

Court File No. CV-16-11359-00CL

**CARPATHIAN GOLD INC.
(Limited Receivership)**

FIRST REPORT OF THE RECEIVER

April 22, 2016

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

BRIO FINANCE HOLDINGS B.V.

Applicant

and

CARPATHIAN GOLD INC.

Respondent

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED**

**FIRST REPORT TO THE COURT
SUBMITTED BY FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS RECEIVER**

INTRODUCTION

1. On April 22, 2016, FTI Consulting Canada Inc. was appointed as receiver (in such capacity, the “**Receiver**”) without security, of certain of the assets, undertakings and properties of Carpathian Gold Inc. (“**Carpathian**”) pursuant to the order of the Honourable Mr. Justice Newbould (the “**Receivership Order**”) granted upon the application of Brio Finance Holdings B.V. (the “**Brio**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”). A copy of the Receivership Order is attached as hereto as **Appendix A**.

2. The assets of Carpathian subject to the Receivership Order are limited to the following (collectively, the “**Limited Receivership Assets**”):
 - (a) All shares of Ore-Leave Capital (Brazil) Limited (“**OLC Brazil**”) issued to Carpathian (the “**Barbados Pledged Securities**”);
 - (b) The memberships of Carpathian in OLV-Coöperatie U.A. (“**OLV**”) including all of Carpathian’s right, title and interest in and to such memberships as well as all rights of Carpathian in connection with such memberships including, without limitation, Carpathian’s entitlement to any account held by, and rights to receive payment from, OLV under OLV’s articles of association (the “**Dutch Pledged Memberships**”); and
 - (c) All indebtedness owing by any of Mineração Riacho Dos Machados Ltda. (“**MRDM**”), OLC Brazil, OLV or OLC Holdings B.V. (together, the “**Brazilian Subsidiaries**”) to Carpathian (the “**Carpathian Intercompany Debt**”).
3. The Receivership does not involve any other assets of Carpathian or its subsidiaries. None of the employees or creditors of Carpathian, other than Brio, are affected by the Receivership.
4. The purpose of this, the Receiver’s First Report, is to provide information to the Court with respect to:
 - (a) The independent opinion prepared by counsel to the Receiver on the validity and enforceability of the security held by Brio (the “**Brio Security**”) in respect of the Limited Receivership Assets;

and to request the granting by the Court of:

- (b) An approval and vesting order (the “**AVO**”) contemplated in the Share and Asset Purchase Agreement dated as of April 22, 2016, entered into, subject to Court approval, between the Receiver as Vendor and Brio as Purchaser (the “**Sale Agreement**”) pursuant to which Brio will acquire the right, title and interest of the Receiver and Carpathian in the Limited Receivership Assets (the “**Brio Transaction**”); and
- (c) An Order discharging the Receiver and terminating the Receivership, each effective upon the filing with the Court by the Receiver of a certificate confirming completion of the Receiver’s remaining obligations (the “**Receiver’s Completion Certificate**”).

TERMS OF REFERENCE

- 5. In preparing this report, the Receiver has relied upon unaudited financial information, other information available to the Receiver and, where appropriate, Carpathian’s books and records, and discussions with various parties (collectively, the “**Information**”).
- 6. Except as described in this Report:
 - (a) The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
 - (b) The Receiver has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.

7. Future oriented financial information reported or relied on in preparing this report is based on assumptions regarding future events; actual results may vary from forecast and such variations may be material.
8. The Receiver has prepared this Report in connection with its Notice of Motion dated April 22, 2016, returnable April 29, 2016 (the “**April 29 Motion**”). The Report should not be relied on for other purposes.
9. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.
10. Capitalized terms not otherwise defined herein have the meanings defined in the Receivership Order, the affidavit of Mr. Joseph Longpre sworn April 21, 2016, and filed in support of the application for the Receivership Order (the “**Longpre Affidavit**”) and the affidavit of Mr. Jim Meloche, of Origin Merchant Partners, Carpathian’s investment banker (“**Origin**”), sworn April 22, 2016, and filed in support of the April 29 Motion (the “**Meloche Affidavit**”).

THE SECURITY OPINION

11. Counsel to the Receiver, Stikeman Elliott LLP (the “**Receiver’s Counsel**”), has conducted a review of the security on the Limited Receivership Assets held by Brio securing amounts owing by Carpathian as guarantor under the Facilities and delivered an opinion on the security. In addition, to facilitate and support the opinion provided by the Receiver’s Counsel, Barbadian counsel, Clarke Gittens Farmer (“**Barbadian Counsel**”) and Dutch counsel, Heussen B.V. (“**Dutch Counsel**”), conducted similar reviews relevant to their jurisdictions and delivered opinions addressed to the Receiver (the opinions of Receiver’s Counsel, Barbadian Counsel and Dutch Counsel collectively being the “**Security Opinion**”).

12. Specifically, the Security Opinions opine on the validity and perfection of the following documents (collectively, the “**Security Documents**”):

- (a) the general security agreement (“**GSA**”) dated as of October 8, 2013, between Carpathian and Macquarie Bank Limited (“**MBL**”), as original collateral agent, as assigned to Brio pursuant to an assignment and assumption agreement (the “**Assignment**”) dated as of February 17, 2016, and a collateral agency resignation and appointment agreement (the “**CAARA**”) dated as of March 31, 2016 among, *inter alia*, Carpathian, MBL and Brio, such GSA granting security over all undertaking, property and assets of Carpathian, including the Limited Receivership Assets, other than the assets related to the Romanian Project;
 - (b) the deed of charge over shares dated January 11, 2013 between Carpathian, MBL and OLC Brazil, as assigned by the Assignment and modified by the CARAA and the deed of assumption and transfer of liabilities between Carpathian, MBL, OLC Brazil and Brio dated as of March 31, 2016 (the “**Barbados Security Document**”), charging the Barbados Pledged Securities; and
 - (c) The deed of pledge of claims and memberships dated January 11, 2013, between OLV, Carpathian and MBL, as assigned pursuant to the Assignment, CAARA and a transfer of contract agreement between OLV, Carpathian, MBL and Brio dated March 31, 2016, charging the Dutch Pledged Memberships.
13. Subject to the customary assumptions and qualifications contained in the Security Opinions, the applicable Security Opinions provide that:
- (a) The personal property security granted in favour of Brio is valid and, with respect to the GSA, the GSA is enforceable and creates valid

security interests in the personal property of Carpathian secured thereby under the Province of Ontario, including the Carpathian Intercompany Debt and the Dutch Pledged Membership;

- (b) The personal property security granted in favour of Brio is valid, and with respect to the Barbados Security Document, such Barbados Security Document is enforceable and creates, under the laws of Barbados, a valid security interest in the personal property of Carpathian secured thereby under the laws of Barbados, including the Barbados Pledged Securities;
 - (c) The security interest of Brio in the Barbados Pledged Securities has been perfected by control pursuant to the laws of the Province of Ontario.
14. In summary, the Security Opinions conclude that, subject to statutory and possessory liens, security interests perfected by possession or control, purchase money security interests and claims that have priority by operation of law, Brio has a first ranking security interest in the Limited Receivership Assets.

REQUEST FOR THE AVO

15. Capitalized terms used in this section of this Report not otherwise defined are as defined in the Sale Agreement, a copy of which is attached hereto as **Appendix B**.

INTRODUCTION

16. As described in the Longpre Affidavit, the Brio Transaction is one part of an overall restructuring arrangement involving the following component parts:
- (a) The acquisition by Brio of MBL's position under the Facilities;
 - (b) The acquisition by Brio of the Limited Receivership Assets pursuant to the Sale Agreement; and

- (c) A US\$1 million subscription by Brio Gold Inc. (“**BGI**”), an affiliate of Brio, for common shares of Carpathian (the “**Equity Investment**”).
17. The acquisition by Brio of MBL’s position under the Facilities was completed on March 31, 2016.
18. The Receiver has been informed by Brio and Carpathian that the Equity Investment is to be completed immediately following the completion of the Brio Transaction if the Brio Transaction is approved by the Court.
19. The restructuring arrangement is the culmination of an extensive sale process carried out by Origin and others as described in the Meloche Affidavit. The Receiver has been informed by Carpathian that fees payable to Origin in respect of the restructuring arrangement have been paid by MBL and that no fees are payable to Origin by Carpathian. No fees will be payable to Origin in the Receivership.

THE SALE AGREEMENT

20. Pursuant to the Sale Agreement, Brio will purchase all of the Limited Receivership Assets for aggregate consideration of \$1 (the “**Cash Purchase Price**”) plus the full and final release by Brio of the CPN Guarantee and all of the obligations of Carpathian to Brio under the Financial Assets Agreements and the Security, which the Receiver is informed total approximately US\$273 million (the “**Brio Indebtedness**”).
21. Carpathian’s other assets are not subject to the Receivership Order and are not subject to the Sale Agreement.
22. Pursuant to the Sale Agreement, the Closing Date of the Brio Transaction is expected to be the same day that the AVO is issued by the Court.
23. The obligation of Brio to complete the Brio Transaction is subject to the following conditions being fulfilled or waived by the Brio:

- (a) All representations and warranties of the Receiver contained in the Sale Agreement shall be true as of the Closing Date with the same effect as though made on and as of that date;
 - (b) The Receiver shall have performed each of its obligations under the Sale Agreement to the extent required to be performed on or before the Closing Date including delivering the documents referred to in Section 5.2 of the Sale Agreement that are to be delivered by the Vendor;
 - (c) No action or proceedings shall be pending or order issued to restrain or prohibit the completion of the Brio Transaction; and
 - (d) The subscription agreement contemplated by Article 4 of the A&R Restructuring Agreement shall have been entered into by BGI and Carpathian.
24. The obligation of the Receiver to complete the Brio Transaction is subject to the following conditions being fulfilled or waived by the Receiver:
- (a) All representations and warranties of Brio contained in the Sale Agreement shall be true as of the Closing Date with the same effect as though made on and as of that date;
 - (b) Brio shall have performed each of its obligations under the Sale Agreement to the extent required to be performed on or before the Closing Date including delivering the Purchase Price and the documents referred to in Section 5.2 of the Sale Agreement that are to be delivered by the Purchaser;
 - (c) No action or proceedings shall be pending or order issued to restrain or prohibit the completion of the Brio Transaction contemplated by the Sale Agreement; and

- (d) All of the fees and disbursements of the Receiver and the Receiver's Counsel shall have been paid by BGI in accordance with the Receivership Order.
25. The obligations of the Receiver and Brio to complete the Brio Transaction are subject to the following mutual conditions being fulfilled or performed:
- (a) The AVO shall have been granted by the Court on or before April 29, 2016; and
 - (b) The AVO shall not have been stayed, varied or vacated, and no order shall have been issued which restrains or prohibits the completion of the Brio Transaction.

THE RECEIVER'S COMMENTS

26. Section 247(b) of the BIA states:

“247. A receiver shall

- (a) act honestly and in good faith; and
- (b) deal with the property of the insolvent person or the bankrupt in a commercially reasonable manner.”

27. Pursuant to the leading cases¹, in reviewing a proposed sale of assets by a receiver, the Court should consider the following:
- (a) Whether the receiver has made a sufficient effort to obtain the best price and has not acted improvidently;
 - (b) The interests of all parties;

¹*Royal Bank v. Soundair Corp.* (1991), 7 C.B.R. (3d) I (Ont. C.A.); *National Bank of Canada v. Global Fasteners & Clamps Ltd.* (2001), 24 C.B.R. (4th) 228, 2001 CarswellOnt 945 (Ont. S.C.J. [Commercial List]); *Textron Financial Canada Ltd. v. Beta Ltée/Beta Brands Ltd.* (2007), 2007 CarswellOnt 89, 27 C.B.R. (5th) I (Ont. S.C.J.); *Bank of Montreal v. Dedicated National Pharmacies Inc.* (2011), 2011 CarswellOnt 7972, 83 C.B.R. (5th) 155 (Ont. S.C.J. [Commercial List]).

- (c) The efficacy and integrity of the process by which offers have been obtained; and
 - (d) Whether there has been unfairness in the working out of the process.
28. In addition, when considering whether to approve a transaction without an extended sale process being carried out in a receivership, the Court should consider the impact on various parties and assess whether their respective positions and the proposed treatment that they will receive in the transaction would realistically be any different if an extended sale process were followed².

The Commercial Reasonableness of Proceeding with the Brio Transaction

29. The efforts to market the Limited Receivership Assets over the last two years are described in the Meloche Affidavit. The Receiver has reviewed the Meloche Affidavit and has had discussions with Mr. Meloche. The Meloche Affidavit indicates that 67 parties were contacted during the sale process, which took place over an extended period of time. While a number of expressions of interest or proposals were received at various stages of the sale process, all were at a level significantly lower than the amounts of the MBL secured debt and none resulted in a firm offer.
30. Brio is not a commercial lender and acquired the Brio Security by way of purchasing MBL's position under the Facilities at a significant discount in order to be able to acquire the Limited Receivership Assets by way of "credit bid". MBL, is however, a commercial lender and, after extensive marketing efforts, determined that, in its reasonable business judgment, the sale of its indebtedness in the approximate amount of US\$273 million for a price of approximately US\$41.9 million represented the highest and/or best offer received for the assets subject to its security.

²*Re Tool-Plas Systems Inc.*, 2008 CarswellOnt 6258, 48 C.B.R. (5th) 91, [2008] O.J. No. 4218 (Ont. S.C.J. [Commercial List])

31. Given the sale process, the results thereof and the amount of the secured indebtedness, the Receiver is of the view that it is commercially reasonable to proceed with the Brio Transaction.

Efforts to Obtain the Best Price and Efficacy and Transparency of the Process

32. As noted above, the efforts to market the Limited Receivership Assets over the last two years are laid out in the Meloche Affidavit.

33. In the Receiver's view:

- (a) The sale process was carried out in a manner typical of, and consistent with, such marketing processes that have been approved by the courts in many receivership and other Court-supervised proceedings and the timelines provided for in the SISP were reasonable in the circumstances;
- (b) The sale process and the opportunity to acquire the Limited Receivership Assets was widely known;
- (c) The sale process allowed interested parties adequate opportunity to conduct due diligence and submit proposals for the acquisition of the Limited Receivership Assets; and
- (d) The process that resulted in the execution of the Sale Agreement was fair, transparent and reasonable in the circumstances.

Interests of the Various Parties

34. As described earlier in this Report, Brio holds valid and enforceable security on the Limited Receivership Assets ranking in priority to all other known creditors. The Brio Indebtedness is approximately US\$273 million and, in the Receiver's view, the sale process has clearly demonstrated that there is no prospect of any transaction that could repay the Brio Indebtedness in full. Accordingly, Brio is the only stakeholder with any economic interest in the Limited Receivership Assets.
35. As described in the Longpre Affidavit, the Brio Transaction, is one part of the overall restructuring of Carpathian. In addition to the Brio Transaction, BGI will make the Equity Investment of US\$1 million in Carpathian. Carpathian's other assets and all of its creditors, other than Brio, and employees are unaffected by the Receivership or the Brio Transaction.
36. Accordingly, in the Receiver's view, the Brio Transaction represents the best available outcome for all stakeholders and is not prejudicial to creditors ranking subordinate to the Brio Security.

Unfairness in the Process

37. Based on the information it has available, the Receiver has not identified any unfairness in the process.

Likely Outcome of an Extended Process

38. The Receiver has considered whether reopening the sale process in the Receivership might reasonably be expected to generate a result that would repay the Brio Indebtedness.
39. As previously noted, the Receiver is of the view that the sale process was a thorough canvassing of the market and fairly demonstrated that there is no value beyond the Brio Indebtedness.

40. In the Receiver's view, since November 2015 when the Option Agreement was executed, there has been no material improvement in the business or market conditions that would suggest that a different result could be achieved if the sale process was reopened at this time.
41. Accordingly, the Receiver does not believe that there is any reasonable prospect of a new sale process generating a transaction at a value in excess of the Brio Indebtedness.

Receiver's Conclusion

42. The Brio Transaction is the highest and best transaction in respect of the Limited Receivership Assets resulting from the sale process and the consideration appears to be fair and reasonable in the circumstances. There is no evidence to suggest that viable alternatives exist that would deliver a better recovery from the Limited Receivership Assets for the creditors ranking subordinate to the Brio Security.
43. The stakeholders of Carpathian other than Brio are unaffected by the Brio Transaction and will benefit from the Equity Investment.
44. Accordingly, the Receiver respectfully requests that the Court approve the APA and authorize the Receiver to complete the Transactions contemplated therein, in accordance with the terms of the Sale Agreement and the form of Approval and Vesting Order submitted by the Receiver to the Court.

TERMINATION OF RECEIVERSHIP PROCEEDINGS

45. The sole purpose of the Receivership is to effect the sale of the Limited Receivership Assets to Brio. Accordingly, the Receivership will be complete once the Brio Transaction has closed and the Receiver has completed the necessary remaining administrative procedures.

46. The expeditious completion of the Receivership and discharge of the Receiver will minimize costs and reduce any potential confusion in the market with respect to the status of Carpathian and its ongoing operations.
47. Accordingly, in order to avoid the costs of additional Court appearances, and with the support of Brio and Carpathian, the Receiver now seeks an Order terminating the Receivership and discharging the Receiver, each effective on filing of the Receiver's Completion Certificate.
48. Paragraph 15 of the Receivership Order states:

“15. THIS COURT ORDERS that the Receiver and its legal counsel shall not be required to pass their accounts unless requested to do so by the Applicant, the Court or any other interested party, and if so requested the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.”
49. The fees and expenses of the Receiver, including the fees and expenses of the Receiver's Counsel, have been or will be paid by BGI (an affiliate of the Applicant) pursuant to a fee indemnity letter dated March 22, 2016.
50. The Receiver will provide BGI with copies of all of its accounts and the accounts of the Receiver's Counsel in order to provide BGI an opportunity to review such accounts prior to the return of the April 29 Motion.
51. Given the shortfall on account of the secured claims of Brio and the fact that the fees and expenses of the Receiver and the Receiver's Counsel will be paid by BGI, the Receiver is of the view that there is no other party in interest with respect to the fees and expenses of the Receiver and the Receiver's Counsel.

52. If the Court requests the passing of the accounts of the Receiver or its legal counsel, a separate motion would be brought by the Receiver for approval of such accounts.

The Receiver respectfully submits to the Court this, its First Report.

Dated this 22nd day of April, 2016.

FTI Consulting Canada Inc.
In its capacity as Receiver of certain assets of
Carpathian Gold Inc.



Nigel D. Meakin
Senior Managing Director

Appendix A

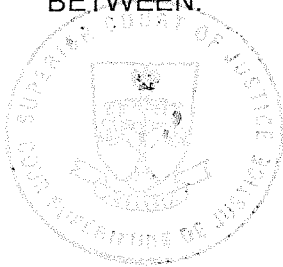
The Receivership Order

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MR.
JUSTICE NEWBOULD

) FRIDAY, THE 22nd
)
) DAY OF APRIL, 2016

BETWEEN:



BRIO FINANCE HOLDINGS B.V.

Applicant

and

CARPATHIAN GOLD INC.

Respondent

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED**

LIMITED RECEIVERSHIP ORDER

THIS MOTION made by Brio Finance Holdings B.V. (the "**Applicant**") for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") appointing FTI Consulting Canada Inc. ("**FTI**") as receiver (in such capacity, the "**Receiver**") without security, of certain of the assets, undertakings and properties of Carpathian Gold Inc. (the "**Debtor**"), as described in this Order, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Joseph M. Longpre sworn April 21, 2016 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and counsel for the Debtor and on reading the consent of FTI to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA FTI is hereby appointed Receiver, without security, of all of the Debtor's rights and interests in or against:

- (a) all shares of Ore-Leave Capital (Brazil) Limited ("**OLC Brazil**");
 - (b) the membership in OLV Coöperatie U.A. ("**OLV**") including all of the Debtor's right, title and interest in and to such membership as well as all rights of the Debtor in connection with such memberships including, without limitation, the Debtor's entitlement to any account held by, and rights to receive payment from, OLV under OLV's articles of association; and
 - (c) all indebtedness owing by any of OLC Brazil, OLV, OLC Holdings B.V., or Mineração Riacho Dos Machados Ltda. (together, the "**Debtor's Brazilian Subsidiaries**"), to the Debtor
- (collectively, the "**Limited Receivership Assets**").

For greater certainty, the Receiver is hereby appointed only with respect to the Limited Receivership Assets and not any of the Debtor's right, title and interest in or to any of the Debtor's other property, assets or undertakings (the "**Non-Receivership Assets**"), such that the Debtor's right, title and interest in and to the Non-Receivership Assets and the rights of the employees and creditors of the Debtor, other than the Applicant, will not be affected hereby.

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Limited Receivership Assets and, without in any way

limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Limited Receivership Assets;
- (b) to receive, preserve, and protect the Limited Receivership Assets, or any part or parts thereof;
- (c) to engage counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (d) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Limited Receivership Assets, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (e) to sell, convey, transfer or assign the Limited Receivership Assets or any part or parts thereof with the approval of this Court;
- (f) to apply for any vesting order or other orders necessary to convey the Limited Receivership Assets or any part or parts thereof to a purchaser or purchasers thereof free and clear of any liens or encumbrances affecting such Limited Receivership Assets;
- (g) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Limited Receivership Assets and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (h) to exercise any shareholder or other rights which the Debtor may have in or against the Limited Receivership Assets as the Receiver considers necessary or desirable; and
- (i) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (a) the Debtor, (b) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (c) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Limited Receivership Assets in such Person's possession or control, shall grant immediate and continued access to the Limited Receivership Assets to the Receiver, and shall deliver all such Limited Receivership Assets to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall co-operate fully with the Receiver in the exercise of its powers and discharge of its obligations and provide the Receiver with the assistance that is necessary to enable the Receiver to adequately carry out the Receiver's functions under this Order.

NO PROCEEDINGS AGAINST THE RECEIVER

6. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE LIMITED RECEIVERSHIP ASSETS

7. THIS COURT ORDERS that no Proceeding against or in respect of the Limited Receivership Assets, or any of the Debtor's rights and interests in or against the Limited Receivership Assets, shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Limited Receivership Assets, or any of the Debtor's rights and interests in or against the Limited Receivership Assets, are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

8. THIS COURT ORDERS that all rights and remedies against the Receiver, or affecting the Limited Receivership Assets, or any of the Debtor's rights and interests in or against the Limited Receivership Assets, are hereby stayed and suspended except with the written consent

of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (a) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (b) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

9. THIS COURT ORDERS that:

- (a) no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor in respect of the Limited Receivership Assets, without written consent of the Receiver or leave of this Court; and
- (b) no Person shall, solely as a result of the granting of this Order, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor or any of the Debtor's subsidiaries without written consent of the Receiver or leave of this Court.

10. THIS COURT ORDERS that nothing herein shall affect any contracts, agreements, license or permits involving a) the Debtor in respect of assets other than the Limited Receivership Assets and/or b) the Debtor's subsidiaries.

RECEIVER TO HOLD FUNDS

11. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order, including, without limitation, from the sale of all or any of the Limited Receivership Assets, shall be deposited into one or more new accounts to be opened by the Receiver, if necessary, (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be

held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

12. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor and the Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA.

LIMITATION ON THE RECEIVER'S LIABILITY

13. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Receiver by the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

14. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid by the Applicant their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Limited Receivership Assets, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Limited Receivership Assets in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06, 81.4(4) and 81.6(2) of the BIA.

15. THIS COURT ORDERS that the Receiver and its legal counsel shall not be required to pass their accounts unless requested to do so by the Applicant, the Court or any other interested party, and if so requested the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

SERVICE AND NOTICE

16. THIS COURT ORDERS that The Guide Concerning Commercial List E-Service (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List

website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/> shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <http://cfcanada.fticonsulting.com/Carpathian>

17. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

18. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

19. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

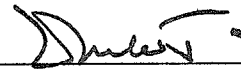
20. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States and elsewhere to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

21. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located,

for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

22. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

23. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than three (3) days' notice to the Receiver, the Applicant, the Debtor and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

APR 22 2016

PER / PAR: 

BRIO FINANCE HOLDINGS B.V.

Applicant

and **CARPATHIAN GOLD INC.**

Respondent

Court File No. CV-16-11359-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

LIMITED RECEIVERSHIP ORDER

Norton Rose Fulbright Canada LLP
Suite 3800
Royal Bank Plaza, South Tower
200 Bay Street, P.O. Box 84
Toronto, Ontario
M5J 2Z4

Evan Cobb LSUC#: 55787N
Tel: (416) 216-1929
Fax: (416) 216-3930

Lawyers for Brio Finance Holdings B.V.

Appendix B

The Sale Agreement

SHARE AND ASSET PURCHASE AGREEMENT

THIS AGREEMENT made as of the 22nd day of April, 2016

BETWEEN:

FTI CONSULTING CANADA INC., in its capacity as receiver of certain assets of Carpathian Gold Inc., and not in its personal or corporate capacity (hereinafter called the "**Vendor**")

- and -

BRIO FINANCE HOLDINGS B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands having its registered office at Prins Bernhardplein 200, 1097 JB Amsterdam, the Netherlands, in its capacity as Administrative Agent and Collateral Agent (as defined below) (hereinafter called the "**Purchaser**")

WHEREAS pursuant to an order ("**Receivership Order**") of the Ontario Superior Court of Justice (Commercial List) granted on April 22, 2016, the Vendor was appointed Receiver of certain assets of Carpathian Gold Inc. ("**Carpathian**");

AND WHEREAS the Vendor has, subject to the approval of the Court, agreed to the sale of the Limited Receivership Assets (as defined below) to the Purchaser and the Purchaser has agreed to purchase the Limited Receivership Assets from the Vendor on the terms and conditions set forth herein;

NOW THEREFORE in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, the following terms shall have the respective meanings hereby assigned to them:

- (a) "**A&R Restructuring Agreement**" means the Amended and Restated Restructuring Agreement, dated February 17, 2016, between, among others, Carpathian, MRDM, Macquarie Bank Limited and Brio Gold Inc.;
- (b) "**Administrative Agent**" means Brio Finance Holdings B.V., in its capacity as Administrative Agent under the PLF;
- (c) "**Affiliate**" means, with respect to any person, any other person that controls or is controlled by or is under common control with the referent person;

- (d) "**Agreement**" means this document, together with the Schedules attached hereto and made a part hereof;
- (e) "**Approval and Vesting Order**" means an order to be granted by the Court that authorizes the Vendor's execution and performance of this Agreement and vests the Limited Receivership Assets in the Purchaser, free and clear of all Claims and Encumbrances, substantially in the form of Order attached as Schedule "A" to this Agreement;
- (f) "**Assignment and Assumption Agreement**" means the agreement pursuant to which Brio receives an assignment of, and assumes, all of Carpathian's and the Vendor's rights, interests and obligations, if any, under the Carpathian Intercompany Debt;
- (g) "**Brio**" means Brio Finance Holdings B.V.;
- (h) "**Business Day**" means any day, except Saturdays, Sundays and statutory holidays, on which banks are generally open for business in Toronto, Ontario;
- (i) "**Carpathian Intercompany Debt**" means any indebtedness of OLC Brazil, OLV, OLC Holdings B.V. or MRDM to Carpathian including, without limitation:
 - (i) intercompany loans owed by MRDM to Carpathian in the approximate aggregate amount of \$9,088,242.18;
 - (ii) intercompany loans owed by OLC Brazil to Carpathian in the approximate aggregate amount of \$49,310.49; and
 - (iii) intercompany loans owed by OLV and OLC Holdings B.V. to Carpathian in the approximate aggregate amount of \$398,855.18,

and all payments due or to become due thereunder or in connection therewith, and all claims, causes of action, and any other rights of Carpathian, as a lender, or the Vendor against any person, whether known or unknown, arising thereunder or in any way based on or relating thereto, including contract and tort claims, statutory claims, and all other claims related to the rights and obligations sold and assigned.
- (j) "**Carpathian Release**" means the release contemplated by Section 2.2 (a) (ii) hereof, in form and substance acceptable to Carpathian, acting reasonably;
- (k) "**Claims**" has the meaning ascribed thereto in the form of the Approval and Vesting Order attached hereto as Schedule "A";
- (l) "**Closing**" means the completion of the purchase and sale of the Limited Receivership Assets as contemplated by this Agreement;
- (m) "**Closing Date**" means the date on which the Approval and Vesting Order is issued by the Court or such later date as agreed to by the Parties;
- (n) "**Closing Time**" means 11:00 a.m. (Toronto time) on the Closing Date, or such other time as agreed to in writing by the Vendor and the Purchaser;
- (o) "**Collateral Agency Agreement**" means the Collateral Agency and Intercreditor Agreement, dated January 11, 2013 between, among others OLV, OLC Brazil, Macquarie Bank Limited, as collateral agent, MRDM and Carpathian, as assigned by

Macquarie Bank Limited to Brio, as replacement collateral agent pursuant to a collateral agency resignation and appointment agreement dated March 31, 2016;

- (p) "**Collateral Agent**" means Brio, in its capacity as Collateral Agent under the Collateral Agency Agreement, the PLF, the GPA and the SPA;
- (q) "**Court**" means the Ontario Superior Court of Justice (Commercial List);
- (r) "**Encumbrances**" has the meaning ascribed thereto in the form of the Approval and Vesting Order attached hereto as Schedule "A";
- (s) "**Governmental Authority**" means any government or political subdivision thereof, and any other body or agency having, or purporting to have, authority over the Limited Receivership Assets or any operation or activity thereon or with respect thereto;
- (t) "**GPA**" means the gold purchase agreement as amended, between Brio (as assignee of Macquarie Bank Limited), Carpathian and MRDM dated May 4, 2010;
- (u) "**Limited Receivership Assets**" means the OLC Brazil Shares, the OLV Membership and the Carpathian Intercompany Debt;
- (v) "**MRDM**" means Mineração Riacho Dos Machados Ltda.;
- (w) "**OLC Brazil**" means Ore-Leave Capital (Brazil) Limited;
- (x) "**OLC Brazil Shares**" means all of the issued and outstanding shares of OLC Brazil registered in the name of Carpathian;
- (y) "**OLV**" means OLV Coöperatie U.A.;
- (z) "**OLV Membership**" means the memberships in OLV registered in the name of Carpathian, including all of Carpathian's and the Vendor's right, title and interest in and to such membership as well as all rights of Carpathian in connection with such membership including, without limitation, Carpathian's entitlement to any account held by, and rights to receive payment from, OLV under OLV's articles of association;
- (aa) "**Party**" means any Person bound by this Agreement.
- (bb) "**Person**" includes individuals, executors, administrators, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and Governmental Authorities;
- (cc) "**PLF**" means the project facility agreement between MRDM, as borrower, Carpathian, OLC Holdings B.V., OLV and OLC Brazil as guarantors and Brio (as assignee of Macquarie Bank Limited) in its capacities as Administrative Agent, Collateral Agent, lender and hedge provider, dated January 11, 2013, as amended.
- (dd) "**Purchase Price**" means CDN\$1 and the Carpathian Release;
- (ee) "**Receiver**" means FTI Consulting Canada Inc. in its capacity as receiver of certain assets of Carpathian appointed pursuant to the Receivership Order and not in its personal or corporate capacity;
- (ff) "**Receivership Order**" means the Order of the Court under Court File No. CV-16-11359-00CL granted on April 22, 2016 appointing the Receiver;

- (gg) "**Sales Tax**" means any taxes, interest, penalties and fines imposed under Part IX of the *Excise Tax Act* (Canada), and other sales and transaction taxes or transaction fees imposed by provincial or federal governments in Canada in respect of the Transaction;
- (hh) "**SPA**" means the gold sale and purchase agreement between Brio (as assignee of Macquarie Bank Limited), Carpathian and MRDM, dated October 25, 2012, as amended.
- (ii) "**Transaction**" means the purchase and sale of the Limited Receivership Assets contemplated by a Closing pursuant to this Agreement;

1.2 Schedules

The following Schedules are attached hereto and made part of this Agreement:

- (a) Schedule "A" — Form of Approval and Vesting Order

1.3 References

The references "hereunder", "herein" and "hereof" refer to the provisions of this Agreement, and references to Articles, Clauses, Subclauses, Paragraphs or Subparagraphs herein refer to Articles, Clauses, Subclauses, Paragraphs or Subparagraphs of this Agreement. Any reference to time shall refer to Eastern Standard Time or Eastern Daylight Savings Time during the respective intervals in which each is in force.

1.4 Headings

The headings of the Articles, Clauses, Subclauses, Paragraphs, Subparagraphs or Schedules and any other headings, captions or indices herein are inserted for convenience of reference only and shall not be used in any way in construing or interpreting any provisions hereof.

1.5 Singular/Plural

Whenever the singular or masculine or neuter is used in this Agreement or in the schedules, it shall be interpreted as meaning the plural or feminine or body politic or corporate, and vice versa, as the context requires.

1.6 Use of Canadian Funds

All references to "dollars" or "\$" herein shall refer to lawful currency of the United States unless the contrary is specified or provided for elsewhere in this Agreement.

1.7 Derivatives

Where a term is defined herein, a capitalized derivative of such term shall have a corresponding meaning unless the context otherwise requires.

1.8 Statutory References

Unless otherwise specifically indicated, any reference to a statute in this Agreement refers to that statute and the regulations and ministerial orders made under that statute, as the same may, from time to time, be amended, re-enacted or replaced.

1.9 Governing Law

- (a) This Agreement is governed by and is to be interpreted, construed and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to conflict of law principles.
- (b) Each of the Parties irrevocably attorns and submits to the exclusive jurisdiction of the Court in any action or proceeding arising out of or relating to this Agreement. Each of the Parties waives objection to the venue of any action or proceeding in the Court or any argument that the Court provides an inconvenient forum.

ARTICLE 2 PURCHASE AND SALE

2.1 Purchase and Sale

Subject to the granting of the Approval and Vesting Order and to the terms and conditions of this Agreement, the Vendor hereby covenants and agrees to sell, assign, transfer, and deliver and hereby sells, assigns, transfers and delivers to Purchaser, and the Purchaser hereby covenants and agrees to purchase and acquire and hereby purchases and acquires from the Vendor, all of the right, title, and interest of Carpathian and the Vendor in and to the Limited Receivership Assets, effective as and from the Closing Date.

The assignment and transfer of the OLV Membership shall also be evidenced by a separate agreement of assignment and transfer of a membership to be executed prior to the Closing Time by Carpathian, as transferor, the Purchaser, as Transferee, and OLV

2.2 Purchase Price

- (a) The aggregate consideration to be paid by the Purchaser to the Vendor for the Limited Receivership Assets shall be as follows:
 - (i) cash in the amount of \$1 (the "**Cash Purchase Price**"); and
 - (ii) the full and final release by the Purchaser of the CPN Guarantee (as defined in the A&R Restructuring Agreement) and all of the obligations of Carpathian to the Purchaser under the Financial Assets Agreements and the Security (in each case as defined in the A&R Restructuring Agreement).
- (b) At Closing, the Purchaser shall: (i) pay to Vendor the Cash Purchase Price; and (ii) deliver to Carpathian the Carpathian Release.
- (c) The Purchaser shall pay the applicable Sales Tax, if any, in respect of the purchase of the Limited Receivership Assets to the Vendor. The Vendor shall remit the Sales Tax in respect of the purchase of the Limited Receivership Assets, if any, according to law.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

- 3.1 The Vendor represents and warrants as follows to the Purchaser and acknowledges and confirms that the Purchaser is relying upon the representations and warranties in entering into this Agreement and purchasing the Limited Receivership Assets.
- (a) Subject to any applicable Orders of the Court, this Agreement has been validly executed and delivered by the Vendor, and this Agreement and all other documents executed and delivered on behalf of the Vendor hereunder shall constitute valid and binding obligations of the Vendor enforceable in accordance with their respective terms and conditions; and
 - (b) The Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).
- 3.2 The Purchaser represents and warrants as follows to the Vendor and acknowledges and confirms that the Vendor is relying upon the representations and warranties in entering into this Agreement and selling the Limited Receivership Assets:
- (a) The Purchaser is a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands and has the requisite capacity, power and authority to execute this Agreement and to perform the obligations to which it thereby becomes subject, provided that the Purchaser shall have no liability for the discharge by it of any obligation hereunder unless and until the Approval and Vesting Order is granted;
 - (b) The Purchaser has taken all actions necessary to authorize the execution and delivery of this Agreement and, as of the Closing Date, the Purchaser shall have taken all actions necessary to authorize and complete the purchase of the **Limited Receivership Assets** in accordance with the provisions of this Agreement. This Agreement has been validly executed and delivered by the Purchaser, and this Agreement and all other documents executed and delivered on behalf of the Purchaser hereunder shall constitute valid and binding obligations of the Purchaser enforceable in accordance with their respective terms and conditions; and
 - (c) No approval or consent of any regulatory authority is required for the Purchaser to enter into this Agreement or to complete the purchase and sale contemplated herein, other than such regulatory approvals or consents, if any, as have been obtained as at the date hereof.

ARTICLE 4 CONDITIONS

4.1 Conditions - Purchaser

- (a) The obligation of the Purchaser to complete the Transaction is subject to the following conditions being fulfilled or performed at or prior to the Closing Time:
 - (i) all representations and warranties of the Vendor contained in this Agreement shall be true as of the Closing Date with the same effect as though made on and as of that date;
 - (ii) the Vendor shall have performed each of its obligations under this Agreement to the extent required to be performed on or before the Closing Date, including delivering the documents referred to in Section 5.2 to be delivered by the Vendor;

- (iii) no action or proceedings shall be pending or order issued to restrain or prohibit the completion of the Transaction contemplated by this Agreement; and
 - (iv) the subscription agreement contemplated by Article 4 of the A&R Restructuring Agreement shall have been entered into by Brio Gold Inc. (or the Purchaser) and Carpathian.
- (b) The parties hereto acknowledge that the foregoing conditions are for the exclusive benefit of the Purchaser. Any condition (other than the condition in Section 4.1(a)(iv) which cannot be waived by the Purchaser without Carpathian's consent) may be waived by the Purchaser in whole or in part.

4.2 Conditions – Vendor

- (a) The obligation of the Vendor to complete the Transaction is subject to the following conditions being fulfilled or performed at or prior to the Closing Date:
- (i) all representations and warranties of the Purchaser contained in this Agreement shall be true as of the Closing Date with the same effect as though made on and as of that date;
 - (ii) the Purchaser shall have performed each of its obligations under this Agreement to the extent required to be performed on or before the Closing Date, including delivering the Purchase Price and the documents referred to in Section 5.2 to be delivered by the Purchaser;
 - (iii) no action or proceedings shall be pending or order issued to restrain or prohibit the completion of the Transaction contemplated by this Agreement; and
 - (iv) all of the fees and disbursements of the Receiver and its counsel shall have been paid by Brio Gold Inc. in accordance with the Receivership Order.
- (b) The parties hereto acknowledge that the foregoing conditions are for the exclusive benefit of the Vendor. Any condition may be waived by the Vendor in whole or in part.

4.3 Conditions – Purchaser and Vendor

- (a) The obligations of the Vendor and the Purchaser under this Agreement are subject to the conditions that:
- (i) the Approval and Vesting Order shall have been granted by the Court on or before April 29, 2016 (the "**Court Approval Date**");
 - (ii) the Approval and Vesting Order shall not have been stayed, varied or vacated, and no order shall have been issued which restrains or prohibits the completion of the Transaction; and
- (b) The parties hereto acknowledge that the foregoing conditions are for the mutual benefit of the Vendor and the Purchaser.

4.4 Efforts to Fulfil Conditions of Closing

The Parties shall use commercially reasonable efforts to take or cause to be taken such actions as are reasonably necessary to satisfy and comply with, or assist the other Party in, the

satisfaction and compliance with the conditions precedent specified in Clause 4.1, Clause 4.2 and Clause 4.3.

4.5 Non-Satisfaction of Conditions

If any condition set out in this Article 4 is not satisfied or performed on or prior to the dates specified in subsections 4.1 through 4.3, the party for whose benefit the condition is inserted may:

- (a) waive compliance with the condition in whole or in part in its sole discretion by written notice to the other party and without prejudice to any of its rights of termination in the event of non-fulfilment of any other condition in whole or in part; provided, however, that the condition in Section 4.1(a)(iv) cannot be waived by the Purchaser without Carpathian's consent; or
- (b) elect on written notice to the other party to terminate this Agreement before Closing.

ARTICLE 5 CLOSING

5.1 Closing Date

Subject to the conditions set out in this Agreement, the completion of the Transaction shall take place at the Closing Time at the offices of Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, Ontario, M5L 1B9, or as otherwise determined by mutual agreement of the Parties in writing.

5.2 At Closing

- (a) Subject to satisfaction or waiver of the conditions of Closing by the relevant Party, at the Closing the Vendor shall:
 - (i) direct that Norton Rose Fulbright Canada LLP, as counsel to the Collateral Agent, deliver to the Purchaser the share certificate representing the OLC Brazil Shares;
 - (ii) deliver to the Purchaser the Assignment and Assumption Agreement duly executed by the Vendor;
 - (iii) deliver to the Purchaser a certificate confirming that all of the representations and warranties of the Vendor contained in this agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date; and
 - (iv) deliver to the Purchaser such other documents, instruments or certificates as the Purchaser may reasonably request.
- (b) Upon confirmation of satisfaction of all conditions to closing having been delivered and/or waived and receiving a certificate to such effect from the Purchaser, the Vendor shall deliver to the Purchaser the Receiver's Certificate (as defined in the Approval and Vesting Order) in respect of the Closing, duly executed by the Vendor pursuant to the Approval and Vesting Order.
- (c) Subject to satisfaction or waiver of the conditions of Closing by the relevant Party, at the Closing the Purchaser shall:

- (i) deliver to the Vendor payment of the Purchase Price and the Carpathian Release;
- (ii) deliver to the Vendor the Assignment and Assumption Agreement duly executed by the Purchaser;
- (iii) deliver to the Vendor a certificate confirming that all of the representations and warranties of the Purchaser contained in this agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date; and
- (iv) deliver to the Vendor such other documents, instruments or certificates as the Purchaser may reasonably request.

5.3 Post-Closing

Vendor shall file with the Court a copy of the Receiver's Certificate, as soon as practicable following the Closing.

5.4 Survival of Representations and Warranties

All representations, warranties, covenants and agreements of the Vendor and the Purchaser made in this Agreement or any other agreement, certificate or instrument delivered pursuant to this Agreement shall not survive Closing.

5.5 Limited Receivership Assets Acquired On "As Is" Basis

THE PURCHASER ACKNOWLEDGES THAT THE VENDOR IS SELLING THE LIMITED RECEIVERSHIP ASSETS ON AN "AS IS, WHERE IS" BASIS AS THEY SHALL EXIST ON THE CLOSING DATE. THE PURCHASER FURTHER ACKNOWLEDGES THAT IT HAS ENTERED INTO THIS AGREEMENT ON THE BASIS THAT THE VENDOR DOES NOT GUARANTEE TITLE TO THE LIMITED RECEIVERSHIP ASSETS AND THAT THE PURCHASER HAS CONDUCTED SUCH INSPECTIONS OF THE CONDITION OF AND TITLE TO THE LIMITED RECEIVERSHIP ASSETS AS IT DEEMED APPROPRIATE AND HAS SATISFIED ITSELF WITH REGARD TO THESE MATTERS. NO REPRESENTATION, WARRANTY OR CONDITION IS EXPRESSED OR CAN BE IMPLIED AS TO TITLE, ENCUMBRANCES, DESCRIPTION, FITNESS FOR PURPOSE, MERCHANTABILITY, CONDITION, QUANTITY OR QUALITY OR IN RESPECT OF ANY OTHER MATTER OR THING WHATSOEVER CONCERNING THE LIMITED RECEIVERSHIP ASSETS OR THE RIGHT OF THE VENDOR TO SELL OR ASSIGN SAME SAVE AND EXCEPT AS EXPRESSLY REPRESENTED OR WARRANTED HEREIN.

Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation do not apply hereto and have been waived by the Purchaser. The description of the Limited Receivership Assets contained herein are for the purpose of identification only. No representation, warranty or condition has or will be given by the Vendor concerning completeness or the accuracy of such descriptions.

ARTICLE 6 WAIVER

6.1 Waiver Must be in Writing

No waiver by any Party of any breach (whether actual or anticipated) or any of the terms, conditions, representations or warranties contained herein shall take effect or be binding upon that Party unless the waiver is expressed in writing under the authority of that Party. Any waiver so given shall extend only to the particular breach so waived and shall not limit or affect any rights with respect to any other future breach.

ARTICLE 7 NOTICE

7.1 Service of Notice

Any notice or other communication under this Agreement shall be in writing and may be delivered personally or transmitted by email, addressed in the case of the Purchaser, as follows:

Vendor: FTI Consulting Canada Inc.
TD Waterhouse Tower
79 Wellington Street West, Suite 2010
P.O. Box 104
Toronto, ON M5K 1G8

Attn: Nigel Meakin
Email: Nigel.Meakin@fticonsulting.com

with a copy to: Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario
M5L 1B9

Attn: Elizabeth Pillon
Email: lpillon@stikeman.com

Purchaser: Brio Finance Holdings B.V.
Prins Bernhardplein 200
1097 JB
Amsterdam, the Netherlands
Attn: L.F.M. Heine and K.A. Wouters
Email: liselotte.heine@intertrustgroup.com
kaj.wouters@intertrustgroup.com

with a copy to: Norton Rose Fulbright Canada LLP
Suite 3800
Royal Bank Plaza, South Tower
200 Bay Street
P.O. Box 84
Toronto, Ontario M5J 2Z4

Attn: Cathy Singer / Evan Cobb
Email: cathy.singer@nortonrosefulbright.com
evan.cobb@nortonrosefulbright.com

Any such notice or other communication, if given by personal delivery, will be deemed to have been given on the day of actual delivery thereof and, if transmitted by email before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day, and if transmitted by email after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission.

A Party may change its address for service by notice to the other Parties, and, such changed address for service thereafter shall be effective for all purposes of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

8.1 Further Assurances

At the Closing Date and thereafter as may be necessary, the Parties shall execute, acknowledge and deliver such instruments and take such other actions as may be reasonably necessary to fulfil their respective obligations under this Agreement.

8.2 Time

Time shall be of the essence in this Agreement.

8.3 No Amendment Except in Writing

This Agreement may be amended only by written instrument executed by the Vendor and the Purchaser; provided, however that the condition in Section 4.1(a)(iv) cannot be amended without the consent of Carpathian.

8.4 Assignment

Neither Party may assign its interest in or under this Agreement or to the Limited Receivership Assets without the prior written consent of the other Party; provided, however, that the Purchaser may assign all of its rights and obligations under this Agreement to an Affiliate, provided that: (a) the Purchaser shall remain liable to perform all of its obligations hereunder, and (b) the Purchaser and its assignee execute and deliver to the Vendor an assignment and assumption agreement, in form and substance satisfactory to the Vendor, acting reasonably, evidencing such assignment.

8.5 Consequences of Termination

If this Agreement is terminated in accordance with its terms prior to Closing, then except for the representations or other obligations breached prior to the time at which such termination occurs, the Parties shall be released from all of their obligations under this Agreement.

8.6 Supersedes Earlier Agreements

This Agreement supersedes all other agreements between the Parties with respect to the Limited Receivership Assets and expresses the entire agreement of the Parties with respect to the transactions contained herein. For greater certainty, nothing herein shall affect the Indemnity Agreement between FTI Consulting Canada Inc. and Brio Gold Inc., dated March 22, 2016, which shall continue in full force and effect.

8.7 Enurement

This Agreement shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.


8.8 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereto to the other Parties by e-mail in pdf format or by other electronic transmission and such transmission shall constitute delivery of an executed copy of this Agreement by the receiving party.

[Signature page follows]

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto on the date first above written.

**FTI CONSULTING CANADA INC., in its capacity
as receiver of certain of the assets,
undertakings and properties of Carpathian Gold
Inc. and not in its personal capacity**

Per: 
Name: Nigel D. Meakin
Title: Senior Managing Director

BRIO FINANCE HOLDINGS B.V.

Per: _____
Name:
Title:

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto on the date first above written.

**FTI CONSULTING CANADA INC., in its capacity
as receiver of certain of the assets,
undertakings and properties of Carpathian Gold
Inc. and not in its personal capacity**

Per: _____

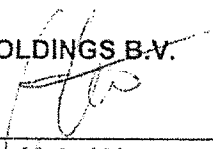
Name:

Title:

BRIO FINANCE HOLDINGS B.V.

Per: _____

Name:


K.A. Wouters

Title:

Managing Director B

SCHEDULE "A"

Form of Approval and Vesting Order

Court File No. _____

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

THE HONOURABLE _____) _____ DAY, THE ____ DAY
JUSTICE _____) OF _____, 20__

BETWEEN:

BRIO FINANCE HOLDINGS B.V.

Applicant

- and -

CARPATHIAN GOLD INC.

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by FTI Consulting Canada Inc., in its capacity as the Court-appointed receiver (the "**Receiver**") of certain assets of Carpathian Gold Inc. (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by a share and asset purchase agreement (the "**Sale Agreement**") between the Receiver and Brio Finance Holdings B.V., in its capacity as Administrative Agent and Collateral Agent (each as defined in the Sale Agreement) (the "**Purchaser**") dated ● and appended to the Report of the Receiver dated ● (the "**Report**"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "**Limited Receivership Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, the Purchaser and the Debtor, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ● sworn ● filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Limited Receivership Assets to the Purchaser. The Debtor is hereby authorized to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Limited Receivership Assets to the Purchaser including, without limitation, any documents necessary or desirable to transfer the OLV Membership to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Limited Receivership Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ● dated ●; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system, (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Limited Receivership Assets are hereby expunged and discharged as against the Limited Receivership Assets.

3. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Limited Receivership Assets shall stand in the place and stead of the Limited Receivership Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances (other than those Claims and

Encumbrances released by the Purchaser pursuant to the Carpathian Release (as defined in the Sale Agreement)) shall attach to the net proceeds from the sale of the Limited Receivership Assets with the same priority as they had with respect to the Limited Receivership Assets immediately prior to the sale as if the Limited Receivership Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. THIS COURT ORDERS that the Receiver is authorized and directed to apply any remaining proceeds of the Limited Receivership Assets in partial payment of its fees.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. THIS COURT ORDERS that, notwithstanding:

a) the pendency of these proceedings;

b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and

c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Limited Receivership Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States or elsewhere to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule A – Form of Receiver’s Certificate

Court File No. _____

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

BRIO FINANCE HOLDINGS B.V.

Applicant

- and -

CARPATHIAN GOLD INC.

Respondent

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ● of the Ontario Superior Court of Justice (the "Court") dated ●, FTI Consulting Canada Inc. was appointed as the receiver (the "Receiver") of certain assets of Carpathian Gold Inc. (the "Debtor").

B. Pursuant to an Order of the Court dated ●, the Court approved the share and asset purchase agreement made as of ● (the "Sale Agreement") between the Receiver and Brio Finance Holdings B.V. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Limited Receivership Assets, which vesting is to be effective with respect to the Limited Receivership Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Limited Receivership Assets; (ii) that the conditions to Closing as set out in articles 4 and 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Limited Receivership Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in articles 4 and 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**FTI Consulting Canada Inc., in its capacity as
Receiver of certain assets of Carpathian
Gold Inc., and not in its personal capacity**

Per: _____
Name:
Title: