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COURT FILE NUMBER 2001-05630

COURT COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE CALGARY

APPLICANTS **IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC, DOMINION FINCO INC. and DOMINION DIAMOND MARKETING CORPORATION**

DOCUMENT

**AFFIDAVIT**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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**AFFIDAVIT OF BRENDAN BELL**

**Sworn on December 7, 2020**

I, Brendan Bell, of Kelowna, British Columbia, MAKE OATH AND SAY THAT:

*RB*

## I. INTRODUCTION

1. I am a director of Dominion Diamond Mines ULC ("**Dominion Diamond**" and, together with the other entities listed as applicants in these proceedings, "**Dominion**" or the "**Applicants**"). As such, I have personal knowledge of the matters deposed to in this affidavit, except where stated to be based upon information provided to me, in which case I believe the same to be true.

2. I have sworn four prior affidavits in these *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"), including an affidavit sworn May 21, 2020, an affidavit sworn June 12, 2020, an affidavit sworn on October 4, 2020, and an affidavit dated October 23, 2020. Capitalized terms not otherwise defined in this affidavit have the meanings ascribed to them in my prior affidavits.

3. As described in my prior affidavits, I have served as Dominion Diamond's Independent Director since the commencement of these CCAA proceedings. In this capacity, I have had more than 75 Independent Director meetings with various participants in attendance. These meetings have not always included the same participants, but have throughout this process included, at appropriate times, certain representatives of Evercore (the Applicants' financial advisor), certain members of management, and always Dominion Diamond's legal advisors.

4. This affidavit is sworn in support of Dominion's application for an order, among other things, (a) approving the Asset Purchase Agreement (the "**Purchase Agreement**") by and among the Applicants, as vendors (the "**Dominion Vendors**"), and DDJ Capital Management, LLC and Western Asset Management Company, LLC, as purchasers (the "**Contracting Purchasers**"); and (b) extending the Stay Period granted in these CCAA proceedings from December 15, 2020 to March 1, 2021 (which date roughly coincides with the Outside Date under the Purchase Agreement as potentially extended).

5. The transaction contemplated by the Purchase Agreement provides for a going concern sale of substantially all the Applicants' assets (but not including the joint venture obligations related to the Diavik Mine) to one or more the purchasers designated as such by the Contracting Purchasers in accordance with the Purchase Agreement (collectively, the "**Purchaser**").

6. The Contracting Purchasers are part of a group of holders of second lien notes referred to in these proceedings as the Ad Hoc Group. I understand that the Ad Hoc Group members hold in excess of 50% of the US\$550 million face value of Dominion's second lien notes. The acquisition of the Applicants' assets by the Purchaser is supported by (among others) Dominion's

First Lien Lenders, who have advanced to Dominion US\$150 million under a Revolving Facility in the form of draws totalling approximately US\$70 million in cash with a further approximate CDN\$110 million having been utilized for the purposes of obtaining letters of credit.

## **II. DOMINION'S SALE EFFORTS AND PROCESS**

### **A. Background**

7. As discussed in my earlier affidavits, prior to these CCAA proceedings I was involved in three (3) strategic review processes to, among other things, solicit the sale of Dominion's assets to a third-party. The first two (2) of these strategic processes were undertaken with the assistance of a bank-owned financial advisor in each of 2015 and 2016 and did not produce a buyer. The third strategic process was undertaken in 2017 and resulted in one (1) formal offer to acquire the company, being the offer that led to the acquisition of Dominion by The Washington Companies ("**Washington**").

8. After the company's acquisition by Washington, Dominion faced several financial challenges that culminated in the company's need to seek protection under the CCAA.

9. As noted at the June 19, 2020 hearing before this Court and set out in the consolidated statement of loss found at Exhibit D to Ms. Kaye's April 21, 2020 affidavit, Dominion lost a combined US\$332 million in 2018 and 2019. Additionally, again as outlined by Ms. Kaye in her affidavit, the ability of Dominion to conduct business and generate revenue and liquidity prior to the commencement of these CCAA proceedings had been constrained by the company's highly leveraged capital structure (which includes the US\$150 First Lien Lenders' facility and the US\$550 million in second lien notes). These financial woes were exacerbated and materially impacted in the first quarter of 2020 by COVID-19, cash calls by Dominion's joint venture partner at the Diavik Mine, increasing trade debt owing to suppliers, and finally an impending US\$20 million interest payment due May 1, 2020 to the holders of the second lien notes (which interest payments are due semi-annually and a further US\$20 million would have had to be paid November 1, 2020 but for these CCAA proceedings).

10. These circumstances and constraints led Dominion to apply for and to obtain from this Court on April 22, 2020 protection from the company's creditors pursuant to an initial order under the CCAA.

**B. The Washington Stalking Horse Bid and SISP**

11. It was clear to Dominion at the time it applied for and obtained CCAA protection on April 22, 2020 that the company faced several challenges that needed to be addressed in a manner that would allow the company to continue operating as a going concern. To this end, in her affidavit dated April 21, 2020 and sworn in support of Dominion's application for protection under the CCAA, Ms. Kaye advised that Dominion's plan while under CCAA protection involved, among other things, efforts to undertake a sale and investment solicitation process to maximize the value of Dominion's business and property for the benefit of stakeholders.

12. On April 22, 2020, upon the granting of the initial CCAA order, Dominion issued a press release advising the public and interested parties of the commencement of these CCAA proceedings. In this press release, Dominion disclosed that it intended to use these CCAA proceedings to engage in discussions with its lenders, creditors, equity sponsor, and other stakeholders, and to solicit and evaluate strategic alternatives to restructure financially and operationally. Dominion's press release also noted that the company had received and was considering a proposal from a Washington affiliate to provide debtor-in-possession financing which would help provide sufficient liquidity through the CCAA process and be conditional upon Dominion agreeing to: (a) a memorandum of understanding regarding a possible sale of Dominion's assets to an affiliate of Washington, as a stalking horse bidder; and (b) bidding procedures for the solicitation of competing offers to such asset sale, either to purchase Dominion's assets or to make an investment in the company.

13. While the restructuring proposal contemplated by Dominion's April 22, 2020 press release would not be approved by this Court until June 19, 2020, Dominion's financial advisor, Evercore, commenced steps to advance a market solicitation process for Dominion's assets upon the granting of the initial CCAA order. Such steps, which are more fully detailed in the affidavits of John Startin sworn on May 21, 2020 and June 12, 2020, included Evercore contacting thirty-eight (38) potential bidders (including Washington) in the relatively limited pool of potential purchasers for Dominion's complex and unique business and assets.

14. The sale and investment solicitation process (the "**SISP**") contemplated by Dominion's April 22, 2020 press release, which formally commenced on June 19, 2020 with this Court's approval of the SISP and a Stalking Horse Bid by a Washington affiliate, ended upon the expiry of the Second Extended Phase 2 Deadline under the SISP on September 15, 2020.

15. The SISP did not result in a qualified bid other than that of the Stalking Horse Bidder. Nor did any third-parties come forward with their own competing stalking horse offer in the approximately two (2) months between the commencement of these CCAA proceedings in April and the formal start of the SISP process in June notwithstanding the public nature of these CCAA proceedings.

16. As explained in detail in my October 4, 2020 affidavit, in a letter dated September 15, 2020 (i.e., the Second Extended Phase 2 Deadline), counsel to the Ad Hoc Group wrote to counsel to Dominion requesting that Dominion not proceed with the Stalking Horse Bid (notwithstanding that no other qualified bids were received in the SISP) and instead engage in discussions with the Ad Hoc Group on an alternate transaction path. Prior to sending this letter, as described in my October 4, 2020 affidavit, the Ad Hoc Group had participated in the SISP including by submitting a Phase 1 bid that the Ad Hoc Group subsequently withdrew.

17. For the reasons set out in my October 4, 2020 affidavit, including the considerations that informed my views on the appropriateness of implementing the SISP, the value of the Stalking Horse Bid, and the granting of extensions to the SISP timelines in the form of the First and Second Extended Phase 2 Bid Deadlines, I determined that it was in the best interest of Dominion and its stakeholders generally that Dominion continue to move forward with the transaction contemplated by the Stalking Horse Bid.

**C. The Unavailability of the Washington Stalking Horse Transaction and Pursuit of Alternate Restructuring Options**

18. The transaction contemplated by the Washington Stalking Horse Bid was the culmination of a multi-month effort by Dominion, with the support of the First Lien Lenders and other key stakeholders, to find a going concern solution to Dominion's financial challenges that would save the Ekati Mine and its attendant jobs, contracts, impact benefit agreements, tax revenue, and satisfy the company's environmental reclamation obligations, all to the benefit of Dominion's stakeholders generally.

19. However, five days after swearing my October 4, 2020 affidavit in support of the approval of the transaction contemplated by the Stalking Horse Bid, Dominion issued a press release announcing that its court application for approval of such transaction (scheduled for October 14, 2020) would not be proceeding. As discussed in my October 23, 2020 affidavit, Dominion's decision to issue this press release was necessitated by the inability of the Stalking Horse

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Purchasers and Dominion's Surety Bond Issuers to reach an agreement relating to a material closing condition.

20. The break-down in negotiations between the Stalking Horse Purchasers and the Surety Bond Issuers had an obvious and significant impact on these CCAA proceedings.

21. With the transaction contemplated by the Washington Stalking Horse Bid no longer an option, Dominion commenced working diligently with the assistance of its legal counsel and Evercore, and in consultation with the Monitor, to assess all its available options. As discussed in my October 23, 2020 affidavit, sworn in support of Dominion's request for an extension to the CCAA Stay Period, Dominion's efforts in this regard involved discussions with numerous stakeholders including the First Lien Lenders, the Ad Hoc Group, the Government of the Northwest Territories (the "GNWT"), the Surety Bond Issuers, and others.

22. Since this Court granted Dominion's request for an extension of the Stay Period to December 15, 2020, Dominion has continued consultation with its stakeholders regarding available restructuring objectives, including by continuing to facilitate discussions among the First Lien Lenders, the Ad Hoc Group, and other stakeholders as well as their respective legal and financial advisors. In the course of these discussions, Dominion, with the assistance of its financial advisors, has shared confidential information, documentation, analysis, and financial models with both the First Lien Lenders and the Ad Hoc Group to assist both parties in assessing and considering various options including potential restructuring transactions.

23. As stated in the Ninth Report of the Monitor dated November 15, 2020, as of November 13, 2020, as a result of the efforts noted above, the First Lien Lenders and the Ad Hoc Group had agreed in principle, subject to agreement on binding terms, to a restructuring transaction involving Dominion's business. Subject to being formalized and approved by this Court, the proposed transaction under discussion among the First Lien Lender and the Ad Hoc Group would see Dominion recapitalized and able to continue to operate as a going concern with a planned restart of mining operations in early 2021.

24. Based on these developments, on November 13, 2020, Dominion issued a press release advising that, in anticipation of the First Lien Lenders and the Ad Hoc Group reaching an agreement, Dominion has determined to recall sixty (60) furloughed employees effective early December 2020. This decision was necessary given the lead times required to mobilize the

workforce while adequately complying with COVID-19 isolation protocols. A copy of Dominion's press release is attached as Appendix "A" to the Ninth Report of the Monitor.

### III. THE AD HOC GROUP TRANSACTION

25. On December 6, 2020, the First Lien Lenders and the Ad Hoc Group entered into a Mutual Support Agreement (the "**Support Agreement**") regarding an acquisition transaction (the "**Transaction**") in respect of Dominion to be implemented within the context of these CCAA proceedings.

26. The Purchase Agreement, a copy of which will be attached as Schedule "A" to the Approval and Vesting Order being sought by the Applicants, includes among others the following terms (with capitalized terms utilized in the table below that are not otherwise defined in this affidavit having the meanings ascribed to them in the Purchase Agreement):

Term	Details
Restart of Operations (s. 7.1(a)(i) of the Purchase Agreement)	Dominion shall take all actions reasonably necessary or appropriate in furtherance of re-starting operations and shall in any case ensure that such operations are re-started by no later than January 29, 2021.
Purchase Price (s. 4.1 of the Purchase Agreement)	The Purchase Price for the Acquired Assets to be paid and satisfied by the Purchaser is the aggregate of:  (a) the value of the Pre-filing Indebtedness Assumption, being the assumption by the Purchaser on Closing (or the repayment on Closing if such repayment is in accordance with the Support Agreement) of US \$70,000,000 of outstanding Indebtedness under the Pre-filing Credit Agreement, on and subject to the terms and conditions set out in the Support Agreement and the definitive documents to be delivered pursuant thereto);  (b) the value of the Indemnity Assumption, being the assumption by Purchaser on Closing of indemnity and related obligations in respect of certain surety bonds in the face amount of CDN \$278,970,785 issued by the Surety Bond Issuers for the benefit of the Dominion Vendors, on and subject to the terms and conditions set out in the Sureties Support Confirmations and the definitive documents to be delivered pursuant thereto; and  (c) the value of the Assumed Liabilities.

Term	Details
Additional Consideration/Capitalization (s. 4.3 of the Purchase Agreement)	Concurrently with Closing, the Contracting Purchasers shall provide to Purchaser new financing of US \$70,000,000 to fund Purchaser's post-Closing satisfaction of Assumed Liabilities, which amount includes payment of the Cure Amount, operations at the Ekati Mine, and general working capital, all on and subject to the terms and conditions set out in the Support Agreement and the definitive documents to be delivered pursuant thereto.
Acquired and Excluded Assets (ss. 3.1 and 3.2 of the Purchase Agreement)	<p>The Purchaser will acquire substantially all the assets used in connection with the Dominion Vendors' business as well as all of the Dominion Vendors' rights and interests in relation to the receipt of realizations and recoveries from or in respect of the Diavik Joint Venture Interest, which shall be assigned to Purchaser subject only to the continuing liens and charges of the First Lien Lenders pursuant to the Pre-filing Credit Agreement until such time as all letters of credit issued by the First Lien Lenders in respect of the Diavik Mine have been cash collateralized or cancelled and all related fees have been paid.</p> <p>The Purchaser will not acquire Excluded Assets which include (a) the Diavik Joint Venture Agreement; (b) Excluded Contracts; (c) shares of certain subsidiaries; and (d) assets that are removed from the Acquired Assets.</p>
Assumption of Liabilities (ss. 3.3 & 3.6 of the Purchase Agreement)	<p>The Purchaser will assume substantially all go forward operating liabilities of the Dominion Vendors, including all obligations of the Dominion Vendors under their operational contracts to employees and unions, First Nations and aboriginal groups, and the GNWT, in each case on the terms set out in the Purchase Agreement.</p> <p>The Purchaser is entitled to make additions, deletions or modifications to the contracts being assigned after the date of the granting of the Approval and Vesting Order.</p> <p>The Purchaser and the Dominion Vendors will consider whether there are any contractual obligations in connection with the operations of the Ekati Mine that should not be assigned to the Purchaser.</p>
GNWT Royalties (s. 7.15 of the Purchase Agreement)	Prior to or concurrent with the Closing, the Dominion Vendors will pay and/or otherwise obtain releases in full in a form satisfactory to the Contracting Purchasers of all obligations in respect of any period that are due and payable prior to Closing in respect of royalties or similar payment obligations to the GNWT, which shall include all royalty and similar payments obligations to GNWT in respect of fiscal year 2019. Payment of

Term	Details
	such amounts to the GNWT was also a requirement under the Stalking Horse Bid.
Wind-Down Account and Diavik Realization Account (7.1)	In order to facilitate the orderly wind down of the Dominion entities, at Closing, the Company will fund segregated bank accounts from cash on hand with US\$250,000 for wind down costs and US\$1,000,000 for costs relating to the administration of the Diavik Interest.
Employees (s. 8.1 of the Purchase Agreement)	Subject to certain terms specified in the Purchase Agreement, the Purchaser shall offer employment to substantially all employees of the Dominion Vendors and assume all employee benefit plans, pension plans, union and collective bargaining arrangements, and other employee arrangements on their existing terms.
Conditions (Articles 9 & 10 of the Purchase Agreement)	Closing of the Transaction contemplated by the Purchase Agreement is subject to customary and various conditions, including (a) approval by this Court of the Purchase Agreement; (b) regulatory approvals having been obtained; (c) an Assignment Order having been granted if necessary; and (d) the First Lien Lenders and the Purchasers having executed and delivered the definitive documentation contemplated in the Support Agreement. There is no financing condition.
Closing and Outside Date (s. 12(b)(i) of the Purchase Agreement)	The parties will seek to close as soon as reasonably possible following court approval and the target date for closing is February 1, 2020 which coincides with the Outside Date for closing (subject to no more than four (4) seven (7) day extensions).

27. On December 4, 2020, Dominion's Surety Bond Issuers provided to the Contracting Purchasers the Sureties Support Confirmations contemplated by the Purchase Agreement confirming that upon the completion of the Transaction, the Surety Bond Issuers will issue the necessary documentation to replace Dominion's existing surety bond coverage as detailed in an agreed upon form of general indemnity agreement with agreed upon form of schedules, upon finalizing certain limited notes to draft, with the same coverage for the Purchaser and subject to the applicable terms.

28. In addition to the terms outlined above, the Purchase Agreement (s. 12.4) provides that, in consideration of the Contracting Purchasers having expended considerable time and expense in connection with the Purchase Agreement and the negotiation thereof, and the identification and

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quantification of assets to be included in the Acquired Assets, if: (a) the Purchase Agreement is terminated or the Transaction is not completed for any reason other than the Contracting Purchasers' non-compliance with their obligations under the Purchase Agreement; and (b) an alternative transaction is consummated within nine (9) months of the date of the Purchase Agreement for the sale or restructuring of the Dominion Vendors or any material portion of their assets and pursuant to which Indebtedness under the Pre-filing Credit Agreement is repaid in full in cash ("**Alternate Transaction**"), then in such event (and in addition to such other expense reimbursement amounts to which the Contracting Purchasers may be entitled pursuant to the Purchase Agreement), the Dominion Vendors will pay to the Contracting Purchasers immediately following the closing of such Alternate Transaction an amount equal to US\$2,522,140 (the "**Break-Up Fee**") as consideration for the disposition of the Contracting Purchasers' rights under the Purchase Agreement.

29. The Dominion Vendors' obligation to pay the Break-Up Fee survives termination of the Purchase Agreement and is to be secured by a charge against all of the Dominion Vendors' properties and assets, which charge will rank subsequent to: (a) other priority charges ordered by this Court in the CCAA proceedings prior to the date of the Purchase Agreement; and (b) charges in respect of Indebtedness under the First Lien Lenders' Pre-filing Credit Agreement (as defined in the Purchase Agreement).

30. If the APA is terminated solely as a result of a material breach by any Contracting Purchaser, Dominion Vendors, as their sole remedy, shall be entitled to liquidated damages in the amount of US\$7,000,000.

#### **IV. SAVING DOMINION'S BUSINESS IS IN THE BEST INTERESTS OF DOMINION'S STAKEHOLDERS**

31. As noted in my June 12, 2020 affidavit, as a result of the unique and complex challenge of operating the Ekati Mine and the downward pressure on diamond markets, there is a limited number of potential purchasers who would be interested in acquiring Dominion's assets.

32. The Ekati Mine is also unique in the sense that it has a strategic importance for its stakeholders in the Northwest Territories. In my view, as a material taxpayer and the second largest non-governmental employer in the Northwest Territories (with over 40% of employees being Northern residents), the continuation of the Ekati Mine as a going concern is critical to, among others, the Northwest Territories, Dominion's Northern-based employees and contractors,

and Northern communities generally. The importance of Dominion's business for these stakeholders cannot be overstated.

33. Due to its strategic importance and significant impact on Dominion's stakeholders, and Northern and Northern Indigenous stakeholders in particular, one of my primary considerations in exercising my functions as Independent Director has been to identify a restructuring path for Dominion that provides the best opportunity for the Ekati Mine to restart operations and continue as a going concern.

34. The fact that the Purchase Agreement contemplates that the Purchaser will assume substantially all of the go-forward operating liabilities of the Dominion Vendors (but not the obligations related to the Diavik Interest), including substantially all obligations (a) of the Dominion Vendors under Dominion's go-forward operational contracts; (b) to employees and unions (including obligations under Dominion's collective bargaining agreements and pension plan); (c) to Indigenous groups; and (d) to the GNWT, is in my view a crucial benefit to those who depend on Dominion's business operations for their livelihoods and economic wellbeing.

35. With respect to its go-forward contracts, Dominion has worked diligently with many of its trade creditors and suppliers as well as with the Purchaser to identify those parties who are critical to Dominion's restructuring. Dominion has engaged in confidential settlement discussions with many such parties and has reached agreements with various trade creditors and suppliers (many of whom have filed miner's lien claims) to restructure their debt, including in many cases by way of reduced total payment, partial payment upon or soon after closing of the Transaction, and/or payments over defined periods of time.

36. In addition to the benefit of a going concern outcome on Dominion's stakeholders, my deliberations with respect to the Purchase Agreement in my capacity as Independent Director considered many factors including, among others, the consideration offered, transaction structure, conditions and certainty of closing, and support of the First Lien Lenders and other affected stakeholders. Consideration was also given to the detailed canvassing of the market through the SISP, as well as the current circumstances facing Dominion and the diamond market.

37. With respect to market exposure, as noted above, I was involved in three (3) strategic review processes to, among other things, solicit the sale of Dominion's assets to a third-party prior to the commencement of these CCAA proceedings. As described in my prior affidavits as well as the affidavits sworn by John Startin of Evercore, Dominion has also made substantial and

continuous good faith efforts to market its assets in the context of these CCAA proceedings. However, notwithstanding a thorough exploration and canvassing of the market over the course of more than five (5) months, Washington and the Ad Hoc Group were the only parties that have come forward with bids for the company's assets.

38. With the Washington Stalking Horse Bid no longer available, based on my knowledge of Dominion's business, experience in the Northwest Territories, including in the diamond mining industry, and participation in three (3) prior strategic processes for the sale of Dominion's assets, it is my view that the Transaction contemplated by the Purchase Agreement is the best executable alternative for Dominion at this time and in the circumstances and is in the best interest of Dominion and its stakeholders.

#### **V. STAY EXTENSION**

39. The Applicants' proposed stay extension up to and including March 1, 2021, which roughly coincides with the Outside Date as may potentially be extended under the Purchase Agreement, is required to permit a closing of the Transaction, provide the necessary breathing room for the Applicants as they continue to work towards their restructuring objectives, and permit the Applicants to attend to the various other CCAA matters that will arise, all for the benefit of their stakeholders.

#### **VI. CONCLUSION**

40. I remain of the view that Dominion's business has value and is deserving of being saved. I say this considering not only the interests of Dominion, but also those of various stakeholders, including Northern communities, employees, retired employees, contractors, the environment, and creditors. Based on my direct personal knowledge of Dominion's business and experience in the Northwest Territories, and after considering all of the professional advice I have received, I am of the view that approval of the Purchase Agreement is warranted at this time, is the appropriate course of action, and will benefit the Applicants and their stakeholders generally. I am further of the view that the Applicants have acted, and are continuing to act, in good faith and with due diligence in respect of these CCAA proceedings.



**VII. PROCESS FOR COMMISSIONING OF THIS AFFIDAVIT**

41. I am not physically present before the Commissioner for Oaths (the "**Commissioner**") taking this affidavit, but I am linked with the Commissioner by video technology. The following steps have been or will be taken by me and the Commissioner:

- (a) I have shown the Commissioner the front and back of my current government-issued photo identification ("**ID**") and the Commissioner has compared my video image to the information on my ID;
- (b) the Commissioner has taken a screenshot of the front and back of my ID to retain it;
- (c) the Commissioner and I have a paper copy of this affidavit before us;
- (d) the Commissioner and I have reviewed each page of this affidavit to verify that the pages are identical and have initialed each page in the lower right corner;
- (e) at the conclusion of our review of the affidavit, the Commissioner administered the oath to me, and the Commissioner watched me sign my name to this affidavit; and
- (f) I will send this signed affidavit electronically to the Commissioner.

SWORN BEFORE ME by two-way video )  
conference on December 7, 2020. )

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 A Commissioner for Oaths in and for the )  
 Province of Alberta )  
 Morgan E. Crilly )  
 Barrister & Solicitor )

\_\_\_\_\_) **BRENDAN BELL**

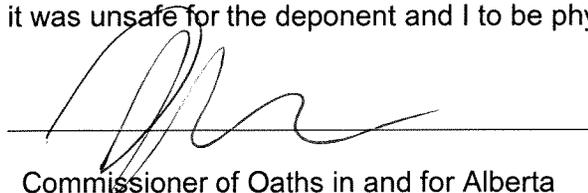
## APPENDIX A

### Certificate of Commissioning by Videoconference

I, Morgan Crilly, Commissioner of Oaths in and for Alberta, took the affidavit of Brendan Bell via videoconference on December 7, 2020 (the "**Affidavit**").

The affiant and I followed the process outlined by the Alberta Court of Queen's Bench in Notice to the Profession and Public #2020-02 dated March 25, 2020. In addition to the steps described in the Affidavit, I compared each page of the copy I received from the affiant with the initialed copy that was before me while I was linked by videoconference with the affiant. Upon being satisfied that the two copies were identical, I affixed my name to the jurat.

On March 17, 2020, the Government of Alberta declared a state of public health emergency pursuant to the Alberta *Public Health Act* in response to the COVID-19 pandemic. The Government of Alberta also strongly recommends that all individuals stay home and avoid contact with others whenever possible. Therefore, I am satisfied that this process was necessary because it was unsafe for the deponent and I to be physically present together.

A handwritten signature in black ink, appearing to read 'Morgan E. Crilly', is written over a horizontal line.

Commissioner of Oaths in and for Alberta

Morgan E. Crilly  
Barrister & Solicitor