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**INVESTOR AGREEMENT**

by and among

**INVESTISSEMENT QUÉBEC**

and

**DIAQUEM INC.**

and

**STORNOWAY DIAMOND CORPORATION**

Dated as of April 1, 2011

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**THIS INVESTOR AGREEMENT** is made as of 9:00 a.m. (Eastern Standard Time) on April 1, 2011.

BETWEEN: **INVESTISSEMENT QUÉBEC**, a corporation governed by an *Act respecting the Investissement Québec* with a place of business at 600 de la Gauchetière West, Suite 1500, Montréal, Quebec, H3B 4L8;

(“**IQ**”)

AND: **DIAQUEM INC.**, a company governed by Part 1A of the *Companies Act* (Quebec), with a place of business at 600 rue de la Gauchetière West, Suite 1500, Montréal, Quebec, H3B 4L8;

(the “**Investor**”, and together with IQ, the “**IQ Parties**”)

AND: **STORNOWAY DIAMOND CORPORATION**, a company governed by the *Business Corporations Act* (British Columbia), with a place of business at 116-980 West 1<sup>st</sup> Street, North Vancouver, British Columbia, V7P 3N4

(the “**Corporation**”)

## **RECITALS**

- A. Pursuant to an acquisition and exchange agreement dated as of December 14, 2010 between the Investor and the Corporation, as amended on February 8, 2011 (together, the “**Acquisition and Exchange Agreement**”), the Corporation has purchased the Investor’s 50% ownership interest in the JV Property, as such term is defined in the Acquisition and Exchange Agreement;
- B. Pursuant to the Acquisition and Exchange Agreement, the Corporation has issued to the Investor 29,588,892 common shares and 22,543,918 convertible shares of the Corporation;
- C. The Parties wish to enter into this Agreement to provide for certain mutual rights and obligations in respect of the Investor’s investment in the Corporation; and

D. As significant shareholder(s) of the Corporation, the IQ Parties will have certain rights under this Agreement, including representation on the Board of Directors (as defined below).

THIS AGREEMENT WITNESSES THAT, in consideration of the foregoing, the representations, warranties, covenants and agreements set forth in this Agreement, and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, the parties hereby agree as follows:

## **ARTICLE 1 DEFINITIONS**

### **1.1 Definitions**

Unless the context otherwise requires, in this Agreement:

“**Action**” means any action, cause of action, demand, claim, charge, prosecution, complaint, investigation, suit, litigation, assessment, reassessment, grievance, arbitration, hearing or other proceeding, whether civil, criminal or administrative, at Law or in equity, by or before any Governmental Agency;

“**Acquisition and Exchange Agreement**” shall have the meaning set forth in the Recitals to this Agreement;

“**Affiliate**” means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified Person and “**Affiliated**” will have a corresponding meaning. A Person shall be deemed to control another Person if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise;

“**Agreement**” means this Investor Agreement, as the same may be amended or supplemented;

“**Board of Directors**” means the board of directors of the Corporation;

“**Business Day**” means any day other than a Saturday, a Sunday or a day on which banks are required to be closed in Montréal, Quebec or Vancouver, British Columbia;

“**Canadian Securities Authorities**” means the securities regulatory authorities in the various provinces of Canada, and any of their successors;

“**Canadian Securities Laws**” means the securities legislation of each of the provinces and territories of Canada, as amended from time to time, and the rules, regulations, blanket orders and orders having application to the Corporation and forms made or promulgated under such legislation and the policies and instruments of one or more of the Canadian Securities Authorities;

“**Contract**” means any contract, agreement, commitment, franchise, indenture, lease, purchase order or license, including amendments thereto;

“**Control Distribution**” means a “control distribution” for purposes of National Instrument 45-102 *Resale of Securities*;

“**Convertible Securities**” means any debt or equity securities convertible into, or exchangeable or exercisable for, equity or voting shares in the capital of the subject person;

“**Convertible Shares**” means the non-voting convertible shares in the capital of the Corporation issued pursuant to the Acquisition and Exchange Agreement;

“**Cutback Securities**” shall have the meaning set forth in Section 3.2(e);

“**Date of Commencement of Commercial Operations**” means the first day following the first period of 90 consecutive days during which Diamonds from the Property have been produced at an average rate not less than 70% of the initial design rated capacity for production facilities (wherever production facilities are situated) reflected in the feasibility study used for purposes of obtaining the facility financing for the proposed Renard Diamond project;

“**Demand Qualification**” means the qualification of Qualifiable Securities by the Corporation pursuant to Section 4.1;

“**Diamonds**” means diamonds and other gemstones associated with kimberlite but expressly excludes other minerals;

“**GAAP**” means generally accepted accounting principles in Canada, as in effect from time to time, to be replaced by International Financial Reporting Standards for fiscal year-ends beginning on or after January 1, 2011;

“**Governmental Agency**” means (a) any multinational, federal, provincial, state, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitral body, commission, board, bureau or agency, domestic or foreign, (b) any subdivision, agent, commission, board or authority of any of the foregoing, (c) any quasi-governmental or private body, including any tribunal, commission, regulatory agency or self-regulatory organization, exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing, or (d) any stock exchange, including the TSX;

“**Indemnified Party**” shall have the meaning set forth in Section 7.8;

“**Indemnifying Party**” shall have the meaning set forth in Section 7.8;

“**Investor Designees**” shall have the meaning set forth in Section 2.1;

“**Laws**” means any law, code, act, regulation, by-law, decree and order (including any regulation and order thereunder), policy and guideline, or decision, ruling and judgment, of any Governmental Agency having jurisdiction and which is binding on the relevant Person or Persons referred to in the context where such word is used;

“**Losses**” shall have the meaning set forth in Section 7.1;

“**Material Adverse Effect**” means any change or event that, individually or in the aggregate, has had, or would reasonably be expected to have, a material adverse effect on the business or results of operations or condition (financial or otherwise) of the Corporation and its subsidiaries, taken as a whole, other than any change or event relating to or arising out of: (i) general economic conditions (including changes or events in the financial, banking, currency and capital markets) in Canada; (ii) conditions generally affecting the industries in which the Corporation or any of its subsidiaries operate, other than any such conditions that have a materially disproportionate adverse effect on the Corporation and its subsidiaries, taken as a whole; (iii) changes in Law or in GAAP; (iv) any actions taken, or failures to take action, or such other changes or events, in each case, to which the Investor has consented in writing;

“**Market Capitalization**” means the aggregate market price of all outstanding Shares from time to time, determined on the basis of the published market on which the Shares are principally traded;

“**New Securities**” shall have the meaning set forth in Section 3.2;

“**Other Holders**” means any party, other than the IQ Parties, to which the Corporation grants registration rights or qualification rights;

“**Percentage Ownership of the Investor**” means, at any applicable time, the percentage of the issued and outstanding Shares represented by the number of Shares beneficially held by IQ and its Affiliates, including the Investor, in each case on a basic basis;

“**Person**” or “**person**” means an association, a corporation, an individual, a partnership, a limited partnership, a limited liability company, an unlimited liability company, a trust or any other entity or organization, including a Governmental Agency;

“**Piggy-Back Qualification**” means the qualification of Qualifiable Securities by the Corporation pursuant to Section 4.2;

“**Property**” has the meaning ascribed thereto in the Royalty Agreement;

“**prospectus**” includes, for greater certainty, a short form prospectus and the documents incorporated (or deemed incorporated under Canadian Securities Laws) by reference therein and a supplemented shelf prospectus and the documents incorporated (or deemed incorporated under Canadian Securities Laws) by reference therein;

“**Qualifiable Securities**” means (i) the Shares held by IQ and its Affiliates, including the Investor, and any Shares issuable upon conversion of the Convertible Shares, (ii) any Shares or other securities issued or issuable pursuant to or with respect to the Shares held by IQ and its Affiliates, including the Investor, upon any stock split, subdivision, redivision, reduction, consolidation, stock dividend, recapitalization or other change, and (iii) any securities issued in reclassification or replacement of or exchange for any of the securities referred to in clauses (i) or (ii) above;

“**Qualifying Jurisdictions**” means each of the provinces of Canada;

“**Receipt Date**” means the date on which a final receipt or an equivalent document is issued in respect of a prospectus by or on behalf of each of the relevant Canadian Securities Authorities;

“**Regulatory Cutback**” shall have the meaning set forth in Section 3.2(e);

“**Royalty Agreement**” means the royalty agreement entered into between the Investor and the Corporation as of the date hereof;

“**Shares**” means the common shares in the capital of the Corporation;

“**Standstill Obligation**” shall have the meaning set forth in Section 3.1;

“**TSX**” means the Toronto Stock Exchange;

“**Underwriter**” has the meaning ascribed thereto under Canadian Securities Laws, and “**underwriting**” has a corresponding meaning;

“**Underwriter’s Cutback**” means the right of the underwriters to exclude Qualifiable Securities in an underwritten offering pursuant to Section 4.8; and

“**Violation**” shall have the meaning set forth in Section 7.1.

## **ARTICLE 2 GOVERNANCE**

### **2.1 Investor Designees to Board of Directors and Committees**

The Board of Directors shall consist of eleven (11) directors. The IQ Parties shall be entitled to designate candidates for election or appointment to the Board of Directors (the “**Investor Designees**”) as follows:

- (a) if the Percentage Ownership of the Investor is twenty percent (20%) or more, the IQ Parties shall be entitled to three (3) Investor Designees on the Board of Directors;
- (b) if the Percentage Ownership of the Investor is less than twenty percent (20%) but equal to or more than ten percent (10%), the IQ Parties shall be entitled to two (2) Investor Designees on the Board of Directors; and
- (c) if the Percentage Ownership of the Investor is less than ten percent (10%), the IQ Parties shall not be entitled to any Investor Designee, unless the Corporation is indebted to IQ or Affiliates of IQ, in which case the Investor shall be entitled to designate one (1) Investor Designee but only for such time as such indebtedness of the Corporation (or any permitted assignee) in favour of IQ or any Affiliates of IQ is at least the lesser of: (i) \$40 million, and (iii) 10% of the Market Capitalization.

If so requested by the IQ Parties, due consideration and reasonable accommodation will be afforded to having Investor Designee inclusion as members of committees of the Board of Directors.

## **2.2 Qualifications of Investor Designees**

Each Investor Designee shall be an individual who:

- (a) is qualified to act as a director under the *Business Corporations Act* (British Columbia) and under Canadian Securities Laws and under the requirements of the TSX; and
- (b) meets the reasonable competencies and expectations of directors established from time to time by the Corporate Governance and Nominating Committee of the Corporation (including, where an Investor Designee is to be considered for membership on a committee of the Board of Directors, any reasonable competencies and expectations so established for such committee).

## **2.3 Election or Appointment of Investor Designees**

The Corporation shall solicit proxies from its shareholders to vote in favour of, and shall otherwise use its best efforts to achieve, the election and re-election from time to time of each of the Investor Designees to the position of director on the Board of Directors.

## **2.4 Vacancies**

In the event of a vacancy among the Investor Designees resulting from the death, incapacity, resignation or removal of such individual, such vacancy shall be filled by another Investor Designee as directed by the Investor.

## **2.5 IQ Obligation to Support Election**

Subject to compliance by the Corporation with its obligations in Section 2.3, IQ and its subsidiaries, including the Investor, shall from time to time vote all of the Shares they own in favour of the election of the nominees to the Board of Directors listed in each of the Corporation's proxy circulars. Notwithstanding the preceding, the Corporation expressly acknowledges and agrees that IQ and its subsidiaries, including the Investor, shall, in respect of any proposed nominee for election to the Board of Directors after the date hereof have the right to vote against, or withhold their vote in respect of, any such nominee that IQ and its subsidiaries, including the Investor, determine, acting reasonably, is not an appropriate individual to be a director of the Corporation.

**ARTICLE 3**  
**ACQUISITIONS AND TRANSFERS OF SHARES**

**3.1 Standstill**

At any time from the date of this Agreement, without the prior written approval of the Corporation, IQ will not, acting alone or in concert with a subsidiary, increase, directly or indirectly, the aggregate ownership interest of IQ and its subsidiaries in the Shares to more than twenty-five percent (25%) of all issued and outstanding Shares (the “**Standstill Obligation**”). IQ and its subsidiaries shall be relieved of the Standstill Obligation and deemed not to be contravening this Article 3 in the following circumstances:

- (a) where any increase of the aggregate percentage ownership interest of IQ and its subsidiaries in excess of the threshold above results from any reduction in the number of issued and outstanding Shares, as a result of an issuer bid by the Corporation or otherwise;
- (b) upon the conversion of any Convertible Shares in accordance with their terms;
- (c) where a takeover bid has been made for the Shares and/or Convertible Shares, or where the Corporation has entered into an agreement (the “**Merger Agreement**”) for the sale or merger (by way of amalgamation, arrangement, business combination or otherwise) of the Corporation and IQ and/or its subsidiaries (alone or acting jointly or in concert with other persons who are not subsidiaries of IQ) wishes to submit a “superior proposal” (as such expression, or its equivalent, is defined in the Merger Agreement) or to make a competing *bona fide* offer to acquire all outstanding Shares; or
- (d) with the prior written consent of the Corporation.

The parties agree and acknowledge, for greater certainty, that the Standstill Obligation shall not prevent IQ and its subsidiaries from pursuing lending activities which IQ and/or its subsidiaries may wish to enter into from time to time, including in respect of a person seeking to offer to acquire Shares, whether in connection with any treasury or secondary offering of Shares.

**3.2 Pre-emptive Right**

- (a) As used in this section:
  - “**Financing Parameters**” means
    - (i) a summary description of the nature of the proposed New Securities;
    - (ii) a reasonably narrow range for the number or amount of the New Securities to be offered; and
    - (iii) a reasonably narrow range for the price at which the New Securities are to be offered; and



“**New Securities**” means any Shares, other voting or equity shares, or Convertible Securities, other than securities of the Corporation issued or issuable to officers, directors or employees of, or consultants to, the Corporation pursuant to stock option or stock purchase plans or agreements approved by the Board of Directors and the TSX.

- (b) The Investor shall have a pre-emptive right (the “**Pre-Emptive Right**”) to purchase its *pro rata* share of all New Securities that the Corporation may, from time to time, propose to sell and issue after the date of this Agreement. The Investor’s *pro rata* share is equal to the ratio of (a) the number of Shares held by the Investor immediately prior to the issuance of such New Securities to (b) the total number of Shares then outstanding immediately prior to the issuance of the New Securities (the “**Investor Entitlement**”).
- (c) The Pre-Emptive Right in respect of an issuance of New Securities shall be exercisable by the IQ Parties at any time until 5:00 p.m. (Eastern Standard Time) on the last day of the Exercise Period (as defined below) following written notice by the Corporation (the “**Corporation’s Notice**”) to the IQ Parties that it is proceeding with a proposed financing and the terms for such financing, which terms are consistent with the Financing Parameters, and requesting the IQ Parties to advise as to whether (and, if so, the extent to which) they will exercise the Pre-Emptive Right. As used in this section 3.2(c), “**Exercise Period**” means:
  - (i) ten (10) Business Days following delivery of the Corporation’s Notice if (A) the Financing Parameters most recently delivered prior to the Corporation’s Notice (the “**Current Financing Parameters**”) are not materially different than the last Financing Parameters delivered prior to the Current Financing Parameters (the “**Prior Financing Parameters**”), and (B) the Current Financing Parameters were delivered within the 30 days preceding the Corporation’s Notice and the Prior Financing Parameters were delivered within the 30 days preceding delivery of the Current Financing Parameters;
  - (ii) the later of (A) ten (10) Business Days following delivery of the Corporation’s Notice and (B) 30 days following delivery of the Current Financing Parameters if the Current Financing Parameters are materially different than the Prior Financing Parameters or the Prior Financing Parameters were delivered more than 30 days preceding the Current Financing Parameters; or
  - (iii) 30 days following delivery of the Corporation’s Notice if Financing Parameters were not delivered within the 30 days preceding the Corporation’s Notice or if the terms reflected in the Corporation’s Notice are not consistent with the Current Financing Parameters.

The Pre-Emptive Right is to be exercised by written notice of the IQ Parties (the “**Exercise Notice**”) setting out the fixed amount and/or percentage of the offering

of New Securities (and such other minimum, maximum or other parameters as to percentage or amount as the IQ Parties may determine to include up to, unless otherwise agreed by the Corporation, a maximum of the Investor Entitlement) in respect of which the IQ Parties are exercising their Pre-Emptive Right to purchase.

For greater certainty:

- (a) if the IQ Parties do not provide the Exercise Notice by the end of the Exercise Period, they will be deemed to have waived the Pre-Emptive Right in respect of the subject offering provided that (i) the subject offering is completed within 60 days of the end of the Exercise Period and (ii) the terms of such offering are no more favourable to the purchasers than those set out in the Corporation's Notice;
- (b) if the Exercise Period extends beyond the closing of the subject offering, the Pre-Emptive Right shall be exercisable until the end of the Exercise Period and the New Securities to be purchased upon exercise of the Pre-Emptive Right shall be completed on the 10<sup>th</sup> Business Day following the date of delivery of the Exercise Notice, unless the IQ Parties have delivered the Exercise Notice prior to the closing of the subject offering and elected to purchase at such closing; and
- (c) if the subject offering is to be closed in tranches, the IQ Parties can elect to rateably purchase New Securities at the times of closing such tranches.

Notwithstanding the foregoing, the Corporation shall not be required to offer or sell such New Securities to the Investor if such sale would cause the Corporation to be in violation of applicable Canadian Securities Laws or U.S. federal or state securities laws by virtue of such offer or sale.

- (d) The Pre-Emptive Right shall terminate on the date that the Investor receives notice from the Corporation (with reasonable supporting materials) confirming that the Date of Commencement of Commercial Operations has occurred. Notwithstanding the foregoing, the parties hereby acknowledge and agree that if, on the date such notice is received as to the Date of Commencement of Commercial Operations having occurred, (i) there remain any unissued Cutback Securities or (ii) a Corporation's Notice has been delivered and the financing contemplated therein has not been completed or the Corporation has entered into an agreement as contemplated in section 3.2(e), the Investor will continue to be entitled to purchase such Cutback Securities, and the provisions of Section 3.2(g) shall survive termination of the Pre-Emptive Right, until such time as the Cutback Securities shall have been issued to the Investor in accordance with the terms of Section 3.2(g) or the Investor will have its Pre-Emptive Right in respect of the

subject financing or transaction pursuant to sections 3.2(c) or (e), as applicable, after which all rights contemplated by this section shall be fully and finally extinguished.

- (e) In the event the Corporation issues Shares, other equity or voting shares or Convertible Securities for non-cash consideration or if the Corporation enters into a merger agreement or business combination agreement resulting in a combined company, the Investor shall be entitled to exercise the Pre-Emptive Right following such transaction in order to permit the Investor to acquire shares or Convertible Securities of the Corporation or shares or Convertible Securities of the combined company so as to achieve the same percentage holdings of equity and voting shares that the Investor held in the Corporation prior to such transaction, at the sale price thereunder.
- (f) If a financing consists of flow-through shares issued at, or at a premium to, the then prevailing Share price, the Investor shall be entitled to acquire such shares at a five percent (5%) discount to the then prevailing Share price.
- (g) If exercise of the Pre-Emptive Right results in a requirement for the Corporation under TSX rules or applicable legislation to obtain shareholder approval (as the sole reason to obtain such shareholder approval, and not, for greater certainty, if shareholder approval is required by reason of the size of the proposed financing or for any other reason), the Investor shall accept such lesser amount of shares or Convertible Securities, as applicable, as will not trigger such requirement (the “**Regulatory Cutback**”). In the event a Regulatory Cutback applies, the Corporation hereby covenants in favour of the Investor to use all lawful and commercially reasonable efforts to obtain at the next meeting of shareholders of the Corporation following completion of the transaction to which a Regulatory Cutback applies, the approval of the shareholders of the Corporation in respect of the issuance of the shares or Convertible Securities subject to the Regulatory Cutback so as to allow the Investor to achieve the same percentage holdings of equity and voting shares that the Investor would otherwise have been initially entitled to, absent the Regulatory Cutback (the “**Cutback Securities**”).

The Corporation further covenants and agrees that if the applicable TSX rules or legislation which resulted in a Regulatory Cutback being required is thereafter amended or removed, or for whatever other reason there is no longer any requirement for such Regulatory Cutback, the Corporation shall issue to the Investor the Cutback Securities.

Nothing in this section or otherwise shall require the Investor to purchase Cutback Securities.

### **3.3 Covenant of the Corporation to Maintain Reporting Issuer Status**

The Corporation shall maintain its status as a reporting issuer in good standing and not in default of any requirement under the Canadian Securities Laws in each Qualifying Jurisdiction.

### **3.4 Restrictions on Transfer to Single Buyer**

At any time from the date of this Agreement, without the prior written approval of the Corporation, IQ and its subsidiaries will not, acting alone or in concert with each other, directly or indirectly, assign, transfer or sell any Convertible Shares held by IQ and/or its subsidiaries (i) to a single person, or (ii) to two or more persons who IQ knows or ought to know after reasonable enquiry (which shall be considered satisfied through the obtaining of a written representation in such regard from the proposed assignees, transferees or purchasers) are acting jointly or in concert, or (iii) to two or more persons where one or more of such persons is, to the knowledge of IQ, acting as nominee, agent, trustee, executor, administrator or other legal representative for one or more of such persons, with the result that it could reasonably be considered that clause (i) or clause (ii) above would apply in such circumstances.

## **ARTICLE 4 QUALIFICATION RIGHTS**

### **4.1 Demand Qualification**

Subject to the limits set out in Sections 4.2 and 4.3, if the Corporation receives a written request from an IQ Party that the Corporation file a prospectus under Canadian Securities Laws qualifying for distribution of all or any portion of the Qualifiable Securities, the Corporation will, subject to an Underwriter's Cutback and provided that the proposed sale of such Qualifiable Securities would be a Control Distribution, as soon as practicable and in any event within sixty (60) days following the date of receipt of the written request referred above, prepare and file in the Qualifying Jurisdictions a prospectus in order to qualify the distribution of all of the Qualifiable Securities of the IQ Parties specified in their respective requests and use its reasonable best efforts to receive a final receipt or equivalent document in respect of such prospectus. The IQ Parties will not initiate a request for a Demand Qualification within ninety (90) days of the Receipt Date in respect of a prospectus qualifying an offering of Shares by the Corporation, provided that the IQ Parties were provided with the opportunity to participate in a Piggy-Back Qualification in accordance with this Agreement in connection with such offering without significant Underwriter's Cutback.

### **4.2 Piggy-Back Qualification**

If the Corporation proposes to file a preliminary prospectus under any Canadian Securities Laws in connection with the sale of any Shares or other equity securities (or Convertible Securities) in connection with the public offering of such securities (including the public sale of securities held by shareholders other than the IQ Parties), the Corporation will, at all such times, give the IQ Parties at least ten (10) Business Days' written notice of such filing. Upon the written request of an IQ Party, given within five (5) Business Days after receipt of such notice by the IQ Parties, the Corporation will, subject to an Underwriter's Cutback, use its reasonable best efforts to cause all of the Qualifiable Securities that the IQ Parties have requested to be included in the filing to be included in and sold pursuant to the prospectus or supplement.

### 4.3 Exceptions to Qualification Rights

The Corporation shall not be required to effect a Demand Qualification unless (i) the Qualifiable Securities requested by the IQ Parties to be registered or qualified constitute the lesser of (a) at least 20% of the number of Qualifiable Securities issued to the IQ Parties on the date of this Agreement and (b) an aggregate amount of at least \$25,000,000, on the basis of the prevailing stock price per share on the date of such request for a Demand Qualification.

The Corporation:

- (a) may defer a Demand Qualification for a period of not more than 90 days, but only if the Corporation furnishes to the IQ Parties requesting the qualification a certificate signed by the Chief Executive Officer of the Corporation stating that, in the good faith judgment of the Board of Directors, effecting the qualification would materially impede the ability of the Corporation to consummate a significant transaction, including a material financing, acquisition, corporate reorganization or merger or other material transaction involving the Corporation (the 90-day deferral period shall begin on the date that such certificate is sent to the IQ Parties);
- (b) may defer a Demand Qualification if the Board of Directors determines in good faith that such qualification would require the disclosure of material information that the Corporation has a *bona fide* business purpose for preserving as confidential, until the earlier of:
  - (i) 30 days following the date upon which such material information is disclosed to the public or ceases to be material; and
  - (ii) 90 days after the date of the request of the IQ Parties; and
- (c) may defer a Demand Qualification until the end of any period during which trading in securities is otherwise restricted and for a reasonable period of time thereafter.

### 4.4 Expenses

- (a) Subject to Section 4.4(b), the Corporation will bear all expenses relating to the qualification of Qualifiable Securities pursuant to the terms of this Agreement, including the costs of legal and accounting advisors retained by the Corporation, and all registration, filing, printing, accounting and translation fees, incurred in connection with all Demand Qualifications and Piggy-Back Qualifications but excluding any underwriting discounts or commissions (which shall be assumed and paid by the party receiving proceeds from the distribution of any Qualifiable Securities under a Demand Qualification, or which shall be proportionately assumed and paid by the parties receiving proceeds from the distribution of any Qualifiable Securities under a Piggy-Back Qualification).

- (b) The Corporation is not required to pay for any expenses pursuant to Section 4.4(a) of any Demand Qualification if the qualification request is subsequently withdrawn at any time at the request of the IQ Parties unless:
- (i) the IQ Parties agree to forfeit their right to any further Demand Qualification;
  - (ii) at the time of any such withdrawal, the IQ Parties have learned of a material adverse change in the condition, business or prospects of the Corporation (other than a change in market demand for the Shares or in the market price of the Shares) from that known to IQ Parties at the time of their request, that makes the proposed offering inadvisable in the good faith judgment of the IQ Parties (in which case the withdrawn qualification is deemed not to be a Demand Qualification for purposes of Section 4.2); or
  - (iii) the qualification request is withdrawn at the request of the IQ Parties in response to an Underwriter's Cutback.

#### **4.5 Underwriting in Demand Qualification**

If the IQ Parties intend to distribute the Qualifiable Securities covered by their request for a Demand Qualification by means of an underwriting they will so advise the Corporation as part of their request for such qualification. The IQ Parties will (together with the Corporation as required under this Agreement) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting by the IQ Parties in consultation with the Corporation, it being acknowledged that the underwriter or underwriters so selected and approved must be of nationally recognized standing in Canada. The Corporation will also take all such other actions as the IQ Parties or the underwriters reasonably request in order to expedite or facilitate the disposition of Qualifiable Securities (including the participation of senior management in so-called "road shows" and similar events).

#### **4.6 Underwriting in Piggy-Back Qualification**

In addition, in connection with any offering pursuant to a Piggy-Back Qualification involving an underwriting of Shares being issued by the Corporation, the Corporation will include in such underwriting any Qualifiable Securities that the IQ Parties wish to include, but only if the IQ Parties accept the terms of the underwriting agreed to by the Corporation which are customarily required of sellers under a secondary offering. To the extent the IQ Parties participate in such underwritten Piggy-Back Qualification offering, the IQ Parties shall be party to the underwriting agreement relating to such registration and may, at the IQ Parties' option, require that any or all of the representations and warranties by, and the other agreements on the part of, the Corporation to and for the benefit of the underwriters of such qualification shall also be made to and for the benefit of each the IQ Parties and that any or all of the conditions precedent to the obligations of such underwriters under such underwriting agreement be conditions precedent to the obligations of the IQ Parties.

#### **4.7 Limitations on Representations and Warranties and on Liability**

Unless otherwise agreed by the IQ Parties, the IQ Parties shall not be required, in connection with any underwriting agreement entered into pursuant to Section 4.5 or Section 4.6, to make any representations or warranties or provide indemnification except as they relate to the IQ Parties' ownership of Shares and authority to enter into the underwriting agreement and to the IQ Parties' intended method of distribution. The liability of the IQ Parties in connection with such underwriting agreement shall be limited to an amount equal to the net proceeds received by the IQ Parties from the offering.

#### **4.8 Underwriter's Cutback**

If the underwriter for the offering in connection with:

- (a) a Demand Qualification advises the IQ Parties in writing that marketing factors require a limitation of the number of Shares to be underwritten, then the IQ Parties will so advise the Corporation, and the Corporation shall be required to include in the qualification only the number of Shares that the underwriter believes marketing factors allow; or
- (b) a Piggy-Back Qualification advises the Corporation in writing that marketing factors require a limitation of the number of Shares to be underwritten, the Corporation shall be required to include in the qualification only the number of Shares that the underwriter believes marketing factors allow to sell without unduly impacting the Corporation's offering.

#### **4.9 Allocation of Cutback**

- (a) If the number of Shares to be included in a Demand Qualification is subject to an Underwriter's Cutback, the Shares that would otherwise be included will be reduced in the following order:
  - (i) first, all Shares held by shareholders other than the IQ Parties will be excluded from the offering to the extent necessary; and
  - (ii) second, if further limitation is required, the Qualifiable Securities held by the IQ Parties will be excluded to the extent necessary.
- (b) If the number of Shares to be included in a Piggy-Back Qualification is subject to an Underwriter's Cutback, the Shares that would otherwise be included will be reduced in the following order:
  - (i) first, all Shares other than those to be issued by the Corporation and the Qualifiable Securities held by the IQ Parties will be excluded to the extent necessary; and
  - (ii) second, if further limitation is required, the Qualifiable Securities held by the IQ Parties will be excluded from the offering to the extent necessary.

#### **4.10 Holdback Agreements**

- (a) In connection with a qualification at a time when a sale of Qualifiable Securities would be a Control Distribution, the IQ Parties agree, if so requested by the managing underwriter in a written notice pursuant to this Section 4.10(a), not to effect (except as part of such underwritten offering in accordance with the provisions of this Agreement or pursuant to an exempt transaction so long as any purchaser in such exempt transaction agrees in writing to be bound by any such holdback) any sale, distribution, short sale, loan, grant of options for the purchase of, or other disposition of, any Qualifiable Securities for such period as such managing underwriter reasonably requests, such period in no event to end more than 90 days after the effective date of such offering. In addition, the IQ Parties agree to execute and deliver to any managing underwriter (or, in the case of any offering that is not underwritten, an investment banker or agent registered under applicable securities laws) in connection with a qualification of Qualifiable Securities under Securities Laws in which the IQ Parties participate in any lock-up letter requested by such managing underwriter of the IQ Parties and in form and substance reasonably satisfactory to the IQ Parties. The IQ Parties further agree that the Corporation may or may instruct its transfer agent, if applicable, to place stop transfer notations in its records to enforce the provisions of this Section 4.10(a).
- (b) After receipt of notice of a request for a Demand Qualification pursuant to this Agreement, the Corporation shall not initiate, without the consent of the IQ Parties, a qualification of any of its securities for its own account until one hundred and twenty (120) days after such Demand Qualification has become effective or such Demand Qualification has been terminated.

#### **4.11 Obligations of the Corporation on a Demand Qualification**

If the Corporation is required under this Agreement to effect a Demand Qualification, the Corporation will:

- (a) as expeditiously as reasonably possible, prepare and file with the Canadian Securities Authorities in the Qualifying Jurisdictions a preliminary prospectus and a final prospectus with respect to such Qualifiable Securities and use, subject to the other provisions of this Agreement, its reasonable best efforts to obtain a receipt in respect of the final prospectus and, upon the request of the IQ Parties, keep such prospectus effective until such time at which the IQ Parties have informed the Corporation in writing that the distribution of their Shares has been completed;
- (b) without limiting the generality of the foregoing, use its reasonable best efforts to resolve any regulatory comments and satisfy any regulatory deficiencies in respect of the preliminary prospectus and, as soon as reasonably practicable after such comments or deficiencies have been resolved or satisfied, prepare and file, and use its reasonable best efforts to obtain a receipt or similar document in the



Qualifying Jurisdictions for, the final prospectus, and take all other steps and proceedings necessary in order to qualify the distribution of the Qualifiable Securities to the public as freely tradable securities in the Qualifying Jurisdictions;

- (c) permit the IQ Parties to participate in the preparation of such preliminary prospectus and final prospectus (including making available for inspection by the IQ Parties and any lawyers, accountants or other agents retained by the IQ Parties, all financial and other records, pertinent corporate documents and all other information reasonably requested in connection therewith) and give to the IQ Parties, the underwriters, if any, and their respective counsel and accountants, advance draft copies of each such prospectus filed with the applicable Canadian Securities Authorities at least three (3) Business Days prior to the filing thereof with the applicable Canadian Securities Authorities, and any amendments and supplements thereto, promptly as they become available, and give each of them such access to its books and records and such opportunities to discuss the business of the Corporation with its officers and the independent public accountants who have certified its financial statements as shall be necessary, in the opinion of the IQ Parties and such underwriters' respective counsel, to conduct a reasonable investigation within the meaning of the Canadian Securities Laws;
- (d) ensure that the prospectus contains the disclosure required by, and conforms in all material respects to the requirements of, the applicable provisions of Canadian Securities Laws and furnish to the IQ Parties copies of each of the preliminary prospectus and final prospectus and such other documents as they may reasonably request to facilitate the disposition of Qualifiable Securities by it;
- (e) prepare and file with the securities regulatory authorities in the Qualifying Jurisdictions any amendments and supplements to the prospectus that may be necessary to comply with Canadian Securities Laws with respect to the distribution of all securities qualified by such prospectus;
- (f) in the case of an underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the lead underwriter of such offering;
- (g) furnish, at the request of the IQ Parties, on the date that the applicable Qualifiable Securities are delivered to the underwriters for sale in connection with an offering pursuant to this Agreement, if such securities are being sold through underwriters, or, if such securities are not being sold through underwriters, on the Receipt Date:
  - (A) an opinion or opinions, dated such date, of counsel representing the Corporation for the purposes of such offering, in form and substance as is customarily given by company counsel to the underwriters in an underwritten public offering (including, if applicable, a translation opinion), addressed to the underwriters, if any, and to the IQ Parties; and

(B) a letter dated such date, from the auditors of the Corporation, in form and substance as is customarily given by auditors to underwriters in an underwritten public offering, addressed to the underwriters, if any, and to the IQ Parties, but only if the IQ Parties have made such representations and furnished such undertakings as such auditors reasonably require in providing such letter; and

(h) keep the IQ Parties reasonably advised of the status of such qualification.

#### **4.12 Furnish Information**

The obligations of the Corporation to take any action pursuant to this Agreement in respect of Qualifiable Securities is conditional upon the IQ Parties furnishing to the Corporation such information regarding themselves, the Qualifiable Securities and the intended method of disposition of such securities, as is required to effect the qualification of the Qualifiable Securities.

#### **4.13 No Obligation to Complete Offering**

The Corporation is under no obligation to complete any offering of its securities it proposes to make in connection with a Piggy-Back Qualification and will incur no liability to the IQ Parties for its failure to do so.

#### **4.14 Amending or Supplementing Prospectuses**

Whenever a distribution under a prospectus qualifying Qualifiable Securities pursuant to this Agreement has not been completed and the Corporation determines that, based upon advice of counsel, such prospectus requires amendment or supplementing, the Corporation will notify the IQ Parties of such fact and will promptly cause such prospectus to be amended or supplemented, as the case may be, and will notify the IQ Parties when such amendment or supplement has been filed. The IQ Parties will not sell any Qualifiable Securities until such latter notice is provided. If the Board of Directors determines in its reasonable discretion that it would not be in the best interests of the Corporation to so amend or supplement the prospectus or registration statement at such time, the Corporation is entitled to delay the filing of such amendment or supplement for a period not to exceed ten (10) Business Days.

#### **4.15 U.S. Registration Rights**

The Corporation covenants and agrees that in the event the Corporation proposes to become a U.S. registrant at a time when one or more IQ Parties is entitled to the rights in their favour set out in this Article 4, the Corporation will, as a condition to so becoming a U.S. registrant, either (i) provide an opinion of recognized U.S. securities law counsel confirming that the Qualifiable Securities will be freely tradeable in the United States or (ii) enter into a registration rights agreement with the IQ Parties in a form acceptable to the IQ Parties, acting reasonably, upon terms substantially similar to those provided in this Article 4 with respect to Demand Qualifications and Piggy-Back Qualifications.

#### **4.16 Consultation with the Corporation**

Notwithstanding any other provision of this Article 4, before exercising their rights to require a Demand Qualification under this Agreement the IQ Parties will first consult with the Corporation and discuss whether there are any other methods or procedures reasonably available to the IQ Parties at that time that would enable the IQ Parties to sell the Qualifiable Securities that they wish to dispose of at that time in compliance with Canadian Securities Laws (or, if Section 4.15 applies, applicable federal and state securities Laws in the United States) for net proceeds comparable to those that the IQ Parties would expect to receive pursuant to a qualified public offering of such Qualifiable Securities pursuant to a Demand Qualification (an “**Alternative Sale**”). If the IQ Parties, acting on the advice of their financial, legal and other advisors, are satisfied that, in their reasonable discretion, an Alternative Sale would be at least as advantageous to the IQ Parties in all respects (including pricing, net proceeds, terms and timing) as a transaction pursuant to a Demand Qualification, the IQ Parties will not pursue a Demand Qualification at that time. For the avoidance of doubt, the pursuit or completion by the IQ Parties of such an Alternative Sale would not constitute an exercise by the IQ Parties of their right to require a Demand Qualification.

### **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE COMPANY**

The Corporation represents and warrants to the IQ Parties as of the date of this Agreement as follows:

#### **5.1 Corporate Status**

The Corporation is duly incorporated and validly existing under the Laws of its governing jurisdiction and (a) has all requisite corporate power and authority to carry on its business as it is now being conducted and (b) is duly qualified to do business in each of the jurisdictions in which the ownership, operation or leasing of its properties and assets or the conduct of its business requires it to be so qualified, except where the failure to be so qualified would not have a Material Adverse Effect or materially impair the Corporation’s ability to perform its obligations under this Agreement or consummate the transactions contemplated hereby.

#### **5.2 Authorization**

The Corporation has all the requisite corporate power and authority to enter into, and to perform its obligations under, this Agreement. The execution and delivery of this Agreement by the Corporation and the consummation by the Corporation of the transactions contemplated hereby have been duly and validly authorized by the Board of Directors and no other corporate proceedings of the Corporation, including approval of the shareholders of the Corporation, are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly executed and delivered by the Corporation, and (assuming due authorization, execution and delivery by the IQ Parties) this Agreement constitutes a valid and binding obligation of the Corporation, enforceable against the Corporation in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar Laws relating to or affecting creditors' rights generally or by

general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at Law).

### **5.3 No Conflict**

The execution, delivery and performance of this Agreement by the Corporation and the consummation by the Corporation of the transactions contemplated hereby will not (a) violate any applicable Law to which any of the Corporation or its Affiliates are subject, (b) materially conflict with, result in a material violation or material breach of, or constitute a material default under, result in the acceleration of, create in any party the right to accelerate, terminate or cancel any Contract to which the Corporation or its Affiliates is a party or by which the Corporation or its Affiliates is bound or to which the assets of the Corporation or its Affiliates are subject, or (c) violate the charter, bylaws or other organizational documents of any of the Corporation or its Affiliates, other than, in the case of clauses (b) and (c) above, any such violations, defaults, conflicts, breaches, accelerations or rights that would not materially impair the Corporation's ability to perform its obligations under this Agreement or consummate the transactions contemplated hereby.

### **5.4 Disclaimer of Warranties**

Notwithstanding any provision of this Agreement to the contrary, the Corporation makes no representations or warranties to the IQ Parties or any other Person in connection with this Agreement, except as specifically set forth in this Article 5. All other representations and warranties, whether express or implied, are disclaimed by the Corporation.

## **ARTICLE 6 REPRESENTATIONS AND WARRANTIES OF THE IQ PARTIES**

The IQ Parties jointly and severally represent and warrant to the Corporation as of the date of this Agreement as follows:

### **6.1 Corporate Status**

IQ is duly incorporated and validly existing under *An Act respecting the Investissement Québec* and the Investor is duly incorporated and validly existing under the Laws of its governing jurisdiction. Each of the IQ Parties (a) has all requisite corporate power and authority to carry on its business as it is now being conducted and (b) is duly qualified to do business in each of the jurisdictions in which the ownership, operation or leasing of its properties and assets or the conduct of its business requires it to be so qualified, except where the failure to be so qualified would not materially impair the IQ Parties' ability to perform their obligations under this Agreement or consummate the transactions contemplated hereby.

### **6.2 Authorization**

Each of the IQ Parties has all requisite corporate power and authority to enter into, and perform its obligations under, this Agreement. The execution and delivery of this Agreement by the IQ Parties and the consummation by the IQ Parties of the transactions contemplated hereby have been duly and validly authorized by the board of directors (or equivalent body) of each of the IQ

Parties and no other corporate proceedings of the IQ Parties, are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly executed and delivered by each of the IQ Parties, and (assuming due authorization, execution and delivery by the Corporation) this Agreement constitutes a valid and binding obligation of each of the IQ Parties, enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar Laws relating to or affecting creditors' rights generally or by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at Law).

### **6.3 No Conflict**

The execution, delivery and performance of this Agreement by the IQ Parties and the consummation by the IQ Parties of the transactions contemplated hereby will not (a) violate any applicable Law to which either of the IQ Parties is subject, (b) materially conflict with, result in a material violation or material breach of, or constitute a material default under, result in the acceleration of or create in any party the right to accelerate, terminate or cancel any material Contract to which either of the IQ Parties is a party or by which either of the IQ Parties is bound or to which the assets of either of the IQ Parties are subject, or (c) violate the charter, bylaws or other organizational documents of either of the IQ Parties, other than, in the case of clauses (b) and (c) above, any such violations, defaults, conflicts, breaches, accelerations or rights that would not materially impair the IQ Parties' ability to perform their obligations under this Agreement or consummate the transactions contemplated hereby.

### **6.4 Disclaimer of Warranties**

Notwithstanding any provision of this Agreement to the contrary, the IQ Parties make no representations or warranties to the Corporation or any other Person in connection with this Agreement, except as specifically set forth in this Article 6. All other representations and warranties, whether express or implied, are disclaimed by the IQ Parties.

## **ARTICLE 7 INDEMNIFICATION**

### **7.1 Indemnification by Corporation on Demand Qualifications and Piggy-Back Qualifications**

- (a) If any Qualifiable Securities are included in a prospectus under this Agreement, the Corporation will indemnify and hold harmless the IQ Parties, the officers, directors, agents and employees of the IQ Parties and any underwriter for the IQ Parties against any losses (other than loss of profit), claims, damages, liabilities (joint or several), actions, settlements or actions (collectively, “**Losses**”) to which they may become subject under Canadian Securities Laws or any other Laws, insofar as such Losses arise out of or are based upon any of the following statements, omissions or violations (each a “**Violation**”):
  - (i) any untrue statement or alleged untrue statement of a material fact contained in such prospectus (including any preliminary prospectus or final prospectus) or any amendments or supplements to them;

- (ii) the omission or alleged omission to state in such prospectus (including any preliminary prospectus or final prospectus) a material fact required to be stated in it or necessary to make the statements in it, in light of the circumstances in which they were made, not misleading; or
  - (iii) any violation or alleged violation by the Corporation of any Canadian Securities Laws in connection with any matter relating, directly or indirectly, to such prospectus or the offering of securities thereunder.
- (b) The Corporation will reimburse each such IQ Party, officer, director, Affiliate, agent, employee, underwriter or controlling person for any legal or other out-of-pocket expenses reasonably incurred by them in connection with investigating or defending any such Losses.
- (c) The Corporation is not liable under the indemnity contained in this Section 7.1:
  - (i) in respect of amounts paid in settlement of any Losses to the extent such settlement is effected without the consent of the Corporation (which consent may not be unreasonably withheld or delayed);
  - (ii) to the extent that it arises out of or is based upon a Violation that occurs solely in reliance upon and in conformity with written information furnished expressly for use in connection with such qualification by or on behalf of the IQ Party, underwriter or controlling person; or
  - (iii) in the case of a sale effected directly by an IQ Party of Qualifiable Securities (including a sale of such Qualifiable Securities through any underwriter retained by such IQ Party to engage in a distribution solely on behalf of such IQ Party), where:
    - (A) such untrue statement or alleged untrue statement or omission or alleged omission was contained in a preliminary prospectus and corrected in a final or amended prospectus; and
    - (B) an IQ Party failed to deliver a copy of the final or amended prospectus at or prior to the confirmation of the sale of the Qualifiable Securities to the Person asserting any such Losses in any case in which such delivery is required by Canadian Securities Laws.

## **7.2 Indemnification by the IQ Parties on Demand Qualifications and Piggy-Back Qualifications**

- (a) To the extent that the IQ Parties include any Qualifiable Securities under any prospectus pursuant to this Agreement, the IQ Parties will indemnify and hold harmless the Corporation, each of its directors, each of its officers who have signed the prospectus, each employee, agent, and any underwriter for the Corporation, against any Losses to which the Corporation or any such director,

officer, employee, agent or underwriter may become subject, under Canadian Securities Laws or other Laws, insofar as such Losses arise out of or are based upon any Violation, in each case only to the extent that such Violation occurs solely in reliance upon and in conformity with written information furnished by or on behalf of the IQ Parties expressly for use in connection with such qualification.

- (b) The IQ Parties will reimburse the Corporation or any such director, officer, agent, underwriter or controlling person for any legal or other out-of-pocket expenses reasonably incurred by them in connection with investigating or defending any such Losses.
- (c) The liability of the IQ Parties under this indemnity is limited to the amount of net proceeds received by the IQ Parties in the offering giving rise to the Violation.
- (d) The IQ Parties are not liable under the indemnity contained in this Section 7.2:
  - (i) in respect of amounts paid in settlement of any such Losses to the extent such settlement is effected without the consent of the IQ Parties (which consent may not be unreasonably withheld or delayed);
  - (ii) in the case of a sale effected directly by the Corporation of its Shares (including a sale of such Shares through any underwriter retained by the Corporation to engage in a distribution solely on behalf of the Corporation), where:
    - (A) such untrue statement or alleged untrue statement or omission or alleged omission was contained in a preliminary prospectus and corrected in a final or amended prospectus; and
    - (B) the Corporation failed to deliver a copy of the final or amended prospectus at or prior to the confirmation of the sale of the securities to the Person asserting any such Losses in any case in which such delivery is required by Canadian Securities Laws (the “**Confirmation**”); or
  - (iii) such untrue statement or alleged untrue statement or omission was brought to the Corporation’s attention (whether by or on behalf of the IQ Parties or otherwise) prior to the Confirmation, whether or not corrected in a final or amended prospectus.

### **7.3 Contribution**

If any indemnification provided for in Section 7.1 or 7.2 is held by a court of competent jurisdiction to be unavailable to an Indemnified Party with respect to any Losses referred to in this Agreement, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party under this Agreement, will contribute to the amount paid or payable by such Indemnified Party as a result of such Losses in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party on the one hand and of the Indemnified Party on the other in connection with

the statements or omissions that resulted in such Losses, as well as any other relevant equitable considerations. The relative fault of the Indemnifying Party and of the Indemnified Party is to be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Indemnifying Party or by the Indemnified Party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. Notwithstanding the foregoing, the contribution obligations of the IQ Parties under this section will not exceed the amount of net proceeds received by the IQ Parties in the offering giving rise to the Violation.

#### **7.4 Survival**

- (a) The representations and warranties contained herein shall survive indefinitely.
- (b) All covenants and agreements contained herein shall survive in accordance with their terms.
- (c) Rights of indemnification and contribution shall survive until all applicable limitation periods (whether by statute or otherwise) relevant to the commencing of an Action which could result in a claim for indemnification or contribution under this Agreement have expired and, if applicable, thereafter until any actual or contingent indemnification obligations have been finally determined and satisfied.

#### **7.5 Indemnification by the Corporation with Respect to Representations, Warranties and Covenants**

The Corporation shall indemnify and hold harmless the IQ Parties, and their respective directors and officers (collectively, the “**IQ Indemnified Parties**”) from and against any (i) Losses incurred by any IQ Indemnified Party resulting from any breach of any of the representations or warranties of the Corporation, and (ii) Losses incurred by any IQ Indemnified Party resulting from any breach in any material respect of any of the covenants or agreements of the Corporation in this Agreement.

#### **7.6 Indemnification by the IQ Parties with Respect to Representations, Warranties and Covenants**

The IQ Parties shall jointly and severally indemnify and hold harmless the Corporation and its directors and officers (collectively, the “**Corporation Indemnified Parties**”), from and against any (i) Losses incurred by any Corporation Indemnified Party resulting from any breach of any of the representations or warranties of the IQ Parties, and (ii) Losses incurred by any Corporation Indemnified Party resulting from any breach in any material respect of any of the covenants or agreements of the IQ Parties in this Agreement.

#### **7.7 Remedies and Specific Performance**

Except as hereafter in this section provided, the rights of indemnity set forth in this Article 7 are the sole and exclusive remedies of each party in respect of any misrepresentation, incorrectness



in or breach of any representation or warranty by any other party under this Agreement and in respect of any Violation. The parties agree that if any of the provisions of this Agreement are not performed in accordance with their specific terms or there is a threatened breach of any provision of this Agreement, the parties shall be entitled to apply to a court of competent jurisdiction for specific performance, injunctive relief or other appropriate remedies to cause there to be compliance with and/or to prevent a breach of this Agreement.

## **7.8 Indemnification Procedures**

- (a) In the event that any Action is commenced by a third party involving a claim for which a party required to provide indemnification under this Agreement (an “**Indemnifying Party**”) may be liable to a party entitled to indemnification (an “**Indemnified Party**”) hereunder (an “**Asserted Liability**”), the Indemnified Party shall promptly notify the Indemnifying Party in writing of such Asserted Liability (the “**Claim Notice**”); provided that no delay or failure on the part of the Indemnified Party in giving any such Claim Notice shall relieve the Indemnifying Party of any indemnification obligation hereunder except to the extent that the Indemnifying Party is prejudiced by such delay. The Indemnifying Party shall have 30 days from its receipt of the Claim Notice (the “**Notice Period**”) to notify the Indemnified Party whether or not the Indemnifying Party desires, at the Indemnifying Party's sole cost and expense and by counsel of its own choosing, to defend against such Asserted Liability. If the Indemnifying Party undertakes to defend against such Asserted Liability, (i) the Indemnifying Party shall use its reasonable best efforts to defend and protect the interests of the Indemnified Party with respect to such Asserted Liability and (ii) the Indemnifying Party shall not, without the prior written consent of the Indemnified Party (such consent not to be unreasonably withheld or delayed), consent to any settlement which does not contain an unconditional release of the Indemnified Party from the subject matter of the settlement or that contains an admission of liability or wrongdoing. The Indemnified Party shall have the right to participate in the defence against any Asserted Liability at its own expense. Notwithstanding the foregoing, in any event, the Indemnified Party shall have the right to control, pay or settle any Asserted Liability which the Indemnifying Party shall have undertaken to defend so long as the Indemnified Party shall also waive any right to indemnification therefor by the Indemnifying Party. If the Indemnifying Party undertakes to defend against such Asserted Liability, the Indemnified Party shall fully render to the Indemnifying Party and its counsel such assistance and cooperation as may be required to ensure the proper and adequate defence and settlement of such claim or demand.
- (b) If the Indemnifying Party does not undertake within the Notice Period to defend against such Asserted Liability, then the Indemnified Party shall have the right to participate in any such defence and the Indemnifying Party shall bear the reasonable costs and expenses of the Indemnified Party of such defence. In such case, the Indemnified Party shall control the investigation and defence and may settle or take any other actions the Indemnified Party deems reasonably advisable without in any way waiving or otherwise affecting the Indemnified Party's rights

to indemnification pursuant to this Agreement. The Indemnified Party and the Indemnifying Party agree to make available to each other, their counsel and other representatives, all information and documents available to them which relate to such claim or demand. The Indemnified Party and the Indemnifying Party also agree to render to each other such assistance and cooperation as may reasonably be required to ensure the proper and adequate defence and settlement of such claim or demand.

- (c) In calculating amounts payable to an Indemnified Party, the amount of any indemnified Losses shall be determined without duplication of any other Loss for which an indemnification claim has been made or could be made under any other representation, warranty, covenant, or agreement and shall be computed net of (i) payments recoverable by the Indemnified Party under any insurance policy with respect to such Losses, (ii) any prior or subsequent recovery by the Indemnified Party from any Person with respect to such Losses and (iii) any tax benefit receivable by the Indemnified Party with respect to such Losses.
- (d) To the extent that an Indemnifying Party makes any payment pursuant to this Article 7 in respect of Losses for which an Indemnified Party or any of its Affiliates have a right to recover against a third party (including an insurance company), the Indemnifying Party shall be subrogated to the right of the Indemnified Party or any of its Affiliates to seek and obtain recovery from such third party; provided, however, that if the Indemnifying Party shall be prohibited from such subrogation, the Indemnified Party or its Affiliates, as applicable, shall seek recovery from such third party on the Indemnifying Party's behalf and pay any such recovery to Indemnifying Party.

## **ARTICLE 8 TERMINATION**

### **8.1 Termination of Agreement**

This Agreement shall terminate upon:

- (a) the written agreement of the parties; or
- (b) the Percentage Ownership of the Investor being less than ten percent (10%), except that Article 2 shall survive such termination and continue to apply in accordance with the terms thereof.

The termination of this Agreement shall have no effect upon any rights of any party under this Agreement to the extent those rights arose prior to the date of such termination, or any rights which are to survive as contemplated in section 7.4.

**ARTICLE 9  
MISCELLANEOUS**

**9.1 Assignment; Binding Effect**

This Agreement and the rights hereunder are not assignable unless such assignment is consented to in writing by the Corporation and each of the IQ Parties, provided, however, that each party hereto may without such consent assign, directly or indirectly, its rights and obligations hereunder to any Affiliate, provided that no such assignment shall relieve the assigning party of its obligations hereunder. Subject to the foregoing, this Agreement and all the provisions hereof shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns.

**9.2 Assignment of Qualification Rights**

Notwithstanding Section 9.1 hereof, the IQ Parties will be entitled to assign Demand Qualification rights and Piggy-Back Qualification rights to which they are entitled under Article 4 hereof, and the Corporation will timely provide all reasonably requested assistance in respect of any such assignments, including entering into a reasonable qualification rights agreement with the assignee(s) subject only to the following limitations and restrictions (the “Assigned Qualification Rights”):

- (a) in addition to being subject to the limitations in Section 4.3, an assignee of Assigned Qualification Rights shall be limited to two (2) Demand Qualifications; and
- (b) in respect of any Demand Qualification, the assignee shall, notwithstanding the provisions of Section 4.4(a), bear all expenses relating to the qualification of the Qualifiable Securities so assigned, including the reasonable costs of the legal and accounting advisors retained by the Corporation, and any underwriting discounts or commissions, and all registration, filing, printing, accounting and translation fees incurred, and shall be required to provide an advance representing an estimate of such expenses to the Corporation as the Corporation may reasonably request.

The provisions of Sections 4.5, 4.6, 4.7, 4.8, 4.9, 4.10 (except 4.10(b), which shall not apply), 4.11, 4.12, 4.13, 4.14, 4.15 and 4.16 shall apply in connection with any Assigned Qualification Rights, and the assignee of any Assigned Qualification Rights shall be required to enter into a reasonably requested agreement confirming its receipt and review of the provisions applicable to any Assigned Qualification Rights and its agreement to be bound thereby.

**9.3 Merger, Etc.**

Upon any merger, amalgamation, consolidation, arrangement or other reorganization involving the Corporation in which the IQ Parties receive, in exchange for their Qualifiable Securities, securities of any other entity, the rights of the IQ Parties under this Agreement remain in effect except that such rights relate to the securities received by the IQ Parties upon such exchange. It shall be a condition to the Corporation completing any such merger, amalgamation,

consolidation, arrangement or other reorganization that the IQ Parties shall have received written confirmation, in form acceptable to the IQ Parties acting reasonably, from each relevant Person, as to such continuing rights.

#### **9.4 Guarantee**

IQ hereby agrees to be jointly and severally liable with the Investor for any failure of the Investor to discharge its obligations under this Agreement and for the fulfillment of the representations, warranties and other obligations of the Investor to the Corporation under this Agreement.

#### **9.5 Choice of Law**

This Agreement shall be governed by and interpreted and enforced in accordance with the Laws of the Province of Quebec and the laws of Canada applicable therein without regard to the conflicts of laws rules thereof.

#### **9.6 Dispute Resolution**

Any Dispute (as such term is defined in the Acquisition and Exchange Agreement) regarding the negotiation, existence, validity, interpretation, performance, breach or termination of this Agreement shall be resolved in accordance with Section 10.5 of the Acquisition and Exchange Agreement.

#### **9.7 Notices**

All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) when received if delivered personally, (b) when sent by cable, telecopy, telegram or facsimile (which is confirmed by the intended recipient), and (c) when sent by overnight courier service or when mailed by certified or registered mail, return receipt requested, with postage prepaid to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

If to the Corporation, to:

Stornoway Diamond Corporation  
116-980 West 1<sup>st</sup> Street  
North Vancouver, British Columbia V7P 3N4

Attn: Chief Financial Officer  
Fax: (604) 983-3591

with a copy (which shall not constitute notice) to:

Ogilvy Renault LLP  
Suite 2500  
1 Place Ville-Marie  
Montréal, Quebec, H3B 1R1

Attn: Amar Leclair-Ghosh  
Fax: (514) 286-5474

If to the Investor or IQ, to:

Investissement Québec  
Suite 1500  
600 de la Gauchetière West  
Montréal, Quebec H3B 4L8

Attn: Senior Vice-President, Legal Affairs  
Fax: (514) 876-9306

with a copy (which shall not constitute notice) to:

McCarthy Tétrault LLP  
Suite 5300 TD Bank Tower  
Toronto Dominion Centre  
Toronto, Ontario M5K 1E6

Attn: Richard Miner  
Fax: (416) 868-0673

## **9.8 Headings**

The headings contained in this Agreement are inserted for convenience only and shall not be considered in interpreting or construing any of the provisions contained in this Agreement.

## **9.9 Entire Agreement**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings between the parties with respect to such subject matter.

## **9.10 Interpretation**

- (a) When a reference is made in this Agreement to an Article or Section such reference shall be to an Article or Section of this Agreement unless otherwise indicated.
- (b) Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation.”
- (c) When a reference in this Agreement is made to a “party” or “parties,” such reference shall be to a party or parties to this Agreement unless otherwise indicated.

- (d) Unless the context requires otherwise, the terms “hereof,” “herein,” “hereby,” “hereto” and derivative or similar words in this Agreement refer to this entire Agreement.
- (e) Unless the context requires otherwise, words in this Agreement using the singular or plural number also include the plural or singular number, respectively, and the use of any gender herein shall be deemed to include the other genders.
- (f) References in this Agreement to “dollars” or “\$” are to Canadian dollars unless otherwise indicated.
- (g) Except as otherwise specifically provided herein, where any action is required to be taken on a particular day and such day is not a Business Day and, as a result, such action cannot be taken on such day, then this Agreement shall be deemed to provide that such action shall be taken on the first Business Day after such day.
- (h) This Agreement was prepared jointly by the parties and no rule that it be construed against the drafter will have any application in its construction or interpretation.

#### **9.11 Waiver and Amendment**

This Agreement may be amended, modified or supplemented only by a written mutual agreement executed and delivered by the Corporation and each of the IQ Parties. Except as otherwise provided in this Agreement, any failure of any party to comply with any obligation, covenant, agreement or condition herein may be waived by the party entitled to the benefits thereof only by a written instrument signed by the party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligations, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

#### **9.12 Counterparts; Facsimile Signatures**

This Agreement may be executed in any number of counterparts, each of which when executed, shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument binding upon all of the parties notwithstanding the fact that all of the parties are not signatory to the original or the same counterpart. For purposes of this Agreement, facsimile signatures shall be deemed originals.

#### **9.13 Third-Party Beneficiaries**

This Agreement is for the sole benefit of the parties and their successors and permitted assigns and nothing herein express or implied shall give or be construed to give to any Person, other than the parties and such successors and permitted assigns, any legal or equitable rights hereunder.

#### **9.14 Severability**

If any provision of this Agreement or the application of any such provision to any Person or circumstance shall be held invalid, illegal or unenforceable in any respect by a court of

competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof. The parties shall engage in good faith negotiations to replace any provision which is declared invalid, illegal or unenforceable with a valid, legal and enforceable provision, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provision which it replaces.

**[Remainder of this page intentionally left blank]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

**INVESTISSEMENT QUÉBEC**

Per: *(signed)*  
\_\_\_\_\_  
Name: Richard Miner  
Title: Pursuant to Power of Attorney

Per: *(signed)*  
\_\_\_\_\_  
Name: Gary Litwack  
Title: Pursuant to Power of Attorney

**DIAQUEM INC.**

Per: *(signed)*  
\_\_\_\_\_  
Name: Richard Miner  
Title: Pursuant to Power of Attorney

Per: *(signed)*  
\_\_\_\_\_  
Name: Gary Litwack  
Title: Pursuant to Power of Attorney

**STORNOWAY DIAMOND CORPORATION**

Per: *(signed)*  
\_\_\_\_\_  
Name: Matthew L. Manson  
Title: President & Chief Executive Officer

Per: *(signed)*  
\_\_\_\_\_  
Name: Zara Boldt  
Title: Vice-President, Finance and Chief Financial Officer