event of a breach or a threatened breach by such party of any such obligations, the other party hereto shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction.

Section 8.7 Entire Agreement

This Debenture and the other Loan Documents constitute the sole and entire agreement of the parties to this Debenture and such other Loan Documents with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

Section 8.8 No Third-Party Beneficiaries

This Debenture is for the sole benefit of the Company and the Holder and their respective successors and, in the case of the Holder, its permitted assigns and nothing in this Debenture, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Debenture.

Section 8.9 Successors and Assigns, etc.

This Debenture and the other Loan Documents and all of its provisions shall inure to the benefit of, and shall be binding upon, the Holder, its successors and permitted assigns, and shall be binding upon the Company and its successors. Neither this Debenture nor the other Loan Documents nor any of the rights, interests or obligations under this Debenture nor the other Loan Documents may be assigned or delegated, in whole or in part, by operation of law or otherwise, by the Company or any other Obligor, as applicable, without the prior written consent of the Holder, and any such assignment without such prior written consent shall be null and void. Neither this Debenture nor the other Loan Documents nor any of the rights, interests or obligations under this Debenture nor the other Loan Documents may be assigned or delegated, in whole or in part, by operation of law or otherwise, by the Holder, as applicable, without the prior written consent of the Company, and any such assignment without such prior written consent shall be null and void, *provided* that, notwithstanding the foregoing, the Holder shall be able to transfer and assign this Debenture and the other Loan Documents to any of its wholly-owned Subsidiaries without the consent of the Company or any other Obligor, as applicable. Subject to the preceding sentences, this Debenture will be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

Section 8.10 Governing Law

This Debenture shall be governed by and construed in accordance with the internal laws of the Province of Ontario without giving effect to any choice or conflict of law provision or rule (whether of the Province of Ontario or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the Province of Ontario. Any and all disputes arising under this Debenture, whether as to interpretation, performance or otherwise, shall be subject to the non-exclusive jurisdiction of the courts of the Province of Ontario and each of the parties hereby irrevocably attorns to the jurisdiction of such courts. Notwithstanding the foregoing, the parties hereby acknowledge and agree that any dispute regarding the rights of the parties under the Merger Agreement, including the exercisability of any termination rights thereunder, shall be governed by the governing law and dispute resolution provisions set forth in the Merger Agreement.

Section 8.11 Waiver of Jury Trial

Each party acknowledges and agrees that any controversy which may arise under this Debenture is likely to involve complicated and difficult issues and, therefore, each such party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Debenture or the transactions contemplated hereby.

Section 8.12 Counterparts

This Debenture may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Debenture delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Debenture.

Section 8.13 Severability

If any one or more of the provisions or parts thereof contained in this Debenture should be or become invalid, illegal or unenforceable in any respect in any jurisdiction, the remaining provisions or parts thereof contained herein shall be and shall be conclusively deemed to be, as to such jurisdiction, severable therefrom and:

(a) the validity, legality or enforceability of such remaining provisions or parts thereof shall not in any way be affected or impaired by the severance of the provisions or parts thereof severed; and

(b) the invalidity, illegality or unenforceability of any provision or part thereof contained in this Debenture in any jurisdiction shall not affect or impair such provision or part thereof or any other provisions of this Debenture in any other jurisdiction.

Section 8.14 Further Assurances

The Company shall execute, acknowledge and deliver to the Holder such other and further documents and instruments and do or cause to be done such other acts as the Holder reasonably determines to be necessary or desirable to effect the intent of the parties to this Debenture or otherwise to protect and preserve the interests of the Holder hereunder, promptly upon request of the Holder.

Section 8.15 No Strict Construction

This Debenture shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

[*Remainder of page left intentionally blank*]

IN WITNESS WHEREOF the parties have executed and delivered this Debenture as of the dates set forth below with the intention that the delivery of such signatures be irrevocable and this Debenture shall be effective for all purposes as of October 1, 2018.

PERSHING GOLD CORPORATION

By: /s/ Stephen D. Alfers
Authorized Signatory

Date: September 28, 2018

AMERICAS SILVER CORPORATION

By: /s/ Darren Blasutti
Authorized Signatory

Date: October 1, 2018

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Section 6: EX-10.1 (EXHIBIT 10.1)

Exhibit 10.1

SUPPORT AGREEMENT

PERSHING GOLD CORPORATION

September 28, 2018

TO: **[*Name of Director/Executive Officer*]**
(the "**Securityholder**")

Pursuant to the terms and subject to the conditions of an Agreement and Plan of Merger dated as of September 28, 2018 (the "**Merger Agreement**"), among Americas Silver Corporation, a corporation incorporated under the federal laws of Canada (the "**Purchaser**"), Pershing Gold Corporation, a Nevada corporation (the "**Company**"), and R Merger Sub, Inc., a Nevada corporation ("**Acquireco**"), Acquireco will merge with and into the Company, with the Company surviving that merger on the terms and subject to the conditions set forth in the Merger Agreement, and (i) each share of Company Common Stock issued and outstanding immediately prior to the Effective Time will be converted into the right to receive 0.715 of a Purchaser Share (the "**Common Stock Consideration**"), and (ii) each share of Company Preferred Stock issued and outstanding immediately prior to the Effective Time will be, at the election of the holder thereof, either (A) converted into the right to receive four hundred sixty-one and 440/1000ths (461.440) Purchaser Preferred Shares or (B) converted into the right to receive the Common Stock Consideration to which such Preferred Stockholder would be entitled if such share of Company Preferred Stock were converted pursuant to clause (i) above, all by way of a Plan of Merger (the "**Merger**") pursuant to the provisions of Chapter 92A of the Nevada Revised Statutes.

Capitalized terms used in this support agreement ("**Support Agreement**") and not otherwise defined herein that are defined in the Merger Agreement shall have the respective meanings ascribed thereto in the Merger Agreement, as it may be amended from time to time.

This Support Agreement sets out the terms and conditions on which the Securityholder agrees:

i. to support the Merger;

ii. to vote in favor of the resolutions put forth at the Company Meeting to approve the Merger Resolution, including the approval of the Merger and other related matters, all of the Company Common Stock and Company Preferred Stock legally or beneficially owned, directly or indirectly, or over which the Securityholder exercises control, as listed immediately below the signature of the Securityholder evidencing the Securityholder's acceptance of this Support Agreement (the "**Acceptance**"), any additional Company Common Stock or Company Preferred Stock which the Securityholder may acquire after the date hereof but prior to the record date for the Company Meeting, including on the exercise, conversion or exchange of any Company Options or Company Warrants (the "**Convertible Securities**") as listed immediately below the Securityholder's Acceptance, and any other securities which are otherwise entitled to be voted at the Company Meeting legally or beneficially owned, directly or indirectly, or over which the Securityholder exercises control, (collectively, all such Company Common Stock, Company Preferred Stock, and Convertible Securities being referred to as the "**Subject Securities**"); and

iii. to comply with the restrictions, obligations and covenants of the Securityholder set forth herein.

ARTICLE 1
COVENANTS OF THE SECURITYHOLDER

1.1 The Securityholder acknowledges and agrees that he or she has received a copy of the Merger Agreement.

1.2 The Securityholder hereby covenants and agrees, from the date hereof until the earlier of: (i) the termination of this Support Agreement pursuant to Article 3 hereof; and (ii) the Effective Time, except in accordance with the terms of this Support Agreement:

a. to irrevocably vote or cause to be voted at the Company Meeting the Subject Securities in favor of the Merger Resolution and any other resolutions approving matters related to, or resolutions necessary or desirable to implement, the Merger to be considered at the Company Meeting and to deliver a proxy, or to the extent that the Securityholder is a beneficial owner, a voting instruction form, in each case duly completed and executed in respect of all of the Subject Securities, giving effect to such vote no later than ten (10) Business Days prior to the Company Meeting;

b. not to exercise, assert or perfect any (i) rights of appraisal, (ii) rights to dissent in connection with the Merger that the Securityholder may have by virtue of ownership of the Subject Securities, or (iii) any other rights available to the Securityholder to delay, upset or challenge the Merger;

c. not to commence or participate in, and to take all actions necessary to opt out of any class in any class action with respect to, any action, derivative or otherwise, against the Purchaser and/or Acquireco, the Company, or any of their respective successors: (i) challenging the validity of, or seeking to enjoin or delay the operation of, any provision of this Agreement or the Merger Agreement (including any claim seeking to enjoin or delay the Closing); or (ii) to the fullest extent permitted under Law, alleging a breach of any duty of the Company Board, the Purchaser or Acquireco in connection with the Merger Agreement, this Agreement, or the transactions contemplated thereby or hereby;

d. not to exercise any stockholder rights or remedies available at common law pursuant to applicable securities or other laws to delay, hinder, upset or challenge the Merger;

e. not to option, sell, assign, transfer, alienate, dispose of, gift, grant, pledge, create or permit an encumbrance on, grant a security interest in or otherwise convey any Subject Securities or any voting rights attached thereto or any other right or interest therein, or agree to do any of the foregoing, provided that, for the avoidance of doubt: (i) the Securityholder shall be entitled to exercise any Convertible Securities held by the Securityholder during the term of this Support Agreement, and (ii) any Subject Securities issued on exercise of Convertible Securities during the term of this Support Agreement shall be subject to the terms of this Support Agreement;

f. not to grant or agree to grant any proxy or other right to the Subject Securities, or enter into any voting trust or pooling agreement or Merger or enter into or subject any of such Subject Securities to any other agreement, Merger, understanding or commitment, formal or informal, with respect to or relating to the voting thereof, other than in support of the resolution approving the Merger and other related matters to be considered at the Company Meeting;

g. not to requisition or join in the requisition of any meeting of the Company Stockholders for the purpose of considering any resolution;

h. not to, in any manner, directly or indirectly, including through any Representative, solicit, assist, initiate, or knowingly encourage any inquiries, proposals, offers or public announcements (or the submission or initiation of any of the foregoing) from any person regarding any Company Acquisition Proposal, engage in any negotiations concerning, or provide any information to, or have any discussions with or otherwise cooperate with, any person relating to a Company Acquisition Proposal, or otherwise knowingly facilitate or knowingly encourage any effort or attempt to make or implement a Company Acquisition Proposal;

i. not to solicit or arrange or provide assistance to any other person to arrange for the solicitation of, purchases of or offers to sell Company Common Stock or Company Preferred Stock or act in concert or jointly with any other person for the purpose of acquiring Company Common Stock or Company Preferred Stock for the purpose of affecting the control of the Company;

j. not to deposit or cause to be deposited the Securityholder's Subject Securities under any Company Acquisition Proposal;

k. to immediately cease, cause its Representatives to cease and cause to be terminated any existing solicitations, discussions or negotiations with any parties (other than with the Purchaser or the Company or any Representative of the Purchaser or the Company) with respect to any Company Acquisition Proposal or any potential Company Acquisition Proposal; and

l. not to take any action to encourage or assist any other person to do any of the prohibited acts referred to in the foregoing provisions of this Section 1.2.

1.3 Nothing in this **Article 1** shall prevent a Securityholder who is a member of the Company Board or is a senior officer of the Company from engaging, in the Securityholder's capacity as a director or senior officer of the Company, in discussions or negotiations with a person in response to a Company Acquisition Proposal in circumstances where the Company is permitted by Section 5.1 of the Merger Agreement to engage in such discussions or negotiations. For greater certainty, the Securityholder acknowledges that this **Section 1.3** shall not affect the Securityholder's obligation to vote the Subject Securities.

ARTICLE 2
REPRESENTATIONS AND WARRANTIES

2.1 The Securityholder by its acceptance hereof represents and warrants as follows and acknowledges that the Purchaser is relying upon such representations and warranties in connection with entering into this Support Agreement and the Merger Agreement:

a. the Securityholder is the legal or beneficial owner, directly or indirectly, of or controls all of the Subject Securities set forth immediately below the Securityholder's Acceptance and the Securityholder is the registered or beneficial owner of such Subject Securities;

b. as of the date of execution of this Support Agreement, (i) the only securities of the Company legally or beneficially owned, directly or indirectly, or over which control or direction is exercised by the Securityholder are those listed immediately below the Securityholder's Acceptance, and (ii) other than any Convertible Securities listed immediately below the Securityholder's Acceptance and Company Common Stock and Company Preferred Stock issuable on the exercise or conversion of such Convertible Securities, the Securityholder does not own, directly or indirectly, or control any convertible securities and has no other agreement or option, or right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement or option, for the purchase or acquisition by the Securityholder or transfer to the Securityholder of additional securities of the Company;

c. the Securityholder has the sole right to vote all the Subject Securities now beneficially owned or controlled;

d. all the Subject Securities held by the Securityholder, set forth immediately below the Securityholder's Acceptance, will, immediately prior to the Effective Time, be beneficially owned by the Securityholder with good and marketable title thereto, free and clear of any and all encumbrances and are and will at such time be issued and outstanding as fully paid and non-assessable shares in the capital of the Company;

e. the Securityholder has no agreement, option, or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement or option, for the purchase, acquisition or transfer from the Securityholder of any of the Subject Securities or any interest therein or right thereto, except pursuant to this Support Agreement;

f. the Securityholder has no voting trust, pooling or stockholder agreement, or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming a voting trust or pooling agreement, or other agreement or Merger affecting the Subject Securities or the ability of the Securityholder to exercise all ownership rights thereto, including the voting of the Subject Securities;

g. there are no legal proceedings in progress before any public body, court or authority or, to the knowledge of the Securityholder, pending or threatened against the Securityholder that would adversely affect in any manner the ability of the Securityholder to enter into this Support Agreement and to perform its obligations hereunder or the title of the Securityholder to any of the Subject Securities, as set forth immediately below the Securityholder's Acceptance, and there is no judgment, decree or order against the Securityholder that would adversely affect in any manner the ability of the Securityholder to enter into this Support Agreement and to perform its obligations hereunder or the title of the Securityholder to any of the Subject Securities;

h. the execution and delivery by the Securityholder of this Support Agreement, the authorization of this Support Agreement by the Securityholder, and the performance by the Securityholder of its obligations under this Support Agreement:

    i. do not require any authorization to be obtained by the Securityholder (other than such authorizations as have been obtained by the Securityholder on or before the date hereof); and

    ii. will not result (with or without notice or the passage of time) in a violation or breach of or constitute a default under any provision of: (A) any applicable laws; (B) any note, bond, mortgage, indenture, contract or agreement to which the Securityholder is party or by which the Securityholder or its assets is bound; or (C) any judgment, decree, order or award of any governmental entity having jurisdiction over the Securityholder;

i. the Securityholder has independently and without reliance upon the Purchaser, and based on such information as the Securityholder has deemed appropriate, made its own analysis and decision to enter into this Support Agreement; the Securityholder acknowledges that the Purchaser has not made and makes no representation or warranty, whether express or implied, of any kind or character except as expressly set forth in this Support Agreement and the Merger Agreement; and

j. this Support Agreement has been duly executed and delivered by the Securityholder and constitutes a legal, valid and binding obligation of the Securityholder, enforceable against the Securityholder in accordance with its terms, subject to bankruptcy, insolvency and other applicable laws affecting creditors' rights generally, and to general principles of equity.

2.2 The Purchaser represents and warrants to the Securityholder as follows and acknowledges that the Securityholder is relying upon such representations and warranties in connection with entering into this Support Agreement:

a. The Purchaser is a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation or continuance and has the requisite corporate power and capacity to execute and deliver this Support Agreement, to enter into the Merger Agreement and to perform its obligations hereunder and under the Merger Agreement;

b. this Support Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms, subject to bankruptcy, insolvency and other applicable laws affecting creditors' rights generally, and general principles of equity; and

c. neither the execution and delivery by the Purchaser of this Support Agreement or the Merger Agreement, nor the performance by the Purchaser of its obligations under this Support Agreement or the Merger Agreement shall result in the breach or violation of, or constitute a default under, or conflict with any provision of:

    i. the constating documents, by-laws or resolutions of the Purchaser Board (or any committee thereof); or

    ii. any laws to which the Purchaser is subject or by which the Purchaser is bound,

    except where such breach or violation individually or in the aggregate would not reasonably be expected to materially adversely affect the Purchaser's ability to perform its obligations under this Support Agreement or the Merger Agreement.

ARTICLE 3
TERMINATION

3.1 This Support Agreement will automatically terminate on the first to occur of:

a. at any time by mutual consent of the Purchaser and the Securityholder;

b. completion of the Merger in accordance with the Merger Agreement;

c. termination of the Merger Agreement in accordance with its terms;

d. by written notice of the Securityholder if the Purchaser has not complied in any material respect with its covenants contained in this Support Agreement or if any representation or warranty of the Purchaser herein is untrue or incorrect in any material respect and, in each case, such non-compliance or inaccuracy is reasonably likely to prevent consummation of the Merger and is not curable or, if curable, is not cured by the earlier of: (i) the date which is five (5) days from the date of written notice of such breach; and (ii) the Business Day prior to the Effective Time; provided that at the time of such termination pursuant to this **Section 3.1(d)** by the Securityholder, the Securityholder is not in default in any material respect in the performance of its obligations under this Support Agreement; or

e. by written notice of the Purchaser if the Merger Resolution is not approved by the requisite majority of Company Stockholders.

3.2 Upon termination pursuant to **Section 3.1** the provisions of this Agreement will become void and no party shall have any liability to the other party, provided that no termination pursuant to **Section 3.1** shall prejudice the rights of a party as a result of any breach by any other party of its obligations hereunder.

ARTICLE 4
GENERAL

4.1 In this Support Agreement, unless otherwise expressly stated or the context otherwise requires:

a. references to “herein”, “hereby”, “hereunder”, “hereof” and similar expressions are references to this Support Agreement and not to any particular Section of or Schedule to this Support Agreement;

b. references to an “Article” or a “Section” are references to an Article or a Section of this Support Agreement;

c. words importing the singular shall include the plural and vice versa, and words importing gender shall include the masculine, feminine and neuter genders;

d. the term “Business Day” shall have the meanings ascribed thereto in the Merger Agreement;

e. the use of headings is for convenience of reference only and shall not affect the construction or interpretation hereof; and

f. wherever the term “includes” or “including” is used, it shall be deemed to mean “includes, without limitation” or “including, without limitation”, respectively.

4.2 The parties waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Support Agreement that ambiguous or conflicting terms or provisions should be construed against the party who (or whose counsel) prepared the executed agreement or any earlier draft of the same.

4.3 This Support Agreement shall become effective in respect of the Securityholder upon both: (a) execution and delivery thereof by the Securityholder; and (b) the execution and delivery of the Merger Agreement by the Purchaser and the Company.

4.4 This Support Agreement may be executed by facsimile or electronically and in any number of counterparts, each of which shall be deemed to be original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Support Agreement to produce more than one counterpart.

4.5 The Securityholder consents to the disclosure of the substance of this Support Agreement in any press release or any circular relating to the Merger and to the filing of this Support Agreement as may be required pursuant to applicable laws.

4.6 This Support Agreement shall be binding upon and shall enure to the benefit of and be enforceable by each of the parties hereto and their respective successors, permitted assigns, heirs, executors and personal representatives. This Support Agreement shall not be assignable by any party except in accordance with **Section 4.7**.

4.7 This Support Agreement and the rights hereunder are not transferable or assignable by the Securityholder or the Purchaser, as applicable, without the prior written consent of the other (which consent may be withheld at the discretion of the other).

4.8 Time shall be of the essence of this Support Agreement.

4.9 If any term, provision, covenant or restriction of this Support Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Support Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated and the parties shall negotiate in good faith to modify the agreement to preserve each party's anticipated benefits under this Support Agreement.

4.10 The Securityholder acknowledges that it:

a. has been advised by the Purchaser to seek independent legal advice;

b. has sought such independent legal advice or deliberately decided not to do so;

c. understands its rights and obligations under this Support Agreement; and

d. is executing this Support Agreement voluntarily.

4.11 Any notice or other communication required or permitted to be given hereunder shall be sufficiently given if delivered or sent by facsimile transmission as follows:

a. in the case of a Securityholder, to the address set forth opposite the Securityholder's Acceptance; and

b. if to the Purchaser:

Americas Silver Corporation
145 King Street West Suite 2870
Toronto, ON M5H 1J8
Attn: Darren Blasutti
Email: dblasutti@americassilvercorp.com

With a copy to:

Troutman Sanders LLP
401 9th Street, N. W. Suite 1000
Washington, D.C. 20004
Attn: Thomas M. Rose
Email: thomas.rose@troutman.com

or at such other address as the party to which such notice or other communication is to be given has last notified the party giving the same in the manner provided in this **Section 4.11**, and if so given shall be deemed to have been given on the date on which it was actually received at the address provided herein (if received on a Business Day, if not, the next succeeding Business Day) and if sent by electronic mail transmission be deemed to have been given at the time of actual receipt of the complete electronic mail transmission at the e-mail address provided herein (if actually received prior to 5:00 p.m. (local time at the point of receipt) on a Business Day, if not the next succeeding Business Day).

4.12 This Support Agreement (together with all other documents and instruments referred to herein) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all other agreements and undertakings, both written and oral, among the parties with respect to the subject matter hereof.

4.13 This Support Agreement shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of Nevada, without giving effect to any principles of conflict of laws thereof which would result in the application of the laws of any other jurisdiction, and all actions and proceedings arising out of or relating to this Support Agreement shall be heard and determined exclusively in the courts of the State of Nevada.

4.14 The Securityholder recognizes and acknowledges that this Support Agreement is an integral part of the Purchaser entering into the Merger Agreement, and that the Purchaser would not contemplate proceeding with entering into the Merger Agreement unless this Support Agreement was entered into by the Securityholder, and that a breach by the Securityholder of any covenants or other commitments contained in this Support Agreement will cause the Purchaser to sustain injury for which it would not have an adequate remedy at law for money damages. Therefore, the Securityholder agrees that, in the event of any such breach, the Purchaser shall be entitled to the remedy of specific performance of such covenants or commitments and preliminary and permanent injunctive and other equitable relief in addition to any other remedy to which they may be entitled, at law or in equity, and the Securityholder further agrees to waive any requirement for the securing or posting of any bond in connection with the obtaining of any such injunctive or other equitable relief.

[Remainder of page intentionally left blank.]

If the foregoing accurately reflects the terms and conditions of our agreement, would you kindly indicate your acceptance hereof by signing, dating and returning to the undersigned the enclosed Support Agreement by electronic mail or otherwise.

AMERICAS SILVER CORPORATION

By: _____
Name:
Title:

SECURITYHOLDER'S ACCEPTANCE

Irrevocably accepted and agreed _____, 2018.

Address for Notice:

_____

_____

_____

Name of Securityholder:

_____

Signature:

_____

Registered or Beneficial Holder	Number of Shares of Common Stock	Number of Shares of Preferred Stock	Number of Convertible Securities	
			Warrants	Options
TOTAL:				

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Section 7: EX-10.2 (EXHIBIT 10.2)

Exhibit 10.2

AMENDMENT TO FOURTH AMENDED SEVERANCE COMPENSATION AGREEMENT

This Amendment to Fourth Amended Severance Compensation Agreement ("**Amendment**") is effective as of September 28, 2018 ("**Effective Date**"), by and among Pershing Gold Corporation, a Nevada corporation (the "**Company**"), and Eric Alexander (the "**Employee**"), and amends that certain Fourth Amended Severance Compensation Agreement (the "**Original Agreement**"), dated December 21, 2017 between the Company and Employee. Capitalized terms used in this Amendment without definition have the meanings given in the Original Agreement.

WHEREAS, the Original Agreement expires on December 31, 2018.

WHEREAS, the parties desire to modify the Original Agreement to extend the term of the Original Agreement through March 31, 2019.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereby agree as follows:

1. Amendment. The term set forth in Section 2 of the Original Agreement is hereby extended to March 31, 2019.

2. General. Except as otherwise modified herein, all other terms and provisions of the Original Agreement shall remain in full force and effect. The performance and construction of this Amendment shall be governed by the internal laws of the State of Colorado. This Amendment may be executed in any number of counterparts, with each such counterpart constituting an original and all such counterparts constituting but one and the same instrument. Signatures may be exchanged by facsimile or by an email scanned .PDF signature page, with original signatures to follow. Each party agrees that it will be bound by its own facsimiled or .pdf-scanned signature and that it accepts the facsimiled or PDF-scanned signature of the other party.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date.

PERSHING GOLD CORPORATION

By: /s/ Stephen D. Alfers
Its: President and Chief Executive Officer
Name: Stephen D. Alfers

/s/ Eric Alexander
Eric Alexander

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Section 8: EX-10.3 (EXHIBIT 10.3)

Exhibit 10.3

AMENDMENT TO OFFER OF EMPLOYMENT

This Amendment to Offer of Employment ("**Amendment**") is effective as of September 28, 2018 ("**Effective Date**"), by and among Pershing Gold Corporation, a Nevada corporation (the "**Company**"), and Timothy M. Janke (the "**Employee**"), and amends that certain Offer of Employment (the "**Original Agreement**"), dated January 10, 2018 between the Company and Employee. Capitalized terms used in this Amendment without definition have the meanings given in the Original Agreement.

WHEREAS, the severance and change in control protections set forth in the Original Agreement expire on December 31, 2018.

WHEREAS, the parties desire to modify the Original Agreement to extend the severance and change in control protections set forth in the Original Agreement through March 31, 2019.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereby agree as follows:

1. Amendment. The term set forth in the first sentence of the Severance and Change in Control section of the Original Agreement is hereby extended to March 31, 2019.

2. General. Except as otherwise modified herein, all other terms and provisions of the Original Agreement shall remain in full force and effect. The performance and construction of this Amendment shall be governed by the internal laws of the State of Nevada. This Amendment may be executed in any number of counterparts, with each such counterpart constituting an original and all such counterparts constituting but one and the same instrument. Signatures may be exchanged by facsimile or by an email scanned .PDF signature page, with original signatures to follow. Each party agrees that it will be bound by its own facsimiled or .pdf-scanned signature and that it accepts the facsimiled or PDF-scanned signature of the other party.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date.

PERSHING GOLD CORPORATION

By: /s/ Stephen D. Alfers
Its: President and Chief Executive Officer
Name: Stephen D. Alfers

/s/ Timothy M. Janke
Timothy M. Janke

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Section 9: EX-99.1 (EXHIBIT 99.1)

Exhibit 99.1

AMERICAS SILVER CORPORATION AND PERSHING GOLD CORPORATION CONFERENCE CALL

October 1, 2018
8:30 a.m. EST

CORPORATE PARTICIPANTS

Darren Blasutti, President & CEO of Americas Silver Corporation
Steve Alfers, Executive Chairman & CEO

CONFERENCE CALL PARTICIPANTS

Darren Blasutti, President & CEO of Americas Silver Corporation
Steve Alfers, Executive Chairman & CEO
Darren Dell, Chief Operating Officer – Pershing Gold
Warren Varga – CFO
Peter McRae – Senior VP, Corporate Affairs & Chief Legal Officer
Shawn Wilson, VP, Technical Services

PRESENTATION

OPERATOR

Ladies and gentlemen, thank you very much for standing by and welcome to the Americas Silver Corporation and Pershing Gold Corporation Business Combination conference call. During this presentation, participants are in the listen-only mode, and afterwards we will conduct a question and answer session. At that time if you have a question, press the 1 followed by the 4 on your telephone. If at any time during the conference you need to reach an operator, press * followed by a 0. As a reminder, this conference is being recorded on Monday, October 1, 2018. I would now like to turn the conference over to Darren Blasutti, President and CEO of Americas Silver Corporation. Please go ahead.

DARREN BLASUTTI

Thank you very much, operator. On the phone with me this morning is Steve Alfers, the Executive Chairman, President and CEO of Pershing Gold, Darren Dell, the company's Chief Operating Officer. Steve is in Denver, Darren is in Mexico, and with me in Toronto we have Warren Varga, Chief Financial Officer, Peter McRae, our Senior Vice President of Corporate Affairs and Chief Legal Officer, and Shawn Wilson, our Vice President of Technical Services. The format of the call, opening comments from myself and Steve to talk a little about why we're here and why we did this and why we're excited about it. We're going to go through a presentation which is loaded up for you guys on the website and many of you have gone into. And then we expect that to take until about 9:00, and then we expect to have a Q&A session so you can ask any questions you have about the transaction. That's the format. I guess I'll start with my opening comments. This is a very exciting day for the USA team and our shareholders. It's no secret that we have wanted for the company to have more precious metal exposure, that we love the U.S. and especially Nevada and Idaho as places that we want to operate in, and that we've always looked for low-risk, low-capital, high-return projects. And in doing this business combination with Pershing, we found all three of these. This is a project that we've been looking at for the last three or four years. Steve and his team have done a great job de-risking the project since we first looked at it. And I think a lot of people have looked at it and it's had some challenges, but I think when you look at the new feasibility study that was issued in May, it's an excellent document that highlights the benefits of the project. It's shovel-ready from both a technical perspective and a permitting perspective. And you know the project is brownfield, has great infrastructure, the benefit of existing processing facilities, which make the capital so cheap. We believe we will find mine-life extensions for the project, not only in pits and the potential to find a lot more gold on the 29,000-acre property that Steve and his team have assembled over the last five years. The USAS team when we looked at this and have done extensive due diligence, feel we can be additive and bring accretion to every part of this project moving forward working with the very qualified Pershing team that's already in place. We believe

we can finance it cheaper and we believe we can build it more efficiently given our recent experience at San Rafael. Before I go over the rationale and merits of the deal further, I would like to turn it over to Steve Alfers from Pershing to make some opening comments. Steve, go ahead.

STEVE ALFERS

Thank you, Darren. We're very pleased to announce this transaction with Americas Silver. The Pershing team has dedicated a tremendous amount of effort to advancing Relief Canyon to where it is today. Through this business combination, we strongly believe that our shareholders are in a better position to realize near-term value from the project as we advance it through construction and into production. In addition to retaining meaningful exposure to future value catalysts at Relief Canyon, our shareholders also gain material ownership in a larger and more diversified producing company in the Americas. We truly believe that this is the right deal for our company and for our shareholders. Darren's management team brings a wealth of development and operating experience and we are excited to see Relief Canyon advance within the Americas Silver organization. Thanks, Darren, I'll turn it right back to you.

DARREN BLASUTTI

Ok, great, just on the presentation, we're on slide 2, Forward Looking Statements, and obviously this presentation, the remarks that Steve and I will make do contain forward looking statements. These are not guaranties, but rather reflect our current views with respect to future events, and those are subject to obvious uncertainties and so some of the things we talk about could differ from those reflected in this presentation, but of course we're going to do the best we can to, as we always do, do as we say we're going to do. The qualified person for this presentation is Mr. Darren Dell who is on the phone from Mexico, and just over to slide 4, the Transaction Rationale. For both companies this is a bit of a diversification of our asset portfolios. For U.S. Silver we have two polymetallic operation mines. In Mexico, as you know, over the years we have weighted the assets more to base metals than silver as it's very difficult to make money in the silver industry at $14 silver. And so we've turned some of our mines more into polymetallic mines than silver mines. That has decreased our costs, but it also has left our leverage to precious metals on an operating basis, a little bit lower than we like. Relief Canyon is, you know, a high-quality, high-return, shovel-ready project in Nevada. Our entire team has spent the bulk of our careers there, with being at Goldstrike and Barrick, and Darren Dell, our Chief Operating Officer,

being in both Cortez and Bald Mountain in his career. When we combine our current operations in Idaho and Mexico, we'll own a very balanced portfolio of producing mines and development projects, both with very exciting expiration upside. And of course, for Pershing, they get away from being a one mine development company and get into being part of an operating company. We're thankful for that. It works very well for us. Enhanced growth and scale, the ramp-up at San Rafael continues through the third quarter. It's gone reasonably well as we'd expected it to. In some parts of September, we've gotten up to that 1,750 tonne a day number, which we had expected, and we expect to go close to 1,800 tonnes in the fourth quarter. And we're going to follow that, you know, ramp up of San Rafael at increased cashflow with near-term growth at both Relief Canyon and Zone 120. And Zone 120 for those Pershing shareholders is a silver-copper asset next to our current operations in Mexico, so both of those will be in the pipeline for building as soon as able. Both are low-cost projects and both we think we can put in production that provides material growth and production and cashflow in 2020 and onward. That also sets the stage for Americas Silver, the new combined company to be a leading precious metal producer in some of the most attractive jurisdictions in the Americas, including Mexico, Idaho and Nevada. You know, everybody talks about their proven management team. You know, we think we've done a good job of taking the 2 highest cost silver mines in the world and becoming a $5.40 all in cost producer in the first half of the year. We think over time we can do better. But, we think we can take not only what we've done with fixing those mines but take a completely brownfield project like San Rafael, like Relief Canyon, and we can repeat what we've done here. We understood what we did well at San Rafael. We understood what we didn't do well, and we're going to continue to get better at what we do every day, and I think building the mine on time and 30% below budget bodes well for what we can do with this project. We have a stronger financial position together. San Rafael generates significant cash flow which will grow in '19 and '20. We've had a number of ongoing discussions with financial institutions and mining financiers about the project, as has the Pershing team, and so there's lots of interest in helping us finance this project, and we believe we'll be very well positioned to building Relief Canyon at a very low cost of capital. The project also enhances the two companies' capital markets profile, USAS has a very large institutional shareholder base. Some of them woke up this morning wondering why we're paying a 40% premium. I can tell you it was well worth it, and I'll go through that in the document. We've done two reverse take-overs so far to get the assets we have. We've got a gold asset in Nevada which we think is terrific that we want to move forward, but this transaction we believe will be well-endorsed by the analysts and the market, and lead to increased investor following and liquidity as we increase our precious metal exposure and bring in another project into the pipeline. The project is a compelling value proposition. Relief Canyon greatly increases our leverage to precious metals while maintaining our low-cost structure, and it offers outstanding exploration potential at over 29,000 acres. Both stocks currently trade at extremely attractive valuations on both NAV and cashflow measures and we both feel that the execution of our combined plan sets the stage for a very strong revaluation of the stock. Slide 5, the Transaction Summary. Americas Silver is to acquire Pershing in a share exchange ratio merger transaction. The pro forma basic ownership is around 64% USA, 36% Pershing. If you include the preferred shares, it's more close to around 61-62% for USA. It's .715 Americas Silver shares per Pershing share. That applies a $1.69 per Pershing share price. That is a 39% premium based on both spot on Friday and a 10-day VWAP of the companies. There's also been a concurrent US$4M secured bridge loan to Pershing for property expenses to move the permit forward and working capital. That bridge was funded into Americas Silver by Pierre Lassonde and Trinity Capital, both who have done extensive work on this project, who were

interested in the project before we got involved, and we're happy to have somebody of Trinity and Pierre's magnitude to be backing the project as we go forward. Given the kind of conditions, the timing around this which is going to be a little bit longer because you've got US review and we've got a review by CFIUS, which is a review because the property's close to an Air Force base. We think there will be a bit of an extended time from the time we announce and the time we get approval, so we want to make sure that the company can move itself forward under our, obviously with our combined management team looking at it, and so that bridge loan was necessary to help fund the company, and we're very excited to have the group and Pierre to do that. The preferred shares will be converted to Americas Silver preferred shares, they will be non-voting. And the condition of the transaction are that the Pershing shareholder votes majority for the common shares and 75% for the prefs under the USAS vote, again, simple majority of the votes cast, and again, we say customary regulatory and court approvals, the only thing that's a little bit of a wrinkle here is the CFIUS approval, which we believe we will get, it's just takes a little bit more time. We expect to mailing shareholder materials hopefully in Q4, but in the worst timetable probably early Q1, with a vote to occur thereafter and closing well within the first quarter of next year. Both Boards have unanimously approved the transaction. Both Boards and management have locked up their shares to each other in support. It's important to note that we got a hard lock-up or an unconditional lock-up from Barry Honig, who owns 31% of the common shares and 87% of the preferred shares. And after the transaction, Mr. Honig has agreed to lock-up to the company for over 12 months from close. So, we're very excited to have that as part of the deal protection. We also have a $4M break-fee payable to USAS if somebody should come over the top. So, we like the asset. We did our best to get Pershing to want to do it with us, and we've done everything we can to protect ourselves. I think that's the right way to go here, and I think it's an outstanding package. On the pro forma capitalization on slide 6, the business combination creates a much larger and well-capitalized company. We basically have a market capitalization of $160M, enterprise value $60M,[1] the balance sheet remains intact. We're always looking at ways to improve the balance sheet. We will continue to see our cash balance grow as San Rafael reaches peak capacity and the debt balance will obviously decline as we continue to repay our facility with Glencore. I think the bridge that we put in place, which is reflected here in both the cash and total debt, will allow the business as usual, and neither company likes where our share price is today, but we thought it was important for both of us to doing this deal today. And so, we don't want to be issuing equity at low prices, we think we're going to get a re-rating and people understand the value of this company, so we thought this was the best way to move the company forward. Talk a little bit about Slide 7 which is on your screen – Mutually Beneficial Transaction. For Pershing, let's start there. In addition to the upfront premium of 39%, it provides material ownership in Americas Silver. It also provides Pershing shareholders with near-term value catalyst at Relief Canyon as our team and the combined team executes on the financing and the build of the project in 2019. Our portfolio of quality producing development exploration assets you get a big chunk of -- those assets are very exciting. They have lots of leverage to silver and zinc and lead and we believe as silver and gold re-rate, you will get a great re-rating towards the silver that's in our portfolio. It also has some near-term benefits of Relief Canyon. It brings -- the fact that our team has just built a mine not more than a year, less than a year ago -- it brings you an enhanced access to capital and the ability to finance Relief Canyon at we believe a much lower cost of capital than Pershing can do on its own. And, of course, it mitigates the single asset development risk. The financing market remains challenging for single asset developers and the mining industry has been difficult on its own. So again, the bigger company allows the Pershing shareholders to see the build of that project. For Americas

[1] Mr. Blasutti intended to indicate a figure of $160 million, as referenced on slide 6 of the investor presentation.

Silver, the USAS shareholders, it adds a high quality, shovel-ready precious metal development project, low capital intensity and strong project economics. You know we talk about economics, but when you take not only the IRR of the project but even when you include the acquisition costs, you're talking about a 15 to 20% return on an IRR basis at spot prices. You don't see that very often in the mining industry. We are looking for these kinds of projects. They're not easy to find. We love our asset base, but every once in a while something comes along that you need to add to your portfolio and this is one of them. The product is de-risked from an engineering and permitting perspective. It's an ideal fit within our portfolio and project pipeline. It adds near-term Nevada operations with a large, perspective and unexplored land package and a plan to expand those exploration efforts as the project moves forward. It's materially accretive to our precious metal reserves and resources and our NAV. And it will be materially accretive to cash flow, net income and production by 2020 once Relief Canyon is in production. Relief Canyon will add 91,000 ounces of gold, which is essentially equivalent to seven and a half million ounces of silver production at spot prices. The project economics are robust at spot prices. It's just over a year payback at 71% IRR on a pre-tax basis. And that's before anything we bring to the project. So again, we're very excited and it's mutually beneficial for both shareholders. It's an exciting day for both shareholders. A little bit about Relief Canyon. We talked about it. We know where it is -- Nevada. One of the best jurisdictions in mining in the world. Again, the team at Pershing has taken it from a thousand acres to 29,000 acres. It has reduced the royalty package and done a great job getting this feasibility study up and running. Only 20% of the project has been explored to date and we plan to allocate additional resources to explore the entire property. Our chairman, Alex Davidson, who was the head of exploration for Barrick for 16 years is very excited about the exploration potential here and I know that Pershing is as well. So, we believe there will be more ounces to come than what's seen in the feasibility study. The project is straight forward from an operational standpoint. It's a low-cost oxide open pit heap leach, simple metallurgy. There's an existing ADR plant on site that is permitted for use. Full operating permits are in hand for Phase I. The Phase II permit which allows for mining well below the water table and creating a pit lake was submitted in June 2018. We believe that Pershing has engaged the regulators. We will get involved with the Pershing team under their tutelage to get this permit in due course. But we think it will come quickly. The new secretarial order requires the BLM to complete the EIS process within a year. So, there's a visibility to completing this process in the very near term. Of course, there's existing infrastructure on site. The site layout with the existing infrastructure shown in the image including existing open pits, leach pads, crushers and processing facility. As I look at the overview of Relief Canyon and the feasibility study again, I think you see the numbers there roughly 91,000 ounces at $800 all in sustaining costs. We think the costs can be lower. The capital intensity $28 million to build the mine, $10 million in working capital. We've had a number of people already approach us since the announcement last night and their interest in wanting to fund the project. And I'm talking about banks as opposed to private equity firms. So again, we're going to look at how we can do that on a good basis that the robust -- the economics of the project are robust. Quick payback, high IRR. Again, we continue to review the engineering of the project as we did with San Rafael. We will seek ways to optimize the project, improve grade profile, reduce capital, reduce operating costs and maximize returns. You know the San Rafael story was that it was an open pit mine and very high capital. We turned it into a pre-feasibility study for $22 to $25 million to build the mine and we built it for under $17 million. We are going to the same kind of work we applied there. The discipline capital allocation to building this project and as we continue our work, we'll update the market on how we see the project being built and executed but we do feel it will be more gold in pit into this profile as we move forward.

On a pro forma operating profile basis, slide 10, the meaningful impact to both silver equivalent production and reserves for Americas Silver shareholders, Pershing adds roughly 7 million ounces of silver equivalent production and almost a 100% increase in our precious metal scale. It adds 51 million ounces of silver equivalent reserves, an approximately 75% increase in reserves, and our all-in cost profile will improve over time as a result of this transaction. It's highly impactful when we look at precious metals exposure. Almost five, almost six times as much precious metal exposure on production and almost three times as much precious metal exposure on reserves. And on a production basis, we will also be bringing Zone 120 on. This does not include that. So that precious metal exposure will come down a little bit. But until we announce the project, it is what we have. And so overall, Relief Canyon is a highly meaningful addition to our operating portfolio. And again, it's one that we believe is imminently doable as we move forward. On a pro forma commodity exposure, with San Rafael coming on line, our commodity mix shifted toward base metals due to the increased level of zinc production. Now we're happy to have zinc. We think prices are going to continue to be good. Again, I think prices will continue to be up from where they are today. But at the same time it took us to 23% silver or precious metal exposure on production. Now that number with Zone 120 would be expected to rise towards 35%, 36%, maybe 40%. And if we get higher silver prices, you know we could bring on more production at Galena that would get us to say 50% or 60%, but it wasn't going to move the needle as quickly as this could move the needle for us by 2020. And then on reserves, it takes our silver from 40% – or our precious metal exposure from silver to 42% to almost 70% on a reserve basis. So, this establishes Americas Silver once again as a pre-eminent junior precious metal producer. Slide 12 – A Compelling Value Proposition. USAS is a stand-alone company currently trades at a discount to its precious metal peers on net asset value and cashflow. With Relief Canyon in the stable at the price that we're paying, this discount becomes even more apparent. We trade at a material discount to net asset value of .38%, or .38 times, versus the peer average of .6 with some going as high as 1.1. We trade at a material discount on cash and particularly when we include contribution Relief Canyon in 2020, 2.4 times versus the peer group that average 3.5 and some go as high as 6. We believe strongly that as we continue to execute our assets and generate value through development and exploration, we believe this gap will close. Overall, the combined company offers a compelling value proposition to shareholders of both companies and new potential investors and sets the stage for a significant re-valuation in our stock. It also is a growth company which I think people will start to understand the precious metal growth off of the 68 million shares that are outstanding will be very accretive for all of our combined shareholders. So, what's the path forward as we look here and as I finish the presentation for our combined company? We want to fully execute on San Rafael and achieve the full production by the end of 2018. This will increase cash flow for 2019 and 2020 and also increase silver production as we get into the upper zone. Our balance sheet and the balance sheet strength remains top of mind. You know we're always looking at ways to make our balance sheet better. We're talking to Glencore to try and move some of our debt out into the future as we've seen this drop in metal prices over the sector. They've been a very good partner. They'll continue to help us. Along with that, we believe we'll be able to see our cash balance grow through 2019 through San Rafael. We also have Zone 120 which is an exciting future development option for us. The resource estimate will be released next week. We will provide the market with updates in how we see this project being developed and adding to our future production profile. We believe this project can be brought into production by 2020 if we want to. And I think for Relief Canyon, we're going to continue to evaluate financing alternatives. We're going to be speaking with banks, streaming and royalty companies and private equity to find the lowest cost of capital that we can for this project. We hope to provide the market with clarity in early 2019 when we close. We expect to commence construction in 2019. We expect to commence production in 2020. We see more ounces in the pit for Relief Canyon. We see more ounces on the property. We think our returns that we've baked into our models are going to grow as we find those ounces. Overall, we see a tremendous amount of growth over the next two years for the company. We continue to seek accretive ways to expand our operating base and build a larger and more diversified company. Our goal remains the same. We want to build a leading, low-cost, precious medal producer in the Americas in great jurisdictions and today's transaction is a significant stepping stone in achieving this for both of the companies. So, with that, operator, I would like to turn it over to you for any calls that we may have.

OPERATOR

Absolutely, sir. Ladies and gentlemen, we'll now proceed to the question and answer session. If you would like to register for a question, please press the 1 followed by the 4 on your touchtone phone. You'll hear a three-tone prompt to acknowledge your request. If your question has been answered and you'd like to withdraw your registration, press the 1 followed by the 3. If you're using a speaker phone, please lift your handset before entering your request. Once again, ladies and gentlemen, press the 1 followed by the 4 now. One moment please for the first question. Our first question comes from the line of Jake Sekelsky. Please proceed with your question.

JAKE SEKELSKY

Good morning, guys.

DARREN BLASUTTI

Good morning, Jake.

JAKE SEKELSKY

With the production profile of about 91,000 ounces of gold, so obviously this will diversify your revenue stream a bit, was this something that you kept in mind when you were evaluating projects? I guess what I'm getting at is, were you specifically looking for more exposure to gold?

DARREN BLASUTTI

I think we weren't looking at anything in particular. What we were looking for was growth, again, and we always evaluated our growth internally, at what we could do at Zone 120, and what we could do, you know, at San Rafael and on our property. But what we realized, Jake, was that, you know, no matter what we did given the amount of lead and zinc that we had on the, being produced right now, from internal projects, unless the silver price goes, you know, to that $18 or $20 number, we weren't going to be able to bring on any material production that was going to get us over 35-40% precious metals. And so we looked at all the silver projects we could look at, we looked at all the gold projects we could look at in good jurisdictions, and this was one that's always stood out for us, so I don't think we were looking for gold versus silver or 91,000 ounces, we were just looking for a project that had the kind of economics that we could support on a build and a buy basis. And so, this is one, you know, in which, again, I will say even after acquisition cost at spot gold prices today, had greater than a 15% IRR altogether. So, you don't see those opportunities very often. And again, we think beyond just the reserve, there will be more in-pit growth, and so for us the combined view of the project and the precious metals that it brought was very attractive.

JAKE SEKELSKY

Got it. That makes sense. Switching over to the financing front. I know you touched on this a bit earlier. Could you just give us some more color on the conceptual plan to finance Relief Canyon, maybe an optimal scenario?

DARREN BLASUTTI

Well, an optimal scenario would be to have a bank come in and do a project financing for the bulk of it. I mean, again, I think, you know, we've talked to a number of parties. I know the Pershing guys have a number of discussions with those kind of banks. But, being only a single mine asset, it was a lot more difficult for them. When you look at the cash flow coming from San Rafael going forward, and you look at the project economics itself, you know, there's an ability here to look at a financing that is extremely attractive to our shareholders. And so, I'm not sure it's going be a tier 1 Scotiabank, or something like that, but they will look at it. But I think, again, we've got a period here that's going to be, hopefully two months, but maybe four months in between announcement and close, and we'd like to have that arranged and in place by the time we close the transaction and have this thing fully funded as we come out of the period here.

JAKE SEKELSKY

Perfect, that's all for me. I'll hop back in the queue. Thanks.

OPERATOR

Thank you. And our next question comes from the line of Jamie Spratt. Please proceed with your question.

JAMIE SPRATT

Good morning, guys. Congrats on a good deal here.

DARREN BLASUTTI

Thanks Jamie.

JAMIE SPRATT

So, just a couple of questions. First question is, if you can just give us an update on the permitting status of Relief Canyon. I know the Phase I permits are in place, but where do things stand with Phase II?

DARREN BLASUTTI

You know what, I'll probably turn that over to Steve, Jamie. Steve, you're the expert here, why don't you take us through that.

STEVE ALFERS

Thanks, Darren, and thanks for the question, Jamie. As you know, Phase I of the Relief Canyon Mine is fully permitted to mine below the water table to the Phase I pit bottom elevation. The mine has all the necessary federal and state and local permits to begin full scale production to that elevation. Pershing has submitted the permit applications for the Phase II mine expansion to U.S. BLM and the Nevada Division of Environmental Protection, and we completed that filing in June of 2018. The Phase II mine expansion will extend the mine life and will enlarge and deepen the pit, build additional heap leach pads space to accommodate the Phase II ore, and expand the waste rock storage facility. The expansion affects both the public and private lands controlled by Pershing Gold Corporation. All of the environmental baseline studies are complete now and show that there are minimal environmental impacts associated with the proposed mine expansion in Phase II. There is no sage grouse habitat and there are no threatened or endangered species there. The mine has all the necessary water rights for both Phase I and Phase II operations. The mine is not located in the Humboldt River Basin. The mining will not impact any third-party water rights. The BLM is now determining whether to prepare an environmental assessment or an environmental impact statement prior to authorizing the mine. That choice is pretty significant and permitting will take about six months if BLM prepares an environmental assessment, and roughly one year if BLM prepares an environmental impact statement. The company anticipates that all the BLM and in-depth permits for Phase II will be approved in 2019. The Phase I construction and the mining can commence while the Phase II permitting process is under way. The Phase II permits will be in place before Phase I mining is completed allowing for a seamless gap-free transition from Phase I to Phase II. And that's the lay of the land on permitting, Jamie. Thanks for the question.

JAMIE SPRATT

Great. That's great. Thanks, Steve. Darren, the second question is just I guess in terms of the structure of the team. I mean, we're adding another jurisdiction here. A mine build at Relief Canyon, potentially alongside the Zone 120 expansion. I guess the question is, will the operating team at Pershing be staying in place, and in addition to that, do you see a need for additions on the operating team?

DARREN BLASUTTI

Yeah, and again, it's early days, Jamie, so I mean, again, right now what I know and what Darren Dell knows, our Chief Operating Officer knows is that they've put together a really good, experienced team. Based in Lovelock/Reno. The guys have a lot of experience. I mean, when you look at Tim Arnold, Tim Janke, Jerod Eastman, all these guys, we come across in our careers, so the team's very good and in place already. Even for a processing side, you know, and so we built San Rafael with our team, but with the local people that we got from Scorpio Mining. And so, that's always our preference. Again, I think the team is really good. I don't think it was a lack of having a good team that didn't get this developed. It was a bad market and a single asset development company, and so, from our perspective, you know, we're going to eliminate the duplication of a corporate office. That's very clear. And we've always talked about, we've always ranted on about single asset companies and why they're not very efficient. But I think the team that's in place below that infrastructure of the corporate office is a very good team, it's a very experienced team and I see no reason why that would change. What we're going to bring to the table is perhaps some new ideas and some new ways of doing things, having just built a mine recently, and I think bringing a much better cost-to-capital to the table. And I think those two things will free up the team to be able to do it a little better. And I think we think differently that the standard mining company. We try and find ways to do things cheaper, you know, on the front-end to preserve capital and capital allocation, and I think we're going to use some of that in the process. But again, that's going to come from top talking down to their guys, or working with their guys below to get this mine built. So, I don't see major changes in the team at this point as we move forward.

JAMIE SPRATT

That's great. Thanks, I'll leave it there.

DARREN BLASUTTI

Thank you.

OPERATOR

Thank you, sir. And our next question comes from the line of David Stewart. Please proceed with your question.

DAVID STEWART

Hi guys. Yeah, so Americas Silver's specialty has always been in high-grade, narrow-vein, underground, polymetallic mining and flotation concentrate milling operations, but Relief Canyon is basically the polar opposite in nearly every respect. You know, being open-pit, low-grade, heap leach gold mining. So how do you expect to fill the expertise gap there? Do you expect to add to your management team to bolster your heap leach operating experience?

DARREN BLASUTTI

Well listen, again, if you know, our background was, almost all of us, Shawn, Darren, Warren, myself, and certainly I don't consider myself an operator, but the background was, you know, we were at Barrick and we were Goldstrike and we were at Bald Mountain, and we were at Cortez, and so interestingly, we became underground experts as a result of the assets that we chose and we brought people in. I think the open-pit side (1) is much easier than underground to start with; (2) this is an oxide heap leach asset, so again, with infrastructure already there, so listen, we're always looking to supplement our team, but I can tell you the guys that Pershing have are very experienced. I can tell you Mr. Dell was a metallurgist in the mill at both Cortez and at Bald Mountain, and at a number of other projects. And Shawn has planned many mines, many open-pit mines as well as underground. So, listen, I think if somebody started a mining company and said what would you like to have, we'd say an oxide heap leach mine in Nevada. And that's what we just got. So, not saying that anything's easy. I think what we bring is the discipline on the capital side, and I think we bring an ability to finance it cheaper and we bring a way of looking at things a little bit differently. But again, my view is that the experts within Pershing and our supplement team will be more than fine. I don't see us bringing on many new people. We brought on a resource geologist recently this summer, which I think is important for any mining company, and that was a priority for us. We have a number of guys we use on a consulting basis for underground and open-pit mining. Old guys, I don't want to say old guys, older gentlemen that we've known that have 40 or 50 years' experience in the industry that we bring in to tell us what we're doing wrong. But, I think between the two teams we're set to go.

DAVID STEWART

Okay, great. Thanks for taking the question. That's all I had.

DARREN BLASUTTI

Thanks, David.

OPERATOR

Thank you, sir. Ladies and gentlemen, as a reminder, if you'd like to register for a question, press the 1 followed by the 4, and our next question comes from the line of Mark Reichman. Please proceed with your question.

MARK REICHMAN

Good morning, I think you've laid out all of the benefits of the transaction very well. My questions relate to first, if you could talk a little bit about the bridge loan and the circumstances under which that facility would be repaid. I think there's some references in the press release that if the transaction was not consummated for whatever reason that there were some different scenarios in terms of repayment.

DARREN BLASUTTI

Right, well, the original bridge loan is basically a back-to-back, Pierre Lassonde and the Trinity Group are giving us a loan in which we're back-to-backing into Pershing. And again, the rationale for that is we want the permitting and the project to move forward as we sit through this announcement to close period which could be between two and four months. So that's the rationale behind it. We are taking it on the Americas Silver balance sheet and that is then being transferred with security and real property security from Pershing, and the loan for us is about 1.25% per month over 9 months, which is pretty typical for a bridge loan. And the reason we talk about this is if one set of shareholders doesn't approve the deal – if obviously if we approve the deal, the loan gets consolidated within the two companies and effectively it's a loan between the new Americas Silver Corporation and Trinity and Pierre Lassonde. If the deal doesn't flow for whatever reason, for example, there's no shareholder vote on the Pershing side, then they would have to repay the loan, I think for cash or shares. And if Americas Silver doesn't get their shareholder vote through the process then basically that loan gets converted into equity, so it's basically an equity deal. Now, we have mitigated those circumstances obviously by having a hard lock-up of the major shareholder represents approximately 43% of Pershing Gold shares, so again, I think that is very mitigated because you have to have 80-90% of the shareholders show up to the meeting and all of them would have to vote against the transaction. So, I think both of these scenarios are very unlikely, but of course in the world of doing M&A transactions, you have to plan for the worst as opposed to planning for the best and so, you know, there's a back-to-back loan. That loan helps Pershing continue to do its business and move that project forward, which we like so much. And on the rare circumstance that the two companies don't get their votes, then again, the loan becomes either a repayable loan under the Pershing scenario, or becomes basically an equity offering for the Pershing shareholders from us if we don't get our vote.

MARK REICHMAN

I see. Okay, and then second, could you just talk a little bit about, you know, you referenced the premium, and I know that Pershing shareholders will still retain the exposure to the upside and the development of Relief Canyon, and they probably have a stronger currency now, but, could you just talk a little bit about how you approached valuation? Whether that be in terms of comparable transactions or your own 15-20% hurdle rate, but what kind of drove the factors that drove the decision on the exchange ratio?

DARREN BLASUTTI

Yeah, I mean, simply, if you looked across transactions under $100M in the gold sector, I think you'll find that the premium paid for this is right down the middle. So, that is kind of consistent. When you look on accretion basis for us and for them, it's immediately accretive to Pershing shareholders on a cashflow, net income basis, obviously. But, it accreted to us on NAV and reserves and will be accretive to USAS shareholders in 2020 when the mine gets up and running. So, they get immediate benefit from us and they provide a long-term asset for us effectively. So, we looked at that kind on a NAV basis, on a cashflow-per-share basis, on a discounted cashflow basis, obviously you heard my rationale that this is over a 15% return when you include the acquisition cost.

MARK REICHMAN

Right, right.

DARREN BLASUTTI

So again, those are our hurdles. It worked for us. On the Pershing side, you know, I think, I'll let Steve speak for it, but I think for them it was the ability to get this mine built. The surety of getting it built and getting that value, and it was also, I believe, the upfront premium that allows them to move forward with the project. And so, and I would say that this was an asset in which many people were interested in, and so we felt this was something that was good for us. I can tell you that Pierre Lassonde and the Trinity team did a ton of due diligence alongside of us, and they came to the same conclusion that this is a great asset. And you know the hard part for a small company is where do you come up with the money, and we were able to do that to help Pershing move this thing forward too. So, all of those factors for us were important. I don't know if I answered your question succinctly.

MARK REICHMAN

No, that's very helpful. Just the last question, I think it's pretty much been covered, but in terms of all the approvals, you've got the Pershing Gold and the Americas Silver shareholders meetings. You'll have to have the Toronto Stock Exchange and the New York Stock Exchange American approved, and then you mentioned CFIUS. Are there any other approvals that are required to move the transaction forward?

DARREN BLASUTTI

Not that I'm aware of. No, you've covered them all. Thank you.

MARK REICHMAN

Okay great. Thank you.

DARREN BLASUTTI

Thanks very much.

OPERATOR

Thank you.

DARREN BLASUTTI

Operator, maybe we can take one more question.

OPERATOR

Absolutely, sir. The next question comes from the line of Howie Flinker. Please proceed with your question.

HOWIE FLINKER

Hey Darren, hey Steve. I have a few questions. Will you develop Zone 120 by the end of the year, or will you be producing Zone 120 by the end of the year? I didn't understand clearly.

DARREN BLASUTTI

Sorry, Zone 120, just for everybody, is our silver-copper discovery from the last year or so. We expect to be putting out at the beginning of the fourth quarter, next week, a resource estimate and an internal mine plan for that, effectively. We think we can be developing and into production on Zone 120 if we choose by 2020.

HOWIE FLINKER

Oh, ’20, good.

DARREN BLASUTTI

So, we build it next year, and production in 2020.

HOWIE FLINKER

Is Glencore still committed to finance what you need on your side? Or has that changed?

DARREN BLASUTTI

No, I mean, Glencore obviously financed the San Rafael Mine, and as you know, we pay back through offtake through, every concentrate shipment pays back. I think they’re excited if they can get the Zone 120 offtake as well. And I think they’d like to have that. They’re our partners and we’d like to find a way to build that mine. So, they helped us the last time. And whether that’s through decreasing our amount of debt to them by doing certain things or adding more money to the mix, I think they’ve been a very supportive shareholder, so yes, they are supportive of what we’re doing. They have consented to the additional security put on the company, and they’re looking forward to building, or working with us to help us build Zone 120 as well going forward. So, I think they’re supportive. They don’t have anything to do with the Pershing Gold asset at this point, and they’re in the zinc-lead-copper business, not in the gold business, so but on our Mexican assets, absolutely.

HOWIE FLINKER

And because of Pershing and Relief Canyon, I take it that San Felipe will be pushed off because you’ll be plenty busy, is that correct?

DARREN BLASUTTI

Yes, I think it’s fair to say that that’s going to move down a notch, and we’re working with Hochschild now, and in discussions with them to push out that final payment at the end of the year. And we’re looking at ways to fund that. But it’s fair to say that San Felipe has become the third development asset out of three, so right now that we have given it – I mean, it’s more capital to build San Felipe right now than it is to build Relief Canyon and Zone 120. So, ultimately we look at the lowest cost, highest return projects in the portfolio and that would there. So yes …

HOWIE FLINKER

Is Hochschild giving you a hard time about deferring the development?

DARREN BLASUTTI

Not at all. In fact they're … no, not at all.

HOWIE FLINKER

Is Pierre Lassonde going to get a royalty on top of the 1.25% a month? Or just the 1.25% a month straight?

DARREN BLASUTTI

Just the 1.25% a month. He has no royalty. I think that would probably be a problem for Franco. Pierre's doing this because he's investing his own money because he's looked at the asset along with Trinity and their technical advisors and they really liked the project. There's very few people that can help you out with $5.5M on very short notice, and he just happens to be one of them. So, we're excited to have him. No royalties.

HOWIE FLINKER

So is his ex-partner. And finally, you said you could reduce all-in sustaining costs and maybe cap-ex. Could you describe some of the ways you think you could cut some expenses?

DARREN BLASUTTI

You know, listen, one of them is cost of capital. That's the first one. The second one is there's two phases in this pit right now, and depending how fast, if we can get an EA versus an EIS, we may be able to effectively build this as a one phase project instead of a two, which eliminates capital. I think, again, an ability to look at everything this team has done, which has been good work. Over the course of the feasibility study I think they know and we know there are ways that we can cut costs, just like we did at San Rafael. I'm not going to outline them as we have four months to close and there is some competitive tension around the project. But again, we see more ounces, which also help bring costs down. As you increase the amount of ounces that are in the asset itself it brings the cost down. And again, I think on an initial basis, do we feel like the capital costs on the project are lower? No, they're going to be much lower? No, but I think the execution and efficiency of the project can be a little bit better, and again, I think that will bring down the costs. But I can't get into too many specifics.

HOWIE FLINKER

Sure. Finally, under Donald Trump and Ryan Zinke, I think Ryan is his first name. Is it possible you could get the second permit within 12 months? They are friendly towards business, so I'm asking if you think this could be pretty quick.

DARREN BLASUTTI

Steve, I'll let you answer that.

HOWIE FLINKER

Hi Steve.

STEVE ALFERS

Hi Howie. Thanks for the question. The administration and Zinke has been helpful because with respect to EIS support for plan of operations approval, he's imposed upon the BLM a one-year deadline, so you can see in Nevada, they've been living by that. Relief Canyon is the kind of project that lends itself to a fast track there because we don't have, these days the typical hot button that has to do with endangered species, sage grouse in particular. We don't have that habitat. So, the pathway is pretty clear for one year once we hire the contractors to complete an EIS. But the other possibility is that the Bureau is considering right now expediting this process even further. They could do the project on an environmental assessment, which moves a whole lot faster. And so, we're thinking that we'll have this fully permitted for Phase II in 2019. Regardless of which direction the BLM wants to go with the level of environmental assessment, 2019 is the year, and as we try to close this transaction and get that done as soon as possible, should it slip into 2019, and it might, what it means is that we can evaluate mine rates and our mine plans because we could anticipate what we've been calling Phase II and accelerate that quite possibly. So, as Darren was talking about a few minutes ago, about the possibility of turning it into a single phase project, or frankly, rapid transfer from Phase I to Phase II, all those I think are open right now. So, the possibilities of expediting this development are really pretty good.

HOWIE FLINKER

The one endangered species that they cannot help is long-side investors in precious metals.

[*laughter*]

DARREN BLASUTTI

Yes, Howie.

HOWIE FLINKER

Thanks guys. Take care of yourselves.

DARREN BLASUTTI

Thanks for all the questions everybody. We appreciate the interest in the transaction. At Americas Silver we don't do these things lightly. We thought very hard, we've looked at probably over 70 or 75 assets over the last 4 or 5 years, and much like Scorpio Mining was to us, we think this is going to be a bit transformational for the company. We think it's a great asset. We've spent five years turning around two very difficult situations and now we get a brownfield mine much like San Rafael and we're very excited for that. We think we can bring a lot of value to the combined company. And again, I think when you look at the overall returns to you as a shareholder, I think you'll be very excited to be part of the new company. Very few companies are going to have as much precious metal growth per share as this company will. And we look forward to talking to you over the coming days. Steve and I will always be available to take any phone calls. So, with that I will end the conference call and thank you, operator.

OPERATOR

Thank you, sir. Ladies and gentlemen, that does conclude the conference call for today. We thank you all for your participation and ask that you please disconnect your lines. Thank you once again. Have a great day.

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