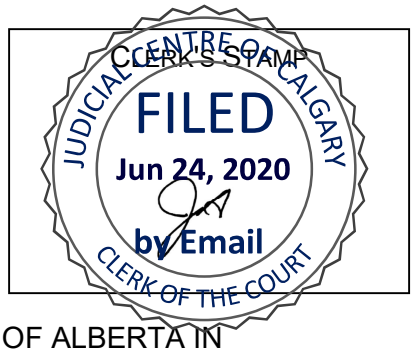

COURT FILE NUMBER	2001-05630
COURT	COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE	CALGARY
APPLICANTS	**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED** **AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF DOMINION DIAMOND MINES ULC, DOMINION DIAMOND DELAWARE COMPANY, LLC, DOMINION DIAMOND CANADA ULC, WASHINGTON DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND HOLDINGS, LLC AND DOMINION FINCO INC.**
DOCUMENT	**SECOND AMENDED AND RESTATED INITIAL ORDER**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**BLAKE, CASSELS & GRAYDON LLP** Barristers and Solicitors 3500 Bankers Hall East 855 – 2nd Street SW Calgary, Alberta T2P 4J8 Attention: Peter L. Rubin / Peter Bychawski / Claire Hildebrand / Morgan Crilly Telephone No.: 604.631.3315 / 604.631.4218 / 604.631.3331 / 403.260.9657 Email: peter.rubin@blakes.com / peter.bychawski@blakes.com / claire.hildebrand@blakes.com / morgan.crilly@blakes.com Fax No.: 604.631.3309 File: 00180245/000013

DATE ON WHICH ORDER WAS PRONOUNCED:	June 19, 2020
LOCATION OF HEARING:	Calgary
NAME OF JUDGE WHO MADE THIS ORDER:	The Hon. Madam Justice K. Eidsvik

UPON the application of Dominion Diamond Mines ULC ("**Dominion Diamond**"), Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC, and Dominion Finco Inc. (collectively, the "**Applicants**"); **AND UPON** having read the Applicants' Amended Notice of Application, filed, the Affidavits of Brendan Bell, sworn May 21, 2020 and June 12, 2020, filed, the Affidavit of Patrick Merrin, sworn May 11, 2020 (the "**Merrin Affidavit**"), filed, the Affidavits of John Startin, sworn May 21, 2020 (the "**Startin May Affidavit**") and June 12, 2020, filed, the Affidavits of Thomas Croese, sworn May 7, 2020, May 28, 2020 and June 16, 2020, respectively, filed, the Affidavit of Eric Hoff, sworn June 17, 2020, filed, the Affidavit of Matthew Quinlan, sworn June 16, 2020, filed; **AND UPON** service having been effected in accordance with the Caselines Service Order of this Court dated May 29, 2020 and being advised that the secured creditors who are likely to be affected by the charges created herein have been provided notice of this application; **AND UPON** hearing counsel for the Applicants, counsel for the Monitor, counsel for the Government of the Northwest Territories, counsel for the Washington Group of Companies, counsel for Credit Suisse AG, counsel for the Public Service Alliance of Canada, counsel for Procon Mining & Tunnelling Ltd., counsel for Dyno Nobel Canada Inc. and Dene Dyno Nobel, counsel for the Ad Hoc Group of Bondholders, counsel for Wilmington Trust, National Association, counsel for Matthew Quinlan, counsel for Diavik Diamond Mines (2012) Inc. ("**DDMI**") and any other counsel present; **AND UPON** reading the Fourth Report of FTI Consulting Canada Inc. (the "**Monitor**"), the Supplement to the Fourth Report of the Monitor, and the Fifth Report of the Monitor, each filed;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the notice of application for this order (the "**Order**") is hereby abridged and deemed good and sufficient and this application is properly returnable today. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Affidavit of Kristal Kaye sworn April 21, 2020, in the within proceedings.

APPLICATION

2. The Applicants are companies to which the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") applies.

PLAN OF ARRANGEMENT

3. The Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. The Applicants shall:

   (a) subject to DDMI's rights in respect of the Dominion Products (as defined herein) as set forth at paragraph 16 of this Order, remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**");

   (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property;

   (c) be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order; and

   (d) be entitled to continue to utilize the central cash management system currently in place as described in the Affidavit of Kristal Kaye sworn April 21, 2020 or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any

claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. To the extent permitted by law, the Applicants shall be entitled but not required to make, in each case in accordance with the Definitive Documents (as defined below), the following advances or payments of the following expenses, incurred prior to or after this Order:

   (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;

   (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order; and

   (c) with the consent of the Monitor, obligations owing for goods and services supplied to the Applicants prior to the date of this Order if, in the opinion of the Applicants after consultation with the Monitor, the supplier or vendor of such goods or services is necessary for the operation or preservation of the Business or Property, provided that such payments shall not exceed $5,000,000 in the aggregate without prior authorization by this Court.

6. Except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay, in each case in accordance with the Definitive Documents, all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

   (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and

   (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

7. The Applicants shall remit, in accordance with legal requirements, or pay:

   (a) any statutory deemed trust amounts in favour of the Crown in Right of Canada or of any Province thereof or any other taxation authority that are required to be deducted from employees' wages, including, without limitation, amounts in respect of:

      (i) employment insurance,

      (ii) Canada Pension Plan, and

      (iii) income taxes,

      but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

   (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and

   (c) any amount payable to the Crown in Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and that are attributable to or in respect of the carrying on of the Business by the Applicants.

8. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicants from time to time for the period commencing from and including the date of this Order, but shall not pay any rent in arrears.

9. Except as specifically permitted in this Order, the Applicants are hereby directed, until further order of this Court:

   (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of the date of this Order, provided however that the Applicants are authorized to pay interest accruing under the Existing Credit Facility in the ordinary course in accordance with the DIP Budget (as such terms are defined in the Interim Financing Term Sheet);

   (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and

   (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. The Applicants shall, subject in each case to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents, have the right to:

   (a) permanently or temporarily cease, downsize or shut down any portion of their business or operations and to dispose of redundant or non-material assets not exceeding $250,000 in any one transaction or $2,000,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicants (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;

   (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate on such terms as may be agreed upon between the Applicants and such employee, or failing such agreement, to deal with the consequences thereof in the Plan;

   (c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor or further Order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with section 32 of the CCAA; and

(d) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "**Restructuring**").

11. The Applicants shall provide each of the relevant landlords with notice of the Applicants' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal. If the landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further order of this Court upon application by the Applicants on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicants disclaim or resiliate the lease governing such leased premises in accordance with section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any such dispute other than Rent payable for the notice period provided for in section 32(5) of the CCAA, and the disclaimer or resiliation of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

12. If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, then:

(a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice; and

(b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicants of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein

shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

13. Subject to paragraph 16 of this Order, until and including September 28, 2020, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**"), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:

(a) empower the Applicants to carry on any business that the Applicants are not lawfully entitled to carry on;

(b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;

(c) prevent the filing of any registration to preserve or perfect a security interest;

(d) prevent the registration of a claim for lien;

(e) exempt the Applicants from compliance with statutory or regulatory provisions relating to health, safety or the environment; or

(f) prevent DDMI from making Diavik JVA Cover Payments in accordance with the terms of the Diavik JVA.

15. Nothing in this Order shall prevent any party from taking an action against the Applicants where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity. Subject to paragraph 35 of this Order, nothing in this Order shall prevent the Interim Lenders (as defined below) from providing any notice or taking or declining to take any action permitted by the Interim Financing Term Sheet.

NO INTERFERENCE WITH RIGHTS

16. During the Stay Period, no person shall accelerate, suspend, 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 Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court, provided however, that DDMI, in its capacity as manager under the Diavik JVA, be and is hereby authorized to hold an amount of Dominion Diamond's share of production from the Diavik Mine equal to the total value of the JVA Cover Payments made by DDMI (the "**Dominion Products**") at the Diavik Production Splitting Facility in Yellowknife, Northwest Territories (the "**PSF**") and the value of the Dominion Products shall be determined based on royalty valuations performed from time to time at the PSF by the Government of the Northwest Territories. DDMI shall hold the Dominion Products in trust, and subject to the following conditions:

(a) DDMI shall segregate the Dominion Products from DDMI's share of production from the Diavik Mine pursuant to and in accordance with the Agreement to establish a Protocol for Diamond Splitting Production, dated January 7, 2003, as amended, modified, supplemented or restated from time to time;

(b) DDMI shall provide adequate safeguarding of, and insurance coverage for, the Dominion Products;

(c) DDMI shall provide each of Dominion Diamond and the Monitor with reporting and records on the Dominion Products as may be requested by Dominion Diamond or the Monitor;

(d) DDMI shall permit reasonable access to Dominion Diamond and the Monitor to attend at the PSF and audit or inspect the Dominion Products;

(e) on the happening of any of the following dates, events or ocurrences, or with leave of the Court, DDMI shall be entited to apply to this Honourable Court to seek an Order allowing it to exercise rights and remedies as against the Dominion Products:

(i) the date that the within CCAA proceedings are terminated;

(ii) the date that the Interim Lenders take any action to enforce the Interim Lenders' Charge, whether pursuant to the Interim Financing Term Sheet, the Definitive Documents or at law generally;

(iii) any time after the Phase 1 Bid Deadline, when there is no Phase 1 Qualified Bid or Phase 2 Qualified Bid (including the Stalking Horse Bid) which includes the assets owned by Dominion in the Diavik Joint Venture; and

(iv) November 1, 2020.

CONTINUATION OF SERVICES

17. During the Stay Period, all persons having:

(a) statutory or regulatory mandates for the supply of goods and/or services; or

(b) oral or written agreements or arrangements with the Applicants, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Applicants

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Applicants or exercising any other remedy provided under such agreements or arrangements. The Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with the payment practices of the Applicants, or such other practices as may be agreed

upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. Nothing in this Order has the effect of prohibiting a person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any person, other than the Interim Lenders where applicable and solely in accordance with the Definitive Documents, be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 15 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date of this Order and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. The Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors and or officers of the Applicants after the commencement of the within proceedings except to the extent that, with respect to any officer or director, the obligation was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. The directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of $4,000,000, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 54 and 56 herein.

22. Notwithstanding any language in any applicable insurance policy to the contrary:

(a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and

(b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

APPOINTMENT OF MONITOR

23. FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs and the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

24. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

(a) monitor the Applicants' receipts and disbursements, Business and dealings with the Property;

(b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein and immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicants;

(c) assist the Applicants, to the extent required by the Applicants, in their dissemination to the Interim Lenders or DDMI (but with respect to DDMI, only with respect to the Diavik Mine and only to the extent that the Monitor determines will not prejudice the SISP) and their counsel on a periodic basis of financial and other

information as agreed to between the Applicants and the Interim Lenders or DDMI which may be used in these proceedings, including reporting on a basis as reasonably required by the Interim Lenders or DDMI;

(d) advise the Applicants in the preparation of the Applicants' cash flow statements and reporting required by the Interim Lenders or DDMI, which information shall be reviewed with the Monitor and delivered to the Interim Lenders or DDMI and their counsel on a periodic basis or as otherwise agreed to by the Interim Lenders or DDMI;

(e) fulfill the role contemplated for the Monitor in the SISP Procedures (as defined below) (including, without limitation, in respect of the granting or withholding of the Monitor's consent to the exercise of certain rights or discretions, the disclosure of certain information and materials to bidders under the SISP Procedures, the filing of certain reports to the Court, and the oversight of all SISP Procedures activities) and respond to all reasonable enquiries of the Applicants' creditors in relation thereto;

(f) advise the Applicants in their development of the Plan and any amendments to the Plan;

(g) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

(h) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and other financial documents of the Applicants to the extent that is necessary to adequately assess the Property, Business, and financial affairs of the Applicants or to perform its duties arising under this Order;

(i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;

(j) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicants and any other Person; and

(k) perform such other duties as are required by this Order or by this Court from time to time.

25. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal or waste or other contamination, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order be deemed to be in possession of any of the Property within the meaning of any federal or provincial environmental legislation.

26. The Monitor shall provide any creditor of the Applicants and each of the Interim Lenders and DDMI with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

27. In addition to the rights and protections afforded the Monitor under the CCAA or as an Officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of 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 Monitor by the CCAA or any applicable legislation.

28. The Monitor, counsel to the Monitor, and counsel to the Applicants shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby

authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a bi-weekly basis.

29. The Monitor and its legal counsel shall pass their accounts from time to time.

30. The Monitor, counsel to the Monitor, if any, and the Applicants' counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of $3,500,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 54 and 56 hereof.

INTERIM FINANCING AND INTERIM LENDER'S CHARGE

31. The Applicants are hereby authorized and empowered to obtain and borrow under a credit facility (the "**Interim Facility**") pursuant to the Amended and Restated Interim Financing Term Sheet dated as of June 15, 2020 (the "**Interim Financing Term Sheet**") among, the Applicants, Washington Diamond Lending, LLC and the other lenders party thereto (collectively in such capacity, the "**Interim Lenders**"), and the other parties thereto, in order to finance the Applicants' working capital requirements and other general corporate purposes and permitted capital expenditures set forth in the Interim Financing Term Sheet, provided that borrowings under such credit facility shall not exceed the principal amount of US$60 million unless permitted by further order of this Court and agreed to by the Interim Lenders.

32. The Interim Facility shall be on the terms and subject to the conditions set forth in the Interim Financing Term Sheet attached hereto as **Schedule "A"**, as such Interim Financing Term Sheet may be amended in accordance with its terms with the consent of the Monitor.

33. The Applicants are hereby authorized and empowered to execute and deliver the Interim Financing Term Sheet and such credit agreements, mortgages, charges, hypothecs, and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the Interim Financing Term Sheet or

as may be reasonably required by the Interim Lenders pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities, and obligations to the Interim Lenders under and pursuant to the Interim Financing Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order or any other Order granted by this Court in these CCAA proceedings.

34. The Interim Lenders shall be entitled to the benefits of and are hereby granted a charge (the "**Interim Lenders' Charge**") on the Property other than the Excluded Assets (as defined in the Interim Financing Term Sheet) to secure all Interim Financing Obligations (as defined in the Interim Financing Term Sheet), which Interim Lenders' Charge shall be in the aggregate amount of the Interim Financing Obligations outstanding at any given time under the Definitive Documents. The Interim Lenders' Charge shall not secure any obligation existing before the date this Order is made. The Interim Lenders' Charge shall have the priority set out in paragraphs 54 and 56 hereof.

35. Notwithstanding any other provision of this Order:

(a) the Interim Lenders may take such steps from time to time as they may deem necessary or appropriate to file, register, record or perfect the Interim Lenders' Charge or any of the Definitive Documents;

(b) upon the occurrence of an event of default under the Definitive Documents or the Interim Lenders' Charge, the Interim Lenders may (i) immediately cease making advances to the Applicants and set off and/or consolidate any amounts owing by the Interim Lenders to the Applicants against the obligations of the Applicants to the Interim Lenders under the Interim Financing Term Sheet, the Definitive Documents or the Interim Lenders' Charge and make demand, accelerate payment, and give other notices; (ii) upon five (5) days' notice to the Applicants and the Monitor, apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and (iii) with leave of the Court, exercise any other rights and remedies against the Applicants or the Property under or pursuant to the Interim Financing Term Sheet, Definitive Documents, and Interim Lenders' Charge; and

(c) the foregoing rights and remedies of the Interim Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

36. The Interim Lenders shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the "**BIA**"), with respect to any Interim Financing Obligations.

37. This Order is subject to provisional execution and, if any of the provisions of this Order in connection with the Definitive Documents or the Interim Lenders' Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (each, a "**Variation**") whether by subsequent order of this Court or any other court on or pending an appeal from this Order, such Variation shall not in any way impair, limit or lessen the priority, protections, rights or remedies of the Interim Lenders under this Order (as made prior to the Variation) or the Definitive Documents, with respect to any advances made prior to the Interim Lenders being given written notice of the Variation and the Interim Lenders shall be entitled to rely on this Order as issued (including, without limitation, the Interim Lenders' Charge) for all advances so made.

SISP PROCEDURES, STALKING HORSE BID, AND BREAK-UP FEE AND EXPENSE CHARGE

38. Capitalized terms utilized in paragraphs 38 to 46 of this Order that are not otherwise defined in this Order shall have the meanings ascribed to them in the Procedures for the Sale and Investment Solicitation Process (the "**SISP Procedures**") in the form attached as **Schedule "B"** hereto.

39. The SISP Procedures (subject to any amendments thereto that may be made in accordance therewith) are hereby approved.

40. The Applicants, the Monitor and their respective advisors (including the SISP Advisor) are hereby authorized and directed to carry out the SISP Procedures and to take such steps and execute such documentation as may be necessary or incidental to the SISP Procedures.

41. Each of the Applicants, the SISP Advisor and the Monitor and their respective affiliates,

partners, directors, employees, advisors (including the SISP Advisor), agents, shareholders and controlling persons shall have no liability with respect to any losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of the SISP Procedures or the conduct thereof, except to the extent of such losses, claims, damages or liabilities resulting from the gross negligence or willful misconduct of any of the foregoing in performing their obligations under the SISP Procedures (as determined by this Court). The Stalking Horse Bidder (solely in its capacity as the Stalking Horse Bidder) and its directors, employees, advisors and agents (solely in connection with the Stalking Horse Bid and the SISP Procedures) shall have no liability with respect to any losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of the Stalking Horse Bid, except to the extent of such losses, claims, damages or liabilities resulting from the gross negligence or willful misconduct of any of the foregoing in performing their obligations under the SISP Procedures (as determined by this Court). Nothing in this paragraph 41 shall have the effect of releasing any rights, remedies or claims of DDMI under the Diavik JVA.

42. Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and Dominion Diamond Mines ULC, as vendors (collectively, the "**Dominion Vendors**"), are hereby authorized to execute and enter into a definitive stalking horse agreement of purchase and sale among the Dominion Vendors, as sellers, and the Stalking Horse Bidder, as purchaser, which shall be substantially on the terms set out in the stalking horse agreement of purchase and sale attached hereto as **Schedule "C"** (the "**Stalking Horse Bid**"), subject to such amendments, additions and/or deletions as may be negotiated between the Dominion Vendors and the Stalking Horse Bidder and approved by the Monitor. The Stalking Horse Bid submitted by the Stalking Horse Bidder is hereby approved as the Stalking Horse Bid pursuant to and for purposes of the SISP Procedures, provided that nothing herein approves the sale to and the vesting of any assets or property in the Stalking Horse Bidder pursuant to the Stalking Horse Bid and that the approval of the sale and vesting of such assets and property shall be considered by this Court on a

subsequent motion made to this Court if the Stalking Horse Bidder is the Successful Bidder pursuant to the SISP Procedures.

43. The Dominion Vendors' obligation to pay the Break-Up Fee and Expense Reimbursement pursuant to and in accordance with the Stalking Horse Bid is hereby approved.

44. The Stalking Horse Bidder shall be entitled to the benefit of and is hereby granted a charge (the "**Break-Up Fee and Expense Charge**") on the Property as security for the payment of the Break-Up Fee and Expense Reimbursement by the Dominion Vendors pursuant to and in accordance with the Stalking Horse Bid. The Break-Up Fee and Expense Charge shall have the priority set out in paragraphs 54 and 56 hereof.

45. This Order is granted without prejudice to the rights and remedies of Dominion Diamond and DDMI under the Diavik JVA.

46. Pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act,* the Applicants, the SISP Advisor and the Monitor may disclose personal information of identifiable individuals to Potential Bidders and their advisors in connection with the SISP Procedures, but only to the extent desirable or required to carry out the SISP Procedures. Each Potential Bidder (and their respective advisors) to whom any such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information solely to its evaluation of a transaction in respect of the Applicants and the Property, and if it does not complete such a transaction, shall return all such information to the Applicants, or in the alternative destroy all such information. The Successful Bidder shall be entitled to continue to use the personal information provided to it in a manner that is in all material respects identical to the prior use of such information by the Applicants, and shall return all other personal information to the Applicants, or ensure that all other personal information is destroyed.

KERP AND THE KERP CHARGE

47. The Key Employee Retention Plan (the "**KERP**") as described in the Merrin Affidavit, is hereby approved.

48. The Applicants are hereby authorized and directed to enter into the KERP with those employees (the "**Key Employees**") listed in Confidential Exhibit "A" to the Merrin Affidavit (the "**Confidential Merrin Affidavit Exhibit**").

49. The Applicants are hereby authorized and directed to pay a lump sum payment (the "**Incentive Bonus**") to each of the Key Employees in the amount set out in the Confidential Merrin Affidavit Exhibit, to be paid as follows:

(a) the first one-third of the Incentive Bonus shall be paid to each Key Employee on the earlier of June 6, 2020 and their last day of employment (if the Key Employee is terminated without cause); and

(b) the remaining two-thirds of the Incentive Bonus shall be paid to each Key Employee on the earlier of November 6, 2020, their last day of employment (if the Key Employee is terminated without cause) and the closing of any restructuring transaction.

50. Payments to Key Employees under the KERP will only be made if, at the date the relevant payment of the Incentive Bonus is due, as described in paragraph 49, the Key Employee has fulfilled his or her employment obligations and has not voluntarily resigned or been terminated for cause.

51. The Key Employees shall be entitled to the benefit of and are hereby granted a charge (the "**KERP Charge**") on the Property as security for the amounts payable to the Key Employees pursuant to the KERP, which charge shall not exceed an aggregate amount of $580,000. The KERP Charge shall have the priority set out in paragraphs 54 and 56 hereof.

FINANCIAL ADVISOR AGREEMENT AND FINANCIAL ADVISOR'S CHARGE

52. The agreement dated as of April 8, 2020 between Dominion Mines and Evercore Group L.L.C. (the "**Financial Advisor**") (as amended on April 22, 2020, the "**Financial Advisor Agreement**"), as set out in Exhibit "E" to the Startin May Affidavit, pursuant to which the Applicants have engaged the Financial Advisor to provide the services referenced therein is hereby approved, *nunc pro tunc*, including, without limitation, the payment of the Monthly Fee, Restructuring Fee, Liability Management Transaction Fee, Financing Fee, and Minimum Financing Fee contemplated thereby, and the Applicants are authorized to continue the engagement of the Financial Advisor on the terms set out in the Financial Advisor Agreement.

53. The Financial Advisor shall be entitled to the benefit of and is hereby granted a charge on the Property as security for the Monthly Fee, Restructuring Fee, Liability Management Transaction Fee, Financing Fee, and Minimum Financing Fee (in each case as defined in the Financial Advisor Agreement), as follows:

(a) the Financial Advisor shall have the benefit and protections afforded by the Administration Charge, *nunc pro nunc*, as security for the Monthly Fee and the Financial Advisor's disbursements incurred both before and after the Order granted by this Court in these proceedings on April 22, 2020; and

(b) the Financial Advisor shall have the benefit of a charge (the "**Financial Advisor Charge**") on the Property, as security for the Restructuring Fee, Liability Management Transaction Fee, Financing Fee, and Minimum Financing Fee (in each case on the terms set out in the Financial Advisor Agreement as approved by this Order). The Financial Advisor Charge shall have the priority set out in paragraphs 54 and 56 hereof.

VALIDITY AND PRIORITY OF CHARGES

54. The priorities of the Directors' Charge, the Administration Charge, the KERP Charge, the Break-Up Fee and Expense Charge, the Interim Lenders' Charge, and the Financial Advisor Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of $3,500,000);

Second – Directors' Charge (to the maximum amount of $4,000,000);

Third – KERP Charge (to the maximum amount of $580,000);

Fourth – Break-Up Fee and Expense Charge; and

Fifth – Interim Lenders' Charge and the Financial Advisor Charge, *pari passu*.

55. The filing, registration or perfection of the Charges shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected prior to or subsequent to the Charges coming into existence, notwithstanding any failure to file, register, record, possess, or perfect.

56. Each of the Charges shall constitute a charge on the Property (other than, solely in the the case of the Interim Lenders' Charge, the Excluded Assets) and subject always to section 34(11) of the CCAA such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person; provided, however, that:

(a) the KERP Charge, the Break-Up Fee and Expense Charge, the Interim Lenders' Charge and the Financial Advisor Charge shall rank subordinate to any Encumbrances under Article 9 of the Diavik JVA;

(b) the Encumbrances of the Existing Credit Facility Agent (as defined in the Interim Financing Term Sheet) in respect of the Diavik Collateral (as defined in the Interim Financing Term Sheet) shall rank senior to the Interim Lenders' Charge in respect of the Diavik Collateral;

(c) the Encumbrances of the Existing Credit Facility Agent in respect of the Interim Financing Priority Collateral (as defined in the Interim Financing Term Sheet) shall be senior to the Interim Lenders' Charge in respect of the Interim Financing Priority Collateral securing any October Advances (as defined in the Interim Financing Term Sheet) and related interest; and

(d) the Interim Lenders' Charge in respect of the Interim Facility Priority Collateral securing any October Advances and related interest shall be senior to any Encumbrances of the Existing Credit Facility Agent securing the First Lien Facility LC Obligations (as defined in the Interim Financing Term Sheet).

57. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Applicants also obtain the prior written consent of the Monitor and the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**"), or further order of this Court.

58. The Charges, the Interim Financing Term Sheet and the other Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees

and/or the Interim Lenders thereunder shall not otherwise be limited or impaired in any way by:

(a) the pendency of these proceedings and the declarations of insolvency made in this Order;

(b) any application(s) for bankruptcy or receivership order(s) issued pursuant to the BIA, or any bankruptcy or receivership order made in respect of the Applicants;

(c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;

(d) the provisions of any federal or provincial statutes; or

(e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease, licence, permit or other agreement (collectively, an "**Agreement**") that binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

(i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, including the Interim Financing Term Sheet and the other Definitive Documents, shall create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;

(ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, the Applicants entering into the Interim Financing Term Sheet, or the execution, delivery or performance of the Definitive Documents; and

(iii) the payments made by the Applicants pursuant to this Order, including the Interim Financing Term Sheet or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

ALLOCATION

59. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Charges amongst the various assets comprising the Property, provided that any such allocation shall not affect or impair the right of the Interim Lenders to credit bid the full amount of the Interim Financing Obligations in respect of all Property in accordance with the Interim Financing Term Sheet.

SERVICE AND NOTICE

60. The Monitor shall (i) without delay, publish in the *Globe and Mail* and *The Northern Miner* a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than $1,000 and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with section 23(1)(a) of the CCAA and the regulations made thereunder.

61. The Monitor shall establish a case website in respect of the within proceedings at cfcanada.fticonsulting.com/Dominion (the "**Website**").

62. Any person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to the service list (the "**Service List**") to be maintained by the Monitor. The Monitor shall post and maintain an up-to-date form of the Service List on the Website.

63. Any party to these proceedings may serve any document in these proceedings, (a) in the case of parties who at the time of service are on the Service List, by uploading such documents to the online filesite established by the Monitor for managing the pleadings and other relevant documents in this Action and hosted on the canada.caselines.com website (the "**CaseLines Filesite**") and all documents uploaded to the CaseLines Filesite shall be deemed as having been properly served on all parties named on the Service List as of the date and time that such documents were uploaded to the CaseLines Filesite; or, (b) in the case of parties who at the time of service are not on the Service List, by emailing

a PDF or other electronic copy of such documents to counsels' email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on the Website.

64. Applicants and, where applicable, the Monitor are at liberty to serve 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 electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic 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.

65. Any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

GENERAL

66. The Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

67. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.

68. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager or a trustee in bankruptcy of the Applicants, the Business or the Property.

69. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, to give

effect to this Order and to assist the Applicants, the Monitor and their respective 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 Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

70. Each of the Applicants and the Monitor 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 Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

71. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.

Justice of the Court of Queen's Bench of Alberta

Schedule “A”

Amended and Restated Interim Financing Term Sheet

AMENDED AND RESTATED
INTERIM FINANCING TERM SHEET

Dominion Diamond Mines ULC

Dated as of June 15, 2020

WHEREAS the Borrower has requested that the Interim Lenders provide financing to the Borrower during the pendency of the Borrower's proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") commenced before the Court of Queen's Bench of Alberta (the "**Court**") pursuant to an initial order granted on April 22, 2020 (the "**Initial Order**") and in accordance with the terms and conditions set out herein;

AND WHEREAS, parties hereto entered into an interim financing term sheet dated as of May 21, 2020 (the "**Original Term Sheet**") pursuant to which the Interim Lenders agreed to provide financing in order to fund certain obligations of the Credit Parties in order for the Credit Parties to pursue and implement a Permitted Restructuring Transaction pursuant to and in accordance with the SISP;

AND WHEREAS, the parties hereto wish to amend and restate the Original Term Sheet;

NOW THEREFORE, the parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1.	**BORROWER:**	Dominion Diamond Mines ULC, an unlimited liability company formed under the laws of British Columbia (the "**Borrower**").
2.	**INTERIM LENDERS**	Those lenders identified on Schedule "**F**" hereto (the "**Interim Lenders**"). Schedule "**F**" may be amended from time to time with the consent of Washington Diamond in its sole and absolute discretion; it being understood and agreed that each Existing Credit Facility Lender as of the date of this Term Sheet is acceptable to Washington Diamond in its sole and absolute discretion; *provided*, *however*, that, at no time, shall the Commitment (as defined herein) held by the Existing Credit Facility Lenders (or any party other than Washington Diamond) exceed 34% of total Commitments. The amount of total funding Commitments (the "**Commitments**") of each Interim Lender, and such Interim Lender's proportion of the total Commitments are identified on Schedule F hereto. All obligations of the Interim Lenders hereunder and in connection with the Interim Facility are several, and not joint or joint and several. If any Interim Lender is a Defaulting Lender, or if any Interim Lender is a Non-Consenting Lender, then Washington Diamond may, at its sole expense and effort, upon notice to such Interim Lender, require such Interim Lender to assign and delegate, without recourse, all its interests, rights and obligations under this Term Sheet to Washington Diamond (if Washington Diamond accepts such assignment) or another Interim Lender acceptable to Washington Diamond in its sole and absolute discretion (if such Interim Lender accepts such assignment), provided that such Defaulting Lender or Non-Consenting Lender shall have received, in connection with such assignment, payment of an amount equal to the outstanding Interim Financing Obligations payable to it hereunder from the

assignee (to the extent of outstanding principal and accrued interest) or the Borrower (in the case of all other outstanding Interim Financing Obligations owing to such Defaulting Lender or Non-Consenting Lender). Upon any such assignment, Schedule "**F**" shall be deemed to be amended as required to reflect such assignment.

3. **GUARANTORS:** Each party that guarantees (collectively, the "**Guarantors**", and together with the Borrower, the "**Credit Parties**") the obligations of the Credit Parties under this Term Sheet (the "**Interim Financing Obligations**"), which parties are set forth on Schedule D hereof.

The Credit Parties subject to the CCAA Proceedings are sometimes collectively referred to herein as the "**CCAA Applicants**".

4. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in Schedule "**A**".

5. **INTERIM FACILITY; DRAWDOWNS:** A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the "**Interim Facility**") up to a maximum principal amount of US$60 million (as such amount may be reduced from time to time pursuant to the terms hereof, the "**Facility Amount**"), subject to the terms and conditions contained herein.

The Interim Facility shall be made available to the Borrower by way of up to six (6) advances (each an, "**Advance**") which, in the aggregate, shall not exceed the Facility Amount. The timing for each Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget and as such draw amounts are agreed to by the Required Interim Lenders and the Credit Parties. Each Advance (other than the final Advance) shall be in a principal amount of not less than US$2,000,000.

Each Advance shall be deposited by the applicable Interim Lenders into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the Interim Lenders an Advance request certificate in the form of Schedule "**B**" (an "**Advance Request Certificate**"), provided that, in the determination of the Interim Lenders, the Advance Conditions are satisfied as of the date on which such Advance Request Certificate is delivered and remain satisfied on the date of such Advance. Each Interim Lender's obligations are several and not joint or joint and several.

With respect to Advances to be used to make Permitted Payments on account of obligations that accrue prior to September 30, 2020 (the "**Phase 1 and Phase 2 Advances**"), each Interim Lender shall fund solely its pro rata share of each Phase 1 and Phase 2 Advance based on such Interim Lender's share of the total Commitments in respect of Phase 1 and Phase 2 Advances set out in Part I of Schedule "**F**". With respect to Advances to be used to make Permitted Payments on account of obligations that accrue on or after October 1, 2020 through the Outside Date ("**October Advances**"), Washington Diamond, in its capacity as Interim Lender, shall fund any such Advances.

The Advance Request Certificate shall certify that (i) all representations and

warranties of the Credit Parties contained in this Term Sheet remain true and correct in all material respects both before and after giving effect to the use of such proceeds and (ii) no Default or Event of Default then exists and is continuing or would result therefrom.

Each Advance Request Certificate shall be deemed to be acceptable and shall be honoured by the Interim Lenders unless the Required Interim Lenders have objected thereto in writing, providing reasons for the objection, by no later than 1:00 p.m. Eastern Time on the second Business Day following the delivery of such Advance Request Certificate. A copy of each Advance Request Certificate shall be concurrently provided to Interim Lenders and the Monitor.

6. **PURPOSE AND PERMITTED PAYMENTS:**

The Credit Parties shall use proceeds of the Interim Facility solely for the following purposes and in the following order, in each case in accordance with the DIP Budget and for the purpose of advancing and implementing a Permitted Restructuring Transaction pursuant to and in accordance with the SISP:

(a) to pay the reasonable and documented legal and financial advisory fees and expenses of (i) the Credit Parties, subject to the DIP Budget (ii) the Monitor (i.e. the Monitor's fees and those of its legal counsel), subject to the DIP Budget, (iii) the Interim Lenders, subject to the DIP Budget and (iv) the Existing Credit Facility Lenders, subject to the DIP Budget, in each case pursuant to the terms hereof, it being acknowledged by the Credit Parties and the Interim Lenders that those fees and expenses incurred to the date hereof and those provided for in the DIP Budget as of the date hereof are reasonable;

(b) to pay the interest, fees and other amounts owing to the Interim Lenders under this Term Sheet;

(c) to pay any interest accruing under the Existing Credit Facility in the ordinary course; and

(d) to fund, in accordance with the DIP Budget, the Credit Parties' operating expenditures during the Restructuring Proceedings in pursuit of a Permitted Restructuring Transaction pursuant to and in accordance with the SISP, including the working capital and other general corporate funding requirements of the Credit Parties during such period (the amounts set forth in these subsections (a) through (d), collectively, the "**Permitted Payments**").

For greater certainty, the Credit Parties may not use the proceeds of the Interim Facility to pay any obligations of the Credit Parties arising or relating to the period prior to the Filing Date without the prior written consent of (x) the Required Interim Lenders in their sole and absolute discretion and (y) the Existing Credit Facility Agent (such consent not to be unreasonably withheld) unless the payment of such pre-Filing Date obligations are specifically identified in the approved DIP Budget and

authorized pursuant to the Amended Initial Order or any subsequent Court Order.

7. **ADVANCE CONDITIONS**

The Interim Lenders' agreement to make the Facility Amount available to the Borrower and to advance any Advance to the Borrower is subject to the satisfaction, as determined by the Required Interim Lenders, of each of the following conditions precedent (collectively, the "**Advance Conditions**"), each of which is for the benefit of the Interim Lenders and may be waived by the Required Interim Lenders in their sole and absolute discretion:

(a) The Initial Order shall have remained in effect until the issuance of the Amended Initial Order;

(b) The Credit Parties shall have executed and delivered this Term Sheet, the Guarantee and such other Credit Documents as the Required Interim Lenders may reasonably request.

(c) The Credit Parties' cash management system shall continue in the manner approved by the Initial Order, unless otherwise consented to by (x) the Required Interim Lenders and (y) the Existing Credit Facility Agent in each case in their reasonable discretion.

(d) The Court shall have issued an amended and restated version of the Initial Order or a further amended and restated version of the Initial Order (as it may be amended, the "**Amended Initial Order**") in form and substance acceptable to the Required Interim Lenders, in their reasonable discretion; *provided*, *however*, the (x) Required Interim Lenders, in their sole and absolute discretion and (y) Existing Credit Facility Agent (acting reasonably) must be satisfied with any provision of the Amended Initial Order (or any subsequent Court Order) relating to the Interim Facility, the SISP or the Stalking Horse Transaction. The Amended Initial Order shall, without limitation, (i) approve this Term Sheet (subject only to such modifications as may be acceptable to the Supermajority Interim Lenders and the Existing Credit Facility Agent in their sole and absolute discretion), (ii) authorize the Borrower to borrow up to the Facility Amount under the Interim Facility, (iii) grant the Interim Lenders a priority charge (the "**Interim Lenders' Charge**") on the CCAA Applicants' Collateral as security for all Interim Financing Obligations, which Interim Lenders' Charge shall have priority over all Liens on the CCAA Applicants' Collateral other than as set forth in Section 11 hereof, and (iv) approve the SISP on terms acceptable to the (x) Required Interim Lenders, in their sole and absolute discretion and (y) Existing Credit Facility Agent (acting reasonably).

(e) The Credit Parties shall be acting in accordance with the SISP.

(f) The Amended Initial Order and the Recognition Order, if applicable, shall not have been stayed, vacated or otherwise amended, restated or modified in respect of any amendment,

relating to the Interim Facility, the SISP, the Stalking Horse Transaction or any other matter that affects the Interim Lenders, without the written consent of the (x) Required Interim Lenders, in their sole and absolute discretion and (y) Existing Credit Facility Agent (such consent not to be unreasonably withheld).

(g) There shall be no Liens ranking (a) in priority to the Interim Lenders' Charge over the CCAA Applicants' Collateral other than the Permitted Priority Liens or (b) *pari passu* with the Interim Lenders' Charge over the CCAA Applicants' Collateral other than the SISP Advisor Charge.

(h) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance.

(i) The Borrower shall have delivered an Advance Request Certificate in respect of such Advance.

(j) The applicable Credit Parties shall have executed an Asset Purchase Agreement with an entity managed by an affiliate of Washington Diamond with respect to the Stalking Horse Transaction, *provided* that this condition shall not apply to the initial Advance if such initial Advance is an amount less than or equal to US$10,000,000.

8. **COSTS AND EXPENSES**

The Borrower shall reimburse the Interim Lenders and the Existing Credit Facility Agent for all reasonable fees and expenses incurred (including reasonable and documented legal, financial advisory and professional fees and expenses on a full indemnity basis) (the "**Interim Lender Expenses**") by the Interim Lenders or any of their affiliates and the Existing Credit Facility Agent in connection with the negotiation, development, and implementation of Interim Facility (including the administration of the Interim Facility). The Interim Lender Expenses shall form part of the Interim Financing Obligations secured by the Interim Lenders' Charge.

All accrued and unpaid Interim Lender Expenses as at the date of any Advance shall be paid in full through deduction from such Advance. All accrued and unpaid Interim Lender Expenses incurred prior to the first Advance (including those incurred prior to the Filing Date) shall be paid in full through deduction from the first Advance.

9. **INTERIM FACILITY SECURITY:**

All Interim Financing Obligations shall be secured by the Interim Lenders' Charge. The Required Interim Lenders may, in their reasonable discretion (i) require the execution, filing or recording of any mortgages, security agreements, pledge agreements, control agreements, financing statements or other documents or instruments, or (ii) take possession or control of any Collateral of the Credit Parties, to the extent it is necessary to do so, to obtain and/or perfect its senior secured, superpriority Lien on such Collateral.

10. **INTER-COMPANY**

No intercompany advances may be made unless provided for in the DIP Budget or consented to by the Required Interim Lenders, in their sole and

ADVANCES: absolute discretion.

11. **PERMITTED LIENS AND PRIORITY:** All of the Credit Parties' Collateral and the property of the Credit Parties' subsidiaries will be free and clear of all Liens except for Permitted Liens. Except as set forth below, the Interim Lenders' Liens and the Interim Lenders' Charge shall have priority over all Liens on the CCAA Applicants' Collateral.

    (a) The Permitted Priority Liens shall be senior to any Liens of the Interim Lenders or the Existing Credit Facility Agent in any of the Collateral.

    (b) The Liens of the Existing Credit Facility Agent in the Interim Facility Priority Collateral to secure the Funded First Lien Facility Obligations shall be senior to the Liens of the Interim Lenders in the Interim Facility Priority Collateral to secure any October Advances (and related interest).

    (c) The Liens of the Interim Lenders in the Interim Facility Priority Collateral to secure any October Advances (and related interest), shall be senior to any Liens of the Existing Credit Facility Agent to secure the First Lien Facility LC Obligations.

12. **MONITOR:** The monitor in the CCAA Proceedings shall remain FTI Consulting Canada, Inc. (the "**Monitor**").

13. **REPAYMENT:** The Interim Facility and the Interim Financing Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the closing of a Successful Bid (as defined in the SISP); (v) the sale of all or substantially all of the CCAA Applicants' collateral; and (vi) the Outside Date (the earliest of such dates being the "**Maturity Date**"). The Maturity Date may be extended from time to time at the request of the Borrower and with the prior written consent of each Interim Lender for such period and on such terms and conditions as each Interim Lender may agree in its sole and absolute discretion.

    Without the consent of each Interim Lender in its sole and absolute discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the Interim Financing Obligations, other than after the permanent and indefeasible payment in cash to the Interim Lenders of all Interim Financing Obligations on or before the date such Plan is implemented.

14. **DIP BUDGET AND VARIANCE REPORTING:** Attached hereto as Schedule "**C**" is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the Interim Lenders in connection therewith) as in effect on the date hereof (the "**Initial DIP Budget**"), which the Interim Lenders acknowledge and agree is in form and substance satisfactory to the Interim Lenders and the Existing

Credit Facility Agent. Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the Required Interim Lenders and the Existing Credit Facility Agent in accordance with this Section 14.

(A) At the written request of the Required Interim Lenders (including by email), (B) at the election of the Borrower, or (C) upon a material change, or a material change reasonably anticipated by the Borrower, to any item set forth in the DIP Budget, the Borrower shall update and propose a revised 13-week DIP Budget to the Interim Lenders and the Existing Credit Facility Agent (the "**Updated DIP Budget**"). The Required Interim Lenders may make such request up to once every two weeks, and if such request is made, the Borrower shall submit the Updated Budget no later than five (5) Business Days following receipt of the request. Such Updated DIP Budget shall have been reviewed and approved by the Monitor, prior to submission to the Interim Lenders. If (a) the Required Interim Lenders, in their sole and absolute discretion, or (b) the Existing Credit Facility Agent, in its reasonable discretion, determine that the Updated DIP Budget is not acceptable, they shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the Updated DIP Budget is not acceptable and setting out the reasons why such Updated DIP Budget is not acceptable, and until the Borrower has delivered a revised Updated DIP Budget acceptable to (a) the Required Interim Lenders in their sole and absolute discretion, and (b) the Existing Credit Facility Agent, in its reasonable discretion, the prior DIP Budget shall remain in effect.

At any time, the Updated DIP Budget is accepted by the Required Interim Lenders and the Existing Credit Facility Agent, such Updated Budget shall be the DIP Budget for the purpose of this Term Sheet.

On or before 3:00 p.m. Eastern Time on the Friday of every second week, (provided that such day is a Business Day and, if not, on the next Business Day) the Borrower shall deliver to the Monitor, the Interim Lenders, the Existing Credit Facility Agent, and their legal and financial advisors a variance calculation (the "**Variance Report**") setting forth actual receipts and disbursements for the preceding two weeks (each a "**Testing Period**") as against the then-current DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Testing Period in the DIP Budget; each such Variance Report to be promptly discussed with the Interim Lenders, the Existing Credit Facility Agent, and their legal and financial advisors, if so requested. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Testing Period.

15. **EVIDENCE OF INDEBTEDNESS:** The Interim Lenders' accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the Interim Lenders pursuant to the Interim Facility. Each Interim Lender may, from time to time, require the Borrower to execute and deliver promissory notes evidencing the Borrower's liability hereunder to each

such Interim Lender.

16. **PREPAYMENTS:** Provided the Monitor (i) is satisfied that the Credit Parties have sufficient cash reserves to satisfy (a) amounts secured by any Permitted Priority Liens (other than those Permitted Priority Liens identified in subsections (vi) and (vii) of the definition of "Permitted Priority Liens") senior to the Interim Lenders' Charge, and (b) obligations set forth in the DIP Budget that the Credit Parties have incurred from and after the Filing Date for which payment has not been made (collectively, the "**Priority Payables Reserve**") and (ii) provides its consent, the Borrower may prepay any amounts outstanding under the Interim Facility at any time prior to the Maturity Date. Any amount repaid may not be reborrowed and shall be paid to the Interim Lenders on a pro rata basis. In the event that less than all of the Interim Facility Obligations are repaid using the proceeds of any debt obligations that are secured in whole or in part by Liens in the Collateral, such Liens shall be junior in all respects to the Liens in the Collateral held by the Interim Lenders to secure any remaining Interim Facility Obligations (including those related to any October Advances).

17. **INTEREST RATE:** Interest shall be payable on the aggregate outstanding amount of the Facility Amount that has been advanced to the Borrower from the date of the funding thereof at a rate equal to 5.25% *per annum*, compounded monthly and payable monthly in arrears in cash on the last Business Day of each month, with the first such payment being made on June 30, 2020. Upon the occurrence and during the continuation of an Event of Default, all overdue amounts shall bear interest at the applicable interest rate plus 2% *per annum* payable on demand in arrears in cash. All interest shall be computed on the basis of a 360-day year of twelve 30-day months, provided that, whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

No structuring or transaction fee shall be payable to the Interim Lenders as part of the Interim Facility.

The parties shall comply with the following provisions to ensure that the receipt by the Interim Lenders of any payments under this Term Sheet does not result in a breach of section 347 of the *Criminal Code* (Canada):

(a) If any provision of this Term Sheet would obligate the Credit Parties to make any payment to the Interim Lenders of an amount that constitutes "interest", as such term is defined in the *Criminal Code* (Canada) and referred to in this section as "**Criminal Code Interest**", during any one-year period after the date of the funding of the Facility Amount in an amount or calculated at a rate which would result in the receipt by the Interim Lenders of Criminal Code Interest at a criminal rate (as defined in the *Criminal Code*

(Canada) and referred to in this section as a "**Criminal Rate**"), then, notwithstanding such provision, that amount or rate during such one-year period shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not result in the receipt by the Interim Lenders during such one-year period of Criminal Code Interest at a Criminal Rate, and the adjustment shall be effected, to the extent necessary, as follows:

(i) *first*, by reducing the amount or rate of interest required to be paid to the Interim Lenders during such one-year period; and

(ii) *thereafter*, by reducing any other amounts (other than costs and expenses) (if any) required to be paid to the Interim Lenders during such one-year period which would constitute Criminal Code Interest.

(b) Any amount or rate of Criminal Code Interest referred to in this section shall be calculated and determined in accordance with generally accepted actuarial practices and principles as an effective annual rate of interest over the term that any portion of the Interim Facility remains outstanding on the assumption that any charges, fees or expenses that constitute Criminal Code Interest shall be *pro-rated* over the period commencing on the date of the advance of the Facility Amount and ending on the relevant Maturity Date (as may be extended by the Interim Lenders from time to time under this Term Sheet) and, in the event of a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Interim Lenders shall be conclusive for the purposes of such calculation and determination.

18. **CURRENCY:** Unless otherwise stated, all monetary denominations shall be in lawful currency of the United States of America and all payments made by the Credit Parties under this Term Sheet shall be in United States dollars. If any payment is received by the Interim Lenders hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the "**Original Currency**") into another currency (the "**Other Currency**"), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the Interim Lenders are able to purchase the Original Currency with the Other Currency after any premium and costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.

19. **MANDATORY REPAYMENTS:** Unless otherwise consented to in writing by (x) Required Interim Lenders and (y) Existing Credit Facility Agent (such consent not to be unreasonably withheld), the Interim Facility shall, subject to retention of the Priority Payables Reserve, be promptly repaid and the Facility Amount shall be permanently reduced upon a sale, realization or disposition of or with respect to any assets or property of the Credit Parties or any of their subsidiaries (including obsolete, excess or worn-out Collateral) (a) out of

the ordinary course of business, including any sale or disposition of working capital assets, equipment, machinery and other operating or fixed assets and realizations of accounts receivable or (b) inventory, including diamond inventory (whether in or out of the ordinary course of business), in each case in an amount equal to the net cash proceeds of such sale, realization or disposition (for greater certainty, net of transaction fees (including, without limitation, shipping expenses and commissions payable in connection with such sale, realization or disposition) and applicable taxes in respect thereof). Any amount repaid may not be reborrowed and shall be paid to the Interim Lenders on a pro rata basis.

20. **REPS AND WARRANTIES:** Each of the Credit Parties on a joint and several basis, represents and warrants to the Interim Lenders, upon which the Interim Lenders are relying in entering into this Term Sheet and the other Credit Documents, that:

(a) The transactions contemplated by this Term Sheet and the other Credit Documents, upon the granting of the Amended Initial Order:

(i) are within the powers of such Credit Party;

(ii) have been duly executed and delivered by or on behalf of such Credit Party;

(iii) constitute legal, valid and binding obligations of the Credit Parties, enforceable against the Credit Parties in accordance with their terms;

(iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and

(v) will not violate the charter documents, articles by-laws or other constating documents of such Credit Party or any Applicable Law relating to such Credit Party;

(b) The business operations of the Credit Parties have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;

(c) The Credit Parties own their assets and undertaking free and clear of all Liens other than Permitted Liens;

(d) Each Credit Party has been duly formed and is validly existing under the law of its jurisdiction of incorporation;

(e) All Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and no Credit Party has any knowledge of any material default that has occurred and is continuing thereunder (other than those defaults arising as a result of the commencement of the Restructuring Proceedings) or are not otherwise stayed by the Amended Initial Order and no proceedings have been commenced or threatened to

revoke or amend any Material Contracts;

(f) The Credit Parties are not aware of any introduction, amendment, repeal or replacement of any law or regulation, not related to the COVID 19 pandemic, being made or proposed which could reasonably be expected to have a material adverse effect on the Credit Parties or their respective businesses;

(g) There are no agreements of any kind between any Credit Party and any other third party or any holder of debt or equity securities of any Credit Party with respect to any Restructuring Transaction (i) as at the date hereof except for (A) this Term Sheet, (B) the agreement in respect of the Stalking Horse Transaction as of the date hereof, (C) any non-disclosure agreement entered into in connection with or in furtherance of a potential Restructuring Transaction, and (ii) as at any subsequent date, except for (A) any agreement effecting a Replacement Stalking Horse Bid, and (B) any agreement effecting a Successful Bid (other than the Stalking Horse Transaction) each as defined in the SISP and disclosed to the Interim Lenders;

(h) No Default or Event of Default has occurred and is continuing;

(i) No Credit Party is required to be registered as an "investment company" under the Investment Company Act of 1940 of the United States;

(j) No part of the proceeds of the Interim Facility will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that results in a violation of the provisions of Regulation U and Regulation X of the Board of Governors of the Federal Reserve System of the United States; and

(k) The Credit Parties have disclosed to the Interim Lenders the following with respect to the diamond inventory held by the Credit Parties and/or their subsidiaries (a) the amount and value of such inventory; (b) the location of such inventory; and (c) the amount of insurance coverage for all such inventory, in each case presented in a manner and with detail consistent with the Credit Parties' ordinary course internal accounting practices. The Credit Parties shall maintain at all times the insurance coverage disclosed to the Interim Lenders.

21. **AFFIRMATIVE COVENANTS:** Each Credit Party agrees to do, or cause to be done, with respect to itself and each of its subsidiaries, the following:

(a) (i) Allow representatives or advisors of the Required Interim Lenders and the Existing Credit Facility Agent reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Credit Parties, and (ii) cause management, the financial advisor and/or legal counsel of each Credit Party to

cooperate with reasonable requests for information by the Required Interim Lenders and the Existing Credit Facility Agent and their legal and financial advisors, in each case subject to solicitor-client privilege, all Court Orders and applicable privacy laws, in connection with matters reasonably related to the Interim Facility, the Restructuring Proceedings or compliance of the Credit Parties with their obligations pursuant to this Term Sheet;

(b) Deliver to the Required Interim Lenders and the Existing Credit Facility Agent the reporting and other information from time to time reasonably requested by it and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;

(c) Use the proceeds of the Interim Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and the CCAA Orders;

(d) Comply with the provisions of (i) the Amended Initial Order, the SISP and all other orders of the Court entered in connection with the CCAA Proceedings (each a "**CCAA Order**") and (ii) to the extent applicable, the Recognition Order and all other orders of the Bankruptcy Court entered in connection with the Chapter 15 Proceedings (each a "**Bankruptcy Court Order**");

(e) Preserve, renew and keep in full force its corporate existence;

(f) Conduct its business in accordance with and otherwise comply with the DIP Budget, subject to the Permitted Variance;

(g) Promptly notify the Interim Lenders and the Existing Credit Facility Agent of the occurrence of any Default or Event of Default or any event or circumstance that may materially affect the DIP Budget, including any material change in its contractual arrangements or relationships with third parties;

(h) Comply, in all material respects, with Applicable Law, except to the extent not required to do so pursuant to any Court Order;

(i) Provide the Required Interim Lenders, the Existing Credit Facility Agent and their respective counsel draft copies of all motions, applications, proposed Court Orders and other materials or documents that any of Credit Parties intend to file in the Restructuring Proceedings at least three (3) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible and in any event not less than one (1) day prior to the date on which such motion, application, proposed order or other materials or documents are served on the service list in respect of the applicable Restructuring Proceeding; *provided* that motion materials and similar pleadings that affect the Interim Lenders, the Stalking Horse Transaction or the SISP shall

be reasonably satisfactory to the Required Interim Lenders and the Existing Credit Facility Agent;

(j) Take all actions necessary or available to defend the Court Orders that affect the Interim Lenders, the Stalking Horse Transaction, the Collateral or the SISP from any appeal, reversal, modifications, amendment, stay or vacating, unless expressly agreed to in writing in advance by the Required Interim Lenders and the Existing Credit Facility Agent in their reasonable discretion;

(k) Promptly provide notice to the Required Interim Lenders, the Existing Credit Facility Agent and their respective counsel, and keep them otherwise apprised, of any material developments in respect of any Material Contract, and of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Credit Parties in respect of such Material Contract (other than in each case, routine or administrative materials or correspondence);

(l) Provide the Required Interim Lenders, the Existing Credit Facility Agent and their respective counsel with draft copies of all material letters, submissions, notices, or other materials or correspondence that any of the Credit Parties intend to file with or submit to any regulatory authority having jurisdiction over the Credit Parties relating to any Material Contract (other than in each case, routine or administrative materials or correspondence), at least three (3) Business Days prior to such submission or filing or, where it is not practically possible to do so within such time, as soon as possible;

(m) Execute and deliver, or cause each Credit Party (as applicable) to execute and deliver, loan and collateral security documentation (including any guarantees in respect of the Interim Financing Obligations) including, without limitation, such security agreements, financing statements, discharges, opinions or other documents and information, in form and substance satisfactory to the (x) Required Interim Lenders and their counsel and (y) Existing Credit Facility Agent and its counsel;

(n) Complete all necessary Lien and other searches (other than in the Mining Recorder's Office, Department of Industry, Tourism and Investment of the Government of the Northwest Territories for such time as the same cannot be completed during the COVID-19 pandemic) against the Credit Parties, together with all registrations, filings and recordings wherever the Required Interim Lenders deem appropriate, to satisfy (x) Required Interim Lenders and their counsel and (y) Existing Credit Facility Agent and its counsel that there are no Liens affecting the Credit Parties' Collateral except Permitted Liens;

(o) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Credit Parties with financially sound and reputable insurers in coverage and scope acceptable to the Required Interim Lenders and cause Washington Diamond to be listed as the loss payee or additional insured (as applicable) on such insurance policies;

(p) Pay all Interim Lender Expenses and expenses of the Existing Credit Facility Agent in accordance with the DIP Budget;

(q) Promptly upon becoming aware thereof, provide details of the following to the Required Interim Lenders and the Existing Credit Facility Agent:

(i) any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against any Credit Party, by or before any court, tribunal, Governmental Authority or regulatory body, which are not stayed by the Amended Initial Order and would be reasonably likely to result, individually or in the aggregate, in a judgment in excess of CDN$500,000, and

(ii) any existing (or threatened in writing) default or dispute with respect to any of the Material Contracts which are not stayed by the Amended Initial Order;

(r) Strictly comply with the terms of the SISP;

(s) Deliver the Budgets and Variance Reports required under Section 14;

(t) In the event that any creditor of any Credit Party or its affiliates or any other party commences or pursues litigation or claims against any Credit Party or any affiliate of any Credit Party in the United States or against property of the Credit Party or its affiliates located in the United States, which the Credit Parties reasonably determine, in consultation with the Required Interim Lenders and the Existing Credit Facility Agent, is not likely to be stayed in the CCAA Proceedings, the applicable Credit Party, in consultation with the Required Interim Lenders and the Existing Credit Facility Agent, shall initiate, or shall cause its affiliate to initiate, proceedings under Chapter 15 of the Bankruptcy Code (the "**Chapter 15 Proceedings**") in the U.S. Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**"). The Credit Parties shall pursue a final order (the "**Recognition Order**") recognizing the CCAA Proceedings as foreign main proceedings pursuant to the Bankruptcy Code, approving, authorizing and granting the full availability of the Facility Amount and the priority of the Interim Lenders' Charge on the terms of this Term Sheet, and containing such other relief as the Credit Parties, in consultation with the

Required Interim Lenders and the Existing Credit Facility Agent, determine is necessary, which Recognition Order shall be in form and substance satisfactory to the Required Interim Lenders and the Existing Credit Facility Agent in their reasonable discretion;

(u) Take all actions necessary or available to defend the subsidiaries of the Credit Parties and their property from any and all material pending and threatened litigation or claims; and

22. **NEGATIVE COVENANTS:** The Credit Parties covenant and agree not to do, or cause not to be done, with respect to itself and each of its subsidiaries, the following, other than with the prior written consent of the Required Interim Lenders and the Existing Credit Facility Agent to the extent express consent of the Existing Credit Facility Agent is required below:

(a) Transfer, lease or otherwise dispose of all or any part of their property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete or worn out equipment or assets consistent with past practice, or assets of nominal value and in accordance with the Amended Initial Order and this Term Sheet;

(b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of pre-filing indebtedness, or in respect of any other pre-filing liabilities, including payments with respect to pre-filing trade or unsecured liabilities of the Credit Parties, other than in accordance with the Amended Initial Order or any subsequent Court Order and the DIP Budget provided that the Credit Parties shall pay the Interim Lender Expenses pursuant to the terms of this Term Sheet.

(c) (i) Create or permit to exist any indebtedness other than (A) the indebtedness existing as of the date of this Term Sheet, (B) the Interim Financing Obligations, (C) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the Amended Initial Order, and (D) any obligations (including cash call or reclamation obligations) under any Joint Venture to which any Credit Party is party (ii) make or give any financial assurances, in the form of bonds, letter of credit, financial guarantees or otherwise to any Person or Governmental Authority other than with the prior written consent of (x) the Required Interim Lenders and (y) the Existing Credit Facility Agent, in each case in their sole and absolute discretion;

(d) Make (i) any distribution, dividend, return of capital or other distribution in respect of equity securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of equity securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon) other than with the prior written

consent of (x) the Required Interim Lenders and (y) the Existing Credit Facility Agent, in each case in their sole and absolute discretion;

(e) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget other than with the prior written consent of the (x) Required Interim Lenders in their sole and absolute discretion and (y) Existing Credit Facility Agent in its reasonable discretion;

(f) Except as may be otherwise ordered by the Court, pay, incur any obligation to pay, or establish any retainer with respect to the fees, expenses or disbursements of a legal, financial or other advisor of any party, other than (i) the Monitor and its legal counsel, (ii) the respective legal, financial and other advisors of the Credit Parties, the Interim Lenders and the Existing Credit Facility Agent, in each case engaged as of the date hereof, and (iii) such other parties as the Court may expressly order unless such fees, expenses or disbursements, as applicable, are reviewed and confirmed in advance by the (x) Required Interim Lenders and (y) Existing Credit Facility Agent in its reasonable discretion; provided however, in all cases, no fees, expenses, or disbursements shall be paid or reimbursed and no retainer shall be established to fund any challenges or objections to the Interim Facility, the Stalking Horse Transaction (including the sale approval hearing), or the SISP or to fund any litigation or pursuit of claims (including diligence or discovery) against any Interim Facility Lender or any of its affiliates in any capacity;

(g) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;

(h) Challenge or fail to support the Liens and claims of the Interim Lenders;

(i) Create or establish any employee retention plan or similar benefit plan for any employees of any of the Credit Parties, except as reflected in the approved DIP Budget;

(j) Make any payments or expenditures (including capital expenditures) other than in accordance with the DIP Budget, subject to the Permitted Variance;

(k) Terminate any Material Contract or amend any Material Contract in any material manner except with the prior consent of the Required Interim Lenders acting reasonably;

(l) Seek to obtain, or consent to or fail to oppose a motion brought by any other Person for, approval by the Court or the Bankruptcy Court of any Restructuring Transaction other than a Permitted Restructuring Transaction without the prior written consent of the

(x) Required Interim Lenders and (y) Existing Credit Facility Agent, in each case in their sole and absolute discretion;

(m) Amalgamate, consolidate with or merge into or sell all or substantially all of their assets to another entity, or change their corporate or capital structure (including their organizational documents) or enter into any agreement committing to such actions except pursuant to (i) a Permitted Restructuring Transaction, or (ii) a Restructuring Transaction other than a Permitted Restructuring Transaction with the prior written consent of the (x) Required Interim Lenders and (y) Existing Credit Facility Agent, in each case in their sole and absolute discretion;

(n) Make an announcement in respect of, enter into any agreement or letter of intent with respect to, or attempt to consummate, or support an attempt to consummate by another party, any transaction or agreement outside the ordinary course of business except for a Permitted Restructuring Transaction;

(o) Enter into, extend, renew, waive or otherwise modify in any respect the terms of any existing operational arrangement without the prior approval of the Monitor, provided that, where this Term Sheet otherwise contains express provisions or restrictions with respect to particular operational arrangements or categories of operational arrangements, such express provisions or restrictions shall apply;

(p) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order in respect of any amendment relating to the Interim Facility, the SISP or any other matter that affects the Interim Lenders, except with the prior written consent of the (x) Required Interim Lenders and (y) Existing Credit Facility Agent, in each case in their sole and absolute discretion or as contemplated by the SISP;

(q) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority in connection with any material litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against any one of them without the prior written consent of the (x) Required Interim Lenders and (y) Existing Credit Facility Agent (such consent not to be unreasonably withheld), or make any payments or repayments to customers outside the ordinary course of business, other than those set out in the DIP Budget;

(r) Without the approval of the Court or the prior written consent of the (x) Required Interim Lenders and (y) Existing Credit Facility Agent, in each case in their sole and absolute discretion, cease to carry on their business or any material activities as currently being conducted or modify or alter in any material manner the nature and

type of their operations or business;

(s) Seek, or consent to the appointment of, a receiver or licensed insolvency trustee or any similar official in any jurisdiction; or

(t) Use, whether directly or indirectly, and whether immediately, incidentally or ultimately, any proceeds of the Interim Facility for any purpose that results in a violation of the provisions of Regulation U of the Board of Governors of the Federal Reserve System of the United States.

23. **EVENTS OF DEFAULT:** The occurrence of any one or more of the following events shall constitute an event of default (each an "**Event of Default**") under this Term Sheet:

(a) Failure of the Borrower to pay principal, interest or other amounts when due pursuant to this Term Sheet or any other Credit Documents;

(b) Failure of any Credit Party to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet or any other Credit Document and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;

(c) Any representation or warranty by a Credit Party made or deemed to be made in this Term Sheet or any other Credit Document is or proves to be incorrect or misleading in any material respect as of the date made or deemed to be made;

(d) Issuance of any Court Order (i) dismissing the Restructuring Proceedings or lifting the stay of proceedings therein to permit the enforcement of any security against any Credit Party or their Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receivership order against or in respect of any Credit Party, in each case which order is not stayed pending appeal thereof, and other than in respect of a non-material asset not required for the operations of any Credit Party's business and which is subject to a Permitted Priority Lien; (ii) granting any other Lien in respect of the CCAA Applicants' Collateral that is in priority to or *pari passu* with the Interim Lenders' Charge other than as permitted pursuant to this Term Sheet, (iii) modifying this Term Sheet or any other Credit Document without the prior written consent of the Interim Lenders and the Existing Credit Facility Agent in their sole and absolute discretion; (iv) commencing any proceedings in respect of the Credit Parties pursuant to Chapter 7 or Chapter 11 of the Bankruptcy Code; (v) approving a Restructuring Transaction, other than a Permitted Restructuring Transaction, that has not been previously consented to in writing by the Interim

Lenders and the Existing Credit Facility Agent, (vi) staying, reversing, vacating or otherwise modifying any Court Order relating to the Interim Facility, the SISP or any other matter that affects the Interim Lenders without the prior written consent of the (x) Supermajority Interim Lenders and (y) Existing Credit Facility Agent, in each case in their sole and absolute discretion (except as contemplated by the SISP itself) or (vii) limiting or conditioning the right of the Interim Lenders to credit bid pursuant to Section 32 hereof;

(e) Unless consented to in writing by the (x) Required Interim Lenders and (y) Existing Credit Facility Agent, the expiry without further extension of the stay of proceedings provided for in the Amended Initial Order;

(f) (i) a Variance Report or Updated DIP Budget is not delivered when due under this Term Sheet or (ii) in respect of any Testing Period, there shall exist a variance in excess of the Permitted Variance for the period for which the Variance Report is prepared;

(g) Unless consented thereto in writing by (x) Required Interim Lenders and (y) Existing Credit Facility Agent (such consent not to be unreasonably withheld), the filing by any of the Credit Parties of any motion or proceeding that (i) is not consistent with any provision of this Term Sheet, the Credit Documents, the Amended Initial Order, the Recognition Order (if applicable), or the SISP, as applicable, (ii) could otherwise be expected to have a material adverse effect on the interests of the Interim Lenders, (iii) seeks to continue the CCAA Proceedings under the jurisdiction of a court other than the Court, (iv) seeks to dismiss or convert the Chapter 15 Proceedings (if any), or (v) seeks to initiate any restructuring or insolvency proceedings other than the Restructuring Proceedings in any court or jurisdiction;

(h) Any proceeding, motion or application shall be commenced or filed by any Credit Party, or if commenced by another party, supported, remain unopposed or otherwise consented to by any Credit Party, seeking approval of any Restructuring Transaction other than a Permitted Restructuring Transaction without the prior written consent of the (x) Required Interim Lenders and (y) Existing Credit Facility Agent;

(i) The making by any Credit Party of a payment of any kind that is not permitted by this Term Sheet or the Credit Documents or is not in accordance with the DIP Budget, subject to the Permitted Variance;

(j) Except as stayed by order of the Court or the Bankruptcy Court or consented to by the Required Interim Lenders, a default under, revocation or cancellation of, any Material Contract;

(k) The denial or repudiation by any Credit Party of the legality, validity, binding nature or enforceability of this Term Sheet or any other Credit Documents;

(l) Except as stayed by order of the Court, the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of CDN$500,000 in the aggregate, against any Collateral, any Credit Party or any Credit Party's subsidiaries or such subsidiaries' property that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy;

(m) The Credit Parties or their affiliates (including any joint ventures in which the Credit Parties or their affiliates hold an interest) resuming mining operations without the consent of Washington Diamond in its sole and absolute discretion; *provided* that no Event of Default shall be deemed to have occurred based on a continuation of operations at the Diavik mine;

(n) The Credit Parties or their affiliates resume sales of diamond inventory to third parties; *provided*, *however*, that no Event of Default will be deemed to have occurred by virtue of a sale of diamond inventory from one Credit Party or an affiliate of a Credit Party to any other Credit Party or an affiliate of a Credit Party; *provided*, *further*, *however*, that no Event of Default shall be deemed to have occurred in the event that the Credit Parties or their affiliates undertake any sales of diamond inventory with the prior written consent of Washington Diamond, such consent not to be unreasonably withheld;

(o) Any Milestone set forth on **Schedule E** hereof shall not be satisfied; or

(p) The use of any proceeds of the Interim Facility to fund any obligations (including cash call or reclamation obligations) under any Joint Venture to which any Credit Party is party, without the prior written consent of the (x) Required Interim Lenders and (y) Existing Credit Facility Agent, in each case in their sole and absolute discretion.

24. **REMEDIES:** Upon the occurrence of an Event of Default, and subject to the Court Orders, Washington Diamond may, and at the direction of the Required Interim Lenders shall, on behalf of itself and each of the Interim Lenders, in its sole and absolute discretion, elect to terminate the commitments hereunder and declare the Interim Financing Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, Washington Diamond may, on behalf of itself and each of the Interim Lenders, in its sole and absolute discretion, subject to the Court Orders including any notice provision

contained therein:

(a) apply to a court for the appointment of a receiver, an interim receiver or a receiver and manager over the CCAA Applicants or their Collateral, or for the appointment of a trustee in bankruptcy of the Borrower or any of the other Credit Parties;

(b) set-off or combine any amounts then owing by any Interim Lender to any Credit Party against the obligations of any of the Credit Parties to any Interim Lender hereunder;

(c) exercise the powers and rights of a secured party under the Personal Property Security Act (Alberta), or any federal, provincial, territorial or state legislation of similar effect; and

(d) exercise all such other rights and remedies under this Term Sheet, the Court Orders and Applicable Law.

In the event that, following the exercise of remedies set forth in this Section 24 and provided that Washington Diamond has taken possession of and holds, through an exercise of rights and remedies, any Collateral constituting diamonds, then for a period of 60 days (the "**Initial Holding Period**"), Washington Diamond shall hold such diamonds for the benefit of itself, the other Interim Lenders, the Existing Credit Facility Lenders and the Existing Credit Facility Agent. At all times during and after the Initial Holding Period, subject to the terms of this Section 24, (i) Washington Diamond shall have the right, but not the obligation, to purchase (x) from the remaining Interim Lenders, upon at least five (5) days prior written notice from Washington Diamond to the remaining Interim Lenders (which purchase may be made in the sole and absolute discretion of Washington Diamond), all Interim Financing Obligations held by such remaining Interim Lenders, and (y) from the Existing Credit Facility Lenders, upon at least five (5) days written notice from Washington Diamond to the Existing Credit Facility Agent (which purchase may be made in the sole and absolute discretion of Washington Diamond), all Obligations (as defined in the Existing Credit Agreement) and all Liens securing such Obligations held by such Existing Credit Facility Lenders (the right described in this subparagraph (ii), the "**Washington Diamond Call Right**"), and (ii) the Existing Credit Facility Lenders that are participating in the Interim Facility as Interim Lenders (the "**Participating Credit Facility Interim Lenders**") shall, upon at least five (5) days prior written notice from such Participating Credit Facility Interim Lenders to Washington Diamond (which purchase may be made in the sole and absolute discretion of the Participating Credit Facility Interim Lenders), have the right, but not the obligation, to purchase from Washington Diamond all (but not less than all) Interim Financing Obligations held by Washington Diamond (the right described in this subparagraph (ii), the "**Participating Credit Facility Interim Lender Call Right**"). The Participating Credit Facility Interim Lenders shall be prohibited from issuing a notice triggering the Participating Credit Facility Interim Lender Call Right if, at the time of issuing such notice, Washington Diamond has issued a notice triggering the Washington Diamond Call

Right. Washington Diamond shall be prohibited from issuing a notice triggering the Washington Diamond Call Right if, at the time of such notice, the Participating Credit Facility Interim Lenders have issued a notice triggering the Participating Credit Facility Interim Lender Call Right.

In addition and subject to the terms of this Section 24, upon the expiration of the Initial Holding Period and at any time thereafter, the Participating Credit Facility Interim Lenders shall be required to, upon at least five (5) days written notice from Washington Diamond to the Existing Credit Facility Agent (which request may be made in the sole and absolute discretion of Washington Diamond), purchase from Washington Diamond all (but not less than all) Interim Financing Obligations held by Washington Diamond at par *plus* any interest, fees, and expenses incurring during and after the Initial Holding Period (the obligation of the Participating Credit Facility Interim Lenders set forth in this paragraph, the "**Participating Credit Facility Interim Lender Put Obligation**"). Washington Diamond or the Participating Credit Facility Interim Lenders (as applicable) shall close any transactions related to the Washington Diamond Call Right, the Participating Credit Facility Interim Lender Call Right, or the Participating Credit Facility Interim Lender Put Obligation as promptly as possible, but in no event later than 10 days following the issuance of the notice triggering such right or obligation.

If the Participating Credit Facility Interim Lender Call Right or the Participating Credit Facility Interim Lender Put Obligation is exercised, the proceeds resulting from recovery from the sale of the Collateral constituting diamonds shall be distributed: (i) first, to all costs and expenses incurred by or on behalf of the Existing Credit Facility Agent; (ii) second, to the Participating Credit Facility Lenders in respect of their pro-rata contributions to the Interim Facility; (iii) third, to the Participating Credit Facility Lenders in respect of their pro rata contributions to the Existing Credit Facility, and (iv) fourth, to the remaining Existing Credit Facility Lenders who are not Participating Credit Facility Interim Lenders in respect of their pro rata contributions to the Existing Credit Facility. If there are no Participating Credit Facility Interim Lenders, the Participating Credit Facility Interim Lender Put Obligation shall be that of the Existing Credit Facility Agent unless the Existing Credit Facility Agent has issued a Diamonds Sale Request in accordance with the terms hereof.

In addition and subject to the terms of this Section 24, upon the expiration of the Initial Holding Period and at any time thereafter, provided that Washington Diamond has not issued a notice triggering the Participating Credit Facility Interim Lender Put Obligation and the Existing Credit Facility Agent has not issued a Diamonds Sale Request, Washington Diamond shall be permitted to liquidate the diamond inventory, with the proceeds being distributed in priority as among the Interim Facility Lender and the Existing Credit Facility Lenders in accordance with the Lien priority provisions hereof. Subject to the immediately preceding sentence, five (5) days prior to any sale of the diamond inventory set forth in this paragraph, Washington Diamond shall issue a written notice to the Existing Credit Facility Agent of Washington Diamonds' intention to sell such

diamond inventory, during which notice period, the Participating Credit Facility Interim Lenders will be permitted to exercise the Participating Credit Facility Interim Lender Call Right. In the event that the Participating Credit Facility Interim Lender Call Right, to the extent applicable, is not exercised during this five (5) day notice period, such Participating Credit Facility Interim Lender Call Right shall be deemed to have been irrevocably waived.

Notwithstanding the foregoing, during the Initial Holding Period of 60 days, the Existing Credit Facility Agent may issue to Washington Diamond a written notice, requesting Washington Diamond to sell all the diamonds that are Collateral of the Interim Lenders ("**Diamonds Sale Request**").

Upon the issuance of a Diamonds Sale Request:

- The Participating Credit Facility Interim Lender Call Right, any right of purchase of the Interim Facility Obligations and the Participating Credit Facility Interim Lender Put Obligations shall be void and no longer exercisable;

- Any subordination with respect to the October Advance shall be terminated and the October Advance, if advanced in part or in whole, shall rank equal in priority to all other Interim Facility Obligations; and

- Washington Diamond shall have 10 days to respond to such request, pursuant to which it will either accept or reject the Diamonds Sale Request.

Rejection of Diamonds Sale Request:

- Washington Diamond shall have no liability to the Existing Credit Facility Agent or Existing Credit Facility Lenders in connection with a rejection of the Diamonds Sale Request, including, without limitation, the timing of any future disposition of diamonds, but such rejection shall not relieve Washington Diamond of any obligation under Applicable Law with respect to the manner of disposition of Collateral.

Acceptance of Diamonds Sale Request

- Any disposition of diamonds shall be permitted to be sold in one or more transactions, in Washington Diamond's sole and absolute discretion, including without limitation, with respect to the timing, process, and manner of such disposition; and

- Washington Diamond shall have no liability of any kind to the Existing Credit Facility Agent or the Existing Credit Facility Lenders with respect to the disposition of any diamonds, including without limitation the timing, process, and manner of disposition, and the Existing Credit Facility Agent and the Existing Credit

Facility Lenders covenant not to sue or otherwise take any action with respect to such disposition, except for any claims that Washington Diamond's conduct with respect to the process and manner of such disposition(s) constitutes gross negligence or willful misconduct.

The Parties acknowledge and agree that any sale of diamonds by auction, and any direct to customer sale in a manner generally consistent with past practice, shall be deemed by all parties to be commercially reasonable.

25. **RIGHT OF REPURCHASE**

In the event that the purchase agreement governing the Stalking Horse Transaction is terminated, the Existing Credit Facility Lenders shall have the right, but not the obligation, to purchase from the Interim Lenders, upon at least five (5) days prior written notice from the Existing Credit Facility Lenders to Washington Diamond (which request may be made in the sole and absolute discretion of the Existing Credit Facility Lenders) either:

(a) all outstanding Interim Facility Obligations (including, for the avoidance of doubt, any accrued and unpaid interest, expenses and fees as of the date of such purchase); or

(b) a portion of the Advances made by the Interim Lenders, together with a ratable portion of accrued and unpaid interest, expenses and fees associated with such Advances (such purchase, a "**Partial Purchase**").

In the Event of a Partial Purchase, any remaining Interim Facility Obligations shall be senior in priority in all respects relative to any financing used to facilitate such Partial Purchase.

26. **INDEMNITY AND RELEASE:**

The Credit Parties agree, on a joint and several basis, to indemnify and hold harmless each of the Interim Lenders and their respective directors, officers, employees, agents, attorneys, counsel and advisors (all such persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, "**Claims**") as a result of or arising out of or in any way related to the Interim Facility or this Term Sheet and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; *provided*, *however*, the Borrower and other Credit Parties shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence, wilful misconduct or bad faith of the applicable Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the Borrower or the other Credit Parties. None of the Interim Lenders, the

Indemnified Persons, nor the Credit Parties shall be responsible or liable to any other person for consequential or punitive damages.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the Interim Facility.

27. **TAXES:** All payments by the Borrower and any other Credit Parties under this Term Sheet to the Interim Lenders, including any payments required to be made from and after the exercise of any remedies available to the Interim Lenders upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any Governmental Authority country or any political subdivision of any country (collectively "**Taxes**"); provided, however, that if any Taxes are required by Applicable Law to be withheld ("**Withholding Taxes**") from any amount payable to any Interim Lender under this Term Sheet, the amount so payable to such Interim Lender shall be increased by an amount necessary to yield to such Interim Lender on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to such Interim Lender that the Taxes have been so withheld and remitted.

If the Credit Parties pay an additional amount to an Interim Lender to account for any deduction or withholding, such Interim Lender shall, at the sole cost and expense of the Credit Parties, reasonably cooperate with the applicable Credit Parties to obtain a refund of the amounts so withheld and paid to the Interim Lender. Any refund of an additional amount so received by such Interim Lender, without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund which such Interim Lender determines in its sole discretion will leave it, after such payment, in no better or worse position than it would have been if no additional amounts had been paid to it), net of all out of pocket expenses of such Interim Lender, shall be paid over by such Interim Lender to the applicable Credit Parties promptly. If reasonably requested by the Credit Parties, such Interim Lender shall apply to the relevant Governmental Authority to obtain a waiver from such withholding requirement, and such Interim Lender shall reasonably cooperate, at the sole cost and expense of the Credit Parties, with the applicable Credit Parties and assist such Credit Parties to minimize the amount of deductions or withholdings required. The Credit Parties, upon the request of such Interim Lender, shall repay any portion of the amount repaid by such Interim Lender pursuant to this Section 27 (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such Interim Lender is required to repay such portion of the refund to such Governmental Authority. This Section 27 shall not be construed to require any of the Interim Lenders to make available its tax returns (or any other information relating to its Taxes that it deems confidential) to any Credit Party or any other Person. The Interim Lenders shall not by virtue of anything in this

Term Sheet or any other Credit Document be under any obligation to arrange its tax affairs in any particular manner so as to claim any refund on behalf of the Credit Parties.

28. **FURTHER ASSURANCES:** The Credit Parties shall, at their expense, from time to time do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents (including, without limitation, certificates, declarations, affidavits, reports and opinions) and things as the Required Interim Lenders may reasonably request for the purpose of giving effect to this Term Sheet.

29. **ENTIRE AGREEMENT; CONFLICT:** This Term Sheet, including the schedules hereto and any other Credit Documents delivered in connection with this Term Sheet, constitute the entire agreement between the parties relating to the subject matter hereof.

30. **AMENDMENTS, WAIVERS, ETC.:** No waiver or delay on the part of the Interim Lenders in exercising any right or privilege hereunder will operate as a waiver hereof or thereof unless made in writing (including by e-mail) by the Required Interim Lenders, the Supermajority Interim Lenders, Washington Diamond, the Existing Credit Facility Agent, or each Interim Lender (as applicable) and delivered in accordance with the terms of this Term Sheet, and then such waiver shall be effective only in the specific instance and for the specific purpose given.

31. **ASSIGNMENT:** Subject to the consent of Washington Diamond (not to unreasonably withheld), any Interim Lender may assign this Term Sheet and its rights and obligations hereunder, in whole or in part, to any affiliate of an Interim Lender in its discretion (subject in all cases to (i) providing the Monitor and the other Interim Lenders with reasonable evidence that such assignee has the financial capacity to fulfill the obligations of such Interim Lender hereunder, and (ii) the assignee providing notice to the Credit Parties to confirm such assignment). Neither this Term Sheet nor any right or obligation hereunder may be assigned by any Credit Party.

32. **CREDIT BIDDING**: In any sale of any Credit Party's Collateral, Washington Diamond, on behalf of itself and each of the other Interim Lenders shall be permitted, in its sole and absolute discretion, to credit bid up to the full amount of the then outstanding Interim Financing Obligations; *provided* that, prior to making any such credit bid, Washington Diamond shall obtain the prior consent of the Existing Credit Facility Agent, such consent not to be unreasonably withheld; *provided further* that such consent shall not be required for any credit bid submitted by any affiliate of Washington Diamond in connection with the Stalking Horse Transaction or any substantially similar transaction, subject to the repayment in full in cash of any Advances (plus accrued interest, expenses, and fees) held by Interim Lenders other than Washington Diamond and its affiliates.

33. **SEVERABILITY:** Any provision in this Term Sheet which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

34. **NO THIRD PARTY BENEFICIARY:** No person, other than the Credit Parties, the Interim Lenders and the Indemnified Persons, is entitled to rely upon this Term Sheet and the parties expressly agree that this Term Sheet does not confer rights upon any other party.

35. **COUNTERPARTS AND SIGNATURES:** This Term Sheet may be executed in any number of counterparts and by electronic transmission including "pdf email", each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same instrument.

36. **NOTICES:** Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered personally or sent email to the such Person at its address set out on its signature page hereof, with a copy to counsel. Any such notice, request or other communication hereunder shall be concurrently sent to the Monitor and its counsel.

Any such notice shall be deemed to be given and received when received, unless received after 5:00 p.m. Eastern Time or on a day other than a Business Day, in which case the notice shall be deemed to be received the next Business Day.

37. **ENGLISH LANGUAGE:** The parties hereto confirm that this Term Sheet and all related documents have been drawn up in the English language at their request. *Les parties aux présentes confirment que le présent acte et tous les documents y relatifs furent rédigés en anglais à leur demande.*

38. **GOVERNING LAW AND JURISDICTION:** This Term Sheet shall be governed by, and construed in accordance with, the laws of the Province of Alberta and the federal laws of Canada applicable therein. Without prejudice to the ability of the Interim Lender to enforce this Term Sheet in any other proper jurisdiction, the Credit Parties irrevocably submit and attorn to the non-exclusive jurisdiction of the Court.

39. **JOINT & SEVERAL:** The obligations of the Credit Parties hereunder are joint and several.

40. **CONSENTS AND APPROVALS** No Interim Lender shall have any liability to any other Interim Lender or any other person by virtue of making, providing, or taking or not making, providing, or taking any consent, acceptance, waiver, modification, agreement, determination, election, permission, or action hereunder, or by taking or not taking any other action permitted or contemplated hereby (including, without limitation, any consent, acceptance, waiver, modification, agreement, determination, election, permission, or action taken or not taken in connection with the enforcement by the Interim Lenders of any remedies against the Collateral or the Credit Parties hereunder).

41. **SUPPORT OF TRANSACTION** By executing this Term Sheet, each Interim Lender, each Existing Credit Facility Lender, and the Existing Credit Facility Agent agree that it will:

(a) Cooperate with each other Interim Lender, Existing Credit Facility Lender and the Existing Credit Facility Agent with respect to the SISP, the Stalking Horse Transaction or the implementation thereof, and to use commercially reasonable efforts to pursue and support implementation of the same;

(b) Not vote for, consent to, support or participate in the formulation of any other restructuring, exchange, or settlement of any of the indebtedness of or claims against the Applicants, any transaction other than the Stalking Horse Transaction (except as provided for in the SISP) involving the Applicants, any of their assets or stock, or any plan of arrangement, reorganization or liquidation under any bankruptcy, insolvency or similar laws;

(c) Not directly or indirectly seek, solicit, support, formulate entertain, encourage or engage in any inquiries, or discussions, or enter into any agreements relating to, any transaction other than the Stalking Horse Transaction (except as provided for in the SISP) and/or any restructuring, plan of arrangement or reorganization, receivership, proposal or offer of dissolution, winding up, liquidation, reorganization, merger, transaction, sale, assignment for the benefit of creditors, or restructuring in any manner of any of the Applicants (or any of their assets, liabilities or equity interests;

(d) Not object to the Interim Facility, the SISP, the Stalking Horse Transaction or the implementation thereof or initiate any legal proceedings, that are inconsistent with, or that would delay, prevent, frustrate or impede the approval or consummation of, the Interim Facility, the SISP, the Stalking Horse Transaction or any transactions related thereto, or take any other action that is barred by this Term Sheet; and

(e) Not solicit, encourage, or direct any Person to undertake any action set forth in subparagraphs (b) through (d) above.

42. **AMENDMENT AND RESTATEMENT** The terms and provisions of the Original Term Sheet shall be and are hereby amended, superseded and restated in their entirety by the terms and provisions of this Term Sheet.

IN WITNESS HEREOF, the parties hereby execute this Term Sheet as at the date first above mentioned.

Washington Diamond Lending, LLC

Address:
Attention:
Email:

Per: _____
Name: Lawrence R. Simkins
Title: President
I have authority to bind the LLC.

Dominion Diamond Mines ULC

Address:
Attention:
Email:

Per: _____
Name:
Title:
I have authority to bind the corporation.

IN WITNESS HEREOF, the parties hereby execute this Term Sheet as at the date first above mentioned.

Washington Diamond Lending, LLC

Address:
Attention:
Email:

Per: _____
Name:
Title:
I have authority to bind the LLC.

Dominion Diamond Mines ULC

Address:
Attention:
Email:

Per: _____
Name:
Title:
I have authority to bind the corporation.

Credit Suisse AG, Cayman Islands Branch, as Existing Credit Facility Agent and Lender

Address:
Eleven Madison Avenue
New York, NY 10010-3629
Attention: Didier Siffer
Email: didier.siffer@credit-suisse.com

Per: 

Name: Didier Siffer
Title: Managing Director

-and-

Name: Megan Kane
Title: Managing Director

We have authority to bind the entity.

Washington Diamond Investments, LLC

Address:
Attention:
Email:

Per: _____
Name: Joseph M. Racicot
Title: Secretary
I have authority to bind the LLC.

Dominion Diamond Holdings, LLC

Address:
Attention:
Email:

Per: _____
Name: Joseph M. Racicot
Title: Secretary
I have authority to bind the LLC.

Dominion Finco Inc.

Address:
Attention:
Email:

Per: _____
Name: Joseph M. Racicot
Title: Secretary
I have authority to bind the LLC.

Dominion Diamond Delaware Company LLC

Address:
Attention:
Email:

Per: _____
Name: Kristal Kaye
Title:
I have authority to bind the LLC.

Dominion Diamond Canada ULC

Address:
Attention:
Email:

Per: _____
Name: Kristal Kaye
Title:
I have authority to bind the LLC.

Washington Diamond Investments, LLC

Address:
Attention:
Email:

Per: _____
Name: Joseph M. Racicot
Title:
I have authority to bind the LLC.

Dominion Diamond Holdings, LLC

Address:
Attention:
Email:

Per: _____
Name: Joseph M. Racicot
Title:
I have authority to bind the LLC.

Dominion Finco Inc.

Address:
Attention:
Email:

Per: _____
Name: Joseph M. Racicot
Title:
I have authority to bind the LLC.

Dominion Diamond Delaware Company LLC

Address:
Attention:
Email:

Per: Kristal Kaye
Name: Kristal Kaye
Title: Chief Financial Officer
I have authority to bind the LLC.

Dominion Diamond Canada ULC

Address:
Attention:
Email:

Per: Kristal Kaye
Name: Kristal Kaye
Title: Chief Financial Officer
I have authority to bind the LLC.

SCHEDULE "A"
DEFINED TERMS

"**Advance**" means an amount of the Interim Facility advanced to the Borrower pursuant to the terms hereof from time to time.

"**Administration Charge**" means a priority charge over the CCAA Applicants' Collateral granted by the Court pursuant to the Initial Order in an aggregate amount not to exceed CDN$3,500,00 to secure the fees and expenses of (i) the legal and financial advisors of the Credit Parties, (ii) the Monitor and its counsel, in connection with the CCAA Proceedings; and (iii) the monthly fees owing to the SISP Advisor under its engagement letter with the Applicants, but no other fees or expenses provided for therein.

"**Advance Conditions**" has the meaning given thereto in Section 7.

"**Advance Request Certificate**" has the meaning given thereto in Section 5.

"**Amended Initial Order**" has the meaning given thereto in Section 7(d).

"**Applicable Law**" means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Authority having the force of law.

"**Bankruptcy Code**" means title 11 of the *United States Code*.

"**Bankruptcy Court**" has the meaning given thereto in Section 21(t).

"**Bankruptcy Court Order**" has the meaning given thereto in Section 21(d).

"**Borrower**" has the meanings given thereto in Section 1.

"**Business Day**" means any day other than a Saturday, Sunday or any other day on which banks in Calgary, Alberta are not open for business.

"**CCAA**" has the meaning given thereto in the Recitals.

"**CCAA Proceedings**" has the meaning given thereto in the Recitals.

"**Claims**" has the meaning given thereto in Section 26.

"**Collateral**" means, in respect of a Person, all current or future assets, businesses, undertakings and properties of such Person, real and personal, tangible or intangible, including all proceeds thereof, other than Excluded Assets.

"**Court**" has the meaning given thereto in the Recitals.

"**Court Order**" means any CCAA Order or Bankruptcy Court Order and "**Court Orders**" means, collectively, all such orders.

"**Credit Documents**" means this Term Sheet, the Guarantee delivered by the Guarantors, and any other document delivered in connection with or relating to this Term Sheet from time to time.

"**Credit Parties**" means the Borrower and the Guarantors, collectively.

"**Criminal Code Interest**" has meaning given thereto in Section 17(a).

"**Criminal Rate**" has meaning given thereto in Section 17(a).

"**Default**" means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

"**Defaulting Lender**" means any Interim Lender other than Washington Diamond that (a) has failed to fund any portion of the Advances required to be funded by it hereunder within two Business Days of the date required to be funded by it hereunder unless such failure has been cured, (b) has been determined by a court of competent jurisdiction or regulator to be insolvent or is unable to meet its obligations or admits in writing it is unable to pay its debts as they generally become due, (c) is the subject of a bankruptcy or insolvency proceeding, (d) is subject to or is seeking the appointment of an administrator, regulator, conservator, liquidator, receiver, trustee, custodian or other similar official over any material portion of its assets or business, or (e) fails to confirm in writing that it will comply with its obligations hereunder after written request from the Borrower, or an Interim Lender who provides notice in writing, or makes a public statement to the effect, that it does not intend to comply with its funding obligations hereunder.

"**Diavik Collateral**" means (a) the assets owned by the Diavik Joint Venture, (b) the Borrower's interest in the Diavik Joint Venture, and (c) the diamond inventory produced at the Diavik mine and not held by the Credit Parties or their direct or indirect affiliates as of the commencement of these CCAA Cases, and in each case, including all proceeds thereof.

"**Diavik JV Priority Liens**" means any Liens arising under Section 9.4 of the Diavik Joint Venture Agreement.

"**DIP Budget**" means the weekly financial projections prepared by the Credit Parties covering the period commencing on the week ended April 24, 2020, and ending on the week ending October 30, 2020, on a weekly basis, which shall be in form and substance acceptable to the Required Interim Lenders in their sole and absolute discretion and the Existing Credit Facility Agent in its reasonable discretion, which financial projections may be amended from time to time in accordance with Section 14. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the Required Interim Lenders and the Existing Credit Facility Agent .

"**Directors' Charge**" means a priority charge over the CCAA Applicants' Collateral granted by the Court pursuant to the Initial Order in favour of the directors and officers of the CCAA Applicants, in an amount not to exceed CDN$4,000,000.

"**Event of Default**" has the meaning given thereto in Section 23.

"**Excluded Assets**" means voting equity interests in Dominion Diamond (India) Private Limited in excess of 65% of the aggregate voting equity interests of Dominion Diamond (India) Private Limited.

"**Existing Credit Agreement**" means the Revolving Credit Agreement dated as of November 1, 2017 by and among Dominion Diamond Mines ULC, as borrower, Washington Diamond Investments, LLC, a Delaware limited liability company, Credit Suisse AG, Cayman Islands Branch, as the administrative agent and collateral agent, and each of the other parties and lenders party thereto, as amended, restated, supplemented or otherwise modified from time to time.

"**Existing Credit Facility**" means the facility governed by the Existing Credit Agreement.

"**Existing Credit Facility Agent**" means Credit Suisse AG, Cayman Islands Branch, as the administrative agent and collateral agent, under the Existing Credit Agreement.

"**Existing Credit Facility Lenders**" means those lenders under the Existing Credit Agreement.

"**Facility Amount**" has the meaning given thereto in Section 5.

"**Filing Date**" means the date of commencement of the CCAA Proceedings.

"**First Lien Facility LC Obligations**" means those Obligations (as defined in the Existing Credit Agreement) related to or arising from LC Exposure (as defined in the Existing Credit Agreement).

"**Funded First Lien Facility Obligations**" means those Obligations (as defined in the Existing Credit Agreement) related to or arising from Loans (as defined in the Existing Credit Agreement).

"**Governmental Authority**" means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

"**Guarantee**" means a guarantee of the Interim Financing Obligations made by each of the Guarantors in favour of the Interim Lenders, in form and substance satisfactory to the Required Interim Lenders.

"**Guarantors**" has the meaning given thereto in Section 3.

"**Indemnified Persons**" has the meaning given thereto in Section 26.

"**Initial DIP Budget**" has the meaning given thereto in Section 14.

"**Initial Order**" has the meaning given thereto in the Recitals.

"**Interim Facility**" has the meaning given thereto in Section 5.

"**Interim Facility Priority Collateral**" means all Collateral other than the Diavik Collateral.

"**Interim Financing Obligations**" means, collectively, all obligations owing by the Credit Parties pursuant to this Term Sheet and the other Credit Documents, including, without limitation, all principal, interest, fees, costs, expenses, disbursements and Interim Lender Expenses.

"**Interim Lenders**" has the meaning given thereto in Section 2.

"**Interim Lenders' Charge**" has the meaning given thereto in Section 7**.**

"**Interim Lender Expenses**" has the meaning given thereto in Section 8.

"**KERP Charge**" means the means a priority charge over the CCAA Applicants' Collateral granted by the Court pursuant to the Amended Initial Order to secure the obligations of the CCAA Applicants to certain key employees pursuant to the terms of a key employee retention plan in an amount not to exceed CDN$600,000, in the aggregate.

"**Liens**" means (a) all liens, hypothecs, charges, mortgages, deeds of trusts, trusts, deemed trusts (statutory or otherwise), constructive trusts, encumbrances, security interests, and statutory preferences of every kind and nature whatsoever, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset, and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

"**Material Contract**" means any contract, licence or agreement: (i) to which any Credit Party is a party or is bound; (ii) which is material to, or necessary in, the operation of the business of any Credit Party; and (iii) which a Credit Party cannot within a commercially reasonable timeframe replace by an alternative and comparable contract with comparable commercial terms.

"**Maturity Date**" has the meaning given thereto in Section 13.

"**Monitor**" has the meaning given thereto in Section 12.

"**Non-Consenting Lender**" means any Interim Lender other than Washington Diamond that has not provided its consent, acceptance, waiver or agreement (including in connection with any proposed amendment or modification to this Term Sheet) where requested to do so by the Borrower or Washington Diamond if such consent, acceptance, waiver or agreement (i) requires the consent of the Supermajority Interim Lenders, and (ii) Interim Lenders whose Commitments at the relevant time aggregate at least 65% of the total Commitments have consented to such consent, acceptance, waiver or agreement.

"**Operating Account**" means a bank account of the Borrower designated by the Borrower to receive Advances.

"**Original Currency**" has the meaning given thereto in Section 18.

"**Original Term Sheet**" has the meaning given thereto in the Recitals.

"**Other Currency**" has the meaning given thereto in Section 18.

"**Outside Date**" means October 31, 2020.

"**Permitted Liens**" means (i) the Interim Lenders' Charge; (ii) any charges created under the Amended Initial Order or other Court Order subsequent in priority to the Interim Lenders' Charge and approved in writing by the Required Interim Lenders and the Existing Credit Facility Agent in their reasonable discretion; (iii) validly perfected Liens existing prior to the date hereof; (iv) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business, subject to the obligation to pay all such amounts as and when due; (v) the Permitted Priority Liens; and (vi) the SISP Advisor Charge.

"**Permitted Priority Liens**" means (i) the Administration Charge; (ii) the Directors Charge; (iii) the KERP Charge; (iv) any amounts payable by a Credit Party for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in each case solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has not been subordinated to the Interim Lenders' Charge granted by the Court; (v) any charges created under the Amended Initial Order related to the break fee with respect to the Stalking Horse Transaction; (vi) subject to any order of the CCAA Court and solely to the extent set forth in the Rio Subordination Agreement, the Diavik JV Priority Liens; *provided* that the Diavik JV Priority Liens shall constitute Permitted Priority

Liens solely with respect to the Diavik Collateral and solely to the extent that they constitute Liens over the Diavik Collateral or portions thereof; and (vii) solely with respect to the Diavik Collateral, the Liens of the Existing Credit Facility Agent to secure the Obligations under the Existing Credit Facility Agreement; *provided further* that, for the avoidance of doubt, Permitted Priority Liens shall not include any Liens securing any Credit Party's obligations under (a) the Existing Credit Agreement, (b) the indenture governing the 7.125% Senior Secured Second Lien Secured Notes due 2022 issued by certain of the Credit Parties, as amended, restated, supplemented or otherwise modified from time to time, and (c) any joint venture agreements, as amended, restated, supplemented or otherwise modified from time to time, to which any of the Credit Parties are party.

"**Permitted Restructuring Transaction**" means:

(i) the Stalking Horse Transaction;

(ii) a transaction that (a) provides for the repayment in full in cash of all Interim Financing Obligations outstanding at the time of closing of such Restructuring Transaction and (b) otherwise constitutes a "Successful Bid" as defined in and in accordance with the SISP; or

(iii) a transaction for the Non-Diavik Assets (as defined in the SISP) that (a) provides for repayment in full in cash of all Interim Financing Obligations; (b) otherwise constitutes a "Successful Bid" as defined in and in accordance with the SISP; and (c) maintains all liens and other rights held by the Agent on behalf of the First Lien Lenders securing all obligations under the Existing Credit Facility, to the Diavik Interest including, but not limited to, all diamond production from the Diavik Interest (but excluding in all respects those diamonds (and/or proceeds thereof) delivered to any of the CCAA Applicants or their direct or indirect controlled affiliates prior to the commencement of the CCAA), including the proceeds thereof.

"**Permitted Variance**" means an adverse variance of not more than 20% relative to the aggregate "Total Operating Disbursements" line item in the applicable DIP Budget; *provided*, *however*, that if any adverse variance is reversing a prior positive variance, such adverse timing variance shall not be counted towards the 20% variance threshold.

"**Person**" means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"**Plan**" means any plan of compromise, arrangement, reorganization or similar arrangement filed pursuant to the CCAA, the Bankruptcy Code, or any other statute in any jurisdiction, in respect of any of the Credit Parties.

"**Recognition Order**" has the meaning given thereto in Section 21(t).

"**Required Interim Lenders**" means those Interim Lenders holding a majority of the Commitments and any outstanding Advances held by all Interim Lenders; *provided* that Required Interim Lenders must in all cases include Washington Diamond.

"**Restructuring Proceedings**" means, collectively, the CCAA Proceedings and the Chapter 15 Proceedings.

"**Restructuring Transaction**" means any restructuring, financing, refinancing, recapitalization, sale, liquidation, workout, Plan or other material transaction of, or in respect of, all or any of the Credit Parties or their respective assets and liabilities and includes, without limitation, the Stalking Horse Transaction.

"**Rio Subordination Agreement**" means that certain subordination agreement between, among others, Diavik Diamond Mines (2012) Inc. and the Existing Credit Facility Agent dated November 1, 2017.

"**SISP**" means a Sales and Investment Solicitation Process authorized pursuant to the Amended Initial Order (or other Order of the Court, as the case may be), as amended, but only to the extent such amendment is consented to by the Stalking Horse Bidder.

"**SISP Advisor**" means Evercore Group LLC.

"**SISP Advisor Charge**" means a priority charge over the CCAA Applicants' Collateral granted by the Court pursuant to the Amended Initial Order to secure the Borrowers' obligations to the SISP Advisor under the engagement letter between the SISP Advisor and the Borrower.

"**Stalking Horse Transaction**" means the transaction in respect of certain assets and property of the Credit Parties contemplated by the Letter of Intent signed by Washington Diamond Investments Holdings II, LLC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC and the Borrower and dated May 21, 2020.

"**Supermajority Interim Lenders**" means those Interim Lenders holding at least 68% of the Commitments and outstanding Advances held by all Interim Lenders; *provided* that Supermajority Interim Lenders must in all cases include Washington Diamond.

"**Term Sheet**" means this amended and restated term sheet, as may be amended, modified, supplemented or restated from time to time in accordance with the provisions hereof.

"**Taxes**" has the meaning given thereto in Section 27.

"**Testing Period**" has the meaning given thereto in Section 14.

"**Updated DIP Budget**" has the meaning given thereto in Section 14.

"**Variance Report**" has the meaning given thereto in Section 14.

"**Washington Diamond**" means Washington Diamond Lending, LLC, a Delaware limited liability company.

"**Withholding Taxes**" has the meaning given thereto in Section 27.

SCHEDULE "B"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: The Interim Lenders

FROM: Dominion Diamond Mines ULC

DATE: ●, 2020

1. This certificate is delivered to you, as Interim Lenders, in connection with a request for an Advance pursuant to the Amended and Restated Interim Financing Term Sheet made as of June 15, 2020 between the Borrower and the Interim Lenders, as amended, supplemented, restated or replaced from time to time (the "**Term Sheet**"). All defined terms used, but not otherwise defined in this certificate shall have the respective meanings set forth in the Term Sheet, unless the context requires otherwise.

2. The Borrower hereby requests an Advance as follows in respect of the week commencing on ●, 2020:

Aggregate amount of Advance: US$●

3. All of the representations and warranties of the Credit Parties set forth in the Term Sheet are true and accurate in all material respects as at the date hereof, as though made on and as of the date hereof.

4. All of the covenants of the Credit Parties contained in the Term Sheet and all other terms and conditions contained in the Term Sheet to be complied with by the Credit Parties, not properly waived in writing by the Interim Lenders, have been fully complied with.

7. No Default or Event of Default has occurred nor will any such event occur as a result of the Advance hereby requested.

DOMINION DIAMOND MINES ULC

Per: _____
Name:
Title:

I have authority to bind the corporation.

SCHEDULE "C"
DIP BUDGET

Dominion Diamond Mines
Consolidated Second Cash Flow Statement
For the 28-week period ending October 30, 2020

		Initial Stay Period																													
		Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15	Week 16	Week 17	Week 18	Week 19	Week 20	Week 21	Week 22	Week 23	Week 24	Week 25	Week 26	Week 27	Week 28	Weeks 1 - 28
($ thousands) *Week Ending*	Notes	24-Apr	1-May	8-May	15-May	22-May	29-May	5-Jun	12-Jun	19-Jun	26-Jun	3-Jul	10-Jul	17-Jul	24-Jul	31-Jul	7-Aug	14-Aug	21-Aug	28-Aug	4-Sep	11-Sep	18-Sep	25-Sep	2-Oct	9-Oct	16-Oct	23-Oct	30-Oct	Total
Operating Receipts																														
Sales	[1]	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Operating Receipts		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Operating Disbursements																														
Payroll and Benefits	[2]	-	400	1,569	-	1,314	605	1,060	10	91	1,733	-	1,540	-	1,479	-	1,465	-	1,465	-	1,465	-	-	1,465	-	1,465	-	1,465	1,914	**20,507**
Consultants and Contractors	[3]	25	85	117	437	28	263	342	382	527	518	493	81	51	18	246	524	135	47	170	494	134	41	230	478	87	41	125	125	**6,244**
Rent	[4]	-	98	113	-	0	-	98	-	-	-	98	-	-	-	-	98	-	-	-	98	-	-	-	98	-	-	-	-	**701**
Equipment Leases		-	-	572	-	-	841	-	371	-	-	631	-	-	-	-	925	-	-	-	925	-	-	-	925	-	-	-	-	**5,191**
Underground Mining Costs	[5]	-	-	-	-	-	-	-	-	-	-	882	-	-	-	-	882	-	-	-	441	-	-	-	441	-	-	-	-	**2,646**
Travel	[6]	-	-	-	12	-	8	17	50	106	-	156	15	15	15	15	172	15	43	15	172	15	15	54	153	15	15	27	27	**1,152**
Insurance	[7]	-	-	-	-	2,418	-	-	-	407	-	-	12	407	-	-	-	407	-	-	-	407	-	-	-	-	407	-	-	**4,467**
IT & Software		-	-	73	413	15	62	19	70	149	396	498	-	-	-	-	368	44	-	-	382	4	-	-	382	69	-	35	35	**3,014**
IBA Payments	[8]	-	-	-	-	-	-	-	-	-	-	417	-	-	-	-	458	-	-	-	-	458	-	55	-	458	-	27	27	**1,899**
Power	[9]	-	-	-	-	-	-	-	-	252	-	126	-	-	-	-	126	-	-	-	126	-	-	-	126	-	-	-	-	**756**
Site Maintenance & Environment	[10]	-	-	-	-	88	33	42	54	253	298	530	253	237	275	219	474	89	40	44	419	53	53	35	419	35	53	17	17	**4,031**
CCAA Professional Fees	[11]	-	-	370	214	-	-	-	490	2,000	11,019	531	590	1,756	250	815	250	1,756	250	815	250	1,401	605	531	676	250	2,287	250	7,118	**34,473**
Critical Vendors Accounts Payable	[12]	-	-	-	1,524	58	-	163	1,085	1,085	1,085	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	**5,000**
Net Taxes	[13]	-	(2,122)	-	1,757	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	**(365)**
Other	[14]	-	-	-	-	-	-	-	433	551	2,040	395	176	416	163	1,276	334	40	192	15	226	15	1,686	178	299	15	2,241	139	3,576	**14,406**
Total Operating Disbursements		25	(1,539)	2,814	4,358	3,922	1,811	1,741	2,945	5,422	17,089	4,757	2,668	2,882	2,201	2,571	6,076	2,487	2,036	1,059	4,999	2,488	2,400	2,547	3,998	2,395	5,044	2,085	12,838	**104,120**
Startup Disbursements																														
Winter road construction		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,001	-	**1,001**
Diesel purchases / freight		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	**-**
Ramp-up costs		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4,900	-	-	**4,900**
Total Startup Disbursements		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4,900	1,001	-	**5,901**
Net Change in Cash from Operations		(25)	1,539	(2,814)	(4,358)	(3,922)	(1,811)	(1,741)	(2,945)	(5,422)	(17,089)	(4,757)	(2,668)	(2,882)	(2,201)	(2,571)	(6,076)	(2,487)	(2,036)	(1,059)	(4,999)	(2,488)	(2,400)	(2,547)	(3,998)	(2,395)	(9,944)	(3,086)	(12,838)	**(110,022)**
Financing																														
Intercompany Receipts / (Disbursements)	[15]	-	-	-	-	-	(6)	(115)	(1)	(127)	1,689	(110)	(49)	-	(0)	888	(3,802)	(15)	(0)	(0)	(635)	-	1,666	(0)	(830)	-	2,222	(0)	(0)	**773**
Interest & Bank Charges	[16]	-	(276)	(70)	(195)	-	(191)	-	(153)	(46)	-	(1,248)	(153)	-	-	-	(237)	(153)	-	-	(237)	(153)	-	-	(1,248)	(153)	-	-	(686)	**(5,197)**
DIP Facility Interest		-	-	-	-	-	-	-	-	-	(16)	-	-	-	-	(124)	-	-	-	(186)	-	-	-	(249)	-	-	-	-	(348)	**(923)**
Governmernt Support Program		-	-	-	-	-	1,849	-	-	850	-	-	-	680	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	**3,379**
DIP Facility Draw		-	-	-	-	-	-	-	-	-	14,200	14,200	-	-	-	-	14,200	-	-	-	14,200	-	-	-	14,200	-	14,200	-	-	**85,200**
Net Change in Cash from Financing		-	(276)	(70)	(195)	-	1,652	(115)	(153)	677	15,873	12,842	(202)	680	(0)	764	10,161	(168)	(0)	(187)	13,328	(153)	1,666	(249)	12,123	(153)	16,422	(0)	(1,034)	**83,233**
Net Change in Cash		(25)	1,264	(2,884)	(4,552)	(3,922)	(159)	(1,857)	(3,098)	(4,745)	(1,216)	8,085	(2,870)	(2,202)	(2,201)	(1,807)	4,085	(2,655)	(2,037)	(1,246)	8,329	(2,640)	(734)	(2,795)	8,125	(2,547)	6,477	(3,086)	(13,872)	**(26,789)**
Opening Cash		26,823	26,798	28,061	25,177	20,625	16,703	16,543	14,687	11,588	6,843	5,627	13,712	10,842	8,640	6,439	4,631	8,717	6,062	4,025	2,779	11,108	8,467	7,734	4,938	13,063	10,515	16,993	13,906	**26,823**
Ending Cash		$ 26,798	$ 28,061	$ 25,177	$ 20,625	$ 16,703	$ 16,543	$ 14,687	$ 11,588	$ 6,843	$ 5,627	$ 13,712	$ 10,842	$ 8,640	$ 6,439	$ 4,631	$ 8,717	$ 6,062	$ 4,025	$ 2,779	$ 11,108	$ 8,467	$ 7,734	$ 4,938	$ 13,063	$ 10,515	$ 16,993	$ 13,906	$ 34	$ 34

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Kristal Kaye, Chief Financial Officer
Dominion Diamond Mines

Notes:
Management has prepared this Cash Flow Statement solely for the purposes of determining the liquidity requirements of the Company during the CCAA Proceedings.
The Cash Flow Statement is based on the probable and hypothetical assumptions detailed below. Actual results will likely vary from performance projected and such variations may be material.

[1] Receipts are assumed to be nil during the Forecast Period as COVID-19 related business disruptions have resulted in the Applicants being unable to sell diamonds in the normal course.
[2] Payroll and benefits relate to management and employees at Dominion's corporate office as well as two rotating shifts of employees that perform care and maintenance activities at the Ekati mine site.
[3] Consultants and contractors relate primarily to contract camp and catering staff and consultants.
[4] Rent includes lease costs, utilities and property taxes for the Applicants' offices in Calgary and Yellowknife.
[5] Underground mining costs relate to dewatering costs and standby fees for the contractor that operates the underground mine.
[6] Travel relates to airlines that transport employees and contractors to the Ekati mine site.
[7] Insurance relates to a premium financing arrangement for the Applicants' insurance policies including Directors & Officers insurance.
[8] Impact and benefit agreements are assumed to remain current during the forecast period.
[9] Power includes contractors that operate the power plant at the Ekati mine.
[10] Site maintenance and environmental costs are based on Dominion's care and maintenance plan and are assumed to be consistent with current run rates.
[11] CCAA Professional fees includes the Applicants' Canadian legal counsel, United States legal counsel and financial advisor, the Monitor and the Monitor's legal counsel, Canadian and United States legal counsel to the DIP Lender, Canadian and United States legal counsel and financial advisor to the Revolving Facility Lenders.
[12] The Initial Order authorizes the Applicants to pay certain pre-filing amounts owing to critical suppliers of up to $5.0 million, with prior approval of the Monitor.
[13] Net Taxes includes pre-filing fuel tax payments for March and April and refund for certain pre-filing GST payments.
[14] Other operating costs include miscellaneous disbursements and a contingency including payments attendant to and required for closing subject to court approval.
[15] Intercompany accounts relate to cash calls to the joint venture partner in respect of the Ekati Core Zone and cash requirements of DDMC, DDMNV (Belgium) and DDIPL (India) beyond existing cash balances.
[16] Interest and bank fees are comprised of interest and letter of credit fees in respect of the Applicants' Revolving Facility.

Memo - DIP financing assumptions																														
Wind-down estate	C$000			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,420	

Memo - DIP financing assumptions	
Interest	5.25%
Fees	0.00%
Facility Size - US$000	60,000
Exchange rate	1.42
Facility Size - C$000	85,200
Target min liquidity before dr	2,500
Number of Draws	6
First Draw	14,200
Draw size	14,200

DIP Balance																													
Open					-	-	-	-	-	-	14,200	28,400	28,400	28,400	28,400	28,400	42,600	42,600	42,600	42,600	56,800	56,800	56,800	56,800	71,000	71,000	85,200	85,200	
Draw						-	-	-	-	14,200	14,200	-	-	-	-	14,200	-	-	-	14,200	-	-	-	14,200	-	14,200	-	-	
Closing	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 14,200	$ 28,400	$ 28,400	$ 28,400	$ 28,400	$ 28,400	$ 42,600	$ 42,600	$ 42,600	$ 42,600	$ 56,800	$ 56,800	$ 56,800	$ 56,800	$ 71,000	$ 71,000	$ 85,200	$ 85,200	$ 85,200	
Undrawn Amount	$ 85,200	$ 85,200	$ 85,200	$ 85,200	$ 85,200	$ 85,200	$ 85,200	$ 85,200	$ 85,200	$ 71,000	$ 56,800	$ 56,800	$ 56,800	$ 56,800	$ 56,800	$ 42,600	$ 42,600	$ 42,600	$ 42,600	$ 28,400	$ 28,400	$ 28,400	$ 28,400	$ 14,200	$ 14,200	$ -	$ -	$ -	
Interest						$ -				$ 16					$ 124				$ 186				$ 249					$ 348	**923**

	Week 1 24-Apr	Week 2 1-May	Week 3 8-May	Week 4 15-May	Week 5 22-May	Week 6 29-May	Week 7 5-Jun			Week 8 12-Jun	Week 9 19-Jun	Week 10 26-Jun	Week 11 3-Jul	Week 12 10-Jul	Week 13 17-Jul	Week 14 24-Jul	Week 15 31-Jul	Week 16 7-Aug	Week 17 14-Aug	Week 18 21-Aug	Week 19 28-Aug	Week 20 4-Sep	Week 21 11-Sep	Week 22 18-Sep	Week 23 25-Sep	Week 24 2-Oct	Week 25 9-Oct	Week 26 16-Oct	Week 27 23-Oct	Week 28 30-Oct	
[2] Employee Payroll, Benefits & Source Deductions																														
Payroll - Ekati	-	400	1,569	-	1,314	605	1,060	5,049	(101)	10	91	1,540	-	1,540	-	1,479	-	1,465	-	1,465	-	1,465	-	-	1,465	-	1,465	-	1,465	1,527	24,874
Payroll - SGA								-	-																					
Retention Bonus	-	-	-	-	-	-	-	-		-	-	193	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	387	580
	-	400	1,569	-	1,314	605	1,060	5,049	(101)	10	91	1,733	-	1,540	-	1,479	-	1,465	-	1,465	-	1,465	-	-	1,465	-	1,465	-	1,465	1,914	25,454
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
[3] Consultants or Contractors																														
Camp and Catering	-	-	-	42				608	(565)	-	-	-	309	-	-	-	-	309	-	-	-	299	-	-	-	299				
Freight	-	-	-	143	28	263	342	197	579	36	36	36	36	18	18	-	-	18	18	-	18	18	18	18	18	-				
Tires	-	-	-	-				122	(122)	122	-	122	-	-	-	-	-	122	-	-	-	122	-	-	-	122				
Exploration Standing Charges	-	-	-	-				12	(12)	-	-	-	4	-	-	-	-	4	-	-	-	4	-	-	4	-				
Point Lake PFS								-	-		65	-	22	22			47	3	3	-	6	3	3	-	9	-				
R&R Work								-	-		-						20													
MUG Resource								-	-		15			8				8												
Lease Reduction Plan								-	-		-	15		5				5												
Alternative Mining - Lynx								-	-			70		18	-	12			20											
Alternative Mining - Sable								-	-			50	20						10				30							
552 Polishing	-	-	-	-				-	-	71	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-				
Washington G&A	-	-	-	-				-	-	-	-	89	-	-	-	-	89	-	-	-	-	-	-	-	-	-				
Exco Consultants (Incl. Brendan Bell)	-	70	-	-				115	(46)	23	23	-	23	-	23	-	23	-	23	-	23	-	-	23	-	-				
Audit	-	-	-	45				200	(154)	110	-	-	-	-	-	-	-	-	-	-	-	-	-	-	73	-				
Tax, Legal and other professional consultants	-	-	45					65	(20)	20	10	10	20	10	10	6	-	48	-	41	-	43	-	-	-	41				
HR Consultants	-	-	-	-				6	(6)	-	6	-	6	-	-	-	-	-	-	6	-	-	-	-	-	16				
Other	25	15	72	206				318		-	372	126	54	0	-	0	68	7	62	-	123	5	83	-	126	0				
	25	85	117	437	28	263	342	1,643	(346)	382	527	518	493	81	51	18	246	524	135	47	170	494	134	41	230	478	87	41	125	125	7,541
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
[4] Rent																														
Calgary and Yellowknife	-	98	117	-	0	-	98	428	(115)	-	-	-	98	-	-	-	-	98	-	-	-	98	-	-	-	98	-	-	-	-	1,018
	-	98	117	-	0	-	98	428	(115)	-	-	-	98	-	-	-	-	98	-	-	-	98	-	-	-	98	-	-	-	-	1,018
	-	-	3	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Equipment Leases																														
Mining Equipment Leases	-	-	572	-	-	841	-	964	450	-	-		572	-	-	-	-	572	-	-	-	572	-	-	-	572	-	-	-	-	5,114
Yellowknife Fuel Tanks	-	-	-	-				526	(526)	371	-	-	59	-	-	-	-	353	-	-	-	353	-	-	-	353	-	-	-	-	1,490
	-	-	572	-	-	841	-	1,490	(77)	371	-	-	631	-	-	-	-	925	-	-	-	925	-	-	-	925	-	-	-	-	6,604
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
[5] Underground Mining Costs																														
Underground Mining Costs	-	-	-	-				882	(882)	-	-	-	882	-	-	-	-	882	-	-	-	441	-	-	-	441	-	-	-	-	2,646
	-	-	-	-	-	-	-	882	(882)	-	-	-	882	-	-	-	-	882	-	-	-	441	-	-	-	441	-	-	-	-	2,646
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
[6] Travel																														
To and From Site	-	-	-	12	-	8	17	313	(275)	50	106	-	156	-	-	-	-	156	-	-	-	156	-	-	-	153	-	-	-	-	854
Executive travel once routes open up	-	-	-	-	-	-	-	-	-	-	-	-	-	15	15	15	15	15	15	15	15	15	15	15	15	-	15	15	15	15	248
Community	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	27	-	-	-	-	38	-	-	-	11	11	88
	-	-	-	12	-	8	17	313	(275)	50	106	-	156	15	15	15	15	172	15	43	15	172	15	15	54	153	15	15	27	27	1,189
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
[7] Insurance																														
CAPO Insurance Premium Finance (Property)	-	-	-	-	395	-	-	802	(407)	-	407	-	-	12	407	-	-	-	407	-	-	-	407	-	-	-	-	407	-	-	2,839
Corporate	-	-	-	-	2,023	-	-	2,135	(112)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4,046
	-	-	-	-	2,418	-	-	2,937	(519)	-	407	-	-	12	407	-	-	-	407	-	-	-	407	-	-	-	-	407	-	-	6,885
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
IT & Software																														
Ekati Site Infrastructure	-	-	-	-	15	62	19	315	(219)	70	149	-	315	-	-	-	-	184	-	-	-	199	-	-	-	199	-	-	-	-	1,308
Washington IT Services	-	-	-	327				445	(118)	-	-	118	118	-	-	-	-	118	-	-	-	118	-	-	-	118	-	-	-	-	1,246
Software Licenses	-	-	73	-				212	(139)	-	-	139	-	-	-	-	-	-	44	-	-	-	4	-	-	-	-	69	-	35	35	472
IT Service Providers	-	-	-	86				225	(139)	-	-	139	65	-	-	-	-	65	-	-	-	65	-	-	-	65	-	-	-	-	570
IT AP	-	-	-	-				-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
	-	-	73	413	15	62	19	1,196	(615)	70	149	396	498	-	-	-	-	368	44	-	-	382	4	-	-	382	69	-	35	35	3,596
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
[8] IBA Payments																														
Heritage Funds and Traditional Knowledge	-	-	-	-	-	-	-	-	-	-	-	-	417	-	-	-	-	458	-	-	-	-	458	-	55	-	458	-	27	27	1,899
	-	-	-	-	-	-	-	-	-	-	-	-	417	-	-	-	-	458	-	-	-	-	458	-	55	-	458	-	27	27	1,899
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
[9] Power																														
Contract labour for on site powerhouse	-	-	-	-	-	-	-	252	(252)	-	252	-	126	-	-	-	-	126	-	-	-	126	-	-	-	126	-	-	-	-	756
	-	-	-	-	-	-	-	252	(252)	-	252	-	126	-	-	-	-	126	-	-	-	126	-	-	-	126	-	-	-	-	756
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
[10] Site Maintenance & Environment																														
Site Vehicle Maintenance	-	-	-	-	88	33	42	63	101	21	21	21	21	21	21	34	34	34	34	13	13	13	13	13	13	13	13	17	17	742
Site Maintenance	-	-	-	-				101	(101)	34	34	34	34	34	34	55	55	55	55	21	21	21	21	21	21	21	21	-	-	613
Environmental Licenses and Land Leases	-	-	-	-				157	(157)	-	-	45	-	-	-	57	60	-	-	5	-	-	-	18	-	-	-	18	-	-	204
Environmental Management	-	-	-	-				440	(440)		199	199	397	199	126	126	126	385	-	-	-	385	-	-	-	385	-	-	-	-	2,526
Point Lake Permitting								-	-				18				4				10									32
Lac de Gras JV								-	-				60																	60
Glowworm Lake Project								-	-				-										18							18
Environmental AP	-	-	-	-				-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
	-	-	-	-	88	33	42	760	(596)	54	253	298	530	253	237	275	219	474	89	40	44	419	53	53	35	419	35	53	17	17	4,194
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
[11] CCAA Professional Fees																														
Evercore	-	-	-	-	-	-	-	3,121	(3,121)	-	628	2,774	281	-	-	-	281	-	-	-	281	-	-	-	281	-	-	281	-	5,688	10,493
Blake, Cassels & Graydon LLP	-	-	370	214	-	-	-	1,271	(687)	340	690	386	250	250	250	250	250	250	250	250	250	250	250	250	250	250	250	500	250	500	7,583
McDermott Will & Emery LLP	-	-	-	-	-	-	-	351	(351)	-	-	702	-	140	351	-	-	-	351	-	-	-	351	-	-	-	-	-	351	-	175	2,421
FTI Consulting Canada Inc	-	-	-	-	-	-	-	400	(400)	-	533	267	-	150	400	-	-	-	400	-	-	-	400	-	-	-	-	-	400	-	200	2,750
Bennett Jones LLP	-	-	-	-	-	-	-	250	(250)	-	-	500	-	50	250	-	-	-	250	-	-	-	250	-	-	-	-	-	250	-	125	1,675
TWC Legal Advisors	-	-	-	-	-	-	-	4,260	(4,260)	-	-	4,615	-	-	-	-	284	-	-	-	284	-	-	-	-	426	-	-	-	355	5,964
1L Legal and Financial Advisors	-	-	-	-	-	-	-	1,420	(1,420)	-	-	1,775	-	-	355	-	-	355	-	-	-	-	-	355	-	-	-	355	-	-	3,195
Non-Company Side Advisors TBU	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0

Other	-	-	-	-	-	-	-	150	(150)	150	150	-	-	-	150	-	-	-	150	-	-	-	150	-	-	-	-	150	-	75	975
	-	-	370	214	-	-	-	11,223	(10,639)	490	2,000	11,019	531	590	1,756	250	815	250	1,756	250	815	250	1,401	605	531	676	250	2,287	250	7,118	35,057
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Critical Vendors																															
DETON CHO SUMMIT AVIATION LP				440				440	-																					880
KITKUNA BBE EXPEDITING LTD.				675				675	-																					1,351
TLI CHO DOMCO INC				409				409	-																					
Other					58	-	163	1,159	(937)	1,085	1,085	1,085																		
	-	-	-	1,524	58	-	163	2,683	(937)	1,085	1,085	1,085	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2,231
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Net Taxes																															
GST		(2,122)		612				(1,146)	(365)																					(3,021)
Fuel and Carbon Taxes				1,146				1,146	-																					2,291
								-	-																					
								-	-																					
	-	(2,122)	-	1,757	-	-	-	(0)	(365)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(730)
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
[13] Other																															
Various Other		-	-	-	-	-	-	56	(56)	35	38	38	38	19	19	10	9	13	9	38	9	10	9	11	123	36	9	11	58	58	595
Contingency	-	-	-	-	-	-	-	675	(675)	398	513	178	358	158	397	153	378	321	31	154	6	216	6	8	55	263	6	8	81	3,518	7,209
Other Contingency	-	-	-	-	-	-	-	825	(825)	-	-	1,825	-	-	-	-	889	-	-	-	-	-	-	1,667	-	-	-	2,222	-	-	6,602
	-	-	-	-	-	-	-	1,556	(1,556)	433	551	2,040	395	176	416	163	1,276	334	40	192	15	226	15	1,686	178	299	15	2,241	139	3,576	14,406
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Government Programs																															
Estimated Support Received	-	-	-	-	-	1,849	-	1,800	49	-	850	-	-	-	680	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5,228
	-	-	-	-	-	1,849	-	1,800	49	-	850	-	-	-	680	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5,228
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Intercompany Receipts / (Disbursements)																															
DDMC			0	0	0	(6)	(115)	(111)	(10)	(1)	(127)	(136)	(110)	(49)	0	(0)	(0)	(110)	(15)	(0)	(0)	(110)	0	(0)	(0)	(105)	0	(0)	(0)	(0)	(1,009)
Core Zone JV partner cash calls	0	0	0	0				825	(825)	0	0	1,825	0	0	0	0	889	0	0	0	0	0	0	1,667	0	0	0	2,222	0	0	6,602
DDMNV (Belgium)	0	0	0	0				0	0	0	0	0	0	0	0	0	0	(3,692)	0	0	0	(241)	0	0	0	(284)	0	0	0	0	(4,217)
DDIPL (India)	0	0	0	0				0	0	0	0	0	0	0	0	0	0	0	0	0	0	(284)	0	0	0	(440)	0	0	0	0	(724)
	-	-	-	-	-	(6)	(115)	713	(835)	(1)	(127)	1,689	(110)	(49)	-	(0)	888	(3,802)	(15)	(0)	(0)	(635)	-	1,666	(0)	(830)	-	2,222	(0)	(0)	652
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest & Bank Charges																															
Interest		(226)		(138)	-	(191)	-	(600)	46	(149)	-	-	(237)	(149)	-	-	-	(237)	(149)	-	-	(237)	(149)	-	-	(237)	(149)	-	-	(349)	(3,152)
Bank Charges		(50)		(50)	-	-	-	(100)	-	(4)	(46)	-	-	(4)	-	-	-	-	(4)	-	-	-	(4)	-	-	-	(4)	-	-	-	(264)
LC Fees		-	(70)	(7)	-	-	-	(77)	-	-	-	-	(1,010)	-	-	-	-	-	-	-	-	-	-	-	-	(1,010)	-	-	(337)	(2,513)
	-	(276)	(70)	(195)	-	(191)	-	(778)	46	(153)	(46)	-	(1,248)	(153)	-	-	-	(237)	(153)	-	-	(237)	(153)	-	-	(1,248)	(153)	-	-	(686)	(5,928)
	-	-	-	-	-	-	-			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

SCHEDULE "D"
GUARANTORS

Washington Diamond Investments, LLC

Dominion Diamond Holdings, LLC

Dominion Finco Inc.

Dominion Diamond Delaware Company LLC

Dominion Diamond Canada ULC

SCHEDULE "E"
MILESTONES

1. The Court shall have held a hearing to consider the Amended Initial Order, which shall seek approval of the DIP and the SISP (including the Stalking Horse Transaction and the bid protections in respect thereof) no later than June 19, 2020.

2. The Amended Initial Order, which shall have approved the DIP and the SISP (including the Stalking Horse Transaction and the bid protections in respect thereof) shall have been entered no later than June 19, 2020.

3. The Credit Parties shall have complied with the various deadlines established under the SISP, which are incorporated herein by reference.

4. A Permitted Restructuring Transaction shall have closed no later than October 31, 2020.

Notwithstanding the above, a specific Milestone may be (a) extended or waived with the express prior written consent of the Credit Parties and the Required Interim Lenders (except for the Milestone set forth in Item 4 above, which shall also require the consent of the Existing Credit Facility Agent, not to be unreasonably withheld) or (b) extended to the extent necessary to accommodate the Court's calendar.

SCHEDULE "F"
COMMITMENTS

PART I.

COMMITMENTS IN RESPECT OF PHASE 1 AND PHASE 2 ADVANCES

	Interim Lender	Commitments	Share of Total Commitments in Respect of Phase 1 and Phase 2 Advances
1.	Washington Diamond Lending, LLC	$55,000,000	100%

PART II.

COMMITMENTS IN RESPECT OF OCTOBER ADVANCES

	Interim Lender	Commitments	Share of Total Commitments
1.	Washington Diamond Lending, LLC	$5,000,000	100%

Schedule “B”

Procedures for the Sale and Investment Solicitation Process

Procedures for the Sale and Investment Solicitation Process

On April 22, 2020, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC, Dominion Finco Inc., Dominion Diamond Mines ULC ("**DDM**"), Dominion Diamond Delaware Company LLC and Dominion Diamond Canada ULC (collectively, the "**Applicants**") obtained an Initial Order (the "**Initial Order**") under the *Companies' Creditors Arrangement Act* (Canada) ("**CCAA**") from the Alberta Court of Queen's Bench (the "**Court**") that, among other things, commenced the CCAA proceedings (the "**CCAA Proceedings**"), granted an initial stay of proceedings in respect of the Applicants (the "**Stay**") and appointed FTI Consulting Canada Inc. as monitor (the "**Monitor**"). On May 1, 2020, the Applicants obtained an amended and restated version of the Initial Order from the Court (the "**Amended and Restated Initial Order**") that, among other things, extended the Stay. On June 19, 2020, the Applicants obtained a further amended and restated version of the Initial Order from the Court (the "**Second Amended and Restated Initial Order**") that, among other things, approved the DIP (as defined below) and approved the Sale and Investment Solicitation Process (the "**SISP**") set forth herein to determine whether a Successful Bid (as defined below) can be obtained.

For greater certainty, any provision of this SISP which affords discretion to the Applicants - including without limitation in connection with the granting by the Applicants of any consent, waiver or approval - requires that the Applicants exercise such discretion in a commercially reasonable manner and with prior consultation with the SISP Advisor (as defined below), the Agent Advisors (as defined below), on behalf of the First Lien Lenders (as defined below), and the Monitor. Any consent or approval to be provided by the Stalking Horse Bidder (as defined below), the SISP Advisor, the Agent, on behalf of the First Lien Lenders, the Applicants and/or the Monitor must be in writing (including by way of e-mail) and any approval required pursuant to the terms hereof is in addition to, and not in substitution for, any other approvals required by the CCAA or as otherwise required at law in order to implement a Successful Bid. Notwithstanding the forgoing or any other provision of the SISP (i) the Agent Advisors shall only be consulted to the extent that the Agent confirms that neither it nor any First Lien Lender intends to participate in the SISP as a bidder and (ii) nothing herein shall oblige or permit the SISP Advisor, the Monitor or the Applicants to disclose to the Agent Advisors the identity of any Potential Bidder, Phase 1 Qualified Bidder, or Phase 2 Qualified Bidder (other than the Stalking Horse Bidder) or any LOI, Phase 1 Qualified Bid, Binding Offer or Phase 2 Qualified Bid, prior to commencement of the Auction (all as such terms are defined below). The SISP Advisor shall consult with DDMI respecting any matters under this SISP, where the SISP Advisor determines that it is appropriate to do so, and would not be prejudicial to the conduct of the SISP.

Defined Terms

1. In addition:

   (a) "**Agent**" means Credit Suisse AG, Cayman Islands Branch, as the administrative agent and collateral agent, under the Existing Credit Agreement[1];

[1] References herein to the Agent mean the Agent, on behalf of the First Lien Lenders.

(b) "**Agent Advisors**" shall mean Osler, Hoskin & Harcourt LLP, Cahill Gordon & Reindel LLP and RPA Advisors, or any one of them;

(c) "**Business Day**" means a day, other than a Saturday or Sunday, on which banks are open for business in Calgary, Alberta;

(d) "**Cover Payments**" has the same meaning as in the Diavik JVA;

(e) "**CSA**" means the Closure Security Agreement dated December 13 2019 between DDMI and DDM;

(f) "**DIP**" means the Interim Facility provided to Dominion Diamond Mines ULC and certain of its affiliates by Washington Diamond Lending, LLC (the "**Washington Interim Lender**") and the Agent and/or one or more First Lien Lenders (in their capacity as lenders under the DIP, the "**First Lien Interim Lenders**") as approved by the Second Amended and Restated Initial Order;

(g) "**DDMI**" means Diavik Diamond Mines (2012) Inc.;

(h) "**Diavik Diamond Mine**" means the Diavik diamond mine located in Lac de Gras, Northwest Territories;

(i) "**Diavik Interest**" means DDM's Participating Interest (as such term is defined in the Diavik JVA) under and pursuant to the Diavik JVA, including the Dominion Products;

(j) "**Dominion Products**" has the meaning ascribed to it in the Second Amended and Restated Initial Order;

(k) "**Existing Credit Agreement**" means the Revolving Credit Agreement dated as of November 1, 2017 by and among Dominion Diamond Mines ULC, as borrower, Washington Diamond Investments, LLC, a Delaware limited liability company, the Agent, and each of the other parties and lenders party thereto (the "**First Lien Lenders**"), as amended, restated, supplemented or otherwise modified from time to time.

(l) "**Non-Diavik Assets**" means the Applicants' right, title and interest in all Property other than the Diavik Interest (including, for the avoidance of doubt the Applicants' right, title, and interest in the Ekati Diamond Mine located in Lac de Gras, Northwest Territories, which is operated by DDM);

(m) "**SISP Advisor**" means Evercore Group LLC, as retained by the Applicants to conduct the SISP.

Sale and Investment Solicitation Process Procedures

Opportunity

2. The SISP is intended to solicit interest in, and opportunities for, (i) a sale or partial sales of (A) all, substantially all, or certain of the assets, property and undertakings (collectively, the "**Property**") of the Applicants and certain of their subsidiaries (together with the Applicants, the "**Dominion Diamond Group**"); (B) the Diavik Interest; or (C) the Non-Diavik Assets or (ii) for an investment in, restructuring, recapitalization, refinancing or other form of reorganization of the Dominion Diamond Group or its business. Bids considered pursuant to the SISP may include one or more of an investment, restructuring, recapitalization, refinancing or other form of reorganization of the business and affairs of the Dominion Diamond Group as a going concern or a sale (or partial sales) of all, substantially all, or certain of the Property of the Dominion Diamond Group, or a combination thereof (the "**Opportunity**").

3. The Applicants have received a bid from Washington Diamond Investment Holdings II, LLC (the "**Stalking Horse Bidder**") which constitutes a qualified bid for all purposes and at all times under this SISP (the "**Stalking Horse Bid**"), and which Stalking Horse Bid shall serve as the "stalking horse" bid for purposes of this SISP. Notwithstanding the receipt of the Stalking Horse Bid, all interested parties are encouraged to submit bids based on any form of Opportunity that they may elect to advance pursuant to the SISP, including as a Sale Proposal or an Investment Proposal (each as defined below). A copy of the Stalking Horse Bid is available to all Phase 1 Qualified Bidders (as defined below).

4. The SISP set forth herein describes the manner in which prospective bidders may gain access to or continue to have access to due diligence materials concerning the Dominion Diamond Group and its Property, including a copy of the Stalking Horse Bid, the manner in which bidders may participate in the SISP, the requirement of and the receipt and negotiation of bids received, the ultimate selection of a Successful Bidder (as defined below), and the approval thereof by the Court. The Monitor shall oversee the SISP and in particular shall oversee the SISP Advisor in connection therewith. The Applicants are required to assist and support the efforts of the SISP Advisor and the Monitor as provided for herein. In the event that there is disagreement as to the interpretation or application of the SISP, the Court will have exclusive jurisdiction to hear and resolve such dispute.

5. Certain bid protections (i.e. break fee and expense reimbursement) have been approved in respect of the Stalking Horse Bid, subject to the conditions set forth therein, by the Court pursuant to the Second Amended and Restated Interim Order. No other bidder may request or receive any form of bid protection as part of any offer made pursuant to the SISP.

The key dates pursuant to the SISP are as follows (capitalized terms in the chart below have the meaning ascribed in the SISP):

Event	**Date**
SISP Advisor to distribute Teaser Letter to Potential Bidders	**As soon as practical**
SISP Advisor to prepare and have available to Potential Bidders the CIM and VDR	**As soon as practical**
Phase 1 Bid Deadline (for delivery of non-binding LOIs by Phase 1 Qualified Bidders in accordance with the requirement of paragraph 14 of the SISP)	**By July 20, 2020**
SISP Advisor to notify each Phase 1 Qualified Bidder in writing as to whether its bid constituted a Phase 1 Successful Bid	**Within five (5) Business Days of the Phase 1 Bid Deadline, or at such later time as the Applicants, in consultation with the SISP Advisor, the Agent Advisors and the Monitor, deem appropriate**
Sale Approval hearing in respect of the Stalking Horse Bid in the event that no other Phase 1 Successful Bids are received	**By August 6, 2020**
Phase 2 Bid Deadline (for delivery of definitive offers by Phase 2 Qualified Bidders in accordance with the requirement of paragraph 22 of the SISP)	**By August 31, 2020**
Auction Commencement Date (if needed)	**September 3, 2020**
Deadline for selection of final Successful Bid	**September 7, 2020 or at such later date as the Applicants, in consultation with the SISP Advisor, the Agent Advisors and the Monitor, deem appropriate**
Deadline for completion of definitive documentation in respect of Successful Bid	**September 11, 2020**
Deadline for filing of Approval Motion in respect of Successful Bid	**September 21, 2020**
Anticipated Deadline for closing of the Stalking Horse Bid in the event that no other Phase 1 Successful Bids are received	**September 28, 2020**

Anticipated Deadline for closing of Successful Bid being the Target Closing Date	**October 7, 2020 or such earlier date as is achievable**
Outside Date by which the Successful Bid must close	**October 31, 2020**

Solicitation of Interest: Notice of the SISP

6. As soon as reasonably practicable after the granting of the Second Amended and Restated Initial Order:

   (a) the SISP Advisor shall cause a notice of the SISP and such other relevant information which the SISP Advisor, in consultation with the Applicants and the Monitor, considers appropriate to be published in the *Globe & Mail* and such other publications as the SISP Advisor may consider appropriate; and

   (b) the Dominion Diamond Group shall issue a press release setting out the notice and such other relevant information regarding the Opportunity as it may consider appropriate, with Canada Newswire designating dissemination in Canada.

7. The SISP Advisor shall prepare and distribute a summary describing the Opportunity (a "**Teaser Letter**"), outlining the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP, for distribution to potential bidders as soon as practical.

8. A confidential virtual data room (the "**VDR**") in relation to the Opportunity will be made available by the SISP Advisor to Potential Bidders that have executed the NDA (as defined below). The VDR will be available as soon as practical. Following the completion of "Phase 1", but prior to the completion of "Phase 2", additional information may be added to the VDR to enable Phase 2 Qualified Bidders to complete any confirmatory due diligence in respect of the Dominion Diamond Group and the Opportunity. The Applicants may establish separate VDRs (including "clean rooms"), if the Applicants and the SISP Advisor reasonably determine that doing so would further the Dominion Diamond Group and any Potential Bidders' compliance with applicable antitrust and competition laws, or would prevent the distribution of commercially sensitive competitive information.

PHASE 1: NON-BINDING LOIs

Phase 1 Qualified Bidders and Delivery of Confidential Information Memorandum

9. In order to participate in the SISP, an interested party must deliver to the SISP Advisor at the address specified in **Appendix "A"** hereto (including by email), and prior to the distribution of any confidential information by the SISP Advisor to such interested party (including access to the VDR), an executed non-disclosure agreement in form and substance satisfactory to the Applicants (an "**NDA**"), which shall inure to the benefit of any Successful Bidder (as defined below) that closes a transaction contemplated by the Successful Bid (as defined below). Pursuant to the terms of the NDA to be signed by a

potential bidder (each potential bidder who has executed an NDA with the Applicants, a "**Potential Bidder**") each Potential Bidder will be prohibited from communicating with any other Potential Bidder regarding the Opportunity during the term of the SISP, without the express written consent of the Applicants. Prior to the Applicants' executing an NDA with any potential bidder, any potential bidder may be required to provide evidence, reasonably satisfactory to the Applicants of its financial wherewithal to complete a transaction in respect of the Opportunity (either with existing capital or with capital reasonably anticipated to be raised prior to closing) and/or to disclose details of their ownership. For the avoidance of doubt, a party who has executed an NDA or a joinder with a Potential Bidder for the purpose of providing financing to a Potential Bidder in connection with the Opportunity (such party a "**Financing Party**") shall not be deemed a Potential Bidder for purposes of the SISP, provided that such Financing Party undertakes to inform the Applicants in the event that it elects to act as a Potential Bidder.

10. A Potential Bidder that has executed an NDA and provided any additional information required pursuant to paragraph 9, will be deemed a "**Phase 1 Qualified Bidder**" and will be promptly notified of such classification by the SISP Advisor. For the avoidance of doubt, the Stalking Horse Bidder is a Phase 1 Qualified Bidder.

11. The SISP Advisor, with the assistance of the Applicants, will prepare and send to each Phase 1 Qualified Bidder (including the Stalking Horse Bidder) and to DDMI (with respect to the Diavik Diamond Mine only) a confidential information memorandum providing additional information considered relevant to the Opportunity (a "**CIM**") and provide an unredacted copy of the Staking Horse Bid as soon as practicable. The SISP Advisor, the Applicants, the Monitor and their respective advisors make no representation or warranty as to the information contained in the CIM or otherwise made available pursuant to the SISP.

12. The SISP Advisor shall provide any person deemed to be a Phase 1 Qualified Bidder (including the Stalking Horse Bidder) and to DDMI (with respect to the Diavik Diamond Mine only) with access to the VDR. The SISP Advisor, the Applicants and the Monitor and their respective advisors make no representation or warranty as to the information contained in the VDR. The VDR shall contain a template letter of intent (the "**Template LOI**") and a proposed Purchase and Sale Agreement, based on the Stalking Horse Bid ("**Template PSA**").

13. If a Phase 1 Qualified Bidder (other than the Stalking Horse Bidder) wishes to submit a bid, it must deliver a non-binding letter of intent (an "**LOI**") (each such LOI, provided in accordance with paragraph 14 below, a "**Phase 1 Qualified Bid**"), to the SISP Advisor, with a copy to the Monitor, at the addresses specified in **Appendix "A"** hereto (including by email) so as to be received by the SISP Advisor and the Monitor not later than 5:00 p.m. (Mountain Standard Time) on July 20, 2020, or such other date or time as may be agreed by the Applicants with the consent of the Monitor (the "**Phase 1 Bid Deadline**"). To the extent possible, the Phase 1 Qualified Bid should follow the format as set out in the Template LOI.

14. An LOI submitted by a Phase 1 Qualified Bidder will only be considered a "**Phase 1 Qualified Bid**" by the Applicants, the Monitor and the SISP Advisor, if the LOI complies at a minimum with the following:

(a) it has been duly executed by all required parties;

(b) it is received by the Phase 1 Bid Deadline;

(c) it provides written evidence, satisfactory to the Applicants, of the ability to consummate the transaction within the timeframe contemplated by the SISP and to satisfy any obligations or liabilities to be assumed on closing of the transaction, including, without limitation, a specific indication of the sources of capital;

(d) it identifies all proposed material conditions to closing including, without limitation, any internal, regulatory or other approvals and any form of agreement or other document required from a government body, stakeholder or other third party, and an estimate of the anticipated timeframe and any anticipated impediments for obtaining such approvals;

(e) it (i) identifies the Qualified Phase 1 Bidder and representatives thereof who are authorized to appear and act on behalf of the Qualified Phase 1 Bidder for all purposes regarding the contemplated transaction, and (ii) fully discloses the identity of each entity or person that will be sponsoring, participating in or benefiting from the transaction contemplated by the LOI;

(f) an outline of any additional due diligence required to be conducted in order to submit a binding offer;

(g) it clearly indicates:

(i) the Phase 1 Qualified Bidder is seeking to acquire (A) all or substantially all of the Property, (B) the Diavik Interest or (C) the Non-Diavik Assets, whether through an asset purchase, a share purchase or a combination thereof (either one being, a "**Sale Proposal**") or some other portion of the Property (a "**Partial Sale Proposal**"); or

(ii) whether the Phase 1 Qualified Bidder is offering to make an investment in, restructure, recapitalize, reorganize or refinance the Dominion Diamond Group or its business (an "**Investment Proposal**"); and

(iii) that the Sale Proposal or Investment Proposal, as the case may be, will at a minimum and on closing, provide cash proceeds which are equal to the aggregate total of: (A) the amount of cash payable under the Stalking Horse Bid if it does not provide for a credit bid or, if the Stalking Horse Bid does provide for a credit bid, the amount of cash payable thereunder together with the amount of obligations being credit bid thereunder, *plus* (B) the amount of the expense reimbursement and break fee (if any) payable to the Stalking Horse Bidder, *plus* (C) a minimum overbid amount of US$1

million (the amounts set forth in this paragraph 14(g)(iii), the "**Minimum Purchase Price**"); provided, however, the Applicants may deem this criterion satisfied if the Sale Proposals, Partial Sale Proposals or the Investment Proposals, together with one or more other non-overlapping Sale Proposal, Partial Sale Proposal or Investment Proposal, in the aggregate, meet the Minimum Purchase Price (such bids, "**Aggregated Bids**") (the amount of the Minimum Purchase Price shall be confirmed by the Sale Advisor with Potential Bidders);

(h) it contains such other information as may be reasonably requested by the SISP Advisor, in consultation with the Applicants and the Monitor;

(i) it does not provide for any break fee or expense reimbursement, it being understood and agreed that no bidder other than the Stalking Horse Bidder shall be entitled to any bid protections;

(j) in the case of a Sale Proposal, it identifies or contains the following:

(i) the purchase price or price range in U.S. dollars and key assumptions supporting the valuation and the anticipated amount of cash payable on closing of the proposed transaction;

(ii) any contemplated purchase price adjustment;

(iii) a description of the specific assets that are expected to be subject to the transaction and any assets or obligations expected to be excluded;

(iv) a description of those liabilities and obligations (including operating liabilities, obligations to employees, and reclamation obligations) which the Phase 1 Qualified Bidder intends to assume and which such liabilities and obligations it does not intend to assume;

(v) information sufficient for the SISP Advisor, the Monitor and the Applicants to determine that the Phase 1 Qualified Bidder has sufficient ability to satisfy and perform any liabilities or obligations assumed pursuant to subparagraph (iv) above;

(vi) any other terms or conditions of the Sale Proposal that the Phase 1 Qualified Bidder believes are material to the transaction;

(k) in the case of an Investment Proposal, it identifies the following:

(i) a description of how the Phase 1 Qualified Bidder proposes to structure the proposed investment, restructuring, recapitalization, refinancing or reorganization;

(ii) the aggregate amount of the equity and/or debt investment to be made in the Dominion Diamond Group or its business in U.S. dollars;

(iii) the underlying assumptions regarding the *pro forma* capital structure;

(iv) a description of those liabilities and obligations (including operating liabilities, obligations to employees, and reclamation obligations) which the Phase 1 Qualified Bidder intends to assume and which such liabilities and obligations it does not intend to assume;

(v) information sufficient for the SISP Advisor and the Applicants to determine that the Phase 1 Qualified Bidder has sufficient ability to satisfy and perform any liabilities or obligations assumed pursuant to subparagraph (iv) above;

(vi) any other terms or conditions of the Investment Proposal that the Phase 1 Qualified Bidder believes are material to the transaction.

15. The Applicants with the consent of the Monitor, may waive compliance with any one or more of the requirements specified herein and deem any such non-compliant LOI to be a Phase 1 Qualified Bid; *provided* that the SISP Advisor shall consult with the Stalking Horse Bidder in advance and on a no-names basis regarding the general nature of any waiver being contemplated.

Assessment of Phase 1 Qualified Bids and Subsequent Process

16. The SISP Advisor, in consultation with the Monitor and the Applicants, may, following the receipt of any LOI, seek clarification with respect to any of the terms or conditions of such LOI and/or request and negotiate one or more amendments to such LOI prior to determining if the LOI should be considered a Phase 1 Qualified Bid or a Phase 1 Successful Bid (as defined below).

17. Following the Phase 1 Bid Deadline, the Applicants shall determine, in accordance with the requirements of paragraph 14, the most favourable Phase 1 Qualified Bid(s), which Phase 1 Qualified Bid(s) shall be deemed a "**Phase 1 Successful Bid(s)**" and which Phase 1 Qualified Bidder(s) shall be deemed a "**Phase 2 Qualified Bidder(s)**".

18. Only Phase 2 Qualified Bidders shall be permitted to proceed to Phase 2 of the SISP. The Stalking Horse Bid constitutes a Phase 1 Successful Bid and the Stalking Horse Bidder is a Phase 2 Qualified Bidder for all purposes under the SISP, other than the Auction (as defined below). Notwithstanding any other provision hereof, in order to participate in the Auction, the Stalking Horse Bidder shall have waived, or confirmed satisfaction of, any financing condition contained in the Stalking Horse Bid.

19. The SISP Advisor shall notify each Phase 1 Qualified Bidder in writing as to whether its Phase 1 Qualified Bid constituted a Phase 1 Successful Bid within five (5) Business Days of the Phase 1 Bid Deadline, or at such later time as the Applicants, in consultation with the SISP Advisor and the Monitor, deem appropriate.

20. In the event that no Phase 1 Successful Bids are received (other than the Stalking Horse Bid), the Applicants, with the assistance and support of the SISP Advisor and the Monitor,

shall promptly proceed to seek Court approval of the Stalking Horse Bid; *provided*, *however*, that the Applicants may (i) extend the Phase 1 Bid Deadline with the consent of the Monitor, the Stalking Horse Bidder, and the Agent Advisors, or (ii) seek Court approval of an amendment to, or termination of, the SISP.

PHASE 2: FORMAL OFFERS AND REMOVAL OF CONDITIONS

Formal Binding Offers

21. Any Phase 2 Qualified Bidder (other than the Stalking Horse Bidder) that wishes to make a formal offer with respect to his/her/its Sale Proposal or Investment Proposal shall submit a binding offer (a "**Binding Offer**") (a) in the case of a Sale Proposal, in the form of the Template PSA provided in the VDR, along with a marked version showing edits to the original form of Template PSA provided in the VDR, or (b) in the case of an Investment Proposal, a plan or restructuring support agreement in form and substance satisfactory to the Applicants and the Monitor (each, such binding offer submitted in accordance with paragraph 25 below, a "**Phase 2 Qualified Bid**") in each case to the SISP Advisor, with a copy to the Monitor, at the addresses specified in **Appendix "A"** hereto (including by email) so as to be received by the SISP Advisor and the Monitor not later than 5:00 p.m. (Mountain Standard Time) on August 31, 2020, or such other date or time as may be agreed by the Applicants with the consent of the Monitor (as maybe extended, the "**Phase 2 Bid Deadline**").

22. A Binding Offer will only be considered as a "**Phase 2 Qualified Bid**" by the Applicants if the binding offer:

    (a) has been received by the Phase 2 Bid Deadline;

    (b) is a Binding Offer (i) to purchase (A) all, substantially all, or a portion of the Property; (B) Diavik Interest; or (C) the Non-Diavik Assets or (ii) to make an investment in, restructure, recapitalize, reorganize or refinance the Dominion Diamond Group or its business, on terms and conditions reasonably acceptable to the Applicants;

    (c) identifies all executory contracts of the Applicants that the Phase 2 Qualified Bidder will assume and clearly describes, for each contract or on an aggregate basis, how all monetary defaults and non-monetary defaults will be remedied;

    (d) is not subject to any financing conditionality;

    (e) is unconditional, other than upon the receipt of the Approval Order (as defined below) and satisfaction of any other conditions expressly set forth in the binding offer;

    (f) includes acknowledgments and representations of the Phase 2 Qualified Bidder that it: (i) has had an opportunity to conduct any and all due diligence regarding the Opportunity prior to making its Binding Offer; (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or

the Property of the Dominion Diamond Group in making its Binding Offer; (iii) did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Opportunity or the completeness of any information provided in connection therewith, other than as expressly set forth in the Binding Offer or other transaction document submitted with the Binding Offer; and (iv) promptly will commence any governmental or regulatory review of the proposed transaction by the applicable competition, antitrust or other applicable governmental authorities;

(g) provides for the payments of an amount at least equal to the Minimum Purchase Price unless it is a part of a bid the qualifies as an Aggregated Bid;

(h) the Binding Offer must be accompanied by a letter which confirms that the Binding Offer: (i) may be accepted by the Applicants by countersigning the Binding Offer, and (ii) is irrevocable and capable of acceptance until the earlier of (A) two business days after the date of closing of the Successful Bid; and (B) the Outside Date;

(i) does not provide for any break fee or expense reimbursement, it being understood and agreed that no bidder other than the Stalking Horse Bidder shall be entitled to any bid protections;

(j) is accompanied by a deposit in the amount of not less than 10% of the cash purchase price payable on closing or total new investment contemplated, as the case may be (the "**Deposit**"), along with acknowledgement that if the Phase 2 Qualified Bidder is selected as the Successful Bidder (as defined below), that the Deposit will be non-refundable subject to approval of the Successful Bid (as defined below) by the Court and the terms described in paragraph 35 below;

(k) contemplates and reasonably demonstrates a capacity to consummate a closing of the transaction set out therein on or before October 7, 2020, or such earlier date as is practical for the parties to close the contemplated transaction, following the satisfaction or waiver of the conditions to closing (the "**Target Closing Date**") and in any event no later than October 31, 2020 (the "**Outside Date**"); and

(l) contains an agreement that the Phase 2 Qualified Bidder submitting such bid, if not chosen as the Successful Bidder, shall serve, without modification to such bid, as a Backup Bidder (as defined below), in the event the Successful Bidder fails to close; *provided*, *however*, that, the Stalking Horse Bidder shall not be required to serve as Backup Bidder, except to the extent the Stalking Horse Bidder or its affiliates elect to submit an overbid in the Auction.

23. The Applicants with the consent of the Monitor may waive strict compliance with any one or more of the requirements specified above (for greater certainty, other than paragraph 22(c) above) and deem any such non-compliant Binding Offer to be a Phase 2 Qualified Bid.

Selection of Successful Bid

24. The SISP Advisor, in consultation with the Monitor and the Applicants, may, following the receipt of any Binding Offer, seek clarification with respect to any of the terms or conditions of such Binding Offer and/or request and negotiate one or more amendments to such Binding Offer prior to determining if the Binding Offer should be considered a Phase 2 Qualified Bid.

25. The Applicants with the consent of the Monitor, will (a) review and evaluate each Phase 2 Qualified Bid and (b) identify the highest or otherwise best bid (the "**Successful Bid**", and the Phase 2 Qualified Bidder making such Successful Bid, the "**Successful Bidder**") pursuant to the paragraphs below. Any Successful Bid shall be subject to approval by the Court.

26. In the event there is at least one Phase 2 Qualified Bid in addition to the Stalking Horse Bid (provided that the Stalking Horse Bidder has waived or confirmed any financing condition contained in the Stalking Horse Bid has been waived or satisfied), the Applicants shall identify the Successful Bid through an Auction (as defined below).

27. ***Auction***: In the event that an Auction (the "**Auction**") is required in accordance with the terms of this SISP, it shall be conducted in accordance with the procedures set forth in this paragraph.

    (a) The Auction shall commence at a time to be designated by the Applicants on September 3, 2020, at the Calgary offices of Blakes, Cassels, and Graydon LLP or such other place and time as determined by the Applicants and continue thereafter until completed, subject to such adjournments as the Applicants may consider appropriate; *provided* that if circumstances do not permit the Auction to be held in person, the Applicants shall work in good faith with the parties entitled to attend the Auction to arrange for the Auction to be held via videoconference, teleconference, or such other reasonable means as the Applicants deem appropriate. The Applicants reserve the right to cancel or postpone the Auction.

    (b) The identity of each Phase 2 Qualified Bidder participating in the Auction will be disclosed, on a confidential basis, to each other Phase 2 Qualified Bidder participating in the Auction.

    (c) Except as otherwise permitted in the Applicants' discretion, only the Applicants, the SISP Advisor, the Monitor, the Agent and the Phase 2 Qualified Bidders, and, in each case, their respective professionals shall be entitled to attend the Auction. Only a Phase 2 Qualified Bidder is eligible to participate in the Auction.

    (d) Phase 2 Qualified Bidders shall appear at the Auction, or through a duly authorized representative.

    (e) Except as otherwise set forth herein, the Applicants may waive and/or employ and announce at the Auction additional rules, including rules to facilitate the participation of parties participating in an Aggregated Bid, that are reasonable

under the circumstances for conducting the Auction provided that such rules are (i) not inconsistent with the Second Amended Initial Order, the SISP, the DIP, the CCAA, or any order of the Court entered in connection with these CCAA Proceedings, (ii) disclosed to each Phase 2 Qualified Bidder, and (iii) designed, in the Applicants' business judgment, to result in the highest and otherwise best offer.

(f) The Applicants will arrange for the actual bidding at the Auction to be transcribed or recorded. Each Phase 2 Qualified Bidder participating in the Auction shall designate a single individual to be its spokesperson during the Auction.

(g) Each Phase 2 Qualified Bidder participating in the Auction must confirm on the record, at the commencement of the Auction and again at the conclusion of the Auction, that it has not engaged in any collusion with the Applicants or any other person, without the express written consent of the Applicants, regarding the SISP, that has not been disclosed to all other Phase 2 Qualified Bidders.

(h) Prior to the Auction, the Applicants shall identify the highest and best of the Phase 2 Qualified Bids received and such Phase 2 Qualified Bid shall constitute the opening bid for the purposes of the Auction (the "**Opening Bid**"). Subsequent bidding will continue in minimum increments valued at not less than US$1 million cash in excess of the Opening Bid or in such amounts as to be determined by the Applicants, with the consent of the Monitor, prior to, and announced at, the Auction. For the purposes of facilitating bidding the Applicants may ascribe a monetary value to non-cash considerations, including by way of example, to different levels of conditionality to closing. Each Phase 2 Qualified Bidder (other than the Stalking Horse Bidder) shall provide evidence of its financial wherewithal and ability to consummate the transaction at the increased purchase price, if so requested by the Applicants. Further, in the event that an Aggregated Bid qualifies to participate in the Auction, modifications to the bidding requirements may be made by the Applicants to facilitate bidding by the participants in the Aggregated Bid.

(i) All Phase 2 Qualified Bidders shall have the right to, at any time, request that the Applicants announce, subject to any potential new bids, the then-current highest and best bid and, to the extent requested by any Phase 2 Qualified Bidder, use reasonable efforts to clarify any and all questions such Phase 2 Qualified Bidder may have regarding the Applicants' announcement of the then-current highest and best bid.

(j) Each participating Phase 2 Qualified Bidder shall be given reasonable opportunity to submit an overbid at the Auction to any then-existing overbids. The Auction shall continue until the bidding has concluded and there is one remaining Phase 2 Qualified Bidder that the Applicants determine has submitted the highest and otherwise best Phase 2 Qualified Bid of the Auction. At such time and upon the conclusion of the bidding, the Auction shall be closed and the final remaining Phase 2 Qualified Bidder shall be the Successful Bidder.

(k) Upon selection of a Successful Bidder, the Applicants shall require the Successful Bidder to deliver as soon as practicable an executed transaction document, which reflects its bid and any other modifications submitted and agreed to during the Auction, prior to the filing of the application material for the hearing to consider the Approval Motion (as defined below).

(l) The Applicants shall not consider any bids submitted after the conclusion of the Auction.

28. The Applicants shall have selected the final Successful Bid and the Backup Bid by no later than September 7, 2020 and the definitive documentation in respect of the Successful Bid must be finalized and executed no later than September 11, 2020, which definitive documentation shall be conditional only upon the receipt of the Approval Order and the express conditions set out therein and shall provide that the Successful Bidder shall use all reasonable efforts to close the proposed transaction by no later than the Target Closing Date, or such longer period as shall be agreed to by the Applicants with the consent of the Monitor and the Successful Bidder. In any event, the Successful Bid must be closed by no later than the Outside Date. The Applicants shall not extend or otherwise vary the Outside Date except with the written consent of the Monitor and the Agent. In the case of a Successful Bid and Backup Bid that includes the purchase of the Diavik Interest, the Applicants shall also require the written consent of DDMI to any extension or variation of the Outside Date.

29. Notwithstanding anything in the SISP to the contrary, if an Auction is conducted, the Phase 2 Qualified Bidder with the next highest or otherwise best Phase 2 Qualified Bid at the Auction, as determined by the Applicants, will be designated as the backup bidder (the "**Backup Bidder**"); *provided* that the Stalking Horse Bidder shall not be a Backup Bidder, unless it elects to provide an overbid in the Auction. The Backup Bidder shall be required to keep its initial Phase 2 Qualified Bid (or if the Backup Bidder submitted one or more overbids at the Auction, the Backup Bidder's final overbid) (the "**Backup Bid**") open until the earlier of (A) two business days after the date of closing of the Successful Bid; and (B) the Outside Date.

Approval of Successful Bid

30. The Applicants shall apply to the Court (the "**Approval Motion**") for an order approving the Successful Bid and the Backup Bid (as applicable) and vesting title to any purchased Property in the name of the Successful Bidder or the Backup Bidder (as applicable) (the "**Approval Order**"). The Approval Motion will be held on a date to be scheduled by the Applicants and confirmed by the Court upon application by the Applicants, who shall use their best efforts to schedule the Approval Motion on or before September 28, 2020, subject to Court availability. The Approval Motion may be adjourned or rescheduled by the Applicants without further notice, by an announcement of the adjourned date at the Approval Motion or in a notice to the Service List prior to the Approval Motion. The Applicants shall consult with the Successful Bidder and the Backup Bidder regarding the application material to be filed by the Applicants for the Approval Motion, which material shall be acceptable to the Successful Bidder, acting reasonably.

31. All Phase 2 Qualified Bids (other than the Successful Bid) shall be deemed rejected on and as of the date of the closing of the Successful Bid.

Deposits

32. The Deposit(s):

    (a) shall, upon receipt from the Phase 2 Qualified Bidder(s), be retained by the Monitor and deposited in a trust account;

    (b) received from the Successful Bidder shall:

        (i) be applied to the purchase price to be paid by the applicable Successful Bidder whose Successful Bid is the subject of the Approval Order, upon closing of the approved transaction;

        (ii) shall otherwise be held and refundable in accordance with the terms of the definitive documentation in respect of any Successful Bid, provided that all such documentation shall provide that the Deposit shall be retained by the Applicants and forfeited by the Successful Bidder, if the Successful Bid fails to close by the Outside Date, and such failure is attributable directly to any failure or omission of the Successful Bidder to fulfil its obligations under the terms of the Successful Bid;

    (c) received from the Backup Bidder, unless it is subsequently selected as the Successful Bidder, shall be fully refunded, to the Back-Up Bidder on or before the earlier of (i) two (2) Business Days after the date of the closing to the Successful Bid; or (ii) October 31, 2020;

    (d) received from the Phase 2 Qualified Bidder(s) that are not the Successful Bidder or the Back-Up Bidder shall be fully refunded, to the Phase 2 Qualified Bidder(s) that paid the Deposit(s) as soon as practical following the selection of the Successful Bidder and in any event no later than September 30, 2020.

33. Notwithstanding anything to the contrary herein, the Stalking Horse Bidder shall not be required to fund a Deposit.

"As is, Where is"

34. Any sale (or sales) of the Property will be on an "as is, where is" basis except for representations and warranties that are customarily provided in purchase agreements for a company subject to CCAA proceedings and any such representations and warranties provided for in the definitive documents shall not survive closing.

Free Of Any And All Claims And Interests

35. In the event of a sale, to the extent permitted by law, all of the rights, title and interests of the Applicants in and to the Property to be acquired will be sold free and clear of all pledges,

liens, security interests, encumbrances, claims, charges, options, and interests thereon and there against (collectively, the "**Claims and Interests**") pursuant to section 36(6) of the CCAA, such Claims and Interests to attach to the net proceeds of the sale of such Property (without prejudice to any claims or causes of action regarding the priority, validity or enforceability thereof), except to the extent otherwise set forth in the relevant transaction documents with a Successful Bidder.

Credit Bidding

36. The Washington Interim Lender shall be entitled to credit bid any outstanding DIP advances made by it as part of the closing of the Stalking Horse Bid, provided that any DIP advances made by the First Lien Interim Lenders are paid in cash by the Washington Interim Lender at closing.

37. Except as provided in paragraph 36 above, the Washington Interim Lender shall not be entitled to credit bit any outstanding DIP advances in connection with any transaction contemplated by the SISP without the consent of the Agent (such consent not to be unreasonably withheld).

38. Any other party or parties holding a valid, enforceable, and properly perfected security interest in the Property, including the Agent on behalf of the First Lien Lenders under the Existing Credit Agreement, or any lender party thereto, and, the holders or indenture trustee of the Applicants' 7.125% secured second lien notes, may, subject in all respects to such party's compliance with the SISP and the terms thereof, credit bid the amount of debt secured by such lien as part of any transaction contemplated by the SISP; provided, however, that such transaction shall also provide for the indefeasible and irrevocable repayment in full in cash on the date of closing of any such transaction of any and all obligations secured by a security interest in the Property that is to be acquired under such transaction that is senior to the security interest held in such Property by the party submitting such credit bid unless the holder or indenture trustee or agent of any such senior security interest otherwise agrees (it being understood and agreed that, (a) with respect to the Property the Interim Lender holds a super-priority security interest, senior to all other security interests in the Property, except as expressly set forth in the DIP Term Sheet and with respect to the court-ordered charges created in favour of the Interim Lender under the Second Amended and Restated Initial Order, and (b) any obligations of the Applicants with respect to any Cover Payments made pursuant to, or reclamation obligations associated with, the Diavik Interest must be either refinanced or collateralized in a manner similar to that contemplated by the Stalking Horse Bid or indefeasibly and irrevocably repaid in full in cash on the date of closing of any such transaction to the extent any credit bid pertains to the Diavik Interest). Any credit bid by the Agent under the Existing Credit Agreement, or any lender party thereto or any holder or holders or indenture trustee of the Applicants' 7.15% secuered second lien notes shall provide for the indefensible and irrevocable repayment in full in cash on the date of closing of any such transaction of all Interim Financing Obligations (as defined in the DIP), including those Interim Financing Obligations attributable to October Advances (as defined in the DIP). Nothing contained

in this paragraph 38 is intended to, or shall, alter or amend the rights, terms or obligations under any intercreditor agreement or indenture.

Confidentiality

39. For greater certainty other than as shall be required in connection with any Auction or Approval Motion, neither the Applicants, the Monitor, the SISP Advisor will share (i) the identity of any Potential Bidder, or Phase 1 Qualified Bidder (other than the Stalking Horse Bidder), or (ii) the terms of any bid, LOI, Phase 1 Qualified Bid, Sale Proposal, Investment Proposal or Phase 2 Qualified Bid (other than the Stalking Horse Bid), with any other bidder (including, without limitation, the Stalking Horse Bidder) without the express written consent of such party (including by way of e-mail).

Further Orders

40. At any time during the SISP, the Applicants or the Monitor may apply to the Court for advice and directions with respect to any aspect of this SISP including, but not limited to, the continuation of the SISP or with respect to the discharge of its powers and duties hereunder.

Additional Terms

41. In addition to any other requirement of this SISP:

    (a) The SISP Advisor and the Applicants, in consultation with the Monitor, shall at all times prior to the selection of a Successful Bid use commercially reasonable efforts to facilitate a competitive bidding process in the SISP including, without limitation, by actively soliciting participation by all persons who would be customarily identified as high potential bidders in a process of this kind or who may be reasonably proposed by the Applicants' creditors as a high potential bidder.

    (b) The exercise of any right or discretion given to the Applicants or the SISP Advisor by the SISP shall, in the case of the Applicants, be exercised on their behalf solely by a special committee of DDM's directors comprised of one or more persons who have confirmed in writing to the Monitor that they do not have any conflict of interest in the subject matter or any material personal or business relationship of any kind with a SISP bidder or a person related to a SISP bidder (including, without limitation, the Stalking Horse Bidder). In addition, the exercise of any right or discretion on the part of the Applicants or the SISP Advisor in respect of any of the following shall require the express consent of the Monitor: the determination of Phase 1 Qualified Bids and Phase 2 Qualified Bids, the selection of Successful Bids, and any discretion afforded by paragraphs 27(e) and 27(h).

    (c) All Phase 1 Qualified Bidders and Phase 2 Qualified Bidders shall at all times be granted information, access and facilitation which is no less complete and timely than is granted by the Applicants or the SISP Advisor, or their representatives, to the Stalking Horse Bidder or its representatives, pursuant to the SISP. This shall

include, without limitation, reasonable access to Rio Tinto plc, The Government of the Northwest Territories and sureties on the basis contemplated by the section titled "Commercially Reasonable Efforts" in the Stalking Horse Bid and reasonable access to the Applicants' books, records, financial information, management, advisors and business partners. The SISP Advisor and the Monitor shall review all information and materials provided by the Applicants or their representatives to the DIP lenders or their representatives pursuant to the DIP and, to the extent that the SISP Advisor and the Monitor are of the view that any such information or materials are materially relevant to a Potential Bidder or Phase 1 Qualified Bidder or Phase 2 Qualified Bidder, then such information or materials shall be promptly posted to the VDR or otherwise made available to all Potential Bidders, Phase 1 Qualified Bidders and Phase 2 Qualified Bidders. Nothing in this paragraph creates binding obligations of third parties, including but not limited to DDMI, the Government of the Northwest Territories, or sureties.

(d) With respect to the Stalking Horse Bid, the Applicants and the Stalking Horse Bidder shall, by no later than August 7, 2020, enter into a definitive binding purchase and sale agreement on the terms contemplated by the Stalking Horse Bid, copies of which shall be promptly provided in unredacted form to all Phase 2 Qualified Bidders.

(e) Nothing in this SISP shall require that a Successful Bid, Backup Bid or any other bid must be approved by the Court. The Court at all times retains the discretion to direct the clarification, termination, extension or modification of the SISP on application of any interested party.

(f) Prior to the seeking of Court approval for any transaction or bid contemplated by this SISP, the Monitor will provide a report to the Court on the SISP process, parts of which may be filed under seal, including in respect of any and all bids received.

Appendix "A"

TO THE SISP ADVISOR:

Evercore
55 East 52nd Street, 42nd floor
New York, NY 10055

Attention: John Startin

Phone: 212-453-5577
E-Mail: John.Startin@evercore.com

WITH A COPY TO:

Attention: Andrew Frame

Phone: 212-823-6443
E-Mail: Andrew.Frame@evercore.com

WITH A COPY TO:

Attention: Nicholas Salzman

Phone: 646-259-7783
E-Mail: Nicholas.Salzman@evercore.com

TO THE MONITOR:

FTI Consulting Canada Inc.
520 5th Ave SW
Calgary AB T2P 3R7

Attention: Deryck Helkaa

Phone: 403-454-6031
E-Mail: deryck.helkaa@fticonsulting.com

WITH A COPY TO:

Bennett Jones LLP
4500 Bankers Hall East
855 - 2nd Street SW
Calgary AB T2P 4K7

Attention: Chris Simard

Phone: 403-298-4485
Email: simardc@bennettjones.com

Schedule “C”

Stalking Horse Agreement of Purchase and Sale

CONFIDENTIAL

DRAFT – JUNE 12, 2020

ASSET PURCHASE AGREEMENT

BY AND AMONG

CANADIAN DIAMOND HOLDINGS, L.P.,

CA CANADIAN DIAMOND MINES ULC,

DOMINION DIAMOND HOLDINGS, LLC,

DOMINION DIAMOND MINES ULC

AND

WASHINGTON DIAMOND INVESTMENTS, LLC

Dated as of June [●], 2020

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is dated as of June **[•]**, 2020 (the "Effective Date"), by and among Canadian Diamond Holdings, L.P., a Delaware limited partnership ("Purchaser Holdco"), CA Canadian Diamond Mines ULC, a British Columbia unlimited liability company and a wholly owned subsidiary of Purchaser Holdco ("Canadian Purchaser" and, together with Purchaser Holdco, "Purchasers"), Dominion Diamond Holdings, LLC, a Delaware limited liability company ("Dominion Holdings"), Dominion Diamond Mines ULC, a British Columbia unlimited liability company and a wholly owned subsidiary of Dominion Holdings ("DDM", and together with Dominion Holdings, the "Sellers"), and Washington Diamond Investments, LLC, a Delaware limited liability company ("Parent").

WHEREAS, DDM is a diamond producer with ownership interests in diamond projects in the Northwest Territories and Sellers are engaged, directly and indirectly through the Acquired Subsidiaries, in the business of mining and selling rough diamonds to the global market (the "Business");

WHEREAS, on April 22, 2020 (the "Filing Date"), Sellers, Parent, Dominion Finco Inc., Dominion Diamond Delaware Company LLC and Dominion Diamond Canada ULC (collectively, the "Applicants") obtained an Initial Order (the "Initial Order") under the Companies' Creditors Arrangement Act (Canada) ("CCAA") from the Alberta Court of Queen's Bench (the "CCAA Court") that, among other things, commenced the CCAA proceedings (the "CCAA Proceedings") and granted an initial stay of proceedings in respect of the Applicants (the "Stay"). On May 1, 2020, the Applicants obtained an amended and restated version of the Initial Order from the CCAA Court (as further amended and restated from time to time, the "Amended and Restated Initial Order") that, among other things, extended the Stay.

WHEREAS, on May 21, 2020, Sellers, Parent and Washington Diamond Investments Holdings II, LLC entered into a non-binding letter of intent (the "LOI") that contemplated, among other things, that such parties would commence negotiations of this Agreement on terms and conditions consistent with those set forth in a stalking horse term sheet appended as Exhibit A to the LOI (the "Stalking Horse Term Sheet");

WHEREAS, the Stalking Horse Term Sheet contemplated that subject to, among other things, following the execution of this Agreement, the Purchasers would act as a "stalking horse bidder" in connection with the sale investor and solicitation process (the "SISP") for the Business and Property (as defined in the Amended and Restated Initial Order), meaning that, in the absence of the Sellers' acceptance of a superior bid made in accordance with the SISP, the Purchasers have agreed to purchase the Sellers' right, title and interest in and to the Acquired Assets (as defined below) and assume the Assumed Liabilities (as defined below) on the terms and subject to the conditions set forth in this Agreement, in accordance with the SISP and subject to obtaining the Sale Order (as defined below) (the "Acquisition");

WHEREAS, the Applicants have sought to obtain approval of the SISP Order from the CCAA Court which will (a) authorize and direct the Sellers, subject to approval of the Monitor (as defined below) to execute this Agreement, which will stand as the Stalking Horse Bid (for the

purposes of the SISP) and (b) approve the Interim Facility and authorize the Applicants to enter into the Interim Facility Credit Agreement;

WHEREAS, concurrently with the execution of this Agreement, and as a condition to the willingness of Sellers to enter into this Agreement, Purchasers have delivered to Sellers a limited guaranty (the "Limited Guaranty") of Washington Liquid Investments, LLC, a Montana limited liability company (the "Guarantor"), dated as of the date hereof, pursuant to which the Guarantor has guaranteed certain obligations of Purchasers; and

WHEREAS, the Parties desire to consummate the Acquisition as promptly as practicable following the satisfaction of the conditions precedent set out herein, including the issuance by the CCAA Court of the Sale Order.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, covenants, agreements and warranties herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE I

CERTAIN DEFINITIONS

1.1 Specific Definitions. Capitalized terms used herein shall have the meanings set forth below:

"Aboriginal Agreements" shall have the meaning ascribed thereto in Section 4.16(a).

"Aboriginal Claims" means any and all claims (whether or not proven) by any Person, pursuant to section 35 of the *Constitution Act, 1982 Schedule B to the Canada Act, 1982 (U.K.)* or otherwise, to or in respect of: (1) rights, title or interests of any Aboriginal Group by virtue of its status as an Aboriginal Group; (2) treaty rights; (3) Métis rights, title or interests; or (4) rights under land claims and agreements; or (5) specific or comprehensive claims being considered by the Government of Canada; and includes any alleged or proven failure of the Crown to have satisfied, prior to the date hereof, any of its duties to any claimant of any of the foregoing.

"Aboriginal Group" means any band (as defined in the *Indian Act* (Canada)), First Nation, Métis community, Inuit group, tribal council, band council or other aboriginal organization in Canada.

"Acquired Assets" shall have the meaning ascribed thereto in Section 2.1.

"Acquired Subsidiaries" shall have the meaning ascribed thereto in Section 2.1(a).

"Acquisition" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Action" means any litigation (in Law or in equity), arbitration, mediation, action, lawsuit, proceeding, written complaint, written charge, written claim, written demand, hearing, investigation or like matter (whether public or private) commenced, brought, conducted, or heard

before or otherwise involving any Governmental Body, whether administrative, judicial or arbitral in nature.

"Advance Ruling Certificate" means an advance ruling certificate issued by the Commissioner pursuant to section 102 of the Competition Act with respect to the transactions contemplated by this Agreement.

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by Contract or otherwise. For the avoidance of doubt, neither of the Purchasers is an Affiliate of Sellers for purposes of this Agreement or otherwise.

"Agreement" means this Asset Purchase Agreement, including all Schedules hereto and the Seller Disclosure Letter, as it may be further amended from time to time in accordance with its terms.

"Allocation" shall have the meaning ascribed thereto in Section 12.13(e).

"Alternate Transaction" shall have the meaning ascribed thereto in Section 11.4(a).

"Amended and Restated Initial Order" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Ancillary Documents" means any certificate, agreement, document or other instrument (other than this Agreement) to be executed and delivered by a Party in connection with the consummation of the transactions contemplated by this Agreement.

"Antitrust Approvals" means the Competition Act Approval, if required, and each of the other Mandatory Antitrust Approvals (if any).

"Antitrust Laws" means the Competition Act and any competition, merger control and antitrust Law of any other applicable supranational, national, federal, state, provincial or local Law designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolizing or restraining trade or lessening competition of any other country or jurisdiction, to the extent applicable to the transactions contemplated by this Agreement.

"Applicants" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Arbitrating Accountant" means an internationally recognized certified public accounting firm jointly selected by Purchasers and Sellers that is not then engaged to perform accounting, tax or auditing services for Sellers or Purchasers.

"Assigned Contracts" shall have the meaning ascribed thereto in Section 2.1(l).

"Assignment and Assumption Agreement" shall have the meaning ascribed thereto in Section 10.2(b).

"Assignment and Assumption of Leases" shall have the meaning ascribed thereto in Section 10.2(f).

"Assignment Order" means an Order of the CCAA Court made in the CCAA Proceedings, in form and substance acceptable to Parties, acting reasonably, assigning to the applicable Purchasers the rights and obligations of Sellers under an Assigned Contract for which a consent, approval or waiver necessary for the assignment of such Assigned Contract has not been obtained.

"Assumed Liabilities" shall have the meaning ascribed thereto in Section 2.3.

"Assumed Plans" shall have the meaning ascribed thereto in Section 7.2(a).

"Auction" shall have the meaning ascribed to such term by the SISP.

"Authorization" means with respect to any Person, any order, permit, approval, consent, waiver, license, registration, qualification, certification or similar authorization of any Governmental Body having jurisdiction over the Person, and shall include all environmental permits, licenses and other Authorizations, and all surface leases and water or riparian rights.

"Break-Up Fee" shall have the meaning ascribed thereto in Section 11.4(a)(iv).

"Break-Up Fee Charge" means a priority charge in favour of Purchasers over the Property (as defined in the Amended and Restated Initial Order) of the Applicants granted by the CCAA Court pursuant to the SISP Order to secure the payment by Sellers of the Break-Up Fee and the Expense Reimbursement Amount pursuant to this Agreement, which charge shall rank in priority to all Encumbrances in respect of the Property other than the Administration Charge, the Directors Charge, and the KERP Charge (each as defined in the Amended and Restated Initial Order).

"Business" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Business Day" shall mean any day other than a Saturday, a Sunday, or a statutory holiday in New York City, New York, U.S.A. or Calgary, Alberta, Canada.

"Canadian Assets" means all Acquired Assets other than the Purchaser Holdco Acquired Interests.

"Canadian Purchaser" shall have the meaning ascribed thereto in the Preamble.

"Cash and Cash Equivalents" means all of Sellers' cash (including petty cash and checks received prior to the close of business on the Closing Date), checking account balances, marketable securities, certificates of deposits, time deposits, bankers' acceptances, commercial paper, security entitlements, securities accounts, commodity Contracts, commodity accounts, government securities and any other cash equivalents, whether on hand, in transit, in banks or other financial institutions, or otherwise held, and any security, collateral or other deposits.

"Cash Component" shall have the meaning ascribed thereto in Section 3.1(b).

"CCAA" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"CCAA Court" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"CCAA Proceedings" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Claims" means any and all claims, charges, lawsuits, demands, directions, Orders, suits, inquires made, hearings, judgments, warnings, investigations, notices of violation, notice of noncompliance, litigation, proceedings, arbitration, or other disputes, whether civil, criminal, administrative, regulator or otherwise.

"Closing" shall have the meaning ascribed thereto in Section 10.1.

"Closing Date" means the date on which the Closing shall occur.

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

"Collective Agreement" means any collective agreement, letter of understanding, letter of intent or any other similar Contract with or commitment to any trade union, employee association, labour organization or similar entity.

"Commissioner" means the Commissioner of Competition appointed under the Competition Act or any person duly authorized to exercise the powers and perform the duties of the Commissioner of Competition.

"Competition Act" means the *Competition Act* (Canada), as amended.

"Competition Act Approval" means: (i) the issuance of an Advance Ruling Certificate and such Advance Ruling Certificate has not been rescinded prior to Closing; or (ii) the Purchasers and the Sellers have given the notice required under section 114 of the Competition Act with respect to the transactions contemplated by this Agreement and the applicable waiting period under section 123 of the Competition Act has expired or has been terminated in accordance with the Competition Act; or (iii) the obligation to give the requisite notice has been waived pursuant to paragraph 113(c) of the Competition Act, and, in the case of (ii) or (iii), the Purchasers have been advised in writing by the Commissioner that, in effect, such person is of the view that sufficient grounds at that time do not exist to initiate proceedings before the Competition Tribunal under section 92 of the Competition Act with respect to the transactions contemplated by this Agreement and therefore the Commissioner, at that time, does not intend to make an application under section 92 of the Competition Act in respect of the transactions contemplated by this Agreement ("no-action letter"), and the form of and any terms and conditions attached to any such advice are acceptable to the Purchasers, acting reasonably, and such advice has not been rescinded prior to Closing.

"Competition Tribunal" means the Competition Tribunal established under the *Competition Tribunal Act* (Canada).

"Conditions Certificate" shall have the meaning ascribed thereto in Section 10.4.

"Confidentiality Agreement" shall have the meaning ascribed thereto in Section 6.3.

"Contaminants" means any noise, heat, vibration or Hazardous Materials that can be discharged into or be present in the Environment.

"Contract" means any written or oral contract, purchase order, service order, sales order, indenture, note, bond, lease, sublease, license, understanding, instrument or other agreement, arrangement or commitment, whether express or implied.

"Cure Amount" means (i) with respect to any Assigned Contract for which a required consent to assignment has not been obtained and is to be assigned to the Purchasers in accordance with the terms of the Assignment Order, the amounts, if any, required to be paid to remedy all of the Sellers' monetary defaults existing as at the Closing Date under such Assigned Contract (or such other amounts as may be agreed by the Purchasers and the counterparty to such Assigned Contract), and (ii) with respect to any Assigned Contract to be assigned on consent, where consent is required, the amount, if any, required to be paid to a counterparty to secure its consent to the assignment of the applicable Assigned Contract by any of the Sellers to the Purchasers (which amount shall be set out on the form of contractual consent agreed to by the Purchasers and the counterparty to such Assigned Contract).

"Cure Funding Amount" means US$20,000,000, less any amount that the Applicants are authorized to pay (and have not paid as of the date of this Agreement) under the DIP Budget and an Order of the CCAA Court in respect of the Cure Amount, which for greater certainty shall include US$2,200,000 available to the Applicants to pay critical suppliers in accordance with paragraph 5(c) of the Amended and Restated Initial Order.

"Data Room" means the material contained in the virtual data room established by Sellers in connection with the SISP as of 5:00 p.m. on June [__], 2020.

"DDM" shall have the meaning ascribed thereto in the Preamble hereof.

"DDMI" means Diavik Diamond Mines (2012), Inc., a company incorporated under the laws of Canada, as the manager of the Diavik Joint Venture.

"Designated Purchaser" shall have the meaning ascribed thereto in Section 12.10.

"Diavik Diamond Mine" means the diamond mine located approximately 300 kilometres from Yellowknife in the Northwest Territories, Canada, and known as the "Diavik Diamond Mine."

"Diavik Joint Venture" means the unincorporated joint venture arrangement established pursuant to the Diavik Joint Venture Agreement in relation to the Diavik Diamond Mine.

"Diavik Joint Venture Agreement" means the joint venture agreement dated March 23, 1995 between DDM and DDMI originally entered into between Aber Resources Limited and

Kennecott Canada Inc. as of March 23, 1995, as amended from time to time, with the current parties thereto being DDM and DDMI.

"Diavik Joint Venture Interest" means the undivided 40% beneficial interest in the assets (including property and products derived therefrom) of the Diavik Joint Venture held by DDM pursuant to the Diavik Joint Venture Agreement.

"Diavik Leases" means the surface and mining leases constituting the Diavik Diamond Mine and subject to the Diavik Joint Venture Agreement.

"DIP Budget" shall have the meaning ascribed to it in the Interim Facility Credit Agreement.

"Documents" means all of Sellers' books, records and other information in any form relating to the Business or the Acquired Assets, including accounting books and records, sales and purchase records, lists of suppliers and customers, lists of potential customers, credit and pricing information, personnel and payroll records of Employees, Tax records, business reports, plans and projections, production reports and records, inventory reports and records, business, engineering and consulting reports, marketing and advertising materials, research and development reports and records, maps, all plans, surveys, specifications, and as-built drawings relating to the Mine Properties, buildings, structures, erections, improvements, appurtenances and fixtures situate on or forming part of the Ekati Diamond Mine, the Diavik Diamond Mine and any other real property interests included in the Acquired Assets, including all such electrical, mechanical and structural drawings related thereto, environmental reports, soil and substratum studies, inspection records, financial records, and all other records, books, documents and data bases recorded or stored by means of any device, including in electronic form, relating to the Business, the Acquired Assets or the Employees, and other similar materials, in each case, whether in electronic, paper or other form, but excluding Sellers' corporate charter, minute and stock record books, and corporate seal.

"Dominion Holdings" shall have the meaning ascribed thereto in the Preamble hereof.

"Effective Date" shall have the meaning ascribed thereto in the Preamble hereof.

"Ekati Buffer Zone" means the property and assets (including products derived from such property) comprising the Ekati Buffer Zone as described in the technical report entitled "Ekati Diamond Mine, Northwest Territories, Canada, NI-43-101 Technical Report" dated July 31, 2016.

"Ekati Buffer Zone Leases" means the surface and mining leases constituting the Ekati Buffer Zone.

"Ekati Core Zone" means the property and assets (including products derived from such property) that are the subject of the Ekati Core Zone Joint Venture Agreement.

"Ekati Core Zone Joint Venture" means the unincorporated joint venture arrangement established pursuant to the Ekati Core Zone Joint Venture Agreement in relation to the Ekati Core Zone.

"Ekati Core Zone Joint Venture Agreement" means the joint venture agreement titled 'Northwest Territories Diamonds Joint Venture Agreement – Core Zone Property' dated April 17, 1997 originally entered into among BHP Diamonds Inc., Dia Met Minerals Ltd., Charles E. Fipke and Dr. Stewart L. Blusson, as amended from time to time, with the current parties thereto being DDM and 1012986 B.C. Ltd.

"Ekati Core Zone Joint Venture Interest" means an undivided 88.889% beneficial interest in the Ekati Core Zone Joint Venture, held by DDM pursuant to the Ekati Core Zone Joint Venture Agreement

"Ekati Core Zone Leases" means the surface and mining leases constituting the Ekati Core Zone and subject to the Ekati Core Zone Joint Venture Agreement.

"Ekati Diamond Mine" means the diamond mine located approximately 310 kilometres from Yellowknife in the Northwest Territories, Canada, and known as the "Ekati Diamond Mine."

"Employee" means an individual who, as of the applicable date, is employed by Sellers or their Subsidiaries in connection with the Business.

"Employee Plan" means all employee benefit, welfare, supplemental unemployment benefit, bonus, pension, profit sharing, executive compensation, current or deferred compensation, incentive compensation, stock compensation, stock purchase, stock option, stock appreciation, phantom stock option, savings, vacation pay, severance or termination pay, retirement, supplementary retirement, hospitalization insurance, salary continuation, legal, health or other medical, dental, life, disability or other insurance (whether insured or self-insured) plan, program, agreement or arrangement, including post-retirement health and life insurance benefit plans, and every other written or oral benefit plan, program, agreement or arrangement sponsored, maintained or contributed to or required to be contributed to by the Sellers or any of their Subsidiaries for the benefit of the Employees or former Employees and their dependents or beneficiaries by which the Sellers or any of their Subsidiaries are bound or with respect to which the Sellers or any of their Subsidiaries participate or have any actual or potential Liability (excluding, for greater certainty, any statutory benefits plan).

"Encumbrance" means any lien, encumbrance, Claim, right, demand, charge, mortgage, deed, deed of trust, statutory, constructive or deemed trust, lease, option, pledge, security interest or similar interest, title defect, assignment, hypothecation, easement, right of way, restrictive covenant, encroachment, right of first refusal, preemptive right, proxy, voting trust or agreement, transfer restriction under any shareholder agreement or similar agreement, judgment, conditional sale or other title retention agreement or other imposition, imperfection or defect of title or restriction on transfer or use of any nature whatsoever.

"Environment" means the components of the earth, and includes: (a) land, water, and air, including all layers of the atmosphere, (b) all organic and inorganic matter and living organisms, and (c) the interacting natural systems that include components referred to in paragraphs (a) and (b).

"Environmental Agreement" means the Environmental Agreement, dated as of January 6, 1997 as amended on April 14, 2003, on April 10, 2013 and on November 21, 2018 between Her

Majesty The Queen in Right of Canada and the Government of the Northwest Territories and Dominion Diamond Ekati ULC.

"Environmental Law" means the Environmental Agreement and any Regulation which is related to or which regulates or otherwise imposes obligations, liability or standards of conduct concerning the Environment, health and safety, mineral resources, discharges, Contaminants, reclamation and restoration, Releases or threatened Releases of Contaminants, including Hazardous Materials, into the Environment or otherwise relating to the manufacture, processing, generation, distribution, use, treatment, storage, disposal, cleanup, transport or handling of Hazardous Materials.

"Environmental Liabilities and Obligations" means all Liabilities arising from or relating to the Environment, mineral resources, health or safety, Contaminants, reclamation and restoration or arising under any, or arising from any Environmental Law, including Liabilities related to: (a) the manufacture, processing, handling, generation, treatment, distribution, recycling, transportation, storage, use, cleanup, arrangement for disposal or disposal of, or exposure to, Hazardous Materials and/or Contaminants; (b) the Release of Hazardous Materials and/or Contaminants, including migration onto or from the real property included in the Acquired Assets; (c) any other pollution or contamination of the surface, substrata, soil, air, ground water, surface water or marine environments; (d) any other obligations imposed under Environmental Law including pursuant to any applicable Authorizations issued pursuant to or under any Environmental Law; (e) Orders, notices to comply, notices of violation, alleged non-compliance and inspection reports with respect to any Liabilities pursuant to Environmental Law; and (f) all obligations with respect to personal injury, property damage, environmental damage, wrongful death, endangerment to the health or animal life, damage to plant life and other damages and losses arising under applicable Environmental Law.

"Essential Contracts" means, collectively, those Contracts to which a Seller is a party or beneficiary which are Material Contracts and specified as "Essential Contracts" on Schedule F, as may be modified from time to time after the date of this Agreement pursuant to Section 2.6.[1]

"Excluded Assets" shall have the meaning ascribed thereto in Section 2.2.

"Excluded Contracts" means, collectively, those Contracts to which a Seller is a party or beneficiary and specified as "Excluded Contracts" on Schedule F, as may be modified from time to time after the date of this Agreement pursuant to Section 2.6.

"Excluded Liabilities" shall have the meaning ascribed thereto in Section 2.4.

"Expense Reimbursement Amount" means the aggregate amount of all reasonable and documented out of pocket costs, expenses and fees incurred by Purchasers or any Purchaser Related Party (including, for the avoidance of doubt, such costs, expenses and fees incurred by Washington Diamond Investments Holdings II, LLC and its Affiliates) in connection with

[1] NTD: Subject to receipt from Sellers and review of proposed Schedule F list of Essential Contracts, as well as a list of Material Contracts.

evaluating, negotiating, documenting and performing the transactions contemplated by this Agreement and the Ancillary Documents, including fees, costs and expenses of any professionals (including financial advisors, outside legal counsel, accountants, experts and consultants) retained by or on behalf of Purchasers or any Purchaser Related Party in connection with or related to the authorization, preparation, investigation, negotiation, execution and performance of this Agreement, the transactions contemplated hereby, including the CCAA Proceedings and other judicial and regulatory proceedings related to such transactions, which amount shall be secured by the Break-Up Fee Charge and shall be payable as set forth in Section 11.4.

"Filing Date" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Final Order" means an action taken or order issued by the CCAA Court or other applicable Governmental Body as to which: (i) no request or motion for stay of the action or order is pending, no such stay is in effect, and, if any deadline for filing any such request or motion is designated by statute or regulation, it is passed, including any extensions thereof; (ii) no petition or motion for rehearing or reconsideration of the action or order, or protest of any kind, is pending before the Governmental Body and the time for filing any such petition or motion is passed; (iii) the Governmental Body does not have the action or order under reconsideration or review on its own motion and the time for such reconsideration or review has passed; and (iv) the action or order is not then under judicial review or appeal, there is no notice of leave to appeal, appeal or other motion or application for judicial review pending, and the deadline for filing such notice of appeal or other motion or application for judicial review has passed, including any extensions thereof.

"Financing" shall have the meaning ascribed thereto in Section 6.15(a) hereof.

"Financing Condition" shall have the meaning ascribed thereto in Section 8.13 hereof.

"Glowworm Lake Property" means the mineral leases held by DDM covering an area of 132,560 hectares bordering the eastern side of the Diavik Diamond Mine.

"GNWT" shall have the meaning ascribed thereto in Section 8.9.

"Governmental Body" means any government, quasi-governmental entity, or other governmental or regulatory body, board, commission, tribunal, agency or political subdivision thereof of any nature, whether national, international, multi-national, supra-national, foreign, federal, state, provincial, territorial, Aboriginal or local, or any agency, branch, department, official, entity, instrumentality or authority thereof, or any court or arbitrator (public or private) of applicable jurisdiction.

"GST" means goods and services tax, including harmonized sales tax, payable under the GST Legislation.

"GST Legislation" means Part IX of the *Excise Tax Act* (Canada), as amended from time to time.

"Guarantee" means any guarantee or other contingent liability, direct or indirect, with respect to any Indebtedness or obligations of another Person, through a Contract or otherwise.

"Guarantor" shall have the meaning ascribed thereto in the Recitals to this Agreement.

"Hazardous Material" means any substance, material, emission or waste which is defined, regulated, listed or prohibited by any Governmental Body, including petroleum and its by-products, asbestos, polychlorinated biphenyls and any material, waste or substance which is defined or identified as a "hazardous waste," "hazardous substance," "hazardous material," "restricted hazardous waste," "industrial waste," "solid waste," "contaminant,", "dangerous good", "deleterious substance", "greenhouse gas emission", "pollutant," "toxic waste" or "toxic substance" or words of similar import or otherwise regulated under or subject to any provision of Environmental Law.

"IFRS" means generally accepted accounting principles as set out in the CPA Canada Handbook – Accounting for an entity that prepares its financial statements in accordance with International Financial Reporting Standards as applied by the International Accounting Standards Board, at the relevant time, applied on a consistent basis.

"Indebtedness" means, with respect to any Person, (a) all liabilities of such Person for borrowed money, whether secured or unsecured, including all outstanding principal, interest, fees and other amounts payable with respect thereto (including, for the avoidance of doubt, any prepayment penalties, make-whole payments or breakage fees associated with the payment of such borrowed money), (b) all liabilities of such Person evidenced by notes, debentures, bonds or similar instruments, including all outstanding principal, interest, fees and other amounts payable with respect thereto (including, for the avoidance of doubt, any prepayment penalties, make-whole payments or breakage fees associated with the payment thereof), for the payment of which such Person is responsible, (c) all obligations of such Person for the deferred purchase price of property or services (including "earn out" payments), all conditional sale obligations of such Person and all obligations of such Person under any title retention agreement; (d) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker's acceptance or similar credit transaction, but excluding any obligations that are fully discharged at the Closing, (e) obligations under any interest rate, currency or other hedging arrangement or derivatives transaction, (f) all obligations of such Person with respect to the posting of collateral and similar obligations or as obligor, guarantor, surety or otherwise, including pursuant to "keep well" agreements, agreements to maintain or contribute cash or capital to any Person or other similar agreements or arrangements, but excluding any such obligations that are fully discharged at the Closing; and (g) any change of control payments or prepayment premiums, penalties, charges or equivalents thereof with respect to any obligations of the type referred to in clauses (a) through (f) that are required to be paid at the time of, or the payment of which would become due and payable solely as a result of, the execution of this Agreement or the consummation of the transactions contemplated hereby.

"Initial Allocation" shall have the meaning ascribed thereto in Section 12.13(e).

"Initial Order" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Intellectual Property" means all intellectual property and proprietary rights of any kind, including the following: (a) trademarks, service marks, trade names, slogans, logos, designs, symbols, trade dress, internet domain names, uniform resource identifiers, rights in design, brand names, any fictitious names, d/b/a's or similar filings related thereto, or any variant of any of them,

and other similar designations of source or origin, together with all goodwill, registrations and applications related to the foregoing; (b) copyrights and copyrightable subject matter (including any registration and applications for any of the foregoing); (c) trade secrets and other confidential or proprietary business information (including manufacturing and production processes and techniques, research and development information, technology, intangibles, drawings, specifications, designs, plans, proposals, technical data, financial, marketing and business data, pricing and cost information, business and marketing plans, customer and supplier lists and information), know how, proprietary processes, formulae, algorithms, models, industrial property rights, and methodologies; (d) computer software, computer programs, and databases (whether in source code, object code or other form); and (e) all rights to sue for past, present and future infringement, misappropriation, dilution or other violation of any of the foregoing and all remedies at law or equity associated therewith.

"Interim Facility" means the interim financing facility evidenced by the Interim Facility Credit Agreement, entered into to provide financing during the pendency of the CCAA Proceedings, as the same may be amended, restated or supplemented from time to time.

"Interim Facility Credit Agreement" means that certain Interim Facility Term Sheet among Washington Diamond, the other Interim Lenders party thereto, DDM, as the Borrower (as defined therein) thereunder, and the Guarantors (as defined therein), evidencing the Interim Facility to be provided by the Interim Lenders to DDM, as Borrower, as the same may be amended, modified or supplemented from time to time.

"Interim Lenders" means Washington Diamond and the other Interim Lenders (as defined in the Interim Facility Credit Agreement), as interim lenders under the Interim Facility Credit Agreement and the Interim Facility and any assignee(s) thereof.

"Inventory" means all diamonds and other inventory of any kind or nature, including stockpiles and goods, maintained, held or stored by or for any Seller, whether or not prepaid, and wherever located or held, including any goods in transit, and any prepaid deposits for any of the same, including all diamonds no longer held by DDMI prior to Closing in respect of the Diavik Joint Venture Interests and whose title has transferred to Sellers.

"Investment Canada Act" means the *Investment Canada Act*, as amended.

"IP Assignment and Assumption Agreement" shall have the meaning ascribed thereto in Section 10.2(g).

"Joint Venture" means each of the Diavik Joint Venture, the Ekati Core Zone Joint Venture and the Lac de Gras Joint Venture.

"Joint Venture Agreements" means, collectively, the Diavik Joint Venture Agreement, the Ekati Core Zone Joint Venture Agreement and the Lac de Gras Joint Venture Agreement, and "Joint Venture Agreement" means any one of them as applicable.

"Knowledge of Sellers" or "Sellers' Knowledge" means, with respect to any matter, the actual knowledge, after due inquiry, of each of the individuals set forth on Section 1.1(a) of the Seller Disclosure Letter.

"Lac de Gras" means the exploration property and assets (including products derived from such property) that is the subject of the Lac de Gras Joint Venture Agreement.

"Lac de Gras Joint Venture" means the unincorporated joint venture arrangement established pursuant to the Lac de Gras Joint Venture Agreement in relation to Lac de Gras.

"Lac de Gras Joint Venture Agreement" means the joint venture agreement dated June 30, 2015 entered into among Dominion Diamond Holdings Ltd., 6355137 Canada Inc. and North Arrow Minerals Inc.

"Lac de Gras Joint Venture Interest" means an undivided 77.31% beneficial interest in Lac de Gras Joint Venture held by DDM pursuant to the Lac de Gras Joint Venture Agreement.

"Lac de Gras Leases" means the surface and mining leases constituting Lac de Gras.

"Law" means any federal, state, provincial, local, municipal, foreign or international, multinational or other law, treaty, statute, constitution, principle of common law, resolution, ordinance, code, edict, decree, rule, regulation, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Body.

"Liability" means, as to any Person, any debt, Claim, liability (including any liability that results from, relates to or arises out of tort or any other product liability claim), duty, responsibility, obligation, commitment, assessment, cost, expense, loss, expenditure, charge, fee, penalty, fine, contribution or premium of any kind or nature whatsoever, whether known or unknown, asserted or unasserted, absolute or contingent, direct or indirect, accrued or unaccrued, liquidated or unliquidated, or due or to become due, and regardless of when sustained, incurred or asserted or when the relevant events occurred or circumstances existed.

"Limited Guaranty" shall have the meaning ascribed thereto in the Recitals to this Agreement.

"LOI" shall have the meaning ascribed thereto in the Recitals to this Agreement.

"Mandatory Antitrust Approvals" means each of the approvals or consents of any Governmental Body, or the expiration of the applicable notice or waiting period, in each case required to consummate the Acquisition and the other transactions contemplated by this Agreement under applicable Antitrust Laws, including by means of a decision, in whatever form (including a declaration of lack of jurisdiction or a mere filing or notification, if the Closing can take place, pursuant to the applicable Antitrust Law, without a decision or the expiry of any waiting period) by any Governmental Body under the Antitrust Laws of any of any jurisdiction, authorizing or not objecting to the transactions contemplated by this Agreement, provided that any terms or conditions attached to such decision are acceptable to the Purchasers.

"Material Adverse Effect" means any event, occurrence, fact, condition, or change that is, or would reasonably be expected to become, individually or in the aggregate, materially adverse to: (a) the Business, results of operations, condition (financial or otherwise), Acquired Assets or Assumed Liabilities of Sellers and their respective Subsidiaries, taken as a whole; or (b) the ability

of Sellers to consummate the transactions contemplated hereby on a timely basis; provided, however, that, for the purposes of clause (a), a Material Adverse Effect shall not be deemed to include events, occurrences, facts, conditions or changes arising out of, relating to or resulting from: (i) changes generally affecting the economy or credit, financial, or securities markets; (ii) any outbreak or escalation of war or any act of terrorism; (iii) changes in applicable Law; (iv) changes in IFRS; (v) Sellers' failure to meet internal or published projections, forecasts, or revenue or earnings predictions for any period (but, for the avoidance of doubt, not the underlying cause(s) of any such failure to the extent such underlying cause is not otherwise excluded from the definition of Material Adverse Effect); (vi) changes in political conditions; (vii) general conditions in the industry in which Sellers and their respective Subsidiaries operate; (viii) the announcement of the transactions contemplated by this Agreement; or (ix) the commencement or pendency of the CCAA Proceedings; provided further, however, that any event, change, and effect referred to in clauses (i), (ii), (iii), (iv), (vi) and (vii) immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur to the extent that such event, change, or effect has a disproportionate effect on Sellers and their respective Subsidiaries, taken as a whole, compared to other participants in the industries in which Sellers and their respective Subsidiaries conduct their businesses.

"Material Contract" means any Contract:

(a) that if terminated or modified or if it ceased to be in effect, would reasonably be expected to have a Material Adverse Effect;

(b) that is a partnership agreement, limited liability company agreement, joint venture agreement or similar agreement or arrangement, including the Joint Venture Agreements, relating to the formation, creation or operation of any partnership, limited liability company or joint venture in which Sellers or any of their Subsidiaries is a partner, member or joint venturer (or other participant) that is material to Sellers, their Subsidiaries or the Business, or the ability of Sellers and their Subsidiaries to develop any of their material projects, but excluding any such partnership, limited liability company or joint venture which is a wholly-owned Subsidiary of Sellers;

(c) under which Indebtedness for borrowed money in excess of $7,500,000 is or may become outstanding or pursuant to which any property or asset of Sellers or their Subsidiaries is mortgaged, pledged or otherwise subject to an Encumbrance securing Indebtedness for borrowed money in excess of $7,500,000 or under which Sellers or any of their Subsidiaries has guaranteed any liabilities or obligations of a third party in excess of $7,500,000, in each case, other than any such Contract between two or more wholly-owned Subsidiaries of Sellers or between Sellers and/or one or more of their wholly-owned Subsidiaries;

(d) under which Sellers or any of its Subsidiaries is obligated to make or expects to receive payments in excess of $7,500,000 over the remaining term;

(e) that creates an exclusive dealing arrangement or right of first offer or refusal;

(f) providing for the purchase, sale or exchange of, or option to purchase, sell or exchange, any property or asset where the purchase or sale price or agreed value or fair market value of such property or asset exceeds $15,000,000;

(g) that is a Collective Agreement;

(h) that limits or restricts in any material respect (a) the ability of Sellers or any of their Subsidiaries to incur Indebtedness, to engage in any line of business or carry on business in any geographic area, to compete with any Person, or to engage in any merger, consolidation or other business combination, or (b) the scope of Persons to whom Sellers or any of their Subsidiaries may sell products;

(i) between Sellers or any of their Subsidiaries, on the one hand, and any director or executive officer of the Sellers or any of their Subsidiaries, on the other hand;

(j) with Aboriginal Groups or Aboriginal business, including a joint venture in which an Aboriginal Group is a joint venture party;

(k) providing for the sale of diamonds representing more than 1% of annual production of Sellers and their Subsidiaries or pursuant to which Sellers and their Subsidiaries received during calendar year 2019 or could reasonably be expected to receive in calendar year 2020 or thereafter revenues in excess of $15,000,000;

(l) providing for indemnification by Sellers or their Subsidiaries of another Person, other than Contracts for goods or services, Contracts with directors or officers of Sellers or their Subsidiaries in their capacity as such or Contracts which provide for indemnification obligations of less than $15,000,000;

(m) providing for a royalty, streaming or similar arrangement or economically equivalent arrangement in respect of any of the Mine Properties; or

(n) that is or would reasonably be expected to be material to Sellers and their Subsidiaries, the Business or the Acquired Assets, taken as a whole.

"Mine Properties" means, collectively, the Diavik Diamond Mine and the Ekati Diamond Mine and "Mine Property" means any one of them as applicable.

"Mineral Rights" has the meaning ascribed thereto in Section 4.13(a).

"Monitor" means FTI Consulting Canada Inc., in its capacity as the CCAA Court-appointed Monitor in connection with the CCAA Proceedings.

"Monitor's Certificate" means the certificate, substantially in the form attached as Schedule "A" to the Sale Order, to be delivered by the Monitor to the Sellers and the Purchasers on Closing and thereafter filed by the Monitor with the CCAA Court, certifying that the Monitor has received the Conditions Certificates.

"Objection Notice" shall have the meaning ascribed thereto in Section 12.13(e).

"Order" means any decree, order, injunction, rule, judgment, consent, ruling, writ, assessment or arbitration award of or by any court or Governmental Body.

"Ordinary Course of Business" means, with respect to any Person, actions that (i) are taken in the ordinary and usual course of operations of the Business consistent with past practice in effect prior to filing of the CCAA Proceedings and prior to the enactment of measures taken in response to the COVID-19 pandemic, (ii) are taken in accordance with all applicable Laws and (iii) do not result from or arise out of and were not caused by, any breach of Contract, breach of warranty, tort, infringement or violation of Law by such Person or any Affiliate of such Person.

"Organizational Documents" means, with respect to a particular entity Person, (a) if a corporation, the articles or certificate of incorporation and bylaws, (b) if a general partnership, the partnership agreement and any statement of partnership, (c) if a limited partnership, the limited partnership agreement and certificate of limited partnership, (d) if a limited liability company, the articles or certificate of organization or formation and any limited liability company or operating agreement, (e) if another type of Person, all other charter and similar documents adopted or filed in connection with the creation, formation or organization of the Person, and (f) all amendments or supplements to any of the foregoing.

"Other Contracts" means, collectively, those Contracts to which a Seller is a party or beneficiary and specified as "Other Contracts" on Schedule F, as may be modified from time to time after the date of this Agreement pursuant to Section 2.6.

"Outside Date" shall have meaning ascribed thereto in Section 11.1(b)(i).

"Parent" shall have the meaning ascribed thereto in the Preamble hereof.

"Parties" means the Purchasers and Sellers collectively and a "Party" refers to any of them.

"Permitted Encumbrances" means, as of any particular time and in respect of any Person, each of the following Encumbrances: (1) any subsisting restrictions, exceptions, reservations, limitations, provisos and conditions (including royalties, reservation of mines, mineral rights and timber rights, access to navigable waters and similar rights) expressed in any original grant from the Crown or a Governmental Body and any statutory limitations, exceptions, reservations and qualifications to title or Encumbrances imposed by Law; (2) any claim by any Aboriginal Group based on treaty rights, traditional territory, land claims or otherwise; (3) inchoate or statutory liens solely with respect to Assumed Liabilities not at the time overdue; (4) permits, reservations, covenants, servitudes, watercourse, rights of water, rights of access or user licenses, easements, rights-of-way and rights in the nature of easements (including, without in any way limiting the generality of the foregoing, licenses, easements, rights-of-way and rights in the nature of easements for railways, sidewalks, public ways, sewers, drains, gas and oil pipelines, steam and water mains or electric light and power, or telephone and telegraph conduits, poles, wires and cables) in favor of any Governmental Body or utility company in connection with the development, servicing, use or operation of any property; (5) each of the following Encumbrances: (a) permits, reservations, covenants, servitudes, rights of access or user licenses, easements, rights of way and rights in the nature of easements in favor of any Person (other than those in (4) above); (b) any encroachments, title defects or irregularities existing; (c) any instrument, easement, charge, caveat,

lease, agreement or other document registered or recorded against title to any property so long as same have been complied with in all material respects; (d) agreements with any Governmental Body and any public utilities or private suppliers of services; and (e) restrictive covenants, private deed restrictions, and other similar land use control agreements; in each of (a), (b), (c), (d) and (e), which do not individually or in the aggregate materially detract from the value or materially interfere with the use of the real or immovable property subject thereto; (6) Encumbrances granted or arising pursuant to the Joint Venture Agreements included in the Acquired Assets; (7) Encumbrances to which the Purchasers consent in writing; and (8) for purposes of the representations and warranties given by Sellers on the Effective Date under Article IV hereof and Section 6.1(b)(v) only, all "Permitted Encumbrances" as defined in the Interim Credit Agreement.

"Person" means any corporation, partnership, joint venture, limited liability company, unlimited liability company, organization, entity, authority or natural person.

"Pre-Closing Period" means the period commencing on the Effective Date and ending on the earlier of the date upon which this Agreement is validly terminated pursuant to Article XI or the Closing Date.

"Pre-Closing Tax Period" means any taxable period (or portion thereof) ending on or before the Closing Date and any portion of any Straddle Period ending on the Closing Date.

"Pre-filing Credit Agreement" means the Revolving Credit Agreement, dated as of November 1, 2017 (as amended by the First Amendment and Waiver to Credit Agreement, dated as of July 30, 2019, the Second Amendment, dated as of March 4, 2020, and as further amended from time to time), among DDM, Parent, the lenders from time to time party thereto and Credit Suisse AG, Cayman Islands Branch, as administrative agent.

"Pre-filing Indenture" means the Indenture, dated as of October 23, 2017, by and among Northwest Acquisitions ULC, Dominion Finco, Inc. and Wilmington Trust, National Association, as trustee (the "Indenture Trustee"), as supplemented by (i) the First Supplemental Indenture, dated as of November 1, 2017, by and among the Northwest Acquisitions ULC, Dominion Finco, Inc., the guarantors party thereto and the Indenture Trustee, (ii) the Second Supplemental Indenture, dated as of December 21, 2017, by and among Northwest Acquisitions ULC, as successor of Northwest Acquisitions ULC, Dominion Finco, Inc. and the Indenture Trustee, (iii) the Third Supplemental Indenture, dated as of December 21, 2017, by and among DDM, as successor of Northwest Acquisitions ULC, Dominion Finco, Inc. and the Indenture Trustee, (iv) the Fourth Supplemental Indenture, dated as of January 1, 2019, by and among the Indenture Trustee, Dominion Finco, Inc., DDM, and the guarantors party thereto, and (v) the Fifth Supplemental Indenture, dated as of December 13, 2019, by and among DDM, Dominion Finco, Inc., Washington Diamond Investments LLC, Dominion Diamond Holdings, LLC, and the Indenture Trustee.

"Previously Omitted Contract" shall have the meaning ascribed thereto in Section 2.6(b)(i).

"Previously Omitted Contract Designation" shall have the meaning ascribed thereto in Section 2.6(b)(i).

"Previously Omitted Contract Notice" shall have the meaning ascribed thereto in Section 2.6(b)(ii).

"Purchase Price" shall have the meaning ascribed thereto in Section 3.1(a).

"Purchaser Holdco" shall have the meaning ascribed thereto in the Preamble to this Agreement.

"Purchaser Holdco Acquired Interests" means shares of, or other equity interests in, the Acquired Subsidiaries.

"Purchaser Related Party" means any former, current or future direct or indirect director, manager, officer, employee, agent or Affiliate of Purchasers; any former, current or future, direct or indirect holder of any equity interests or securities of Purchasers (whether such holder is a limited or general partner, member, stockholder, trust, trust beneficiary or otherwise); any former, current or future assignee of Purchasers; any equity or debt financing source of Purchasers; or any former, current or future director, officer, trustee, beneficiary, employee, agent, Representative, Affiliate, advisor, general or limited partner, manager, member, stockholder, or assignee of any of the foregoing.

"Purchaser Termination Fee" shall have the meaning ascribed thereto in Section 11.3.

"Purchasers" shall have the meaning ascribed thereto in the Preamble to this Agreement.

"Purchasers' Conditions Certificate" shall have the meaning ascribed thereto in Section 10.4.

"Regulation" means any Law, statute, regulation, code, guideline, protocol, policy, ruling, rule or Order of, administered or enforced by or on behalf of any Governmental Body and all judgments, orders, writs, injunctions, decisions and mandate of any Governmental Body which, although not actually having the force of law, are considered by such Governmental Body as requiring compliance as if having the force of law or which establish the interpretative position of the Law by such Governmental Body.

"Release" means any release, spill, deposit, emission, leaking, pumping, escape, emptying, leaching, seeping, disposal, discharge, dispersal or migration into the indoor or outdoor environment or into or out of any property or assets (including the Acquired Assets) owned or leased by any Seller as at the Closing Date, including the movement of Contaminants, including Hazardous Materials, through or in the air, soil, ground, surface water, groundwater or property.

"Representatives" means the officers, employees, legal counsel, accountants and other authorized representatives, agents and contractors of any Person.

"Retained Subsidiaries" shall have the meaning ascribed thereto in Section 2.2(b).

"Rio Condition" shall have the meaning ascribed thereto in Section 8.11.

"Sale Advisor" means Evercore Group LLC.

"Sale Order" means an Order of the CCAA Court, substantially in the form of Schedule F hereto, with such changes as may be agreed by the Purchasers and the Sellers, each acting reasonably, approving the transactions contemplated by this Agreement and vesting the Acquired Assets in the Purchasers, free and clear of all Encumbrances, other than the Permitted Encumbrances.

"Seller Disclosure Letter" means the disclosure letter delivered by Sellers to Purchasers concurrently with the execution and delivery of this Agreement.

"Sellers" shall have the meaning ascribed thereto in the Preamble hereof.

"Sellers' Conditions Certificate" shall have the meaning ascribed thereto in Section 10.4.

"SISP" shall have the meaning ascribed thereto in the Recitals to this Agreement.

"SISP Order" means the Amended and Restated Initial Order or any other Order of the CCAA Court, which shall be in the form attached hereto as Exhibit G, with such changes as may be agreed to by Purchasers in their sole discretion and Sellers in their reasonable discretion and which shall: (a) authorize and approve the SISP, (b) authorize and direct the Sellers, subject to approval of the Monitor to execute this Agreement, which will stand as the Stalking Horse Bid (for the purposes of the SISP), (c) approve this Agreement as the Initial Stalking Horse Bid (as defined in the SISP) pursuant to the SISP, (d) approve the Break-Up Fee and Expense Reimbursement Amount and grant the Break-Up Fee Charge, (e) approve the Interim Facility Credit Agreement and authorize DDM, as Borrower, to borrow amounts under the Interim Facility.

"Stalking Horse Term Sheet" shall have the meaning ascribed thereto in the Recitals to this Agreement.

"Stay" shall have the meaning ascribed thereto in the Recitals of this Agreement.

"Straddle Period" shall have the meaning ascribed thereto in Section 12.13(b).

"Subsidiary" means, with respect to any Person, any corporation, limited liability company, unlimited liability company, public liability company, private limited company, joint venture, partnership or other entity of which such Person (a) beneficially owns, either directly or indirectly, more than fifty percent (50%) of (i) the total combined voting power of all classes of voting securities of such entity, (ii) the total combined equity interests, or (iii) the capital or profit interests, in the case of a partnership; or (b) otherwise has the power to vote or to direct the voting of sufficient securities to elect a majority of the board of directors or similar governing body.

"Successful Bidder" shall mean the successful bidder determined in accordance with the SISP.

"Surety Condition" shall have the meaning ascribed thereto in Section 8.9.

"Tax Act" means the Income Tax Act (Canada) and the regulations promulgated thereunder, as amended from time to time.

"Tax Return" means any report, return, information return, election, agreement, declaration or other document of any nature or kind required to be filed with any applicable Governmental Body in respect of Taxes, including any amendment, schedule, attachment or supplement thereto and whether in tangible or electronic form.

"Taxes" means all taxes, charges, fees, duties, levies or other assessments, including, without limitation, income, gross receipts, net proceeds, ad valorem, turnover, real and personal property (tangible and intangible), sales, use, GST, franchise, excise, value added, capital, license, payroll, employment, employer health, unemployment, pension, environmental, customs duties, capital stock, disability, stamp, leasing, lease, user, transfer (including land registration or transfer), fuel, excess profits, occupational and interest equalization, windfall profits, severance and withholding and social security taxes imposed by Canada, the United States or any other country or by any state, province, territory, municipality, subdivision or instrumentality of Canada or the United States or of any other country or by any other Governmental Body, and employment or unemployment insurance premiums, Canada Pension Plan or Quebec Pension Plan contributions, together with all applicable penalties and interest, and such term shall include any interest, penalties or additions to tax attributable to such Taxes.

A "third party" means any Person other than any Seller, Purchasers or any of their respective Affiliates.

"Transfer Taxes" shall have the meaning ascribed thereto in Section 12.13(a).

"Transferred Employees" shall have the meaning ascribed thereto in Section 7.1(a).

"Treasury Regulations" means the regulations promulgated under the Code by the United States Department of the Treasury (whether in final, proposed or temporary form), as the same may be amended from time to time.

"US$" means the currency of the United States, and all references to monetary amounts herein shall be in Dollars unless otherwise specified herein.

"Washington Diamond" means Washington Diamond Lending, LLC and any of its Affiliates or designees as an Interim Lender under the Interim Facility Credit Agreement.

1.2 Other Terms. Other terms may be defined elsewhere in the text of this Agreement and, unless otherwise indicated, shall have such meaning through this Agreement.

1.3 Other Definitional Provisions.

(a) The words "hereof," "herein," and "hereunder" and words of similar import, when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(b) The terms defined in the singular shall have a comparable meaning when used in the plural, and vice versa.

(c) References herein to a specific Section, Subsection or Schedule shall refer, respectively, to Sections, Subsections or Schedules of this Agreement, unless the express context otherwise requires.

(d) Accounting terms which are not otherwise defined in this Agreement have the meanings given to them under IFRS consistently applied. To the extent that the definition of an accounting term defined in this Agreement is inconsistent with the meaning of such term under IFRS, the definition set forth in this Agreement will control.

(e) Any reference to any agreement or Contract will be a reference to such agreement or Contract, as amended, modified, supplemented or waived.

(f) Any provision of this Agreement that requires Purchasers to act reasonably shall not be deemed to require Purchasers to accept, agree or consent to any Order or supplement, amendment or modification thereto, or any other matter that adversely affects Purchasers or is inconsistent with the terms of this Agreement, in each case, other than in any de minimis respect.

(g) Any provision of this Agreement that requires any Party to use commercially reasonable efforts to satisfy conditions to Closing having a sole discretion standard do not require such Party to accept any term or agreement not acceptable to such Party in its sole discretion.

(h) Wherever the word "include," or "includes," or "including" is used in this Agreement, it shall be deemed to be followed by the words "without limitation."

ARTICLE II

PURCHASE AND SALE; ASSUMPTION OF CERTAIN LIABILITIES

2.1 Acquired Assets. Subject to the terms and conditions set forth in this Agreement, at the Closing, Sellers shall sell, assign, transfer and deliver to Purchasers, and Purchasers shall purchase, acquire and take assignment and delivery of, all of the Sellers' right, title and interest in the assets and properties of Sellers other than the Excluded Assets (the "Acquired Assets") subject to Section 2.6 and Section 2.7, free and clear of all Claims and Encumbrances of whatever kind or nature (other than Permitted Encumbrances), including the following:

(a) all of the issued and outstanding equity interests held by any Seller in Dominion Diamond Marketing Corporation, Dominion Diamond (India) Private Limited and Dominion Diamond Marketing N.V. (collectively, the "Acquired Subsidiaries");

(b) the Diavik Joint Venture Interest, all rights and interests of any Seller under the Diavik Joint Venture Agreement, and all other rights, title and interests of any Seller in the Diavik Diamond Mine and the Diavik Joint Venture;

(c) the Ekati Core Zone Joint Venture Interest, all rights and interests of any Seller under the Ekati Core Zone Joint Venture Agreement, and all other rights, title and interests

of any Seller in the Ekati Diamond Mine, the Ekati Core Zone, the Ekati Core Zone Leases and the Ekati Core Zone Joint Venture;

(d) all rights, title and interests of any Seller in the Ekati Buffer Zone and the Ekati Buffer Zone Leases;

(e) the Lac de Gras Joint Venture Interest, all rights and interests of any Seller under the Lac de Gras Joint Venture Agreement, and all other rights, title and interests of any Seller in the Lac de Gras Leases and the Lac de Gras Joint Venture;

(f) all mineral rights held by DDM, including all mineral rights included in the Ekati Core Zone, Ekati Buffer Zone, Lac de Gras and the Glowworm Lake Property;

(g) all of Sellers' Cash and Cash Equivalents (except to the extent of the Cash Component), including all cash collateral and deposits posted by or for the benefit of Sellers as security for any letter of credit, surety or other bond, rent, utilities, contractual obligations or otherwise (except for retainers held by any professional in the CCAA Proceedings);

(h) all trade and non-trade accounts receivable, notes receivable and negotiable instruments of Sellers, including all intercompany receivables, notes, rights and claims from any Acquired Subsidiary and payable or in favor of a Seller;

(i) all prepaid charges and expenses, including all prepaid rent and all prepaid charges, expenses and rent under any personal property leases;

(j) all equipment and other tangible assets of Sellers, including all vehicles, tools, parts and supplies, fuel, machinery, furniture, furnishing, appliances, fixtures, office equipment and supplies, owned and licensed computer hardware and related documentation, stored data, communication equipment, trade fixtures and leasehold improvements, in each case, with any transferable warranty and service rights of any Seller related thereto;

(k) all Inventory;

(l) subject to Section 2.6, all of the Essential Contracts and Other Contracts set forth on Schedule F hereto (the "Assigned Contracts") and all rights thereunder;

(m) all Authorizations and all pending applications therefor, in each case, to the extent such Authorizations and pending applications therefor are transferrable;

(n) all rights, options, Claims or causes of action of any Seller or other Applicant against any party arising out of events occurring prior to the Closing, including and, for the avoidance of doubt, arising out of events occurring prior to the Filing Date, and including (i) any rights under or pursuant to any and all warranties, representations and Guarantees made by suppliers, manufacturers and contractors relating to products sold, or services provided, to Sellers, and (ii) any and all causes of action under applicable Law;

(o) all other right, title and interest of any Seller in real property (including and all fixtures, improvements and appurtenances thereto);

(p) all Assumed Plans, together with all funding arrangements relating thereto (including but not limited to all assets, trusts, insurance policies and administration service contracts related thereto), and all rights and obligations thereunder;

(q) all personnel files for Transferred Employees except as prohibited by Law; provided, however, that Sellers have the right to retain copies at Sellers' expense to the extent required by Law;

(r) any chattel paper owned or held by Sellers;

(s) any lock boxes to which account debtors of any Seller remit payment relating to the Business, the Assumed Liabilities or the Acquired Assets;

(t) the Intellectual Property owned or purported to be owned by any Seller;

(u) all goodwill, payment intangibles and general intangible assets and rights of Sellers to the extent associated with the Business, the Assumed Liabilities or the Acquired Assets;

(v) to the extent permitted by Law, Sellers' Documents; provided, however, that Sellers have the right to retain copies of all of the foregoing at Sellers' expense to the extent required by Law or as is necessary to wind-down Sellers;

(w) to the extent transferable, all rights and obligations under or arising out of all insurance policies relating to the Business or any of the Acquired Assets or Assumed Liabilities (including returns and refunds of any premiums paid, or other amounts due back to any Seller, with respect to cancelled policies);

(x) all rights and obligations under non-disclosure, confidentiality, non-competition, non-solicitation and similar arrangements with (or for the benefit of) former or current employees and agents of Sellers or with third parties (including any non-disclosure, confidentiality agreements or similar arrangements entered into in connection with or in contemplation of the filing of the CCAA Proceedings or pursuant to the SISP);

(y) telephone, fax numbers (if any) and email addresses, as well as the right to receive mail and other communications addressed to Sellers;

(z) to the extent transferable, any claim, right or interest of Sellers in or to any refund, rebate, credit, abatement or recovery for Taxes, together with any interest due thereon or penalty rebate arising therefrom (to the extent that any such refund, rebate, credit, abatement or recovery for Taxes is received by the Sellers in the form of payment, Sellers agree that they will hold all such amounts in trust for the Purchasers and will pay such amounts to the Purchasers forthwith following receipt thereof);

(aa) to the extent transferable, all prepaid Taxes and Tax credits of Sellers (to the extent that any such refund, rebate, credit, abatement or recovery for Taxes is received by the Sellers in the form of payment, Sellers agree that they will hold all such amounts in trust for the Purchasers and will pay such amounts to the Purchasers forthwith following receipt thereof);

(bb) all of Sellers' bank accounts (excluding an account established solely for the purpose of receiving payment of the Cash Component and winding-up the affairs of the Sellers therefrom); and

(cc) all other or additional assets, properties, privileges, rights and interests of Sellers relating to the Business, the Assumed Liabilities or the Acquired Assets (other than any Excluded Assets) of every kind and description and wherever located, whether known or unknown, fixed or unfixed, accrued, absolute, contingent or otherwise, and whether or not specifically referred to in this Agreement.

2.2 Excluded Assets. Notwithstanding anything in this Agreement to the contrary, the Acquired Assets shall not include any of the following (collectively, the "Excluded Assets"):

(a) all shares of capital stock or other equity interests in, or securities convertible into, exchangeable or exercisable for any such shares of capital stock or other equity interests in DDM or Dominion Holdings;

(b) all shares of capital stock or other equity interests in, or securities convertible into, exchangeable or exercisable for any such shares of capital stock or other equity interests in, Dominion Finco, Inc., Dominion Diamond Delaware Company LLC, Dominion Diamond Canada ULC, Dominion Diamond (Cyprus) Limited or Dominion Diamond (Luxembourg) S.a.r.l. (the "Retained Subsidiaries");

(c) all Excluded Contracts;

(d) Sellers' rights under this Agreement, including the right to the Cash Component, and under any Ancillary Documents;

(e) all current and prior director and officer insurance policies of Sellers and all rights of any nature with respect thereto running in favor of any Seller, including all insurance recoveries thereunder and rights to assert Claims with respect to any such insurance recoveries, in each case, as the same may run in favor of any Seller and arising out of actions taking place prior to the Closing Date;

(f) all assets that are removed from the Acquired Assets pursuant to Section 2.6 and Section 2.7; and

(g) Sellers' Organizational Documents, corporate charter, minute and stock record books, income tax returns and corporate seal; provided that Purchasers shall have the right to reasonably request, and Sellers shall reasonably cooperate to provide, copies of any portions of such documents solely as they relate to the Acquired Assets.

2.3 Assumed Liabilities. At the Closing, except as provided in Section 2.2 and/or in Section 2.4 hereof, and subject to Section 2.6, Section 2.7, Purchasers shall assume, and agree to pay, perform, fulfill and discharge only the following Liabilities of Sellers (and only the following Liabilities) (collectively, the "Assumed Liabilities"):

(a) all Liabilities and obligations of any Seller under the Assigned Contracts, including by making available the Cure Funding Amount to satisfy the Cure Amount in connection with the assumption and assignment of the Assigned Contracts, but excluding (i) trade payables arising on or after the Filing Date that are due and payable as of or prior to the Closing in the ordinary course, and (ii) any other Liabilities related to or arising out of a breach, non-monetary default, violation or non-compliance by any Seller or any Affiliate thereof prior to the Closing;

(b) all trade payables arising on or after the Filing Date that are not yet due and payable as of the Closing in the ordinary course;

(c) the Liabilities with respect to Transferred Employees under the terms of Assumed Plans to the extent arising following the Closing;

(d) all payroll liabilities with respect to Transferred Employees for the payroll period which includes the Closing Date;

(e) any and all Liabilities relating to Claims, Actions, suits, arbitrations, litigation matters, proceedings, investigations or other Actions (in each case, whether involving private parties, Governmental Bodies, or otherwise) involving, against, or affecting the Acquired Assets or the operation of the Business from and after the Closing, whether commenced, filed, initiated, or threatened before or after the Closing and whether relating to facts, events, or circumstances arising or occurring before or after the Closing, but excluding, for the avoidance of doubt, any such Liabilities (i) arising in the CCAA Proceedings unrelated to the go-forward operations of the Business, (ii) insured under insurance policies that are not transferable to Purchasers; (iii) with respect to Excluded Contracts or any other Excluded Assets, (iv) to Employees or former Employees who are not Transferred Employees, or (v) expressly excluded pursuant to Section 2.4;

(f) solely with respect to the Acquired Assets, and subject to such agreements and arrangements as Purchasers may enter into in satisfaction of the Surety Condition and the Rio Condition, or otherwise in connection with the transactions contemplated hereby, any and all Environmental Liabilities and Obligations; and

(g) all intercompany Indebtedness among Sellers and the Acquired Subsidiaries; and

(h) all Liabilities under Authorizations included in the Acquired Assets, in each case solely in respect of the period commencing at the Closing Date and not related to any matter, circumstance or default existing at, prior to or as a consequence of Closing, subject to such agreements and arrangements as Purchasers may enter into in satisfaction of the Surety Condition.

2.4 Excluded Liabilities. Notwithstanding anything in this Agreement to the contrary, the Purchasers are not assuming, and shall not be obligated to pay, perform or otherwise discharge any Liability that is not an Assumed Liability (collectively, the "Excluded Liabilities"), including the following:

(a) any and all Liabilities arising out of, relating to or otherwise in respect of the Acquired Assets and/or Business arising prior to the Closing, other than the Assumed Liabilities;

(b) any and all Liabilities of any Seller relating to or otherwise arising, whether before, on or after the Closing, out of, or in connection with, any of the Excluded Assets;

(c) any and all Liabilities of any Retained Subsidiary;

(d) any and all Liabilities of any Seller for Indebtedness, including (i) all Liabilities with respect to the Pre-filing Credit Agreement and the Pre-filing Indenture, (ii) all intercompany Indebtedness between any Seller, on the one hand, and Parent or any Retained Subsidiary, on the other hand, and (iii) all Guarantees by Sellers, but excluding any intercompany Indebtedness among Sellers and the Acquired Subsidiaries;

(e) except as set forth in Section 12.13(a), any and all (i) Liabilities of any Seller for any Taxes (including, without limitation, Taxes payable by reason of contract, assumption, transferee or successor Liability, operation of Law, pursuant to Section 160 of the Tax Act, Treasury Regulation Section 1502-6 (or any similar provision of any other Law) or otherwise and any Taxes owed by any Seller and arising in connection with the consummation of the transactions contemplated by this Agreement) arising or related to any period(s) on or prior to the Closing Date, and (ii) Taxes arising from or in connection with an Excluded Asset;

(f) any and all Liabilities of any Seller in respect of the Excluded Contracts and any other Contracts to which such Seller is party or is otherwise bound that are not Assigned Contracts;

(g) all Liabilities and obligations of any Seller under the Assigned Contracts in respect of (i) a breach, non-monetary default, violation or non-compliance by any Seller or any Affiliate thereof prior to the Closing, and (ii) trade payables arising on or after the Filing Date that are due and payable as of or prior to the Closing in the ordinary course;

(h) any and all Liabilities arising out of or relating to any business or property formerly owned or operated by any Seller, any Affiliate or predecessor thereof, but not presently owned and operated by such Seller;

(i) any and all Liabilities of any Seller or its predecessors arising out of any Contract, Authorization, franchise or claim that is not transferred to Purchasers as part of the Acquired Assets;

(j) any and all Liability for: (i) costs and expenses incurred by Sellers or owed in connection with the administration of the CCAA Proceedings (including the Monitor's fees, the fees and expenses of attorneys, accountants, financial advisors, consultants and other professionals retained by Sellers or the Monitor, and the fees and expenses of the post-filing lenders or the pre-filing lenders incurred or owed in connection with the administration of the CCAA Proceedings); and (ii) all costs and expenses of Sellers incurred in connection with the negotiation, execution and consummation of the transactions contemplated under this Agreement;

(k) any and all Liabilities in respect of Employees other than the Liabilities relating to Transferred Employees that are expressly assumed under Section 2.3;

(l) any and all Liabilities with respect to change of control or similar arrangements with any officer, employee or contractor of any Seller;

(m) any and all Liabilities arising out of, relating to or otherwise in respect of any violation of Law by, or any Action against, any Seller or any breach, default or violation by any Seller of or under any Assigned Contracts occurring prior to the Closing;

(n) any and all Liabilities of Sellers under this Agreement;

(o) any and all Liabilities to any broker, finder or financial advisor for Sellers in connection with the transactions contemplated by this Agreement;

(p) any and all Liabilities for any Tax or Taxes arising out of or relating to the operation of the Business (as currently or formerly conducted) or the ownership of the Acquired Assets for any Pre-Closing Tax Period, including any and all property Taxes with respect to any Pre-Closing Tax Period;

(q) any Liability for any Tax or Taxes of Sellers or their Affiliates for any taxable period, other than Transfer Taxes; and

(r) any Liability for any withholding Tax or Taxes imposed as a result of the transactions contemplated by this Agreement.

2.5 Allocation of Acquired Assets and Assumed Liabilities. Further to Sections 2.1 and 2.3, above, (i) the Canadian Assets shall be conveyed to the Canadian Purchaser from DDM in consideration of the assumption of the Assumed Liabilities and the portion of the Cash Component allocated to the Canadian Assets in accordance with Section 12.13(d); and the Purchaser Holdco Acquired Interests shall be conveyed to Purchaser Holdco from Dominion Holdings in consideration of the remaining portion of the Cash Component so allocated to the Purchaser Holdco Acquired Interests in accordance with Section 12.13(d).

2.6 Assigned Contracts/Previously Omitted Contracts.

(a) Assignment and Assumption at Closing.

(i) Schedule F sets forth, to the Sellers' Knowledge, (A) a list of all Contracts to which any Seller is party, including all Contracts that, to the Sellers' Knowledge, were entered into by a Seller following the Filing Date and, (B) with respect to each Contract listed therein, Sellers' good-faith estimate of the Cure Amount. Purchasers shall, in their sole discretion following consultation with Sellers, determine which Contracts are Assigned Contracts.

(ii) From and after the date hereof until the date that is five (5) Business Days prior to the date upon which the motion for the granting of the Assignment Order is scheduled to be heard by the CCAA Court, the Purchasers, without any adjustment to the

Cash Component, shall be entitled to make additions, deletions and modifications to the Contracts classified as an "Essential Contract," "Other Contract" or "Excluded Contract" on Schedule F in their sole discretion following consultation with Sellers by delivery of written notice to Sellers. For greater certainty, (A) any Contract designated by Purchasers as an Excluded Contract on Schedule F after the date of this Agreement shall be deemed to no longer be an Assigned Contract and to be an Excluded Contract, (B) any Contract designated by Purchasers as an Essential Contract on Schedule F after the date of this Agreement shall be deemed an Essential Contract for the purposes of this Agreement, and (C) any Contract designated by Purchasers as an Other Contract on Schedule F after the date of this Agreement shall be deemed an Other Contract for the purposes of this Agreement.

(iii) Sellers shall use commercially reasonable efforts to obtain all consents required to assign the Assigned Contracts to the Purchasers. Purchasers may request, in their reasonable commercial judgment, certain modifications and amendments to any Contract as a condition to such Contract becoming an Assigned Contract, and Sellers shall cooperate with all reasonable requests of Purchasers to seek to obtain such modifications or amendments or to assist Purchasers in obtaining such modifications or amendments; provided that Purchaser shall make available the Cure Funding Amount to satisfy the Cure Amount. If Purchaser and Sellers are unable to obtain such modifications or amendments, Purchasers may, in their sole discretion following consultation with Sellers, designate any Contract as an Excluded Contract. For the avoidance of doubt, the failure to obtain modifications or amendments to an Essential Contract requested by Purchasers shall not result in a failure to satisfy the condition to closing set out in Section 8.7, unless the aggregate Cure Amount exceeds the Cure Funding Amount.

(iv) To the extent that any Assigned Contract is not assignable without the consent of the counterparty or any other Person and such consent has not been obtained prior to the Closing Date, (A) the Sellers' rights, benefits and interests in, to and under such Assigned Contract may be conveyed to the Purchasers pursuant to an Assignment Order, (B) the Sellers will use commercially reasonable efforts to obtain an Assignment Order in respect of such Assigned Contract on or prior to the Closing Date, and (C) if an Assignment Order is obtained in respect of such Assigned Contract, the Purchasers shall accept the assignment of such Assigned Contract on such terms.

(v) Unless the Parties otherwise agree, to the extent that any Cure Amount is payable with respect to any Assigned Contract, Sellers shall (A) where such Assigned Contract is assigned pursuant to an Assignment Order, pay such Cure Amount in accordance with such Assignment Order, and (B) where such Assigned Contract is not assigned pursuant to an Assignment Order, pay such Cure Amount in the manner set out in the consent of the applicable counterparty or as otherwise may be agreed to by the Purchasers and such counterparty.

(b) Previously Omitted Contracts.

(i) If prior to Closing, (A) it is discovered that a Contract should have been listed but was not listed on Schedule F, or (B) a Contract is entered into after the

Effective Date that would have been listed on Schedule F if any Seller had entered into such Contract on or before the Effective Date (any such Contract, a "Previously Omitted Contract"), Sellers shall, promptly following the discovery thereof or entry into such Contract (but in no event later than five (5) Business Days thereafter), notify Purchasers in writing of such Previously Omitted Contract and any Cure Amount for such Previously Omitted Contract. Purchasers shall thereafter deliver written notice to Sellers, promptly following notification of such Previously Omitted Contract from Sellers and in any event prior to the date that is five (5) Business Days prior to the date upon which the motion for the granting of the Assignment Order is scheduled to be heard by the CCAA Court, designating such Previously Omitted Contract as an "Essential Contract", "Other Contract" or "Excluded Contract" (a "Previously Omitted Contract Designation"). A Previously Omitted Contract designated in accordance with this Section 2.6 as an "Excluded Contract" or with respect to which Purchasers fail to timely deliver a Previously Omitted Contract Designation, shall be an Excluded Contract. There shall be no adjustment to the Cash Component in respect of any Previously Omitted Contract or any Previously Omitted Contract Designation.

(ii) If a Purchaser designates a Previously Omitted Contract as an "Essential Contract" or "Other Contract" in accordance with Section 2.6, Schedule F shall be amended to include such Previously Omitted Contract and Sellers shall serve a notice (the "Previously Omitted Contract Notice") on the counterparties to such Previously Omitted Contract notifying such counterparties of the Cure Amount with respect to such Previously Omitted Contract and Sellers' intention to assign such Previously Omitted Contract in accordance with this Section 2.6. The Previously Omitted Contract Notice shall provide the counterparties to such Previously Omitted Contract with seven (7) days to object, in writing to Sellers and the applicable Purchaser, to the Cure Amount or the assumption of its Contract. If the counterparties, Sellers and the applicable Purchaser are unable to reach a consensual resolution with respect to an objection relating to a Previously Omitted Contract that has been designated as an "Essential Contract" in accordance with Section 2.6, Sellers will seek an expedited hearing before the CCAA Court for an Assignment Order in respect of such Essential Contract.

(c) Disclaimer of Assigned Contracts. Sellers shall not disclaim or seek to disclaim any Assigned Contract in the CCAA Proceedings or any other proceeding following the Effective Date and prior to any termination of this Agreement without the prior written consent of Purchasers, which Purchasers may withhold, condition or delay, in their sole discretion. For greater certainty, (i) all Contracts that have not been designated as "Assigned Contracts" as at the date that is five (5) Business Days prior to the date upon which the motion for the granting of the Assignment Order is scheduled to be heard by the CCAA Court shall be deemed to be Excluded Contracts, and (ii) the Sellers shall be entitled, at any time from and after the date that is five (5) Business Days prior to the date upon which the motion for the granting of the Assignment Order is scheduled to be heard by the CCAA Court, to disclaim or seek to disclaim any Excluded Contracts.

2.7 Circumstances for Exclusion of Diavik Joint Venture Interests. Notwithstanding anything to the contrary set forth in this Agreement, if the Rio Condition is not satisfied on or before July 31, 2020, then the Parties shall proceed with the Acquisition on the terms and subject

to the conditions set forth in this Agreement, except that Purchasers shall not acquire or assume any rights or Liabilities with respect to the Diavik Joint Venture and the terms set forth in this Agreement shall be deemed to be amended on the following basis:

(a) the Cash Component shall remain unchanged (other than adjustments otherwise contemplated by Section 3.1(a));

(b) the Diavik Joint Venture Interest, and any diamonds distributed by the Diavik Joint Venture to DDM after the Filing Date shall become Excluded Assets;

(c) all Liabilities of Sellers with respect to the Diavik Joint Venture Interest, the Diavik Joint Venture Agreement, the Diavik Diamond Mine and the Diavik Joint Venture (including with respect to the Closure and Security Agreement) shall become Excluded Liabilities;

(d) Sellers shall be deemed not to make any representation or warranty with respect to the Diavik Joint Venture Interest, the Diavik Joint Venture Agreement, the Diavik Diamond Mine, the Diavik Joint Venture or DDMI (and, for greater certainty, references to the Business shall be deemed to exclude the operations of the Diavik Joint Venture);

(e) Sellers shall be deemed not to make any covenant or agreement with respect to the Diavik Joint Venture Interest;

(f) Sellers shall be permitted to sell, transfer or otherwise dispose of the Diavik Joint Venture Interest free and clear of any restriction under this Agreement;

(g) the Rio Condition and the condition set forth in Section 8.12 shall be deemed waived as of July 31, 2020 for all purposes hereunder;

(h) the aggregate amount of equity financing required to be committed in order to satisfy the Financing Condition would be reduced to US$70,000,000, less 50% of any debt raised; and

(i) Sellers and Purchasers shall agree in good faith to any other adjustments to the terms of this Agreement as may be necessary to implement the terms set forth in this Section 2.7.

2.8 Assets Held by Parent or Retained Subsidiaries. If it is determined at any time before or after the Closing that Parent or any Retained Subsidiary holds any right, title or interest in or to any assets or properties that are used or useful in connection with the Business or that would otherwise constitute Acquired Assets if held by any Seller, then Sellers and Parent shall, and shall cause such Retained Subsidiary to transfer and assign such assets to Purchasers or to one or more Designated Purchasers, as directed by Purchasers, subject to the terms of this Agreement. Without limiting the foregoing, Parent shall, and Parent and Sellers shall cause each of the Retained Subsidiaries to transfer and assign to Purchasers or to one ore more Designated Purchasers, as directed by Purchasers, all rights, options, Claims or causes of action of Parent or any such Retained Subsidiary against any party arising out of events occurring prior to the Closing, to the extent permitted under applicable Law. All assets, properties, rights, options, Claims or

causes of action transferred to Purchasers or a Designated Purchaser pursuant to this Section 2.8 shall constitute Acquired Assets for the purposes of this Agreement.

ARTICLE III

PURCHASE PRICE AND PAYMENT

3.1 Purchase Price.

(a) The purchase price for the Acquired Assets shall be the aggregate of the (i) the Cash Component and (ii) the Assumed Liabilities (the "Purchase Price").

(b) The "Cash Component" shall be equal to One Hundred Twenty-Six Million One Hundred Seven Thousand U.S. Dollars (US$126,107,000) (the "Cash Component"),

(i) *minus* the amount (if any) by which the principal and accrued interest on the Interim Facility outstanding at Closing is less than Fifty-Five Million U.S. Dollars (US$55,000,000); or

(ii) *plus*, if the Closing is after September 30, 2020, the amount (if any) by which the principal and accrued interest on the Interim Facility outstanding at Closing with respect to Advances (as defined in the Interim Facility) and accrued and unpaid interest after September 30, 2020 is more than Fifty-Five Million U.S. Dollars (US$55,000,000) up to a maximum of Five Million U.S. Dollars (US$5,000,000).

3.2 Satisfaction of Purchase Price.

(a) The Cash Component shall be satisfied in cash by wire transfer of immediately available funds to such bank account as shall be designated in writing by the Sellers at least two (2) Business Days prior to the Closing Date; provided however, to the extent any of the Cash Component of the Purchase Price will be paid to Washington Diamond in its capacity as Interim Lender under the Interim Facility Credit Agreement, Purchasers may deduct such amount from the Cash Component of the Purchase Price and Washington Diamond agrees the Claims held by Washington Diamond as against the Applicants shall be reduced dollar-for-dollar on account of the amount deducted from the Cash Component. Any dispute relating to the applicable amount of Claims held by Washington Diamond as against the Applicants shall be resolved by the CCAA Court in accordance with Section 12.8.

(b) The Assumed Liabilities will be assumed by the Purchasers pursuant to the Assignment and Assumption Agreement, the Assignment and Assumption of Leases and the IP Assignment and Assumption Agreement.

3.3 Further Assurances. From time to time after the Closing and without further consideration, (a) Sellers, upon the request of Purchasers shall use commercially reasonable efforts to execute and deliver such documents and instruments of conveyance and transfer as Purchasers may reasonably request in order to consummate more effectively the purchase and sale of the Acquired Assets as contemplated hereby and to vest in Purchasers title to the Acquired Assets transferred hereunder, and (b) Purchasers, upon the request of Sellers, shall use commercially

reasonable efforts to execute and deliver such documents and instruments of assumption as Sellers may reasonably request in order to confirm Purchasers' Liability for the obligations under the Assumed Liabilities or otherwise more fully consummate the transactions contemplated by this Agreement.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the Seller Disclosure Letter, Sellers represent and warrant to Purchasers as of the Effective Date and the Closing Date, as follows:

4.1 Organization and Power. Dominion Holdings is a limited liability company duly formed under the laws of the State of Delaware, and is in good standing thereunder as of the Effective Date and the Closing. DDM is an unlimited liability company duly formed under the laws of British Columbia. Subject to the CCAA and the Amended and Restated Initial Order, each Seller has full power and authority to own, use and lease its properties and to conduct its Business as such properties are owned, used or leased and as such Business is currently conducted. Each Seller has previously delivered to Purchasers true, complete and correct copies of its Organizational Documents, as amended and in effect on the Effective Date. Each Seller is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction where the character of the Business or the nature of its properties makes such qualification or licensing necessary, except for such failures to be so qualified or licensed or in good standing as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

4.2 Authority; No Violation. Subject to the issuance of the Sale Order, each Seller has all requisite limited liability company or unlimited liability company power and authority, as applicable, to enter into this Agreement and to carry out the transactions contemplated hereby, and the execution, delivery and performance of this Agreement by each Seller shall be duly and validly authorized and approved by all necessary limited liability company or unlimited liability company action, as applicable. Subject to the issuance of the Sale Order by the CCAA Court (and assuming the due authorization, execution and delivery by the other Parties hereto), this Agreement shall constitute the legal and binding obligation of each Seller, enforceable against each Seller in accordance with its terms, except that equitable remedies and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding may be brought.

4.3 Consents.

(a) Except as set forth on Section 4.3(a) of the Seller Disclosure Letter, the execution, delivery and performance by Sellers of this Agreement or any Ancillary Document to which it is a party and the consummation of the transactions contemplated hereby or thereby in accordance with the Sale Order do not and will not (with or without notice or the passage of time): (i) contravene, violate or conflict with any term or provision of Sellers' Organizational Documents; (ii) violate any material Law applicable to any Seller or any Acquired Subsidiary or by which any property or asset of any Seller or any Acquired Subsidiary is bound; or (iii) result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a

default) under, create in any party thereto the right to terminate or cancel, or require any consent under, or result in the creation or imposition of any Encumbrance (other than a Permitted Encumbrance) on any property or asset of any Seller or any Acquired Subsidiary under any Authorization or Material Contract, except in each case described in this clause (iii) to the extent that any such breach, default, right or requirement arises out of the commencement of the CCAA Proceedings or would be cured and the applicable Authorization or Material Contract would be assignable upon payment of the applicable Cure Amount hereunder.

(b) Except (i) for the issuance of the Sale Order, (ii) for compliance as may be required with the Competition Act or other applicable Antitrust Laws, and (iii) as set forth on Section 4.3(a) of the Seller Disclosure Letter, no filing with, notice to or consent from any Person is required in connection with the execution, delivery and performance by Sellers of this Agreement or the Ancillary Documents to which it is a party and the consummation of the transactions contemplated hereby or thereby, other than such filings, notices or consents, the failure of which to make or obtain would not, individually or in the aggregate, reasonably be expected to be material to the Acquired Assets, the Assumed Liabilities or the Business, in each case taken as a whole.

4.4 Subsidiaries.

(a) Except as would not, individually or in the aggregate, have a Material Adverse Effect, each Acquired Subsidiary is duly incorporated, organized or formed and validly existing under the laws of its jurisdiction of incorporation, organization or formation, and has the requisite power and capacity to own, lease, license and operate its assets and properties and conduct its business as now conducted and is duly registered to carry on business and is in good standing in each jurisdiction in which the character of its assets and properties, owned, leased, licensed or operated by it, or the nature of its activities, make such registration necessary.

(b) Section 4.4(b) of the Seller Disclosure Letter sets out, with respect to each Subsidiary of Sellers as of the date hereof: (A) its name; (B) the percentage owned directly or indirectly by any Seller and the percentage owned by registered holders of capital stock or other equity interests if other than Sellers and their Subsidiaries; and (C) its jurisdiction of incorporation, organization or formation.

(c) Dominion Holdings or DDM is, directly or indirectly, the registered and beneficial owner of all of the outstanding common shares or other equity interests as reflected as being owned by Dominion Holdings or DDM, as applicable, in Section 4.4(b) of the Seller Disclosure Letter, directly or indirectly, of each of its Subsidiaries, free and clear of any Encumbrance, other than Permitted Encumbrances, all such shares or other equity interests so owned by Sellers have been validly issued and are fully paid and non-assessable, as the case may be, and no such shares or other equity interests have been issued in violation of any pre-emptive or similar rights. Except for the shares or other equity interests owned by Dominion Holdings or DDM, directly or indirectly, in any Subsidiary, and except as set forth in Section 4.4(b) of the Seller Disclosure Letter neither any Seller nor any Subsidiary owns, beneficially or of record, any equity interests of any kind in any other Person as of the date hereof.

(d) No Acquired Subsidiary has any Indebtedness, other than with respect to the intercompany Indebtedness owed solely to Sellers or other Acquired Subsidiaries (and for the avoidance of doubt, trade payables incurred in the Ordinary Course of Business) and no Acquired Subsidiary has provided any Guarantee.

4.5 Title and Sufficiency of Assets.

(a) Sellers have good and valid title to (or with respect to leased property included in the Acquired Assets, valid leasehold interests in) the Acquired Assets, free and clear of all Encumbrances other than Permitted Encumbrances.

(b) The Acquired Subsidiaries have good and valid title to (or with respect to leased property included in the Acquired Assets, valid leasehold interests in) all assets and property which any such Acquired Subsidiary purports to own, free and clear of all Encumbrances other than Permitted Encumbrances, and there is no agreement, option or other right or privilege outstanding in favor of any Person for the purchase of any material asset from any Acquired Subsidiary outside the Ordinary Course of Business.

(c) The Acquired Assets, together with the assets and properties held by the Acquired Subsidiaries, include all of the properties and assets required to operate the Business in the Ordinary Course of Business.

(d) To the Knowledge of Sellers, neither Parent nor any of the Retained Subsidiaries holds any right, title or interest in or to any assets or properties that are used or useful in connection with the Business or that would otherwise constitute Acquired Assets if held by any Seller.

4.6 Financial Statements. Sellers have delivered to Purchaser Parent's audited consolidated financial statements as at and for the fiscal year ended December 31, 2019 and unaudited consolidated financial statements as at March 31, 2020 and for the three months ended March 31, 2020 and 2019 (including, in each case, any of the notes or schedules thereto, any report thereon and related management's discussion and analysis), each of which: (i) were prepared in accordance with IFRS; and (ii) present fairly, in all material respects, the assets, liabilities and financial condition of Parent and its Subsidiaries on a consolidated basis as at the respective dates thereof and the revenues, earnings, results of operations, changes in shareholders' equity and cash flow of Parent and its Subsidiaries on a consolidated basis for the periods covered thereby (except as may be indicated in the notes to such financial statements and subject in the case of unaudited financial statements to normal, year-end audit adjustments). Except as set forth in such financial statements, neither any Seller nor any Acquired Subsidiary is party to any off-balance sheet transaction with unconsolidated Persons.

4.7 Compliance with Laws. Sellers and each of the Acquired Subsidiaries are, and since February 1, 2018 have been, in compliance with Law in all material respects. Neither any Seller nor any Acquired Subsidiary is, to the Knowledge of Sellers, under any material investigation with respect to, or has been charged or threatened to be charged with, or has received notice of, any material violation or potential material violation of any Law from any Governmental Body.

4.8 Authorizations. Except as would not, individually or in the aggregate, have a Material Adverse Effect, (i) each Seller and each Acquired Subsidiary owns, possesses or has obtained all Authorizations that are required by Law (including, for greater certainty, Environmental Law) to be owned, possessed or obtained by Sellers or any of the Acquired Subsidiaries in connection with the operation of the Business or in connection with the ownership, operation or use of the Acquired Assets; (ii) Sellers and the Acquired Subsidiaries, as applicable, lawfully hold, own or use, and have complied with all such Authorizations; (iii) each such Authorization is valid and in full force and effect, and is renewable by its terms or in the Ordinary Course of Business; and (iv) no action, investigation or proceeding is pending, or to the Knowledge of Sellers, threatened, against any Seller or any Acquired Subsidiary in respect of or regarding any such Authorization that could reasonably be expected to result in the suspension, loss or revocation of any such Authorization.

4.9 Material Contracts. Section 4.9 of the Seller Disclosure Letter sets out a complete and accurate list of all Material Contracts in effect or pursuant to which any Seller or any Acquired Subsidiary has surviving obligations as of the date hereof. True and complete copies of the Material Contracts have been disclosed in the Data Room and, other than as set out in the Data Room, no such Material Contract has been modified in any material respect. Each Material Contract is a legal, valid and binding agreement of the applicable Seller or the applicable Acquired Subsidiary, and is in full force and effect. Except as disclosed in Section 4.9 of the Seller Disclosure Letter and other than monetary defaults or such breaches arising out of the commencement of the CCAA Proceedings, neither any Seller nor any Acquired Subsidiary or, to the Knowledge of Seller, any other parties thereto, is in material breach or violation of or in default under (in each case, with or without notice or lapse of time or both) any Material Contract and no Seller or any Acquired Subsidiary has received or given any notice of any material breach or default under any Material Contract which remains uncured, and there exists no state of facts which after notice or lapse of time or both would constitute a material breach of or default under any Material Contract by any Seller or any Acquired Subsidiary or, to the Knowledge of Sellers, any other party thereto.

4.10 Diavik Joint Venture.

(a) DDM owns the Diavik Joint Venture Interest free and clear of any Encumbrance other than Permitted Encumbrances. Except as specified in the Diavik Joint Venture Agreement, no Person has any Contract, or any right or privilege capable of becoming such, for the purchase from DDM of any of its interest in the Diavik Joint Venture. Except as specified in the Diavik Joint Venture Agreement, there are no back-in rights, earn-in rights, rights of first refusal, pre-emptive rights or similar provisions or rights which affect DDM's interest in the Diavik Diamond Mine or the Diavik Joint Venture.

(b) A copy of the Diavik Joint Venture Agreement as currently in effect as of the date hereof has been made available to Purchasers in the Data Room.

4.11 Ekati Mine.

(a) DDM owns each of the Ekati Buffer Zone and the Ekati Core Zone Joint Venture Interest free and clear of any Encumbrance other than Permitted Encumbrances. Except as specified in the Ekati Core Zone Joint Venture Agreement, as applicable, no Person has any

Contract, or any right or privilege capable of becoming such, for the purchase from DDM of any of its interest in the Ekati Buffer Zone or the Ekati Core Zone Joint Venture. Except as specified in the Ekati Core Zone Joint Venture Agreement, as applicable, there are no back-in rights, earn-in rights, rights of first refusal, pre-emptive rights or similar provisions or rights which affect DDM's interest in the Ekati Buffer Zone, the Ekati Core Zone or the Ekati Core Zone Joint Venture.

(b) A copy of the Ekati Core Zone Joint Venture Agreement as currently in effect as of the date hereof has been made available to Purchasers in the Data Room.

4.12 Leased Property. With respect to the real property leased or subleased by any Seller or any Acquired Subsidiary, except as would not, individually or in the aggregate, have a Material Adverse Effect: (i) each lease or sublease for such property constitutes a legal, valid and binding obligation of the applicable Seller or the applicable Acquired Subsidiary, as the case may be, enforceable against such Seller or such Acquired Subsidiary, as the case may be, in accordance with its terms and is in full force and effect; (ii) except as disclosed in Section 4.12(ii) of the Seller Disclosure Letter, neither any Seller nor any Acquired Subsidiary, as the case may be, is in breach of or default under any such lease or sublease and no event has occurred which, without the giving of notice or lapse of time, or both, would constitute a breach of or default under any such lease or sublease; and (iii) except as disclosed in Section 4.12(iii) of the Seller Disclosure Letter, to the Knowledge of Sellers, no counterparty to any such lease or sublease is in default thereunder.

4.13 Interests in Properties and Mineral Rights.

(a) The Diavik Leases, the Ekati Buffer Zone Leases and the Ekati Core Zone Leases comprise all of Sellers' and the Acquired Subsidiaries' material real properties and all of Sellers' and the Acquired Subsidiaries' material mineral interests and rights, in each case, either existing under contract, by operation of Law or otherwise (collectively, and where material, the "Mineral Rights"). Neither Sellers nor the Acquired Subsidiaries own or have any interest in any other material real property or any other material mineral interests and rights.

(b) Other than pursuant to the Joint Venture Agreements, no person has any interest in the Mineral Rights or any right to acquire any such interest, and no person has any back-in rights, earn-in rights, rights of first refusal, pre-emptive rights or similar provisions or rights which would affect, in any material respect, DDM's or, to the Knowledge of Sellers, DDMI's interest in any of the Mineral Rights.

4.14 Litigation. Except as disclosed in Section 4.14 of the Seller Disclosure Letter, as of the date hereof, there are no claims, actions, suits, arbitrations, inquiries, investigations or proceedings pending, or, to the Knowledge of Sellers, threatened, against any Seller, any Acquired Subsidiary or, to the Knowledge of Sellers, DDMI, by or before any Governmental Body that, if determined adverse to the interests of any Seller, any Acquired Subsidiary or DDMI, would, individually or in the aggregate, have a Material Adverse Effect, or would be reasonably expected to prevent or materially delay the consummation of the transactions contemplated hereby, and no Seller or Acquired Subsidiary or, to the Knowledge of Sellers, DDMI or any of the Mine Properties is subject to any outstanding judgment, order, writ, injunction or decree that would reasonably be expected to have a Material Adverse Effect.

4.15 Environmental Matters. Except as would not, individually or in the aggregate, have a Material Adverse Effect, to the Knowledge of Sellers, (i) there exists no fact, condition or occurrence concerning any Seller, any Acquired Subsidiary, DDMI or the operation of Business or Acquired Assets (including the Joint Ventures or the Mine Properties) with respect to any non-compliance with or obligation or liability under Environmental Laws; (ii) no unresolved complaint, notice or violation, citation, summons or order has been issued to any Seller or any Acquired Subsidiary or any of the Joint Ventures or the applicable manager/operator, as the case may be, alleging any violation by or liability of any Seller or any Acquired Subsidiary or any businesses or assets thereof, including the Joint Ventures or the Mine Properties, with respect to any Environmental Law; and (iii) the operation of the Business, including the Joint Ventures and the Mine Properties, is in compliance with Environmental Laws.

4.16 Aboriginal Claims.

(a) Section 4.16 of the Seller Disclosure Letter (to the Knowledge of Sellers, in respect of matters relating to the Diavik Joint Venture) contains a list of the current impact benefit or participation agreements, memoranda of understanding or similar arrangements (the "Aboriginal Agreements") with all Aboriginal Groups with whom any Seller, any Acquired Subsidiary or any of the Joint Ventures has any such dealings and any written notices of an Aboriginal Claim received by any Seller or any Acquired Subsidiary where there is no current Aboriginal Agreement in place with the Aboriginal Group, in each case, as of the date hereof. Copies of the Aboriginal Agreements as in effect as of the date hereof have been made available in the Data Room. Other than as disclosed in the Seller Disclosure Letter (including the Aboriginal Agreements), as of the date hereof, to the Knowledge of Sellers, neither Sellers, any of the Acquired Subsidiaries, the Ekati Buffer Zone, the Ekati Core Zone Joint Venture nor, any of the Diavik Joint Venture or its manager, as the case may be, has received any written notice of an Aboriginal Claim which materially affects Sellers, any of the Acquired Subsidiaries, the Business, the Acquired Assets, the Joint Ventures or the Mine Properties.

(b) The Sellers have not received written notice of any material Claims from any Aboriginal Group with respect to Sellers, any Acquired Subsidiary, the Business, the Acquired Assets, the Joint Ventures or the Mine Properties.

(c) The Sellers have materially complied with all material obligations under the Aboriginal Agreements.

4.17 Employees.

(a) All written contracts in relation to the top five compensated Employees (calculated based on annual base salary plus target cash bonus) have been made available in the Data Room.

(b) The independent contractors of Sellers and the Acquired Subsidiaries are not entitled to any severance or similar payments upon termination of their Contracts that would be material and each of such Contracts can be terminated with no more than 60 days' advance notice.

(c) No Employee has any agreement as to length of notice or severance payment required to terminate his or her employment or is entitled to notice or severance payments other than such as results by Law, nor are there any change of control payments or severance payments or agreements with Employees providing for cash or other compensation or benefits upon the consummation of, or relating to, the transactions contemplated by this Agreement other than the key employee retention plan approved by the CCAA Court in the Amended and Restated Intial Order.

4.18 Collective Agreements. Section 4.18 of the Seller Disclosure Letter sets forth a list of all Collective Agreements as of the date hereof. Except as disclosed in Section 4.18 of the Seller Disclosure Letter (A) there are no collective bargaining or union agreements or employee association agreements or other binding commitments in force with respect to Employees, (B) no Person holds bargaining rights with respect to any Employees and (C) to the Knowledge of Sellers, no Person has applied to be certified as the bargaining agent of any Employees.

4.19 Employee Plans.

(a) Section 4.19(a) of the Seller Disclosure Letter lists all written Employee Plans in effect as of the date hereof. Sellers have made available in the Data Room true, complete and up to date copies of all such material Employee Plans, as amended, together with all related documentation, including all material regulatory filings (including actuarial valuations) required to be filed with a Governmental Body and correspondence with Governmental Bodies with respect to such material regulatory filings (including actuarial valuations) of any Pension Plan (as defined in Section 4.19(a) of the Sellers Disclosure Letter).

(b) Sellers and the Acquired Subsidiaries have made all contributions and paid all premiums in respect of each material Employee Plan in a timely fashion in accordance with Law and in accordance with the terms of the applicable Employee Plan and all Collective Agreements. Except as would not, individually or in the aggregate, have a Material Adverse Effect, all financial liabilities of Sellers and the Acquired Subsidiaries (whether accrued, absolute, contingent or otherwise) related to all Employee Plans have been fully and accurately disclosed in accordance with [IAS 19 Employee Benefits] in the financial statements referred to in Section 4.7 as of the dates of such financial statements .

(c) None of the Employee Plans (other than pension, retirement savings or retirement income plans) provide for retiree benefits or for benefits to retired or terminated Employees or to the beneficiaries or dependents of retired or terminated Employees.

(d) The execution of this Agreement and the completion of the transactions contemplated will not (either alone or in conjunction with any additional or subsequent events) constitute an event under any Employee Plan that will or may result in any payment (whether of severance pay or otherwise), acceleration of payment or vesting of benefits, forgiveness of indebtedness, vesting, distribution, restriction on funds, increase in benefits or obligation to fund benefits with respect to any Employee or former Employee or their beneficiaries.

4.20 Taxes.

(a) DDM is not a non-resident of Canada for the purposes of Section 116 of the Tax Act.

(b) Seller and each of the Acquired Subsidiaries has withheld or collected all amounts required to be withheld or collected by it on account of Taxes and has remitted all such amounts to the appropriate Governmental Body when required by Law to do so.

(c) The Purchaser Holdco Acquired Interests are not "taxable Canadian property" for the purposes of Section 116 of the Tax Act.

(d) The Canadian Assets include all or substantially all of each Seller's "Canadian Resource Property" for the purposes of sections 66 and 66.7 of the Tax Act.

(e) The Canadian Assets constitute all or substantially all of the assets used in carrying on the Business for the purposes of section 22 of the Tax Act.

(f) For the purposes of the GST Legislation, (i) DDM carries on a business, and (ii) the Canadian Assets constitute all or substantially all of the property necessary for the Canadian Purchaser to be capable of carrying on the business.

(g) DDM is registered for the purposes of the GST Legislation and its registration number is [_____].

(h) the Purchaser Holdco Acquired Interests are "financial instruments" for the purposes of the GST Legislation.

4.21 Brokers and Finders. Other than the Sale Advisor, no Person has acted, directly or indirectly, as a broker, finder or financial advisor for Sellers in connection with the transactions contemplated by this Agreement and Purchasers are not and will not become obligated to pay any fee or commission or like payment to any broker, finder or financial advisor as a result of the consummation of the transactions contemplated by this Agreement based upon any arrangement made by or on behalf of Sellers or their Subsidiaries.

4.22 No Other Representations or Warranties. Except for the representations, warranties and covenants of Sellers expressly contained herein or any certificate delivered hereunder, neither Sellers nor any of their respective Representatives, nor any other Person, makes any other express or implied warranty (including, without limitation, any implied warranty of merchantability or fitness for a particular purpose) on behalf of Sellers, including, without limitation, as to (a) the probable success or profitability of ownership, use or operation of the Acquired Assets by Purchasers after the Closing, (b) the probable success or results in connection with the CCAA Court and the Sale Order, or (c) the value, use or condition of the Acquired Assets, which are being conveyed hereby on an "As-Is", "Where-Is" condition at the Closing Date, without any warranty whatsoever (including, without limitation, any implied warranty of merchantability or fitness for a particular purpose).

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF PURCHASERS

Each Purchaser represents and warrants to Sellers as of the Effective Date as follows:

5.1 Organization and Power. Purchaser Holdco is a limited partnership, validly existing and in good standing under the laws of the State of Delaware, with full power and authority to own, use or lease its properties and to conduct its business as such properties are owned, used or leased and as such business is currently conducted. Canadian Purchaser is an unlimited liability company, validly existing and in good standing under the laws of British Columbia, with full power and authority to own, use or lease its properties and to conduct its business as such properties are owned, used or leased and as such business is currently conducted.

5.2 Purchaser's Authority; No Violation. Purchasers have all requisite power and authority to enter into this Agreement and to carry out the transactions contemplated hereby, and the execution, delivery and performance of this Agreement by Purchasers shall be duly and validly authorized and approved by all necessary limited partnership or unlimited liability company action. This Agreement shall constitute the legal and binding obligation of Purchasers, enforceable against Purchasers in accordance with its terms, except that the enforceability hereof may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar Laws now or hereafter in effect relating to creditors' rights generally and that equitable remedies and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding may be brought. Subject to the issuance of the Sale Order by the CCAA Court and subject to compliance with the applicable requirements of the Competition Act, the entering into of this Agreement, and the consummation by Purchaser of the transactions contemplated hereby will not (a) violate the provisions of any applicable federal, state or local Laws or (b) violate any provision of Purchasers' Organizational Documents, violate any provision of, or result in a default or acceleration of any obligation under, or result in any change in the rights or obligations of Purchasers under, any Encumbrance, contract, agreement, license, lease, instrument, indenture, Order, arbitration award, judgment, or decree to which any Purchaser are a party or by which it is bound, or to which any property of any Purchaser is subject.

5.3 Consents, Approvals or Authorizations. Except for compliance as may be required by the Competition Act or other applicable Antitrust Laws, no consent, waiver, approval, Order or Authorization of, or registration, qualification, designation or filing with any Person or Governmental Body is required in connection with the execution, delivery and performance by Purchasers of this Agreement or the Ancillary Documents to which such Purchaser is a party, the compliance by Purchasers with any of the provisions hereof or thereof, the consummation of the transactions contemplated hereby or thereby, the assumption and performance of the Assumed Liabilities or the taking by Purchasers of any other action contemplated hereby or thereby, other than such filings, notices or consents, the failure of which to make or obtain would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Purchasers' ability to perform their obligations under this Agreement and the Ancillary Documents to which any such Purchaser is a party, or to consummate the transactions contemplated hereby or thereby, including the assumption of the Assumed Liabilities.

5.4 Brokers. No Person has acted, directly or indirectly, as a broker, finder or financial advisor for Purchasers in connection with the transactions contemplated by this Agreement that would obligate Sellers to pay any fee or commission or like payment to any broker, finder or financial advisor as a result of the consummation of the transactions contemplated by this Agreement based upon any arrangement made by or on behalf of Purchasers.

5.5 GST Registration. The Canadian Purchaser shall be registered for the purposes of the GST Legislation. This registration will have an effective date on or before the Closing Date.

5.6 "As Is, Where Is" Basis. Notwithstanding any other provision of this Agreement, the Purchasers acknowledge, agree and confirm that:

(a) except for the representations and warranties of the Sellers set forth in Article IV, and subject to the other covenants and agreements set forth herein, the Purchasers are entering into this Agreement, acquiring the Acquired Assets and assuming the Assumed Liabilities on an "as is, where is" basis as they exist as at Closing and will accept the Acquired Assets in their state, condition and location as at Closing except as expressly set forth in this Agreement and the sale of the Acquired Assets is made without legal warranty and at the risk of the Purchasers;

(b) except for the representations and warranties of the Sellers set forth in Article IV, neither the Sellers, the Sale Advisor, nor the Monitor or their Representatives have made or are making, and the Purchasers are not relying on, any representations, warranties, statements or promises, express or implied, statutory or otherwise, concerning the Acquired Assets, the Sellers' right, title or interest in or to the Acquired Assets, the Business or the Assumed Liabilities, including with respect to merchantability, physical or financial condition, description, fitness for a particular purpose, suitability for development, title, description, use or zoning, environmental condition, existence of any parts/and/or components, latent defects, quality, quantity or any other thing affecting any of the Acquired Assets or the Assumed Liabilities, or normal operation thereof, or in respect of any other matter or thing whatsoever, including any and all conditions, warranties or representations expressed or implied pursuant to any applicable Law in any jurisdiction, which the Purchasers confirm do not apply to this Agreement and are hereby waived in their entirety by the Purchasers;

(c) except as otherwise expressly provided in this Agreement, the Purchasers hereby unconditionally and irrevocably waive any and all actual or potential rights or Claims the Purchasers might have against the Sellers, Monitor, Sale Advisor and their Representatives pursuant to any warranty, express or implied, legal or conventional, of any kind or type, other than those representations and warranties of the Sellers expressly set forth in Article IV. Such waiver is absolute, unlimited, and includes, but is not limited to, waiver of express warranties, implied warranties, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and Claims of every kind and type, including Claims regarding defects, whether or not discoverable or latent, product liability Claims, or similar Claims, and all other Claims that may be later created or conceived in strict liability or as strict liability type Claims and rights;

(d) none of the representations and warranties of the Sellers contained in this Agreement shall survive Closing and, subject to Sections 11.1 and 11.4, the Purchasers' sole

recourse for any breach of representation or warranty of the Sellers in Article IV shall be for the Purchasers not to complete the transactions as contemplated by this Agreement and for greater certainty the Purchasers shall have no recourse or claim of any kind against the Sellers or the proceeds of the transactions contemplated by this Agreement following Closing; and

(e) this Section 5.6 shall not merge on Closing and is deemed incorporated by reference in all Closing documents and deliveries.

5.7 Investment Canada Act. The Canadian Purchaser is a trade agreement investor or a WTO investor for the purposes of the Investment Canada Act.

5.8 No Other Representations or Warranties. Except for the representations, warranties and covenants of Purchasers expressly contained herein or any certificate delivered hereunder, neither Purchasers nor any of their Representatives, nor any other Person, makes any other express or implied warranty (including, without limitation, any implied warranty of merchantability or fitness for a particular purpose) on behalf of Purchasers.

ARTICLE VI

COVENANTS OF SELLERS AND/OR PURCHASERS

6.1 Conduct of Business of Sellers.

(a) During the Pre-Closing Period, except (x) as required by Law, (y) as expressly required or authorized by this Agreement, the Amended and Restated Initial Order, the Interim Facility Credit Agreement or the SISP or (z) as consented to in writing by Purchasers (such consent not to be unreasonably withheld, delayed or conditioned), Sellers shall, and shall cause their Subsidiaries to:

(i) continue operations at the Ekati Diamond Mine on care and maintenance only; and

(ii) use commercially reasonable efforts to (A) preserve intact its business organizations, (B) maintain the Business and the Acquired Assets (normal wear and tear excepted), (C) keep available the services of its officers and Employees, subject to continuation of all furlough arrangements in place as of the Effective Date, (D) maintain and preserve satisfactory relationships with Aboriginal Groups and Governmental Bodies, and (E) comply in all material respects with the budget and other obligations set forth by the Interim Facility.

(b) Without limiting the generality of Section 6.1(a), during the Pre-Closing Period, except (x) as required by Law, (y) as expressly required or authorized by this Agreement or the SISP or (z) as consented to in writing by Purchasers (such consent not to be unreasonably withheld, delayed or conditioned), Sellers shall not:

(i) re-start operations at the Ekati Diamond Mine;

(ii) end any employee furlough or similar arrangement that is in place as of the Effective Date;

(iii) sell, lease, exchange, transfer or otherwise dispose of, or agree to sell, lease, exchange, transfer or otherwise dispose of, any material Acquired Asset, including any diamonds or other Inventory;

(iv) settle or compromise any material litigation or claims relating to the Business or the Acquired Assets or that would impose any restrictions or Liabilities on the Business or Purchaser's use of the Acquired Assets after the Closing;

(v) permit, allow or suffer any assets that would be Acquired Assets to be subjected to any Encumbrance other than Permitted Encumbrances;

(vi) cancel or compromise any material debt or claim that would be included in the Acquired Assets or waive or release any material right of Sellers that would be included in the Acquired Assets;

(vii) recognize any labor organization as a collective bargaining representative of any Persons employed by Sellers or their Subsidiaries, or enter into a collective bargaining agreement or employee association agreement with any labor organization affecting any such Persons;

(viii) grant any increase in the compensation or benefits of any employee or former employee or any dependent or other person claiming through an employee or former employee, including the grant, increase or acceleration in any severance, change in control, termination or similar compensation or benefits payable to any employee;

(ix) enter into any Material Contract or terminate, amend, restate, supplement, extend or waive (partially or completely) any rights under any Material Contract;

(x) take any action that would reasonably be expected to prevent or significantly impede or materially delay the completion of the transactions contemplated hereunder;

(xi) make, revoke or change any election relating to Taxes, file any amended Tax Return, request, enter into or obtain any Tax ruling with or from a Governmental Body, or execute or file, or agree to execute or file, with any Governmental Body any agreement or other document extending, or having the effect of extending, the period of assessment or collection of any Taxes, in each case, that could reasonably be expected to have any adverse effect on the Purchasers or any of their Affiliates, for any taxable period, or portion thereof, beginning after the Closing Date; or

(xii) agree in writing to do any of the foregoing.

6.2 Consents and Approvals.

(a) Sellers and Purchasers shall each use commercially reasonable efforts (i) to obtain all consents and approvals, as reasonably requested by Purchasers and Sellers, to more effectively consummate the purchase and sale of the Acquired Assets and the assumption and assignment of the Assigned Contracts and Assumed Liabilities, as applicable, together with any other necessary consents and approvals to consummate the transactions contemplated hereby, including, if required, the Competition Act Approval and any other Mandatory Antitrust Approvals, (ii) to make, as reasonably requested by Purchasers and Sellers, all filings, applications, statements and reports to all authorities which are required to be made prior to the Closing Date by or on behalf of Purchasers and/or Sellers or any of their respective Affiliates pursuant to any applicable Regulation in connection with this Agreement and the transactions contemplated hereby, (iii) to obtain, as reasonably requested by Purchasers and Sellers, all required consents and approvals (if any) to assign and transfer the Authorizations to Purchasers at Closing and, to the extent that one or more of the Authorizations are not transferable, to obtain replacements therefor, and (vi) to satisfy the conditions precedent set out in Article VIII and Article IX by such dates as required to achieve the applicable target closing date set out in the SISP.

(b) In furtherance and not in limitation of the foregoing, each of Sellers and Purchasers shall prepare and file: (i) on a timetable to be agreed by the Parties, all filings required and desirable to obtain Competition Act Approval and any other Mandatory Antitrust Approval, in each case if and to the extent required, including pre-merger notification filings in accordance with Part IX of the Competition Act; and (ii) all other necessary documents, registrations, statements, petitions, filings and applications for other Antitrust Approvals and any other consent or approval of any other Governmental Body required to satisfy the conditions set forth in Section 8.2 and Section 9.2.

(c) In furtherance and not in limitation of the foregoing, Purchasers shall use commercially reasonable efforts to negotiate an acceptable agreement with DDMI to satisfy the Rio Condition and to negotiate an acceptable agreement with GNWT and the sureties to satisfy the Surety Condition. Sellers shall cooperate in a timely and commercially reasonable manner with Purchasers in their efforts to satisfy the Rio Condition and the Surety Condition, including providing information, assisting in evaluation and analysis, and facilitating discussions as reasonably requested by Purchasers. Purchasers shall provide Sellers an opportunity to participate with one attendee in any meetings of a substantive nature with DDMI, GNWT and the sureties.

(d) Subject to the provisions of Section 3.3 and this Section 6.2, in the event that certain Authorizations are not transferable or replacements therefor are not obtainable on or before the Closing, but such Authorizations are transferable or replacements therefor are obtainable after the Closing, Purchasers and Sellers shall continue to use such reasonable efforts in cooperation with the other after the Closing as may be required to obtain all required consents and approvals to transfer, or obtain replacements for, such Authorizations after Closing and shall do all things reasonably necessary to give Purchasers the benefits which would be obtained under such Authorizations; provided, however, that Sellers' obligations under this Section 6.2(d) shall not restrict Sellers from making any distributions in or terminating the CCAA Proceedings or otherwise winding up their respective affairs or cancelling their existence upon the completion of any such winding up.

(e) Sellers and Purchasers shall use commercially reasonable efforts to (i) cooperate with each other in connection with any filing or submission and in connection with any investigation or other inquiry, including any proceeding initiated by a private party; (ii) keep the other Parties informed in all material respects of any material communication received by such Party from, or given by such Party to, any Governmental Body and of any material communication received or given in connection with any proceeding by a private party, in each case regarding any of the transactions contemplated hereby, including providing to the other Parties copies of all such material communications given or received; (iii) provide to the other Party reasonable opportunity to comment on drafts of filings and submissions prior to submitting same to a Governmental Body; and (iv) consult with each other in advance of any meeting or conference (whether in person or by telephone) with any Governmental Body, including in connection with any proceeding by a private party, and provide the other Party an opportunity to participate with at least one attendee in any meetings of a substantive nature with a Governmental Body. The foregoing obligations in this Section 6.2(e) shall be subject to any attorney-client, solicitor-client, work product, or other privilege, and each of the Parties hereto shall coordinate and cooperate fully with the other Parties hereto in exchanging such information and providing such assistance as such other Parties may reasonably request in connection with the foregoing.

(f) If, (i) notwithstanding the applicable provisions of the CCAA, the Sale Order, the Assignment Order (if applicable) and the commercially reasonable efforts of Sellers, any consent to the assignment of an Assigned Contract is not obtained prior to Closing and as a result thereof the Purchasers shall be prevented by a third party from receiving the rights and benefits with respect to an Acquired Asset intended to be transferred hereunder, (ii) any attempted assignment of an Acquired Asset would adversely affect the rights of Sellers thereunder so that the Purchasers would not in fact receive all of the rights and benefits contemplated or (iii) any Acquired Asset is not otherwise capable of sale and/or assignment (after giving effect to the Sale Order, the Assignment Order and the CCAA), then, in each case, Sellers shall, subject to any approval of the CCAA Court that may be required, at the request of the Purchasers and subject to Section 3.3, cooperate with Purchasers in any lawful and commercially reasonable arrangement under which the Purchasers would, to the extent practicable, obtain the economic claims, rights and benefits under such asset and assume the economic burdens and obligations with respect thereto in accordance with this Agreement, including by subcontracting, sublicensing or subleasing to the Purchasers.

6.3 Confidentiality. Purchasers and the Sellers acknowledge that the confidential information provided to them in connection with this Agreement, including under Section 6.5, and the consummation of the transactions contemplated hereby, is subject to the Confidentiality Agreement, dated **[____]**, 2020, between Washington Diamond Investments Holdings II, LLC and DDM (the "Confidentiality Agreement"). Sellers agree that except as may otherwise be required in connection with the CCAA Proceedings or by Law, they will treat any confidential information provided to or retained by them in accordance with this Agreement as if they were the receiving party under the Confidentiality Agreement and Sellers agree that for purposes of Sellers' confidentiality obligation hereunder, the term contained in Section **[__]** of the Confidentiality Agreement shall be deemed to be three (3) years from the Closing Date. The Parties agree that the provisions regarding confidentiality contained in the Confidentiality Agreement shall survive the termination of this Agreement and the Confidentiality Agreement in accordance with the terms set

forth therein but shall terminate upon the Closing as to Purchasers and their Representative (as defined therein).

6.4 Change of Name. Promptly following the Closing, Sellers shall, and shall cause their respective direct and indirect Subsidiaries to, discontinue the use of the "Dominion Diamonds" name (and any other trade names or "d/b/a" names currently utilized by Sellers or their respective direct or indirect Subsidiaries) and shall not subsequently change its name to or otherwise use or employ any name which includes the words "Dominion Diamond Mines" or any other similar name or mark confusingly similar thereto without the prior written consent of Purchasers, and Sellers shall, if requested by the Purchasers, to make an application to the CCAA Court requesting the name of Sellers in the title of the CCAA Proceedings to be changed; provided, however, that Sellers and their respective Subsidiaries may continue to use their current names (and any other names or d/b/a's currently utilized by Sellers or their respective Subsidiaries) included on any business cards, stationery and other similar materials following the Closing for a period of up to seventy-five (75) days solely for purposes of winding down the affairs of Sellers; provided that when utilizing such materials, other than in incidental respects, Sellers and each of their respective direct and indirect Subsidiaries shall use commercially reasonable efforts to indicate its new name and reference its current name (and any other trade names or "d/b/a" names currently utilized by each).

6.5 Purchasers' Access to Sellers' Records. From and after Sellers' execution and delivery of this Agreement, Sellers shall continue to facilitate the due diligence investigations of Purchasers with respect to the Sellers and the Business in the same manner and scope it provides to Potential Bidders (as defined in the SISP) pursuant to the SISP. At such time as the Purchasers become the Successful Bidder (as defined in the SISP), the Sellers' shall provide Purchasers (or their designated Representatives) reasonable access, upon reasonable advance notice to Sellers, to Sellers' Employees, books and records, corporate offices and other facilities for the purpose of conducting such additional due diligence as Purchasers deem appropriate or necessary in order to facilitate Purchasers' efforts to consummate the transaction provided for herein. Sellers hereby covenant and agree to reasonably cooperate with Purchasers in this regard.

6.6 Notification of Certain Matters.

(a) As promptly as reasonably practicable, Sellers shall give notice to Purchasers of (i) any notice or other communication from any Person alleging that the consent of such Person, which is or may be required in connection with the transactions contemplated by this Agreement or the Ancillary Documents, is not likely to be obtained prior to Closing, (ii) any written objection or proceeding that challenges the transactions contemplated hereby or to the issuance of the Sale Order, and (iii) the status of matters relating to the completion of the transactions contemplated hereby, including promptly furnishing the other with copies of notices or other communications received by Sellers or by any of their respective Affiliates (as the case may be), from any third party and/or any Governmental Body with respect to the transactions contemplated by this Agreement other than as may be provided for in the SISP or communications which are confidential, without prejudice or privileged by their nature.

(b) Each Party hereto shall promptly notify the other party in writing of any fact, change, condition, circumstance or occurrence or nonoccurrence of any event that would or

would reasonably be expected to (i) constitute a breach or inaccuracy of any of the representations and warranties of such Party had such representation or warranty been made at the time of the occurrence or nonoccurrence of such event, (ii) constitute a breach of any covenant of such Party, or (iii) make the satisfaction of any condition to Closing impossible or unlikely to be satisfied; provided that no such notice shall be deemed to amend or modify the representations and warranties made hereunder or the Seller Disclosure Letter for purposes of Section 8.4, Section 9.4 or otherwise, or limit the remedies available to any Party hereunder.

6.7 Preservation of Records. Sellers (or any subsequently appointed bankruptcy estate representative, including, but not limited to, a trustee, a creditor trustee or a plan administrator) and Purchasers agree that each of them shall preserve and keep the books and records held by it relating to the pre-Closing Business for a period commencing on the Effective Date and ending at such date on which an orderly wind-down of Sellers' operations has occurred in the reasonable judgment of Purchasers and Sellers and shall make such books and records available to the other Parties (and permit such other Party to make extracts and copies of such books and records at its own expense) as may be reasonably required by such Party in connection with, among other things, facilitating the continuing administration of the CCAA Proceedings, any insurance Claims by, legal proceedings or Tax audits against or governmental investigations of Sellers or Purchasers or in order to enable Sellers or Purchasers to comply with their respective obligations under this Agreement and each other agreement, document or instrument contemplated hereby or thereby. In the event that Sellers, on the one hand, or Purchasers, on the other hand, wish to destroy such records during the foregoing period, such Party shall first give twenty (20) days' prior written notice to the other and such other Party shall have the right at its option and expense, upon prior written notice given to such Party within that twenty (20) day period, to take possession of the records within thirty (30) days after the date of such notice.

6.8 Publicity. Neither Sellers nor Purchasers shall issue any press release or public announcement concerning this Agreement or the transactions contemplated hereby without obtaining the prior written approval of the other Party hereto, which approval will not be unreasonably withheld or delayed, unless, in the reasonable judgment of Purchasers or Sellers, disclosure is otherwise required by such party by applicable Law or by the CCAA Court with respect to filings to be made with the CCAA Court in connection with this Agreement; provided that the Party intending to make such release shall use commercially reasonable efforts consistent with such applicable Law or CCAA Court requirement to consult with the other Party with respect to the text thereof.

6.9 Material Adverse Effect. Sellers shall promptly inform Purchasers in writing of the occurrence of any event that has had, or is reasonably expected to have, a Material Adverse Effect or otherwise cause the failure of any of Purchasers' conditions to Closing set forth in Article VIII.

6.10 Sale Free and Clear; No Successor Liability. On the Closing Date, the Acquired Assets shall be transferred to the Purchasers free and clear of all obligations, Liabilities and Encumbrances (other than Permitted Encumbrances) to the fullest extent permitted by the CCAA.

6.11 Casualty Loss. If, before the Closing, all or any portion of the Acquired Assets is (a) condemned or taken by eminent domain, or (b) is damaged or destroyed by fire, flood or other casualty, Sellers shall promptly notify Purchasers promptly in writing of such fact, (i) in the case

of condemnation or taking, Sellers shall promptly assign or pay, as the case may be, any proceeds thereof to Purchasers at the Closing, and (ii) in the case of fire, flood or other casualty, Sellers shall promptly assign the insurance proceeds therefrom to Purchasers at Closing. Notwithstanding the foregoing, the provisions of this Section 6.11 shall not in any way modify Purchasers' other rights under this Agreement, including any applicable right to terminate the Agreement if any condemnation, taking, damage or other destruction resulted in a Material Adverse Effect or otherwise cause the failure of any of Purchasers' conditions to Closing set forth in Article VIII.

6.12 Debtors-in-Possession. From the commencement of the CCAA Proceedings through the Closing, Sellers shall continue to operate their business pursuant to and in accordance with the CCAA and Orders of the CCAA Court. Sellers shall not convert or seek to convert the CCAA Proceedings into any form of a liquidation proceeding under the CCAA or any other applicable legislation.

6.13 CCAA Court Filings.

(a) Sellers shall use their reasonable best efforts to obtain the approval of the CCAA Court to enter the SISP Order on or prior to [June 19], 2020.

(b) If required under the SISP, Sellers shall conduct the Auction for the Acquired Assets on or prior to September 3, 2020.

(c) If Purchasers are the Successful Bidder pursuant to the SISP, subject to satisfaction of the Financing Condition, Surety Condition and Rio Condition, Sellers shall use their reasonable best efforts to cause the CCAA Court to issue the Sale Order on or prior to September 28, 2020.

(d) If Purchasers are the Successful Bidder pursuant to the SISP, Sellers shall serve notices of assumption of the Assigned Contracts, including the designation of Cure Amounts, on all necessary parties on or prior to **[_____]**, 2020.

(e) If requested by Purchasers and provided that the Purchasers are the Successful Bidder pursuant to the SISP, subject to satisfaction of the Financing Condition, Surety Condition and Rio Condition. Sellers shall use their reasonable best efforts to cause the CCAA Court to issue the Assignment Order on or prior to date the Sale Order is issued.

(f) Sellers shall use their commercially reasonable efforts to provide Purchasers for review reasonably in advance of filing drafts of such material motions, pleadings or other filings relating to the process of consummating the transactions contemplated by this Agreement to be filed with the CCAA Court, including the motions for issuance of the Sale Order and the Assignment Order (if applicable).

(g) In the event an appeal is taken or a stay pending appeal is requested from the Sale Order, Sellers shall promptly notify Purchasers of such appeal or stay request and shall provide Purchasers promptly a copy of the related notice of appeal or order of stay. Sellers shall also provide Purchasers with written notice of any motion or application filed in connection with any appeal from such orders. Sellers agree to take all action as may be reasonable and appropriate to defend against such appeal or stay request and Sellers and Purchasers agree to use their

reasonable best efforts to obtain an expedited resolution of such appeal or stay request, provided that nothing herein shall preclude the Parties hereto from consummating the transactions contemplated hereby, if the Sale Order shall have been issued and has not been stayed and the Purchasers, in their sole discretion, waive in writing the condition that the Sale Order be a Final Order.

(h) Sellers and the Purchasers acknowledge that this Agreement and the sale of the Acquired Assets and the assumption of the Assumed Liabilities are subject to CCAA Court approval.

(i) After issuance of the Sale Order, neither the Purchasers nor Sellers shall take any action which is intended to, or fail to take any action the intent of which failure to act is to, result in the reversal, voiding, modification or staying of the Sale Order.

6.14 Not a Required Back-Up Bidder. If Purchasers participate in and submit an Overbid at the Auction (each as defined in the SISP), then, if required by the SISP as then in effect and applicable to all other Persons submitting an Overbid, Purchasers shall act as Back-Up Bidder (as defined in the SISP) following the Auction in the event that the Purchasers are not selected as the Successful Bidder (as defined in the SISP). Purchasers shall not be required to act as a Back-Up Bidder under any other circumstances.

6.15 Financing Matters.

(a) Purchasers shall use commercially reasonable efforts to satisfy the Financing Condition and, without limiting the generality of the foregoing, shall use commercially reasonable efforts to (i) obtain financing commitments on terms satisfactory to Purchasers in their sole discretion in amounts sufficient to satisfy the Financing Condition (the financing contemplated by such financing commitments being referred to herein as the "Financing"), (ii) satisfy on a timely basis all conditions applicable to Purchasers in such commitments that are within Purchasers' control, and (iii) consummate the Financing at or prior to the Closing to the extent all of the conditions set forth in each of the financing commitments have been satisfied (other than those conditions that by their nature are to be satisfied at the Closing, but subject to those conditions being satisfied at the Closing).

(b) Sellers shall use commercially reasonable efforts to provide, and shall use commercially reasonable efforts to cause their respective Representatives to provide, on a timely basis, such cooperation as is reasonably required or requested in connection with Purchasers' efforts to satisfy the Financing Condition, including the arrangement of the Purchasers' Financing, which cooperation may include using commercially reasonable efforts to: (i) upon reasonable advance notice, participate in a reasonable number of due diligence or other sessions with third parties, and provide reasonable access to documents and other information in connection with due diligence investigations and (ii) reasonably assist with Purchasers' and their Representatives' preparation of definitive documentation and the creation of security interests on the Acquired Assets as part of Purchasers' acquisition financing; and (iii) to the extent required, cooperate as necessary and appropriate with respect to the release of security interests.

6.16 Parent Guaranty. Parent hereby guarantees and covenants and agrees, in favor of the Sellers and the Purchasers, to cause the due, prompt and faithful performance and discharge by, and compliance with, all of the obligations, covenants, agreements, terms, conditions and undertakings of Sellers under this Agreement in accordance with the terms hereof, and hereby covenants and agrees to take all actions contemplated by this Agreement to be taken by Parent (including, without limitation, those set forth in Section 2.8).

6.17 Payment of Cure Amount. Following the Closing, Purchasers will make available the Cure Funding Amount to satisfy the Cure Amount. Following the Closing, Purchasers shall provide to Sellers evidence that the Cure Amount (if any) in respect of each Assigned Contract has been paid by Purchasers in accordance with (i) the Assignment Order where such Assigned Contract is assigned pursuant to an Assignment Order, or (ii) the consent of the applicable counterparty or as otherwise agreed upon by Purchasers and such counterparty, where such Assigned Contract is not assigned pursuant to an Assignment Order, in each case promptly following such payment.

6.18 GNWT Royalties. Prior to or concurrent with the Closing, Sellers shall pay from the proceeds of the Interim Facility, and/or otherwise obtain releases in full in a form satisfactory to 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 GNWT, which shall include (for the avoidance of any doubt) all royalty and similar payments obligations to GNWT in respect of fiscal year 2019.

ARTICLE VII

EMPLOYEE MATTERS

7.1 Covenants of Sellers with respect to Employees.

(a) Purchasers intend to make employment offers to substantially all Employees of Sellers, subject to and consistent with requirements based on the plan for resumption of operations at Sellers' facilities, and in consultation with Sellers' management on terms and conditions that are substantially similar to those under which the Employees are employed at the time of Closing. Sellers shall provide reasonable assistance to facilitate the transfer of all Employees that Purchasers elect to hire, which may be subject to any temporary layoff or reduction in effect at Closing, including, without limitation, providing Purchasers access to such Employees' personnel records and such other information regarding the Employees as Purchasers may reasonably request, consistent with Section 7.2 hereof. All Employees who receive employment offers from Purchasers and who accept such offers of employment are hereinafter referred to as the "Transferred Employees". The Purchasers acknowledge that they are successors under all collective agreements set out in Section 4.18 of the Seller Disclosure Letter.

(b) During the Pre-Closing Period, except as consented to in writing by Purchasers (such consent not to be unreasonably withheld, delayed or conditioned), and without limiting the obligations and restrictions set forth in Section 6.1, Sellers (i) shall satisfy all pre-Closing legal or contractual requirements to provide notice to, or to enter into any consultation procedure with, any labor union or organization, which is representing any Employee, in

connection with the transactions contemplated by this Agreement, and (ii) shall not (A) enter into, establish, adopt, materially amend or terminate any Employee Plan (or any plan or arrangement that would be an Employee Plan if in existence on the date of this Agreement), other than as required by Law, (B) increase the compensation and benefits payable or to become payable to Employees or former Employees or any dependent or other person claiming through an Employee or former Employee, (C) grant any extraordinary bonuses, benefits or other forms of directors' or consultants' compensation, (D) promote, hire or terminate the employment of (other than for cause) any Employee or (E) transfer the employment of any individual such that such individual becomes an Employee or transfer the employment of any Employee such that such individual no longer qualifies as an Employee.

7.2 Covenants of Purchasers with respect to Employees.

(a) Purchasers shall assume the Employee Plans (collectively, the "Assumed Plans"). Purchasers, on the one hand, and Sellers, on the other, shall take such actions as are necessary and reasonably requested by the other Party to cause Purchasers to assume sponsorship of and responsibility for administration and operation of such Employee Plans as of the Closing and to effect the transfer of all assets and benefit liabilities of the Assumed Plans together with all related trust, insurance policies and administrative services agreements, effective as soon as practicable following the Closing.

(b) On and following the Effective Date, Sellers and Purchasers shall reasonably cooperate in all matters reasonably necessary to effect the transactions contemplated by this Section 7.2, including exchanging information and data relating to workers' compensation, employee benefits and employee benefit plan coverage, and in obtaining any governmental approvals required hereunder, except as would result in the violation of any applicable Law, including without limitation, any Law relating to the safeguarding of data privacy.

(c) The provisions of this Section 7.2 are for the sole benefit of the Parties to this Agreement only and shall not be construed to grant any rights, as a third party beneficiary or otherwise, to any person who is not a Party to this Agreement, nor shall any provision of this Agreement except solely for the purpose of giving effect to sections 7.2(a) and 7.2(b) be deemed to be the adoption of, or an amendment to, any Employee Plan, or otherwise to limit the right of Purchasers or Sellers to amend, modify or terminate any such Employee Plan. In addition, nothing contained herein shall be construed to (i) prohibit any amendments to or termination of any Employee Plan or (ii) prohibit the termination or change in terms of employment of any Employee (including any Transferred Employee) as permitted under applicable Law. Nothing herein, expressed or implied, shall confer upon any Employee (including any Transferred Employee) any rights or remedies (including, without limitation, any right to employment or continued employment for any specified period) of any nature or kind whatsoever, under or by reason of any provision of this Agreement.

ARTICLE VIII

CONDITIONS PRECEDENT TO OBLIGATIONS OF PURCHASERS

The obligations of Purchasers to consummate the Closing are subject to satisfaction (or, to the extent permitted by applicable Law, waiver by Purchasers) of the following conditions precedent on or before the Closing Date.

8.1 CCAA Court Approvals. The SISP Order, the Sale Order and the Assignment Orders (if applicable) shall have been issued by the CCAA Court and shall have become Final Orders.

8.2 Antitrust Approvals. All Antitrust Approvals shall have been obtained.

8.3 No Court Orders. No court or other Governmental Body shall have issued, enacted, entered, promulgated or enforced any Law or Order that has not been vacated, withdrawn or overturned restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement.

8.4 Representations and Warranties True as of Both Effective Date and Closing Date. Each of the representations and warranties of Sellers (a) contained herein (other than as set forth in clause (c) below) that are not qualified by "materiality" or "Material Adverse Effect" shall be true and correct in all material respects on and as of the Effective Date (except for such representations and warranties that specifically relate to an earlier date, which shall be true and correct in all material respects as of such earlier date) and on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date, (b) contained herein (other than as set forth in clause (c) below) that are qualified by "materiality" or "Material Adverse Effect" shall be true and correct in all respects on and as of the Effective Date (except for such representations and warranties that specifically relate to an earlier date, which shall be true and correct in all respects as of such earlier date) and on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date, and (c) contained in Section 4.1, Section 4.2, Section 4.4 and Section 4.6 shall be true and correct in all respects on and as of the Effective Date (except for such representations and warranties that specifically relate to an earlier date, which shall be true and correct in all respects as of such earlier date) and on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date.

8.5 Compliance with Covenants. Sellers shall have performed or complied in all material respects with all of their covenants and obligations hereunder which are required to be performed or complied with at or prior to Closing.

8.6 No Material Adverse Effect. Since the Effective Date, there shall not have been a Material Adverse Effect.

8.7 Essential Contracts; Cure Amount. (i) All consents, approvals or waivers necessary to assign the Essential Contracts to the Purchasers shall have been obtained, or an Assignment Order shall have been granted by the CCAA Court in respect of such Essential Contracts where necessary consents, approvals or waivers have not been obtained; (ii) the Cure Amount payable

with respect to Essential Contracts[2] (other than the Diavik Joint Venture Agreement) shall not exceed the Cure Funding Amount (calculated based on a US$ to Cdn$ exchange rate of [•] with respect to any amounts to be paid in Canadian dollars) and (iii) the Assignment Order shall provide that the Cure Amount with respect to Assigned Contracts subject to the Assignment Order shall not be payable earlier than 30 days following Closing.

8.8 Authorizations. Purchasers (or the applicable Designated Purchaser) shall have received (and there shall be in full force and effect), in each case in form and substance satisfactory to Purchasers, either by transfer or re-issuance, all material Authorizations required to operate the Business and Acquired Assets, including those set forth (or required to be set forth) on Section 4.3(a) of the Seller Disclosure Letter, consistent in all material respects with historical operations.

8.9 Surety Condition. Purchasers shall have entered into an agreement, in form and substance satisfactory to Purchasers at their sole discretion, with the issuers of any surety bond supporting the obligations of the Sellers and the Government of the Northwest Territories ("GNWT") with respect to collateralization of reclamation obligations of Purchasers under environmental agreements, Authorizations, licenses and subleases to be transferred (the "Surety Condition").

8.10 Ordinary Course Operations. Purchasers shall not be subject to any mandatory governmental Regulations or restrictions related to COVID-19 which would prevent or materially restrict: (i) Purchasers from conducting operations at the Ekati Diamond Mine substantially consistent with the level of operations contemplated by Sellers' business plan in effect prior to COVID-related impacts; or (ii) Purchasers' ability to transport, sort and conduct diamond sales in a quantum substantially consistent with past practices prior to COVID-related impacts.

8.11 Diavik Mine. Purchasers shall have reached an agreement acceptable to Purchasers with DDMI and the GNWT, in form and substance satisfactory to Purchasers at their sole discretion, in relation to the timing and quantum of capital calls and reclamation liabilities with respect to the Diavik Joint Venture (the "Rio Condition").

8.12 Diavik Good Standing. Purchasers shall have determined, acting reasonably, that upon payment of any outstanding cash calls with interest and the posting of cash collateral in respect of its portion of the reclamation Liability in accordance with the existing closure security agreement or pursuant to other arrangements to be agreed that: (i) Purchasers will be in full compliance with its obligations under the Diavik Joint Venture Agreement when assigned to Purchasers, (ii) Purchasers shall hold a 40% participating interest in the Diavik Joint Venture free and clear of any Encumbrance other than as imposed by DDMI under the Diavik Joint Venture Agreement and (iii) DDMI shall agree to deliver any diamond inventory which accrued to the account of DDM under the Diavik Joint Venture Agreement which had not yet been delivered.

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[2] NTD: Subject to receipt from Sellers and review of proposed Schedule F list of Essential Contracts and a schedule of Material Contracts.

8.13 Financing. Purchasers shall have obtained third party equity and debt commitments on terms satisfactory to Purchasers in their sole discretion in amounts that, in the aggregate are sufficient to pay the Purchase Price (including satisfaction of the Assumed Liabilities), and the aggregate amount of equity financing committed by parties not affiliated with Washington Diamond Investments Holdings II, LLC or any of its Affiliates shall exceed US$140,000,000 less 50% of any debt raised (the "Financing Condition").

8.14 Delivery of Acquired Assets. Each of the deliveries required to be made to Purchasers pursuant to Section 10.2 shall have been so delivered and at Closing, Sellers shall deliver possession of all Acquired Assets to Purchasers, *in situ,* wherever such Acquired Assets are located at Closing consistent with the terms of this Agreement.

8.15 Corporate Documents. Sellers shall have delivered to Purchasers copies of the resolutions of Sellers' board of directors or similar governing body, as applicable, evidencing the approval of this Agreement and the transactions contemplated hereby.

8.16 Release of Encumbrances. The Sale Order shall provide for the release of any and all Encumbrances on the Acquired Assets other than Permitted Encumbrances, and Purchasers shall have received such documents or instruments as may be required, in Purchasers' reasonable discretion, to demonstrate that, effective as of the Closing Date, the assets of the Acquired Subsidiaries are released from any and all Encumbrances other than Permitted Encumbrances.

8.17 Accounts Payable. Sellers shall have paid all trade payables arising from the provision of goods and services on or after the Filing Date that are due and payable at or before the Closing, other than such amounts which are disputed by the Sellers in good faith for which adequate reserves have been created under the DIP Budget.

8.18 Interim Facility Compliance. Immediately prior to the Closing, there has not been an Event of Default as defined in the Interim Facility Credit Agreement.

ARTICLE IX

CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLERS

The obligations of Sellers to consummate the Closing are subject to satisfaction (or, to the extent permitted by applicable Law, waiver by Sellers) of the following conditions precedent on or before the Closing Date:

9.1 CCAA Court Approvals. The SISP Order, the Sale Order shall have been issued by the CCAA Court and shall have become Final Orders.

9.2 Antitrust Approvals. All Antitrust Approvals shall have been obtained.

9.3 No Court Orders. No court or other Governmental Body shall have issued, enacted, entered, promulgated or enforced any Law or Order that has not been vacated, withdrawn or overturned restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement.

9.4 Representations and Warranties True as of Both Effective Date and Closing Date. The representations and warranties of each Purchaser (a) contained herein that are not qualified by "materiality" or "material adverse effect" shall be true and correct in all material respects on and as of the Effective Date, and shall also be true in all material respects on and as of the Closing Date (except for representations and warranties which specifically relate to an earlier date, which shall be true and correct in all material respects as of such earlier date) with the same force and effect as though made by each Purchaser on and as of the Closing Date, and (b) contained herein that are qualified by "materiality" or "material adverse effect" shall be true and correct in all respects on and as of the Effective Date, and on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date (except for representations and warranties which specifically relate to an earlier date, which shall be true and correct in all material respects as of such earlier date), in each case, except where the failure of such representations and warranties to be so true and correct has not had, and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on each Purchaser's ability to consummate the transactions contemplated by this Agreement.

9.5 Compliance with Covenants. Purchasers shall have performed or complied in all material respects with all of its covenants and obligations hereunder which are required to be performed or complied with at or prior to Closing.

9.6 Corporate Documents. Purchasers shall have delivered to Sellers copies of the resolutions of Purchasers' board of managers evidencing the approval of this Agreement and the transactions contemplated hereby.

ARTICLE X

CLOSING

10.1 Closing. Unless otherwise mutually agreed by the Parties, the closing of the purchase and sale of the Acquired Assets, the payment of the Purchase Price, the assumption of the Assumed Liabilities and the consummation of the other transactions contemplated by this Agreement (the "Closing") shall take place on the fifth (5^{th}) Business Day following full satisfaction or due waiver (by the Party entitled to the benefit of such condition) of the closing conditions set forth in Article VIII and Article IX (other than conditions that by their terms or nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions at the Closing), or at such other place and time as the Parties may agree.

10.2 Deliveries by Sellers. At or prior to the Closing, Sellers shall deliver, in addition to the other documents contemplated by this Agreement, the following to Purchasers:

(a) a bill of sale in the form of Schedule A duly executed by Sellers;

(b) an assignment and assumption agreement in the form of Schedule B (the "Assignment and Assumption Agreement") duly executed by Sellers;

(c) duly executed instruments for the sale, transfer, assignment or other conveyance to the Purchasers and relevant Designated Purchasers, of the equity interests in the

Acquired Subsidiaries, in accordance with the requirements of applicable local Law and this Agreement;

(d) a true copy of the Sale Order and any Assignment Orders (if applicable);

(e) an officer's certificate, dated as of the Closing Date, executed by a duly authorized officer of each Seller certifying that the conditions set forth in Section 8.4 and Section 8.5 have been satisfied;

(f) an instrument of assumption and assignment of the Assigned Contracts regarding leased real property substantially in the form of Schedule C (the "Assignment and Assumption of Leases"), duly executed by each Seller, in form for recordation with the appropriate public land records to the extent the underlying lease is of record;

(g) an Intellectual Property Assignment and Assumption Agreement substantially in the form of Schedule D (the "IP Assignment and Assumption Agreement"), duly executed by each Seller;

(h) possession of all owned real property included in the Acquired Assets, together with duly executed and acknowledged transfer deeds for all such owned real property conveying the owned real property subject only to Permitted Encumbrances, and any existing surveys, legal descriptions and title policies that are in the possession of Sellers;

(i) possession of the Acquired Assets and the Business *in situ,* wherever such Acquired Assets are located at the Closing consistent with the terms of this Agreement;

(j) stock powers or similar instruments of transfer, duly executed by the applicable Seller, transferring all of the capital stock or other equity interests of the Acquired Subsidiaries to Purchasers (it being understood that such instruments shall address the requirements under applicable Law local to the jurisdiction of organization of each such Acquired Subsidiary necessary to effect and make enforceable the transfer to Purchasers of the legal and beneficial title to such capital stock or other equity interests);

(k) all tax elections or designations described in Section 12.13, duly executed by DDM;

(l) a certificate duly executed by each Seller, in the form prescribed under Treasury Regulation Section 1.1445-2(b)(2)(iv);

(m) a bill of sale and assignment agreement with respect to the conveyance of any Acquired Assets required to be transferred and assigned to Purchasers pursuant to Section 2.8, in form and substance reasonably satisfactory to Purchasers, duly executed by Parent and each of the Retained Subsidiaries; and

(n) such other bills of sale, deeds, endorsements, assignments and other good and sufficient instruments of conveyance and transfer, in form and substance reasonably satisfactory to Purchasers, as Purchasers may reasonably request to vest in Purchasers all of

Sellers' right, title and interest of Sellers in, to or under any or all the Acquired Assets, including all owned real property included in the Acquired Assets.

10.3 Deliveries by Purchasers. At the Closing, Purchasers will deliver the following:

(a) the Cash Component payable pursuant to and in accordance with Section 3.1;

(b) a confirmation, acknowledgement or other documentation satisfactory to the Sellers to be delivered by Washington Diamond, confirming the quantum of the credit to be applied against the obligations owing by the Sellers to Washington Diamond under the Interim Financing Credit Agreement towards satisfaction of the Cash Component all as contemplated by Section 3.2(a), such confirmation being subject to Monitor approval;

(c) the Assignment and Assumption Agreement duly executed by the applicable Purchaser;

(d) the Assignment and Assumption of Leases duly executed by the applicable Purchaser;

(e) the IP Assignment and Assumption Agreement, executed by applicable Purchaser;

(f) all tax elections or designations described in Section 12.13, duly executed by Canadian Purchaser;

(g) an officer's certificate, dated as of the Closing Date, executed by a duly authorized officer of each Purchaser certifying that the conditions set forth in Section 9.4 and Section 9.5 have been satisfied; and

(h) such other documents as Sellers may reasonably request that are not inconsistent with the terms of this Agreement and customary for a transaction of this nature and necessary to evidence or consummate the transactions contemplated by this Agreement.

10.4 Monitor's Certificate. Upon satisfaction or waiver by the Purchasers of all conditions precedent to Closing under Article VIII and delivery to the Purchasers of all Closing deliverables under Section 10.2, the Purchasers shall deliver to the Monitor a certificate, dated as of the Closing Date, confirming the satisfaction or waiver of such conditions precedent and delivery of such Closing deliverables (the "Purchasers' Conditions Certificate"). Upon satisfaction or waiver by the Sellers of all conditions precedent to Closing under Article IX and delivery to the Sellers of all Closing deliverables under Section 10.3, the Sellers shall deliver to the Monitor a certificate, dated as of the Closing Date, confirming the satisfaction or waiver of such conditions precedent and delivery of such Closing deliverables (the "Sellers' Conditions Certificate" and together with the Purchasers' Conditions Certificate, the "Conditions Certificates"). Upon receipt by the Monitor of each of the Conditions Certificates, the Monitor shall (i) forthwith issue its Monitor's Certificate concurrently to the Sellers and the Purchasers, at which time the Closing will be deemed to have occurred; and (ii) file as soon as practicable a copy of the Monitor's Certificate with the CCAA Court (and shall provide a true copy of such filed certificate to the Sellers and the

Purchasers). For greater certainty, the Monitor shall be entitled to rely exclusively on the basis of the Conditions Certificates and without any obligation whatsoever to verify the satisfaction or waiver of the applicable conditions.

ARTICLE XI

TERMINATION

11.1 Termination of Agreement. This Agreement and the transactions contemplated hereby may be terminated at any time on or prior to the Closing Date:

(a) Mutual Consent. By mutual written consent of Purchasers and Sellers.

(b) Termination by Purchasers or Sellers.

(i) by Purchasers or Sellers, if the Closing shall not have occurred on or prior to October 31, 2020 (the "Outside Date"); provided, however, that Sellers and Purchasers shall not be entitled to terminate this Agreement pursuant to this Section 11.1(b)(i) if the failure of the Closing to have occurred by the date specified above is caused by such Party's breach of any of its obligations under this Agreement;

(ii) by Purchasers or Sellers, if the CCAA Court or other court of competent jurisdiction or a governmental, quasi-governmental, regulatory or administrative department, agency, commission or authority shall have issued or enacted an Order or Law restraining, enjoining or otherwise prohibiting the Closing, which is not capable of appeal; provided, however, that Sellers and Purchasers shall not be entitled to terminate this Agreement pursuant to this Section 11.1(b)(ii) if such Order is caused by such Party's breach of any of its obligations under this Agreement;

(iii) by Purchasers or Sellers, if the Auction has occurred and the Purchasers are not the Successful Bidder; or

(iv) by Purchasers or Sellers, if the CCAA Court issues an Order approving an Alternate Transaction.

(c) Termination by Purchasers.

(i) by Purchasers, if (A) the SISP Order, including approval of the Break-Up Fee and Expense Reimbursement Amount and the granting of the Break-Up Fee Charge, shall not have been entered by the CCAA Court on or prior to June [19], 2020 (B) the SISP Order is amended, supplemented or otherwise modified in any manner adverse to the Purchasers or (C) the SISP Order shall fail to be in full force and effect or shall have been stayed, reversed, modified or amended in any manner adverse to the Purchasers (other than in any de minimums respect), in each case without the prior written consent of the Purchasers;

(ii) by Purchasers, if (A) the Sale Order shall not have been issued by the CCAA Court on or prior to September 28, 2020 or if the Sale Order has been issued by

such date but has been amended, supplemented or otherwise modified in any respect without the prior written consent of Purchasers, or (B) following its issuance, the Sale Order shall fail to be in full force and effect or shall have been stayed, reversed, modified or amended in any respect without the prior written consent of the Purchasers, acting reasonably;

(iii) by Purchasers, if there is any unwaived and uncured Event of Default (as defined in the Interim Facility Credit Agreement) under the Interim Facility or if at any time Washington Diamond is not an Interim Lender;

(iv) by Purchasers, if the CCAA Proceedings are terminated or a licensed insolvency trustee or receiver is appointed in respect of the Sellers, and such licensed insolvency trustee or receiver refuses to proceed with the transactions contemplated by this Agreement;

(v) by Purchasers, if a breach of any representation, warranty, covenant or agreement on the part of Sellers set forth in this Agreement shall have occurred that would cause any of the conditions set forth in Article VIII not to be satisfied, and such breach is incapable of being cured or, if capable of being cured, Sellers have failed to cure such breach within thirty (30) days of receipt of written notification thereof or which by its nature or timing cannot be cured within such time period;

(vi) by Purchasers, if either (a) Sellers or their Affiliates request or (b) the CCAA Court approves any amendments or modifications to the SISP that adversely affects the interests of Purchasers, the Interim Lenders, or the transactions contemplated by this Agreement (which, for the avoidance of doubt, include any amendments or modifications to the Minimum Purchase Price or the Outside Date (as defined and established under the SISP), any amendments or modifications to the requirements set out for Phase 1 Qualified Bids in section 15 of the SISP or for Phase 2 Qualified Bids in section 23 of the SISP, and any amendment or modification to the terms and conditions set forth in sections 2, 3, 5, 9, 15, 17, 18, 20, 21, 23, 24-31, 35 and 36-38 of the SISP);

(vii) by Purchasers, acting reasonably, if the CCAA Court enters any Order inconsistent with the SISP Order, the Sale Order or the Acquisition, other than in any de minimus respect;

(viii) by Purchasers, if any creditor of any Seller obtains a final and unstayed Order of the CCAA Court granting relief from the stay to foreclose or exercise enforcement rights on any portion of the Acquired Assets in excess of Cdn$500,000 in the aggregate;

(ix) by Purchasers, if a Material Adverse Effect occurs; or

(x) by Purchasers, if, for any reason (including, without limitation, an Order of the CCAA Court), Purchasers are unable to credit bid up to the full amount of the Liabilities owed to Washington Diamond under the Interim Facility Credit Agreement in satisfaction of all or any portion of the Cash Component.

(d) Termination by Sellers.

(i) by Sellers, if a breach of any representation, warranty, covenant or agreement on the part of Purchasers set forth in this Agreement shall have occurred that would cause any of the conditions set forth in Article IX not to be satisfied, and such breach is incapable of being cured or, if capable of being cured, Purchasers have failed to cure such breach within thirty (30) days of receipt of written notification thereof or which by its nature or timing cannot be cured within such time period; or

(ii) by Sellers, with the consent of Credit Suisse AG, Cayman Islands Branch, as administrative agent under the Pre-filing Credit Agreement, on or before the first Business Day after the Phase 2 Bid Deadline (as defined in the SISP) if Purchasers do not remove or satisfy the Financing Condition on or before July 31, 2020.

11.2 Procedure and Effect of Termination. If this Agreement is terminated pursuant to Section 11.1, written notice thereof shall forthwith be given to the other Parties to this Agreement and the Monitor and all further obligations of the Parties under this Agreement shall terminate; provided, however, that the Parties shall, in all events, remain bound by and continue to be subject to the provisions set forth in this Article XI.

11.3 Breach by Purchasers. If this Agreement is terminated solely as a result of a material breach by Purchasers pursuant to Section 11.1(d)(i) hereof, Sellers, as their sole remedy, shall be entitled to liquidated damages in the amount of $12,610,700 (the "Purchaser Termination Fee"), which shall be payable by Purchasers by giving the Sellers a credit towards the Indebtedness owed to Washington Diamond under the Interim Facility Credit Agreement or by wire transfer of immediately available funds. The Parties hereby agree that the foregoing dollar amount is a fair and reasonable estimate of the total detriment that Sellers would suffer in the event of Purchasers' default and failure to complete the transaction hereunder. Sellers' receipt or credit of the Purchaser Termination Fee in full pursuant to and in accordance with this Section 11.3 shall be the sole and exclusive remedy of Sellers and their Affiliates, attorneys, accountants, Representatives or agents, and, except for payment or credit of the Purchaser Termination Fee pursuant to and in accordance with this Section 11.3 or pursuant to the Limited Guaranty, in no event shall any of the foregoing Persons be entitled to seek or obtain any recovery or judgment against Purchasers, any Purchaser Related Party, any potential debt or equity financing source and any of their respective former, current or future general or limited partners, stockholders, members, managers, directors, officers, employees, agents, Representatives or Affiliates, for any Liability suffered with respect to this Agreement and the transactions contemplated by or in connection with this Agreement (including any breach or failure to perform by Purchasers, whether willfully, intentionally, unintentionally or otherwise), the termination of this Agreement, the failure of the transactions contemplated under this Agreement to be consummated for any reason or no reason or any breach of this Agreement by Purchasers, and in no event shall Sellers or any of the other Applicants be entitled to seek or obtain any other damages or other remedy of any kind, at law or in equity, against any such Person, including consequential, special, indirect, exemplary or punitive damages or for diminution in value, lost profits or lost business. Sellers further acknowledge that the Purchaser Termination Fee is not a penalty, but rather is liquidated damages in a reasonable amount that will appropriately compensate Sellers under the circumstances.

11.4 Break-Up Fee and Expense Reimbursement Amount.

(a) In consideration of Purchasers and their Affiliates having expended considerable time and expense in connection with this Agreement and the negotiation thereof, and the identification and quantification of assets to be included in the Acquired Assets, and to compensate the Purchasers as a stalking-horse bidder, if the Financing Condition and the Rio Condition have been satisfied or waived on or before July 31, 2020, and

(i) this Agreement is terminated and (A) a Successful Bid (as defined in the SISP) or (B) any other sale of assets or plan in the CCAA Proceedings that (I) results in a change in control of DDM, (II) provides cash on closing to the Sellers or the Applicants equal to or greater than the Minimum Purchase Price (as defined in the SISP), and (III) did not arise following a termination of this Agreement solely pursuant to Section 11.1(d)(i) due to a material breach of this Agreement by Purchasers, is consummated, or

(ii) this Agreement is terminated and any other transaction is consummated within nine (9) months after termination of the SISP that (A) (i) results in a change in control of DDM, or (ii) provides cash on closing to the Sellers or the Applicants equal to or greater than the Minimum Purchase Price (as defined in the SISP), and (B) did not arise following a termination of this Agreement solely pursuant to Section 11.1(d)(i) due to a material breach of this Agreement by Purchasers,

(in either case, an "Alternate Transaction"), then Sellers shall pay to Purchaser Holdco (or as otherwise directed by Purchaser Holdco) in cash immediately following the closing of such Alternate Transaction:

(iii) the Expense Reimbursement Amount, not to exceed US$2,250,000, and

(iv) an amount equal to US$2,522,140 (the "Break-Up Fee") as consideration for the disposition of Purchaser Holdco's rights under this Agreement.

Sellers' obligation to pay the Break-Up Fee pursuant to this Section 11.4 shall survive termination of this Agreement and shall be secured by the Break-Up Fee Charge granted in favor of the Purchasers pursuant to the SISP Order. No other amounts shall be payable by the Sellers to the Purchasers arising from or in connection with the termination of this Agreement other than as provided for in this Section 11.4.

ARTICLE XII

MISCELLANEOUS

12.1 Expenses. Except as otherwise provided herein (including without limitation Section 11.4) or the SISP Order, each Party hereto shall bear its own expenses with respect to the transactions contemplated hereby.

12.2 Survival of Representations and Warranties; Survival of Confidentiality. The Parties agree that the representations and warranties contained in this Agreement shall expire upon

the Closing Date. Except as otherwise provided herein, the Parties agree that the covenants contained in this Agreement to be performed at or after the Closing shall survive in accordance with the terms of the particular covenant or until fully performed.

12.3 Amendment; Waiver. This Agreement may be amended, supplemented or changed, and any provision hereof may be waived, only by written instrument making specific reference to this Agreement signed by the Party against whom enforcement of any such amendment, supplement, modification or waiver is sought; provided that, notwithstanding the foregoing, the Acquired Assets and Assigned Contracts may be amended in accordance with Section 2.6. No action taken pursuant to this Agreement, including any investigation by or on behalf of any Party, shall be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, condition, covenant or agreement contained herein. The waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such Party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by applicable Law.

12.4 Notices. Any notice, request, instruction or other document to be given hereunder by a Party hereto shall be in writing and shall be deemed to have been given (i) when received if given in person, (ii) on the date of transmission if sent by electronic mail, or (iii) one (1) Business Day after being delivered to a nationally known commercial courier service providing next day delivery service (such as FedEx):

(A) If to Sellers, addressed as follows:

Dominion Diamond Mines
900 – 606 4 Street SW
Calgary, Alberta, Canada
T2P 1T1
Attention: Brendan Bell
Email: brenbellnt@gmail.com

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

Blake, Cassels & Graydon LLP
595 Burrard Street, Suite 2600
Vancouver, BC, Canada
V7X 1L3
Attention: Linc Rogers
Attention: Susan Tomaine
Email: linc.rogers@blakes.com
Email: susan.tomaine@blakes.com

(B) If to Purchasers, addressed as follows:

c/o The Washington Companies
101 International Drive
Missoula, MT 59808
Attention: Larry Simkins
Email: lsimkins@washcorp.com

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

Skadden, Arps, Slate, Meagher & Flom LLP
One Manhattan West
New York, NY 10001-8602
Attention: Stephen F. Arcano
Attention: Marie L. Gibson
Email: Stephen.Arcano@skadden.com
Email: Marie.Gibson@skadden.com

and

Skadden, Arps, Slate, Meagher & Flom LLP
155 N. Wacker Drive
Chicago, Illinois 60606
Attention: Ron E. Meisler
Email: Ron.Meisler@skadden.com

and

Goodmans LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Ontario
M5H 2S7 Canada
Attention: Brendan O'Neill
Attention: Michael Partridge
Email: boneill@goodmans.ca
Email: mpartridge@goodmans.ca

(C) If to the Monitor, addressed as follows

FTI Consulting Canada Inc.
520 5th Ave SW
Calgary AB T2P 3R7
Attention: Deryck Helkaa
E-Mail: deryck.helkaa@fticonsulting.com

With a copy (which shall not constitute notice) to

Bennett Jones LLP
4500 Bankers Hall East

855 - 2nd Street SW
Calgary AB T2P 4K7
Attention: Chris Simard
Email: simardc@bennettjones.com

or to such other individual or address as a Party hereto may designate for itself by notice given as herein provided.

12.5 Effect of Investigations. Any due diligence review, audit or other investigation or inquiry undertaken or performed by or on behalf of Purchasers shall not limit, qualify, modify or amend the representations, warranties and covenants of, and indemnities by, Sellers made or undertaken pursuant to this Agreement, irrespective of the knowledge and information received (or which should have been received) therefrom by Purchasers.

12.6 Counterparts; Electronic Signatures.

(a) This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(b) The exchange of copies of this Agreement and of signature pages by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted electronically shall be deemed to be their original signatures for all purposes.

12.7 Headings. The headings preceding the text of Articles and Sections of this Agreement and the Seller Disclosure Letter are for convenience only and shall not be deemed part of this Agreement.

12.8 Applicable Law and Jurisdiction. Subject to any provision in this Agreement and any Ancillary Document to the contrary, this Agreement (and all documents, instruments, and agreements executed and delivered pursuant to the terms and provisions hereof) shall be governed by and construed and enforced in accordance with the laws of Alberta and the laws of Canada applicable therein. Purchasers and Sellers further agree that the CCAA Court shall have jurisdiction over all disputes and other matters relating to (a) the interpretation and enforcement of this Agreement or any Ancillary Document and/or (b) the Acquired Assets and/or Assumed Liabilities and the Parties expressly consent to and agree not to contest such jurisdiction.

12.9 Binding Nature; Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interest or obligations hereunder shall be assigned by any of the Parties hereto without prior written consent of the other Parties, provided that, Purchasers may grant a security interest in its rights and interests hereunder to its third party lender(s). Nothing contained herein, express or implied, is intended to confer on any Person other than the Parties hereto or their successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

12.10 Designated Purchasers. In connection with the Closing, notwithstanding Section 12.9 or anything to the contrary contained herein, Purchasers shall be entitled to designate, in accordance with the terms of this paragraph, one or more Subsidiaries or Affiliates of Purchasers to (a) purchase specified Acquired Assets (including specified Assigned Contracts) and pay the corresponding Purchase Price amount, (b) assume specified Assumed Liabilities, (c) employ specified Transferred Employees on and after the Closing Date, (d) perform any of the other covenants and agreements hereunder to be performed by Purchasers and (e) be entitled to the rights and benefits afforded to Purchasers hereunder (any such Subsidiary or Affiliate of Purchasers that shall be designated in accordance with this clause, a "Designated Purchaser"). Upon any such designation of a Designated Purchaser, such Designated Purchaser shall be solely responsible with respect to the payment of the corresponding Purchase Price, the specified Assumed Liabilities and employment of the specified Transferred Employees. Any reference to Purchasers made in this Agreement in respect of any right, obligation, purchase, assumption or employment referred to in this paragraph shall be deemed a reference to the appropriate Designated Purchaser, if any, with respect to the applicable obligation or right. All obligations of Purchasers and any Designated Purchaser shall be several and not joint and, notwithstanding anything to the contrary contained herein, neither Purchasers nor any other Designated Purchaser shall have any obligation for any Assumed Liabilities assumed by a particular Designated Purchaser at the Closing and any prior obligations of the Purchasers are novated and released. For the avoidance of doubt, no designation of a Designated Purchaser hereunder shall expand or otherwise affect any limitation on Purchasers' obligations hereunder, it being understood that such limitations shall apply to the aggregate Liabilities of Purchasers and any Designated Purchaser(s) hereunder. The above designations shall be made by Purchasers by way of a written notice to be delivered to Sellers in no event later than five (5) Business Days prior to the anticipated Closing Date; provided, however, that no such designation may be made if the timing of such designation would reasonably be expected to delay the Closing; provided, further, that such designation shall not be permitted unless the Sellers' confirm, acting reasonably, that the Designated Purchasers, or any party guaranteeing the obligations of such Designated Purchasers, are sufficiently creditworthy. In addition, the Parties agree to modify any Closing deliverables in accordance with the foregoing designation. Any Designated Purchasers are intended third party beneficiaries of this Agreement, and this Agreement may be enforced by such Designated Purchasers.

12.11 No Third Party Beneficiaries. This Agreement is solely for the benefit of the Parties hereto and their respective Affiliates and no provision of this Agreement shall be deemed to confer upon third parties any remedy, claim, Liability, reimbursement, Claim of Action or other right.

12.12 No Recourse. This Agreement may only be enforced against, and any Claims or causes of Action that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement may only be made against the entities that are expressly identified as Parties hereto and no Purchaser Related Party (other than the Guarantor to the extent set forth in the Limited Guaranty) shall have any Liability for any obligations or liabilities of the Parties to this Agreement or for any claim (whether in tort, contract or otherwise) based on, in respect of, or by reason of, the transactions contemplated hereby or in respect of any oral representations made or alleged to be made in connection herewith. Without limiting the rights of Sellers against Purchasers hereunder, in no event shall Sellers or any of their Affiliates, and Sellers agree not to and to cause their Affiliates not to, seek to enforce this Agreement against, make any Claims for breach of this Agreement against, or seek to recover

monetary damages from, any Purchaser Related Party (other than any payment from the Guarantor to the extent set forth in the Limited Guaranty).

12.13 Tax Matters.

(a) Any sales, use, purchase, transfer, franchise, deed, fixed asset, stamp, documentary stamp, use or similar fees or other Taxes (other than any Taxes based on income, receipts, profits, or capital), governmental charges and recording charges (including any interest and penalty thereon) which may be applicable to, or resulting from, or payable by reason of the sale of the Acquired Assets or the assumption of the Assumed Liabilities under this Agreement or the transactions contemplated hereby (the "Transfer Taxes") shall be borne by Purchasers as applicable to the transfer of the Acquired Assets pursuant to this Agreement. Purchasers shall properly file on a timely basis all necessary Tax Returns and other documentation with respect to any Transfer Tax and provide to Sellers evidence of payment of all Transfer Taxes.

(b) In the case of any taxable period that begins before, and ends after, the Closing Date (a "Straddle Period"), (i) Taxes imposed on the Acquired Assets that are based upon or related to income or receipts or imposed on a transaction basis (including all related items of income, gain, deduction or credit) will be deemed equal to the amount that would be payable if the Tax year or period ended on the Closing Date, and (ii) any real property, personal property, ad valorem and similar Taxes allocable to the portion of such Straddle Period ending with the end of the day on the Closing Date shall be equal to the amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days during the Straddle Period that is in the Pre-Closing Tax Period and the denominator of which is the number of days in the entire Straddle Period and in each of (i) and (ii), such amounts shall be the responsibility of Sellers (and, for the avoidance of doubt, such amounts shall be an Excluded Liability for purposes of clause (ii) of Section 2.4(e)).

(c) Purchasers shall prepare and file (or cause to be prepared and filed) all Tax Returns for any Pre-Closing Tax Period or Straddle Period in respect of the Acquired Subsidiaries that is required to be filed after the Closing Date. Prior to filing any such Tax Returns, Purchasers shall provide a draft thereof to Sellers for Sellers' review, comment and approval (such approval not to be unreasonably withheld or delayed), unless otherwise required by applicable Law. Purchasers shall consider in good faith any comments provided by Sellers to such Tax Returns. To the extent any Taxes reflected on any such Tax Return are an Excluded Liability, Sellers shall pay to Purchasers the amount of such liability within ten (10) days of receiving notice from Purchasers that such Tax Return has been filed or that Purchasers has paid such Liability, except to the extent such Taxes were paid by Sellers to the applicable Governmental Body prior to the filing of such Tax Return.

(d) Cooperation on Tax Matters. Purchasers shall make available to Sellers, and Sellers shall make available to Purchasers, (i) such records, personnel and advisors as any such Party may require for the preparation of any Tax Returns required to be filed by Sellers or Purchasers, as the case may be, and (ii) such records, personnel and advisors as Sellers or Purchasers may require for the defense of any audit, examination, administrative appeal, or litigation of any Tax Return in which Sellers or Purchasers was included. Sellers agree to provide all reasonable cooperation to Purchasers, and shall make available to Purchasers such records,

personnel and advisors as is reasonably necessary for Purchasers, in determining the Tax attributes of Sellers and their Subsidiaries.

(e) Allocation of Purchase Price. The Purchase Price shall be allocated among the Acquired Assets in accordance with their respective fair market values. As soon as reasonably practicable and in no event later than sixty (60) days after the Closing Date, Purchasers shall provide Sellers with a draft allocation of the Purchase Price for all purposes, including any liabilities properly included therein among the Acquired Assets and the agreements provided for herein, for all purposes (the "Initial Allocation"). Within forty-five (45) days of the receipt of the Initial Allocation, Sellers shall deliver a written notice (the "Objection Notice") to Purchasers, setting forth in reasonable detail those items in the Initial Allocation that Sellers disputes. Sellers may make reasonable inquiries of Purchasers and their accountants and employees relating to the Initial Allocation, and Purchasers shall use reasonable efforts to cause any such accountants and employees to cooperate with, and provide such requested information to, Sellers in a timely manner. If prior to the conclusion of such forty-five (45)-day period, Sellers notify Purchasers in writing that they will not provide any Objection Notice or if Sellers do not deliver an Objection Notice within such forty-five (45)-day period, then Purchasers' proposed Initial Allocation shall be deemed final, conclusive and binding upon each of the Parties hereto. Within thirty (30) days of Sellers' delivery of the Objection Notice, Sellers and Purchasers shall attempt to resolve in good faith any disputed items, and failing such resolution, the unresolved disputed items shall be referred for final binding resolution to an Arbitrating Accountant. The fees and expenses of the Arbitrating Accountant shall be paid 50% by Purchasers and 50% by Sellers, unless the Arbitrating Accountant determines that one party's position was unreasonable in light of the circumstances, in which case such party shall bear 100% of such costs. Such determination by the Arbitrating Accountant shall be (i) in writing, (ii) furnished to Purchasers and Sellers as soon as practicable (and in no event later than thirty (30) days after the items in dispute have been referred to the Arbitrating Accountant), (iii) made in accordance with the principles set forth in this Section 12.13(e), and (iv) non-appealable and incontestable by Purchasers and Sellers. As used herein, the "Allocation" means the allocation of the Purchase Price, the Assumed Liabilities and other related items among the Acquired Assets and the agreements provided for herein as finally agreed between Purchasers and Sellers or ultimately determined by the Arbitrating Accountant, as applicable, in accordance with this Section 12.13(e). The Allocation shall be prepared in accordance with Section 1060 of the Code and the Treasury Regulations thereunder (and any similar provision of state, local or foreign Law, as appropriate). Purchasers and Sellers shall each report the federal, state and local income and other Tax consequences of the transactions contemplated hereby in a manner consistent with the Allocation, including, if applicable, the preparation and filing of Forms 8594 under Section 1060 of the Code (or any successor form or successor provision of any future Tax Law) with their respective U.S. federal income Tax Returns for the taxable year which includes the Closing Date, and neither will take any position inconsistent with the Allocation, including in the course of any Tax audit, Tax review or Tax litigation relating thereto, unless otherwise required under applicable Law. Sellers shall provide Purchasers and Purchasers shall provide Sellers with a copy of any information required to be furnished to the Secretary of the Treasury under Code Section 1060.

(f) Section 22 Election. If requested by Canadian Purchaser and in Canadian Purchaser's sole discretion, DDM and Canadian Purchaser shall jointly execute and file an election pursuant to section 22 of the Tax Act and the corresponding provisions of any

applicable provincial/territorial legislation, in the prescribed manner and within the prescribed time limits, with respect to the sale of accounts receivable, and shall designate therein the portion of the Purchase Price allocated to the accounts receivable pursuant to paragraph (e) of this Section as consideration paid by Canadian Purchaser for the accounts receivable of Sellers.

(g) Section 20(24) Election. If requested by Canadian Purchaser and in Canadian Purchaser's sole discretion, DDM and Canadian Purchaser shall jointly execute and file an election pursuant to subsection 20(24) of the Tax Act and the corresponding provisions of any applicable provincial/territorial legislation, in the prescribed manner and within the prescribed time limits, in respect of deferred revenue of the Business or the Canadian Assets for an amount of such deferred revenue that is being so transferred to Canadian Purchaser in consideration for Canadian Purchaser undertaking future obligations in connection with the deferred revenue. In this regard, DDM and Canadian Purchaser acknowledge that if such election is made, a portion of the Canadian Assets having a value equal to the elected amount under subsection 20(24) of the Tax Act is being transferred by DDM to Canadian Purchaser as a payment for the assumption of such future obligations by Canadian Purchaser.

(h) Successor Election. If requested by Canadian Purchaser and in Canadian Purchaser's sole discretion, DDM and Canadian Purchaser shall jointly execute and file an election described in paragraph 66.7(7)(e) of the Tax Act and the corresponding provisions of any applicable provincial/territorial legislation, in the prescribed manner and within the time limits set out in that section, in respect of the Canadian Resource Property (as that term is defined in subsection 66(15) of the Tax Act) acquired by Canadian Purchaser from DDM under this Agreement, provided that any such filing or filings does not give rise to any Tax Liability to DDM.

(i) Section 167 Election. At the Closing, DDM and the Canadian Purchaser will jointly execute an election pursuant to subsections 167(1) and (1.1) of the GST Legislation so that DDM is not required to collect GST in respect of the transfer of the Canadian Assets. The Canadian Purchaser shall file the election within the time prescribed by the GST Legislation.

(j) Withholding. Purchasers, and any Person acting on their behalf, shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to this Agreement to any Seller or any other Person such amounts as Purchasers are required to deduct and withhold under the Code, or any Tax Law, with respect to the making of such payment; provided that Purchasers shall consult with the affected Sellers or other Persons in good faith prior to making such withholding or deduction and the Parties hereto shall reasonably cooperate to reduce or eliminate any such amounts. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to Sellers or the Person in respect of whom such deductions and withholding was made, as the case may be.

12.14 Construction.

(a) The information contained in the Seller Disclosure Letter is disclosed solely for the purposes of this Agreement and may include items or information not required to be disclosed under this Agreement, and no information contained in any Seller Disclosure Letter shall be deemed to be an admission by any Party hereto to any third Person of any matter whatsoever, including an admission of any violation of any Laws or breach of any agreement. No information

contained in any section of the Seller Disclosure Letter shall be deemed to be material (whether individually or in the aggregate) to the Business, assets, liabilities, financial position, operations, or results of operations of Sellers nor shall it be deemed to give rise to circumstances which may result in a Material Adverse Effect, in each case solely by reason of it being disclosed. Information contained in a section or subsection of the Seller Disclosure Letter (or expressly incorporated therein) shall qualify the representations and warranties made in the identically numbered Section or, if applicable, subsection of this Agreement and all other representations and warranties made in any other section or subsection of the Seller Disclosure Letter to the extent its applicability to such section or subsection of the Seller Disclosure Letter is reasonably apparent on its face. References to agreements in the Seller Disclosure Letter are not intended to be a full description of such agreements, and all such disclosed agreements should be read in their entirety, and nothing disclosed in any section or subsection of the Seller Disclosure Letter is intended to broaden any representation or warranty contained in Article IV or Article V.

(b) References in Article IV or Article V to documents or other materials "provided" or "made available" to Purchasers or similar phrases mean that such documents or other materials were present (and available for viewing by Purchasers and their Representatives) in the Data Room.

12.15 Entire Understanding. This Agreement, together with the Ancillary Documents and the Interim Facility Credit Agreement, set forth the entire agreement and understanding of the Parties hereto in respect to the transactions contemplated hereby, and this Agreement and the Ancillary Documents hereto supersede all prior agreements, arrangements and understandings relating to the subject matter hereof. There have been no representations or statements, oral or written, that have been relied on by any Party hereto, except those expressly set forth in this Agreement or in any Ancillary Documents hereto.

12.16 No Presumption Against Drafting Party. Each of the Purchasers and Sellers acknowledge that each Party to this Agreement has been represented by legal counsel in connection with this Agreement and the transactions contemplated by this Agreement. Accordingly, any rule or Law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the drafting Party has no application and is expressly waived.

12.17 No Punitive Damages. The Parties hereto expressly acknowledge and agree that no Party hereto shall have any Liability under any provision of this Agreement for any punitive damages relating to the breach or alleged breach of this Agreement.

12.18 Time of Essence. Time is of the essence with regard to all dates and time periods set forth or referred to in this Agreement. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

12.19 Severability. Whenever possible, each provision or portion of any provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision or portion of any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable Law or rule in any jurisdiction, such invalidity,

illegality or unenforceability shall not affect any other provision or portion of any provision in such jurisdiction, and this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision or portion of any provision had never been contained herein.

[SIGNATURE PAGES FOLLOW.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and delivered on the date first above written

PURCHASER HOLDCO:

CANADIAN DIAMOND HOLDINGS, L.P.

_____
By:
Its:

CANADIAN PURCHASER:

CA CANADIAN DIAMOND MINES ULC

_____
By:
Its:

SELLERS:

Dominion Diamond Holdings, LLC

_____
By:
Its:

Dominion Diamond Mines ULC

_____
By:
Its:

PARENT:

Washington Diamond Investments, LLC

_____
By:
Its:

SCHEDULE A

BILL OF SALE

SCHEDULE B

ASSIGNMENT AND ASSUMPTION AGREEMENT

SCHEDULE C

ASSIGNMENT AND ASSUMPTION OF LEASES

SCHEDULE D

IP ASSIGNMENT AND ASSUMPTION AGREEMENT

SCHEDULE E

FORM OF SALE ORDER

SCHEDULE F

ASSIGNED CONTRACTS

SCHEDULE G

FORM OF SISP ORDER